

IN THE SUPREME COURT OF THE STATE OF NEVADA

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3 ANSE, INC. d/b/a/ NEVADA STATE) CASE NO.: 51049
4 PLASTERING)
5) District Court Case No.: A470159
6) Department: XIX
7) [Currently being heard in Dept. XXII]
8 vs.)
9) **MOTION FOR LEAVE TO FILE**
10) **JOINDER TO ANSE D/B/A NEVADA**
11) **STATE PLASTERING'S PETITION**
12) **FOR WRIT OF MANDAMUS AND TO**
13) **AUGMENT THE RECORD**
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Petitioner,

Respondent,

Real Parties In Interest.

**MOTION FOR LEAVE TO FILE JOINDER TO ANSE D/B/A NEVADA STATE
PLASTERING'S PETITION FOR WRIT OF MANDAMUS AND TO AUGMENT
THE RECORD**

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THE HONORABLE ALLAN R. EARL
DEPARTMENT XIX
EIGHTH JUDICIAL DISTRICT COURT OF
CLARK COUNTY, NEVADA
Complex Litigation Center
333 South Sixth Street
Las Vegas, NV 89101
(702) 671-4450
Respondent

Attorneys for Defendant
DEL WEBB COMMUNITIES, INC., an
Arizona Corporation; DEL E. WEBB
DEVELOPMENT CO., L.P., A Delaware
Limited Partnership, DW HOMEBUILDING
CO., an Arizona Corporation; DEL WEBB
CORPORATION, a Delaware Corporation;
PULTE HOME CORPORATION, a
Michigan Corporation; PULTE HOMES,
INC., a Michigan Corporation

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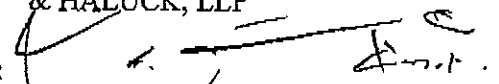
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**MOTION FOR LEAVE TO FILE JOINDER TO ANSE D/B/A NEVADA STATE
PLASTERING'S PETITION FOR WRIT OF MANDAMUS AND TO AUGMENT
THE RECORD**

COMES NOW, Defendant DEL WEBB COMMUNITIES, INC., an Arizona Corporation; DEL E. WEBB DEVELOPMENT CO., L.P., A Delaware Limited Partnership, DW HOMEBUILDING CO., an Arizona Corporation; DEL WEBB CORPORATION, a Delaware Corporation; PULTE HOME CORPORATION, a Michigan Corporation; PULTE HOMES, INC., a Michigan Corporation [hereinafter collectively referred to as, "Del Webb"], by and through Robert C. Carlson, Esq. and Megan K. Dorsey, Esq. their attorneys, and hereby submits this MOTION FOR LEAVE TO FILE JOINDER TO ANSE D/B/A NEVADA STATE PLASTERING'S PETITION FOR WRIT OF MANDAMUS AND TO AUGMENT THE RECORD.

DATED this 21st day of March, 2008.

KOELLER, NEBEKER, CARLSON
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By: 

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Arizona Corporation; DEL E. WEBB
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Limited Partnership, DW HOMEBUILDING
CO., an Arizona Corporation; DEL WEBB
CORPORATION, a Delaware Corporation;
PULTE HOME CORPORATION, a Michigan
Corporation; PULTE HOMES, INC., a Michigan
Corporation

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2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 On February 7, 2008, Petitioner ANSE D/B/A NEVADA STATE PLASTERING'S,
4 filed a Petition for Writ of Mandamus with this honorable Court concerning Respondent
5 Court's Order on their Motion for Partial Summary Judgment Regarding application of
6 N.R.S. 40.600 *et seq.* At issue in that Motion was this Court's interpretation of the term
7 "new residence" in *Westpark Owners' Ass'n v. Dist. Ct.*, 123 Nev. Adv. Op. No. 37 (2007).
8 On March 6, 2006, this honorable Court filed an Order Directing Answer and Setting Oral
9 Argument.

10 Petitioner filed their Motion for Partial Summary Judgment Regarding Application of
11 N.R.S. 40.600 *et seq.* in the District Court on November 15, 2007. On November 27, 2007,
12 Del Webb joined in that Motion and filed its own Motion for Partial Summary Judgment
13 regarding application of N.R.S. 40.600 *et seq.* on December 3, 2007. Del Webb and
14 Petitioner ANSE asserted within their respective Motions that the benefits afforded
15 homeowners pursuant to N.R.S. 40.600 *et seq.* do not apply to the 729 homes that have been
16 sold to subsequent purchasers, as those homes no longer qualify as "new residences" under
17 this Honorable Court's rulings in *Westpark Owners' Ass'n v. Dist. Ct.*, 123 Nev. Adv. Op.
18 No. 37 (2007). Respondent Court denied both Motions after full briefing and oral argument
19 on each. Respondent Court issued Orders on both Motions on January 9, 2008. Petitioner
20 seeks review of these Orders.

