

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)
) Chapter 11
CBC Restaurant Corp., et al.,) Bk. No. 23-10245 (KBO)
) (Jointly Administered)
Debtors.) **Objection Deadline: May 24, 2023 @ 4:00 p.m.**
) **Hearing Date: TBD**
) **Re: D. I. 361, 418, 469**

**SUPPLEMENTAL OBJECTION OF WESTFIELD, LLC AND ITS LANDLORD
AFFILIATES TO THE PROPOSED ASSUMPTION AND
ASSIGNMENT OF WESTFIELD LEASES PURSUANT TO
THE ASSUMPTION AND ASSIGNMENT PROCEDURES AND NOTICE OF
SELECTION OF PROPOSED STALKING HORSE PURCHASER
(CORBAK ACQUISITION LLC) AND FILING OF PROPOSED
STALKING HORSE ASSET PURCHASE AGREEMENT**

Westfield, LLC, and its affiliates Montgomery Mall Owner LLC and Mission Valley Shoppingtown, LLC (collectively, “Landlords”), by and through their undersigned counsel, hereby submit this *Supplemental Objection* (the “Supplemental Objection”) to *Debtors’ Motion for Entry of Orders (I)(A) Approving Bidding Procedures for the Sale of all or Substantially all of the Debtors’ Assets, etc.* [D.I. 289] (the “Motion”) and *Notice of Selection of Proposed Stalking Horse Purchaser (Corbak Acquisition LLC) and Filing of Proposed Stalking Horse Asset Purchase Agreement* [D.I. 469]. In support of this Supplemental Objection, the Landlords show as follows:

BACKGROUND

1. On May 18, 2022, the Landlords filed the *Objection to Debtors’ Motion for Entry of Orders (I)(A) Approving Bidding Procedures for the Sale of all or Substantially all of the Debtors’ Assets, etc.*, including the proposed “cure amounts” for the Westfield Leases as set forth in the *Notice of Possible Assumption and Assignment with Respect to Executory Contracts and*



Unexpired Leases of the Debtors [D.I. 419] (the “Objection”). All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Objection.

2. On May 19, 2023, the Debtors filed the *Notice of Selection of Proposed Stalking Horse Purchaser (Corbak Acquisition LLC) and Filing of Proposed Stalking Horse Asset Purchase Agreement* [D.I. 469].

3. On May 20, 2023, Corbak Acquisition LLC (the “Bidder”) submitted adequate assurance information to the Landlords (the “Adequate Assurance Letter”).

4. The Landlords hereby supplement the Objection as provided herein.

SUPPLEMENTAL OBJECTION

A. Objections to the Proposed Stalking Horse Asset Purchase Agreement (the “APA”)

5. The APA provides that the Bidder shall have a 90-day period following the closing on the APA to complete the assumption and assignment of some (or all) of the real property leases. Such a “designation rights period” as to real property leases (the “Leases Designation Rights Period”) is not objectionable so long as the expiration of the Leases Designation Rights Period does not exceed any applicable period for the assumption or rejection of leases under 11 U.S.C. § 365(d)(4).

6. The “Management Agreement” referenced in section 7.5 of the APA is not attached but it is critical as it will govern the payment of rent and the operation of the Debtors’ restaurants during Leases Designation Rights Period. This Management Agreement, or the order approving the sale of the Debtors’ assets to the Bidder pursuant to the APA (the “Sale Order”) must provide that the Landlords are third party beneficiaries as to the payment of rent and compliance with the leases during the Leases Designation Rights Period and the Landlords have

the right to seek appropriate relief from the Bankruptcy Court in the event the Bidder defaults under the Leases and/or Management Agreement.

7. With respect to Westfield Leases that are not to be assumed and assigned at the closing on the APA, the only relief that should be granted in the Sale Order is the establishment of the Leases Designation Rights Period and designation rights procedures. Any matters concerning the assumption and assignment of the Westfield Leases should be considered only when the Westfield Leases are actually designated for assumption and assignment pursuant to designation rights procedures.

B. Adequate Assurance of Future Performance

8. The Adequate Assurance Letter describes the Bidder as a newly created, single purpose entity, but provides no details as to the capitalization and financial strength of the Bidder. At this time, the Landlords thus confirm their objection to the Bidder as the assignee of the Westfield Leases as the Bidder fails to satisfy the requirement of adequate assurance of future performance under, among other Bankruptcy Code provisions, 11 U.S.C. §§ 365(b)(1) and (b)(3).

9. Unless the Westfield Leases are to be assumed and assigned at the closing on the APA, the above objections to adequate assurance of future performance should not prevent the entry of the Sale Order, provided that the Sale Order reserves the rights of the Landlords to object to the assumption and assignment of the Westfield Leases when the Westfield Leases are designated for assumption and assignment to the Bidder.

JOINDER AND RESERVATION OF RIGHTS

10. The Landlords join, as if restated in full herein, in the objections of other landlords of the Debtors and/or the official committee of unsecured creditors to the extent they are not inconsistent with this Supplemental Objection.

11. The Landlords reserve their rights to supplement this Supplemental Objection and to make such other and further objections as it may deem necessary or appropriate, including, but not limited to, any proposed Sale Order.

WHEREFORE, the Landlords respectfully request that the Court enter an order: (i) sustaining this Objection; (ii) approving the Sale order and the assumption and assignment of the Westfield Leases only if consistent with this Supplemental Objection, and (iii) granting the Landlords such other and further relief as this Court deems just and proper.

Dated: May 23, 2023

LAW OFFICE OF SUSAN E. KAUFMAN, LLC

/s/ Susan E. Kaufman

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)	(Jointly Administered)
Debtors.)	

CERTIFICATE OF SERVICE

I, Susan E. Kaufman, Esquire, certify that I am not less than 18 years of age, and that on May 23, 2023, I served the attached ***Supplemental Objection of Westfield, LLC and its Landlord Affiliates to the Proposed Assumption and Assignment of Westfield Leases Pursuant to the Assumption and Assignment Procedures and Notice of Selection of Proposed Stalking Horse Purchaser (Corbak Acquisition LLC) and Filing of Proposed Stalking Horse Asset Purchase Agreement*** upon the parties listed below as indicated:

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Dated: May 23, 2023

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