

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
CHICAGO DIVISION

IN RE:	§	
	§	CHAPTER 11
	§	
GULF PACKAGING, INC.,	§	CASE NO. 15-15249 (PSH)
	§	
<i>Debtor.</i>	§	
	§	

LIMITED OBJECTION OF HARRIS COUNTY TO DEBTOR’S MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING SALE OF CERTAIN INVENTORY ASSETS TO GULF ATLANTIC PACKAGING CORP. AND (II) REDUCING AND LIMITING NOTICE WITH RESPECT THERETO
(Related to Docket #177)

**To the Honorable Pamela S. Hollis,
United States Bankruptcy Judge:**

NOW COMES, Harris County, secured creditor in the above-numbered and styled bankruptcy case, and file this limited objection to *Debtor’s Motion for Entry of an Order (I) Authorizing Sale of Certain Inventory Assets to Gulf Atlantic Packaging Corp., and (II) Reducing and Limiting Notice with Respect Thereto* (the “Motion”) and respectfully represent:

1. Harris County is a fully secured *ad valorem* tax creditor of the Debtor, holding prior perfected liens against property of the Estate. Harris County’s claims are secured by first priority liens pursuant to the Texas Tax Code § 32.01, *et seq.*
2. Section 32.01 provides:
 - (a) On January 1 of each year, a tax lien attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year on the property, whether or not the taxes are imposed in the year the lien

attaches. The lien exists in favor of each taxing unit having power to tax the property.

(b) A tax lien on inventory, furniture, equipment and other personal property is a lien in solido and attaches to inventory, furniture, equipment, and other personal property that the property owner owns on January 1 of the year the lien attaches or that the property owner subsequently acquires.

(d) The lien under this section is perfected on attachment and...perfection requires no further action by the taxing unit.

TEX TAX CODE ANN § 32.01(a)-(b), (d).

3. Further, pursuant to section 32.05 (b) of the Texas Property Tax Code, Harris County's liens are superior to the claims of creditors of the property's owners and to claims of persons holding liens on the property. Section 32.05(b) provides that:

[A] tax lien provided by this chapter takes priority over the claims of any creditor of a person whose property is encumbered by the lien and over the claim of any holder of a lien on property encumbered by the tax lien, whether or not the debt or lien existed before the attachment of the tax lien.

TEX. PROP. TAX CODE § 32.05(b); *See also Central Appraisal District of Taylor County v. Dixie-Rose Jewels, Inc.*, 894 S.W.2d 841 (Tex. App. – Eastland 1995, no writ) (bank's foreclosure of its purchase money lien on personal property did not defeat or destroy the taxing unit's statutory tax lien).163,064.09 for ad valorem taxes owed on the Debtor's personal property (the "Assets") for tax years 2014-2015.¹

Objection

¹ The amounts included in the claims for 2015 are estimated amounts since the tax rolls for the 2015 tax year are not yet certified. The tax rolls generally are certified in late October/early November.

5. Harris County does not object to the sale itself but do object to the sale of the Assets free and clear of its 2015 tax liens. Currently, the Motion provides for liens to attach to sale proceeds, which is adequate for the 2014 tax liens but inadequate for the 2015 tax liens. Since the 2015 taxes are not due until January 2016, Harris County requests that the sale of the Assets be made subject to their 2015 tax liens. Unless the liens for the 2015 taxes are expressly retained, it may prove impossible for Harris County to collect the 2015 taxes if they should become delinquent subsequent to January 31, 2016.

6. The inclusion of the following language in the order authorizing the sale would be adequate to enable Harris County to withdraw its objection to the Motion:

The ad valorem tax liens of Harris County for the 2015 tax year are hereby expressly retained against the Assets until payment is made to fully satisfy the 2015 ad valorem taxes, and any penalties or interest which may ultimately accrue to those 2015 taxes.

WHEREFORE PREMISES CONSIDERED, the Harris County respectfully requests that this Court approve the sale of the assets but find that the sale is not free and clear of the 2015 ad valorem tax liens and that it grant Harris County, such other and further relief, at law or in equity, as is just.

Dated: July 21, 2015

Respectfully submitted,

**LINEBARGER GOGGAN
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/s/ John P. Dillman

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the foregoing was served upon the entities listed below by either electronic court filing or United States Mail, postage prepaid on July 21, 2015:

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