

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

CITY OF LAS VEGAS, A POLITICAL  
SUBDIVISION OF THE STATE OF NEVADA,

Appellant,

vs.

180 LAND CO., LLC, A NEVADA LIMITED-  
LIABILITY COMPANY; AND FORE STARS,  
LTD., A NEVADA LIMITED-LIABILITY  
COMPANY,

Respondents.

180 LAND CO., LLC, A NEVADA LIMITED-  
LIABILITY COMPANY; AND FORE STARS,  
LTD., A NEVADA LIMITED-LIABILITY  
COMPANY,

Appellants/Cross-Respondents,

vs.

CITY OF LAS VEGAS, A POLITICAL  
SUBDIVISION OF THE STATE OF NEVADA,

Respondent/Cross-Appellant.

No. 84345

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**INDEX TO SUPPLEMENT  
TO JOINT APPENDIX  
VOLUME 131  
(Nos. 26593–26622)**

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## INDEX TO SUPPLEMENT JOINT APPENDIX

DATE	DOCUMENT DESCRIPTION	LOCATION
04/29/2022	[704] Defendant City's Notice of Appeal	Vol. 131, 26593–26594
<b>Exhibits to Defendant City's Notice of Appeal</b>		
Exhibit	Document Description	
A	Notice of Entry of Findings of Fact, Conclusions of Law and Order Granting Landowners' Motion for Prejudgment Interest (filed 04/01/2022)	Vol. 131, 26595–26611
B	Notice of Entry of Final Judgment in Inverse Condemnation (filed 04/18/2022)	Vol. 131, 26612–26622

## **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing **INDEX TO SUPPLEMENT TO JOINT APPENDIX VOLUME 131 (Nos. 26593–26622)** with the Supreme Court of Nevada on the 17th day of October 2022. I will electronically serve the foregoing document in accordance with the Master Service List as follows:

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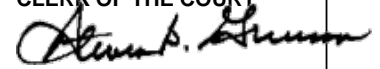
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**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

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 and Order Granting Plaintiff's Motion  
for Pre-Judgment Interest filed on April 1, 2022, notice of entry of which was served electronically  
on April 1, 2022, attached hereto as **Exhibit A**; and

2. The Final Judgment in Inverse Condemnation filed on April 18, 2022, notice of entry

1 of which was served electronically on April 18, 2022, attached hereto as **Exhibit B**.

2 DATED this 29th day of April, 2022.

3 McDONALD CARANO LLP

4 By: /s/ George F. Ogilvie III  
5 George F. Ogilvie III (NV Bar No. 3552)  
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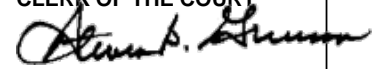
21 **CERTIFICATE OF SERVICE**

22 I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on the  
23 29th day of April, 2022, I caused a true and correct copy of the foregoing **DEFENDANT CITY**  
24 **OF LAS VEGAS' NOTICE OF APPEAL** to be electronically served with the Clerk of the Court  
25 via the Clark County District Court Electronic Filing Program which will provide copies to all  
26 counsel of record registered to receive such electronic notification.

27 /s/ Jelena Jovanovic  
28 An employee of McDonald Carano LLP

# **EXHIBIT “A”**





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9  
10 **DISTRICT COURT**  
11 **CLARK COUNTY, NEVADA**

12 180 LAND CO LLC, a Nevada limited liability  
company, FORE STARS, LTD., a Nevada limited  
13 liability company and SEVENTY ACRES, LLC, a  
Nevada limited liability company, DOE  
14 INDIVIDUALS I-X, DOE CORPORATIONS I-X,  
and DOE LIMITED LIABILITY COMPANIES I-X,

15 Plaintiffs,

16 v.

