MEMO

April 27, 2018

To: Founders Village Metropolitan District f/k/a Villages at Castle Rock Metropolitan District No. 1

From: Joel Laufer, Esq
Robinson Waters & O'Dorisio, P.C. ("RWO")
1099 18th Street
Suite 2600
Denver, Colorado 80202

Re: Possible Restructuring of the 1991 Bonds issued by the Villages at Castle Rock District 4 pursuant to (a) the filing of a new Chapter 9 case by District 4, or (b) the filing a motion to reopen District 4's prior Chapter 9 case and modifying the plan approved in that case

I. Attorney Client Privilege

1. The Board Members for the Villages at Castle Rock District 1 ("District 1") have concluded that it is in the best interests of District 1 and its resident homeowners that this Memo should be made available to the resident homeowners. The dissemination of the Memo to the resident homeowners will constitute a waiver of the attorney client privilege otherwise existing by and between RWO, District 1 and its Board Members. This Memo shall not be considered and is not intended to be an opinion letter.

II. Purpose of Memo

2. I have been retained by the District 1 Board to address questions raised by resident homeowners regarding the possible reduction of real property taxes assessed by District 1 on residences located in District 1.

III. District 1, District 4 and District 9

Formation of District 1, District 4 and District 9

3. District 1, District 4 and District 9 were formed by Park Funding Corporation for the purposes described below. These Districts are located near each other in Castle Rock, Colorado.

District 4

4. The Villages at Castle Rock Metropolitan District No. 4 ("District 4") is a quasi-municipal corporation organized under of the laws of the State of Colorado. District 4 was created on August 15, 1984 for the purposes of providing water, sanitary sewer and storm drainage, streets, safety protection, parks and recreation, transportation facilities and administrative services and maintenance operations (collectively hereafter referred to as "Improvements and Services") to District 1 and the Villages at Castle Rock Metropolitan District No. 9 ("District 9").

5. District 4 is referred to as a "management district" and is responsible for managing, implementing and coordinating the financing, construction, operation and maintenance of the Improvements and Services provided by District 4 to District 1 and District 9.

6. District 1 and District 9 are referred to as "financing districts". Generally, "financing districts" are organized solely for the purpose of levying taxes or other charges and fees for the purpose of paying the related bond debt incurred by the "management district" for the benefit of the "financing districts".

7. In the present case, District 1 and District 9 were organized for the purpose of paying the bond debt incurred by District 4 which funded, and continues to fund, the Improvements and Services provided to District 1 and District 9.

District 1

8. District 1 is a quasi-municipal corporation organized under of the laws of the State of Colorado. District 1 was created on August 15, 1984.

9. Since its formation, there has been significant development and construction of single family homes in District 1. The District 1 Manager advises that (a) there are a total of 2,427 platted lots in District 1, and (b) homes have been constructed on all but 159 lots.

District 9

10. District 9 is a quasi-municipal corporation organized under of the laws of the State of Colorado. District 9 was created on August 15, 1984.

11. The District 1 Manager advises that no development has occurred in District 9 to date.

IV. Issuance of the 1986 Bonds

12. In 1986, District 4 issued four series of 1986 Revenue Bonds ("1986 Bonds") in the principal amount of $32,175,000. The bond proceeds were used to fund Improvements and Services to District 1 and District 9.

13. District 4, as issuer, was liable for the payment of the 1986 Bonds.

14. Pursuant to the original Intergovernmental Financing Agreement dated August 14, 1986 ("District 1 IFA") by and between District 1 and District 4, District 1 became liable to District 4 for payment of all amounts necessary to repay the 1986 Bonds.

15. Pursuant to the original Intergovernmental Financing Agreement dated January 13, 1987 ("District 9 IFA") by and between District 9 and District 4, District 9 also became liable to District 4 for payment of all amounts necessary to repay the 1986 Bonds.

V. Chapter 9 Bankruptcy Filing by District 4 and Court Approval of the Plan

16. By 1989, District 4 became in default with respect to payments due under the 1986 Bonds, and the District 4 Board elected to file a Chapter 9 bankruptcy case for District 4 in the United States Bankruptcy Court for the District of Colorado ("Court") for the purpose of restructuring the bond debt represented by the 1986 Bonds.

17. On or about December 1, 1989, District 4 filed its voluntary Chapter 9 petition in the Court; and on May 11, 1990, the Court entered its order finding that District 4 was authorized under existing Colorado State law to be a debtor under Chapter 9 and had otherwise met all eligibility requirements to be a Chapter 9 debtor.

18. District 1 did not, and has not, filed a Chapter 9 petition with the Court.

19. On or about June 14, 1991, District 4 filed its Plan For Adjustment Of Debts, as subsequently amended (hereafter the "Plan") and related Disclosure Statement ("Disclosure Statement").

20. On December 17, 1991, the Court entered its order approving the Plan.

VI. Issuance of the 1991 Bonds Pursuant to the Plan

21. The Plan provided, inter alia, that the holders of the 1986 Bonds would exchange their 1986 Bonds for 1991 Revenue Refunding Bonds (the "1991 Bonds") to be issued by District 4 under the Plan in a principal amount equal to the principal amount of the 1986 Bonds held by each such holder. The 1991 Bonds are governed by a Bond Resolution passed by the District 4 Board on January 21, 1991. The Bond Resolution provides for the appointment of a Trustee ("Trustee") who acts as a fiduciary for the holders of the 1991 Bonds.

22. The 1991 Bonds are dated December 1, 1989, were issued in denominations of one thousand dollars and multiples thereof, and bear interest at the rate of 8.50% per annum compounded semi-annually. Payments on the 1991 Bonds are made on June 1 and December 1 of each year from the Bond Fund defined below. Any unpaid interest owing on the 1991 Bonds shall accrue interest at the rate of 8.50% per annum, compounded semiannually. The 1991 Bonds mature in 2031.

23. The 1991 Bonds are not backed by the full faith and credit of District 4, District 1 or District 9. Rather, the 1991 Bonds are payable by District 4 solely and exclusively from the "Net Revenue" defined below. Accordingly, the 1991 Bonds are considered to be cash flow bonds ("Cash Flow Bonds") because they are only payable from available cash flow.

24. On and after the Effective Date of the Plan, the 1991 Bonds were exchanged for the 1986 Bonds pursuant to the terms of the Plan.

25. None of the 1991 Bonds has been redeemed.

26. The Disclosure Statement advised persons and entities receiving the 1991 Bonds under the Plan that "it [was] unlikely that [they] will receive all of their principal and interest". The Disclosure Statement further advised the recipients of the 1991 Bonds that the estimated value of the 1991 Bonds, which had a 8.5% coupon rate, was approximately 55% of par based upon the revenue projected at full build-out.

27. Pursuant to the Plan, the 1986 Bonds have been refunded and no longer represent an obligation of District 4.

The Bond Fund

28. The Bond Resolution provides a mechanism for the payment of the 1991 Bonds.

29. Pursuant to the Bond Resolution, Available Revenue is defined to mean Annual Charges. The Annual Charges are defined to mean (a) all amounts paid to District 4 by District 1 pursuant to the District 1 IFA, as amended by the Plan, and (b) all amounts paid to District 4 by District 9 pursuant to the District 9 IFA, as amended by the Plan.

30. All Available Revenue is collected daily by District 4 and deposited into the Revenue Fund. The Revenue Fund is controlled by District 4.

31. At the end of each quarter, District 4 transfers the funds on deposit in the Revenue Fund to the Trustee after deducting certain amounts specified in the Bond Resolution, e.g. funds necessary for operations and for capital expenditures in District 1 and District 9. Amounts so paid to the Trustee are defined in the Resolution as the "Net Revenue".

32. The Net Revenue received by the Trustee is deposited into the Bond Fund. The Bond Fund is controlled by the Trustee.

33. The 1991 Bonds are to be paid from the Bond Fund, but only to the extent there are funds in the Bond Fund, i.e. the 1991 Bonds are Cash Flow Bonds.

34. On June 1 and December 1 of each year, if funds exist in the Bond Fund, the Trustee applies such funds to make pro rata interest payments to the holders of the 1991 Bonds.

Sources of Revenue to Pay the 1991 Bonds

35. The sources of Available Revenue payable to District 4 by District 1 and District 9 are deposited into the Revenue Fund as discussed below.

a. Property Taxes

36. At the time of the filing of the Chapter 9 case, the District 1 IFA and the District 9 IFA required District 1 and District 9 to levy each year "without limitation" sufficient property taxes to pay all amounts due under the 1986 Bonds for the respective year.

37. The Plan provided for amendments to the District 1 IFA and the District 9 IFA. The amendments consist, inter alia, of a formula to cap the real property taxes to be levied against real property in Districts 1 and 9 subject to certain adjustments set forth in the amendments. All real property taxes levied by District 1 are paid to District 4 and deposited into the Revenue Fund. District 9 is undeveloped and therefore to date no payments have been made to District 4 by District 9.

b. Development Fees

38. System development fees ("Fees") are paid by builders who seek to obtain building permits to build homes within Districts 1 and 9. Fees also are sometimes referred to as "tap fees". Fees consist of a one-time charge paid by a builder to Districts 1 and/or 9 to utilize the infrastructures and capacities built by District 4 such as water, sewer, transportation, etc. The District 1 IFA and the District 9 IFA, as amended, provide that all Fees received by Districts 1 and 9 shall be paid to District 4. The Fees constitute Available Revenue and are deposited by District 4 into the Revenue Fund. The Bond Resolution provides that at the end of each quarter, District 4 shall withdraw from the Revenue Fund an amount equal to the Fees deposited into the Revenue Fund in that quarter to the extent that such Fees are anticipated to be needed to fund capital projects ("Capital Costs"). Any amounts not required to fund Capital Costs shall be paid to the Trustee and deposited into the Bond Fund. To date, the anticipated Capital Costs have exceeded the amount of the Fees received by District 4. Accordingly, no Fees have been available to pay amounts due under the 1991 Bonds.

c. Facilities Development Fees

39. Pursuant to the District 1 IFA and the District 9 IFA, as amended, if the annual property tax revenue paid by Districts 1 and 9 toward payment of the 1991 Bonds does not meet specified minimum dollar amounts ("Available Revenue Thresholds"), then these Districts are required to impose and collect Facilities Development Fees from the owners of platted and undeveloped property in an amount necessary to make up the revenue shortfall. The purpose of these fees is to encourage land owners within Districts 1 and 9 to develop their land more quickly resulting in additional revenue to pay the 1991 Bonds by reason of additional real estate taxes. Because Available Revenue Thresholds have been met annually since confirmation of the Plan, no Facilities Fees have been imposed in District 1 or District 9.

Unpaid Principal and Interest Owing on the 1991 Bonds

40. The unpaid principal and interest owing on the 1991 Bonds is as follows:

a. The unpaid principal owing on the 1991 Bonds totals $25,911,000 as of December 31, 2017,

b. The unpaid interest due under the 1991 Bonds totals $94,296,029 as of December 31, 2017,

c. The unpaid principal and interest due under the 1991 Bonds totals $120,207,029 as of December 31, 2017, and

d. The Net Revenue paid into the Bond Fund by District 4 totals $41,603,058 through December 31, 2017.

VII. Previous Efforts by the District 4 Board to Reduce Real Estate Taxes

41. In 2001, I was retained by the Board of District 4 to advise the Board as to (a) whether District 4 could file a new Chapter 9 case and propose a new Chapter 9 plan, or (b) whether District 4 could file a motion to reopen its previous Chapter 9 case filed in 1989, and modify the terms of the Plan approved by the Court in December of 1991.

42. In response to the Board's inquiry, I sent a Memo to the District 4 Board dated April 2, 2001 ("2001 Memo"). A copy of the 2001 Memo is attached hereto as **Exhibit A**.

Can District 4 File a New Chapter 9 Case

43. Pursuant to Article II of the 2001 Memo, I advised the District 4 Board that District 4 cannot file a new Chapter 9 case because (a) eligibility to file a Chapter 9 case requires a finding by the Court that a municipal district is insolvent, and (b) obligations of a municipal district that are enforceable only on a cash-flow basis cannot, by definition, render a municipal district insolvent. See *In re Hamilton Creek Metro. Dist.*, 143 F.3d 1381 (10th Cir. 1998).

44. A review of current case law reaffirms the prior case law discussed in Article II of my 2001 Memo regarding the ability of District 4 to file a new Chapter 9 case. Accordingly, because the Plan approved in District 4's prior Chapter 9 case is a Cash Flow Plan, District 4 is not eligible to file a new Chapter 9 case. See *Hamilton Creek*, supra; and *In re Ravenna Metro. Dist*., 522 B.R. 656 (Bankr. D. Colo. 2014).

