

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Chapter 11
)	Case No. 17-22517
LOMBARD PUBLIC FACILITIES)	Hon. Jacqueline P. Cox
CORPORATION,)	Hearing Date: August 8, 2017
Debtor.)	Hearing Time: 9:30 a.m.

NOTICE OF MOTION

To: See Attached Service List

PLEASE TAKE NOTICE that on **August 8, 2017 at 9:30 a.m.** or as soon thereafter as counsel may be heard, I shall appear before the **Honorable Jacqueline P. Cox**, Bankruptcy Judge, in Courtroom No. 680, U.S. Courthouse, 219 South Dearborn Street, Chicago, Illinois, or in her absence, before such other Judge who may be sitting in her place and stead and hearing bankruptcy motions, and shall then and there present the **Motion To Dismiss**, a copy of which is attached and herewith served upon you, and shall pray for the entry of an order in conformity with the prayer of said pleading.

AT WHICH TIME AND PLACE you may appear if you so see fit.

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CERTIFICATE OF SERVICE

Peter J. Roberts certifies that he caused to be served a true copy of the above and foregoing notice and attached pleadings upon the attached Service List through the Court's ECF System, unless otherwise indicated, on this 3rd day of August, 2017.

/s/ Peter J. Roberts

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MOTION TO DISMISS

Pursuant to 11 U.S.C. §§ 109(d) and 1112(b), Lord Abbett Municipal Income Fund, Inc. – Lord Abbett High Yield Municipal Bond Fund (“Lord Abbett”) hereby requests that this Court enter an order dismissing the above-captioned bankruptcy case (the “Case”) of Lombard Public Facilities Corporation (“LPFC” or the “Debtor”). LPFC is ineligible to be a debtor under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) because it is a governmental unit. In support of this motion, Lord Abbett respectfully represents as follows:

INTRODUCTION

1. LPFC is a “governmental unit” for purposes of the Bankruptcy Code. As such, LPFC is ineligible to be a debtor under chapter 11 of the Bankruptcy Code.

2. The term “governmental unit” is defined under the Bankruptcy Code to include a “municipality . . . or [an] instrumentality of . . . a municipality.” *See* 11 U.S.C. § 101(27). LPFC is a “governmental unit” because it is an instrumentality of the Village of Lombard, Illinois (the “Village”). Specifically, as described below, LPFC is a “governmental unit” because:

- a) The Village created LPFC through the adoption of a Village ordinance.
- b) The Village formed LPFC for the public purpose of assisting the Village in providing for the financing, constructing and equipping of a convention hall and hotel facilities in the Village (the “Project”).

- c) The Village provided for LPFC to issue tax-exempt government bonds to finance the Project, and LPFC subsequently issued those bonds on the basis of representations that it was an instrumentality of the Village.
- d) LPFC is a public-facilities corporation under Illinois law, which obligates it to serve the Village's "essential government purposes." *See* 65 ILCS 5/11-65-10(b).
- e) As mandated by Illinois law (*see* 65 ILCS 5/11-65-10(c)) and as set forth in LPFC's Articles of Incorporation and By-Laws (collectively, the "Governing Documents"), the Village retains control over LPFC. Under LPFC's By-Laws, the Village President and Board of Trustees is responsible for (i) the appointment and removal of members of LPFC's board of directors, (ii) the removal of LPFC officers, and (iii) modifying or repealing certain provisions of LPFC's Governing Documents.
- f) The Village has carefully limited LPFC's permitted activities under its Governing Documents to "essential government functions" in order to maintain its status as an instrumentality of the Village.
- g) LPFC only holds title to the Project as a placeholder for the Village during the pendency of LPFC's tax-exempt government bonds; once the bonds are retired, LPFC is obligated to transfer the Project to the Village free and clear of liens and without any additional consideration.

3. Except in limited circumstances irrelevant to this case, a "governmental unit" is not a "person" as defined by the Bankruptcy Code. *See* 11 U.S.C. § 101(41) ("The term 'person' . . . does not include governmental unit . . ."). Because LPFC is a "governmental unit" and not a "person," it cannot be a debtor under chapter 11 of the Bankruptcy Code. *See* 11 U.S.C. 109(d). Therefore, pursuant to 11 U.S.C. §§ 109(d) and 1112(b), this Court must dismiss the Case on the grounds that LPFC is ineligible to be a debtor under chapter 11 of the Bankruptcy Code.