17 CITY OF LAS VEGAS, a political subdivision of  
the State of Nevada; ROE GOVERNMENT  
18 ENTITIES I-X; ROE CORPORATIONS I-X; ROE  
INDIVIDUALS I-X; ROE LIMITED-LIABILITY  
19 COMPANIES I-X; ROE QUASI-  
GOVERNMENTAL ENTITIES I-X,  
20

21 Defendants.

CASE NO.: A-17-758528-J

DEPT. NO.: XVI

**NOTICE OF ENTRY OF FINDINGS  
OF FACT, CONCLUSIONS OF LAW  
AND ORDER GRANTING  
PLAINTIFF'S MOTION FOR PRE-  
JUDGMENT INTEREST**

22  
23 **PLEASE TAKE NOTICE** that the Findings of Fact and Conclusions of Law and Order  
24 Granting Plaintiff's Motion for Pre-Judgment Interest was entered in the above-referenced case on  
25 the 1st day of April, 2022, a copy of which is attached hereto.

26 ...

27 ...

28 ...

1 DATED this 1st day of April, 2022.

2 McDONALD CARANO LLP

3 By: /s/ George F. Ogilvie III

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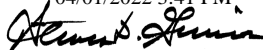
19 *Attorneys for City of Las Vegas*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on the 1st day of April, 2022, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER GRANTING PLAINTIFF'S MOTION FOR PRE-JUDGMENT INTEREST** 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

  
CLERK OF THE COURT

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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

**[PROPOSED] FINDINGS OF FACT AND  
CONCLUSIONS OF LAW AND ORDER  
GRANTING PLAINTIFF'S MOTION FOR  
PRE-JUDGMENT INTEREST**

Plaintiffs 180 Land Co LLC and Fore Stars Ltd. (collectively, "Plaintiffs") filed its Motion to Determine Pre-Judgment Interest (the "Motion") on December 9, 2021. The City of Las Vegas ("City") filed an opposition to the Motion on December 23, 2021. Plaintiffs filed a reply in support of the Motion on January 24, 2022.

...

1 The Motion came before the Court for hearing on February 3, 2022 at 1:40 p.m. James Jack  
2 Leavitt, Autumn Waters, and Elizabeth Ghanem Ham appeared for Plaintiffs. George F. Ogilvie  
3 III, Christopher Molina, and Andrew Schwartz appeared for the City. Having considered the points  
4 and authorities on file with the Court and oral argument of counsel, the Court makes the following  
5 findings of facts and conclusions of law:

6 **FINDINGS OF FACT**

7 1. In its November 18, 2021 Findings of Fact and Conclusions of Law on Just  
8 Compensation, the Court awarded Plaintiffs \$34,135,000 for the City's taking of the 35-Acre  
9 Property ("Judgment").

10 2. In its Motion to Determine Prejudgment Interest filed on December 9, 2021  
11 ("Motion"), Plaintiffs contended that it is entitled to prejudgment interest on the \$34,135,000  
12 Judgment under NRS 37.175 from the date of the City's taking, which Plaintiffs contend was  
13 August 2, 2017, to February 2, 2022, the date Plaintiffs anticipated this Court would enter an order  
14 granting prejudgment interest.

15 3. Plaintiffs further argued in its Motion that prejudgment interest could not be less  
16 than the prime rate plus two percent, as provided in NRS 37.175(4)(b) and (c).

17 4. Plaintiffs further contended in the Motion that for Plaintiffs to be made whole; i.e.,  
18 put in the same position monetarily as it would have been in had the City not taken the 35-Acre  
19 Property, Plaintiffs should be awarded prejudgment interest on the Judgment at a rate equivalent to  
20 the return that Plaintiffs would have achieved had Plaintiffs invested the Judgment in an  
21 unidentified real estate venture in Las Vegas on the date of the alleged taking. Based on evidence  
22 of appreciation in real estate values in Las Vegas from August 2017 through February 2022,  
23 Plaintiffs claimed that it would have earned \$52,515,866.90 on its investment, plus \$46,687.19 per  
24 day after February 2, 2022 until the Judgment is satisfied.

