

1 CODE: 2540  
2 SCOTT A. GLOGOVAC, ESQ.  
3 Nevada Bar No. 226  
4 GLOGOVAC & PINTAR  
5 427 West Plumb Lane  
6 Reno, Nevada 89509  
7 Telephone: 775-333-0400  
8 Facsimile: 775-333-0412  
9 [sglogovac@gplawreno.net](mailto:sglogovac@gplawreno.net)

10 Attorneys for Petitioner  
11 *Reno Newspapers, Inc.*

12 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

13 IN AND FOR THE COUNTY OF WASHOE

14 RENO NEWSPAPERS, INC., a Nevada Corporation,  
15 Case No. CV15-01871

16 Dept. No. 9

17 Petitioner,

18 vs.

19 CITY OF SPARKS, a Municipal Corporation,  
20

21 Respondent.

22 **NOTICE OF ENTRY OF ORDER GRANTING**  
23 **PETITION FOR WRIT OF MANDAMUS**

24 **PLEASE TAKE NOTICE** that an Order Granting Petition for Writ of Mandamus was  
25 entered by the Court in this matter on January 28, 2016.

26 A copy of the Order is attached hereto as Exhibit 1.

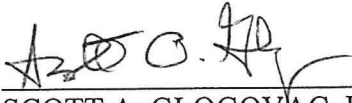
27 **AFFIRMATION**  
28 **Pursuant to NRS 239B.030**

The undersigned does hereby affirm that the preceding document does not contain the  
social security number of any person.

1 DATED this 2<sup>nd</sup> day of February, 2016.

2 GLOGOVAC & PINTAR

3  
4 By:

  
SCOTT A. GLOGOVAC, ESQ.  
Nevada Bar No. 226

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6 Attorneys for Petitioner  
7 *Reno Newspapers, Inc.*  
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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of Glogovac &  
3 Pintar, 427 West Plumb Lane, Reno, NV 89509, and that on the 2<sup>nd</sup> day of February 2016, I  
4 served the foregoing document(s) described as follows:

5 **NOTICE OF ENTRY OF ORDER GRANTING PETITION FOR WRIT**  
6 **OF MANDAMUS**

7 On the party(s) set forth below by:

8 \_\_\_\_\_ Placing an original or true copy thereof in a sealed envelope placed for collection  
9 and mailing in the United States Mail, at Reno, Nevada, postage prepaid,  
following ordinary business practices, addressed as follows:

10   X   I electronically filed with the Clerk of the Court, using ECF which sends an  
11 immediate notice of the electronic filing to the following registered e-filers for  
their review of the document in the ECF System:

12 SCOTT A. GLOGOVAC, ESQ. for RENO NEWSPAPERS, INC.  
13 DOUGLAS R. THORNLEY, ESQ. for CITY OF SPARKS  
14 CHESTER ADAMS, ESQ. for CITY OF SPARKS

15 \_\_\_\_\_ Personal delivery via messenger.

16 \_\_\_\_\_ Facsimile (FAX).

17 \_\_\_\_\_ Federal Express or other overnight delivery.

18 Dated this 2<sup>nd</sup> day of February 2016.

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20 Mele D. Fonokalafi

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**INDEX OF EXHIBITS**

<b>Exhibit No.</b>	<b>Description</b>	<b>Pages</b>
1	Order Granting Petition for Writ of Mandamus	7



# **EXHIBIT 1**

# **EXHIBIT 1**

1 CODE: 3370

2  
3  
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5 IN AND FOR THE COUNTY OF WASHOE  
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Case No. CV15-01871  
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9 Petitioner,

10 v.

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12 Respondent.  
13 \_\_\_\_\_/

14 **ORDER GRANTING PETITION FOR WRIT OF MANDAMUS**

15 This case came on for hearing on January 14, 2016. At the time of the hearing, the Court  
16 was in receipt of Petitioner RENO NEWSPAPERS, INC. d/b/a RENO GAZETTE  
17 NEWSPAPER's ("RGJ") *Request for Oral Argument* filed on October 21, 2015. The Court was  
18 also in receipt of Petitioner's *Petition for Writ of Mandamus* filed on September 18, 2015. On  
19 October 8, 2015, Respondent, CITY OF SPARKS ("City of Sparks") filed a *Response in*  
20 *Opposition to Petition for Writ of Mandamus*. Petitioner filed a *Reply in Support of Petition for*  
21 *Writ of Mandamus* on October 20, 2015.

22 Upon review of the oral arguments, moving papers and exhibits, the Court GRANTS  
23 Petitioner RENO NEWSPAPERS' *Petition for Writ of Mandamus* and directs Respondent  
24 CITY OF SPARKS to provide Petitioner with copies of the public records at issue in the above  
25 entitled matter.

26 **BACKGROUND**

27 On August 20, 2015, Reno Gazette Journal reporter Channele Bessette sent an email to  
28 the City of Sparks requesting copies of business licenses of medical marijuana establishments in

1 Sparks, Nevada, including the names of the applicants/licensees. The City of Sparks denied the  
2 request on August 24, 2015 asserting that the names of the medical marijuana establishments  
3 ("MME's") were confidential under Nevada law and not subject to disclosure. The City of  
4 Sparks provided the licenses, but redacted the names of the holders. RGJ sent a second request,  
5 which was also denied by the City of Sparks.

#### 6 STANDARD OF REVIEW

7 "A writ of mandamus may be issued by . . . a district court to compel the performance  
8 of an act of an inferior state tribunal, corporation, board or person." NRS 34.160. A court has  
9 complete discretion in deciding whether to consider a petition for mandamus. *Sims v. Eight Jud.*  
10 *Dist. Ct. ex rel. Cnty. Of Clark*, 125 Nev. 126, 129, 206 P.3d 980, 982 (2009). The issuance of a  
11 writ of mandamus to compel an officer of the state must be for a duty resulting from the office  
12 and required by law. *State ex rel. McGuire v. Watterman*, 5 Nev. 323, 326 (1869).

13 Before a writ of mandamus may be issued, certain requirements must be met: first, the  
14 act required to be performed must be a duty resulting from the office and required by law. *Id.* It  
15 must appear that the defendant has it in his power to perform the duty required and the writ will  
16 have a beneficial effect to the applying party. *Id.*

17 Mandamus should not be used unless the usual and ordinary remedies fail to provide a  
18 plain, speedy, and adequate remedy, and without it there would be a failure of justice. *Sims* at  
19 129, 982. A petition will only be granted when the petitioner has a clear right to the relief  
20 requested and has met the burden of establishing that writ relief is appropriate. *Halverson v.*  
21 *Miller*, 124 Nev. 484, 488, 186 P.3d 893, 896 (2008). To have standing, the petitioner must  
22 demonstrate that it possesses a "beneficial interest" in obtaining writ relief. *Mesagate*  
23 *Homeowners' Ass'n v. City of Fernley*, 124 Nev. 1092, 1097, 194 P.3d 1248, 1251 (2008). The  
24 court will not conduct a hearing de novo.

