

UNOFFICIAL COPY

United States Bankruptcy Court

For the NORTHERN District of ILLINOIS

This is to certify that the within and attached document(s) is a full, true and correct copy of the original thereof as the same appears on file in the office of the Clerk of the United States Bankruptcy Court for the Northern District of Illinois.

WAYNE E. NELSON
CLERK OF COURT

By: *Josephine Velasco*
Deputy Clerk

Dated: DEC 18 1990

30622674

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

00622674

COPY

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

IN RE]	
MILE SQUARE HEALTH CENTER, INC.,]	Chapter 11
Debtor.]	88 B 11538
		Judge Squires

**ORDER
AUTHORIZING THE TRUSTEE'S TRANSFER OF THE REAL PROPERTY
2045 W. WASHINGTON, CHICAGO, ILLINOIS**

This matter comes on for hearing on the tripartite Motion of Hilmon S. Sorey, Jr., Trustee for Authority to Transfer Property, to Sell Property and for Other Relief Free and Clear of all Liens, Claims, Encumbrances and Interests to the City of Chicago ("Trustee's Motion").

It appears that Trustee's Motion seeks leave of this Court: (i) to authorize the transfer of the real property commonly known as 2045 W. Washington, Chicago, Illinois (hereinafter referred to as the "Facility"); (ii) to accept the City of Chicago's offer to purchase five vacant lots adjacent to the Facility; and (iii) to accept the City of Chicago's offer to purchase personal property within the Facility.

It further appears that it is necessary, in order to expedite the transfer of the Facility ahead of the acceptance of the City of Chicago's offer to purchase the five vacant lots adjacent to the Facility and personal property within the Facility, that separate orders be entered for each, and therefore, this Order shall authorize only the transfer of the Facility.

It further appears that on November 21, 1990, Trustee's Motion

21.25

00622674

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

was presented to this Court, and this Court ordered that: (i) the Trustee's Motion be set for hearing on December 5, 1990; (ii) mailed notice of said hearing, of a content approved by this Court, be provided to Mile Square Health Center, Inc. (hereinafter referred to as "Mile Square"), all its creditors, parties in interest, parties appearing on the service list and record claimants, and that said notice be mailed on November 23, 1990; (iii) notice of hearing on the Trustee's Motion be provided nonrecord claimants and unknown owners of the Facility and said notice be provided by publishing said notice on December 1, 1990 in the Chicago Tribune real estate section; and (iv) objections to the Trustee's Motion would be received at the hearing on the Trustee's Motion.

It further appears that on August 9, 1989, pursuant to 11 U.S.C. 1104, the Bankruptcy Court presiding in the Mile Square case ordered that the United States Trustee appoint a Chapter 11 trustee; that on August 9, 1989, the United States Trustee appointed Hilmon S. Sorey, Jr., Chapter 11 Trustee (hereinafter referred to as the "Trustee"); and that on August 15, 1989, before undertaking his official duties, Hilmon S. Sorey, Jr., accepted the appointment as Trustee in the Mile Square case by timely filing in that case a bond in favor of the United States conditioned on the faithful performance of his duties as Trustee.

It further appears that Mile Square and the Trustee ceased delivering health care services at the Facility in October, 1989.

It further appears that on December 13, 1989, the United

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

States, Public Health Service (hereinafter referred to as "PHS") filed in the Mile Square case a Motion to Compel the Trustee's Abandonment of the Facility, pursuant to 11 U.S.C. 554 (hereinafter referred to as the "Abandonment Motion").

It further appears that the PHS' Abandonment Motion alleges that Mile Square operated a community health center program using grant funds provided by PHS from 1972 to 1986, under the program authorized by 42 U.S.C. 254c; that in 1974, Mile Square obtained title to the property located at 2045 W. Washington, Chicago, Illinois by assuming a \$2.5 million mortgage encumbering the Facility; that included in the PHS grant funding were awards of funds which were to be used solely to retire that mortgage debt on the Facility; and that Mile Square disbursed those grant funds as prescribed by those grants to satisfy the mortgage debt on the Facility through the use of federal grant funds.

