

Docket No.: 62528

IN THE SUPREME COURT OF THE STATE OF NEVADA

VILLA PALMS COURT 102 TRUST,

Appellant,

v.

WILLIAM L. RILEY, an individual; DEUTSCHE BNK NATIONAL TRUST COMPANY, an expired Nevada Corporation, in its capacity as indenture trustee for the Noteholders of AAMES MORTGAGE INVESTMENT TRUST 2005-3, a Delaware Statutory Trust; and any and all other persons unknown claiming any right, title, estate, lien or interest in the Property adverse to the Plaintiff's ownership, or any cloud upon Plaintiff's title thereto (DOES 1 through 10, inclusive),

Respondents.

ON APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA, DOCKET NO.: A-13-674595-C

**PROPOSED BRIEF OF AMICUS CURIAE IN SUPPORT OF
RESPONDENTS WILLIAM L. RILEY AND DEUTSCHE BANK
NATIONAL TRUST COMPANY**

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13-25906

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 VILLA PALMS COURT 102 TRUST,

Supreme Court No. 62528

3 Appellant,

4 vs.

5
6 WILLIAM L. RILEY, an individual;
7 DEUTSCHE BANK NATIONAL
8 TRUST COMPANY, an expired Nevada
9 Corporation, in its capacity as indenture
10 trustee for the Noteholders of AAMES
11 MORTGAGE INVESTMENT TRUST
12 2005-3, a Delaware Statutory Trust; and
13 any and all other persons unknown
14 claiming any right, title, estate, lien or
15 interest in the Property adverse to the
16 Plaintiff's ownership, or any cloud upon
17 Plaintiff's title thereto (DOES 1 through
18 10, inclusive),

19 Respondents.

20
21 **PROPOSED BRIEF OF AMICUS CURIAE IN SUPPORT OF**
22 **RESPONDENTS WILLIAM L. RILEY AND DEUTSCHE BANK**
23 **NATIONAL TRUST COMPANY**

24 **LEGAL AID CENTER OF**
25 **SOUTHERN NEVADA, INC.**

26 BY: 

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MEMORANDUM OF POINTS & AUTHORTIES

I. INTRODUCTION

In a sad but telling irony, the actual homeowner in this case (who is in fact a party), is notably silent. Massive legislation has been enacted and billions of dollars have been spent for one purpose: to help him, the homeowner facing economic hardship, to stay in his home. Now, paradoxically, that same economic hardship gives rise to a Homeowner Association (HOA) lien through which a small group of investors and collection agencies would presume to render all of the legislation, all of the money, and all of the admirable intentions behind both, meaningless, for the sake of an individual windfall. That is, in accurately stark terms, the result Villa Palms Court 102 Trust urges.

The devastating effects from the recent real estate collapse have been felt worldwide. With little doubt, Nevada has been one of the places hardest hit. Some would even consider Nevada the epicenter of the real estate crisis. While other economic factors have played a role, the severe real estate downturn is clearly one of the primary forces behind the unprecedented decline in Nevada's economy. Despite recent upticks in various economic indicators, the Nevada economy will not be able to truly mount a comeback until the pressures from huge debts in both the residential and commercial markets are relieved.

1 One significant roadblock impeding Nevada's economic recovery is the
2 prevalence of foreclosures by banks, and more recently, HOAs. Nevada's
3 Common Interest Ownership Act, Nevada Revised Statute (NRS) Chapter 116,
4 provides that an HOA has a lien on a property for delinquent assessments and that
5 the association may foreclose on its lien, and NRS 116.3116 provides that a portion
6 of the HOA lien, limited to nine months worth of assessments, takes priority over a
7 first security interest. Although the Uniform Act was adopted in Nevada in 1991,
8 the provision concerning this "super-priority lien" and HOA foreclosures was not
9 put to the test until the real estate crisis of the last few years. Now, investors and
10 collection agencies are using this "super-priority" lien provision to acquire homes
11 far below fair market value. In the process, they are attempting to extinguish
12 lenders' security interests and in turn, any chance of mortgage relief available to
13 struggling homeowners. For all of the reasons set forth herein, this Court should
14 interpret NRS 116.3116 in a manner that would avoid absurd results for both
15 lenders and residential homeowners.

