

**Arizona Supreme Court**  
**Civil Petition for Review - Appeal**

**CV-16-0126-PR**

**CITY OF PHOENIX v GLENAYRE ELECTRONICS et al**

**Appellate Case Information**

Case Filed: 7-Jun-2016  
Case Closed:

**Dept/Composition**

**En Banc**

Hon. Scott Bales  
Hon. John Pelander  
Hon. Robert M. Brutinel  
Hon. Clint Bolick  
Hon. Andrew W. Gould  
Hon. John R. Lopez  
Hon. Rebecca White Berch

**Side 1. CITY OF PHOENIX, Third-Party Plaintiff**

**(Litigant Group) CITY OF PHOENIX**

- City of Phoenix, Appellant

**Attorneys for: Third-Party Plaintiff/Appellant**

Mary R O'Grady, Esq. (AZ Bar No. 11434)  
Eric M Fraser, Esq. (AZ Bar No. 27241)  
Brad Holm, Esq. (AZ Bar No. 11237)

**(Litigant Group) LEAGUE OF ARIZONA CITIES AND TOWNS/ARIZONA MUNICIPAL RISK RETENTION POOL**

- League of Arizona Cities and Towns, Amicus Curiae
- Arizona Municipal Risk Retention Pool, Amicus Curiae
- Apache County, Amicus Curiae
- Cochise County, Amicus Curiae
- Coconino County, Amicus Curiae
- Graham County, Amicus Curiae
- Greenlee County, Amicus Curiae
- La Paz County, Amicus Curiae
- Maricopa County, Amicus Curiae
- Navajo County, Amicus Curiae
- Pinal County, Amicus Curiae
- Yavapai County, Amicus Curiae
- Yuma County, Amicus Curiae
- Town of Gilbert, Amicus Curiae

**Attorneys for: Amici Curiae**

Eileen Dennis GilBride, Esq. (AZ Bar No. 9220)

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**Side 2. GLENAYRE ELECTRONICS, INC.; WILLIAM LYON HOMES, INC.; KB HOME HOLDINGS, INC.; RICHMOND AMERICAN HOMES, INC.; MDC/WOOD, INC.; UDC HOMES, INC. nka SHEA HOMES OF PHOENIX, INC. (FN) and ELLIOTT HOMES, INC.; SWENGEL-ROBBINS CONTRACTING CO., INC.; AZTEC CONSTRUCTION, INC.; JNC, INC.; UH HOLDINGS, INC.; LOS PAISANOS DEVELOPMENT, INC.; MICHAEL NEWSOME; CHI CONSTRUCTION CO.; CONTINENTAL HOMES, INC.; PULTE HOME CORP.; DEL WEBB CORP.; WITTMAN CONTRACTING COMPANY; JEFF BLANDFORD INVESTMENTS, INC.; BENTSON CONTRACTING COMPANY, Third-Party Defendant**

**(Litigant Group) GLENAYRE ELECTRONICS INC et al**

- Glenayre Electronics Inc, Appellee

**Attorneys for: Third-Party Defendant/Appellee**

Katherine E Baker, Esq. (AZ Bar No. 10146)

**(Litigant Group) WILLIAM LYON HOMES INC**

- William Lyon Homes Inc, Appellee

**Attorneys for: Third-Party Defendant/Appellee**

Brad D Bleichner, Esq. (AZ Bar No. 16126)

K Lynn Silbiger, Esq. (AZ Bar No. KLYNNSILBIGER)

**(Litigant Group) KB HOME HOLDINGS INC/RICHMOND AMERICAN HOMES INC/MDC/WOOD INC/**

- KB Home Holdings Inc, Appellee
- Richmond American Homes Inc, Appellee
- MDC/Wood Inc, Appellee

**Attorneys for: Third-Party Defendant/Appellee**

Holly P Davies, Esq. (AZ Bar No. 18308)

Alexis G Terriguez, Esq. (AZ Bar No. 32165)

**(Litigant Group) UDC HOMES INC/ELLIOTT HOMES INC**

- UDC Homes Inc, Appellee
- Shea Homes of Phoenix Inc (FN), Appellee
- Elliot Homes Inc, Appellee

**Attorneys for: Third-Party Defendant/Appellee**

Jill Ann Herman, Esq. (AZ Bar No. 20180)

