

**Case No. 84345**

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

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CITY OF LAS VEGAS, a political subdivision of the State of Nevada,  
*Appellant,*  
v.

Electronically Filed  
Mar 18 2022 04:03 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

180 LAND CO, LLC, a Nevada limited-liability company, and FORE STARS  
LTD., a Nevada limited-liability company,  
*Respondents.*

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Eighth Judicial District Court, Clark County, Nevada  
Case No. A-17-758528-J  
Honorable Timothy C. Williams, Department 16

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**APPENDIX TO OPPOSITION TO APPELLANT'S MOTION TO STAY  
VOLUME 26**

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## **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing APPENDIX TO OPPOSITION TO APPELLANT'S MOTION TO STAY - **VOLUME 26** was filed electronically with the Nevada Supreme Court on the 18<sup>th</sup> day of March, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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/s/ Sandy Guerra

An Employee of the Law Offices of Kermitt L. Water

1 THE COURT: I mean, my point is, they haven't made  
2 a distinction for me to follow.

3 MR. SCHWARTZ: I don't think that's correct. Can  
4 I address that, Your Honor?

5 THE COURT: That's why I'm -- and the reason I'm  
6 asking that question, and of course I'm going to give Mr.  
7 Leavitt an opportunity to comment on it, too, but all my  
8 decisions in many respects come back to Alper. That's a  
9 statement by our Nevada Supreme Court. I just can't ignore  
10 it and do what I want to do.

11 But, go ahead, sir. Go ahead and comment.

12 MR. SCHWARTZ: The Alper statement needs to be put  
13 in context. Alper was a physical takings case. It was really  
14 an eminent domain case. It was an inverse case in that the  
15 City took physical possession of the property for a public  
16 project. It filed one of these certificates instead of filing  
17 an eminent domain action. And the property owner had to bring  
18 an inverse condemnation action for the physical taking of its  
19 property to force the government agency to essentially bring  
20 an eminent domain action, which it did.

21 So, there, the government needed the property for  
22 a public project and the issue in Alper was -- so it was  
23 equivalent to an eminent domain case. The government there --  
24 what was at issue was not whether the government had a right  
25 to take the property or whether the government was liable for

1 a taking. The parties stipulated. The government physically  
2 took my property; of course the government is liable. This  
3 is like an eminent domain case.

4 And the court there said, yeah, eminent domain is  
5 equivalent to inverse but in terms of value. That statement  
6 of the court, Your Honor, needs to be put in context. It  
7 would make no sense -- it makes no sense in the context of  
8 an inverse condemnation case where what's at issue is the  
9 regulation of the owner's use of the property. That's a  
10 completely different type of case. And logically an eminent  
11 domain -- the rules for eminent domain cannot apply to the  
12 question of liability in a case like that.

13 This is a case like State, Kelly and Boulder City.  
14 Government regulates the owner's use of the property  
15 excessively, such that it is deemed the equivalent -- the  
16 equivalent of a physical taking, but it's a completely  
17 different concept.

18 So the rules for eminent domain where the owner --  
19 where the agency concedes liability for the taking, we're  
20 taking the property, we need it for a public project and we're  
21 going to pay for it, the only issue is how much you pay. So  
22 those rules that apply in eminent domain couldn't possibly  
23 apply in a case like this where what's at issue is a liability  
24 for a regulatory taking, a liability for a regulatory taking  
25 because liability is not at issue in those eminent domain

1 cases. And conceptually they're completely different. It's  
2 a physical taking of the property. You take possession and  
3 title for a public project. In a regulatory taking case like  
4 the case here, liability is -- depends on how much has the  
5 government limited the owner's use of the property. So you  
6 can't just willy-nilly apply rules for eminent domain to a  
7 regulatory taking case.

8           Now, yes, this issue goes to -- the issue before  
9 the Court is whether -- you know, how should the judgment be  
10 paid, what's the timing of the judgment and how should title  
11 transfer if the judgment is paid? Well, it makes no sense to  
12 apply the eminent domain rules here because the City doesn't  
13 want the property. And if the City pays the developer  
14 \$34 million plus for this property and then the City takes  
15 title to the property, it can't do anything with the property  
16 because if the City wins on appeal it's going to have to give  
17 the property back. That's going to be difficult enough, but  
18 a greater problem, as we pointed out to the Court, is the  
19 money is going to be gone. The City is not going to be able  
20 to recover that money.

