

Matthew B. Hippler (SBN 7015)
Scott Scherer (SBN 87)
Brandon C. Sendall (SBN 13246)
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno, Nevada 89511
Tel.: 775-327-3049
Fax: 775-786-6179
mhippler@hollandhart.com
sscherer@hollandhart.com
bcsendall@hollandhart.com

Attorneys for Petitioners

FILED ✓

2016 MAR 25 PM 1:00

STOREY COUNTY CLERK

BY ^{VS} ~~Electronically~~ Filed
Mar 30 2016 03:04 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR STOREY COUNTY

DR. VINCENT M. MALFITANO, an
individual; VIRGINIA CITY GAMING,
LLC, a Nevada limited liability company;
and DELTA SALOON, INC., a Nevada
corporation,

Petitioners,

vs.

COUNTY OF STOREY, acting by and through
the STOREY COUNTY BOARD OF
COUNTY COMMISSIONERS and the
STOREY COUNTY LIQUOR BOARD,

Respondent.

Case No. 15-OC-00008 1E

Dept. No. II

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Petitioners, Dr. Vincent M. Malfitano, Virginia City Gaming, LLC, and Delta Saloon, Inc., appeal to the Supreme Court of Nevada from the First Judicial District Court's Order Denying Petition for Writ of Mandamus. The Order was entered on March 7, 2016. A Notice of Entry of Order was filed on March 9, 2016.

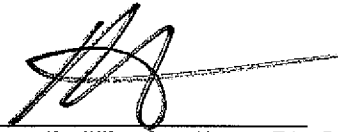
///

///

///

1 The undersigned affirms that the foregoing does not contain the social security of any
2 person.

3 DATED this 24th day of March 2016.

4 

5 Matthew B. Hippler (SBN 7015)
6 HOLLAND & HART LLP
7 5441 Kietzke Lane, Second Floor
8 Reno, Nevada 89511
9 Tel. (775) 327-3000 / 786-6179 Fax

10 Attorneys for Petitioners
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

CERTIFICATE OF SERVICE

I, Martha Hauser, certify:

I am employed in the City of Reno, County of Washoe, State of Nevada by the law offices of Holland & Hart LLP. My business address is 5441 Kietzke Lane, Second Floor, Reno, Nevada 89511. I am over the age of 18 years and not a party to this action.

I am readily familiar with Holland & Hart LLP's practice for collection and processing of its outgoing mail with the United States Postal Service. Such practice in the ordinary course of business provides for the deposit of all outgoing mail with the United States Postal Service on the same day it is collected and processed for mailing.

On March 24, 2016, I served the foregoing **NOTICE OF APPEAL** by placing a true copy thereof in Holland & Hart LLP's outgoing mail in a sealed envelope, addressed as follows:

Anne Langer
Storey County District Attorney
Keith Loomis
Deputy District Attorney
P.O. Box 496
201 South C Street
Virginia City, NV 89440



Martha Hauser

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

Matthew B. Hippler (SBN 7015)
Scott Scherer (SBN 87)
Brandon C. Sendall (SBN 13246)
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno, Nevada 89511
Tel.: 775-327-3049
Fax: 775-786-6179
mhippler@hollandhart.com
sscherer@hollandhart.com
bsendall@hollandhart.com

Attorneys for Petitioners

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR STOREY COUNTY

DR. VINCENT M. MALFITANO, an
individual; VIRGINIA CITY GAMING,
LLC, a Nevada limited liability company;
and DELTA SALOON, INC., a Nevada
corporation,

Petitioners,

vs.

COUNTY OF STOREY, acting by and through
the STOREY COUNTY BOARD OF
COUNTY COMMISSIONERS and the
STOREY COUNTY LIQUOR BOARD,

Respondent.

Case No. 15-OC-00008 1E

Dept. No. II

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:

Petitioners/Appellants, Dr. Vincent M. Malfitano, Virginia City Gaming, LLC, and Delta
Saloon, Inc.

2. Identify the judge issuing the decision, judgment, or order appealed from:

The Honorable James E. Wilson, Jr., First Judicial District Court of the State of Nevada,
In and For the County of Storey.

3. Identify each appellant and the name and address of counsel for each appellant:

Appellants: Dr. Vincent M. Malfitano, Virginia City Gaming, LLC, and Delta Saloon,
Inc.

FILED ✓

2016 MAR 25 PM 1:00

STOREY COUNTY CLERK

BY VS
DEPUTY

Counsel for Appellants:

Matthew B. Hippler (SBN 7015)
Scott Scherer (SBN 87)
Brandon C. Sendall (SBN 13246)
Holland & Hart LLP
5441 Kietzke Lane, Second Floor
Reno, Nevada 89511
Telephone: (775) 327-3000
Facsimile: (775) 786-6179

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):

Respondents: County of Storey, acting by and through the Storey County Board of County Commissioners and the Storey County Liquor Board.

Counsel for Respondents:

Anne Langer
Storey County District Attorney
Keith Loomis
Deputy District Attorney
201 S. C Street
Virginia City, NV 89440
Telephone: (775) 847-0964
Facsimile: (775) 847-1007

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):

All attorneys identified in response to question 3 and 4 are licensed to practice in the State of Nevada.

6. Indicate whether appellant was represented by appointed or retained counsel in the district court and indicate whether appellant is represented by appointed or retained counsel on appeal:

Appellants were represented by retained counsel in the district court action, and Appellants are represented by retained counsel on appeal.

1 7. **Indicate whether appellant was granted leave to proceed in forma pauperis,**
2 **and the date of entry of the district court order granting such leave:**

3 No.

4 8. **Indicate the date the proceedings commenced in the district court (e.g., date**
5 **complaint, indictment, information, or petition was filed):**

6 October 13, 2015.

7 9. **Provide a brief description of the nature of the action and result in the**
8 **district court, including the type of judgment or order being appealed and the relief**
9 **granted by the district court:**

10 Appellants filed a Verified Petition for a Writ of Mandamus concerning the decision of
11 the Storey County Liquor Board to deny Appellants' applications for liquor licenses and the
12 decision of the Storey County Board of County Commissioners to deny the business license
13 applications of Appellants, Dr. Vincent M. Malfitano and Virginia City Gaming, LLC. On
14 March 7, 2016, the Court entered an Order Denying Petition for Writ of Mandamus. A Notice
15 of Entry of Order was filed on March 9, 2016.

16 10. **Indicate whether the case has previously been the subject of an appeal to or**
17 **original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court**
18 **docket number of the prior proceeding:**

19 This case has not previously been the subject of an appeal to or original writ proceeding
20 in the Nevada Supreme Court or the Nevada Court of Appeals.

21 11. **Indicate whether this appeal involves child custody or visitation:**

22 This appeal does not involve child custody or visitation.

23 12. **If this is a civil case, indicate whether this appeal involves the possibility of**
24 **settlement:**

25 Yes.

26 ///

27 ///

28 ///

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

3 DATED this 24th day of March, 2016.



Matthew B. Hippler (SBN 7015)
Scott Scherer (SBN 87)
Brandon C. Sendall (SBN 13246)
Holland & Hart LLP
5441 Kietzke Lane, Second Floor
Reno, NV 89511

Attorneys for Petitioners

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

HOLLAND & HART LLP
5441 Kietzke Lane
Second Floor
Reno, NV 89511

CERTIFICATE OF SERVICE

I, Martha Hauser, certify:

I am employed in the City of Reno, County of Washoe, State of Nevada by the law offices of Holland & Hart LLP. My business address is 5441 Kietzke Lane, Second Floor, Reno, Nevada 89511. I am over the age of 18 years and not a party to this action.

I am readily familiar with Holland & Hart LLP's practice for collection and processing of its outgoing mail with the United States Postal Service. Such practice in the ordinary course of business provides for the deposit of all outgoing mail with the United States Postal Service on the same day it is collected and processed for mailing.

On March 24, 2016, I served the foregoing **CASE APPEAL STATEMENT** by placing a true copy thereof in Holland & Hart LLP's outgoing mail in a sealed envelope, addressed as follows:

Anne Langer
Storey County District Attorney
Keith Loomis
Deputy District Attorney
P.O. Box 496
201 South C Street
Virginia City, NV 89440



Martha Hauser

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

Matthew B. Hippler (SBN 7015)
Scott Scherer (SBN 87)
Brandon C. Sendall (SBN 13246)
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno, Nevada 89511
Tel.: 775-327-3049
Fax: 775-786-6179
mhippler@hollandhart.com
sscherer@hollandhart.com
bsendall@hollandhart.com

Attorneys for Petitioners

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR STOREY COUNTY

DR. VINCENT M. MALFITANO, an
individual; VIRGINIA CITY GAMING,
LLC, a Nevada limited liability company;
and DELTA SALOON, INC., a Nevada
corporation,

Petitioners,

vs.

COUNTY OF STOREY, acting by and through
the STOREY COUNTY BOARD OF
COUNTY COMMISSIONERS and the
STOREY COUNTY LIQUOR BOARD,

Respondent.

Case No. 15-OC-00008 1E

Dept. No. II

NOTICE OF POSTING COSTS BOND ON APPEAL

TO: Respondent, COUNTY OF STOREY, acting by and through the STOREY COUNTY BOARD OF
COUNTY COMMISSIONERS and the STOREY COUNTY LIQUOR BOARD;

TO: Anne Langer, Storey County District Attorney, and Keith Loomis Deputy District
Attorney;

PLEASE TAKE NOTICE that on March 25, 2016, Petitioners DR. VINCENT M.
MALFITANO, VIRGINIA CITY GAMING, LLC, and DELTA SALOON, INC., by and through counsel,
HOLLAND & HART LLP, pursuant to NRAP 7(b), have posted a costs bond on appeal with the
court in the amount of \$500.00.

FILED ✓

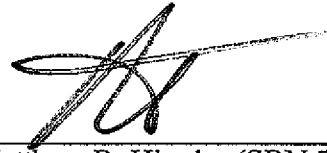
2016 MAR 25 PM 1:00
STOREY COUNTY CLERK
BY VS
DEPUTY

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The undersigned affirms that the foregoing does not contain the social security of any person.

DATED this 24th day of March 2016.



Matthew B. Hippler (SBN 7015)
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno, Nevada 89511
Tel. (775) 327-3000 / 786-6179 Fax

Attorneys for Petitioners

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE


I, Martha Hauser, certify:

I am employed in the City of Reno, County of Washoe, State of Nevada by the law offices of Holland & Hart LLP. My business address is 5441 Kietzke Lane, Second Floor, Reno, Nevada 89511. I am over the age of 18 years and not a party to this action.

I am readily familiar with Holland & Hart LLP's practice for collection and processing of its outgoing mail with the United States Postal Service. Such practice in the ordinary course of business provides for the deposit of all outgoing mail with the United States Postal Service on the same day it is collected and processed for mailing.

On March 24, 2016, I served the foregoing **NOTICE OF POSTING COSTS BOND ON APPEAL** by placing a true copy thereof in Holland & Hart LLP's outgoing mail in a sealed envelope, addressed as follows:

Anne Langer
Storey County District Attorney
Keith Loomis
Deputy District Attorney
P.O. Box 496
201 South C Street
Virginia City, NV 89440


Martha Hauser

HOLLAND & HART LLP
5441 KIETZKE LANE
SECOND FLOOR
RENO, NV 89511

Judge: WILSON JR, JAMES E

Case No. 15 OC 00008 1E
Ticket No.
CTN:

MALFITANO, DR VINCENT M et al

By:

-vs-

COUNTY OF STOREY DRSPND

By: LANGER, ANNE M
PO BOX 496
VIRGINIA CITY, NV 89440Dob: Sex:
Lic: Sid:
STOREY COUNTY LIQUOR BOARD DRSPND

By:

Dob: Sex:
Lic: Sid:Plate#: Make:
Year: Accident:
Type:
Venue:
Location:DELTA SALOON, INC. PLNTPET
MALFITANO, DR VINCENT M PLNTPET
VIRGINIA CITY GAMING, LLC PLNTPETBond: Set:
Type: Posted:

Charges:

Ct.

Offense Dt: Cvr:
Arrest Dt:
Comments:

Ct.

