

CLERK OF THE COURT

1 **OPPS**  
2 DANIEL T. FOLEY, ESQ.  
3 Nevada Bar No. 1078  
4 J. MICHAEL OAKES, ESQ.  
5 Nevada Bar No. 1999  
6 FOLEY & OAKES, PC  
7 850 East Bonneville Avenue  
8 Las Vegas, Nevada 89101  
9 Tel.: (702) 384-2070  
10 Fax: (702) 384-2128  
11 Email: dan@foleyoakes.com  
12 Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

10 DECATUR SHOPPING CENTER )  
11 ASSOCIATES, A Nevada Limited )  
12 Partnership )  
13 )  
14 )  
15 )  
16 )  
17 )  
18 )

Plaintiff,

Case No. A09-594500-C  
Dept. No. XX

vs.

14 CITY OF LAS VEGAS, a Municipal )  
15 Corporation of the State of Nevada; CITY )  
16 OF LAS VEGAS REDEVELOPMENT )  
17 AGENCY; ALPHA OMEGA )  
18 STRATEGIES, LLC; HJEE, LLC; DOES 1 )  
19 through 10 and ROE Entities 11 through 20, )  
20 )  
21 )  
22 )

Defendants.

DATE OF HEARINGS: April 1, 2010  
TIME OF HEARINGS: 8:30 a.m.

19 CITY OF LAS VEGAS and CITY OF LAS )  
20 VEGAS REDEVELOPMENT AGENCY, )  
21 )  
22 )

Crossclaimants,

vs.

22 ALPHA OMEGA STRATEGIES, LLC, )  
23 )  
24 )  
25 )

Crossdefendant.

**PLAINTIFF'S COMBINED OPPOSITION TO ALPHA OMEGA STRATEGIES, LLC  
AND HJEE, LLC'S MOTION FOR SUMMARY JUDGMENT AND MOTION TO  
EXPUNGE LIS PENDENS**

25 COMES NOW Decatur Shopping Center Associates, a Nevada Limited Partnership  
26 ("Decatur Center Partnership"), by and through its attorneys Foley & Oakes, PC, and hereby  
27

1 opposes Defendants ALPHA OMEGA STRATEGIES, LLC's ("Alpha Omega") and HJEE,  
2 LLC's ("HJEE") Motion of Summary Judgment and Motion to Expunge *Lis Pendens*.

3 **OVERVIEW**

4 The Defendants base their Motion for Summary Judgment and Motion to Expunge *Lis*  
5 *Pendens* on two erroneous and knowingly false allegations.

6 First, the Defendants allege that Alpha Omega has a contract with the City of Las Vegas  
7 ("City of Las Vegas") and the City of Las Vegas Redevelopment Agency (the "Agency") to buy  
8 1501 N. Decatur Boulevard in Las Vegas, Nevada, Assessor's Parcel # 138-25-518-001  
9 (hereinafter the "City Property"), but they allege that Alpha Omega has not purchased any  
10 property yet. The City of Las Vegas and the Agency are hereinafter collectively referred to as  
11 the "City". As alleged in the Amended Complaint and as evidenced by the two deeds annexed  
12 hereto as Exhibits "1" and "2", the City transferred a portion of the City Property to Alpha  
13 Omega on April 6, 2009. See Exhibit "1". The portion of the City Property transferred to Alpha  
14 Omega includes property that is subject to the Plaintiff's Parking Easement. On that same day,  
15 April 6, 2009, Alpha Omega sold the same portion of the City Property to HJEE. See Exhibit  
16 "2". Certainly, HJEE remembers buying a portion of the City Property, and certainly Alpha  
17 Omega recalls buying and selling a portion of the City Property last April. There can be no  
18 question that the Movants are aware that they are owners of a portion of the City Property over  
19 which the Parking Easement exists.

20 Second, the Movants allege that the Parking Easement had no value after the City granted  
21 the Plaintiff a parking variance in anticipation of buying the Parking Easement. As set forth in  
22 the Complaint and as evidenced by the Exhibit "3" annexed hereto, the parking variance was  
23 granted on July 7, 2004 and thereafter the City agreed to pay Plaintiff \$435,000 for the Parking  
24 Easement. If the Parking Easement had no value after the parking variance was granted, why  
25 would City contract to pay \$435,000 for the same? Furthermore, in the City's Appraisal of the  
26  
27  
28

1 Parking Easement, the appraiser referenced the agreement between the City and the Plaintiff  
2 whereby the parking variance would be granted **IN ADDITION** to a negotiated payment for the  
3 release of the Parking Easement.

4 Finally, in the Staff Report for the December 15, 2004 City Council Meeting (Exhibit "B"  
5 to the Motion for Summary Judgment), on page 4, the City discussed at length the fact that in  
6 addition to granting the parking variance, compensation would be owed and paid to Plaintiff, if  
7 and when the City acquired a release of the Parking Easement.

8  
9 The Movants' Motion for Summary Judgment is completely without merit and is based  
10 on the Movants' refusal to acknowledge their own deeds and the \$1,800,000 profit made by  
11 Alpha Omega on April 6, 2009. Otherwise, the Motion for Summary Judgment is based on a  
12 failure to read the Amended Complaint or the documents attached to the Motion itself. The  
13 Motion for Summary Judgment must be denied and Plaintiff should be awarded sanctions in the  
14 form of attorneys' fees for having to respond to the Motion.

15  
16 Regarding the *Lis Pendens*, NRS 37.060 specifically mandates that the party instituting  
17 any proceedings under the eminent domain statute must record a notice of the pendency of the  
18 action. Accordingly, by recording the *Lis Pendens*, Plaintiff was simply complying with the  
19 applicable statute. Moreover, the Movants admit to having full knowledge at all times of the  
20 existence of the recorded Parking Easement and therefore the notice of *Lis Pendens* is no  
21 surprise and has no effect on them.

#### 22 STATEMENT OF UNDISPUTED FACTS

23  
24 1. Plaintiff, since 1978, has been the owner of that certain shopping center and the  
25 real property located at 1401 N. Decatur Boulevard in Las Vegas, Nevada, also described as  
26 Assessor's Parcel # 138-25-503-007 (hereinafter the "Shopping Center"). See Plaintiff's  
27 Amended Complaint on file herein.

1           2.       On or about September 25, 2000, the City purchased the City Property. See  
2 Plaintiff's Amended Complaint.

3           3.       The Shopping Center is an approximately 100,000 square foot retail center. See  
4 Plaintiff's Amended Complaint.

5           4.       The Shopping Center and the City Property are adjoining properties located on the  
6 west side of Decatur Boulevard between Washington Avenue and Vegas Drive. See Plaintiff's  
7 Amended Complaint.  
8

9           5.       Pursuant to the Parking Easement, the Shopping Center and the City Property  
10 obtained cross-easements for parking which included and allowed for the free flow of traffic  
11 between the two properties including suitable roadways, exits, entrances and driveways for the  
12 use of the owners, tenants and customers of both properties. See Plaintiff's Amended Complaint.  
13 See also the Mutual Parking Agreement, annexed hereto as Exhibit "4".  
14

15           6.       The Parking Easement has a term of 50 years and runs with and binds the City  
16 Property and the Shopping Center, and all subsequent owners and occupants thereof. See  
17 Plaintiff's Amended Complaint. See also Exhibit "4".

18           7.       On June 12, 2003, the City notified the Plaintiff that the City intended to purchase  
19 the Plaintiff's interests in the Parking Easement. See Plaintiff's Amended Complaint. See also  
20 the Plaintiff's letter to City dated June 23, 2003, annexed hereto as Exhibit "5".

21           8.       On July 29, 2003, the City offered the Plaintiff \$100,000 for its rights in the  
22 Parking Easement. See Plaintiff's Amended Complaint. See also the City's letter to Plaintiff  
23 dated July 29, 2003, annexed hereto as Exhibit "6".  
24

25           9.       On September 28, 2003, the Plaintiff rejected the City's \$100,000 offer. See  
26 Plaintiff's Amended Complaint. See also the Plaintiff's letter to the City dated September 28,  
27 2003 annexed hereto as Exhibit "7".  
28

1           10.     As set forth in Exhibit "7", Plaintiff was unwilling to sell its rights in the Parking  
2 Easement because: a) the Shopping Center parking needs would no longer be met; and b) the  
3 Shopping Center's remaining number of parking spaces would not comply with the City Zoning  
4 requirements.

5           11.     In order to induce the Plaintiff to sell its rights in the Parking Easement, the City  
6 a) agreed to pay Plaintiff adequate consideration to compensate the Plaintiff for its lost parking  
7 rights; and b) agreed to approve a variance to allow a reduction of the amount of parking  
8 required at the Shopping Center. On December 3, 2003, the City delivered an appraisal obtained  
9 by the City to Plaintiff which valued Plaintiff's interest in the Parking Easement to be worth  
10 \$190,000. The City offered Plaintiff \$190,000 for its interest in the Parking Easement. On pages  
11 62 and 63 of the Appraisal, Mr. Kent references the City's agreement to approve a variance to  
12 allow a reduction of the amount of parking required at the Shopping Center. A copy of the  
13 pertinent portions of Mr. Kent's Appraisal is annexed hereto as Exhibit "8". See also the City's  
14 letter to Plaintiff dated December 3, 2003, annexed hereto as Exhibit "9".  
15  
16

17           12.     On July 7, 2004, while continuing to negotiate a purchase price for the Plaintiff's  
18 interest in the Parking Easement, the City obtained the promised parking variance for the  
19 Shopping Center. Exhibit "3".

20           13.     Two months after the parking variance was granted, on September 14, 2004,  
21 Plaintiff produced its own appraisal, which valued the Parking Easement at \$1,035,000. A copy  
22 of Plaintiff's Appraisal is annexed hereto as Exhibit "10". Plaintiff made a counteroffer to the  
23 City for, among other things, \$435,000 to purchase Plaintiff's interests in the Parking Easement.  
24 See the Plaintiff's letter to the City dated September 14, 2004 annexed hereto as Exhibit "11".  
25

26           14.     On February 1, 2005, the City accepted Plaintiff's \$435,000 counter offer. See the  
27 City's letter to Plaintiff dated February 1, 2005 annexed hereto as Exhibit "12".  
28

1           15.    On or about February 8, 2005, the City forwarded a draft form of a purchase  
2 agreement to Plaintiff containing a \$435,000 purchase price. See the draft Agreement for  
3 Rescission of Mutual Parking Agreement, faxed February 8, 2005, annexed hereto as Exhibit  
4 "13".

5           16.    On or about May 26, 2005, the City forwarded to Plaintiff two originals of an  
6 "Agreement for Rescission of Mutual Parking Agreement," which provided for, among other  
7 things, payment of the \$435,000 purchase price. See the City's letter to Plaintiff dated May 26,  
8 2005, annexed hereto as Exhibit "14".

9           17.    On June 4, 2005, Plaintiff returned to the City via certified mail the two executed  
10 originals of the Agreement for Rescission of Mutual Parking Agreement. A copy of a signed  
11 original of the Agreement for Rescission of Mutual Parking Agreement is annexed hereto as  
12 Exhibit "15".

13           18.    Thereafter the City refused to submit the executed originals to the City Council  
14 and the members of the City of Las Vegas Redevelopment Agency, and the City failed and  
15 refused to consider or execute the Agreement for Rescission of Mutual Parking Agreement. See  
16 Plaintiff's Amended Complaint.

17           19.    The City's stated reason for refusing to submit the Agreement for Rescission of  
18 Mutual Parking Agreement to the City Council or members of the Redevelopment Agency was  
19 that the City was not proceeding with execution of this agreement "until we complete our  
20 negotiations for the development of the 1501 Decatur site." See the City's letter to Plaintiff dated  
21 August 8, 2005 annexed hereto as Exhibit "16".

22           20.    At all times relevant herein, up to and until the recent events described below,  
23 there was never a fence or barrier between the Shopping Center and the City Property, and the  
24 City Property was always accessible to the owners, tenants, and customers of the Shopping  
25 Center. See Plaintiff's Amended Complaint.

