IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 78792

CITY OF LAS VEGAS, a political subdivision of the State of Nevada,

Petitioner

v.

EIGHTH JUDICIAL DISTRICT COURT of the State of Nevada, in and for the County of Clark, and the Honorable Timothy C. Williams, District Judge,

Respondents

and

180 LAND CO, LLC, a Nevada limited-liability company,

Real Party in Interest

Electronically Filed
May 23 2019 11:13 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

District Court Case No.: A-17-758528-J
Eighth Judicial District Court of Nevada

PETITIONER'S SECOND SUPPLEMENT TO APPENDIX VOLUME 6 PA1145-PA1169

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CHRONOLOGICAL INDEX TO PETITIONER'S APPENDIX

DATE	DOCUMENT	VOLUME	PAGE RANGE	
7/18/2017	Petition for Judicial Review	1	PA0001	PA0008
9/7/2017	First Amended Petition for Judicial Review and Alternative Verified Claims in Inverse Condemnation	1	PA0009	PA0027
2/23/2018	First Amended Complaint	1	PA0028	PA0044
2/28/2018	Errata to First Amended Complaint Pursuant to Court Order entered on February ~~2~~ [1], 2018 for Severed Alternative Verified Claims in Inverse Condemnation	1	PA0045	PA0061
2/28/2018	Second Amended Petition for Judicial Review to Sever Alternative Verified Claims in Inverse Condemnation Per Court Order Entered on February 1, 2018	1	PA0062	PA0076
3/5/2018	Order Granting Plaintiffs' Petition for Judicial Review in *Jack B. Binion, et al. v. The City of Las Vegas, et al.*, A-17-752344-J	1	PA0077	PA0090
4/17/2018	Petitioner's Memorandum of Points and Authorities in Support of Second Amended Petition for Judicial Review	1	PA0091	PA0152
4/20/2018	**Summons – Civil and Complaint for Declaratory and Injunctive Relief and In Inverse Condemnation**	**6 (Second Supplement)**	**PA1145**	**PA1166**
6/26/2018	Errata to Petitioner's Memorandum of Points and Authorities in Support of Second Amended Petition for Judicial Review	1	PA0153	PA0199
11/26/2018	Notice of Entry of Order of Findings of Fact and Conclusions of Law on Petition for Judicial Review	1	PA0200	PA0227

DATE	DOCUMENT	VOLUME	PAGE RANGE	
12/13/2018	Motion for a New Trial Pursuant to NRCP 59 (e) and Motion to Alter or Amend Pursuant to NRCP 52(b) and/or Reconsider the Findings of Facts and Conclusions of Law and Motion to Stay Pending Nevada Supreme Court Directives	2	PA0228	PA0255
2/6/2019	Order *NUNC PRO TUNC* Regarding Findings of Fact and Conclusion of Law Entered November 21, 2018	2	PA0256	PA0258
2/13/2019	City of Las Vegas' Motion for Judgment on the Pleadings on Developer's Inverse Condemnation Claims	2	PA0259	PA0272
2/15/2019	**Court Minutes**	**6 (Second Supplement)**	**PA1167**	**PA1167**
2/28/2019	**Order Staying Proceedings**	**6 (Second Supplement)**	**PA1168**	**PA1169**
3/4/2019	Plaintiff Landowners' Opposition to City's Motion for Judgment on the Pleadings on Developer's Inverse Condemnation Claims and Countermotion for Judicial Determination of Liability on the Landowners' Inverse Condemnation Claims and Countermotion to Supplement/Amend the Pleadings, If Required	2	PA0273	PA0399
3/14/2019	City of Las Vegas' Reply in Support of Motion for Judgment on the Pleadings on Developer's Inverse Condemnation Claims	3	PA0400	PA0483
3/18/2019	City of Las Vegas' Opposition to Plaintiff Landowners' Countermotion for Judicial Determination of Liability on the Landowners' Inverse Condemnation Claims and Countermotion to Supplement/Amend the Pleadings, If Required	3	PA0484	PA0562

DATE	DOCUMENT	VOLUME	PAGE RANGE	
3/22/2019	Reporter's Transcript of Motions	4	PA0563	PA0725
4/15/2019	Plaintiff Landowners' Request for Admission to the City of Las Vegas - First Request	4	PA0726	PA0737
4/15/2019	Plaintiff Landowners' Request for Production of Documents to the City of Las Vegas - First Request	4	PA0738	PA0749
4/15/2019	Plaintiff Landowners' Early Case Conference Initial Disclosures *For Phase I – Liability* Pursuant to NRCP 16.1	4	PA0750	PA0760
4/23/2019	City of Las Vegas' Motion to Stay Proceedings Pending Resolution of Writ Petition to the Nevada Supreme Court on Order Shortening Time	5	PA0761	PA0851
5/8/2019	Notice of Entry of Findings of Fact and Conclusions of Law on Plaintiff's Motion for New Trial	5	PA0852	PA0867
5/10/2019	Reply in Support of City of Las Vegas' Motion to Stay Proceedings Pending Resolution of Writ Petition to the Nevada Supreme Court on Order Shortening time and Opposition to Countermotion for *Nunc Pro Tunc* Order	5	PA0868	PA0874
5/15/2019	Notice of Entry of Order Granting the Landowners' Countermotion to Amend/Supplement the Pleadings; Denying the City's Motion for Judgment on the Pleadings on Developer's Inverse Condemnation Claims; and Denying Landowners' Countermotion for Judicial Determination of Liability on the Landowners' Inverse Condemnation Claims	5	PA0875	PA0901
5/15/2019	Court Minutes	5	PA0902	PA0902

