

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

Chapter 11

Case No. 15-10081 (CSS)

**THE WET SEAL, INC., a Delaware
Corporation, et al.,¹**

(Jointly Administered)

Debtors.

Hrg. Date: April 1, 2015 at 10:00 a.m. (ET)

Obj. Due: March 27, 2015 at 4:00 p.m. (ET)

Related to Docket Nos. 426, 428 and 452

**LIMITED OBJECTION OF CAROUSEL CENTER COMPANY, L.P., CROSSGATES MALL GENERAL COMPANY NEWCo, LLC, CRYSTAL RUN NEWCo, LLC, HOLYOKE MALL COMPANY, L.P., JPMG MANASSAS MALL OWNER LLC, AND PYRAMID WALDEN COMPANY, L.P. TO
(I) DEBTORS' MOTION FOR ENTRY OF AN ORDER AUTHORIZING: (A) THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL CLAIMS, LIENS, RIGHTS, INTERESTS AND ENCUMBRANCES; (B) THE DEBTORS TO ENTER INTO AND PERFORM THEIR OBLIGATIONS UNDER THE ASSET PURCHASE AGREEMENT, AND (C) THE DEBTORS TO ASSUME AND ASSIGN CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND (II) NOTICE OF (I) POSSIBLE TREATMENT OF CONTRACTS AND LEASES, (II) FIXING OF CURE AMOUNTS, AND (III) DEADLINE TO OBJECT THERETO**

Carousel Center Company, L.P., Crossgates Mall General Company NewCo, LLC, Crystal Run NewCo, LLC, Holyoke Mall Company, L.P., JPMG Manassas Mall Owner LLC, and Pyramid Walden Company, L.P. (collectively, the "Landlords"), by and through their undersigned counsel, file this limited objection (the "Limited Objection") to the (I) *Debtors' Motion for Entry of an Order Authorizing: (A) the Sale of Substantially All of the Debtors' Assets Free and Clear of all Claims, Liens, Rights, Interests and Encumbrances; (B) the Debtors to Enter into and Perform Their Obligations Under the Asset Purchase Agreement, and (C) the Debtors to Assume and Assign Certain Executory Contracts and Unexpired Leases* (the "Sale

¹ The Debtors and the last four digits of their respective federal taxpayer identification numbers are as follows: The Wet Seal, Inc. (5940); The Wet Seal Retail, Inc. (6265); Wet Seal Catalog, Inc. (7604); and Wet Seal GC, LLC (2855-VA). The Debtors' address is 26972 Burbank, Foothill Ranch, CA 92610.

Motion”) and (II) *Notice of (i) Possible Treatment of Contracts and Leases, (ii) Fixing of Cure Amounts, and (iii) Deadline to Object Thereto* (the “Cure Notice”). (Dkt. Nos. 426 & 452.)

PRELIMINARY STATEMENT

1. The above-captioned debtors (the “Debtors”) seek (i) authorization and approval to enter into an asset purchase agreement with a proposed buyer setting forth the terms of the sale of substantially all of their assets, including certain Leases (as hereinafter defined) with the Landlords; (ii) approval of such sale of their assets free and clear of all liens, debts, and encumbrances except for certain excepted liabilities, (iii) authorization to assume and assign to the buyer certain executory contracts and unexpired leases, (iv) the establishment of assumption and assignment procedures and rejection procedures with respect to such executory contracts and leases, and (v) related relief. The Debtors have failed, however, to provide the Landlords with adequate assurance of future performance as required pursuant to chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).² Furthermore, the Debtors propose to grant the proposed buyer the rights (i) to designate leases for assumption or rejection for an extended time period after closing of the transaction and (ii) to operate locations subject to leases that may be designated for assumption or rejection. Additionally, the Debtors seek to establish cure amounts with respect to the Leases. The Landlords bring the instant Limited Objection outlining why the Sale Motion should not be granted.

JURISDICTION

2. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

² All statutory references hereinafter are to the Bankruptcy Code, 11 U.S.C. §§ 101–1532, unless otherwise indicated.

BACKGROUND

3. On January 15, 2015 (the “Petition Date”), the Debtors filed voluntary petitions under the Bankruptcy Code with the Court.

