

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

NOV 20 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

In re: GREYSTONE NEVADA, LLC;
U.S. HOME CORPORATION,

No. 13-70546

GREYSTONE NEVADA, LLC; U.S.
HOME CORPORATION,

DC Nos. 2:11 cv-1422 RCJ
2:11 cv-1424 RCJ

Petitioners,

MEMORANDUM*

v.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA, LAS
VEGAS,

Respondent,

ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION; FIESTA PARK
HOMEOWNERS' ASSOCIATION,

Real Parties in Interest.

Petition for Writ of Mandamus to
the United States District Court
for the District of Nevada

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Argued and Submitted November 4, 2013
San Francisco, California

Before: TASHIMA, W. FLETCHER, and NGUYEN, Circuit Judges.

In their petition for a writ of mandamus, “Petitioners seek an order directing the district court to dismiss the HOAs’ [Home Owner Associations’] counterclaims” Since the filing of the petition, however, those counterclaims have been dismissed by the district court. This mandamus proceeding, therefore, has been rendered moot because Petitioners have already obtained all of the relief they seek in this proceeding. *See ACF Indus., Inc. v. Cal. State Bd. of Equalization*, 42 F.3d 1286, 1292 (9th Cir. 1994) (dismissing as moot an appeal from the denial of a motion to dismiss certain claims where the district court had subsequently dismissed those claims).

Petitioners contend that this proceeding has not been mooted by the dismissal of the HOAs’ counterclaims because there remain issues on which they seek a ruling from this court. Those issues, however, are not yet ripe for adjudication because the district court has not yet rendered a definitive ruling on them. Even if they were ripe, they do not meet the five-factor *Bauman* test to justify issuance of the writ. *See Bauman v. U.S. Dist. Court*, 557 F.2d 650, 654-55 (9th Cir. 1977).

The petition is **DENIED**.