

ORIGINAL

1 **JUDD J. BALMER, ESQ.**
 2 NEVADA BAR NO. 006212
 3 **JUDD J. BALMER, ESQ., LTD.**
 4 *A Nevada Professional Corporation*
 5 400 N. Stephanie Street, Suite 260
 6 Henderson, Nevada 89014
 7 T: (702) 642-4200
 8 F: (702) 642-4300
 9 E: jbalmer@balmerlawfirm.com
 10 *Attorneys for Emery J. Hefley*

RECEIVED & FILED

SEP 12 9 15 AM '12



U.S. BANKRUPTCY COURT
MARY A. SCHOTT, CLERK

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

JUDD J. BALMER, ESQ., LTD.
A Nevada Professional Corporation

11 In re)
 12)
 13 AMERICAN WEST DEVELOPMENT,)
 14 INC., a Nevada Corporation,)
 15)
 16 fdba Castelbay 1, Inc.)
 17 fdba Development Management, Inc.)
 18 fdba Fairmont 1, Inc.)
 19 fdba Glen Eagles 3, Inc.)
 20 fdba Heritage 1, Inc.)
 21 fdba Inverness 5, Inc.)
 22 fdba Kensington 1, Inc.)
 23 fdba Kingsbridge 1, Inc.)
 24 fdba Promontory Estates, LLC)
 25 fdba Promontory Point 4, Inc.)
 26 fdba Silverado Springs 1, Inc.)
 27 fdba Silverado Springs 2, Inc.)
 28 fdba Tradition, Inc.)
 fdba Windsor 1, Inc.)
 Debtor.

Case No.: BK-S-12-12349-MKN

Chapter 11

**OPPOSITION TO DEBTOR'S
OBJECTION TO PROOF OF CLAIM
NO. 87 OF EMERY J. HEFLEY**

Date of Hearing: September 25, 2012

Time of Hearing: 10:00 a.m.

OPPOSITION TO DEBTOR'S OBJECTION TO PROOF OF CLAIM NO. 87 OF EMERY J. HEFLEY

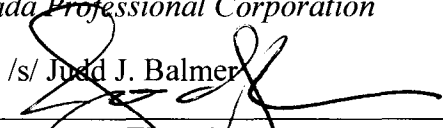
COMES NOW EMERY J. HEFLEY, by and through his Attorney of Record, JUDD J. BALMER, ESQ., of JUDD J. BALMER, ESQ., LTD., A Nevada Professional Corporation, and hereby offers this limited Opposition to Debtor's Objection to Proof of Claim No. 87 of Emery J. Hefley.

This opposition is made and based upon the United States Bankruptcy Code, Federal Rules of Bankruptcy Procedure, applicable caselaw, the exhibits attached hereto, and the attached Memorandum of Points and Authorities.

DATED this 10th Day of September, 2012.

JUDD J. BALMER, ESQ., LTD.
A Nevada Professional Corporation

/s/ Judd J. Balmer

by: 
JUDD J. BALMER, ESQ.
Nevada Bar No. 006212
400 N. Stephanie Street, Suite 260
Henderson, Nevada 89014
T: (702) 642-4200
F: (702) 642-4300
E: jbalmer@balmerlawfirm.com
Attorneys for Plaintiffs

MEMORANDUM OR POINTS AND AUTHORITIES

I. INTRODUCTION.

Emery J. Hefley purchased a newly constructed home, which closed escrow on or about September 27, 1999. The subject home, located at 8301 Deer Springs Way, Las Vegas, Nevada, Clark County, Nevada, was constructed and sold by American West Homes, Inc. Mr. Hefley became aware of mold contamination of his home on or about September 18, 2007, upon noticing water leaking through the block window in the master bedroom. Following said discovery of water intrusion and mold contamination of the home, Mr. Hefley learned that his home was thoroughly contaminated with water-damage indicator, toxigenic mold species,

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A Nevada Professional Corporation

1 including, but not limited to, *Aspergillus* species, *Penicillium*, and *Stachybotrys*, among others,
 2 each known for their deleterious health effects on humans. Investigation further determined that
 3 the home's windows had been improperly designed, constructed, installed and/or repaired by
 4 American West, and its subcontractors, causing water to intrude from said systems and into the
 5 home's cellulose based building materials, causing said toxigenic molds to proliferate throughout
 6 Mr. Hefley's home. Mr. Hefley immediately placed the developer on notice of said construction
 7 defects and resulting toxic mold growth, affording the developer the opportunity to inspect the
 8 home and conduct the appropriate remediation and repair of Mr. Hefley's home.