Offense Dt: Cvr:
Arrest Dt:
Comments:

Sentencing:

No.	Filed	Action	Operator	Fine/Cost	Due
1	03/25/16	APPEAL BOND DEPOSIT Attorney: HIPPLER, MATTHEW B (7015) Receipt: 4858 Date: 03/28/2016	1EWBACUS	500.00	0.00
2	03/25/16	CASE APPEAL STATEMENT Attorney: HIPPLER, MATTHEW B (7015)	1EWBACUS	0.00	0.00
3	03/25/16	NOTICE OF APPEAL FILED Attorney: HIPPLER, MATTHEW B (7015) Receipt: 4858 Date: 03/28/2016	1EWBACUS	24.00	0.00
4	03/24/16	RESPONSE TO PETITIONERS OBJECTION TO ORDER DENYING PETITION FOR WRIT OF MANDAMUS DATED MARCH 7 2016 Attorney: LOOMIS, KEITH (1912)	1EWBACUS	0.00	0.00
5	03/16/16	PETITIONERS OBJECTION TO ORDER DENYING PETITION FOR WRIT OF MANDAMUS DATED MARCH 7, 2016 Attorney: HIPPLER, MATTHEW B (7015)	1EWBACUS	0.00	0.00
6	03/09/16	NOTICE OF ENTRY OF ORDER DENYING PETITION FOR WRIT OF MANDAMUS Attorney: LOOMIS, KEITH (1912)	1EWBACUS	0.00	0.00
7	03/07/16	ORDER DENYING PETITION FOR WRIT OF MANDAMUS	1EWBACUS	0.00	0.00
8	01/27/16	REQUEST FOR SUBMISSION Attorney: HIPPLER, MATTHEW B (7015)	1EWBACUS	0.00	0.00
9	01/27/16	REPLY TO PETITIONERS BRIEF OURSUANT TO ORDER REGARDING BRIEFING DATED JANUARY 21, 2016 Attorney: LOOMIS, KEITH (1912)	1EWBACUS	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
10	01/27/16	PETITIONERS REPLY BRIEF PURSUANT TO ORDER REGARDING BRIEFING DATED JANUARY 21, 2016 Attorney: HIPPLER, MATTHEW B (7015)	LEWBACUS	0.00	0.00
11	01/22/16	SUPPLEMENTAL BRIEF AFTER REMAND Attorney: LOOMIS, KEITH (1912)	LEWBACUS	0.00	0.00
12	01/22/16	PETITIONERS BRIEF PURSUANT TO ORDER REGARDING BRIEFING DATED JANUARY 21, 2016 Attorney: HIPPLER, MATTHEW B (7015)	LEWBACUS	0.00	0.00
13	01/21/16	STIPULATION AND ORDER REGARDING BRIEFING Attorney: HIPPLER, MATTHEW B (7015) Attorney: LOOMIS, KEITH (1912)	LEWBACUS	0.00	0.00
14	01/11/16	TRANSCRIPT OF STOREY COUNTY BOARD OF COMMISSIONER OPEN MEETING Attorney: LOOMIS, KEITH (1912)	LEWBACUS	0.00	0.00
15	12/29/15	NOTICE OF ENTRY OF ORDER Attorney: HIPPLER, MATTHEW B (7015)	LEWBACUS	0.00	0.00
16	12/23/15	FILE RETURNED FROM JUDGE	LEWBACUS	0.00	0.00
17	12/17/15	ORDER REMANDING TO STOREY COUNTY COMMISSIONERS AND STOREY COUNTY LIQUOR BOARD	LEWBACUS	0.00	0.00
18	12/14/15	FILE TO JUDGE	LEWBACUS	0.00	0.00
19	12/09/15	REQUEST FOR SUBMISSION Attorney: HIPPLER, MATTHEW B (7015)	LEWBACUS	0.00	0.00
20	12/09/15	PETITIONERS REPLY BRIEF TO RESPONDANTS SUPPLEMENTAL BRIEF Attorney: HIPPLER, MATTHEW B (7015)	LEWBACUS	0.00	0.00
21	12/08/15	RESPONDANTS SUPPLEMENTAL BRIEF IN OPPOSITION TO VERIFIED PETITION FOR WRIT OF MANDAMUS Attorney: LOOMIS, KEITH (1912)	LEWBACUS	0.00	0.00
22	11/23/15	PETITIONERS BRIEF IN SUPPORT OF VERIFIED PETITION FOR A WRIT OF MANDAMUS Attorney: HIPPLER, MATTHEW B (7015)	LEWBACUS	0.00	0.00
23	11/16/15	NOTICE OF ENTRY OF ORDER Attorney: LOOMIS, KEITH (1912)	LEWBACUS	0.00	0.00
24	11/10/15	AMENDED ORDER DENYING MOTION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION	LEWBACUS	0.00	0.00
25	11/02/15	SUMMARY JUDGMENT	LEWBACUS	0.00	0.00
26	10/29/15	NOTICE OF ENTRY OF ORDER Attorney: LANGER, ANNE M (3345)	LEWBACUS	0.00	0.00
27	10/26/15	ORDER DENYING MOTION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION	LEWBACUS	0.00	0.00
28	10/23/15	SUMMONS	LEWBACUS	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
29	10/21/15	MEDIA REQUEST AND ORDER ALLOWING CAMERAS IN THE COURTROOM	1EWBACUS	0.00	0.00
30	10/19/15	OPPOSITION TO EXPARTE MOTION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION Attorney: LOOMIS, KEITH (1912)	1EWBACUS	0.00	0.00
31	10/19/15	ANSWER AND RETURN TO VERIFIED PETITION FOR WRIT OF MANDAMUS Attorney: LOOMIS, KEITH (1912)	1EWBACUS	0.00	0.00
32	10/16/15	HEARING SCHEDULED: Event: MOTION HEARING - CIVIL (STOREY) Date: 10/21/2015 Time: 1:30 pm Judge: WILSON JR, JAMES E Location: DEPT II - STOREY COUNTY	1EWBACUS	0.00	0.00
33	10/15/15	ORDER FOR HEARING	1EWBACUS	0.00	0.00
34	10/15/15	ORDER	1EWBACUS	0.00	0.00
35	10/14/15	EX-PARTE MOTION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION Attorney: HIPPLER, MATTHEW B (7015)	1EWBACUS	0.00	0.00
36	10/13/15	ADDITIONAL PLAINTIFF Receipt: 4560 Date: 10/14/2015	1EWBACUS	30.00	0.00
37	10/13/15	ADDITIONAL PLAINTIFF Receipt: 4560 Date: 10/14/2015	1EWBACUS	30.00	0.00
38	10/13/15	VERIFIED PETITION FOR WRIT MANDAMUS Receipt: 4560 Date: 10/14/2015 Receipt: 4561 Date: 10/14/2015	1EWBACUS	245.00	0.00
Total:				829.00	0.00
Totals By: COST				329.00	0.00
HOLDING				500.00	0.00
INFORMATION				0.00	0.00
*** End of Report ***					

FILED ✓

MAR 7 2016

Storey Co. Clerk

Deputy

1 ANNE LANGER (SBN 3345)
2 STOREY COUNTY DISTRICT ATTORNEY
3 Keith Loomis (SBN 1912)
4 Deputy District Attorney
5 P.O. Box 496 201 South C Street
6 Virginia City, NV 89440
7 Tel. (775) 847-0964
8 Fax. (775) 847-1007
9 kloomis@storeycounty.org

Attorney for Respondent

10 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF**
11 **NEVADA IN AND FOR STOREY COUNTY**

12 Dr. VINCENT M. MALFITANO, an
13 individual; VIRGINIA CITY GAMING
14 LLC, a Nevada limited liability company;
15 and DELTA SALOON, INC., a Nevada
16 corporation,

17 Petitioners,

18 vs.

19 COUNTY OF STOREY, acting by and
20 through the STOREY COUNTY BOARD
21 OF COUNTY COMMISSIONERS and
22 the STOREY COUNTY LIQUOR
23 BOARD,

Respondent.

Case No. 15 OC 00008 1E

Dept. No. II

24 **ORDER DENYING PETITION FOR WRIT OF MANDAMUS**

25 This case arises out of the filing of a Petition for Writ of Mandamus by
26
27 Petitioners (collectively Malfitano) challenging the refusal of Respondent,
28 (hereafter Storey County) to issue business and liquor licenses to Malfitano. In the

1 Petition and subsequent pleadings, Malfitano asserts that Storey County acted
2 arbitrarily and capriciously in denying those licenses. Malfitano also asserts that
3 the denial of the licenses denied him the due process of law and the equal
4 protection of the laws. These claims lack merit.
5

6 **History**

7
8 Petitioner, Vincent Malfitano, owns Virginia Gaming LLC, and Delta
9 Saloon Inc. Through these entities, he recently purchased the Delta and Bonanza
10 Saloons in Virginia City, Nevada. Prior to his purchase, the saloons had
11 conducted business pursuant to gaming, liquor and business licenses issued to its
12 prior owner. Even after his purchase, the saloons had gaming, liquor and business
13 licenses by virtue of being operated by a properly licensed lessee of Malfitano.
14 Malfitano subsequently sought gaming, liquor and business licenses for the
15 premises on his own behalf. The Nevada Gaming Control Board conducted an in
16 depth investigation into Malfitano's suitability to hold gaming licenses or to hold
17 landlord licenses as to premises on which gaming would be conducted. The
18 Gaming Control Board recommended to the Nevada Gaming Commission that all
19 such licenses be denied. The Gaming Commission held a lengthy hearing on the
20 requested licensure on August 20, 2015. It voted unanimously to deny the gaming
21 and landlord licenses to Malfitano for a variety of reasons including a failure to
22 demonstrate business competence, a failure to demonstrate business probity and
23
24
25
26
27
28

1 failures to disclose numerous and recent facts relevant to a showing of business
2 competence or probity.
3

4 Thereafter Malfitano applied to Storey County to obtain liquor and business
5 licenses to operate the Bonanza and Delta Saloons. These applications were first
6 heard on September 1, 2015. At that time, liquor and business licenses for the
7 premises were still held by Malfitano's lessee of the premises. Accordingly, due to
8 the fact that granting the requests would result in duplicate licenses, Storey County
9 denied the requested licenses.
10

11 Malfitano subsequently terminated the lease with the licensed lessee. He
12 reapplied for liquor and business licenses for the Delta and Bonanza Saloons. A
13 hearing into the applications was conducted by Storey County on October 6, 2015.
14 At the conclusion of the hearing, the Liquor Board refused to issue liquor licenses
15 for either the Delta Saloon or the Bonanza Saloon, The Board of County
16 Commissioners did issue a business license for the Delta Saloon, but refused to
17 issue a business license for the Bonanza Saloon.
18
19
20
21

22 On October 13, 2015, Malfitano filed his petition for a writ of mandamus.
23 He followed that filing, the next day, with the filing of an ex parte motion for a
24 temporary restraining order and for a preliminary injunction. This court held a
25 hearing on the motion on October 21, 2015. Following the close of the hearing,
26
27 this court denied the requests for the temporary restraining order and for the
28

1 preliminary injunction. This court did so on the grounds that it did not appear that
2 Malfitano had a likelihood of success on the merits of the claims, that Malfitano
3 did not establish a likelihood of irreparable harm and that Malfitano did not lack an
4 adequate remedy at law.
5

6
7 Subsequent to the issuance of that order, Malfitano requested and was
8 granted permission to file supplemental briefs addressing the propriety of the
9 requested writ relief. Malfitano, as did Storey County, both filed additional briefs.
10 Malfitano raised additional issues in the supplemental brief addressing due process
11 and equal protection issues and submitted additional evidence in support of these
12 issues. Storey County did not object to the raising of these new issues. Instead,
13 Storey County also briefed the new issues. In light of the new issues, this court
14 remanded the matter to Storey County for clarification of the reasons for the denial
15 of the liquor and business licenses.
16
17
18