22 **II. LEGAL ARGUMENT**

23 **A. Origin of the Super Priority Lien**

24 The Uniform Common Interest Ownership Act (UCIOA) was promulgated
25 in 1982 by the National Conference of Commissioners on Uniform State Laws to
26 provide a model set of laws to govern common interest communities (CICs). CICs
27
28

1 include developments that have mandatory community associations that are
2 responsible for managing common areas or assets, with funds assessed by the
3 association against individual unit owners. See UCIOA §1-103(2)-(7). Article 3
4 of the UCIOA addresses the management of CICs, assessment delinquencies and
5 the collection of delinquent assessments. Section 3-116 of the UCIOA provides in
6 relevant part:
7

8
9 (a) The association has a lien on a unit for any assessment levied against
10 that unit or fines imposed against its unit owner from the time the
11 assessment or fine becomes due.

12 (b) A lien under this section is prior to all other liens and encumbrances
13 on a unit except

14 (ii) a first security interest on the unit recorded before the date
15 on which the assessment sought to be enforced became
16 delinquent....and

17 (iii) liens for real estate taxes and other governmental
18 assessments or charges against the unit or cooperative. **The**
19 **lien is also prior to all security interests described in clause**
20 **(ii) above to the extent of the common expense assessments**
21 **based on the periodic budget adopted by the association**
22 **pursuant to Section 3-115(a) which would have become**
23 **due in the absence of acceleration during the 6 months**
immediately preceding institution of an action to enforce
the lien.

24 UCIOA § 3-116, ULA Com Interest § 3-116.¹
25

26 ¹Section 3-115 provides: (a) Until the association makes a common expense
27 assessment, the declarant shall pay all common expenses. After an assessment has
28 been made by the association, assessments must be made at least annually, based
on a budget adopted at least annually by the association.

1 Thus, under section 3-116, a portion of the association's lien, limited to six
2 months of assessments immediately preceding an action to enforce the lien, is
3 given statutory priority over a previously perfected first security interest. This
4 portion of the lien is commonly referred to as a "super-priority lien." Typically,
5 the previously perfected first security interest that becomes subordinate to the
6 super priority lien belongs to the lender/bank that holds the note and the deed of
7 trust, i.e. the first mortgage.
8

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10
11 **1. With the increase of CICs in the United States, the super-**
12 **priority lien was created to strike a balance between the**
13 **need to enforce collection of unpaid assessments and the**
14 **need to protect the priority of the security interests of**
15 **lenders.**

16 CICs account for a substantial portion of housing in the United States. The
17 Community Associations Institute (CAI), which tracks data regarding the number
18 of CICs and their residents in the United States, indicates that from 1970 to 2012,
19 the number of association governed communities increased from 10,000 to
20 323,600 (25.9 million housing units). Industry Data, Community Associations
21 Institute, National Statistics.² In difficult economic times, assessment collection
22 becomes increasingly difficult. When assessments go uncollected, the defaulting
23 homeowner's share of assessments often times falls upon the non-defaulting
24 homeowners who are forced to pay additional amounts to fill the budgetary gap.
25
26
27

28 ² <http://www.caionline.org/info/research/Pages/default.aspx>

1 See James Winokur, *Meaner Lienor Community Associations: The "Super*
2 *Priority" Lien and Related Reforms Under The Uniform Common Interest*
3 *Ownership Act*, 27 Wake Forest L. Rev. 353, 359 (1992). As the assessments of
4 non-defaulting owners rise, these owners face greater pressure to default if they
5 cannot afford those assessment increases. Id. These factors obviously can have a
6 negative impact upon the financial strength of an association, which in turn often
7 bears strongly on the value of housing units in the CIC as well as surrounding
8 areas. Id.