Can District 4 File a Motion to Reopen Its Prior Chapter 9 Case

45. Pursuant to Article III of the 2001 Memo, I addressed the question of whether District 4 can file a motion to reopen the prior Chapter 9 case filed in 1989 and thereafter modify the Plan approved by the Court in December of 1991. I advised the District 4 Board that the 5th Circuit Court of Appeals held that post-confirmation amendments are not *per se* prohibited. See:

American United Life Ins. Co. v. Haines City, Fla., 117 F.2d 574 (5th Cir 1941). However, such modifications only are permissible in a few narrowly described circumstances:

> Before a plan is confirmed, changes and modifications may be made therein, with the approval of the judge after hearing, etc. The implication is urged that afterwards changes cannot be made. We are unwilling to put a plan into such a strait jacket. It may be that some matter has been overlooked or has subsequently arisen, which makes the plan unworkable and complicated, but which could easily and justly be remedied. Surprise or mistake may affect it. There ought to be some leeway for such adjustments. But a composition [under the predecessor statute to Chapter 9, debtors filed what was referred to as a Petition for Composition of Debts under Chapter IX] is in its essence a contract, proposed by the debtor and agreed to by those of the creditors who give consent, and they in the requisite majority bind all . . . . A composition after confirmation ought to be respected as a contract, and not disturbed in its substance for light cause, or to give one party an advantage over the other; and especially so after partial execution. *American United*, supra, at page 576. (emphasis added)

46. A review of current case law reaffirms that the analysis set forth above in *American United*, supra, is equally applicable today.

47. Accordingly, under limited circumstances, District 4 could file a motion to reopen its previously filed Chapter 9 case and seek to modify its previously confirmed Plan.

2001 District 4 Motion to Reopen the Chapter 9 Case

48. In 2001, the District 4 Board was contemplating filing a motion to reopen its Chapter 9 case for the purposes of modifying the District 4 Plan approved by the Court in 1991.

49. As noted in my 2001 Memo, the question facing the District 4 Board was whether grounds existed which would permit District 4 to reopen its prior Chapter 9 case and propose modifications to its previously confirmed Plan.

50. In my 2001 Memo, I noted as follows:

> Arguably, no surprise, mistake or error has occurred, nor has any matter been overlooked or subsequently arisen. In fact, the Plan projections prepared in 1991 are being met or exceeded ten years after confirmation [of the Plan]. Thus there is a substantial risk that the Court may not permit the District to amend its Plan.

51. In the conclusion to the 2001 Memo, I nevertheless stated that given the substantial benefits which possibility could be gained by modifying the Plan, the District 4 Board should consider filing a motion to reopen the Chapter 9 case for the purpose of refunding the 1991 Bonds as more particularly described below ("2001 Bond Refunding").

52. Notwithstanding that a modification of the previously approved Plan faced a steep uphill battle, on or about June 6, 2001, District 4 filed a Motion ("Motion") to reopen its previously filed Chapter 9 case to implement the 2001 Bond Refunding. A copy of the Motion is attached hereto as **Exhibit B**.

53. The strategy adopted by the District 4 Board regarding the reopening of the Chapter 9 case was to set forth the proposed terms of the 2001 Bond Refunding in the Motion which would "take the temperature" of the 1991 bondholders; and if there was substantial "push back" from the largest 1991 bondholders, the Motion could be withdrawn.

54. The proposed 2001 Bond Refunding provided that District 4 would issue new bonds ("New Bonds") which were projected to raise approximately $20,000,000 ("New Bond Proceeds"). The proposed amount of the New Bond Proceeds was the maximum that could be generated via the issuance of New Bonds based on the advice of consultants retained by District 4, i.e. the then existing revenues available to District 4 would not support the issuance of bonds in an amount in excess of $20,000,000.

55. The New Bond Proceeds would then be used to pay off the 1991 Bonds at a discount.

56. The proposed discount was significant given the principal and interest owing on the 1991 Bonds totaled approximately $48,000,000 as of December 31, 2000.

57. After the filing of the Motion, a copy thereof was sent to all 1991 bondholders.

58. The reaction of the largest 1991 bondholders was very negative, very hostile and included threats of litigation.

59. As a result, the District 4 Board elected to withdraw the Motion.

60. I sent a Memo dated July 19, 2004 ("2004 Memo") to the District 4 Board which summarized the filing of the Motion, the hostile reaction of the largest 1991 bondholders, and the reasons why the District 4 Board elected to withdraw the Motion. A copy of the 2004 Memo is attached hereto as **Exhibit C.**

Can District 4 File Another Motion to Reopen its Prior Chapter 9 Case

61. As discussed above, there is precedent for District 4 to file a motion to reopen its previously filed Chapter 9 case and seek to amend the Plan confirmed by the Court in 1991. See *American United,* supra.

62. However, I cannot recommend filing such a motion for the following reasons:

a. There are no matters that have been overlooked or that have subsequently arisen which make the Plan unworkable and complicated but which could be easily and justly remedied,

b. There is no surprise, mistake or error regarding the terms or the implementation of the Plan,

c. The Plan has been in effect for approximately 27 years and therefore has been substantially consummated. Modifications are not warranted where there has been partial execution – or in this case substantial execution,

d. There is very minimal likelihood that a Bankruptcy Judge would approve an amendment to the Plan which was approved by the Court approximately 27 years ago - particularly where it is clear that the largest 1991 bondholders will oppose an amendment to the Plan, and

e. Finally, there is a possibility that the Trustee or the largest 1991 bondholders not only would oppose reopening the Chapter 9 case and oppose modifications to the Plan, but could elect to pursue attorney fees and sanctions directly against the District 4 Board members individually, and such claims may not be covered by D&O insurance.

VIII. Moye Giles June 14, 2005 Memo

63. In 2005, the District 4 Board elected to consult with new counsel to confirm the advice that I had previously given the District 4 Board regarding (a) whether District 4 could file a new Chapter 9 case and propose a new Chapter 9 plan, or (b) whether District 4 could file a motion to reopen its previous Chapter 9 case filed in 1989, and modify the terms of the Plan approved by the Court in December of 1991 (hereafter collectively the "Issues").

64. I had no objection to the District 4 Board seeking to consult with other counsel regarding the Issues and advised the Board I believed doing so was prudent.

65. The District 4 Board retained James T. Burghardt, Esq. with the law firm of Moye Giles LLP "to provide a further review and analysis of certain bankruptcy-related issues originally raised with Joel Laufer".

66. After reviewing pleadings, bankruptcy statutes, case law and other relevant information, Mr. Burghardt presented an oral report on his conclusions and suggestions at a regular District 4 Board meeting held on May 18, 2005.

67. After the oral presentation, the District 4 Board requested that Mr. Burghardt prepare an executive summary of his conclusions and suggestions in the belief that it might be helpful to members of the community who desire to understand these issues.

68. Mr. Burghardt subsequently prepared a Memorandum dated June 14, 2005, which contained his conclusions and suggestions and presented it to the District 4 Board. A copy of the Memorandum is attached hereto as **Exhibit D**.

69. In sum, the Memorandum confirms the advice and counsel that I gave to the District 4 Board regarding the Issues.

IX. Conclusion

70. In conclusion (a) District 4 is not eligible to file a new Chapter 9 case, and (b) I would not recommend that District 4 file another motion to reopen its previously filed Chapter 9 case for the purpose of attempting to modify the Plan approved by the Court in 1991.

Exhibit A

MEMO
[Subject to Attorney Client Privilege]

April 2, 2001

To: Villages at Castle Rock Metropolitan District No. 4 ("District")

From: Joel Laufer of Rubner Padjen and Laufer LLC ("RPL")

Re: Bankruptcy issues relating to the refunding of the District's outstanding bond indebtedness

I. Introduction

The District has retained RPL to serve as bankruptcy counsel to advise the District regarding a possible refunding of the District's existing bond indebtedness ("1991 Bonds") pursuant to Chapter 9 of the Bankruptcy Code. This Memo is our analysis but is not to be considered an opinion letter and shall not be relied upon by any third party. Furthermore, providing a copy of this Memo to a third party will likely cause the attorney client privilege to be lost which would operate to your detriment. Therefore, do not provide a copy of this Memo to any third party without first consulting with RPL or Ron Loser, the District's counsel. The following analysis is intended to highlight the analysis which Joel Laufer provided to the District's Board at its meeting on February 26, 2001.

II. Filing a New Chapter 9 Case

The District cannot file a new Chapter 9 case for the purpose of refunding the 1991 Bonds where (1) the District previously filed a Chapter 9 case, (2) a Plan For Adjustment Of Debts ("Plan") was confirmed by the Bankruptcy Court ("Court") in the previous Chapter 9 case, and (3) the Plan provides for mill levy caps and payments to bondholders only when funds are available, i.e. a cash-flow plan. *In re Hamilton Creek Metropolitan District*, 143 F.3d 1381 (10th Cir. 1998). Where a cash-flow plan has been confirmed in a previous Chapter 9 case, the *Hamilton Creek* case holds that a quasi-municipal district is not eligible to file a subsequent chapter 9 case for the purpose of modifying the payment terms of the bond indebtedness issued in the prior Chapter 9 case. Thus, the District cannot file a new Chapter 9 case to accomplish a refunding of the 1991 Bonds.

III. Reopening the District's Prior Chapter 9 Case

A. Procedure

After confirmation of the District's Plan in 1991, the District's Chapter 9 case was closed by order of the Court. Sections 350(b) and 901(a) of the Bankruptcy Code provide that the District's Chapter 9 case can be reopened after it is closed. The Court has discretion to reopen the District's

Chapter 9 case upon motion of the District. The District would seek to reopen the Chapter 9 case for the purpose of amending its Plan to provide for a refunding of the 1991 Bonds.

RPL would recommend that the District file a detailed motion to reopen its Chapter 9 case and give notice of the motion to all holders of the 1991 Bonds and to the owners of real property located in Districts No. 1, 4 and 9. Such notice would give creditors an opportunity to object to the reopening of the Chapter 9 case. A detailed motion with notice to all bondholders accomplishes the following: (1) it will permit the District to immediately negotiate with the largest bondholders regarding their support of the proposed refunding based upon the detailed information included in the motion to reopen, and (2) if it appears that the largest bondholders will not support the refunding, then the District can withdraw the motion without ever having reopened the Chapter 9 case. As discussed below, it is unlikely that the refunding can be accomplished without the support of the largest bondholders.

B. Refunding the 1991 Bonds Pursuant to a Plan Amendment

The District's Plan was confirmed in 1991. The Plan provides that it may be amended prior to confirmation. See the Plan at Article VII., Section 7.1. The Plan is silent as to post-confirmation amendments. The 1991 Bonds have been issued under the Plan and payments have been made to the holders of the 1991 Bonds for approximately ten years. In the context of a bankruptcy reorganization case, it would be quite extraordinary to amend the Plan at this juncture.

Section 942 of the Bankruptcy Code provides that the District may modify its Plan any time prior to confirmation. Section 942 is silent regarding the ability of the District to amend its Plan after confirmation. By comparison, in a Chapter 11 case, a chapter 11 debtor cannot amend its plan of reorganization after confirmation if the plan has been substantially consummated, i.e. payments have been commenced under the plan. No comparable limitation is found in Chapter 9 respecting post-confirmation Plan amendments.

Given the paucity of Chapter 9 cases, very few courts have addressed issues pertaining to post-confirmation amendments. One Circuit Court has found that post-confirmation plan amendments in a Chapter 9 case are not *per se* prohibited. *American United Life Ins. Co. v. Haines City, Fla.*, 117 F.2d 574 (5th Cir. 1941). The *American United* case involved a city which filed a bankruptcy petition under the predecessor statute to Chapter 9. In the *American United* case, the creditor argued that a plan could never be amended after confirmation. The court disagreed stating as follows:

> "'Before a plan is confirmed, changes and modifications may be made therein, with the approval of the judge after hearing,' etc. The implication is urged that afterwards changes cannot be made. We are unwilling to put a plan into such a strait jacket. It may be that some matter has been overlooked or has subsequently arisen, which makes the plan unworkable and complicated, but which could easily and justly be remedied. Surprise or mistake may affect it. There ought to be some leeway for such adjustments. But a composition [under the

predecessor statute to Chapter 9, debtors filed what was referred to as a Petition for Composition of Debts under Chapter IX] is in its essence a contract, proposed by the debtor and agreed to by those of the creditors who give consent, and they in the requisite majority bind all . . . . . A composition after confirmation ought to be respected as a contract, and not disturbed in its substance for light cause, or to give one party an advantage over the other; and especially so after partial execution." *American United*, supra, at page 576.