25 5. The City contended in its opposition that the rate of prejudgment interest should be  
26 the statutory rate set forth in NRS 37.175, which is prime plus two percent.

27 . . .

28 . . .

**CONCLUSIONS OF LAW**

**A. Interest on the Judgment at a rate higher than Prime plus 2 percent is not necessary to put Plaintiffs in the same monetary position as before the taking**

1. Prejudgment interest on a money judgment for a regulatory taking may be awarded under Nevada Constitution Article 1, Section 22(4) and NRS 37.175. Nevada Constitution Article 1, Section 22(4) provides:

In all eminent domain actions, just compensation shall be defined as that sum of money, necessary to place the property owner back in the same position, monetarily, without any governmental offsets, as if the property had never been taken. Just compensation shall include, but is not limited to, compounded interest and all reasonable costs and expenses actually incurred.

NRS 37.175, which implements Nevada Constitution Article 1, Section 22(4) provides in relevant part that:

4. The court shall determine, in a posttrial hearing, the award of interest and award as interest the amount of money which will put the person from whom the property is taken in as good a position monetarily as if the property had not been taken. The district court shall enter an order concerning:

(a) The date on which the computation of interest will commence;

(b) The rate of interest to be used to compute the award of interest, which must not be less than the prime rate of interest plus 2 percent; and

(c) Whether the interest will be compounded annually.

2. Accordingly, a taking claimant is entitled to a rate of prejudgment interest on a taking judgment higher than the statutory rate of prime plus two percent only if the higher rate is necessary to put the claimant in the same monetary position it would have been without the taking.

3. Here, Plaintiffs have not shown that an award of interest at a rate higher than the prime rate plus two percent is necessary to put Plaintiffs in as good a position monetarily as if the property had not been taken.

4. The Court rejects Plaintiffs' reliance on *State ex rel. Dept. of Transp. v. Barsity*, 113 Nev. 712, 718, 941 P.2d 971 (1997), applying an earlier version of NRS 37.175, for the proposition

1 that prejudgment interest should not be the prime rate plus two percent as indicated by the statute,  
2 but rather 23 percent, to make Plaintiffs whole. An interest rate of 23 percent is not necessary to  
3 put Plaintiffs in the same position as before the City's alleged taking. Neither *Barsy* nor the evidence  
4 supports this rate of interest.

5 5. In *Barsy*, the defendant in an eminent domain action owned a building occupied by  
6 two tenants. In 1988, the Nevada Department of Transportation ("NDOT") identified Barsy's  
7 property for acquisition by eminent domain for a highway construction project. In late 1988 or early  
8 1989, a representative of NDOT informed Barsy's tenants "of the imminent project . . . . Due to  
9 NDOT's inability to indicate an accurate time frame for the acquisition of the property, the tenants  
10 refused to renew their leases upon expiration." 113 Nev. at 715-16, 941 P.2d at 974. "Barsy was  
11 unable to attract new tenants because of the uncertainty surrounding the acquisition by NDOT." *Id.*  
12 Barsy presumably had no income from his building after the tenants vacated. The NDOT delayed  
13 filing a condemnation action against Barsy until 1992, after Barsy's two tenants had vacated the  
14 premises. 113 Nev. at 716, 941 P.2d at 974. During the entire eminent domain action, Barsy was  
15 unable to attract new tenants and suffered lost income. *Id.*

16 6. In addition to awarding Barsy just compensation based on the fair market value of  
17 Barsy's property, the District Court awarded Barsy prejudgment interest of eight percent, two  
18 percent above the prime rate, rather than the rate specified in the eminent domain law at the time.<sup>1</sup>  
19 100 Nev. at 178-19, 941 P.2d at 975-76. The court found that if the compensation had been paid  
20 before the judgment, Barsy could have used it to extend his mortgage, presumably at a lower rate,  
21 or invest in other property that would produce a return that would have made up for Barsy's lost  
22 income from before and during the litigation. Because the award of just compensation was  
23 insufficient to make Barsy whole, the higher interest rate was necessary to put Barsy in the same  
24 position monetarily as he would have been had his property not been taken. *See* NRS 37.175(4).