**(Litigant Group) SWENGEL-ROBBINS CONTRACTING CO INC**

- Swengel-Robbins Contracting Co Inc, Appellee

**Attorneys for: Third-Party Defendant/Appellee**

Richard K Mahrle, Esq. (AZ Bar No. 5166)

**(Litigant Group) AZTEC CONSTRUCTION INC**

- Aztec Construction Inc, Appellee

**Attorneys for: Third-Party Defendant/Appellee**

Joseph A Kula, Esq. (AZ Bar No. 7794)

Benjamin R Eid, Esq. (AZ Bar No. 28148)

**(Litigant Group) JNC INC/UH HOLDINGS INC**

- JNC Inc, Appellee
- UH Holdings Inc, Appellee

**Attorneys for: Third-Party Defendant/Appellee**

Daniel D Maynard, Esq. (AZ Bar No. 9211)

**(Litigant Group) LOS PAISANOS DEVELOPMENT INC**

- Los Paisanos Development Inc, Appellee

**Attorneys for: Third-Party Defendant/Appellee**

Vincent J Montell, Esq. (AZ Bar No. 14236)

Michael J Ponzio, Esq. (AZ Bar No. 28092)

**(Litigant Group) MICHAEL NEWSOME**

- Michael Newsome, Appellee

**(Litigant Group) CHI CONSTRUCTION CO/CONTINENTAL HOMES INC**

- CHI Construction Co, Appellee
- Continental Homes Inc, Appellee

**Attorneys for: Third-Party Defendant/Appellee**

Kevin E O'Malley, Esq. (AZ Bar No. 6420)

Mark A Fuller, Esq. (AZ Bar No. 12149)

Thomas A Maraz, Esq. (AZ Bar No. 10993)

**(Litigant Group) PULTE HOME CORP/DEL WEBB CORP**

- Pulte Home Corporation, Appellee
- Del Webb Corporation, Appellee

**Attorneys for: Third-Party Defendant/Appellee**

Michael S Rubin, Esq. (AZ Bar No. 5131)

Stephen E Richman, Esq. (AZ Bar No. 7489)

**(Litigant Group) WITTMAN CONTRACTING CO**

- Wittman Contracting Company

**Attorneys for: Third-Party Defendant/Appellee**

Thomas J Shorall, Jr, Esq. (AZ Bar No. 10456)

Jason J Boblick, Esq. (AZ Bar No. 26507)

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(Litigant Group) JEFF BLANDFORD INVESTMENTS INC

• Jeff Blandford Investments Inc, Appellee

**Attorneys for: Third-Party Defendant/Appellee**

Dennis I Wilenchik, Esq. (AZ Bar No. 5350)

John D Wilenchik, Esq. (AZ Bar No. 29353)

Colleen C Thomas, Esq. (AZ Bar No. 24787)

**CASE STATUS**

Jan 18, 2017....Submitted

Dec 13, 2016....At Issue

Dec 13, 2016....Oral Argument Granted

Jun 7, 2016.....Pending

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
1 CA	1 CA-CV 14-0739				
↳ MAR	CV2013-001762		Randall H Warner, Authoring Judge of Order Comments: (none)		

**39 PROCEEDING ENTRIES**

- 7-Jun-2016 FILED: Motion for Procedural Order for Extension of Time to File Petition for Review; Certificate of Service (Appellant City of Phoenix)
- 8-Jun-2016 FILED: Notice of Erratum for Motion for Procedural Order for Extension of Time to File Petition for Review (Inadvertently Omitted Glenayre Electronics, Inc on Consent for Extension); Certificate of Service (Appellant City of Phoenix)
- 8-Jun-2016 A "Motion for Procedural Order for Extension of Time to File Petition for Review" (Appellant City of Phoenix) having been filed on June 7, 2016,  
  
IT IS ORDERED granting an extension of time to file the Petition for Review on or before July 20, 2016. No further extensions of time shall be granted absent extraordinary circumstances. This matter is subject to dismissal if the Petition for Review is not filed by July 20, 2016. (Janet Johnson, Clerk)
- 20-Jul-2016 FILED: Petition for Review; Certificate of Service; Certificate of Compliance; Opinion (Appellant City of Phoenix)
- 21-Jul-2016 FILED: Record from CofA: Electronic Record
- 26-Jul-2016 FILED: CHI Construction Company and Continental Homes, Inc.'s Motion for Procedural Order for Extension of Time to File Response to Petition for Review; Certificate of Service (Appellees CHI Construction Co/Continental Homes Inc.)
- 27-Jul-2016 A "CHI Construction Company and Continental Homes, Inc.'s Motion for Procedural Order for Extension of Time for Appellees to File Responses to the Petition for Review" (Appellees CHI Construction Co/Continental Homes Inc.) having been filed on July 26, 2016,  
  