#### 25 DISCUSSION

##### 26 ***I. Petitioner's Petition for Writ of Mandamus is Not Procedurally Deficient***

27 As a preliminary matter, the Court first addresses Respondent's assertion that  
28 Petitioner's petition is procedurally deficient insofar as Petitioner did not exhaust all available  
administrative remedies before lodging the petition with the Court. *See* (Opposition, 5 citing

1 *Allstate Ins. Co. v. Thorpe*, 170 P.3d 989, 993 (Nev. 2007)). Respondent argues that pursuant to  
2 NRS 233B.110(1), the Court is explicitly prohibited from rendering a judgment in this case until  
3 all administrative procedures have been exhausted. *Id.* Petitioner should have filed for a  
4 declaratory judgment and not a petition for writ of mandamus. *Id.*

5 The Court disagrees with Respondent's reading of NRS 233B.110. Upon a plain  
6 language reading of the statute, nothing mandates Petitioner bring a declaratory judgment.  
7 Pursuant to the statute, "[t]he validity of applicability of any regulation *may* be determined in a  
8 proceeding for a declaratory judgment in the district court . . . when it is alleged that the  
9 regulation, or its proposed application, interferes with or impairs, or threatens to interfere with  
10 or impair, the legal rights or privileges of the plaintiff." (emphasis added). The statute clearly  
11 and unambiguously uses permissive language; nothing requires Petitioner to assert declaratory  
12 relief.

13 Further, the Court agrees that *Allstate* requires a person to "exhaust all available  
14 administrative remedies before proceeding in district court renders the matter unripe for judicial  
15 review." 170 P.3d 989, 993 (Nev. 2007). However, NRS 239.011(1) provides a specific remedy  
16 for denied requests of public records documents: "[i]f a request for inspection, copying or  
17 copies of a public book or record open to inspection and copying is denied, the requester may  
18 apply to the district court in the county in which the book or record is located for an order."  
19 Insofar as NRS 239.011(1) provides a specific and separate remedy for denied requests of  
20 public record documents, the Court finds Petitioner's petition for writ of mandamus is the  
21 proper vehicle for judicial review of the issues.

## 22 ***II. A Duty Exists Under NRS Chapter 239 Requiring the City of Sparks to Disclose the Public*** 23 ***Records***

24 The primary issue before the Court is whether the names of the holders of MME  
25 licenses are "otherwise declared by law to be confidential" within the meaning of the NRS  
26 239.010. The Court finds that the names of holders of MME licenses are not protected under the  
27 confidentiality provision exceptions of NRS 239.010.

28 Pursuant to NRS 239.0105, "[r]ecords of a local government entity are confidential and  
not public books or records within the meaning of NRS 239.010" if the records meet certain  
provision outlined in the statute. NRS 329.010 outlines a list of the public books and records

1 that are not open to public inspection “unless otherwise declared by law to be confidential.”

2 *Reno Newspapers v. Sheriff*, 126 Nev. 211, 214, 234 P.3d 922, 924 (2010) states

3 The purpose of the [Nevada Public Records] Act is to foster principles of  
4 democracy by allowing the public access to information about government  
5 activities. NRS 239.001(1); *see Dr. Partners v. Bd. Of County Comm’rs*, 116 Nev.  
6 616, 621, 6 P.3d 465, 468 (2000). In 2007, the Legislature amended the Act to  
7 ensure the presumption of openness, and provided that all statutory provisions  
8 related to the Act must be construed liberally in favor of the Act’s purpose. NRS  
9 239.001(2); 2007 Nev. Stat., Ch. 435 § 2, at 2061. In contrast, any exemption,  
10 exception, or a balancing of interests that restricts the public’s right to access a  
11 governmental entity’s records *must be construed narrowly*. NRS 239.001(3);  
12 2007 Nev. Stat., ch. 435 § 2, at 2061. Thus, this court will presume that all public  
13 records are open to disclosure unless either (1) the Legislature has expressly and  
14 unequivocally created an exemption or exception by statute, . . .; or (2) balancing  
15 the private or law enforcement interests for nondisclosure against the general  
16 policy in favor of an open and accessible government requires restricting public  
17 access to government records.

18 (referencing *Cowles Pub. Co v. Kootenai County Bd.*, 144 Idaho 259, 159 P.3d 896, 899 (2007);  
19 *Kroeplin v. Wisconsin DNR*, 297 Wis.2d 254, 725 N.W.2d 286, 292 (Wis.Ct.App2006); and  
20 *Donrey of Nevada v. Bradshaw*, 106 Nev. 630, 635-36, 798 P.2d 144, 147-48 (1990).<sup>1</sup>

21 Therefore, this Court follows the test laid out in *Sheriff* and finds that the Nevada  
22 Legislature did not expressly or unequivocally create an exemption or exception by statute  
23 protecting MME license holders under NRS 239.010.<sup>2</sup> NRS 239.010 added two specific sections  
24 regarding medical marijuana establishments in 2013. *See* AB31, 78<sup>th</sup> Nevada Legislative Session  
25 (2013). First, NRS 453A.610 keeps information regarding research at the University of Nevada  
26 School of Medicine confidential. Second, NRS 453A.700 keeps certain information regarding  
27 physicians prescribing medical marijuana and those prescribed medical marijuana confidential.  
28 NRS 239.010 is current through 2015 and the most recent legislative session. The Court finds

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<sup>1</sup> In meeting minutes of the 2013 Legislative Session, Keith Munro, Assistant Attorney General, Office of the Attorney General, stated in regards to Assembly Bill 31, which added NRS 453A.610 and NRS 453A.700 to the list of public records not subject to disclosure, “[t]his bill proposes changes to NRS Chapter 239, the Nevada Public Records Law . . . The intent of this legislation is to provide procedures for members of the public seeking access to records and for agencies responding to public records requests in a timely, consistent, and efficient manner . . . Both public agencies and the public should have better clarity as to that process. Disagreements should not be left to expensive litigation.” *See* Assembly Committee on Government Affairs, Minutes at page 25 (February 7, 2013).

<sup>2</sup> The second element was not at issue before the Court.

1 NRS 453A.610 and 453A.710 are currently the only two exemptions regarding medical  
2 marijuana to NRS 239.010.

3 Respondent argues that NAC 453A.714 lays out another exemption, specifically for the  
4 names of MME license holders, to public records disclosure under NRS 239.010. (Opposition,  
5 6). On April 1, 2014, the Division of Health and Human Services enacted NAC 453A.714, which  
6 provides,

7 [e]xcept as otherwise provided in this section and NRS 239.0115, the Division  
8 will and any designee of the Division shall maintain the confidentiality of and  
9 shall not disclose the name or any other identifying information of any person  
10 who facilitates or delivers services pursuant to this chapter or chapter 453A of  
11 NRS. Except as otherwise provided in NRS 239.0115, the name and any other  
identifying information of any person who facilitates or delivers services pursuant  
to this chapter or chapter 453A of NRS are confidential, not subject to subpoena  
or discovery and not subject to inspection by the general public.

12 Respondent argues that “the name or any other identifying information of any person who  
13 facilitates or delivers services pursuant to this chapter” includes license holders of MME’s. *Id.*  
14 at 7. According to Respondent, a person who “delivers services” necessarily includes the license  
15 holders of MME’s. However, the Court disagrees with Respondent’s arguments. *Id.*

16 Following the specific test laid out by *Sheriff*, public records are subject to disclosure  
17 only if the Legislature has created an express and unequivocal exception or exemption.  
18 Respondent argues that the exception is found in the catchall phrase, “unless otherwise declared  
19 by law to be confidential.” This phrase thus leads to a parallel construction with NAC  
20 453A.714, which provides that specific exemption for MME license holders. However, NAC  
21 453A.714 is silent as to who is included under the phrase “delivers services.”

22 The Court finds that silence of NAC 453A.714 regarding who exactly “delivers  
23 services” is ambiguous and thus not express or unequivocal pursuant to *Sheriff*. Currently,  
24 MME license holders are not expressly or unequivocally protected under the confidentiality  
25 protections of NRS 239.010. The Court finds that in order to bring another exception into NRS  
26 239.010 through the phrase “unless otherwise declared by law,” any separate exception not  
27 included under NRS 239.010 must also comply with the express and unequivocal test laid out  
28 by *Sheriff*. The ambiguity of those who “deliver services” does not bring MME license holders

1 within the purview of as "otherwise declared by law" under NRS 239.010. Therefore, MME  
2 license holders are not protected under NRS 239.010. A duty exists under NRS Chapter 239  
3 requiring the City of Sparks to disclose the requested public records.

