

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,

Case No. 11-01-10779-SA
Chapter 11

Debtor.

**OBJECTION TO PROPOSED CURE AMOUNT
WITH RESPECT TO REAL PROPERTY**

FREDERICK M. MOSSMAN and EDWARD GLADDEN, Co-Trustees Under That Certain Trust Created in Article VI, Paragraph C.1 of the Last Will and Testament of Frederick A. Mossman, Creditors of the Debtor herein, hereby object to the proposed cure amount relating to the un-expired lease regarding Store No. 876, and Creditors state therefor as follows:

1. The lease between Creditors and Debtor requires that Debtor pay all real estate property taxes that come due during the pendency of the lease and, further, that Debtor shall not permit any liens to stand against the leased premises for work done or materials furnished to lessee (i.e., Debtor). The lease permits the lessee (Debtor) to contest the validity of any such lien, but upon the final determination of the validity thereof, the lessee (Debtor) is required to cause such lien to be paid and released of record without cost to the lessor (Creditors).

2. Debtor has failed to pay real estate property taxes that have come due prepetition, in the amount of \$16,082.95 as required by the terms of the lease between the parties as additional rent, and Creditors have been required to pay said taxes to protect their property. Pursuant to the terms of the lease, the real estate property taxes constitute additional rent, and by its failure to pay said taxes when due, Debtor owes this additional sum to Creditors and said sum constitutes a secured debt.

3. Debtor remodeled its store (Store No. 876) prepetition and indebted itself therefor to

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Richardson & Richardson, Inc., the general contractor that performed the work and supplied the materials, in the amount of \$173,073.41. This debt was general unsecured debt.

4. Subsequent to Debtor's filing of its proceeding herein, on February 22, 2001, Richardson & Richardson, Inc. filed a claim of lien in the amount of \$173,073.41 against the Debtor and against the Creditors. The filing of said claim constitutes a violation of the stay herein.

5. Debtor has been notified by Creditors of the lien, but it has failed to contest the filing of the lien filed by Richardson & Richardson, Inc. in this court, and Creditors are without standing to do so.

6. Debtor's permitting of the filing of the aforesaid lien and its failure to pay or contest the validity of said lien constitutes a post-petition breach of the lease between the parties, and failure of Debtor to cure this post-petition breach constitutes grounds for termination of the lease by Creditors.

7. As long as the lien remains in place, Creditors have a secured claim against Debtor that must be cured as part and parcel of any sale transaction.

WHEREFORE, Creditors request that the court deny Debtor's proposed cure amount regarding the lease of Store 876.

Respectfully submitted,



PAUL F. BECHT
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I hereby certify that I served counsel for Debtor, Robert H. Jacobvitz and Stephen J. Lubben, by e-mail and by facsimile transmission on this 7th day of August, 2001.



Paul F. Becht