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Uncertain Future for Last Baths on Lower East Side;

By DOUGLAS MARTIN

The 10th Street Russian and Turkish baths are the last survivor of the sort of Eastern European-style public baths that once dotted the Lower East Side. Their searing Russian room, ice-cold pool, vigorous massages and fresh-squeezed fruit and vegetable juices have attracted the likes of John Belushi, Mick Jagger, Frank Sinatra and John F. Kennedy Jr. Alexander Frish, the ringmaster of the Moscow Circus, hangs out there when he is in town.

But suddenly the shvitz, as it is known in the Yiddish slang still favored by old-time habitués, is facing rough waters. Last week, it lost a lawsuit to the owner of the adjacent building, who convinced a jury that his tenants were so hot as a result of heat seeping into their living space that one fried an egg in his bathtub. The jury ordered the Russian bath owners to pay \$500,000 in damages.

"It could very possibly put the baths out of business," said Joseph T. Pareres, the baths' lawyer.

"In a weird way, it may end an era," said **Brian A. Raphan, a lawyer for Taj Mahal Development Corporation**, owner of the building next door. "But that's business."

The owners insist that it is too early to predict the end. Though they will reveal nothing of the enterprise's finances, it attracts around 120 customers a day at \$18 each, according to a count by the lawyer for the building next door. That would make for sales of more than \$2,000 a day before such extras as \$35 massages and \$16 steaks are added.

The legal setback came during the year the baths, at 268 East 10th Street, celebrated their 100th anniversary. Their predicament is exacerbated by a bitter dispute between the owners of the baths, Boris Tuberman and David Shapiro, both Russian emigres, who in September managed to speak long enough to agree that the establishment is no longer big enough for both.

The result is that each is there on alternate weeks. They share expenses for such things as utilities, but much else is different. Mr. Tuberman's presence is indicated by the presence of an espresso machine, signs advertising facials using mud from the Red Sea and more extensive juice offerings. When he leaves after the end of his shift, the posters advertising facials and the espresso machine go with him.

Mr. Shapiro's amenities are less apparent, with some customers going so far as to mutter that he keeps the baths less hot than his partner. Mr. Tuberman is generally regarded as more energetic.

But Mr. Shapiro has his defenders. When asked what extra amenities he offers, the woman behind the cash register on Tuesday evening snapped, "Everything."

In interviews, the owners insist that all is fine. "Everything's all right," Mr. Shapiro said, repeatedly insisting that the dispute does not belong in a newspaper. "No problems," he said.

Mr. Tuberman first said, "We're very friendly," then added that the two are also quite competitive. He thought for a moment before addressing a derogatory comment a client had heard Mr. Shapiro make about him. "It might be jealousy," he suggested.

Loyal customers watch the squabble with something between amazement and bemusement, though few want to antagonize either party by speaking for attribution. "It's not weird, it's ridiculous," one regular said.

The practical significance of the feud, **Mr. Raphan suggested**, is that the two would have to cooperate in posting the \$500,000 bond an appeal would require, as well as in making any necessary repairs. "They don't even talk to each other," he said.

Mr. Pareres scoffed at this suggestion, saying the baths will of course appeal if they are unable to persuade the trial judge, Helen E. Freedman of State Supreme Court in Manhattan, to modify the jury verdict in a motion they have 30 days to submit. Acquired Baths in 1985

The two men -- with a third partner who later sold his interest to them -- bought the Russian baths in 1985, paying \$425,000 for the real estate and an additional \$425,000 for the business, according to testimony in the weeklong trial. No down payment was required.

Two years before, Taj Mahal had bought the adjacent building, a dilapidated tenement at 270 East 10th Street, and did extensive remodeling.

The heart of the legal dispute was whether it was this remodeling or the aging of the protective layers surrounding the Russian baths that caused more heat to enter the building. There had been no complaints until 1985 when the original lawsuit was filed, said Mr. Pareres, the baths' lawyer.

He also said that Taj Mahal chose building materials that were inferior to those used originally. Instead of the three layers of bricks used originally at 270, Taj Mahal used hollow cinder blocks, he said. Cracks Repaired

Moreover, Mr. Pareres said the problem was solved in 1990 when a state judge ordered both sides to hire engineers to evaluate the situation. The result was that cracks in the outer wall of the building housing the baths were repaired.

But the legal case plugged along anyway, as damage claims remained to be resolved and Taj Mahal claimed that the problem persisted. The six-person jury heard testimony that temperatures regularly exceeded 100 degrees and that air conditioners were run year-round.

Jay Siekerski, a musician, testified that the heat damaged his instruments. He said his wife, a model, missed jobs because her cosmetics melted. But the couple moved out in February 1990, before the baths' wall was repaired.

One current resident, Rosa Zarate, testified that she sleeps with her windows open even in winter, and plans to leave before summer even though her lease will not have expired. Awarded \$500,000

The trial itself dwelt on the qualities of building materials and was "boring," Mr. Pareres said. The jury reached a decision in less than 45 minutes, including time for lunch. It awarded the Taj Mahal Corporation \$500,000 -- \$75,000 more than the company sought.

Mr. Raphan said this showed the strength of his case; Mr. Pareres thought it owed more to the jury members' desire to finish their holiday shopping.

The ultimate outcome, Mr. Pareres suggested, might be an order to make further improvements, perhaps to move the furnace used to heat 10 tons of rocks to temperatures exceeding 1,000 degrees.

The scene at the baths on Tuesday evening seemed unchanged. Very large men were happily paying \$20 to have their already parboiled bodies scrubbed with bundles of scratchy oak leaves. Others were buying shots of vodka to splash in just-squeezed carrot juice. A woman's face and legs were covered with a muddy cosmetological substance. Brave souls splashed ever so briefly in the wintry pool.

But at the counter where customers check valuables on entering and pay upon leaving, it was clear things had changed. A woman was being told that tickets bought from Mr. Tuberman would not be honored by Mr. Shapiro. The woman asked why everything was so complicated.

"It's so complicated because we have a stupid partner," said the woman behind the counter. "He's crazy."