4 **III. Conclusion**

5 **THEREFORE**, and good cause appearing, a petition for writ of mandamus is therefore  
6 **GRANTED** insofar as Petitioner has established it has a clear right to the relief requested.  
7 *Halverson v. Miller*, 124 Nev. 484, 488, 186 P.3d 893, 896 (2008).

8 **THE COURT HEREBY ORDERS** issuance of a writ of mandamus directing  
9 Respondent the CITY OF SPARKS to provide Petitioner RGJ unredacted copies of the  
10 requested MME business licenses.

11 **IT IS FURTHER ORDERED** the City of Sparks pay RGJ an award of its reasonable  
12 attorneys fees and costs incurred in this action as provided by NRS 239.011(2). The Court will  
13 award said fees upon a showing of proof by motion and affidavit.

14  
15 DATED: this 28 day of January, 2016.

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19 DISTRICT JUDGE  
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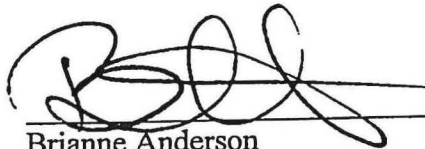


CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this \_\_\_\_ day of \_\_\_\_\_, 2016, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Further, I certify that on the 28<sup>th</sup> day of January, 2016, I electronically filed the foregoing with the Clerk of the Court electronic filing system, which will send notice of electronic filing to the following:

SCOTT GLOGOVAC, ESQ. for RENO NEWSPAPER, INC.  
DOUGLAS THORNLEY, ESQ. for CITY OF SPARKS  
CHESTER ADAMS, ESQ. for CITY OF SPARKS



Brianne Anderson  
Judicial Assistant



CODE: 3370

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
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Upon review of the oral arguments, moving papers and exhibits, the Court GRANTS Petitioner RENO NEWSPAPERS' *Petition for Writ of Mandamus* and directs Respondent CITY OF SPARKS to provide Petitioner with copies of the public records at issue in the above entitled matter.

**BACKGROUND**

On August 20, 2015, Reno Gazette Journal reporter Chanelle Bessette sent an email to the City of Sparks requesting copies of business licenses of medical marijuana establishments in

1 Sparks, Nevada, including the names of the applicants/licensees. The City of Sparks denied the  
2 request on August 24, 2015 asserting that the names of the medical marijuana establishments  
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#### 25 DISCUSSION

##### 26 ***I. Petitioner’s Petition for Writ of Mandamus is Not Procedurally Deficient***

27 As a preliminary matter, the Court first addresses Respondent’s assertion that  
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## 22 ***II. A Duty Exists Under NRS Chapter 239 Requiring the City of Sparks to Disclose the Public*** 23 ***Records***

24 The primary issue before the Court is whether the names of the holders of MME  
25 licenses are "otherwise declared by law to be confidential" within the meaning of the NRS  
26 239.010. The Court finds that the names of holders of MME licenses are not protected under the  
confidentiality provision exceptions of NRS 239.010.

27 Pursuant to NRS 239.0105, "[r]ecords of a local government entity are confidential and  
28 not public books or records within the meaning of NRS 239.010" if the records meet certain  
provision outlined in the statute. NRS 329.010 outlines a list of the public books and records

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5 activities. NRS 239.001(1); *see Dr. Partners v. Bd. Of County Comm’rs*, 116 Nev.  
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7 ensure the presumption of openness, and provided that all statutory provisions  
8 related to the Act must be construed liberally in favor of the Act’s purpose. NRS  
9 239.001(2); 2007 Nev. Stat., Ch. 435 § 2, at 2061. In contrast, any exemption,  
10 exception, or a balancing of interests that restricts the public’s right to access a  
11 governmental entity’s records *must be construed narrowly*. NRS 239.001(3);  
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21       Therefore, this Court follows the test laid out in *Sheriff* and finds that the Nevada  
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24 regarding medical marijuana establishments in 2013. *See* AB31, 78<sup>th</sup> Nevada Legislative Session  
25 (2013). First, NRS 453A.610 keeps information regarding research at the University of Nevada  
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28 Records Law . . . The intent of this legislation is to provide procedures for members of the public seeking access to  
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4 names of MME license holders, to public records disclosure under NRS 239.010. (Opposition,  
5 6). On April 1, 2014, the Division of Health and Human Services enacted NAC 453A.714, which  
6 provides,

7 [e]xcept as otherwise provided in this section and NRS 239.0115, the Division  
8 will and any designee of the Division shall maintain the confidentiality of and  
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10 who facilitates or delivers services pursuant to this chapter or chapter 453A of  
11 NRS. Except as otherwise provided in NRS 239.0115, the name and any other  
12 identifying information of any person who facilitates or delivers services pursuant  
13 to this chapter or chapter 453A of NRS are confidential, not subject to subpoena  
14 or discovery and not subject to inspection by the general public.

15 Respondent argues that “the name or any other identifying information of any person who  
16 facilitates or delivers services pursuant to this chapter” includes license holders of MME’s. *Id.*  
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19 Following the specific test laid out by *Sheriff*, public records are subject to disclosure  
20 only if the Legislature has created an express and unequivocal exception or exemption.  
21 Respondent argues that the exception is found in the catchall phrase, “unless otherwise declared  
22 by law to be confidential.” This phrase thus leads to a parallel construction with NAC  
23 453A.714, which provides that specific exemption for MME license holders. However, NAC  
24 453A.714 is silent as to who is included under the phrase “delivers services.”

25 The Court finds that silence of NAC 453A.714 regarding who exactly “delivers  
26 services” is ambiguous and thus not express or unequivocal pursuant to *Sheriff*. Currently,  
27 MME license holders are not expressly or unequivocally protected under the confidentiality  
28 protections of NRS 239.010. The Court finds that in order to bring another exception into NRS  
239.010 through the phrase “unless otherwise declared by law,” any separate exception not  
included under NRS 239.010 must also comply with the express and unequivocal test laid out  
by *Sheriff*. The ambiguity of those who “deliver services” does not bring MME license holders

1 within the purview of as "otherwise declared by law" under NRS 239.010. Therefore, MME  
2 license holders are not protected under NRS 239.010. A duty exists under NRS Chapter 239  
3 requiring the City of Sparks to disclose the requested public records.

4 **III. Conclusion**

5 **THEREFORE**, and good cause appearing, a petition for writ of mandamus is therefore  
6 **GRANTED** insofar as Petitioner has established it has a clear right to the relief requested.  
7 *Halverson v. Miller*, 124 Nev. 484, 488, 186 P.3d 893, 896 (2008).

8 **THE COURT HEREBY ORDERS** issuance of a writ of mandamus directing  
9 Respondent the CITY OF SPARKS to provide Petitioner RGJ unredacted copies of the  
10 requested MME business licenses.

11 **IT IS FURTHER ORDERED** the City of Sparks pay RGJ an award of its reasonable  
12 attorneys fees and costs incurred in this action as provided by NRS 239.011(2). The Court will  
13 award said fees upon a showing of proof by motion and affidavit.

14  
15 DATED: this 28 day of January, 2016.

