

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

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BANKRUPTCY COURT
ALBUQUERQUE, N.M.

IN RE:	§	
	§	
FURR'S SUPERMARKETS, INC.,	§	Case No. 11-01-10779-SA
a Delaware Corporation,	§	
	§	
Debtor.	§	

**RIVER OAKS PROPERTIES OBJECTION TO DEBTOR'S
NOTICE OF PROPOSED CURE AMOUNTS**

TO THE HONORABLE JAMES S. STARZINSKY, UNITED STATES BANKRUPTCY
JUDGE:

River Oaks Properties (f/k/a Supermarket Properties I, Ltd.) (“*River Oaks*”), a Lessor, Creditor and Party-in-Interest in the above Chapter 11 case, files its *Objection to Debtor's Notice of Proposed Cure Amounts (the “Objection”)*, and in support thereof, would respectfully show the Court as follows:

I. Factual & Procedural Background

1. *River Oaks* is the Lessor under three (3) unexpired leases for non-residential real property (collectively, the “*Leases*”) described as follows:

<i>Store No.</i>	<i>Location</i>
874	13201 Lomas NE, Albuquerque, New Mexico
950	11705 Montwood, El Paso, Texas
952	951 N. Resler Drive, El Paso, Texas

867

Store No.	July 2001 Rent	August 2001 Rent	Penalties & Interest Due in Addition to 2000 Property Taxes (through 8/31/01)	Property Taxes for 2001 ¹ (prorated 1/01 - 8/31/01)	Variance
874			\$16,254.95	\$20,446.60	\$36,701.55
950	\$3,686.72	\$3,686.72	\$13,084.78	\$67,100.92	\$87,559.14
952			\$36,040.06	\$65,201.35	\$101,241.41
Total:	\$3,686.72	\$3,686.72	\$65,379.96	\$152,748.87	\$225,502.10

6. Moreover, under §365(b)(1)(B) and the provisions of the applicable *Leases*, the Debtor must pay the reasonable attorneys fees and expenses which have been incurred by *River Oaks*, and may continue to be incurred by *River Oaks* in this proceeding. See *In re Shangri-La, Incorporated*, 167 F. 3d 843 (4th Cir. 1999); *In re Hillsborough Holdings Corporation*, 126 B.R. 895, 898 (Bankr. M.D. Fla. 1991); *In re Bullock*, 17 B.R. 438, 439 (9th Cir. BAP 1982) (lessor's attorneys fees are part of pecuniary loss that must be cured when underlying lease provides for recovery of attorneys fees).
7. As of August 8, 2001, the amount of \$9,933.32 in attorneys fees, and \$170.98² in expenses have been incurred by *River Oaks* in this bankruptcy case. *River Oaks* submits that the attorneys fees and expenses were reasonable and necessary for this type of proceeding and the number of stores involved. *River Oaks* is further entitled to

¹ Based on Year 2000 *ad valorem* real property taxes.

² This number is not the total expenses incurred. Because of the short objection window, not all expenses have been inputted. *River Oaks* will provide a total figure as well as supporting evidence at trial on this matter.

reimbursement of all attorneys fees to be incurred in the future in connection with the *Leases* through closing on the assignment to *Supermarket Properties* or any other third-party purchaser.

WHEREFORE, PREMISES CONSIDERED, *River Oaks Properties* respectfully prays that the Court enter an order determining the correct cure amount for assignment of the three (3) *River Oaks Leases*, plus all attorneys fees, costs, and expenses incurred subsequent to August 9, 2001.

Respectfully submitted,

KRAFSUR GORDON MOTT P.C.

Attorneys for *River Oaks Properties*

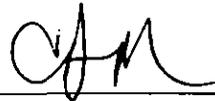
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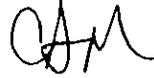


CARLOS A. MIRANDA

Texas State Bar No. 14199582

CERTIFICATE OF SERVICE

This is to certify that on the 9th day of August, 2001, a true and correct copy of the foregoing *Objection* was mailed via certified mail, return receipt requested to the parties on the attached list.



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