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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

SCENIC NEVADA, INC.,

Petitioner,

Case No.

vs.

Dept.

CITY OF RENO, a political subdivision
of the State of Nevada, and the CITY
COUNCIL thereof,

Respondent.

**PETITION FOR JUDICIAL REVIEW, OR ALTERNATIVELY, COMPLAINT
FOR DECLARATORY RELIEF**

Petitioner Scenic Nevada, Inc., by its undersigned counsel, petitions this Court for
judicial review, or alternatively, requests declaratory relief, to void portions or the
entirety of the Development Agreement between Respondent City of Reno and the City
Council thereof ("City") and Reno Real Estate Development, LLC and Reno Property
Manager, LLC ("Developers") that was approved by the City at the City Council meeting
of October 27, 2021.

INTRODUCTION

1. The City and the Developers have entered into a 36-page Development Agreement.¹ A development agreement between a city and a developer is authorized by NRS 278.0201. However, in order to be valid, the development agreement must satisfy the requirements of NRS 278.0201. The statute provides that “a governing body may, upon application of any person *having a legal or equitable interest in land*, enter into an agreement with that person concerning the development of *that land*.” (Emphasis added). The statute thus makes explicit the common-sense requirement that a developer must have a legal or equitable interest in the land to be developed in order for a city to enter into a valid development agreement for that land. This case presents a situation in which the City and Developers entered into a Development Agreement for parcels in which the Developers had no legal or equitable interest. The land as to which Developers had no legal or equitable interest included parcels on which the Developers would like to erect large signs that would violate Reno sign code standards.

2. Scenic Nevada is a non-profit Nevada corporation that sponsored the Reno billboard initiative adopted by the voters in 2000. Scenic Nevada’s principal activity is to educate the general public on the economic, social, and cultural benefits of scenic

¹ See Exhibit 1, attached. As this action is being filed, Scenic Nevada does not have access to a recorded, final version of the agreement. Scenic Nevada must rely upon the draft approved by the City Council at its Oct. 27, 2021 hearing. Per §7.12, p. 18, the agreement was to be recorded “promptly” after approval, but Scenic Nevada has made inquiries and learned that the agreement has not been recorded yet. Scenic Nevada also tried to obtain a final, signed copy of the Development Agreement through a public records request on November 8, 2021. The City responded by saying additional time was

1 preservation by means of encouraging billboard and sign control, among other issues.
2 Scenic Nevada raised the illegality of the Development Agreement in hearings before the
3 City Council, but on October 27, 2021, the City Council approved the agreement over
4 Scenic Nevada's objection. *See Exhibit 2, Ordinance 6610, attached.* Scenic Nevada
5 now seeks judicial review and, in the alternative, declaratory relief, on grounds that the
6 Development Agreement violates the law.
7
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9 JURISDICTIONAL STATEMENT

10 3. This Court has jurisdiction of this action in that district courts have original
11 jurisdiction of all actions excluded from the jurisdiction of the justice courts pursuant to
12 Art. 6, §6 of the Nevada Constitution. This action is under this Court's jurisdiction
13 pursuant to NRS 278.3195(4), which authorizes petitions for judicial review of land use
14 decisions by local agencies to be filed with district courts. In addition, jurisdiction exists
15 in this Court under NRS 4.370, which provides that complaints for declaratory relief are
16 excluded from the jurisdiction of the justice courts.
17
18

19 PROCEDURAL AND FACTUAL BACKGROUND

20
21 4. Jacobs Entertainment, Inc. is an enterprise controlled by Jeff Jacobs that is
22 affiliated in some manner with the Developers. Mr. Jacobs has branded the western half
23 of downtown Reno as the "Neon Line District." The area comprising the "Neon Line
24 District" is bounded by Interstate 80 on the north and West Second Street on the south,
25 extending from West Street on the east to Keystone Avenue on the west. *See Ex. 1, p. 29*
26
27

28 needed and the release of the public record -- which should have been completed in five
days -- is still "in progress."