19 Following the remand of the case, Storey County did hold a hearing to
20 address the Order of Remand. The members of the Boards who voted to deny the
21 licenses then set forth their reasons for denying the licenses. Two subsequent
22 rounds of supplemental briefing with evidentiary attachments addressing the
23 reasoning for denying the licenses, followed. Neither party has subsequently
24 requested further opportunity to present documentary or testamentary evidence.
25
26
27
28

1 The matter is fully submitted for decision on the merits of the Petition for Writ of
2 Mandamus.

4 **Standard of Review**

5 The writ of mandamus is available to compel the performance of a duty
6 required by law or to control a manifest or arbitrary or capricious exercise of
7 discretion. *State v. Dist. Ct. (Armstrong)*, 127 Nev. Adv. Opn. 84 @ p.3, 267 P.3d
8 777 (2011); *City Council v. Irvine*, 102 Nev. 277, 721 P. 2d 371 (1986) *Round Hill*
9 *Gen. Imp. Dist. V. Newman*, 97 Nev. 601, 603-04, 637 P. 2d 534 (1981). An act is
10 arbitrary when it is done in an apparent absence of any grounds or reasons for the
11 decision. *City of Reno v. Estate of Wells*, 110 Nev. 1218, 1222, 885 P. 2d 545
12 (1994). It is presumed that a licensing authority will not exercise its licensing duty
13 in an arbitrary or oppressive fashion. *Mills v. City of Henderson*, 95 Nev. 550, 552,
14 598 P. 2d 635 (1979). Additionally, liquor license boards are vested with broad
15 discretion in reviewing applicants for liquor licenses. *County of Clark v. Atlantic*
16 *Seafoods*, 96 Nev. 608, 610, 615 P. 2d 233 (1980). The burden is on the applicant
17 for a liquor license to demonstrate capriciousness by the Board. *Gragson v. Toco*,
18 90 Nev. 131, 133, 520 P.2d 616 (1974).
19
20
21
22
23
24
25
26
27
28

1 **Discussion**

2 **Liquor Licenses**

3 In this case an applicant for a Storey County liquor license is required to
4 provide to the liquor board: "Proof of financial standing to warrant an expected
5 satisfactory and profitable business operation." Storey County Code §5.12.010(A).
6

7 The record contains substantial evidence supporting a finding that Malfitano did
8 not meet this requirement.¹ Included in the record is a copy of the Nevada Gaming
9 Commission's order denying Malfitano gaming and landlord licenses. In relevant
10 part that order recites:
11

12 [Petitioners] filed applications with the BOARD and failed to
13 disclose numerous, recent, and financially significant items including,
14 but not limited to lawsuits, foreclosures, business interests, delinquent
15 tax payments, tax liens, and default notices...
16

17 [Petitioners] failed to carry their burdens to demonstrate
18 adequate business probity. This is demonstrated through
19 nondisclosure of business related issues to the BOARD, significant
20 employment related issue from MALFITANO'S assisted living
21 business and his prior dental practice. Significant citations and actions
22 by other regulatory agencies concerning MALFITANO's assisted
23 living business and his prior dental practice, the existence of
24 numerous prior tax liens, and the appearance of significant cash flow
25 problems....
26

27 Commissioner McBride advised the Board that as a result of attending the
28 hearing before the Gaming Commission he learned that Malfitano had twelve

¹ In reviewing the record regarding the denial of liquor and business license for an abuse of discretion, this court is limited to reviewing the record presented to the board and does not review after-supplied materials. See *Carson City v. Lepire*, 112 Nev.363, 364-65, 914 P. 2d 631 (1996).

1 million dollars in debt. He also pointed out that with the inability to obtain gaming
2 licenses, a major source of revenue for the saloons was lost. County Manager
3 Whitten pointed out that a history of foreclosures, delinquent tax payments, tax
4 liens, are serious contra-indicators of financial standing. Consequently, the
5 decisions to deny the issuance of the liquor licenses were not arbitrary and
6 capricious.
7
8

9 **Business License**

10 While the Board of County Commissioners granted a business license for the
11 operation of the Delta Saloon, it denied a business license for the operation of the
12 Bonanza Saloon. Under Storey County Code §5.04.100(A) the county can refuse
13 to issue a business license: "[U]ntil an applicant complies or agrees to comply with
14 all other existing ordinances or laws in force." Here, the Board was informed by
15 the Chief of the Fire District that he had been working with Malfitano to remedy
16 fire code deficiencies on the Bonanza premises. In his opinion the building was
17 not safe. Based on this evidence the decision to deny the business license was not
18 an arbitrary and capricious exercise of discretion.
19
20
21
22
23
24
25
26
27
28

1 **Due Process**

2 **Property Interest**

3 Malfitano asserts that he was denied the due process of law in the
4 proceedings leading to the denial of the liquor and business licenses.² He asserts
5 that he had reached an agreement with Storey County as a result of representations
6 made to him by Commissioner McBride at the hearing on September 1, 2015.
7 Those representations were that once Malfitano straightened out the issue of
8 duplicate licenses, he would be granted a liquor license. Accordingly he asserts he
9 had a protectable property interest in the contractual agreement to which due
10 process of law principles should have applied.
11

12 Malfitano's contention that he had a protectable property interest is not
13 tenable. Property interests protectable under the due process clause : "[A]re
14 created and their dimensions are defined by existing rules or understandings that
15 stem from an independent source such as state law rules or understandings that
16 secure certain benefits and that support claims of entitlement to those benefits."
17 *Board of Regents v. Roth*, 408 U.S. 564, 576 (1972). In order to have a property
18 interest protected by the Fourteenth Amendment a person must have more than a
19 unilateral expectation of a property interest. *Id.* Rather, he must have a legitimate
20 claim of entitlement to the property interest. *Id.* Here, Malfitano relies on the
21

22
23
24
25
26
27
28 ² In reviewing the constitutional claims, this court will consider all of the evidence submitted by the
parties as this review is not limited to the evidence submitted to the Boards.

1 representations of a single member of the liquor board during the course of a
2 public meeting as establishing his property interest. The representations relied on
3 were corrected to clarify that the liquor board would subsequently *consider* the
4 applications for liquor licenses, not that it would approve the applications. Such
5 circumstances were insufficient to give rise to a protectable property interest.
6
7 Furthermore, even if it could be said that a contract was created, the creation would
8 have been void for violating Nevada's Open Meeting law as the matter was not set
9 forth on the agenda as one for the acceptance of a contract. NRS 241.036. Finally
10 even if a contract could be found, such a contract is not of the type which gives rise
11 to a property interest protected by the due process clause. See *Physicians Serv.*
12 *Med. Group v. San Bernardino Cty.*, 825 F. 2d 1404 (9th Cir. 1987). Accordingly,
13 Malfitano was not deprived of a property interest in violation of due process.
14

15 **Void for Vagueness**

16 Malfitano also asserted that SCC §5.12.010(A) is void for vagueness
17 because it fails to set forth a sufficiently detailed standard to control the discretion
18 of the liquor board. This vagueness allows for the arbitrary and discriminatory
19 enforcement of the ordinance.
20

21 Legislative enactments, such as ordinances are presumed constitutional
22 absent a clear showing to the contrary. *Starlets International v. Christensen*, 106
23 Nev. 732, 735 801 P. 2d 1343 (1990). The party challenging the enactment bears
24
25
26
27
28

1 the burden to make a clear showing that the enactment is unconstitutional. *List v.*
2 *Whistler* 99 Nev., 133, 660 P. 2d 104 (1983). Moreover, in the case of liquor
3
4 license ordinances, such ordinances are to be strictly construed against the
5 applicant for the license. *Carson City v. Lepire*, 112 Nev.363, 365-66, 914 P. 2d
6 631 (1996). Finally, where an area of licensing is the proper and necessary subject
7 of police surveillance and regulation, the grant of discretionary power to license
8 need not be restricted by specific standards. *Mills v. City of Henderson*, 95 Nev.
9 550, 552, 598 P. 2d 635 (1979); see also *State ex rel Grimes v. Board*, 53 Nev.
10 364, 372-73, 1 P. 2d 570 (1931).

11
12 In Nevada there is no inherent right in a citizen to sell intoxicants. *County of*
13 *Clark v. Atlantic Seafoods*, 96 Nev. 608, 610, 615 P. 2d 233 (1980); *Gragson v.*
14 *Toco*, 90 Nev. 131, 133, 520 P. 2d 616 (1974). Liquor boards are granted wide
15 discretion in the granting or denying of such licenses. Here, the applicant for a
16 liquor license is required to provide: "proof of financial standing to warrant an
17 expected satisfactory and profitable business operation." There is no showing that
18 this standard fails to meet a constitutional requirement of specificity applicable to
19 liquor ordinances.

20 **Equal Protection**

21
22 Malfitano also asserts that Storey County violated his right to the equal
23 protection of the laws where it has routinely issued liquor licenses to other
24

1 applicants without having to undergo the background scrutiny that Malfitano had
2 to undergo. He asserts that as a class of one he has demonstrated that the County
3 intentionally treated him differently from other similarly situated persons without a
4 rational basis for doing so.
5

6
7 In this case the County had a great deal more information about Malfitano's
8 background than it typically has with regard to an applicant for a liquor license.
9 This circumstance existed as a result of the background investigation conducted by
10 the Gaming Control Board. The results of that background investigation were
11 placed in the public record by virtue of their inclusion in the order denying
12 Malfitano gaming and landlord licenses. That order established that Malfitano
13 failed to disclose numerous recent and significant items related to his financial
14 stability. There is no showing that other applicants for liquor licenses were
15 similarly disingenuous in the information they provided to the liquor board. This
16 factor alone provides a rational basis for distinguishing between Malfitano and
17 other applicants for liquor licenses. Malfitano has not demonstrated that Storey
18 County violated his right to the equal protection of the laws.
19
20
21
22
23

24 **Ethical Issue**

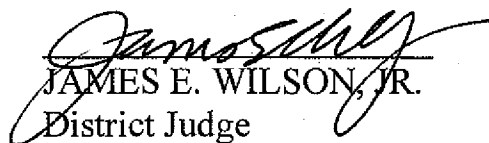
25 Malfitano also raises an ethics issue which arises under Nevada's Ethics in
26 Government Law, NRS 281A.010. It is the Nevada Ethics Commission which is
27 charged with investigating and enforcing alleged violations of Nevada's ethics
28

1 laws as they apply to public officers. NRS 281A.280; See also *Comm'n. On Ethics*
2 *v. Hardy*, 125 Nev. 285, 288, 212 P. 2d 1098 (2009). This court does not have
3 original jurisdiction over such matters. Accordingly, this issue will not be further
4 considered.
5

6
7 **Conclusion:**

8 Substantial evidence supports the decisions of the Storey County Liquor
9 Board to deny liquor licenses to Malfitano. Substantial evidence also supports the
10 decision of the Storey County Board of Commissioners to deny a business license
11 to Malfitano for the Bonanza Saloon. These decisions were not arbitrary and
12 capricious. Nor were Malfitano's rights to due process violated by either the
13 language of the ordinance under which Malfitano was compelled to make
14 application for a license or by the proceedings leading to the denial of the liquor
15 and business licenses. Finally, Storey County had a rational basis for denying
16 liquor licenses to Malfitano. Consequently the Petition for Writ of Mandamus and
17 all other relief requested is denied.
18
19
20
21

22 Dated this 4 day of March, 2016.
23
24

25 
26 JAMES E. WILSON, JR.
27 District Judge
28

Submitted by

Keith Loomis, No. 1912
Deputy District Attorney for Storey County
P.O. Box 496
Virginia City, NV 89440
Tel (775) 847-0956
Fax (775) 847-1007
kloomis@storeycounty.org

ORIGINAL

FILED

ANNE LANGER (SBN 3345)
STOREY COUNTY DISTRICT ATTORNEY
Keith Loomis (SBN 1912) Deputy District Attorney
P.O. Box 496 201 South C Street
Virginia City, NV 89440
Tel. (775) 847-0964
Fax. (775) 847-1007
kloomis@storeycounty.org

2016 MAR -9 AM 10: 26

STOREY COUNTY CLERK

BY D. Neen
DEPUTY

Attorney for Respondent

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR STOREY COUNTY

Dr. VINCENT M. MALFITANO, an individual;
VIRGINIA CITY GAMING LLC, a Nevada
limited liability company; and DELTA
SALOON, INC., a Nevada corporation,

Petitioners,

vs.