IT IS ORDERED granting an extension of time for all Appellees to file their Responses to the Petition for Review on or before September 19, 2016. No further extensions of time shall be granted absent extraordinary circumstances. (Janet Johnson, Clerk)
- 19-Sep-2016 FILED: Joint Response to Petition for Review of Chi Construction, Continental Homes, Inc., and Other-Third Party Defendants/Appellees/Respondents; Certificate of Service; Certificate of Compliance (Appellees CHI Construction Co/Continental Homes Inc.)
- 19-Sep-2016 FILED: Response to Petition for Review; Certificate of Service; Certificate of Compliance (Appellee Jeff Blandford Investments Inc.)
- 21-Sep-2016 RECEIPT No.: ASC2016-00873 ; \$140.00, Authorization: 64020579578, Applied to: CHI CONSTRUCTION CO/CONTINENTAL HOMES INC - Class B Filing Fee (\$140.00) Paid for: CHI CONSTRUCTION CO/CONTINENTAL HOMES INC - By Intresys Inc (Memo: FormSet No. 1937254)
- 23-Sep-2016 RECEIPT No.: ASC2016-00875 ; \$140.00, Authorization: 65013246175, Applied to: JEFF BLANDFORD INVESTMENTS INC - Class B Filing Fee (\$140.00) Paid for: JEFF BLANDFORD INVESTMENTS INC - By Intresys Inc (Memo: FormSet No. 1938060)
- 6-Oct-2016 FILED: Motion for Leave to File Amicus Brief by The League of Arizona Cities and Towns and the Arizona Municipal Risk Retention Pool; Certificate of Service (Amici Curiae League of Arizona Cities and Towns/Arizona Municipal Risk Retention Pool)

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13. 6-Oct-2016 FILED: Brief of Amicus Curiae Apache, Cochise, Coconino, Graham, Greenlee, La Paz, Maricopa, Navajo, Pinal, Yavapai, and Yuma Counties; The Town of Gilbert; The League of Arizona Cities and Towns; and The Arizona Municipal Risk Retention Pool; Certificate of Service; Certificate of Compliance (Amici League of Arizona Cities and Towns/Arizona Municipal Risk Retention Pool)
14. 6-Oct-2016 FILED: (Duplicate) Motion for Leave to File Amicus Brief by The League of Arizona Cities and Towns and The Arizona Municipal Risk Retention Pool (Amici League of Arizona Cities and Towns/Arizona Municipal Risk Retention Pool)
15. 6-Oct-2016 A "Motion for Leave to File Amicus Brief by The League of Arizona Cities and Towns and the Arizona Municipal Risk Retention Pool" (Amici Curiae League of Arizona Cities and Towns/Arizona Municipal Risk Retention Pool) and the Brief of Amicus Curiae were filed on October 6, 2016.
- IT IS ORDERED granting the "Motion for Leave to File Amicus Brief by The League of Arizona Cities and Towns and the Arizona Municipal Risk Retention Pool." The brief shall be filed as of October 6, 2016. (Janet Johnson, Clerk)
16. 17-Oct-2016 FILED: Unopposed Motion for Procedural Order Re Response to Amicus Brief; Certificate of Service (Appellees CHI Construction Co/Continental Homes Inc.)
17. 17-Oct-2016 On October 17, 2016, Respondents Continental Construction and Continental Homes, Inc. ("the Continental Respondents") filed an "Unopposed Motion for Procedural Order re Response to Amicus Brief." In the motion, the Continental Respondents seek leave to file their response to the amicus brief of The League of Arizona Cities and Towns and certain other third parties ("the League") on or before November 14, 2016. After due consideration,
- IT IS ORDERED that the Continental Respondents may have until November 14, 2016 to file a response to the League's amicus brief. (Hon. John Pelander)
18. 14-Nov-2016 FILED: Joint Response to Brief of Amici Curiae; Certificate of Service; Certificate of Compliance (Appellees CHI Construction Co/Continental Homes Inc.)
19. 13-Dec-2016 ORDERED: Petition for Review = GRANTED.
- FURTHER ORDERED: The case shall be set for oral argument.
- FURTHER ORDERED: The parties may file simultaneous supplemental briefs, not to exceed 20 pages in length, on or before January 6, 2017.
- FURTHER ORDERED: Request for Attorneys' Fees (Appellees CHI Construction Co/Continental Homes Inc.) = CONTINUED.
- Justice Timmer did not participate in the determination of this matter.
20. 15-Dec-2016 NOTICE OF ORAL ARGUMENT: Set for Wednesday, January 18, 2017, at 9:40 A.M. [twenty minutes (20) per side]
21. 16-Dec-2016 FILED: Motion for Procedural Order: Extension of Time to File Supplemental Briefs; Certificate of Service (Appellant City of Phoenix)
22. 16-Dec-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Kevin O'Malley will argue) (Appellees CHI Construction Co/Continental Homes Inc.)
23. 16-Dec-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Dennis I. Wilenchik will argue) (Appellee Jeff Blandford Investments Inc.)
24. 19-Dec-2016 FILED: (Duplicate) Notice of Filing Acknowledgment of Oral Argument (Kevin O'Malley will argue) (Appellees CHI Construction Co/Continental Homes Inc.)
25. 19-Dec-2016 A "Motion for Procedural Order: Extension of Time to File Supplemental Briefs" (Appellant City of Phoenix) having been filed on December 16, 2016,
- IT IS ORDERED granting the motion.
- IT IS FURTHER ORDERED the parties supplemental briefs shall be due on or before January 10, 2017. (Hon. Scott Bales)
26. 20-Dec-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Brad D. Bleichner will appear but not argue) (Appellee William Lyon Homes Inc.)
27. 20-Dec-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Jason J. Boblick will appear but not argue) (Appellee Wittman Contracting Company)

