



## Case Summary of *Pulte Home Corp. v. Vermillion Homeowners Association*<sup>1</sup>

### Homeowners' Association Bound by Arbitration Agreement It Did Not Sign

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In a lawsuit alleging construction defects in homeowners' individual townhomes, Florida's Second District Court of Appeal ruled that a homeowners' association was bound by arbitration agreements between its members and the developer. The arbitration provisions were contained in the purchase agreements signed by individual homeowners. It was undisputed that the homeowners' association did not sign a purchase agreement or limited warranty.

Pulte Home Corporation ("Pulte") was the builder of the Vermillion townhome development in Pasco County. Pulte constructed many of the common areas including access roads, water retention ponds, building envelopes, and roofs. The townhomes were owned by individual homeowners, who were members of the Vermillion Homeowners' Association (the "Association"). The Association maintained the common areas of the development along with the exteriors of the buildings, including the townhomes' exteriors. However, the Association did not maintain the doors, door frames, glass surfaces, or locks of the townhomes.

Acting on its own behalf and on behalf of its individual members, the Association filed a cause of action against Pulte alleging breach of implied warranty to the individual homeowners. Specifically, the Association alleged various building code violation. The Association also alleged that Pulte failed to comply with good design, engineering, and construction practices. Based on the record, the court ascertained that the defects alleged related to the exteriors and roof of the individual townhomes and not the common areas maintained by the Association.

In response to the Association's allegations, Pulte filed a motion to compel arbitration. The bases of the motion to compel arbitration were the arbitration provisions contained in the purchase agreements and limited warranties (the "Arbitration Provisions"). Pursuant to the Arbitration Provisions, the owners of the townhomes had agreed to arbitrate any disputes involving Pulte. In response to the motion to compel arbitration, the Association argued that it had not signed an arbitration agreement with Pulte, and therefore, should be permitted to litigate the claims. The court rejected the Association's argument.

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<sup>1</sup> *Pulte Home Corp. v. Vermillion Homeowners Association, Inc.*, 109 So. 3d 233 (Fla. 2d DCA 2013).

In rejecting the Association's argument (i.e., it was not a signee, therefore it should not be bound by the Arbitration Provisions), the court noted that some of the Association's claims were brought in its capacity as a representative of the individual homeowners. In this regard, the court stated that, although Florida Rule of Civil Procedure 1.211 gave the Association standing to bring the claims on behalf of its members, the members remained the real parties in interest. As such, the court concluded that where the claims of the Association were being made in its representative capacity, the Association was obligated to comply with the arbitration agreements that bound its members. The court then reversed the trial court's order denying arbitration and remanded the case.

It is important to note, that the court permitted the Association to amend its complaint to allege any claims that could be brought by the Association in its own right. The court explained that these claims would be allowed to proceed to litigation, while the individual homeowners' claims required arbitration.

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