

**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.

No. 84345

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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. 84640

**MOTION FOR LEAVE TO FILE LANDOWNERS' SUR-REPLY BRIEF TO  
CITY'S REPLY BRIEF ON APPEAL**

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Respondents and Appellants/Cross-Respondents, 180 Land Co., LLC and Fore Stars, Ltd. (“Landowners”), request leave of this Court to file a Sur-Reply Brief to the City’s Reply Brief on Appeal filed on May 1, 2023 in which the City raised several new arguments for the first time regarding the 17 Acre Property as it relates to the City’s initial approvals and its taking in this 35 Acre case.

After the completion of briefing in an appeal and cross-appeal, as in the instant case, “[u]nless the court permits, no further briefs may be filed in a case involving a cross-appeal.” NRAP 28.1(c)(5). In the briefing for a normal appeal, the reply brief “must be limited to answering any new matter set forth in the opposing brief.” Unfortunately, the City’s Reply Brief on Appeal raises several new issues for the first time. The majority of the City’s new arguments in its Reply Brief on Appeal start around page 49 and go through around page 63. The specific new arguments are detailed in the Landowners’ Sur-Reply Brief submitted concurrently with this motion. Given that the City also filed nine appendix volumes with its Reply Brief on Appeal, Landowners submit one additional appendix volume with their Sur-Reply Brief.

As a matter of procedural due process, Landowners must be given notice and an opportunity to respond to the City's new arguments, as explicitly allowed by NRAP 28.1(c)(5). *See Callie v. Bowling*, 123 Nev. 181, 183, 160 P.3d 878, 879 (2007) ("This court has recognized that procedural due process requires notice and an opportunity to be heard.") (internal quotations omitted). Alternatively, the Court has the option to ignore the new arguments raised for the first time in the City's Reply Brief on Appeal. *See Francis v. Wynn Las Vegas, LLC*, 127 Nev. 657, 671 n.7, 262 P.3d 705, 715 n.7 (2011) (declining to consider an argument that the appellant "raised. . . for the first time in his reply brief, thereby depriving [the respondent] of a fair opportunity to respond"). However, Landowners prefer that the Court consider their submitted Sur-Reply Brief to have an accurate framework of the City's new arguments.

Therefore, according to NRAP 28.1(c)(5) and their procedural due process, Landowners request leave to file their Sur-Reply Brief to the City's Reply Brief on Appeal.

Dated this 17th day of May 2023.

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## **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing **MOTION FOR LEAVE TO FILE LANDOWNERS' SUR-REPLY BRIEF TO CITY'S REPLY BRIEF ON APPEAL** with the Supreme Court of Nevada on the 17th day of May 2023. I will electronically serve the foregoing document in accordance with the Master Service List as follows:

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