JURISDICTION AND VENUE

4. On July 28, 2017, LPFC filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code and thereby commenced the Case. No trustee, examiner or creditors committee has been appointed in the Case.

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, subject to this Court's determination as to whether LPFC is eligible to be a chapter 11 debtor. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(1), (b)(2)(A), and (O). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

FACTUAL BACKGROUND

6. The Village is an Illinois municipality pursuant to Section 7 of Article VII of the Constitution of the State of Illinois of 1970. On September 4, 2003, the Village passed Ordinance No. 5351 (the "Ordinance"). The Ordinance provided for the Village's incorporation of LPFC as an Illinois not-for-profit corporation. Through the Ordinance, the Village also approved LPFC's Articles of Incorporation and By-Laws and its initial slate of directors.¹

7. The Village formed LPFC "for the sole purpose of acting on behalf of the Village in financing, securing a location and constructing a convention hall and hotel facility within the Village." *See* Complaint for Administrative Review ("LPFC Complaint"), *Lombard Public Facilities Corp. v. Illinois Dep't of Revenue*, No. 2005MR001505, 2005 WL 6203446, at ¶ 2 (Dupage Cty. Cir. Ct. Dec. 12, 2005). The Ordinance states that "providing for the financing, constructing and equipping of such convention hall and hotel facilities by the [L]PFC is in the public interest of the citizens of [the] Village and it is a proper public purpose in relation to which the President and Board of Trustees agree to cooperate with the [L]PFC and to assist it in fulfilling the requirements of all agencies of the federal, state and local governments." *See* Ordinance at § 3.

¹ True and correct copies of LPFC's Articles of Incorporation and By-Laws are attached hereto as Exhibits A and B, respectively. A true and correct copy of Village Ordinance No. 5351 is attached hereto as Exhibit C.

8. The Ordinance authorized LPFC to issue, sell and deliver bonds, encumber any real property or equipment acquired by it for the purpose of financing the construction and equipping of the Project, and enter into contracts for the sale of bonds and the construction and acquisition of the Project. *See* Ordinance at §§ 3, 7. Upon redemption or retirement of LPFC's bonds, the Ordinance required LPFC to transfer title to the Project to the Village, free and clear of any and all liens and encumbrances thereon. *See* Ordinance at § 5.

9. LPFC financed its acquisition and improvement of the Project by issuing the following series of tax-exempt governmental bonds: (a) the \$63,915,000 original principal amount Lombard Public Facilities Corporation Conference Center and Hotel First Tier Revenue Bonds, Series 2005A-1 (the "A-1 Bonds"); (b) the \$53,995,000 original principal amount Lombard Public Facilities Corporation Conference Center and Hotel First Tier Revenue Bonds, Series 2005A-2 (the "A-2 Bonds"); (c) the \$43,340,000 original principal amount Lombard Public Facilities Corporation Conference Center and Hotel Second Tier Revenue Bonds, Series 2005B (the "B Bonds") and (d) the \$22,460,000 original principal amount Lombard Public Facilities Corporation Conference Center and Hotel Third Tier Revenue Bonds, Series 2005C-1, Series 2005C-2, and Series 2005C-3 (the "C Bonds" and, together with the A-1 Bonds, the A-2 Bonds and the B Bonds, the "Bonds"). LPFC had the ability to issue the Bonds on a tax-exempt basis because, as stated in its Official Statement to prospective bond investors ("Official Statement"), LPFC "constitutes an instrumentality of the Village for federal tax law purposes."² *See* Official Statement at i. *See also* LPFC Complaint, 2005 WL 6203446, at ¶ 19 ("[T]he LPFC clearly acts as an agency or instrumentality of the Village.").

² Relevant excerpts from the Official Statement are attached hereto as Exhibit D.

10. LPFC's Articles of Incorporation (the "Articles") echo the Ordinance. The Articles provide that LPFC "is organized exclusively for the promotion of social welfare and for not-for-profit purposes and to assist the Village of Lombard in its essential government purposes." *See* Articles at Art. 5(a). Moreover, "[n]otwithstanding any other provision . . . , the [LPFC] shall not carry on any activities or exercise any power or authority in any manner other than those which constitute essential governmental functions under Section 115 of the Internal Revenue Code of 1986, or corresponding provision of any subsequent federal tax laws." *See* Articles at Art. 5(c).