DATE	DOCUMENT	VOLUME	PAGE RANGE	
	Excerpts from Record on Review ROR000032- ROR000033 ROR002648-ROR-002670 ROR002823-ROR002831 ROR002854- ROR002863 ROR0025968 ROR0032657 ROR0034009 ROR0034050 ROR0034059 ROR035183-035186	6	PA0903	PA0955
	District Court Docket	6	PA0956	PA1050
5/15/2019	Reporter's Transcript of City Of Las Vegas's Motion to Stay Proceedings Pending Resolution of Writ Petition to The Nevada Resolution of Writ Petition to the Nevada Supreme Court on Order Shortening Time; Plaintiff's Opposition to the City of Las Vegas's Motion to Stay Proceedings Pending Resolution of Writ Petition to the Nevada Supreme Court on Order Shortening Time and Countermotion for Nunc Pro Tunc Order	6 (Supplement)	PA1051	PA1144

ALPHABETICAL INDEX TO PETITIONER'S APPENDIX

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2/13/2019	City of Las Vegas' Motion for Judgment on the Pleadings on Developer's Inverse Condemnation Claims	2	PA0259	PA0272
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2/15/2019	Court Minutes	6 (Second Supplement)	PA1167	PA1167
5/15/2019	Court Minutes	5	PA0902	PA0902
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AFFIRMATION

Pursuant to NRS 239B.030, the undersigned does hereby affirm that **PETITIONER'S SECOND SUPPLEMENT TO APPENDIX VOLUME 6** does not contain the social security number of any person.

DATED this 23rd day of May, 2019.

McDONALD CARANO LLP

BY: */s/ Debbie Leonard*

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano, LLP, and that on this 23rd day of May, 2019, a copy of the foregoing **PETITIONER'S SECOND SUPPLEMENT TO APPENDIX VOLUME 6** was electronically filed with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (E-Flex). Participants in the case who are registered with E-Flex as users will be served by the EFlex system and others not registered will be served via U.S. mail as follows:

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SUMM

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DISTRICT COURT

CLARK COUNTY, NEVADA

FORE STARS, Ltd, SEVENTY ACRES, LLC, a Nevada limited liability company, DOE INDIVIDUALS I through X, DOE CORPORATIONS I through X, DOE LIMITED LIABILITY COMPANIES I through X, Plaintiff, vs. CITY OF LAS VEGAS, political subdivision of the State of Nevada, THE EIGHTH JUDICIAL DISTRICT COURT, County of Clark, State of Nevada, DEPARTMENT 24 (the HONORABLE JIM CROCKETT, DISTRICT COURT JUDGE, IN HIS OFFICIAL CAPACITY), ROE government entities I through X, ROE CORPORATIONS I through X, ROE INDIVIDUALS I through X, ROE LIMITED LIABILITY COMPANIES I through X, ROE quasi-governmental entities I through X, Defendants.	Case No.: A-18-773268-C Dept. No. Department 29 **SUMMONS - CIVIL** **[CITY OF LAS VEGAS, political subdivision of the State of Nevada]**

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT(S): **CITY OF LAS VEGAS, political subdivision of the State of Nevada**

1. If you intend to defend this lawsuit, within 30 days after this Summons is served on you, exclusive of the day of service, you must do the following:

(a) File with the Clerk of this Court whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with in the appropriate filing fee.

(b) Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and failure to respond will result in a judgement of default against you for the relief demanded in the complaint, which could result in taking of money or property or other relief requested in the complaint.

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. The State of Nevada, its political subdivision, agencies, officers, employees, board members, commission members, and legislators each have 45 days after service of this Summons within which to file an answer or other responsive pleading to the complaint.

STEVE D. GRIERSON, CLERK OF THE COURT

By: Irish Lapira — 4/20/2018
Deputy Clerk Date

Irish Lapira

Issued at the request of:

LAW OFFICES OF KERMITT L. WATERS

By: /s/ *James J. Leavitt*
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DISTRICT COURT
CLARK COUNTY, NEVADA

FORE STARS, Ltd, SEVENTY ACRES, LLC, a Nevada limited liability company, DOE INDIVIDUALS I through X, DOE CORPORATIONS I through X, and DOE LIMITED LIABILITY COMPANIES I through X, Plaintiff, *vs.* CITY OF LAS VEGAS, political subdivision of the State of Nevada, THE EIGHTH JUDICIAL DISTRICT COURT, County of Clark, State of Nevada DEPARTMENT 24 (the HONORABLE JIM CROCKETT, DISTRICT COURT JUDGE, IN HIS OFFICIAL CAPACITY), ROE government entities I through X, ROE CORPORATIONS I through X, ROE INDIVIDUALS I through X, ROE LIMITED LIABILITY COMPANIES I through X, ROE quasi-governmental entities I through X, Defendant.	Case No.: A-18-773268-C Dept. No.: Department 29 **COMPLAINT FOR DECLARTORY AND INJUNCTIVE RELIEF AND IN INVERSE CONDEMNATION** **(Exempt from Arbitration – Action Concerning Title To Real Property)**

