Clerk's Stamp

COURT FILE NUMBER	1703-12327
	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	EDMONTON
	IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
	AND IN THE MATTER OF A PLAN OF ARRANGEMENT OF 667402 ALBERTA LTD., 18512398 ALBERTA LTD., 816956 ALBERTA LTD., 1371047 ALBERTA LTD., 1919209 ALBERTA LTD. and CANADA NORTH GROUP LP HOLDINGS LTD.
APPLICANT	**MUNICIPAL DISTRICT OF GREENVIEW #16**
DOCUMENT	**BRIEF OF MUNICIPAL DISTRICT OF GREENVIEW #16**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Reynolds, Mirth, Richards & Farmer LLP Barristers & Solicitors 3200 Manulife Place 10180 - 101 Street Edmonton, AB T5J 3W8

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A. INTRODUCTION

1. This Brief is presented on behalf of the Municipal District of Greenview #16 ("Greenview").

2. An Application has been set by the monitor for September 21, 2018. From the monitor's letter to the Court August 17, 2018, Court was advised that one of the matters for which the monitor seeks advice and direction relates to "certain municipal tax related issues". No application has yet been filed.

3. Greenview does, now, have a fairly clear understanding of what is at issue and is of the view that a hearing on September 21, 2018 is simply premature.

BACKGROUND

4. DJ Catering, which is one of the many Canada North Companies, operated 2 camps on sites called Berland and Simonette. Part of these camps consist of buildings leased from Weslease Income Growth Fund Limited Partnership ("Weslease)" and Element Financial Corporation ("Element").

5. The assets of DJ Catering are also the subject of security held by the Canadian Western Bank ("CWB").

6. DJ Catering is assessed property tax in respect of those camps as being improvements to the land, in respect to improvements to the land.

7. The legal issue arises from section 348 of the *Municipal Taxation Act* which provides

Municipal Government Act – R.S.A. 2000 C-M-26, s. 348

8. S. 348 of the *Municipal Government Act* ("*MGA*") provides:

> **348** *Taxes due to a municipality*
>
> *(a) are an amount owing to the municipality,*
>
> *(b) are recoverable as a debt due to the municipality,*
>
> *(c) take priority over the claims of every person except the Crown, and*
>
> *(d) are a special lien*
>
> *(i) on land and any improvements to the land, if the tax is a property tax, a community revitalization levy, a special tax, a local improvement tax or a community aggregate payment levy, or*

(ii) *on goods, if the tax is a business tax, a community revitalization levy, a well drilling equipment tax, a community aggregate payment levy or a property tax imposed in respect of a designated manufactured home in a manufactured home community.*

9. Greenview's understanding, although no material has yet been filed, is that a similar issue is arising in respect of the municipality of Bonnyville where other entities want return of some trailers upon which Bonnyville claims a special lien pursuant to section 348 of the *MGA*.

10. Issues of whether section 348 is effective, at all, and of the scope of it arose in a matter called *Virginia Hills*. There, in an application to which the municipalities did not attend, the Chambers Judge determined that the municipalities were unsecured. Upon discovering this, the municipalities appealed. The appeal was heard over the full day of June 12, 2018 and is currently under reserve.

11. Greenview, Weslease, Element, CWB, and the monitor have all agreed that the Greenview matter should wait the outcome of *Virginia Hills*.

12. Bonnyville claimants, however, wish to have the matter heard on September 21, 2018.

THE APPLICATION

13. The application is to have the municipal tax matter adjourned. Greenview bases this application on a number of grounds

    a. The issues of law in the Greenview matter and in the Bonnyville matter are the same. In the interest of judicial economy and avoiding the potential inconsistent results, it should be heard together. But while the parties are aware of the pending issue on Greenview, no application has yet been formally set and it would be difficult to have it set up for September 21, 2018

    b. It is submitted that, under the circumstances the Court should await the outcome of the *Virginia Hills* matter at the Court of Appeal. It is possible that it could be determinative of the matter and likely that it would be of assistance to the Court with respect to the Greenview and Bonnyville matters.

    c. The matter is complex. Coincidentally both the current counsel for Greenview and for Bonnyville were the counsel representing the municipalities on the *Virginia Hills* matter. The arguments in the *Virginia Hills* were complex and involved a full day before the Court of Appeal. If these matters are to go ahead on September 21, 2018, it will be more complex in that they raise not only the effect of s. 348 on the tax debtor but its effect on lessors to the tax debtor.

    d. It is unlikely that the parties can be properly prepared by September 21, 2018. But if it is to go ahead, some direction is needed as to respect of filing dates, the order of filing, and so forth.

14. Under all of these circumstances it is submitted that is simply not realistic to proceed with what has been described as what as "municipal issues" on September 21, 2018 and this portion of the application should be heard after the outcome of the *Virginia Hills* matter is known, with the Bonnyville and Greenview matters being heard together and in a fashion giving the parties adequate time to prepare.

ALL OF WHICH is respectfully submitted this 31st day of August, 2018.

Reynolds, Mirth, Richards & Farmer LLP
Counsel for Municipal District of Greenview #16

Per: ______________________
Shauna N. Finlay