IN THE SUPREME COURT OF THE STATE OF NEVADA

DORRELL SQUARE HOMEOWNERS' ASSOCIATION, A DOMESTIC NON-PROFIT 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
D.R. HORTON, INC., A DELAWARE CORPORATION,
Real Party in Interest.

No. 64131

FILED

DEC 23 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

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 determining that petitioner can litigate, on behalf of its members, certain claims for construction defects.

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; *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 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. Whether a petition for mandamus or prohibition relief will be considered is purely discretionary with this court. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 818 P.2d 849, 851 (1991). It is petitioner's burden to demonstrate that our extraordinary

intervention is warranted. *Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 228, 88 P.3d 840, 844 (2004). Writ relief is generally available only when there is no plain, speedy, and adequate remedy in the ordinary course of law. NRS 34.170; NRS 34.330; *Smith*, 107 Nev. at 677, 818 P.2d at 851. Moreover, this court has held that the right to appeal is typically an adequate legal remedy precluding writ relief. *Pan*, 120 Nev. at 224, 88 P.3d at 841.

Having considered the petition, answer, and reply, we conclude that our intervention by way of extraordinary relief is not warranted. *Smith*, 107 Nev. at 677, 818 P.2d at 851. Specifically, petitioner has an adequate legal remedy in the form of an appeal from a final judgment. *Pan*, 120 Nev. at 224, 88 P.3d at 841. Accordingly, we

ORDER the petition DENIED.[1]

Pickering, C.J.
Pickering

Hardesty, J.
Hardesty

Cherry, J.
Cherry

cc: Hon. Susan Johnson, District Judge
James R. Christensen
Maddox, Isaacson & Cisneros, LLP
Wolfenzon Rolle/Las Vegas
Marquis Aurbach Coffing
Wright, Finlay & Zak, LLP/Las Vegas
Eighth District Court Clerk

[1]In light of this order, we deny as moot petitioner's motion for an extension of time to file its reply brief.