

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: §
§ Case No. 18-33836
NEIGHBORS LEGACY HOLDINGS, §
INC., et al., § Chapter 11
§
Debtors. § Jointly Administered

**OBJECTION TO DEBTORS’ AMENDED NOTICE OF
EXECUTORY CONTRACTS AND UNEXPIRED LEASES SUBJECT TO POSSIBLE
ASSUMPTION AND ASSIGNMENT AND PROPOSED CURE AMOUNTS**
[Related to Docket No. 236 and 272]

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Austin Mueller MD, LLC. (“Austin Mueller”) files its objection to the *Debtors’ Amended Notice of Executory Contracts and Unexpired Leases Subject to Possible Assumption and Assignment and Proposed Cure Amounts* [Docket No. 272]. In support of its objection, Austin Mueller respectfully states as follows:

1. On August 15, 2018, the Debtors filed their Notice of Executory Contracts and Unexpired Leases Subject to Possible Assumption and Assignment and Proposed Cure Amounts (“Cure Notice”) [Docket No. 236] setting forth the executory contracts and unexpired leases that are subject to potential assumption and/or assignment to the successful bidder(s) to be identified at the conclusion of the auction of the Debtors’ assets.

2. On August 22, 2018, the Debtors filed an Amended Notice of Executory Contracts and Unexpired Leases Subject to Possible Assumption and Assignment and Proposed Cure Amounts (“Amended Cure Notice”) [Docket No. 272].

3. Pursuant to Section 1107 of the United States Bankruptcy Code (the “Bankruptcy Code”), a debtor possesses the rights and powers of a trustee serving in a Chapter 11 bankruptcy



case. *See* 11 U.S.C. § 1107(a). Section 365 of the Bankruptcy Code empowers a trustee, and thus, a debtor, to assume or reject executory contracts and unexpired leases of the debtor. *See* 11 U.S.C. § 365(a). However, Section 365(b) of the Bankruptcy Code provides that a debtor in possession may not assume an unexpired lease if the debtor has defaulted under the terms of the lease, unless (1) the debtor has cured the default or provided adequate assurance of a prompt cure; (2) the debtor has compensated or provided adequate assurance of prompt compensation to the landlord for any actual pecuniary loss resulting from the debtor's default; and (3) the debtor has provided adequate assurance of future performance under the lease. 11 U.S.C. § 365(b)(1).

4. Austin Mueller does not object to the assumption and assignment of its lease agreement provided that all defaults are cured, the lease is assumed in full and any successful bidder provides adequate assurance of future performance satisfactory to Austin Mueller. While the Debtor has offered to provide this information, as of the date of this filing, Austin Mueller has not received sufficient financial information to determine whether the proposed assignee will be able to perform on the assumed lease. Because Austin Mueller does not yet have this information, it files this objection to reserve its rights surrounding the proposed assumption of its lease.

5. Austin Mueller continues to investigate this issue and reserves the right to modify, supplement and/or amend this objection as further information becomes available, as well as object to the assumption and/or assignment of the lease agreement and the sale of assets, including any objections to any assignee and any proposed adequate assurance of future performance.

WHEREFORE, Austin Mueller respectfully requests that this Court approve the Debtors' request to assume the lease agreements only if the successful bidder gives adequate assurance of future performance and grant it such other relief as is just and proper.

DATED: August 23, 2018

Respectfully submitted,

KILMER CROSBY & QUADROS PLLC

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COUNSEL FOR AUSTIN

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CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was served via the Court's ECF system on those parties consenting to service through same on August 23, 2018.

/s/ Brian A. Kilmer

Brian A. Kilmer