11. The Articles also reiterate that LPFC was organized exclusively for public purposes, in particular "for the purpose of acquiring a site or sites appropriate for a convention hall and hotel . . . constructing, building, or equipping thereon a convention hall and hotel . . . and collecting the revenues therefrom, entirely without profit to the [LPFC], its officers and directors." *See* Articles at Art. 4. Upon the LPFC's dissolution, all of its net assets vest in the Village. *See* Articles at Art. 5(d).

12. Recognizing that the Village "will become the owner of the [Project] upon the repayment of all the bonds issued by the LPFC," the Village and LPFC also entered into a Tax Rebate Agreement dated as of August 1, 2005 (the "Tax Rebate Agreement").³ *See* Tax Rebate Agreement, § I(L) at p. 3. The Tax Rebate Agreement provides for the Village to refund to LPFC certain state and local taxes collected by the Village in connection with the Project. *See* Tax Rebate Agreement, § V(A), (C) at p. 6. The Tax Rebate Agreement also provides for the Village to backstop certain of LPFC's debt service obligations on the Bonds. *See* Tax Rebate Agreement, § V(D)-(E) at p. 7.

³ A copy of the Tax Rebate Agreement is attached hereto as Exhibit E.

13. As a public-facilities corporation under Illinois law, LPFC is subject to the Village's control. *See* 65 ILCS 5/11-65-10(c) ("The municipality shall retain control of the public-facilities corporation. . . ."). Indeed, LPFC's By-Laws specifically provide that:

- A. LPFC may not sell, transfer or convey title to the Project to a third party without the prior consent of the Village President and Board of Trustees, "with said consent to be solely within the discretion of the President and Board of Trustees." *See* By-Laws § 10.1
- B. LPFC is governed by a five-member board of directors, each of whom is appointed by the Village President with the advice and consent of the Village Board of Trustees. *See* By-Laws §§ 4.1 and 4.2.
- C. Directors of LPFC serve at the pleasure of the Village and may be removed with or without cause by the majority vote of the members of the President and Board of Trustees of the Village. *See* By-Laws § 4.1.
- D. Likewise, officers of LPFC serve at the pleasure of the Village and may be removed with or without cause at any time by resolution adopted at any meeting of the President and Board of Trustees of the Village. *See* By-Laws § 5.3.
- E. Article IV of LPFC's By-Laws, which governs the appointment of LPFC directors, their vacancies, and their meetings, may not be amended without the approval of the President and Board of Trustees of the Village. *See* By-Laws § 7.1.

RELIEF REQUESTED

14. Lord Abbett is a substantial holder of LPFC's outstanding A-1 Bonds. Through this Motion, Lord Abbett moves to dismiss the Case on the basis that LPFC, as a "governmental unit," is ineligible to be a chapter 11 debtor.

A. A "Governmental Unit" Cannot be a Chapter 11 Debtor

15. An entity is eligible to be a chapter 11 debtor if it is "a person that may be a debtor under chapter 7." *See* 11 U.S.C. § 109(d).⁴ However, the Bankruptcy Code's definition of "person" specifically excludes a "governmental unit." 11 U.S.C. § 101(41). Furthermore, a

⁴ Section 109(d) also extends chapter 11 eligibility to railroads, uninsured State member banks and corporations organized under section 25A of Federal Reserve Act.

“governmental unit” includes a “municipality” and any “instrumentality” of a municipality. 11 U.S.C. § 101(27). Therefore, an instrumentality of a municipality is a governmental unit for purposes of the Bankruptcy Code, and it is consequently ineligible to be a chapter 11 debtor.

