

1 **NEOJ**

2 ROGER J. GRANT, ESQ., NVB: 004103

3 CHARLES M. LITT, ESQ., NVB: 006040

4 BRUCE MAYFIELD, ESQ., NVB: 007440

5 FEINBERG GRANT MAYFIELD KANEDA & LITT, LLP

6 1955 Village Center Circle

7 Las Vegas, Nevada 89134

8 (702) 947-4900 / (702) 947-4901 FAX

9 Attorneys for Plaintiffs

10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 JOHN WEBER and VINCENT  
13 BRUTTOMESSO; individually and on behalf  
14 of the class members at the Sun City  
15 Summerlin Community; and ROE  
16 HOMEOWNERS 1 through 2000;

17 Plaintiffs,

18 v.

19 DEL WEBB COMMUNITIES, INC., an  
20 Arizona Corporation; and DOES 1 through  
21 100, inclusive,

22 Defendants.

CASE NO.: A471095

DEPT. NO.: XIX

(ELECTRONIC FILING CASE)

**NOTICE OF ENTRY OF  
ORDER**

23 YOU WILL PLEASE TAKE NOTICE that on the 11th day of December, 2006, an Order  
24 granting Final Approval of Class Action Settlement was entered in the above-entitled matter.  
25 A copy of the Order is attached.

26 DATED this 12th day of December, 2006

27 **FEINBERG GRANT MAYFIELD  
KANEDA & LITT, LLP**

28 By: s:/Bruce Mayfield, Esq.

BRUCE MAYFIELD, ESQ., NVB: 007440

ROGER J. GRANT, ESQ., NVB: 004103

CHARLES M. LITT, ESQ., NVB: 006040

1955 Village Center Circle

Las Vegas, Nevada 89134

Attorneys for Plaintiffs

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8

s:/ Robin J. Black  
An employee of FEINBERG GRANT  
MAYFIELD KANEDA & LITT, LLP

ORIGINAL

ELECTRONICALLY FILED  
12/11/2006 03:56:15 PM

  
CLERK

**ORDR**

ROGER J. GRANT, ESQ., NVB: 004103  
BRUCE MAYFIELD, ESQ., NVB:007440  
DANIEL H. CLIFFORD, ESQ., NVB:007656  
FEINBERG GRANT MAYFIELD KANEDA & LITT, LLP  
1955 Village Center Circle  
Las Vegas, Nevada 89134  
(702) 947-4900 / (702) 947-4901 FAX  
Attorneys for Plaintiffs

WILLIAM L. LARSON, ESQ.  
*Admitted Pro Hoc Vice*  
KIESEL, BOUCHER & LARSON, LLP  
8648 Wilshire Blvd.  
Beverly Hills, California 90211-2910  
(310) 854-4444 / (310) 854-0812 FAX  
Attorneys for Plaintiffs

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

JOHN WEBER and VINCENT  
BRUTTOMESSO; individually and on behalf  
of the class members at the Sun City  
Summerlin Community; and ROE  
HOMEOWNERS 1 through 2000;

Plaintiffs,

v.

DEL WEBB COMMUNITIES, INC., an  
Arizona Corporation; and DOES 1 through  
100, inclusive,

Defendants.

CASE NO.: A471095  
DEPT. NO.: XIX

**(ELECTRONIC FILING CASE)**

**ORDER**

Hearing Date: 12/11/06  
Hearing Time: 1:30 p.m.

**AND RELATED ACTIONS.**

Before the Court on Monday, December 11, 2006, Hon. Allan R. Earl, District Court  
Judge presiding, was Plaintiffs' Final Approval of Class Action Settlement.