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25  
26  
27 <sup>1</sup> At the time *Barsy* was decided, NRS 37.175 set prejudgment interest at the rate of interest paid  
28 on one year's United States Treasury bills. NRS 37.175 was later amended to require prejudgment  
interest at the prime rate plus two percent.

7. Through the payment of prime plus two percent, Plaintiffs will be made whole. Prejudgment interest at a rate higher than prime plus two percent is not necessary to put Plaintiffs in the same monetary position but for the taking. *Barsy*, therefore, provides no support to Plaintiffs, and the Court rejects Plaintiffs' reliance on that case.

**B. No authority permits the award of profit that allegedly would have been earned from a speculative real estate investment under the guise of prejudgment "interest"**

8. The Court finds that Plaintiffs request an award not of "interest" as defined in Nevada law, but rather "profit" from a hypothetical, and speculative, real estate investment. No authority supports this claim.

9. The Court rejects Plaintiffs' request to base prejudgment interest on the expert reports Plaintiffs presented as to the rate of return Plaintiffs could have earned investing in other real estate during the relevant period. The Court finds that the payment of prime plus two percent is sufficient to put Plaintiffs in the same position monetarily as it would have been had its property not been taken.

10. "Interest" is defined by Oxford Languages as "money paid regularly at a particular rate for the use of money lent, or for delaying the repayment of a debt." "Profit" is defined by Oxford Languages as "a financial gain, especially the difference between the amount earned and the amount spent in buying, operating, or producing something." "Interest" in this case, therefore, is the return Plaintiffs would have earned if it had received the judgment in 2017 and loaned it to others. The interest rate would logically be a rate competitive with the rates charged by other lenders. That rate would be close to the prime rate. In Nevada, the Legislature has set that rate for eminent domain actions at two percent above the prime lending rate of large banks. Profit, by contrast, would be money that Plaintiffs could earn if it invested the money in a real estate venture. In that case, the investment would "produce" something of value that Plaintiffs could then sell or rent, hence, "profit." Interest, by its definition, is a known amount that must be paid by contract; profit, in contrast, is speculative, and depends on a myriad of factors.

11. Here, Plaintiffs rely on market data obtained by its consultants to argue that had Plaintiffs invested the Judgment in an unidentified and hypothetical real estate investment project



1 in 2017, it would have made it a profit of 23 percent per year for more than four years. Even if the  
2 claim was not pure speculation, the return Plaintiffs claims it would have earned is not “interest.”  
3 Rather, it is “profit.” If this Court were to conflate “interest” with “profit” in the manner proposed  
4 by Plaintiffs, in every case of a money judgment in Nevada, the plaintiff could (a) contend that if it  
5 had been paid the money at the time of the damage, it could have invested the money in real estate,  
6 the stock market, its uncle’s business, or any other unidentified business venture; (b) obtain the  
7 testimony of an “expert” predicting that the investment in the hypothetical and unidentified venture  
8 would yield a profit of a certain amount; and (c) call the profit prejudgment “interest.” Profits from  
9 real estate investment and other businesses, however, are uncertain and generally too speculative to  
10 be admitted in evidence. *See Sargon Enterprises, Inc. v. University of S. Cal.*, 55 Cal.4th 747, 776  
11 (2012) (excluding an expert’s lost profit estimates based on a hypothetical increased share of the  
12 market). Profit from a business investment lacks the certainty of the prime rate of interest, which is  
13 publicized by the federal government. The Nevada Supreme Court has determined that property  
14 owners are entitled to prejudgment “interest” on takings judgments, not prejudgment “profit” from  
15 speculative business ventures.