9
 10 **II. FACTS.**

11 Mr. Hefley purchased his home new from the builder, American West Homes, Inc. See
 12 printout of the Clark County Assessor's website, demonstrating the ownership history of the
 13 subject residence, attached hereto as Exhibit 1. Sometime thereafter, American West Homes,
 14 Inc., dissolved. See printout of the Nevada State Contractors Board for the contractors license of
 15 American West Homes, Inc., attached hereto as Exhibit 2. However, the owners, managers and
 16 operators of American West Homes, Inc., continued to do business as American West
 17 Development, Inc., with the same address, President, Secretary and Secretary/Treasurer. See
 18 printout of the Nevada State Contractors Board for the contractors license of American West
 19 Development, Inc., attached hereto as Exhibit 3.

20 Upon discovery of the water intrusion and mold contamination of the home, and resulting
 21 contamination with water-damage indicator, toxigenic mold species, Mr. Hefley placed Debtor
 22 on notice of the constructional defects, pursuant to N.R.S. 40.645. See December 2, 2010,
 23 Chapter 40 Notice, attached hereto as Exhibit 4. However, in response to Mr. Hefley's Chapter
 24 40 Notice, Debtor's Vice President Leslie J. Bausher, wrongfully asserted that Debtor never
 25 constructed said residence. See December 14, 2010 correspondence, attached hereto as Exhibit
 26 5. Mr. Hefley forwarded a copy of the Clark County Assessor's website, demonstrating the

JUDD J. BALMER, ESQ., LTD.
A Nevada Professional Corporation

1 ownership history of the subject residence , along with a copy of the recorded Grant, Bargain and
2 Sale Deed to Defendant.

3 Unfortunately, Debtor indicated that it would not be responding to Mr. Hefley's Chapter
4 40 notice. See December 22, 2010 correspondence, attached hereto as Exhibit 7. Hefley served
5 an Amended Chapter 40 notice on December 27, 2010. Debtor refused service of the Amended
6 Chapter 40 notice. Hefley made a final attempt to serve Defendant with a Chapter 40 notice,
7 addressed to an officer of American West Homes, Inc., and American West Development, Inc.
8 Once again, Debtor refused to accept service of Plaintiff's Chapter 40 notice.

9 As a result of Debtor's refusal to participate in the Chapter 40 process, Hefley filed his
10 Complaint on or about September 16, 2011. Hefley attempted to serve Debtor, via certified mail,
11 return receipt requested, pursuant to N.R.S. 78.750(2)(b), upon the officers and directors of
12 Debtor. Predictably, Debtor refused the certified mail.

13 Hefley received an Amended Notice of Chapter 11 Bankruptcy Cases, Meeting of
14 Creditors, and Deadlines, which identified Hefley as a creditor and provided the deadlines for
15 filing proofs of claims. Hefley timely filed a Proof of Claim on or about June 28, 2012.

16

17 **III. ARGUMENT.**

18 The undersigned is in the process of determining whether the Hefley home was included
19 in the mass action referred to by Debtor as the "Stacy Action." If the Hefley home was in fact
20 part of the "Stacy Action", Hefley will voluntarily withdraw his Proof of Claim. In the
21 alternative, if the Hefley home was not involved in said mass action, Hefley's Proof of Claim
22 must be deemed valid and allowed. Furthermore, if the Hefley home was not involved in the
23 "Stacy Action", Hefley must be allowed leave to conduct discovery regarding which American
24 West entity is responsible. Hefley is not a "Non-Responding Home Owner" and Hefley's claims
25 far exceed \$1,000 in value. Therefore, Debtor cannot be allowed to submit a vote on Hefley's
26 behalf in the amount of \$1,000.

27

28

1 **IV. CONCLUSION.**

2 Based upon the foregoing, Hefley requests additional time be allowed to determine
3 whether the Hefley home was included in the Stacy Action. If it is determined that the Hefley
4 home was NOT included in the Stacy Action, Hefley requests this Honorable Court allow Hefley
5 to conduct discovery regarding which American West entity is responsible for the shoddy
6 construction of the Hefley home. Hefley further requests leave to conduct discovery (written
7 discovery and depositions) into the issue of whether the Hefley home was included in the Stacy
8 Action.

