

IN THE SUPREME COURT OF THE STATE OF NEVADA

WOLFE THOMPSON,  
Appellant,  
vs.  
SIERRA VISTA RANCHOS  
HOMEOWNERS' ASSOCIATION,  
Respondent.

No. 53822

**FILED**

**JUL 20 2010**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court summary judgment in a real property action. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

NRS Chapter 38 requires that certain civil actions be submitted to mediation or arbitration with the Nevada Real Estate Division before being commenced in the district court. NRS 38.310(1)(a). Excluded from this requirement, however, are actions in “equity for injunctive relief in which there is an immediate threat of irreparable harm, or an action relating to the title to residential real property.” NRS 38.300(3).

Here, while appellant Wolfe Thompson’s complaint included an action in equity for injunctive relief, there was no immediate threat of irreparable harm. Although respondent Sierra Vista Ranchos Homeowners’ Association’s enforcement of its rules may result in delay and increased expenses, we conclude that this result does not constitute irreparable harm. See NRS 38.300(3); Hamm v. Arrowcreek Homeowners’ Ass’n, 124 Nev. 290, 297, 183 P.3d 895, 901 (2008) (noting that “[g]enerally, harm is ‘irreparable’ if it cannot adequately be remedied by

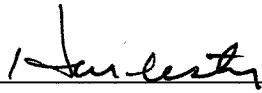
compensatory damages (internal quotations omitted)); cf. Fritz Hansen A/S v. Dist. Ct., 116 Nev. 650, 658, 6 P.3d 982, 986-87 (2000) (concluding, in denying a stay under NRAP 8, that increased litigation costs and delay of district court proceedings does not constitute irreparable harm). We further reject Thompson's contention that his complaint is exempt from NRS 38.310's requirements because it involves an action relating to title to residential property. See Hamm, 124 Nev. at 298, 183 P.3d at 902 (stating that title involves "the legal right to control and dispose of property" [quoting Black's Law Dictionary 1522 (8th ed. 2004)]).

Because NRS 38.300(3)'s exceptions do not apply, we conclude that Thompson's complaint relates to the interpretation, application, and enforcement of the Association's rule restricting access to the gated community on Sundays and federal holidays. Therefore, the matter must be submitted to the Nevada Real Estate Division for mediation or arbitration before Thompson may seek relief in the district court. NRS 38.310(1)(a); NRS 38.300(3); see Hamm, 124 Nev. at 301-02, 183 P.3d at 904 (concluding that an action to remove a lien, without foreclosure proceedings, did not involve an immediate threat of irreparable harm or relate to title to residential property and was thus required to be mediated or arbitrated under NRS 38.310, as the parties had disputed the interpretation and enforcement of the homeowners' association's covenants, conditions, and restrictions). As a result, the district court did not err in granting summary judgment to the Association on Thompson's claims. See Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005); Schneider v. Continental Assurance Co., 110 Nev. 1270, 1271, 885 P.2d 572, 573 (1994) (stating that when matters outside the pleadings are

considered, a motion to dismiss is treated as one for summary judgment).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>1</sup>

 \_\_\_\_\_, J.  
Hardesty

 \_\_\_\_\_, J.  
Douglas

 \_\_\_\_\_, J.  
Pickering

cc: Hon. Michael Villani, District Judge  
Eva Garcia-Mendoza, Settlement Judge  
S. Wolfe Thompson  
Leach Johnson Song & Gruchow  
Eighth District Court Clerk

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<sup>1</sup>In light of this order, we need not address Thompson's remaining arguments concerning the reasonableness, validity, and scope of the Association's covenant, conditions, restrictions, and rules.