

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

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**APPELLANT'S APPENDIX VOLUME VII**

<p>LAS VEGAS CITY ATTORNEY'S OFFICE Bryan K. Scott (#4381) Philip R. Byrnes (#166) Rebecca Wolfson (#14132) 495 S. Main Street, 6th Floor Las Vegas, NV 89101 Phone: 702.229.6629 Fax: 702.386.1749 <a href="mailto:bscott@lasvegasnevada.gov">bscott@lasvegasnevada.gov</a> <a href="mailto:pbyrnes@lasvegasnevada.gov">pbyrnes@lasvegasnevada.gov</a> <a href="mailto:rwolfson@lasvegasnevada.gov">rwolfson@lasvegasnevada.gov</a></p>	<p>McDONALD CARANO LLP George F. Ogilvie III (#3552) Amanda C. Yen (#9726) Christopher Molina (#14092) 2300 W. Sahara Ave, Suite 1200 Las Vegas, NV 89102 Phone: 702.873.4100 Fax: 702.873.9966 <a href="mailto:gogilvie@mcdonaldcarano.com">gogilvie@mcdonaldcarano.com</a> <a href="mailto:ayen@mcdonaldcarano.com">ayen@mcdonaldcarano.com</a> <a href="mailto:cmolina@mcdonaldcarano.com">cmolina@mcdonaldcarano.com</a></p>
<p>LEONARD LAW, PC Debbie Leonard (#8260) 955 S. Virginia St., Suite #220 Reno, NV 89502 775-964-4656 <a href="mailto:debbie@leonardlawpc.com">debbie@leonardlawpc.com</a></p>	<p>SHUTE, MIHALY &amp; WEINBERGER, LLP Andrew W. Schwartz (CA Bar No. 87699) (Admitted pro hac vice) Lauren M. Tarpey (CA Bar No. 321775) (Admitted pro hac vice) 396 Hayes Street San Francisco, California 94102</p>

*Attorneys for Appellant*

Electronically Filed  
Mar 09 2022 05:11 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

## CHRONOLOGICAL INDEX TO APPELLANT'S APPENDIX

DATE	DOCUMENT	VOLUME	PAGE RANGE	
2017-07-18	Landowners' Petition for Judicial Review	I	AA0001	AA0008
2017-09-07	Landowners' First Amended Petition for Judicial Review and Alternative Verified Claims in Inverse Condemnation	I	AA0009	AA0027
2017-09-20	Affidavit of Service of Summons and First Amended Petition for Judicial Review on City of Las Vegas	I	AA0028	AA0028
2018-02-05	City of Las Vegas' Answer to First Amended Petition for Judicial Review	I	AA0029	AA0032
2018-02-23	Landowners' First Amended Complaint Pursuant to Court Order Entered February 2, 2018 for Severed Alternative Verified Claims in Inverse Condemnation	I	AA0033	AA0049
2018-02-28	Landowners' Errata to First Amended Complaint Pursuant to Court Order Entered February 2, 2018 for Severed Alternative Verified Claims in Inverse Condemnation	I	AA0050	AA0066
2018-02-28	Landowners' Second Amended Petition for Judicial Review to Sever Alternative Verified Claims in Inverse Condemnation per Court Order Entered on February 1, 2018	I	AA0067	AA0081

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2018-03-13	City's Answer to First Amended Complaint Pursuant to Court Order Entered on February 1, 2018 for Severed Alternative Verified Claims in Inverse Condemnation	I	AA0082	AA0085
2018-03-19	City's Answer to Second Amended Petition for Judicial Review	I	AA0086	AA0089
2018-06-26	Portions of Record on Review (ROR25813-25850)	I	AA0090	AA0127
2018-11-26	Notice of Entry of Findings of Fact and Conclusions of Law on Petition for Judicial Review	I	AA0128	AA0155
2018-12-11	Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims (Exhibits omitted)	I	AA0156	AA0174
2018-12-13	Landowners' Motion for a New Trial Pursuant to NRCP 59(e)	I	AA0175	AA0202
2018-12-20	Notice of Appeal	I	AA0203	AA0206
2019-02-06	Notice of Entry of Order <i>NUNC PRO TUNC</i> Regarding Findings of Fact and Conclusion of Law Entered November 21, 2018	I	AA207	AA0212

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2019-05-08	Notice of Entry of Findings of Fact and Conclusions of Law Regarding Plaintiff's Motion for a New Trial, Motion to Alter or Amend and/or Reconsider the Findings of Fact and Conclusions of Law, and Motion to Stay Pending Nevada Supreme Court Directives	II	AA0213	AA0228
2019-05-15	Landowners' Second Amended and First Supplement to Complaint for Severed Alternative Verified Claims in Inverse Condemnation	II	AA0229	AA0266
2019-06-18	City's Answer to Plaintiff 180 Land Company's Second Amendment and First Supplement to Complaint for Severed Alternative Verified Claims in Inverse Condemnation	II	AA0267	AA0278
2020-07-20	Scheduling Order and Order Setting Civil Jury Trial, Pre-Trial/Calendar Call	II	AA0279	AA0283
2020-08-31	Amended Order Setting Civil Jury Trial, Pre-Trial/Calendar Call	II	AA0284	AA0287
2020-10-12	Notice of Entry of Findings of Fact and Conclusions of Law Regarding Plaintiff Landowners' Motion to Determine "Property Interest"	II	AA0288	AA0295

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2020-12-16	2 <sup>nd</sup> Amended Order Setting Civil Jury Trial, Pre-Trial/Calendar Call	II	AA0296	AA0299
2021-02-10	3 <sup>rd</sup> Amended Order Setting Civil Jury Trial, Pre-Trial/Calendar Call	II	AA0300	AA0303
2021-03-26	Appendix of Exhibits in Support of Plaintiff Landowner's Motion to Determine Take and for Summary Judgment on the First, Third, and Fourth Claims for Relief - Exhibit 150 (004669-004670)	II	AA0304	AA0309
2021-08-25	<sup>1</sup> City's Accumulated App'x Exhibit G - Ordinance No. 3472 and related documents (Second Amendment) (CLV65-000114-000137)	II	AA0310	AA0334
2021-08-25	City's Accumulated App'x Exhibit H - City records regarding Amendment to Peccole Ranch Master Plan and Z-17-90 phase II rezoning application (CLV65-000138-000194)	II	AA0335	AA0392

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<sup>1</sup> Due to the voluminous nature of the documents filed in this case and to avoid duplicative filing of exhibits, the City filed a cumulative appendix of exhibits, which the City cited in multiple motions and other substantive filings ("City's Accumulated App'x").

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2021-08-25	City's Accumulated App'x Exhibit P - Ordinance No. 6152 and Excerpts of 2012 Land Use & Rural Neighborhoods Preservation Element (CLV65-000302-000317)	III	AA0442	AA0458

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2021-08-25	City's Accumulated App'x Exhibit EE-Order Granting Plaintiffs' Petition for Judicial Review (CLV65-000598-000611)	IV	AA0533	AA0547
2021-08-25	City's Accumulated App'x Exhibit HH - General Plan Amendment (GPA-68385), Site Development Plan Review (SDR-68481), Tentative Map (TMP-68482), and Waiver (68480) applications (CLV65-000644-0671)	IV	AA0548	AA0576

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2021-08-25	City's Accumulated App'x Exhibit II - June 21, 2017 City Council meeting minutes and transcript excerpt regarding GPA-68385, SDR-68481, TMP-68482, and 68480 (CLV65-000672-000679)	IV	AA0577	AA0585
2021-08-25	City's Accumulated App'x Exhibit AAA - Membership Interest Purchase and Sale Agreement (LO 00036807-36823)	IV	AA0586	AA0603
2021-08-25	City's Accumulated App'x Exhibit BBB - Transcript of May 16, 2018 City Council meeting (CLV65-045459-045532)	IV	AA0604	AA0621
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2021-08-25	City's Accumulated App'x Exhibit GGG - September 1, 2020 Letter from City of Las Vegas Office of the City Attorney to Counsel for the Developer Re: Final Entitlements for 435- Unit Housing Development Project in Badlands (1021-1026)	IV	AA0630	AA0636



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2021-08-25	City's Accumulated App'x Exhibit III - 9 <sup>th</sup> Circuit Order in <i>180 Land Co. LLC; et al v. City of Las Vegas, et al.</i> , 18-cv-0547 (Oct. 19, 2020) (1123-1127)	IV	AA0666	AA0671
2021-08-25	City's Accumulated App'x Exhibit NNN - March 26, 2020 Letter from City of Las Vegas to Landowners' Counsel (CLV65-000967-000968)	IV	AA0672	AA0674
2021-08-25	City's Accumulated App'x Exhibit OOO - March 26, 2020 2020 Letter from City of Las Vegas Office of the City Attorney to Counsel for the Developer Re: Entitlement Requests for 133 Acres (CLV65-000971-000973)	IV	AA0675	AA0678
2021-08-25	City's Accumulated App'x Exhibit PPP - April 15, 2020 Letter from City of Las Vegas Office of the City Attorney to Counsel for the Developer Re: Entitlement Requests for 35 Acres –I (CLV65-000969-000970)	IV	AA0679	AA0681

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2021-08-25	City's Accumulated App'x Exhibit UUU - Excerpt of Reporter's Transcript of Hearing on City of Las Vegas' Motion to Compel Discovery Responses, Documents and Damages Calculation and Related Documents on Order Shortening Time in <i>180 Land Co. LLC v. City of Las Vegas</i> , Eighth Judicial District Court Case No. A-17-758528-J (Nov. 17, 2020) (1295-1306)	IV	AA0682	AA0694
Intentionally Omitted		IV	AA0695	AA0733
2021-08-25	City's Accumulated App'x Exhibit DDDD - Peter Lowenstein Declaration and Ex. 9 thereto (1516-1522, 1554-1569)	IV	AA0734	AA0741Q
2021-08-25	City's Accumulated App'x Exhibit HHHH - State of Nevada State Board of Equalization Notice of Decision, <i>In the Matter of Fore Star Ltd., et al.</i> (Nov. 30, 2017) Decision (004220-004224) (Exhibits omitted)	IV	AA0742	AA0747

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2021-09-15	Appendix of Exhibits in support of Plaintiffs Landowners' Reply in Support of Motion to Determine Take and Motion for Summary Judgment on the First, Third, and Fourth Claims for Relief and Opposition to the City's Counter-Motion for Summary Judgment - Ex. 194 (6076-6083)	V	AA0748	AA0759
2021-09-22	City's Accumulated App'x Exhibit SSSS - Excerpts of NRCP 30(b)(6) Designee of Peccole Nevada Corporation – William Bayne (3776-3789)	V	AA0760	AA0774
2021-09-22	City's Accumulated App'x Exhibit VVVV – Declaration of Seth Floyd (3804-3805)	V	AA0774A	AA0774C
2021-09-22	City's Accumulated App'x Exhibit VVVV-1 – Master planned communities with R-PD Zoning (3806-3810)	V	AA0774D	AA0774I
2021-09-22	City's Accumulated App'x Exhibit VVVV-2 – General Plan Maps for Master Planned Communities with R-PD zoning (3811-3815)	V	AA0774J	AA0774O

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2021-10-13	City's Accumulated App'x Exhibit YYYY- City Council Meeting of October 6, 2021 Verbatim Transcript – Agenda Item 63 (inadvertently omitted from the 10-13-2021 appendix. Errata filed 2/8/2022) (3898-3901)	V	AA0775	AA0779
Intentionally Omitted		V	AA0780	AA0787
2021-10-13	City's Accumulated App'x Exhibit WWWW - October 1, 2021 Plaintiff Landowners' Motion on Order Shortening Time to Apply Issue Preclusion to the Property Interest Issue and Set a Hearing to Allow the Court to Consider a) Judge Williams' Findings of Fact and Conclusions of Law on the Take Issue; b) Evidence that was Presented in the 35 Acre Case on the Take Issue; and c) Very Recent Nevada and United States Supreme Court Precedent on the Take Issue Case No. A-18-780184-C (3816-3877)	V	AA0788	AA0850
2021-10-19	City's Accumulated App'x Exhibit BBBB - 2005 land use applications filed by the Peccole family (CLV110456, 126670, 137869, 126669, 126708)	V	AA0851	AA0857

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2021-10-25	Notice of Entry of Findings of Fact and Conclusions of Law Granting Plaintiffs Landowners' Motion to Determine Take and for Summary Judgment on the First, Third and Fourth Claims for Relief and Denying the City of Las Vegas' Countermotion on the Second Claim for Relief	V	AA0858	AA0910
2021-10-28	Decision of the Court	V	AA0911	AA0918
2021-11-05	Notice of Entry of Findings of Fact and Conclusions of Law Denying City of Las Vegas' Emergency Motion to Continue Trial on Order Shortening Time	V	AA0919	AA0930
2021-11-18	Findings of Fact and Conclusions of Law on Just Compensation	V	AA0931	AA0950
2021-11-18	Notice of Entry of Order Granting Plaintiffs' Motions in Limine No. 1, 2 and 3 Precluding the City from Presenting to the Jury: 1. Any Evidence or Reference to the Purchase Price of the Land; 2. Any Evidence or Reference to Source of Funds; 3. Argument that the Land was Dedicated as Open Space/City's PRMP and PROS Argument	V	AA0951	AA0967

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2021-11-24	Landowners' Verified Memorandum of Costs (Exhibits omitted)	VI	AA0968	AA0972
2021-11-24	Notice of Entry of Findings of Fact and Conclusions of Law on Just Compensation	VI	AA0973	AA0995
2021-12-06	Landowners' Motion for Reimbursement of Property Taxes (Exhibits omitted)	VI	AA0996	AA1001
2021-12-09	Landowners' Motion for Attorney Fees	VI	AA1002	AA1030
2021-12-09	Landowners' Motion to Determine Prejudgment Interest	VI	AA1031	AA1042
2021-12-21	City's Motion to Amend Judgment (Rules 59(e) and 60(b)) and Stay of Execution	VI	AA1043	AA1049
2021-12-22	City's Motion for Immediate Stay of Judgment	VI	AA1050	AA1126
2022-01-26	Court Minutes	VI	AA1127	AA1127
2022-02-10	Notice of Entry of Findings of Fact and Conclusions of Law and Order Denying the City's Motion for Immediate Stay of Judgment; and Granting Plaintiff Landowners' Countermotion to Order the City to Pay the Just Compensation	VI	AA1128	AA1139