9 DATED this 11th Day of September, 2012.

10 JUDD J. BALMER, ESQ., LTD.
11 *A Nevada Professional Corporation*

12 /s/ Judd J. Balmer

13 by: 

14 JUDD J. BALMER, ESQ.
15 Nevada Bar No. 006212
16 400 N. Stephanie Street, Suite 260
17 Henderson, Nevada 89014
18 T: (702) 642-4200
19 F: (702) 642-4300
20 E: jbalmer@balmerlawfirm.com
21 *Attorneys for Plaintiffs*

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A Nevada Professional Corporation

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CERTIFICATE OF SERVICE

I am an employee of the Law Firm of Judd J. Balmer, Esq., Ltd., in the County of Clark, State of Nevada. I am over the age of 18, and not a party to the within action. My business address is 400 N. Stephanie Street, Suite 260, Henderson, Nevada 89104.

On the date indicated below, I served the foregoing document(s) described as: **MOTION TO EXPUNGE LIEN** on the interested parties as follows:

BRETT A. AXELROD, ESQ.
FOX ROTHSCHILD, LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169

(BY MAIL) On the 11th day of September, 2012, I placed the document(s) in sealed envelope(s) addressed as set forth above and caused such envelope(s) to be deposited in the mail in Clark County, Nevada. The envelope(s) was/were mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing of correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business.

(BY OVERNIGHT MAIL) On the ___ day of _____, 2012, I placed the document(s) in sealed envelope(s) addressed accordingly and caused such envelope(s) to be deposited in the delivery box regularly maintained by OVERNITE EXPRESS, in an envelope package designated by OVERNITE EXPRESS with delivery fees paid or provided for addressed as set forth above.

(BY FACSIMILE SERVICE) On the ___ day of _____, 2012, from facsimile machine telephone number (702) 642-4300, I caused the above-listed document(s) to be transmitted by facsimile to the person(s) and number(s) listed above, and that transmission was reported as complete and without error.

(BY ELECTRONIC SERVICE) On the ___ day of _____, 2012, the foregoing document was served on All Parties on the E-Service List.

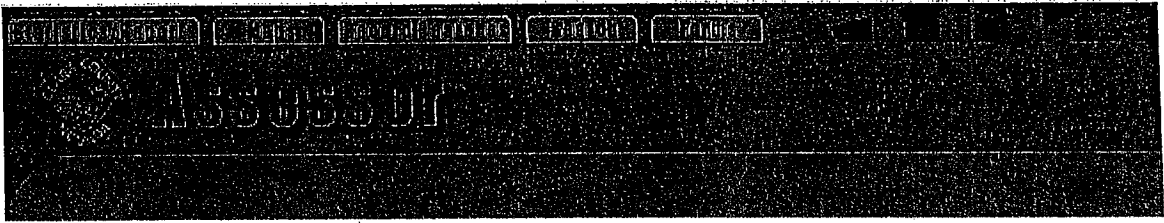
I declare under penalty of perjury under the laws of the state of Nevada that the foregoing is true and correct.

Executed this 11th day of September, 2012, at Henderson, Nevada.

/s/ Jessica A. Lopez

An Employee of Judd J. Balmer, Esq., Ltd.

EXHIBIT 1



M.W. Schofield, Assessor

PARCEL OWNERSHIP HISTORY



ASSESSOR DESCRIPTION
 DEER SPRINGS RANCH-UNIT 1 PLAT BOOK 76 PAGE 58 LOT 23 BLOCK 2
 SEC 21 TWP 19 RNG 60

CURRENT PARCEL NO.	CURRENT OWNER	RECORDED DOCUMENT NO.	RECORDED DATE	VESTING	TAX DISTRICT	ESTIMATED SIZE
125-21-310-023	HEFLEY EMERY J Comments: L-990927:1214	19990927:01213	09/27/1999	NO STATUS	200	.21 AC

PARCEL NO.	PRIOR OWNER(S)	RECORDED DOCUMENT NO.	RECORDED DATE	VESTING	TAX DISTRICT	ESTIMATED SIZE
125-21-310-023	AMERICAN WEST HOMES INC	19950630:02102	06/30/1995	NO STATUS	200	SUBDIVIDED LOT
125-21-301-009	AMERICAN WEST HOMES INC	19950630:02102	06/30/1995	NO STATUS	200	8.44 AC
125-21-301-007	AMERICAN WEST HOMES INC	19950630:02102	06/30/1995	NO STATUS	200	75.10 AC

Note: Only documents from September 15, 1999 through present are available for viewing.

NOTE: THIS RECORD IS FOR ASSESSMENT USE ONLY. NO LIABILITY IS ASSUMED AS TO THE ACCURACY OF THE DATA DELINEATED HEREON.