1           21.    The City and Alpha Omega entered into a Disposition and Development  
2 Agreement ("DDA") that was amended a number of times. In all versions of the DDA, Alpha  
3 Omega contractually agreed to work toward and resolve the Plaintiff's Parking Easement.

4           22.    The latest amended version of the DDA provides that Alpha Omega has the sole  
5 obligation or burden to resolve and/or remove the Parking Easement to satisfaction of the City.  
6 See Exhibit "A" to the Motion for Summary Judgment.

7           23.    Alpha Omega has never contacted Plaintiff regarding the Parking Easement.

8           24.    On or about April 6, 2009, the City recorded a Grant, Bargain and Sale Deed in  
9 favor of Alpha Omega thereby conveying to Alpha Omega approximately 3.915 acres of the City  
10 Property, which 3.915 acres was encumbered by the Plaintiff's Parking Easement. The subject  
11 3.915-acre parcel conveyed to Alpha Omega by the Agency is hereinafter referred to as the  
12 "3.915 Acres". Exhibit "1".

13           25.    According to documents recorded with the Clark County Recorder's office, the  
14 consideration paid by Alpha Omega to the City for the 3.915 Acres was \$1,304,611.11. Exhibit  
15 "1".

16           26.    On or about March 30, 2009, prior to receiving the Agency's Deed for the 3.915  
17 Acres, Alpha Omega executed a Grant, Bargain and Sale Deed in favor of Defendant HJEE for  
18 the 3.915 Acres. Said deed was recorded moments after the Agency's deed to Alpha Omega was  
19 recorded on April 6, 2009. Exhibit "2".

20           27.    According to documents recorded with the Clark County Recorder's office, the  
21 consideration paid by HJEE to Alpha Omega for the 3.915 Acres was \$3,100,000, thereby  
22 delivering an immediate and bewildering windfall and profit paid by HJEE to Alpha Omega of  
23 \$1,800,000. Exhibits "1" and "2".

24           28.    Shortly after acquiring and reselling the 3.915 Acres, and without communicating  
25 with Plaintiff, Alpha Omega, the City and/or HJEE, for their mutual benefit, constructed a fence  
26

1 between the City Property and the Shopping Center, admittedly taking and destroying all of  
2 Plaintiff's rights under the Parking Easement.

3 29. The fence constructed by the City, Alpha Omega and/or HJEE is in violation of  
4 the specific terms of the Parking Easement.

5 30. The City, Alpha Omega and/or HJEE constructed the fence with full knowledge  
6 of the existence of the Parking Easement, without providing any notice of the same to Plaintiff,  
7 and with full knowledge of the City's previous negotiations with Plaintiff and the City's prior  
8 offer of \$435,000 to purchase the Parking Easement.

9 31. After constructing the fence, the City, Alpha Omega and/or HJEE demolished the  
10 parking lot on the City Property and constructed pads and other improvements. The City  
11 Property parking lot is now destroyed, as are the Plaintiff's rights under the Parking Easement.

12  
13 **A. SUMMARY JUDGMENT MAY ONLY BE GRANTED WHEN THE**  
14 **POSSIBILITY OF PRESENTING TRIABLE ISSUES OF FACT HAS BEEN**  
15 **TOTALLY FORECLOSED**

16 The primary authority governing Motions for Summary Judgment in Nevada is Nevada  
17 Rules of Civil Procedure ("NRCPP") Rule 56. Rule 56(c) sets forth the standards of proof  
18 associated with motions for summary judgment:

19 The judgment sought shall be rendered forthwith if the pleadings, depositions,  
20 answers to interrogatories, and admissions on file, together with the affidavits, if  
21 any, show that there is no genuine issue as to any material fact and that the  
moving party is entitled to a judgment as a matter of law.

22 "A genuine issue of material fact is one where the evidence is such that a reasonable jury  
23 could return a verdict for the non-moving party." Posadas v. City of Reno, 109 Nev. 448, 452,  
24 851 P.2d 438, 441-42 (1993). In Doud v Las Vegas Hilton Corp., 109 Nev. 1096, 864 P.2d 796  
25 (Nev.1993), the Nevada Supreme Court instructed trial courts that "[s]ummary judgment is only  
26 appropriate when a review of the record viewed in a light most favorable to the nonmoving party  
27 reveals no triable issues of material fact and judgment is warranted as a matter of law." The  
28



1 Supreme Court has further held “[i]n determining whether summary judgment is proper, the  
2 nonmoving party is entitled to have the evidence and all reasonable inferences accepted as true.”  
3 Wiltsie v. Baby Grand Corp., 105 Nev. 291, 292, 774 P.2d 432, 433 (1989).

4 Utilizing these intentionally high standards, it is clear that in Nevada “[l]itigants are not  
5 to be deprived of a trial on the merits if there is the slightest doubt as to the operative facts.”  
6 Mullis v. Nevada National Bank, 98 Nev. 510, 512, 654 P.2d 533 (1982); Shapro v. Forsythe,  
7 103 Nev. 666, 668, 747 P.2d 241 (1987). Moreover, the Court in Mullis went on to state that  
8 “[t]rial judges are admonished to exercise great caution in granting summary judgment.” Mullis,  
9 98 Nev. at 512 citing Montgomery v. Ponderosa Constr., Inc., 101 Nev. 416, 418, 705 P.2d 652  
10 (1985) and Johnson v. Steel, Inc., 100 Nev. 181, 182, 678 P.2d 676 (1984). Additionally, “[t]he  
11 trial court should review the record searchingly for material issues of fact, the existence of which  
12 eliminate the propriety of summary treatment.” Mullis, 98 Nev. at 512. In sum, a motion for  
13 summary judgment should not be granted unless the Court is convinced of the absence of  
14 genuine issues of material fact. Said another way, “summary judgment may not be used as a  
15 short cut to the resolving of disputes upon facts material to the determination of the legal rights  
16 of the parties.” Parmana v. Petricciani, 70 Nev. 427, 436, 272 P.2d 492 (1954); Mullis, 98 Nev.  
17 at 512.

18 In the case at bar, the Movants do not set forth any undisputed facts. Instead the Movants  
19 proffer patently false, erroneous, and internally inconsistent claims as discussed in full below.

20  
21  
22 **B. ALPHA OMEGA OBTAINED FROM THE CITY AND SOLD TO HJEE A**  
23 **PORTION OF THE CITY PROPERTY**

24 Section B of the Motion for Summary Judgment is based upon Alpha Omega’s statement  
25 therein that “[t]here is an agreement between Alpha Omega and the City of Las Vegas for Alpha  
26 Omega to purchase the subject property, but is has not yet.” See Movants’ Motion page 5, lines 6  
27 – 7. Contrary to this allegation, the City has produced in this case a Recorded Deed showing that  
28

1 the City conveyed a portion of the City Property to Alpha Omega on April 6, 2009. See Exhibit  
2 "1". The City also produced a Deed executed by Alpha Omega in favor of HJEE recorded on the  
3 same date within one minute of the recording of Exhibit "2". Exhibits "1" and "2" indicate that  
4 Alpha Omega, in one minute's time, made just short of \$1,800,000 profit on its simultaneous  
5 purchase and sale of a portion of the City Property. Alpha Omega is now in the chain of title  
6 having acquired the City Property with knowledge that it was subject to the Parking Easement  
7 and having conveyed the same to HJEE. In any event, Alpha Omega's claims that "it has not  
8 yet" acquired any City Property is erroneous, and on that basis Summary Judgment must be  
9 denied.  
10

11 Alpha Omega goes on to claim and argue that it erected the fence and demolished the  
12 parking lot, thereby preventing Plaintiff from ever being able to use it as per the Parking  
13 Easement, because Alpha Omega has a contract with City requiring it do so. Therefore, Alpha  
14 Omega argues that it simply must be dismissed as it was only following the City's orders. The  
15 DDA agreement that Alpha Omega relies on for fencing off and demolishing the Parking  
16 Easement specifically provides on page 12 of 26 of Exhibit "A" to the Motion for Summary  
17 Judgment, that "[t]he Buyer (Alpha Omega) shall resolve and/or remove, to the satisfaction of  
18 the Sellers (City) and as necessary for the Project to be completed, the Mutual Parking  
19 Agreement dated October 17, 1963, recorded as Instrument No. 392752 in Book No. 487,  
20 Official Records, Clark County, Nevada." Alpha Omega does not attach an affidavit to its  
21 Motion to explain how it satisfied or attempted to satisfy section 8(d) of the DDA, but  
22 presumably it believes it has done so by simply buying and selling a portion of the property,  
23 fencing off the Parking Easement and then demolishing the same. Alpha Omega's claims that it  
24 should be excused from this suit because it was only acting pursuant to its DDA with the City are  
25 absurd. The DDA specifically identifies the Parking Easement and specifically requires Alpha  
26 Omega to resolve the same. The only effort made by Alpha Omega was to fence off and  
27  
28

1 demolish the Parking Easement, and those non-efforts of trespass, conversion and taking cannot  
2 possibly be the basis for Alpha Omega's excuse.

3 If anything, Alpha Omega has admitted sufficient facts upon which Partial Summary  
4 Judgment can be granted in favor of Plaintiff for taking, trespass and conversion.

5 **C. IT IS UNDISPUTED THAT THE PARKING EASEMENT IS WORTH \$435,000**

6 The Movants wildly allege that the Parking Easement is worthless, and therefore there  
7 can be no condemnation, no trespass and no conversion. Alpha Omega jumps to a convenient  
8 conclusion that the parking variance was granted to Plaintiff by the City for the purpose of  
9 expunging or releasing the Parking Easement. As the documents attached hereto as Exhibits "9",  
10 "10", "11", "12", "13", "14" and "15" show, the specific and documented negotiations between  
11 the City and the Plaintiff regarding the release of the Parking Easement, from the inception,  
12 included the City paying agreed-upon consideration (\$435,000 in the end) AND granting a  
13 parking variance for the Shopping Center.  
14

15 As shown on Exhibit "3", the parking variance was approved by the City on July 7, 2004  
16 and later confirmed on December 15, 2005. Eleven months after the parking variance was first  
17 approved by the City, the City agreed to pay Plaintiff \$435,000 for its release of the Parking  
18 Easement. See Exhibit "12". The record is clear that the variance and the \$435,000 purchase  
19 price were joint consideration for the release of the Parking Easement and that even after the  
20 parking variance was granted, the Parking Easement was still worth \$435,000 to both the City  
21 and the Plaintiff. The Movants' unsupported conclusion that the Parking Easement was rendered  
22 valueless by the parking variance is directly contradicted by undisputed documents. Moreover,  
23 as fully acknowledged by the City, the parking variance only meant that the Shopping Center  
24 continued to comply with City Zoning requirements. The parking variance did not in any way  
25 compensate Plaintiff for its loss of the use of the parking lot on the City Property. The loss of  
26 said parking rights limits the use of the Shopping Center and the ability to attract tenants with  
27  
28

1 greater parking needs. Finally, the City, which granted the parking variance, does not and cannot  
2 maintain such a position.

3 **D. THE STATUTE OF LIMITATIONS WITH RESPECT TO MOVANTS AND**  
4 **CAUSES OF ACTION SEVEN AND EIGHT STARTED TO RUN NO EARLIER**  
5 **THAN JUNE 2007, WHEN THE FIRST DDA WAS EXECUTED WITH THE**  
6 **CITY**

6 In Paragraphs 46 – 49 of the Amended Complaint Plaintiff alleges as follows:

7 46. The City and A&O's predecessor, Alpha Omega Strategies, Inc., entered  
8 into a Disposition and Development Agreement in June 2007, pursuant to which  
9 they agreed that the City and A&O would work jointly to resolve and/or remove  
the Parking Easement.

10 47. The above-referenced Disposition and Development Agreement was  
11 amended on October 17, 2007 and July 16, 2008.

