

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 84345

and

Case No. 84640

Electronically Filed
Dec 21 2023 01:57 PM
Elizabeth A. Brown
Clerk of Supreme Court

CITY OF LAS VEGAS, a political subdivision of the State of Nevada

Appellant

v.

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

Respondents

District Court Case No.: A-17-758528-J
Eighth Judicial District Court of Nevada

**CITY OF LAS VEGAS' MOTION REQUESTING RECUSAL OF
THE HONORABLE JUSTICE PATRICIA LEE**

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Attorneys for City of Las Vegas

On December 20, 2023, the Court issued its Oral Argument Reminder Notice, which set forth that oral argument on January 4, 2024 will occur before the en banc Court, consisting of Justices Cadish, Stiglich, Herndon, Lee, Parraguirre, and Bell. Justice Pickering voluntarily recused from the case on April 5, 2022. Pursuant to Nev. Code of Jud. Conduct Rule 2.11(A), Appellant City of Las Vegas (“City”) respectfully requests recusal of the Honorable Justice Patricia Lee because the law firm with which she was formerly a partner, Hutchison & Steffen, represented Respondents 180 Land Co, LLC and Fore Starts Ltd. (collectively, “the Developer”) in this case.

Nevada Code of Judicial Conduct Rule 2.11(A) provides:

A judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to the following circumstances:

* * *

(6) The judge:

(a) served as a lawyer in the matter in controversy ***or was associated with a lawyer who participated substantially as a lawyer in the matter during such association....*** (emphasis added)

Here, Hutchison & Steffen represented the Developer before the City Council in the events that gave rise to this action and in this case before the district court. This is apparent from the following documents in the joint appendix, in which Hutchison & Steffen appears as counsel for the Developer:

| Joint Appendix Volume(Pages) | Filing Date | Description |
|---|------------------------|--|
| 1(71-87) | 2/23/2018 | First Amended Complaint Pursuant to Court Order Entered on February 2, 2018 for Severed Alternative Verified Claims in Inverse Condemnation |
| 1(88-102) | 2/28/2018 | Second Amended Petition for Judicial Review to Sever Alternative Verified Claims in Inverse Condemnation Per Court Order Entered on February 1, 2018 |
| 1(103-119) | 2/28/2018 | Errata to First Amended Complaint Pursuant to Court Order Entered on February 1, 2018 for Severed Alternative Verified Claims in Inverse Condemnation |
| 1(128-175) | 5/7/2019 | Reporter's Transcript of 5/8/2018 Hearing on Intervenor's Motion to Intervene on an Order Shortening Time |
| 1(176-201) | 5/7/2019 | Reporter's Transcript of 7/25/2018 Hearing on Emergency Motion to Strike Errata to Transmittal of Record for Review |
| 2(230-294) | 12/11/2018 | Landowners' Motion for Summary Judgment on Liability for the Landowners' Inverse Condemnation Claims |
| 2(295-413) | 12/11/2018 | Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims |
| 2(414-441) | 12/13/2018 | Landowners' Motion for a New Trial Pursuant to NRCP 59(e) and Motion to Alter or Amend Pursuant to NRCP 52(b) and/or Reconsider the Findings of Fact and Conclusions of Law and Motion to Stay Pending Nevada Supreme Court Directives |
| 3(442-510) | 12/14/2018 | Landowners' Supplement to Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims |

| Joint Appendix Volume(Pages) | Filing Date | Description |
|---|------------------------|---|
| 3(511-527) | 12/17/2018 | Landowners' Opposition to the City's Motion to Strike Plaintiffs' Motion for Summary Judgment on Liability for the Landowners' Inverse Condemnation Claims on Order Shortening Time |
| 3(528-531) | 12/20/2018 | Landowners' Notice of Appeal |
| 3(576-597) | 1/7/2019 | City's Opposition to Plaintiff Landowners' Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims Ex. B. – 6/29/2018 Transcript Petition for Judicial Review |
| 4(625-709) | 1/14/2019 | Landowners' Reply re Request for Rehearing/Reconsideration of Order/Judgment Dismissing Inverse Condemnation Claims |
| 4(710-803) | 5/7/2019 | Reporter's Transcript of 1/22/2019 Hearing on Landowners' Motion for a New Trial; Motion to Alter or Amend and/or Reconsider; and Motion to Stay |
| 4(804-809) | 2/6/2019 | Landowners' Notice of Entry of Order <i>Nunc Pro Tunc</i> Regarding Findings of Fact and Conclusion of Law Entered November 21, 2019 |
| 4(824-834) | 3/4/2019 | Landowners' Ex Parte Application to File Motion for Judicial Determination of Liability that Exceeds Page Limit |
| 5(835-961) | 3/4/2019 | Landowners' Opposition to Motion for Judgment on the Pleadings on Inverse Condemnation Claims and Countermotion for Judicial Determination of Liability on Inverse Condemnation Claims and Countermotion to Supplement/Amend the Pleadings, if Required |
| 6(962-1082) | 3/4/2019 | Landowners' Supplemental Appendix of Exhibits in Support of Opposition to Motion for Judgment on the Pleadings on Inverse Condemnation Claims and Countermotion for |

