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Sun City Summerlin Community Association, Inc.
9107 Del Webb Boulevard
Las Vegas, Nevada 89134-8567

April 3, 2003

To Whom It May Concern:

Re: Senate Bill 241

Sun City Summerlin Community Association, Inc. (the "Master Association") is comprised of 7,781 homes in a master association with 39 sub-associations. Many of the sub-associations and the Master Association have had issues with their respective developers. In connection therewith, the Master Association is presently being forced to pursue issues related to construction deficiencies at the Master Association.

The Board of Directors of the Master Association has had an opportunity to review SB 241. While at first glance it appears to be a bill which attempts to streamline the construction defect litigation process, it is clear that it is truly an attempt by the construction industry to end construction defect law suits. The bill provides immunity to builders until and unless damage or injury occur arising out of a defect. This prevents an association from pursuing the developer or any third party responsible for the construction deficiencies at a time when it would be more economical to repair such deficiencies and at a time prior to any catastrophic injury or damage occurring to property or persons.

SB 241 further fails to deal with reality. It attempts to shift the review process to two specific groups who have stated publicly that they do not want such responsibility. First, the bill attempts to turn the building inspectors into the final arbiters of what is correct. It further attempts to require the Contractor's Board to provide a penultimate forum for the review of construction deficiencies, even though, in the recent past, the Contractor's Board has specifically stated it did not have the ability, the jurisdiction or, more importantly, the funding to oversee any such claims.

What appears to be most egregious about SB 241 is that the proponents thereof do not take into consideration any of the rights of the homeowners. Specifically, the law, as drafted, requires the homeowners to allow the developers to enter into their property to make repairs without advising the homeowners what repairs are going to be made. Thereafter, the homeowners' recourse is to the Contractor's Board. If the homeowners do not allow the developer to make the undisclosed repairs, in any fashion that the developer desires, the homeowners forfeit their right to go to court. Additionally, there are so many road blocks and hurdles that substantially all homeowners will be frustrated with the process and ultimately forego the process.

What disturbs us the most regarding SB 241, is that our attempts at testifying to the legislature regarding this and/or other bills either fell on deaf ears or were curtailed before they

ASSEMBLY JUDICIARY

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could be started. Representatives of the Association twice attempted to advise the Senate Commerce and Labor Committee or a sub-committee that certain voting requirements were unrealistic and a death knell for construction defect suits for large associations. We specifically testified that in an association like ours, that we have never obtained the vote of 50% of the owners on any matter. We have never had a meeting at which 50% of the owners have even attended. Therefore, when we protested the section of the law which requires the approval of 50% of the owners to proceed with any litigation, we were surprised that it apparently fell on deaf ears. What frustrated us most was that the legislators clearly understand there is substantial apathy in homeowners associations because they have included provisions in SB 100, relating to homeowners associations, which recognize homeowners associations have difficulty in obtaining quorums. Specifically, SB 100 contains provisions which allow for reduced quorums or, in the case of the election of directors, no quorum at all. We find it regrettable that on the one hand there is pending legislation which recognizes the apathy issue in homeowners associations while SB 241 apparently was drafted to take advantage of such apathy for developers.

We also find it unconscionable that SB 241 discriminates against those persons and entities, like homeowners associations, that cannot afford to engage attorneys at hourly rates. SB 241, as drafted, requires the court to award attorneys' fees on an hourly basis, if at all. Substantially all homeowners associations will not be able to afford to pay attorneys on an hourly basis. It is clear that the developer backed legislation is aimed at ending all construction defect lawsuits. It obviously has the backing of the insurance industry, also. We suggest that the contractors and the insurance industry look hard at themselves rather than attempting to change the law. The insurers should not be insuring builders and developers who are regularly sued or subcontractors who work for developers who are regularly sued. Developers should spend the extra dollar to include their own independent inspectors as properties are being constructed which would lead to a lot less faulty construction.

We close by stating that Senate Bill 241 is a specific attack on our rights as a homeowners association and our rights as individuals. We hope that the legislators will see it for what it is and reject it while attempting to craft a bill which would provide for a realistic right of repair without eliminating the homeowners' rights and the homeowners associations' rights to seek redress through the judicial system as we believe is guaranteed to us by the constitutions of State of Nevada and the United States.

Very truly yours,

Sun City Summerlin Community Association, Inc.

By: 

Glenn Hayward, President

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