



# Building a better future

Area looks to move on as fourth high-profile bankruptcy case comes to close



BY JASON BACAJ | BUSINESS JOURNAL EDITOR

**T**IM ROTE AND KEVIN SULLIVAN REALIZED THEIR LONGTIME DREAM to become custom homebuilders in 2005 after years working with large construction companies in Seattle and New York.

The two East Coast natives moved to southwest Montana, founded Dovetail Construction and began building homes on speculation. It was one of the bigger risks a contractor can make, because they must sell the speculative project immediately to recoup costs, but the two had to establish their company.

ADRIAN SANCHEZ-GONZALEZ

Tim Rote, owner of Dovetail Construction, has weathered out the Great Recession by keeping focus on a modest business strategy while maintaining high quality standards expected by his clients.

DREAM CONTINUED ON PAGE 15

## DREAM COVER STORY CONT.

The tactic was particularly nerve-racking for the two. They had been in the construction industry for 25 years at that point — first working with Sullivan's father, a contractor, in 1980 — and knew the recession was on the horizon.

"Finding work at that time was very easy, but we knew it wouldn't last for long," Rote said. "We knew the typical cycles of booms and busts in our industry and really could kind of sense that the elation of buyers and sellers... did not seem to be sustainable."

The crash arrived three years after Dovetail started, with the first of four high-profile real estate development bankruptcies to hit southwest Montana as the Great Recession set in. The ultra-exclusive Yellowstone Club filed Chapter 11 bankruptcy in December 2008. Less than a year later, Moonlight Basin followed suit. Black Bull Run, a luxury golf course community west of Bozeman, filed four months after that for Chapter 11 bankruptcy, which frees a company from the threat of creditors' lawsuits while it reorganizes its finances.

The last to file was Spanish Peaks, a private ski and golf community in Big Sky, which filed for Chapter 7 bankruptcy in late 2011.

Spanish Peaks will be sold at auction on June 3.

## STALKING ASSETS

The high bidder, or "stalking horse" bidder, was made public on April 26, a week after the initial bid solicitation process closed. The highest bid was for \$22.05 million and came from an Alabama-based company called Satterfield Acquisition SP, LLC.

There are three people behind the Satterfield Acquisition bid: Mark Lilly, Pat Lopker and Thomas Satterfield. Lilly and Lopker and their company, Lilly & Lopker, LLC, have owned and operated the Cascade Ridge development in Big Sky since 2002, Lilly said in a phone interview. Cascade Ridge is a 24-home ski-in, ski-out development with its own private lodge at Big Sky Resort with homes priced in the million-dollar range.

Lilly declined to comment on the bid because the process is ongoing.

As the stalking horse bidder, Satterfield Acquisition is the opening bid at auction and, if the company is outbid, it receives a "breakup fee" equal to 2 percent of the winning bid, said Stephan Garden, who works with the trustee overseeing the bankruptcy proceedings.



ADRIAN SANCHEZ-GONZALEZ/CHRONICLE

Rote points out custom features while touring a Dovetail Construction home.

The June auction could yield a familiar outcome, however, as the Spanish Peaks Acquisition Partners, LLC — a group of four lenders that was responsible for the Spanish Peaks debt and maintaining the Spanish Peaks properties during bankruptcy, Garden said — sold its debts to a group called CH SP Acquisition, LLC on April 19.

CH SP Acquisition's mailing address is the same



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as CrossHarbor's Boston offices and Sam Byrne, managing partner and president of CrossHarbor, is the listed representative on documents outlining the transaction. Terms of the deal were not disclosed.

CrossHarbor is the same company that bought the Yellowstone Club out of bankruptcy in 2009. It also financed a California real estate developer's purchase of Black Bull in 2011. Calls to Byrne and a Boston attorney listed on court documents were not returned.

Purchasing the debt from Spanish Peaks Acquisition Partners gave CrossHarbor the right to a \$20 million credit bid for the Spanish Peaks property in Big Sky. Had Satterfield not submitted a higher bid on April 19, and had no one submitted a higher bid during the June auction, CrossHarbor would have won the auction on credit.