21           Now, in an eminent domain case that's not a problem  
22 because the City wants the property. It needs the property.  
23 It needs it for a public project. So, yes, it's going to have  
24 to pay some money. In this case it's an involuntary -- it's  
25 not an involuntary sale of the property, and so the City is

1 going to be in deep trouble if it wins on appeal and it has  
2 already paid that money.

3           So that's what we argued. You know, I think the  
4 Court -- we think that the developer is leading the Court  
5 into error here, but the Court has decided that in spite of  
6 the City's arguments that the City is going to have to pay  
7 the money now. So I'm not expecting the Court to reverse  
8 that, even though I think we're dead right. But I do think  
9 the Court should at least recite in the judgment that if the  
10 City is going to be compelled to pay this money that at least  
11 the City is going to receive title to the property.

12           THE COURT: All right. And, sir, thank you.

13           Mr. Leavitt, any comments you wanted to make, sir,  
14 on the questions I raised?

15           MR. LEAVITT: Yeah, I'll briefly address the first  
16 question which does -- counsel addressed the issue of whether  
17 eminent domain and inverse condemnation law are the same  
18 and whether -- I'm sorry, the constitutional equivalent,  
19 whether the same rules and principles apply and he tried to  
20 distinguish Alper. Very briefly, Your Honor, Alper was an  
21 inverse condemnation case where the Court held that same  
22 ruling that you just quoted.

23           We also cited to you Argier v. Nevada Power Company,  
24 which was a direct condemnation action. And in that case we  
25 cited to inverse condemnation law in a direct condemnation

1 action. And the Nevada Supreme Court held that was proper,  
2 quoted Alper and said inverse condemnation law also applies  
3 in direct condemnation cases.

4 We also cited to 5th & Centennial v. City of North  
5 Las Vegas, which is now a pre-condemnation damage case. And  
6 in that case again the Nevada Supreme Court held that an  
7 inverse condemnation case and a direct condemnation case  
8 are the constitutional equivalent of one another and a pre-  
9 condemnation damage case is a type of inverse condemnation  
10 case, and therefore they're the constitutional equivalent  
11 and the same rules apply.

12 So no matter whether we're in an inverse case, a  
13 direct case or a pre-condemnation damages case, the Nevada  
14 Supreme Court reverts to that rule that they're all the  
15 constitutional equivalent and the same rules and principles  
16 apply. And why do they do that? Because once you get past  
17 liability, whatever case you're in the rules are the same  
18 from then on. That's why the court has done that.

19 And the Nevada Supreme Court never once has said  
20 here's our body of law for inverse condemnation cases and  
21 here's our body of law for direct condemnation cases. That  
22 would be totally unworkable. The court would have to somehow  
23 split hairs and say, well, this is the law for inverse, this  
24 is the law for direct. The Court said that it's not going to  
25 do that and in Nevada it has elected not to do that.



1           Now, one other thing I'll just reference very  
2 briefly, Your Honor, is that counsel said that, well, if this  
3 was a physical taking case then the eminent domain rules would  
4 apply. This Court found -- I'll very briefly summarize this.  
5 This Court found in its findings of fact and conclusions of  
6 law and you alluded to it. Number one, the councilman stated  
7 to the surrounding property owners, this is your open space,  
8 this is your park. It didn't end there. Then the entire City  
9 Council adopted a bill that targeted only this landowner's  
10 property, made it impossible to build on the property, and  
11 then said this property is for the surrounding property owners  
12 to use, and forced the landowner as part of that bill to allow  
13 ongoing public access to the property.

14           The next fact is, and I'll quote this one in the  
15 findings of fact and conclusions of law. "The landowners  
16 presented uncontested evidence that the neighbors are using  
17 the 250-acre property. Don Richards, the superintendent,  
18 submitted a declaration that those entering onto the property  
19 advised him that it was our open space. And they learned  
20 that it was their open space from the City, not only from the  
21 councilman but from the City Council adopting a bill saying  
22 it was their open space.

23           Your Honor, that's no different than condemning a  
24 parcel of property in a direct condemnation action, putting a  
25 sign on it and saying this is the park. I'll use Jaycee Park,

1 that's where I grew up in downtown, this is Jaycee Park and  
2 the public enters onto the park. That's the same exact thing  
3 that happened here.