9
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11
12 The super-priority lien was a response to the difficulties CICs experienced
13 with the assessment collection process. The comment to section 3-116 provides in
14 relevant part:
15

16 To ensure prompt and efficient enforcement of the
17 association's lien for unpaid assessments, such liens should
18 enjoy statutory priority over most other liens. Accordingly,
19 subsection (b) provides that the association's lien takes
20 priority over all other liens and encumbrances except those
21 recorded prior to the recordation of the declaration, those
22 imposed for real estate taxes or other governmental
23 assessments or charges against the unit, and first security
24 interests recorded before the date the assessment became
25 delinquent. However, as to prior first security interests the
26 association's lien does have priority for 6 months' assessments
27 based on the periodic budget. **A significant departure from**
28 **existing practice, the 6 months' priority for the assessment**
lien strikes an equitable balance between the need to
enforce collection of unpaid assessments and the obvious
necessity for protecting the priority of the security
interests of lenders. As a practical matter, secured lenders

1 will most likely pay the 6 months' assessments demanded by
2 the association rather than having the association foreclose on
3 the unit. If the lender wishes, an escrow for assessments can
be required.... (Emphasis added).

4 **2. Adoption of the super priority lien in Nevada**

5 In 1991, the Nevada legislature adopted the UCIOA and introduced NRS
6
7 116. NRS 116.3116 includes the super-priority lien language and is virtually
8 identical to section 3-116 of the UCIOA. NRS 116.3116 provides in relevant part:
9

10 2. A lien under this section is prior to all other liens and
11 encumbrances on a unit except:

12 ***

13 (b) A first security interest on the unit recorded before the
14 date on which the assessment sought to be enforced became
delinquent...; and

15 ***

16 The lien is also prior to all security interests described in
17 paragraph (b) to the extent of any charges incurred by the
18 association on a unit pursuant to NRS 116.310312 and to the
19 extent of the assessments for common expenses based on the
20 periodic budget adopted by the association pursuant to NRS
21 116.3115 which would have become due in the absence of
acceleration during the 9 months immediately preceding
institution of an action to enforce the lien...

22 NRS 116.3116 deviates from section 3-116 of the UCIOA only in that it expands
23 the super-priority period to include unpaid assessments occurring during the
24 preceding nine months instead of six months.
25

26 Thus, under NRS 116.3116, a previously perfected first security interest, i.e.
27 the first mortgage, retains its priority over a subsequent lien asserted by the HOA,
28

1 **except** to the extent that the subsequent lien is based on unpaid periodic
2 assessments for common expenses. When this occurs, a portion of the HOA's lien,
3 limited to the nine months immediately preceding the institution of an action to
4 enforce the lien, is given priority over the bank's first mortgage. The super-
5 priority portion of the lien can never exceed nine months worth of association
6 assessments based upon its periodic budget, plus exterior repair costs pursuant to
7 NRS 116.310312.

10 **B. To Conclude That A Foreclosure Of An HOA Lien Extinguishes A**
11 **First Mortgage Would Render Portions Of NRS 116.3116**
12 **Superfluous And Lead To An Absurd Result.**

13 The construction of a statute is a question of law that this Court reviews de
14 novo. A.F. Const. Co. v. Virgin River Casino Corp., 118 Nev. 699, 703, 56 P.3d
15 887, 890 (2002). "When the language of a statute is plain and unambiguous, such
16 that it is capable of only one meaning, this court should not construe that statute
17 otherwise." MGM Mirage v. Nevada Ins. Guaranty Ass'n., 125 Nev. 223, 229,
18 209 P.3d 766, 769 (2009) (citation omitted). In construing statutes, this Court
19 seeks to give effect to the legislature's intent, and in so doing, the court first looks
20 to the plain language of the statute. However, if the statutory language is
21 ambiguous or fails to address the issue, this Court will construe the statute
22 according to that which "reason and public policy would indicate the legislature
23 intended." A.F. Const. Co., 118 Nev. at 703, 56 P.3d at 890 (quoting State, Dep't

1 Mtr. Vehicles v. Vezeris, 102 Nev. 232, 236, 720 P.2d 1208, 1211 (1986) (internal
2 quotations and citation omitted)). This Court has specifically held that it “has a
3 duty to construe statutes as a whole, so that all provisions are considered together
4 and, to the extent practicable, reconciled and harmonized.” Smith v. Kisorin USA
5 Inc., 127 Nev. ___, 254 P.3d 636, 639 (2011) (quoting Cromer v. Wilson, 126
6 Nev. ___, 225 P.3d. 788, 790 (2010)). Careful consideration of the “policy and
7 spirit of the law” is necessary to avoid an interpretation that leads to an absurd
8 result. Smith, 254 P.3d at 639-40.