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2022-02-17	Notice of Entry of Order Granting Plaintiffs Landowners' Motion for Reimbursement of Property Taxes	VI	AA1140	AA1150
2022-02-17	Notice of Entry of Order Granting in Part and Denying in Part the City of Las Vegas' Motion to Retax Memorandum of Costs	VI	AA1151	AA1162
2022-02-22	Notice of Entry of Order Granting Plaintiff Landowners' Motion for Attorney Fees in Part and Denying in Part	VI	AA1163	AA1176
2022-02-28	Minute Order granting Plaintiff's Motion for Pre-Judgment Interest	VI	AA1177	AA1177
2022-02-28	Notice of Entry of Order Denying City of Las Vegas' Motion to Amend Judgment and Stay of Execution	VI	AA1178	AA1188
2022-03-02	Notice of Appeal	VII	AA1189	AA1280

## ALPHABETICAL INDEX TO APPELLANT'S APPENDIX

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2021-12-21	City's Motion to Amend Judgment (Rules 59(e) and 60(b)) and Stay of Execution	VI	AA1043	AA1049
2022-01-26	Court Minutes	VI	AA1127	AA1127
2021-10-28	Decision of the Court	V	AA0911	AA0918



<b>DATE</b>	<b>DOCUMENT</b>	<b>VOLUME</b>	<b>PAGE RANGE</b>	
2021-11-18	Findings of Fact and Conclusions of Law on Just Compensation	V	AA0931	AA0950
Intentionally Omitted		IV	AA0695	AA0733
Intentionally Omitted		V	AA0780	AA0787
2018-02-28	Landowners' Errata to First Amended Complaint Pursuant to Court Order Entered February 2, 2018 for Severed Alternative Verified Claims in Inverse Condemnation	I	AA0050	AA0066
2018-02-23	Landowners' First Amended Complaint Pursuant to Court Order Entered February 2, 2018 for Severed Alternative Verified Claims in Inverse Condemnation	I	AA0033	AA0049
2017-09-07	Landowners' First Amended Petition for Judicial Review and Alternative Verified Claims in Inverse Condemnation	I	AA0009	AA0027
2018-12-13	Landowners' Motion for a New Trial Pursuant to NRCP 59(e)	I	AA0175	AA0202
2021-12-09	Landowners' Motion for Attorney Fees	VI	AA1002	AA1030
2021-12-06	Landowners' Motion for Reimbursement of Property Taxes (Exhibits omitted)	VI	AA0996	AA1001

<b>DATE</b>	<b>DOCUMENT</b>	<b>VOLUME</b>	<b>PAGE RANGE</b>	
2021-12-09	Landowners' Motion to Determine Prejudgment Interest	VI	AA1031	AA1042
2017-07-18	Landowners' Petition for Judicial Review	I	AA0001	AA0008
2018-12-11	Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims (Exhibits omitted)	I	AA0156	AA0174
2019-05-15	Landowners' Second Amended and First Supplement to Complaint for Severed Alternative Verified Claims in Inverse Condemnation	II	AA0229	AA0266
2018-02-28	Landowners' Second Amended Petition for Judicial Review to Sever Alternative Verified Claims in Inverse Condemnation per Court Order Entered on February 1, 2018	I	AA0067	AA0081
2021-11-24	Landowners' Verified Memorandum of Costs (Exhibits omitted)	VI	AA0968	AA0972
2022-02-28	Minute Order granting Plaintiff's Motion for Pre-Judgment Interest	VI	AA1177	AA1177
2018-12-20	Notice of Appeal	I	AA0203	AA0206
2022-03-02	Notice of Appeal	VII	AA1189	AA1280

DATE	DOCUMENT	VOLUME	PAGE RANGE	
2022-02-10	Notice of Entry of Findings of Fact and Conclusions of Law and Order Denying the City's Motion for Immediate Stay of Judgment; and Granting Plaintiff Landowners' Countermotion to Order the City to Pay the Just Compensation	VI	AA1128	AA1139
2021-11-05	Notice of Entry of Findings of Fact and Conclusions of Law Denying City of Las Vegas' Emergency Motion to Continue Trial on Order Shortening Time	V	AA0919	AA0930
2021-10-25	Notice of Entry of Findings of Fact and Conclusions of Law Granting Plaintiffs Landowners' Motion to Determine Take and for Summary Judgment on the First, Third and Fourth Claims for Relief and Denying the City of Las Vegas' Countermotion on the Second Claim for Relief	V	AA0858	AA0910
2021-11-24	Notice of Entry of Findings of Fact and Conclusions of Law on Just Compensation	VI	AA0973	AA0995
2018-11-26	Notice of Entry of Findings of Fact and Conclusions of Law on Petition for Judicial Review	I	AA0128	AA0155

DATE	DOCUMENT	VOLUME	PAGE RANGE	
2019-05-08	Notice of Entry of Findings of Fact and Conclusions of Law Regarding Plaintiff's Motion for a New Trial, Motion to Alter or Amend and/or Reconsider the Findings of Fact and Conclusions of Law, and Motion to Stay Pending Nevada Supreme Court Directives	II	AA0213	AA0228
2020-10-12	Notice of Entry of Findings of Fact and Conclusions of Law Regarding Plaintiff Landowners' Motion to Determine "Property Interest"	II	AA0288	AA0295
2022-02-28	Notice of Entry of Order Denying City of Las Vegas' Motion to Amend Judgment and Stay of Execution	VI	AA1178	AA1188
2022-02-17	Notice of Entry of Order Granting in Part and Denying in Part the City of Las Vegas' Motion to Retax Memorandum of Costs	VI	AA1151	AA1162
2022-02-22	Notice of Entry of Order Granting Plaintiff Landowners' Motion for Attorney Fees in Part and Denying in Part	VI	AA1163	AA1176
2022-02-17	Notice of Entry of Order Granting Plaintiffs Landowners' Motion for Reimbursement of Property Taxes	VI	AA1140	AA1150

DATE	DOCUMENT	VOLUME	PAGE RANGE	
2021-11-18	Notice of Entry of Order Granting Plaintiffs' Motions in Limine No. 1, 2 and 3 Precluding the City from Presenting to the Jury: 1. Any Evidence or Reference to the Purchase Price of the Land; 2. Any Evidence or Reference to Source of Funds; 3. Argument that the Land was Dedicated as Open Space/City's PRMP and PROS Argument	V	AA0951	AA0967
2019-02-06	Notice of Entry of Order <i>NUNC PRO TUNC</i> Regarding Findings of Fact and Conclusion of Law Entered November 21, 2018	I	AA207	AA0212
2018-06-26	Portions of Record on Review (ROR25813-25850)	I	AA0090	AA0127
2020-07-20	Scheduling Order and Order Setting Civil Jury Trial, Pre-Trial/Calendar Call	II	AA0279	AA0283

## AFFIRMATION

Pursuant to NRS 239B.030, 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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## 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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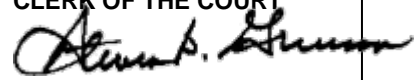
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Dated: March 9, 2022

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





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(Additional Counsel Identified on Signature Page)

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**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

180 LAND CO LLC, a Nevada limited liability  
company, FORE STARS, LTD., a Nevada limited  
liability company and SEVENTY ACRES, LLC, a  
Nevada limited liability company, DOE  
INDIVIDUALS I-X, DOE CORPORATIONS I-X,  
and DOE LIMITED LIABILITY COMPANIES I-X,

Plaintiffs,

v.

CITY OF LAS VEGAS, a political subdivision of  
the State of Nevada; ROE GOVERNMENT  
ENTITIES I-X; ROE CORPORATIONS I-X; ROE  
INDIVIDUALS I-X; ROE LIMITED-LIABILITY  
COMPANIES I-X; ROE QUASI-  
GOVERNMENTAL ENTITIES I-X,

Defendants.

CASE NO.: A-17-758528-J

DEPT. NO.: XVI

**DEFENDANT CITY OF LAS  
VEGAS' NOTICE OF APPEAL**

Notice is hereby given that DEFENDANT CITY OF LAS VEGAS appeals to the Supreme  
Court of Nevada from:

1. The Findings of Fact and Conclusions of Law on Just Compensation filed on  
November 18, 2021, notice of entry of which was served electronically on  
November 24, 2021, (attached as **Exhibit A**) and all decisions, rulings and  
interlocutory orders made appealable by the foregoing;

**AA1189**

2. The Findings of Fact and Conclusions of Law and Order Denying the City's Motion for Immediate Stay of Judgment; [sic] and Granting Plaintiff Landowners' Countermotion to Order the City to Pay the Just Compensation filed on February 9, 2022, notice of entry of which was served electronically on February 10, 2022 (attached as **Exhibit B**);
3. Order Granting in Part and Denying in Part the City of Las Vegas' Motion to Retax Memorandum of Costs filed on February 16, 2022, notice of entry of which was served electronically on February 17, 2022 (attached as **Exhibit C**);
4. Order Granting Plaintiffs Landowners' Motion for Reimbursement of Property Taxes filed on February 16, 2022, notice of entry of which was served electronically on February 17, 2022 (attached as **Exhibit D**);
5. Order Granting Plaintiff Landowners' Motion for Attorney Fees In Part and Denying In Part filed on February 18, 2022, notice of entry of which was served electronically on February 22, 2022 (attached as **Exhibit E**); and
6. The Order Denying City of Las Vegas' Motion to Amend Judgment (Rules 59(e) and 60(b)) and Stay of Execution filed on February 25, 2022, notice of entry of which was served electronically on February 28, 2022 (attached as **Exhibit F**).

DATED this 2nd day of March, 2022.

McDONALD CARANO LLP

By: /s/ George F. Ogilvie III  
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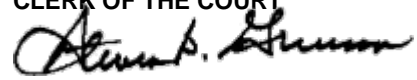
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on the 2nd day of March, 2022, I caused a true and correct copy of the foregoing **DEFENDANT CITY OF LAS VEGAS' NOTICE OF APPEAL** to be electronically served with the Clerk of the Court via the Clark County District Court Electronic Filing Program which will provide copies to all counsel of record registered to receive such electronic notification.

/s/ Jelena Jovanovic

An employee of McDonald Carano LLP

# **EXHIBIT “A”**



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**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

180 LAND CO LLC, a Nevada limited-liability  
company; FORE STARS, LTD., a Nevada limited-  
liability company; DOE INDIVIDUALS I through  
X, ROE CORPORATIONS I through X, and ROE  
LIMITED LIABILITY COMPANIES I through X,

Plaintiffs,

v.

CITY OF LAS VEGAS, a political subdivision of  
the State of Nevada; 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-17-758528-J  
DEPT. NO.: XVI

**NOTICE OF ENTRY OF  
FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

**ON JUST COMPENSATION**

//

**PLEASE TAKE NOTICE** that the Findings of Fact and Conclusions of Law on Just Compensation was entered on the 18<sup>th</sup> day of November, 2021. A copy of the Findings of Fact and Conclusions of Law on Just Compensation is attached hereto

Dated this 24<sup>th</sup> day of November, 2021.

**LAW OFFICES OF KERMITT L. WATERS**

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**FFCL**  
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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

180 LAND CO., LLC, a Nevada limited liability  
company, FORE STARS Ltd., DOE  
INDIVIDUALS I through X, ROE  
CORPORATIONS I through X, and ROE  
LIMITED LIABILITY COMPANIES I through  
X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of  
the State of Nevada, 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-17-758528-J

Dept. No.: XVI

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

**ON JUST COMPENSATION**

**BENCH TRIAL: October 27, 2021**

///



1 On October 27, 2021, the Court conducted a bench trial, with Plaintiffs, 180 LAND  
2 COMPANY, LLC and FORE STARS, Ltd. (hereinafter “Landowners”) appearing through their  
3 counsel, Autumn L. Waters, Esq. and James Jack Leavitt, Esq., of the Law Offices of Kermitt L.  
4 Waters, along with the Landowners’ in-house counsel Elizabeth Ghanem Ham, Esq., and with the  
5 City of Las Vegas (hereinafter “the City”) appearing through its counsel, George F. Ogilvie III,  
6 Esq. of McDonald Carrano, LLP and Philip R. Byrnes, Esq. and Rebecca Wolfson, Esq., of the City  
7 Attorney’s Office.

8 Having reviewed and considered the evidence presented, the file and other matters  
9 referenced herein, the Court hereby enters the following Findings of Fact and Conclusions of Law:

10 **I.**

11 **INVERSE CONDEMNATION PROCEDURE AND POSTURE OF THE CASE**

12 1. The Nevada Supreme Court has held that, when analyzing an inverse condemnation  
13 claim, the court must undertake two distinct sub-inquiries: “the court must first determine” the  
14 property rights “before proceeding to determine whether the governmental action constituted a  
15 taking.” ASAP Storage v. City of Sparks, 123 Nev. 639, 642 (Nev. 2008); McCarran International  
16 Airport v. Sisolak, 122 Nev 645, 658 (Nev. 2006). The Nevada Supreme Court has held that  
17 “whether the Government has inversely condemned private property is a question of law ...”  
18 Sisolak, at 661. To decide these issues, the Court relies on eminent domain and inverse  
19 condemnation cases. See County of Clark v. Alper, 100 Nev. 382, 391 (1984) (“[I]nverse  
20 condemnation proceedings are the constitutional equivalent to eminent domain actions and are  
21 governed by the same rules and principles that are applied to formal condemnation proceedings.”).

22 2. The Court entertained extensive argument on the first sub-inquiry, the property  
23 rights issue, on September 17, 2020, and entered Findings of Fact and Conclusions of Law  
24

1 Regarding Plaintiff Landowners' Motion to Determine "Property Interest," on October 12, 2020  
2 (hereinafter "FFCL Re: Property Interest").

