

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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Clerk of Supreme Court

No. 84640

**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
Exhibits to Defendant City’s Notice of Appeal		
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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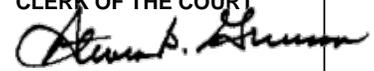
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15 **DISTRICT COURT**
16 **CLARK COUNTY, NEVADA**

17 180 LAND CO LLC, a Nevada limited liability
18 company, FORE STARS, LTD., a Nevada limited
19 liability company and SEVENTY ACRES, LLC, a
20 Nevada limited liability company, DOE
21 INDIVIDUALS I-X, DOE CORPORATIONS I-X,
22 and DOE LIMITED LIABILITY COMPANIES I-X,

23 Plaintiffs,

24 v.

25 CITY OF LAS VEGAS, a political subdivision of
26 the State of Nevada; ROE GOVERNMENT
27 ENTITIES I-X; ROE CORPORATIONS I-X; ROE
28 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**

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

31 1. The Findings of Fact and Conclusions of Law and Order Granting Plaintiff's Motion
32 for Pre-Judgment Interest filed on April 1, 2022, notice of entry of which was served electronically
33 on April 1, 2022, attached hereto as **Exhibit A**; and

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

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

DATED this 29th day of April, 2022.

McDONALD CARANO LLP

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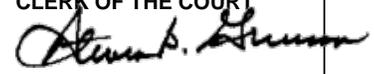
Attorneys for City of Las Vegas

CERTIFICATE OF SERVICE

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

/s/ Jelena Jovanovic
An employee of McDonald Carano LLP

EXHIBIT “A”



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15 **DISTRICT COURT**
16 **CLARK COUNTY, NEVADA**

17 180 LAND CO LLC, a Nevada limited liability
18 company, FORE STARS, LTD., a Nevada limited
19 liability company and SEVENTY ACRES, LLC, a
20 Nevada limited liability company, DOE
21 INDIVIDUALS I-X, DOE CORPORATIONS I-X,
22 and DOE LIMITED LIABILITY COMPANIES I-X,

23 Plaintiffs,

24 v.

25 CITY OF LAS VEGAS, a political subdivision of
26 the State of Nevada; ROE GOVERNMENT
27 ENTITIES I-X; ROE CORPORATIONS I-X; ROE
28 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

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

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

32 ...

33 ...

34 ...

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DATED this 1st day of April, 2022.

McDONALD CARANO LLP

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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

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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.

...

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1 **CONCLUSIONS OF LAW**

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

5 1. Prejudgment interest on a money judgment for a regulatory taking may be awarded
6 under Nevada Constitution Article 1, Section 22(4) and NRS 37.175. Nevada Constitution Article
7 1, Section 22(4) provides:

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

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

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

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

23 (b) The rate of interest to be used to compute the award of
24 interest, which must not be less than the prime rate of interest plus
25 2 percent; and

26 (c) Whether the interest will be compounded annually.

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

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

33 4. The Court rejects Plaintiffs' reliance on *State ex rel. Dept. of Transp. v. Barsy*, 113
34 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.¹
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).

25
26 _____
27 ¹ 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.

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

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

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

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

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

28 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.

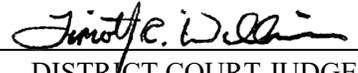
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4. The City shall pay interest on the judgment for any periods after November 18, 2021, up until the time the City satisfies the \$34,135,000 judgment, as provided in NRS 37.175(1), which shall be calculated and determined consistent with the findings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

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(Admitted *pro hac vice*)
Lauren M. Tarpey (CA Bar No. 321775)
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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@mcdonaldcarano.com>
Sent: Thursday, March 31, 2022 8:06 AM
To: James Leavitt <jim@kermittwaters.com>; George F. Ogilvie III <gogilvie@McDonaldcarano.com>
Cc: Autumn Waters <autumn@kermittwaters.com>; Michael Schneider <michael@kermittwaters.com>; Jelena Jovanovic <jjovanovic@mcdonaldcarano.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

From: James Leavitt <jim@kermittwaters.com>

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

To: Christopher Molina <cmolina@mcdonaldcarano.com>; George F. Ogilvie III <gogilvie@Mcdonaldcarano.com>

Cc: Autumn Waters <autumn@kermittwaters.com>; Michael Schneider <michael@kermittwaters.com>; Jelena Jovanovic <jjovanovic@mcdonaldcarano.com>; Elizabeth Ham (EHB Companies) <eham@ehbcompanies.com>; Jennifer Knighton (EHB Companies) <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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fax: (702) 731-1964

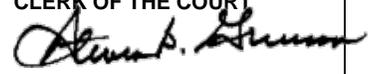
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EXHIBIT “B”



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

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

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

15 Plaintiffs,

16 vs.