Government Center, 500 South Grand Central Parkway, Las Vegas, Nevada 89155-1401

702-455-3882 (INFORMATION)

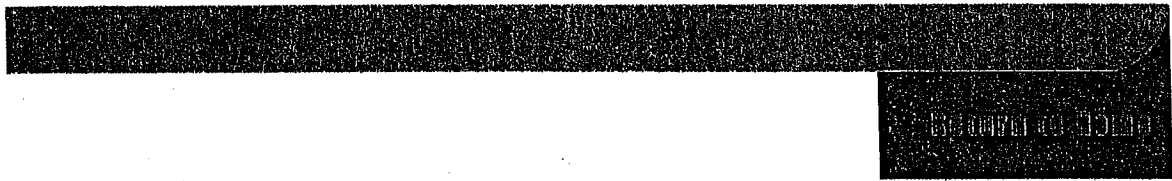


EXHIBIT 2



Nevada State Contractors Board

2310 Corporate Circle, Suite 200 Henderson, NV 89074 (702) 486-1100 Fax: (702) 486-1100 Investigation: (702) 486-1110
 8675 Gateway Drive, Suite 100 Reno, NV 89521 (775) 688-1141 Fax: (775) 688-1271 Investigation: (775) 688-1150
www.nscob.state.nv.us

[Home](#)

License Search Details

- Press "Previous Record" to view the previous record in the list
- Press "Next Record" to view the next record in the list.
- Press "Search Results" to return to the search results list screen.
- Press "New Search Criteria" to revise your existing search criteria or enter new search criteria.
- Press "New Search" to select a different search.

License Number:	0034375			Current Date: 11/05/2010 09:50 AM (mm/dd/yyyy)
Business Primary Name:	AMERICAN WEST HOMES INC	License	Unlimited	
		Monetary Limit:		
Business Address:	250 PILOT ROAD STE 140			
	LAS VEGAS, NV 89119-3532			
Phone Number:	(702)736-6434			
Status:	Voluntarily Surrendered			
Status Date:	03/06/2008 (mm/dd/yyyy)			
Origin Date:	05/23/1992 (mm/dd/yyyy)			
Expiration Date:	05/31/2008 (mm/dd/yyyy)			
Business Type:	Corporation			
Classification(s):	B - GENERAL BUILDING			
Principal Name	Relation Description			
CANARELLI, LAWRENCE DENNIS	President Qualified Individual			
BAUSHER, LESLIE JOAN	Secretary			
ADCOCK, COREY JOHN	Secretary/Treasurer			
Bonds				
Bond Type:	Cash Bond			
Bond Number:	CASH			
Bond Amount:	\$20,000.00			
Effective Date:	05/22/1992 (mm/dd/yyyy)			
Cancellation Date:	03/06/2008 (mm/dd/yyyy)			

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Print Page

Print Report

Print Search Details

Print Page

2010-11-05 9:50:41 AM

EXHIBIT 3



Nevada State Contractors Board

2310 Corporate Circle, Suite 200 Henderson NV 89074 (702)486-1100 Fax: (702)486-1100 Investigations: (702)486-1110
1670 Gateway Drive, Suite 100 Reno NV 89521 (775)688-1141 Fax: (775)688-1271 Investigations: (775)688-1150
www.nisob.state.nv.us

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Press "Next Record" to view the next record in the list.
Press "Search Results" to return to the search results list screen.
Press "New Search Criteria" to revise your existing search criteria or enter new search criteria.
Press "New Search" to select a different search.

License Number: 0022406 **Current Date:** 11/05/2010 09:51 AM (mm/dd/yyyy)
Business Primary Name: AMERICAN WEST DEVELOPMENT INC License **Unlimited**
Monetary Limit:

Business Address: 250 PILOT ROAD STE 140
LAS VEGAS, NV 89119-3532
Phone Number: (702)736-6434

Status: Active
Status Date: 10/05/2010 (mm/dd/yyyy)
Origin Date: 10/23/1984 (mm/dd/yyyy)
Expiration Date: 10/31/2012 (mm/dd/yyyy)

Business Type: Corporation
Classification(s): B - GENERAL BUILDING

Principal Name	Relation Description
CANARELLI, LAWRENCE DENNIS	President Qualified Individual
BAUSHER, LESLIE JOAN	Secretary
ADCOCK, CORY JOHN	Secretary/Treasurer

Bonds
Bond Type: Cash Bond
Bond Number: CASH
Bond Amount: \$20,000.00
Effective Date: 09/22/1988 (mm/dd/yyyy)

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not reflect recent changes or updates. Neither the completeness nor accuracy is guaranteed. The Nevada State Contractors Board shall have no liability or responsibility for loss and damages arising from the information provided or retrieved from these pages.



2010-11-05 9:51:02 AM

EXHIBIT 4

T H E L A W F I R M O F

JUDD J. BALMER, ESQ., LTD.