3 3. In the FFCL Re: Property Interest, the Court held: 1) Nevada eminent domain law  
4 provides that zoning must be relied upon to determine a landowners' property interest in an eminent  
5 domain case; 2) the 35 Acre Property at issue in this matter has been hard zoned R-PD7 at all  
6 relevant times; 3) the Las Vegas Municipal Code (chapter 19) lists single-family and multi-family  
7 as the legally permissible uses on R-PD7 zoned properties; and, 4) the permitted uses by right of  
8 the 35 Acre Property are single-family and multi-family residential.

9 4. The Court also entertained extensive argument on the second sub-inquiry, whether  
10 the City's actions had resulted in a taking, on September 23, 24, 27, and 28, 2021, and entered  
11 Findings of Fact and Conclusions of Law Granting Plaintiff Landowners' Motion to Determine  
12 Take and For Summary Judgment on the First, Third, and Fourth Claims for Relief and Denying  
13 the City of Las Vegas' Countermotion for Summary Judgment on the Second Claim for Relief  
14 (hereinafter "FFCL Re: Taking").

15 5. In the FFCL Re: Taking, the Court held that the City engaged in actions that  
16 amounted to a taking of the Landowners' 35 Acre Property.

17 6. Upon deciding the property interest and taking, the only issue remaining in this case  
18 is the just compensation to which the Landowners are entitled for the taking of the 35 Acre Property.

19 7. In preparation for the jury trial on the just compensation, on October 26, 2021, the  
20 Court entertained argument on motions in limine and also the parties' cross motions for summary  
21 judgment, orders having been entered on those matters.

22 8. This case was set for a jury trial, with jury selection to be October 27 and 28, 2021,  
23 and opening arguments on November 1, 2021.

24

9. On October 27, 2021, the parties appeared before the Court and agreed to waive the jury trial and, instead, have this matter decided by way of bench trial.

10. An agreement to the procedure for that bench trial was put on the record at the October 27, 2021, appearance.

11. Pursuant to the agreement of the parties, the Court conducted a bench trial on October 27, 2021, on the sole issue of the fair market value of the 35 Acre Property.

## II.

## FINDINGS OF FACT

### The Landowners' 35 Acre Property.

12. The property at issue in this case is a 34.07 acre parcel of property generally located near the southeast corner of Hualapai Way and Alta Drive within the geographic boundaries of the City of Las Vegas, more particularly described as Clark County Assessor Parcel 138-31-201-005 (hereinafter “35 Acre Property”). As of September 14, 2017 and at the time of the October 27, 2021, bench trial, the 35 Acre Property was and remains vacant.

13. The 35 Acre Property is hard zoned R-PD7 at all relevant times herein, and the legally permitted uses of the property are single-family and multi-family residential. *See* FFCL Re: Property Interest and FFCL Re: Taking.

14. The Court has previously rejected challenges to this legally permissible use, including rejection of the City's arguments that there is a Peccole Ranch Master Plan and a City of Las Vegas Master Plan land use designation of PR-OS or open space that govern the use of the 35 Acre Property. *See* FFCL Re: Property Interest and FFCL Re: Taking.

/ / /

**Evidence Presented at the Bench Trial on Fair Market Value of the 35 Acre Property.**

15. Pursuant to the agreement of the parties,<sup>1</sup> the Landowners moved for admission of the appraisal report of Tio DiFederico (DiFederico Report) as the fair market value of the 35 Acre Property and the City did not object to nor contest the admissibility or admission of the DiFederico Report.

16. Appraiser Tio DiFederico is a Certified General Appraiser in the State of Nevada and earned the MAI designation from the Appraisal Institute, which is the highest designation for a real estate appraiser. TDG Rpt 000111-000113. DiFederico has appraised property in Las Vegas for over 35 years and has qualified to testify in Nevada Courts, including Clark County District Courts. Id.

17. The DiFederico Report was marked as Plaintiff Landowners' Trial Exhibit 5, with Bate's numbers TDG Rpt 000001 – 000136.

18. The DiFederico Report conforms to the Uniform Standards of Professional Appraisal Practice (USPAP) and the Code of Professional Ethics and Standards of Professional Appraisal Practice Institute. TDG Rpt 000002.

19. The DiFederico Report identifies the property being appraised (the Landowners 34.07 acre property – “35 Acre Property”), reviews the current ownership and sales history, the intended user of the report, provides the proper definition of fair market value under Nevada law, and provides the scope of his work. TDG Rpt 000003-000013.

20. The DiFederico Report also identifies the relevant date of valuation as September 14, 2017, and values the 35 Acre Property as of this date. TDG Rpt 000010.

21. The DiFederico Report includes a Market Area Analysis. TDG Rpt 000014-000032.

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<sup>1</sup> The parties agreed that this matter does not involve the taking of, nor valuation of, any water rights the Landowners may or may not own.

1           22.     The DiFederico Report includes a detailed analysis of the 35 Acre Property that  
2 analyzes location, size, configuration, topography, soils, drainage, utilities (sewer, water, solid  
3 waste, electricity, telephone, and gas), street frontage and access, legal use of the property based on  
4 zoning, the surrounding uses, and other legal and regulatory constraints. TDG Rpt 000033-000052.  
5 The DiFederico Report property analysis concludes, “[o]verall, the site’s R-PD7 zoning and  
6 physical characteristics were suitable for residential development that was prevalent in this area and  
7 bordered the subject site.” Id., 000044.

8           23.     The DiFederico Report provides a detailed analysis of the “highest and best use” of  
9 the 35 Acre Property, including the elements of legal permissibility, physical possibility, financial  
10 feasibility, and maximally productive. TDG Rpt 000054-000067. The DiFederico Report  
11 concludes, based on this highest and best use analysis, that “a residential use best met the four tests  
12 of highest and best use [as] of the effective date of value, September 14, 2017.” Id., at 000067.  
13 This use would be similar to the surrounding uses in the Queensridge and Summerlin Communities.  
14 Id.

15           24.     Although the 35 Acre Property had been zoned R-PD7 since the early 1990s, the  
16 property had historically been used as a portion of the Badlands Golf Course. Id.

17           25.     Therefore, the DiFederico Report also provides a detailed analysis of the past use of  
18 the 35 Acre Property as part of the Badlands golf course. TDG Rpt. 000060-000067. This golf  
19 course analysis is based on Mr. DiFederico’s research, a report by Global Golf Advisors (GGA),  
20 and the past operations on the Badlands golf course. Id.

21           26.     The DiFederico report finds that, according to a 2017 National Golf Foundation  
22 (NGF) report, from 1986 to 2005, golf course supply increased by 44%, which far outpaced growth  
23 in golf participation. Id. The trend experienced in 2016 was referred to as a “correction” as golf  
24 course closures occurring throughout the U.S. indicated there was an oversupply that required

1 market correction. Id. The local market data reflects that the Badlands wasn't an outlier struggling  
2 in a thriving golf course market. Id. Based on what was happening in the national golf course  
3 markets, Las Vegas was also experiencing this market "correction" and the Badlands golf course  
4 was part of the "correction." On December 1, 2016, the Badlands golf course closed. Id.

5 27. The Landowner leased the property to Elite Golf, a local operator managing the  
6 Badlands and five (5) other local golf courses. On December 1, 2016, the CEO of Elite Golf  
7 Management sent a letter to the Landowners stating that it could not generate a profit using the  
8 property for a golf course, even if Elite Golf were permitted to operate rent free: "it no longer makes  
9 sense for Elite Golf to remain at the facility under our lease agreement. The golf world continues  
10 to struggle, and Badlands revenues have continued to decrease over the years. This year we will  
11 finish 40% less in revenue than 2015 and 2015 was already 20% down from 2014. At that rate we  
12 cannot continue to sustain the property where it makes financial sense to stay. Even with your  
13 generosity of the possibility of staying with no rent, we do not see how we can continue forward  
14 without losing a substantial sum of money over the next year." Id., 000066.

15 28. The DiFederico Report includes further detailed analysis of relevant golf course data  
16 of the potential for a golf course operation on the 35 Acre Property. TDG Rpt 000060-000066.

17 29. The DiFederico Report also specifically considered the historical operations of the  
18 golf course, which were trending downward rapidly. Id.

19 30. The DiFederico Report concluded that operating the golf course was not a  
20 financially feasible use of the 35 Acre Property as of September 14, 2017.

21 31. The DiFederico Report golf course conclusion is further supported by the Clark  
22 County Tax Assessor analysis on the 250 acre land (of which the 35 Acre Property was included).  
23 On September 21, 2017, the Clark County Assessor sent the Landowner a letter that stated since  
24 the 35 Acre Property had ceased being used as a golf course on December 1, 2016, the land no

1 longer met the definition of open space and was “disqualified for open-space assessment.” The  
2 Assessor converted the property to a residential designation for tax purposes and then the deferred  
3 taxes were owed as provided in NRS 361A.280. The following explains how they apply deferred  
4 taxes:

5 “NRS 361A.280 Payment of deferred tax when property converted to a higher use. If the  
6 county assessor is notified or otherwise becomes aware that a parcel of real property which  
7 has received agricultural or open-space use assessment has been converted to a higher use,  
8 the county assessor shall add to the tax extended against that portion of the property on the  
9 next property tax statement the deferred taxes, which is the difference between the taxes  
10 that would have been paid or payable on the basis of the agricultural or open-space use  
11 valuation and the taxes which would have been paid or payable on the basis of the taxable  
12 value calculated pursuant to NRS 361A.277 for each year in which agricultural or open-  
13 space use assessment was in effect for the property during the fiscal year in which the  
14 property ceased to be used exclusively for agricultural use or approved open-space use and  
15 the preceding 6 fiscal years. The County assessor shall assess the property pursuant to NRS  
16 361.2276 for the next fiscal year following the date of conversion to a higher use.”

17 32. The Las Vegas City Charter states, “The County Assessor of the County is, ex  
18 officio, the City Assessor of the City.” LV City Charter, sec. 3.120.

19 33. The City provided no evidence that a golf course use was financially feasible as of  
20 the September 14, 2017, date of value.

21 34. Once the DiFederico Report identified the highest and best use of the 35 Acre  
22 Property as residential, it then considered the three standard valuation methodologies – the cost  
23 approach, sales comparison approach, and income capitalization approach. TDG Rpt 000068. The  
24 DiFederico Report identifies the sales comparison and income capitalization approaches as  
appropriate methods to value the 35 Acre Property. Id.

35. Under the sales comparison approach, the DiFederico Report identifies five similar  
“superpad” properties that sold near in time to the September 14, 2017, date of valuation. Id.,  
000069-000075. The DiFederico Report defines a superpad site as a larger parcel of property that  
is sold to home developers for detached single-family residential developments. Id., 000069.

1           36.     The DiFederico Report then makes adjustments to these five sales to compensate for  
2 the differences between the five sales and the 35 Acre Property. Id., 000076. These adjustments  
3 include time-market conditions, location, physical characteristics, etc. Id., 000076-000083.

4           37.     After considering all five sales and making the appropriate adjustments to the five  
5 sales, the DiFederico Report concludes that the value of the 35 Acre Property as of September 14,  
6 2017, under the sales comparison approach is \$23.00 per square foot. Id., 000084. The exact square  
7 footage of the 35 Acre Property (34.07 acres) is 1,484,089 and applying the DiFederico Report's  
8 square foot value to this number arrives at a value of \$34,135,000 for the 35 Acre Property as of  
9 September 14, 2017, under the sales comparison approach. Id., 000084.

10          38.     As a check to the reasonableness of the \$34,135,000 value concluded by the sales  
11 comparison approach, the DiFederico Report completed an income approach to value the 35 Acre  
12 Property, referred to as the discounted cash flow approach (hereinafter "DCF approach"). TDG  
13 Rpt 000085-000094. The DiFederico Report explains the steps under this DCF approach, which  
14 are generally to determine the value of finished lots, consider the time it would take to develop the  
15 finished lots, subtract out the costs, profit rate, and discount rate, and discount the net cash flow to  
16 arrive at a value of the property as of September 14, 2017. Id., 000086. A finished lot is one that  
17 has been put in a condition that it is ready to develop a residential unit on it.

18          39.     The DiFederico Report confirms that the DCF approach is used in the real world by  
19 developers to determine the value of property. Id., 000086.

20          40.     The DiFederico Report considers three scenarios under this DCF approach – a 61  
21 lot, 16 lot, and 7 lot development. Id., 000085-000094.

22          41.     The DiFederico Report provides detailed data for the value of finished lots on the  
23 35 Acre Property, including sales of finished lots in the area of the 35 Acre Property that sold near  
24 the September 14, 2017, date of value. TDG Rpt 000086-000088. This data showed that the



1 average value for finished lots selling in the area were \$30, \$49.28, and \$71.84 per square foot.,  
2 depending upon the area of Summerlin and the Queensridge Community. TDG Rpt 000086-  
3 000087. With this data, the DiFederico Report concluded at a value of \$40 per square foot for the  
4 61 lot scenario, \$35 per square foot for the 16 lot scenario, and \$32 per square foot for the 7 lot  
5 scenario. TDG Rpt 000087.

6 42. The DiFederico Report then provides a detailed, factual based, analysis of the time  
7 it would take to develop the finished lots, the expenses to develop the finished lots, the profit rate  
8 and discount rate, and the appropriate discount to the net cash flow. TDG Rpt 000088-000090.

9 43. With this factual based data, the DiFederico Report provides a discounted cash flow  
10 model for each of the three scenarios to arrive at a value for the 35 Acre Property under each  
11 scenario as follows: 1) for the 61 lot scenario, \$32,820,000, 2) for the 16 lot scenario, \$35,700,000,  
12 and, 3) for the 7 lot scenario, \$34,400,000. TDG Rpt 000091-000094. The DiFederico Report uses  
13 this income approach to confirm the reasonableness of the \$34,135,000 value under the sales  
14 comparison approach.