COUNTY OF STOREY, acting by and through
the STOREY COUNTY BOARD OF COUNTY
COMMISSIONERS and the STOREY
COUNTY LIQUOR BOARD,

Respondent.

Case No. 15 OC 00008 1E

Dept. No. II

NOTICE OF ENTRY OF ORDER
DENYING PETITION FOR
WRIT OF MANDAMUS

NOTICE is hereby given that on the 7th day of March, 2016, the Court duly
entered an Order Denying Petition for Writ of Mandamus. A copy of said Order is
attached hereto.

DATED this 8th day of March, 2016.

Keith Loomis
Keith Loomis (SBN 1912)
Deputy District Attorney for Storey County
P.O. Box 496 Virginia City, Nevada 89440
(775) 847-0964 kloomis@storeycounty.org

Mar. 7. 2016 11:55AM

No. 1872 P. 1

FILED

MAR 7 2016

Storey Co. Clerk

Deputy

1 ANNE LANGER (SBN 3345)
2 STOREY COUNTY DISTRICT ATTORNEY
3 Keith Loomis (SBN 1912)
4 Deputy District Attorney
5 P.O. Box 496 201 South C Street
6 Virginia City, NV 89440
7 Tel. (775) 847-0964
8 Fax. (775) 847-1007
9 klloomis@storeycounty.org

Attorney for Respondent

10 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF**
11 **NEVADA IN AND FOR STOREY COUNTY**

12 Dr. VINCENT M. MALFITANO, an
13 individual; VIRGINIA CITY GAMING
14 LLC, a Nevada limited liability company;
15 and DELTA SALOON, INC., a Nevada
16 corporation,

Petitioners,

vs.

18 COUNTY OF STOREY, acting by and
19 through the STOREY COUNTY BOARD
20 OF COUNTY COMMISSIONERS and
21 the STOREY COUNTY LIQUOR
22 BOARD,

Respondent.

Case No. 15 OC 00008 1E

Dept. No. II

24 **ORDER DENYING PETITION FOR WRIT OF MANDAMUS**

25 This case arises out of the filing of a Petition for Writ of Mandamus by
26 Petitioners (collectively Malfitano) challenging the refusal of Respondent,
27 (hereafter Storey County) to issue business and liquor licenses to Malfitano. In the
28

Mar. 7. 2016 11:55AM

No. 1872 P. 2

1 Petition and subsequent pleadings, Malfitano asserts that Storey County acted
2 arbitrarily and capriciously in denying those licenses. Malfitano also asserts that
3 the denial of the licenses denied him the due process of law and the equal
4 protection of the laws. These claims lack merit.
5

6 History

7
8 Petitioner, Vincent Malfitano, owns Virginia Gaming LLC, and Delta
9 Saloon Inc. Through these entities, he recently purchased the Delta and Bonanza
10 Saloons in Virginia City, Nevada. Prior to his purchase, the saloons had
11 conducted business pursuant to gaming, liquor and business licenses issued to its
12 prior owner. Even after his purchase, the saloons had gaming, liquor and business
13 licenses by virtue of being operated by a properly licensed lessee of Malfitano.
14 Malfitano subsequently sought gaming, liquor and business licenses for the
15 premises on his own behalf. The Nevada Gaming Control Board conducted an in
16 depth investigation into Malfitano's suitability to hold gaming licenses or to hold
17 landlord licenses as to premises on which gaming would be conducted. The
18 Gaming Control Board recommended to the Nevada Gaming Commission that all
19 such licenses be denied. The Gaming Commission held a lengthy hearing on the
20 requested licensure on August 20, 2015. It voted unanimously to deny the gaming
21 and landlord licenses to Malfitano for a variety of reasons including a failure to
22 demonstrate business competence, a failure to demonstrate business probity and
23
24
25
26
27
28

Mar. 7. 2016 11:55AM

No. 1872 P. 3

1 failures to disclose numerous and recent facts relevant to a showing of business
2 competence or probity.
3

4 Thereafter Malfitano applied to Storey County to obtain liquor and business
5 licenses to operate the Bonanza and Delta Saloons. These applications were first
6 heard on September 1, 2015. At that time, liquor and business licenses for the
7 premises were still held by Malfitano's lessee of the premises. Accordingly, due to
8 the fact that granting the requests would result in duplicate licenses, Storey County
9 denied the requested licenses.
10

11 Malfitano subsequently terminated the lease with the licensed lessee. He
12 reapplied for liquor and business licenses for the Delta and Bonanza Saloons. A
13 hearing into the applications was conducted by Storey County on October 6, 2015.
14 At the conclusion of the hearing, the Liquor Board refused to issue liquor licenses
15 for either the Delta Saloon or the Bonanza Saloon, The Board of County
16 Commissioners did issue a business license for the Delta Saloon, but refused to
17 issue a business license for the Bonanza Saloon.
18

19 On October 13, 2015, Malfitano filed his petition for a writ of mandamus.
20 He followed that filing, the next day, with the filing of an ex parte motion for a
21 temporary restraining order and for a preliminary injunction. This court held a
22 hearing on the motion on October 21, 2015. Following the close of the hearing,
23 this court denied the requests for the temporary restraining order and for the
24
25
26
27
28

Mar. 7. 2016 11:55AM

No. 1872 P. 4

1 preliminary injunction. This court did so on the grounds that it did not appear that
2 Malfitano had a likelihood of success on the merits of the claims, that Malfitano
3 did not establish a likelihood of irreparable harm and that Malfitano did not lack an
4 adequate remedy at law.
5

6
7 Subsequent to the issuance of that order, Malfitano requested and was
8 granted permission to file supplemental briefs addressing the propriety of the
9 requested writ relief. Malfitano, as did Storey County, both filed additional briefs.
10 Malfitano raised additional issues in the supplemental brief addressing due process
11 and equal protection issues and submitted additional evidence in support of these
12 issues. Storey County did not object to the raising of these new issues. Instead,
13 Storey County also briefed the new issues. In light of the new issues, this court
14 remanded the matter to Storey County for clarification of the reasons for the denial
15 of the liquor and business licenses.
16

17
18 Following the remand of the case, Storey County did hold a hearing to
19 address the Order of Remand. The members of the Boards who voted to deny the
20 licenses then set forth their reasons for denying the licenses. Two subsequent
21 rounds of supplemental briefing with evidentiary attachments addressing the
22 reasoning for denying the licenses, followed. Neither party has subsequently
23 requested further opportunity to present documentary or testamentary evidence.
24
25
26
27
28

Mar. 7. 2016 11:55AM

No. 1872 P. 5

1 The matter is fully submitted for decision on the merits of the Petition for Writ of
2 Mandamus.

3 4 Standard of Review

5 The writ of mandamus is available to compel the performance of a duty
6 required by law or to control a manifest or arbitrary or capricious exercise of
7 discretion. *State v. Dist. Ct. (Armstrong)*, 127 Nev. Adv. Opn. 84 @ p.3, 267 P.3d
8 777 (2011); *City Council v. Irvine*, 102 Nev. 277, 721 P. 2d 371 (1986) *Round Hill*
9 *Gen. Imp. Dist. V. Newman*, 97 Nev. 601, 603-04, 637 P. 2d 534 (1981). An act is
10 arbitrary when it is done in an apparent absence of any grounds or reasons for the
11 decision. *City of Reno v. Estate of Wells*, 110 Nev. 1218, 1222, 885 P. 2d 545
12 (1994). It is presumed that a licensing authority will not exercise its licensing duty
13 in an arbitrary or oppressive fashion. *Mills v. City of Henderson*, 95 Nev. 550, 552,
14 598 P. 2d 635 (1979). Additionally, liquor license boards are vested with broad
15 discretion in reviewing applicants for liquor licenses. *County of Clark v. Atlantic*
16 *Seafoods*, 96 Nev. 608, 610, 615 P. 2d 233 (1980). The burden is on the applicant
17 for a liquor license to demonstrate capriciousness by the Board. *Gragson v. Toco*,
18 90 Nev. 131, 133, 520 P.2d 616 (1974).
19
20
21
22
23
24
25
26
27
28

Mar. 7. 2016 11:55AM

No. 1872 P. 6

Discussion

Liquor Licenses

In this case an applicant for a Storey County liquor license is required to provide to the liquor board: "Proof of financial standing to warrant an expected satisfactory and profitable business operation." Storey County Code §5.12.010(A). The record contains substantial evidence supporting a finding that Malfitano did not meet this requirement.¹ Included in the record is a copy of the Nevada Gaming Commission's order denying Malfitano gaming and landlord licenses. In relevant part that order recites:

[Petitioners] filed applications with the BOARD and failed to disclose numerous, recent, and financially significant items including, but not limited to lawsuits, foreclosures, business interests, delinquent tax payments, tax liens, and default notices...

[Petitioners] failed to carry their burdens to demonstrate adequate business probity. This is demonstrated through nondisclosure of business related issues to the BOARD, significant employment related issue from MALFITANO'S assisted living business and his prior dental practice. Significant citations and actions by other regulatory agencies concerning MALFITANO's assisted living business and his prior dental practice, the existence of numerous prior tax liens, and the appearance of significant cash flow problems....

Commissioner McBride advised the Board that as a result of attending the hearing before the Gaming Commission he learned that Malfitano had twelve

¹ In reviewing the record regarding the denial of liquor and business license for an abuse of discretion, this court is limited to reviewing the record presented to the board and does not review after-supplied materials. See *Carson City v. Lepire*, 112 Nev.363, 364-65, 914 P.2d 631 (1996).

Mar. 7. 2016 11:55AM

No. 1872 P. 7

1 million dollars in debt. He also pointed out that with the inability to obtain gaming
2 licenses, a major source of revenue for the saloons was lost. County Manager
3 Whitten pointed out that a history of foreclosures, delinquent tax payments, tax
4 liens, are serious contra-indicators of financial standing. Consequently, the
5 decisions to deny the issuance of the liquor licenses were not arbitrary and
6 capricious.
7
8

9 Business License

10 While the Board of County Commissioners granted a business license for the
11 operation of the Delta Saloon, it denied a business license for the operation of the
12 Bonanza Saloon. Under Storey County Code §5.04.100(A) the county can refuse
13 to issue a business license: "[U]ntil an applicant complies or agrees to comply with
14 all other existing ordinances or laws in force." Here, the Board was informed by
15 the Chief of the Fire District that he had been working with Malfitano to remedy
16 fire code deficiencies on the Bonanza premises. In his opinion the building was
17 not safe. Based on this evidence the decision to deny the business license was not
18 an arbitrary and capricious exercise of discretion.
19
20
21
22
23
24
25
26
27
28

Mar. 7. 2016 11:55AM

No. 1872 P. 8

Due Process

Property Interest

Malfitano asserts that he was denied the due process of law in the proceedings leading to the denial of the liquor and business licenses.² He asserts that he had reached an agreement with Storey County as a result of representations made to him by Commissioner McBride at the hearing on September 1, 2015. Those representations were that once Malfitano straightened out the issue of duplicate licenses, he would be granted a liquor license. Accordingly he asserts he had a protectable property interest in the contractual agreement to which due process of law principles should have applied.

Malfitano's contention that he had a protectable property interest is not tenable. Property interests protectable under the due process clause : "[A]re created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law rules or understandings that secure certain benefits and that support claims of entitlement to those benefits." *Board of Regents v. Roth*, 408 U.S. 564, 576 (1972). In order to have a property interest protected by the Fourteenth Amendment a person must have more than a unilateral expectation of a property interest. *Id.* Rather, he must have a legitimate claim of entitlement to the property interest. *Id.* Here, Malfitano relies on the

² In reviewing the constitutional claims, this court will consider all of the evidence submitted by the parties as this review is not limited to the evidence submitted to the Boards.