16 **C. No Nevada court has awarded prejudgment interest in a taking case at**  
17 **a rate higher than prime plus two percent**

18 12. There is no Nevada precedent for an award of annual prejudgment interest in a taking  
19 case greater than two percent above the prime rate and no precedent that prejudgment “interest”  
20 could be set by the speculative profit from an investment of the award of just compensation in  
21 another property or business venture.

22 13. In *County of Clark v. Alper*, 100 Nev. 381, 685 P.2d 943 (1984), the District Court  
23 awarded prejudgment interest of seven percent per year, which was the rate provided in NRS 37.175  
24 at the time. 100 Nev. at 393, 685 P.2d at 950. The Nevada Supreme Court remanded the case to the  
25 District Court for an evidentiary hearing to determine whether a different rate of interest was  
26 warranted to make the property owners whole. 100 Nev. at 394, 685 P.2d at 951. The Court  
27 indicated that the proper rate of prejudgment interest should be based “on the actual market rate of  
28 interest during the years in question.” There is no suggestion in *Alper* that the rate of prejudgment

1 interest could be the profit the condemnee could make by investing the award of just compensation  
2 during the litigation.

3 14. In *City of Sparks v. Armstrong*, 103 Nev. 619, 748 P.2d 7 (1987), the Court ordered  
4 that prejudgment interest should be at the statutory rate under NRS 37.175, even though the subject  
5 property was “vacant, unimproved, and held for investment purposes at the time of the taking.” 103  
6 Nev. at 623. There is no suggestion that prejudgment “interest” could be interpreted as the value of  
7 the profit from a speculative investment of the judgment.

8 15. Finally, in *Barsy*, the Court affirmed an award of prejudgment interest of eight  
9 percent, which was two percent above the prime rate. The Court found that that loss was not fully  
10 compensated in the award of just compensation and therefore it was necessary to restore Barsy to  
11 his monetary position before NDOT caused his tenants to move out. 100 Nev. at 178-19, 941 P.2d  
12 at 975-76. Because the statutory prejudgment interest rate has been increased to prime plus two  
13 percent after *Barsy*, the Court finds that that rate is consistent with all Nevada authority.

14 **D. Prejudgment interest must be compounded annually**

15 16. NRS 37.175 indicates that the Court has discretion to order annual compounding of  
16 prejudgment interest.

17 17. However, the Nevada Constitution, article 1, section 22 (4), states “Just  
18 Compensation shall include ... compounded interest.”

19 18. Accordingly, the award of interest shall be compounded annually.

20 **ORDER**

21 Accordingly, IT IS HERBY ORDERED, ADJUDGED, and DECREED that:

22 1. The Motion is hereby GRANTED, IN PART.

23 2. Plaintiffs are entitled to prejudgment interest calculated at the statutory rate  
24 prescribed by NRS 37.175 of prime rate plus 2 percent.

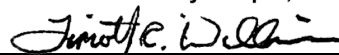
25 3. Accordingly, the prejudgment interest on the judgment of \$34,135,000 at a rate of  
26 prime plus two percent and compounded annually from August 2, 2017 through November 18,  
27 2021, is \$ \$10,258,953.30. *See* attached spreadsheet.

28

4. The City shall pay interest on the judgment for any periods after November 18, 2021, up until the time the City satisfies the \$34,135,000 judgment, as provided in NRS 37.175(1), which shall be calculated and determined consistent with the findings of fact and conclusions of law set forth herein.

DATED: this \_\_\_ day of \_\_\_\_\_, 2022.

