

IN THE SUPREME COURT OF THE STATE OF NEVADA

SUN CITY SUMMERLIN COMMUNITY  
ASSOCIATION, INC., A NEVADA NON-  
PROFIT MUTUAL BENEFIT  
CORPORATION, INDIVIDUALLY AND ON  
BEHALF OF ALL ITS MEMBERS,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA, IN AND FOR  
THE COUNTY OF CLARK, AND THE  
HONORABLE ALLAN R. EARL, DISTRICT  
JUDGE,

Respondents,

and

DEL WEBB COMMUNITIES, INC., AN  
ARIZONA CORPORATION; DEL E. WEBB  
DEVELOPMENT CO., L.P., A DELAWARE  
LIMITED PARTNERSHIP; CEDCO, INC.;  
AND EXCLUSIVE LANDSCAPING AND  
MAINTENANCE, INC.,

Real Parties in Interest.

No. 47256

**FILED**

**JUL 17 2006**

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. R. [Signature]*  
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus challenges a district court order granting partial summary judgment in a construction defect case.

In its petition, petitioner requests that this court issue a writ of mandamus directing the district court to vacate its order granting partial summary judgment to the real parties in interest. Petitioner

alleges that the district court erred when it held that NRS 116.3111 only tolls causes of action for indemnity against developers for tort losses, not covered by insurance, incurred by a homeowners' association by virtue of a third party lawsuit. Petitioner further argues that the legislative history behind NRS 116.3111 supports its contention that this tolling statute applies equally to traditional statutes of limitation and to the "repose" statutes, such as NRS 11.203, NRS 11.204 and NRS 11.205.

A writ of mandamus is available to compel the performance of an act that the law requires, or to control an arbitrary or capricious exercise of discretion.<sup>1</sup> Mandamus is an extraordinary remedy, generally unavailable if the petitioner has a plain, speedy, and adequate legal remedy, such as an appeal from a final judgment.<sup>2</sup>

We have considered this petition, and we are not satisfied that this court's intervention by way of extraordinary relief is warranted at this time. In particular, it appears that petitioner has an adequate legal

---

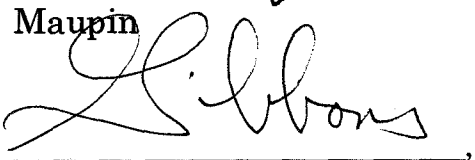
<sup>1</sup>See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

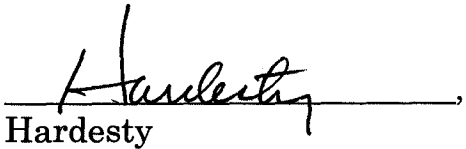
<sup>2</sup>NRS 34.170; Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004) (stating that an appeal is an adequate legal remedy, precluding writ relief).

remedy in the form of an appeal from any adverse final judgment.<sup>3</sup>  
Accordingly, we deny the petition.<sup>4</sup>

It is so ORDERED.

 J.

Maupin  
 J.

Gibbons  
 J.  
Hardesty

cc: Hon. Allan R. Earl, District Judge  
Wolf, Rifkin, Shapiro & Schulman, LLP  
Helm & Associates  
Koeller Nebeker Carlson & Haluck, LLP  
Rands, South, Gardner & Hetey  
Clark County Clerk

---

<sup>3</sup>Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004).

<sup>4</sup>See NRAP 21(b); Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).