| Joint Appendix Volume(Pages) | Filing Date | Description |
|---|------------------------|--|
| | | Judicial Determination of Liability on Inverse Condemnation Claims and Countermotion to Supplement/Amend the Pleadings, if Required |
| 6(1083-1087) | 3/11/2019 | Landowners' Notice of Entry of Order Granting Ex Parte Application to File Motion for Judicial Determination of Liability in Excess of 30 Pages |
| 7(1262-1275) | 3/21/2019 | Landowners' Supplement to Appendix of Exhibits in Support of Countermotion for Judicial Determination of Liability on Inverse Condemnation Claims and Countermotion to Supplement/Amend the Pleadings, if Required |
| 7(1317-1340) | 4/23/2019 | City's Motion to Stay Proceedings Pending Resolution of Writ Petition to the Nevada Supreme Court on Order Shortening Time Exs. D, E – 4/15/2019 Plaintiff Landowners' Requests for Admission to the City of Las Vegas; 4/15/2019 Landowners' Request for Production of Documents to the City of Las Vegas |
| 8(1367-1550) | 5/7/2019 | Landowners' Opposition to City's Motion to Stay Proceedings Pending Resolution of Writ Petition to the Nevada Supreme Court on Order Shortening Time and Countermotion for <i>Nunc Pro Tunc</i> Order |
| 8(1551-1566) | 5/8/2019 | Landowners' Notice of Entry of Findings of Fact and Conclusions of Law |
| 8(1574-1591) | 5/14/2019 | Landowners' Reply re Countermotion for <i>Nunc Pro Tunc</i> Order |
| 9(1592-1618) | 5/15/2019 | Landowners' Notice of Entry of Order Granting Landowners' Countermotion to Amend/Supplement the Pleadings; Denying the City's Motion for Judgment on the Pleadings on Inverse Condemnation Claims; and Denying |

| Joint Appendix Volume(Pages) | Filing Date | Description |
|---|------------------------|--|
| | | Landowners' Countermotion for Judicial Determination of Liability on Inverse Condemnation Claims |
| 9(1619-1656) | 5/15/2019 | Landowners' Second Amendment and First Supplement to Complaint for Severed Alternative Verified Claims in Inverse Condemnation |
| 9(1751-1756) | 5/17/2019 | Landowners' Notice of Entry of Order |
| 39(7269-7303) | 3/26/2021 | Landowners' Appendix of Exhibits in Support of Motion to Determine Take and for Summary Judgment on the First, Third and Fourth Claims for Relief Ex. 104 - 2/21/2018 Transcript of City Council Meeting |
| 40(7327-7400) | 3/26/2021 | Landowners' Appendix of Exhibits in Support of Motion to Determine Take and for Summary Judgment on the First, Third and Fourth Claims for Relief Ex. 106 - 5/16/2018 Transcript of City Council Meeting |
| 44(8081-8083) | 3/26/2021 | Landowners' Appendix of Exhibits in Support of Motion to Determine Take and for Summary Judgment on the First, Third and Fourth Claims for Relief Ex. 113 - 7/17/2018 Hutchison & Steffen Letter to City Attorney re Agenda Item |
| 53(9394-9421) | 4/8/2021 | City's Appendix of Exhibits to Motion for Rehearing and Reconsideration of Order Granting Landowners' Motion to Compel Responses to Interrogatories Ex. B – 3/26/2018 Complaint <i>180 Land Co. v. City of Las Vegas</i> , 2:18-cv-00547 |
| 62(11193-11197) | 8/25/2021 | City's Appendix of Exhibits in Support of Opposition to Landowners' Motion to Determination Take and for Summary Judgment on the First, Third, and Fourth Claims of Relief; and Countermotion for Summary |