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COMES NOW Plaintiff, FORE STARS, Ltd. and SEVENTY ACRES, LLC, a Nevada Limited Liability Company ("Landowners") by and through its attorney of record, The Law Offices of Kermitt L. Waters, for its Complaint for Declaratory and Injunctive Relief and In Inverse Condemnation alleges as follows:

PARTIES

1. The Landowners are organized and existing under the laws of the state of Nevada.

2. Defendant City of Las Vegas ("City") is a political subdivision of the State of Nevada and is a municipal corporation and The Eighth Judicial District Court, County of Clark, State of Nevada Department 24 (the Honorable Jim Crockett, District Court Judge, In His Official Capacity) ("Crockett Court") are subject to the provisions of the Nevada Revised Statutes, including NRS 342.105, which makes obligatory on the City and the Crockett Court all of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 USC §4601-4655, and the regulations adopted pursuant thereto. The City and the Crockett Court are also subject to all of the provisions of the Just Compensation Clause of the United States Constitution and Article 1, sections 8 and 22 of the Nevada Constitution, also known as PISTOL (Peoples Initiative to Stop the Taking of Our Land) and the Nevada Revised Statutes applicable to eminent domain actions.

3. That the true names and capacities, whether individual, corporate, associate, or otherwise of Plaintiffs named herein as DOE INDIVIDUALS I through X, DOE CORPORATIONS I through X, and DOE LIMITED LIABILITY COMPANIES I through X (hereinafter collectively referred to as " DOEs") inclusive are unknown to the Landowners at this time, or it may later be discovered that Plaintiff DOEs should be joined in this action, and who may have standing to sue in this matter and who, therefore, sue the Defendants by fictitious names and will ask leave of the Court to amend this Complaint to show the true names and capacities of

Plaintiffs if and when the same are ascertained; that said Plaintiffs sue as principles; that at all times relevant herein, Plaintiff DOEs were persons, corporations, or other entities with standing to sue under the allegations set forth herein.

4. That the true names and capacities, whether individual, corporate, associate, or otherwise of Defendants named herein as ROE government entities I through X, ROE CORPORATIONS I through X, ROE INDIVIDUALS I through X, ROE LIMITED LIABILITY COMPANIES I through X, ROE quasi-governmental entities I through X (hereinafter collectively referred to as "ROEs"), inclusive are unknown to the Landowner at this time, who therefore sue said Defendants by fictitious names and will ask leave of the Court to amend this Complaint to show the true names and capacities of Defendants when the same are ascertained; that said Defendants are sued as principles; that at all times relevant herein, ROEs conduct and/or actions, either alone or in concert with the aforementioned defendants, resulted in the claims set forth herein.

JURISDICTION AND VENUE

5. The Court has jurisdiction over the claims set forth herein pursuant to the United States Constitution, Nevada State Constitution, and the Nevada Revised Statutes, including the Chapter 30 provisions applicable to declaratory relief actions.

6. Venue is proper in this judicial district pursuant to NRS 13.040.

GENERAL ALLEGATIONS

7. The Landowners own 17.49 acres of real property generally located south of Alta Drive, east of Hualapai Way and north of Charleston Boulevard within the City of Las Vegas, Nevada; all of which acreage is more particularly described as Assessor's Parcel Number 138-32-301-005 (hereinafter referred to as the "17 Acres" or "Property").

8. On or about August 15, 2001, the City of Las Vegas City Council, at a public hearing, adopted ordinance No. 5353, which:

a. amended the "Official Zoning Map Atlas of the City of Las Vegas, as adopted in title 19A, Chapter 2, Section 10 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition" to change the then "Current Zoning" on the 17 acres (then a portion of a 184.83 acre parcel identified by Parcel Number 138-31-312-002) from U(M) to RPD-7 hard zoning; and

b. Confirmed that all ordinances, sections, subsections, phrases, sentences, clauses, or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict with the hard zoning of the 17 Acres "are hereby repealed."

9. The R-PD7 zoning district on the 17 Acres allows for up to 7.49 residential units per acre, subject to compliance with applicable provisions of City of Las Vegas Title 19 – Unified Development Code.

10. Under the R-PD7 zoning, Landowners had the vested right to use and develop the 17 Acres, at a density of up to 7.49 residential units per acre, subject to compliance with applicable provisions of City of Las Vegas Title 19 – Unified Development Code.

11. On or about December 30, 2014, the zoning of the 17 Acres as R-PD7 and the vested right to use and develop the 17 Acres was confirmed in writing by the City.

12. On October 18, 2016, at a Las Vegas Special Planning Commission Meeting related to the 17 Acres, City Attorney Brad Jerbic confirmed that the Property is "hard zoned" R-PD7.

