

SO ORDERED.

SIGNED this 15th day of April, 2015.



*Lena Mansori James*  
LENA MANSORI JAMES  
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
WINSTON-SALEM DIVISION

IN RE:	)	
	)	
GRIGG PROPERTIES, LLC	)	Case No. 14-51365
	)	Chapter 7
Debtor.	)	
_____	)	

**ORDER GRANTING MOTION TO ALLOW PUBLIC SALE OF REAL PROPERTY FREE AND CLEAR OF ALL LIENS, CLAIMS AND INTERESTS**

This matter came on for hearing before the undersigned United States Bankruptcy Judge on April 8, 2015, to consider the Motion to Allow Public Sale of Real Property and Fixtures, Free and Clear of All Liens, Claims and Interests; to Transfer all Liens, Claims and Interests to Proceeds of Sale; to Subordinate All Liens, Claims and Interests to Reasonable Chapter 7 Administrative Expenses and Fees, Including Auction Commissions and Expenses, and Expenses of Maintaining the Real Property [DOC # 31] (the "Motion"); appearing at the hearing on the Motion were Daniel C. Bruton as counsel for W. Joseph Burns, the Chapter 7 Trustee, James C. Lanik as counsel for Bank of North Carolina, Charles M. Ivey, III as counsel for Neal Grigg and Kathryn Grigg, A. Scott McKellar as counsel for Future Foam, Inc., and Robert E. Price, Jr. for the Office of the

United States Bankruptcy Administrator. Based on the Motion, the statements of counsel, and the entire official file, the Court finds and concludes as follows:

1. The Debtor, Grigg Properties, LLC, filed for relief under Chapter 7 of the Bankruptcy Code on December 15, 2014. W. Joseph Burns is the duly appointed Chapter 7 Trustee.

2. Among the assets of the bankruptcy estate is approximately 21.46 acres of real property located at 385 North Drive in Thomasville, Davidson County, North Carolina (the "Real Property"). The Real Property consists of a large office building / manufacturing plant where the related Chapter 7 debtor, Carolina Mattress Guild, Inc. (Case No. 14-51366) operated as a manufacturer of mattresses and mattress products. Approximately 10 acres of the Real Property is raw, undeveloped land.

3. Entities that hold asserted liens against the Real Property are as follows:

- a) Ad valorem taxes, Davidson County, in the approximate outstanding amount of \$32,966.87.
- b) Deed of Trust to Bank of North Carolina recorded at Book 1571, Page 1865 with an approximate outstanding balance of \$435,000.
- c) Deed of Trust to Bank of North Carolina recorded at Book 1758, Page 999 with an approximate outstanding balance of \$152,000.
- d) Deed of Trust to the SBA recorded at Book 1228, Page 1959 with an approximate outstanding balance of \$362,000. The SBA Deed of Trust only covers the manufacturing plant tract and not the adjacent 10 +/- acre tract. The Deed of Trust of the SBA is prior in time to Bank of North Carolina's Deeds' of Trust, but was subordinated to Bank of Carolina at Book 1758, Page 996.
- e) Deed of Trust to Future Foam, Inc. recorded at Book 2139, Page 1594 with an approximate outstanding balance of \$1,215,453.00.

4. In its bankruptcy schedules, the Debtor values the Real Property at \$2,500,000. The tax value of the Real Property is \$2,807,900. Based on these

valuations, the Trustee believes there is equity in the Real Property for the benefit of the bankruptcy estate and unsecured creditors.

5. On February 26, 2015, this Court entered an Order authorizing the employment of R. Breckey Rogers and Rogers Realty & Auction Co., Inc. (“Rogers”) to assist the Trustee in the liquidation of the assets of the bankruptcy estate, particularly the Real Property.

6. The Trustee intends to hold an auction sale of the Real Property on May 14, 2015. The Real Property will also be subject to online bidding beginning on April 14, 2015.

7. All parties who assert an interest or lien against the Real Property have consented to the proposed auction sale by the Trustee.

8. Secured creditors shall have the opportunity to submit credit bids at the auction sale. However, if a credit bid by a secured creditor is the high and final bid at the auction sale, then such secured creditor will be required to pay the following amounts to the bankruptcy estate at the closing of the sale:

- a. The payoff amount required to satisfy all prior liens in full;
- b. \$11,347.97 for advertising expenses associated with the auction;
- c. A buyer’s premium of 6% of the amount required to satisfy all senior liens in full; and
- d. A \$25,000 carve-out to the bankruptcy estate

9. Pursuant to Section 363(f) of the Bankruptcy Code, the Real Property shall be sold free and clear of all liens, claims and interests. All liens, claims, and interest shall be transferred to the proceeds of sale.

10. The auction sale of the Real Property shall be subject to confirmation by this Court.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. The Motion is Granted;
2. The sale of the Real Property at auction is approved;
3. Pursuant to Section 363(f) of the Bankruptcy Code, the auction sale of the Real Property shall be free of all asserted liens, claims, and/or interests asserted against the Real Property and such liens, claims, and/or interests shall be transferred to the proceeds of sale;
4. To the extent that a secured creditor enters a high bid at the auction sale by way of a credit bid, then such secured creditor will be required to pay the following amounts to the bankruptcy estate at the closing of the sale:
  - a. The payoff amount required to satisfy all prior liens in full;
  - b. \$11,347.97 for advertising expenses associated with the auction;
  - c. A buyer's premium of 6% of the amount required to satisfy all senior liens in full; and
  - d. A \$25,000 carve-out to the bankruptcy estate.
5. The auction sale of the Real Property shall be subject to a confirmation hearing before this Court, which shall be held on May 20, 2015 at 2:00 pm at the United States Bankruptcy Court in Winston-Salem, North Carolina.

END OF DOCUMENT