

# **Bond Case Briefs**

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## **ACA Statement Regarding Loan Default by the City of Buena Vista.**

Following the recent decision by the City of Buena Vista to renege on forbearance terms negotiated in 2011, the bond trustee for the city's approximately \$9 million in Golf Course Project Bonds has issued an Event of Default Notice.

"I'm disappointed that the City Council decided to act precipitously rather than first enter into good faith discussions with ACA," said Maria Cheng, head of remediation at ACA Financial Guaranty Corporation. "We worked in good faith with the City several years ago to accommodate the City's needs, and the City was making progress in following the terms of that deal until this abrupt policy change."

As the insurer of the Golf Course Bonds, ACA provided credit enhancement that allowed the issuer to obtain a lower interest rate on the Bonds and reduce financing costs for the project. Such insurance does not permit the City to absolve itself of this debt nor does it allow ACA or any other third party to absorb the City's liabilities or commitments.

"The prior City Council acted more responsibly," said Ms. Cheng, referring to their 2011 action to approve a Forbearance and Reimbursement Agreement negotiated with ACA after the City failed to appropriate funds for debt service payments due December 1, 2010 and July 1, 2011. "Once the City Council heard the reactions of various advisors and state officials they understood that their actions would affect the City's future access to financing, so they came to ACA and asked for leeway while the City figured out a long-term solution for the golf course. ACA agreed to make 50% of the debt service payments for five years and allow the City to repay those payments after the original debt is paid. Now, part way through this forbearance period and even though funds for the required payments were included in the budget the City approved earlier this year, they've simply thrown up their hands and have refused to pay the reduced debt service that was agreed to by the City."

The City's initial refusal to pay full debt service on the Golf Course Bonds cost it the ability to finance needed infrastructure improvements with public funding, as evidenced by the decision of the Virginia Resources Authority (VRA) to deny the City's request for a loan for its water treatment facility.

"While the VRA encouraged the City to return and discuss ways it could improve its borrowing profile, this recent decision to dis-appropriate funds can only hurt its credit profile and further limit access to the infrastructure funding it needs," stated Ms. Cheng.

The remedies available to ACA include foreclosure on the real estate the City pledged to secure the Golf Course Bonds, including the town hall (other than the court facilities), the building that houses the police department as well as the golf course. ACA will continue to be owed any money ACA pays to the bondholders to cover the debt service.

"We have always been willing to work with the City to come up with a comprehensive solution. In 2011, we gave them breathing room to work through their problems by agreeing to five years of

partial payments and deferring repayment of the shortfalls we have been advancing to bondholders until 2035, interest free,” said Ms. Cheng. “The unilateral act by the current City Council demonstrates an unwillingness to act in good faith to negotiate a solution. It is also highly disingenuous to characterize ACA’s insurance as giving the City the ability to try to walk away from its decision in 2005 to finance the golf course. We provided credit enhancement that allowed the city to save money on interest – our insurance protects bondholders, not the City.”

As a result of the City’s recent actions, ACA has reached out to the various constituents that helped in the negotiation of the Forbearance Agreement in 2011. “Despite the City Council’s recent act, I hope that cooler heads will prevail so that we can find a solution that is workable for all parties,” said Ms. Cheng.

About ACA Financial Guaranty Corporation: Founded in 1997, ACA Financial Guaranty Corporation is a monoline bond insurance company licensed in 50 states and 5 territories and regulated by the Maryland Insurance Administration. On August 8, 2008, the Company and counterparties to its structured finance products reached an agreement on a restructuring plan for ACA. The plan, approved by the Maryland Insurance Administration, provided for settlement of the structured finance obligations and protection for ACA’s municipal policyholders. ACA operates as a runoff insurance company and focuses on actively managing its remaining insured municipal obligations. ACA’s portfolio consists of less than 200 obligors guarantying timely payment of principal and interest on approximately \$2.9 billion of generally high yield municipal bonds.