

REC'D & FILED

1 CASE NO. 99-01015A

2 DEPT NO. II

'99 OCT 15 P3:26

ALAN GLOVER
CLERK
BY M. Doll
DEPUTY

6 IN THE FIRST JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
7 IN AND FOR CARSON CITY

FILED

8 * * *

OCT 19 1999

9 In the Matter of:

10 THE AUTHORITY OF CARSON CITY)
11 TO REQUIRE PAYMENT FOR THE)
12 ABANDONMENT OF STREETS WITHIN)
13 THE CARSON TOWNSITE,)

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. Russell
DEPUTY CLERK

NOTICE OF APPEAL

No. 34994

14 Notice is hereby given that Carson City hereby appeals to the Supreme Court of
15 Nevada from the Order entered in this action on September 29, 1999, entry of which Order was
16 noticed October 5, 1999.

17 Dated this 15th day of October, 1999.

18 NOEL S. WATERS
19 District Attorney
20 333 North Curry Street
Carson City, Nevada 90703

21 By Mark Forsberg
22 MARK FORSBERG
23 Deputy District Attorney

Attorneys for Carson City

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27 RECEIVED
28 OCT 19 1999
CLERK OF SUPREME COURT
BY _____
DEPUTY CLERK

1 Case No. 99-01015A

2 Dept. No. II

RECORDED

'99 SEP 29 P2:31

ALAN GLOVER

BY _____ CLERK
DEPUTY

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6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR CARSON CITY
8

9 In the Matter of:

10 THE AUTHORITY OF CARSON CITY
11 TO REQUIRE PAYMENT FOR THE
12 ABANDONMENT OF STREETS WITH
13 THE CARSON TOWNSITE

ORDER

14 This matter having come on for determination by this Court pursuant to the Petition
15 filed by CARSON CITY pursuant to NRS 43.100, et seq., for a court examination and determination
16 of the validity of CARSON CITY requiring payment for streets abandoned under NRS 278.480
17 within the bounds of the Carson City Township conveyed to Carson City by the United States
18 government.

19 The Respondents, CAPITAL CITY ENTERTAINMENT, INC., and MILLARD
20 REALTY AND CONSTRUCTION, both duly answered the Petition and requested certain
21 declaratory relief and supplemental relief, which are not at issue before this Court at this time, except
22 to the extent that the identical issues raised therein are addressed by the Petition filed by CARSON
23 CITY and determined by this order.

24 The matter before this Court arises out of the provisions of NRS 278.480(7) which
25 provide that if the streets in issue were acquired by dedication by Carson City from the abutting
26 property owners of these streets or their predecessors in interest, no payment is required on
27 abandonment of these streets.

28 ///

///

ALLISON, MacKENZIE, HARTMAN, SOUMBENIOTIS & RUSSELL, LTD.
402 North Division Street, P. O. Box 646, Carson City, NV 89702
Telephone: (775) 687-0202 Fax: (775) 882-7918

ALLISON, MacKENZIE, HARTMAN, SOUMBENOTIS & RUSSELL, L.L.P.
402 North Division Street, P. O. Box 646, Carson City, NV 89702
Telephone: (775) 687-0202 Fax: (775) 882-7918

1 The Court therefore is presented with the issue as to whether or not the streets in
2 question, namely portions of 9th Street and 8th Street were dedicated by the Respondents'
3 predecessors in interest.

4 The historical analysis as to how Carson City acquired the use of these streets as
5 public highways reflects that these streets were part of the Carson City Township created under the
6 Federal Township Act, Chapter XVII, adopted May 23, 1844, whereby the federal government
7 conveyed land to local governments as a trust townsite, with a patent to the Carson City townsite
8 being issued to Samuel H. Wright, District Judge.

9 The lots held under the Federal Townsite Act were to be disposed of under the rules
10 and regulations prescribed by the legislative authority of the state in which the lots existed. This
11 Court finds that the enabling act adopted by the state of Nevada, Chapter XII, approved in January
12 31, 1866, to be of great importance in deciding the matter before it. As set forth in Section 7 thereof,
13 it was the duty of the Judge to make out, execute and deliver to each person who was entitled to a
14 lot a deed in fee simple, "... on payment of his proper and due proportion of the purchase money
15 for such land, together with his proportion of such sum as may be necessary to pay for streets, alleys,
16 squares and public grounds, not exceeding twenty-five cents for each lot, ..."

