

Laurie A. Spindler
Linebarger Goggan Blair & Sampson, LLP
2777 N. Stemmons Fwy, Suite 1000
Dallas, Texas 75207
(214) 880-0089 Telephone
(469) 221-5003 Facsimile

Attorneys for Dallas County

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re: § **Chapter 11**
§
NORTHWEST SENIOR HOUSING § **Case No. 22-30659**
CORPORATION, et al., § **(Jointly Administered)**
§
Debtors. §

DALLAS COUNTY’S OBJECTION TO INTERIM ORDER (1) AUTHORIZING DEBTORS IN POSSESSION TO OBTAIN POST-PETITION FINANCING; (2) AUTHORIZING DEBTORS IN POSSESSION TO USE CASH COLLATERAL; (3) PROVIDING ADEQUATE PROTECTION; (4) GRANTING LIENS, SECURITY INTERESTS AND SUPERPRIORITY CLAIMS; AND (5) SCHEDULING A FINAL HEARING

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Comes now, Dallas County, creditor and party-in-interest, and files this, its objection to the Interim Order (1) Authorizing Debtors in Possession to Obtain Post-Petition Financing; (2) Authorizing Debtors in Possession to Use Cash Collateral; (3) Providing Adequate Protection; (4) Granting Liens, Security Interests and SuperPriority Claims; and (5) Scheduling a Final Hearing (the “Interim Order”) and would respectfully show the Court as follows:

1. On information and belief, Dallas County, a duly organized governmental unit of the State of Texas, is the holder of a claim for pre-petition ad valorem business personal property taxes for tax year 2022 assessed against property located within its jurisdiction.



2. Dallas County's claim is secured by unavoidable, perfected, first priority liens on all of the Debtor's business personal property pursuant to Texas Tax Code Sections 32.01 and 32.05 and 11 U.S.C. Section 362(b)(18). 11 U.S.C. Section 362(b)(18) permits the post-petition attachment of ad valorem property tax liens. Texas Tax Code Section 32.01 provides:

- (a) On January 1 of each year, a tax lien attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year on the property, whether or not the taxes are imposed in the year the lien attaches. The lien exists in favor of each taxing unit having power to tax the property.
- (b) A tax lien on inventory, furniture, equipment, or other personal property is a lien *in solido* and attaches to all inventory, furniture, equipment, and other personal property that the property owner owns on January 1 of the year the lien attaches or that the property owner subsequently acquires.
- ...
- (d) The lien under this section is perfected on attachment and ... perfection requires no further action by the taxing unit.

Texas Tax Code Section 32.05 provides:

- (b) ... a tax lien provided by this chapter takes priority over the claim of any creditor of a person whose property is encumbered by the lien and 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 attachment of the tax lien.

3. Dallas County objects to the Interim Order because its liens are not adequately protected as required by 11 U.S.C. Sections 363 and 364(d)(1)(B). The Debtor has the burden of proof on the issue of adequate protection. 11 U.S.C. §§ 363(p) and 364(d)(2).

4. Dallas County objects to paragraph 36 of the Interim Order to the extent that it grants the Carve Out a status that is superior in all instances to the liens and claims of Dallas

County.¹ (Interim Order at 30.) Paragraph 36 provides:

In partial consideration of the Debtors' acknowledgment of the debt due and owing . . . , the DIP Lender and Trustee consent to certain expenses and professional fees incurred during the pendency of these Chapter 11 cases . . . that shall be superior in all instances to the liens and claims of the DIP Lender and Trustee and all other parties (the "Carve Out").

Id. Dallas County objects to the priming of its claim and liens.

5. Dallas County should be added to the notice provision in paragraph 29 of the Interim Order since such notice is necessary in order to provide Dallas County with an opportunity to protect its interest in its collateral. The lack of notice in this provision impedes Dallas County's ability to protect its liens.

WHEREFORE, premises considered, Dallas County respectfully requests that the Court modify the Interim Order and any final order to: (1) provide that paragraph 36 does not apply to Dallas County; (2) include counsel for Dallas County in the list of parties entitled to notice of a default; and (3) grant such other and further relief to which it may be justly entitled.

Dated: May 4, 2022.

¹ All capitalized terms that are not defined herein shall have the same meaning as provided in the Interim Order.

Respectfully submitted,

Linebarger Goggan Blair & Sampson, LLP
2777 N. Stemmons Fwy, Suite 1000
Dallas, TX 75207
Ph. No. (214) 880-0089
Fax No. (469) 221-5002
Laurie.Spindler@lgbs.com

By: /s/Laurie A. Spindler
Laurie A. Spindler
SBN 24028720

ATTORNEYS FOR DALLAS COUNTY

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served electronically through the Court's case filing system upon all parties requesting notice on this 4th day of May 2022.

/s/Laurie A Spindler
Laurie A. Spindler