The question raised is whether the circumstances surrounding the District's proposed refunding of the1991 Bonds justify permitting the District to modify its Plan and seek confirmation of the Plan as amended ("Amended Plan") under the standards enunciated in *American United*. Arguably, no surprise, mistake or error has occurred, nor has any matter been overlooked or subsequently arisen. In fact, the Plan projections prepared in 1991 are being met or exceeded ten years after confirmation. Thus, there is a substantial risk that the Court may not permit the District to amend its Plan.

To obtain confirmation of the Amended Plan, two hurdles must be cleared. First, the bondholders must vote to accept the Amended Plan. Second, the Court must find that the Amended Plan complies with confirmation requirements set forth in Chapter 9.

a. Voting

If the District files an Amended Plan, the holders of the 1991 Bonds will be entitled to vote on the Amended Plan. The terms of the Amended Plan [refunding of the 1991 Bonds] will become binding upon all holders of the 1991 Bonds if the holders of the 1991 Bonds who actually cast a vote accept the Amended Plan by a majority in number of bondholders and two-thirds in dollar amount. The Bankruptcy Code contains certain "cram down" provisions which permit the District to seek confirmation notwithstanding the rejection of the Amended Plan by the bondholder class. However, it is very unlikely that the Court would consider cramming down the Amended Plan ten years after confirmation if the bondholder class rejects the Amended Plan.

There are two or three large bondholders who will be able to control the voting of the bondholders class, i.e. because of the size of their claims, their "no" vote will likely prevent an accepting majority from holding two-thirds in dollar amount of the claims voting in favor of the Amended Plan. Thus, it is essential to confirmation that these large bondholders support the Amended Plan. If they do not, it is unlikely that the Amended Plan would be confirmed by the Court.

The filing of the motion to reopen the Chapter 9 case will permit the District to contact these large bondholders and determine whether their support can be garnered for the Amended Plan. If these large bondholders indicate their intention to oppose the Amended Plan, then the District can (1) withdraw its motion to reopen the Chapter 9 case, (2) seek confirmation of the Amended Plan via cram down [not a recommended tactic], or (3) negotiate an Amended Plan acceptable to the District and the large bondholders and seek confirmation thereof.

b. Confirmation Requirements

Assuming that the holders of the 1991 Bonds have voted to accept the Amended Plan, the Court still must find that the Chapter 9 requirements for confirmation of the Amended Plan have been satisfied. A single bondholder may object to confirmation asserting that various statutory requirements for confirmation have not been satisfied, e.g. a plan amendment should not be permitted at this late date under the standards set forth in *United American*, supra. If such an objection is sustained by the Court, then confirmation of the Amended Plan would be denied after the expenditure of substantial time, energy, costs and fees.

IV. Conclusion

Given the potential significant reduction in the District's bond amortization payments if the Amended Plan were confirmed by the Court, it would seem prudent for the District to pursue reopening the Chapter 9 case for the purpose of obtaining a refunding of the 1991 Bonds pursuant to an Amended Plan.

Exhibit B

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO

IN RE:	)	
	)	
VILLAGES AT CASTLE ROCK METROPOLITAN DISTRICT NO. 4, T.I.N. 84-0959702,	)	Case No. 89-B-16240 A
	)	
	)	Chapter 9
Debtor.	)	
	)	

MOTION TO REOPEN CHAPTER 9 CASE

Comes Now the above Debtor (hereafter the "Debtor" or "District No. 4"), by and through its undersigned counsel, and pursuant to 11 U.S.C. Sections 350(b) and 901(a) and Rule 5010 of the Federal Rules of Bankruptcy Procedure, hereby requests the Court, after notice to creditors, enter its order reopening the within Chapter 9 case, and as grounds therefor, states as follows:

A. The Debtor

1. The Debtor is a quasi-municipal corporation organized on August 15, 1984 under the laws of the State of Colorado.

2. The Debtor and the Adjacent Districts defined below are located in the Town of Castle Rock, County of Douglas, State of Colorado. The Town of Castle Rock is located approximately 25 miles south of Denver, Colorado.

3. The Debtor is governed by a Board of Directors ("Board") who meet regularly.

4. The Board is responsible for the overall management and administration of the affairs of the Debtor. However, the day-to-day operations currently are conducted by a independent consultant pursuant to an annually renewable contract.

B. Professionals Retained by the Debtor

5. The Board employs various independent professionals to assist the Debtor in the management and administration of District No 4.

6. The Board has retained Cimarron Consultants, Inc. (hereafter the "District Manager"), 6551 South Revere Parkway, Suite 265, Englewood, Colorado 80111 to provide consultation and services as planner, analyst, project manager and facilitator for all day-to-day administration, capital improvements and intergovernmental affairs with the Town of Castle Rock, Douglas County and other authorities, districts, commissions or agencies affecting the Debtor.

7. The Board has retained the accounting firm of J.W. Simmons & Associates, P.C. (the "Accountants"), 9155 East Nichols Avenue, Suite 330, Englewood, Colorado 80112 to assist the Debtor with financial reporting, financial analysis, projections and other accounting services.

8. The Board has retained the investment banking firm of Kirkpatrick Pettis ("Investment Banker"), 1600 Broadway, Suite1100, Denver, Colorado 80202 to provide advice and counsel regarding the refunding of the 1991 Bonds defined below.

C. The 1986 Bonds

9. In 1986, the Debtor issued four series of 1986 Revenue Bonds ("1986 Bonds") in the principal amount of $32,175,000 which were issued to provide water, sanitary sewer and drainage, streets, safety protection, parks, and transportation facilities and services for the Debtor and the following Adjacent Districts: Castle Rock Metropolitan District Nos. 1, 2 3, 5, 6, 7, 8 and 9 (hereafter collectively referred to as the "Adjacent Districts") (or referred to individually as "District No. 1", "District No. 2", etc.).

10. After the issuance of the 1986 Bonds, the Debtor used the bond proceeds, in part, to construct facilities in some of the Adjacent Districts.

11. The Debtor, as issuer, was liable for the payment of the 1986 Bonds. In addition, pursuant to Intergovernmental Financing Agreements ("Financing Agreements"), District No. 1 and District No. 9 were also liable for payment of all amounts necessary to repay the 1986 Bonds.

D. Chapter 9 Bankruptcy

12. By 1989, the Debtor became in default with respect to payments due under the 1986 Bonds, and the then existing Board elected to file a Chapter 9 bankruptcy case in the District of Colorado for the purpose of restructuring the debt represented by the 1986 Bonds.

13. On or about December 1, 1989, the Debtor filed its voluntary Chapter 9 petition in this Court; and on May 11, 1990, this Court entered its order finding that the Debtor was authorized under existing Colorado state law to be a debtor under Chapter 9 and had otherwise met all eligibility requirements to be a Chapter 9 debtor.

14. On or about June 14, 1991, the Debtor filed its Plan For Adjustment Of Debts, as subsequently amended (hereafter the "Plan") and Disclosure Statement ("Disclosure Statement").

15. On December 17, 1991, the Court entered its order confirming the Plan. The Effective Date of the Plan was defined to be the first business day thirty days after the date of confirmation of the Plan.

E. The Plan

16. The Plan provided, inter alia, that the holders of the 1986 Bonds would exchange their 1986 Bonds for 1991 Revenue Refunding Bonds (the "1991 Bonds") to be issued by the Debtor under the Plan in a principal amount equal to the principal amount of the 1986 Bonds held by each such holder. The 1991 Bonds are governed by a Bond Resolution ("Resolution") passed by the Board on January 21, 1991. The Resolution provides for the appointment of a Trustee ("Trustee") who acts as a fiduciary for the holders of the 1991 Bonds. A copy of the Resolution was attached as an Exhibit to the Plan. The current Trustee is U.S. Bank, 950 17th Street, Suite 650, Denver, Colorado 80202.

17. The 1991 Bonds are dated December 1, 1989, were issued in denominations of one thousand dollars and multiples thereof, and bear interest at the rate of 8.50% per annum compounded semi-annually. Payments on the 1991 Bonds are made on June 1 and December 1 of each year from the Bond Fund defined below. Any unpaid interest owing on the 1991 Bonds shall accrue interest at the rate of 8.50% per annum, compounded semiannually. The 1991 Bonds mature on June 1, 2031. All amounts owed on the 1991 Bonds at maturity, whether principal or interest, shall be deemed to be discharged and satisfied and no longer due and payable by the Debtor.

18. The 1991 Bonds are not backed by the full faith and credit of the Debtor or Districts No. 1 and No. 9. Rather, the 1991 Bonds are payable solely and exclusively from the "Net Revenue" defined below.

19. On and after the Effective Date, the 1991 Bonds were exchanged for the 1986 Bonds pursuant to the Plan, provided however that some of the holders of the 1986 Bonds elected to exchange their 1986 Bonds for a cash payment provided for under the Plan. The principal amount of the outstanding 1991 Bonds is approximately $26,061,000.00 as of December 31, 2000. None of the 1991 Bonds have been redeemed.

20. The Disclosure Statement advised persons and entities receiving the 1991 Bonds under the Plan that "it [was] unlikely that [they] will receive all of their principal and interest". In addition, Appendix C to the Disclosure Statement advised the recipients of the 1991 Bonds that the estimated value of the 1991 Bonds, which had a 8.5% coupon rate, was approximately 55% of par based upon the revenue projected at full build-out.

21. Pursuant to the Plan, the 1986 Bonds have been refunded and no longer represent an obligation of the Debtor or Districts No. 1 and No.9.

F. The Bond Fund

22. The Resolution provides a mechanism for the payment of the 1991 Bonds.

23. Pursuant to the Resolution, Available Revenue is defined to mean Annual Charges. The Annual Charges are defined to mean all amounts paid to the Debtor by Districts No. 1 and No. 9 pursuant to the Financing Agreements, as amended pursuant to the Plan.

24. All Available Revenue is collected daily by the Debtor and deposited into the Revenue Fund. The Revenue Fund is controlled by the Debtor.

25. At the end of each quarter, the Debtor shall transfer the funds on deposit in the Revenue Fund to the Trustee after deducting certain amounts specified in the Resolution, e.g. funds necessary for operation of the District and funds necessary for capital expenditures. Amounts so paid to the Trustee are defined in the Resolution as the "Net Revenue".

26. The Net Revenue received by the Trustee is deposited into the Bond Fund. The Bond Fund is controlled by the Trustee.

27. The 1991 Bonds are to be paid from the Bond Fund, but only to the extent there are funds in the Bond Fund.

28. On June 1 and December 1 of each year, if funds exist in the Bond Fund, the Trustee applies such funds to make interest payments to the holders of the 1991 Bonds.

G. Sources of Revenue to Pay the 1991 Bonds

29. The sources of Available Revenue payable to the Debtor by Districts No. 1 and No. 9 and deposited into the Revenue Fund are discussed below.

a. Property Taxes and Specific Ownership Taxes

At the time of the filing of the Chapter 9 case, the existing Financing Agreements between the Debtor and Districts No. 1 and No. 9 required Districts No. 1 and No. 9 to levy sufficient property taxes to pay the 1986 Bonds in full. The Plan provided for an amendment to the Financing Agreements which limited the real property taxes to be levied against real property in Districts No. 1 and No. 9. This limitation was necessary to keep property taxes competitive with other special districts located in Douglas County, Colorado. In addition, specific ownership taxes are pledged by Districts No 1 and No. 9 to pay the 1991 Bonds. Specific ownership taxes consist of fees charged for vehicle registration based on the value of the vehicle. All real property taxes and specific ownership taxes levied by District No. 1 are paid to the Debtor and deposited into the Revenue Fund. District No. 9 is undeveloped and has not had a Board of Directors for a number of years. Therefore, no payments of any kind have been received by the Debtor from District No. 9.

b. Development Fees

Development Fees ("Fees") are paid by builders who seek to build homes within Districts No. 1 and No. 9. Fees also are sometimes referred to as "tap fees". Fees consist of a one-time

charge paid by a builder to Districts No. 1 and/or No. 9 to hook-up to various services such as water, sewer, etc. The Financing Agreements provide that all Fees received by Districts No. 1 and No. 9 shall be paid to the Debtor. The Fees constitute Available Revenue and are deposited by the Debtor into the Revenue Fund. The Resolution provides that at the end of each quarter, the Debtor shall withdraw from the Revenue Fund an amount equal to the Fees deposited into the Revenue Fund in that quarter to the extent that such Fees are anticipated to be needed to pay capital costs during the next 36 months. Any amounts not required to fund capital costs for the next 36 months shall be paid to the Trustee and deposited into the Bond Fund. To date, the anticipated capital costs have exceeded the amount of the Fees received by the Debtor. Accordingly, no Fees have been available to pay amounts due under the 1991 Bonds; and the Debtor does not anticipate any Fees will be available in the future to pay the 1991 Bonds.

c. Facilities Development Fees

Pursuant to Financing Agreements between the Debtor and Districts No. 1 and No. 9, if the annual property tax revenue paid by Districts No. 1 and No. 9 toward payment of the 1991 Bonds does not meet specified minimum dollar amounts ("Available Revenue Thresholds"), then these Districts are required to impose and collect Facilities Development Fees from the owners of platted and undeveloped property in an amount necessary to make up the shortfall. The purpose of these fees is to encourage land owners within Districts No. 1 and No. 9 to develop their land resulting in additional revenue to pay the 1991 Bonds by reason of additional real estate taxes. Because Available Revenue Thresholds have been met annually since confirmation of the Plan, no Facilities Fees have been imposed.