4. Upon information and belief, the Debtors are operating their businesses as debtors in possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

5. The Landlords and one of the Debtors are parties to unexpired leases of nonresidential real property (collectively the “Leases”) of premises (collectively the “Premises”) located at the locations identified as set forth below:

Landlord:	Shopping Center	Location:
Carousel Center Company, L.P.	Destiny USA f/k/a Carousel Center	Syracuse, NY
Crossgates Mall General Company NewCo, LLC	Crossgates Mall	Albany, NY
Crystal Run NewCo, LLC	Galleria at Crystal Run	Middletown, NY
Holyoke Mall Company, L.P.	Holyoke Mall	Holyoke, MA
JPMG Manassas Mall Owner LLC	Manassas Mall	Manassas, VA
Pyramid Walden Company, L.P.	Walden Galleria	Buffalo, NY

6. The Premises are located within “shopping centers” as the term is used in § 365(b)(3) of the Bankruptcy Code. *See In re Joshua Slocum, Ltd.*, 922 F.2d 1081, 1086–87 (3d Cir. 1990).

7. On March 16, 2015, the Debtors filed the Sale Motion which seeks approval of an asset purchase agreement (the “APA”) between the Debtors and Mador Lending, LLC (the “Buyer”), pursuant to which the Debtors will sell to the Buyer substantially all of their assets and assume and assign certain executory contracts and unexpired leases. (Dkt No. 426-2.) The APA asserts that contemporaneously with its execution, Versa Capital Fund III, L.P (“Versa”), an affiliate and manager of the Buyer, entered into a funding commitment letter in favor of the

Buyer pursuant to which Versa has guaranteed, on terms set forth therein, the obligations of the Buyer pursuant to the APA. (APA, pg. 1.)

8. The APA contemplates a sale process whereby the Debtor shall assume and assign no fewer than 140 real property leases over a period that may last until June 30, 2015. (APA, §§ 1 & 2.6(b); Sale Motion, ¶ 21.) The APA provides that as of the Closing, as that term is defined in the APA, the Buyer shall have identified certain leases for assumption (“Assumed Contracts”), certain leases for exclusion and rejection (“Excluded Contracts”), and certain leases that it will have the right to instruct the Debtors to assume or reject at some later date until May 15, 2015 (“Designation Leases”). (APA, § 2.10(a).) The designation period (the “Designation Period”) may be extended from May 15, 2015 to June 30, 2015, provided the Buyer funds the Debtors’ costs during the period from May 15, 2015 through June 30, 2015. (APA, Art. I, pg. 5; Sale Motion, ¶ 21, note 5; Proposed Sale Order, ¶31, note 7.) During the Designation Period it is proposed that the Buyer is to act as the Debtors’ exclusive agent to run the business at the stores subject to Designation Leases, and will have the sole and complete authority, in its sole discretion, to oversee, manage, direct the operation of, control the day-to-day activities of, and make and implement all business decisions with respect to the stores and will pay all operational expenses that are directly related to the operation of the stores, including performance of all of the Debtors’ obligations under the Designation Leases. (APA, § 2.10(c)(i).)

9. Attached to the Sale Motion as an exhibit is a proposed sale order (the “Proposed Sale Order”), which approves the APA and grants the related relief requested in the Sale Motion. (Sale Motion, Exhibit A.)

10. The Sale Motion also seeks to approve certain procedures for the assumption and assignment of Assumed Contracts and the rejection of Excluded Contracts. (Sale Motion, ¶¶ 21-

22.) Attached to the Proposed Sale Order are copies of a proposed: notice of assumption and assignment of leases and executory contracts (the “Proposed Assumption Notice”); order authorizing assumption and assignment of leases (the “Proposed Assumption Order”); notice of rejection of leases and executory contracts (the “Proposed Rejection Notice”); and order approving rejection of leases and executory contracts (the “Proposed Rejection Order”).

11. Finally, on March 18, 2015, the Debtors filed the Cure Notice setting forth proposed cure amounts with respect to the Leases (the “Proposed Cure Amounts”) and setting on objection deadline with regard to the same of March 27, 2015. (Cure Notice, Dkt. No. 452.)

