

Bond Case Briefs

Municipal Finance Law Since 1971

Detroit Lighting Decision Put Off Due to Possible Attorney Conflict.

DETROIT (Reuters) – The judge overseeing Detroit’s bankruptcy case on Wednesday postponed deciding whether the city can redirect utility tax revenue to help fix its broken street lights, citing a potential conflict of interest among attorneys representing the city’s Public Lighting Authority.

Law firm Miller Canfield represents the lighting authority, but also represents Detroit in other matters in the city’s bankruptcy proceedings.

U.S. Bankruptcy Judge Steven Rhodes asked attorneys from all parties involved to submit briefs by December 4 to address the potential conflict of interest and whether Miller Canfield should be disqualified from representing the Public Lighting Authority. He said he will subsequently issue a written ruling.

The potential conflict came to light when attorney Jonathan Green, a lawyer for Miller Canfield who represented the lighting authority in proceedings before Judge Rhodes on Wednesday morning, introduced himself in court.

“It was most unfortunate that this issue came to the court’s attention in the way that it did because it’s going to result in an unnecessary delay,” Rhodes said.

Green said Miller Canfield was not representing the city in this particular transaction.

Detroit wants to use \$12.5 million in utility tax revenue to back \$153 million in bonds to be issued by the Detroit Public Lighting Authority to finance upgrades to the public lighting system in the city. The Public Lighting Authority also proposes a short-term \$60 million loan to precede the sale of the bonds, which would be issued through a state agency.

About 40 percent of all the street lights in Detroit do not work, and Detroit Emergency Manager Kevyn Orr has said one of his priorities is to improve public services in the city.

Attorneys for the bond insurers and banks objecting to the transaction asked Rhodes to allow them to collect more information on the potential transaction before he made a decision. William Arnault, who represents bond insurer Syncora Guarantee Inc., asked for a two-week discovery period, noting that the objectors were “in the dark” about the details of the proposed deal.

“Of course the dark you’re in does not compare to the dark that the citizens of Detroit are in day in and day out,” Rhodes responded.

Vincent Marriott, representing Detroit creditors Hypothekenbank Frankfurt AG, Hypothekenbank Frankfurt International S.A. and Erste Europäische Pfandbrief-und Kommunalkreditbank Aktiengesellschaft in Luxemburg S.A, asked Rhodes to put off the lighting financing issue until the city submits a plan to the court to readjust its debt.

He said the city should not spend money in bits and pieces and should instead address its infrastructure improvements at once in its plan of adjustment.

“It’s a mistake, and it will not be in the long-term interests of the city,” Marriott said.

But Rhodes responded by asking what will become of the “hundreds of thousands of people who are going to be victims of crime as we wait?”