WHEREAS, with 1,934 discernable putative members the numerosity qualification of  
N.R.C.P. Rule 23(a)(1) has been met because the class is so numerous that joinder of all  
members would be impractical;

1 WHEREAS, the putative class claims relate to unsleeved copper pipe and the actual or  
2 potential of said pipes leaking, the plaintiffs' claims meet the requirement of N.R.C.P. Rule  
3 23(a)(2) with regards to commonality of questions of law and fact;

4 WHEREAS, the class representatives have much the same problems with the unsleeved  
5 copper pipe as the members of the putative class, their claims are typical of the claims of the  
6 class, thus satisfying N.R.C.P Rule 23(a)(3);

7 WHEREAS, the class representatives and class counsel can adequately represent the  
8 putative class, N.R.C.P. Rule 23(a)(4) is satisfied;

9 WHEREAS, the settlement terms to establish a trust fund that is going to give  
10 approximately the same amount to every homeowner to repair pipe failures that result from the  
11 installation of unsleeved copper pipe is a superior method for resolution of the claims than  
12 individual lawsuits that would create a risk of (a) inconsistent or varying adjudications with  
13 respect to individual members of the class which would establish incompatible standards of  
14 conduct for the opposing party(ies), and (b) adjudications with respect to individual members  
15 of the class which would as a practical matter be dispositive of the interests of other members  
16 not parties to the adjudication or substantially impair or impede their ability to protect their  
17 interests satisfies the provisions of N.R.C.P. Rule 23(b)(1);

18 WHEREAS, the questions of law or fact common to the members of the putative class  
19 predominate over any questions affecting only individual members; and, a class action is  
20 superior to other available methods for the fair and efficient adjudication of the controversy, the  
21 requirements of N.R.C.P. Rule 23(b)(3) are met;

22 WHEREAS, the Court finds the negotiations between the parties were done at arms  
23 length;

24 WHEREAS, the settlement is fair and equitable based on the legal and factual problems  
25 that would arise if this case were to be litigated to a final resolution; and,

26 WHEREAS, approximately 80% of the settlement sum of \$2,500,000.00 will be  
27 apportioned to the putative class after payment of attorneys fees and litigation costs;

28

1       WHEREFORE, the Court finds, after hearing, that the settlement is fair, reasonable, and  
2 in the best interest of the class;

3       THEREFORE, it is ordered that:

4   1.   Certification of Class: The Order granting class certification and preliminary approval  
5 of class action settlement signed by the Court on December 8, 2006, certifying a class consisting  
6 of each owner of record as of October 16, 2006, and any current successor in interest, of a  
7 residence within the Sun City Summerlin Community which was built prior to July 17, 1991  
8 (hereinafter referred to in the singular as "Owner") for purposes of settlement, is affirmed;

9   2.   Settlement Amount: The gross settlement amount is \$2,500,000.00 to be paid by  
10 defendant to class counsel by January 15, 2007.

11   3.   Award of Fees and Expenses: In accordance with these findings and conclusions the law  
12 firm of Feinberg Grant Mayfield Kaneda & Litt, LLP is awarded \$475,000.00 as compensation  
13 and \$22,372.48 as reimbursement expenses, to be paid from the gross settlement amount. The  
14 difference between the gross settlement and the award of attorney fees and expenses shall be  
15 the net settlement sum;

16   4.   Funds in Trust and Allocation: The net settlement sum shall be held in a trust, approved  
17 by the Court, and distributed to the class members, upon a once only claim for actual damages,  
18 supported by reasonable proof of one or more actual underslab pipe leaks attributable to non-  
19 sleeved, underslab copper pipe, to a maximum of \$5,000.00 per residence until the funds are  
20 exhausted or January 1, 2016, whichever is earlier. If the funds are not exhausted prior to  
21 January 1, 2016, the residual shall be distributed pro rata to the then Owners of the residences  
22 who are neither bound by an election to opt-out of the class, nor a prior claim on the trust fund.  
23 The fees or costs, if any, associated with the administration of the trust fund shall be paid from  
24 the corpus of the trust. The reasonableness of such administration fees and cost shall be subject  
25 to approval by the Court;

26   5.   Repairs Prior to Certification of Class: Any Owners of residences that have experienced  
27 underslab pipe leaks prior to certification of the class attributed to non-sleeved, underslab  
28 copper pipe and who paid for repair of the pipes, including payment by an insurance company

1 on behalf of the Owner or a predecessor, may make a once only claim on the trust fund for  
2 actual payment of repairs, supported by reasonable proof that the repairs were necessitated by  
3 one or more underslab pipe leaks attributable to non-sleeved, underslab copper pipe, to a  
4 maximum of \$5,000.00 per residence.