Mar. 7. 2016 11:56AM

No. 1872 P. 9

1 representations of a single member of the liquor board during the course of a
2 public meeting as establishing his property interest. The representations relied on
3 were corrected to clarify that the liquor board would subsequently *consider* the
4 applications for liquor licenses, not that it would approve the applications. Such
5 circumstances were insufficient to give rise to a protectable property interest.
6
7 Furthermore, even if it could be said that a contract was created, the creation would
8 have been void for violating Nevada's Open Meeting law as the matter was not set
9 forth on the agenda as one for the acceptance of a contract. NRS 241.036. Finally
10 even if a contract could be found, such a contract is not of the type which gives rise
11 to a property interest protected by the due process clause. See *Physicians Serv.*
12 *Med. Group v. San Bernardino Cty.*, 825 F. 2d 1404 (9th Cir. 1987). Accordingly,
13 Malfitano was not deprived of a property interest in violation of due process.
14

15 Void for Vagueness

16 Malfitano also asserted that SCC §5.12.010(A) is void for vagueness
17 because it fails to set forth a sufficiently detailed standard to control the discretion
18 of the liquor board. This vagueness allows for the arbitrary and discriminatory
19 enforcement of the ordinance.
20

21 Legislative enactments, such as ordinances are presumed constitutional
22 absent a clear showing to the contrary. *Starlets International v. Christensen*, 106
23 Nev. 732, 735 801 P. 2d 1343 (1990). The party challenging the enactment bears
24

Mar. 7. 2016 11:56AM

No. 1872 P. 10

1 the burden to make a clear showing that the enactment is unconstitutional. *List v.*
2 *Whistler*. 99 Nev., 133, 660 P. 2d 104 (1983). Moreover, in the case of liquor
3 license ordinances, such ordinances are to be strictly construed against the
4 applicant for the license. *Carson City v. Lepire*, 112 Nev.363, 365-66, 914 P. 2d
5 631 (1996). Finally, where an area of licensing is the proper and necessary subject
6 of police surveillance and regulation, the grant of discretionary power to license
7 need not be restricted by specific standards. *Mills v. City of Henderson*, 95 Nev.
8 550, 552, 598 P. 2d 635 (1979); see also *State ex rel Grimes v. Board*, 53 Nev.
9 364, 372-73, 1 P. 2d 570 (1931).

14 In Nevada there is no inherent right in a citizen to sell intoxicants. *County of*
15 *Clark v. Atlantic Seafoods*, 96 Nev. 608, 610, 615 P. 2d 233 (1980); *Gragson v.*
16 *Toco*, 90 Nev. 131, 133, 520 P. 2d 616 (1974). Liquor boards are granted wide
17 discretion in the granting or denying of such licenses. Here, the applicant for a
18 liquor license is required to provide: "proof of financial standing to warrant an
19 expected satisfactory and profitable business operation." There is no showing that
20 this standard fails to meet a constitutional requirement of specificity applicable to
21 liquor ordinances.

25 Equal Protection

26
27 Malfitano also asserts that Storey County violated his right to the equal
28 protection of the laws where it has routinely issued liquor licenses to other

Mar. 7. 2016 11:56AM

No. 1872 P. 11

1 applicants without having to undergo the background scrutiny that Malfitano had
2 to undergo. He asserts that as a class of one he has demonstrated that the County
3 intentionally treated him differently from other similarly situated persons without a
4 rational basis for doing so.
5

6
7 In this case the County had a great deal more information about Malfitano's
8 background than it typically has with regard to an applicant for a liquor license.
9

10 This circumstance existed as a result of the background investigation conducted by
11 the Gaming Control Board. The results of that background investigation were
12 placed in the public record by virtue of their inclusion in the order denying
13 Malfitano gaming and landlord licenses. That order established that Malfitano
14 failed to disclose numerous recent and significant items related to his financial
15 stability. There is no showing that other applicants for liquor licenses were
16 similarly disingenuous in the information they provided to the liquor board. This
17 factor alone provides a rational basis for distinguishing between Malfitano and
18 other applicants for liquor licenses. Malfitano has not demonstrated that Storey
19 County violated his right to the equal protection of the laws.
20
21
22
23

24 Ethical Issue

25 Malfitano also raises an ethics issue which arises under Nevada's Ethics in
26 Government Law, NRS 281A.010. It is the Nevada Ethics Commission which is
27 charged with investigating and enforcing alleged violations of Nevada's ethics
28

Mar. 7. 2016 11:56AM

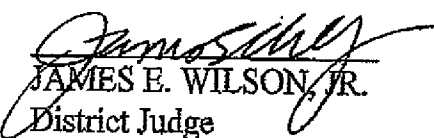
No. 1872 P. 12

1 laws as they apply to public officers. NRS 281A.280; See also *Comm'n. On Ethics*
2
3 *v. Hardy*, 125 Nev. 285, 288, 212 P. 2d 1098 (2009). This court does not have
4 original jurisdiction over such matters. Accordingly, this issue will not be further
5 considered.

6
7 **Conclusion:**

8 Substantial evidence supports the decisions of the Storey County Liquor
9 Board to deny liquor licenses to Malfitano. Substantial evidence also supports the
10 decision of the Storey County Board of Commissioners to deny a business license
11 to Malfitano for the Bonanza Saloon. These decisions were not arbitrary and
12 capricious. Nor were Malfitano's rights to due process violated by either the
13 language of the ordinance under which Malfitano was compelled to make
14 application for a license or by the proceedings leading to the denial of the liquor
15 and business licenses. Finally, Storey County had a rational basis for denying
16 liquor licenses to Malfitano. Consequently the Petition for Writ of Mandamus and
17 all other relief requested is denied.
18
19
20
21

22 Dated this 4 day of March, 2016.
23
24

25
26 
27 JAMES E. WILSON, JR.
28 District Judge

Mar. 7. 2016 11:56AM

No. 1872 P. 13

1 Submitted by

2

3 Keith Loomis, No. 1912

4 Deputy District Attorney for Storey County

5 P.O. Box 496

6 Virginia City, NV 89440

7 Tel (775) 847-0956

8 Fax (775) 847-1007

9 kloomis@storeycounty.org

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that I am employed by Storey County, Nevada, and that on the 9th day of March, 2016. I served a copy of the foregoing NOTICE OF ENTRY OF ORDER DENYING PETITION FOR WRIT OF MANDAMUS by ordinary first class U.S. Mail to:

Matthew B. Hippler
Scott Scherer
Brandon C. Sendall
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
Reno NV 89511

With courtesy copy via email to:
mhippler@hollandhart.com



Debra Burns

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 15 OC 00008 1E

TITLE: DR VINCENT MALFITANO etal VS.
COUNTY OF STOREY etal

10/21/2015 – JAMES E WILSON – HONORABLE
W Bacus, Clerk – Not Reported

MOTION HEARING

Present: Matthew B Hippler represented the petitioner; Deputy District Attorney Keith Loomis ,
counsel for Defendant.

Statements were made by Court and counsel.

Dr. Vincent M Malfintano sworn and testified.

Plaintiff presented exhibits 1-4, marked and admitted.

Closing arguments.

COURT ORDERED: Motion for temporary restraining order denied; motion for preliminary
injunction denied.

The Court minutes as stated above are a summary of the proceeding and are not a verbatim
record. The hearing held on the above date was recorded on the Court's recording system.

FIRST JUDICIAL DISTRICT COURT

CASE NUMBER: 15 OC 00008 1E

JUDGE: JAMES E WILSON

DEPT. NO. II

PLAINTIFF/PETITIONER: DR VINCENT MALFITANO; VIRGINIA CITY GAMING LLC; DELTA SALOON INC

DEFENDANT/RESPONDENT: COUNTY OF STOREY; BOARD OF COUNTY COMMISSIONERS; STOREY COUNTY LIQUOR BOARD

DATE: 10/21/2015

HEARING: MOTION HEARING

Pty	Number	Description of Exhibit	Marked	Admitted
P	1	Storey County Business License Inspection Sheet	X	X
P	2	Owner/Stoey County Fire District Agreement	X	X
P	3	Email between Vincent Malfitano and Storey County Fire Chief Gary Hames	X	X
P	4	Storey County Commissioner Minutes Tuesday September 1, 2015	X	X

Storey County
BUSINESS LICENSE INSPECTION SHEET

DATE APPLIED: 2/28/15 ACCOUNT NUMBER: 017297
BUSINESS NAME: BONANZA Saloon
Responsible Party Name: Vincent Maltitano
Business Physical Street Address: 27 North C Street Virginia City, NV 89440

The following departments must be contacted for an appointment for on-site inspections and, if applicable,
plans must be submitted for review before your inspection.

BUILDING DEPARTMENT:

110 E. Toll Road, Gold Hill Divide
(775) 847-0966

**** Conditional Approval:** ☐ YES ☐ NO

Estimated Completion Date: _____

(**Inspector please ATTACH copy of your inspection sheet noting Conditions)

Inspector Signature: _____

Signature Date: _____

Inspection Required?

☐ YES ☐ NO

Final Approval Date: 15 MAY 2015

Inspector Signature: [Signature]

NOTES: _____

FIRE & LIFE SAFETY INSPECTION:

Completed by Fire Department
(775) 315-9974

**** Conditional Approval:** ☒ YES ☐ NO

Estimated Completion Date: TBD

(**Inspector please ATTACH copy of your inspection sheet noting Conditions)

Inspector Signature: [Signature]

Signature Date: 5/21/2015

Inspection Required?

☒ YES ☐ NO

Final Approval Date: _____

Inspector Signature: _____

NOTES: Conditional upon Fire Sprinkler and Fire Alarm install
Owner Shall have 6 months to install Systems after July 1, 2015

HEALTH DEPT:

4150 Technology Way, Ste 101, Carson City
(775) 687-7571

**** Conditional Approval:** ☐ YES ☐ NO

Estimated Completion Date: _____

(**Inspector please ATTACH copy of your inspection sheet noting Conditions)

Inspector Signature: _____

Signature Date: _____

Inspection Required?

☐ YES ☐ NO

Final Approval Date: _____

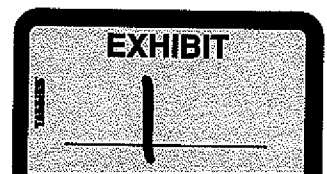
Inspector Signature: _____

NOTES: _____

**** Conditional Approval:** Copy to Business License office with Conditions, for consideration of a Temporary License.
(Retain Original until ALL required inspections are final.)

Final Approval - Return White copy to Storey County Community Development office (847-0966).

Received by SCBD on _____ at _____ By: _____



STOREY COUNTY FIRE PROTECTION DISTRICT

Post Office Box 603
Virginia City, NV 89440
(775) 847-0954 Phone • (775) 847-0987 Fax
www.storeycounty.org

May 15, 2015

Virginia City Gaming, LLC
Dr. Vincent Malfitano, Managing Member
3950 Lone Tree Way
Antioch, Ca. 94509

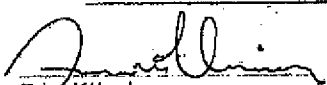
RE: 27 North C Street VC - APN# 001-086-03 and APN#001-083-13&14. OWNER/STOREY
COUNTY FIRE DISTRICT AGREEMENT
Dear Dr. Malfitano,

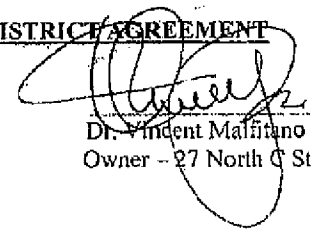
The following is specific to your project at 27 North C Street Bonanza Saloon - Bar - Casino -
Restaurant within Virginia City Nevada.

It has been agreed, that upon Virginia City Gaming, LLC, (VCG) receiving its Unrestricted
Gaming License to operate this property (VCG) will immediately move forward with these
following conditions:

1. There must be a signed contract in place between the owner (Vince Malfitano) and a fire
sprinkler contractor.
2. There must be a signed contract in place between the owner (Vince Malfitano) and a fire
alarm contractor.
3. Plan review and permit fees for the fire sprinkler system must be submitted in
conjunction with an application to the fire district upon submittal of design.
4. Sprinkler installation shall be completed and operational by "Date to be determined"
once design submittal is approve with the fire alarm to be completed and operational
within one month after the sprinkler installation.
5. Notification must be received by the water department (Public Works) that all hookup
fees and contracts are in place.

