IN THE SUPREME COURT OF THE STATE OF NEVADA

CARL D. FRIEDMAN,
Appellant,
vs.
MEADOWOOD MANOR CONDOMINIUM HOMEOWNERS ASSOCIATION,
Respondent.

No. 47734

FILED

JAN 23 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court judgment and an order awarding attorney fees and costs. Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

On September 11, 1998, the Meadowood Manor Condominium Homeowners Association (Association) sent an information packet to the condominium owners discussing the replacement of the wood siding with vinyl siding. Within the packet was a form allowing condominium owners to vote for or against the vinyl siding project. The form asked that the owners respond by September 30, 1998. The Association received approximately ninety votes in favor of the vinyl project. The majority of these votes were received after September 30, 1998.

Condominium owner Carl Friedman (Friedman) expressed his objections to the vinyl siding project, and then pursued arbitration and filed suit. Following trial, the district court dismissed Friedman's claims with prejudice and awarded the Association $22,500 in attorney fees and

$3,163.41 in costs, and confirmed the earlier arbitration award of $2,110.55.[1]

Friedman argues that 1) the district court erred in determining that the "Ballot" distributed by the Association was not a Ballot under NRS 82.326 but rather a "written consent" under NRS 82.276; 2) the governing documents for the Association do not permit voting by written consent; and 3) the Association failed to follow the governing documents and Nevada law by approving capital improvements that resulted in a change of color scheme for the buildings within the complex.

This court has consistently held that the findings of the district court will not be disturbed on appeal if they are supported by substantial evidence.[2] Substantial evidence is evidence which a reasonable person could accept as adequate to support a conclusion.[3] The district court's conclusions of law, including questions of statutory

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[1]The district court's order described the arbitration as a court-annexed arbitration proceeding, but the district court docket entries reflect that this case was exempt from arbitration. Neither party included documentation clarifying this issue, but in light of this appeal's factual background, we assume for purposes of this order that the arbitration was a non-binding arbitration administered by the Real Estate Division of the Department of Business and Industry under NRS 38.300, et seq.

[2]See Clark County v. Sun State Properties, 119 Nev. 329, 334, 72 P.3d 954, 957 (2003).

[3]Nevada Service Employees Union/SEIU Local 1107 v. Orr, 121 Nev. 675, 679, 119 P.3d 1259, 1262 (2005).

construction, are reviewed de novo.[4] This court reviews a district court's award of attorney fees for an abuse of discretion.[5]

Friedman contends that the form sent by the Association on September 11, 1998, was a Ballot under NRS 82.326 and that the district court erred in finding that the form was a written consent under NRS 82.276. We disagree.

NRS 82.326(6) expressly provides that "[n]othing in this section shall be construed to restrict the rights of a corporation to act as provided in NRS 82.276." The district court found that the form failed to meet the formal ballot requirements of NRS 82.326. Rather, the district court found that the form instead fulfilled the less formal requirements of a written consent under NRS 82.276. We conclude that the record supports the district court's findings. We further conclude that the Association effectively communicated its solicitation for written consent for vinyl siding installation to the voting members via the information packet and meetings with condominium owners. The members approved the siding installation with ninety-one votes. We further conclude that the record fails to demonstrate that the Association intended a formal ballot under NRS 82.326. Consequently, we conclude that the record supports the district court's finding that the Association's approval of the vinyl siding installation followed all relevant governing rules and Nevada law.

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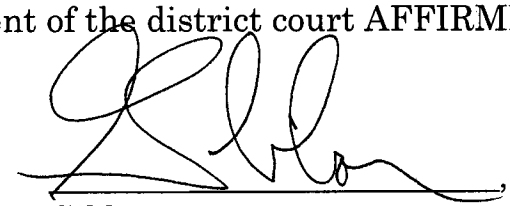
[4]Clark County, 119 Nev. at 334, 72 P.3d at 957.

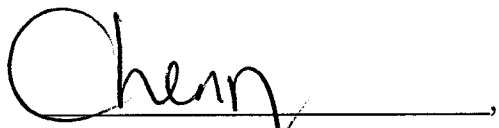
[5]Mack-Manley v. Manley, 122 Nev. 849, 860, 138 P.3d 525, 533 (2006).

Lastly, we perceive no abuse of discretion in the district court's grant of attorney fees and costs, and Friedman failed to timely appeal the confirmation of the earlier arbitration award, amounting to $2,110.55. Consequently, we conclude that the record supports the district court's award of $27,773.96 to the Association. Accordingly we,

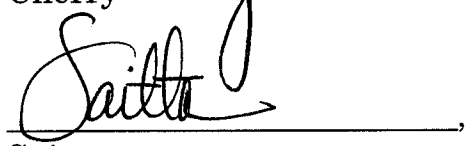
ORDER the judgment of the district court AFFIRMED.



_____, C. J.
Gibbons



_____, J.
Cherry



_____, J.
Saitta

cc: Hon. Robert H. Perry, District Judge
William G. Cobb, Settlement Judge
Law Offices of Ryan J. Earl
Steve E. Wenzel
Washoe District Court Clerk