17 It is clear to this Court that the legislative plan adopted in Nevada was different than
18 Utah and California, and that the Nevada legislature required purchase of the street and alleys by the
19 lot owners giving them ownership to the center of the streets.

20 It is this Court's determination that the language of Chapter XII is clear and
21 unambiguous such that the lot owners were each required to purchase a proportionate share of the
22 streets and alleys adjacent to their lots. In that each lot owner purchased a proportionate share of the
23 streets and alleys, they acquired certain ownership rights to the streets and alleys.

24 This is consistent with the basic principle of real property law in Nevada that it is
25 presumed that title to the centerline of a right-of-way is vested in the abutting land owner, absent
26 evidence to the contrary.

27 ///

28 ///

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1 Further, the townsite plat of Carson City, Carson County, Utah Territory was duly
2 recorded on February 3, 1860, in Book "A" of Territorial Records, and was recorded as a townsite
3 under the laws of the United States relative to townsites.

4 It is the determination of this Court that a public dedication of the streets and alleys
5 set forth in the townsite plat took place. See, Shearer v. City of Reno, 36 Nev. 443 at 449; 136 Pac.
6 705 (1913), wherein it is held that a dedication of land for public purposes is simply a denotation
7 of it or of an easement in it; and that the filing of the map with the County Recorder containing a
8 designation of the streets and blocks as set apart for public uses, a public dedication took place.

9 It is important for this Court to note that the alleys contained in the townsite plat have
10 for the most part been abandoned in Carson City back to the adjacent property owners without
11 compensation to Carson City. This Court finds no distinction between the streets and alleys.

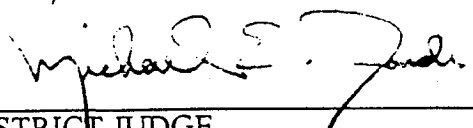
12 As to the statute of limitations defense raised by the Carson City in their Petition as
13 to any claim by Respondent, Capital City Entertainment, Inc., it is this Court's determination that
14 there was a mutual mistake by both Carson City and Respondent, Capital City Entertainment, Inc.,
15 as to the ownership and dedication of the 9th Street property when Respondent CAPITAL CITY
16 ENTERTAINMENT, INC. purchased the property on April 14, 1989, such that both were operating
17 under the same belief that the 9th Street property had not been dedicated to Carson City by said
18 Respondent's predecessors in interest. It was not until March 20, 1997, when Carson City took an
19 inconsistent position on this issue, which it subsequently reversed, was this Respondent put on notice
20 in respect to the running of the statute of limitations. Nevada State Bank v. Jamison Family
21 Partnership, 106 Nev. 792, at 800; 801 P.2d 1377 (1990). The equities in this matter are such that
22 Respondent should not be foreclosed from judicial remedies before it knew that it had been injured
23 is clearly applicable thereto. Further, a citizen has a legitimate expectation that the government
24 should deal fairly with him. NPERS v. Byrne, 96 Nev. 276, at 280, 607 P.2d 135 (1980). Carson
25 City should be expected to deal fairly and honestly with its citizens.

26 Therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Carson
27 City, under the provisions of NRS 278.480(7) was not and is not entitled to charge the Respondents
28 for the 9th Street and 8th Street properties abandoned under the provisions of NRS 278.480, based on

1 the Respondents' predecessors in interest having paid for these streets and having acquired rights
2 thereto and based on their dedication to Carson City. Carson City, as a matter of law, pursuant to
3 NRS 278.480(7), could not charge for these properties on their abandonment.

4 Further, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the statute
5 of limitations is not a defense to the right of Respondent, Capital City Entertainment, Inc., to seek
6 recovery of the \$125,000.00 paid for the 9th Street property, plus interest thereon from April 14,
7 1989.