A NEVADA PROFESSIONAL CORPORATION

December 2, 2010

Risk Manager,
AMERICAN WEST
DEVELOPMENT, INC.
250 Pilot Road, Suite 140
Las Vegas, Nevada 89119

SENT BY FIRST CLASS MAIL; and
SENT BY CERTIFIED MAIL, RETURN RECEIPT
REQUESTED: 7010 1870 0000 4136 0068

Re: Our clients: Emery J. Hefley, Bonita Bier and Family
Property Address: 8301 Deer Springs Way, Las Vegas, Nevada 89149

**NEVADA REVISED STATUTES, CHAPTER 40 NOTICE (NRS 40.645) OF
CONSTRUCTIONAL DEFICIENCIES IN WINDOW SYSTEMS. RESULTING
DAMAGE INCLUDES, BUT IS NOT LIMITED TO, WATER INTRUSION, WATER
DAMAGE, DRYWALL DAMAGE, AND MOLD CONTAMINATION REQUIRING
REMEDATION**

NRS 40.680 DEMAND FOR PRE-LITIGATION MEDIATION

(IMMEDIATE ATTENTION REQUIRED)

Dear American West Homes Risk Manager:

This Notice is being given to satisfy the requirements of NRS 40.600, et seq., including, specifically, NRS 40.645.

This office has been retained to represent the Hefley/Bier family concerning constructional defects and related mold contamination of their 8301 Deer Springs Way, Las Vegas, Nevada 89149, home constructed by American West Development, Inc. After being placed on notice of the defective conditions and resulting damage in 2007, American West Homes refused to assist the Hefley/Bier family with the necessary repairs. Therefore, due to the contamination in the home and in order to protect the health and safety of the Hefley/Bier family, my clients were themselves forced to retain and pay for contractors to remediate and repair the damage to their home. My clients now seek reimbursement of the those out of pocket expenses, as well as their attorneys' fees and costs, pursuant to Chapter 40.

400 N. Stephanie Street, Suite 260, Henderson, Nevada 89014
Telephone: (702) 642-4200 Fax: (702) 642-4300 Email: balmerlaw@msn.com

In order to assist in your evaluation of the case, and pursuant to NRS 40.600 et seq., please find attached the following expert reports concerning the Hefley/Bier home and family:

1. Elite Restoration remediation estimate and contract invoice, dated October 11, 2007, concerning 8301 Deer Springs Way, Las Vegas, Nevada 89149;
2. Alano Construction reconstruction report, contract and invoice dated October 24, 2007, concerning 8301 Deer Springs Way, Las Vegas, Nevada 89149;
3. Carpets Galore, Inc. work order and receipt for replacement of carpet, dated October 30, 2007, concerning 8301 Deer Springs Way, Las Vegas, Nevada 89149;
4. Stanley Steamer receipt for air duct cleaning, dated November 6, 2007, concerning 8301 Deer Springs Way, Las Vegas, Nevada 89149;
5. Mattress Firm receipt for replacement of mattress, dated November 30, 2007;
6. Pro-Lab Mold Analysis Report, dated September 18, 2007, concerning 8301 Deer Springs Way, Las Vegas, Nevada 89149;
7. Certified Industrial Hygiene Report, dated September 27, 2007, by Robert W. Rudd, CIE, Rudd Inspections and Environmental Service, LLC, concerning 8301 Deer Springs Way, Las Vegas, Nevada 89149, including Analytical Laboratory Report of EMLab P & K, dated September 25, 2007;
8. Limited Microbial Survey Report, dated October 15, 2007, by Todd Osmundson, CMRS, Earth Resource Group, concerning 8301 Deer Springs Way, Las Vegas, Nevada 89149, including Analytical Laboratory Reports of Sean P. Abbott, Ph.D., Natural Link Mold Lab, dated October 11, 2007;
9. CD-ROM with photos of the defective construction and resulting damages.

These reports are meant to satisfy Chapter 40 requirements by placing American West Development, Inc. on notice of these defects and resulting damages in the Hefley/Bier home. The block window in the master bedroom was defectively installed, causing water intrusion into the walls of the home that resulted in water damage and the proliferation of mold contamination.

The results of the microbial sampling conducted in the Hefley/Bier home demonstrated hazardous mold contamination in the air and on surfaces. *Aspergillus* species, *Stachybotrys*, and *Penicillium chrysogenum*, among others, dominated the indoor air and surfaces of the Hefley/Bier home. Professional remediation was recommended due to the imminent threat to the health and safety of the Hefley/Bier family. In order to mitigate their damages and prevent further contamination of the Hefley/Bier residence, and following American West Home's refusal to conduct the repairs itself, my clients paid for the remediation and repairs themselves, as well as professional duct cleaning, replacement of contaminated carpet and furnishings. Pursuant to NRS

40.670(1), American West Development, Inc. is responsible to pay, among other things, for these repairs and replacement of certain contaminated personal property.

