

FILED
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
MAR 15 2002
KENNETH S. GARDNER, CLERK
PS REP. - JJ

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

IN RE: § **CASE NO. 02-~~20494~~**
KMART CMBS FINANCING, INC. § **2474**
§
§
DEBTOR(S) § **CHAPTER 11**

TRAVIS COUNTY'S PROOF OF CLAIM

The Claimant, Nelda Wells Spears, Tax Collector of the County of Travis, for and on behalf of the following taxing authorities: Travis County, Texas, Austin Independent School District, City of Austin, and Austin Community College, (hereinafter referred to as "Travis County") by and through her attorney of record, Ken Oden, Travis County Attorney, who is authorized to make this Proof of Claim on behalf of the claimant states that:

1. The above named Debtor was at the time of the filing of the petition initiating this case and still is justly and truly indebted to Travis County in the estimated amount of **\$291,031.75**, not including any escrow balances that may exist. The claim asserted herein for tax and additional charges is secured and is entitled to consideration as such under 11 U.S.C. §506 and Chapter 32 of the Texas Property Tax Code. Because the specific amount of the 2002 taxes has not been determined under Texas law, the estimated amount of the 2002 taxes is based on the amount for the previous year. Travis County reserves the right to amend this claim once the 2002 taxes have been determined pursuant to Chapter 31 of the Texas Property Tax Code. The Certification of this amount is attached hereto as Exhibit "A" and incorporated herein for all intent and purposes.

3-15-02
833 SM

2. Pursuant to 11 U.S.C. §506(b) interest has accrued and continues to accrue on delinquent tax years at a rate of 1% per month from the date of filing of Travis County's

Proof of Claim through the confirmation of the Debtor's Plan of Reorganization.

3. Said debt is for pre-petition ad valorem property taxes due under Texas Tax Code Chapter 11, being the Taxable Property and Exemptions Chapter, as follows:

Parcel No.: 90077380400000
Billing No.: 489504
Property Description: 2506 Parmer Ln Kmart of Texas LP Personal Property Commercial Kmart Stores #3771
Tax Year Amount
2001 \$74,443.71
2002 \$68,296.99

Parcel No.: 90077380200000
Billing No.: 326089
Property Description: 6715 S Interstate Hy 35 Kmart of Texas LP Personal Property Commercial Kmart Store #7511
Tax Year Amount
2001 \$65,326.29
2002 \$59,932.38

Parcel No.: 02641301250000
Billing No.: 496144
Property Description: 12613 Mo-Pac Expressway Lot 1 Parmer Crossing Subd Sec 1
Tax Year Amount
2001 \$12,012.10
2002 \$11,020.28

4. The debt has not been paid and the same is now due and payable.
5. There are no offsets or counterclaims to said debt.
6. Said debt is secured by a statutory tax lien as provided by the Texas Property Tax Code § 32.01.
7. No judgment has been rendered on the claim.
8. To the extent, if any, that Travis County's claim or any portion thereof is determined to be unsecured, the claim asserted herein is a tax claim accorded priority by 11 U.S.C. § 507(a) (7).
9. The claim asserted herein is secured under section 32.01 of the Texas


Property Tax Code.

10. The claim asserted herein takes priority over the claims and interests of any other creditor in this bankruptcy proceeding under § 32.05 of the Texas Property Tax Code.

Respectfully submitted,

KEN ODEN
County Attorney, Travis County
P. O. Box 1748
Austin, Texas 78767
(512) 854-9513 Telephone
(512) 854-9316 Telecopier


By:



KARON Y. WRIGHT
Assistant County Attorney
Texas Bar No. 22044700
karon.wright@co.travis.tx.us

CERTIFICATE OF SERVICE

I, Karon Y. Wright, Assistant County Attorney, hereby certify that a true and correct copy of the foregoing **Travis County's Proof of Claim** has been sent by United States First Class Mail to the following parties on this 12th day of March, 2002.