12 48. The above-referenced Disposition and Development Agreement was  
13 assigned by Alpha Omega Strategies, Inc. to A&O, on January 21, 2009.

14 49. The above-referenced Disposition and Development Agreement was then  
15 amended again by the City and A&O on January 21, 2009 and July 1, 2009.

16 Accordingly, to the best of Plaintiff's knowledge the Movants' involvement with the City  
17 Property began in or around June 2007, approximately 2 years prior to the filing of this suit.

18 Causes of Action Seven and Eight against the Movants are for Deliberate and Purposeful  
19 Violation of Eminent Domain Laws and Conspiracy to Violate Eminent Domain Laws. The  
20 Movants argue that the applicable Statute of Limitations is four years. For the sake of this  
21 argument, assuming the Movants are correct, Plaintiff is unaware of and has not alleged any  
22 misconduct by the Movants prior to executing the DDA in 2007. If the Movants are admitting  
23 that they conspired with the City to deprive Plaintiff of its rights under the Parking Easement  
24 prior to 2007, then the extent of the same should be disclosed and Plaintiff's knowledge of the  
25 same must be determined before a dispositive ruling on the Statute of Limitations Defense can be  
maintained.

26 Moreover, HJEE was not formed or registered with the State of Nevada until November  
27 7, 2005, less than four years prior to the filing of the suit. Alpha Omega was not formed or

1 registered with the State of Nevada until September 23, 2008. It is impossible for a four-year  
2 statute of limitations to have run against HJEE or Alpha Omega.

3 **E. THE FACT THAT THE FENCE IS LOCATED ON CITY PROPERTY IS**  
4 **IRRELEVANT SINCE THE FENCE AND THE MOVANTS' DEMOLITION HAS**  
5 **DESTROYED THE PARKING EASEMENT**

6 The Movants argue that the fence that prohibits use of the Parking Easement is  
7 physically located on the City Property, and because the fence does not prohibit ingress and  
8 egress off of Decatur, somehow, there can be no claim of Conversion or Trespass. The Movants  
9 do not include any support or even explanation of this legal theory. However, the fact is that the  
10 issues before this Court do not involve ingress or egress. The issues in this case relate to the  
11 Parking Easement. The undisputed fact is that the fence constructed by and for the Defendants  
12 blocks all access by the Plaintiff to the City Property parking lot and therefore denies the  
13 Plaintiff access to the Parking Easement. There is no dispute that the Parking Easement is  
14 contractual, that the Parking Easement is a matter of record and that up to and until the time that  
15 the Movants constructed the fence, the Parking Easement had existed and been honored by all  
16 parties and their predecessors since 1963. Moreover, the Movants have now demolished the City  
17 Property parking lot, and therefore the Parking Easement is destroyed.

18  
19 Otherwise, a party can commit willful trespass by blocking an easement even if the  
20 offending party constructs the blockage entirely on his own property over which the easement  
21 exists. Mize v. McGarity, 667 S.E.2d 695 (Ga. App. 2008). The issue in this case is the  
22 undisputed fact that the fence constructed by and for the Defendants eliminates the Parking  
23 Easement that was contracted for and has existed since 1963. Moreover, the Defendants have  
24 demolished the parking lot on the City Property by taking out all of the asphalt, which has  
25 absolutely and unequivocally destroyed the Parking Easement.

26  
27 ///

1 **F. THE LIS PENDENS WAS PROPERLY RECORDED PURSUANT TO NRS 37.060**

2 NRS 37.060 specifically mandates that the party instituting any proceedings under the  
3 eminent domain statute must record a notice of the pendency of the action in the County where  
4 property exists. The *Lis Pendens* is recorded against the City Property over which the Parking  
5 Easement exists. Accordingly, by recording the *Lis Pendens*, Plaintiff was simply complying  
6 with the applicable statute. The Movants fail to address or acknowledge NRS 37.060 and  
7 therefore the entirety of the Motion to Expunge is irrelevant to issues before this Court.  
8

9 The undisputed fact is that the City Property is and was at all times subject to the Parking  
10 Easement recorded with the Clark County Recorder's office in October 1963 in Book 487 as  
11 Instrument 392752. Exhibit "4". Moreover, in the DDA executed by Alpha Omega and  
12 attached as Exhibit "B" to the Motion for Summary Judgment, Alpha Omega acknowledged and  
13 agreed on page 12 of 26 paragraph 9 (d) as follows:  
14

15 (d) Buyer (Alpha Omega) shall resolve and/or remove, to the satisfaction  
16 of the Sellers and as necessary for the Project to be completed, the Mutual  
17 Parking Agreement dated October 17, 1963, recorded as Instrument No. 392752  
18 in Book No. 487, Official Records, Clark County, Nevada.

19 This latest version of the DDA was executed by Alpha Omega and the City in July 2009, long  
20 after the parking variance had been granted and long after the City had agreed to pay Plaintiff  
21 \$435,000 for a release of the Parking Easement. The latest DDA was executed after the  
22 Complaint in this case was filed and after Alpha Omega acquired a portion of the City Property.  
23 Accordingly, the Movants at all times knew they were purchasing property that was subject to  
24 the recorded Parking Easement, knew the Parking Easement was worth \$435,000, and knew that  
25 Alpha Omega was responsible for negotiating with Plaintiff for a release of the Parking  
26 Easement. Movants' theatrics over the *Lis Pendens* at this time are disingenuous at best.

27 Finally, the *Lis Pendens* is an appropriate notice that this suit involving the recorded  
28 Parking Easement is pending. The Parking Easement has never been released or expunged. The

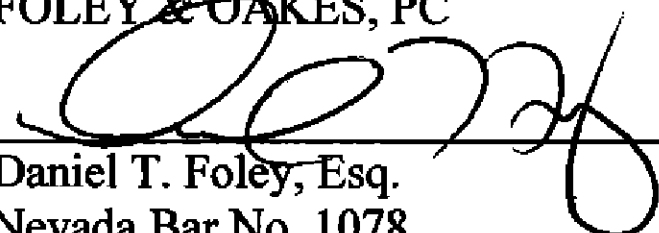
1 Movants have simply and unilaterally determined that the Parking Easement is valueless. This  
2 valueless determination is unilateral, completely unsupported and directly contradicted by the  
3 City's appraisal, the Plaintiff's appraisal, the City's agreement to pay Plaintiff \$435,000 and  
4 Alpha Omega's agreement with the City to resolve the Parking Easement with Plaintiff.  
5 Moreover, the Movants admit to having full knowledge at all times of the existence of the  
6 recorded Parking Easement and therefore the notice of *Lis Pendens* is no surprise and has no  
7 effect on them.  
8

9 **CONCLUSION**

10 For the reasons set forth above, this Court must deny both the Movants' Motion for  
11 Summary Judgment and Motion to Expunge the *Lis Pendens*.

12 DATED this 15<sup>th</sup> day of March 2010.

13 FOLEY & OAKES, PC

14   
15 Daniel T. Foley, Esq.  
16 Nevada Bar No. 1078  
17 850 E. Bonneville Avenue  
18 Las Vegas, Nevada 89101

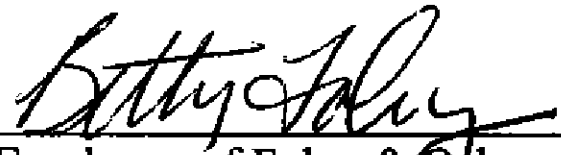
1 **CERTIFICATE OF MAILING**

2 Pursuant to NRCP 5(b), I certify that on this day, I deposited a copy of the foregoing  
3 **OPPOSITION TO ALPHA OMEGA STRATEGIES, LLC AND HJEE, LLC'S MOTION**  
4 **FOR SUMMARY JUDGMENT AND MOTION TO EXPUNGE LIS PENDENS** for  
5 mailing, first-class postage fully prepaid, at Las Vegas, NV addressed to the following:

6  
7 Bradford R. Jerbic, Esq.  
8 Philip R. Byrnes, Esq.  
9 400 Stewart Ave., Ninth Floor  
10 Las Vegas, NV 89101  
11 *Attorneys for City of Las Vegas and*  
12 *City of Las Vegas Redevelopment Agency*

13 Noel Gage, Esq.  
14 Janelle Lavigne, Esq.  
15 Longford Medical Center, Suite 415  
16 7455 W. Washington Ave.  
17 Las Vegas, NV 89128  
18 *Attorneys for Alpha Omega Strategies, LLC and*  
19 *HJEE, LLC*

20 DATED this 15<sup>th</sup> day of March 2010.

21  
22   
23 \_\_\_\_\_  
24 An Employee of Foley & Oakes, PC  
25  
26  
27  
28



# EXHIBIT 1



20090406-0001055

Fee: \$16.00 RPTT: \$6,655.50

N/C Fee: \$0.00

04/06/2009 09:56:20


T20090116447

Requestor:

STEWART TITLE LAS VEGAS WARM

Debbie Conway TAH

Clark County Recorder Pgs: 6

A.P.N. #	138-25-518-001
R.P.T.T.	\$6,655.50
Escrow No.	1017001-LJJ
Recording Requested By:	
	
Mall Tax Statements To:	Same as below
When Recorded Mall To:	
Alpha Omega Straegies, LLC	
William B. Bayne	
851 S. Rampart, Ste 151, Las Vegas, NV 89145	

### GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH: That City of Las Vegas Redevelopment Agency, a public body for valuable consideration, the receipt of which is hereby acknowledged, does hereby Grant, Bargain Sell and Convey to

**Alpha Omega Strategies, LLC, a Nevada limited liability company,**

all that real property situated in the County of Clark, State of Nevada, bounded and described as follows:

Lot One (1) of the FINAL MAP OF DECATUR AND VEGAS, A COMMERCIAL SUBDIVISION, as shown by map thereof on file in Book 141 of Plats, page 41, in the Office of the County Recorder of Clark County, Nevada.

**SUBJECT TO:**

1. Taxes for fiscal year;
2. Reservations, restrictions, conditions, rights, rights of way and easements, if any of record on said premises.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, remainders, rents, issues or profits thereof.

Dated: 4/1/2009

City of Las Vegas Redevelopment Agency, a public body

BY: *Oscar B. Goodman*  
Oscar B. Goodman  
ITS: Chairman

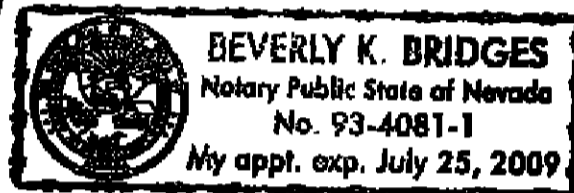
APPROVED AS TO FORM  
*T. Fonticello* 4/1/09  
Theresa L. Fonticello Date  
Chief Deputy City Attorney

State of Nevada }  
County of Clark } ss.