11
12 **1. NRS 116.3116 (2)(b) expressly states that an HOA lien is**
13 **subordinate to a first mortgage.**

14 NRS 116.3116 sets forth (1) a general rule; (2) an exception to that general
15 rule; and (3) an exception to the exception. See Bayview Loan Servicing, LLC v.
16 Alessi & Koenig, LLC, 2013 WL 2460452 * 3 (D. Nev. June 6, 2013). Under the
17 clear language of the statute, the general rule is that HOA liens are prior to all other
18 liens. The exception to this rule is that HOA liens are not prior to a first mortgage.
19 See NRS 116.3116 2(b). The statute then provides an exception to the exception,
20 which states that “[t]he [HOA] lien is also prior to all security interests described
21 in paragraph (b) to the extent [of nine months worth of assessments.]” NRS
22 116.3116 (unnumbered paragraph following subsection (2) (c)). The super-priority
23 language does nothing to alter or modify the rule that a first mortgage is always
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1 prior to an HOA lien. Rather, the language simply provides an exception for nine
2 months worth of assessments immediately preceding an action to enforce the lien.

3 Villa Palms' interpretation of NRS 116.3116 negates both (1) the express
4 exception for first mortgages in subsection (2)(b); and (2) the express limited
5 exception to that exception in the unnumbered paragraph following subsection
6 (2)(c). Villa Palms seeks to exclude language the legislature expressly included in
7 the statute, which invites an absurd result. Had the legislature intended for an
8 HOA foreclosure to extinguish a first mortgage, it never would have included
9 subsection (2)(b), the provision stating that a first mortgage is prior to an HOA
10 lien. To conclude that a first mortgage is extinguished upon an HOA foreclosure
11 sale would render subsection (2)(b) immaterial and superfluous.

12 Furthermore, Villa Palms' interpretation of the statute is not consistent with
13 this Court's duty to reconcile the statute as a whole. See Smith, 254 P.3d at 639.
14 In Bayview, a federal district court rejected the argument that an HOA foreclosure
15 extinguished an earlier-recorded first mortgage. In that case, the court correctly
16 read NRS 116.3116 to mean that a first mortgage recorded before HOA
17 assessments become delinquent is senior to an HOA lien, except to the extent of
18 nine months of regular HOA dues immediately preceding the action to enforce the
19 HOA lien and any HOA fees and costs related to exterior maintenance of the unit
20 at issue or the removal or abatement of a public nuisance related to the unit at
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1 issue. Bayview, 2013 WL 2460452 * 3. The court correctly concluded that the
2 first mortgage rule prevents a prior-recorded first mortgage from being
3 extinguished by foreclosure of an HOA lien that contains a super-priority amount.
4

5 As further support for its reasoning, the court looked to the real estate
6 community itself:
7

8 [T]he real estate community in Nevada clearly understands
9 the statutes to work the way the Court finds. In the current
10 real estate market in Nevada, most homes sold at
11 foreclosure are purchased by investors for cash in order to
12 renovate the homes and then resell them for a quick profit
13 or rent them. If investors believed that HOA foreclosures
14 extinguished first mortgages, homes sold at HOA
15 foreclosure sales would sell for significant fractions of their
16 fair market value, not for the tiny fractions of their fair
17 market value approximating the HOA lien at which HOA-
18 foreclosed homes invariably sell. That investors will not
19 pay significant amounts, i.e. fair amounts, for HOA-
20 foreclosed homes indicates their perception that the first
21 mortgage survives, preventing any profit through resale. If
22 the actors in the real estate market in Nevada believed that
23 an HOA foreclosure extinguished the first mortgage, one
24 would expect the Property here to have sold for something
25 on the order of \$80,000 (assuming the home is worth
26 roughly half of the \$176,000 for which Borrower refinanced
27 it in 2004). But the Property sold for a mere \$10,000, only
28 slightly more than HOA's lien. This shows that the Nevada
real estate community does not operate as if HOA
foreclosures extinguish first mortgages recorded before the
HOA delinquency arises.