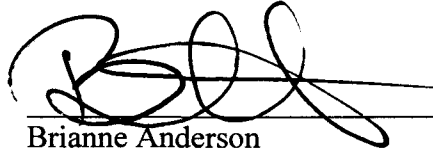
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18 \_\_\_\_\_  
19 DISTRICT JUDGE  
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this \_\_\_\_ day of \_\_\_\_\_, 2016, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Further, I certify that on the 28<sup>th</sup> day of January, 2016, I electronically filed the foregoing with the Clerk of the Court electronic filing system, which will send notice of electronic filing to the following:

SCOTT GLOGOVAC, ESQ. for RENO NEWSPAPER, INC.  
DOUGLAS THORNLEY, ESQ. for CITY OF SPARKS  
CHESTER ADAMS, ESQ. for CITY OF SPARKS



Brianne Anderson  
Judicial Assistant

1 **4330**  
SCOTT A. GLOGOVAC, ESQ.  
2 Nevada Bar No. 00226  
GLOGOVAC & PINTAR  
3 427 West Plumb Lane  
4 Reno, NV 89509  
Telephone: 775-333-0400  
5 Facsimile: 775-333-0412  
sglogovac@gplawreno.net  
6

7 Attorneys for Plaintiff  
8 *Reno Newspapers, Inc.*

9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

10 IN AND FOR THE COUNTY OF WASHOE

11 RENO NEWSPAPERS, INC., a Case No.  
12 Nevada corporation,

13 Petitioner, Dept. No.

14 vs.

15 CITY OF SPARKS, a municipal  
16 corporation,

17 Respondent.  
18 \_\_\_\_\_/

19 **PETITION FOR WRIT OF MANDAMUS**

20 Pursuant to NRS Chapter 239, the Nevada Public Records Act, Petitioner Reno  
21 Newspapers, Inc. petitions the Court for issuance of a writ of mandamus directing  
22 Respondent City of Sparks to provide Petitioner with copies of the public records  
23 described herein.

24 Petitioner additionally requests an award of all costs and attorney's fees it incurs  
25 in prosecuting this matter, together with such other relief as the Court deems proper.

26 This Petition is brought on the following grounds:  
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1           6.       The foregoing statutory provisions not only mandate the registration of  
2 MMEs with the requisite division of the Nevada state government, they also recognize  
3 that an MME seeking to do business in a local governmental jurisdiction that issues  
4 business licenses will be subject to the local business licensing requirements of that  
5 jurisdiction. See NRS 453A.326(3). Consistent with this recognition, the City requires  
6 any MME seeking to do business within the City to obtain a City-issued business  
7 license.  
8

9           7.       The identity of any person or entity who obtains a business license from  
10 the City to operate an MME within the City is a matter of clear public interest in  
11 northern Nevada and throughout the State. Indeed, as stated above, the Nevada  
12 Legislature has expressly pronounced that its statutory framework for the regulation of  
13 MMEs exists to protect the public health and safety and the general welfare of the  
14 people of Nevada.  
15

16           8.       In furtherance of the foregoing public interest, and in the course of the  
17 RGJ's newsreporting activities, RGJ reporter Chanelle Bessette sent an August 20,  
18 2015 e-mail to the City making a request under the Nevada Public Records Act for  
19 "copies of the business licenses of medical marijuana establishments in Sparks,  
20 including the names of the applicants/licensees." A copy of that e-mail is attached  
21 hereto as Exhibit 1.  
22

23           9.       The City responded to the RGJ's request by letter dated August 24, 2015.  
24 A copy of that letter is attached hereto as Exhibit 2. In that letter, the City asserted that  
25 the names of the MME business license holders are confidential under Nevada law,  
26 and are therefore not subject to disclosure under the Nevada Public Records Act. The  
27 City thus produced copies of the requested business licenses, but redacted the names  
28 of the license holders.

1           10.    The City's claim of confidentiality is limited to a single, narrow contention -  
2 - that NAC 453A.714(1), which is a regulation promulgated by the State of Nevada  
3 Division of Public and Behavioral Health ("the Division"), confers confidentiality on the  
4 names of the MME business license holders. This claim, however, is without merit,  
5 and thus the RGJ asked the City to reconsider its position. The City subsequently  
6 refused to do so, thereby compelling the RGJ to commence this mandamus action.  
7

### 8                                   Legal Authority

#### 9           A. The Nevada Public Records Act.

10           11.    The basic mandate of the Nevada Public Records Act is set forth in NRS  
11 239.010. Subsection 1 of that statute states that other than as provided in certain  
12 confidentiality statutes contained in the Nevada Revised Statutes (all of which are  
13 individually specified in Subsection 1), and "unless otherwise declared by law to be  
14 confidential," all public records of a governmental entity in Nevada "must be open at all  
15 times during office hours to inspection by any person..." NRS 239.010(1).  
16

17           12.    The purpose of the Nevada Public Records Act is to ensure the  
18 accountability of the government to members of the public by facilitating public access  
19 to vital information about government activities. DR Partners v. Board of County  
20 Comm'rs, 116 Nev. 616, 6 P.3d 465 (2000); Reno Newspapers v. Sheriff, 126 Nev.  
21 Adv. Op. 23, 234 P.3d 922, 924 (2010).  
22

23           13.    In order to enforce the Nevada Public Records Act, NRS 239.011(1)  
24 states that: "If a request for inspection, copying or copies of a public book or record  
25 open to inspection and copying is denied, the requester may apply to the district court  
26 in the county in which the book or record is located for an order...permitting the  
27 requester to inspect or copy the book or records...or requiring the person who has  
28

1 legal custody or control of the public book or record to provide a copy to the  
2 requester..."

3 14. In any action for such an order, the governmental entity bears the burden  
4 of establishing that the requested records are confidential under the law. DR Partners  
5 v. Board of County Comm'rs, 116 Nev. 616, 6 P.3d 465 (2000); NRS 239.0113.  
6

7 15. Moreover, the Nevada Legislature has mandated that the Nevada Public  
8 Records Act "be construed liberally", and that any limitations on public disclosure be  
9 "construed narrowly". NRS 239.001; DR Partners v. Bd. of County Comm'rs, 116 Nev.  
10 616, 621, 6 P.3d 465, 468 (2000); Reno Newspapers v. Sheriff, 126 Nev. Adv. Op. 23,  
11 234 P.3d 922 (2010).

12 16. Based on the foregoing legal principles, unless some provision of the law  
13 clearly and unambiguously confers confidentiality on the names of MME business  
14 license holders in the City, those names are not confidential, and the City must produce  
15 unredacted copies of the requested MME business licenses to the RGJ. Public  
16 Employees Retirement System of Nevada v Reno Newspapers, Inc., 129 Nev. Adv.Op.  
17 88, p. 5 (2013).  
18

19 **B. The City's Claim Of Confidentiality Is Meritless.**

20 17. As it must, the City concedes that any business license it issues to an  
21 MME is a public record. As a result, unless the name of the licensee appearing in any  
22 such license falls within one of the specified confidentiality statutes listed in  
23 NRS 239.010(1), or is "otherwise declared by law to be confidential," that name is  
24 public and must be provided to the RGJ.  
25

26 18. As to the confidentiality statutes listed in NRS 239.010(1), two are  
27 contained in NRS Chapter 453A, which, as previously stated, is the NRS chapter that  
28 governs medical use of marijuana in Nevada. However, neither of those statutes

1 confers confidentiality on the name of the licensee appearing in an MME business  
2 license issued by the City.