13. On or about November 30, 2016, an order was entered by a District Court Judge in the State of Nevada ruling that the 17 Acres has been zoned R-PD7 and that the R-PD7 zoning for the 17 Acres was codified and incorporated into the Amended Zoning Map Atlas in 2001.

14. NRS 278.349(3)(e) provides that this recognized hard zoning on the 17 Acres takes precedence over any other master plan designation and directs the City Council that "if it is authorized to take final action on a tentative map, [it] shall consider . . . [c]onformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence."

15. At all relevant times herein the Landowners have materially relied upon the City's action in zoning the 17 Acres and the City's confirmation in writing regarding the 17 Acre's vested R-PD7 zoning rights.

16. The Landowners' vested property rights in the 17 Acres are recognized under the United States and Nevada Constitutions, Nevada case law, and the Nevada Revised Statutes.

17. After the Landowners gained ownership of the 17 Acres, a City employee, based upon information and belief, hand wrote PR-OS (Parks/Recreation/Open Space) on a general planning map that included an area of property on the map encompassing the 17 Acres.

18. This general planning map was, based upon information and belief, located in the City of Las Vegas offices.

19. The City did not provide any notice whatsoever that it, or one of its employees, had written PR-OS on the general planning map on an area that encompassed the 17 Acres.

20. The City did not follow its own necessary procedures to amend or change the general planning map to place the PR-OS designation on the 17 Acres on the general planning map.

21. Despite the failure to provide notice or even follow the proper procedure to change or amend the City's general planning map(s), the 17 Acres currently shows the General Plan Designation of PR-OS.

22. Because the PR-OS General Plan Designation was not properly placed upon the 17 Acres, it is illegal and has no effect upon the 17 Acres,

23. The General Plan Designation of PR-OS is being shown on the 17 Acres in error.

24. Pursuant to NRS 278.349(3)(e), the R-PD7 zoning on the 17 Acres takes precedence over the "PR-OS" General Plan Designation.

25. On or about November 23, 2015, the Landowners filed the necessary applications to develop the 17 Acres with 720 luxury condominiums: GPA-62387, ZON-62392 and SDR-62393 (collectively the "Applications").

26. GPA-62387 – an application for a General Plan Amendment to change the General Plan Designation on the 17 Acres from PR-OS (Parks/Recreation/Open Space) to H (High Density Residential) - was filed at the suggestion of the City.

27. The GPA-62387 was filed by Landowners solely due to the request of the City, because the Landowners always asserted that the PR-OS did not apply to the 17 Acres.

28. The 17 Acres are adjacent to the One Queensridge Place high rise condominium towers and the Sir Williams Court office complex and event center. The proposed project / development as detailed in the Applications is "comparable and compatible" to the adjacent properties.

29. The Applications were recommended for approval by the City Staff, approved by the City of Las Vegas Planning Commission, and approved by the City of Las Vegas City Council (on February 16, 2017).

30. After the City approved the Applications for development of the 17 Acres, several wealthy and influential landowners who live in the adjacent common interest community called "Queensridge" filed a petition for judicial review of the City's approval of the Applications (hereinafter "Queensridge Elite").

31. The petition for judicial review was presented to the honorable District Court Judge Jim Crockett, department 24 of the Eighth Judicial District Court, County of Clark, State of Nevada (hereinafter "Judge Crockett") and assigned case number A-17-752344-J.

32. The City and the Landowners opposed the petition for judicial review, maintaining that the City approval to develop the 17 Acres was legally appropriate and not an abuse of discretion.

33. On January 11, 2018, after entertaining brief oral argument, Judge Crockett made, in part, the following findings at the hearing: 1) "the City failed to follow LVMC, Las Vegas Municipal [Code], Rule 19.040, and staff recommendations that a major modification needed to be approved in order for the application to be approved;" 2) Judge Crockett based this decision on purely legal grounds, stating that it is "not going to weigh evidence or offer my opinions on whether the evidence was greater or less than something to substitute fact finding by the City, but the initial flaw, which is a fatal one, is the legal flaw;" 3) the City "need[s] to protect the property rights of those who are already committed and invested in a project (the Queensridge Elite);" and 4) "parenthetically" the applicant created his own problems and Judge Crockett indicated that the Landowners purchased a pig in a poke, which, according to Judge Crockett, is merely mentioned

parenthetically, because, his decision is based on "purely legal determination that LVMC 19.040 was not complied with."

34. Because Judge Crockett based his decision on a "purely legal determination that LVMC 19.040 was not complied with," a two page order, at most, is all that would have been required to state this finding.

35. The Queensridge Elite, however, presented Judge Crockett with a 14 page detailed order that went well beyond the oral argument and his "purely legal determination" and, over the objection of the Landowners, Judge Crockett signed this 14 page proposed order without any changes – Order Granting Plaintiffs' Petition for Judicial Review, signed on March 1, 2018, case number A-17-752344-J. (hereinafter "Crockett Order").

36. The Crocket Order is significantly overreaching in that it goes beyond the conduct of a judicial review of the February 16, 2017 decision of the City Council approving the Applications, and overturns the underlying R-PD7 zoning codified in the August 31, 2001 adopted Ordinance No. 5353 and materially impairs the property rights of the Landowners.