1 (District Map). According to the Development Agreement, 78 parcels are “Jacobs
2 Entertainment Owned and Controlled Properties,” and all but one of them – the cemetery
3 parcel -- are within the “Neon Line District.” *See Ex. 1, p. 22, Exhibit A-1 (Property*
4 *Description).*

5
6 5. However, Jacobs Entertainment is not a party to the Development
7 Agreement. The parties to the agreement are Reno Real Estate Development, LLC and
8 Reno Property Manager, LLC. It is their “legal or equitable interest in land” that is
9 relevant under NRS 278.0201.
10

11 6. Included in the Development Agreement are provisions for three large signs
12 that the Development Agreement calls “area identification” signs. *See Ex. 1, §3.02(e), pp.*
13 *7-8.* The three proposed signs are designated AC-1 (archway sign), PY-1B (cemetery
14 sign), and PY-1 (gas station sign). *See Ex. 1, p. 36, Area Identification Sign Location*
15 *Map, Ex. H.*
16
17

18 7. As proposed, the archway sign would be erected in a mixed-use zone and
19 would stand 27 feet tall and span 102 feet over Fourth Street, a public roadway. The north
20 pylon would be anchored in a public right-of-way, which obviously is not owned by the
21 Developers. Though labeled an “area identification” sign, the archway sign would only
22 be a few paces away from the “area identification” sign proposed for the gas station at the
23 corner of Fourth Street and Keystone Avenue.
24
25

26 8. The cemetery sign would be on cemetery land (APN 006-152-01) facing
27 Interstate 80, almost three-quarters of a mile away from the entrance to the proposed
28 “Neon Line District,” making it impossible to understand why the City would call this an

1 “area identification” sign. *See Ex. 4, Map, attached.* Furthermore, as Scenic Nevada
2 pointed out to the City Council, the Developers did not have a legal or equitable interest
3 in the cemetery when the Development Agreement came before the Council.
4

5 9. The gas station sign, PY-1, at Fourth Street and Keystone (APN 006-224-
6 07), would be on land owned Kokee & Neelam LLC. The gas station sign is proposed to
7 be 25 feet tall. In order to comply with Reno Municipal Code, an on-premise sign in this
8 location, which is a mixed-use zone, on a less-than-one-acre parcel would be limited to
9 eight feet in height.
10

11 10. When the Development Agreement came before the City Council for
12 approval, the Developers did not have a “legal or equitable interest” in each of the 78
13 parcels that are identified in the Development Agreement. The Court is requested to take
14 judicial notice pursuant to NRS 47.130 of the records of the Washoe County Recorder’s
15 and Washoe County Assessor’s Offices showing the actual ownership of the 78 parcels.
16 A summary spreadsheet of the record of ownership is attached as Exhibit 3.
17

18 11. Evidence presented to the City Council questioned why parcels owned by
19 third parties, who are not parties to the Development Agreement, is included in the “Neon
20 Line District” boundaries. *See Ex. 1, p. 23 (Property Map).*
21

22 12. A first reading of Ordinance 6610 for the approval of the Development
23 Agreement was scheduled for October 13, 2021 City Council meeting. The proposed
24 Development Agreement was included in the City Council’s packet and posted online on
25 or about October 8, 2021. The online posting of the Development Agreement referenced
26 three signs listed in “Exhibit H” which was to include the Developers’ sign renderings
27
28

1 showing the proposed design, locations, and dimensions. However, "Exhibit H" was not
2 included in the City Council packet nor posted online until October 12, one day before
3 the meeting. This afforded little time for the public or Scenic Nevada to examine
4 "Exhibit H."
5

6 13. Having never seen the sign renderings, Scenic Nevada submitted a letter to
7 the City Council on October 11, 2021, objecting to the signs based on the description
8 within the proposed Development Agreement and noting that the Development
9 Agreement was not ready for approval given that all the exhibits were not made available
10 to the public. A true copy of the letter is attached as Exhibit 5.
11

12
13 14. On October 13, 2021, over Scenic Nevada's objections, the City Council
14 approved the first reading of the ordinance approving the Development Agreement.
15