4 Therefore, even under counsel's argument that if  
5 this is a physical take then eminent domain law would apply,  
6 we have a physical take and therefore even under his argument  
7 eminent domain should apply.

8 So, Your Honor, we could just do an order here out  
9 of this hearing which states that once the money is paid a  
10 final order of condemnation will be issued pursuant to NRS  
11 37.170 and 37.270. Both of those provisions have to be in  
12 that order so that the final order of condemnation applies and  
13 the reversionary rights apply. And, I'm sorry, Your Honor,  
14 one other thing would be in there, which is the constitutional  
15 provisions which are subsection 1 and subsection 6 of Article  
16 1, Section 22.

17 Thank you, Your Honor.

18 THE COURT: Thank you, sir.

19 And, Mr. Schwartz, you get the last word, sir.

20 MR. SCHWARTZ: Thank you, Your Honor. None of the  
21 cases that the developer has cited, either in this hearing  
22 or in their papers, involved anything other than either an  
23 eminent domain action or an inverse condemnation action that  
24 was in effect an eminent domain action where the public agency  
25 took physical possession of the property for a public project.

1           Throughout this litigation the developer has  
2 conflated physical and regulatory taking. Eminent domain  
3 involves a physical taking. A regulatory taking involves a  
4 regulation of the owner's use. It doesn't involve a physical  
5 taking. So all of the cases simply that the developer cited  
6 don't apply and they don't apply as a matter of logic. Here,  
7 as we said, there is no precedent for applying the eminent  
8 domain procedure to a case where regulation of the owner's  
9 use is at issue.

10           Now, we have already litigated this issue of  
11 physical taking. We think that the Court's judgment -- we  
12 think there's no evidence of a physical taking, of a permanent  
13 physical taking. The legislation did not say what counsel  
14 said it says. It didn't apply to this property. There's no  
15 action of the City Council that authorized the physical --  
16 the public physically occupy the property and the City hasn't  
17 dispossessed the property owner.

18           We're not expecting the Court to change the Court's  
19 mind on that. But we think that the judgment should not  
20 recite that the eminent domain law procedure applies. We  
21 think that the Court should just merely say if the City pays  
22 the judgment that title shall be transferred to the City, and  
23 not specify a procedure because we think it's error to apply  
24 the eminent domain procedures here because that implies that  
25 the City has to pay the money, has to pay the judgment within

1 30 days, which is completely appropriate in an eminent domain  
2 case where the government wants the property and is not going  
3 to give it back, but it's completely inappropriate in this  
4 case where the government does not want the property and an  
5 appeal could require unwinding the whole transaction.

6 An appeal in an eminent domain case doesn't unwind  
7 the transaction. The government is going to keep the property.  
8 Maybe the government will have to pay more or less, but the  
9 government keeps the property. That's not our case. If we  
10 win on appeal, the City wins on appeal, it's going to be a  
11 nightmare to try to unravel this transaction. And that's why  
12 we think the judgment should just say merely that if the City  
13 pays the judgment that title shall be transferred to the City.

14 Thank you.

15 THE COURT: All right. Thank you, sir.

16 This is what I'm going to do. And I think it's  
17 important, once again, and I don't mind saying this. As far  
18 as a lot of my decisions in this case, they were based upon  
19 the holding and the comments of our Nevada Supreme Court in  
20 the Alper case. And it's important to point this out because  
21 I think it goes a little bit further than the City feels  
22 because first it says "inverse condemnation proceedings are  
23 the constitutional equivalent to eminent domain actions."

24 And here's my point. They didn't stop there; right?  
25 If they stopped there, maybe we would have some potentially

1 arguments for gray areas as to what that means. But then they  
2 go further and they say, "and are governed by the same rules  
3 and principles that are applied to a formal condemnation  
4 proceeding." Period, close quote. It's right there.

5 And so based upon that case, and that's a 1984 case,  
6 it's been around for a long time, and a lot of the other cases  
7 that have been cited, our Nevada Supreme Court has had an  
8 opportunity, if they wanted to draw distinctions they could  
9 do that, but they never did.

10 And so here's my point. As far as the motion to  
11 amend the judgment pursuant to Rule 59(e) and 60(b), I'm going  
12 to deny it. Just as important, too, I'm going to follow the  
13 statutory mandate as it pertains to payment and the like under  
14 NRS 37.160 and 37.270 and the Nevada Constitution. That's  
15 what I'm going to do.

