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STATEMENT OF JOHN H. GARVIN, CO-CHAIRPERSON OF THE DOUGLAS COUNTY SUSTAINABLE GROWTH INITIATIVE COMMITTEE, IN OPPOSITION TO SB 279

Good afternoon, Madam Chair and members of the Committee. My name is John Garvin and I live in Douglas County. I am speaking today as the Co-chairperson of the Douglas County Sustainable Growth Initiative Committee in opposition to Senate Bill 279. Our committee is a citizen's group whose efforts placed a slow growth measure on the Douglas County ballot last November. Despite a well financed campaign of disinformation mounted by developer and real estate interests, aided and abetted by our elected county officials, it passed handily and the measure is now under court challenge.

It should come as no surprise to you that Senate Bill 279 is Douglas County's and the building industry's direct response to the passage of our initiative. Having failed before the Nevada Supreme Court to keep the matter off the ballot, its sponsors have now turned to the Legislature in a brazen attempt to bludgeon the initiative process on the specific subject of residential growth caps. It is a shameful thing to observe.

In 1912, the people's right to use the initiative process was guaranteed by Article 19, Sec. 2 of the Nevada Constitution which states ". . .the people reserve to themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this constitution, and to enact or reject them at the polls."

In 1961, this right was extended to counties and muncipalities. . "as to all local, special and municipal legislation of every kind . ."

One can say: "Well, we're not doing away with the initiative process in this area, we're just requiring its backers to make certain 'findings' as would the county commissioners or city councils." The problem is that making "findings" would seem to require that a hearing process will have to be set up by the initiative backers as it would be for county commissioners or city councils. Also, SB 279 will impose a substantial expense upon such citizen groups to determine the housing needs of a region, and to assess the financial and environmental resources impacted by a limited growth measure. A vigorous campaign for or against an initiative proposition already assures that the right information will be disseminated to the voters.

A somewhat similar statute was enacted in California under their Government Code Section 65863.6 though it was not narrowly based as is SB 279. Fortunately, their Supreme Court ruled that statute inapplicable to the initiative process stating "how can one prove that the voters weighed and balanced the regional housing needs against the public service, fiscal, and environmental needs . . .it is simply not logical or feasible to place this balancing requirement on the voters." The same insightful logic should apply here. Senate Bill 279 sets forth requirements that are neither feasible nor logical.

Additionally, Article 19, Sec. 5 of the Nevada Constitution states . "The provisions of this article are self executing, but the legislature may provide by law for procedures to facilitate the operation thereof." According to the dictionary, the term "facilitate" means "to make easier." The net effect of Senate Bill 279 will be to impede, not facilitate, the initiative

process in this subject area. That would violate the specific requirement of Article 19, Sec. 5. Your legislative power is limited to "facilitate" and not "impede" the initiative process.

The requirement that such "findings" be made prior to the commencement of an initiative drive further complicates the process and will necessitate a revision of the time line set forth in Chapter 295 so that function can be performed. The net effect of amending Chapter 295 in meeting these requirements is to make it impractical and costly for citizens to exercise their initiative rights as to this subject area. Of course, that is just what our elected officials and the building industry intends to do by way of Senate Bill 279.

Lastly, this is the first instance that Chapter 295, which sets forth the initiative procedure, is being amended to set forth substantive law on a narrow subject matter. Why is that fact significant? Because by hobbling the initiative process in this one narrow area, that is, residential building caps versus all other areas of law that can be the subject on an initiative process, a denial of equal protection of the law likely results. That would be unconstitutional under both the Federal and State Constitutions.

I would urge you not to tinker with Chapter 295 regarding initiative procedure. Let the political process involving proposed initiatives remain intact. Let the voters, in their innate wisdom, make their choices in the open market place of a well discoursed campaign. After all, in their innate wisdom, they elected you. Voters are not dumb or stupid. Many initiatives fail at the polls. Senate Bill 279 amounts to a slap in the face of voters who are constitutionally entitled to enact new legislative policy without being burdened with unrealistic requirements.

Thank you.