

IN THE SUPREME COURT OF THE STATE OF NEVADA

D.R. HORTON, INC., A DELAWARE CORPORATION,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, AND THE HONORABLE SUSAN JOHNSON, DISTRICT JUDGE,

Respondents,

and

ROBERT AND PHYLLIS GUNDERSON, INDIVIDUALLY; SHARRON LIBBY AND JAMES BLANIONA, INDIVIDUALLY; BARRY LAYTON, INDIVIDUALLY; TOMI DUREN, INDIVIDUALLY; LINDA WATERS, INDIVIDUALLY; JESSICA GRANT, INDIVIDUALLY; STEVEN AND CHERYL CHIMENTO, INDIVIDUALLY; CLIFFORD AND CHALINA COUSER, INDIVIDUALLY; PAULA WIGGER, INDIVIDUALLY; DEANNA DAVIS, INDIVIDUALLY; DICK JONES, INDIVIDUALLY; ED REARDON, INDIVIDUALLY; SHERI BRUNETTE, INDIVIDUALLY; STEVEN IRELAND, INDIVIDUALLY; MICHELLE CLAPPER, INDIVIDUALLY; MESSINA KLEIN, INDIVIDUALLY; ALICIA JACKSON, INDIVIDUALLY; NANCY JANSEN, INDIVIDUALLY; JOHN MENICHELLI, INDIVIDUALLY; THOMAS SHARRAI, INDIVIDUALLY; SHARON BYRAM, INDIVIDUALLY; RODERICK COLEMAN, INDIVIDUALLY; SUZANNE ALLEN, INDIVIDUALLY; CASEY

No. 49683

FILED

JUL 17 2007

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

MCCULLOGH, INDIVIDUALLY; ELLIE SEYBOLD, INDIVIDUALLY; ROBERT WEBER, INDIVIDUALLY; KAREN KELLISON, INDIVIDUALLY; JUAN LOPEZ, INDIVIDUALLY; AMELIA BENNETT, INDIVIDUALLY; HELEN SCUNGIO, INDIVIDUALLY; SHONNA MAYFIELD, INDIVIDUALLY; JEFF HELPER, INDIVIDUALLY; MARY RAMOS, INDIVIDUALLY; GIUSEPPE GEROSOLINO, INDIVIDUALLY; GUNTHER PAUL, INDIVIDUALLY; SHARON EPSTEIN, INDIVIDUALLY; KURT VON DE BUSSHER, INDIVIDUALLY; WENDY MURATA, INDIVIDUALLY; VANESSA CASTER, INDIVIDUALLY; WANDA BERKHOLTZ, INDIVIDUALLY; IRVING HART AND TAMMY BREEDER, INDIVIDUALLY; GREGORY GABA, INDIVIDUALLY; DENNIS WERRA, INDIVIDUALLY; ROBERT AND BONNIE BRUCE, INDIVIDUALLY; JOANNE PETERSON, INDIVIDUALLY; PATTI OVERMAN, INDIVIDUALLY; MIGUEL AND DESIREE SANTANA, INDIVIDUALLY; GAGANATH PYARA, INDIVIDUALLY; SHLOMI SHALOM, INDIVIDUALLY; KRISTI RODRIGUEZ, INDIVIDUALLY; JODI WISE, INDIVIDUALLY; ARIEL AND CHRISTINA RICCITELLI, INDIVIDUALLY; AMANUAL ASFAHA, INDIVIDUALLY; EDITH MOLNAR, INDIVIDUALLY; AND PATRICIA LAROCK-BARRETT, INDIVIDUALLY, Real Parties in Interest.

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS AND PROHIBITION

This original petition for writs of mandamus and prohibition challenges a district court order denying, without prejudice, a motion to dismiss certain parties and granting a motion for substitution of certain parties in a constructional defect action.

Petitioner specifically requests (1) a writ of mandamus directing the district court to dismiss from the action below plaintiffs who, according to petitioner, either never had or no longer have an interest in the home tied to their respective construction defect claims and (2) a writ of prohibition precluding from the action plaintiffs who, after the action below was instituted, acquired their homes from those plaintiffs who, as a result of the sale, allegedly no longer have an interest in the homes at issue. In essence, petitioner asserts that, with respect to homes sold during the pending litigation, no one—neither the former nor the current homeowners—have viable constructional defect claims.

Both mandamus and prohibition are extraordinary remedies, and it is within this court's discretion to determine if a petition will be considered.¹ This court generally will not exercise its discretion to consider petitions for extraordinary writ relief that challenge district court orders denying motions to dismiss, unless dismissal is clearly required by a statute or rule, or an important issue of law requires clarification.² In

¹See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).


²Smith v. District Court, 113 Nev. 1343, 1345, 950 P.2d 280, 281 (1997).

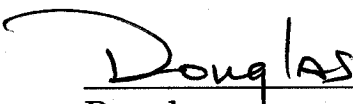
addition, a writ may be issued only when the petitioner has no plain, speedy, and adequate legal remedy.³

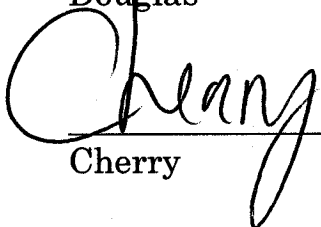
To demonstrate that this court's intervention by way of extraordinary relief is warranted is petitioner's burden.⁴ Having considered this petition and its supporting documentation, we are not persuaded that our extraordinary intervention is warranted. And petitioner's right to appeal any adverse final decision constitutes a plain and adequate legal remedy that precludes extraordinary relief.⁵

Accordingly, we

ORDER the petition DENIED.⁶


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

³NRS 34.170, 34.330.

⁴Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

⁵See id. at 224, 88 P.3d at 841.

⁶NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.

In light of this order, we deny as moot petitioner's "emergency" motion for a stay.

cc: Hon. Susan Johnson, District Judge
Marquis & Aurbach
Quon Bruce Christensen Law Firm
Eighth District Court Clerk