16 15. On October 25, 2021, Scenic Nevada submitted a second letter to the City
17 Council, the City Clerk, the City Attorney and the City Manager outlining Scenic
18 Nevada's objections. A true copy of the second letter is attached as Exhibit 6.
19

20 16. The Reno City Clerk received 130 letters in opposition to the archway sign,
21 and none in favor, by the 4 p.m. deadline October 26, 2021. Twenty more letters in
22 opposition were received in the days following.
23

24 17. On October 27, 2021, Scenic Nevada appeared and objected, through its
25 counsel, at the second reading of Ordinance 6610. During the hearing a deputy city
26 attorney told the Council that by adopting the Development Agreement, the City would
27 be agreeing to what the "area identification" signs will say, and to the locations and
28

1 designs, including height and width, all as shown in “Exhibit H”. The Council voted 6-1
2 to adopt the ordinance approving the Development Agreement.

3
4 GROUND FOR RELIEF

5 A. Petition for Judicial Review

6 18. This petition for judicial review is timely under NRS 278.0235.

7
8 19. Before filing this action challenging the validity of the Development
9 Agreement, Scenic Nevada as an aggrieved party exhausted its administrative remedies
10 before the City Council.

11 20. Reno Municipal Code requires the City’s development agreements to
12 conform to state law:

13
14 Pursuant to the provisions of NRS 278.0201 through 278.0207, the City
15 Council may enter into development agreements to regulate the
16 development of land within the City. The agreements and the procedures
17 applicable thereto shall be governed by and ***must conform to NRS***
278.0201 through NRS 278.0207 and the provisions of this Chapter.

18 RMC 18.08.805(b) (emphasis added). Further, RMC 18.08.805(e)(4) provides that the
19 City may enter into a development agreement only when it can make a findings that
20 “[t]he development agreement is consistent with the provisions of NRS Chapter 278.”

21
22 21. NRS 278.0201(1) authorizes a development agreement so long as it is with
23 a person who has a legal or equitable interest in land, concerning the development of that
24 land. The statute is clear and unambiguous, it’s meaning clear and unmistakable. *State*
25 *Farm Mut. Auto. Ins. Co. v. Comm’r of Ins.*, 114 Nev. 535, 540-41, 958 P.2d 733, 736
26 (1998). It should be applied as written. *Id.*
27
28

1 22. Here, the City entered into a development agreement that violates NRS
2 278.0201(1) in that the Developers do not have a legal or equitable interest in land that is
3 the subject of the agreement, including but not limited to the land on which Developers
4 intend to erect large signs. Consistent with the statute, Scenic Nevada seeks to have
5 Ordinance 6610 set aside, to void the Development Agreement for violating the statute,
6 and to prohibit signs from being built that would violate state law and sections of the
7 Reno Municipal Code.
8

9
10 23. The Development Agreement purports to apply design standards “generally
11 consistent” with those for on-premises signs in the Gaming Overlay District for the
12 archway sign and incorrectly asserts that the other signs “shall be subject to applicable
13 standards in place at the time of application.” *See Ex. 1, §3.02 (e), pp. 7-8.*
14

15 24. Among the City ordinances violated by the proposed signs would be, at a
16 minimum, the following:
17

- 18 (a) RMC 18.05.109 (f) (prohibiting signs in public right of ways);
19 (b) RMC 18.08.805 (e)(2)(a)(5) (requiring that a development agreement shall
20 “[s]pecify the laws, ordinances, codes, resolutions, regulations, design and improvement
21 standards ***by name and date of adoption applicable to the development of the land*** for
22 which the applicant intends to establish a vested private development right.”) (emphasis
23 added);
24 (c) RMC 18.05.101 (on-premise signs);
25 (d) RMC 18.05.113 and Table 5-1 (limiting on-premise signs in the mixed-use
26 zoning districts to eight feet for under-one-acre parcels);
27
28

1 (e) RMC 18.05.201 (off-premise signs, aka billboards, which applies to the
2 cemetery sign because it is located far outside the boundaries of the “Neon Line
3 District”);
4