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28. 20-Dec-2016 FILED: (Duplicate) Notice of Filing Acknowledgment of Oral Argument (Kevin O'Malley will argue) (Appellees CHI Construction Co/Continental Homes Inc.)
29. 20-Dec-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Mary R. O'Grady will argue) (Appellant City of Phoenix)
30. 21-Dec-2016 FILED: (Duplicate) Notice of Filing Acknowledgment of Oral Argument (Mary R. O'Grady will argue) (Appellant City of Phoenix)
31. 21-Dec-2016 FILED: (Duplicate) Notice of Filing Acknowledgment of Oral Argument (Kevin O'Malley will argue) (Appellees CHI Construction Co/Continental Homes Inc.)
32. 22-Dec-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Michael S. Rubin will argue) (Appellees Pulte Home Corporation/Del Webb Corporation)
33. 23-Dec-2016 FILED: Remaining Record from CofA:  
  
CofA:  
Instrument (1 part)
34. 28-Dec-2016 Justice Ann A. Scott Timmer has recused herself and will not participate in argument or decision of the above captioned matter. Therefore, pursuant to Article 6, Section 3 of the Arizona Constitution,  
  
IT IS ORDERED that the Honorable Rebecca White Berch, Justice (Retired) of the Arizona Supreme Court, is designated to sit on the case and participate until the matter is finally determined. (Hon. John Pelander)
35. 29-Dec-2016 FILED: Notice of Filing Acknowledgment of Oral Argument (Richard K. Mahrle will argue) (Appellee Swengel-Robbind Contracting Co. Inc.)
36. 10-Jan-2017 FILED: Appellees CHI Construction and Continental Homes, Inc.'s Supplemental Citation of Authority; Certificate of Service (Appellees CHI Construction Co/Continental Homes Inc.)
37. 10-Jan-2017 FILED: Supplemental Brief of Third-Party Plaintiff/Appellant; Certificate of Service; Certificate of Compliance (Appellant City of Phoenix)
38. 17-Jan-2017 FILED: Appellees CHI Construction and Continental Homes, Inc.'s Supplemental Citation of Authority; Certificate of Service (Appellees CHI Construction Co/Continental Homes Inc.)
39. 18-Jan-2017 ORAL ARGUMENT - Submitted for decision en banc (Attorneys who argued: Mary R. O'Grady; Kevin E. O'Malley)