OWNER/STOREY COUNTY FIRE DISTRICT AGREEMENT


Fritz Klingler
Fire Prevention Officer II / Plan Review


Dr. Vincent Malfitano
Owner - 27 North C Street

Station 1
145 North C Street
Virginia City, NV 89440
(775) 847 0954

Station 2
2610 Carwright Road
Reno, NV 89521
(775) 847 0971

Station 3
500 Sam Clemens
Dayton, NV 89403
(775) 246 7979

Station 4
431 Canyon Way
Sparks, NV 89434
(775) 342 0230

EXHIBIT

2

Matthew Hippler

From: vince malfitano [<mailto:skylinecrest@msn.com>]
Sent: Thursday, October 08, 2015 8:31 AM
To: Brandon Sendall; Scott Scherer
Cc: Bruce Kittess
Subject: Fwd: Bonanza Saloon - 27 North C Street

Sent from my iPad

Begin forwarded message:

From: Gary Hames <ghames@storeycounty.org>
Date: September 3, 2015 at 10:30:53 AM PDT
To: vince malfitano <skylinecrest@msn.com>
Cc: Pat Whitten <pwhitten@storeycounty.org>, Frederick Klingler <fklingler@storeycounty.org>, Bruce Kittess <brucesky@sbcglobal.net>, "SCOTT SCHERER" <sscherer@hollandhart.com>
Subject: RE: Bonanza Saloon - 27 North C Street

Dr. Malfitano,

Thank you so much for the quick response. We are very happy that you will be moving forward with the fire sprinkler plan submittal and installation. Please have the contracts and other items to us by October 3rd so that we may get this building up to modern fire codes for your customers safety.

Best Regards,
Gary Hames, Fire Chief
Storey County Fire Protection District

From: vince malfitano [<mailto:skylinecrest@msn.com>]
Sent: Thursday, September 03, 2015 10:12 AM
To: Gary Hames <ghames@storeycounty.org>
Cc: Pat Whitten <pwhitten@storeycounty.org>; Frederick Klingler <fklingler@storeycounty.org>; Bruce Kittess <brucesky@sbcglobal.net>; SCOTT SCHERER <sscherer@hollandhart.com>
Subject: RE: Bonanza Saloon - 27 North C Street



Morning Chief Hames,
Thanks for your note this morning.

I just want to be clear that we are looking at this in the same way.
Your letter seems to indicate that you feel that I am not in compliance with our agreement dated May 15, 2015.

Chief Hames, in that agreement it states; That upon VCG receiving its License to operate the this property, VCG will immediately move forward with the following conditions. As per the agreement, There was no requirement to move forward with any of those conditions before then.

With that said, I want to make sure you understand that we agreed that none of these conditions would be accomplished until after Licensure.
So if you feel that I am not in compliance, I apologize for any confusion there may be.

With all that being said, as you may be aware, I will be moving forward, operating both of my properties as Non-Gaming entities. We are awaiting formal documentation from the GCB to that effect.

I certainly understand my obligation under our agreement and have always intended to fully comply with all the conditions listed.

Chief Hames, I look forward to a long and respectful relationship with your Department and will do everything I can to foster that relationship.

I will advise my Owners representative to move forward with the Fire Installation company and get the plan process going.

Let me know if you need anything else.

Vince

Dr. Vincent Malfitano Skyline Crest Enterprises Managing Member 3950 Lone Tree Way
Antioch, CA 94509 925-755-9640

From: ghames@storeycounty.org
To: skylinecrest@msn.com
CC: cypressmeadows@outlook.com; pwhitten@storeycounty.org; fklingler@storeycounty.org
Subject: Bonanza Saloon - 27 North C Street
Date: Thu, 3 Sep 2015 16:22:07 +0000

Dr. Malfitano,

Please find attached important time sensitive correspondence in regards to the Bonanza Saloon located at 27 North C Street. This correspondence is also being sent certified mail today.

If you have any question please contact Fire Prevention Officer II Fredrick Klingler at fklingler@storeycounty.org, cell is (775) 351-5936 or office at (775) 847-0954.

Best Regards,
Gary Hames, Fire Chief
Storey County Fire Protection District
145 North "C" Street
Post Office Box 603
Virginia City, Nevada 89440
O) 775.847.0954
F) 775.847.0987
Email: ghames@storeycounty.org
www.storeycounty.org



STOREY COUNTY BOARD OF COUNTY COMMISSIONERS MEETING

TUESDAY, SEPTEMBER 1, 2015 10:00 A.M.

DISTRICT COURTROOM
26 SOUTH B STREET, VIRGINIA CITY, NEVADA

MINUTES

MARSHALL MCBRIDE
CHAIRMAN

ANNE LANGER
DISTRICT ATTORNEY

LANCE GILMAN
VICE-CHAIRMAN

JACK MCGUFFEY
COMMISSIONER

VANESSA STEPHENS
CLERK-TREASURER

Roll Call: Chairman McBride, Vice-Chairman Gilman, Commissioner McGuffey, County Manager Pat Whitten, District Attorney Anne Langer, Clerk & Treasurer Vanessa Stephens, Comptroller Hugh Gallagher, Outside Counsel Robert Morris, Planner Jason Van Havel, Community Services Director Cherie Nevin, Deputy Sheriff Tony Dosen, Public Works Director Mike Nevin, Community Development Director Dean Haymore and Battalion Chief Jeff Nevin.

1. CALL TO ORDER AT 10:00 A.M.

The meeting was called to order by the Chair at 10:00am

2. PLEDGE OF ALLEGIANCE

The Chair led those present in the Pledge of Allegiance

3. DISCUSSION/POSSIBLE ACTION: Approval of Agenda for September 1, 2015

Mr. Whitten asked on behalf of Austin Osborne that item 14 be continued to the November 3, 2015 meeting.

Motion: Approve the Agenda for September 1, 2015, with item 14 continued to November 3, 2015,

Action: Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey,

Vote: Motion carried by unanimous vote (Summary: Yes=3)

4. DISCUSSION/POSSIBLE ACTION: Approval of Minutes for August 18, 2015

Motion: Approve the Minutes for August 18, 2015, **Action:** Approve, **Moved by:** Vice Chair

Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote

(Summary: Yes=3)

EXHIBIT

4

CONSENT AGENDA

5. For possible action approval of Payroll Checks date 08/14/15 \$452,895.00. Accounts payable checks date 08/21/15 for \$1,556,416.77 and \$6,382.67.
6. For possible action approval of Assessor's recommended corrections to 2015-16 Tax Roll for Exemptions to tax roll.
7. For possible action approval of Assessor's recommended corrections to 2015-16 Tax Roll for Partial Property Tax Abatements pursuant to NRS 361.4722 through 361.4724.
8. For possible action approval of Liquor License First Readings:
 - A. Storey County School District
9. For possible action approval of Business Licenses First Readings:
 - A. AMERICAN MINING & TUNNELING, LLC -- Contractor / 19208 E. Broadway ~ Spokane, WA (mining services)
 - B. P & L FENCING & IRON, LLC - Contractor / 2842 Marco Street ~ Las Vegas (steel fabrication)
 - C. CROP PRODUCTION SERVICES, INC. - General / 3005 Rocky Mountain Ave ~ Loveland, CO (distributor of crop input)
 - D. SOIL TECH, INC - Contractor / 6420 South Cameron ~ Las Vegas (general contractor/engineer)
 - E. GARTNER REFRIGERATION & MFG - Contractor / 13205 16th Ave. North ~ Plymouth, MN (refrigeration contractor)
 - F. NEIL ADAMS CONSTRUCTION, INC. - Contractor / 6490 S. McCarran ~ Reno (general contractor)
 - G. BRYCON CORPORATION - Contractor / 134 Rio Rancho Blvd ~ Rio Rancho, NM (general contractor)

END OF CONSENT AGENDA

Motion: Approve the Consent Agenda, **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (Summary: Yes=3)

10. DISCUSSION ONLY (No Action - No Public Comment): Committee/Staff Reports

Public Works Director Mike Nevin:

- NDOT and Nevada State Public Works Division are working through issues regarding the siphon line replacement under Highway 580. It may be spring before construction begins.

Battalion Chief Jeff Nevin:

- There is one engine out on fire assignment in Washington. A second will be leaving for Idaho.
- The excavator for the fuels project should be here in a couple of weeks.
- Six interviews for new hires will be held September 2nd in hopes of having the new hires on line by September 21st.

Community Development Director Dean Haymore:

- Four new projects in TRI were permitted last week. Plans for two additional projects have also been received.
- Work is being finished with Comstock Mining Historical Foundation on the bathroom at Gold Hill Depot. Scott Keller has been doing the work and has been paid by the Foundation. Mr. Keller's work will be completed September 3rd and the Foundation will no longer be funding restoration at the depot. The remaining work to be completed will be put out to bid.
- Switch will be starting construction within the next couple of weeks.
- Tesla is moving rapidly with plans being submitted daily.

Community Chest Shaun Griffin:

- The final draft of the Operating Agreement/Lease with Nevada Health Centers has been received. This agreement will provide health services in Virginia City and Lockwood starting in October. Nevada Health Centers know the needs of these communities. Two people will be hired specifically for each site, and services will include senior outreach.
- The State Library staff will be conducting a site visit on September 22 to begin granting formal, full status as a library. Librarian Chris Klug has been very diligent in getting her para-professional librarian status.
- Good news from funders of phase two of the Community Center. Terry Lee Wells gave \$50,000, and a major donor has stepped up and will give a lead gift if written commitments from other donors and foundations are received. Five foundations have been contacted and will present to their respective Boards for written commitment.

Community Service Director Cherie Nevin:

- There was very good attendance at the Mark Twain Town Hall meeting. Thank you to the Commissioners, elected officials, and County staff for attending. It was a very positive meeting.
- The income survey for Mark Twain residents will be mailed this week. Residents who do not receive the survey by September 15th should contact Ms. Nevin.
- The Senior Center in Virginia City has teamed up with Catholic Charities of Northern Nevada to conduct a monthly food bank. The first will be September 8th, from 11 AM to 1 PM. In addition to the food bank, some senior outreach will be provided. Age guidelines apply. It is hoped to get Catholic Charities into Lockwood to provide case management outreach services.
- The Community Development Block Grant Annual Forum will be hosted in Virginia City at Piper's Opera House on September 15th and 16th. 45 to 50 attendees are expected.
- Donna Denham, working with a church in Sparks, has been conducting a food pantry in Lockwood twice a week.

Comptroller Hugh Gallagher:

- A conversation was held with the Nevada State Department of Taxation regarding the classification of the Virginia City Tourism Commission. Originally, the VCTC was classified as separate, local government. After research, the Department of Taxation has come back with the decision that the VCTC is part of Storey County and is not a separate, local government.

- An Ordinance needs to be passed merging the VCTC back into the County and an indebtedness report needs to be completed and filed.

County Manager Pat Whitten:

- The new company – Jet.com- is a great example of the diversity and excitement going on at the Tahoe-Reno Industrial Center.
- Progress is going forward rapidly on the Courthouse parking lot. Thank you to Chair McBride for input regarding the slope at the back of the parking lot. Public Works and the Wildland Firefighters are providing crew and equipment. Public Works will be removing the dirt and rock. The lot should be semi-graded and usable in two weeks and in time for Street Vibrations. There may be a wall in the southwest corner.
- An Assessor's Conference, with approximately 70 attendees, will be held September 16 and 17. Tours of TRI and the Marlette Water System will be conducted as part of the conference. This is the third government conference for Virginia City this year.
- Last weekend was the end of seven weeks of special events. The racers participating in the weekend hill climb were very generous in donating to the senior class project.

11. BOARD COMMENT (No Action – No Public Comment)

Commissioner McGuffey:

- The annual One Acre Association meeting was held in the Highlands last weekend. Commissioner McBride attended and there was a good turn-out.
- Commissioner McGuffey attended a tour, along with other member of the V & T Commission, of the rail yard. This was an opportunity to see what is going on there, including the weekly, monthly and annual maintenance of the steam engines.
- There was a lot of very positive news coverage of the hill climb event. It sounds like this event is growing.