8 DATED this 29th day of Sept., 1999.

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11 _____
12 DISTRICT JUDGE
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ALLISON, MACKENZIE, HARTMAN, SOUMBENIOTIS & RUSSELL, J.T.D.
402 North Division Street, P. O. Box 646, Carson City, NV 89702
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CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I am employed by the office of the District Attorney and that on the 15th day of October, 1999, I served the foregoing documents by delivering via United States Mail, postage prepaid, a copy thereof to:

J. TODD RUSSELL, ESQ.
Allison, MacKenzie, Hartman &
Soumbeniotis & Russell, Ltd.
402 North Division Street
Carson City, Nevada 89703

SANDRA-MAE PICKENS, ESQ.
Crowell, Susich, Owen & Tackes, ltd.
510 West Fourth Street
Carson City, Nevada 89703

THOMAS J. HALL, ESQ.
305 South Arlington Avenue
Reno, Nevada 89505

Carrie L. Hignier

RECORDED

1 CASE NO. 99-01015A
2 DEPT NO. II

'99 OCT 15 P3:27

ALAN GLAVIER
CLERK
BY M. Solh
DEPUTY

6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR CARSON CITY

8 * * *

9 In the Matter of:

10 THE AUTHORITY OF CARSON CITY)
11 TO REQUIRE PAYMENT FOR THE)
12 ABANDONMENT OF STREETS WITHIN)
13 THE CARSON TOWNSITE,)

CASE APPEAL STATEMENT

14 1. Appellant is Carson City, a consolidated municipality and political subdivision
15 of the State of Nevada.

16 2. Carson City appeals from the final order entered on September 29, 1999, in
17 the First Judicial District Court, Carson City, The Honorable Michael E. Fondi, District Court Judge,
18 after a hearing on Carson City's Petition for Judicial Review.

19 3. Parties to the proceedings in District Court and appeal this to the Nevada
20 Supreme Court:

21 Petitioner: Carson City, a Consolidated Municipality and
22 Political Subdivision of the State of Nevada

23 Respondent: Capital City Entertainment, Inc.

24 Respondent: Millard Realty and Construction;

25 4. Attorneys for Petitioner: Noel S. Waters, District Attorney
26 Mark Forsberg, Deputy District Attorney
27 885 East Musser Street, Suite 2030
28 Carson City, Nevada 89701
(775) 887-2070

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Thomas J. Hall, Esq.
305 South Arlington Avenue
Reno, Nevada 89505

Attorney for Respondent: Capital City Entertainment, Inc.
Todd Russell, Esq.
Allison, MacKenzie, Hartman,
Soumbeniotis & Russell, Ltd.
402 North Division Street
Carson City, Nevada 89703
(775) 882-0202

Attorney for Respondent: Millard Realty and Construction
Sandra-Mae Pickens, Esq.
Crowell, Susich, Owen & Tackes, Ltd.
510 West Fourth Street
Carson City, Nevada 89703
(775) 882-1311

5. Carson City was represented by Mark Forsberg, Deputy District Attorney and Thomas J. Hall, Esq., at the judicial review hearing on September 17, 1999, in the District Court, and will continue representation on appeal to the Supreme Court. Counsel are retained.

6. Carson City filed its Petition for Judicial Review on July 22, 1999.

Dated this 15th day of October, 1999.

NOEL S. WATERS
District Attorney
333 North Curry Street
Carson City, Nevada 90703

By 
MARK FORSBERG

Bar No. 4265
Deputy District Attorney

Attorneys for Carson City

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THOMAS J. HALL, ESQ.
305 South Arlington Avenue
Reno, Nevada 89505

Bonnie Steiner

FIRST JUDICIAL DISTRICT COURT CARSON CITY NEVADA
FULL CASE HISTORY

10/18/99 11:24

PAGE: 1

Case Nbr: 99-01015A Title: ABANDONMENT STREETS WITHIN CARSON TOWNSITE
Date Filed: 07/22/99 Type: CIVIL PETITION
Priority Info: 2 Assigned Dept: 2 Ck: MD
Disp: 09/29/99 DENIED Degree at Disp:
Stage at Disp:

Last Case Change: 10/15/99 Last Purged: 00/00/00

----- P A R T I E S -----

PETNR: CARSON CITY Clk:MD
DA WATERS, NOEL S. (702) 887-2072
RESP: MILLARD REALTY & CONSTRUCTION COMPANY Clk:DB
RET PICKENS, SANDRA-MAE (702) 882-1311
RESP: CAPITAL CITY ENTERTAINMENT, INC. Clk:MD
AKA: ORMSBY, INC. Clk: MD
RET RUSSELL, JAMES TODD (702) 882-0202

----- E V E N T S -----

Dept --Date-- --Time-- Event ----- Auto Ntc
1. 2 09/17/99 2:00 PM HEARING ON PETITION
Reporter: C. WOLDEN
Time Est:(0 Dys 0 Hrs 0 Min) Pri=9 Clk JH
Disp: 09/17/99 (SEE MINUTES)Clk:NP

----- A C T I O N S -----

--Date-- Action Clk
1. 07/22/99 PETITION MD
2. 07/22/99 PTS & A'S IN SUPPORT OF PETITION MD
3. 07/27/99 NOTICE JH
4. 09/07/99 ANSWER TO PETITION & REQUEST FOR DECLARATION OF RIGHTS DB
Fee Pd: 74.00 CK 09/07/99 Rct#
Distr: 001- 25.00 004- 44.00 008- 5.00
5. 09/08/99 ANSWER TO PETN & REQUEST FOR DECLARATORY RELIEF MD
& SUPPLEMENTAL RELIEF
Fee Pd: 74.00 CK 09/08/99 Rct#
Distr: 001- 25.00 004- 44.00 008- 5.00
6. 09/08/99 AFFIDAVIT OF CLARK G. RUSSELL MD
7. 09/15/99 AFFIDAVIT OF POSTING DB
8. 09/15/99 AFF. OF PUBLICATION DB
9. 09/21/99 TRANSCRIPT OF PROCEEDINGS - PARTIAL TRANSCRIPT NP
OF JUDGE'S ORDER
10. 09/29/99 ORDER MD
11. 10/07/99 NTC OF ENTRY OF ORDER JH
12. 10/15/99 NOTICE OF APPEAL MD
13. 10/15/99 CASE APPEAL STATEMENT MD

1 Case No. 99-01015A
2 Dept. No. II

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'99 SEP 29 P2:31

ALAN GLOVER
BY Ohama CLERK
DEPUTY

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7 IN AND FOR CARSON CITY

9 In the Matter of:

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ORDER

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16 within the bounds of the Carson City Township conveyed to Carson City by the United States
17 government.

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20 declaratory relief and supplemental relief, which are not at issue before this Court at this time, except
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1 The Court therefore is presented with the issue as to whether or not the streets in
2 question, namely portions of 9th Street and 8th Street were dedicated by the Respondents'
3 predecessors in interest.

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12 31, 1866, to be of great importance in deciding the matter before it. As set forth in Section 7 thereof,
13 it was the duty of the Judge to make out, execute and deliver to each person who was entitled to a
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15 for such land, together with his proportion of such sum as may be necessary to pay for streets, alleys,
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20 It is this Court's determination that the language of Chapter XII is clear and
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22 streets and alleys adjacent to their lots. In that each lot owner purchased a proportionate share of the
23 streets and alleys, they acquired certain ownership rights to the streets and alleys.

24 This is consistent with the basic principle of real property law in Nevada that it is
25 presumed that title to the centerline of a right-of-way is vested in the abutting land owner, absent
26 evidence to the contrary.

27 ///

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1 Further, the townsite plat of Carson City, Carson County, Utah Territory was duly
2 recorded on February 3, 1860, in Book "A" of Territorial Records, and was recorded as a townsite
3 under the laws of the United States relative to townsites.

