

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEL WEBB COMMUNITIES, INC.; PN
II, INC.; AND TERRAVITA HOME
CONSTRUCTION CO.,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
TIMOTHY C. WILLIAMS, DISTRICT
JUDGE,

Respondents,

and

RONALD L. WEISS; ALVIN DEMPSEY;
KRISTI DEMPSEY; ROBERT
JACOBSON; PRISCILLA JACOBSON;
ROBERT HALE; HENRI HALE; JAMES
MCCARTHY; GLORIA MCCARTHY;
WILLIAM & MARGARET BOTTS
FAMILY TRUST; RICHARD WUBBEL;
BURNADETTE WUBBEL; SCHNEIDER
FAMILY TRUST; LAMONTE
MCLEMORE; DENNIS OBREGON
TRUST; KEVIN C. LUSH; TAMI
DAYMUDE-LUSH; KENNETH
HERMAN; ROBERT GAMBIT; GLORIA
GAMBIT; YOSHIMOTO FAMILY
TRUST; BOYLE 1985 LIVING TRUST,
AMGT.; JOHN GUNDERSON; KAREN
GUNDERSON; PAYNE FAMILY
TRUST; BALJIT DEOL; JASKIRAN
DEOL; RICHARD ERLICH; SUZY
ERLICH; MICHELLE AND GEORGE
ANSCOMB TRUST; MARY AUGUST
TRUST; LARRY J. ODLE TRUST;
DAVID WARD RICHDALE TRUST;
BARBARA ALLEN; KATHLEEN
GILLESPIE; NINA HARTWELL TRUST;

No. 60518

FILED

FEB 15 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. Malone*
DEPUTY CLERK

LAURA MACAULAY; MARIE SUE
MACAULAY; LAURA ANN
MACAULAY; FORD FAMILY TRUST;
AND GREGORY M. & MARY E.
MATIYA REVOCABLE TRUST,
INDIVIDUALLY AND/OR IN THEIR
INDIVIDUAL CAPACITIES AND AS
CLASS REPRESENTATIVES ON
BEHALF OF SIMILARLY SITUATED
HOMEOWNERS WITHIN THE
ANTHEM COUNTRY CLUB
DEVELOPMENT,
Real Parties in Interest.

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION

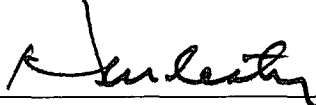
This original petition for a writ of mandamus, or alternatively, prohibition, challenges a district court order granting a motion for class certification in a construction defect lawsuit.

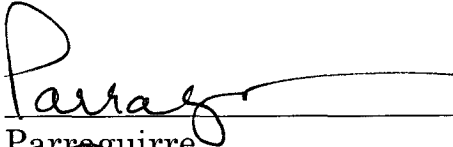
A writ of mandamus is available to compel the performance of an act that the law requires or to control an arbitrary or capricious exercise of discretion. NRS 34.160; International Game Tech. v. Dist. Ct., 124 Nev. 193, 197, 179 P.3d 556, 558 (2008). A writ of prohibition may be warranted when the district court exceeds its jurisdiction. NRS 34.320. Either writ is an extraordinary remedy, Smith v. District Court, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991), and it is petitioners' burden to demonstrate that our intervention is warranted. Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

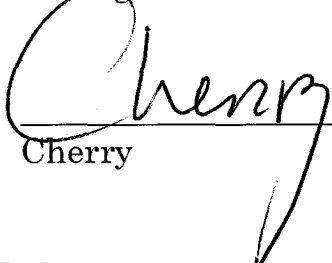
Petitioners contend that the district court acted arbitrarily and capriciously in concluding that NRCP 23's class action prerequisites were satisfied, and they ask that we order the district court to de-certify the class. A review of the record, however, demonstrates that the district

court exercised its considered discretion in analyzing NRCP 23's prerequisites and in determining that a class action was the superior method of adjudicating plaintiffs' claims.¹ NRS 34.160; International Game Tech., 124 Nev. at 197, 179 P.3d at 558. Accordingly, we

ORDER the petition DENIED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Timothy C. Williams, District Judge
Koeller Nebeker Carlson & Haluck, LLP/Las Vegas
Bourassa Law Group, LLC
Eighth District Court Clerk

¹We note that, in exercising its discretion, the district court expressly stated that class certification "shall be conditional, and may be altered, amended or revoked pursuant to NRCP 23(c)(1)."