H. Net Revenues

30. Attached hereto as **Exhibit A** and incorporated herein by reference is a schedule which reflects the unpaid principal and interest owing on the 1991 Bonds through December 31, 2000 together with the annual Net Revenue paid by District No. 4 to the Trustee and deposited into the Bond Fund through December 31, 2000. **Exhibit A** was prepared by the Accountants. Exhibit A reflects the following:

a. The unpaid principal owing on the 1991 Bonds totals $26,061,000.00 as of December 31, 2000,

b. The accrued and unpaid interest due under the 1991 Bonds totals $21,882,442.00 as of December 31, 2000,

c. The total principal and interest due under the 1991 Bonds totals $47,943,442.00 as of December 31, 2000, and

d. The Net Revenue paid into the Bond Fund by District No. 4 through December 31, 2000 totals $5,388,455.00.

I. Development in Districts 1, 4 and 9

31. There has been no development in Districts No. 4 and No. 9 through December 31, 2000.

32. There has been significant development of single family homes in District No. 1. **Exhibit B** attached hereto and incorporated herein by reference reflects the development in District No. 1 through December 31, 2000. **Exhibit B** was prepared by the District Manager. **Exhibit B** reflects that there are a total of 2,133 platted lots in District No. 1 of which 2,000 been developed. Of the 2,000 developed lots, 92 remain in the inventory of various builders and 1,908 lots have been sold to home buyers. Accordingly, there are only 133 lots remaining to be developed in District No. 1.

33. **Exhibit B** also reflects the "actual" build-out absorption rate in District No. 1 versus the "projected" rate set forth in the Disclosure Statement.

J. Purpose of Reopening Chapter 9 Case

34. The District seeks to reopen its Chapter 9 case for the purpose of amending the Plan ("Amended Plan").

35. Based upon the Debtor's current and projected revenues and the projected build out in Districts No. 1, No. 4 and No. 9, the Debtor requested its Investment Banker to determine the amount of bond proceeds which could be raised by the Debtor to refund the 1991 Bonds, i.e. issue new bonds ("2001 Refunding Bonds") and use the proceeds therefrom to pay a portion of the amounts owing on the 1991 Bonds (hereafter the "Refunding").

36. Attached hereto as **Exhibit C** and incorporated herein by reference is a schedule prepared by the Investment Banker which reflects the estimated present value, discounted at 8.5%, of the payments projected to be made to the holders of the 1991 Bonds through maturity in 2031 assuming no further build-out in Districts No.1, No. 4 and No. 9. **Exhibit C** estimates that the present value of the projected payments to be approximately $18.7 million.

37. Based upon the Debtor's current and projected revenues and the projected build out in Districts No. 1, No. 4 and No. 9, the Investment Banker has advised the Debtor that in today's market place, a Refunding by the Debtor could raise a net sum up to approximately $20 million which would be available to pay the holders of the 1991 Bonds ("Refunding Proceeds").

38. Pursuant to the Amended Plan, the Refunding Proceeds would be paid in a lump sum to the holders of the 1991 Bonds with the remaining unpaid principal and interest discharged.

39. The Board of Directors for the Debtor has elected to proceed with the Amended Plan for the following reasons:

a. It is likely that the holders of the 1991 Bonds will (i) not receive any payment on account of the principal due under the 1991 Bonds, and (ii) will receive only a portion of the accrued and unpaid interest due under the 1991 Bonds.

b. The Amended Plan will permit the holders of the 1991 Bonds to receive a lump sum cash payment in exchange for their 1991 Bonds.

c. The principal balance owing under the 2001 Refunding Bonds to be issued under the Amended Plan will be substantially less than the outstanding principal and interest owing on the 1991 Bonds.

d. The Amended Plan will reduce the mill levy which must be assessed against real property located in Districts No. 1, No. 4 and No. 9.

K. Notice

40. This Motion and its related Rule 202 Notice are being sent to all holders of the 1991 Bonds, the Trustee, the County of Douglas and the Town of Castle Rock.

Wherefore the Debtor requests the Court enter its order, after notice to creditors, reopening the Debtor's Chapter 9 case, and for such other and further relief as the Court deems just.

Dated this 6th day of June, 2001.

Respectfully submitted,

Rubner Padjen and Laufer LLC

Joel Laufer, Esq. #7728
Attorneys for Debtor
1600 Broadway, Suite 2600
Denver, Colorado 80202
Telephone (303) 830-3172
Facsimile (303) 830-3135

Villages at Castle Rock Metropolitan District #4
Accrued Unpaid Interest & Outstanding Principal
As of December 31, 2000

Date	8.50% Accrued Interest	Payment to Trustee	Unpaid Interest	Accumulated Unpaid Int	Principal Balance	Total Balance Owed
Balance Outstanding After Class 1 and Class 2 settlements					26,061,000	26,061,000
06/01/92	1,107,593	158,451	949,142	949,142	26,061,000	27,010,142
12/01/92	1,147,931	158,450	989,481	1,938,623	26,061,000	27,999,623
06/01/93	1,189,984	175,000	1,014,984	2,953,606	26,061,000	29,014,606
12/01/93	1,233,121	119,009	1,114,112	4,067,718	26,061,000	30,128,718
06/01/94	1,280,471	250,000	1,030,471	5,098,189	26,061,000	31,159,189
12/01/94	1,324,266	130,545	1,193,721	6,291,909	26,061,000	32,352,909
06/01/95	1,374,999	377,000	997,999	7,289,908	26,061,000	33,350,908
12/01/95	1,417,414	55,000	1,362,414	8,652,322	26,061,000	34,713,322
06/01/96	1,475,316	315,000	1,160,316	9,812,638	26,061,000	35,873,638
12/01/96	1,524,630	275,000	1,249,630	11,062,267	26,061,000	37,123,267
06/01/97	1,577,739	375,000	1,202,739	12,265,006	26,061,000	38,326,006
12/01/97	1,628,855	280,000	1,348,855	13,613,861	26,061,000	39,674,861
06/01/98	1,686,182	405,000	1,281,182	14,895,043	26,061,000	40,956,043
12/01/98	1,740,632	305,000	1,435,632	16,330,675	26,061,000	42,391,675
06/01/99	1,801,646	425,000	1,376,646	17,707,321	26,061,000	43,768,321
12/01/99	1,860,154	405,000	1,455,154	19,162,475	26,061,000	45,223,475
06/01/2000	1,921,998	605,000	1,316,998	20,479,472	26,061,000	46,540,472
12/01/2000	1,977,970	575,000	1,402,970	21,882,442	26,061,000	47,943,442
Total		5,388,455				

Exhibit A

VILLAGES AT CASTLE ROCK
METROPOLITAN DISTRICT NO. 1

EXHIBIT "B"

Actual Absorption vs. 1991 Chapter 9 Projections
(Inception through 12/31/00)

HOMEBUILDERS Total Platted Lots : 2133	TOTAL
MDC/Richmond (Cash)	460
MDC/Richmond (Prepaids)	471
MDC/Wood Brothers (cash)	76
NPC/Amer. Federal (cash)	98
Park Homes (cash)	98
Park Homes (Prepaid) (I)	149
Pulte Homes (cash)	147
Cameo Builder (cash)	3
Greentree Homes (cash)	1
S & L Construction (cash)	6
Stylemark Homes (cash)	1
Aspen Ridge Builders (cash)	53
Patrick Vaughn (prepaid)	1
Patio Plus Builders (cash)	25
Engle Homes of Colorado(Prepaid)	13
Engle Homes of Colorado(cash)	258
Crown Manor Homes (cash)	28
Kent Statlberger	1
Cambridge Green	19
Total Absorption:	1908

Inception through 12/31/00

Development Summary	
District No. 1 Buildout per Plan:	2780 SFE
District No. 1 Updated Buildout:	2355 SFE
Total Platted Lots:	2133 Lots
Total Developed Lots:	2000 Lots
Developed Lots in Inventory:	92 Lots

Annual Absorption vs. Chapter 9 Plan

Year	Actual	Projected
1986-1995	1114	1095
1996	133	120
1997	129	120
1998	160	120
1999	202	120
2000	170	120
Totals:	1908	1695

EXHIBIT C

VILLAGES at CASTLE ROCK METROPOLITAN DISTRICT # 4

Existing Ser. 1991 Debt plus accrued interest

Assuming no growth from development after 2000.

Collection YEAR	Cumulative Assessed Value [1]	Mill Levy [2]	Net Specific Ownership Taxes @ 8.0%	Total Collections	Less Operating Costs	<<<<<<<<<<<< SERIES 1991 BONDS >>>>>>>>>>>>> Net Available for Debt Svc [3]	Current Interest @ 8.50%	Increase to / (Payment of) Accrued Interest	Accrued Interest @ 8.50% Cmpd Semian.	Accrued Interest Balance	Payments to Principal Balance	Principal Balance Outstanding
												26,061,000
1999						0					0	26,061,000
2000	19,681,040	56.982				0				21,882,442	0	26,061,000
2001	22,811,241	56.982	103,986	1,403,817	100,000	1,303,817	2,215,185	911,368	1,899,533	24,693,343	0	26,061,000
2002	27,543,311	56.982	125,558	1,695,031	100,000	1,595,031	2,215,185	620,154	2,143,537	27,457,034	0	26,061,000
2003	27,543,311	56.982	125,558	1,695,031	100,000	1,595,031	2,215,185	620,154	2,383,442	30,460,630	0	26,061,000
2004	27,543,311	56.982	125,558	1,695,031	100,000	1,595,031	2,215,185	620,154	2,644,173	33,724,958	0	26,061,000
2005	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	2,927,537	37,043,569	0	26,061,000
2006	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	3,215,613	40,650,257	0	26,061,000
2007	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	3,528,696	44,570,027	0	26,061,000
2008	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	3,868,957	48,830,058	0	26,061,000
2009	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	4,238,754	53,459,887	0	26,061,000
2010	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	4,640,652	58,491,614	0	26,061,000
2011	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	5,077,438	63,960,126	0	26,061,000
2012	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	5,552,139	69,903,338	0	26,061,000
2013	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	6,068,047	76,362,459	0	26,061,000
2014	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	6,628,739	83,382,273	0	26,061,000
2015	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	7,238,102	91,011,449	0	26,061,000
2016	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	7,900,363	99,302,886	0	26,061,000
2017	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	8,620,111	108,314,072	0	26,061,000
2018	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	9,402,338	118,107,484	0	26,061,000
2019	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	10,252,468	128,751,026	0	26,061,000
2020	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	11,176,394	140,318,491	0	26,061,000
2021	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	12,180,522	152,890,091	0	26,061,000
2022	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	13,271,815	166,552,981	0	26,061,000
2023	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	14,457,840	181,401,895	0	26,061,000
2024	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	15,746,818	197,539,787	0	26,061,000
2025	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	17,147,588	215,078,550	0	26,061,000
2026	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	18,670,162	234,139,786	0	26,061,000
2027	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	20,324,797	254,855,658	0	26,061,000
2028	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	22,123,064	277,369,796	0	26,061,000
2029	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	24,077,432	301,838,302	0	26,061,000
2030	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	26,201,451	328,130,827	0	26,061,000
2031	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	28,509,848	357,331,750	0	26,061,000
			4,328,881	58,439,898	3,100,000	55,339,898	68,670,735	13,330,837	322,118,471		0	

[1] Reflects the District's estimate of building through 2000. Does not reflect any change in AV resulting from reassessment or growth during 2001 and thereafter.