37. The Crockett Order includes, in part, the following finding: "On the maps of the City's General Plan, the land for the golf course/open space/drainage is expressly designated as PR-OS, meaning Parks/Recreation/Open Space. ROR002735-2736. There are no residential units permitted in an area designated as PR-OS."

38. On March 21, 2018, the City, even though it recognized that the Crockett Order was an abuse of discretion and should be reversed by the Nevada Supreme Court, voted not to pursue an appeal of the Crockett Order to the Nevada Supreme Court.

39. The overreaching Crockett Order holding that the PR-OS designation does not allow residential development is action by the judiciary that amounts to a taking of the Landowners' Property without payment of just compensation.

40. The City Attorney's Office considers the Crocket Order legally improper and believes that a legal basis exists to appeal the matter to the Nevada Supreme Court.

41. The City Council's refusal to appeal the Crockett Order, after having been advised by the City Attorney's Office that it is legally improper, is government action that amounts to a taking of the Landowners' property without payment of just compensation.

42. This Government action individually and/ or collectively is final government action that amounts to a taking of the Landowners' property without payment of just compensation.

43. Based on information and belief, the City and the Crockett Court have engaged in other government action amounting to a taking.

44. The Landowners' Complaint in Inverse Condemnation has been timely filed and is ripe.

FIRST CAUSE OF ACTION FOR DECLARATORY RELIEF

45. The Landowners repeat, re-allege and incorporate by reference all paragraphs included in this pleading as if set forth in full herein.

46. As a result of the PR-OS being improperly placed on the 17 Acres, there is uncertainty as to its validity and application to the 17 Acres (although the Landowners deny that the PR-OS should even apply to the 17 Acres).

47. Declaratory relief is necessary to terminate or resolve the uncertainty.

48. Declaratory relief is permitted under Nevada law, including but not limited to NRS Chapter 30.

49. Therefore, the Landowners request that this Court immediately enter an order finding the PR-OS designation on the 17 Acres is invalid and of no effect on the 17 Acres, thereby prohibiting the City or any other person, agency, or entity from applying the PR-OS to any land use decision, or otherwise, to the 17 Acres.

50. This requested relief is in excess of fifteen thousand dollars ($15,000.00).

SECOND CAUSE OF ACTION FOR PRELIMINARY INJUNCTION

51. The Landowners repeat, re-allege, and incorporate by reference all paragraphs included in this pleading as if set forth in full herein.

52. Any action that placed a designation of PR-OS on the 17 Acres was without legal authority and, therefore, entirely invalid.

53. There is a reasonable and strong likelihood of success in the merits which will invalidate the improper PR-OS designation on the 17 Acres.

54. Continued application of the PR-OS designation on the 17 Acres will result in irreparable harm and cause a significant hardship on the Landowners as: 1) the 17 Acres is legally recognized real property and as unique in the State of Nevada; 2) in light of the Crocket Order, applying the PR-OS designation on the 17 Acres prevents the Landowners from using the Property for any beneficial use; 3) the Landowners rely upon the purchase and development of property, including the 17 Acres, to provide a livelihood for numerous individuals and continued application of the PR-OS to prevent development of the 17 Acres will interfere with the livelihood of these individuals; and, 4) allowing the development of the 17 Acres will result in significant financial benefit to the City, including but not limited to increasing the City tax base and creating additional jobs for its citizens.

55. There is no plain, adequate or speedy remedy at law.

56. Therefore, the Landowners are entitled to injunctive relief prohibiting the City or any other person, agency, or entity from applying the PR-OS to any land use decision, or otherwise, to the 17 Acres.

57. This requested relief is in excess of fifteen thousand dollars ($15,000.00).

THIRD CLAIM FOR RELIEF IN INVERSE CONDEMNATION

(Categorical Taking)

58. The Landowners repeat, re-allege and incorporate by reference all paragraphs included in this pleading as if set forth in full herein.

59. The City action improperly designating the Landowners' Property PR-OS, the Crockett Order, and the City refusal to appeal the Crockett Order (which the City recognized was an abuse of discretion), is government action, individually and/or cumulatively, that has reached a final decision demonstrating that the City will not allow development of the 17 Acres and the government action will prevent any development of the 17 Acres. When appropriate, the City, and the Crockett Court will be referred to herein collectively as the "Government", and the actions of the Government and the Crocket Order will be referred to collectively hereinafter as the "Government Action."

60. Any further requests to the City or the Crockett Court to develop the 17 Acres would be futile.

61. The Government Action in this case has resulted in a direct appropriation of the Landowners' 17 Acre property by entirely prohibiting the Landowners from using the 17 Acres for any purpose and reserving the 17 Acres undeveloped.

62. As a result of the Government Action, the Landowners are unable to develop the 17 Acres and any and all value in the 17 Acres has been entirely eliminated.

