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BOKF, N.A. v. BCP Land Company, LLC

United States District Court, W.D. Missouri, Southern Division - March 9, 2016 - Slip Copy - 2016 WL 951636

A Community Improvement District was formed in Branson, Missouri for the purpose of developing property for commercial and residential purposes. The District authorized the issuance of $13,590,000 of Special Assessment Bonds and $3,150,000 of Subordinate Special Assessment Revenue Bonds.

The Bondholders subsequently sued the development group (and the subsequent purchaser), alleging that it had sold the property to individuals and organizations affiliated with the developers in order to recoup the Development Period Reserve Fund and to avoid payment of the Special Assessments.

The original developers moved for summary judgment, contending that the sales were legitimate, arms-length transactions to parties they did not control and with which they were not affiliated.

The District Court denied the developer's motion for summary judgment, finding that the Bondholders had sufficiently pled their allegations that the developers were affiliated with the subsequent purchasers.

Of particular interest was the court's analysis of the terms "affiliate" and "control," neither of which were defined in the Trust Indenture. Rejecting the defendants' attempt at much narrower interpretations, the court instead deferred to the much broader definitions contained in Black's Law Dictionary.

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