25 Bayview, 2013 WL 246045, at * 4.
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1 Villa Palms' position, if applied, would lead to absurd results. Here, the property
2 was purchased at the foreclosure sale for \$5,800. See Opening Brief 2. However,
3 at least one real estate related website values the subject property at approximately
4 \$73,578. See [http://www.zillow.com/homedetails/1908-Villa-Palms-Ct-UNIT-](http://www.zillow.com/homedetails/1908-Villa-Palms-Ct-UNIT-102-Las-Vegas-NV-89128/6950010_zpid/)
5 [102-Las-Vegas-NV-89128/6950010_zpid/](http://www.zillow.com/homedetails/1908-Villa-Palms-Ct-UNIT-102-Las-Vegas-NV-89128/6950010_zpid/). Should this Court conclude that the
6 HOA foreclosure extinguished Respondent, Deutsche Bank's, interest, Villa Palms
7 will have purchased the subject property, free and clear, for less than ten percent of
8 its fair market value. To allow such a substantial windfall to the purchaser is both
9 absurd and an unintended outcome of the statute. More importantly, however, the
10 deficiency judgment the homeowner potentially faces is much more distorted than
11 if the home had been sold at a price closer to fair market value.

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16 The legislative intent behind the statute was "to ensure that no matter which
17 entity forecloses, an HOA will be made whole (up to a limited amount), while also
18 ensuring that first mortgagees who record their interest before notice of any
19 delinquencies giving rise to a super-priority lien do not lose their security."
20 Bayview, 2013 WL 246045 at *5. To give each part of the statute some effect, the
21 court must read them together to mean "the super-priority rule affects the priority
22 of *reimbursement*, but not extinguishment. Reading the super-priority rule to
23 affect extinguishment would read the first mortgage rule out of the statutes almost
24 entirely." Id. (emphasis added)

1 **2. Villa Palms Court 102 Trust's interpretation of NRS 116.3116**
2 **conflicts with the statute's provisions governing notice,**
3 **foreclosure, and distribution of sale proceeds.**

4 Noticeably absent from NRS Chapter 116 is a provision requiring that the
5 holder of the first deed of trust be notified of the delinquent assessments with a
6 notice of default or notice of sale. NRS 116.31162 outlines the procedure for
7 mailing a notice of default, which triggers the foreclosure. Absent a specific
8 request, the holder of the first deed of trust is not entitled to notice of the default or
9 notice of sale. See NRS 116.31163; 116.311635. The comment to section 3-116
10 of the UCIOA specifically states that "[a]s a practical matter, secured lenders will
11 most likely pay the 6 months' assessments demanded by the association rather than
12 having the association foreclose on the unit." As a practical matter, however,
13 secured lenders cannot step up to cure a deficiency they know nothing about. The
14 creators of the UCIOA clearly contemplated that the holder of the first deed of
15 trust would be notified of any action that could affect its security interest. To
16 accept Villa Palms' position would condone a process whereby an HOA could
17 foreclose on a home for a tiny fraction of its fair market value without notifying the
18 holder of the first deed of trust. This interpretation of the statute would not only
19 lead to absurd results, but also fails to reconcile the statute as a whole. See Smith
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21
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25
26 254 P.3d at 639.
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1 C. HOA Lien Statutes Must Be Harmonized With, Or At Least Not
2 Directly Contravene, Laws And Public Policy Protecting Struggling
3 Homeowners Facing Economic Hardship.