12. DISCUSSION/POSSIBLE ACTION: Milan Drive Extension Reimbursement of Bid Approval

Vice-Chairman Gilman recused himself from the item due to having a pecuniary interest in the project.

Mr. Haymore presented an overview of the bid. There is a new company going in at the end of Milan Drive in TRI, which means the road must be extended. There are two separate bids, one for the pavement and installation in the amount of \$653,787. An additional bid is required for the design and engineering of the project. That is an additional \$142,938. Some of the work was already completed when Tesla came in.

Mr. Haymore recommends pre-approval for reimbursement when vouchers are submitted and when the funds are available, for a total of \$796,725.

Chuck Reno, Project Manager, with Farr West Engineering provided additional information regarding the project.

County Manager Whitten said that all work done previously was considered urgent to be completed and was done with County staff approval.

Mr. Haymore noted that Mike Nevin, Public Works Director, and Fire Chief Gary Hames provided a lot of input regarding this project.

Mike Nevin said the project does include project management and some oversight inspections to insure the project is being built to specifications. When it is time for the County to accept dedication of that portion of Milan Drive, all of the paperwork will be in hand. This project will be completed with a new type of asphalt that has a 20 year life expectancy.

Mr. Whitten stated that what the Commission is doing today is authorizing the project to go forward. The \$700,000+ will be fronted by the developer and upon completion the road will be offered for dedication to the County. When County accepts dedication of the roadway, it will become an obligation of the County to reimburse the developer under the Developer Agreement.

Commissioner McGuffey thanked Mr. Whitten for describing how this work is paid for. Mr. McGuffey also expressed appreciation that this bid is well under the highest bid.

No public comment.

Motion: Approve the Milan Drive Extension Reimbursement of Bid Approval, **Action:** Approve, **Moved by:** Commissioner McGuffey **Seconded by:** Chair McBride **Vote:** Motion carried by unanimous vote (**Summary:** Yes=2)

13. DISCUSSION/POSSIBLE ACTION: Approve application by Dr. Vincent Malfitano for Liquor and General Business licenses for The Bonanza & The Delta.

District Attorney Anne Langer presented this item on behalf of Sheriff Antinoro.

Ms. Langer stated the licenses being requested by Dr. Malfitano are the general business license, liquor license and a gaming license. At present, Bruce Dewing, the lessee of the Bonanza and the Delta, has these three licenses in place. According to Storey County ordinances, it appears that the County cannot issue licenses for two different entities for the same location. Mr. Dewing, the license holder, is current through September 30, 2015.

The alternatives of the Board are to deny the licenses at this time because the request is premature, or if approval is granted with some sort of follow-up, the licenses would not be issued by the Sheriff because presently there is already one person with the licenses in place.

Chair McBride explained that it is staff recommendation to deny the licenses as it would be a duplication of licenses for establishments already in operation. If Dr. Malfitano were to sever relations with Dewing Gaming to operate the businesses himself, there would be no delay in obtaining the licenses. There is no reason not to license Dr. Malfitano except for the fact that it would be a duplication.

Dr. Malfitano said it is his position to have the licenses approved but not issued. It is clear that there cannot be two licenses in the same location. The properties will be operated as non-gaming properties. The lease with Mr. Dewing will be terminated within days. Dr. Malfitano again

stated he would like to have the licenses approved but not issued and then he would not have to come back to the Board at a later time.

Chair McBride explained in the past there has never been an issue of approving a license and not having it issued. Licenses are issued immediately upon approval. Upon Dr. Malfitano taking control of the businesses, the application will be approved soon after. With approval of the Sheriff, the businesses could be operated before final approval from the Commissioners.

County Manager Whitten stated that Sheriff Antinoro asked Mr. Whitten to explain the licenses will be considered for approval. In the meantime, the Sheriff has traditional powers and authority to issue interim licenses. The Sheriff indicated that as long as the application is reconsidered within a reasonable amount of time, there would be no additional fees for background checks and, based on past practice, to refund any of the quarterly or annual payments made upon application.

Mr. Whitten reviewed what is received for the funds paid out for a background check. There are three levels of licensing: the general license for non-liquor business with no real background obtained. The next level would be the liquor/cabaret business with investigation above and beyond the general license level. The brothel licenses are highly scrutinized, patterned along the lines of a gaming investigation.

Public Comment:

Mark Joseph Phillips, Virginia City Resident: Asked that the physical addresses of the business be included in the record.

Pat Whitten indicated that the Delta address is 18 North C Street, and the Bonanza is 27 South C Street.

Motion: Deny the application by Dr. Vincent Malfitano for Liquor and General Business licenses for The Bonanza and The Delta, **Action:** Deny, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (Summary: Yes=3)

14. DISCUSSION/POSSIBLE ACTION: Approve second reading of Ordinance 15-266 an ordinance amending Storey County Code section 17.12.064 Public Utility Uses to establish a procedure for permitting aboveground utility projects and renewable energy generation projects and providing for other properly related matters.

Continued to November 3, 2015

15. DISCUSSION/POSSIBLE ACTION: Consideration of Commissioner request for County to provide necessary funding to cap seal the approximately 2 +/- miles of Cartwright Road owned by the Home Owner's Association(s).

Chairman McBride said this item is brought before the Board at his request. Storey County owns all of Lousetown Road and approximately 1.11.2 miles of Cartwright Road from the 341 entrance to approximately the Saddleback Road area. Storey County maintains all of Cartwright with the exception of a two mile section. This section is utilized by the homeowners as well as by school

buses, police, fire, and ambulance services. The estimate for the cape seal project is approximately \$132,600. Highlands residents have requested improvements on this section of road for many years. The County maintains and plows the roads in the winter enabling the residents, as well as school and emergency vehicles, to get in and out.

Commissioner McGuffey: Being a Highlands resident said he believes Cartwright Road was paved by the County at one time and left up to the association to maintain. The association does not have the funds to maintain this road, as well as the dirt roads. The big hang-up has been that the road is private property. Most of the feedback received by Commissioner McGuffey has been that the County should take care of the road. There was no opposition expressed at the recent One-Acre Association meeting.

Vice-Chairman Gilman: This issue has been brought up more than once. If the County undertakes the consideration of the cape seal project and the maintenance of this road, there should be some form of maintenance agreement. It is time to resolve this issue, as opposed to a "one-time only" project.

County Manager Whitten: In the two weeks since this item was brought up, the District Attorney's Office has been working diligently on this issue. Mike Nevin has obtained an estimate for the cape seal work. There are issues regarding liability, design standards, and so forth, that the County needs to be conscious of. In looking at the road, there is a lot of growth along the shoulders to be cut back - which will be a priority of the Fire Department once the excavator is in service. At this time we are walking the legal path in order to accomplish the project.

Vice-Chairman Gilman: The residents in the Highlands have made it clear that they want private roadways and private use of their community. There is a faction that is adversarial against the County doing anything within the community and with roadways/right-of-ways. This cannot be done without the approval and consensus of the neighborhood.

District Attorney Langer: One of the things the District Attorney's Office is working to provide is information as to whether or not this can be done legally. Especially in light of the fact of the County taking on potential liability having to do with privately owned property. This is not an over-night decision - it is a process. There most likely would have to be an Ordinance, with two readings - allowing for public comment. As stated by Chair McBride, this is a roadway important to Storey County, the Highlands, the Fire Station, and others using the road. It is not an easy issue. There are questions regarding responsibility and maintenance. The District Attorney's Office wants to present an opinion as quickly as possible, but wants to make sure that all issues and options have been thoroughly addressed.

County Manager Whitten: It is suggested to continue this item to the next meeting on October 6, 2015. The goal is to try to get all roads in the same condition within 12 months. This would mean having Cartwright Road in the same condition as Lousetown Road and the other roads that were done. Jay Carmona of the One-Acre Association has been great to work with. The Association appears very receptive to this solution. Mr. Carmona has reached out to the other Associations. Letters of request and support from the Associations are anticipated.

Vice-Chairman Gilman: Looking at USA Parkway, the County still owns 3 to 5 miles from I-80 into the Parkway and the State took over the maintenance of that roadway. This may be something to look at.

District Attorney Langer: One area where there may be an issue is the Code regarding the steepness of the roadway.

Chair McBride: We're looking at a one-time fix. Perhaps either two of the three associations combining forces, maybe form a General Improvement District. The two miles of Cartwright Road would still be the responsibility of property owners. For example, there is a prescriptive right held by NDOT on Highway 342 from the Fourth Ward School through Silver City - which is privately owned land. NDOT does all repairs and maintenance although it is private property.

District Attorney Langer: This is what is being worked on. The clarification is appreciated and once there is a request or plan, research can be continued.

Chair McBride: A simple cape-sealing will give the road several years of longevity.

County Manager Whitten: Mr. Whitten advised he will meet with the Public Works Director and report to the Commission at the next meeting.

No public comment.

Motion: Continue Item 15 to the October 6, 2015 meeting, **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (Summary: Yes=3)

Chair called for a 10 minute recess.

COMMUNITY DEVELOPMENT AND PLANNING

16. DISCUSSION/POSSIBLE ACTION: FIRST READING Ordinance No. 15-269: Application No. 2014-020 by the Tahoe-Reno Industrial Center, LLC to amend the text of Storey County Code Title 17 (Zoning Ordinance) by adding chapter 17.39 IC Industrial-Commercial Zone. The intent of the proposed IC Zone is to provide for certain mixed-use industrial and commercial uses where found appropriate by the board with recommendation by the planning commission. Additional information including, but not limited to, reports and the draft zone text may be obtained from the Planning Department at 775.847.1144 or planning@storeycounty.org.

Vice-Chairman Gilman recused himself from the item due to having a pecuniary interest in the project.

County Manager Whitten said there will be some anticipated changes between the first and second readings.

Outside Counsel, Robert Morris read the title of the Ordinance:

An Ordinance amending the text of Storey County Code Title 17 (Zoning Ordinance) by adding chapter 17.39 IC Industrial-Commercial Zone, and other properly related matters.

Commissioner McGuffey expressed concern that this is for the property located along the river and under Light Industrial Use under the items checked, it shows chemical and oil storage. Commissioner McGuffey would oppose this. Further along, it indicates light industrial is normally located near major arterial roads - I-80 and USA Parkway. Chemicals should not be stored by the river. It is noted there are chemical storage provisions in heavy industrial areas. The chemical storage provisions should be moved from the light industrial section to heavy industrial.

Chair McBride asked when the land is being developed, and there is a truck stop installed, wouldn't there be storage of oil and chemicals on site.

Commissioner McGuffey replied he is not concerned about what a truck stop would store, he is talking about companies storing solvents - cleaning solvents, which are quite common in industrial manufacturing. The Fire Department regulates this with contained storage.

Mr. Whitten indicated that Commissioner McGuffey has shared his concerns with Austin Osborne who is working through the specific definitions of the provisions. The property in question is prime commercial and not intended to be a chemical storage area. This will be addressed before the second reading.

No public comment.

Motion: Approve FIRST READING Ordinance No. 15-269: Application No. 2014-020 by the Tahoe-Reno Industrial Center, LLC to amend the text of Storey County Code Title 17 (Zoning Ordinance) by adding chapter 17.39 IC Industrial-Commercial Zone, **Action:** Approve,

Moved by: Commissioner McGuffey, **Seconded by:** Chair McBride, **Vote:** Motion carried by unanimous vote (Summary: Yes=2)

17. DISCUSSION/POSSIBLE ACTION: FIRST READING Ordinance No. 15-268 (Zone Text Amendments) An ordinance amending Storey County Code Title 17 Zoning to update the procedures and requirements of the title by amending the following chapters: Ordinance title page; Chapter 17.03 Administrative Provisions; 17.06 Nonconforming Uses; 17.08 Zones Generally; 17.10 Definitions; Chapter 17.12 General Provisions; 17.15 P Public Zone; 17.16 R-1 Single-Family Residential Zone; 17.20 R-2 Multi-Family Residential Zone; 17.24 A Agriculture Zone; 17.28 C Commercial Zone; 17.30 C-R Commercial-Residential Zone; 17.32 F Forestry Zone; 17.34 I-1 Light Industrial Zone; 17.35 I-2 Heavy Industrial Zone; 17.36 I-3 Heavy Industrial Zone; 17.38 I-S Special Industrial Zone; 17.40 E Estate Zone; 17.44 SPR Special Planning Review Zone; 17.48 Historic Overlay District; 17.56 PUD Planned Unit Development; 17.76 N-R Natural Resources Zone; 17.84 Signs and Billboards; 17.92 Mineral Exploration Mining and Extraction; and other properly related matters.