4 It is the determination of this Court that a public dedication of the streets and alleys
5 set forth in the townsite plat took place. See, Shearer v. City of Reno, 36 Nev. 443 at 449; 136 Pac.
6 705 (1913), wherein it is held that a dedication of land for public purposes is simply a denotation
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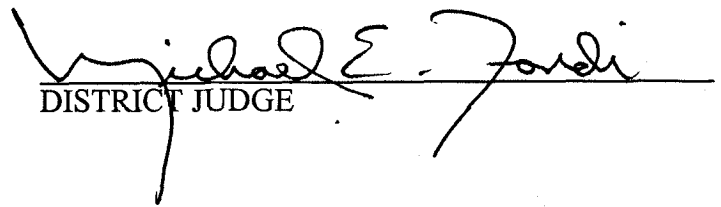
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19 inconsistent position on this issue, which it subsequently reversed, was this Respondent put on notice
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21 Partnership, 106 Nev. 792, at 800; 801 P.2d 1377 (1990). The equities in this matter are such that
22 Respondent should not be foreclosed from judicial remedies before it knew that it had been injured
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24 should deal fairly with him. NPERS v. Byrne, 96 Nev. 276, at 280, 607 P.2d 135 (1980). Carson
25 City should be expected to deal fairly and honestly with its citizens.

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27 City, under the provisions of NRS 278.480(7) was not and is not entitled to charge the Respondents
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8 DATED this 29th day of September, 1999.

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11 DISTRICT JUDGE

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ALLISON, MACKENZIE, HARTMAN, SOUMBENIOTIS & RUSSELL, LTD.
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1 Case No. 99-01015A

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'99 OCT -7 A11:23

ALAN GLOVER
CLERK
BY: M. Sell
DEPUTY

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6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
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8

9 In the Matter of:

10 THE AUTHORITY OF CARSON CITY
11 TO REQUIRE PAYMENT FOR THE
12 ABANDONMENT OF STREETS WITH
13 THE CARSON TOWNSITE

NOTICE OF ENTRY OF ORDER

13 TO: ALL PARTIES

14 PLEASE TAKE NOTICE that on September 29, 1999, this Court entered its Order
15 in the above-captioned matter. A copy of said Order is attached hereto and incorporated herein by
16 this reference.

17 DATED this 5th day of October, 1999.

18 ALLISON, MacKENZIE, HARTMAN,
19 SOUMBENIOTIS & RUSSELL, LTD.
20 402 North Division Street
21 P.O. Box 646
22 Carson City, NV 89702

21 By: Todd Russell
22 TODD RUSSELL, ESQ.
23 Attorney for CAPITAL CITY
24 ENTERTAINMENT, INC.
25
26
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28

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Pursuant to NRCR Rule 5(b), I hereby certify that I am an employee of ALLISON, MacKENZIE, HARTMAN, SOUMBENIOTIS & RUSSELL, LTD., Attorneys at Law, and that on this date, I caused the foregoing document to be served to all parties to this action by:

- Placing a true copy thereof in a sealed postage prepaid envelope in the United States Mail in Carson City, Nevada
- Hand-delivery - via Reno/Carson Messenger Service
- Facsimile
- Federal Express, UPS, or other overnight delivery

fully addressed as follows:

THOMAS J. HALL, ESQ.
305 S. Arlington Avenue
Reno, NV 89505

MARK R. FORSBERG, ESQ.
Deputy District Attorney
Carson City, Civil Division
885 East Musser Street, #2030
Carson City, NV 89701

SANDRA-MAE PICKENS, ESQ.
CROWELL, SUSICH, OWEN & TACKES, LTD.
510 W. Fourth Street
Carson City, NV 89702

DATED this 6th day of October, 1999.

Carole Brasley

ALLISON, MacKENZIE, HARTMAN, SOUMBENIOTIS & RUSSELL, LTD.
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5 public highways reflects that these streets were part of the Carson City Township created under the
6 Federal Township Act, Chapter XVII, adopted May 23, 1844, whereby the federal government
7 conveyed land to local governments as a trust townsite, with a patent to the Carson City townsite
8 being issued to Samuel H. Wright, District Judge.

9 The lots held under the Federal Townsite Act were to be disposed of under the rules
10 and regulations prescribed by the legislative authority of the state in which the lots existed. This
11 Court finds that the enabling act adopted by the state of Nevada, Chapter XII, approved in January
12 31, 1866, to be of great importance in deciding the matter before it. As set forth in Section 7 thereof,
13 it was the duty of the Judge to make out, execute and deliver to each person who was entitled to a
14 lot a deed in fee simple, "... on payment of his proper and due proportion of the purchase money
15 for such land, together with his proportion of such sum as may be necessary to pay for streets, alleys,
16 squares and public grounds, not exceeding twenty-five cents for each lot, ..."