4 Federal and state public policy favors bringing relief to homeowners
5 struggling to make their mortgage payments. In early 2009, the Obama
6 administration announced a program called Making Home Affordable (MHA). The
7 program is a multipronged foreclosure prevention plan which was expected to help
8 as many as nine million homeowners *keep their homes* and avoid foreclosure
9 through refinancing and modified loans designed to lower monthly mortgage
10 payments.
11

12
13 The Making Home Affordable ® Program (MHA) ® is an important
14 part of the Obama Administration's comprehensive plan to stabilize
15 the U.S. housing market by *helping homeowners get mortgage relief*
16 and avoid foreclosure. To meet the various needs of homeowners
17 across the country, Making Home Affordable ® programs offer a
18 range of solutions that may be able to help you take action before it's
too late.

19 <http://www.makinghomeaffordable.gov/about-mha/Pages/default.aspx>

20 The Department of the Treasury has obligated \$29.9 *billion* of Troubled Asset
21 Relief Program (TARP) funds to the MHA program. See Office of the Special
22 Inspector General For the Troubled Asset Relief Program, Quarterly Report to
23 Congress, July 24, 2013 at 47. The MHA program includes the Home Affordable
24 Modification Program ("HAMP"); the Home Affordable Foreclosure Alternative
25 ("HAFA") program; Home Price Decline Protection ("HPDP"), the Principal
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1 Reduction Alternative ("PRA"); and the Home Affordable Unemployment
2 Program ("UP"). *Id.* As of June 30, 2013, \$8.6 *billion* of TARP funds had been
3 expended on TARP housing support programs, \$5.8 *billion* of which had been
4 specifically expended on the MHA program. *Id.* at 47-48.

6 The state of Nevada has a similar goal when it comes to foreclosures. In
7 2009, the Nevada Legislature created the State of Nevada Foreclosure Mediation
8 Program (FMP) with the passage of Assembly Bill (AB) 149, which amended NRS
9 Chapter 107. The purpose of AB 149 was to directly address the foreclosure crisis
10 and to help "*keep families in their homes*"³. The FMP provides an opportunity for
11 homeowners and lenders to discuss alternatives to foreclosure. The FMP's mission
12 statement provides:
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16 Through state-wide collaboration, education, and best practices, the
17 State of Nevada Foreclosure Mediation Program provides a viable
18 mediation process bringing together key stakeholders, including
19 property owners, lenders, and their respective representatives, in a
20 neutral setting to discuss alternatives to foreclosure, thus helping to
21 reduce the number of foreclosures in Nevada under the guiding
22 principles of respect, equity, accountability and sensitivity.

23 <http://foreclosure.nevadajudiciary.us/index.php/about-programmission>.

24 It is clear that both federal and state public policy favors providing willing
25 homeowners with the opportunity to, at a minimum, explore alternatives to
26 foreclosure, which may include a loan modification, a re-finance, or possibly a
27

28 ³ See <http://foreclosure.nevadajudiciary.us/index.php/about-program>

1 short-sale. Significant resources and *billions* of dollars have been devoted to
2 programs specifically designed to make these options available to “responsible
3 homeowners struggling to make their mortgage payment.” See Office of the
4 Special Inspector General For the Troubled Asset Relief Program, Quarterly
5 Report to Congress, July 24, 2013 at 47 (the MHA is the umbrella program for
6 Treasury’s foreclosure mitigation efforts).
7

8
9 Defaulted mortgages and HOA liens spring from the same well:
10 homeowners facing economic hardship. This is the very group that state and
11 federal programs are designed to protect to further public policy. The
12 interpretation of NRS 116.3116 proffered by the investor in this case, that a
13 foreclosure by an HOA can extinguish a first mortgage, would directly contravene
14 this public policy because, unlike a foreclosure of a deed of trust where the bank is
15 required to discuss alternatives to foreclosure with a homeowner, an HOA can,
16 will,- and does - simply foreclose even if the homeowner is in the middle of a loan
17 modification or a short sale, which, absent the HOA foreclosure, would have made
18 everyone whole. Public policy disfavors this result. Allowing HOAs to extinguish
19 the first mortgage, without notice, and take the home from its owner does this:
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- 24 1. irrationally favors one investor’s windfall over billions of
25 dollars in mortgage relief funds;
26
- 27 2. potentially exposes the homeowner to a greater deficiency than if the
28 home were sold for fair market value;

3. discourages banks from making mortgage loans in the state of Nevada for fear that they could lose their security interest without proper notice;
4. effectively eviscerates every state and federal program specifically designed to help economically distressed homeowners;
5. distorts the real estate market because properties are sold drastically below fair market value to investors.