It further appears that PHS' Abandonment Motion alleged that inasmuch as neither Mile Square nor the Trustee were going to operate the Facility for the originally authorized purpose for which it was acquired, and the United States has a beneficial ownership interest in the Facility, therefore the federal real property disposition regulations (45 C.F.R. 74.134(c)) govern the disposition of the Facility.

It further appears that PHS' Abandonment Motion alleged that Mile Square and the Trustee ceased delivering health care services at the Facility in October, 1989, and neither Mile Square nor the Trustee had any intention of operating the Facility for the

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

originally authorized purpose for which it was acquired under the community center health program.

It further appears that the Official Committee of Unsecured Creditors (hereinafter referred to as the "Committee") of Mile Square filed an objection to the Abandonment Motion requesting an evidentiary hearing to require the United States to prove the allegations contained in the Abandonment Motion.

It further appears that, following negotiations among the United States, Trustee and Committee to resolve the disposition of the Facility and PHS' Abandonment Motion, the United States and the Trustee, for and on behalf of the Estate of Mile Square (hereinafter referred to as the "Parties") entered into a settlement agreement, as subsequently amended (hereinafter referred to as the "Amended Settlement Agreement"), both of which were entered into by the Parties in good faith and were subject to the approval of the Bankruptcy Court presiding in the Mile Square case.

It further appears that on November 15, 1990, the Trustee filed with the Bankruptcy Court presiding in the Mile Square case a motion for hearing upon proper notice for an order authorizing the Trustee to accept the Parties' Amended Settlement Agreement. The Amended Settlement Agreement provided, in part, that:

1. PHS reserved its discretionary authority to determine whether any application for the use of the Facility is approvable and whether to approve it under federal law.
2. For the purposes of the Amended Settlement Agreement, the Parties agreed that the term "market value" referred to at 45

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

C.F.R. 74.134(c) shall, in the case of the Facility, be \$1,100,000.

3. For purposes of 45 C.F.R. 74.142 the federal and non-federal shares of the value of the Facility were calculated to be 68.3 % and 31.7 %, respectively.

4. The amount of the non-federal share calculated for purposes of 45 C.F.R. 74.134(c)(3) was \$348,700.

5. If PHS identified and approved a user of the Facility, it would direct the Trustee to transfer title to the Facility to such user and would arrange for payment to the Estate of Mile Square the non-federal share, upon tender of certain documents.

6. The federal regulations contained at 45 C.F.R. 74.134 govern the interpretation, implementation and enforcement of the Amended Settlement Agreement.

It further appears that on November 21, 1990, the Bankruptcy Court authorized the Trustee to enter into the Parties' Amended Settlement Agreement, and that on December 11, 1990, the Trustee did enter into the Parties' Amended Settlement Agreement.

It further appears that PHS has identified the City of Chicago, which in good faith submitted a proposal for the use of the Facility, as an eligible transferee, pursuant to federal regulation, and PHS has indicated that it will, subject to that transferee's executing certain written documents, notify the Trustee in writing that PHS is requesting the transfer of all right, title and interest of Mile Square and Mile Square's Estate to the City of Chicago.

It further appears that on November 21, 1990, the Trustee

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

filed with the Bankruptcy Court a motion for hearing upon proper notice, which included notice by publication as approved by that Court, to all parties in interest, unknown owners, and record and non-record claimants, seeking an order authorizing the Trustee to transfer to the City of Chicago all right, title and interest of Mile Square and its Estate in the Facility free and clear of all liens, encumbrances, interests or claims, except for the interest of the United States of America for the benefit of the Department of Health and Human Services, Public Health Service.

It further appears that the approved notice of Trustee's Motion for hearing on December 5, 1990, was mailed on November 23, 1990, to Mile Square, its creditors, all parties in interest, parties appearing on the service list and all record claimants and further notice of said hearing was provided nonrecord claimants and unknown owners of the Facility by publishing said approved notice on December 1, 1990 in the Chicago Tribune real estate section.

It further appears that a single objection to the Trustee's Motion was presented to that part of the Motion relating to the sale of the personal property and that such objection had no effect upon the transfer of the Facility or this order, and no other objections were presented to the Trustee's Motion.

