

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

IN RE:	§	
	§	Chapter 11
NEIGHBORS LEGACY HOLDINGS, INC.,	§	
ET AL.,	§	Case No. 18-33836 (MI)
	§	
<i>Debtors.</i>	§	(Jointly Administered)
	§	

OBJECTION OF ANGELINA COUNTY, CAMERON COUNTY, CYPRESS-FAIRBANKS ISD, ECTOR CAD, CITY OF EL PASO, GALVESTON COUNTY, GREGG COUNTY, CITY OF HARLINGEN, HARLINGEN CISD, HARRIS COUNTY, HIDALGO COUNTY, JEFFERSON COUNTY, CITY OF MCALLEN, MONTGOMERY COUNTY, ORANGE COUNTY, TEXAS CITY ISD, AND TOM GREEN COUNTY TO JOINT PLAN OF LIQUIDATION OF NEIGHBORS LEGACY HOLDINGS, INC. AND ITS DEBTOR AFFILIATES UNDER CHAPTER 11 OF THE BANKRUPTCY CODE (Ref. Docket No. 757)

**To the Honorable Marvin Isgur,
United States Bankruptcy Judge:**

NOW COME, Angelina County, Cameron County, Cypress-Fairbanks ISD, Ector CAD, City of El Paso, Galveston County, Gregg County, City of Harlingen, Harlingen CISD, Harris County, Hidalgo County, Jefferson County, City of McAllen, Montgomery County, Orange County, Texas City ISD, and Tom Green County (the “Taxing Authorities”), secured creditors in the above-numbered and styled bankruptcy case, and file this objection to *Joint Plan of Liquidation of Neighbors Legacy Holdings, Inc. and Its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code* (the “Plan”), and respectfully represent:

1. The Taxing Authorities are political subdivisions of the State of Texas.
2. The Taxing Authorities hold secured claims in the amount of \$268,078.02 for ad valorem taxes for tax years 2017 and 2018 on Debtors’ property. Additionally, tax year 2019 attached to the property on January 1, 2019. The property taxes were duly



assessed in accordance with the laws of the State of Texas and constitute valid, liquidated, secured claims against the Debtors' property entitled to priority over other secured claims.

3. The Texas Property Tax Code § 32.05(b) provides that tax liens securing the property have priority over the claim of any creditor of a person whose property is encumbered by the lien. The Taxing Authorities' claims are for *ad valorem* taxes assessed against the Debtors on January 1 of each year pursuant to the Texas Property Tax Code §§ 32.01 and 32.07. The taxes are secured by first priority liens on the property of the Debtors pursuant to Tex. Prop. Tax Code §§ 32.01 and 32.05. The Taxing Authorities' liens take priority over the claim of any holder of a lien on property encumbered by the tax lien, whether or not the debt or lien existed before the attachment of the tax lien. See Texas Property Tax Code § 32.05 (b); See also Central Appraisal District of Taylor County v. Dixie-Rose Jewels, Inc., 894 S.W. 2d 841 (Tex. App. 1995) (bank's foreclosure of its purchase money lien on personal property did not defeat or destroy the taxing unit's statutory tax lien). The tax lien arises on January 1 of each tax year and "floats" to after acquired property. See City of Dallas v. Cornerstone Bank, 879 S.W. 2d 264 (Tex. App. - Dallas 1994). The tax lien is a lien *in solido* and is a lien on all property of the Debtor. See In re Universal Seismic, 288 F.3d 205 (5th Cir. 2002). The tax lien is also unavoidable. See In re: Winns, 177 B.R. 253 (Bankr. W.D. Tex. 1995). The tax claims are entitled to priority as secured claims, senior to other secured claims, according to the Bankruptcy Code, 11 U.S.C. §506. Stanford v. Butler, 826 F.2d 353 (5th Cir. 1987).

4. The Taxing Authorities object to the Plan for the reasons set forth below:

a. The Taxing Authorities object to the Plan on the basis that the treatment for Other Secured Claims is overly broad. The Taxing Authorities require the Debtors to provide specifically how and when their secured tax claims will be paid.

b. The Taxing Authorities object to the Plan on the basis that the Plan fails to provide for the retention of the Taxing Authorities' liens on the collateral, or proceeds of such collateral. The Plan should not be confirmed unless and until it specifically provides for the Taxing Authorities' pre and post-petition liens to remain on the collateral until the claims are paid in full.

c. The Plan fails to properly provide for the payment of interest on the Taxing Authorities' claims as required by 11 U.S.C. §§ 506(b) and 1129. The Taxing Authorities are entitled to interest at the statutory rate of 12% per annum, from the petition date and continuing until such time as their claims are paid in full. 11 U.S.C. § 511; See also U.S.v. Graham, 59 Fed. Appx. 660 (6th Cir. 2003); and In re Marfin Ready Mix Corp., 220 B.R. 148 (Bankr. E.D. N.Y. 1998).

d. Lastly, the Taxing Authorities object to the Plan to the extent it purports to impose a requirement of filing an administrative expense claim in order for the 2019 taxes to be paid. The Plan should provide that administrative expense claims need not be filed for the 2019 taxes. The Debtors should be required to pay the post-petition taxes in the ordinary course of business without the necessity of local governments having to file administrative claims. 11 U.S.C. § 503(b)(1)(D).

WHEREFORE, PREMISES CONSIDERED, the Taxing Authorities respectfully pray that this Court sustain this objection to the Plan, that it accordingly deny confirmation of the Plan, and for such other and further relief, at law or in equity, as is just.

[Concluded on the following page]

Dated: March 20, 2019

Respectfully submitted,

**LINEBARGER GOGGAN
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/s/ John P. Dillman

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Counsel for the Taxing Authorities

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the foregoing was served upon the entities listed below by either electronic court filing or by email on March 20, 2019:

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