

Bond Case Briefs

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ACA Financial Guaranty Sues City of Buena Vista, Virginia.

- **Suit Seeks Payment On \$9.2 million Bond Issue Used to Finance the Building of the Municipal Golf Course, Vista Links**
- **Legal Action Could Result in the Foreclosure of City Property including the City Hall, the Police Department Building, and Vista Links Golf Course.**

NEW YORK-(BUSINESS WIRE)-ACA Financial Guaranty Corporation (“ACA”) filed suit today against the City of Buena Vista, Virginia for its default on \$9.2 million in Lease Revenue Bonds issued in 2005 (“Series 2005”) to refund debt the City had incurred building the municipal golf course, Vista Links.

Steve Higgs, Principal Attorney with The Higgs Law Firm stated, “ACA has worked with the City of Buena Vista for many years to accommodate its needs, and more recently has worked to come to a comprehensive resolution that would benefit all parties. After 16 months of continued non-payment by the City, ACA has decided to sue the City to force it to renew payments on the money it borrowed, and to demand it comply with the promises it made under the Bond agreements. The failure of the City to pay back its Bonds has already resulted in it being excluded from some state borrowing programs, and is likely to impair future efforts for it to borrow from debt markets as long as it remains in default.

“The City’s failure to make its Bond payments could result in the foreclosure of its City Hall, its police department building, and its municipal golf course.”

The City of Buena Vista, Virginia issued annual appropriation bonds in 2005 in the amount of \$9.2 million to refund debt the City had incurred to build Vista Links, a municipal golf course. The Bonds are “moral obligation” bonds to be paid back from monies appropriated by the City Council. The City further secured the bonds through a lien on certain city property including the City Hall, the police department building, and municipal golf course, Vista Links. The City also promised to give ACA a first lien on any building to which it moves its municipal services.

In July 2011, at the City’s request, ACA and the City entered into a Forbearance Agreement in which ACA allowed the City to reduce its debt payments to 50% of required debt service for five years. ACA agreed to allow the City to defer repayment of this money until 2035-2040, interest free.

In January, 2015 the City Council unilaterally violated the forbearance agreement by discontinuing all payments on the Series 2005 bonds, despite four members of the City Council having voted in favor of the forbearance agreement. The City then offered to settle the 2005 bonds by paying the value of the municipal golf course, City Hall and police department building, a value prohibitively less than the \$9.2 million outstanding.

Mr. Higgs continued, “When the City was having problems in 2011, it came to ACA and asked for help. ACA agreed to reduce the payments by 50%, to be paid back on an extended basis. That’s a deal you would be hard pressed to get from any financial institution. Now the City has broken even that promise, and claims it cannot afford to pay the money back. But the City is not pursuing

bankruptcy and is still paying all its other debt. That is unfair.

“In the long run, when you factor in the costs of litigation, the potential loss of the municipal buildings and golf course, the impaired ability to borrow in the future, and uncertainty about whether you can trust the City’s promises, the City would be better off paying the Bonds. The only way that not paying the Bonds makes any financial sense is if the City was contemplating reverting to town status and have Rockbridge County agree to accept it as part of the County.

“The City is engaging in conduct it would never allow from its own citizens. The City Council should honor its promises and pay back the money it borrowed. Even the City has to pay its debts.”

ACA is represented in this matter by Steven L. Higgs of STEVEN L. HIGGS, P.C. in Roanoke, VA.

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