3 19. The first statute is NRS 453A.610, which contains a declaration of  
4 confidentiality limited to certain documentation and information generated or received  
5 by the University of Nevada School of Medicine as part of the program it has  
6 established for research related to the medical use of marijuana. This confidentiality  
7 provision clearly does not extend to the name of an MME business license holder in the  
8 City.  
9

10 20. The second provision is NRS 453A.700, which contains a declaration of  
11 confidentiality limited to the name and any other identifying information of an "attending  
12 physician" or a person who has applied for or obtained a "registry identification card."  
13 The phrase "attending physician" is defined in NRS 453A.030 as a duly licensed  
14 medical doctor or osteopath who has responsibility for the care and treatment of a  
15 person with a chronic or debilitating medical condition. The phrase "registry  
16 identification card" is defined in NRS 453A.140 as a document issued by the Division,  
17 or its designee, that identifies a person who is exempt from state prosecution for  
18 engaging in the medical use of marijuana, or that person's designated primary  
19 caregiver. Given these definitions, the confidentiality conferred by NRS 453A.700 just  
20 as clearly does not extend to the name of an MME business license holder in the City.  
21

22 21. Under the circumstances, unless the name of such a license holder is  
23 "otherwise declared by law to be confidential," that name is a matter of public record.  
24 In this regard, as stated above, the City has advanced only a single argument: that  
25 confidentiality is conferred on the name of an MME business license holder by NAC  
26 453A.714(1), which, as also stated above, is an administrative regulation promulgated  
27 by the Division. This argument, however, is without merit.  
28

1           22. First, NAC 453A.714(1) makes no reference to MMEs at all, let alone to  
2 the names of the owners or licensees of those establishments. Rather, it merely refers  
3 to "any person who facilitates or delivers services" pursuant to NRS Chapter 453A,  
4 without defining or otherwise identifying the persons or entities who are intended to be  
5 included in that class of "persons." Similarly, the underlying statutory provisions of  
6 NRS Chapter 453A contain no definition of that phrase. It is thus improper, and a  
7 violation of the Nevada Public Records Act, for the City to expansively interpret the  
8 phrase and assume that it extends all the way to a licensee's name on a business  
9 license issued by the City to an MME.  
10

11           23. In addition, the very first sentence of the regulation imposes a duty of  
12 maintaining confidentiality only on the Division and its designees. Nowhere in the  
13 regulation is such a duty expressly imposed on any counties or municipalities in this  
14 state, including the City. While the City observed in its August 24, 2015 letter to the  
15 RGJ (Exhibit 2) that the second sentence of the regulation restates the duty of  
16 confidentiality without limiting it to the Division and its designees, that sentence merely  
17 injects confusion and ambiguity into the regulation. And, in such a circumstance, the  
18 Nevada Public Records Act mandates resolution of the ambiguity in favor of public  
19 access.  
20

21           24. Moreover, the City's interpretation of NAC 453A.714(1) forces a meaning  
22 on the regulation that far exceeds the regulation-making authority given to the Division  
23 under NRS Chapter 453A.  
24

25           25. In this regard, pursuant to NRS 233B.040, state agencies such as the  
26 Division are vested with regulation-making authority. However, in any specific  
27 regulation-making circumstance, that authority is limited to the grant of authority  
28

1 provided by the Nevada Legislature in the statutory provisions which underly the  
2 regulations in question. NRS 233B.040(1).

3       26. In this instance, the Division's regulation-making authority under NRS  
4 Chapter 453A is granted by NRS 453A.370. While subsection 5 of that statute confers  
5 authority on the Division to promulgate regulations that "[a]s far as possible while  
6 maintaining accountability, protect the identity and personal identifying information of  
7 each person who receives, facilitates or delivers services in accordance with this  
8 chapter," nowhere in NRS Chapter 453A is the phrase "person who receives, facilitates  
9 or delivers services in accordance with this chapter" defined. This absence has clear  
10 significance because, as discussed above, the only persons whose identities are  
11 expressly declared by NRS Chapter 453A to be confidential are "attending physicians"  
12 and persons who apply for or hold "registry identification cards." See NRS  
13 453A.700(1). As a consequence, because NRS 453A.370(5) is not, itself, a  
14 confidentiality statute (indeed, it is not included in the comprehensive list of  
15 confidentiality statutes contained in NRS 239.010(1)), but rather, merely contains a  
16 grant of regulation-making authority under the substantive provisions of NRS Chapter  
17 453A, it must be concluded that as it pertains to the confidentiality of persons' names  
18 and other identifying characteristics, the Division's regulation-making authority was and  
19 is limited to "attending physicians" and applicants for and holders of "registry  
20 identification cards."  
21  
22  
23

24       27. The Nevada Legislature, in enacting NRS Chapter 453A, knew how to  
25 impose confidentiality for the identities of specific classes of persons who would be  
26 involved in the medical marijuana industry. Indeed, that is precisely what the  
27 Legislature did with "attending physicians" and applicants for and holders of "registry  
28 identification cards." But the Legislature specifically chose not to impose any such



1 confidentiality for the owners or business licensees of MMEs. The Legislature thus  
2 obviously did not intend to create any such confidentiality. It would therefore far  
3 exceed the authority of the Division, based upon a vaguely worded, ill-defined statutory  
4 grant of regulation-making authority, to supply such confidentiality through an equally  
5 vaguely-worded, ill-defined regulation.

6  
7 28. Under the circumstances, the City, through its overly-expansive  
8 interpretation of NAC 453A.714(1), has done exactly what the Nevada Legislature and  
9 the Nevada Supreme Court have instructed government agencies in this state not to do  
10 in public records matters - - it has wrongfully given the broadest possible interpretation  
11 to an unclear, ambiguous regulation for the purpose of defeating public access to  
12 public information.

13  
14 29. A writ of mandamus is the appropriate procedural remedy under Nevada  
15 law to address such unlawful conduct. DR Partners v. Board of County Comm'rs., 116  
16 Nev. 616, 6 P.3d 465 (2000). The RGJ thus brings this mandamus action to compel  
17 production of unredacted copies of the requested MME business licenses.

#### 18 Claim for Relief

19  
20 30. The RGJ re-alleges and incorporates by reference Paragraphs 1 through  
21 29 of this Petition.

22  
23 31. The City has refused to follow the open record mandate of the Nevada  
24 Public Records Act. Notwithstanding the clear public interest in the records requested  
25 by the RGJ, and notwithstanding the absence of any applicable or properly applied law  
26 declaring the names of MME business license holders to be confidential and  
27 unavailable to the public, the City has unlawfully refused to produce unredacted copies  
28 of the MME business licenses requested by the RGJ.



1           32.    A writ of mandamus as requested by the RGJ is thus necessary in order  
2 to compel the City to comply with the Nevada Public Records Act.<sup>1</sup>

3                               **Prayer for Relief**

4           Based upon the foregoing, the RGJ respectfully requests:

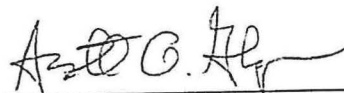
- 5           1.    Issuance of a writ of mandamus directing the City to provide to the RGJ  
6 unredacted copies of the requested MME business licenses;  
7  
8           2.    An award to the RGJ of its reasonable attorney's fees and costs incurred  
9 in this action, as provided by NRS 239.011(2); and  
10  
11          3.    Such other and further relief as this Court may deem just and proper.

12                               **AFFIRMATION**  
13                               **Pursuant to NRS 239B.030**

14          The undersigned does hereby affirm that the preceding document does not  
15 contain the social security number of any person.

16          DATED this 18<sup>th</sup> day of September, 2015.

17                               GLOGOVAC & PINTAR

18          By:   
19               SCOTT A. GLOGOVAC, ESQ.  
20               Nevada Bar No. 000226

21                               Attorneys for Plaintiff  
22                               Reno Newspapers, Inc.

<sup>1</sup> Attached hereto as Exhibit 3 is an Affidavit of RGJ reporter Channele Bessette submitted in support of the requested writ.