21 Del Webb respectfully requests that this honorable Court accept and consider Del
22 Webb's PROPOSED JOINDER TO ANSE D/B/A NEVADA STATE PLASTERING'S
23 PETITION FOR WRIT OF MANDAMUS AND AUGMENTATION OF THE RECORD.
24 Del Webb certainly has an interest in the outcome of the current Petition, as they are the
25 primary Defendant in the underlying case. Del Webb asserts that their rights to join in this
26 Petition for Writ of Mandamus were preserved, as they had not only joined in Petitioner's
27 underlying Motion at issue, but also filed and argued their own Motion for Partial Summary
28 Judgment. Del Webb would have the right to bring their own Petition for Writ of Mandamus

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in regards to Respondent Court's ruling on the issues at hand; however, judicial economy will better be served if the Court accepts and considers Del Webb's supplemental points and authorities and augmentation of the record at this time.

Del Webb asserts that the pleadings concerning their Motion for Partial Summary Judgment are important to a thorough analysis of this issue and should be considered. The Petition for Writ of Mandamus does not contain Del Webb's Motions from the District Court proceedings and/or the transcript from that hearing. The record in this case should be augmented to include, *inter alia*, all of the documents and argument regarding Del Webb's Motion.

It is also of note that this Court's opinion in *Pankopf v. Peterson*, 124 Nev. Adv. Op. No. 4, 175 P.3d 910 (2008) is dated February 7, 2008, which was the same day that Petitioner ANSE filed their Petition for extraordinary relief. As such, Petitioner could not have included discussion of *Pankopf* in the initial Petition. The *Pankopf* case discusses this Court's previous opinion in *Westpark*, which is the focus of the issue at hand and is of importance to this issue.

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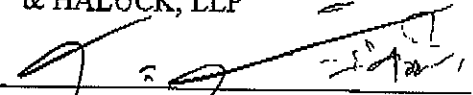
CONCLUSION

For the foregoing reasons, Del Webb respectfully requests that this honorable Court grant the MOTION FOR LEAVE TO FILE JOINDER TO ANSE D/B/A NEVADA STATE PLASTERING'S PETITION FOR WRIT OF MANDAMUS AND TO AUGMENT THE RECORD.

DATED this 21st day of March, 2008.

KOELLER, NEBEKER, CARLSON
& HALUCK, LLP

By:


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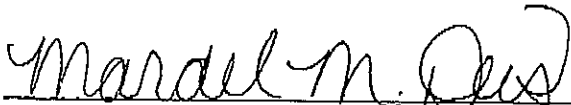
CERTIFICATE OF FACSIMILE & MAILING

I HEREBY CERTIFY that on the 21st day of March, 2008, I served a true and correct copy of the foregoing **MOTION FOR LEAVE TO FILE JOINDER TO ANSE D/B/A NEVADA STATE PLASTERING'S PETITION FOR WRIT OF MANDAMUS AND TO AUGMENT THE RECORD** by transmitting via facsimile to the below facsimile numbers & by depositing a copy in the United States Mail at Las Vegas, Nevada postage fully prepaid, addressed to the following individual(s):

Tracy Strickland, Esq. Barry T. Mitidiere, Esq. WOLF, RIFKIN, SHAPIRO SCHULMAN, LLP 3556 E. Russell Road Las Vegas, NV 89120-2234	T: (702) 341-5200 F: (702) 341-5300	Plaintiffs
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Nicholas B. Salerno, Esq. LINCOLN, GUSTAFSON & CERCOS 1120 Town Center Drive, #260 Las Vegas, NV 89144	T: (702) 257-1997 F: (702) 257-2203	ANSE, Inc. dba Nevada State Plastering
Kevin E. Helm, Esq. HELM & ASSOCIATES 2810 West Charleston Boulevard Suite G-67 Las Vegas, NV 89102	T: (702) 258-0022 F: (702) 258-0114	Co-Counsel for ANSE, Inc. d/b/a Nevada State Plastering

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Peter C. Brown, Esq. Haneefah S. Morehead, Esq. BREMER, WHYTE, BROWN & O'MEARA, LLP 7670 West Lake Mead Boulevard, Suite 225 Las Vegas, NV 89128	T: (702) 258-6665 F: (702) 258-6662	Pratte Development Co., Inc.
Janeen V. Isaacson, Esq. MARKS & ISAACSON LLP 1120 Town Center Drive, Suite 200 Las Vegas, NV 89144	T: (702) 341-7870 F: (702) 341-8049	Dean Roofing (erroneously sued as Dean Insulation/Roofing Co.)
Edward F. Lanigar, Esq. BENNION CLAYSON & MARIAS 1140 N. Town Center Drive, Suite 200 Las Vegas, NV 89144	T: (702) 233-9660 F: (702) 233-9665	Dean Roofing Company, Inc.


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