15 44. The DiFederico Report then concludes that, applying all of the facts and data in the  
16 Report, the fair market value of the 35 Acre Property as of September 14, 2017, is \$34,135,000.  
17 TDG Rpt 000095.

18 45. The DiFederico Report also provides a detailed analysis of the City's actions toward  
19 the 35 Acre Property to determine the effect of the City's actions on the 35 Acre Property from a  
20 valuation viewpoint. TDG Rpt. 000096-000101. These City actions are the same actions set forth  
21 in the Court's FFCL Re: Taking.

22 46. The DiFederico Report concludes that the City's actions have taken all value from  
23 the 35 Acre Property.

24

1           47.     The DiFederico Report concludes that the City's actions removed the possibility of  
2 residential development; however, the landowner is still required to pay property taxes as if the  
3 property could be developed with a residential use. TDG Rpt 000100. According to the DiFederico  
4 Report, this immediately added an annual expense that was over \$205,000 and that amount would  
5 be expected to increase over time. Id.

6           48.     The DiFederico Report concludes that, due to the City's actions, there is no market  
7 to sell the 35 Acre Property with these development restrictions along with the extraordinarily high  
8 annual expenses as the buyer would be paying for a property with no economic benefit that has  
9 annual expenses in excess of \$205,000. TDG Rpt 000100.

10          49.     The DiFederico Report concludes that the value of the 35 Acre Property as of  
11 September 14, 2017, is \$34,135,000 and that the City's actions have taken all value from the  
12 property, resulting in "catastrophic damages to this property." TDG Rpt 000101.

13          50.     The City did not produce an appraisal report or a review appraisal report during  
14 discovery or during the bench trial.

15          51.     The City did not depose Mr. DiFederico.

16          52.     The City represented at the October 27, 2021, bench trial that, based on the rulings  
17 entered by the Court rulings in this matter, including the FFCL Re: Property Interest, the FFCL Re:  
18 Take, the rulings on the three motions in limine, and the competing motions for summary judgment  
19 on October 26, 2021, the City did not have evidence to admit to rebut the DiFederico Report.

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1 a motion is brought to change the date of value to the date of trial and certain findings are made by  
2 the Court.

3 59. In the case of County of Clark v. Alper, 100 Nev. 382, 391 (1984), the Nevada  
4 Supreme Court held that NRS 37.120 applies to both eminent domain and inverse condemnation  
5 proceedings, reasoning, “inverse condemnation proceedings are the constitutional equivalent to  
6 eminent domain actions and are governed by the same rules and principles that are applied to formal  
7 condemnation proceedings.” Id.

8 60. The date of the first service of summons in this case is September 14, 2017, and  
9 neither party sought to change the date of valuation to the date of trial.

10 61. Therefore, the date of valuation in this inverse condemnation proceeding is the date  
11 of the first service of summons, which is September 14, 2017.

12 62. The Court finds that Mr. DiFederico has the expertise to value the 35 Acre Property.

13 63. The Court further finds that the valuation methodologies applied in the DiFederico  
14 Report are accepted methodologies to appraise property and are relevant and reliable to determine  
15 the value of the 35 Acre Property as of September 14, 2017.

16 64. The Court further finds that the DiFederico Report is based on reliable data,  
17 including reliable comparable sales, and is well-reasoned. The conclusions therein are well-  
18 supported.

19 65. The Court finds that the DiFederico Report properly applied and followed Nevada’s  
20 eminent domain and inverse condemnation laws and that the Report appropriately analyzed and  
21 arrived at a proper highest and best use of the 35 Acre Property as residential use. This highest and  
22 best use conclusion is also supported by the Court’s previous FFCL Re: Property Interest and FFCL  
23 Re: Taking.

24

1           66.     The Court finds that the DiFederico Report properly followed Nevada law in  
2 applying the “highest price” standard of fair market value.

3           67.     The Court’s final decision is based on a finding that the 35 Acre Property could be  
4 developed with a residential use in compliance with its R-PD7 zoning on September 14, 2017. Due  
5 to the effect of the government’s unlawful taking of the 35 Acre Property, the DiFederico Report  
6 concluded there was no market to sell this property with the substantial tax burden and no potential  
7 use or income to offset the tax expense. Based on the City’s actions, the Court hereby determines  
8 that just compensation for the fair market value of the 35 Acre Property due to the City’s unlawful  
9 taking of the 35 Acre Property is the sum of \$34,135,000, exclusive of attorney’s fees, costs,  
10 interest, and reimbursement of taxes.

11           68.     As a result, the Court hereby finds in favor of the Landowners and against the City  
12 in the sum of \$34,135,000.

13           69.     The Court will accept post trial briefing on the law and facts to determine attorney’s  
14 fees, costs, interest, and reimbursement of taxes as Article 1 Section 22(4) provides that “[j]ust  
15 compensation shall include, but is not limited to, compounded interest and all reasonable costs and  
16 expenses actually incurred.” Once the Court determines the compensation for these additional  
17 items, if any, the Court will write in the compensation for each of these items, if any, as follows:

18           The City shall pay to the Landowners attorney fees in the amount of  
19 \$ \_\_\_\_\_.

20           The City shall pay to the Landowners costs in the amount of \$\_\_\_\_\_.

21           The City shall pay prejudgment interest in the amount of \$\_\_\_\_\_ for  
22 interest up to the date of judgment (October 27, 2021) and a daily prejudgment interest  
23 thereafter in the amount of \$ \_\_\_\_\_ until the date the judgment is  
24 satisfied. NRS 37.175.

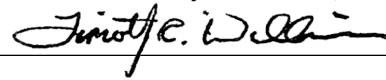
1 The City shall reimburse the Landowners real estate taxes paid on the 35 Acre Property in  
2 the amount of \$\_\_\_\_\_.

3  
4 **IV.**

5 **CONCLUSION**

6 **IT IS HEREBY ORDERED THAT**, the City is ordered to pay the Landowners the amount  
7 of \$34,135,000 as the fair market value for the taking of the Landowners 35 Acre Property, with  
8 the above items for attorney fees, interest, costs, and reimbursement of taxes reserved for post trial  
9 briefing.

Dated this 18th day of November, 2021

10 

MH

11 **B88 955 81A8 4EC7**  
12 **Timothy C. Williams**  
**District Court Judge**

13 Respectfully Submitted By:

Content Reviewed and Approved By:

14 **LAW OFFICES OF KERMITT L. WATERS**

**MCDONALD CARANO LLP**

15 /s/ James J. Leavitt

Declined to sign

16 Kermit L. Waters, Esq. (NV Bar No. 2571)  
17 James J. Leavitt, Esq. (NV Bar No. 6032)  
18 Michael A. Schneider, Esq. (NV Bar No. 8887)  
19 Autumn L. Waters, Esq. (NV Bar No. 8917)  
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***Attorneys for City of Las Vegas***

**From:** [James Leavitt](#)  
**To:** [Sandy Guerra](#)  
**Subject:** FW: 180 Land Company, LLC v. City of Las Vegas, Case No. A-17-758528-J- Proposed Order  
**Date:** Wednesday, November 10, 2021 8:44:55 AM

---

Jim Leavitt, Esq.  
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---

**From:** James Leavitt  
**Sent:** Wednesday, November 10, 2021 8:45 AM  
**To:** 'George F. Ogilvie III' <[gogilvie@Mcdonaldcarano.com](mailto:gogilvie@Mcdonaldcarano.com)>  
**Cc:** Autumn Waters <[autumn@kermittwaters.com](mailto:autumn@kermittwaters.com)>; Christopher Molina <[cmolina@mcdonaldcarano.com](mailto:cmolina@mcdonaldcarano.com)>; No Scrub <[NoScrub@mcdonaldcarano.com](mailto:NoScrub@mcdonaldcarano.com)>; 'Elizabeth Ham (EHB Companies)' <[eham@ehbcompanies.com](mailto:eham@ehbcompanies.com)>  
**Subject:** RE: 180 Land Company, LLC v. City of Las Vegas, Case No. A-17-758528-J- Proposed Order

George:

Thank you for your edits. Unfortunately, it is clear we will not come to agreement on the language of the FFCL re: Just Compensation.

Therefore, we will be submitting the Landowners' proposed FFCL re: Just Compensation to Judge Williams this morning.

I hope you have a good holiday weekend.

Jim

Jim Leavitt, Esq.  
*Law Offices of Kermitt L. Waters*  
704 South Ninth Street  
Las Vegas Nevada 89101

**AA1211**

tel: (702) 733-8877  
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---

**From:** George F. Ogilvie III <[gogilvie@Mcdonaldcarano.com](mailto:gogilvie@Mcdonaldcarano.com)>  
**Sent:** Tuesday, November 9, 2021 4:17 PM  
**To:** James Leavitt <[jim@kermittwaters.com](mailto:jim@kermittwaters.com)>  
**Cc:** Autumn Waters <[autumn@kermittwaters.com](mailto:autumn@kermittwaters.com)>; Christopher Molina <[cmolina@mcdonaldcarano.com](mailto:cmolina@mcdonaldcarano.com)>; No Scrub <[NoScrub@mcdonaldcarano.com](mailto:NoScrub@mcdonaldcarano.com)>  
**Subject:** RE: 180 Land Company, LLC v. City of Las Vegas, Case No. A-17-758528-J- Proposed Order

Attached are the City's edits to the proposed FFCL.

**George F. Ogilvie III** | Partner

**McDONALD CARANO**

P: 702.873.4100 | E: [gogilvie@mcdonaldcarano.com](mailto:gogilvie@mcdonaldcarano.com)

---

**From:** James Leavitt <[jim@kermittwaters.com](mailto:jim@kermittwaters.com)>  
**Sent:** Monday, November 8, 2021 8:58 AM  
**To:** George F. Ogilvie III <[gogilvie@Mcdonaldcarano.com](mailto:gogilvie@Mcdonaldcarano.com)>  
**Cc:** Autumn Waters <[autumn@kermittwaters.com](mailto:autumn@kermittwaters.com)>  
**Subject:** RE: 180 Land Company, LLC v. City of Las Vegas, Case No. A-17-758528-J- Proposed Order

George:

The only orders that have been submitted to the Court are:

FFCL on the motions in limine  
FFCL on the denial of both summary judgment motions

We have not submitted the FFCL on just compensation (the most recent one I sent you). I intend to send the FFCL on just compensation to the Court Tuesday, end of business.

Jim

Jim Leavitt, Esq.  
*Law Offices of Kermitt L. Waters*  
704 South Ninth Street  
Las Vegas Nevada 89101  
tel: (702) 733-8877

**AA1212**



1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 180 Land Company LLC,  
7 Petitioner(s)

CASE NO: A-17-758528-J

8 vs.

DEPT. NO. Department 16

9 Las Vegas City of,  
10 Respondent(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12  
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the  
15 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
16 case as listed below:

17 Service Date: 11/18/2021

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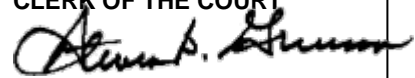
28  
AA1213

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David Weibel	weibel@smwlaw.com
Rebecca Wolfson	rwolfson@lasvegasnevada.gov

# **EXHIBIT “B”**



**NOE**  
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Telephone: (702) 733-8877  
Facsimile: (702) 731-1964  
*Attorneys for Plaintiff Landowners*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

180 LAND CO., LLC, a Nevada limited liability  
company, FORE STARS Ltd., DOE  
INDIVIDUALS I through X, ROE  
CORPORATIONS I through X, and ROE  
LIMITED LIABILITY COMPANIES I through  
X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of  
the State of Nevada, 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-17-758528-J

Dept. No.: XVI

**NOTICE OF ENTRY OF:**

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW AND ORDER  
DENYING THE CITY'S MOTION FOR  
IMMEDIATE STAY OF JUDGMENT;  
AND GRANTING PLAINTIFF  
LANDOWNERS' COUNTERMOTION  
TO ORDER THE CITY TO PAY THE  
JUST COMPENSATION**

**Hearing Date: January 19, 2022**

**Hearing Time: 10:00 a.m.**

**PLEASE TAKE NOTICE** that the Findings of Fact and Conclusions of law and Order  
Denying the City's Motion for Immediate stay of Judgment; and Granting Plaintiff landowners'  
Counter motion to Order the City to Pay the Just Compensation ("Order") was entered on the 9<sup>th</sup>  
day of February, 2022.

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A copy of the Order is attached hereto.  
DATED this 10<sup>th</sup> day of February, 2022.

**LAW OFFICES OF KERMITT L. WATERS**

/s/ James J. Leavitt  
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James J. Leavitt, Esq. (NSB 6032)  
Michael A. Schneider, Esq. (NSB 8887)  
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Telephone: (702) 733-8877  
Facsimile: (702) 731-1964  
***Attorneys for Plaintiffs Landowners***

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of the Law Offices of Kermitt L. Waters, and  
3 that on the 10<sup>th</sup> day of February, 2022, pursuant to NRCP 5(b), a true and correct copy of the  
4 foregoing: **NOTICE OF ENTRY OF: FINDINGS OF FACT AND CONCLUSIONS OF**  
5 **LAW AND ORDER DENYING THE CITY'S MOTION FOR IMMEDIATE STAY OF**  
6 **JUDGMENT; AND GRANTING PLAINTIFF LANDOWNERS' COUNTERMOTION TO**  
7 **ORDER THE CITY TO PAY THE JUST COMPENSATION** was served on the below via the  
8 Court's electronic filing/service system and/or deposited for mailing in the U.S. Mail, postage  
9 prepaid and addressed to, the following:

10 **MCDONALD CARANO LLP**

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23 /s/ Sandy Guerra

24 an employee of the Law Offices of Kermitt L. Waters

**FFCL/ORDER**

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***Attorneys for Plaintiffs Landowners***

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

180 LAND CO., LLC, a Nevada limited liability company, FORE STARS Ltd., DOE INDIVIDUALS I through X, ROE CORPORATIONS I through X, and ROE LIMITED LIABILITY COMPANIES I through X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of the State of Nevada, 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-17-758528-J

Dept. No.: XVI

**FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER DENYING THE CITY'S MOTION FOR IMMEDIATE STAY OF JUDGMENT; AND GRANTING PLAINTIFF LANDOWNERS' COUNTERMOTION TO ORDER THE CITY TO PAY THE JUST COMPENSATION**

**Date of Hearing: January 19, 2022**

**Time of Hearing: 10:00 a.m.**

This matter came before the Court on January 19, 2022, with Plaintiffs, 180 LAND COMPANY, LLC and FORE STARS, Ltd. (hereinafter "Landowners") appearing through their counsel, James Jack Leavitt, Esq., of the Law Offices of Kermitt L. Waters, along with the Landowners' in-house counsel Elizabeth Ghanem Ham, Esq., and with the City of Las Vegas



1 (hereinafter “City”) appearing through its counsel, George F. Ogilvie III, Esq. and Christopher J.  
2 Molina, Esq. of McDonald Carano, LLP and Andrew M. Schwartz, Esq., of Shute, Mihaly and  
3 Weinberger, LLP.