17 It is clear to this Court that the legislative plan adopted in Nevada was different than
18 Utah and California, and that the Nevada legislature required purchase of the street and alleys by the
19 lot owners giving them ownership to the center of the streets.

20 It is this Court's determination that the language of Chapter XII is clear and
21 unambiguous such that the lot owners were each required to purchase a proportionate share of the
22 streets and alleys adjacent to their lots. In that each lot owner purchased a proportionate share of the
23 streets and alleys, they acquired certain ownership rights to the streets and alleys.

24 This is consistent with the basic principle of real property law in Nevada that it is
25 presumed that title to the centerline of a right-of-way is vested in the abutting land owner, absent
26 evidence to the contrary.

27 ///

28 ///

ALLISON, MacKENZIE, HARTMAN, SOUMBENIOTIS & RUSSELL, J.T.D.
402 North Division Street, P. O. Box 646, Carson City, NV 89702
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1 Further, the townsite plat of Carson City, Carson County, Utah Territory was duly
2 recorded on February 3, 1860, in Book "A" of Territorial Records, and was recorded as a townsite
3 under the laws of the United States relative to townsites.

4 It is the determination of this Court that a public dedication of the streets and alleys
5 set forth in the townsite plat took place. See, Shearer v. City of Reno, 36 Nev. 443 at 449; 136 Pac.
6 705 (1913), wherein it is held that a dedication of land for public purposes is simply a denotation
7 of it or of an easement in it; and that the filing of the map with the County Recorder containing a
8 designation of the streets and blocks as set apart for public uses, a public dedication took place.

9 It is important for this Court to note that the alleys contained in the townsite plat have
10 for the most part been abandoned in Carson City back to the adjacent property owners without
11 compensation to Carson City. This Court finds no distinction between the streets and alleys.

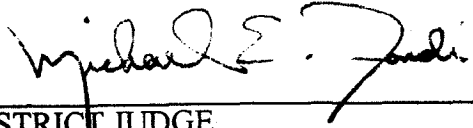
12 As to the statute of limitations defense raised by the Carson City in their Petition as
13 to any claim by Respondent, Capital City Entertainment, Inc., it is this Court's determination that
14 there was a mutual mistake by both Carson City and Respondent, Capital City Entertainment, Inc.,
15 as to the ownership and dedication of the 9th Street property when Respondent CAPITAL CITY
16 ENTERTAINMENT, INC. purchased the property on April 14, 1989, such that both were operating
17 under the same belief that the 9th Street property had not been dedicated to Carson City by said
18 Respondent's predecessors in interest. It was not until March 20, 1997, when Carson City took an
19 inconsistent position on this issue, which it subsequently reversed, was this Respondent put on notice
20 in respect to the running of the statute of limitations. Nevada State Bank v. Jamison Family
21 Partnership, 106 Nev. 792, at 800; 801 P.2d 1377 (1990). The equities in this matter are such that
22 Respondent should not be foreclosed from judicial remedies before it knew that it had been injured
23 is clearly applicable thereto. Further, a citizen has a legitimate expectation that the government
24 should deal fairly with him. NPERS v. Byrne, 96 Nev. 276, at 280, 607 P.2d 135 (1980). Carson
25 City should be expected to deal fairly and honestly with its citizens.

26 Therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Carson
27 City, under the provisions of NRS 278.480(7) was not and is not entitled to charge the Respondents
28 for the 9th Street and 8th Street properties abandoned under the provisions of NRS 278.480, based on

1 the Respondents' predecessors in interest having paid for these streets and having acquired rights
2 thereto and based on their dedication to Carson City. Carson City, as a matter of law, pursuant to
3 NRS 278.480(7), could not charge for these properties on their abandonment.

4 Further, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the statute
5 of limitations is not a defense to the right of Respondent, Capital City Entertainment, Inc., to seek
6 recovery of the \$125,000.00 paid for the 9th Street property, plus interest thereon from April 14,
7 1989.