DEBTOR

Kmart Financing, Inc.
333 W. Wacker Drive
Chicago, Illinois 60606

DEBTOR ATTORNEY

John Butler, Jr.
333 W. Wacker Drive
Chicago, Illinois 60606

TRUSTEE

None yet appointed

CERTIFICATION

I, Nelda Wells Spears, do hereby certify that I am the Tax Assessor-Collector for Travis County, Texas, and for all taxing jurisdictions listed in the attached Delinquent Tax Notice(s) and I am the custodian of the property tax records for each tax jurisdiction named therein. I further certify that the attached Delinquent Tax Notice(s) is/are true and correct according to the entries on the tax roll and delinquent tax roll required by law to be recorded and actually recorded in the records of my office against the property described therein and that the same is due and unpaid.

In Testimony Whereof, I hereto set my hand and affix the seal of the Tax Assessor-Collector of Travis County, Texas.

Nelda Wells Spears

EXHIBIT A

NELDA WELLS SPEARS
 TRAVIS COUNTY TAX COLLECTOR
 (512) 473-9473
 1010 Lavaca
 P.O. Box 1748
 Austin, Texas 78767

TRAVIS COUNTY
 DELINQUENT TAX STATEMENT

Failure to receive the tax bill required by this section does not affect the validity of the tax, the tax penalty, or interest, the due date, the existence of a tax lien, or any procedure instituted to collect a tax. (Sec. 31.01.g. of the Texas Property Tax Code.) Penalty is imposed at the rate of 6% on the 1st day of the month of delinquency and will increase 1% each month thereafter reaching the maximum of 12% by July 1st. Interest is imposed at the statutory rate of 1% on the 1st day of the month of delinquency and will increase 1% each month thereafter.

CONTINUED ON BACK
 EXEMPTION CODES:

PUBLIC printed on 03/08/2002 @ 10:22:

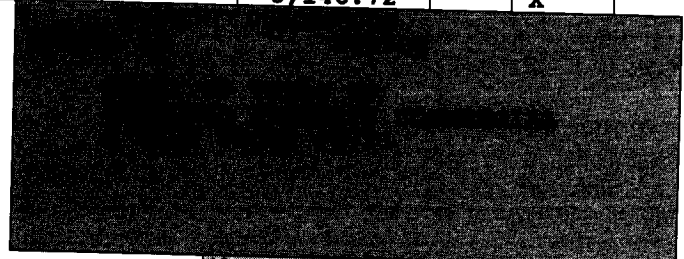
THIS IS YOUR 2001 PROPERTY TAX NOTICE. THE APPRAISED VALUE IS: 2,727,189

1 TAXES DUE TAXING UNIT	2 EXEMPTION AMOUNTS	3 NET TAXABLE VALUE	4 TAX RATE PER \$100	5 TAX AMOUNT	6 EXEMPTIONS
AUSTIN ISD		2,727,189	1.5486	42,233.25	
CITY OF AUSTIN (TRAV)		2,727,189	.4597	12,536.89	
TRAVIS COUNTY		2,727,189	.4460	12,163.26	
ACC (TRAVIS)		2,727,189	.0500	1,363.59	
				6,146.72	
					7 BILLING NO. 489504
					8 PROPERTY REAL PERS. X
PENALTY/INTEREST					

KEEP THIS PORTION
 FOR YOUR RECORDS

Remark: AGENT-603

K MART STORE #3771
 CORP TAX DEPT
 800 WEST 15TH STREET
 PLANO TX 75075-8825



10 PARCEL NUMBER 90077380400000	
11 DUE DATE NOW(03)	12 TOTAL DUE 74,443.71

DETACH AND RETURN THIS COUPON WITH YOUR PAYMENT

K MART STORE #3771
 CORP TAX DEPT
 800 WEST 15TH STREET
 PLANO TX 75075-8825

13 BILLING NO.	14 PARCEL NUMBER	15 DUE DATE	16 TOTAL DUE
489504	90077380400000	NOW(03)	74,443.71

PAY the TOTAL DUE by the above DUE DATE to avoid added penalty & interest charges. Checks MUST be in U.S. funds.