CrossHarbor must now submit a higher bid, in cash, than all other prospective buyers at the June auction to buy the Spanish Peaks properties, Garden said.

The sale is expected to bring symbolic closure to a period of time in the southwest Montana real estate

economy marked by development, rapidly increasing property values and all the trappings of the national economic housing market collapse — from predatory loans to bank failures to underhanded business practices.

The first of the high-profile bankruptcies was marked by a "far overreaching and self-serving" \$375 million predatory loan from Credit Suisse that "shocked the conscience" of federal bankruptcy Judge Ralph B. Kirscher, according to his 2009 written opinion on the Yellowstone Club's bankruptcy.

Some of the loan proceeds were used to finance Yellowstone World projects, such as buying a castle in France, property in Scotland and an island in Turks and Caicos. The project failed to pan out.

The original founders of Black Bull attributed the development's 2010 bankruptcy to slow home sales and the failure of its primary lender, California-based La Jolla Bank. Moonlight Basin was forced into bankruptcy in 2009 when its major lender, Lehman Brothers, went bankrupt and foreclosed on a two-part \$170 million loan



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it made to the Big Sky real estate development and ski area. Lehman ended up taking over Moonlight in a 2011 bankruptcy court settlement.

It's unclear what specifically led to the Spanish Peaks bankruptcy. In a 2011 letter to club members, the company cited the troubled real estate market and substantial operating losses. Spanish Peaks had a history of legal and financial troubles and was involved in several lawsuits, including one in which a jury awarded more than \$1.1 million to two couples after determining two Spanish Peaks companies deceived the couples by selling them lots located on active landslides.

#### 'ROBUST' WITH 'A LITTLE BIT OF LUCK'

Construction activity has picked up considerably from the depths of the recession. Home sales are increasing and everyone, from contractors to furniture stores, is adding staff in preparation of a busy summer construction season.

"My personal opinion is it's a very robust real estate market," said Kent Levi, president of Rocky Mountain Bank. "It'll always, basically, default back to a 3 percent growth factor."

Levi's confidence in the local real estate market is reflected in the direction he's taken the bank since taking over the Bozeman branch in 2011. He expanded the bank's emphasis to include mortgage

lending, hiring on John Thorn as regional mortgage production manager about a year ago.

The bank increased its amount of mortgage loans from about \$4 million before Thorn joined, to roughly \$40 million recently. Overall, residential loan and refinancing activity is increasing across the city and county. The number of deeds of trust and mortgages filed at the Gallatin County Clerk & Recorders office grew from around 4,700 in 2010 to more than 5,900 in 2012. That figure is on pace to increase 4 percent in 2013.

Those who were able to weather the economic storm are poised to benefit from the steadily recovering housing market.

"What's left when the dust settles is people that were either here before, or are planning on being here for a long period of time and they're heavily invested in the community," Levi said. "That allows them to stay during the good times and flourish during the bad times."

Dovetail Construction was able to stop building speculative projects a little before the recession hit, Rote said. The timing was a stroke of luck for the firm. Dovetail saw its volume of work cut in half, had to cut its expenses and let some workers go and operate with near zero debt, he said. But the company was able to avoid the severe financial hardships, such as bankruptcy, that some subcontractors and vendors faced.

"We had gone through cycles before and knew the pain and agony the industry goes through," Rote said. "(But) this last recession has been the toughest. And, quite frankly, I think there's still potentially clouds on the horizon."

Inflationary pressures, interest rates and the rapid increase in the price of certain building materials all have him concerned about the future. But as he reflected on those underlying factors, Rote said that his company is busy for the upcoming year.

In fact, Dovetail is facing its greatest volume of work since it began.

He attributed part of the momentum the business is carrying to the Black Bull home in which this interview was conducted. Rote explained the custom-built home was picked for the People's Choice Award during the Southwest Montana Building Industry Association's 2012 Parade of Homes.

The recognition has brought attention and potential clients. Still, he attributed the business' ability to come through the recession firmly on its feet more to his and Sullivan having the "experience and modesty" to not getting caught up in the excitement of the real estate boom.

"And a little bit of luck," he added with a laugh.

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