[2] Mill Levy as set by Bankruptcy Plan and revised for actual Gallagher adjusments through 2000.

[3] The known future revenues (2002 & thereafter) based on actual development, discounted at the Bondholder's 8.50% coupon rate, results in a Present Value of all bonds outstanding today of $18,790,839, or 71.8% of the par amount of $26,061,000.

Exhibit C

2004

MEMO
[Subject to Attorney Client Privilege]

July 19, 2004

To: Villages at Castle Rock Metropolitan District No. 4 ("District")

From: Joel Laufer of Rubner Padjen Plotkin and Laufer LLC ("RPPL")

Re: Restructuring Bond Indebtedness Under Chapter 9 of the Bankruptcy Code

I. Introduction

The District has retained RPPL to serve as bankruptcy counsel to advise the District regarding the restructuring of its current bond indebtedness. In particular, the District has inquired as to the feasibility and viability of filing a motion to reopen its prior Chapter 9 case for the purpose of filing an amended plan of arrangement which would restructure the District's current bond indebtedness. RPPL previously has advised the District that pursuant to applicable case law and statutes the District is not eligible to file a new Chapter 9 case to restructure its current bond indebtedness.

This Memo is our analysis but is not to be considered an opinion letter and shall not be relied upon by any third party. Furthermore, providing a copy of this Memo to a third party will likely cause the attorney client privilege to be lost which would operate to your detriment. Therefore, do not provide a copy of this Memo to any third party without first consulting with RPPL or Ron Loser, the District's counsel.

II. Background

Attached hereto as **Exhibit 1** is a copy of a Motion ("Motion") filed by the District with the United States Bankruptcy Court for the District of Colorado on June 6, 2001. The Motion sought to re-open the Chapter 9 bankruptcy case filed by the District on December 1, 1989. The Board ultimately caused the Motion to be withdrawn. As a result, the bankruptcy case was not re-opened. The Motion provides a detailed history of the District. A thorough review of the Motion is essential to an understanding of the District's current financial situation.

Attached hereto as **Exhibit 2** is a copy of a Memo dated April 2, 2001 ("2001 Memo") which was prepared by RPL and provided to the District's Board on or about that date. The 2001 Memo provides an analysis of the issues confronting the District's Board in 1991 when it filed the Motion. A thorough review of the 2001 Memo also is essential to an understanding of the District's current financial situation.

III. Reopening the District's Prior Chapter 9 Case

Reopening the District's prior Chapter 9 case could provide a possible mechanism to restructure the District's current bond indebtedness. A discussion of the issues relating to the reopening of the District's prior Chapter 9 case is contained in the 2001 Memo.

The Motion to reopen was filed by the District in June of 2001 for the purpose of creating a forum to negotiate a possible restructuring of the District's bond indebtedness with several of the largest bond holders ("Holders"). After the Motion was filed, the District initiated discussions with the Holders to discuss a possible restructuring of the District's bond indebtedness. At that time, the District was met with great hostility by the Holders who opposed any sort of restructuring. Given that substantial cooperation is necessary from the Holders if the District were to seek to restructure its bond indebtedness in a reopened Chapter 9 case, the District's Board concluded that prosecuting the Motion without such cooperation was unwise and likely unsuccessful. Accordingly, the Motion was withdrawn and the case was not reopened.

Given the animosity expressed by the Holders in response to the prior Motion and given that a second motion to reopen ("Second Motion") will face all of the problems discussed in the 2001 Memo, RPPL does not believe the filing of a Second Motion is advisable where the opposition of the Holders is certain and no mistake, surprise or error has occurred respecting the District's confirmed plan of arrangement. See the discussion in the 2001 Memo.

IV. Sanctions

Finally, the unsuccessful prosecution of the Second Motion by the District could result in the Holders seeking monetary sanctions against RPPL and/or against the District's Board members in their individual capacities. Rule 9011 of the Federal Rules of Bankruptcy Procedure provides that such sanctions may be awarded where, inter alia, a pleading is filed which is not supported by existing law and applicable facts. Thus, if the Second Motion is denied and the Holders seek such sanctions, RPL and/or the individual members of the Board could be subject to monetary sanctions consisting of the attorney fees and expenses incurred by the Holders in defeating the Second Motion. Given the animosity expressed by the Holders in the past, it is likely that the Holders may seek sanctions to recover their fees and costs in defeating a Second Motion. And given that the District's confirmed plan of arrangement is being implemented as originally contemplated and that no mistake, surprise or error has occurred respecting the confirmed plan of arrangement, it is quite possible that monetary sanctions could be awarded by the Bankruptcy Court if the Second Motion is defeated by the Holders.

Exhibit 1

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO

IN RE:	)	
	)	
VILLAGES AT CASTLE ROCK	)	Case No. 89-B-16240 A
METROPOLITAN DISTRICT NO. 4,	)	
T.I.N. 84-0959702,	)	
	)	Chapter 9
Debtor.	)	
	)	

MOTION TO REOPEN CHAPTER 9 CASE

Comes Now the above Debtor (hereafter the "Debtor" or "District No. 4"), by and through its undersigned counsel, and pursuant to 11 U.S.C. Sections 350(b) and 901(a) and Rule 5010 of the Federal Rules of Bankruptcy Procedure, hereby requests the Court, after notice to creditors, enter its order reopening the within Chapter 9 case, and as grounds therefor, states as follows:

A. The Debtor

1. The Debtor is a quasi-municipal corporation organized on August 15, 1984 under the laws of the State of Colorado.

2. The Debtor and the Adjacent Districts defined below are located in the Town of Castle Rock, County of Douglas, State of Colorado. The Town of Castle Rock is located approximately 25 miles south of Denver, Colorado.

3. The Debtor is governed by a Board of Directors ("Board") who meet regularly.

4. The Board is responsible for the overall management and administration of the affairs of the Debtor. However, the day-to-day operations currently are conducted by a independent consultant pursuant to an annually renewable contract.

B. Professionals Retained by the Debtor

5. The Board employs various independent professionals to assist the Debtor in the management and administration of District No 4.

6. The Board has retained Cimarron Consultants, Inc. (hereafter the "District Manager"), 6551 South Revere Parkway, Suite 265, Englewood, Colorado 80111 to provide consultation and services as planner, analyst, project manager and facilitator for all day-to-day administration, capital improvements and intergovernmental affairs with the Town of Castle Rock, Douglas County and other authorities, districts, commissions or agencies affecting the Debtor.

7. The Board has retained the accounting firm of J.W. Simmons & Associates, P.C. (the "Accountants"), 9155 East Nichols Avenue, Suite 330, Englewood, Colorado 80112 to assist the Debtor with financial reporting, financial analysis, projections and other accounting services.

8. The Board has retained the investment banking firm of Kirkpatrick Pettis ("Investment Banker"), 1600 Broadway, Suite1100, Denver, Colorado 80202 to provide advice and counsel regarding the refunding of the 1991 Bonds defined below.

C. The 1986 Bonds

9. In 1986, the Debtor issued four series of 1986 Revenue Bonds ("1986 Bonds") in the principal amount of $32,175,000 which were issued to provide water, sanitary sewer and drainage, streets, safety protection, parks, and transportation facilities and services for the Debtor and the following Adjacent Districts: Castle Rock Metropolitan District Nos. 1, 2 3, 5, 6, 7, 8 and 9 (hereafter collectively referred to as the "Adjacent Districts") (or referred to individually as "District No. 1", "District No. 2", etc.).

10. After the issuance of the 1986 Bonds, the Debtor used the bond proceeds, in part, to construct facilities in some of the Adjacent Districts.

11. The Debtor, as issuer, was liable for the payment of the 1986 Bonds. In addition, pursuant to Intergovernmental Financing Agreements ("Financing Agreements"), District No. 1 and District No. 9 were also liable for payment of all amounts necessary to repay the 1986 Bonds.

D. Chapter 9 Bankruptcy

12. By 1989, the Debtor became in default with respect to payments due under the 1986 Bonds, and the then existing Board elected to file a Chapter 9 bankruptcy case in the District of Colorado for the purpose of restructuring the debt represented by the 1986 Bonds.

13. On or about December 1, 1989, the Debtor filed its voluntary Chapter 9 petition in this Court; and on May 11, 1990, this Court entered its order finding that the Debtor was authorized under existing Colorado state law to be a debtor under Chapter 9 and had otherwise met all eligibility requirements to be a Chapter 9 debtor.

14. On or about June 14, 1991, the Debtor filed its Plan For Adjustment Of Debts, as subsequently amended (hereafter the "Plan") and Disclosure Statement ("Disclosure Statement").

15. On December 17, 1991, the Court entered its order confirming the Plan. The Effective Date of the Plan was defined to be the first business day thirty days after the date of confirmation of the Plan.

E. The Plan

16. The Plan provided, inter alia, that the holders of the 1986 Bonds would exchange their 1986 Bonds for 1991 Revenue Refunding Bonds (the "1991 Bonds") to be issued by the Debtor under the Plan in a principal amount equal to the principal amount of the 1986 Bonds held by each such holder. The 1991 Bonds are governed by a Bond Resolution ("Resolution") passed by the Board on January 21, 1991. The Resolution provides for the appointment of a Trustee ("Trustee") who acts as a fiduciary for the holders of the 1991 Bonds. A copy of the Resolution was attached as an Exhibit to the Plan. The current Trustee is U.S. Bank, 950 17th Street, Suite 650, Denver, Colorado 80202.

17. The 1991 Bonds are dated December 1, 1989, were issued in denominations of one thousand dollars and multiples thereof, and bear interest at the rate of 8.50% per annum compounded semi-annually. Payments on the 1991 Bonds are made on June 1 and December 1 of each year from the Bond Fund defined below. Any unpaid interest owing on the 1991 Bonds shall accrue interest at the rate of 8.50% per annum, compounded semiannually. The 1991 Bonds mature on June 1, 2031. All amounts owed on the 1991 Bonds at maturity, whether principal or interest, shall be deemed to be discharged and satisfied and no longer due and payable by the Debtor.

18. The 1991 Bonds are not backed by the full faith and credit of the Debtor or Districts No. 1 and No. 9. Rather, the 1991 Bonds are payable solely and exclusively from the "Net Revenue" defined below.

19. On and after the Effective Date, the 1991 Bonds were exchanged for the 1986 Bonds pursuant to the Plan, provided however that some of the holders of the 1986 Bonds elected to exchange their 1986 Bonds for a cash payment provided for under the Plan. The principal amount of the outstanding 1991 Bonds is approximately $26,061,000.00 as of December 31, 2000. None of the 1991 Bonds have been redeemed.

20. The Disclosure Statement advised persons and entities receiving the 1991 Bonds under the Plan that "it [was] unlikely that [they] will receive all of their principal and interest". In addition, Appendix C to the Disclosure Statement advised the recipients of the 1991 Bonds that the estimated value of the 1991 Bonds, which had a 8.5% coupon rate, was approximately 55% of par based upon the revenue projected at full build-out.

21. Pursuant to the Plan, the 1986 Bonds have been refunded and no longer represent an obligation of the Debtor or Districts No. 1 and No.9.

F. The Bond Fund

22. The Resolution provides a mechanism for the payment of the 1991 Bonds.

23. Pursuant to the Resolution, Available Revenue is defined to mean Annual Charges. The Annual Charges are defined to mean all amounts paid to the Debtor by Districts No. 1 and No. 9 pursuant to the Financing Agreements, as amended pursuant to the Plan.

24. All Available Revenue is collected daily by the Debtor and deposited into the Revenue Fund. The Revenue Fund is controlled by the Debtor.

25. At the end of each quarter, the Debtor shall transfer the funds on deposit in the Revenue Fund to the Trustee after deducting certain amounts specified in the Resolution, e.g. funds necessary for operation of the District and funds necessary for capital expenditures. Amounts so paid to the Trustee are defined in the Resolution as the "Net Revenue".

26. The Net Revenue received by the Trustee is deposited into the Bond Fund. The Bond Fund is controlled by the Trustee.

27. The 1991 Bonds are to be paid from the Bond Fund, but only to the extent there are funds in the Bond Fund.

28. On June 1 and December 1 of each year, if funds exist in the Bond Fund, the Trustee applies such funds to make interest payments to the holders of the 1991 Bonds.