County Manager Whitten presented this item. This codifies updates to zoning - County-wide. There are no material changes anticipated with this Ordinance, subject to input from the public and Commissioners.

Commissioner McGuffey said after reading the Ordinance it looks great.

Vice-Chairman Gilman commented that Austin Osborne has done an incredible job and feels that the Ordinance is ready to move forward. There has been a lot of community input at various meetings.

Mr. Morris read the title into the record:

An ordinance amending Storey County Code Title 17 Zoning to update the procedures and requirements of the title by amending the following chapters: Ordinance title page; Chapter 17.03 Administrative Provisions; 17.06 Nonconforming Uses; 17.08 Zones Generally; 17.10 Definitions; Chapter 17.12 General Provisions; 17.15 P Public Zone; 17.16 R-1 Single-Family Residential Zone; 17.20 R-2 Multi-Family Residential Zone; 17.24 A Agriculture Zone; 17.28 C Commercial Zone; 17.30 C-R Commercial-Residential Zone; 17.32 F Forestry Zone; 17.34 I-1 Light Industrial Zone; 17.35 I-2 Heavy Industrial Zone; 17.36 I-3 Heavy Industrial Zone; 17.38 I-S Special Industrial Zone; 17.40 E Estate Zone; 17.44 SPR Special Planning Review Zone; 17.48 Historic Overlay District; 17.56 PUD Planned Unit Development; 17.76 N-R Natural Resources Zone; 17.84 Signs and Billboards; 17.92 Mineral Exploration Mining and Extraction; and other properly related matters.

Public Comment:

Mark Joseph Phillips, Virginia City Resident: Asked Chair McBride to confirm that the Chair sits on the Storey County Historic Commission. Have the changes to Historic Overlay District been discussed at meetings of the Historic Commission?

Chairman McBride replied there has been no discussion at meetings he has attended. There does not seem to anything in the Ordinance that conflicts with the Historic Commission's jurisdiction.

Motion: Approve the FIRST READING Ordinance No. 15-268 (Zone Text Amendments), **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

18. DISCUSSION/POSSIBLE ACTION: Special Use Permit 2015-027, by Ronald Jensen. The applicant requests a boundary line adjustment between the two properties located at 21410 Sazarac Road and 2115 Conestoga Road, Virginia City Highlands, Storey County, Nevada (APN: 003-052-46 and 003-052-47).

Planner Jason VanHavel presented this item. This is an application requesting a boundary line adjustment between two properties in Virginia City Highlands. The application is signed by Ronald and Carolyn Jensen, and Thomas and Erin Rahme.

Mr. VanHavel stated that the landowners noticed that a fence, a propane tank, and landscaping, on their properties did not follow their adjoining property line. The landowners worked together to compromise and agreed to adjust the boundary line to accommodate the infrastructure that was on the property. This application codifies the agreement between the landowners.

The Planning Commission recommends approval. No public comments have been received for or against this application.

No public comment.

Mr. VanHavel read the findings into the record as follows:

- 5.1.1 The Boundary Line Adjustment complies with NRS 278.475 through 278.477 relating to the change in location of boundary line; and
- 5.1.2 The Boundary Line Adjustment complies with all Federal, State, and County regulations pertaining to Parcel Maps, Boundary Line Adjustments, and allowed land uses; and
- 5.1.3 The Boundary Line Adjustment will not impose substantial adverse impacts or safety hazards on the abutting properties or the surrounding vicinity; and
- 5.1.4 The conditions of approval for the requested Boundary Line Adjustment do not conflict with the minimum requirements in Storey County Code Chapters 17.40 Estate Zone or any other Federal, State, or County regulations.

Motion: Approve Special Use Permit 2015-027, by Ronald Jensen requesting a boundary line adjustment between the two properties located at 21410 Sazarac Road and 2115 Conestoga Road, Virginia City Highlands, Storey County, Nevada (APN: 003-052-46 and 003-052-47), **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (**Summary:** Yes=3)

19. DISCUSSION/POSSIBLE ACTION: Special Use Permit 2015-028, Jeffrey Rockstrom. The applicant is requesting a Special Use Permit to conduct business outside of a permanent building, i.e., operate a Hot Dog Trailer in Virginia City.

Chairman McBride and Vice-Chairman Gilman each disclosed that they own a business on C Street.

Planner Jason VanHavel presented this item. The applicant, Jeffrey Rockstrom, is in attendance and available for comment and questions. The applicant requests a Special Use Permit to operate a hot dog trailer at the V & T Depot, during its hours of operation, and along C Street.

At the Planning Commission, it was determined that applicant's interest was to only operate on C Street during special events. It was concluded that the applicant will work through the Tourism Commission for special events.

This item applies to applicant's operation of a hot dog trailer at the V & T Depot location. The applicant has stated he has verbal authorization from the V & T to conduct his operation, but does not have authorization in writing. A vote by the Planning Commission to continue the item to allow the applicant to obtain written authorization was denied.

There were approximately 15 public comments at the Planning Commission meeting. Most comments were against the application in its entirety - along C Street and at the V & T Depot. A couple of comments were neutral, and there was one in support of the application.

The Planning Commission moved to deny the application for a Special Use Permit, 5 -2.

Staff is recommending denial of this Special Use Permit as well.

Commissioner McGuffey said he attended the Planning Commission meeting. One of the issues discussed was that applicant does not have written permission from the V & T to operate the hot dog trailer. Applicant is allowed to obtain a permit from the VCTC for special events.

Mr. VanHavel commented that with special events the VCTC identifies the location where vendors can operate.

Vice-Chairman Gilman asked if there was a plan for locating a business such as the hot dog trailer on C Street other than at a special event.

County Manager Whitten answered that the Planning Commission and staff have recommended to deny the application so there would be no provision other than special events. Mr. Whitten outlined the requirements for obtaining a permit from the VCTC for special events.

Chairman McBride commented that he is in favor of mobile vending for special events. Some of the merchants testifying at the Planning Commission didn't feel outside vendors were needed for special events. Chair McBride tends to disagree when it comes to special events. However, Chair McBride stated he does see where the merchants have overhead and someone coming in on busy weekends or holidays can take the "cream off the top" as they do not have the same overhead.

Applicant Jeffrey Rockstrom commented that he only requested to be on C Street during special events. The original request was to work at the V & T Depot, on their property. Tom Gray of the V & T gave verbal permission to work on the property. Mr. Rockstrom said he is a resident of the County, he pays taxes, and he will have to obtain licenses and inspections, just the same as the "brick and mortar" businesses. Mr. Rockstrom would like to work at the V & T seven days a week, as long as they are open. There are no food services down there. He has wanted to do this for five years. The cart is 80% complete.

Vice Chair Gilman said he feels having the hot dog cart at the V & T would be reasonable.

Chair McBride said there would need to be written permission before the Commission could go forward.

Mr. Rockstrom responded that Mr. Grey has given verbal approval, but would not put it in writing.

Pat Whitten suggested that Mr. Rockstrom consider conducting his business at Tahoe Reno Industrial Center. There may be way to have on-site storage of the cart so that it does not have to be towed back and forth.

Mr. Rockstrom said he is not adverse to this idea, but the distance is a big consideration.

Vice Chair Gilman said the Board would like to help Mr. Rockstrom, but is unable to so with the Special Use Permit. There may be other options.

Mr. VanHavel read the findings for denial into the record as follows:

5.2.1 Substantial evidence shows that the Special Use Permit may conflict with the purpose, intent, and other specific requirements of SCC 17.30 Commercial Residential Zone, 17.12 General Provisions or Chapter 17.03.150 Special Use Permit or other federal, state, or county regulations.

5.2.2 The conditions under the Special Use Permit do not adequately mitigate potential adverse impacts on surrounding uses or protect against potential safety hazards for public and surrounding uses.

No public comment.

Motion: Deny the Special Use Permit 2015-028 of Jeffrey Rockstrom, requesting a Special Use Permit to conduct business outside of a permanent building, i.e., operate a Hot Dog Trailer in Virginia City,
Action: Deny, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (Summary: Yes=3)

20. FOR POSSIBLE ACTION, LICENSING BOARD SECOND READINGS:

- A. SOLAR UNITED NETWORK -- Contractor / 3555 Airway Drive #314 ~ Reno (solar contractor)
- B. BI NUTRACEUTICALS, INC. - General / 625 Waltham Way #101 (milling botanicals) TRI
- C. UNIQUE BUILDING GROUP - Contractor / 6390 Greenwich Drive ~ San Diego (lathing contractor)
- D. A-Z TRUCK MARINE AND RV - General / 3033 Waltham Way (repair, parts, access.) TRI
- E. RICH DOSS, INC. - General / 201 Wild Horse Canyon Drive (transportation) MCC

On behalf of Community Development, Pat Whitten, requested that items a. and c. be approved, and items b., d., and e., be continued.

Motion: Continue items b., d., and e., **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (Summary: Yes=3)

Motion: Approve items a. and c., **Action:** Approve, **Moved by:** Vice Chair Gilman, **Seconded by:** Commissioner McGuffey, **Vote:** Motion carried by unanimous vote (Summary: Yes=3)

21. PUBLIC COMMENT (No Action)

Mark Joseph Phillips, Storey County Resident: In regards to the First Reading of Ordinance No. 15-269, Section 17.48, Historic Overlay District has been deleted. Mr. Phillips is concerned that the Historic Overlay District has been deleted altogether.

Outside Counsel, Robert Morris replied he noticed this as well. Most of the text has been moved into another section, not actually deleted.

22. ADJOURNMENT

The meeting was adjourned by the call of the Chair at 12:20pm.

Respectfully submitted,

By _____
Vanessa Stephens Clerk-Treasurer



STOREY COUNTY CLERK-TREASURER
VANESSA STEPHENS

March 28, 2016

Tracie Lindeman
Clerk of Court
Supreme Court of the State of Nevada
Office of the Clerk
198 South Carson Street
Carson City, NV 89701

Re: District Court Case No. 15 OC 00008 1E

Dear Ms. Lindeman,

Enclosed please find check #67006017 made payable to the Supreme Court of Nevada, in the amount of \$250.00, for a Notice of Appeal filed on March 25, 2016, in the above captioned case. Please find the following documents were e-filed on March 28, 2016:

- 1) Notice of Appeal
- 2) Case Appeal Statement
- 3) District Court docket entries
- 4) Order/Judgment
- 5) Notice of Entry of Judgment
- 6) Court Minutes
- 7) Exhibit List
- 8) Exhibits

The following items were not included on this Appeal for the above captioned case:

- 1) Trial Transcripts

If there is anything else needed, please do not hesitate to call.

Sincerely,

Wendy Bacus
Storey County
Deputy Clerk-Treasurer

UMB BANK, N.A.
36-1901/1012

HOLLAND & HART LLP
ATTORNEYS AT LAW
PROFESSIONAL ACCOUNT
5441 Kietzke Lane
Second Floor
Reno, Nevada 89511

67006017

DATE December 16, 2015

PAY Two hundred fifty and 00/100 \$ 250.00

PAY
TO THE
ORDER OF

Nevada Supreme Court
201 S. Carson Street
Carson City, NV 89701

HOLLAND & HART LLP

C. Hu Kampor MP
VOID AFTER 6 MONTHS

⑈67006017⑈ ⑆101219017⑆ ⑈5008016038⑈

Payee: Nevada Supreme Court
Vendor: 19951

Holland & Hart LLP

Check #: 67006017
Check Date: 12/16/2015

Invoice Number	Invoice Date	Invoice Amount	Amount Paid	Discount Taken	Payment Amt
121515	12/16/2015	250.00	250.00		250.00

Notice of Appeal Filing Fee

Totals	250.00	250.00	250.00
--------	--------	--------	--------