

SUMMARY OF ORAL OPINION ON THE RECORD
In re City of Detroit
Bankruptcy Judge Steven Rhodes
For Release and Posting
Following the Conclusion of the Oral Opinion
November 7, 2014

Bankruptcy Judge Steven Rhodes announced his decision today confirming of the Eighth Amended Plan of Adjustment filed by the City of Detroit. Judge Rhodes found that the plan meets all of the requirements of confirmation under the United States Bankruptcy Code.

Specifically, Judge Rhodes found:

- The Plan was accepted by the following classes of creditors – PFRS Pension, GRS Pension, OPEB, UTGO Bonds, LTGO Bonds, Swaps, COPs, and 36th District Court. The plan was not accepted by the classes of the other unsecured creditors and the convenience claims.
- The City filed the plan in good faith.
- The Plan is in the best interests of creditors.
- The Plan does not unfairly discriminate.
- The Plan is fair and equitable.
- The Plan is feasible.

Judge Rhodes also found that all of the City's settlements with its creditors are reasonable and approved them. This includes the Annuity Savings Fund recoupment settlement that several retirees had objected to. Judge Rhodes also approved the City's exit financing with Barclays.

Here are some key statements from the Bench Decision:

The Grand Bargain

“It is a vast understatement to say that the pension settlement is reasonable. It borders on the miraculous. No one could have foreseen this result for the pension creditors when the City filed this case. The plan's proposal is only possible because of the pension settlement and the Grand Bargain. The pension reductions in the pension settlement are minor compared to any reasonably foreseeable outcome for these creditors without the pension settlement and the Grand Bargain.”

The DIA Art

“No provision of law allows the creditors to access the DIA art to satisfy their claims, whether in bankruptcy or outside of bankruptcy. The market value of the art, therefore, is irrelevant in this case.”

“The evidence unequivocally establishes that the DIA stands at the center of the City as an invaluable beacon of culture, education for both children and adults, personal journey, creative outlet, family experience, worldwide visitor attraction, civic pride and energy, neighborhood and community cohesion, regional cooperation, social service, and economic development. Every great City in the world actively pursues these values. They are the values

that Detroit must pursue to uplift, inspire and enrich its residents and its visitors. They are also the values that Detroit must pursue to compete in the national and global economy to attract new residents, visitors and businesses. To sell the DIA art would only deepen Detroit's fiscal, economic and social problems. To sell the DIA art would be to forfeit Detroit's future. The City made the right decision."

The City's Good Faith

"The record demonstrates that the City has worked honestly, diligently, and tirelessly to accomplish precisely the remedy that the bankruptcy code establishes for municipalities—the necessary adjustment of the City's debt. The record also demonstrates that the City is committed to maintaining its debt at a level that it can manage in the long-term."

"The City's good faith in proposing this plan shines with the greatest brilliance in the grand bargain and in the settlements with Syncora, FGIC and the COPs holders. Those settlements are more than just creditor claim settlements. They create new ventures and relationships that enable all of the stakeholders in the case to achieve their long-term missions and goals. This is an extraordinary accomplishment in bankruptcy and an ideal model for future municipal debt restructurings."

The "Fair and Equitable" Test

"A large number of people in this City are suffering hardship because of what we have antiseptically called service delivery insolvency. What this means is that the City is unable to provide basic municipal services such as police, fire and EMS services to protect the health and safety of the people here. Detroit's inability to provide adequate municipal services runs deep and has for years. It is inhumane and intolerable, and it must be fixed. This plan can fix these problems and the City is committed to it. So if to fix this problem, the Court must require these few creditors that rejected the plan to nevertheless share in the sacrifice that the other creditors have agreed to endure, then so be it."

Feasibility

"The emergency manager and his team, working in conjunction with the Mayor and his team have created a workable plan for this City and a feasible plan to obtain the resources necessary to implement it. It will be for the City Council, the Mayor and his administration to implement the plan. The Mayor testified that he and his team are fully committed to implementing the plan and Council President Jones testified that the plan has the support of the City Council. The Court fully credits that testimony."

"The municipal employees and retirees of this state need and deserve the state's robust commitment to its obligation to vigorously supervise and regulate its municipalities to assure adequate pension funding. The Court found here today that the state's contribution of \$195 million in exchange for a release of liability on the pensioner's constitutional claim is a reasonable settlement. History will judge the correctness of this finding, and it will judge that this finding was correct only if what happened to Detroit never happens again. The State of Michigan can sustain that finding in history only by fulfilling its constitutional, legal and moral obligation to assure that the municipalities in this state adequately fund their pension obligation."

If the state fails, history will judge that this Court's approval of that settlement was a massive mistake."

Judge Rhodes also thanked the mediators—Chief Judge Rosen, Judge Roberts, Judge Cox, Judge Daniels, Judge Perris, Eugene Driker, and David Coar. He thanked the funding foundations and the DIA for their generous charitable commitments in this case.

He also thanked the attorneys, stating:

"You conducted yourselves with the highest degree of civility, respect, and professionalism, both to each other and to the Court. At the same time, you also demonstrated zealous advocacy as well as loyalty to your oaths and to your clients. Your work in this case is a model of the public service role that lawyers and the legal profession perform in our society. It has made me proud to be a part of the judicial process and of legal profession, and you should each share in that pride."

Judge Rhodes thanked Kevyn Orr, stating:

"Here I want to single out Kevyn Orr for special recognition and appreciation. His task was perhaps the most challenging of all of us. Yet he met that challenge with skill, determination and commitment, and at great personal sacrifice. I hope that someday soon, this City will recognize the singular contribution that he made to its fresh start and give him the credit that he truly deserves."

Judge Rhodes then addressed the people of the City of Detroit:

"A large number of you told me that you were angry that your City was taken away from you and put into bankruptcy. You told me in your court papers. You told me in your statements in court. You told me in your blogs, letters, and protests. I heard you. I urge you now not to forget your anger. Your enduring and collective memory of what happened here, and your memory of your anger about it, will be exactly what will prevent this from ever happening again. It must never happen again. When Fredia Butler testified during the confirmation hearing, she quoted the great wisdom of Marian Wright Edelman, who said, 'Democracy is not a spectator sport.' And so I ask you, for the good of the City's fresh start, to move past your anger. Move past it and join in the work that is necessary to fix this City. Help your City leaders do that. It is your City."

Judge Rhodes concluded:

"We have used the phrase, the grand bargain, to describe the group of agreements that will fix the City's pension problem. That description is entirely fitting. In our nation, we join together in the promise and in the ideal of a much grander bargain. It is the bargain by which we interact with each other and with our government, all for the common good. That grander bargain, enshrined in our constitution, is democracy. It is now time to restore democracy to the people of the City of Detroit. I urge you to participate in it. And I hope that you will soon realize its full potential."

Judge Rhodes stated that he would issue a written decision soon.