Based upon the enclosed reports, the Helfey/Bier home was defectively constructed, resulting in water damage in the home that caused the growth and proliferation of hazardous mold contamination. The home and certain of its personalty contents required mold remediation, restoration and/or replacement. The Hefley/Bier family has incurred the itemized out-of-pocket expenses.

Please direct all future inquiries and correspondence to my attention. If you have not already done so, please put any involved subcontractors on immediate notice of this claim. We suggest that you put on notice all subcontractors which participated in the construction of the glass block window and its flashing elements, including possibly the framing contractor, stucco contractor, window installation contractor, and window manufacturer. Please urge their involvement as soon as possible. Please provide me with your subcontractor matrix for the construction of the Helfey/Bier home and also inform me of each respective subcontractor's insurance carrier(s), so that we may also put them on immediate notice of this claim.

Please ensure that your response to this Chapter 40 notice complies with all time limitations and deadlines set forth in NRS 40.600, et seq., including, without limitation, NRS 40.646, 40.647, 40.6472, and 40.648. Please timely advise as to whether you or any subcontractors wish to perform any inspections of the home. We will work with you to ensure that you have appropriate access to the home.

My clients seek compensation for the remediation and repairs, the replacement of certain personal property itemized in the attached materials, as well as their attorneys' fees and costs. This is a straight-forward claim with reasonable request for reimbursement of limited damages. Please consider expediting the handling of this matter for quick resolution. I urge you to contact my office to discuss settlement as soon as possible.

Pursuant to NRS 40.680, the Hefley/Bier family demands the mandated pre-litigation mediation proceedings. We nominate Floyd Hale, Esq., or Howard Hamman, Esq., as potential mediators. My clients are prepared to deposit their \$50 toward the mediation, as required by statute. Pursuant to NRS 40.680(2), you have 20 days within which to notify us of your approval of either Mr. Hale or Mr. Hamman as the mediator or to supply us with alternative names. We look forward to hearing from you.

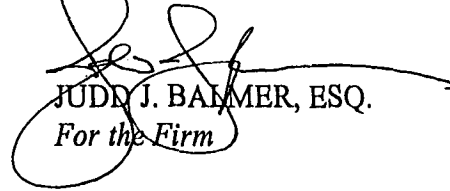
PURSUANT TO NEVADA REVISED STATUTE 40.695(1), THIS NOTICE TOLLS ANY STATUTES OF LIMITATIONS AND REPOSE APPLICABLE TO THE HEFLEY/BIER FAMILY'S CLAIMS UNTIL 30 DAYS AFTER MEDIATION IS CONCLUDED OR WAIVED IN WRITING PURSUANT TO NRS 40.680.

Please immediately acknowledge receipt of this letter in writing.

Thank you for your anticipated cooperation. I look forward to working with you to amicably

resolve these issues in the very near future.

Yours Truly,
JUDD J. BALMER, ESQ., LTD.
A Nevada Professional Corporation


JUDD J. BALMER, ESQ.
For the Firm

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 2.24	Postmark Here <i>mic</i>
Certified Fee	2.80	
Return Receipt Fee (Endorsement Required)	2.30	
Restricted Delivery Fee (Endorsement Required)	—	
Total Postage & Fees	\$ 7.34	

7010 1870 0000 4136 0068

Sent To: American West Development
 Street, Apt. No., or PO Box No.: 250 Pilot Road, Ste. 140
 City, State, ZIP+4: Las Vegas, NV 89119

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p><input type="checkbox"/> Complete this section and also complete item 1 if restricted delivery is desired.</p> <p><input type="checkbox"/> If you have no address on the reverse, you may return the card to you.</p> <p><input type="checkbox"/> A return receipt will be placed on the mailpiece if you request it on the front of this receipt.</p> <p>Risk Manager AMERICAN WEST DEVELOPMENT, INC. 250 Pilot Road, Suite 140 Las Vegas, NV 89119</p>	<p>1. Signature of Addressee <input type="checkbox"/> Addressee</p> <p>2. Name of Addressee <input type="checkbox"/> Addressee</p> <p>3. Date of Delivery <input type="checkbox"/> Date of Delivery</p> <p>4. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below <input type="checkbox"/> No</p> <p>5. Service type: <input type="checkbox"/> Certified Mail <input type="checkbox"/> Registered Mail <input type="checkbox"/> Registered Mail and Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> COD</p> <p>6. Restricted Delivery / Extra Fee <input type="checkbox"/> No</p>
<p>7010 1870 0000 4136 0068</p>	
PS Form 3811, February 2004 Domestic Return Receipt	7010 1870 0000 4136 0068

