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BANKRUPTCY - ILLINOIS

In re Lombard Public Facilities Corporation

United States Bankruptcy Court, N.D. Illinois, Eastern Division - December 18, 2017 - B.R. - 2017 WL 6507097

United States Trustee, along with creditors, filed motions to dismiss Chapter 11 case on ground that debtor, a public facilities corporation, was a "governmental unit" and thus ineligible for Chapter 11 relief.

The Bankruptcy Court held that:

- Bankrupt public facilities corporation that was formed by village to obtain financing for and construct a convention center and hotel facility within village limits was not a "governmental unit," of kind ineligible for Chapter 11 relief, and
- Statements that Chapter 11 debtor, a public facilities corporation formed by village to obtain financing for and construct a hotel and convention center, had previously before taxing authorities in proceeding to determine tax-exempt status of its bonds were not binding on it.

Bankrupt public facilities corporation that was formed by village to obtain financing for and construct a convention center and hotel facility within village limits was not a "governmental unit," of kind ineligible for Chapter 11 relief, though village appointed the debtor's five-member board of directors and required debtor to observe the Illinois Open Meetings Act, the State Gift Ban Act, and conflict of interest statute, where debtor raised funds by selling tax-exempt bonds that were not back-stopped by the village treasury, conducted its corporate meetings separately from village meetings, and was not dependent on village for its day-to-day activities; while debtor's conduct in operating hotel and convention center might serve public purpose, it was not a core government function.

Statements that Chapter 11 debtor, a public facilities corporation formed by village to obtain financing for and construct a hotel and convention center, had previously before taxing authorities in proceeding to determine tax-exempt status of its bonds were not binding and did not prevent it, at hearing on motion to dismiss its Chapter 11 case on theory that it was a "governmental unit" ineligible for Chapter 11 relief, from taking position that it was not "governmental unit"; debtor, in making statements before taxing authorities, was not acknowledging that it was "governmental unit" ineligible for relief Chapter 11 of the Bankruptcy Code, but was making statements for completely different purpose of asserting that its bonds were tax exempt under completely different legislative scheme.

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