12. The Sale Motion, APA, Proposed Sale Order, and the Proposed Cure Amounts are objectionable for various reasons.

LIMITED OBJECTION

I. Adequate Assurance of Future Performance

13. Section 365 of the Bankruptcy Code controls the assumption and assignment of nonresidential real property leases, and requires, *inter alia*, that a debtor in possession provide adequate assurance that a proposed assignee has the ability to perform under such lease as a condition to assume and assign the lease. 11 U.S.C. §§ 365(b)(1)(C) & (f)(2). The debtor in possession bears the ultimate burden of persuasion as to issues under 11 U.S.C. § 365. *See In re Rachels Industries, Inc.*, 109 B.R. 797, 802 (Bankr. W.D. Tenn. 1990); *see also Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1309 (5th Cir. 1985). Adequate assurance of future performance is determined by the existing factual conditions, and the Court may look to many factors in determining what is necessary to provide adequate assurance of future performance under Section 365(b), including sufficient economic backing, economic conditions, certificates, credit reports, escrow deposits, or other similar forms of security or guarantee. *In re*

Lafayette Radio Electronics Corp., 9 B.R. 993, 998 (Bankr. E.D.N.Y. 1981); *In re Belize Airways*, 5 B.R. 152 (Bankr. S.D. Fla. 1980). Courts also look to the operating experience of the proposed assignee. *In re Bygaph, Inc.*, 56 B.R. 596, 605 (Bankr. S.D.N.Y. 1986).

14. Furthermore, where the lease involved is a shopping center lease, the Bankruptcy Code requires more than the basic adequate assurance of future performance of the lease under Section 365(b)(1)(C). *In re Sun TV and Appliances, Inc.*, 234 B.R. 356, 359 (Bankr. D. Del. 1999); *In re Arden and Howe Associates, Ltd.*, 152 B.R. 971, 976 (Bankr. E.D. Cal. 1993). Such heightened adequate assurance requirements include assurances:

(A) of the source of rent and other consideration due under such lease, and in the case of an assignment, that the financial condition and operating performance of the proposed assignee and its guarantors, if any, shall be similar to the financial condition and operating performance of the debtor and its guarantors, if any, as of the time the debtor became the lessee under the lease;

(B) that any percentage rent due under such lease will not decline substantially;

(C) that assumption or assignment of such lease is subject to all the provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision, and will not breach any such provision contained in any other lease, financing agreement, or master agreement relating to such shopping center; and

(D) that assumption or assignment of such lease will not disrupt any tenant mix or balance in such shopping center.

11 U.S.C. § 365(b)(3).

15. The Sale Motion provides that payment of the Proposed Cure Amounts by the Buyer together with the assumption and assignment of the Assumed Contracts constitutes adequate assurance of future performance. (Sale Motion, ¶20(c); Proposed Sale Order, ¶ 25.) The Debtors have also filed the *Declaration of Paul Halpern in Support of Debtors' Motion for Entry of an Order Authorizing (a) the Sale of Substantially all of the Debtors' Assets Free and Clear of All Claims, Liens, Rights, Interests and Encumbrances; (b) the Debtors to Enter Into and Perform Their Obligations Under the Asset Purchase Agreement; and (c) the Debtors to*

Assume and Assign Certain Executory Contracts and Unexpired Leases in support of the proposed assumption and assignment of the Leases (the “Halpern Declaration”). (Dkt. No. 428.) The Halpern Declaration asserts that the Buyer “will be capable of providing adequate assurance of future performance with respect to the Assumed Leases . . .” (Halpern Declaration, ¶ 7.) The Halpern Declaration also asserts that Versa is an experienced investor in the retail industry and is well positioned, as the sole manager of the Buyer, to facilitate the transactions contemplated by the APA, including the obligations under the Assumed Contracts. (Halpern Declaration, ¶ 8.) Furthermore, the Halpern Declaration asserts that the Buyer shall have in place at Closing from a third party lender or one of the Buyer’s affiliates, an exit credit facility that provides the Buyer with undrawn availability of at least \$10 million on the Closing date, which will allegedly enable it to obtain an adequate level and mix of inventory. (Halpern Declaration, ¶ 10.)

16. The Halpern Declaration does not provide adequate assurance of future performance by the Buyer under the Leases pursuant to § 365(b)(3). Furthermore, pursuant to the APA the Buyer may assign its rights under the APA to undisclosed affiliates. (APA, § 9.5.) The Debtors have not provided any financials for the Buyer, or any of its affiliates, no business plan, no information regarding whether the stores will operate under the same trade name, no evidence of the Buyer’s, or its affiliates’, experience with retail stores including the number and location of such stores, and no information regarding management of the Buyer (with the exception of the disclosure that it is retaining certain members of the Debtors’ existing management).