EXHIBIT 5

#1 American West Development

Southern Nevada's #1 Home Builder

December 14, 2010

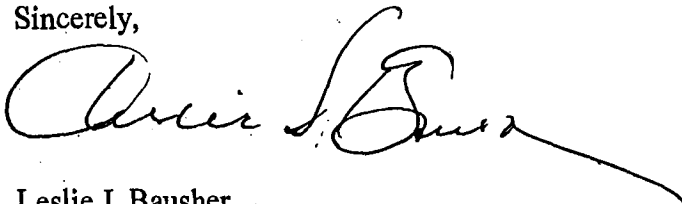
Judd J. Balmer, Esq. Ltd.
400 N. Stephanie Street, Ste. 260
Henderson, Nevada 89014

Dear Mr. Balmer;

Recently this office received a certified mail package addressed to American West Development the contents of which consist of a NRS Chapter 40 notice of defective construction concerning a residence at 8301 Deer Springs Way, Las Vegas, Nevada.

Please be advised that American West Development never owned nor constructed any improvement on or at the referenced property.

Sincerely,



Leslie J. Bausher
Vice President

EXHIBIT 6

T H E L A W F I R M O F
JUDD J. BALMER, ESQ., LTD.
A NEVADA PROFESSIONAL CORPORATION

December 17, 2010

VIA FACSIMILE ONLY @ (702) 736-7970

Leslie J. Bausher, Vice President
AMERICAN WEST DEVELOPMENT, INC.
250 Pilot Road, Suite 140
Las Vegas, Nevada 89119

Re: Our clients: Emery J. Hefley, Bonita Bier and Family
Property Address: 8301 Deer Springs Way, Las Vegas, Nevada 89149

Dear Leslie:

I am in receipt of your correspondence of December 14, 2010. Please find attached the Clark County Assessor's web page and Grant, Bargain and Sale Deed, indicating that American West Homes, Inc., was the developer for the above-named property.

I look forward to receiving your timely response to our previous Chapter 40 notice.

Yours Truly,
JUDD J. BALMER, ESQ., LTD.
A Nevada Professional Corporation


JUDD J. BALMER, ESQ.
For the Firm

69

19990927
01213

Escrow Number 856371 AWD/ala

WHEN RECORDED, MAIL TO:
EMERY J. HEFLEY
8301 DEER SPRINGS WAY
LAS VEGAS, NV 89129

RPTT: \$ 430.00
APN#: 125-21-310-023

GRANT, BARGAIN and SALE DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

American West Homes, Inc., a Nevada Corporation

do(es) hereby GRANT, BARGAIN, and SELL to
EMERY J. HEFLEY, A MARRIED MAN AS HIS SOLE AND SEPARATE PROPERTY

the real property situate in the County of CLARK, State of Nevada, described as follows:

Lot Twenty Three (23) in Block Two (2) of Deer Springs Ranch - Unit 1, as shown by map thereof on file in Book 78 of Plats, Page 58, in the Office of the County Recorder of CLARK County, Nevada.

Subject to:

1. All general and special taxes for the fiscal year 1998-1999.
2. Covenants, Conditions, Restrictions, Reservations, Rights, Rights of Way and Easements now of record.

TOGETHER with all tenements, hereditaments and appurtenances including easements and water rights, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or profits thereof.

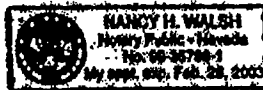
American West Homes, Inc., a Nevada Corporation

By: Lawrence D. Canaroli, President

By: Leslie J. Bausher, Secretary

STATE OF NEVADA)
)
) ss.
COUNTY OF CLARK)

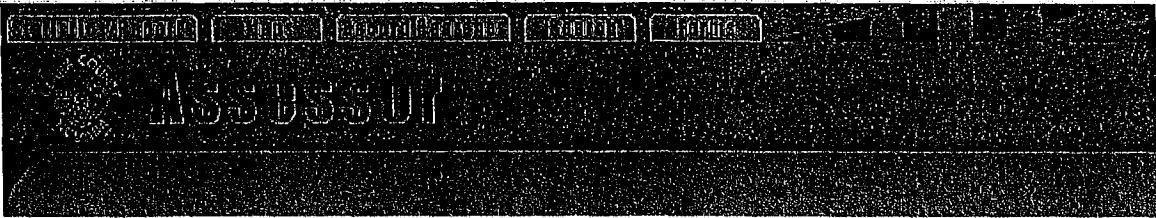
This instrument was acknowledged before me on 09/27/1999 by Lawrence D. Canaroli, President and Leslie J. Bausher, Secretary of American West Homes, Inc., a Nevada Corporation