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Pay to: NELDA WELLS SPEARS, TAX COLLECTOR
 P.O. BOX 970
 AUSTIN, TX 78767-0970
 (512) 473-9473

17 IF PAYMENT IS NOT RECEIVED BY DUE DATE, PAY THIS AMOUNT IN

TRAVIS COUNTY TAX COLLECTOR

(512) 473-9473
1010 Lavaca Street
P.O. Box 970
Austin, Texas 78767-0970

TRAVIS CENTRAL APPRAISAL DISTRICT

(512) 834-9138
8314 Cross Park Drive
P.O. Box 149012
Austin, Texas 78714-9012

THE DUTIES OF THE TAX OFFICE AND THE TRAVIS CENTRAL APPRAISAL DISTRICT OFFICE

The TRAVIS COUNTY TAX OFFICE collects property taxes for the County and most of the schools, cities, and special districts in Travis County. The TAX OFFICE does NOT set property values, deny or grant exemptions, or set tax rates.

The TRAVIS CENTRAL APPRAISAL DISTRICT (TCAD) is a separate local agency and is not part of County Government or the Travis County Tax Office. The TCAD decides what property is to be taxed, its appraised value, whether to grant exemptions, who the taxable owner is and their address, and what taxing jurisdictions can tax the property.

TAX PAYMENT AND LIABILITY

State laws AUTOMATICALLY place a tax lien on property on January 1 of each year to insure that taxes are paid. The lien remains on the property until the tax, penalties, and other charges are PAID IN FULL.

YOU HAVE from the time the tax bill is mailed UNTIL JANUARY 31 TO PAY your taxes without penalty or interest. *If you don't make your FULL tax payment by January 31, you will be charged penalty and interest starting February 1 and run a high risk of being sued or having your property seized after that time.* PENALTY is imposed at the statutory rate of 6% on the 1st day of the month of delinquency and will increase 1% each month thereafter, reaching the maximum of 12% by July 1. INTEREST is imposed at the statutory rate of 1% on the 1st day of the month of delinquency and will increase 1% each month thereafter. The Tax Collector DOES NOT HAVE LEGAL AUTHORITY TO FORGIVE OR WAIVE any penalty or interest charge on a delinquent tax.

FAILURE TO PAY the tax can result in the foreclosure and sale of the property, or the seizure of the taxpayer's other personal property (automobile, boat, bank account, cash, etc.). Should a lawsuit be filed to foreclose on the tax lien, an enforcement fee, court costs and other collection expenses will be added to the tax, penalty and interest due. Lawsuits are filed daily by the Travis County Tax Office without further notice to delinquent taxpayers.

On REAL PROPERTY (land and buildings), the current owner can be held liable for any unpaid taxes on the land, even for years before she/he bought the property. The new owner is responsible for the entire year's tax to the Tax Collector, even if that person bought the property during the year and had their tax prorated with the seller at the time of closing.

On PERSONAL PROPERTY (business inventory, equipment, etc.), the person who owned the property on January 1 of the tax year is personally liable for the entire year's tax, even if she/he sold the property during the year.

The assessment ratio for the taxing units on this tax bill is 100%.

NELDA WELLS SPEARS
 TRAVIS COUNTY TAX COLLECTOR
 (512) 473-9473
 1010 Lavaca
 P.O. Box 1748
 Austin, Texas 78767

TRAVIS COUNTY
 DELINQUENT TAX STATEMENT

Failure to receive the tax bill required by this section does not affect the validity of the tax, the tax penalty, or interest, the due date, the existence of a tax lien, or any procedure instituted to collect a tax. (Sec. 31.01.g. of the Texas Property Tax Code.) Penalty is imposed at the rate of 6% on the 1st day of the month of delinquency and will increase 1% each month thereafter reaching the maximum of 12% by July 1st. Interest is imposed at the statutory rate of 1% on the 1st day of the month of delinquency and will increase 1% each month thereafter.