5 (f) RMC 18.09, Article 4, p. 9-65/66 (defining off-premise sign);

6 (g) RMC 18.05.113 and Table 5-1, note 11 (by improperly applying sign
7 standards for a Gaming Overlay District instead of the mixed-use zone on a non-gaming
8 property); and
9

10 (h) RMC 18.05.207 and the 2017 Supreme Court Settlement Agreement
11 between Scenic Nevada, the City and Lamar Advertising (prohibiting billboard
12 construction in Reno unless the applicant has a pre-existing, unused billboard permit
13 known as a “banked receipt”).
14

15 25. The proposed archway sign is not located on a gaming property but partly
16 on public property and stretching over a public roadway. The cemetery sign is not an on-
17 premises area identification sign but a billboard, advertising the “Neon Line District” to
18 motorists on Interstate 80. The third sign would be 25 feet tall in a zoning district that
19 only allows eight feet and therefore does not conform to current standards in place. All
20 three signs would be located on property not owned by the Developers in violation of
21 state law.
22
23

24 B. Complaint for Declaratory Relief
25

26 26. In addition to seeking judicial review under NRS 278.3195, Scenic Nevada
27 requests declaratory relief, on grounds that an actual controversy exists between Scenic
28 Nevada and the City, in that Scenic Nevada contends, and the City disputes, that the

1 Development Agreement should be set aside for violation of applicable state law,
2 including NRS 278.0201, and applicable City ordinances.

3
4 27. A judicial declaration of the respective rights and liabilities of the parties is
5 necessary and appropriate.

6 28. NRS 278.3195 contemplates that a party seeking judicial review of a land
7 use decision has appealed from a decision of a public official or the planning commission
8 to the city council before seeking judicial review with the Court. Here, the Development
9 Agreement was not brought before a hearing officer or the planning commission for
10 decision; it was brought before the City Council in the first instance. Assuming that the
11 Court finds that NRS 278.3195 does not afford relief under the circumstances of this
12 case, Scenic Nevada's remedy at law is inadequate and Scenic Nevada should be entitled
13 to declaratory relief.
14
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16
17 WHEREFORE, Scenic Nevada prays:

18 1. That the City be ordered to prepare, index and produce to Scenic Nevada
19 the complete administrative record of all papers, photographs, recordings,
20 communications, notes, emails, letters, faxes, memos, files and other documents and
21 evidence maintained, collected or compiled by any and all public officials and their
22 agents relating to the Development Agreement, for submission to this Court;
23

24 2. That upon receipt of the administrative record, that the Court set a briefing
25 schedule;
26

27 3. That the Court grant judicial review and set aside the October 27, 2021,
28 vote of the City Council adopting Ordinance No. 6610 entitled "Ordinance to approve a

1 Development Agreement with Reno Real Estate Development, LLC and Reno Property
2 Manager, LLC regarding financial incentives and development standards for the area the
3 developer is calling the Reno Neon Line District” and the accompanying Development
4 Agreement as unlawful, void, and of no force and effect;
5

6 4. That as an alternative to the request for judicial review, that the Court issue
7 a declaratory judgment setting aside Ordinance 6610 and voiding the Development
8 Agreement as aforesaid;
9

10 5. That Scenic Nevada be awarded costs of suit;
11

12 6. That the Court award reasonable attorney’s fees; and
13

14 7. That the Court enter all other relief, which the court deems just and proper.
15

16 *The undersigned certifies that the foregoing document does not contain the Social*
17 *Security number of any person.*

18 Dated this 19th day of November 2021.

19 LAW OFFICES OF MARK WRAY

20 By 
21 MARK WRAY
22 Attorney for Petitioner SCENIC NEVADA
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INDEX OF EXHIBITS

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Exhibit 2	Oct. 27, 2021	Ordinance 6610
Exhibit 3		Property owner spreadsheet
Exhibit 4		Aerial Photo Depicting Sign Distance
Exhibit 5	Oct. 11, 2021	Scenic Nevada letter to City
Exhibit 6	Oct. 25, 2021	Scenic Nevada Letter to City