4 Having reviewed and considered the pleadings, arguments of counsel, the evidence  
5 presented, the file and other matters referenced herein, the Court hereby enters the following  
6 Findings of Fact and Conclusions of Law and Order:

7 **I. FINDINGS OF FACT**

8 **A) Procedural Posture**

9 This is an inverse condemnation case brought by the Landowners against the City for the  
10 taking by inverse condemnation of their approximately 35 acre property (“Landowners’ Property”  
11 or “Subject Property”). The Court has reviewed extensive pleadings and has allowed lengthy  
12 hearings on the facts and law relevant to the inverse condemnation issues in this matter and entered  
13 findings of fact and conclusions of law on those issues. On October 12, 2020, the Court determined  
14 the legally permissible use of the Landowners’ Property prior to the City’s actions at issue. *See*  
15 *Findings of Fact and Conclusions of Law Regarding Plaintiff Landowners’ Motion to Determine*  
16 *“Property Interest” filed October 12, 2020*. After competing motions for summary judgment on  
17 liability were filed and following four days of hearings, the Court granted summary judgment in  
18 the Landowners’ favor, finding the City took by inverse condemnation the Landowners’ Property.  
19 *See Findings of Fact and Conclusions of Law Granting Plaintiffs Landowners’ Motion to*  
20 *Determine Take and For Summary Judgment on The First, Third and Fourth Claims For Relief*  
21 *filed October 25, 2021 (hereinafter “FFCL Re: City’s Taking”)*. Thereafter, the parties stipulated  
22 to a bench trial wherein uncontroverted evidence established that the value of the Landowners’  
23 Property taken by the City was \$34,135,000 and the City was ordered to pay this amount as just  
24

1 compensation for the taking. *Finding of Fact and Conclusions of Law on Just Compensation filed*  
2 *November 18, 2021* at ¶ 9, 15, 50 and 52.

3 The City moved the Court to stay payment of the award based on NRCP Rule 62 and NRAP  
4 Rule 8. The Landowners opposed the City's stay request and filed a countermotion to have the  
5 City pay the award based on NRS 37.140, 37.170 and State v. Second Judicial District Court, 75  
6 Nev. 200 (1959).

7 **B) The City is in Possession of the Landowners' Property.**

8 Based upon the undisputed evidence in this case, this Court found the Landowners have  
9 established a "*per se*" **taking** of their property. *FFCL Re: City's Taking* at ¶ 154-175. A "per se"  
10 taking means the City is in possession of the Landowners' Property. *Id.* The City has taken the  
11 Landowners' Property for the surrounding neighbors' use and enjoyment and has prevented the  
12 Landowners from doing anything with the Subject Property that would interfere with the  
13 surrounding neighbors' use of the Subject Property. The City has preserved the Subject Property  
14 for public use and has authorized the public to use the Subject Property. The City has additionally  
15 denied any use of the Landowners' Property that would conflict with said public use resulting in a  
16 complete depravation of any economically beneficial use of the Subject Property.

17 For example, the City prevented the Landowners from constructing a fence around the  
18 Subject Property, as a fence would prevent the surrounding neighbors from using the Subject  
19 Property. *FFCL Re: City's Taking* at ¶ 87-95. The City passed ordinances (Bills 2018-5 and 2018-  
20 24) that: 1) targeted only the Landowners' Property; 2) made it impossible to develop; and 3)  
21 preserved the Landowners' Property for the surrounding neighbors' use by ensuring the  
22 surrounding neighbors had ongoing access to the Landowners' Property. *FFCL Re: City's Taking*  
23 *at* ¶ 103-122. The City ordinances authorized the surrounding neighbors to use the Landowners'  
24 Property for recreation and open space and the City went into the community and told the

1 surrounding neighbors that the Landowners' Property was theirs to use as their own recreation and  
2 open space. *FFCL Re: City's Taking at ¶ 116-122*. The City denied the Landowners access to their  
3 own property because the City did not want the Landowners' access to impact the surrounding  
4 neighbors use of the Landowners' Property. *FFCL Re: City's Taking at ¶ 96-103*. Uncontested  
5 expert opinion established that the City's actions left the Subject Property with zero value. *FFCL*  
6 *Re: City's Taking at ¶ 145-148*. Accordingly, the Landowners have been dispossessed of the  
7 Subject Property by the City and the City is in possession of the Subject Property for a public use.

## 8 **II. CONCLUSIONS OF LAW**

9 "Inverse condemnation proceedings are the constitutional equivalent to eminent domain  
10 actions and are governed by the **same rules and principles that are applied to formal**  
11 **condemnation proceedings.**" County of Clark v. Alper, 100 Nev 382, 391 (1984)(emphasis  
12 added).

13 NRS 37.140 provides that any "sum of money assessed" against the government in an  
14 eminent domain or inverse condemnation action must be paid within 30 days of the final judgment  
15 – "The [government] must, within 30 days after final judgment, pay the sum of money assessed."  
16 NRS 37.140. This statute uses the mandatory "must" language and provides no exceptions.

17 NRS 37.170 mandates that, as a precondition to an appeal in an eminent domain or inverse  
18 condemnation case, the government must pay the award. NRS 37.170. The Nevada Supreme  
19 Court addressed the applicability of NRS 37.170 in the case of State v. Second Judicial District  
20 Court, 75 Nev. 200 (1959). In that case, the State of Nevada made the *same arguments the City*  
21 *made here* – that it does not need to pay an award as a condition to appeal. The district court in  
22 Second Judicial District Court denied the State's request and ordered payment of the award. Id.,  
23 at 202. The State appealed. The Nevada Supreme Court affirmed, rejecting the State's arguments.  
24 Accordingly, as held in Second Judicial District Court "the deposit provided by NRS 37.170 is a

1 condition to the condemnor's right to maintain an appeal while remaining in possession." Id., at  
2 205.

3       After considering the mandatory language under NRS 37.140, which grants a landowner a  
4 substantive right whereby the government must, within 30 days after final judgment, pay the sum  
5 of money assessed in an eminent domain or inverse condemnation case, as well as the mandate  
6 under NRS 37.170 which preconditions any appeal on payment of the sum of money assessed  
7 (addressed in Second Judicial District Court), the Court is compelled to deny the City's Motion for  
8 Immediate Stay of Judgment in this matter. The Court's decision is based on a determination that  
9 the more specific eminent domain statutes, such as NRS 37.140 and 37.170, which grant the  
10 Landowners substantive rights, take precedence in this special proceeding over the general rules of  
11 procedure relied upon by the City. *See Doe Dancer I v. La Fuente, Inc.*, 137 Nev. Adv. Op. 3, 431  
12 P.3d 860, 871 (2021) (recognizing the "general/specific canon" that when two statutes conflict, "the  
13 more specific statute will take precedence, and is construed as an exception to the more general  
14 statute." Id., at 871.); City of Sparks v. Reno Newspapers, Inc., 133 Nev. 398, 400, 401 (2017) ("it  
15 is an accepted rule of statutory construction that a provision which specifically applies to a given  
16 situation will take precedence over one that applies only generally." Id., at 400-401). Additionally,  
17 with the 30-day delay in payment under NRS 37.140, the City will have sufficient time to seek a  
18 stay, if appropriate, from the Nevada Supreme Court.

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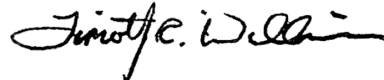
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1 **III. ORDER**

2 **IT IS HEREBY ORDERED THAT** the City's Motion for Immediate Stay of Judgment  
3 shall be **DENIED**. Additionally, the Landowners' Countermotion to Order the City of Las Vegas  
4 to pay the just compensation assessed shall be **GRANTED**. The City is hereby ordered to pay all  
5 sums assessed in this matter within 30 days of final judgment and as a condition to appeal.

6 Dated this 9th day of February, 2022

7 

8 **58B 72C B710 CB01**  
9 **Timothy C. Williams**  
10 **District Court Judge**

MH

11 Respectfully Submitted By:

Content Reviewed and Approved By:

12 **LAW OFFICES OF KERMITT L. WATERS**

**MCDONALD CARANO LLP**

13 /s/ Autumn L. Waters

declined to sign

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15 James J. Leavitt, Esq. (NV Bar No. 6032)  
16 Michael A. Schneider, Esq. (NV Bar No. 8887)  
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***Attorneys for City of Las Vegas***

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 180 Land Company LLC,  
7 Petitioner(s)

CASE NO: A-17-758528-J

8 vs.

DEPT. NO. Department 16

9 Las Vegas City of,  
10 Respondent(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12  
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the  
15 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
16 case as listed below:

17 Service Date: 2/9/2022

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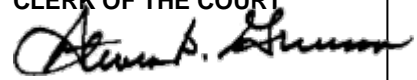
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# **EXHIBIT “C”**



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*Attorneys for Plaintiff Landowners*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

180 LAND CO., LLC, a Nevada limited liability  
company, FORE STARS Ltd., DOE  
INDIVIDUALS I through X, ROE  
CORPORATIONS I through X, and ROE  
LIMITED LIABILITY COMPANIES I through  
X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of  
the State of Nevada, 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-17-758528-J

Dept. No.: XVI

**NOTICE OF ENTRY OF:**

**ORDER GRANTING IN PART AND  
DENYING IN PART THE CITY OF LAS  
VEGAS' MOTION TO RETAX  
MEMORANDUM OF COSTS**

**Hearing Date: January 19, 2022**

**Hearing Time: 10:00 a.m.**

**PLEASE TAKE NOTICE** that the Order Granting in Part and Denying in Part the City  
of Las Vegas' Motion to Retax Memorandum of Costs ("Order") was entered on the 16<sup>th</sup> day of  
February, 2022.

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A copy of the Order is attached hereto.  
DATED this 17<sup>th</sup> day of February, 2022.

**LAW OFFICES OF KERMITT L. WATERS**

/s/ James J. Leavitt  
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***Attorneys for Plaintiffs Landowners***

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of the Law Offices of Kermitt L. Waters, and  
3 that on the 17<sup>th</sup> day of February, 2022, pursuant to NRCP 5(b), a true and correct copy of the  
4 foregoing: **NOTICE OF ENTRY OF: ORDER GRANTING IN PART AND DENYING IN**  
5 **PART THE CITY OF LAS VEGAS' MOTION TO RETAX MEMORANDUM OF COSTS**  
6 was served on the below via the Court's electronic filing/service system and/or deposited for  
7 mailing in the U.S. Mail, postage prepaid and addressed to, the following:

8 **MCDONALD CARANO LLP**

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21 /s/ Sandy Guerra  
22 an employee of the Law Offices of Kermitt L. Waters  
23  
24

**ORDR**

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*Attorneys for Plaintiffs Landowners*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

180 LAND CO., LLC, a Nevada limited liability  
company, FORE STARS Ltd., DOE  
INDIVIDUALS I through X, ROE  
CORPORATIONS I through X, and ROE  
LIMITED LIABILITY COMPANIES I through  
X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of  
the State of Nevada, 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-17-758528-J

Dept. No.: XVI

**ORDER GRANTING IN PART AND  
DENYING IN PART THE CITY OF LAS  
VEGAS' MOTION TO RETAX  
MEMORANDUM OF COSTS**

Date of Hearing: January 19, 2022

Time of Hearing: 10:00 a.m.

Defendant City of Las Vegas’ Motion to Retax Memorandum of Costs, having come before the Court on January 19, 2022, James J. Leavitt, Esq. of the Law Offices of Kermitt L Waters and Plaintiff’s in-house counsel Elizabeth Ghanem, Esq. appearing on behalf of Plaintiff Landowners 180 Land Co and Fore Stars (“Landowners”), George F. Ogilvie III, Esq. and Christopher Molina, Esq. of McDonald Carano LLP and Andrew W. Schwartz, Esq. of Shute Mihaly and Weinberger LLP appearing on behalf of the City of Las Vegas (“City”).

The Court having reviewed the papers and pleadings on file, heard argument of counsel, and for good cause appearing hereby **GRANTS IN PART** and **DENIES IN PART** the City of Las Vegas’ Motion to Retax Memorandum of Costs and orders as follows:

The Landowners are entitled to recover costs actually incurred in this matter as the Nevada Constitution provides that the Landowners’ “just compensation” award “shall include ... all reasonable costs and expenses actually incurred.” Nev. Const. art. I § 22 (4). See also the Federal Relocation Act. NRS 342.105 and 49 CFR § 24.107.

