

Business Monday

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ECONOMY

Green cards for sale at a South Beach hotel: Competition is on for EB5 investment visas

If the sleepy Astor Hotel can pull off an ambitious expansion plan, investors from Latin America and China may have an easy path to green cards.



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If David Hart gets his way, South Beach's 42-room Astor Hotel will be on a hiring spree this year as it adds concierge service, a roof-top pool, an all-night diner, spa and private-car service available 24 hours a day.

New hires will be crucial to Hart's business plan, since foreign investors have agreed to pay about \$50,000 for each job created by the Art Deco boutique.

The Miami immigration lawyer specializes in arranging visas for wealthy foreign citizens under a special program that trades green cards for investment dollars. Businesses get the money and must use it to boost payroll. The minimum investment is \$500,000 to add at least 10 jobs to the economy. That puts the pressure on Hart and his partners at the Astor to beef up payroll dramatically, with plans to take a hotel with roughly 20 employees to one with as many as 100 workers.

"My primary responsibility is to make something happen here over the next two years that will create the jobs we need," Hart said a few steps away from a nearly empty restaurant on a recent weekday morning. "It's all going to be transformed."

Though established in the 1990s, the "EB5" visas soared in popularity during the recession as developers sought foreign cash to replace dried-up credit markets in the United States.

Chinese investors dominate the transactions, accounting for about 65 percent of the nearly 9,000 EB5 visas granted since 2006. South Korea finishes a distant second at 12 percent and the United Kingdom holds the third-place slot at 3 percent. If Latin America and the Caribbean were one country, they would rank No. 4 on the list, with 231 EB5 visas granted, or about 3 percent of the total.

Competition has gotten stiffer for the deep-pocketed foreign investors willing to pay for green cards. The University of Miami's bio-science research park near the Jackson hospital system raised \$20 million from 40 foreign investors under the EB5 program, most of them from Asia. The money went into the park's first building; visa brokers are waiting to see if the second building will proceed so they can offer a new pool of potential green-card sales.

In Hollywood, the stalled \$131 million Margaritaville resort had hoped to raise about \$75 million from EB5 investors before ditching that plan last year to pursue more traditional financing. A retail complex by developer Jeff Berkowitz in Coral Gables also launched a program to raise \$50 million in EB5 money for the project, Gables Station. Hart worked with other EB5 investors to back pizza restaurants in Miami and South Beach. A limestone mine in Martin County also was backed by EB5 dollars.

This year, the city of Miami itself is expected to get into the business by setting up an EB5 program to raise foreign cash for a range of city businesses and developments. The first would be the tallest building in the city — developer TiborHollo's planned 85-story apartment tower, the Panorama, in downtown Miami.

With a construction cost of about \$700 million, Miami's debut EB5 venture hopes to raise about \$100 million from foreign investors, said Laura Reiff, the Greenberg Traurig lawyer in Virginia working with Miami on the EB5 effort. "This is a marquis project," she said.

The arrangement is a novel one for Miami, with the city planning to help a private developer raise funds overseas for a new high-rise. And it would allow Hollo and future participants to tout the city of Miami's endorsement when competing with other Miami-area projects for EB5 dollars. "We will have the benefit of the brand of the city of Miami," said Mikki Canton, the \$6,000-a-month city consultant heading Miami's EB5 effort. "A lot of these others are privately owned and they won't have that brand."

She said the Hollo project will be crucial for getting Miami's EB5 designation approved in Washington, but that the program will be open to all local businesses that qualify. She sees the city's effort as a way to make EB5 funding more affordable to Miami businesses that don't have the funds to pursue an EB5 designation in the private sector.

Other governments have gotten into the EB5 business, too. Dallas set up an EB5 center in 2009. Vermont's governor, Pete Shumlin, was in Miami recently to pitch his state's EB5 program to visiting investors.

Miami will set up a committee of city department heads to screen potential projects EB5 for consideration, followed by approval by a panel of outside experts on the program, Canton said. "We really want to have a strong say in the projects," she said. "We want to make sure the projects do create jobs and spur economic development."

The details remain in flux, but she said business owners like Hollo would pay a fee for using the city's EB5 "regional center," which is the entity that can forward projects to Washington for approval. Developers also will bear the expense of finding investors overseas and getting the project approved by immigration officials.

Hollo will initially pay about \$25,000 to be the debut EB5 project for Miami, with the city kicking in about \$40,000. Future participants would likely pay more, Canton said.

In an interview, Hollo said he would not have trouble obtaining financing without the city's EB5 program and at a lower interest rate. He said his participation is tied mainly to Miami wanting a big venture to win approval for its EB5 certification in Washington. Once certified as a "regional center," Miami's EB5 organization can then raise money overseas for multiple ventures and submit them for approval to Washington.

"This is the poster child for the program," Hollo said.

VISA RULES

Critics see the national EB5 program as more about wealthy foreigners jumping to the front of the green-card line, ahead of immigrants chasing visas tied to obtaining and securing employment in the United States. Each visa category has its own cap, so the popularity of one doesn't affect limits on the other. But EB5 visa holders have much more flexibility when they come to the United States than do the traditional green-card holder. Most immigrants with green cards must maintain employment or risk deportation. But EB5 visa holders can hold a green card indefinitely without the need for work, provided the jobs tied to their projects get certified by Washington. A successful EB5 applicant can obtain a green card, plus visas for a spouse and their children under 21.

The system has no requirements for creating well-paying jobs, though high salaries help developers claim more economic impact. Attorneys like Hart who sell the investment slots can take credit not just for jobs on a business's payroll, but also for "indirect" job creation from the money a business generates. And the investment dollars that pour in can mean healthy profits for developers, without the normal restrictions and costs associated with traditional financing from a bank or domestic backers.