63. The Government Action has completely deprived the Landowners of all economically beneficial use of the 17 Acres.

64. The Government Action has resulted in a direct and substantial impact on the Landowners and on the 17 Acres.

65. The Government Action results in a categorical taking of the Landowners' 17 Acre property.

66. The Government has not paid just compensation to the Landowners for this taking of its 17 Acre property.

67. The Government's failure to pay just compensation to the Landowners for the taking of its 17 Acre property is a violation of the United States Constitution, the Nevada State Constitution, and the Nevada Revised Statutes, which require the payment of just compensation when private property is taken for a public use.

68. Therefore, the Landowners are compelled to bring this cause of action for the taking of the 17 Acre property to recover just compensation for property the Government is taking without payment of just compensation.

69. The requested compensation is in excess of fifteen thousand dollars ($15,000.00).

FOURTH CLAIM FOR RELIEF IN INVERSE CONDEMNATION

(Penn Central Regulatory Taking)

70. The Landowners repeat, re-allege and incorporate by reference all paragraphs included in this pleading as if set forth in full herein.

71. The Government reached a final decision that it will not allow development of the Landowners' 17 Acres.

72. Any further requests to the Government to develop the 17 Acres would be futile.

73. The Government Action has caused a direct and substantial economic impact on the Landowners, including but not limited to preventing development of the 17 Acres.

74. The Government was expressly advised of the economic impact its actions were having on the Landowners.

75. At all relevant times herein, the Landowners had specific and distinct investment backed expectations to develop the 17 Acres.

76. These investment backed expectations are further supported by the fact that the City, itself, advised the Landowners of their vested rights to develop the 17 Acre property prior to acquiring the 17 Acres and the Crockett Court was expressly advised of these facts and even referenced them at the January 11, 2018, hearing.

77. The Government was expressly advised of Landowners' investment backed expectations prior to denying Landowners the use of the 17 Acres.

78. The Government Action has the effect of preserving the 17 Acres as open space for a public use and the public is actively using the 17 Acres.

79. The Government actions have resulted in the loss of the Landowners' investment backed expectations in the 17 Acres.

80. The character of the Government Action to deny the Landowners' use of the 17 Acres is arbitrary, capricious, and fails to advance any legitimate government interest and is more akin to a physical acquisition than adjusting the benefits and burdens of economic life to promote the common good.

81. The City never stated that the proposed development on the 17 Acres violated any relevant and applicable code, regulation, statute, policy, etc. or that the Landowner did not have a vested property right to develop the 17 Acres.

82. The Government Action meets all of the elements for a Penn Central regulatory taking.

83. The Government has not paid just compensation to the Landowners for this taking of its 17 Acre property.

84. The Government failure to pay just compensation to the Landowners for the taking of its 17 Acre property is a violation of the United States Constitution, the Nevada State Constitution, and the Nevada Revised Statutes, which require the payment of just compensation when private property is taken for a public use.

85. Therefore, the Landowners are compelled to bring this cause of action for the taking of the 17 Acre property to recover just compensation for property the City is taking without payment of just compensation.

86. The requested compensation is in excess of fifteen thousand dollars ($15,000.00).

FIFTH CLAIM FOR RELIEF IN INVERSE CONDEMNATION

(Regulatory Per Se Taking)

87. The Landowners repeat, re-allege and incorporate by reference all paragraphs included in this pleading as if set forth in full herein.

88. The Government Action stated above fails to follow the procedures for taking property set forth in Chapters 37 and 342 of the Nevada Revised Statutes, Nevada's statutory provisions on eminent domain, and the United States and Nevada State Constitutions.

89. The Government Action excludes the Landowners from using the 17 Acres and, instead, permanently reserves the 17 Acres for a public use and the public is using the 17 Acres.

90. The Government Action has shown an unconditional and permanent taking of the 17 Acres.

91. The Government has not paid just compensation to the Landowners for this taking of its 17 Acre property.

92. The Government failure to pay just compensation to the Landowners for the taking of their 17 Acre property is a violation of the United States Constitution, the Nevada State

Constitution, and the Nevada Revised Statutes, which require the payment of just compensation when private property is taken for a public use.

93. Therefore, the Landowners are compelled to bring this cause of action for the taking of the 17 Acre property to recover just compensation for property the City is taking without payment of just compensation.

94. The requested compensation is in excess of fifteen thousand dollars ($15,000.00).

SIXTH CLAIM FOR RELIEF IN INVERSE CONDEMNATION

(Nonregulatory Taking)

95. The Landowners repeat, re-allege and incorporate by reference all paragraphs included in this pleading as if set forth in full herein.

96. The Government Action directly and substantially interferes with Landowners' vested property rights rendering the 17 Acres unusable and/or valueless.

97. The Government has taken action to intentionally delay development on the 17 Acres and, ultimately, has engaged in a bad faith effort to preclude any use of the 17 Acres.

98. The Government actions are oppressive and unreasonable.

99. The Government actions result in a nonregulatory taking of Landowner's 17 Acres.

100. The Government has not paid just compensation to the Landowners for this taking of its 17 Acre property.

101. The Government failure to pay just compensation to the Landowners for the taking of its 17 Acre property is a violation of the United States Constitution, the Nevada State Constitution, and the Nevada Revised Statutes, which require the payment of just compensation when private property is taken for a public use.

102. Therefore, the Landowners are compelled to bring this cause of action for the taking of the 17 Acre property to recover just compensation for property the City is taking without payment of just compensation.