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

20 Defendant.

Case No.: A-17-758528-J
Dept. No.: XVI

NOTICE OF ENTRY OF:

**FINAL JUDGMENT IN INVERSE
CONDEMNATION**

21 **PLEASE TAKE NOTICE** that the Final Judgment in Inverse Condemnation
22 (“Judgment”) in the above referenced matter was entered on the 18th day of April, 2022.

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A copy of the Judgment is attached hereto.

DATED this 18th day of April, 2022.

LAW OFFICES OF KERMITT L. WATERS

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

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of the Law Offices of Kermitt L. Waters, and
3 that on the 18th day of April, 2022, pursuant to NRCP 5(b), a true and correct copy of the foregoing:
4 **NOTICE OF ENTRY OF: FINAL JUDGMENT IN INVERSE CONDEMNATION** was
5 served on the below via the Court’s electronic filing/service system and/or deposited for mailing
6 in the U.S. Mail, postage prepaid and addressed to, the following:

7 **McDONALD CARANO LLP**
8 George F. Ogilvie III, Esq.
9 Christopher Molina, Esq.
10 2300 W. Sahara Avenue, Suite 1200
11 Las Vegas, Nevada 89102
12 gogilvie@mcdonaldcarano.com
13 cmolina@mcdonaldcarano.com

14 **LAS VEGAS CITY ATTORNEY’S OFFICE**
15 Bryan Scott, Esq., City Attorney
16 Philip R. Byrnes, Esq.
17 Rebecca Wolfson, Esq.
18 495 S. Main Street, 6th Floor
19 Las Vegas, Nevada 89101
20 bscott@lasvegasnevada.gov
21 pbyrnes@lasvegasnevada.gov
22 rwolfson@lasvegasnevada.gov

23 **SHUTE, MIHALY & WEINBERGER, LLP**
24 Andrew W. Schwartz, Esq.
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ltarpey@smwlaw.com

/s/ Sandy Guerra
an employee of the Law Offices of Kermitt L. Waters

1 **JGMT**
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4 James J. Leavitt, Esq. (NSB 6032)
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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*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 180 LAND CO LLC, a Nevada limited-liability
14 company; FORE STARS, LTD., a Nevada limited-
15 liability company; DOE INDIVIDUALS I through X,
16 ROE CORPORATIONS I through X, and ROE
17 LIMITED LIABILITY COMPANIES I through X,

17 Plaintiffs,

18 v.

19 CITY OF LAS VEGAS, a political subdivision of the
20 State of Nevada; ROE government entities I through
21 X; ROE CORPORATIONS I through X; ROE
22 INDIVIDUALS I through X; ROE LIMITED
23 LIABILITY COMPANIES I through X; ROE quasi-
24 governmental entities I through X,

24 Defendants.

CASE NO.: A-17-758528-J
DEPT. NO.: XVI

25 **FINAL JUDGMENT IN INVERSE CONDEMNATION**

26 On October 27, 2021, the Court conducted a bench trial, with Plaintiffs, 180 LAND
27 COMPANY, LLC and FORE STARS, Ltd. (hereinafter "Landowners") appearing through their
28 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.

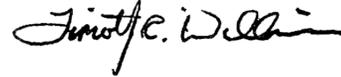
1 These sums assessed against the City and in favor of the Landowners shall be paid within
2 30 days and as a condition to appeal as provided in the Courts Findings of Fact and Conclusions
3 of Law and order Denying the City's Motion for Immediate Stay of Judgment; and Granting
4 Plaintiff Landowners' 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 Dated this _____ day of April, 2022.

Dated this 18th day of April, 2022



10
11
12
13 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 KERMIT 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)
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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>; Christopher Molina <cmolina@mcdonaldcarano.com>
Cc: Autumn Waters <autumn@kermittwaters.com>; Elizabeth Ham (EHB Companies) <eham@ehbcompanies.com>; Jennifer Knighton (EHB Companies) <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.
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