8 DATED this 29th day of Sept., 1999.

9 
10 _____
11 DISTRICT JUDGE

12 ALLISON, MacKENZIE, HARTMAN, SOUMBENIOTIS & RUSSELL, LTD.
13 402 North Division Street, P. O. Box 646, Carson City, NV 89702
14 Telephone: (775) 687-0202 Fax: (775) 882-7918
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LIST OF EXHIBITS

EXHIBIT NO.

DESCRIPTION

1

Deed of Judge Wright

DISTRICT COURT MINUTES

CASE NO. 99-01015A TITLE: IN THE MATTER OF THE AUTHORITY OF CARSON CITY TO REQUIRE PAYMENT FOR THE ABANDONMENT OF STREETS WITHIN THE CARSON TOWNSITE

9/17/99 - DEPT. II - JUDGE FONDI - N. Pieretti, Clerk - C. Wolden, Reporter

HEARING ON PETITION

Present: Mark R. Forsberg, Deputy D.A., and Thomas J. Hall, counsel for Petitioner; James Todd Russell, counsel for Capital City Entertainment; Sandra-Mae Pickens, counsel for Millard Realty & Construction Company. Statements were made by Court, Hall and Pickens.

Evidence marked and admitted in accordance with Exhibit Sheet.

Statements were made by Forsberg.

Hall, Russell & Pickens argued the matter.

COURT ORDERED: It is satisfied that the Nevada statute provides a unique exception to the general case authority cited by the City from Utah, California, Minnesota, and Ohio wherein a different way of acquiring property took place, and that the City must comply with NRS 278.480 and that no payment for the abandonment of the street is due and owing under subsection 7 if the predecessor-in-interest indeed dedicated, which the Court finds that they did by common law action at the time when the streets were paid for and allowed to be used for public use, that the legislature contemplated that that not require compensation to the City for the abandonment. The Court cannot see that this is an isolated issue. The Court thinks that this ruling has to be applicable to all of the downtown area that was affected by this Township Act and conveyance and that includes Mr. Millard and Capital City Entertainment. By the Court's ruling, it is finding that plan and scheme which is supported in Exhibit 1, which is the conveyance by Judge Wright of the property along with tenements, hereditaments and appurtenances thereto, included the roadways. Insofar as a declaratory relief is concerned is that Carson City cannot require payment for those streets pursuant to the statute which the Court has cited, 278.480(7) and that no payment is required. Russell and Pickens to collaborate on an order.

REC'D & FILED

1 No. 99-01015A

2 Dept. No. II

'99 OCT 18 AM 11:41

ALAN GLOVER
C. GLOVER CLERK

BY _____ DEPUTY

6 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR CARSON CITY

9 In the Matter of:

CERTIFICATE OF SERVICE
BY MAIL

10 THE AUTHORITY OF CARSON CITY
11 TO REQUIRE PAYMENT FOR THE
12 ABANDONMENT OF STREETS WITHIN
13 THE CARSON TOWNSITE.

14 I hereby certify that I am employed by the Office of the Carson City
15 District Court Clerk, Carson City, Nevada, and that on the 18th day of October,
16 1999, I deposited in the United States mail, with postage prepaid, two true and
17 correct certified copies of the following documents addressed to JANETTE BLOOM,
18 Clerk of the Supreme Court, 201 South Carson Street, Capitol Complex, Carson City,
19 NV, 89710, pursuant to NRAP 3(e): Notice of Appeal filed October 15, 1999; Case
20 Appeal Statement filed October 15, 1999; Full Case History (Docket Entries)
21 generated October 18, 1999; Order filed September 29, 1999; Notice of Entry of Order
22 filed October 7, 1999; List of Exhibits admitted into evidence; Minutes of the
23 District Court; and this Certificate of Service by Mail filed October 18, 1999. Any
24 Certification Order directing entry of judgment pursuant to NRCP 54(b) has not been
25 transmitted because the District Court file does not contain that particular
26 document.

C. GLOVER

CERTIFIED COPY

The document to which this certificate is at-
tached is a full, true and correct copy of the
original on file and of record in my office.

DATE: Oct 18, 1999
ALAN GLOVER City Clerk and Clerk of the
First Judicial District Court of the State of
Nevada, in and for Carson City.

BY [Signature] Deputy