

SUPREME COURT OF CANADA DENIES LEAVE TO APPEAL IN "VIRGINIA HILLS" LINEAR PROPERTY TAX CASE: NORTHERN SUNRISE COUNTY, ET AL. V. BANK OF NOVA SCOTIA, ET AL., 2019 SCC 38587

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On August 29, 2019, the Supreme Court of Canada denied the application brought by three municipalities (the "**Municipalities**") seeking leave to appeal the decision of the Alberta Court of Appeal in *Northern Sunrise County v Virginia Hills Oil Corp*, 2019 ABCA 61. The Supreme Court of Canada has confirmed that the *Alberta Municipal Government Act* (the "**Act**") does not grant a municipality a special lien for unpaid linear property taxes.

At the Alberta Court of Appeal the Municipalities sought a declaration that their claims for linear property tax arrears against two bankrupt companies, Virginia Hills Oil Corp. and Dolomite Energy Corp., granted the Municipalities a special lien against the companies which would make the Municipalities secured creditors under the *Bankruptcy and Insolvency Act*. The Court of Appeal found that unpaid linear property taxes, which are taxes levied against linear property such as electric power systems, street lighting systems, telecommunications systems and **pipelines**, could not form a special lien against the assessed party under the Act. This decision is therefore of considerable importance to participants in the Alberta oil and gas industry, including receivers, trustees, municipalities and secured lenders. Administration of a number of bankruptcy cases will likely finally proceed now that the Supreme Court has provided certainty with respect to the treatment of these types of municipal tax claims. All stakeholders will benefit from the clear finding that claims for linear property tax arrears are unsecured in a bankruptcy.

McMillan successfully represented The Bank of Nova Scotia, as agent for the senior lenders to Virginia Hills Oil Corp. which was a respondent in this appeal.

by Kourtney Rylands

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against

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making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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