This instrument was acknowledged before me *Beverly K. Bridges*  
on 4/1/09

By: *Oscar B. Goodman*

Signature: *Beverly K. Bridges*  
Notary Public



**EXHIBIT A**

**LEGAL DESCRIPTION**

THAT PORTION OF LOT 1 OF THAT CERTAIN PLAT KNOWN AS "DECATUR AND VEGAS, A COMMERCIAL SUBDIVISION" ON FILE IN THE CLARK COUNTY, NEVADA RECORDER'S OFFICE IN BOOK 141, PAGE 41 OF PLATS, SITUATE IN THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 25, TOWNSHIP 20 SOUTH, RANGE 60 EAST, M.D.M. IN THE CITY OF LAS VEGAS, COUNTY OF CLARK, STATE OF NEVADA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 89°57'34" EAST ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 246.41 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 89°57'34" EAST ALONG SAID NORTH LINE, A DISTANCE OF 489.73 FEET TO THE NORTHEAST CORNER OF SAID LOT 1, SAME BEING ON THE WEST RIGHT-OF-WAY LINE OF DECATUR BOULEVARD (WIDTH VARIES); THENCE DEPARTING SAID NORTH LINE AND ALONG THE EAST LINE OF SAID LOT 1, COINCIDENT WITH SAID WEST RIGHT-OF-WAY LINE, THE FOLLOWING FIVE (5) COURSES: ONE (1) SOUTH 00°42'34" EAST, A DISTANCE OF 100.58 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 20.00 FEET; TWO (2) SOUTHWESTERLY 3.56 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°12'28"; THREE (3) SOUTH 09°29'54" WEST, A DISTANCE OF 51.96 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 30.00 FEET; FOUR (4) SOUTHWESTERLY 5.34 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°12'28"; FIVE (5) SOUTH 00°42'34" EAST, A DISTANCE OF 27.31 FEET; THENCE DEPARTING SAID EAST LINE AND SAID WEST RIGHT-OF-WAY LINE, NORTH 89°57'34" WEST, A DISTANCE OF 111.88 FEET; THENCE SOUTH 00°42'34" EAST, A DISTANCE OF 163.01 FEET; THENCE NORTH 89°57'34" WEST, A DISTANCE OF 47.75 FEET; THENCE SOUTH 00°02'26" WEST, A DISTANCE OF 23.76 FEET; THENCE SOUTH 71°02'03" WEST, A DISTANCE OF 69.64 FEET; THENCE NORTH 89°57'34" WEST, A DISTANCE OF 258.93 FEET; THENCE NORTH 00°02'09" EAST, A DISTANCE OF 405.45 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 3.915 ACRES (170,547 SQUARE FEET).

**BASIS OF BEARINGS**

NORTH 89°57'34" EAST, BEING THE BEARING OF THE NORTH LINE OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 25, TOWNSHIP 20 SOUTH, RANGE 60 EAST, M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA, AS SHOWN ON THAT CERTAIN MAP ON FILE IN THE CLARK COUNTY RECORDER'S OFFICE IN FILE 4 OF SURVEYS, AT PAGE 16.

Exhibit A

**STATE OF NEVADA  
DECLARATION OF VALUE**

**1. Assessor Parcel Number(s)**

- a) 138-25-518-001
- b) \_\_\_\_\_
- c) \_\_\_\_\_
- d) \_\_\_\_\_

FOR RECORDER'S OPTIONAL USE ONLY	
Document/Instrument No.	_____
Book _____	Page _____
Date of Recording:	_____
Notes:	_____

**2. Type of Property**

- a)  Vacant Land
- b)  Single Family Residence
- c)  Condo/Twnhse
- d)  2-4 Plex
- e)  Apartment Bldg.
- f)  Commercial/Industrial
- g)  Agricultural
- h)  Mobile Home
- i)  Other \_\_\_\_\_

- 3. a. Total Value/Sales Price of Property \$1,304,611.11
- b. Deed in Lieu of Foreclosure Only (Value of Property) ( \$1,304,611.11 )
- c. Transfer Tax Value \_\_\_\_\_
- d. REAL PROPERTY TRANSFER TAX DUE: \$6,655.50

**4. If Exemption Claimed:**

- a. Transfer Tax Exemption, per NRS 375.090, Section: \_\_\_\_\_
- b. Explain Reason for Exemption: \_\_\_\_\_

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110 that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month.

Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature: \_\_\_\_\_ Capacity: grantor  
City of Las Vegas Redevelopment Agency

Signature: *William B. Bayne* Capacity: grantee  
Alpha Omega Strategies, LLC

**SELLER (GRANTOR) INFORMATION**  
(REQUIRED)

Print Name: City of Las Vegas Redevelopment Agency  
 Address: 400 Stewart Avenue  
 City/State/Zip Las Vegas, NV 89101

**BUYER (GRANTEE) INFORMATION**  
(REQUIRED)

Print Name: William B. Bayne Alpha Omega Strategies, LLC  
 Address: 851 S. Rampart Suite 150  
 City/State/Zip Las Vegas, NV 89145

**COMPANY/PERSON REQUESTING RECORDING (required if not the Seller or Buyer)**

Company Name: Stewart Title of Nevada - Las Vegas Division Escrow No 1017001-LJJ  
 Address: 376 E. Warm Springs Road, Suite 190  
 City Las Vegas State: NV Zip 89119

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

**STATE OF NEVADA  
DECLARATION OF VALUE**

**1. Assessor Parcel Number(s)**

- a) 138-25-518-001
- b) \_\_\_\_\_
- c) \_\_\_\_\_
- d) \_\_\_\_\_

FOR RECORDER'S OPTIONAL USE ONLY	
Document/Instrument No.	_____
Book _____	Page _____
Date of Recording:	_____
Notes:	_____

**2. Type of Property**

- a)  Vacant Land
- b)  Single Family Residence
- c)  Condo/Twnhse
- d)  2-4 Plex
- e)  Apartment Bldg.
- f)  Commercial/Industrial
- g)  Agricultural
- h)  Mobile Home
- i)  Other \_\_\_\_\_

- 3. a. Total Value/Sales Price of Property \$1,304,611.11
- b. Deed in Lieu of Foreclosure Only (Value of Property) ( \$1,304,611.11 )
- c. Transfer Tax Value \_\_\_\_\_
- d. REAL PROPERTY TRANSFER TAX DUE: \$6,655.50

**4. If Exemption Claimed:**

- a. Section: Transfer Tax Exemption, per NRS 375.090,
- b. Explain Reason for Exemption: \_\_\_\_\_

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110 that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature:  Capacity: grantor  
City of Las Vegas Redevelopment Agency

Signature: \_\_\_\_\_ Capacity: grantee

**SELLER (GRANTOR) INFORMATION  
(REQUIRED)**

Print Name: City of Las Vegas  
Redevelopment Agency  
 Address: 400 Stewart Avenue  
 City/State/Zip Las Vegas, NV 89101

**BUYER (GRANTEE) INFORMATION  
(REQUIRED)**

Print Name: William B. Bayne  
Alpha Omega Strategies, LLC  
 Address: 851 S. Rampart Suite 150  
 City/State/Zip Las Vegas, NV 89145

**COMPANY/PERSON REQUESTING RECORDING (required if not the Seller or Buyer)**

Company Name: Stewart Title of Nevada - Las Vegas  
Division Escrow No 1017001-LJJ

## EXHIBIT 2

20090406-0001057

20090406-0001057

Fee: \$16.00 RPTT: \$15,810.00

N/C Fee: \$0.00

04/06/2009 09:56:20


T20090116447

Requestor:

STEWART TITLE LAS VEGAS WARM

Debbie Conway TAH

Clark County Recorder Pgs: 6

A.P.N. #	A PORTION OF 138-25-518-001
R.P.T.T.	\$15,810.00
Escrow No.	1016387-LJJ
Recording Requested By:	
	
Mail Tax Statements To:	Same as below
When Recorded Mail To:	
HJEE, LLC 2325 E. Cheyenne Ave, NLV, NV. 89030	

### GRANT, BARGAIN, SALE DEED

THIS INDENTURE WITNESSETH: That Alpha Omega Strategies, LLC, a Nevada limited liability company for valuable consideration, the receipt of which is hereby acknowledged, does hereby Grant, Bargain Sell and Convey to

HJEE, LLC a Nevada limited liability company

that real property situated in the County of Clark, State of Nevada, bounded and described as follows:

See Exhibit "A" attached hereto and by reference made a part hereof for complete legal description.

**SUBJECT TO:**

1. Taxes for fiscal year;
2. Reservations, restrictions, conditions, rights, rights of way and easements, if any of record on said premises.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and any reversions, remainders, rents, issues or profits thereof.

Dated: 3-30-09



Alpha Omega Strategies, LLC

BY: *William B. Bayne*  
William B. Bayne

Its: *Manager*



State of Nevada

} ss.

County of Clark

This instrument was acknowledged before me

By: William B. Bayne

*Tobi L. Land*  
Signature: *Tobi L. Land*  
Notary Public Tobi L. Land

*30<sup>th</sup> March*

**Exhibit A  
LEGAL DESCRIPTION**

File Number: 1016387

This land description describes a portion of the DECATUR AND VEGAS, A COMMERCIAL SUBDIVISION, generally located West of Decatur Boulevard and South of Vegas Drive.

That portion of Lot 1 of that certain Plat known as DECATUR AND VEGAS, A COMMERCIAL SUBDIVISION, on file in the Clark County, Nevada Recorder's Office, in Book 141, page 41, of Plats, situate in the Northeast Quarter (NE ¼) of the Northeast Quarter (NE ¼) of Section 25, Township 20 South, Range 60 East, M.D.M., in the City of Las, County of Clark, State of Nevada, described as follows:

Commencing at the Northwest corner of said lot 1; thence South 89°57'34" east along the North line of said Lot 1, a distance of 246.41 feet to the Point of Beginning;

thence continuing South 89°57'34" East along the North line, a distance of 489.73 feet to the northeast corner of said Lot 1, same being on the West right-of-way line of Decatur Boulevard (width varies); thence departing said North line and along the East line of said Lot 1, coincident with said West right-of-way line, the following five (5) courses: One (1) – South 00°42'34" East, a distance of 100.58 feet to the beginning of a curve, concave Northwesterly, having a radius of 20.00 feet; Two (2) – Southwesterly 3.56 feet along said curve, through a central angle of 10°12'28"; Three (3) – South 09°29'54" West, a distance of 51.96 feet to the beginning of a curve, concave Southeasterly, having a radius of 30.00 feet; Four (4) – Southwesterly 5.34 feet along said curve, through a central angle of 10°12'28"; Five (5) – South 00°42'34" East, a distance of 27.31 feet; thence departing said East line and said West right-of-way line, North 89°57'34" West, a distance of 111.88 feet; thence South 00°42'34" East, a distance of 163.01 feet; thence north 89°57'34" West, a distance of 47.75 feet; thence South 00°02'26" West, a distance of 23.76 feet; thence South 71°02'03" West, a distance of 69.64 feet; thence North 89°57'34" West, a distance of 258.93 feet; thence North 00°02'09" East, a distance of 405.45 feet to the Point of Beginning.

The above legal description is also known as Lot 1-2 as shown on that certain Record of Survey on file in File 177 of Surveys, page 14, in the Office of the County Recorder of Clark County, Nevada, and recorded January 29, 2009 in Book 20090129 as Document No. 0005041, of Official Records.

