

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

In re: ) Chapter 11  
)  
Fleming Companies, Inc., et al., ) Case No 03-10945 (MFW)  
)  
Debtors. ) (Jointly Administered)

**Objection Deadline:** 12/1/03 at 12:00 p.m.  
**Hearing Date:** 12/8/03 at 9:30 a.m.

**OBJECTION OF FOXMOOR ASSOCIATES  
TO NOTICE OF ASSUMPTION AND ASSIGNMENT OF LEASE TO  
MARRAZZO'S QUALITY MARKET, INC. [Relates to # 4537]**

Foxmoor Associates by and through its counsel, Rachel B. Mersky, Esquire of Monzack and Monaco respectfully moves this Honorable Court to deny Debtor's notice of assumption and assignment of the Foxmoor Associates lease to Marrazzo's Quality Market, Inc and in furtherance thereof states as follows:

1. Foxmoor Associates ("Foxmoor") is the Lessor of a nonresidential real estate lease to Debtors for the premise known as NJ-087 located at 1091 Washington Blvd., Robbinsville, New Jersey. (The "Lease"). The Lease is for a property in a shopping center with multiple other retail establishments owned by one Landlord with common parking, common access, CAM and percentage rent. All of these factors are indicative of a "shopping center" for purposes of 11 U.S.C. § 365(b)(3). See, In re Joshua Slocum Ltd., 922 F.2d 1081 (3<sup>rd</sup> Cir. 1990)
2. On April 1, 2003 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.
3. On or about November 20, 2003 Debtors filed a Notice of Assumption and Assignment of the lease to Marrazzo's Quality Market, Inc.

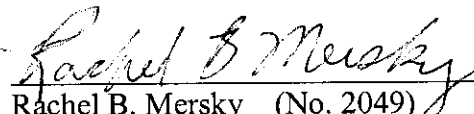
4. Foxmoor requested, but has yet to receive, financial information for the proposed assignee. Upon information and belief, Marrazzo's Quality Market, Inc. cannot provide adequate assurance of future performance as defined by 11 U.S.C. § 365 (b)(3). Upon information and belief Marrazzo's Quality Market, Inc. does not have a similar financial condition and operating performance as Debtors when Debtors entered the Lease.

5. In addition, Debtors must cure the lease pursuant to the cure claim filed by Foxmoor on 7/24/03 at docket #2110 before an assignment to an assignee that can demonstrate adequate assurance of future performance can be approved.

**WHEREFORE**, Foxmoor Associates requests that this Honorable Court deny Debtors' Notice to Assume and Assign the Foxmoor lease to Marrazzo's Quality Market, Inc., and for such other and further relief as is just and equitable.

DATED: December 1, 2003

MONZACK AND MONACO, P.A.



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