Dated this 1st day of April, 2022



DISTRICT COURT JUDGE

MH

**8F8 150 A597 9932**  
**Timothy C. Williams**  
**District Court Judge**

Submitted By:

Reviewed and Approved as to form and content By:

McDONALD CARANO LLP

LAW OFFICES OF KERMIT L. WATERS

/s/ George F. Ogilvie III  
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Christopher Molina, Esq. Bar No. 14092  
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LAS VEGAS CITY ATTORNEY'S OFFICE  
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Philip R. Byrnes, Esq., Bar No. 166  
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495 S. Main Street, 6th Floor  
Las Vegas, Nevada 89101

/s/ James J. Leavitt  
Kermitt L. Waters, Esq., Bar No. 2571  
James J. Leavitt, Esq., Bar No. 6032  
Michael A. Schneider, Esq., Bar No. 8887  
Autumn L. Waters, Esq., Bar No. 8917  
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*Attorney for 180 Land Co LLC and Fore Stars Ltd.*

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*

---

**From:** James Leavitt <jim@kermittwaters.com>  
**Sent:** Friday, April 1, 2022 8:57 AM  
**To:** Christopher Molina; George F. Ogilvie III; Jelena Jovanovic  
**Cc:** Autumn Waters; Michael Schneider; Elizabeth Ham (EHB Companies); Jennifer Knighton (EHB Companies)  
**Subject:** FW: FFCL Re: Prejudgment Interest  
**Attachments:** City's Proposed FFCL re Motion for Pre-Judgment Interest, 3-17-22 - version 5.docx

Chris:

Good morning.

With the revisions made, you may affix my signature to the FFCL.

Thank you, and have a great weekend.

Jim

Jim Leavitt, 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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---

**From:** Christopher Molina <cmolina@mcdonalddcarano.com>  
**Sent:** Thursday, March 31, 2022 8:06 AM  
**To:** James Leavitt <jim@kermittwaters.com>; George F. Ogilvie III <gogilvie@Mcdonalddcarano.com>  
**Cc:** Autumn Waters <autumn@kermittwaters.com>; Michael Schneider <michael@kermittwaters.com>; Jelena Jovanovic <jjovanovic@mcdonalddcarano.com>; Elizabeth Ham (EHB Companies) <eham@ehbcompanies.com>; Jennifer Knighton (EHB Companies) <jknighton@ehbcompanies.com>  
**Subject:** RE: FFCL Re: Prejudgment Interest

Good morning Jim,

We have no objection to changing "Developer" to Plaintiffs, which I have done in the attached version. We don't believe it's necessary to include additional findings regarding the evidence Plaintiffs presented to the court as it's already in the record and there's already a description of that evidence in conclusion of law #11.

I've now incorporated four rounds of revisions into this FFCL and it is long overdue. We will submit to chambers prior to our hearing this afternoon in the 133-acre case. Please let me know if I have permission to affix your signature.

**Chris Molina** | Attorney



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

---

**From:** James Leavitt <[jim@kermittwaters.com](mailto:jim@kermittwaters.com)>

**Sent:** Wednesday, March 30, 2022 2:22 PM

**To:** Christopher Molina <[cmolina@mcdonaldcarano.com](mailto:cmolina@mcdonaldcarano.com)>; George F. Ogilvie III <[gogilvie@Mcdonaldcarano.com](mailto:gogilvie@Mcdonaldcarano.com)>

**Cc:** Autumn Waters <[autumn@kermittwaters.com](mailto:autumn@kermittwaters.com)>; Michael Schneider <[michael@kermittwaters.com](mailto:michael@kermittwaters.com)>; Jelena Jovanovic <[jjovanovic@mcdonaldcarano.com](mailto:jjovanovic@mcdonaldcarano.com)>; Elizabeth Ham (EHB Companies) <[eham@ehbcompanies.com](mailto:eham@ehbcompanies.com)>; Jennifer Knighton (EHB Companies) <[jknighton@ehbcompanies.com](mailto:jknighton@ehbcompanies.com)>

**Subject:** RE: FFCL Re: Prejudgment Interest

Chris:

Attached is a redline with our clients edits. Two main changes:

1. The City wants to call our client "Developer" our client wants to be called "Landowners" - we changed this to "Plaintiffs".
2. Paragraph 4 – we more clearly identified the evidence that the Plaintiff Landowners presented to the Court – the two expert reports by DiFederico and Lenhart. This simply states the fact that these two reports were presented and in two sentences summarizes what was in both reports.

