

IN THE SUPREME COURT OF THE STATE OF NEVADA

63 MEGAN TRUST, A NEVADA TRUST,  
DAVID TOTH AND SIRWAN TOTH,  
TRUSTEES,  
Appellant,  
vs.  
BANK OF AMERICA, N.A., AS  
SUCCESSOR BY MERGER TO BAC  
HOME LOANS SERVICING, LP, A  
TEXAS CORPORATION,  
Respondent.

No. 70629

**FILED**

JUL 20 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

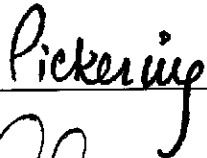
*ORDER VACATING JUDGMENT AND REMANDING*

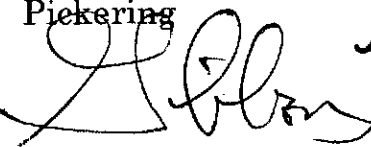
This is an appeal from a district court summary judgment in an action to quiet title to real property. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge. Reviewing the summary judgment de novo, *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005), we vacate the district court's order and remand for further proceedings.


The district court granted summary judgment in favor of respondent based solely on its determination that the relevant provisions of NRS chapter 116 violate the Due Process Clause. Thereafter, this court held that the same statutory provisions do not violate the Due Process Clause because the nonjudicial foreclosure of a homeowners' association's lien for unpaid assessments does not constitute state action. *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortg.*, 133 Nev., Adv. Op. 5, 388 P.3d 970 (2017). The district court therefore erred in granting summary judgment. Although the parties raised a number of other issues

below, the district court did not address them and we decline to do so for the first time on appeal. Accordingly, we

ORDER the judgment of the district court VACATED AND REMAND this matter to the district court for proceedings consistent with this order.

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

  
\_\_\_\_\_, J.  
Gibbons

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

cc: Hon. Kenneth C. Cory, District Judge  
Janet Trost, Settlement Judge  
David Toth  
Hong & Hong  
Sirwan Toth  
Akerman LLP/Las Vegas  
Eighth District Court Clerk