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**INDEX OF EXHIBITS**

<b>Exhibit No.</b>	<b>Description</b>	<b>Pages</b>
1	August 20, 2105 e-mail from RGJ reporter Chanelle Bessette to the City of Sparks	1
2	August 24, 2015 letter from City of Sparks	12
3	Affidavit of Chanelle Bessette	1

FILED  
Electronically  
2015-09-18 03:27:06 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 5148893 : csulezic

**EXHIBIT 1**

**EXHIBIT 1**

Thornley, Doug

---

From: Bessette, Chanelle <cbessette@reno.gannett.com>  
Sent: Thursday, August 20, 2015 11:25 AM  
To: Thornley, Doug  
Cc: Mayberry, Adam; Santoro, Peggy; Scott, Kelly  
Subject: Public records request: names of MME licensees

Dear Mr. Thornley,

This letter is a formal request for provision of records under the requirements of NRS 239.010.

As you are aware, that statute requires that public records be make available "at all times during office hours to inspection by any person."

For inspection, I am requesting copies of the business licenses of medical marijuana establishments in Sparks, including the names of the applicants/licensees.

As to any portion of documents you withhold, please state with specificity, the legal and factual basis for withholding each such portion.

Please contact me as soon as possible regarding this request. Thank you for your assistance.

Chanelle Bessette  
Sparks Reporter  
[cbessette@rgi.com](mailto:cbessette@rgi.com)  
Office: 775-788-6334  
Cell: 775-203-5386  
Twitter: @crbessette  
Support local journalism in the Sierra Nevada: [Click here](#)

FILED  
Electronically  
2015-09-18 03:27:06 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 5148893 : csulezic

**EXHIBIT 2**

**EXHIBIT 2**



Chet Adams  
Sparks City Attorney

August 24, 2015

**VIA U.S. MAIL AND E-MAIL**

Chanelle Bessette  
[cbesette@rgj.com](mailto:cbesette@rgj.com)  
Reno Gazette-Journal  
955 Kuenzil Street  
Reno, Nevada 89502

**RE: Business Licenses for Medical Marijuana Establishments**

Ms. Bessette,

You have requested copies of "the business licenses of medical marijuana establishments in Sparks, including the names of the applicants/licensees." See August 20, 2015 Public Records Request (attached as "Exhibit A"). Business licenses issued by the City are public records, and the documents which satisfy your primary request are attached to this letter as "Exhibit B." Pursuant to state law, however, the names and identifying information of the licensees are confidential and have been redacted. See *Reno Newspapers v. Gibbons*, 266 P.3d 623, 628 (Nev. 2011); NRS 239.010(3).

Specifically, NAC 453A.714(1) provides:

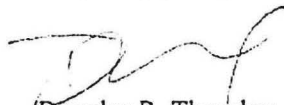
*Except as otherwise provided in this section and NRS 239.0115, the Division will and any designee of the Division shall maintain the confidentiality of and shall not disclose the name or any other identifying information of any person who facilitates or delivers services pursuant to this chapter or chapter 453A of NRS. Except as otherwise provided in NRS 239.0115, the name and any other identifying information of any person who facilitates or delivers services pursuant to this chapter or chapter 453A of NRS are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.*

The Supreme Court of Nevada has explained that "[N]o part of a statute should be rendered nugatory, nor any language turned to mere surplusage, if such consequences can properly be avoided." *Paramount Ins. v. Rayson & Smitley*, 472 P.2d 530, 533 (Nev. 1970) (quoting *Torreyson v. Board of Examiners*, 7 Nev. 19, 22 (1871)). Restricting the application of this rule to the Nevada Division of Public and Behavioral Health and its designees would render the second sentence duplicative and meaningless. Therefore, the second sentence is properly read as prohibiting

Page 2  
August 24 , 2015

governmental entities - other than the Division and its designees, which are addressed in the first sentence - that maintain records related to medical marijuana establishments from disseminating the names and identifying information of the individuals associated therewith.

Very truly yours,



Douglas R. Thorpey  
Senior Assistant City Attorney

DRT/km

## **Exhibit A**



## Thornley, Doug

---

**From:** Bessette, Chanelle <cbessette@reno.gannett.com>  
**Sent:** Thursday, August 20, 2015 11:25 AM  
**To:** Thornley, Doug  
**Cc:** Mayberry, Adam; Santoro, Peggy; Scott, Kelly  
**Subject:** Public records request: names of MME licensees

Dear Mr. Thornley,

This letter is a formal request for provision of records under the requirements of NRS 239.010.

As you are aware, that statute requires that public records be make available "at all times during office hours to inspection by any person."

For inspection, I am requesting copies of the business licenses of medical marijuana establishments in Sparks, including the names of the applicants/licensees.

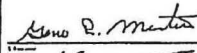
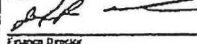
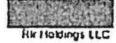
As to any portion of documents you withhold, please state with specificity, the legal and factual basis for withholding each such portion.

Please contact me as soon as possible regarding this request. Thank you for your assistance.

Chanelle Bessette  
Sparks Reporter  
[cbessette@rgj.com](mailto:cbessette@rgj.com)  
Office: 775-788-6334  
Cell: 775-203-5386  
Twitter: @crbessette  
Support local journalism in the Sierra Nevada: [Click here](#)

## **Exhibit B**

*Thanks for doing business  
in the City of Sparks !*

<b>BUSINESS LICENSE</b>		<b>CITY OF SPARKS</b>	
Licensed business to be conducted in whole or in part within the City of Sparks in conformity with and subject to the provisions of the law		County of Washoe, State of Nevada 431 Prater Way, P.O. Box 857 Sparks, Nevada 89432 Attn: Finance Department (775) 353-2360	
BUSINESS CLASSIFICATION Production-Medical Marijuana		Business License Number: 074779	
DESCRIPTION Medical Marijuana		Issue Date: June 10, 2015	
		Expiration Date: September 30, 2015	
		Amount: \$ 3,000.00	
BUSINESS NAME Novwa LLC Grass Roots			
BUSINESS LOCATION 1901 Pacific Ave, Sparks, NV 89431			
LICENSEE 		Finance Director	
		TO BE POSTED IN A CONSPICUOUS PLACE NOT TRANSFERABLE	

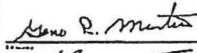
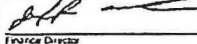

\*See Reverse Side For Easy Opening Instructions\*

 City of Sparks  
P.O. Box 857  
Sparks, NV 89432-0857

BUSINESS LICENSE ENCLOSED

Novwa LLC  
Grass Roots  
1081 Pacific Ave  
Sparks, NV 89431

*Thanks for doing business  
in the City of Sparks!*

BUSINESS LICENSE		CITY OF SPARKS	
Licensed business to be conducted in whole or in part within the City of Sparks in conformity with and subject to the provisions of the law		County of Washoe, State of Nevada 431 Prater Way, P.O. Box 857 Sparks, Nevada 89432 Attn: Finance Department (775) 353-2300	
BUSINESS CLASSIFICATION	Cultivation-Medical Marijuana	Business License Number:	074828
DESCRIPTION	Medical Marijuana Cultivation	Issue Date:	August 10, 2015
		Expiration Date:	September 30, 2015
		Amount:	\$ 3,000.00
BUSINESS NAME	NNV Operations I LLC Silver State Trading	 Mayor R. Minter	
BUSINESS LOCATION	895 S 21st St, Sparks, NV 89431	 Finance Director	
LICENSEE		TO BE POSTED IN A CONSPICUOUS PLACE NOT TRANSFERABLE	

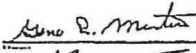

\*See Reverse Side For Easy Opening Instructions\*

 City of Sparks  
P.O. Box 857  
Sparks, NV 89432-0857

BUSINESS LICENSE ENCLOSED

NNV Operations I LLC  
Silver State Trading  
930 Tahoe Blvd #302-433  
Incline Village, NV 89451

Thanks for doing business  
in the City of Sparks!