| Joint Appendix Volume(Pages) | Filing Date | Description |
|---|------------------------|---|
| | | Judgment Ex. HHH - 2/15/2018 Hutchison & Steffen Letter to Councilman re Your Admitted Bias and Resulting Denial of Due Process |
| 62(11213-11217) | 8/25/2021 | City's Appendix of Exhibits in Support of Opposition to Landowners' Motion to Determination Take and for Summary Judgment on the First, Third, and Fourth Claims of Relief; and Countermotion for Summary Judgment Ex. HHH - 2/16/2018 Hutchison & Steffen Letter to Councilman re Your Admitted Bias and Resulting Denial of Due Process |
| 64(11442-11456) | 8/25/2021 | City's Appendix of Exhibits in Support of Opposition to Landowners' Motion to Determination Take and for Summary Judgment on the First, Third, and Fourth Claims of Relief; and Countermotion for Summary Judgment Ex. VVV - 11/10/2020 Landowners' Sixteenth Supplement to Initial Disclosures |
| 68(12098-12125) | 8/25/2021 | City's Appendix of Exhibits in Support of Opposition to Landowners' Motion to Determination Take and for Summary Judgment on the First, Third, and Fourth Claims of Relief; and Countermotion for Summary Judgment Ex. FFFF-30 –2/7/2020 Plaintiff Responses to First Set of Interrogatories <i>180 Land Co. v. City of Las Vegas</i> , 2:19-cv-01467 |
| 69(12162-12169) | 8/25/2021 | City's Appendix of Exhibits in Support of Opposition to Landowners' Motion to Determination Take and for Summary Judgment on the First, Third, and Fourth Claims of Relief; and Countermotion for Summary Judgment Ex. FFFF-34 –10/6/2020 Plaintiff Supplement to Responses to Second Requests for Production of Documents |

| Joint Appendix Volume(Pages) | Filing Date | Description |
|---|------------------------|---|
| 102(18093) | 10/4/2021 | Landowners' Exhibit 3 to Motion to Determine Take and for Summary Judgment on the First, Third and Fourth Claims for Relief Ex. 127 - 9/17/2018 Letter from City to Hutchison & Steffen re Public Records Request |
| 108(19368-19374) | 10/19/2021 | Landowners' Reply in Support of Motion in Limine No. 3 to Preclude City's Arguments That Land was Dedicated as Open Space/City's PRMP and Pros Argument Ex. 10 - 3/22/2019 Transcript of Motions Hearing |
| 113(20489-20503) | 12/9/2021 | Landowners' Appendix of Exhibits to Motion for Attorney's Fees Ex. 11 - 1/17/2019 Transcript of Request for Rehearing |
| 128(24812-24813) | | Portions of Record - 4/12/2016 City Attorney Letter to Hutchison & Steffen |

As these documents indicate, Hutchison & Steffen participated substantially in this case and the matters giving rise to it.

Moreover, Hutchison & Steffen represented the Developer in the following proceedings before this Court arising from the same district court case: (1) the Developer's appeal of the Order denying its Petition for Judicial Review (Case No. 77771), which the Court dismissed for lack of jurisdiction; and (2) the City's writ petition (Case No. 78792). Hutchison & Steffen is also listed as counsel for the Developer in Case No. 84221.

Because Justice Lee was associated with Hutchison & Steffen during the time it represented the Developer in the underlying proceedings before the City

Council, in this case before the district court, and in resulting proceedings in this Court, the City respectfully submits that Nevada Code of Judicial Conduct Rule 2.11(A) requires her to recuse from this appeal.

DATED this 21st day of December, 2023 BY: /s/ Debbie Leonard

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Leonard Law, PC, and that on this date a copy of the foregoing document was electronically filed with the Clerk of the Court for the Nevada Supreme Court on today's date by using the Nevada Supreme Court's E-Filing system (e-Flex). Participants in the case who are registered with e-Flex as users will be served by the e-Flex system. All others will be served by U.S. mail.

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Dated: December 21, 2023

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