

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

IN RE: BUILDING MATERIALS HOLDING CORPORATION, et al., DEBTORS	§ § § § § §	CASE NO. 09-12074 (JOINTLY ADMINISTERED) CHAPTER 11
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**TRAVIS COUNTY'S OBJECTION TO
JOINT PLAN OF REORGANIZATION FOR THE DEBTORS UNDER
CHAPTER 11 OF THE BANKRUPTCY CODE AMENDED JULY 27, 2009**

COMES NOW, Nelda Wells Spears, Travis County Tax Assessor-Collector for and on behalf of the following taxing authorities: Travis County, City of Austin, Austin Independent School District, Austin Community College, and Travis County Hospital District (hereinafter referred to as, "Travis County") by and through her attorney of record, David Escamilla, Travis County Attorney, and files this Travis County's Objection to Joint Plan of Reorganization for the Debtors Under Chapter 11 of the Bankruptcy Code Amended July 27, 2009, and in support thereof would respectfully show the Court the following:

1. Travis County received its first notice of the above referenced bankruptcy on June 29, 2009. Travis County filed its secured Proof of Claim in the amount of \$84,914.03 for the 2009 property taxes on August 20, 2009.

2. The claims of Travis County are secured by a lien on the Debtors' property pursuant to section 32.01 of the Texas Property Tax Code. Under Section 32.01 of the Texas Property Tax Code, a lien attached to the above-referenced property on January 1

of each delinquent year in favor of the taxing units represented by Nelda Wells Spears to secure payment of all taxes, penalty and interest ultimately imposed.

3. The claims of Travis County take priority over the claims and interests of any other creditor in this bankruptcy proceeding under section 32.05 of the Texas Property Tax Code.

4. Pursuant to sections 33.01(a) and (c) of the Texas Property Tax Code, the claims of Travis County receive a 12% penalty as well as interest at the rate of 1% for each month the property taxes remain unpaid.

5. Travis County objects to the Joint Plan of Reorganization for the Debtors Under Chapter 11 of the Bankruptcy Code Amended July 27, 2009, because the plan does not allow for payment of Travis County's secured claim along with the payment of 12% interest. Debtors' failure to include Travis County's fully secured claim with 12% interest renders the plan unfair and inequitable as to Travis County under sections 511(a) and 1129(b)(2)(A) of the Bankruptcy Code. It also violates sections 32.05 and 33.01 of the Texas Property Tax Code.

6. As demonstrated above, the treatment of Travis County's claim in the Joint Plan of Reorganization for the Debtors Under Chapter 11 of the Bankruptcy Code Amended July 27, 2009, is much less favorable than the statutory treatment of the claim under state law. Indeed, state created property rights will not be destroyed in a bankruptcy context. *In re Village Properties*, 723 F.2d 441 (5th Cir. 1984).

WHEREFORE, PREMISES CONSIDERED, Travis County respectfully requests that this Court deny confirmation of the Joint Plan of Reorganization for the Debtors Under

Chapter 11 of the Bankruptcy Code Amended July 27, 2009, and for such other relief to which Travis County is justly entitled.

Respectfully submitted,

DAVID ESCAMILLA
Travis County Attorney
P.O. Box 1748
Austin, Texas 78767
(512) 854-9513 Telephone
(512) 854-4808 Telecopier

By: /s/ Karon Y. Wright
KARON Y. WRIGHT
Assistant County Attorney
Texas Bar No. 22044700
karon.wright@co.travis.tx.us

CERTIFICATE OF SERVICE

I, Karon Y. Wright, Assistant County Attorney, hereby certify that a true and correct copy of the foregoing **Travis County's Objection to Joint Plan of Reorganization for the Debtors Under Chapter 11 of the Bankruptcy Code Amended July 27, 2009**, has been sent to all interested parties registered for electronic service with the U. S. Bankruptcy Clerk's Office on or about the time this document was electronically filed with the Clerk on this **31st** day of **August 2009** and mailed by United States First Class Mail to any party listed below that is not registered.

/s/ Karon Y. Wright

DEBTORS' ATTORNEY

Michael A. Rosenthal
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166-0193

U.S. TRUSTEE

The Office of the United States Trustee
844 King Street, Suite 2207
Wilmington, Delaware 19801