16 All right. And so, anyway --

17 MR. SCHWARTZ: Thank you, Your Honor.

18 THE COURT: -- Mr. Leavitt, will you prepare an  
19 order and circulate it?

20 MR. LEAVITT: Yes, Your Honor. I'll prepare an  
21 order and run it by Mr. Ogilvie.


22 THE COURT: Okay. All right. And I think that's  
23 it; right? We don't have anything further scheduled?

24 THE CLERK: That's it.

25 THE COURT: All right. Everyone enjoy your day.

1 MR. OGILVIE: Have a good weekend, Your Honor.  
2 THE COURT: You have a good one, too, sir.  
3 MR. LEAVITT: Thank you, Your Honor. Have a good  
4 weekend.  
5 MS. GHANEM HAM: Thank you.  
6 (PROCEEDINGS CONCLUDED AT 2:03 P.M.)  
7 \* \* \* \*

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

  
\_\_\_\_\_  
Liz Garcia, Transcriber  
LGM Transcription Service

**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:

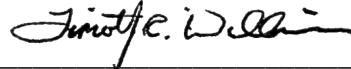
6		
7	HOLO Discovery	\$14,422.81
8	Nevada Supreme Court Law Library	\$33.20
9	Clark County Recorder	\$171.00
10	District Court Clerk	\$119.00
11	GGA Partners	\$11,162.41
12		
13	Global Golf Advisors	\$67,094.00
14	The DiFederico Group	\$114,250.00
15	Jones Roach & Caringella	\$29,625.00
16		
17	Legal 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

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

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

5  
6                   Dated this 16th day of February, 2022

7                   

8                   MH

9                   **51A C54 4F89 7CD2**  
**Timothy C. Williams**  
**District Court Judge**

10 Submitted By:

Content Reviewed and Approved by:

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McDONALD CARANO LLP

12 By: /s/ James J. Leavitt

By: Did Not Respond

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396 Hayes Street

San Francisco, California 94102

**Attorneys for City of Las Vegas**

19 **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](#)  
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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.

**RA 05546**

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

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18 Philip Byrnes	pbyrnes@lasvegasnevada.gov
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20 Dustun Holmes	dhh@pisanellibice.com
21 Jeffrey Andrews	jandrews@lasvegasnevada.gov
22 Robert McCoy	rmccoy@kcnvlaw.com
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26  
27  
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**RA 05548**

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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

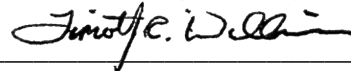
23 The Landowners presented uncontested evidence that they paid property taxes from August  
24 2, 2017, up to the date of the hearing in this matter in the amount of \$976,889.38.  
25

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 KERMITT L. WATERS

McDONALD CARANO LLP

12 By: /s/ James J. Leavitt

By: Did not respond

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

**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](#)

---

---

**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.

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**RA 05554**

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 Granting Motion was served via the court's electronic eFile  
15 system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 2/16/2022

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Jennifer Knighton

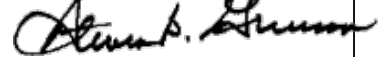
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*Attorneys for Plaintiff Landowners*

**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 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)  
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*Attorneys for Plaintiffs Landowners*

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**ORDR**

**LAW OFFICES OF KERMITT L. WATERS**

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Telephone: (702) 733-8877

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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 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

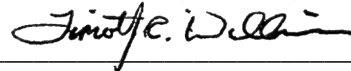
23 The Landowners presented uncontested evidence that they paid property taxes from August  
24 2, 2017, up to the date of the hearing in this matter in the amount of \$976,889.38.  
25

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 Kermit L. Waters (NV Bar No. 2571)  
14 James J. Leavitt (NV Bar No. 6032)  
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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](#)

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**RA 05565**

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**

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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  
15 system to all recipients registered for e-Service on the above entitled case as listed below:

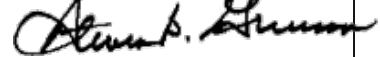
Service Date: 2/16/2022

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**RA 05567**

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3	Elizabeth Ham	EHam@ehbcompanies.com
4	Rebecca Wolfson	rwolfson@lasvegasnevada.gov
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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  
Kermitt L. Waters, Esq. (NSB 2571)  
James J. Leavitt, Esq. (NSB 6032)  
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*Attorneys for Plaintiffs Landowners*

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**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:

