

IN THE SUPREME COURT OF THE STATE OF NEVADA

RED HILLS HOMEOWNERS  
ASSOCIATION, A NEVADA  
CORPORATION,  
Appellant,

vs.

LARRY R. KNOPP; DENNIS GRATTON;  
PAM GRATTON; ROSA CREECH; AND  
AUDREY BLOOM,  
Respondents.

No. 46095

**FILED**

JUL 05 2006

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Rubade*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court summary judgment in a real property dispute. Eighth Judicial District Court, Clark County; Jennifer Togliatti, Judge.

Appellant Red Hills Homeowners Association is a Las Vegas condominium project's homeowners' association. Respondents purchased units in the project, which was subject to a declaration of covenants, conditions, and restrictions (CC&Rs) that, among other things, restricted the leasing of units to at least six months' duration. Although an amendment to the CC&Rs generally required a 67 percent vote, any amendment to "change the uses to which any unit is restricted" required a unanimous vote.

In 2002, Red Hills' board of directors circulated a proposal to amend the CC&Rs to prevent condominium owners from leasing their units; respondents did not vote in favor of the amendment. Thereafter, Red Hills' board of directors notified unit owners that the lease-restrictive amendment had passed with a vote in excess of the requisite 67 percent approval. In response, and in accordance with NRS 38.310, respondents

instituted non-binding arbitration proceedings because, as they understood the CC&Rs, adopting the lease-restrictive amendment required a unanimous vote. The arbitrator found in respondents' favor. Red Hills subsequently instituted the underlying action seeking to prevent respondents from leasing their units. The district court granted summary judgment to respondents. Red Hills appeals.

This court reviews orders granting summary judgment de novo.<sup>1</sup> Summary judgment was appropriate if the pleadings and other evidence on file, viewed in a light most favorable to Red Hills, demonstrate that no genuine issue of material fact remained in dispute and that respondents were entitled to judgment as a matter of law.<sup>2</sup> Having reviewed the record in light of this standard, we conclude that the district court did not err when it granted summary judgment to respondents and correspondingly denied Red Hills' summary judgment motion.

"Words in a restrictive covenant . . . are construed according to their plain and popular meaning."<sup>3</sup> Here, the CC&Rs unequivocally provide that "no amendment may change . . . the uses to which any [u]nit is restricted . . . without the unanimous consent of all [o]wner[s] whose [u]nits are so affected."<sup>4</sup> And the provision setting forth that "[n]o [u]nit

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<sup>1</sup>See Wood v. Safeway, Inc., 121 Nev. \_\_, \_\_, 121 P.3d 1026, 1029 (2005).

<sup>2</sup>Id.


<sup>3</sup>Diaz v. Ferne, 120 Nev. 70, 73, 84 P.3d 664, 666 (2004).

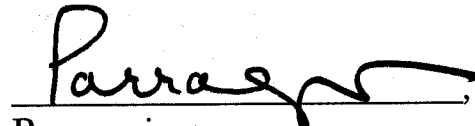
<sup>4</sup>We note that this language substantially parallels NRS 116.2117(4), contained within the Uniform Common-Interest Ownership Act.

shall be . . . leased . . . for a period of less than six months” is located within the section of the CC&Rs entitled “Restrictions on Use of the Property.” Notably, this section is located within the article of the CC&Rs concerning “Provisions with Respect to the Use of Property.”

By the plain terms of the CC&Rs, then, Red Hills’ proposed lease-restrictive amendment, which would amend the current use to which the units are restricted, requires unanimous consent from unit owners. Accordingly, as Red Hills’ proposal failed to receive unanimous owner consent, the district court did not err when it granted summary judgment to respondents, and we affirm the district court’s judgment.

Is it so ORDERED.<sup>5</sup>

  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, Sr. J.  
Shearing

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<sup>5</sup>Red Hills does not appear to challenge the district court award of attorney fees to respondents; thus, we need not consider respondents’ arguments in this regard.

The Honorable Miriam Shearing, Senior Justice, participated in the decision of this matter under a general order of assignment entered January 6, 2006.

cc: Hon. Jennifer Togliatti, District Judge  
Parker Nelson & Arin, Chtd.  
Mario D. Valencia  
Clark County Clerk