B. A Chapter 11 Case Initiated by a Governmental Unit Must Be Dismissed

16. Bankruptcy courts interpreting § 109(d) of the Bankruptcy Code in accordance with its plain meaning have routinely dismissed chapter 11 cases where the debtor did not constitute a “person” as defined by Bankruptcy Code section 101(41). *See, e.g., In re C-TC 9th Ave. P’ship*, 113 F.3d 1304, 1309 (2d Cir. 1997); *In re Estate of Medcare HMO*, 998 F.2d 436, 447 (7th Cir. 1993); *Hunt v. TRC Properties (In re Hunt)*, 160 B.R. 131, 135-36 (B.A.P. 9th Cir. 1993); *In re Sung Soo Rim Irrevocable Intervivos Trust*, 177 B.R. 673, 679 (Bankr. C.D. Cal. 1995). Ineligibility as a chapter 11 debtor justifies dismissal on jurisdictional grounds, or alternatively, for “cause” pursuant to § 1112(b) of the Bankruptcy Code.⁵

17. Several courts have dismissed the cases of ineligible debtors for a lack of subject matter jurisdiction without even getting to the issue of “cause” under § 1112(b). *See, e.g., In re Estate of Medcare HMO*, 998 F.2d at 447 (affirming dismissal of debtor’s chapter 11 petition for lack of jurisdiction due to debtor’s ineligibility under section 109(d) of the Bankruptcy Code without considering § 1112(b)); *Merrill v. Allen (In re Universal Clearing House Co.)*, 60 B.R.

⁵ Section 1112(b) of the Bankruptcy Code typically governs the dismissal or conversion of a chapter 11 case:

[O]n request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate.

11 U.S.C. § 1112(b). Since a governmental unit is not a “person” and therefore is not eligible for relief under chapter 7 or chapter 11, dismissal is the only alternative in the chapter 11 case of a governmental unit once the requisite “cause” has been established under § 1112(b).

985, 991 (D. Utah 1986) (if a debtor is ineligible for relief under the Bankruptcy Code, “then the statutory source of the bankruptcy court’s exercise of jurisdiction is lacking and the case must be dismissed”).⁶ *See also Wytttenbach v. Comm’n Internal Revenue*, 382 B.R. 726, 729-730 (S.D. Tex. 2008) (striking the bankruptcy petition was appropriate because debtor’s ineligibility under § 109(h) precluded the commencement of a bankruptcy case under § 301). Regardless of subject matter jurisdiction, however, a lack of eligibility certainly qualifies as “cause” to dismiss under § 1112(b). *See In re C-TC*, 113 F.3d at 1309.

18. Therefore, if a “governmental unit” files a chapter 11 case, its ineligibility as a debtor necessitates the dismissal of its case one way or another – either for lack of jurisdiction or for cause. As set forth below, LPFC is an illegible “governmental unit,” and its Case must be consequently dismissed for lack of jurisdiction or for cause.

C. LPFC is a “Governmental Unit” Under the Bankruptcy Code

19. The Bankruptcy Code defines “governmental unit” to mean “United States; State; Commonwealth; District; Territory; *municipality*; foreign state; department, agency, *or instrumentality of the United States . . .*, a State, a Commonwealth, a District, a Territory, *a municipality*, or a foreign state; or other foreign or domestic government.” 11 U.S.C. § 101(27) (emphasis added). According to legislative history, Congress intended to define “governmental unit” in the broadest sense. *TI Fed. Credit Union v. DelBonis*, 72 F.3d 921, 930-31 (1st Cir. 1995) (quoting H. Rep. No. 95-595, 95th Cong., 1st Session 311 (1977), U.S. Code Cong. & Admin. News 1978, pp. 5759, 5963, 6268). By extending the definition over both municipalities and their instrumentalities, the Bankruptcy Code defines “governmental unit” on a grander scale

⁶ Other courts have held that the threshold issue of eligibility is not jurisdictional. *See, e.g., FDIC v. Wenberg (In re Wenberg)*, 94 B.R. 631, 637 (9th Cir. BAP 1988), *aff’d* 902 F.2d 768 (9th Cir. 1990); *In re Auto. Prof’ls, Inc.*, 370 B.R. 161, 167 (Bankr. N.D. Ill. 2007); *In re First Assured Warranty Corp.*, 383 B.R. 502, 518-19 (Bankr. D. Colo. 2008).

than its definition of “municipality.” See *In re Hosp. Auth. of Charlton Cnty.*, No. 12-50305, 2012 WL 2905796, at *6 (Bankr. S.D. Ga. 2012).