17. Furthermore, there is no proposed guaranty of the Debtors’ lease obligations by Versa, even though Versa has guaranteed the Buyer’s obligations under the APA. Section 365(l) provides that

If an unexpired lease under which the debtor is the lessee is assigned pursuant to this section, the lessor of the property may require a deposit or other security for performance of the debtor's obligations under the lease substantially the same as would have been required by the landlord upon the initial leasing to a similar tenant.

11 U.S.C. § 365(l). The Court should require that, if the sale is approved, a guaranty from Versa, a letter of credit, or a security deposit of cash be provided to satisfy the financial obligations under the Leases.

18. Furthermore, § 365(b)(3)(A) requires that the financial condition and operating performance of the Buyer "be similar to the financial condition and operating performance of the debtor and its guarantors, if any, as of the time the debtor became the lessee under the lease." 11 U.S.C. § 365(b)(3)(A). The Debtors have also failed to satisfy this adequate assurance requirement.

19. In light of the foregoing, the Court should find that the Debtors have failed to meet their burden of providing adequate assurance of future performance and decline to enter the Proposed Sale Order in its present form (*See Proposed Sale Order*, ¶¶ Y, 25.)

II. Designation Rights

20. The APA seeks to establish a sales process whereby the Buyer may have until June 30, 2015 to designate certain leases for assumption and assignment or rejection. Furthermore, the APA provides that the Buyer may operate the locations subject to the Designation Leases. The Leases do not permit any party other than the Debtor counterparty to operate at the Premises. While § 365(f) permits the assumption and assignment of unexpired leases of non-residential real property notwithstanding any anti-assignment provisions therein, it does not provide for the abrogation of any such terms in the absence of assumption and assignment, including any term limiting who may operate at the Premises.

21. Furthermore, even if the Court were to permit the Buyer to operate the locations subject to Designation Leases, the APA goes too far by allowing the Buyer to “assign any or all of its rights and obligations [to operate these locations] to any Person . . .” (APA, § 2.10(c)(iv).) This relief is overbroad and not in keeping with the text or spirit of § 365. As a result, the Court should order that only the Buyer may operate the locations subject to the Designation Leases pursuant to the APA.

22. On or before the Closing, the Debtors are to file a final list of the Assumed Contracts. (Proposed Sale Order, ¶ 30.) The Court should require that at or before Closing the Debtors also file lists of the Excluded Contracts and Designation Leases so that the Landlords have adequate notice of the potential treatment of the Leases.

23. Also, if the Buyer extends the Designation Period from May 15, 2015 to June 30, 2015, the Court should require that the Buyer or the Debtors file notice of such extension so that the Landlords have notice of the proposed change in the treatment of Designation Leases. (*See* Proposed Sale Order, ¶ 31, note 7.) Additionally, it should be clarified to provide (i) that in no event may the Designation Period extend beyond the confirmation of any plan under the Bankruptcy Code and (ii) that there can be no post-confirmation assumptions or rejections of any leases.

III. Assumption and Assignment Procedures

24. Furthermore, adequate assurance of future performance must exist at the time a lease is assumed and assigned. The Court should not make any finding at the hearing on the Sale Motion or in the Proposed Sale Order regarding adequate assurance of future performance with regard to any leases that are not being assumed and assigned at that time. (*See* Proposed Sale Order, ¶¶ Y & 25(c).) Assumption and assignment of the Leases should not be considered until

after the Debtors file and serve the Proposed Assumption Notice and contemporaneously provide to the subject Landlords current adequate assurance information and revised proposed cure amounts.³ The Proposed Assumption Notice and Proposed Sale Order should be clarified that the Landlords may object to assumption and assignment of the Leases on any grounds, including, but not limited to, adequate assurance of future performance and cure. (*See* Proposed Sale Order, ¶ 37.) Additionally the Proposed Assumption Order should be revised to provide that the effective date of assumption and assignment shall be the date determined by the court. (*See* Proposed Sale Order, ¶ 39.)

