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The Howard Hughes Corporation SM

An Affiliate of THE ROUSE COMPANY



May 9, 2003

To: To: Assembly Committee on Judiciary
Honorable Bernie Anderson, Chairman
Honorable John Ocequera, Vice Chairman
Committee Members: Barbara Buckley, Jerry Claborn, Marcus Conklin, William Horne, Harry Mortenson, Genie Ohrenschall, Sharron Angle, David Brown, John Carpetner, Jason Geddes, Don Gustavson, Garn Mabey, Rod Sherer

From: Pamela Scott
Summerlin

Thank you for your consideration of Section 1 of SB 136, a section which addresses **penalties for failure to complete construction of a custom home** within the time schedules agreed to in the purchase agreements and the governing documents of custom home communities throughout Nevada.

This issue was addressed in the versions of SB 421 that passed both the Senate and the Assembly in the 2001 Legislative Session. It did not receive any opposition during committee hearings nor on the floor of either house. Unfortunately, the 120-day time limit expired before other issues in SB 421 could be resolved and a consensus version of the bill was never passed.

The Problem: NRS 116 does not define damages and penalties for **failure to complete construction of a custom home** within the time schedules outlined in the lot purchase agreements and the recorded governing documents as a penalty that falls outside of the \$500 penalty cap established for fines for daily living issues - such as failure to maintain landscape or properly store trash cans on non-collection days.

Background: The recorded declarations of numerous custom home communities place reasonable time requirements on the start and completion of construction of homes on the lots that have been purchased in these custom home communities. Both the time requirements and the amount of the monetary penalty (a pre-agreed upon amount) for failure to construct within the time requirements are clearly spelled out in these documents and the purchase agreements **at the time of the original lot purchase.**

Since 1999, when a dollar cap was placed on the amount an association is able to fine, several lot owners who have not met the time schedules (including real estate speculators who buy lots on the resale market) have taken the penalties into arbitration, arguing that they exceed the \$500 cap. They have been successful in this argument to

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SUBMITTED BY: Pam Scott

varying degrees. The custom home associations within the Summerlin master plan illustrate the problems created.

The Howard Hughes Corporation, like numerous other developers in Nevada, is in the business of developing communities and does not sell custom home lots for purposes of real estate speculation. That is why reasonable time limits for construction and completion of a home are made a part of all purchase agreements and the governing documents of these custom home communities. Families who buy into these communities, and construct their homes within the time schedules, do so with the expectation that it will be a community of homes and families.

In our Tournament Hills neighborhood, the first purchaser to build and occupy her home lived with a street that was filled with dust, construction materials, porta potties, trucks and crews of the home under construction next door for the entire eight (8) years she lived there. When she sold her home and moved, the house next door was still not completed.

In the 2001 session, I brought to your attention the Desert Trails neighborhood, where a home was under construction on a lot that was purchased in August of 1995. Over the years, the homes surrounding this lot have had to contend with construction methods using experimental materials, persons living in a camper trailer parked within the construction for the purpose of "guarding" the site, a debris strewn construction site, scaffolding holding unsecured planks and an unsecured building site creating an attractive nuisance for the neighborhood children. **Today that home remains incomplete and unoccupied.**

In Mountain Trails, a real estate speculator and builder bought eighteen lots on the resale market. Now, six years later many of those lots remain vacant, dusty and with no landscaping. **The penalty the lot owners claim is due for all of the above under the existing law? \$500.00!**

Families who purchased their lots and built their homes need to know that the monetary damages assessed for failure to meet these deadlines remain in place as an incentive to require the purchasers of these lots to build their homes or sell the lots to families that will build and occupy homes.

Thank you for your support on this issue.

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