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COMMENTARY

From Lettuce to Lattes: Salad and Go, 7 Brew, and the Duties Chapter 11 Debtors Owe Prospective Purchasers

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On August 4, 2026, a popular local salad chain, Salad and Go, announced that it had filed for Chapter 11 Bankruptcy and would close all locations the following day.[1] However, the efficient, drive-through-only storefronts would not go to waste. Although many corporations might be ill-suited to a restaurant without indoor seating, the grab-and-go design proved perfect for coffee chains. On August 31st, 7 Brew submitted a $143.2 million bid for seventy-three locations, subject to court approval.[2] However, several landlords subsequently challenged the proposed conversions based on exclusivity clauses contained in leases with other tenants in the shopping centers.[3]

This raises an interesting legal question: what happens if landlords succeed in barring 7 Brew from converting the location into its intended business model? Does a debtor have a duty to disclose or account for existing lease restrictions to which it is not a party when selling assets to a prospective purchaser in a Chapter 11 Bankruptcy?

Lease Assignments in Chapter 11 Bankruptcies

In a Chapter 11 bankruptcy filing, a debtor can assign an unexpired lease if: (1) the debtor assumes such lease in accordance with the provisions; and (2) assures future performance.[4] Existing protections favor the debtor, prohibiting lease provisions that would restrict the debtor and decrease the likelihood of assigning its interest in a lease, such as a general assumption fee.[5] Under the Code, subject to other provisions, an unexpired lease that prohibits, restricts, or conditions assignment is

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[1] ABC15.com Staff, *Salad and Go Files for Bankruptcy, Closing all Locations*, ABC 15 (Aug. 4, 2026, 6:49 PM), https://www.abc15.com/news/local-news/salad-and-go-files-for-bankruptcy-closing-all-locations.

[2] Daily Coffee News Staff, *7 Brew Wins $143 Million Auction for Former Salad and Go Locations*, ROAST MAG. (Sep. 2, 2026), https://dailycoffeenews.com/2026/09/02/7-brew-wins-143-million-auction-for-former-salad-and-go-locations

[3] *See, e.g.*, LJO Properties, LLC's Objection & Reservation of Rts. to Debtor's Second Amend. Motion for Entry of an Ord. at 1–2, *In re* And Go Concepts, LLC, No. 343 (Bankr. S.D. Tex. Sep. 16, 2026).

[4] 11 U.S.C. § 365(f)(2).

[5] *In re* Standor Jewelers W., Inc., 129 B.R. 200, 202 (B.A.P. 9th Cir. 1991).

unenforceable.[6] Case law further supports courts' refusal to enforce general restrictive covenants that conflict with section 365(f) of the Code, even where such covenants would otherwise be valid under state law.[7] These protections favor the debtor, but what about when the prospective purchaser is the one being restricted? To comply with the adequate assurance provision, prospective purchasers of property in shopping centers are subject to further requirements. The Code notes that prospective purchasers are subject to existing lease agreements, including "exclusivity provisions" and not disrupting " any tenant mix or balance in such a shopping center."[8] Although, as noted above, a debtor is protected from unenforceable anti-assignments of the lease, prospective purchasers are still obliged to comply with existing exclusivity requirements. In the context of shopping center leases, courts hold that section 365(b)(3)(C) controls over general anti-assignment protections enacted by section 365(f)(1) because it is more specific in requiring adequate future assurances.[9] This poses an issue because if a prospective purchaser is prohibited or restricted from their intended business model, profitability and feasibility are undermined. This result seems to cut against a central goal of bankruptcy, maximizing value for the estate.

Tension Between Creditor Recovery and Fairness to Existing Co-Tenants

Landlords bear the burden of showing that existing lease language specifically restricts the use of the premises in a way that the new purchaser cannot provide adequate assurance of future performance.[10] Absent explicit lease provisions, courts tend to favor assignment, consistent with the best interest of the debtor's estate.[11] Even if landlords object on exclusivity grounds, the lease language must be explicit and unable to coexist with assignment to the prospective purchaser. Notably, a co-tenant alone, without more, does not have standing to object. A party in interest may object, so a landlord with direct contractual privity to a debtor can object, though.[12]

One further complication in the framework is that debtors owe fiduciary duties to creditors but not prospective purchasers.[13] Because adequate assurance required for a lease assumption includes that the assignment "will not breach any such provision contained in any other lease," a debtor should not only know the nature of their own lease with landlords but also relevant leases between landlords and co-tenants.[14] A prospective purchaser that has submitted a bid can only withdraw if they show that the debtor failed to disclose, consistent with the Assumption and Assignment Procedures, any executory contracts or unexpired existing lease agreements that prohibit or restrict intended operations.[15] If such disclosure was made and a landlord successfully objects, a prospective purchaser is bound by their bid, unless the court rejects it.

[6] 11 U.S.C. § 365(f)(1).
[7] *Standor Jewelers W., Inc.*, 129 B.R. at 201, 203.
[8] 11 U.S.C. § 365 (b)(3).
[9] *In re* Trak Auto Corp., 367 F.3d 237, 244 (4th Cir. 2004).
[10] *In re* Toys "R" Us, Inc., 587 B.R. 304, 310–11 (Bankr. E.D. Va. 2018).
[11] *Id.* at 311.
[12] *In re* Martin Paint Stores, 207 B.R. 57, 61, 62 (S.D.N.Y. 1997).
[13] 11 U.S.C. § 1107(a).
[14] 11 U.S.C. § 365(b)(3)(C).
[15] Ord. (II)(B) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases at 8, *In re* And Go Concepts, LLC, No. 133 (Bankr. S.D. Tex. Aug. 19, 2026).

One option is for a debtor to request relief against lease provisions under 11 U.S.C. § 365(f)(1), arguing any restrictions on a prospective purchaser's use of the facilities constitute de facto anti-assignment provisions and thus are unenforceable.[16] To succeed, a debtor must demonstrate that no evidence was presented by any landlord that demonstrated actual and substantial detriment.[17] However, if a landlord can meet this burden by providing evidence of explicit lease language, courts will hold that the more specific provision of exclusivity restrictions prevails and will reject the assignment of leases.

Conclusion

The landlord's objections to 7 Brew's bid for Salad and Go locations highlight the tension between sections 365(f)(1) and 365(b)(3)(C). Section 365(f)(1) advances bankruptcy's goal of maximizing creditor recovery and serves the public interest by ensuring operating storefronts. On the other hand, section 365(b)(3)(C) protects pre-existing contractual duties that landlords owe to their tenants. This provision protects contractual duties, existing real estate interests, and decreases the risk of litigation between co-tenants.

An important takeaway is how critical it is for prospective purchasers to thoroughly review existing leases, especially between co-tenants and landlords, before assuming a lease. In a Chapter 11 Bankruptcy Filing, a debtor must disclose relevant leases to comply with Assignment and Assumption procedures. Once disclosed, it is the duty of the prospective purchaser to do their due diligence and satisfy the future assurance provision required to assume the existing lease. However, courts evaluate the specific language of the existing lease and evidence of actual detriment when determining how to rule on a landlord's objection.

[16] Ord. (I) Approving the Bulk Sale of Assets to Brew Culture, LLC, And Go Concepts, LLC, No. 283-1 (Bankr. S.D. Tex. Sep. 3, 2026).
[17] *Id.*