

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. _____

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, FORE STARS LTD., a
Nevada limited liability company,

Real Parties in Interest

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

**PETITIONER'S MOTION TO EXCEED WORD LIMIT TO FILE
EMERGENCY PETITION FOR WRIT OF MANDAMUS,
OR IN THE ALTERNATIVE, WRIT OF CERTIORARI**

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Attorneys for Petitioner

Petitioner City of Las Vegas moves to exceed the 7,000-word limit imposed by NRAP 21(d) to file its Emergency Petition for Writ of Mandamus, or in the Alternative, Writ of Certiorari (“Petition”) filed concurrently herewith. This motion is supported by the following points and authorities and declaration of Debbie Leonard that follows.

MEMORANDUM OF POINTS AND AUTHORITIES

NRAP 21(d) states “[a] petition shall not exceed 15 pages...unless it contains no more than 7,000 words...or the court grants leave to file a longer petition,” and that “a motion to exceed the page...limitation must comply with Rule 32(a)(7)(D).” NRAP 32(a)(7)(D) authorizes the filing of a motion to file a brief that exceeds the applicable length limit “on a showing of diligence and good cause.”

Petitioner respectfully requests leave to exceed the word limit due to the extensive procedural history of the case and the numerous legal errors committed by the district court. This case involves the district court’s failure to provide the City the automatic stay of a \$34 million judgment (“the Judgment”) to which the City is entitled under NRAP 62(d)-(e) and that is warranted under NRAP 8(c). Rather than stay the Judgment, the district court conditioned the City’s right to appeal upon the City’s payment of over \$34 million that the City could not recover if successful on appeal.

The City brings a writ petition because the district court has not yet decided its Motion to Amend the Judgment but refuses to stay the Judgment while that Motion is pending. Until that tolling motion is decided, an appeal would be premature. To bring the matter before this Court, set forth the reasons why relief is needed, and address the NRAP 8(c) factors, the City had to brief the merits of many of the issues that will be addressed on appeal.

The stakes in this matter are extraordinary. In addition to the excessive amount of the Judgment, the district court ruled that a local authority such as the City has no discretion to deny a land use application so long as property is zoned for the proposed use. According to the district court's flawed analysis, the City's General Plan limitations and the Council's obligations under NRS Chapter 278 to ensure compatibility among land uses, preserve air and water quality, promote the conservation of open space, provide for recreation, and generally promote health and welfare do not matter. The district court decided, contrary to this Court's unanimous decisions, that zoning supersedes everything else and grants a constitutionally protected right to build whatever the property owner desires, as long as the use is a permitted use under the zoning.

The district court further held that, if the City does not approve a project simply because it is an allowed use within the applicable zoning district, the City must pay just compensation for a taking, even if the project is not allowed by the

General Plan, which is a higher authority than zoning in Nevada. That conclusion is contrary to Nevada's well-established jurisprudence, which establishes that zoning does not create a vested property right, strip a decision maker of its discretion to deny an application, or supersede the City's General Plan. If the Judgment is not stayed, rather than consider applications based on its policy-driven General Plan, the City will be compelled to approve uses that are inconsistent with its planning goals, would destroy open space, have deleterious effects on the environment, and be incompatible with the surroundings. The irreparable harm cannot be undone if the City prevails on appeal.

Counsel for Petitioner worked diligently to present the Petition in a concise manner. Counsel spent considerable time attempting to shorten the Petition, remove words, and distill the procedural history and argument to meet the word limit. Petitioner is also cognizant that the Court does not want to read long briefs.

However, due to the gravity of this matter and the enormous sums of money at stake, Petitioner likewise needed to ensure that the most important facts, conclusions and arguments are presented to the Court for consideration. The net result of counsel's effort to strike this balance is that the Petition is 8,890 words, so Petitioner seeks leave to file its Petition with 1,890 more words than allowed under NRAP 21(d).