**STATE OF NEVADA  
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)  
 a) A portion of 138-25-518-001  
 b) \_\_\_\_\_  
 c) \_\_\_\_\_  
 d) \_\_\_\_\_

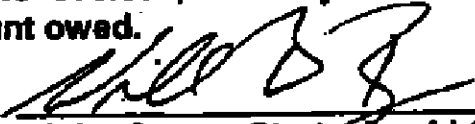
FOR RECORDER'S OPTIONAL USE ONLY	
Document/Instrument No.	_____
Book _____	Page _____
Date of Recording:	_____
Notes:	_____

2. Type of Property
- |  |   |
|--|---|
| a) <input checked="" type="checkbox"/> Vacant Land | b) <input type="checkbox"/> Single Family Residence |
| c) <input type="checkbox"/> Condo/Twnhse           | d) <input type="checkbox"/> 2-4 Plex                |
| e) <input type="checkbox"/> Apartment Bldg.        | f) <input type="checkbox"/> Commercial/Industrial   |
| g) <input type="checkbox"/> Agricultural           | h) <input type="checkbox"/> Mobile Home             |
| i) <input type="checkbox"/> Other _____            |   |

3. a. Total Value/Sales Price of Property \$3,100,000.00  
 b. Deed In Lieu of Foreclosure Only (Value of Property) ( \_\_\_\_\_ )  
 c. Transfer Tax Value \$3,100,000.00  
 d. REAL PROPERTY TRANSFER TAX DUE: \$15,810.00

4. If Exemption Claimed:  
 a. Transfer Tax Exemption, per NRS 375.090, Section: \_\_\_\_\_  
 b. Explain Reason for Exemption: \_\_\_\_\_  
 5. Partial interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 376.060 and NRS 375.110 that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature:  Capacity: grantor  
Alpha Omega Strategies, LLC  
William B. Bayne

Signature: \_\_\_\_\_ Capacity: grantee  
HJEE, LLC

<u>SELLER (GRANTOR) INFORMATION</u> (REQUIRED)	<u>BUYER (GRANTEE) INFORMATION</u> (REQUIRED)
Print Name: <u>Alpha Omega Strategies, LLC</u>	Print Name: <u>HJEE, LLC</u>
Address: <u>851 S. Rampart Suite 150</u>	Address: <u>2325 E. Cheyenne Ave.</u>
City/State/Zip: <u>Las Vegas, NV 89145</u>	City/State/Zip: <u>N. LV. NV 89030</u>

COMPANY/PERSON REQUESTING RECORDING (required if not the Seller or Buyer)  
 Company Name: Stewart Title of Nevada - Las Vegas Division Escrow No 1016387-LJJ  
 Address: 376 E. Warm Springs Road, Suite 190  
 City Las Vegas State: NV Zip 89119

(As a public record this form may be recorded/microfilmed)

**STATE OF NEVADA  
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

- a) A portion of 138-25-518-001
- b) \_\_\_\_\_
- c) \_\_\_\_\_
- d) \_\_\_\_\_

FOR RECORDER'S OPTIONAL USE ONLY	
Document/Instrument No.	_____
Book _____	Page _____
Date of Recording:	_____
Notes:	_____

2. Type of Property

- a)  Vacant Land
- b)  Single Family Residence
- c)  Condo/Twnhse
- d)  2-4 Plex
- e)  Apartment Bldg.
- f)  Commercial/Industrial
- g)  Agricultural
- h)  Mobile Home
- i)  Other \_\_\_\_\_

- 3. a. Total Value/Sales Price of Property \$3,100,000.00
- b. Deed in Lieu of Foreclosure Only (Value of Property) ( \_\_\_\_\_ )
- c. Transfer Tax Value \$3,100,000.00
- d. REAL PROPERTY TRANSFER TAX DUE: \$15,810.00

4. If Exemption Claimed:

- a. Transfer Tax Exemption, per NRS 375.090, Section: \_\_\_\_\_
- b. Explain Reason for Exemption: \_\_\_\_\_

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110 that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature: \_\_\_\_\_ Capacity: grantor  
Alpha Omega Strategies, LLC

Signature: *Hipillito Anaya* Capacity: grantee  
HJEE, LLC Hipillito Anaya

**SELLER (GRANTOR) INFORMATION**  
**(REQUIRED)**

Print Name: Alpha Omega Strategies, LLC  
Address: 851 S. Rampart Suite 150  
City/State/Zip Las Vegas, NV. 89145

**BUYER (GRANTEE) INFORMATION**  
**(REQUIRED)**

Print Name: HJEE, LLC  
Address: 2325 E. Cheyenne Ave.  
City/State/Zip NLV, NV. 89030

**COMPANY/PERSON REQUESTING RECORDING (required if not the Seller or Buyer)**

Company Name: Stewart Title of Nevada - Las Vegas Escrow No 1016387-LJJ  
Division  
Address: 376 E. Warm Springs Road, Suite 190  
City Las Vegas State: NV Zip 89119

Address: 378 E. Warm Springs Road, Suite 190

City Las Vegas State: NV Zip 89119

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

## EXHIBIT 3



July 12, 2004

LAS VEGAS CITY COUNCIL

OSCAR B. GOODMAN  
MAYOR

GARY REESE  
MAYOR PRO TEM

LARRY BROWN  
LAWRENCE WEEKLY  
MICHAEL MACK  
JANET MONCRIEF  
STEVE WOLFSON

DOUGLAS A. SELBY  
CITY MANAGER

Decatur Shopping Center Association  
PO Box 260486  
Encino, CA 91426-0486

RE: VAR-4340 - VARIANCE  
CITY COUNCIL MEETING OF JULY 7, 2004  
Related to SUP-4168

Dear Applicant:

The City Council at a regular meeting held July 7, 2004 APPROVED the request for a Variance TO ALLOW A REDUCTION OF THE AMOUNT IN REQUIRED PARKING at 1401 North Decatur Boulevard, Suite #34 (APN: 138-25-503-007), C-1 (Limited Commercial) Zone. (NOTE: Application should properly indicate the amount of parking spaces being requested, which is 267 where 534 is required.). The Notice of Final Action was filed with the Las Vegas City Clerk on July 8, 2004. This approval is subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval Special Use Permit (SUP-4168)
2. This Variance shall expire one year from the date of final approval, unless it is exercised or an Extension of Time is granted by the City Council.

Sincerely,

A handwritten signature in cursive script that reads "Stacey Campbell".

Stacey Campbell  
Deputy City Clerk I for  
Barbara Jo Ronemus, City Clerk

cc: Planning and Development Dept.  
Development Coordination-DPW  
Dept. Of Fire Services

Mr. Gregory Pico  
1091 South Cimarron Road, A-6  
Las Vegas, Nevada 89145

Mr. Lloyd Williams  
PO Box 1926  
Las Vegas, Nevada 89125-1926

CITY OF LAS VEGAS  
400 STEWART AVENUE  
LAS VEGAS, NEVADA 89101

VOICE 702.229.6011  
TDD 702.386.9108  
www.lasvegasnevada.gov  
18112-001-6/04

## EXHIBIT 4



W0487

MUTUAL PARKING AGREEMENT

392752  
8-1

THIS AGREEMENT made and entered into this 17 day of October, 1963, by and between CHRIS-JO, INC., a Nevada corporation, hereinafter sometimes referred to as "First party" and MARKET WHOLESALE GROCERY CO., a California corporation, hereinafter sometimes referred to as "Second party".

WHEREAS, First party is the owner of record of that certain parcel of land sometimes hereinafter referred to as "Parcel one" situate in the City of Las Vegas, County of Clark, State of Nevada, and more particularly described as follows:

BEING that portion of the Northeast Quarter (NE $\frac{1}{4}$ ) of the Northeast Quarter (NE $\frac{1}{4}$ ) of Section 25, Township 20 South, Range 60 East M D B & M, described as follows:

COMMENCING at the Northeast corner of said Section 25; thence South 0° 41' 40" East along the East line thereof a distance of 781.00 feet; thence North 89° 59' 01" West a distance of 70.00 feet to the true point of beginning; thence continuing North 89° 59' 01" West a distance of 735.96 feet; thence South 0° 41' 40" East 349.17 feet; thence South 89° 59' 01" East a distance of 735.96 feet; thence North 0° 41' 40" West 348.86 feet to the true point of beginning.

WHEREAS, Second party is the owner of record of that certain parcel of land sometimes hereinafter referred to as "Parcel 2", situate in the City of Las Vegas, County of Clark, State of Nevada, and more particularly described as follows:

BEING that portion of the Northeast Quarter (NE $\frac{1}{4}$ ) of the Northeast Quarter (NE $\frac{1}{4}$ ) of Section 25, Township 20 South, Range 60 East M D B & M, described as follows:

COMMENCING at the Northeast corner of said Section 25; thence South 0° 41' 40" East along the East line of the Northeast Quarter (NE $\frac{1}{4}$ ) thereof, a distance of 190.00 feet; thence North 89° 57' 34" West a distance of 70.00 feet to the true Point of Beginning; thence continuing North 89° 57' 34" West a distance of 735.96 feet; thence South 0° 41' 40" East a distance of 591.00 feet; thence South 89° 57' 34" East a distance of 735.96 feet; thence North 0° 41' 40" West a distance of 591.00 feet to the True Point of Beginning.

WHEREAS, said above described Parcel 1 and Parcel 2 be adjacent and contiguous to each other and are the sites of shopping centers either operating or under construction.

WHEREAS, Second party has leased Parcel 2 to WONDER WORLD, INC., a Nevada corporation, said Corporation is presently operating WONDER WORLD DISCOUNT STORE on said site.

WHEREAS, Second party has entered into a sales contract

MAIL TO:  
CHRIS-JO INC  
C/O JOE McDONALD  
1429 COMMERCIAL ST  
LAS VEGAS, NV

with Herbert E. Hartfelder relative to the sale of Parcel 2, said contract having been recorded August 1, 1963, as Document No. 374622, Clark County, Nevada Records.

WHEREAS, CHRIS-JO, INC. is constructing a building approximately 100,000 square feet in area on Parcel 1, wherein space will be leased to a large number of retail establishments.

WHEREAS, it is to the mutual best interests of the owners and/or operators of the shopping facilities located on parcels 1 and 2 to enter into a mutual parking agreement so as to provide the patrons and customers of the retail establishments on parcels 1 and 2 adequate and convenient parking with a free flow and pattern of traffic between parcels one and two as if the two parcels were the site of a single, undivided shopping center.

NOW THEREFORE, in consideration of the mutual covenants and promises, it is agreed between the parties as follows:

1. First party and lessees of Second party or their successors in interest agree to devise and put in operation a master parking plan for parcels one and two. Said plan will be devised by a committee of two (2) to be made up of a representative from First party and a representative of lessees of Second party, said committee shall control the parking for the entire area so as to work to the mutual advantage of all parties hereto and their respective tenants, lessees or sub-lessees. Said parking plan shall provide for approximately 1,500 car spaces with adequate and safe roadways, entrance and exit ways, and driveways.

First party agrees, and by this instrument grants to Second party, its lessees or successors a non-exclusive easement for the use of the parking area located on Parcel one. Second party agrees, and by this instrument grants to First party, a non-exclusive easement for the use of First party, its tenants or lessees and their successors in interest, to the parking area located on Parcel two.

Said easements shall be for the non-exclusive use of the tenants, lessees, sub-lessees, customers and patrons of the various retail establishments located on Parcels one and two.

It is agreed by the parties hereto that an insurance policy or policies shall be maintained insuring the lessors, lessees, their tenants, lessees or sub-lessees against liability for injuries to persons occurring in or about said joint parking area. The liability under such insurance to be not less than \$500,000.00 for any one person injured or \$1,000,000.00 for any one accident or \$50,000.00 for property damage. Cost of said policy or policies shall be divided equally by the First party and lessees of Second party. *11/8/20*

2. First party for itself, its successors and assigns, does covenant and agree to and with Second party, its successors and assigns, and to and with all persons now or hereafter deriving an interest in this covenant, to provide parking spaces with suitable roadways, exits, entrances, and driveways for the use of the owners and/or operators, their tenants, lessees or sub-lessees of the various retail establishments as shown on Exhibit "A" attached hereto. It is the intention of First party that it impose a burden on Parcel one for the benefit of Parcel two for a period of fifty (50) years from the date hereof.

3. Second party for itself, its successors or assigns does covenant and agree to and with First party, its successors and assigns, and to and with all persons now or hereafter deriving an interest in this covenant to provide parking spaces with suitable roadways, exits, entrances and driveways for the use of the owners and/or operators, their tenants, lessees or sub-lessees and patrons of the various retail establishments located on Parcels one and two as shown on Exhibit "A" attached hereto. It is the intention of Second party to impose a burden on Parcel two for the benefit of Parcel one, for a period of fifty (50) years from the date hereof.

4. It is distinctly covenanted and agreed between the parties hereto that all the covenants and agreements above expressed shall be held to run with and bind the land above described as Parcels one and two, and all subsequent owners and occupants thereof.

5. First party hereby agrees to indemnify Wonder World, Inc. against any suit or claim or termination of lease brought and instituted against Wonder World, Inc. by Lee Bros., Inc., their successors or assigns, arising out of a possible breach of the Agreement relative to parking spaces contained in the lease between Wonder World, Inc. and Lee Bros., Inc., whether such suit or claim be rightfully or wrongfully brought or instituted, and in case suit shall be brought, First party shall be at liberty to employ an attorney of its own selection to appear and defend the suit in its behalf at the expense of First party.