103. The requested compensation is in excess of fifteen thousand dollars ($15,000.00).

SEVENTH CLAIM FOR RELIEF IN INVERSE CONDEMNATION

(Judicial Taking)

104. The Landowners repeat, re-allege and incorporate by reference all paragraphs included in this pleading as if set forth in full herein.

105. The Takings Clauses of the United States and Nevada Constitutions bar the Government from taking private property without paying for it, no matter what branch is the instrument of the taking.

106. The particular state actor in an inverse condemnation action is irrelevant if that state actor, including the judiciary, engages in action that results in a taking.

107. The Government action in this case, specifically, those actions taken by the Crockett Court, amount to a judicial taking.

108. The Government has not paid just compensation to the Landowners for this taking of its 17 Acre property.

109. The Government failure to pay just compensation to the Landowners for the taking of their 17 Acre property is a violation of the United States Constitution, the Nevada State Constitution, and the Nevada Revised Statutes, which require the payment of just compensation when private property is taken for a public use.

110. Therefore, the Landowners are compelled to bring this cause of action for the taking of the 17 Acre property to recover just compensation for property the City is taking without payment of just compensation.

111. The requested compensation is in excess of fifteen thousand dollars ($15,000.00).

EIGHTH CLAIM FOR RELIEF IN INVERSE CONDEMNATION

(Temporary Taking)

112. The Landowners repeat, re-allege and incorporate by reference all paragraphs included in this pleading as if set forth in full herein.

113. If there is subsequent Government Action or a finding by the Nevada Supreme Court, or otherwise, that the Landowners may develop the 17 Acre property, then there has been a temporary taking of the Landowners' 17 Acres for which just compensation must be paid.

114. The Government has not offered to pay just compensation for this temporary taking.

115. The Government failure to pay just compensation to the Landowners for the taking of their 17 Acre property is a violation of the United States Constitution, the Nevada State Constitution, and the Nevada Revised Statutes, which require the payment of just compensation when private property is taken for a public use.

116. Therefore, the Landowners are compelled to bring this cause of action for the taking of the 17 Acre property to recover just compensation for property the City is taking without payment of just compensation.

117. The requested compensation is in excess of fifteen thousand dollars ($15,000.00).

NINTH CLAIM FOR VIOLATION OF

THE LANDOWNERS' DUE PROCESS RIGHTS

118. The Landowners repeat, re-allege and incorporate by reference all paragraphs included in this pleading as if set forth in full herein.

119. The Government action in this case retroactively and without due process transformed the Landowners' vested property right to a property without any value.

120. The Government action in this case was taken without proper notice to the Landowners.

121. This Government action to eliminate or substantially change the Landowners' vested and established property rights, had the effect of depriving the Landowners of their legitimate constitutionally protected property rights.

122. This Government action was arbitrary and/or irrational and unrelated to any legitimate governmental objective.

123. This a violation of the Landowners substantive and procedural due process rights under the United States and Nevada State Constitutions.

124. The Government action should be invalidated to return the Landowners' property rights to the Landowners thereby allowing development of the 17 Acres.

125. This requested relief is in excess of fifteen thousand dollars ($15,000.00).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

1. Declaratory judgment with this Court immediately entering an order finding the PR-OS designation on the 17 Acres is invalid and of no effect on the 17 Acres and prohibiting the City or any other person, agency, or entity from applying the PR-OS to any land use decision, or otherwise, to the Landowners' property;

2. Injunctive relief prohibiting the City or any other person, agency, or entity from applying the PR-OS to any land use decision, or otherwise, to the 17 Acres.

3. An award of just compensation according to the proof for the taking (permanent or temporary) and/or damaging of the Landowners' property by inverse condemnation;

4. Prejudgment interest commencing from the date the Government first froze the use of the 17 Acre property which is prior to the filing of this Complaint in Inverse Condemnation;

5. Invalidation of the Government action, returning the vested property rights to the Landowners thereby allowing development of the 17 Acres;

6. A preferential trial setting pursuant to NRS 37.055;

7. Payment for all costs incurred in attempting to develop the 17 Acres;

8. For an award of attorneys' fees and costs incurred in and for this action; and,

9. For such further relief as the Court deems just and equitable under the circumstances.

DATED THIS 20th day of April, 2018.

LAW OFFICES OF KERMITT L. WATERS
BY: /s/ Kermitt L. Waters
KERMITT L. WATERS, ESQ. (NBN 2571)
JAMES J. LEAVITT, ESQ. (NBN 6032)
MICHAEL SCHNEIDER, ESQ. (NBN 8887)
AUTUMN WATERS, ESQ. (NBN 8917)

Attorneys for Plaintiff Landowners

VERIFICATION

STATE OF NEVADA)
) :ss
COUNTY OF CLARK)

Yohan Lowie, on behalf of the Landowners, being first duly sworn, upon oath, deposes and says: that he has read the foregoing **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND IN INVERSE CONDEMNATION** and based upon information and belief knows the contents thereof to be true and correct to the best of his knowledge.

YOHAN LOWIE

SUBSCRIBED and SWORN to before me
This 20th day of April, 2018.