Petitioner respectfully submits that it has exercised diligence and demonstrated good cause to exceed the 7,000 word limit in NRAP 21(d) and requests leave to do so.

AFFIRMATION

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

DATED this 10th day of February, 2022.

BY: /s/ Debbie Leonard

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Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Leonard Law, PC, and a copy of the foregoing document was electronically filed with the Clerk of the Court for the Nevada Supreme Court on today's date by using the Nevada Supreme Court's E-Filing system (E-Flex). Upon the Clerk's docketing of this case and e-filing of the foregoing document, participants in the case who are registered with E-Flex as users will be served by the E-Flex system and others not registered will be served via U.S. mail at the following addresses. I also certify that a courtesy copy of the foregoing document was sent by email on today's date to the email addresses listed below.

The Honorable Timothy C. Williams
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Respondent

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Dated: February 10, 2022

/s/ Tricia Trevino
An employee of Leonard Law, PC

Declaration of Debbie Leonard

**DECLARATION OF DEBBIE LEONARD IN SUPPORT OF
MOTION TO EXCEED WORD LIMIT**

I, Debbie Leonard, do hereby swear under penalty of perjury that the assertions in this declaration are true and correct.

1. I am over the age of eighteen (18) years. I have personal knowledge of the facts stated within this declaration. If called as a witness, I would be competent to testify to these facts.

2. I am the owner of Leonard Law, PC and counsel of record for Petitioner in this case.

3. This declaration is offered in support of Petitioner's Motion to Exceed Word Limit to file its Emergency Petition for Writ of Mandamus, or in the Alternative, Writ of Certiorari and in compliance with NRAP 32(a)(7)(D).

4. Petitioner respectfully requests leave to exceed the word limit due to the extensive procedural history of the case and the numerous legal errors committed by the district court. This case involves the district court's failure to provide the City the automatic stay of a \$34 million judgment ("the Judgment") to which the City is entitled under NRAP 62(d)-(e) and that is warranted under NRAP 8(c). The district court conditioned the City's appeal rights on its payment of the Judgment. To bring the matter before this Court and address the NRAP 8(c) factors, the City had to brief the merits of many of the issues on appeal.

5. The stakes in this matter are extraordinary. In addition to the excessive amount of the Judgment, the district court ruled that a local authority such as the City has no discretion to deny a land use application so long as property is zoned for the proposed use. According to the district court's flawed analysis, the City's General Plan limitations and the Council's obligations under NRS Chapter 278 to ensure compatibility among land uses, preserve air and water quality, promote the conservation of open space, provide for recreation, and generally promote health and welfare do not matter because zoning supersedes everything else.

6. The district court held that, if the City does not approve a project simply because it is an allowed use within the applicable zoning district, the City must be just compensation for a taking. That conclusion is contrary to Nevada's well-established jurisprudence, which establishes that zoning does not create a vested property right or strip a decision maker of its discretion to deny an application. If the Judgment is not stayed, rather than consider applications based on its policy-driven General Plan, the City will be compelled to approve uses that are inconsistent with its planning goals, would destroy open space, have deleterious effects on the environment, and be incompatible with the surroundings. The irreparable harm cannot be undone if the City prevails on appeal.

7. I worked diligently to present the Petition in a concise manner. I spent considerable time attempting to shorten the Petition, remove words, and distill the

procedural history and argument to meet the word limit. I am also cognizant that the Court does not want to read long briefs. However, due to the gravity of this matter, I likewise needed to ensure that the most important facts, conclusions and arguments are presented to the Court for consideration. The net result of my effort to strike this balance is that the Petition is 8,890 words, so Petitioner seeks leave to file its Petition with 1,890 more words than allowed under NRAP 21(d).

8. I respectfully submit that I exercised diligence and believe good cause exists to exceed the 7,000 word limit in NRAP 21(d) and request leave to do so.

9. I believe diligence and good cause exist to grant the Motion to Exceed the Word Limit.

10. I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

DATED February 10, 2022

/s/ Debbie Leonard
Debbie Leonard