G. Sources of Revenue to Pay the 1991 Bonds

29. The sources of Available Revenue payable to the Debtor by Districts No. 1 and No. 9 and deposited into the Revenue Fund are discussed below.

a. Property Taxes and Specific Ownership Taxes

At the time of the filing of the Chapter 9 case, the existing Financing Agreements between the Debtor and Districts No. 1 and No. 9 required Districts No. 1 and No. 9 to levy sufficient property taxes to pay the 1986 Bonds in full. The Plan provided for an amendment to the Financing Agreements which limited the real property taxes to be levied against real property in Districts No. 1 and No. 9. This limitation was necessary to keep property taxes competitive with other special districts located in Douglas County, Colorado. In addition, specific ownership taxes are pledged by Districts No 1 and No. 9 to pay the 1991 Bonds. Specific ownership taxes consist of fees charged for vehicle registration based on the value of the vehicle. All real property taxes and specific ownership taxes levied by District No. 1 are paid to the Debtor and deposited into the Revenue Fund. District No. 9 is undeveloped and has not had a Board of Directors for a number of years. Therefore, no payments of any kind have been received by the Debtor from District No. 9.

b. Development Fees

Development Fees ("Fees") are paid by builders who seek to build homes within Districts No. 1 and No. 9. Fees also are sometimes referred to as "tap fees". Fees consist of a one-time

charge paid by a builder to Districts No. 1 and/or No. 9 to hook-up to various services such as water, sewer, etc. The Financing Agreements provide that all Fees received by Districts No. 1 and No. 9 shall be paid to the Debtor. The Fees constitute Available Revenue and are deposited by the Debtor into the Revenue Fund. The Resolution provides that at the end of each quarter, the Debtor shall withdraw from the Revenue Fund an amount equal to the Fees deposited into the Revenue Fund in that quarter to the extent that such Fees are anticipated to be needed to pay capital costs during the next 36 months. Any amounts not required to fund capital costs for the next 36 months shall be paid to the Trustee and deposited into the Bond Fund. To date, the anticipated capital costs have exceeded the amount of the Fees received by the Debtor. Accordingly, no Fees have been available to pay amounts due under the 1991 Bonds; and the Debtor does not anticipate any Fees will be available in the future to pay the 1991 Bonds.

c. Facilities Development Fees

Pursuant to Financing Agreements between the Debtor and Districts No. 1 and No. 9, if the annual property tax revenue paid by Districts No. 1 and No. 9 toward payment of the 1991 Bonds does not meet specified minimum dollar amounts ("Available Revenue Thresholds"), then these Districts are required to impose and collect Facilities Development Fees from the owners of platted and undeveloped property in an amount necessary to make up the shortfall. The purpose of these fees is to encourage land owners within Districts No. 1 and No. 9 to develop their land resulting in additional revenue to pay the 1991 Bonds by reason of additional real estate taxes. Because Available Revenue Thresholds have been met annually since confirmation of the Plan, no Facilities Fees have been imposed.

H. Net Revenues

30. Attached hereto as **Exhibit A** and incorporated herein by reference is a schedule which reflects the unpaid principal and interest owing on the 1991 Bonds through December 31, 2000 together with the annual Net Revenue paid by District No. 4 to the Trustee and deposited into the Bond Fund through December 31, 2000. **Exhibit A** was prepared by the Accountants. Exhibit A reflects the following:

a. The unpaid principal owing on the 1991 Bonds totals $26,061,000.00 as of December 31, 2000,

b. The accrued and unpaid interest due under the 1991 Bonds totals $21,882,442.00 as of December 31, 2000,

c. The total principal and interest due under the 1991 Bonds totals $47,943,442.00 as of December 31, 2000, and

d. The Net Revenue paid into the Bond Fund by District No. 4 through December 31, 2000 totals $5,388,455.00.

I. Development in Districts 1, 4 and 9

31. There has been no development in Districts No. 4 and No. 9 through December 31, 2000.

32. There has been significant development of single family homes in District No. 1. **Exhibit B** attached hereto and incorporated herein by reference reflects the development in District No. 1 through December 31, 2000. **Exhibit B** was prepared by the District Manager. **Exhibit B** reflects that there are a total of 2,133 platted lots in District No. 1 of which 2,000 been developed. Of the 2,000 developed lots, 92 remain in the inventory of various builders and 1,908 lots have been sold to home buyers. Accordingly, there are only 133 lots remaining to be developed in District No. 1.

33. **Exhibit B** also reflects the "actual" build-out absorption rate in District No. 1 versus the "projected" rate set forth in the Disclosure Statement.

J. Purpose of Reopening Chapter 9 Case

34. The District seeks to reopen its Chapter 9 case for the purpose of amending the Plan ("Amended Plan").

35. Based upon the Debtor's current and projected revenues and the projected build out in Districts No. 1, No. 4 and No. 9, the Debtor requested its Investment Banker to determine the amount of bond proceeds which could be raised by the Debtor to refund the 1991 Bonds, i.e. issue new bonds ("2001 Refunding Bonds") and use the proceeds therefrom to pay a portion of the amounts owing on the 1991 Bonds (hereafter the "Refunding").

36. Attached hereto as **Exhibit C** and incorporated herein by reference is a schedule prepared by the Investment Banker which reflects the estimated present value, discounted at 8.5%, of the payments projected to be made to the holders of the 1991 Bonds through maturity in 2031 assuming no further build-out in Districts No.1, No. 4 and No. 9. **Exhibit C** estimates that the present value of the projected payments to be approximately $18.7 million.

37. Based upon the Debtor's current and projected revenues and the projected build out in Districts No. 1, No. 4 and No. 9, the Investment Banker has advised the Debtor that in today's market place, a Refunding by the Debtor could raise a net sum up to approximately $20 million which would be available to pay the holders of the 1991 Bonds ("Refunding Proceeds").

38. Pursuant to the Amended Plan, the Refunding Proceeds would be paid in a lump sum to the holders of the 1991 Bonds with the remaining unpaid principal and interest discharged.

39. The Board of Directors for the Debtor has elected to proceed with the Amended Plan for the following reasons:

a. It is likely that the holders of the 1991 Bonds will (i) not receive any payment on account of the principal due under the 1991 Bonds, and (ii) will receive only a portion of the accrued and unpaid interest due under the 1991 Bonds.

b. The Amended Plan will permit the holders of the 1991 Bonds to receive a lump sum cash payment in exchange for their 1991 Bonds.

c. The principal balance owing under the 2001 Refunding Bonds to be issued under the Amended Plan will be substantially less than the outstanding principal and interest owing on the 1991 Bonds.

d. The Amended Plan will reduce the mill levy which must be assessed against real property located in Districts No. 1, No. 4 and No. 9.

K. Notice

40. This Motion and its related Rule 202 Notice are being sent to all holders of the 1991 Bonds, the Trustee, the County of Douglas and the Town of Castle Rock.

Wherefore the Debtor requests the Court enter its order, after notice to creditors, reopening the Debtor's Chapter 9 case, and for such other and further relief as the Court deems just.

Dated this 6th day of June, 2001.

Respectfully submitted,

Rubner Padjen and Laufer LLC

Joel Laufer, Esq. #7728
Attorneys for Debtor
1600 Broadway, Suite 2600
Denver, Colorado 80202
Telephone (303) 830-3172
Facsimile (303) 830-3135

Villages at Castle Rock Metropolitan District #4
Accrued Unpaid Interest & Outstanding Principal
As of December 31, 2000

Date	8.50% Accrued Interest	Payment to Trustee	Unpaid Interest	Accumulated Unpaid Int	Principal Balance	Total Balance Owed
Balance Outstanding After Class 1 and Class 2 settlements					26,061,000	26,061,000
06/01/92	1,107,593	158,451	949,142	949,142	26,061,000	27,010,142
12/01/92	1,147,931	158,450	989,481	1,938,623	26,061,000	27,999,623
06/01/93	1,189,984	175,000	1,014,984	2,953,606	26,061,000	29,014,606
12/01/93	1,233,121	119,009	1,114,112	4,067,718	26,061,000	30,128,718
06/01/94	1,280,471	250,000	1,030,471	5,098,189	26,061,000	31,159,189
12/01/94	1,324,266	130,545	1,193,721	6,291,909	26,061,000	32,352,909
06/01/95	1,374,999	377,000	997,999	7,289,908	26,061,000	33,350,908
12/01/95	1,417,414	55,000	1,362,414	8,652,322	26,061,000	34,713,322
06/01/96	1,475,316	315,000	1,160,316	9,812,638	26,061,000	35,873,638
12/01/96	1,524,630	275,000	1,249,630	11,062,267	26,061,000	37,123,267
06/01/97	1,577,739	375,000	1,202,739	12,265,006	26,061,000	38,326,006
12/01/97	1,628,855	280,000	1,348,855	13,613,861	26,061,000	39,674,861
06/01/98	1,686,182	405,000	1,281,182	14,895,043	26,061,000	40,956,043
12/01/98	1,740,632	305,000	1,435,632	16,330,675	26,061,000	42,391,675
06/01/99	1,801,646	425,000	1,376,646	17,707,321	26,061,000	43,768,321
12/01/99	1,860,154	405,000	1,455,154	19,162,475	26,061,000	45,223,475
06/01/2000	1,921,998	605,000	1,316,998	20,479,472	26,061,000	46,540,472
12/01/2000	1,977,970	575,000	1,402,970	21,882,442	26,061,000	47,943,442
Total		5,388,455				

Exhibit A

VILLAGES AT CASTLE ROCK
METROPOLITAN DISTRICT NO. 1

EXHIBIT "B"

Actual Absorption vs. 1991 Chapter 9 Projections
(Inception through 12/31/00)

HOMEBUILDERS Total Platted Lots : 2133	TOTAL
MDC/Richmond (Cash)	460
MDC/Richmond (Prepaids)	471
MDC/Wood Brothers (cash)	76
NPC/Amer. Federal (cash)	98
Park Homes (cash)	98
Park Homes (Prepaid) (I)	149
Pulte Homes (cash)	147
Cameo Builder (cash)	3
Greentree Homes (cash)	1
S & L Construction (cash)	6
Stylemark Homes (cash)	1
Aspen Ridge Builders (cash)	53
Patrick Vaughn (prepaid)	1
Patio Plus Builders (cash)	25
Engle Homes of Colorado(Prepaid)	13
Engle Homes of Colorado(cash)	258
Crown Manor Homes (cash)	28
Kent Statlberger	1
Cambridge Green	19
Total Absorption:	1908

Inception through 12/31/00

Development Summary	
District No. 1 Buildout per Plan:	2780 SFE
District No. 1 Updated Buildout:	2355 SFE
Total Platted Lots:	2133 Lots
Total Developed Lots:	2000 Lots
Developed Lots in Inventory:	92 Lots

Annual Absorption vs. Chapter 9 Plan

Year	Actual	Projected
1986-1995	1114	1095
1996	133	120
1997	129	120
1998	160	120
1999	202	120
2000	170	120
Totals:	1908	1695

EXHIBIT C

VILLAGES at CASTLE ROCK METROPOLITAN DISTRICT # 4

Existing Ser. 1991 Debt plus accrued interest

Assuming no growth from development after 2000.

Collection YEAR	Cumulative Assessed Value [1]	Mill Levy [2]	Net Specific Ownership Taxes @ 8.0%	Total Collections	Less Operating Costs	Net Available for Debt Svc [3]	Current Interest @ 8.50%	Increase to / (Payment of) Accrued Interest	Accrued Interest @ 8.50% Cmpd Semian.	Accrued Interest Balance	Payments to Principal Balance	Principal Balance Outstanding
							<<<<<<<<<<< SERIES 1991 BONDS >>>>>>>>>>>>					
												26,061,000
1999						0					0	26,061,000
2000	*19,661,040*	56.982				0				21,882,442	0	26,061,000
2001	*22,811,241*	56.982	103,986	1,403,817	100,000	1,303,817	2,215,185	911,368	1,899,533	24,693,343	0	26,061,000
2002	27,543,311	56.982	125,558	1,695,031	100,000	1,595,031	2,215,185	620,154	2,143,537	27,457,034	0	26,061,000
2003	27,543,311	56.982	125,558	1,695,031	100,000	1,595,031	2,215,185	620,154	2,383,442	30,460,630	0	26,061,000
2004	27,543,311	56.982	125,558	1,695,031	100,000	1,595,031	2,215,185	620,154	2,644,173	33,724,958	0	26,061,000
2005	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	2,927,537	37,043,569	0	26,061,000
2006	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	3,215,613	40,650,257	0	26,061,000
2007	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	3,528,696	44,570,027	0	26,061,000
2008	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	3,868,957	48,830,058	0	26,061,000
2009	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	4,238,754	53,459,887	0	26,061,000
2010	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	4,640,652	58,491,614	0	26,061,000
2011	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	5,077,438	63,960,126	0	26,061,000
2012	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	5,552,139	69,903,338	0	26,061,000
2013	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	6,068,047	76,362,459	0	26,061,000
2014	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	6,628,739	83,382,273	0	26,061,000
2015	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	7,238,102	91,011,449	0	26,061,000
2016	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	7,900,363	99,302,886	0	26,061,000
2017	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	8,620,111	108,314,072	0	26,061,000
2018	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	9,402,308	118,107,484	0	26,061,000
2019	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	10,252,468	128,751,026	0	26,061,000
2020	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	11,175,394	140,318,494	0	26,061,000
2021	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	12,180,522	152,890,091	0	26,061,000
2022	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	13,271,815	166,552,981	0	26,061,000
2023	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	14,457,840	181,401,895	0	26,061,000
2024	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	15,746,818	197,539,787	0	26,061,000
2025	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	17,147,588	215,078,550	0	26,061,000
2026	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	18,670,162	234,179,785	0	26,061,000
2027	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	20,324,797	254,855,656	0	26,061,000
2028	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	22,123,064	277,369,796	0	26,061,000
2029	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	24,077,432	301,838,302	0	26,061,000
2030	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	26,201,451	328,430,827	0	26,061,000
2031	27,543,311	64.683	142,527	1,924,111	100,000	1,824,111	2,215,185	391,074	28,509,848	357,331,750	0	26,061,000
			4,326,881	58,439,898	3,100,000	55,339,898	68,670,735	13,330,837	322,118,471		0	

[1] Reflects the District's estimate of building through 2000. Does not reflect any change in AV resulting from reassessment or growth during 2001 and thereafter.