Let me know if this is good to go.

Jim

Jim Leavitt, Esq.  
*Law Offices of Kermitt L. Waters*  
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1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA

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

CASE NO: A-17-758528-J

DEPT. NO. Department 16

8 vs.

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:

Service Date: 4/1/2022

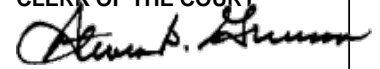
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# **EXHIBIT “B”**



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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:**

**FINAL JUDGMENT IN INVERSE  
CONDEMNATION**

**PLEASE TAKE NOTICE** that the Final Judgment in Inverse Condemnation  
("Judgment") in the above referenced matter was entered on the 18<sup>th</sup> day of April, 2022.

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A copy of the Judgment is attached hereto.  
DATED this 18<sup>th</sup> day of April, 2022.

**LAW OFFICES OF KERMITT L. WATERS**

/s/Autumn L. Waters  
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*Attorneys for Plaintiff Landowners*

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[ltarpey@smwlaw.com](mailto:ltarpey@smwlaw.com)

3

1 **JGMT**

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11 kermitt@kermittwaters.com

12 jim@kermittwaters.com

13 michael@kermittwaters.com

14 autumn@kermittwaters.com

15 ***Attorneys for Plaintiff Landowners***

16 **DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

18 180 LAND CO LLC, a Nevada limited-liability  
19 company; FORE STARS, LTD., a Nevada limited-  
20 liability company; DOE INDIVIDUALS I through X,  
21 ROE CORPORATIONS I through X, and ROE  
22 LIMITED LIABILITY COMPANIES I through X,

23 Plaintiffs,

24 v.

25 CITY OF LAS VEGAS, a political subdivision of the  
26 State of Nevada; ROE government entities I through  
27 X; ROE CORPORATIONS I through X; ROE  
28 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

**FINAL JUDGMENT IN INVERSE CONDEMNATION**

On October 27, 2021, the Court conducted a bench trial, with Plaintiffs, 180 LAND COMPANY, LLC and FORE STARS, Ltd. (hereinafter "Landowners") appearing through their counsel, Autumn L. Waters, Esq. and James Jack Leavitt, Esq., of the Law Offices of Kermitt L. Waters, along with the Landowners' corporate counsel Elizabeth Ghanem, Esq., and with the City

1 of Las Vegas (hereinafter “the City”) appearing through its counsel, George F. Ogilvie III, Esq.  
2 of McDonald Carrano, LLP and Philip R. Byrnes, Esq. and Rebecca Wolfson, Esq., of the City  
3 Attorney’s Office and thereafter this Court entered Findings of Fact and Conclusions of Law on  
4 Just Compensation, notice of entry occurring on November 24, 2021. Thereafter, the Court  
5 entertained briefing and oral argument on all relevant post trial issues and entered the following  
6 Orders: 1) Order Granting in Part and Denying in Part the City of Las Vegas’ Motion to Retax  
7 Memorandum of Costs, notice of entry occurring on February 17, 2022; 2) Order Granting  
8 Plaintiff Landowners’ Motion for Reimbursement of Property Taxes, notice of entry occurring  
9 on February 17, 2022; 3) Order Granting Plaintiff Landowners’ Motion for Attorney Fees in Part  
10 and Denying in Part, notice of entry occurring on February 22, 2022; and, 4) Findings of Fact and  
11 Conclusions of Law and Order Granting Plaintiff’s Motion for Pre-Judgment Interest, notice of  
12 entry occurring on April 1, 2022.

