

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:)
) Chapter 11
LaVie Care Centers, LLC, *et al.*,¹)
) Case No.: 24-55507 (pmb)
)
Debtors.) (Jointly Administered)
)

**AMENDED OBJECTION TO DEBTORS’ SECOND AMENDED COMBINED
CHAPTER 11 PLAN OF REORGANIZATION AND
OBJECTION TO DEBTORS’ INTENT TO REJECT LEASE**

COMES NOW Jacksonville Nursing Home, LTD. (“Landlord”), and files this *Amended Objection to Debtors’ Second Amended Combined Chapter 11 Plan of Reorganization and Objection to Debtors’ Intent to Reject Lease*, respectfully showing the Court as follows.

I. Lease and Facility Background

1. Epsilon Health Care Properties, LLC (the “Lessee”), as lessee, and Landlord, as landlord, are parties to that certain Lease Agreement dated August 10, 2017 (the “Lease”).

2. Lessee leases the commercial property located at 11565 Harts Road, Jacksonville, Florida 32218 (the “Property”).

3. Lessee subleases the Property to 11565 Harts Road Operations, LLC (the “Tenant”), where Tenant owns and operates a skilled nursing facility commonly known as “Harts Harbor Health Care Center.”

4. More specifically, the skilled nursing facility operates as a rehabilitation and long-term care facility (the “Facility”).

¹ There are 282 Debtors in these chapter 11 cases, which are being jointly administered for procedural purposes only.



5. The Tenant is licensed by the Florida Agency for Healthcare Administration and is dually certified to provide services to Medicaid and Medicare eligible recipients and third-party payors.

6. The Facility is licensed for 180-beds and serves a predominantly geriatric resident population.

II. Bankruptcy Background

7. On June 2, 2024 (the "Petition Date"), the Lessee, the Tenant, and numerous other affiliates (collectively, the "Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code ("Bankruptcy Code").

8. On July 23, 2024, Debtors filed *Debtors' Combined Disclosure Statement and Joint Chapter 11 Plan of Reorganization* [Doc. 273] and the *Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* [Doc. 274], wherein the Debtors' identified an intent to assume the Lease.

9. On August 27, 2024, Landlord filed an *Objection to Debtor's (I) Notice to Contract Parties and (II) Debtor's Joint Chapter 11 Plan of Reorganization* [Doc. 351] (the "Original Plan Objection").

10. On October 1, 2024, Debtors filed *the Debtors' Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Reorganization* [Doc. 481] (the "Amended Plan").

11. On October 28, 2024, Debtors filed a *Notice of Filing of Plan Supplement with Respect to the Debtors' Second Amended Combined Disclosure Statement and Joint Chapter 11 Plan of Reorganization* [Doc. 593] (the "Notice of Plan Supplement"), wherein the Lease is no longer identified as a lease to-be-assumed.

III. The (i) Objection to Debtors' Intent to Reject the Lease, and (ii) Amended Objection to Debtors' Amended Plan

12. Based on Debtors' intent to reject the Lease, the Landlord hereby amends its Original Plan Objection on the following grounds:

A. Rejection of the Lease

13. The Landlord's objection is driven by its concern for a safe, timely, and non-disruptive transition from the Tenant, as current operator, to the Landlord or its designee (the "Transferee"), as the new operator.

14. Neither the Amended Plan nor the Notice of Plan Supplement contain any details as to the intended transition of the Facility and the numerous patients receiving care therein.

15. As detailed by various counsel at numerous hearings before this Court, skill nursing home facilities are highly regulated, and industry specific considerations must be considered when determining a course of action involving current and future patient care.

16. As currently drafted the Amended Plan contains language for a typical commercial lease rejection more akin to transitioning a standard commercial property. See Am. Plan, Article VII, Section A.

17. Although Debtors circulated a draft Operations Transfer Agreement (the "OTA") to Landlord's counsel for anticipation of such rejection and subsequent transfer, the Amended Plan is silent as to, among other things, (a) the Tenant's obligation to execute such OTA or an OTA in a commercially reasonable form agreeable to the Tenant and Transferee, (b) the Tenant's obligation to transfer the existing Medicare and Medicaid provider numbers, (c) the Tenant's obligation to cooperate with the issuance of a new license to operate the Facility to a new operator, and (d) the Tenant's obligation to transfer patient and employee records.

18. Thus, additional language must be included in the Amended Plan to, at a minimum, (a) require the Tenant to execute an OTA, which is an industry standard practice, (b) require the Tenant to transfer the existing Medicare and Medicaid provider numbers to ensure no disruption in patient care due to licensing lapses during a transition period, (c) require the Tenant to cooperate with the issuance of a new license; and (d) require the timely and complete transfer of patient and employee records.

19. Without such minimum requirements contained in a confirmed plan, Landlord (and patients) may be forced to seek relief from this Court to advocate for such considerations if the Debtors' simply "close up shop" upon the Plan's anticipated Effective Date. Mere verbal assurances are simply not enough.

B. The Amended Confirmation Objections

20. The Amended Plan, therefore, violates 11 U.S.C. § 1129(a)(3), because it lacks good faith in that it does not contain the necessary specifics for transition of patient care.

21. The Amended Plan violates 11 U.S.C. § 1129(a)(11), because it fails to establish the Tenant's feasibility and ability to perform such industry standard transfer actions for patient care.

IV. Reservation of Rights

22. Landlord's evaluation of the transfer logistics pursuant to the Amended Plan remain ongoing, and the objections set forth herein are based upon currently available information. Landlord reserves the right to amend or supplement these objections at or prior to any hearing on confirmation of the Amended Plan.

V. Conclusion

23. For all the foregoing reasons, Landlord requests that confirmation and rejection of the Lease be denied.

/s/ Kathleen G. Furr

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This is to certify that on November 11, 2024, I electronically filed the foregoing *Amended Objection to Debtors' Second Amended Combined Chapter 11 Plan of Reorganization and Objection to Debtors' Intent to Reject Lease* using the Bankruptcy Court's Electronic Case Filing program, which sends a notice of this document and an accompanying link to this document to all parties receiving electronic notice and the following parties in interest:

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