

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

In re: ATA Holdings Corp., et al.	)	Chapter 11
	)	
	)	Case No. 04-19866-BHL-11
	)	(Jointly Administered)
<u>Debtor.</u>	)	

**OBJECTION OF THE CITY OF DES MOINES, IOWA TO NOTICE  
REGARDING MAXIMUM CURE AMOUNTS**

The City of Des Moines, Iowa (the “City”), by and through its undersigned counsel, hereby objects to Debtors’ Notice Regarding Maximum Cure Amounts dated November 29, 2004, and more particularly that certain Schedule Regarding Maximum Cure Amounts for Executory Contracts and Unexpired Leases That May Be Assumed and Assigned (the “Cure Notice”) attached thereto, wherein Debtors allege that the cure amount owing under that certain non-residential real property lease (“Lease”) between Chicago Express Airlines, Inc. (“CEA”) and the City of Des Moines is \$21,837.17, and states as follows:

1. The amount alleged by the Debtors in the Cure Notice is erroneous. Attached hereto as Exhibit “1” is a detailed statement reflecting the pre-petition and post-petition indebtedness that is owing to the City through December 24, 2004 in the amount of \$128,247.47.<sup>1</sup> Accordingly, and subject to this Objection, the City should not be deemed bound by the cure amount set forth in the Cure Notice.

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<sup>1</sup> The pre-petition indebtedness includes those rents, charges and fees owing under the Lease through October 25, 2004, including estimated passenger facility charges in the amount of \$10,716.50. The passenger facility charges have been estimated because CEA has not yet provided the required information for calculating such fees. The post-petition rents, charges and fees owing under the Lease have been

2. With respect to any proposed assumption and/or assignment of the Lease, the City reserves the right to challenge any such assumption and/or assignment at such time as it is given notice of CEA's intent to assume the Lease, and/or if the lease is to be assigned, when the identity and financial wherewithal of the assignee is disclosed. In order to assume the Lease, CEA is obligated to satisfy the conditions set forth in 11 U.S.C. §365(b)(1), including, without limitation, providing adequate assurance of future performance under the Lease.

3. In addition, if CEA intends to assign the assumed Lease, it is obligated to satisfy the conditions set forth in 11 U.S.C. §365(f)(1) & (2). Although the City has no objection at this point in time to CEA's assumption of the existing Lease, until such time as the proposed asset transfer transactions, including the proposed transfer pursuant to the Asset Acquisition Agreement between Air Trans Airways, Inc. and ATA Holdings Corp. and ATA Airlines, Inc. is completed, the City is unable to adequately assess whether CEA will be able to satisfy the various conditions set forth in 11 U.S.C. §365(b)(1). Even assuming, *arguendo*, that CEA was deemed to satisfy the conditions set forth in 11 U.S.C. §365(b)(1) for the assumption of the Lease, it is impossible for the City to be able to take a position relative to any proposed assignment of such Lease, unless and until the identity and financial wherewithal of the proposed assignee is disclosed to the City. Since the Debtors have not even indicated an intent to assume the Lease, let alone assign same to any identified party, it is impossible for the City to be able to take a position regarding the acceptability of an assumption or assignment of the Lease.

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calculated through December 24, 2004 (the first 60 days following the filing of Debtors' Petition). A number of the charges and fees have been estimated due to the fact that the actual information relating to such fees and charges is not yet available.

WHEREFORE, the City of Des Moines, Iowa, objects to the Cure Notice and respectfully requests that the Court enter an appropriate Order protecting its rights with respect to cure amounts due and owing to the City upon the assumption of the Lease and that the Court find that the City shall not be deemed to have consented to any assumption and/or assignment of the Lease.

DATED this 9<sup>th</sup> day of December, 2004.

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