5 Any Owners of residences that have experienced one or more underslab pipe leaks prior  
6 to certification of the class, attributed to non-sleeved, underslab copper pipe, and which pipe  
7 leaks were repaired by one or more of the defendants, or the defendant's agent, by rerouting the  
8 copper pipe through the residence's attic, are not eligible to make a claim on the trust fund nor  
9 are they, or their successors in interest, eligible for a pro rata distribution, if any, of the trust  
10 fund residual;

11 6. Notice: Attorneys for the class representatives mailed to each putative class member a  
12 Notice of Settlement and Class Certification (hereinafter "Notice") by United States Mail on  
13 November 10, 2006. See **Exhibit 1**. Attached to the Notice was a "Request For Exclusion".  
14 The cost of mailing of all appropriate notices shall be paid out of the net settlement sum and/or  
15 the trust fund corpus;

16 7. Resolution of Action as to Class Members: By remaining a class member, the Owner is  
17 deemed to have agreed that claims against defendant Del Webb Communities, Inc., arising from  
18 non-sleeved, underslab copper piping will be determined in this class action lawsuit and cannot  
19 be presented in any other action. As a member of the class, the Owner of each residence is  
20 entitled to share in the benefits, if any, of the settlement;

21 8. Right to Opt-Out: Each current Owner of a residence was advised of their right to opt-out  
22 of participation in the class. If the Owner of a residence opts-out of the class, the election to  
23 opt-out of the class will be forever binding on the Owner of the residence and all predecessors  
24 and successors in interest, and neither the Owner nor any predecessor or successor in interest  
25 may ever participate in the settlement or make a claim on the trust fund;

26 9. Election to Exercise Right To Opt-Out: As the date and time of this hearing the Court  
27 finds that 7 homeowners of record in the class previously certified by the Court have elected to  
28 opt-out of participation in this settlement. Executed Requests for Exclusion, which were

1 returned to the offices of class counsel, Feinberg Grant Mayfield Kaneda & Litt, LLP, have  
2 been lodged with this Court.

3 10. Retained Jurisdiction: This Court retains jurisdiction over the settlement of this case and  
4 may enter additional orders to effectuate the fair and orderly administration of the settlement  
5 as may from time to time be appropriate, including, among other things, the determination of  
6 persons to whom payment should be made, for instance, in the event of the sale of the property,  
7 death of an Owner, or dissolution of a marriage or business entity.

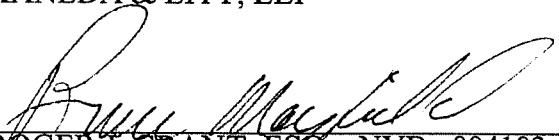
8 11. Third-Party Complaint: This Court retains jurisdiction to entertain and rule upon any motion  
9 which may be brought by a third-party defendant raising any bar to their liability or affirmative  
10 defense which the third-party feels is appropriate under the facts of this case.

11 **IT IS SO ORDERED.**

12 DATED this 11<sup>th</sup> day of December, 2006.

13  
14   
15 DISTRICT COURT JUDGE

16  
17 Respectfully submitted by:  
18 FEINBERG GRANT MAYFIELD  
19 KANEDA & LITT, LLP

20   
21 ROGER J. GRANT, ESQ., NVB: 004103  
22 BRUCE MAYFIELD, ESQ., NVB: 007440  
23 DANIEL H. CLIFFORD, ESQ., NVB:007656  
24 1955 Village Center Circle  
25 Las Vegas, Nevada 89134

26 Attorneys for Plaintiffs

27  
28  
Case No. A471095  
Order No.