The Court finds the following costs to be reasonable and actually incurred in this matter as they were undisputed:

8 <sup>th</sup> Judicial District Court Fees	\$200.00
Discovery Legal Services	\$481.25
LGM Transcription Services	\$571.14
Litigation Services, court reporting services	\$3,933.49
Margot Isom, court reporting services	\$3,293.72
National Court Reporters, court reporting services	\$6,693.23
Rhonda Aquilina, court reporting services	\$1,031.09
AT&T Conference Calls	\$32.52

1	Capriotti's	\$84.88
2	Parking and Lunch	\$121.27
3	<b>Total</b>	<b>\$16,442.59</b>

4 The Court further finds the following disputed costs to be reasonable and actually incurred  
5 in this matter and, therefore, **DENIES** the City's request to retax the following costs:

6		
7	HOLO Discovery	\$14,422.81
8	Nevada Supreme Court Law Library	\$33.20
9	Clark County Recorder	\$171.00
10	District Court Clerk	\$119.00
11	GGA Partners	\$11,162.41
12		
13	Global Golf Advisors	\$67,094.00
14	The DiFederico Group	\$114,250.00
15	Jones Roach & Caringella	\$29,625.00
16		
17	Legal Wings	\$290.00
18	8 <sup>th</sup> Judicial District Court E-Filing Fees	\$773.50
19	Oasis, court reporting services	\$1,049.00
20	In-house copy costs @ \$.15 per B/W and \$.25 for color	\$6,345.40
21	<b>Total</b>	<b>\$245,335.32</b>

22 The Court further finds the Westlaw billings to be reasonable and actually incurred in this  
23 matter, but **GRANTS**, in part, the City's request to retax by reducing the Westlaw billings 75% to  
24 account for the fact that all four related inverse condemnation cases (17, 35, 65, and 133 acre cases)  
25 were identified as just one client on the Westlaw billings. Therefore, the \$50,669.02 Westlaw bill  
26 is retaxed to **\$12,667.25**.  
27  
28

**THEREFORE, IT IS HEREBY ORDERED THAT** the City pay to the Landowners costs in the amount of **\$274,445.16**.

**IT IS FURTHER ORDERED THAT** the judgment that is entered in this matter shall include this **\$274,445.16** to be paid by the City to the Landowners.

**Dated this 16th day of February, 2022**

Timothy C. Williams

MH

**51A C54 4F89 7CD2**  
**Timothy C. Williams**  
**District Court Judge**

Submitted By:

Content Reviewed and Approved by:

LAW OFFICES OF KERMIT L. WATERS

McDONALD CARANO LLP

By: /s/ James J. Leavitt  
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**EHB COMPANIES**  
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1215 S. Fort Apache Road, Suite 120  
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LAS VEGAS CITY ATTORNEY'S OFFICE  
Bryan K. Scott (NV Bar No. 4381)  
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495 South Main Street, 6th Floor  
Las Vegas, Nevada 89101

***Attorneys for Plaintiffs Landowners***

SHUTE, MIHALY & WEINBERGER, LLP  
Andrew W. Schwartz (CA Bar No. 87699)  
(Admitted pro hac vice)  
Lauren M. Tarpey (CA Bar No. 321775)  
(Admitted pro hac vice)  
396 Hayes Street  
San Francisco, California 94102  
*Attorneys for City of Las Vegas*



**From:** [Autumn Waters](#)  
**To:** [Sandy Guerra](#)  
**Subject:** FW: 35 acres - Proposed Orders on Costs and Taxes  
**Date:** Wednesday, January 26, 2022 10:18:58 AM  
**Attachments:** [Order Re Retax Costs.docx](#)  
[Order Granting Motion to Reimburse Taxes.docx](#)

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---

**From:** Autumn Waters  
**Sent:** Friday, January 21, 2022 11:40 AM  
**To:** 'gogilvie@mcdonaldcarano.com' <gogilvie@mcdonaldcarano.com>;  
'cmolina@mcdonaldcarano.com' <cmolina@mcdonaldcarano.com>  
**Cc:** James Leavitt <jim@kermittwaters.com>; Elizabeth Ham (EHB Companies)  
<eham@ehbcompanies.com>  
**Subject:** 35 acres - Proposed Orders on Costs and Taxes

Hi George,

Attached for your review are the following proposed orders:

ORDER GRANTING IN PART AND DENYING IN PART THE CITY OF LAS VEGAS' MOTION TO  
RETAX MEMORANDUM OF COSTS

ORDER GRANTING PLAINTIFFS LANDOWNERS' MOTION FOR REIMBURSEMENT OF PROPERTY  
TAXES

Please let me know if I have your permission to attached your electronic signature to these proposed orders by Monday as we intend to submit them to the Court for signature first thing Tuesday morning.

Thank you and have a great weekend.

[Autumn Waters, Esq.](#)  
[Law Offices of Kermitt L. Waters](#)  
[704 South Ninth Street](#)  
[Las Vegas Nevada 89101](#)  
[tel: \(702\) 733-8877](#)  
[fax: \(702\) 731-1964](#)

This e-mail, and any attachments thereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, distribution or copying of this e-mail and any attachments thereto, is strictly prohibited. If you have received this e-mail in error, please immediately notify me at (702) 733-8877 and permanently delete the original and any copy of any e-mail and any printout thereof.

**AA1237**

Further information about the firm will be provided upon request.

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 180 Land Company LLC,  
7 Petitioner(s)

CASE NO: A-17-758528-J

8 vs.

DEPT. NO. Department 16

9 Las Vegas City of,  
10 Respondent(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12  
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order was served via the court's electronic eFile system to all  
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 2/16/2022

16 Jeffry Dorocak

jdorocak@lasvegasnevada.gov

17 Leah Jennings

ljennings@mcdonaldcarano.com

18 Philip Byrnes

pbyrnes@lasvegasnevada.gov

19 Todd Bice

tlb@pisanellibice.com

20 Dustun Holmes

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21 Jeffrey Andrews

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22 Robert McCoy

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23 Stephanie Allen

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24 Christopher Kaempfer

ckaempfer@kcnvlaw.com

25 Adar Bagus

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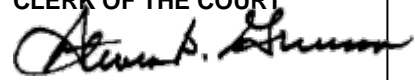
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AA1239

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2	Maddy Carnate-Peralta	mcarnate@hutchlegal.com
3	Autumn Waters	autumn@kermittwaters.com
4	Michael Schneider	michael@kermittwaters.com
5	James Leavitt	jim@kermittwaters.com
6	Kermitt Waters	kermitt@kermittwaters.com
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9	Amanda Yen	ayen@mcdonaldcarano.com
10	George Ogilvie III	gogilvie@Mcdonaldcarano.com
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18	Shannon Dinkel	sd@pisanellibice.com
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20	Andrew Schwartz	Schwartz@smwlaw.com
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22	David Weibel	weibel@smwlaw.com
23	Sandy Guerra	sandy@kermittwaters.com
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Jennifer Knighton	<a href="mailto:jknighton@ehbcompanies.com">jknighton@ehbcompanies.com</a>
Elizabeth Ham	<a href="mailto:EHam@ehbcompanies.com">EHam@ehbcompanies.com</a>
Rebecca Wolfson	<a href="mailto:rwolfson@lasvegasnevada.gov">rwolfson@lasvegasnevada.gov</a>

# **EXHIBIT “D”**



**NOE**  
**LAW OFFICES OF KERMITT L. WATERS**  
Kermitt L. Waters, Esq., Bar No. 2571  
kermitt@kermittwaters.com  
James J. Leavitt, Esq., Bar No. 6032  
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Michael A. Schneider, Esq., Bar No. 8887  
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Autumn L. Waters, Esq., Bar No. 8917  
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704 South Ninth Street  
Las Vegas, Nevada 89101  
Telephone: (702) 733-8877  
Facsimile: (702) 731-1964  
*Attorneys for Plaintiff Landowners*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

180 LAND CO., LLC, a Nevada limited liability  
company, FORE STARS Ltd., DOE  
INDIVIDUALS I through X, ROE  
CORPORATIONS I through X, and ROE  
LIMITED LIABILITY COMPANIES I through  
X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of  
the State of Nevada, 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-17-758528-J

Dept. No.: XVI

**NOTICE OF ENTRY OF:**

**ORDER GRANTING PLAINTIFFS  
LANDOWNERS' MOTION FOR  
REIMBURSEMENT OF PROPERTY  
TAXES**

**Hearing Date: January 19, 2022**

**Hearing Time: 10:00 a.m.**

**PLEASE TAKE NOTICE** that the Order Granting Plaintiffs Landowners' Motion for  
Reimbursement of Property Taxes ("Order") was entered on the 16<sup>th</sup> day of February, 2022.

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A copy of the Order is attached hereto.  
DATED this 17<sup>th</sup> day of February, 2022.

**LAW OFFICES OF KERMITT L. WATERS**

/s/ James J. Leavitt  
Kermitt L. Waters, Esq. (NSB 2571)  
James J. Leavitt, Esq. (NSB 6032)  
Michael A. Schneider, Esq. (NSB 8887)  
Autumn L. Waters, Esq. (NSB 8917)  
704 South Ninth Street  
Las Vegas, Nevada 89101  
Telephone: (702) 733-8877  
Facsimile: (702) 731-1964  
***Attorneys for Plaintiffs Landowners***



1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of the Law Offices of Kermit L. Waters, and  
3 that on the 17<sup>th</sup> day of February, 2022, pursuant to NRCP 5(b), a true and correct copy of the  
4 foregoing: **NOTICE OF ENTRY OF: ORDER GRANTING PLAINTIFFS LANDOWNERS’**  
5 **MOTION FOR REIMBURSEMENT OF PROPERTY TAXES** was served on the below via  
6 the Court’s electronic filing/service system and/or deposited for mailing in the U.S. Mail, postage  
7 prepaid and addressed to, the following:

8 **McDONALD CARANO LLP**

9 George F. Ogilvie III, Esq.  
10 Christopher Molina, Esq.  
2300 W. Sahara Avenue, Suite 1200  
Las Vegas, Nevada 89102  
11 [gogilvie@mcdonaldcarano.com](mailto:gogilvie@mcdonaldcarano.com)  
[cmolina@mcdonaldcarano.com](mailto:cmolina@mcdonaldcarano.com)

12 **LAS VEGAS CITY ATTORNEY’S OFFICE**

13 Bryan Scott, Esq., City Attorney  
Philip R. Byrnes, Esq.  
Rebecca Wolfson, Esq.  
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15 [bscott@lasvegasnevada.gov](mailto:bscott@lasvegasnevada.gov)  
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16 [rwolfson@lasvegasnevada.gov](mailto:rwolfson@lasvegasnevada.gov)

17 **SHUTE, MIHALY & WEINBERGER, LLP**

18 Andrew W. Schwartz, Esq.  
Lauren M. Tarpey, Esq.  
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19 San Francisco, California 94102  
[schwartz@smwlaw.com](mailto:schwartz@smwlaw.com)  
20 [ltarpey@smwlaw.com](mailto:ltarpey@smwlaw.com)

21 /s/ Sandy Guerra

22 an employee of the Law Offices of Kermit L. Waters  
23  
24

**ORDR**

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autumn@kermittwaters.com

704 South Ninth Street

Las Vegas, Nevada 89101

Telephone: (702) 733-8877

Facsimile: (702) 731-1964

*Attorneys for Plaintiffs Landowners*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

180 LAND CO., LLC, a Nevada limited liability  
company, FORE STARS Ltd., DOE  
INDIVIDUALS I through X, ROE  
CORPORATIONS I through X, and ROE  
LIMITED LIABILITY COMPANIES I through  
X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of  
the State of Nevada, 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-17-758528-J

Dept. No.: XVI

**ORDER GRANTING PLAINTIFFS  
LANDOWNERS' MOTION FOR  
REIMBURSEMENT OF PROPERTY  
TAXES**

Date of Hearing: January 19, 2022

Time of Hearing: 10:00 a.m.

1 Plaintiff Landowners’ Motion for Reimbursement of Taxes, having come before the Court  
2 on January 19, 2022, James J. Leavitt, Esq. of the Law Offices of Kermitt L Waters and Plaintiff’s  
3 in-house counsel Elizabeth Ghanem, Esq. appearing on behalf of Plaintiff Landowners 180 Land  
4 Co and Fore Stars. (“Landowners”), George F. Ogilvie III, Esq. and Christopher Molina, Esq. of  
5 McDonald Carano LLP and Andrew W. Schwartz, Esq. of Shute Mihaly and Weinberger LLP  
6 appearing on behalf of the City of Las Vegas (“City”).  
7

8 The Court having reviewed the papers and pleadings on file, heard argument of counsel,  
9 and for good cause appearing hereby finds and orders as follows:

10 Nevada law provides that “[a]n owner who is dispossessed from his or her land when it is  
11 taken for public use is no longer obligated to pay taxes” and the owner is entitled to reimbursement  
12 of property taxes actually paid after the land is taken. County of Clark v. Alper, 100 Nev. 382,  
13 395 (1984).  
14

15 This Court entered Findings of Fact and Conclusions of Law Granting Plaintiff  
16 Landowners’ Motion to Determine Take and for Summary Judgment on the First, Third, and  
17 Fourth Claims for Relief and Denying the City of Las Vegas’ Countermotion for Summary  
18 Judgment on the Second Claim for Relief, filed October 25, 2021 (FFCL Re: Take). The FFCL  
19 Re: Take details the actions by the City that resulted in a taking of the Landowners’ Property, with  
20 the first date of compensable injury being August 2, 2017. FFCL Re: Take, pp. 11-19, findings  
21 46-86.  
22

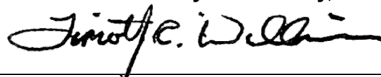
23 The Landowners presented uncontested evidence that they paid property taxes from August  
24 2, 2017, up to the date of the hearing in this matter in the amount of \$976,889.38.  
25

26 **THEREFORE, IT IS HEREBY ORDERED THAT** Plaintiff Landowners’ Motion for  
27 Reimbursement of Property Taxes is **GRANTED** and the City shall reimburse the Landowners  
28

1 for the taxes paid on the Subject Property from August 2, 2017, forward in the amount of  
2 \$976,889.38.

3 **IT IS FURTHER ORDERED THAT** the judgment that is entered in this matter shall  
4 include this \$976,889.38 to be paid by the City to the Landowners.

