

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.,
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

FILED

MAR 31 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

No. 84640

ORDER REGARDING MOTIONS

Proposed amicus City of West Wendover has filed a 'Motion for Leave to File Joinder to Brief of Amici Curiae City of Reno, City of North Las Vegas, and International Municipal Lawyer's Association in Support of Appellant.' Despite its untimeliness, the motion is granted. NRAP 29(a), (f). The clerk of this court shall detach the joinder from the motion and shall file it separately.¹

¹The clerk of this court shall add attorneys Nancy Porter and Lauren A. Landa and the law firm of Goicoechea, DiGrazia, Coyle & Stanton, Ltd., to the docket as counsel for the City of West Wendover.

23-09930

This court takes no action regarding the “Joinder to Brief of Amici Curiae City of Reno, City of North Las Vegas, and International Municipal Lawyer's Association in Support of Appellant” filed on February 2, 2023, by City of Ely attorney Matthew Leo Cahoon on behalf of the Nevada League of Cities and Municipalities. The motion for leave to file a joinder was granted to the Nevada League of Cities on January 12, 2023.

Appellant and respondent/cross-appellant City of Las Vegas (City) has filed a motion to strike the appendix and answering brief filed by 180 Land Co., LLC, and Fore Stars, Ltd. (Landowners).² The Landowners have filed an opposition, and the City has filed a reply.

The City argues that the proposed appendix contains materials that were not filed in the underlying district court proceedings, that concern unrelated matters, and that post-date the district court's judgment on appeal. *See Carson Ready Mix v. First Nat'l Bank*, 97 Nev. 474, 476, 635 P.2d 276, 277 (1981) (this court's review is limited to the record made in and considered by the district court). The City further argues that the Landowners' brief contains such extensive reference to the improper material that it should be stricken in its entirety and refiled. Landowners counter that the materials at issue--records of litigation involving two other inverse condemnation actions that Landowners filed against the City--are public records appropriate for judicial notice and that they are relevant because they refute the factual narrative proposed in the City's opening brief. Landowners argue further that in its opening brief the City implicitly “opened the door” to the information it now seeks to suppress.

²Landowners' motion for leave to file an opposition to the motion to strike in excess of the page limitations of NRAP 27 is granted. The opposition and request for judicial notice was filed on February 14, 2023.

It appears that the arguments raised by the motion to strike are sufficiently related to the merits of the issues on appeal that resolution on a motion to strike is inappropriate at this point, and this court denies the motion to strike at this time. *See Taylor v. Barringer*, 75 Nev. 409, 410, 344 P.2d 676, 676 (1959). This court will take provisional judicial notice of the public record materials in the appendix (*see* NRS 47.130; *Mack v. Estate of Mack*, 125 Nev. 80, 91, 206 P.3d 98, 106 (2009)), but the parties are cautioned that in resolving this matter, this court will not entertain any issue that is improperly raised, or any factual matters or arguments improperly included in the parties' presentations to this court.³

Having considered the motion, opposition,⁴ and reply, the City's motion for an extension of time to file the reply brief on appeal and answering brief on cross-appeal is granted as follows. The City shall have 30 days from the date of this order to file and serve the combined reply and answering brief. No further extensions shall be granted absent a showing of extraordinary circumstances and extreme need. NRAP 31(b)(3)(B). Counsel's caseload will not be deemed such a circumstance. *Varnum v. Grady*, 90 Nev. 374, 528 P.2d 1027 (1974). Failure to comply timely with this order may result in the imposition of sanctions. NRAP 31(d).

It is so ORDERED.

 Stiglin , C.J.

³This court declines to impose sanctions on Landowners or to award attorney fees pursuant to NRAP 38, as requested by the City.

⁴Landowners' motion for an extension of time to file an opposition to the motion for an extension is granted. The opposition was filed on February 15, 2023.

cc: McDonald Carano LLP/Las Vegas
Shute, Mihaly & Weinberger, LLP
Las Vegas City Attorney
Leonard Law, PC
Law Offices of Kermitt L. Waters
Claggett & Sykes Law Firm
EHB Companies, LLC
Henderson City Attorney
Reno City Attorney
North Las Vegas City Attorney
Nossaman, LLP
Davison Van Cleve, P.C.
Goicoechea, DiGrazia, Coyle & Stanton, Ltd.
City of Ely Attorney