

Program Gives Investors Chance at Visa

By SUMATHI REDDY and JOSEPH DE AVILA

A 38-story luxury Times Square Hotel. A medical center, hotel and condominium development in downtown Flushing. And New York City's reportedly first Proton Therapy Cancer Treatment Center.

All rely on an unusual source of funding: immigrants who invest \$500,000 for a shot at a shortcut to permanent residency.

During the past year, four new groups in New York City have been designated regional centers by the federal government, enabling them to market their projects in foreign countries to raise capital. Nationwide, there are now more than 140 centers, compared to 11 in fiscal year 2007.

As traditional financing options have dried up, developers suddenly have turned to the program to fund projects that might otherwise be ignored.

"That money is not available elsewhere," said George Olsen, managing principal at New York City Regional Center LLC, the first regional center to operate in the city.

The program has its critics. They say it has been pitched at times to foreigners as a sure-fire way to get a green card or as a risk-free investment—which it's not.

Some immigrants have experienced deteriorating investments and been sent home packing after developments flop. Since all of the regional centers in New York City are relatively new, none of the investors have reached the point where they would have applied for permanent residency.

Michael Gibson, who researches EB-5 projects for investors through his Florida-based business, said it's hard to monitor what overseas agents are pitching to foreign investors. He said there have been cases of regional centers giving the impression that they are connected with the government.

Mr. Gibson said there have also been concerns about a high number of denials from immigration officials when EB-5 immigrants with conditional green cards apply for permanent residency. A big reason for denying these applications is that the programs can't prove they're creating enough jobs.

"What's disturbing is we've seen an uptick in denials," he said. "It's a quarter of the petitions," in the first quarter of fiscal year 2011, he said.

The so-called EB-5 visas are awarded to foreigners who invest at least \$500,000 in U.S. businesses. Conditional green cards are usually issued within six months, allowing immigrants

and their families to live in the U.S. Two years later immigrants are eligible to adjust to a permanent resident status, provided they can prove their investment created at least 10 jobs. If not, they must return home.

The program was created in 1990 and included a cap: 10,000 of the visas—including for spouses and dependents—may be issued a year.

The New York City Regional Center has raised \$60 million for the Brooklyn Navy Yard and \$65 million for Steiner Studios, a film and television studio in Brooklyn. The center is in the process of raising \$249 million to pay for infrastructure costs for developer Forest City Ratner Cos.'s Nets basketball arena in Brooklyn, its biggest project so far. And it's raising \$77 million for developer Dermot Co. to rehab the Battery Maritime Building in Lower Manhattan, where the developer plans to add a 67-room hotel.

Other centers that have formed in the past year include the New York Immigration Fund, which is raising funds for two hotels, including one in Times Square; and the Federal New York Metropolitan Regional Center, which is working on Eastern Mirage, a medical center in Flushing with luxury condo apartments and a boutique hotel.

There is also the Manhattan Regional Center, which is soliciting investments for a 385-room hotel on West 34th Street and a 188-bed assisted-living facility in Brooklyn.

The New York Immigration Fund is raising about 30% of the estimated \$250 million needed for the Times Square Hotel through the EB-5 program, said Robert Roe, vice president of the group. "Immigration can be a very polarizing topic but we feel this program is a great program," he said. "You're creating jobs locally and you're not using any taxpayer assistance."

According to the U.S. Citizenship and Immigration Services, from 1991 through the end of January of this year, 5,787 investors with conditional green cards have applied for permanent residency through the program. Of those, only 3,203 received it. In the first four months of this fiscal year there have been 715 investors who have applied for permanent residency, according to preliminary figures, close to the all-time annual high of 768 last year. The number of visa applications from Chinese nationals dwarfs any other country.

For some, the visas have become a last resort. Real-estate developer David Marx had plans to build a \$181.1 million hotel that stalled when the bank slated to finance it was shut down by the government. "The banking industry has totally shut down for construction financing today," he said.

He formed the Manhattan Regional Center last year, but several challenges remain. The real-estate investment firm that co-owns the mortgage used to buy the land for the hotel's development filed foreclosure papers against Mr. Marx last year. The money raised is being held in escrow and won't be released until the mortgage involved in foreclosure proceedings is paid off, Mr. Marx said.