

Subcontractor Hangs Foreclosure Filing on Broad

ART: Seele's action latest in payment battle between façade designer, museum.

By **CALE OTTENS** Staff Reporter

Could the **Broad**, downtown L.A.'s newest attraction, become the Seele?

Angelenos and tourists have swarmed **Eli Broad**'s eponymous contemporary art museum since it opened late last month, creating a weeks-long waiting list to reserve tickets. But outside its honeycomb façade a heated dispute is intensifying between the museum's billionaire founder and **Seele Inc.**, a German engineering subcontractor that designed parts of the \$140 million museum's distinctive outer shell — known as the veil.

Less than a week after the highly anticipated museum opened, Seele moved to foreclose on the entire property, claiming that Broad still owes the company some \$6.9 million for its work.

The foreclosure proceedings, filed Sept. 25 in Los Angeles Superior Court, might seem strange considering Broad is among the most well-to-do L.A. residents. The philanthropist ranked No. 3 on the Business Journal's list of Wealthiest Angelenos with an estimated net worth of \$7.64 billion in May.

But **Bryan Sullivan**, a partner in the L.A. law offices of **Early Sullivan Wright Gizer & McRae** who reviewed Seele's foreclosure filing for the Business Journal, said last month's filing is not too surprising considering the company's rocky history with Broad.

Broad accused the subcontractor last year of breaching its contract with the museum and putting construction at least 15 months behind schedule.

The billionaire, who sued Seele last year



Face of Problem: Honeycombed exterior of downtown L.A.'s Broad museum.

for \$19.8 million, has maintained in court that he is not responsible for compensating the company beyond the \$29.3 million he originally agreed to pay to design and build the veil. The case is still pending in Superior Court.

"The only way to get paid sometimes is to foreclose on the property," said Sullivan, who is not involved in the dispute. "I think the Broad Foundation, they probably have the money, so they can pay it if they lose."

The foreclosure filing, Sullivan added, was likely a procedural move by Seele that will eventually be consolidated with the other pending case. Plus, he said, Broad can request the court to put the foreclosure proceedings on hold until the other dispute is resolved.

Alex Capriotti, a spokeswoman for the Broad, had little to say about the foreclosure filing against the museum.

"We cannot discuss ongoing litigation

except to say that we are currently engaged in the discovery process and remain confident in our claims against Seele," Capriotti said in a statement. "Those claims are set forth in the detailed complaint we lodged with the court last year. We have no further comment at this time except to say that we look forward to resolving this matter in court."

What's next?

Broad and his wife, **Edythe**, had sought to build their museum — now complete and showcasing more than 2,000 works of art — for years before it finally opened last month.

It was in 2010 when Santa Fe Springs' **Matt Construction Corp.**, the project's general contractor, hired an engineering company to design and build the Broad's elaborate veil, according to court records filed by Seele.

But it wasn't until the following year that

Seele got involved in the project, the company said in a cross-complaint filed in March that rebuffs Broad's breach-of-contract claims.

"From the very earliest days following Seele's entry into the subcontract, Seele has encountered numerous design and construction problems for which it is not responsible," according to court filings by the company. "These problems are the result of changes to, and the failure to comply with, the design criteria, qualifications, assumptions and specific contract provisions set forth in the subcontract by Broad and/or Matt."

Those changes, Seele said in last month's foreclosure filing, increased the cost of building the veil to \$34.8 million. Now, the company argues, it's owed at least \$6.9 million after deducting all credits and offsets.

Brandt Wolkin, a San Francisco attorney representing Seele, declined to say much beyond what's included in court documents. He did note that his client seeks only to be paid and that the request to foreclose on the property is the best way to make that happen.

The last hearing, begun Sept. 17, was continued until December.

Attorney Sullivan, who has worked on several construction-related cases, said it could take several more months for the court to resolve this dispute between Eli Broad and Seele.

For now, Broad appears content with enjoying that his museum is finally open and it's helping with an ongoing effort to revitalize downtown.

"It helps enhance or cement the fact that Grand Avenue is a cultural and civic district for a region of 15 million people," Broad said in an interview with the Business Journal last month before the museum opened. "We're going to see more and more people coming downtown, more people moving downtown."

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