That particular portion of said lease dated October 17, 1963 is attached hereto and marked Exhibit "B".

IN WITNESS WHEREOF, the parties have signed and sealed this Agreement on the date first above mentioned.



CHRIS JO, INC.

MARKET WHOLESALE GROCERY CO.



By Henry Blumenthal Sec. Title

By H. Edward M. ... Title

By ... Title

By ... Title

In consideration of the benefits to be derived from this mutual parking agreement and other consideration, receipt of which is hereby acknowledged, the undersigned, as lessee of MARKET WHOLESALE GROCERY CO., does hereby consent to the terms of this Agreement and joins as a party to the Agreement for that purpose.

In Witness Whereof, the parties have signed and sealed this Agreement on the date first above mentioned.

WONDER WORLD, INC.

By ... Title

By ... Title

In consideration of the benefits to be derived from this Mutual Parking Agreement and other consideration, receipt of which is hereby acknowledged, the undersigned as contract purchaser of Parcel two, described above, does hereby consent to the terms of this Agreement and joins as a party to the agreement for that purpose.

In witness whereof, the parties have signed and sealed this Agreement on the date first above mentioned.

*Herbert E. Hartfelder*  
Herbert E. Hartfelder

STATE OF NEVADA

County of CLARK

On this 17th day of October

1963

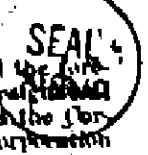
personally appeared before me, Julia M. Kerr

a Notary Public

in and for said County and State, Harry Gleeman

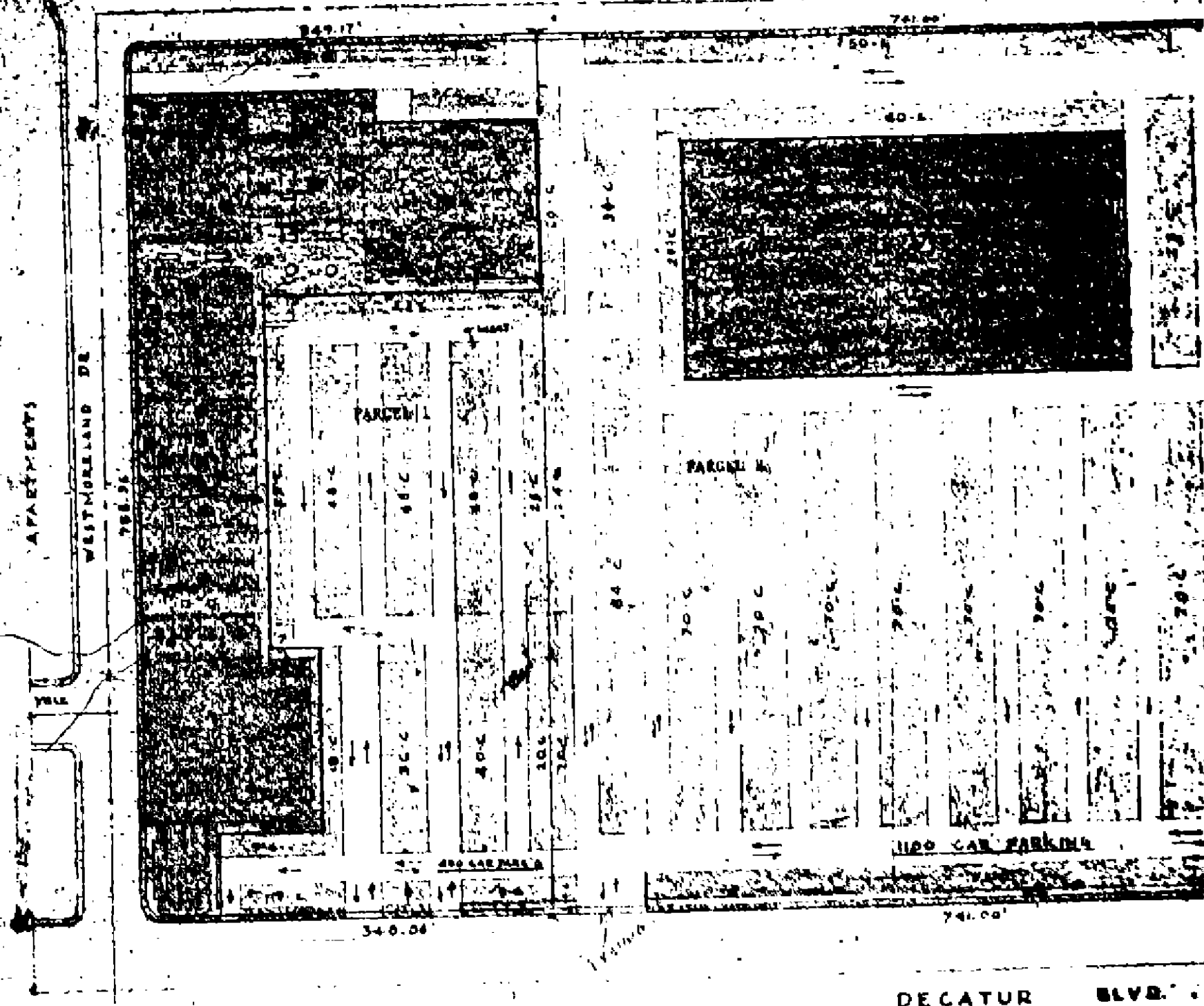
and Dave Silverman

known to me to be the Vice President and Secretary of the Corporation that executed the foregoing instrument, and upon oath, did each depose that he is the officer of said Corporation as above stated; that he is acquainted with the seal of said Corporation and that the seal affixed to said instrument is the corporate seal of said corporation; that the signatures to said instrument were made by officers of said Corporation as indicated after said signatures; and that the said Corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned.



(Notarial Seal)

*Julia M. Kerr*  
Notary Public in and for said County and State  
My Commission Expires



**DECATUR SHOPPING CENTER**  
 100,000' S.F. - 400 CAR PARKING

- |                    |                    |                 |
|--------------------|--------------------|-----------------|
| 0 - RESTAURANT     | 16 - CLEANERS      | 32 - AUTO AC.   |
| 1 - DRUG STORE     | 17 - OFFICE BLDG.  | 33 - BAKERY     |
| 2 - DRY CLEAN'G    | 18 - SERVICE BLDG. | 34 - COMPASSIVE |
| 3 - BARBER SHOP    | 19 - STORE         | 35 - MARKET     |
| 4 - BEAUTY SALON   | 20 - BOOK STORE    |                 |
| 5 - WOOD SHOP      | 21 - GYM.          |                 |
| 6 - MEN'S STORE    | 22 - TOBACCO       |                 |
| 7 - SHOE STORE     | 23 - STORE         |                 |
| 8 - PHOTO SHOP     | 24 - STORE         |                 |
| 9 - GROCERY        | 25 - STORE         |                 |
| 10 - NEWS TREAT    | 26 - STORE         |                 |
| 11 - TOY STORE     | 27 - STORE         |                 |
| 12 - GUN SHOP      | 28 - WASH. TUBS    |                 |
| 13 - ALUMINUM SHOP | 29 - BICYCLE       |                 |
| 14 - STORE         | 30 - BAR LOUNGE    |                 |
| 15 - STORE         | 31 - MURKIN        |                 |

**LEGAL DESCRIPTION**

BEING THAT SOUTHERN 249.17' PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 25 TOWNSHIP 20 SOUTH, RANGE 60 EAST, N.D.S.M., AND SITUATE IN THE CITY OF LAS VEGAS, COUNTY OF CLARK AND STATE OF NEVADA.

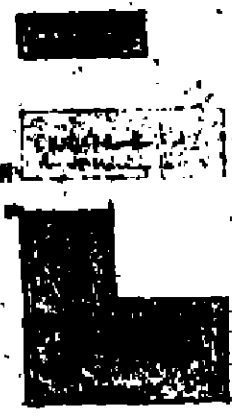
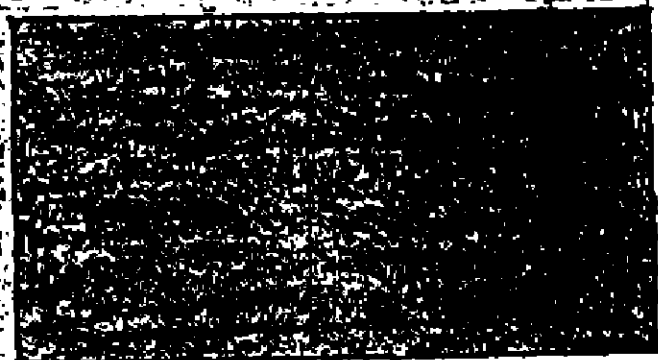
EXISTING

APARTMENT

LAURELHURST

741.00

Exhibit A



PARCEL 2

1100 CAR PARKING

VEGAS DRIVE

DECATUR BLVD.

GOLF COURSE

**CENTER PARKING**

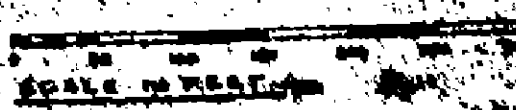
- 32 AUTO AG.
- 13 BAKERY
- 30-20000000
- 35 MARKET

**LEGAL DESCRIPTION**

BEING THAT SOUTHERN 349.17' PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 29 TOWNSHIP 20 SOUTH, RANGE 40 EAST, M.D.S. & M., AND SITUATE IN THE CITY OF LAS VEGAS, COUNTY OF CLARK AND STATE OF NEVADA.

**SITE PLAN**

SCALE 1/8" = 1'-0"



SECRET

## EXHIBIT "B"

1 Excerpts from Sub-Lease Agreement between WONDERWORLD, INC.,  
2 a Nevada corporation, hereinafter called "Sub-Lessor", and  
3 LEE BROS. MARKETS OF NEVADA, INC., a Nevada corporation,  
4 hereinafter called "Sub-Lessee", and dated September 17, 1962.  
5 Excerpt (1) taken from page 2, lines 6 through 25 of aforementioned;

6 (1)

7 "Sub-Lessor agrees to provide, at no cost to Sub-Lessee,  
8 and maintain during the term of this Sub-Lease and any renewal  
9 thereof, a parking area over the major portion of said real  
10 property described in Exhibit "A" other than that occupied by  
11 said building and immediately adjacent leased loading and delivery  
12 areas, which parking area shall be paved, marked, properly  
13 drained, and adequately lighted, with necessary access roads,  
14 and ready for use at the commencement of the term hereof. Said  
15 parking area will at all times be maintained by Sub-Lessor so  
16 as to provide available parking area at least three (3) times as  
17 great as the area occupied by said building and by any other  
18 building or structure which may be constructed upon said real  
19 property described in Exhibit "A". Sub-Lessor agrees that  
20 during the term of this Sub-Lease, Sub-Lessee and its customers  
21 will have non-exclusive easement over all of said parking area  
22 for the purpose of parking, and for ingress to and egress from  
23 the demised premises, and Sub-Lessee and its customers will like-  
24 wise have a non-exclusive easement over all of the lobby area  
25 and main entrance of said building for the purpose of ingress to  
26 and egress from the demised premises. Sub-Lessor agrees that it  
27 shall not maintain more than twelve (12) slot machines in such  
28 lobby area, nor a snack bar larger than 8' x 33'."