Nancy H. Walsh
Notary Public
(My commission expires: Feb. 28, 2003)

CLARK COUNTY, NEVADA
JUDITHA VANDEVER, RECORDER
RECORDED AT REQUEST OF:
FIRST AMERICAN TITLE COMPANY OF
09-27-1999 15:24 CMD 1
BOOK: 010727 INST: 01213
FEE: 7.00 RPTT: 430.00

ACCEPTED FOR RECORD COPY



M.W. Schofield, Assessor

PARCEL OWNERSHIP HISTORY



ASSESSOR DESCRIPTION
 DEER SPRINGS RANCH-UNIT 1 PLAT BOOK 76 PAGE 58 LOT 23 BLOCK 2
 SEC 21 TWP 19 RNG 60

CURRENT PARCEL NO.	CURRENT OWNER	RECORDED DOCUMENT NO.	RECORDED DATE	VESTING	TAX DISTRICT	ESTIMATED SIZE
125-21-310-023	HEFLEY EMERY J Comments: L-990927:1214	19990927:01213	09/27/1999	NO STATUS	200	.21 AC

PARCEL NO.	PRIOR OWNER(S)	RECORDED DOCUMENT NO.	RECORDED DATE	VESTING	TAX DISTRICT	ESTIMATED SIZE
125-21-310-023	AMERICAN WEST HOMES INC	19950630:02102	06/30/1995	NO STATUS	200	SUBDIVIDED LOT
125-21-301-009	AMERICAN WEST HOMES INC	19950630:02102	06/30/1995	NO STATUS	200	8.44 AC
125-21-301-007	AMERICAN WEST HOMES INC	19950630:02102	06/30/1995	NO STATUS	200	75.10 AC

Note: Only documents from September 15, 1999 through present are available for viewing.

NOTE: THIS RECORD IS FOR ASSESSMENT USE ONLY. NO LIABILITY IS ASSUMED AS TO THE ACCURACY OF THE DATA DELINEATED HEREON.



Government Center, 500 South Grand Central Parkway, Las Vegas, Nevada 89155-1401

702-455-3882 (INFORMATION)



*** FAX TX REPORT ***

TRANSMISSION OK

JOB NO.	1758
DEPT. ID	66
DESTINATION ADDRESS	7367970
PSWD/SUBADDRESS	
DESTINATION ID	
ST. TIME	12/17 16:22
USAGE T	00' 59
PGS.	3
RESULT	OK

T H E L A W F I R M O F
J U D D J . B A L M E R , E S Q . , L T D .
 A N E V A D A P R O F E S S I O N A L C O R P O R A T I O N

December 17, 2010

VIA FACSIMILE ONLY @ (702) 736-7970

Leslie J. Bausher, Vice President
 AMERICAN WEST DEVELOPMENT, INC.
 250 Pilot Road, Suite 140
 Las Vegas, Nevada 89119


Re: Our clients: Emery J. Hefley, Bonita Bier and Family
 Property Address: 8301 Deer Springs Way, Las Vegas, Nevada 89149

Dear Leslie:

I am in receipt of your correspondence of December 14, 2010. Please find attached the Clark County Assessor's web page and Grant, Bargain and Sale Deed, indicating that American West Homes, Inc., was the developer for the above-named property.

I look forward to receiving your timely response to our previous Chapter 40 notice.

Yours Truly,
 JUDD J. BALMER, ESQ., LTD.
 A Nevada Professional Corporation



JUDD J. BALMER, ESQ.
 For the Firm

EXHIBIT 7

#1 **American West Development**
Southern Nevada's #1 Home Builder

December 22, 2010

Judd J. Balmer, Esq.
400 N. Stephanie Street, Ste. 260
Henderson, Nevada 89014

RE: Emory Hefley, 8301 Deer Springs Way, Las Vegas, Nevada

Dear Mr. Balmer;

Thank you for your facsimile communication of December 17. I was away for a few days, thus the short delay in responding.

We want to acknowledge the accuracy of your communication in every way and are therefore comfortable with the response sent to you previously.

American West Development will not be responding to your Chapter 40 notice as the company had nothing to do with the ownership or development of the site or its improvements.

Sincerely,



Leslie J. Bausher
Vice President