CONTINUED ON BACK
 EXEMPTION CODES:

PUBLIC printed on 03/08/2002 @ 10:21

THIS IS YOUR 2001

PROPERTY TAX NOTICE. THE APPRAISED VALUE IS:

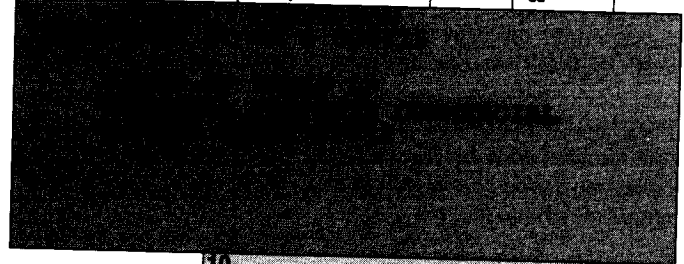
2,393,179

1 TAXES DUE TAXING UNIT	2 EXEMPTION AMOUNTS	3 NET TAXABLE VALUE	4 TAX RATE PER \$100	5 TAX AMOUNT	6 EXEMPTIONS
AUSTIN ISD		2,393,179	1.5486	37,060.77	
CITY OF AUSTIN (TRAV)		2,393,179	.4597	11,001.44	
TRAVIS COUNTY		2,393,179	.4460	10,673.58	
ACC (TRAVIS)		2,393,179	.0500	1,196.59	
				5,393.91	
					7 BILLING NO. 326089
					8 PROPERTY REAL PERS. X
PENALTY/INTEREST					

KEEP THIS PORTION
 FOR YOUR RECORDS

Remark: AGENT-603

K MART STORE #7511
 800 WEST 15TH ST
 PLANO TX 75075-8825



10 PARCEL NUMBER 90077380200000	
11 DUE DATE NOW(03)	12 TOTAL DUE 65,326.29

DETACH AND RETURN THIS COUPON WITH YOUR PAYMENT

K MART STORE #7511
 800 WEST 15TH ST
 PLANO TX 75075-8825

13 BILLING NO. 326089	14 PARCEL NUMBER 90077380200000	15 DUE DATE NOW(03)	16 TOTAL DUE 65,326.29
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PAY the TOTAL DUE by the above DUE DATE to avoid added penalty & interest charges. Checks MUST be in U.S. funds.



Pay to: NELDA WELLS SPEARS, TAX COLLECTOR

P.O. BOX 970
 AUSTIN, TX 78767-0970
 (512) 473-9473

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IF PAYMENT IS NOT RECEIVED BY DUE DATE,
 PAY THIS AMOUNT IN

NELDA WELLS SPEARS
 TRAVIS COUNTY TAX COLLECTOR
 (512) 473-9473
 1010 Lavaca
 P.O. Box 1748
 Austin, Texas 78767

TRAVIS COUNTY
 DELINQUENT TAX STATEMENT

Failure to receive the tax bill required by this section does not affect the validity of the tax, the tax penalty, or interest, the due date, the existence of a tax lien, or any procedure instituted to collect a tax. (Sec. 31.01.g. of the Texas Property Tax Code.) Penalty is imposed at the rate of 6% on the 1st day of the month of delinquency and will increase 1% each month thereafter reaching the maximum of 12% by July 1st. Interest is imposed at the statutory rate of 1% on the 1st day of the month of delinquency and will increase 1% each month thereafter.