WK487

392752  
8-8

1 Excerpt (2) from page 15, paragraph 15 of the aforementioned  
2 Sub-Lease Agreement:

3 (2)

4 "15. Sub-Lessor shall, at its expense, provide and  
5 maintain the following services, and Sub-Lessee shall pay there-  
6 for as follows:

7 (a) Parking Area Maintenance. Sub-Lessor, at its  
8 own expense, shall keep clean and maintain in good order, condi-  
9 tion and repair during the term of this Sub-Lease and any  
10 renewal thereof and manage and provide reasonable security  
11 measures for the parking area hereinbefore referred to over all  
12 of said real property described in Exhibit "A" other than that  
13 occupied by buildings and Sub-Lessee's loading and delivery  
14 areas, and shall keep said parking area adequately lighted at all  
15 times when lighting is necessary and Sub-Lessee's store is open  
16 for business. "

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

W. R. RICHMOND  
ATTORNEY AT LAW  
600 N. VIRGINIA ST.  
DENVER, COLORADO

NO 392752  
RECORDED AT THE REQUEST OF  
*Joseph J. McDonald*  
OCT 24 4 43 PM '63  
OFFICIAL RECORDS BOOK NO. 487  
CLARK COUNTY, IOWA  
PAUL H. HARRIS, RECORDER  
*Paul H. Harris*

6

## EXHIBIT 5

**DECATUR SHOPPING CENTER ASSOCIATES**

*P.O. Box 260486*

*Encino, California 91426*

*Tele: 818-501-5116; Fax: 818-788-5687*

June 23, 2003

Mr. David Roark, Manager  
City of Las Vegas, Public Works  
Real Estate and Asset Management  
400 Stewart Avenue, 4<sup>th</sup> Floor  
Las Vegas, NV. 89101

Dear Mr. Roark

At our meeting on June 12, 2003, you related to me that the City of Las Vegas has no interest in acquiring my property located at 1401 North Decatur Boulevard, Las Vegas, Nevada. You also stated that there are approximately four (4) remaining units to be purchased by the City along Westmoreland and Laurelhurst Streets, and upon the purchase of these remaining units, demolition of all acquired properties located on Westmoreland and Laurelhurst Streets would be undertaken by the City of Las Vegas.

From our discussion, it is my understanding that the City intends to build a senior citizen/assisted-living complex on the City-owned property that adjoins my property and as such, my shopping center would neither be part of the City's current proposed project nor any future one.

Additionally, you requested that we start a dialogue concerning the City of Las Vegas' purchase of the mutual parking agreement between 1401 and 1501 Decatur Blvd., dated October 7, 1963, which runs until October 7, 2013. Accordingly, I am presently in the process of arriving at the fair market value and conditions upon which conveyance of such mutual parking agreement to the City of Las Vegas will be accomplished.

Very truly yours,

  
Burt J. Blum

**EXHIBIT 6**



MAYOR  
OSCAR B. GOODMAN

CITY COUNCIL  
GARY REESE  
(MAYOR PRO-TEM)  
LARRY BROWN  
LYNETTE B. McDONALD  
LAWRENCE WEEKLY  
MICHAEL MACK  
JANET MONCRIEF

CITY MANAGER  
DOUGLAS A. SELBY

July 29, 2003

Mr. Burt J. Blum  
Decatur Shopping Center Associates  
P.O. Box 260486  
Encino, CA 91426

Re: Mutual Parking Agreement

Dear Mr. Blum:

This letter is a follow-up to your letter dated June 23, 2003, and to our subsequent meeting on July 9, 2003, that you had requested. Let me first express that it was a pleasure to once again meet with you, and to have the opportunity to clarify issues and statements from our June 12, 2003 meeting.

At this juncture, the City does not know what specifically will be built on the property commonly referred to as 1501 Decatur Boulevard (Wonderworld). Our evaluation of the area indicates that the best economic impact for all concerned property owners surrounding the City's parcel would be for commercial development along Decatur Boulevard, with possible housing or small retail on the rear portion of the property.

A new modern shopping center, mixed with small retail and office, would significantly impact in a positive manner the value of your rental property. However, until we settle on terms for dissolving the Parking Agreement I cannot commence with marketing the property, or even talk with anyone about its development. The Parking Agreement is in reality negatively impacting the value of your commercial property, as it hinders our ability to market the property in any manner.

As I mentioned in our July meeting, I have had numerous pictures taken during each day of the week over a lengthy period of time. There simply isn't any usage of the parking area on the City owned land by patrons of businesses that you lease space to, and therefore it does not provide a beneficial use to you or your tenants whatsoever. I propose that you sell out your rights to the agreement for \$100,000. That is a fair and most reasonable price; and if I am successful in the next six months in attracting a commercial development for the site, your property will be greatly enhanced.

Please consider this an official offer and, if accepted, I will prepare the legal documents for approval by the City Council and for final signature.

I look forward to meeting with you again once you have had an opportunity to consider this proposal. Please give me a call at your earliest opportunity to further discuss this matter, or if you have any questions, at 229-1021.

Sincerely,

  
David Roark, Manager  
Real Estate & Asset Management

DR/ism

CITY OF LAS VEGAS  
400 STEWART AVENUE  
LAS VEGAS, NEVADA 89101

VOICE 702.229.6011  
TTY 702.386.9108  
www.ci.las-vegas.nv.us

\\khan\Public\_Works\Integration\Imartinelli\Letters\Decatur Shop Ctr-Burt Blum.doc

**EXHIBIT 7**

**DECATUR SHOPPING CENTER ASSOCIATES**

P.O Box 260486

Encino, California 91426

Tele: 818-501-5116; Fax: 818-788-5687

September 28, 2003

**SENT BY FACISIMILE AND U.S. MAIL (702) 384-0527**

**COPY**

David Roark  
Real and Asset Management  
City of Las Vegas  
400 Stewart Avenue  
Las Vegas, Nevada 89101

**RE: PURCHASE OF THE MUTUAL PARKING AGREEMENT, DATED  
OCTOBER 17, 1963 BY THE CITY OF LAS VEGAS**

Dear Mr. Roark:

This letter is sent in response to your letter of July 29, 2003 as it relates to the above-referenced Mutual Parking Agreement dated October 17, 1963 and expiring October 17, 2013.

Please be advised that according to the tenant mix in my shopping center located at 1401 N. Decatur Blvd., Las Vegas, Nevada, together with the parking requirements set forth in Las Vegas Zoning Code, Chapter 19.10.010 ( c ) , entitled "Parking, Loading and Traffic Standards" dated March 1997, as revised in 2003, the current number of parking spaces in my center is presently insufficient to accommodate both my current tenants and those to whom I might rent to in the future.

Therefore, if I were to enter into an agreement with the City to sell my rights in the Cross Easement, the resulting decrease in the number of parking spaces that would be available for my tenants would be insufficient to comply with the City's requirements. Needless to say, this would impede my ability to lease out my shopping center and create a tremendous negative financial impact on the value of my center.

Based on the foregoing, and my need for the available parking area that is located on the City-Owned land in order to accommodate my present and future tenants, I am unable to sell my rights in the subject cross-parking agreement, given its beneficial use to my property.

I will be in Las Vegas on Wednesday and Thursday, (October 1, 2, 2003) of this coming week and am planning to visit the zoning department for the City of Las Vegas in order to further discuss the parking requirements for Decatur Shopping Center.

If you have any further questions or comments, please don't hesitate to contact me.

Very truly yours,

DECATUR SHOPPING CENTER ASSOCIATES



By: Burt J. Blum

## EXHIBIT 8



**A Complete Appraisal, Summary Report  
of a  
10 Acre Site and Parking Easement Take**

**Owned  
by**

**The City of Las Vegas Redevelopment**

**Generally Located  
at**

**1501 North Decatur Boulevard,  
Las Vegas, Clark County, Nevada**

**cribed**

**Portion of the Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$   
of Section 25, Township 20 South, Range 61 East, M.D.B.&M.**

**For**

**Developing an Opinion of the "As Is" Market Value, In Fee Simple Interest  
and of the Parking Easement Take, In Easement Interest  
as of**

**October 20, 2003**

**Date of Appraisal Report**

**November 6, 2003**

**File Number  
307-03-HK**



**GARY H. KENT, INC.**  
*Real Estate Appraisers and Consultants*

**CLV 00151**

November 6, 2003

Mr. David Roark,  
Manger  
Public Works, Real Estate and Asset Management  
City of Las Vegas  
400 Stewart Avenue, Fourth Floor  
Las Vegas, Nevada 89101

File No. 307-03-HK  
Tax ID #88-0121119

Dear Mr. Roark:

In compliance with your request and authorization, we have inspected the subject property, which is the 10 acre site and the parking easement take, located at 1501 North Decatur Boulevard, Las Vegas, Clark County, Nevada, for the purpose of preparing a complete appraisal, summary report. The subject site is further identified as being Assessor's Parcel Number 138-25-503-006.

Data setting forth the analysis used and the descriptive details are included within the body of this report. We have developed an opinion of the market value of the subject property, 10 acre site, as of the effective date of this valuation, October 20, 2003, in fee simple interest, at:

**Three Million Three Hundred Thousand Dollars**

Data setting forth the analysis used and the descriptive details are included within the body of this report. We have developed an opinion of the parking easement take, as of the effective date of this valuation, October 20, 2003, in easement interest, at:

**One Hundred Ninety Thousand Dollars**  
**(\$190,000.00)**

This appraisal report has been prepared with the intent to comply with Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice, as adopted by the Appraisal Foundation. This Standards Rule identifies appraisal requirements for complete appraisals, summary reports. The difference between a self-contained report and a summary report, is the level of descriptive details and analysis included within the report. In a summary report, only summary discussions of the various data and conclusions utilized are included under this cover. This report is also intended to comply with the Code of Professional Ethics of the Appraisal Institute.

**CLV 00152**

## **Market Value Opinion of the Parking Easement Take**

The subject property is encumbered by a parking easement under a long term agreement of 50 years. There is approximately 10 years remaining, as the agreement expires in October 2013. This agreement is by and between the subject property and the property lying adjacent to the south or identified as 1401 North Decatur Boulevard.

The property located at 1401 North Decatur Boulevard is improved with a shopping center containing 100,425 square feet. This shopping center is located within a C-1 zoning district, which allows for four parking spaces per 1,000 square feet. This shopping center is developed on a site containing 5.88 net acres, or 256,133 net square feet. This would allow for a total of 263 parking spaces. Per the zoning code, this property would require 402 parking spaces; therefore, the adjacent 10 acre site which is the subject of this report, has a parking easement agreement to allow for an additional 139 spaces.

Per conversations with the City of Las Vegas, it is our understanding that once the parking easement take has been settled, 1401 North Decatur Boulevard will be allowed to keep its current tenants at the existing parking ratio or existing parking stalls, at 263. If future tenants are to occupy within this center within the next 10 years, the City will lead the application to waive the zoning code for parking, which states that the subject property must have 402 parking spaces to meet zoning.

In addition, 1401 North Decatur Boulevard currently has a tenant mix with a strong variety of houses of worship and larger retail space which uses much of the space for warehouse storage.

The following tenants are located within 1401 North Decatur Boulevard:



- \* Pepe's Tacos
- \* Beauty Supply Warehouse
- \* Calvary Apostolic Church
- \* King of Clubs Bar
- \* Stairway
- \* Christian City Church
- \* Fresh Start Baptist Church
- \* Princess Hall - Salon Para Fiestas
- \* R.A.M. - Reconciliation Apostolic Ministries
- \* Diva's Beauty Salon
- \* Job Center
- \* Moments of Blessing House of Prayer #3
- \* Cirimille Karaoke and Home Furnishings
- \* Carniceria Market
- \* Family Dollar Store
- \* One Vacant Space For Lease

Based upon aerials provided by Landiscor, the subject property, over the past 10 years, has not had a need for 402 parking spaces. In fact, the 263 current parking spaces that are onsite, have been more than sufficient.

Because the City of Las Vegas is willing to negotiate with 1401 North Decatur Boulevard on the parking easement agreement and attempt to waive the parking requirement, as new tenants may lease space at this location, and also given the historic trend that the additional parking space for the parking easement has not been needed, there are estimated to be no damages to the parking easement take located on the 10 acre site. With only 10 years remaining on the parking agreement, it is not reasonable to consider re-developing the shopping center site for a higher intensity user.

In developing an opinion of the market value for the parking easement take, the appraisers have estimated that land area for the parking easement. Once again, approximately 139 parking spaces were needed in order for the adjacent property to meet their parking zoning requirement. On average, 325 square feet per space is the area needed for a parking space, including the driveway and landscaping areas required. Therefore, this area would be estimated at 45,175 square feet.



