

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF LAS VEGAS,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT,
COUNTY OF CLARK, STATE OF NEVADA,
AND THE HONORABLE TIMOTHY C.
WILLIAMS, DISTRICT JUDGE,

Respondents,

and

180 LAND CO, LLC, A NEVADA LIMITED-
LIABILITY COMPANY,

Real Party in Interest

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Aug 22 2019 01:33 p.m.
Elizabeth A. Brown
Clerk of Supreme Court
Docket No. 78792

MOTION TO EXTEND TIME TO FILE BRIEF OF AMICI CURIAE OF
CITY OF NORTH LAS VEGAS AND CITY OF HENDERSON
IN SUPPORT OF WRIT PETITION

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ATTORNEYS FOR AMICI CURIAE

Pursuant to NRAP 29(f) and NRAP 26(b)(1)(A), the City of North Las Vegas and City of Henderson (“Amici Cities”) respectfully request that this Court extend time to file the proposed brief of amici curiae.

Under NRAP 29(a), the Amici Cities may file briefs as amicus as a matter of right. NRAP 29(f) sets forth that amicus briefs are to be filed no later than 7 days of the brief of the party being supported. However, this Court may grant leave for later filing. NRAP 26(b); NRAP 26(f). Additionally, this Court has often granted leave for amicus participation in rehearing and reconsideration proceedings. NRAP 29(f); *McKellar Development of Nevada v. Northern Insurance Company of New York*, 107 Nev. 562, 816 P.2d 462 (1991) (granting leave for amicus participation during a motion for rehearing); *cf. Commission on Ethics v. Hansen*, Docket No. 69100, Order Granting Motions and Rejecting Briefs, Aug. 23, 2017 (non-dispositive order granting leave for governmental entities to file amicus brief in the first instance on rehearing); *also* Nevada Appellate Practice Manual, 2018 Ed. Ch. 15:20.

In this extraordinary proceeding, the City of Las Vegas seeks a writ from this Court to prevent continued litigation of an inverse condemnation claim brought by 180 Land Co, LLC in a certain First Amended Complaint. That First Amended

Complaint, in turn, is based on a denial of a land use application for a General Plan Amendment, which denial was affirmed on judicial review by the district court.

Based upon a judicially confirmed proper denial of a proposed General Plan Amendment, a landowner has sued a government entity in inverse condemnation, claiming a taking of property rights. The district court denied a motion to dismiss under NRCP 12(c), meaning that the matter must be fully litigated. A panel of this Court has denied the City of Las Vegas' writ petition and motion for rehearing. Thus, if this Court *en banc* does not reconsider the panel's order of denial, the City of Las Vegas must now face the risk of liability of just compensation, which is the remedy for inverse condemnation, and face the prospect of subsequent appeal. Further, even if the City of Las Vegas is ultimately successful in litigation, the City will still expend significant time and resources litigating the matter, and will still likely face a subsequent appeal.

As set forth in the attached amicus brief, this creates a severe threat that *all* cities will face inverse condemnation actions in nearly every denial of land use – even those denials that are adjudicated to be proper. Inverse condemnation should not become a tool or piece of leverage for developers seeking to coerce government entities into granting discretionary land use approvals.

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The Amici Cities are critically interested in these proceedings, as they engage in land use decision as a core municipal function. The attached proposed brief is desirable as it advances certain points not urged by the City of Las Vegas. *Dow Chemical Co. v. Mahlum*, 115 Nev. 13, 15 n.1, 973 P.2d 842, 843 n.1 (1999) (amicus briefs that merely mirror party briefs are not of assistance to the Court). Further, the attached brief demonstrates that the underlying prolonged litigation will have a chilling effect on government entities until ultimate resolution is achieved, which supports City of Las Vegas' contention that extraordinary relief is warranted at this time.

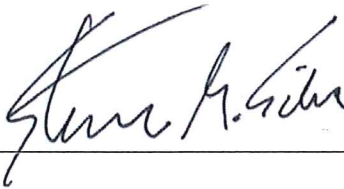
Finally, Amici Cities respectfully submit that there will be no prejudice to 180 Land Co., LLC if this Court grants the Amici Cities' motion and permits the attached proposed brief to be filed. The attached brief will be Amici Cities' sole filing in this matter, in support of both the City of Las Vegas' Petition for *En Banc* Reconsideration and in support of the City of Las Vegas' underlying writ petition. This Court has not yet directed 180 Land to file a responsive brief to the City of Las Vegas' writ petition or to its request for *en banc* reconsideration. Thus, 180 Land

will have ample time to respond to the arguments and authorities raised in the attached proposed brief.

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Accordingly, the Amici Cities respectfully request that this Court extend time for good cause under NRAP 26(b)(1)(A) and permit the Amici Cities to file the attached proposed brief.

DATED: August 21, 2019

A handwritten signature in black ink, appearing to read "Steven M. Silva", is written over a horizontal line.

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25(b), I certify that I am an employee of Blanchard Krasner & French, and that on August 22, 2019, I e-filed a true and correct copy of the foregoing Motion to Extend Time, with the Clerk of the Nevada Supreme Court through the Court's electronic filing system. Registered users of this Court's E-Flex system shall be electronically served according to the Master Service List, and all others will be served via regular United States Mail

Petitioner

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Respondent

The Hon. Timothy C. Williams

/s Barbara Spagna
An employee of
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