13 Based on the referenced orders and findings of fact and conclusions of law having been  
14 entered, pursuant to NRCP Rules 52(a)(1), 54(a), and 58, judgment is hereby entered in favor of  
15 the Landowners and against the City of Las Vegas as follows:

16 The City shall pay to the Landowners for the taking of the 35 Acre Property **\$34,135,000.**

17 The City shall pay to the Landowners’ attorney fees in the amount of **\$2,468,751.50.**

18 The City shall pay to the Landowners’ costs in the amount of **\$274,445.16.**

19 The City shall reimburse the Landowners’ real estate taxes paid on the 35 Acre Property  
20 in the amount of **\$976,889.38.**

21 The City shall pay prejudgment interest in the amount of **\$10,258,953.30** for interest up to  
22 November 18, 2021, and shall pay interest on the judgment for any periods after November 18,  
23 2021, up until the time the City satisfies the \$34,135,000 judgment, as provided in NRS 37.175(1),  
24 which shall be calculated and determined consistent with Findings of Fact and Conclusions of Law  
25 and Order Granting Plaintiff’s Motion for Pre-Judgment Interest, notice of entry occurring on April  
26 1, 2022.

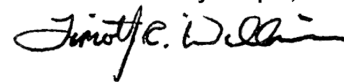
1           These sums assessed against the City and in favor of the Landowners shall be paid within  
2 30 days and as a condition to appeal as provided in the Courts Findings of Fact and Conclusions  
3 of Law and order Denying the City's Motion for Immediate Stay of Judgment; and Granting  
4 Plaintiff Landowners' Countermotion to Order the City to Pay the Just Compensation, notice of  
5 entry occurring on February 10, 2022.  
6

7           Interest will continue to accrue on the final judgment until satisfied.

8           The Landowners shall serve all parties written notice of entry of final judgment.

9  
10          Dated this \_\_\_\_\_ day of April, 2022.

Dated this 18th day of April, 2022



93A 140 093E 36D8  
Timothy C. Williams  
District Court Judge

MH

14 Respectfully Submitted By:

Content Reviewed and Approved By:

15  
16 **LAW OFFICES OF KERMITT L. WATERS**

**McDONALD CARANO LLP**

17 /s/ James J. Leavitt

Did not respond

18 Kermitt L. Waters, Esq. (NV Bar No. 2571)  
19 James J. Leavitt, Esq. (NV Bar No. 6032)  
20 Michael A. Schneider, Esq. (NV Bar No. 8887)  
21 Autumn L. Waters, Esq. (NV Bar No. 8917)  
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George F. Ogilvie III, Esq. (NV Bar No. 3552)  
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(Admitted *pro hac vice*)  
396 Hayes Street  
San Francisco, California 94102  
***Attorneys for City of Las Vegas***

**From:** [James Leavitt](#)  
**To:** [Sandy Guerra](#)  
**Subject:** FW: Final Judgment In Inverse Condemnation  
**Date:** Wednesday, April 6, 2022 11:28:10 AM  
**Attachments:** [Final Judgment 4.4.22 egh.docx](#)

---

Jim Leavitt, Esq.  
***Law Offices of Kermitt L. Waters***  
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---

**From:** James Leavitt  
**Sent:** Monday, April 4, 2022 1:58 PM  
**To:** George F. Ogilvie III <[gogilvie@Mcdonaldcarano.com](mailto:gogilvie@Mcdonaldcarano.com)>; Christopher Molina <[cmolina@mcdonaldcarano.com](mailto:cmolina@mcdonaldcarano.com)>  
**Cc:** Autumn Waters <[autumn@kermittwaters.com](mailto:autumn@kermittwaters.com)>; Elizabeth Ham (EHB Companies) <[eham@ehbcompanies.com](mailto:eham@ehbcompanies.com)>; Jennifer Knighton (EHB Companies) <[jknighton@ehbcompanies.com](mailto:jknighton@ehbcompanies.com)>  
**Subject:** Final Judgment In Inverse Condemnation

George:

Attached is the Final Judgment in Inverse Condemnation. Please review and let me know if we have your permission to affix your signature.

We intend to submit to Judge Williams Wednesday, April 6, at 10:00 am.

Jim

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

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

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

CASE NO: A-17-758528-J

DEPT. NO. Department 16

8 vs.

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 Judgment 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: 4/18/2022

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