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APN#: 1219-11-001-014

RECORDING REQUESTED BY:

Kelly R. Chase, Esq. P.O. Box 2800 Minden, Nevada 89423 Douglas County - NV Werner Christen - Recorder

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ORDER TO RELEASE AND EXPUNGE LIEN AND JUDGMENT

Case No. 05-CV-0329

Dept. II

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POUGLAS COUNTY
DISTRICT COURT CLERK

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IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF DOUGLAS

STEVE BROWN and SUZANNE C. BROWN,

Petitioners,

ORDER
TO RELEASE AND EXPUNGE
LIEN

DAVID W. MARTIN,

Respondent

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This matter came before the Court for hearing on December 27, 2005, on the Motion filed by Petitioners STEVE BROWN and SUZANNE BROWN, for an Order to Show Cause Re: Frivolous or Excessive Mechanic's Lien and for an award of fees and costs pursuant to NRS 108.2275. Respondent, DAVID W. MARTIN, opposed the motion and requested relief outside the limited purpose of the hearing. Petitioners appeared and were represented by their attorney Kelly R. Chase, and Respondent appeared and represented himself *in pro per*. The parties introduced both oral and documentary evidence, and the Court heard and considered the evidence and arguments of counsel and parties.

The subject of this action is the "Notice of Lien" recorded October 6, 2005 as Document No. 0657075, in Book 1005, at page 2383, in the Official Records of Douglas County, that affects that certain real property described as:

Parcel 3-A, as set forth on that certain Parcel Map LDA #03-033 for MOTTSVILLE MEADOWS filed for record in the office of the County Recorder of Douglas County, Nevada on July 20, 2005 in Book 0705, at Page 8112, as Document No. 619273.

Douglas County APN 1219-11-001-014

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The Court hereby finds that Respondent's purported services do not constitute the type of labor contemplated under the mechanic's lien statutes, NRS Chapter 108. Respondent's theory that he was a partner in the development of the real property equates to an ownership interest, and NRS Chapter 108 is not applicable to an owner attempting to assert his interest in the property. Most importantly, Respondent did not record or file the lien in a timely manner as the completion of the work for which the services applied was completed on July 20, 2004, the date the final maps for the subject development were recorded. Further, Respondent terminated his employment with Petitioners on May 12, 2003, which is the last date of services. Respondent's lien was filed October 6, 2005, well over two (2) years after the lapse of the referenced time periods. Accordingly, the lien is untimely pursuant to NRS 108.226(1)(a)(3), which requires that a lien must be filed within 90 days of the last performance of work by the lien claimant for the work of improvement.

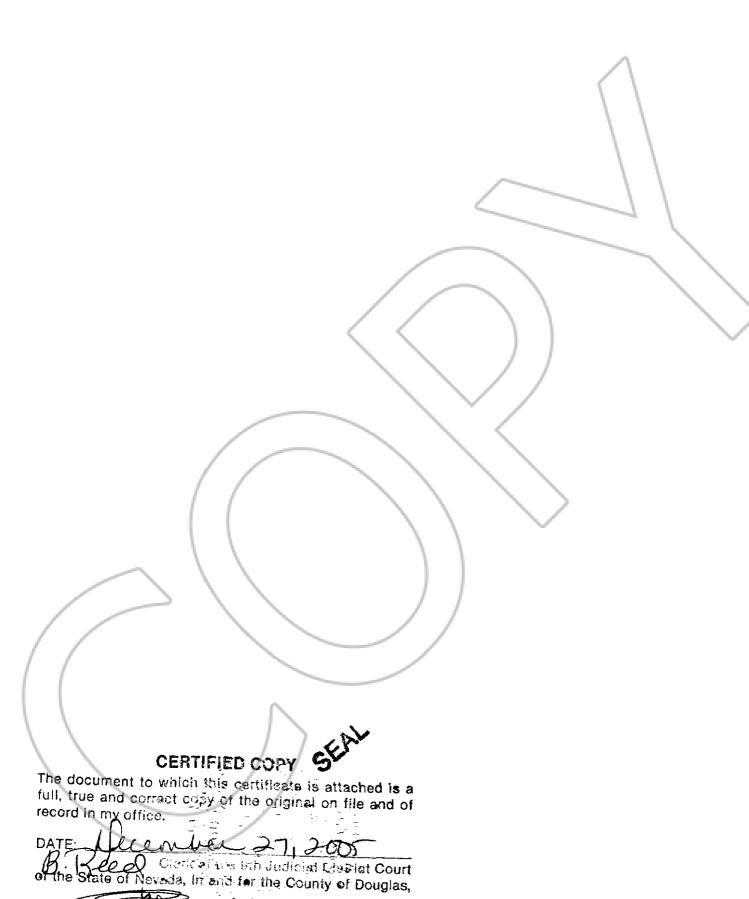
The Court further finds that the lien was filed without reasonable cause as being well outside the time permitted to file a lien. Therefore, Petitioners are entitled to an award of costs and reasonable attorneys fees. Petitioners filed a memorandum of costs and affidavit on attorneys fees and the same are approved by the Court. Therefore, on the basis of the foregoing, and good cause appearing.

IT IS HEREBY ORDERED that the Notice of Lien recorded October 6, 2005 as Document No. 0657075, in Book 1005, at page 2383, in the Official Records of Douglas County shall be, and is hereby, released and expunged and shall be of no further force or effect from the date hereof.

Dated this 27 day of 1) certal 20

District Court Judge

SUBMITTED BY:
Kelly R. Chase
P.O. Box 2800
Minden NV 89423
(775) 782-3099
Attorney for Petitioners



Deputy

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