20. The Bankruptcy Code does not define the term “instrumentality.” *Id.*, 2012 WL 2905796 at *5. But when used in the context of § 101(27)’s definition of “governmental unit,” the applicable legislative history suggests that the term “instrumentality” includes entities that (i) have an active relationship with a federal, territorial, state, or municipal government, and (ii) “carry out some governmental function.” See *DelBonis*, 72 F.3d at 931 (federal credit union was instrumentality and governmental unit under § 101(27)). See also *In re N. Mariana Islands Ret. Fund*, No. 12-00003, 2012 WL 8654317, at *2 (D. N. Mar. I. 2012) (retirement fund was instrumentality and governmental unit under § 101(27)); *Charlton Cnty.*, 2012 WL 2905796, at *6 (hospital authority was instrumentality and governmental unit under § 101(27)). Cf. *In re Las Vegas Monorail Co.*, 429 B.R. 770, 795-800 (Bankr. D. Nev. 2010) (monorail company was not instrumentality and municipality under § 101(40)).⁷ On the basis of that legislative guidance, when determining whether a particular entity is an instrumentality under § 101(27), courts typically examine whether the entity performs government functions and whether it is controlled by a higher governmental authority. See *id.*

21. LPFC is a governmental unit for purposes of the Bankruptcy Code because it is an instrumentality of the Village.⁸ LPFC has certainly admitted that fact on multiple occasions. It

⁷ As the *N. Mariana Islands* and *Charlton Cnty.* cases explain, the *Las Vegas Monorail* case has limited utility in the context of determining whether an entity is an instrumentality and governmental unit under § 101(27) because the *Monorail* court’s analysis focused on whether the debtor in that case was an instrumentality and municipality under § 101(40). See *N. Mariana Islands*, 2012 WL 8654317, at *3; *Charlton Cnty.*, 2012 WL 2905796, at *6. The word “instrumentality” has a much broader and more inclusive meaning in the context of determining whether an entity qualifies as a governmental unit under § 101(27) than it does in determining whether an entity qualifies as a municipality under § 101(40). See *id.*

⁸ The Village is clearly a municipality under the Bankruptcy Code. See 11 U.S.C.

admitted that fact to Bond investors and the IRS. *See* Official Statement at i (“The [LPFC] constitutes an instrumentality of the Village for federal tax law purposes.”). It has also admitted that fact to the Illinois Department of Revenue and the state courts of Illinois. *See* LPFC Complaint, 2005 WL 6203446, at ¶ 19 (“[T]he LPFC clearly acts as an agency or instrumentality of the Village.”). And the proof is in the pudding – LPFC issued tax-exempt government Bonds and enjoyed a variety of other tax breaks because of its status as an instrumentality of the Village.

22. Having obtained the benefits from being the Village’s instrumentality and issuing tax-exempt governmental Bonds for the Project, LPFC cannot now disavow its status before this Court. However, even if it did, LPFC’s carefully defined governmental functions and its control by the Village (all as expressed in the Ordinance and the Governing Documents and as required under Illinois law) clearly demonstrate its status as the Village’s instrumentality.

1. LPFC Exists To Serve The Village’s Essential Governmental Functions

23. Illinois law expressly provides for public-facilities corporations such as LPFC to serve a municipality’s essential governmental functions. *See* 65 ILCS 5/11-65-10(b) (“A public-facilities corporation shall assist the municipality it serves in the municipality’s essential governmental purposes.”). The Ordinance, the Governing Documents, and the Tax Rebate Agreement all demonstrate LPFC’s compliance with that statutory directive, and they all make clear that LPFC’s purpose is to issue the Bonds and hold the Project as the Village’s proxy until the Bonds are retired.

§ 101(40) (“The term ‘municipality’ means political subdivision or public agency or instrumentality of a State.”). The Village is an Illinois municipality pursuant to Section 7 of Article VII of the Constitution of the State of Illinois of 1970. *See* Tax Rebate Agreement, § I(A) at 1.

24. For example, the Ordinance declares LPFC's public purpose. *See* Ordinance at §§ 1, 3 (LPFC's incorporation is in the "public interest," and its financing and construction of the Project "is in the public interest of the citizens of [the] Village and . . . a proper public purpose in relation to which the [Village] President and the Board of Trustees agree to cooperate."). The Articles limit LPFC's activities to "essential government functions." *See* Articles at Art. 5(a)-(c) (LPFC is "organized exclusively for the promotion of social welfare and for not-for-profit purposes and to assist the Village of Lombard in its essential government purposes. . . . Notwithstanding any other provision . . . the [LPFC] shall not carry on any activities or exercise any power or authority in any manner other than those which constitute essential governmental functions under Section 115 of the Internal Revenue Code . . .").