Given the law, efforts, and resources that have been applied to the foreclosure crisis in these past years, this Court should reject Villa Palms' interpretation of NRS 116.3116 and decline the invitation to subvert broad public policy.

CONCLUSION

Based on the foregoing, this Court should affirm the district court's ruling that the foreclosure of the HOA's super-priority lien did not extinguish Deutsche

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3 Bank's deed of trust.
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5 DATED this 8th day of August, 2013
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7 **LEGAL AID CENTER OF**
8 **SOUTHERN NEVADA, INC.**

9
10
11 BY: 

12 Jennifer Yin, Esq.

13 Nevada Bar No. 12922C

14 Barbara E. Buckley, Esq.

15 Nevada Bar No. 03918

16 Michael Joe, Esq.

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21 *Attorney for Proposed Brief of*
22 *Amicus*

23 *Curiae In Support Of Respondents*
24
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4 **CERTIFICATE OF COMPLIANCE**

5 1. I hereby certify that this Amicus Brief complies with the formatting
6 requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and
7 the type style requirements of NRAP 32(a)(6) because:
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10 ☒ This Amicus Brief has been prepared in a proportionally spaced typeface
11 using **Microsoft Word 2010 in 14 point Times New Roman** font; or

12 ☐ This Amicus Brief has been prepared in a monospaced typeface using
13 [state name version of word processing program] with [state number characters per
14 inch and name of type style].
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17 2. I further certify that this Amicus Brief complies with the page or type-
18 volume
19 limitations of NRAP 32(a)(7) and NRAP 29(e) because, excluding the parts of
20 Amicus Brief exempted by NRAP 32(a)(7)(c), it is either:
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22 ☒ Proportionally spaced, has typeface of 14 points or more and contains
23 5,661 words; or
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25 ☐ Monospaced, has 10.5 fewer characters per inch, and
26 contains ____ words or ____ lines of text; or
27

28 ☐ Does not exceed ____ pages.

1 3. Finally, I hereby certify that I have read this Amicus Brief, and to the
2 best of my knowledge, information, and belief, it is not frivolous or interposed for
3 any improper purpose. I further certify that this Amicus Brief complies with all
4 applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1),
5 which requires every assertion in the brief regarding matters in the record to be
6 supported by a reference to the page and volume number, if any, of the transcript
7 or appendix where the matter relied on is to be found. I understand that I may be
8 subject to sanctions in the event that the accompanying brief is not in conformity
9 with the requirements of the Nevada Rules of Appellate Procedure.
10
11
12

13 DATED this 8th day of August, 2013.
14

15 **LEGAL AID CENTER OF**
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28 *Attorney for Proposed Brief of Amicus
Curiae In Support Of Respondents*

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2
3 **CERTIFICATE OF SERVICE**

4 I HEREBY CERTIFY that, on the 8th day of August, 2013 and pursuant to
5 NRAP 25(1), I served via the Nevada Supreme Court's electronic filing system
6 and/or deposited for mailing in the U.S. Mail a true and correct copy of the
7 foregoing **PROPOSED BRIEF OF AMICUS CURIAE IN SUPPORT OF**
8 **RESPONDENTS WILLIAM L. RILEY AND DEUTSCHE BANK**
9 **NATIONAL TRUST COMPANY** postage prepaid and addressed to:
10
11
12
13
14

15 /s/ Amy Berlin
16 An employee of Legal Aid Center of
17 Southern Nevada
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