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June 16, 2011

Hon. Lester Heltzer
Executive Secretary
National Labor Relations Board
1099 14th Street, N.W.
Washington, DC 20570-0001

VIA ELECTRONIC FILING

Re: D.R. Horton, Inc.
Case 12-CA-25764

Dear Mr. Heltzer:

On May 18, 2011, the Board granted the Application for Leave to File Brief as Amici Curiae in Support of General Counsel's Exceptions filed on behalf of Service Employees International Union, Alton Sanders and Taylor Bayer. Counsel for the Acting General Counsel submits this letter as an answering brief to Amici, limited to the issue raised in Point V of Amici's brief.

In Part V Amici express agreement with the Acting General Counsel's Exceptions with respect to the appropriate affirmative remedy insofar as those exceptions take the position "that the only way D.R. Horton can remedy its previous and current violations of Section 7 and Section 8(a)(1) is to rescind its class action prohibition in its entirety and to cease any ongoing efforts to enforce that prohibition." However Amici express uncertainty concerning the meaning of the Acting General Counsel's Exception 10.

In response, the Acting General Counsel acknowledges that Exception 10 appears to have created unnecessary uncertainty as to the remedy sought by the Acting General Counsel under the facts and applicable law of this case. For that reason, the Acting General Counsel hereby requests permission to withdraw Exception 10. There is no need at this time for the Board Order and Notice to Employees to attempt to specify how the Respondent might revise its mandatory arbitration agreement in order to make

it lawful. Such issues, addressed in Exception 10, simply are not before the Board at this time because the Respondent has not proposed or implemented any revised agreements. If the Board orders the Respondent to rescind the existing Mutual Arbitration Agreements and the Respondent then promulgates a revised mandatory arbitration agreement, such a revised agreement can be considered either in the compliance stage of this proceeding, or in connection with a new unfair labor practice charge if such a charge is filed.

For the foregoing reasons, the Acting General Counsel requests that Exception 10 be withdrawn. Clarifying the remaining Exceptions pertaining to the affirmative remedy, the Acting General Counsel takes the position that the Board should simply require the Respondent to rescind the Mutual Arbitration Agreements that have been executed by its former and current employees, as stated in Acting General Counsel's Exception 9.

The Acting General Counsel takes no further position with respect to the arguments set forth in Point V of Amici's brief.

Respectfully submitted,

/s/ John F. King

John F. King
Counsel for the Acting General Counsel

cc: see page 3

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Via electronic mail to:

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