25. Likewise, the Tax Rebate Agreement confirms that LPFC's development of the Project is designed to serve the needs of the Village. *See* Tax Rebate Agreement at I(P) at 3 (The Project will "serve the needs of the VILLAGE, increase employment opportunities, stimulate commercial growth and stabilize the tax base of the VILLAGE . . ."). And the Tax Rebate Agreement, like all of the other foregoing documents, emphasize the fact that the Village will eventually acquire the Project free and clear of liens and for no additional consideration as soon as the Bonds are retired. *See* Tax Rebate Agreement, § IV(E) at 6; Ordinance at § 5; Articles at Art. 5(d). *See also* 65 ILCS 5/11-65-10(c) ("Upon retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall, the legal title to the municipal convention hall shall be transferred to the municipality without any further consideration by or on behalf of the municipality.").

2. LPFC is Subject to Village Control

26. Furthermore, to ensure LPFC's service of government functions on behalf of the Village, applicable Illinois law and the LPFC's Governing Documents expressly provide for the Village to maintain control over the LPFC. Illinois law is crystal clear on this point – "[t]he municipality shall retain control of the public-facilities corporation by means of the municipality's expressed legal right, as set forth in the articles of incorporation, to appoint, remove, and replace the members of the board of directors of the public-facilities corporation." *See* 65 ILCS 5/11-65-10(c). LPFC's By-Laws drive the point home.

27. LPFC's By-Laws provide for the Village to appoint LPFC's directors, and they also make clear that LPFC's directors and officers serve at the pleasure of the Village and can be removed with or without cause by the Village. *See* By-Laws §§ 4.1, 4.2, 5.3. Furthermore, unless the Village consents, LPFC may not transfer the Project to anyone other than the Village. *See* By-Laws § 10.1. The LPFC is clearly controlled by the Village.

3. The State Specially Classifies LPFC And Exempts It From Certain Taxes

28. To the extent that the State of Illinois' classification of LPFC is relevant, it certainly suggests that the State considers LPFC to be an instrumentality of the Village. As noted above, Illinois law specifically recognizes public-facilities corporations such as LPFC and the service they provide in a "municipality's essential governmental purposes." *See* 65 ILCS 5/11-65-10(b). As a public-facilities corporation, LPFC is authorized under Illinois law "to exercise, as business agent of the [Village], the powers of the [Village]" with regard to the use of the Project and the acquisition of property for the Project's purposes. *See* 65 ILCS 5/11-65-10(a). Moreover, in apparent recognition of the Village's control and residual interest in the Project (*see* 65 ILCS 5/11-65-10(c)), Illinois law specifically exempts LPFC from various forms

of state taxes and all real estate taxes. *See* 65 ILCS 5/11-65-25. In the eyes of the State of Illinois, LPFC is an agent and instrumentality of the Village.

CONCLUSION

29. LPFC has never hid the fact that it is an instrumentality of the Village. It issued tax-exempt government Bonds on that basis, and it made that representation to investors and taxing authorities. Moreover, its Governing Documents, the Tax Rebate Agreement and applicable Illinois law all acknowledge LPFC's essential government functions and its control by the Village. That makes LPFC a "governmental unit" within the broad scope of § 101(27) of the Bankruptcy Code. As a result, LPFC is not eligible to be a chapter 11 debtor pursuant to § 109(d) of the Bankruptcy Code, and this Case must therefore be dismissed pursuant to 28 U.S.C. § 1334 or, alternatively, pursuant to 11 U.S.C. § 1112(b).

WHEREFORE, Lord Abbett respectfully requests that this Court enter an order: (i) dismissing the Case; and (ii) granting such other relief as is just and proper and to which Lord Abbett may be entitled under the circumstances.

Respectfully submitted,

Lord Abbett Municipal Income
Fund, Inc. – Lord Abbett High Yield
Municipal Bond Fund

Dated: August 3, 2017

By: /s/ Peter J. Roberts
One of their attorneys

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