It further appears that the only lien encumbrance of record, according to the Chicago Title Insurance Company commitment for title insurance, dated May 15, 1990, encumbering the title to the Facility is that held by the County of Cook, State of Illinois, as

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

and for real estate taxes, which by parcel and year are in the following principal amounts:

17-07-327-003-0000 1973 - \$201.20
..... 1974 - \$162.75;

It further appears that PHS has notified the Trustee in writing that PHS requests the transfer of all right, title and interest of Mile Square and its Estate to the City of Chicago and that PHS is prepared to remit to the Estate of Mile Square the sum of \$348,700, the amount of the non-federal share of the Facility, as determined pursuant to 45 C.F.R. 74.134(c)(3) and 45 C.F.R. 74.142 and the Parties' Amended Settlement Agreement.

It further appears that it is in the best interest of Mile Square, its Estate, all of its creditors and equity security holders, and good cause exists to grant the Trustee authority to transfer the Facility to the City of Chicago, a good faith transferee.

It finally appears that pursuant to 28 U.S.C. 1334, 28 U.S.C. 157(a) and (b), and local rule 2.33A of the Northern District of Illinois that this Court has jurisdiction over the core proceeding presented by the Trustee's Motion and, in particular, authorizing the transfer of the Facility.

IT IS ORDERED, ADJUDGED AND DECREED that upon receipt by Trustee of the written notice by PHS, pursuant to paragraph 12 of the Amended Settlement Agreement, the Trustee, Hilmon S. Sorey,

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Jr., is authorized, in order to carry into effect the disposition of the Facility, as directed by PHS and the Parties' Amended Settlement Agreement, to transfer, grant and convey by deed to the City of Chicago all right, title and interest of Mile Square and its Estate to the Facility, hereinafter described as:

LOTS 12 TO 20, BOTH INCLUSIVE, IN WILCOX SUBDIVISION OF THE NORTH 1/2 OF BLOCK 60 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMON ADDRESS: 2045 W. WASHINGTON, CHICAGO, ILLINOIS ("FACILITY")

PIN: 17-07-327-002-0000; 17-07-327-003-0000;
17-07-327-004-0000; 17-07-327-005-0000; 17-07-327-041-0000;
17-07-327-042-0000; 17-07-327-043-0000; 17-07-327-046-0000;
17-07-327-047-0000; and 17-07-327-048-0000.

together with all right, title and interest of Mile Square and its Estate in and to all improvements and appurtenances thereunto pertaining, free and clear of all liens, encumbrances, interests or claims, including all rights of redemption, except for the interest of the United States of America for the benefit of the Department of Health and Human Services, Public Health Service.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, upon the Trustee's transfer of title to the Facility, no claim or interest, which arose during the period that Mile Square, its predecessors or its Estate held title to the Facility and allegedly affects title to the Facility, except for the interest of the United States of America for the benefit of the Department of Health and Human Services, Public Health Service, shall have any legal or equitable

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

effect upon title to the Facility.

COPY

IT IS FINALLY ORDERED, ADJUDGED AND DECREED, that any claim or interest arising during the period in which Mile Square, its predecessors or its Estate held title to the Facility, which claim or interest allegedly had a legally or equitably effect upon the title to the Facility, including but not limited to all liens, encumbrances, interests or claims, except for the interest of the United States of America for the benefit of the Department of Health and Human Services, Public Health Service, shall attach to the \$348,700, that the Trustee received as the non-federal share of the Facility due to Mile Square and its Estate, as determined pursuant to 45 C.F.R. 74.134(c)(3) and 45 C.F.R. 74.142 and the Parties' Amended Settlement Agreement.

Dated: DEC 12 1990

DEPT-09 MISC \$3.

T#5555 TRAN 2202 12/26/90 16:14:0
#4549 *55*-90-623674
COOK COUNTY RECORDER

ENTERED:

John H. Spence

BANKRUPTCY JUDGE

mail to


MARK LENZ
ASST. Corporation Counsel
121 N. LaSalle - Room 511
Chicago, IL 60602



90623674

90623674

UNOFFICIAL COPY

 Property of Cook County Clerk's Office