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May 13, 2003

Honorable Bernie Anderson
Chairman, Assembly Committee on Judiciary
re: SB100 Proposed Amendments

Dear Chairman Anderson and Members of the Committee:

On behalf of the Nevada Trial Lawyers Association, we have discussed with the proponents of SB100 amendments to Sec. 67 and 79 of SB100. The amendments are necessary so as to preserve the attorney-client privilege on behalf of homeowners associations needing legal advice. The proposed amendments to Sec. 67, paragraphs 2 and 3 (amending NRS 116.31085) are as follows:

Sec. 67. NRS 116.31085 is hereby amended to read as follows:

2. An executive board may not meet in executive session to enter into, renew, modify, terminate or take any other action regarding a contract, ~~including~~ excluding ~~without limitation~~ a contract with the an attorney ~~for the association~~. If the executive board takes any action regarding a contract, except a contract between the association and an attorney, the contract must be made reasonably available for review by the units' owners of the association.

3. An executive board may meet in executive session **only** to: (a) Consult with the an attorney ~~for the association~~ on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive. ~~The provisions of this paragraph do not permit the executive board to meet in executive session to take any action regarding a contract with the attorney for the association.~~

. . . .

Sec. 67, Subsection 3, page 37, lines 18-38, which amends 116.31085(2) should likewise be deleted.

The intent of this amendment is to place this proposed amendment in the proper section of the Code (NRS 116.31175) and to protect attorney-client privilege materials. This proposed amendment is related to the following amendments and is discussed in more detail below.

ASSEMBLY JUDICIARY

DATE: 5/14/03 ROOM: 3138 EXHIBIT J

SUBMITTED BY: Bob Maddox

1082

Section 79, Subsection 1, page 49, lines 40-45 and page 50, lines 1-9:

1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts of which the association is a party, except for any contract between the association and an attorney, and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

- (a) The personnel records of the employees of the association, except for those records relating to the salaries and benefits of those employees; and
- (b) The records of the association relating to another unit's owner, except for those records described in subsection 2.

As drafted, the current amendment provides that all association contracts must be available for review, inspection and copying. The intent of this series of proposed amendments is to assure that the homeowner has the right to review, inspect and copy any contract entered by the association, unless the contract is protected by the attorney-client privilege. These amendments will also place the amendment in the proper section of the Code, namely NRS 116.31175 which governs the availability of books, records and papers of the association.

Thank you for your kind consideration.

Sincerely,

ROBERT C. MADDOX & ASSOCIATES

ROBERT C. MADDOX

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