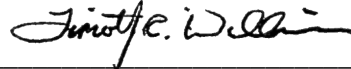
6		
7	HOLO Discovery	\$14,422.81
8	Nevada Supreme Court Law Library	\$33.20
9	Clark County Recorder	\$171.00
10	District Court Clerk	\$119.00
11	GGA Partners	\$11,162.41
12		
13	Global Golf Advisors	\$67,094.00
14	The DiFederico Group	\$114,250.00
15	Jones Roach & Caringella	\$29,625.00
16		
17	Legal 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

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

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

5  
6                   Dated this 16th day of February, 2022

7                   

8                   MH

9                   **51A C54 4F89 7CD2**  
**Timothy C. Williams**  
**District Court Judge**

10 Submitted By:

Content Reviewed and Approved by:

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McDONALD CARANO LLP

12 By: /s/ James J. Leavitt

By: Did Not Respond

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*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](#)  
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**RA 05577**

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

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

12  
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  
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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  
17  
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  
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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

14 The Court finds the hours submitted by Landowners’ counsel to be reasonable and actually  
15 incurred based on the affidavits of Landowners’ counsel, the record in the case, the complexity of  
16 the case, the amount of work required in the case, and the fact that the City’s private attorneys  
17 have billed the City for more hours than the Landowners’ counsel. *Landowners’ Reply at 8 and*  
18 *Exhibit 18, 18a and 18b.*  
19

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

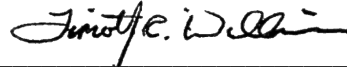
22.3 at \$50 = \$1,115.00

**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 KERMIT L. WATERS

McDONALD CARANO LLP

By: /s/ Autumn L. Waters

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By: Did not respond

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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

[Autumn Waters, Esq.](#)  
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**RA 05589**

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**

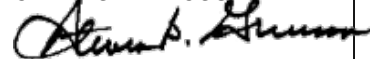
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*Attorneys for Plaintiff Landowners*

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

**Hearing Date: February 3, 2022**

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

**PLEASE TAKE NOTICE** that the Order Granting Plaintiff Landowners' Motion for  
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  
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**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 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.  
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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  
17  
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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25

---

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

14 The Court finds the hours submitted by Landowners’ counsel to be reasonable and actually  
15 incurred based on the affidavits of Landowners’ counsel, the record in the case, the complexity of  
16 the case, the amount of work required in the case, and the fact that the City’s private attorneys  
17 have billed the City for more hours than the Landowners’ counsel. *Landowners’ Reply at 8 and*  
18 *Exhibit 18, 18a and 18b.*  
19

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

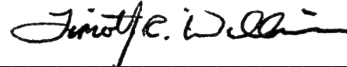
22.3 at \$50 = \$1,115.00

**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:

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McDONALD CARANO LLP

By: /s/ Autumn L. Waters

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**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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**RA 05603**

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:

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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 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

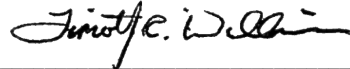
22 NRS 37.160 provides the procedure for passing title to the City of Las Vegas through a final  
23 order of condemnation once the sums assessed against the City are paid to the Landowners.  
24 Therefore, once the City pays the sums assessed in this matter to the Landowners, this Court will  
25 enter a final order of condemnation as provided in NRS 37.160.  
26  
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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 

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

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Submitted By:

LAW OFFICES OF KERMIT L. WATERS

By: /s/ James J. Leavitt, Esq.  
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James J. Leavitt (NV Bar No. 6032)  
Michael A. Schneider (NV Bar No. 8887)  
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*Attorneys for Plaintiffs Landowners*

Content Reviewed and Approved by:

McDONALD CARANO LLP

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**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](#)

---

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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**RA 05611**

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

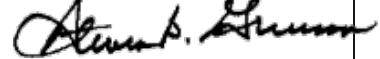
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*Attorneys for Plaintiff Landowners*

**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.

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**ORDR**

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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

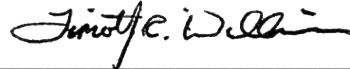
22 NRS 37.160 provides the procedure for passing title to the City of Las Vegas through a final  
23 order of condemnation once the sums assessed against the City are paid to the Landowners.  
24 Therefore, once the City pays the sums assessed in this matter to the Landowners, this Court will  
25 enter 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

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

17 MH



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Submitted By:

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By: /s/ James J. Leavitt, Esq.  
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**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](#)

---

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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**RA 05622**

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:

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