

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

**Case No. 84345**

CITY OF LAS VEGAS, a political subdivision of the State of Nevada  
Appellant  
v.  
180 LAND CO, LLC, a Nevada limited-liability company, FORE STARS LTD., a  
Nevada limited liability company,  
Respondents

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

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**APPELLANT’S MOTION TO EXCEED PAGE LIMIT  
FOR MOTION TO STAY**

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*Attorneys for Appellant*

Appellant City of Las Vegas moves to exceed the 10-page limit imposed by NRAP 27(d)(2) to file its Motion to Stay (“Motion”) 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 27(d)(2) states “[a] motion...shall not exceed 10 pages, unless the court permits or directs otherwise.” NRAP 32(a)(7)(D) authorizes a brief that exceeds the applicable length limit “on a showing of diligence and good cause.” With regard to the City’s Writ Petition (Case No. 84421), which involves the same subject matter as the instant Motion, the Court granted the City’s motion to exceed the type-volume limitation after the City made the necessary showing of diligence and good cause.<sup>1</sup> The City requests the same relief here. The instant Motion is shorter than the City’s Writ Petition.

The City respectfully requests leave to exceed the page limit due to the extensive procedural history of the case, the numerous legal errors committed by the district court, and the need to address the merits of the appeal when analyzing whether a stay is warranted under NRAP 8(c). This case involves the district court’s failure to provide the City the automatic stay of a \$34 million judgment

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<sup>1</sup> The City sought writ relief because, at the time, a tolling motion was pending before the district court, and the City had no other avenue of relief to obtain a stay. The district court has since denied the City’s motion to amend the judgment, so the City filed its notice of appeal and moves for a stay pending the appeal.

(“the Judgment”) and approximately \$14 million in fees, costs, property tax reimbursement, and pre-judgment interest (“the Additional Sums”) to which the City is entitled under NRAP 62(d)-(e) and should be granted under NRAP 8(c). Rather than stay the Judgment and Additional Sums, the district court conditioned the City’s right to appeal upon the City’s payment of all sums awarded. The City could not recover such sums if it is successful on appeal.

The stakes in this matter are extraordinary. In addition to the excessive amount of the Judgment and Additional Sums, 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 City 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 precedent, that zoning supersedes everything else and grants a constitutionally protected right to build whatever the property owner desires, so 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 the City worked diligently to present the Motion in a concise manner. Counsel spent considerable time attempting to shorten the Motion, remove words, and distill the procedural history and argument to meet the page limit. Counsel is also cognizant that the Court does not want to read long motions.

However, due to the gravity of this matter and the enormous sums of money at stake, the City 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 Motion is 35 pages, so the City seeks leave to file its Motion with 25 more pages than allowed under NRAP 27(d)(2).

Because the Court already granted the City's motion to exceed the type-volume limitation in Case No. 84421, and the Motion is shorter than the Writ Petition, the City respectfully submits that it has exercised diligence and demonstrated good cause to exceed the 10-page limit in NRAP 27(d)(2) and requests leave to file the Motion under these circumstances.

### **AFFIRMATION**

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

DATED this 9<sup>th</sup> day of March, 2022

BY: /s/ Debbie Leonard

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*Attorneys for Appellant*

## 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). 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.

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Dated: March 9, 2022

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

**DECLARATION OF DEBBIE LEONARD IN SUPPORT OF  
MOTION TO EXCEED PAGE 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 Appellant in this case, the City of Las Vegas.

3. This declaration is offered in support of Appellant's Motion to Exceed Page Limit For Motion to Stay ("Motion").

4. Appellant respectfully requests leave to exceed the page limit due to the extensive procedural history of the case, the numerous legal errors committed by the district court, and the need to address the merits as part of the Motion. This case involves the district court's failure to provide the City the automatic stay of a \$34 million judgment ("the Judgment") and approximately \$14 million in post-judgment awards (the "Additional Sums") 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 and Additional Sums, 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 pay just compensation for a taking. That conclusion is contrary to Nevada's well-established jurisprudence, which holds 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 Motion in a concise manner. I spent considerable time attempting to shorten the Motion, remove words, and distill the procedural history and argument to meet the page limit. I am also cognizant that the Court does not want to read long motions. 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 Motion is 35 pages, so the City seeks leave to file its Motion with 25 more pages than allowed under NRAP 27(d)(2).

8. The Motion presents the same facts and argument that the City presented in its Emergency Petition for Writ of Mandamus, or in the Alternative Writ of Certiorari (the “Writ Petition”), Case No. 84221. The City filed the Writ Petition at a time when the district court had not yet decided the City’s Motion to Amend the Judgment, which was a tolling motion. The Court granted the City’s motion to exceed the word limit in the Writ Petition case.

9. On February 25, 2022, the district court denied the Motion to Amend, and the City filed its notice of appeal that initiated this appeal. Because the City was able to file its appeal, the City now files this Motion to Stay in the docketed appeal case. The Motion to Stay is largely the same the Writ Petition, although it is shorter because I was able to omit certain sections that are required in a writ petition but not

required in a motion. I maintained the table of contents and table of authorities to assist the Court's review.

10. I respectfully submit that I exercised diligence and believe good cause exists to exceed the 10-page limit in NRAP 27(d)(2) and request leave to do so.

11. I believe diligence and good cause exist to grant the Motion to Exceed the Page Limit, particularly because the Court granted the City's Motion to Exceed the Word Limit in Case No. 84221.

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

DATED March 9, 2022

/s/ Debbie Leonard  
Debbie Leonard