[2] Mill Levy as set by Bankruptcy Plan and revised for actual Gallagher adjustments through 2000.

[3] The known future revenues (2002 & thereafter) based on actual development, discounted at the Bondholder's 8.50% coupon rate, results in a Present Value of all bonds outstanding today of $18,700,839, or 71.8% of the par amount of $26,061,000.

Exhibit 2

MEMO
[Subject to Attorney Client Privilege]

April 2, 2001

To: Villages at Castle Rock Metropolitan District No. 4 ("District")

From: Joel Laufer of Rubner Padjen and Laufer LLC ("RPL")

Re: Bankruptcy issues relating to the refunding of the District's outstanding bond indebtedness

I. Introduction

The District has retained RPL to serve as bankruptcy counsel to advise the District regarding a possible refunding of the District's existing bond indebtedness ("1991 Bonds") pursuant to Chapter 9 of the Bankruptcy Code. This Memo is our analysis but is not to be considered an opinion letter and shall not be relied upon by any third party. Furthermore, providing a copy of this Memo to a third party will likely cause the attorney client privilege to be lost which would operate to your detriment. Therefore, do not provide a copy of this Memo to any third party without first consulting with RPL or Ron Loser, the District's counsel. The following analysis is intended to highlight the analysis which Joel Laufer provided to the District's Board at its meeting on February 26, 2001.

II. Filing a New Chapter 9 Case

The District cannot file a new Chapter 9 case for the purpose of refunding the 1991 Bonds where (1) the District previously filed a Chapter 9 case, (2) a Plan For Adjustment Of Debts ("Plan") was confirmed by the Bankruptcy Court ("Court") in the previous Chapter 9 case, and (3) the Plan provides for mill levy caps and payments to bondholders only when funds are available, i.e. a cash-flow plan. *In re Hamilton Creek Metropolitan District*, 143 F.3d 1381 (10th Cir. 1998). Where a cash-flow plan has been confirmed in a previous Chapter 9 case, the *Hamilton Creek* case holds that a quasi-municipal district is not eligible to file a subsequent chapter 9 case for the purpose of modifying the payment terms of the bond indebtedness issued in the prior Chapter 9 case. Thus, the District cannot file a new Chapter 9 case to accomplish a refunding of the 1991 Bonds.

III. Reopening the District's Prior Chapter 9 Case

A. Procedure

After confirmation of the District's Plan in 1991, the District's Chapter 9 case was closed by order of the Court. Sections 350(b) and 901(a) of the Bankruptcy Code provide that the District's Chapter 9 case can be reopened after it is closed. The Court has discretion to reopen the District's

Chapter 9 case upon motion of the District. The District would seek to reopen the Chapter 9 case for the purpose of amending its Plan to provide for a refunding of the 1991 Bonds.

RPL would recommend that the District file a detailed motion to reopen its Chapter 9 case and give notice of the motion to all holders of the 1991 Bonds and to the owners of real property located in Districts No. 1, 4 and 9. Such notice would give creditors an opportunity to object to the reopening of the Chapter 9 case. A detailed motion with notice to all bondholders accomplishes the following: (1) it will permit the District to immediately negotiate with the largest bondholders regarding their support of the proposed refunding based upon the detailed information included in the motion to reopen, and (2) if it appears that the largest bondholders will not support the refunding, then the District can withdraw the motion without ever having reopened the Chapter 9 case. As discussed below, it is unlikely that the refunding can be accomplished without the support of the largest bondholders.

B. Refunding the 1991 Bonds Pursuant to a Plan Amendment

The District's Plan was confirmed in 1991. The Plan provides that it may be amended prior to confirmation. See the Plan at Article VII., Section 7.1. The Plan is silent as to post-confirmation amendments. The 1991 Bonds have been issued under the Plan and payments have been made to the holders of the 1991 Bonds for approximately ten years. In the context of a bankruptcy reorganization case, it would be quite extraordinary to amend the Plan at this juncture.

Section 942 of the Bankruptcy Code provides that the District may modify its Plan any time prior to confirmation. Section 942 is silent regarding the ability of the District to amend its Plan after confirmation. By comparison, in a Chapter 11 case, a chapter 11 debtor cannot amend its plan of reorganization after confirmation if the plan has been substantially consummated, i.e. payments have been commenced under the plan. No comparable limitation is found in Chapter 9 respecting post-confirmation Plan amendments.

Given the paucity of Chapter 9 cases, very few courts have addressed issues pertaining to post-confirmation amendments. One Circuit Court has found that post-confirmation plan amendments in a Chapter 9 case are not *per se* prohibited. *American United Life Ins. Co. v. Haines City, Fla.*, 117 F.2d 574 (5th Cir. 1941). The *American United* case involved a city which filed a bankruptcy petition under the predecessor statute to Chapter 9. In the *American United* case, the creditor argued that a plan could never be amended after confirmation. The court disagreed stating as follows:

> "'Before a plan is confirmed, changes and modifications may be made therein, with the approval of the judge after hearing,' etc. The implication is urged that afterwards changes cannot be made. We are unwilling to put a plan into such a strait jacket. It may be that some matter has been overlooked or has subsequently arisen, which makes the plan unworkable and complicated, but which could easily and justly be remedied. Surprise or mistake may affect it. There ought to be some leeway for such adjustments. But a composition [under the

predecessor statute to Chapter 9, debtors filed what was referred to as a Petition for Composition of Debts under Chapter IX] is in its essence a contract, proposed by the debtor and agreed to by those of the creditors who give consent, and they in the requisite majority bind all . . . . . A composition after confirmation ought to be respected as a contract, and not disturbed in its substance for light cause, or to give one party an advantage over the other; and especially so after partial execution." *American United*, supra, at page 576.

The question raised is whether the circumstances surrounding the District's proposed refunding of the1991 Bonds justify permitting the District to modify its Plan and seek confirmation of the Plan as amended ("Amended Plan") under the standards enunciated in *American United*. Arguably, no surprise, mistake or error has occurred, nor has any matter been overlooked or subsequently arisen. In fact, the Plan projections prepared in 1991 are being met or exceeded ten years after confirmation. Thus, there is a substantial risk that the Court may not permit the District to amend its Plan.

To obtain confirmation of the Amended Plan, two hurdles must be cleared. First, the bondholders must vote to accept the Amended Plan. Second, the Court must find that the Amended Plan complies with confirmation requirements set forth in Chapter 9.

a. Voting

If the District files an Amended Plan, the holders of the 1991 Bonds will be entitled to vote on the Amended Plan. The terms of the Amended Plan [refunding of the 1991 Bonds] will become binding upon all holders of the 1991 Bonds if the holders of the 1991 Bonds who actually cast a vote accept the Amended Plan by a majority in number of bondholders and two-thirds in dollar amount. The Bankruptcy Code contains certain "cram down" provisions which permit the District to seek confirmation notwithstanding the rejection of the Amended Plan by the bondholder class. However, it is very unlikely that the Court would consider cramming down the Amended Plan ten years after confirmation if the bondholder class rejects the Amended Plan.

There are two or three large bondholders who will be able to control the voting of the bondholders class, i.e. because of the size of their claims, their "no" vote will likely prevent an accepting majority from holding two-thirds in dollar amount of the claims voting in favor of the Amended Plan. Thus, it is essential to confirmation that these large bondholders support the Amended Plan. If they do not, it is unlikely that the Amended Plan would be confirmed by the Court.

The filing of the motion to reopen the Chapter 9 case will permit the District to contact these large bondholders and determine whether their support can be garnered for the Amended Plan. If these large bondholders indicate their intention to oppose the Amended Plan, then the District can (1) withdraw its motion to reopen the Chapter 9 case, (2) seek confirmation of the Amended Plan via cram down [not a recommended tactic], or (3) negotiate an Amended Plan acceptable to the District and the large bondholders and seek confirmation thereof.

b. Confirmation Requirements

Assuming that the holders of the 1991 Bonds have voted to accept the Amended Plan, the Court still must find that the Chapter 9 requirements for confirmation of the Amended Plan have been satisfied. A single bondholder may object to confirmation asserting that various statutory requirements for confirmation have not been satisfied, e.g. a plan amendment should not be permitted at this late date under the standards set forth in *United American*, supra. If such an objection is sustained by the Court, then confirmation of the Amended Plan would be denied after the expenditure of substantial time, energy, costs and fees.

IV. Conclusion

Given the potential significant reduction in the District's bond amortization payments if the Amended Plan were confirmed by the Court, it would seem prudent for the District to pursue reopening the Chapter 9 case for the purpose of obtaining a refunding of the 1991 Bonds pursuant to an Amended Plan.

Exhibit D

2005

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MEMORANDUM

Date: June 14, 2005

To: Board of Directors, Villages at Castle Rock Metropolitan Districts Nos. 1 and 4

cc: Ron Loser, District Counsel

From: James T. Burghardt, Esq.

Client Info: Villages at Castle Rock Metropolitan Districts Nos. 1 and 4
Client No. 08526.00001

Re: **Executive Summary of Conclusions Regarding Metropolitan District No. 4 Chapter 9 Bankruptcy Issues**

The Board of Directors (the "**Board**") of Villages at Castle Rock Metropolitan Districts Nos. 1 and 4 hired us to provide a further review and analysis of certain bankruptcy-related issues originally raised with Joel Laufer, who has served as bankruptcy counsel to District No. 4 ("**District 4**") for some time. After reviewing pleadings in District 4's bankruptcy case, relevant bankruptcy statutes and case law, relevant Colorado constitutional and statutory provisions, and other sources and commentaries analyzing the foregoing, as well as consulting other attorneys in my firm to address miscellaneous questions raised by the Board, I presented an oral report of my conclusions and suggestions to the Board at its regular meeting held on May 18, 2005.

Following my oral report the Board requested that I prepare an executive summary of my conclusions and suggestions, in the belief that such a summary might be helpful to members of the community who desire to understand these issues. This Executive Summary is not intended to be, does not constitute, an opinion letter. The objective of this memorandum is to provide a synopsis of the problem, and of certain potential bankruptcy-related means of addressing the problem, that the Board felt obligated to evaluate.

A. Statement of the Problem

The mill levy imposed on real property located in Metropolitan District No. 1 ("**District 1**") is higher than that of surrounding districts to an extent that some District 1 taxpayers, including members of the Board, are pressing to determine whether the mill levy can be reduced by some means. The size of District 1's mill levy is directly attributable to the special district bond obligations assumed by Districts 1 and 4 in connection with the Chapter 9 bankruptcy plan for District 4 which went into effect in 1991. The historical and factual background necessary to understand this problem more thoroughly is set forth in Section C below.

B. Legal Issues To Be Analyzed

The problem stated above leads to the two major bankruptcy issues that I was asked to review, analyze, and discuss with the Board:

1. May District 4 file a new Chapter 9 bankruptcy case to restructure this bond debt and thereby lower the mill levy burden?

2. Alternatively, may District 4 reopen its prior bankruptcy case to accomplish the same goal by amending its existing Chapter 9 plan?