BUSINESS LICENSE		CITY OF SPARKS	
Licensed business to be conducted in whole or in part within the City of Sparks in conformity with and subject to the provisions of the law.		County of Washoe, State of Nevada 431 Prater Way, P.O. Box 857 Sparks, Nevada 89432 Attn: Finance Department (775) 353-2380	
BUSINESS CLASSIFICATION Production-Medical Marijuana		Business License Number: 074479	
DESCRIPTION Medical Marijuana Production		Issue Date: June 12, 2015	
		Expiration Date: September 30, 2015	
		Amount: \$ 3,000.00	
BUSINESS NAME Silver State Cultivation LLC Silver State Cultivation		 Finance Director	
BUSINESS LOCATION 250 S Stanford Wy, Sparks NV 89431		TO BE POSTED IN A CONSPICUOUS PLACE	
LICENSEE 		NOT TRANSFERABLE	

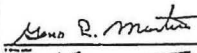

\*See Reverse Side For Easy Opening Instructions\*

 City of Sparks  
P.O. Box 857  
Sparks, NV 89432-0857

BUSINESS LICENSE ENCLOSED

Silver State Cultivation LLC  
9455 Double R Blvd  
Reno, NV 89521

*Thanks for doing business  
in the City of Sparks!*

BUSINESS LICENSE		CITY OF SPARKS	
Licensed business to be conducted in whole or in part within the City of Sparks in conformity with and subject to the provisions of the law		County of Washoe, State of Nevada 431 Prater Way, P.O. Box 857 Sparks, Nevada 89432 Attn: Finance Department (775) 353-2360	
BUSINESS CLASSIFICATION	Cultivation-Medical Marijuana	Business License Number:	074480
DESCRIPTION	Medical Marijuana Cultivation	Issue Date:	June 17, 2015
		Expiration Date:	September 30, 2015
		Amount:	\$ 3,000.00
BUSINESS NAME	Silver State Cultivation LLC Silver State Cultivation	 _____ Finance Director	
BUSINESS LOCATION	250 S Stanford Wy, Sparks, NV 89431	TO BE POSTED IN A CONSPICUOUS PLACE NOT TRANSFERABLE	
LICENSEE			

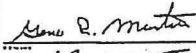

\*See Reverse Side For Easy Opening Instructions\*

 City of Sparks  
P.O. Box 857  
Sparks, NV 89432-0857

BUSINESS LICENSE ENCLOSED

Silver State Cultivation LLC  
9455 Double R Blvd  
Reno, NV 89521

*Thanks for doing business  
in the City of Sparks!*

<b>BUSINESS LICENSE</b>		<b>CITY OF SPARKS</b>	
Licensed business to be conducted in whole or in part within the City of Sparks in conformity with and subject to the provisions of the law		County of Washoe, State of Nevada 431 Prater Way, P.O. Box 857 Sparks, Nevada 89432 Attn: Finance Department (775) 353-2300	
<b>BUSINESS CLASSIFICATION</b> Dispensary - Medical Marijuana		<b>Business License Number:</b> 074478	
<b>DESCRIPTION</b> Medical Marijuana Dispensary		<b>Issue Date:</b> June 19, 2015	
		<b>Expiration Date:</b> September 30, 2015	
		<b>Amount:</b> \$ 0.00	
<b>BUSINESS NAME</b> Silver State Relief LLC Silver State Relief		 _____ Rene R. Minter Finance Director	
<b>BUSINESS LOCATION</b> 175 E Greg St, Sparks, NV 89431		<b>TO BE POSTED IN A CONSPICUOUS PLACE</b>	
<b>LICENSEE</b> 		<b>NOT TRANSFERABLE</b>	

\*See Reverse Side For Easy Opening Instructions\*

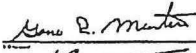



City of Sparks  
P.O. Box 857  
Sparks, NV 89432-0857

BUSINESS LICENSE ENCLOSED

Silver State Relief LLC  
Silver State Relief  
6455 Double R Blvd  
Reno, NV 89521

*Thanks for doing business  
in the City of Sparks!*

<b>BUSINESS LICENSE</b>		<b>CITY OF SPARKS</b>	
Licensed business to be conducted in whole or in part within the City of Sparks in conformity with and subject to the provisions of the law.		County of Washoe, State of Nevada 431 Prater Way, P.O. Box 857 Sparks, Nevada 89432 Attn: Finance Department (775) 353-2360	
<b>BUSINESS CLASSIFICATION</b> General License		<b>Business License Number:</b> 074243	
<b>DESCRIPTION</b> Medical Marijuana		<b>Issue Date:</b> April 20, 2015	
		<b>Expiration Date:</b> April 20, 2016	
		<b>Amount:</b> \$ 105.00	
<b>BUSINESS NAME</b> 374 Labs LLC		 Finance Director	
<b>BUSINESS LOCATION</b> 10 Greg St, #148 Sparks NV 89431			
<b>LICENSEE</b> 			
TO BE POSTED IN A CONSPICUOUS PLACE NOT TRANSFERABLE			

\*See Reverse Side For Easy Opening Instructions\*



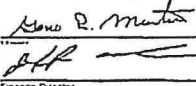

City of Sparks  
P.O. Box 857  
Sparks, NV 89432-0857

BUSINESS LICENSE ENCLOSED

374 Labs LLC  
Pmb #118  
550 W Plumb Ln #B  
Sparks, NV 89431



*Thanks for doing business  
in the City of Sparks !*

BUSINESS LICENSE		CITY OF SPARKS	
Licensed business to be conducted in whole or in part within the City of Sparks in conformity with and subject to the provisions of the law		County of Washoe, State of Nevada 431 Prater Way, P.O. Box 857 Sparks, Nevada 89432 Attn: Finance Department (775) 353-2380	
BUSINESS CLASSIFICATION	General License	Business License Number:	074313
DESCRIPTION	MME TESTING LAB	Issue Date:	February 25, 2015
		Expiration Date:	February 01, 2016
		Amount:	\$ 105.00
BUSINESS NAME	Certified Ag Lab LLC		
BUSINESS LOCATION	10 Greg St, #110 Sparks, NV 89431	Finance Director	
LICENSEE		TO BE POSTED IN A CONSPICUOUS PLACE NOT TRANSFERABLE	

\*See Reverse Side For Easy Opening Instructions\*

 City of Sparks  
P.O. Box 857  
Sparks, NV 89432-0857

BUSINESS LICENSE ENCLOSED

Certified Ag Lab LLC  
255 Glendale Ave #21  
Sparks, NV 89431

FILED  
Electronically  
2015-09-18 03:27:06 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 5148893 : csulezic

**EXHIBIT 3**

**EXHIBIT 3**

**AFFIDAVIT OF CHANELLE BESSETTE**

STATE OF NEVADA                     )  
  ) ss.  
COUNTY OF WASHOE                )

I, CHANELLE BESSETTE, being first duly sworn, do hereby depose and state under penalty of perjury, that the assertions of this Affidavit are true:

1. I am a resident of Reno, Nevada, and am employed as a reporter by the Reno Gazette-Journal ("RGJ").

2. I make this affidavit in support of the Petition for Writ of Mandamus filed in this action by the RGJ. With the exception of any matters stated on information and belief, I have personal knowledge of each of the factual matters stated in this Affidavit and could testify to the same in a court of law if called upon to do so.

