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Assembly Bill 376 Testimony

Assembly Bill 376 is intended to apply to Home Owner Associations with 7,000 units or more and that have been turned over to the residents by the developer. It was drafted to accomplish the following three items:

1. To invalidate the 100 percent quorum dictated by Del Webb in the Sun City Summerlin declaration and make it easier for the residents of any large common interest community who are wholly in charge of their association to revise their Covenants, Conditions, & Restrictions (CC&Rs).

The Sun City Summerlin Community Association, Inc. Master Declaration, left to us by Del Webb, requires a 2/3 majority of 100 percent quorum of unit owners to accomplish any revision of the Covenants, Conditions, & Restrictions (CC&Rs).

The following voting history illustrates why we are requesting this change:

Our 2001 Board of Directors election drew a 3,933 voter turnout (51 percent) of the 7,779 units eligible to vote.

Our 2002 election turnout was 4,972 (64 percent) of the 7,779 units eligible to vote, due to a very contentious campaign. This 13 percent increase in turnout occurred as the result of over 100 citizen walkers contacting all 7,779 owners (including a concentrated mailing effort to contact the approximately 13 percent of owners that are non-residents) and discussing the election.

Our 2003 election turnout included 3,934 of the 7,779 units eligible to vote, about the same 51 percent that participated in 2001.

It would appear from this history that turning out 5,186 (66 2/3 percent) of our owners is never going to happen, let alone obtaining 100 percent agreement among them. We therefore believe it is nearly impossible for our residents to amend their CC&Rs.

NRS 116 actually disenfranchises the majority of large HOA unit owners who are interested enough in the Association and do vote, because non-votes are considered no votes under the current statutory 100 percent quorum requirement for amending the CC&R's. This is quite feasible for small HOA's but is a virtually impossible burden for huge associations of 7,000 or more units. At any time at least 25-30% of eligible voters are not available (traveling, ill, absentee owners, etc.) or unwilling to vote on anything due to apathy.

ASSEMBLY JUDICIARY
DATE: 4/3/03 ROOM: 3138 EXHIBIT 6
SUBMITTED BY: Frank Beck

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The proposed revision of NRS 116 is designed to allow a 50 percent statutory quorum to decide what they want in their Master CC&Rs instead of being bound by the developer who no longer has a vested interest in their well being. If that statutory quorum is reached, then a majority (greater than 50 percent), or any higher percentage that the Declaration requires, is to be applied to make amendments to the CC&R's. This allows large HOA's to set the majority of the statutory quorum at any higher level that the unit owners want. Ours currently is 2/3 and will remain so.

2. Ease the Association's noticing requirements for meetings and agendas.

NRS 116.31083 currently requires notices of Board of Directors Meetings and agendas to be mailed or delivered to each unit owner. Since we have BOD meetings twice a month, this requirement imposes a significant financial burden. $7,779 * 24 = 186,696$ pieces of mail per year.

Assembly Bill 376 is designed to remove the requirement of mailing to each unit or of hand delivering to each unit and to permit notification in the monthly newsletter, posting on the Association's bulletin boards, and making copies available at the Administration Office and at the monitor stations. It also allows meeting agendas to be posted with the notices on the bulletin boards and be available to residents at the meetings.

3. Eliminate the requirement to hire a hall big enough to seat 7,000 or more unit owners in order to conduct the budget ratification meeting.

NRS 116.3103 (3) states, "Within 30 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the budget to all the units' owners, and shall set a date for a meeting of the units' owners to consider ratification of the budget not less than 14 nor more than 30 days after mailing of the summary. Unless at that meeting a majority of all units' owners or any larger vote specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board."

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The current law is virtually impossible to comply with and budgets cannot be rejected by the owners. The only practical solution for huge HOA's is to permit a mail in ballot, votes by proxy, and/or petitions, presented for counting at the budget ratification meeting. The current ratification process is acceptable for small HOAs but you can see that it is impossible for large associations to comply with. Assembly Bill 376 is intended to either remove this requirement for large associations or allow a mail in ballot, proxy votes, or petition voting to reject an unfavorable budget.

Frank Beers
3008 Hawksdale Drive
Las Vegas, Nevada 89134-8966

702-242-2682

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