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Attorneys for County of Comal, Texas,
Central Appraisal District of Taylor
County, County of Williamson

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
DISTRICT OF DELAWARE
WILMINGTON DIVISION

IN THE MATTER OF:

CASE NO. 09-12074

BUILDING MATERIALS
HOLDING CORPORATION, et al

DEBTOR

CHAPTER 11

OBJECTION
TO CONFIRMATION OF JOINT PLAN OF REORGANIZATION

TO THE HONORABLE BANKRUPTCY JUDGE:

NOW COME County of Comal, Texas, Central Appraisal District of Taylor County, County of Williamson, hereinafter referred to as "Texas Ad Valorem Tax Claimants", and file their Objection to the Confirmation of the Debtor's Joint Plan of Reorganization, on the following grounds:

I.

The claims of the undersigned are included in the class of claims described as Other Secured Claims (Secured Tax Claims).

II.

The secured claims of the undersigned are impaired under the Plan, and the Texas Ad Valorem Tax Claimants have not accepted the plan within the time fixed to do so.

III.

The Plan provisions which deal with the secured claims of the undersigned, fail to provide fair and equitable treatment to the secured claim as required by 1129(b)(1) and (2)(A) in that;

- A. These secured claims are entitled to express retention of all property tax liens, at the priority they now hold, until all taxes, penalties and interest protected by those liens have been paid, and they object to any priming of their statutory lien position by, or subordination to, any Exit Financing;
- B. These Claimants are entitled to interest from the petition date through the Effective Date under 11 USC Section 506(b), as well as from the Effective Date until paid in full, both at the statutory rate of 1% per month as required by 11 USC § 511, and Texas Property Tax Code § 33.01(c).

IV.

These claims arise from property taxes for the tax year 2009 due on the debtor's property described as real and business personal property located in these tax jurisdictions. The laws of the State of Texas; Texas Property Tax Code, Section 32.05(b); give the tax liens securing the property taxes superior claim over any other claim or lien against this property. This state priority for tax liens is retained in the Bankruptcy Code giving these claims a superior position over all other claims against this property. *Stanford v. Butler*, 826 F.2d 353 (5th Cir. 1987), 11 USC § 506; Universal Seismic Associates, Inc., 288 F.3d 205 (5th Cir. 2002); In Re Winn's Stores, Inc. 177 B.R. 253 (Bkcty W.D. Tex 1995).

V.

WHEREFORE, these Texas Ad Valorem Tax Claimants object to confirmation of the Plan due to noncompliance with the provisions of § 1129(b)(1) and (2)(A) of the Bankruptcy Code, and further request other and such relief as is just and proper.

Dated: November 19, 2009

Respectfully submitted,

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By

/s/ Michael Reed

Michael Reed

State Bar Number 16685400

CERTIFICATE OF SERVICE

I hereby certify that I have placed a copy of the above Objection to Confirmation of the Plan of Reorganization to the following parties by First Class U.S. Mail and to those parties listed on the Court's Notice of Electronic Filing by Electronic Notification on November 19, 2009, by First Class U. S. Mail.

/s/ Michael Reed

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