5  
6 Dated this 16th day of February, 2022

7 

8 MH

9 **69B 1F6 D918 A34D**  
**Timothy C. Williams**  
**District Court Judge**

10 Submitted By:

Content Reviewed and Approved by:

11 LAW OFFICES OF KERMIT L. WATERS

McDONALD CARANO LLP

12 By: /s/ James J. Leavitt

By: Did not respond

13 Kermitt L. Waters (NV Bar No. 2571)

George F. Ogilvie III (NV Bar No. 3552)

14 James J. Leavitt (NV Bar No. 6032)

Christopher Molina (NV Bar No. 14092)

15 Michael A. Schneider (NV Bar No. 8887)

2300 W. Sahara Avenue, Suite 1200

16 Autumn L. Waters (NV Bar No. 8917)

Las Vegas, Nevada 89102

17 704 South Ninth Street

18 Las Vegas, Nevada 89101

LAS VEGAS CITY ATTORNEY'S OFFICE

Bryan K. Scott (NV Bar No. 4381)

Philip R. Byrnes (NV Bar No. 166)

Rebecca Wolfson (NV Bar No. 14132)

495 South Main Street, 6th Floor

Las Vegas, Nevada 89101

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SHUTE, MIHALY & WEINBERGER, LLP

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(Admitted pro hac vice)

Lauren M. Tarpey (CA Bar No. 321775)

(Admitted pro hac vice)

396 Hayes Street

San Francisco, California 94102

***Attorneys for City of Las Vegas***

22 ***Attorneys for Plaintiffs Landowners***

**From:** [Autumn Waters](#)  
**To:** [Sandy Guerra](#)  
**Subject:** FW: 35 acres - Proposed Orders on Costs and Taxes  
**Date:** Wednesday, January 26, 2022 10:18:58 AM  
**Attachments:** [Order Re Retax Costs.docx](#)  
[Order Granting Motion to Reimburse Taxes.docx](#)

---

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**From:** Autumn Waters  
**Sent:** Friday, January 21, 2022 11:40 AM  
**To:** 'gogilvie@mcdonaldcarano.com' <gogilvie@mcdonaldcarano.com>;  
'cmolina@mcdonaldcarano.com' <cmolina@mcdonaldcarano.com>  
**Cc:** James Leavitt <jim@kermittwaters.com>; Elizabeth Ham (EHB Companies)  
<eham@ehbcompanies.com>  
**Subject:** 35 acres - Proposed Orders on Costs and Taxes

Hi George,

Attached for your review are the following proposed orders:

ORDER GRANTING IN PART AND DENYING IN PART THE CITY OF LAS VEGAS' MOTION TO  
RETAX MEMORANDUM OF COSTS

ORDER GRANTING PLAINTIFFS LANDOWNERS' MOTION FOR REIMBURSEMENT OF PROPERTY  
TAXES

Please let me know if I have your permission to attached your electronic signature to these proposed orders by Monday as we intend to submit them to the Court for signature first thing Tuesday morning.

Thank you and have a great weekend.

[Autumn Waters, Esq.](#)  
[Law Offices of Kermitt L. Waters](#)  
[704 South Ninth Street](#)  
[Las Vegas Nevada 89101](#)  
[tel: \(702\) 733-8877](#)  
[fax: \(702\) 731-1964](#)

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**AA1249**

Further information about the firm will be provided upon request.

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 180 Land Company LLC,  
Petitioner(s)

CASE NO: A-17-758528-J

7 vs.

DEPT. NO. Department 16

8  
9 Las Vegas City of,  
Respondent(s)

10  
11 **AUTOMATED CERTIFICATE OF SERVICE**

12  
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order Granting Motion was served via the court's electronic eFile  
system to all recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 2/16/2022

16 Jeffry Dorocak

jdorocak@lasvegasnevada.gov

17 Leah Jennings

ljennings@mcdonaldcarano.com

18 Philip Byrnes

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19 Todd Bice

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21 Jeffrey Andrews

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22 Robert McCoy

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23 Stephanie Allen

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24 Christopher Kaempfer

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25 Adar Bagus

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AA1251

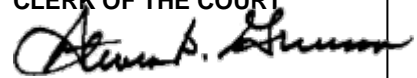
1	Michael Wall	mwall@hutchlegal.com
2	Maddy Carnate-Peralta	mcarnate@hutchlegal.com
3	Autumn Waters	autumn@kermittwaters.com
4	Michael Schneider	michael@kermittwaters.com
5	James Leavitt	jim@kermittwaters.com
6	Kermitt Waters	kermitt@kermittwaters.com
7	Elizabeth Ham	EHam@ehbcompanies.com
8	Jelena Jovanovic	jjovanovic@mcdonaldcarano.com
9	Amanda Yen	ayen@mcdonaldcarano.com
10	George Ogilvie III	gogilvie@Mcdonaldcarano.com
11	Karen Surowiec	ksurowiec@Mcdonaldcarano.com
12	Christopher Molina	cmolina@mcdonaldcarano.com
13	Jennifer Knighton	jknighton@ehbcompanies.com
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15	Evelyn Washington	evelyn@kermittwaters.com
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17	Desiree Staggs	dstaggs@kcnvlaw.com
18	Shannon Dinkel	sd@pisanellibice.com
19	Debbie Leonard	debbie@leonardlawpc.com
20	Andrew Schwartz	Schwartz@smwlaw.com
21	Lauren Tarpey	LTarpey@smwlaw.com
22	David Weibel	weibel@smwlaw.com
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Elizabeth Ham	<a href="mailto:EHam@ehbcompanies.com">EHam@ehbcompanies.com</a>
Rebecca Wolfson	<a href="mailto:rwolfson@lasvegasnevada.gov">rwolfson@lasvegasnevada.gov</a>

# **EXHIBIT “E”**



1 **NOE**  
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kermitt@kermittwaters.com  
4 James J. Leavitt, Esq., Bar No. 6032  
jim@kermittwaters.com  
5 Michael A. Schneider, Esq., Bar No. 8887  
michael@kermittwaters.com  
6 Autumn L. Waters, Esq., Bar No. 8917  
autumn@kermittwaters.com  
7 704 South Ninth Street  
Las Vegas, Nevada 89101  
8 Telephone: (702) 733-8877  
Facsimile: (702) 731-1964  
9 *Attorneys for Plaintiff Landowners*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

11 180 LAND CO., LLC, a Nevada limited liability  
12 company, FORE STARS Ltd., DOE  
13 INDIVIDUALS I through X, ROE  
CORPORATIONS I through X, and ROE  
LIMITED LIABILITY COMPANIES I through  
X,

14 Plaintiffs,

15 vs.

16 CITY OF LAS VEGAS, political subdivision of  
17 the State of Nevada, ROE government entities I  
through X, ROE CORPORATIONS I through X,  
18 ROE INDIVIDUALS I through X, ROE  
LIMITED LIABILITY COMPANIES I through  
19 X, ROE quasi-governmental entities I through X,

20 Defendant.

Case No.: A-17-758528-J

Dept. No.: XVI

**NOTICE OF ENTRY OF:**

**ORDER GRANTING PLAINTIFF  
LANDOWNERS' MOTION FOR  
ATTORNEY FEES IN PART AND  
DENYING IN PART**

**Hearing Date: February 3, 2022**

**Hearing Time: 1:30 p.m.**

21 **PLEASE TAKE NOTICE** that the Order Granting Plaintiff Landowners' Motion for  
22 Attorney Fees in Part and Denying in Part ("Order") was entered on the 18<sup>th</sup> day of February, 2022.

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A copy of the Order is attached hereto.  
DATED this 22<sup>nd</sup> day of February, 2022.

**LAW OFFICES OF KERMITT L. WATERS**

/s/Autumn L. Waters  
Kermitt L. Waters, Esq. (NSB 2571)  
James J. Leavitt, Esq. (NSB 6032)  
Michael A. Schneider, Esq. (NSB 8887)  
Autumn L. Waters, Esq. (NSB 8917)  
704 South Ninth Street  
Las Vegas, Nevada 89101  
Telephone: (702) 733-8877  
Facsimile: (702) 731-1964  
*Attorneys for Plaintiffs Landowners*

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of the Law Offices of Kermitt L. Waters, and  
3 that on the 22<sup>nd</sup> day of February, 2022, pursuant to NRCP 5(b), a true and correct copy of the  
4 foregoing: **NOTICE OF ENTRY OF: ORDER GRANTING PLAINTIFF LANDOWNERS’**  
5 **MOTION FOR ATTORNEY FEES IN PART AND DENYING IN PART** was served on the  
6 below via the Court’s electronic filing/service system and/or deposited for mailing in the U.S.  
7 Mail, postage prepaid and addressed to, the following:

8 **McDONALD CARANO LLP**

9 George F. Ogilvie III, Esq.  
10 Christopher Molina, Esq.  
11 2300 W. Sahara Avenue, Suite 1200  
12 Las Vegas, Nevada 89102  
13 [gogilvie@mcdonaldcarano.com](mailto:gogilvie@mcdonaldcarano.com)  
14 [cmolina@mcdonaldcarano.com](mailto:cmolina@mcdonaldcarano.com)

12 **LAS VEGAS CITY ATTORNEY’S OFFICE**

13 Bryan Scott, Esq., City Attorney  
14 Philip R. Byrnes, Esq.  
15 Rebecca Wolfson, Esq.  
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24 /s/ Sandy Guerra  
an employee of the Law Offices of Kermitt L. Waters

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*Attorneys for Plaintiffs Landowners*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

180 LAND CO., LLC, a Nevada limited liability company, FORE STARS Ltd., DOE INDIVIDUALS I through X, ROE CORPORATIONS I through X, and ROE LIMITED LIABILITY COMPANIES I through X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of the State of Nevada, 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-17-758528-J

Dept. No.: XVI

**ORDER GRANTING PLAINTIFF  
LANDOWNERS' MOTION FOR  
ATTORNEY FEES IN PART AND  
DENYING IN PART**

Date of Hearing: February 3, 2022

Time of Hearing: 1:30 p.m.

Plaintiff Landowners' Motion for Attorney Fees, having come before the Court on February 3, 2022, James J. Leavitt, Esq. of the Law Offices of Kermitt L Waters and Plaintiff

1 Landowners’ in-house counsel Elizabeth Ghanem, Esq. appearing on behalf of Plaintiff  
2 Landowners 180 Land Co and Fore Stars. (“Landowners”), George F. Ogilvie III, Esq. and  
3 Christopher Molina, Esq. of McDonald Carano LLP and Andrew W. Schwartz, Esq. of Shute  
4 Mihaly and Weinberger LLP appearing on behalf of the City of Las Vegas (“City”).

5         The Court having reviewed the papers and pleadings on file, heard argument of counsel,  
6 and for good cause appearing hereby finds and orders as follows:

7  
8         The Landowners moved for an award of attorney fees pursuant to the Uniform Relocation  
9 Assistance and Real Property Acquisition Act (“Relocation Act”) which Nevada has adopted in its  
10 entirety pursuant to NRS 342.105; *see also McCarran Int’l Airport v. Sisolak*, 122 Nev. 645, 673  
11 (2006) and *Tien Fu Hsu v. County of Clark*, 123 Nev. 625, 637 (2007); 2) the Nevada Constitution  
12 Article 1, Section 22 (4); and, 3) NRS 18.010(2)(b).

13  
14         **A.         The Relocation Act Provides for the Reimbursement of Attorney Fees**

15         The Relocation Act provides that an owner shall be “reimbursed for any reasonable  
16 expenses, including reasonable attorney...fees, which the owner actually incurred because of a  
17 condemnation proceeding” when, “[t]he court having jurisdiction renders a judgment in favor of  
18 the owner in an inverse condemnation proceeding” 49 CFR § 24.107(c)(2020); NRS 342.105. The  
19 Nevada Supreme Court has held that “[t]he Relocation Act requires that a state government entity  
20 receiving federal funds institute formal condemnation proceedings to acquire any interest in real  
21 property by exercising the power of eminent domain” and, if not, Nevada landowners may bring  
22 inverse condemnation claims and “may recover attorney fees and costs if they succeed in an  
23 inverse condemnation claim against the government.” *Sisolak*, at 673. Here, the Landowners have  
24 established that the City inversely condemned their property and therefore may recover their  
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1 reasonable attorney fees actually incurred pursuant to the Relocation Act, NRS 342.105 and  
2 *Sisolak*.

