

# Fashion Square Mall files Chapter 11 bankruptcy to block foreclosure



By Paul Brinkmann

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**F**ashion Square Mall owners filed a Chapter 11 bankruptcy on Friday, while accusing its lender -- The Bancorp -- of cutting off promised funding for planned renovations.

The bankruptcy filing Friday automatically halts a foreclosure lawsuit filed Tuesday by The Bancorp against Fashion Square, which alleged that the mall owner had fallen behind on payments for its \$42.2 million loan.

The bankruptcy documents state that the mall owner, an affiliate of Tennessee-based UP Development, withheld payments on the loan because it learned that Bancorp was "misrepresenting" details of the renovation plans.

Bancorp has declined to comment on the bankruptcy or other allegations, framing its arguments only

in court filings. The bank has alleged that UP Development has accounting problems, in addition to defaulting on its loan.

An attorney for the mall, which is still open, says Fashion Square will remain open and will continue pursuing new stores, a new hotel and other major improvements.

"We want to move forward with renovating the mall, adding a hotel, new apartments and new stores," said R. Scott Shuker, bankruptcy attorney for the mall. "The owner, Scott Fish, is all in on this."

UP Development, based in Tennessee, was in talks with Starwood Hotels to build a hotel near the 1970s-era mall. Among other plans: Replacing a closed Sears store with a new Orchard Supply Hardware and Floor & Decor, among other things.

UP Development says the bank promised to fund the hotel and other renovations, and, as recently as September, was still participating in talks with UP Development and other developers about new hotels and apartments in the area.

The mall owners claim they attempted to negotiate a loan workout with Bancorp when, recently, the bank contacted each of the tenants in the Mall and "demanded that they pay their rent directly to Bancorp."

The mall owners "hope to restructure existing debts and return to operating the Fashion Square property at a profit," Shuker said.

In 2013, UP bought about 80 acres including the aging mall and surrounding property. That includes the property that houses J.C. Penney, Dillard's and Macy's. An investment firm now owns the former Sears, Sears Auto Center and surrounding parking lot.

Since buying the mall, UP has seen a Dick's Sporting Goods open and sold an adjacent parcel, the former Anthem College site, for the construction of a \$50 million apartment complex, Alexan at Audubon.

UP has been busy elsewhere in Central Florida. The City of Eatonville approved a \$20 million deal this week for UP Development to buy 111.5 acres for retail and residential use.

UP is working to develop another 23 acres near Mall at Millennia, which includes space for two new luxury car dealerships.

There's no lack of interest in the property around Fashion Square. A South Florida developer, Grover Corlew, just paid \$50 million for the adjacent Orlando Central Office Park, which includes 21 buildings.

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