JENNIFER KNIGHTON
Notary Public, State of Nevada
Appointment No. 14-15063-1
My Appt. Expires Sep 11, 2018

NOTARY PUBLIC

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DISTRICT COURT
CLARK COUNTY, NEVADA

Other Judicial Review/Appeal **COURT MINUTES** **February 15, 2019**

A-18-775804-J 180 Land Company LLC, Petitioner(s)
vs.
Las Vegas City of, Respondent(s)

February 15, 2019 **3:00 AM** **All Pending Motions**

HEARD BY: Sturman, Gloria **COURTROOM:** No Location

COURT CLERK: Lorna Shell

PARTIES PRESENT: None

JOURNAL ENTRIES

- This matter came on for argument on January 15, 2019 on the Motion to Dismiss filed by the City of Las Vegas (City) and Opposition/Countermotions to allow a More Definite Statement/ or for Stay/ and/or for NRCP 56(f) relief filed by Plaintiff 180 Land Co. (Landowner), supplemental briefing having been provided by the parties and the matter having been taken under advisement COURT HEREBY FINDS as follows:

COURT ORDERED, City's Motion to Dismiss GRANTED IN PART as to the Petition for Judicial Review only on the grounds of issue preclusion; Judge Crockett having decided the same issue in his Order issued in A-17-752344 and as that decision is currently on appeal, the dismissal herein is WITHOUT PREJUDICE should that decision be overturned.

COURT FURTHER ORDERED, Landowner's Countermotion for a More Definite Statement and/or for Stay and/or 56(f) relief DENIED AS MOOT as to the Petition for Judicial Review; however, the Complaint on file herein states alternative claims for Inverse Condemnation which may proceed in the ordinary course.

Counsel for the City shall prepare an Order in accordance with this minute order and provide counsel for the Landowner an opportunity to review for form and content, within 30 days from this date.

CLERK'S NOTE: A copy of this minute order was e-mailed, mailed, or faxed as follows: James Leavitt, Esq. (Jim@kermittwaters.com) and George Ogilvie, Esq. (gogilvie@mcdonaldcarano.com) ./ls 02-15-19

Electronically Filed
2/28/2019 8:24 AM
Steven D. Grierson
CLERK OF THE COURT

ORDR
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DISTRICT COURT

CLARK COUNTY, NEVADA

FORE STARS, LTD, SEVENTY ACRES, LLC, a Nevada limited liability company, DOE INDIVIDUALS I through X, DOE CORPORATIONS I through X, DOE LIMITED LIABILITY COMPANIES I through X, Plaintiff, vs. CITY OF LAS VEGAS, political subdivision of the State of Nevada, THE EIGHTH JUDICIAL DISTRICT COURT, County of Clark, State of Nevada, DEPARTMENT 24 (the HONORABLE JIM CROCKET, DISTRICT COURT JUDGE, in his official capacity), ROE government entities I through X, ROE CORPORATIONS I through X, ROE INDIVIDUALS I through X, ROE LIMITED LIABILITY COMPANIES I through X, ROE quasi-governmental I through X, Defendants.	Case No.: A-18-773268-C Dept. No.: Senior Judges Dept Judge James Bixler **ORDER STAYING PROCEEDINGS** Hearing Date: January 23, 2019 Hearing Time: 1:00 p.m.

Defendant City of Las Vegas' (the "City") Motion to Dismiss, Defendant State of Nevada Ex. Rel The Eighth Judicial District Court, Department XXIV, County of Clark's (the "State") Motion to Dismiss Based on Lack of Subject Matter Jurisdiction and For Failure to State a Claim Upon Which Relief Can Be Granted, Plaintiffs Fore Stars, LTD and Seventy Acres, LLC's (the "Landowners") Countermotions to Allow More Definite Statement if Necessary, to Stay Litigation of Inverse Condemnation Claims Until Resolution of the Petition for Judicial Review, and For a 56(F) Continuance, along with the City's oral Motion to Strike, having come for hearing on January 23, 2019, at 1:00 p.m., Kermitt Waters, Esq., James Leavitt, Esq., and Autumn Waters, Esq., appeared on behalf of the Landowners, George Ogilvie III Esq., and Debbie Leonard, Esq., appeared on behalf of the City, and Steven Shevorski, Esq., and Theresa Haar Esq., appeared on behalf of the State. Having considered the pleadings and papers on file and the argument of counsel and for the reasons stated at the hearing this Court makes the following order:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the above-entitled action shall be stayed until resolution of Supreme Court Case *Seventy Acres, LLC v. Binions et al.*, (No. 75481). A status check will be held on July 24, 2019, at 12:00 p.m..

IT IS SO ORDERED.

DATED this 27 day of February, 2019.

DISTRICT COURT JUDGE

Submitted by:

LAW OFFICES OF KERMITT L. WATERS

By: _____
KERMITT L. WATERS, ESQ.
Nevada Bar No. 2571
JAMES J. LEAVITT, ESQ.,
Nevada Bar No. 6032
MICHAEL SCHNEIDER, ESQ.
Nevada Bar No. 8887
AUTUMN L. WATERS, ESQ.,
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