"Frankly, it's cheap capital," said David Schubauer, a securities lawyer with BilzinSumberg who has worked on local EB5 projects. While most investors expect at least 8 percent back on their initial investment each year, Schubauer said he finds the typical EB5 applicant is happy with earning a return of only 1 or 2 percent.

"It's cheap because the foreigners who invest in these deals are primarily interested in getting their green cards and becoming permanent residents," he said. "They're not so interested in the return they're going to get from their investments."

Supporters see the EB5 program as another option for bringing overseas cash into the domestic economy, and then target the money to increasing employment for U.S. citizens. While most green-card programs are tied to a foreign resident obtaining employment — and competing with U.S. job seekers — the EB5 program only asks that a foreign resident invest in creating jobs for existing residents.

Federal law allows up to 10,000 EB5 visas to be issued each year. The more popular visa categories, such as the H1B (skilled foreign workers) and H2B (seasonal foreign workers), regularly hit their annual caps mid-year. But the EB5 has never reached the 10,000 mark.

Immigration experts expect that to change in 2013, as applications from China threaten to push approvals above the cap. That would kick-in limits on the number of EB5 visas that could go to China, since per-country caps automatically go into effect once the overall limit is reached on a single visa category. That could make 2013 the most complicated year yet for South Florida's cottage industry of EB5 projects as the pool of potential Chinese investors shrinks to those admitted under the cap.

The US Citizenship and Immigration Service lists more than two dozen EB5 centers in Florida, some with four or five projects attached to them. There is no official list of EB5

projects in South Florida, but the program has been popular in the region for years. Some EB5 ventures are merely ideas awaiting investor interest. Balco International in Royal Palm Beach wants EB5 backing to launch a chain of Great American Diner restaurants out of converted mobile homes. A steel-house factory to be built in Miami-Dade was announced in 2011 as an approved EB5 project but now has a dead website and disconnected phone lines.

While getting an EB5 project approved in Washington takes time, the real crunch comes in the two years when the ventures must create the jobs tied to the visas. At the start of the two years, investors receive a temporary green card. At the end of the two years, if the jobs have been created and still exist, investors receive permanent green cards — a crucial step that makes citizenship within reach. Investors face deportation if immigration officials conclude there aren't 10 jobs to match each visa.

At the lone building at the new University of Miami Life Science and Technology Park, developers hope to soon win final approval for their 40 investors, said Benjamin Cummings, the Richmond, Va., consultant to who brokered the EB5 deals for UM's developer, Wexford Science and Technology.

The foreign investors covered about \$20 million of the building's \$107 million price tag. About half of them were from Asia, Cummings said, with Latin America accounting for a third of the investors. Federal rules require the creation of 400 jobs to justify those investment visas for a building that Wexford said is 75 percent full and where the main tenants are existing UM operations that relocated from other locations.

Thanks to indirect employment calculations, Cummings said the UM building expects to take credit for at least 1,000 jobs. "We will be well over the 400," Cummings said.

HIGH STAKES

The stakes are high for projects like UM's Life Science park. With hundreds of EB5 projects competing for a limited pool of deep-pocketed foreigners willing to invest, the pressure is on to promise sure-fire job creation in the United States.

"In China, in particular, it's like snake-oil salesmen. It's crazy the promises being made," said Jose Latour, a Miami immigration lawyer who helps raise EB5 cash and is a partner in the venture that backed the Martin County mine. Not all foreign investors "are so rich they can lose half-a-million bucks. There are a lot of families who have been destroyed. There is a lot of greed that is happening."

Immigration lawyers and others involved in EB5 projects said wealthy foreign residents often will gift the EB5 money to adult children who attended college in the United States and want to stay there to work. In China, brokers play key roles in matching projects with investors for a commission on the deal. In the Astor Hotel venture, each investor pays \$550,000 — \$500,000 toward the hotel expansion and \$50,000 as a transaction fee.

As for the Astor investors, Hart said he's lined up foreign residents for about half of his slots: two from Venezuela, two from Colombia, three from Mexico and one from Canada.

He's expecting to round out the offering with investors from China.

Hart and his partners hope to raise \$8 million from 16 foreign investors, meaning the Astor expansion must claim 160 new jobs to justify the visas. About 100 will be employed by the Astor, and 60 jobs will be claimed as created indirectly by construction work and the money that flows out from the Astor itself.

The \$8 million infusion would fund most of a \$10 million redo at the Astor, a hotel located on the 900 block of Washington Avenue and a few blocks back from the beach. Hart is partnering with the existing operator to renovate and relaunch the Astor, and he is promising new jobs from almost every inch of the 1936 hotel.

"This is not a full-service hotel. Right now, there is no room service. There is no concierge," he said. "That's all going to change."

At the valet stand outside, Hart pictures two cars with drivers ready to ferry guests wherever they want. In the upscale Italian restaurant off the lobby, dei Frescobaldi, continental offerings will be replaced with full breakfast service. An idle bar off to the side will be converted into an all-night diner.

And for guests interested in al fresco dining, they can head up to the roof. Now just a shabby expanse of HVAC equipment with partial ocean views, Hart and partners want to add a rooftop pool and restaurant. A name change is in the works, too: the New Astor Hotel and Spa. And while there's no space for a spa right now, the Astor plans to sacrifice one of its 42 rooms to create one.

Hart said there wouldn't be the pressure to add so many new employees at the \$400-a-night Astor if not for the EB5 investors. "We need to maximize the amount of jobs," he said.

But Hart insists the ambitious plans will work well for a hotel market where rates are at record levels. "We're doing a complete renovation, and we're doing a complete transformation," he said. The aim is to earn a four-star ranking, but Hart said "we're hoping for five stars."