IV. Rejection Procedures

25. The Proposed Rejection Order provides that the effective date of rejection shall be as of the “Effective Rejection Date,” which is defined in the Proposed Rejection Notice as being the later of the date of the Proposed Rejection Notice or the surrender of the premises that is the subject of the lease to be rejected. (*But, see*, APA, § 2.6(b) (providing that the Effective Date of Rejection is only the date of the Proposed Rejection Notice.) This should be clarified to provide that surrender of the premises shall have occurred upon the delivery of a notice of surrender and all keys, key codes, and security codes to the landlord. Furthermore, the Proposed Rejection Order should be revised to provide that any personal property at the premises as of the effective date of rejection is deemed abandoned with landlords being free to dispose of the same in their sole and absolute discretion without notice or liability to the Debtors or any third parties. Such relief is appropriate to afford the Landlords complete dominion and control with respect to the Premises upon any rejection of the Leases.

³ As written, the Proposed Assumption Notice currently provides for proposed cure amounts for the time period from the deadline to object to the Sale Motion. (*See* Sale Motion, ¶ 21(b).)

V. *Cure*

26. The Landlords are entitled to the cure of any default with respect to the Leases as a condition of assumption and assignment of the same. 11 U.S.C. § 365(b)(1)(A)

27. The Landlords object to the Proposed Cure Amounts because they are subject to change. In addition, not all of the Proposed Cure Amounts are correct as of the date of the Cure Notice. The Proposed Cure Amounts and actual cure amounts, not including attorneys' fees, as of March 18, 2015 (the "Actual Cure Amounts") are as set forth in the following chart:

Shopping Center	Proposed Cure Amount	Actual Cure Amount
Destiny USA f/k/a Carousel Center	\$10,122.43	\$25,090.19
Crossgates Mall	\$9,646.11	\$38,285.23
Galleria at Crystal Run	\$6,597.66	\$17,968.54
Holyoke Mall	\$7,695.25	\$19,576.98
Manassas Mall	\$0	\$1,381.88
Walden Galleria	\$9,806.46	\$23,126.64

Itemizations of the Actual Cure Amounts are attached hereto as Exhibit "A."

28. Neither the Proposed Cure Amounts nor the Actual Cure Amounts include accrued, but unbilled or not yet due, rent and charges, such as adjustments and reconciliations. In addition, the Proposed Cure Amounts do not include obligations to indemnify and hold the Landlords harmless for events occurring prior to any assumption and assignment. Claims for indemnity may include, but are not limited to, (i) claims for personal injuries which occur at the Premises, where the Landlords are joined as party defendants, (ii) damage and destruction to the property by Debtors or their agents, and (iii) claims for environmental damage or environmental cleanup. All of the foregoing obligations should be assumed by any assignee of the Leases.

Accordingly, paragraph 27 of the Proposed Sale Order should be revised as follows (revision in **bold**):

Each non-Debtor counterparty to the Assumed Contracts shall be forever barred, estopped, and permanently enjoined from . . . (b) asserting against Buyer (or its property, including the Acquired Assets) any claim, counterclaim, defense, breach, condition, setoff asserted or assertable against the Debtors existing as of the Closing (or thereafter as of the Assumption Approval for those that arise post-Closing and are not barred by this Order with respect to any Assumed Contract that becomes such post-Closing and are not barred by this Order with respect to any Assumed Contract that becomes such post-Closing subject to the Assumption and Assignment Procedures described herein) or arising by reason of the transfer of the Acquired Assets, except for the Assumed Liabilities, *provided, however, and notwithstanding anything to the contrary in this Order, Motion, or APA*, that the Buyer shall be responsible for continuing obligations under the Assumed Contracts, *cum onere*, including, without limitation, liabilities for any breach of such Assumed Contracts occurring after such assignment and obligations to pay year-end adjustment, reconciliation amounts, **and indemnity obligations**, that become obligations after the date of this Order, including tax reconciliations, common area charges and insurance premiums, under the terms of the applicable unexpired lease of real property, subject to any defenses provided by such lease.

(Proposed Sale Order, ¶ 27.)