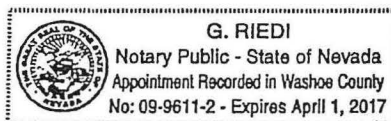
3. I am the RGJ reporter who submitted the request, pursuant to Nevada's Public Records Act, for the documents at issue in this case. In that capacity, I have reviewed the Petition for Writ of Mandamus filed herein by the RGJ and believe all of the factual allegations therein to be true and accurate.

DATED this 18<sup>th</sup> day of September, 2015.

  
\_\_\_\_\_  
CHANELLE BESSETTE

SUBSCRIBED and SWORN to before me on this 18 day of September 2015.

  
\_\_\_\_\_  
NOTARY PUBLIC



## IN THE SUPREME COURT OF THE STATE OF NEVADA

### INDICATE FULL CAPTION:

City of Sparks, a Municipal Corporation  
(Appellant)

vs.

Reno Newspaper, Inc., a Nevada Corporation  
(Respondent)

No. 69749

Electronically Filed  
Feb 17 2016 08:47 a.m.

Tracie K. Lindeman  
Clerk of Supreme Court

DOCKETING STATEMENT  
CIVIL APPEALS

### GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

### WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Second Department 9  
County Washoe Judge Honorable Scott N. Freeman  
District Ct. Case No. CV15-01871

**2. Attorney filing this docketing statement:**

Attorney Douglas R. Thornley Telephone (775) 353-2321  
Firm City of Sparks, City Attorney's Office  
Address  
431 Prater Way  
P.O. Box 857  
Sparks, Nevada 89431  
Client(s) City of Sparks

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

**3. Attorney(s) representing respondents(s):**

Attorney Scott A. Glogovac Telephone (775) 333-0400  
Firm Glogovac & Pintar  
Address  
427 West Plumb Lane  
Reno, Nevada 89509  
Client(s) Reno Newspapers, Inc.

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

**4. Nature of disposition below (check all that apply):**

- |   |  |
|---|--|
| <input type="checkbox"/> Judgment after bench trial         | <input type="checkbox"/> Dismissal:  |
| <input type="checkbox"/> Judgment after jury verdict        | <input type="checkbox"/> Lack of jurisdiction  |
| <input type="checkbox"/> Summary judgment                   | <input type="checkbox"/> Failure to state a claim                                      |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute  |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input type="checkbox"/> Other (specify): _____  |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce Decree:   |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification                |
| <input type="checkbox"/> Review of agency determination     | <input checked="" type="checkbox"/> Other disposition (specify): <u>Grant Mandamus</u> |

**5. Does this appeal raise issues concerning any of the following?**

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

The undersigned is unaware of any presently or previously pending cases that are related to this appeal.

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

The undersigned is unaware of any presently or previously pending cases that are related to this appeal.

**8. Nature of the action.** Briefly describe the nature of the action and the result below:

Reno Newspapers, Inc. requested that the City of Sparks disclose the names and personal information of persons who have been issued a city business license to operate medical marijuana establishments. The City refused, citing NAC 453A.714. The Newspaper petitioned the District Court for a writ of mandamus, which was granted over the City's objection that writ relief was not the appropriate remedial vehicle for resolving a dispute concerning the applicability of a state regulation. The District Court concluded that NAC 453A.714 is not sufficiently unambiguous to satisfy the standard set out in Reno Newspapers v. Sheriff, 234 P.3d 922 (Nev. 2010) and granted the petition.

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

1. Whether NRS 233B.110 prescribes the mandatory procedural and remedial vehicle for resolving cases that contest the applicability or validity of state regulations.
2. Whether NAC 453A.714 protects the names and personal information of persons licensed to operate medical marijuana establishments in Nevada.

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

So far as the undersigned is aware, there are no proceedings presently pending before this Court that raise the same or similar issues as those contested in this appeal.

**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

This appeal does not contest the constitutionality of a state statute. However, it does present a direct challenge to the applicability or validity of a state regulation. One of the issues presented on appeal is whether the state is required to be joined as a party pursuant to NRS 233B.110.

**12. Other issues.** Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☒ An issue of public policy

☒ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

This case presents the first opportunity for judicial scrutiny of NAC 453A.714 which deals with the confidentiality of names and personal information of certain participants in Nevada's newly established medical marijuana industry. In resolving this conflict, the Court may provide necessary guidance regarding the proper application of the standard set out in Reno Newspapers v. Sheriff, 234 P.3d 922 (Nev. 2010) and the correct method by which provisions of the Nevada Administrative Code may be challenged.



**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This appeal presents two issues that are both matters of first impression and statewide public importance. See NRAP 17(a)(13) and NRAP 17(a)(14). First, this case requires a judicial determination regarding the proper procedure and remedy in disputes over public records that are governed by the Nevada Administrative Code. Second, the appeal concerns the privacy interests of certain participants in a new and growing industry within the state - an issue that is best resolved by the Supreme Court of Nevada in this instance in order to avoid both inconsistent application and interpretation by lower courts in light of the irrecoverable nature of the information once released, and to afford certainty to those industry participants who rely on the state-adopted guarantee of anonymity.

**14. Trial.** If this action proceeded to trial, how many days did the trial last? 0

Was it a bench or jury trial? N/A

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

The undersigned does not intend to seek any form of judicial disqualification in this matter.

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** January 28, 2016

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

**17. Date written notice of entry of judgment or order was served** February 2, 2016

Was service by:

☐ Delivery

☒ Mail/electronic/fax

**18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)**

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☐ NRCP 59      Date of filing \_\_\_\_\_

**NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_, 245 P.3d 1190 (2010).**

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_

(c) Date written notice of entry of order resolving tolling motion was served \_\_\_\_\_

Was service by:

☐ Delivery

☐ Mail

**19. Date notice of appeal filed** February 8, 2016

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

**20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other**

NRAP 4(a)(1)

### **SUBSTANTIVE APPEALABILITY**

**21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

(a)

- |   |                                       |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205   |
| <input type="checkbox"/> NRAP 3A(b)(2)            | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3)            | <input type="checkbox"/> NRS 703.376  |
| <input type="checkbox"/> Other (specify) _____    |                                       |

(b) Explain how each authority provides a basis for appeal from the judgment or order:

The District Court's Order Granting Petition for Writ of Mandamus is a final judgment in the instant action, which was commenced in the Second Judicial District, and therefore falls squarely within the grasp of NRAP 3A(b)(1).

**22. List all parties involved in the action or consolidated actions in the district court:**

(a) Parties:

The parties to this action in the District Court are the same as the parties to this appeal: the City of Sparks and Reno Newspapers, Inc.

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

N/A

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

Reno Newspapers, Inc. seeks the release of individual names and personal information of people licensed to operate medical marijuana establishments in Sparks as public records.

The City of Sparks refused the request on the basis that NAC 453A.714 declares the information confidential

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?**

☒ Yes

☐ No

**25. If you answered "No" to question 24, complete the following:**

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

**26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

**27. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

## VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

City of Sparks, a Municipal Corporation  
Name of appellant

Douglas R. Thornley  
Name of counsel of record

February 16, 2016  
Date

/s/ Douglas R. Thornley  
Signature of counsel of record

Washoe County, Nevada  
State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the 16th day of February, 2016, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Scott A. Glogovac  
Glogovac & Pintar  
427 West Plumb Lane  
Reno, Nevada 89509  
Attorney for Reno Newspapers, Inc.

Dated this 16th day of February, 2016

/s/ Kember Murphy  
Signature