3         The City argued that the Landowners had to establish a nexus between federal funds and  
4 the project which took the Landowners' Property to recover attorney fees under the Relocation  
5 Act. Insofar as a Nevada landowner may be required to show that the taking agency receives  
6 federal funds to recover attorney fees under the Relocation Act or that the taking program receives  
7 federal funds to recover attorney fees under the Relocation Act, the Landowners have established  
8 both. The City receives federal funds generally and the City receives federal funds for its parks,  
9 recreation and open space program, the program for which the City took the Landowners'  
10 Property. *See Landowners' Mot. at Exhibits 12-16. Exhibit 12, screenshot of the City's Website*  
11 *stating the City receives federal funds; Exhibit 13, the City's 2050 Master Plan where the City*  
12 *details how it receives federal funds, specifically for parks and open space, see ATTY FEE MOT*  
13 *0226; Exhibit 14, the City's SNPLMA Projects (SNPLMA is a federal grant program where federal*  
14 *dollars are given to the City for Parks and Open Space); Exhibit 15, the City's 2017 Budget*  
15 *detailing federal dollars received; Exhibit 16, City's 2021 Budget detailing federal dollars*  
16 *received.* The Landowners are entitled to reimbursement of their reasonable attorney fees under  
17 the Relocation Act.  
18  
19  
20

21                 **B.         Article 1, Section 22 Provides for the Reimbursement of Attorney Fees**

22         The Landowners also moved for attorney fees under the Nevada Constitution Article 1,  
23 Section 22 (4). The Nevada constitution provides, "[i]n all eminent domain actions, just  
24 compensation shall be defined as that sum of money, necessary to place the property owner back  
25 in the same position, monetarily, without any governmental offsets, as if the property had never  
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1 been taken.” Nev. Const. Art I § 22(4).<sup>1</sup> The Constitution further provides that “Just compensation  
2 shall include, but is not limited to, compounded interest and all reasonable costs and expenses  
3 actually incurred.” Nev. Const. Art I § 22(4) (emphasis added). Attorney fees are expenses  
4 actually incurred. When interpreting constitutional provisions, the normal and ordinary meaning  
5 of words **must** be utilized. *Strickland v. Waymire*, 126 Nev. 230, 234 (2010). The normal and  
6 ordinary meaning of the word “*expense*,” include “the amount of money that is needed to pay for  
7 or buy something” and “something on which money is spent.” [http://www.merriam-](http://www.merriam-webster.com/dictionary/expense)  
8 [webster.com/dictionary/expense](http://www.merriam-webster.com/dictionary/expense). These normal and ordinary meanings of “*expense*” includes the  
9 amount of money needed to pay for legal counsel. To the extent there is any question about the  
10 normal and ordinary meaning of the language in an initiative petition, the Argument Opposing  
11 Passage in the Sample Ballot specifically informed Nevada Voters in 2006 and 2008 that “Further,  
12 we believe **taxpayers may have to pay all lawyers fees** and court expenses for any legal actions  
13 brought by private parties on eminent domain!” (Bold added, “!” in original text). See  
14 Landowners’ Motion *Exhibit 9*, p. 11 and *Exhibit 10*, p. 7. The Landowners are entitled to their  
15 attorney fees actually incurred pursuant to Article 1 Section 22(4).  
16  
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18

### 19 C. NRS 18.010(2)(b) Provides of Attorney Fees to the Prevailing Party

20 The Landowners also moved for attorney fees under NRS 18.010(2)(b) which also provides  
21 for the award of attorney fees to the prevailing party “when the court finds that the claim,  
22 counterclaim, cross-claim or third-party complaint or defense of the opposing party was brought  
23  
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---

26 <sup>1</sup> Consistent with long standing Nevada law, in *Nevadans for the Prot. Of Prop. Rights v. Heller*,  
27 122 Nev. 894, 908, 141 P.3d 1235, 1244-1245 (2006), the Nevada Supreme Court acknowledged  
28 that Article 1 § 22 would apply to inverse condemnation actions. See also *Clark County v. Alper*,  
100 Nev. 382, 395 (1984); *Argier v. Nevada Power Co.*, 114 Nev. 137, fn 2, 952 P.2d 1390 (1998).

1 or maintained without reasonable ground or to harass the prevailing party.” The Court finds that,  
2 given the record of this case, it is also appropriate to award attorney fees pursuant to NRS  
3 18.010(2)(b).

4 **D. Calculation of Attorney Fees**

5 Pursuant to *Tien Fu Hsu v. County of Clark*, 123 Nev. 625, 637 (2007), attorney fees shall  
6 be calculated based on the Lodestar analysis which requires “multiply the number of hours  
7 reasonably spent on the case by a reasonable hourly rate.” *Id.*, at 637. The Landowners’ counsel  
8 provided affidavits pursuant to NRCP Rule 54(d)(2)(B)(v)(a) “swearing that the fees were actually  
9 and necessarily incurred and were reasonable.” The affidavits further provide that the  
10 Landowners’ counsel have charged a rate of \$450 from August of 2017 up to May 31, 2019, and  
11 a rate of \$675 per hour thereafter. The attorney hours submitted by Landowners’ counsel from  
12 August of 2017 to February of 2022 totaled 3,906.91.

13 The Court finds the hours submitted by Landowners’ counsel to be reasonable and actually  
14 incurred based on the affidavits of Landowners’ counsel, the record in the case, the complexity of  
15 the case, the amount of work required in the case, and the fact that the City’s private attorneys  
16 have billed the City for more hours than the Landowners’ counsel. *Landowners’ Reply at 8 and*  
17 *Exhibit 18, 18a and 18b.*

18 The Court further finds that the rates of \$450 and \$675 per hour are reasonable based on  
19 the specialized nature of this action, the skill and expertise of Landowners’ counsel, the rate in the  
20 community (i.e. the City’s counsel charged the City \$550 per hour *Exhibit 17*, which the City did  
21 not contest is a government rate known to be lower than the normal rate charged), the level of  
22 difficulty and difficult nature of the case, the importance of the matters litigated, the large spread  
23 in the damage calculation between the parties, the work performed and time needed to perform the  
24

work, as well as the success of Landowners' counsel in this case. *See Landowners' motion for attorney fees pp. 11-26.*

The Landowners have also submitted for reimbursement of the Attorney's legal assistant fees which were also actually and reasonably incurred. The hours for the legal assistants total 1,063.93 and the Landowners submitted for these hours to be reimbursed at the actually incurred rate of \$50.00. There was no objection to the reasonableness of this time or rate.

To follow is a breakdown of the hours and rate for Landowners' counsel and legal assistants

**Attorney hours from August 2017 to May 31, 2019**

984.93 at \$450 = \$443,218.50

**Attorney hours from June 1, 2019 to October 31, 2021**

2,551.32 at \$675 = \$1,722,141.00

**Attorney hours from November 1, 2021 – January 25, 2022**

320.66 at \$675 = \$216,445.50

**Attorney hours from January 26, 2022-February 3, 2022**

50 at \$675 = \$33,750.00

**Total Attorney Fees actually incurred = \$2,415,555.00**

**Legal Assistants hours August 2017- January 25, 2022**

1,041.63 x \$50.00 = \$52,081.50

**Legal Assistants hours from January 26, 2022 to February 3, 2022**

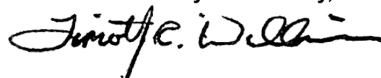
22.3 at \$50 = \$1,115.00

**Total Legal Assistants Fees actually incurred= \$53,196.50**

The Landowners also moved for an upward adjustment of attorney fees pursuant to 12 Hsu Factors. *Tien Fu Hsu v. County of Clark*, 123 Nev. 625, 637 (2007). The Court declines to make such an adjustment.

**THEREFORE, IT IS HEREBY ORDERED THAT** The Plaintiff Landowners' Motion for Attorney Fees is **GRANTED in part** as to the attorney fees actually incurred and **DENIED in part**, as to an upward adjustment. The Landowners shall receive an award of their attorney fees actually incurred totaling \$2,415,555.00 and legal assistant fees actually incurred totaling \$53,196.50 for a total of **\$2,468,751.50.**

Dated this 18th day of February, 2022



MH

CAB 6B7 762F BC96  
Timothy C. Williams  
District Court Judge

Submitted By:

Content Reviewed and Approved by:

LAW OFFICES OF KERMITT L. WATERS

McDONALD CARANO LLP

By: /s/ Autumn L. Waters

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Michael A. Schneider (NV Bar No. 8887)  
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***Attorneys for City of Las Vegas***

**From:** [Autumn Waters](#)  
**To:** [George F. Ogilvie III](#); [Christopher Molina](#); [James Leavitt](#); [Sandy Guerra](#)  
**Subject:** 35 acre Proposed Order Granting Attorney Fees in part  
**Date:** Tuesday, February 8, 2022 11:52:23 AM  
**Attachments:** [Order Granting Motion for Attorney Fees in part.docx](#)

---

Hi George,

Attached hereto is the proposed ORDER GRANTING PLAINTIFF LANDOWNERS' MOTION FOR ATTORNEY FEES IN PART AND DENYING IN PART for your review. Please let me know if I have your permission to attached your electronic signature by Thursday, as I would like to submit the order on Friday. Thank you

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1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 180 Land Company LLC,  
7 Petitioner(s)

CASE NO: A-17-758528-J

8 vs.

DEPT. NO. Department 16

9 Las Vegas City of,  
10 Respondent(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12  
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order was served via the court's electronic eFile system to all  
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 2/18/2022

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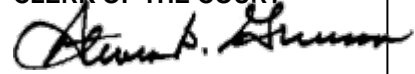
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# **EXHIBIT “F”**



NOE  
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*Attorneys for Plaintiff Landowners*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

180 LAND CO., LLC, a Nevada limited liability  
company, FORE STARS Ltd., DOE  
INDIVIDUALS I through X, ROE  
CORPORATIONS I through X, and ROE  
LIMITED LIABILITY COMPANIES I through  
X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of  
the State of Nevada, 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-17-758528-J

Dept. No.: XVI

**NOTICE OF ENTRY OF:**

**ORDER DENYING CITY OF LAS  
VEGAS' MOTION TO AMEND  
JUDGMENT (Rules 59(e) and 60(b)) AND  
STAY OF EXECUTION**

**Hearing Date: February 11, 2022**

**Hearing Time: 1:15 p.m.**

**PLEASE TAKE NOTICE** that the Order Denying City of Las Vegas' Motion to Amend  
Judgment (Rules 59(e) and 60(b)) and Stay of Execution ("Order") was entered on the 25<sup>th</sup> day of  
February, 2022.

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A copy of the Order is attached hereto.  
DATED this 28<sup>th</sup> day of February, 2022.

**LAW OFFICES OF KERMIT L. WATERS**

/s/Autumn L. Waters

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***Attorneys for Plaintiff Landowners***

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of the Law Offices of Kermitt L. Waters, and  
3 that on the 28<sup>th</sup> day of February, 2022, pursuant to NRCP 5(b), a true and correct copy of the  
4 foregoing: **NOTICE OF ENTRY OF: ORDER DENYING CITY OF LAS VEGAS’**  
5 **MOTION TO AMEND JUDGMENT (Rules 59(e) and 60(b)) AND STAY OF EXECUTION**  
6 was served on the below via the Court’s electronic filing/service system and/or deposited for  
7 mailing in the U.S. Mail, postage prepaid and addressed to, the following:

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21 /s/ Sandy Guerra  
22 an employee of the Law Offices of Kermitt L. Waters  
23  
24

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

180 LAND CO., LLC, a Nevada limited liability company, FORE STARS Ltd., DOE INDIVIDUALS I through X, ROE CORPORATIONS I through X, and ROE LIMITED LIABILITY COMPANIES I through X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of the State of Nevada, 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-17-758528-J

Dept. No.: XVI

**ORDER DENYING CITY OF LAS VEGAS' MOTION TO AMEND JUDGMENT (Rules 59(e) and 60(b)) AND STAY OF EXECUTION**

Date of Hearing: February 11, 2022

Time of Hearing: 1:15 p.m.

The City of Las Vegas' Motion to Amend Judgment (Rules 59(e) and 60(b)) and Stay of Execution, having come before the Court on February 11, 2022, James J. Leavitt, Esq. of the Law

1 Offices of Kermitt L Waters and Plaintiff Landowners' in-house counsel Elizabeth Ghanem, Esq.  
2 appearing on behalf of Plaintiff Landowners 180 Land Co and Fore Stars. ("Landowners"), George  
3 F. Ogilvie III, Esq. and Christopher Molina, Esq. of McDonald Carano LLP and Andrew W.  
4 Schwartz, Esq. of Shute Mihaly and Weinberger LLP appearing on behalf of the City of Las Vegas  
5 ("City").  
6

7 The Court having reviewed the papers and pleadings on file, heard argument of counsel,  
8 and for good cause appearing hereby finds and orders as follows:

9 The Nevada Supreme Court has held that "Inverse condemnation proceedings are the  
10 constitutional equivalent to eminent domain actions and are governed by the same rules and  
11 principles that are applied to formal condemnation proceedings." County of Clark v. Alper, 100  
12 Nev 382, 391 (1984) (emphasis added). This has been the law in Nevada since 1984 and the Nevada  
13 Supreme Court has reaffirmed this law numerous times since then.  
14

15 Therefore, this Court will follow the statutory mandate as provided in Nevada's eminent  
16 domain statutes, NRS Chapter 37, to resolve the pending matter in this inverse condemnation case.  
17

18 This Court has previously entered findings of fact and conclusions of law that the City took  
19 by inverse condemnation the Landowners' 35 Acre Property and must, accordingly, pay just  
20 compensation.

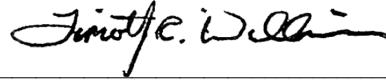
21 NRS 37.160 provides the procedure for passing title to the City of Las Vegas through a final  
22 order of condemnation once the sums assessed against the City are paid to the Landowners.  
23 Therefore, once the City pays the sums assessed in this matter to the Landowners, this Court will  
24 enter a final order of condemnation as provided in NRS 37.160.  
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1 This Court further finds that the Landowners have reversionary rights to the 35 Acre  
2 Property as set forth in NRS 37.270 and article 1, section 22 (1) and (6) of the Nevada State  
3 Constitution. These reversionary rights shall be set forth in the final order of condemnation.

4 The Court has previously denied the City's motion to stay execution and the City has  
5 provided no facts or law to revisit or reconsider that prior ruling.  
6

7 Based on the foregoing, **IT IS HEREBY ORDERED THAT** the City of Las Vegas Motion  
8 to Amend Judgement (Rules 59(e) and 60(b)) and Stay of Execution is **DENIED** and, once the City  
9 pays the sums assessed in this matter to the Landowners, the Court will enter a final order of  
10 condemnation as provided herein.

11 Dated this 25th day of February, 2022

12 

13  
14 338 491 34BF 1C81  
15 Timothy C. Williams  
16 District Court Judge

17 MH

Submitted By:

LAW OFFICES OF KERMIT L. WATERS

By: /s/ James J. Leavitt, Esq.

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***Attorneys for City of Las Vegas***



**From:** [James Leavitt](#)  
**To:** [George F. Ogilvie III](#); [Christopher Molina](#)  
**Cc:** [Autumn Waters](#); [Sandy Guerra](#)  
**Subject:** Proposed Order - Friday Hearing on City Motion to Amend  
**Date:** Saturday, February 12, 2022 8:27:34 AM  
**Attachments:** [Order Denying CLV Motion to Amend Judgment.docx](#)

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George:

Attached hereto is the proposed order from the hearing on the City's motion to amend.

Please review and let me know of any changes. We intend to send to the Court Wednesday morning.

Thank you and have a good weekend,  
Jim

**Jim Leavitt, Esq.**  
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1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 180 Land Company LLC,  
7 Petitioner(s)

CASE NO: A-17-758528-J

8 vs.

DEPT. NO. Department 16

9 Las Vegas City of,  
10 Respondent(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12  
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order was served via the court's electronic eFile system to all  
recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 2/25/2022

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