C. Historical and Factual Background

District 4 originally issued special district tax-exempt bonds in 1986 (the "**Original Bonds**"). The Original Bonds raised funds that enabled District 4 to create municipal improvements and infrastructure for itself, District 1, and several other districts. In general terms, the Original Bonds required District 1 and the other benefited districts to impose sufficiently high mill levies on real property in their respective districts to generate the tax revenues necessary to pay the Original Bond debt as it became due. The benefited districts were to collect their property taxes and then transfer those revenues to District 4 which, in turn, would pay the requisite amounts to the indenture trustee for the bondholders for each payment period (generally, every six months). This mill levying requirement was a "general obligation" of each of the benefited districts, which meant that they were legally obligated to set their mill levies high enough each year to raise the amounts required for the then-due debt on the Original Bonds, regardless of how high this might put their mill levies.

Issuance of the Original Bonds was predicated on certain assumptions regarding growth and increase in assessed valuation in the benefited districts. Unfortunately, the downturn in the Colorado economy in the late 1980's generated stagnation in development and much lower rates of increase in assessed valuation of district real property than had been assumed. Simply put, to pay the Original Bonds current according to their terms would have required such an onerous mill levy against property in the benefited districts that the situation

became impossible. After defaulting on payment of the Original Bonds, in December 1989 District 4 filed bankruptcy under Chapter 9 of the United States Bankruptcy Code (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the District of Colorado (the "**Bankruptcy Court**").

Chapter 9 of the Bankruptcy Code is entitled "Adjustment of Debts of a Municipality," and is the reorganization chapter for certain types of municipal entities which qualify for the relief provided by Chapter 9. The objective of District 4's filing was to restructure the Original Bonds in a manner that would provide a fair return to the bondholders but that also would not stifle future development. Such development clearly was the key to obtaining increased values, which in turn would decrease the debt burden on the taxpayers and enable payment of the debt. After two years of negotiations with the various constituencies in the case, District 4's Chapter 9 Plan for Adjustment of Debts (the "**Plan**") was confirmed by the Bankruptcy Court in December 1991.

The focal point of the Plan was a new bond issue to replace the Original Bonds. The new bond issue was officially identified as the "1991 District 4 Revenue Refunding Bonds," and will be referred to herein as the "**1991 Bonds**". The features of the 1991 Bonds included the following:

- All of the 1991 Bonds mature in 40 years (the year 2031); there are no "laddered" maturities.

- Interest on the 1991 Bonds accrues at a fixed rate of 8.5% per year, but is payable only from District 4's net revenues (generally equal to its gross receipts minus its costs of administration). In other words, payments on the 1991 Bonds are based on District 4's *available net cash flow*; District 4 cannot be in default on the 1991 Bonds, regardless of how little it may have available to pay on a given bond debt payment date, so long as it pays over its net revenues as defined. [Note that 8.5% per annum was not an uncommon interest rate in 1991 in the tax-exempt market, although it would be viewed as a high rate today].

- District 4's gross receipts or revenues still derive from the mill levies that the benefited districts impose on the taxable real property within their boundaries (plus some other relatively less significant fees). The benefited districts' obligation to pay District 4 remains a "general obligation" of those districts, but the 1991 Bond documents set the mill levies at certain "not less than" levels that increase gradually over time. The stated objective for the mill levy terms of the 1991 Bond documents was to keep the mill levels rather high (for example, District 1's overlapping mill levy was already 17.5% higher than the average comparable neighboring district when the Plan was negotiated), but not so high as to choke out future development.

- Any interest owed on the 1991 Bonds that is not paid when due is thereafter to compound semiannually at 8.5% per year until paid. Documentation in the bankruptcy case makes clear that the District did not expect to be able to pay current interest on the 1991 Bonds, so this semiannual compounding feature for interest payment shortfalls is a significant feature.

- Early redemption of the 1991 Bonds is provided for, but *only* if *all* interest on *all* 1991 Bonds is paid current before *any* bonds are redeemed.

- Any debt remaining unpaid on the 2031 maturity date, regardless of whether it is for interest or principal on the 1991 Bonds, is forgiven.

The 1991 Bonds were issued in a total principal amount basically equal to the full outstanding principal amount of the Original Bonds (somewhat under $30 million); the bondholders were required to trade in their Original Bonds for the 1991 Bonds. Many of them ended up selling the 1991 Bonds to third parties at deep discounts. A few third parties now hold a substantial portion of the 1991 Bonds.

The cumulative effect of the Plan's restructure of the bond debt since 1991 can be described as follows:

First, as was predicted during the bankruptcy case, interest on the 1991 Bonds has not been paid current. Due to the Bonds' 8.5% semiannual compounding interest feature for accrued but unpaid interest, the total interest owed on the 1991 Bonds as of 2005 exceeds $25 million. Thus, the total debt now owed on the 1991 Bonds, including principal and accrued but unpaid interest, exceeds $50 million. Consultants to the Board have advised that there is virtually no possibility that all interest, much less any principal, will be paid on the 1991 Bonds by maturity in 2031. Nevertheless, because the 1991 Bonds are essentially a "cash flow" obligation of District 4, the District will not be in default for nonpayment so long as it pays over its net revenues to the indenture trustee for the bondholders in each payment period.

Second, the mill levies set by the 1991 Bonds were expressly subject to modifications in the property tax assessment system that might occur after the issuance date. This means that the 1991 Bonds were subject to the 1982 "Gallagher Amendment" to the Colorado Constitution. In somewhat oversimplified terms, the Gallagher Amendment provides (among other things) for real property ***mill levy rates*** to increase to the extent that real property ***assessment rates*** decrease, so that the dollar amount of taxes actually collected remains relatively consistent (ignoring the effects of growth and actual increase in property values). During the years since 1991, the taxable assessment rates for residential real property in Colorado have dropped significantly. This has had the corresponding effect of significantly

increasing the mill levies imposed. Thus, the 1991 Bonds called for the District 1 mill levy in the year 2005 to be 42 mills, based on assessment methods in effect in 1991; the actual mill level in 2005, however, is just under 80 mills.

It is this history and factual background that led to the problem described in Section A above.

D. Legal Analysis

1. Applicable bankruptcy law clearly precludes District 4 from filing a second Chapter 9 case.

Although generally speaking there is a scarcity of case law to assist in construing the statutes contained in Chapter 9 of the Bankruptcy Code, the District of Colorado does have clear case precedent on the issue of whether District 4 may file a second Chapter 9 case. Unfortunately, the answer is an unequivocal "No".

The case of *In re Hamilton Creek Metropolitan District*, 143 F.3d 1381 (10th Cir. 1998) is, as lawyers say, "virtually on all fours" with the facts and circumstances facing District 4. The Tenth Circuit's ruling in *Hamilton Creek* notes that the Bankruptcy Code requires (among other things) that a municipal district be "insolvent" before it may be permitted to obtain relief under Chapter 9. 11 U.S.C. § 109(c)(3). The term "insolvent" is defined in 11 U.S.C. § 101(32)(C) to mean that the municipal district is "unable to pay its debts as they become due". The Tenth Circuit found that a bond that requires debt payments only to the extent of the obligor's net cash flow does not create a payment obligation that ever can "become due". Accordingly, a municipal district obligated on a cash flow bond cannot be or become "insolvent" as a result of that bond debt.

The 1991 Bonds clearly are cash flow bonds as to District 4's payment obligation to the bondholders; therefore, under the ruling in *Hamilton Creek*, filing a new Chapter 9 case is not an option for District 4. *Hamilton Creek* also points out that financial distress itself is not enough to make Chapter 9 relief available to a municipal district; the district must be "insolvent" or Chapter 9 relief simply is not available. *Id.* at 1387. In summary, any attempt by District 4 to file a new Chapter 9 bankruptcy case to restructure the 1991 Bonds would be completely unavailing.

2. Although some court decisions indicate that a consummated Chapter 9 case may be reopened to amend a confirmed plan under certain

unusual circumstances, the likelihood of District 4's case being reopened is very remote.

a. Legal considerations. A Chapter 9 plan for adjustment of debts that has been confirmed by the bankruptcy court, and under which payments already have been made to creditors, is generally described as "consummated". There is very limited case law on the issue of whether a Chapter 9 case may be reopened for the purpose of amending its plan after consummation. Several courts have ruled that a Chapter 9 case cannot be reopened to amend a consummated plan because the bankruptcy statutes do not specifically provide for this relief. Other cases, including one from the United States District Court for the District of Colorado, indicate that the absence of statutory preclusion against reopening a Chapter 9 case to amend a plan means that a district *may* file a motion to do so, but that such a motion should be granted only under highly unusual circumstances such as serious mistake, surprise, or fraud.

District 4's situation does not include such circumstances. First, the 1991 Bonds are performing in the manner that the Disclosure Statement to the District's Chapter 9 Plan said they would -- including express recognition that the mill levies in District 1 would start out markedly higher than those of comparable neighboring districts, and that they might stay that way for the entire 40-year term of the 1991 Bonds. Second, there may be a "laches" issue because, arguably, too much time has passed since the 1991 Bonds were issued to reopen the case now. Third and finally, the Plan's provisions for retention of jurisdiction do not include a provision allowing motions to further amend the Plan. I therefore agree with Mr. Laufer's conclusion: for the Bankruptcy Court to reopen District 4's Chapter 9 case to permit another round of restructuring under these circumstances would be extraordinary.

There is perhaps some possibility that the Bankruptcy Court would entertain a motion to reopen the case for the purpose of restructuring the 1991 Bonds if there was virtually no dissent from current bondholders. I understand, however, that bondholder passivity in the face of a motion to reopen the bankruptcy case is extremely unlikely. Prior attempts to approach bondholders about this topic have been met with hostility. Many of them bought their 1991 Bonds so cheap that, even with only partial interest payments and no chance of principal repayment, they are getting a highly favorable return on their investments. In short, they have no reason or duty to agree to a change in the status quo.

b. Strategic considerations. Two additional historical facts are important from a strategic perspective. First, the bankruptcy judge who presided over the Chapter 9 case in 1989-91 remains on the bench today. Under the rules of the Bankruptcy Court, any future attempt to reopen District 4's Chapter 9 case will automatically be assigned to the same judge. Second, there have been two prior motions to reopen the Chapter 9 case. Although the Court did not reject those motions out-of-hand (which reinforces my belief that the

Bankruptcy Court might at least consider reopening a consummated Chapter 9 case if the correct circumstances existed), both of the prior motions to reopen were failures:

(i) In February 1994 District 4 filed a motion to reopen its Chapter 9 case due to a water dispute with the Town of Castle Rock which the District believed might affect performance of its confirmed Plan. After the motion to reopen was filed, the parties entered into a series of stipulations for continuance of the Bankruptcy Court proceedings while they negotiated out-of-court for more than a year. During that entire time, essentially nothing happened in the Bankruptcy Court. On April 26, 1995 the Bankruptcy Court entered an order striking the parties' fifth stipulation for a continuance and denying the District's motion to reopen the case (except for the purpose of entering the order to not reopen the case). The order reflected an observable level of displeasure over the parties' extended failure to do something with the motion to reopen and the effect that this had on Bankruptcy Court administration and procedures.

(ii) In June 2001 the District filed a motion to reopen the case for the purpose of refunding the 1991 Bonds for their current discounted value in cash. The strategy behind this motion was the hope that it might bring the major bondholders to the table to negotiate some kind of a deal. Instead, the motion generated overt hostility from some key bondholders, and therefore the District withdrew its motion to reopen before a hearing could be held.

Based on this history, it is reasonable to expect that the Bankruptcy Court will look upon any new motion to reopen District 4's Chapter 9 case with a significant degree of skepticism. This, coupled with the legal considerations set forth above, dim any meaningful prospect for reopening the Chapter 9 case.

E. Conclusion

The Chapter 9 statutes and case law are unlikely to change in the foreseeable future, at least with regard to the foregoing topics. Accordingly, there is little reason to believe that District 4 will have an opportunity to file a new Chapter 9 case, or to reopen its prior Chapter 9 case, in order to restructure the 1991 Bonds. In our view, a better use of the District's time and resources would be to look for non-bankruptcy ways to try to open consensual negotiations with the major holders of the 1991 Bonds about some arrangement for refinancing in whole or in part. In the absence of reaching any consensual arrangement, the taxpaying property owners of District 1 will need to recognize that the number of mills levied in their community have been, and probably will remain, somewhat higher than that of neighboring districts until the maturity of the 1991 Bonds.

In summary, under the current circumstances I cannot recommend a bankruptcy-based solution to this problem. I and other members of our firm would be happy, however, to assist the Board in pursuing other approaches to this challenge.