29. Furthermore, the Landlords are entitled to attorneys' fees under the Leases. Such fees are properly included in the Landlords' cure amount as actual pecuniary losses suffered by the Landlords. *See In re Williams*, 2011 Bankr. LEXIS 2463, *3 (Bankr. D. Del. June 24, 2011) (Shannon, B.J.) ("It is beyond cavil that attorneys' fees incurred because of actions taken to enforce the underlying lease or contract may be properly recoverable as part of a cure payment if such lease or contract provides for attorneys' fees."); *In re Von Keisler*, 166 B.R. 620 (Bankr. N.D. Tex. 1994) ("Assumption of the contract would mean that the Debtors would be required to promptly 'cure' (pay off) the default; compensate the Movants for any 'actual **pecuniary loss**' resulting from the default (*e.g.*, **attorney's fees**); and provide 'adequate assurance of future performance' under the Contract."); *In re Bourbon Saloon, Inc.*, 2013 Bankr. LEXIS 4290, *29 (Bankr. E.D. La. Oct. 11, 2013) ("§ 365 does recognize a landlord's right to compensation for

actual pecuniary losses resulting from debtor's default under an unexpired lease assumption, and attorney fees qualify as 'actual pecuniary losses' when state law would recognize them as such.”); *Urban Retail Props. v. Loews Cineplex Entm't Corp.*, 2002 U.S. Dist. LEXIS 6186, *26 (S.D.N.Y. Apr. 8, 2002) (“recovery of attorneys’ fees and interest under Section 365 is appropriate where the lease at issue provides for such recovery as an obligation of the Debtor”); *In re Ames Dep't Stores, Inc.*, 306 B.R. 43, 81 (Bankr. S.D.N.Y. 2004) (“The payment of attorney fees is an obligation of the lease that must be satisfied under section 365(d)(3) when the lease at issue provides for such recovery as an obligation of the Debtor”); *In re Child World*, 161 B.R. 349, 353 (Bankr. S.D.N.Y. 1993) (“Although attorneys’ fees are not independently recoverable under the Bankruptcy Code, section 365(b)(1)(B) allows for such recovery if based upon the existence of a separate agreement between the parties.”); *In re Westview 74th Street Drug Corp.*, 59 B.R. 747, 756 (Bankr. S.D.N.Y. 1986) (Courts “have consistently recognized that an express contractual provision for attorney’s fees gives rise to a right to obtain a reasonable attorney’s fee as part of curing the debtor’s default and in compensation for the landlord’s actual pecuniary loss under Section 365 of the Code”).

30. Finally, to the extent assumption and assignment of the Leases is approved by the Court, it should order that undisputed cure amounts should be immediately paid upon entry of an order approving such assumption and assignment.

VI. Modification of the APA

31. The APA provides that “[s]ubject to the terms of the APA, the APA and any related agreements may be waived, modified, amended, or supplemented by agreement of the Debtors and Buyer, in consultation with counsel to the Committee, without further action or order of the Bankruptcy Court; *provided, however*, that any such waiver, modification,

amendment, or supplement does not have a material adverse effect on . . . [certain enumerated parties.]” This provision, to the extent the Proposed Sale Order is entered by the Court, should be modified to include the Landlords as parties that may not suffer any materially adverse effect from modification of the APA or any other related agreements.

VII. Joinder and Reservation of Rights

32. The Landlords reserve their rights to supplement this Limited Objection and make such other and further objections as they deem necessary or appropriate and reserve all rights to object to the assumption and assignment of the Leases and cure amounts due under the Leases.

33. The Landlords join in the objections of other landlords to the extent they are not inconsistent with the relief sought by this Limited Objection.

[Remainder intentionally left blank]

CONCLUSION

WHEREFORE, the Landlords respectfully request that the Court sustain this Limited Objection and grant the Landlords any additional and further relief the Court deems just and proper.

Dated: March 27, 2015
Wilmington, Delaware

/s/ Leslie C. Heilman
Leslie C. Heilman, Esquire (No. 4716)
Matthew G. Summers, Esquire (No. 5533)
BALLARD SPAHR LLP
919 Market Street, 11th Floor
Wilmington, DE 19801
Telephone: (302) 252-4465
Facsimile: (302) 252-4466
E-mail: heilmanl@ballardspahr.com
summersm@ballardspahr.com

-and-

Kevin M. Newman
Adam F. Kinney
MENTER, RUDIN & TRIVELPIECE, P.C.
Office and Post Office Address
308 Maltbie Street, Suite 200
Syracuse, New York 13204-1439
Telephone: (315) 474-7541
Facsimile: (315) 474-4040

*Attorneys for Carousel Center Company, L.P.,
Crossgates Mall General Company NewCo, LLC,
Crystal Run NewCo, LLC, Holyoke Mall Company,
L.P., JPMG Manassas Mall Owner LLC, and
Pyramid Walden Company, L.P.*