CONTINUED ON BACK
 EXEMPTION CODES:

PUBLIC printed on 03/08/2002 @ 10:22:

THIS IS YOUR 2001 PROPERTY TAX NOTICE. THE APPRAISED VALUE IS: 440,054

1 TAXES DUE TAXING UNIT	2 EXEMPTION AMOUNTS	3 NET TAXABLE VALUE	4 TAX RATE PER \$100	5 TAX AMOUNT	6 EXEMPTIONS
AUSTIN ISD		440,054	1.5486	6,814.68	
CITY OF AUSTIN (TRAV)		440,054	.4597	2,022.93	
TRAVIS COUNTY		440,054	.4460	1,962.64	
ACC (TRAVIS)		440,054	.0500	220.03	
				991.82	
					7 BILLING NO. 496144
					8 PROPERTY REAL PERS
PENALTY/INTEREST					X

KEEP THIS PORTION
 FOR YOUR RECORDS

Remark: AGENT-427

KMART CORPORATION
 % BLD SQUARE #1584
 ATTN TAX DEPT
 1405 W PIPELINE RD #A
 HURST TX 76053-4628



10 PARCEL NUMBER 02641301250000	
11 DUE DATE NOW(03)	12 TOTAL DUE 12,012.10

DETACH AND RETURN THIS COUPON WITH YOUR PAYMENT

13 BILLING NO. 496144	14 PARCEL NUMBER 02641301250000	15 DUE DATE NOW(03)	16 TOTAL DUE 12,012.10
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PAY the TOTAL DUE by the above DUE DATE to avoid added penalty & interest charges. Checks MUST be in U.S. funds.

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Pay to: NELDA WELLS SPEARS, TAX COLLECTOR
 P.O. BOX 970
 AUSTIN, TX 78767-0970
 (512) 473-9473

17 IF PAYMENT IS NOT RECEIVED BY DUE DATE, PAY THIS AMOUNT IN

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

FILED
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
MAR 15 2002

KENNETH S. GARDNER, CLERK
PS REP. - JJ

IN RE:

KMART CMBS FINANCING, INC.

DEBTOR(S)

§
§
§
§
§

CASE NO. 02-20494

CHAPTER 11

TRAVIS COUNTY'S NOTICE OF TAX LIEN

TO ALL PARTIES IN INTEREST:

Notice is hereby given to all interested parties and creditors that Nelda Wells Spears, Tax Assessor-Collector for Travis County, for and on behalf of the following taxing authorities: Travis County, Texas, Austin Independent School District, City of Austin, and Austin Community College, (hereinafter referred to as "Travis County") by and through her attorney of record, Ken Oden, Travis County Attorney, holds a statutory lien against the Debtor's **PERSONAL** property as listed below:

BILLING NO: 489504
2506 Parmer Ln Kmart of Texas LP Personal Property Commercial
Kmart Stores #3771

BILLING NO.: 326089
6715 S Interstate Hy 35 Kmart of Texas LP Personal Property
Commercial Kmart Stores #7511

BILLING NO.: 496144
12613 Mo-Pac Expressway Lot 1 Parmer Crossing Subd Sec 1

The lien of Travis County takes priority over the claims and interests of any other creditor in this proceeding under §32.05 of the Texas Property Tax Code.

By this Notice Travis County hereby claims an interest in the proceeds of the sale of

the same. Texas Property Tax Code §32.01.

Respectfully submitted,

KEN ODEN
Travis County Attorney
P. O. Box 1748
Austin, Texas 78767
(512) 854-9513 Telephone
(512) 854-9316 Telecopier

By:



KARON Y. WRIGHT
Assistant County Attorney
Texas Bar No. 22044700
karon.wright@co.travis.tx.us

CERTIFICATE OF SERVICE

I, Karon Y. Wright, Assistant County Attorney, hereby certify that a true and correct copy of the foregoing **Travis County's Notice of Tax Lien** has been sent by United States First Class Mail to the parties listed below, on this 12th day of March, 2002.



DEBTOR

Kmart Financing, Inc.
333 W. Wacker Drive
Chicago, Illinois 60606

ATTORNEY FOR DEBTOR

John Butler, Jr.
333 W. Wacker Drive
Chicago, Illinois 60606

TRUSTEE

None yet appointed