Since the parking easement is considered a portion of the whole 10 acre site and since it is considered more of a right for use than is actually land area within a designated area, the unit value of the whole would apply to and would be the same as the unit value of the easement, which has been concluded at \$7.50 per square foot; thus, resulting in a value of \$338,812.00.

Based upon a 10% return, which is a standard lease rate for commercial land throughout the Las Vegas Valley, an annual income created by the parking easement would be approximately \$33,881.00. The depreciated value of the asphalt has been added to the annual income. The asphalt through Marshall Valuation, has been estimated at \$2.00 per square foot which, when factored by 45,175 square feet, results in a total cost new of \$90,350.00. Once again, Marshall Valuation would indicate a depreciation rate of 70%, based on a 50 life expectancy and a 40 year physical life, which would equal to the effective age. This 70% rate has been applied to the total cost new of \$90,350.00, to indicate a depreciated cost of the asphalt, at \$27,105.00. This figure, when applied at a 10% rate of return, would indicate an annual income of \$2,710.00. The annual income provided by the parking easement take, plus the depreciated cost of the asphalt income, results in a total annual income of \$36,591.00. This has then been discounted at a 15% discount rate, at 10 years, which is the remaining life of the parking easement agreement, on a monthly basis, to indicate a present worth of \$190,000.00 for the parking easement take.

A 15% discount rate has been in the subject's case and would be considered a safe rate, since the subject property, over the past 10 years, has not required the additional parking spaces needed for their tenants. This also takes into consideration the type of tenant mix and the type of future tenants that are forecast to rent at 1401 North Decatur Boulevard, over the next 10 year period, given that the age of the improvements is approximately 39 years old and is nearing its economic life.

Our conclusion for the parking easement take, at \$190,000.00, is considered reasonable and realistic, when considering all of the above factors.



## EXHIBIT 9



MAYOR  
OSCAR B. GOODMAN

CITY COUNCIL  
GARY REESE  
(MAYOR PRO-TEM)  
LARRY BROWN  
LYNETTE B. McDONALD  
LAWRENCE WEEKLY  
MICHAEL MACK  
JANET MONCRIEF

CITY MANAGER  
DOUGLAS A. SELBY

December 3, 2003

**SENT VIA FACSIMILE @ 818-788-5687**

Mr. Burt J. Blum  
Decatur Shopping Center Associates  
P.O. Box 260486  
Encino, CA 91426

Subject: 1501 N. Decatur Boulevard - Mutual Parking Agreement

Dear Mr. Blum:

As I advised you during our telephone conversation this morning, we have had an appraisal performed of the Parking Easement at the subject site, and enclosed is a copy of the appraisal for your review. Based on the appraisal, I propose that the City pay to you \$190,000 for the parking easement take; contingent upon City Council approval.

Once you have had an opportunity to review the report, and consider this informal offer, feel free to contact me at 702-229-1021 to discuss this matter further.

I look forward to speaking with you, and hope you have a happy holiday season.

Sincerely,

A handwritten signature in cursive script that reads "David Roark".

David Roark, Manager  
Real Estate & Asset Management

DR/lsm

Enclosure

cc: Steve Houchens, Deputy City Manager  
John McNellis, PW Deputy Director

CITY OF LAS VEGAS  
400 STEWART AVENUE  
LAS VEGAS, NEVADA 89101

VOICE 702.229.6011  
TTY 702.386.9108  
www.ci.las-vegas.nv.us

\\khan\Public\_Works\Integration\Imartinell\Letters\Decatur Shop Ctr Pkg Agr-Burf Blum.doc

**EXHIBIT 10**



**Morgan, Beebe & Harper**  
Real Estate Appraisers and Consultants

4970 S. Arville St., Suite 110  
Las Vegas, NV 89118  
Phone (702) 222-0019  
Fax (702) 222-0047

April 5, 2004

**DECATUR SHOPPING CENTER ASSOCIATES**

ATTN: Mr. Burt J. Blum  
P.O. Box 260486  
Encino, California 91426

**RE: A Complete Appraisal, Self-Contained Report of the Just Compensation for the Taking of an Existing Mutual Parking Agreement from the North Decatur Shopping Center located at the northwest corner of North Decatur Boulevard and Westmoreland Drive. The local street addresses for the subject whole property is 1401 and 1501 North Decatur Boulevard in the City of Las Vegas, Clark County, Nevada 89108.**

Dear Mr. Blum:

At your request, I, Keith Harper, MAI, have inspected and appraised the above-referenced whole property and subsequent taking of the existing Mutual Parking Agreement. I have also personally inspected the subject neighborhood and all of the comparable data used in this report. The subject of this appraisal is the acquisition/cancellation of an existing Mutual Parking Agreement that is in effect between the subject retail center and the adjacent property to the north that is currently owned by the City of Las Vegas Redevelopment Agency. This Mutual Parking Agreement was put into effect as of October 17, 1963 and is a 50 year agreement that is set to expire on October 16, 2013.

According to a copy of the legally recorded parking agreement, the subject retail center, locally known as the North Decatur Shopping Center, and the adjacent property to the north, which is 10 acres of land that was formerly developed with a large retail store, agreed to share parking spaces and allow for cross access to allow for "...a free flow and pattern of traffic between parcels one and two as if the two parcels were the site of a single, undivided shopping center." This cross access and reciprocal parking arrangement is common between retail properties. I have been told that the City of Las Vegas wants to purchase the remaining rights of the Mutual Parking Agreement in order to terminate the agreement immediately and not allow it to continue through the end of the 50-year term.

The whole property is identified as Clark County Assessor's Parcel Numbers (APNs) 138-25-503-006 and 007. The existing shopping center is developed on APN 138-25-503-007 with the other APN (138-25-503-006) being the 10 acres of land that is owned by the City of Las Vegas Redevelopment Agency. For the purposes of this report, the whole property is identified as the existing North Decatur Shopping Center on APN 138-25-503-007 with the legal right to use APN 138-25-503-006 for parking and cross access. A complete legal description of the subject whole property is included in the Appendix of this appraisal report.

**CLV 00144**

Mr. Burt J. Blum  
April 5, 2004  
Page iv

The appraiser certifies that this appraisal assignment was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.

### FINAL OPINION OF JUST COMPENSATION

After analyzing the subject whole property and market data, the total Just Compensation for the permanent acquisition of the Mutual Parking Agreement, considering severance damages and special benefits to the remainder property, as of March 12, 2004, is as follows:

**ONE MILLION THIRTY-FIVE THOUSAND DOLLARS  
\$1,035,000**

*The final opinion of the Just Compensation is based on the subject property having to conform to the current parking requirements of the C-1 Limited Commercial District zoning per the City of Las Vegas Zoning Code. Per the current C-1 zoning, the subject retail center requires a total of 403 parking spaces in order to fully operate the 100,764 square feet of net rentable space. If the Mutual Parking Agreement is terminated, the subject would lose a total of 140 parking spaces. This would create a situation in which 35 percent of the total net rentable area could not be rented or leased. The final value of Just Compensation is based on this assumption.*

The reader's attention is directed to all of the Assumptions and Limiting Conditions at the front of the attached report.

The marketing time for the subject whole property is projected at less than 12 months. The marketing time is based on the asking price being the "as is" fair market value of the subject whole property with competitive marketing by a competent brokerage firm in the Las Vegas area.

No one other than the undersigned provided any professional assistance in the final opinion of the Just Compensation. However, recognition is given to Charlton H. Wood, Certified General Appraiser #00873 in the State of Nevada who provided significant real property appraisal assistance in the final opinion of the subject whole property before acquisition.

For further information concerning the supporting data and rationale of the conclusions reached in this appraisal, the reader's attention is directed to the following report.

Respectfully submitted,



Keith Harper, MAI  
Certified General Appraiser - Nevada #00604  
Expires March 31, 2006

CLV 00145

**A COMPLETE APPRAISAL, SELF CONTAINED REPORT OF**

**Just Compensation for the Taking of an Existing Mutual Parking Agreement**

**From the North Decatur Shopping Center**

**Located At:**

**The Northwest Corner of North Decatur Boulevard  
And Westmoreland Drive  
The Local Street Addresses for the Subject Whole Property are  
1401 and 1501 North Decatur Boulevard  
In the City of Las Vegas, Clark County, Nevada 89108**

**PREPARED FOR**

**DECATUR SHOPPING CENTER ASSOCIATES**

**ATTN: Mr. Burt J. Blum  
P.O. Box 260486  
Encino, California 91426**

**as of**

**March 12, 2004**

**PREPARED BY**

**Keith Harper, MAI  
MORGAN, BEEBE & HARPER  
4970 South Arville Street, Suite 110  
Las Vegas, Nevada 89118  
(702) 222-0018  
MBH File No. RT-04-04**

**PREPARED ON**

**April 5, 2004**

**CLV 00143**

**VALUATION OF THE PERMANENT ACQUISITION OF THE  
MUTUAL PARKING AGREEMENT**

The proposed permanent acquisition involves the purchase and acquisition of the legally recorded Mutual Parking Agreement that is between the southern portion of the subject whole property that is the 5.88 acres currently developed with the 100,764 square foot multi-tenant retail center that is locally known as the North Decatur Shopping Center and the adjacent property to the north that is currently owned by the City of Las Vegas Redevelopment Agency. This Mutual Parking Agreement was put into effect as of October 17, 1963 and is a 50 year agreement that is set to expire on October 16, 2013.

According to a copy of the legally recorded parking agreement, the North Decatur Shopping Center and the adjacent property to the north, which is 10 acres of land that was formerly developed with a large retail store, agreed to share parking spaces and allow for cross access to allow for "...a free flow and pattern of traffic between parcels one and two as if the two parcels were the site of a single, undivided shopping center." This cross access and reciprocal parking arrangement is common between retail properties. I have been told that the City of Las Vegas wants to purchase the remaining rights of the Mutual Parking Agreement in order to terminate the agreement immediately and not allow it to continue through the end of the 50-year term.

In order for the existing subject retail center to meet current parking requirements, the minimum number of spaces that is required is 403. This is based on the current parking requirement for a multi-tenant retail center that has a zoning of C-1, Limited Commercial District, to have four parking spaces per 1,000 square feet. With the size of the existing subject retail center at 100,764 square feet of net rentable area and the requirement of four spaces per 1,000 square feet of building area, the total minimum number of required spaces is 403 ( $100,764 \text{ SF} \div 1,000 \text{ SF} \times 4 \text{ spaces} = 403.06$ , rounded to 403 required parking spaces).

It is projected that there is enough land area within the property boundaries of the 5.88 net acres to provide a total of 263 parking spaces. Therefore, in order for the subject retail center to continue to operate per the current parking code, a total of 140 additional parking spaces would have to be provided and utilized on the adjacent 10 acres to the north. The Mutual Parking Agreement that is currently in effect would allow for the subject retail center to use the 140 required spaces. Also, the Mutual Parking Agreement allows for there to be cross access between the two properties. This provides better access, frontage and visibility for the subject retail center along the west side of North Decatur Boulevard.

If the Mutual Parking Agreement were to be purchased and cancelled by the City of Las Vegas, the existing subject retail center on the 5.88 net acres of land as a stand-alone property would be 140 parking spaces below the current parking requirements. The acquisition and taking of the Mutual Parking Agreement basically means that 35 percent of the retail center space would have to be vacated and not occupied by any tenants. This percentage is based on the calculation of 263 available spaces on the 5.88 net acres divided by the 403 minimum required spaces ( $263 \div 403 = 0.65$ , or 65 percent). Therefore, the remaining 35 percent of the space ( $140 \div 403$ ) would have to be vacated. The loss of 140 parking spaces on the adjacent 10 acres to the north means that the owners

*Morgan, Beebe & Harper*  
File No. RT-04-04

of the North Decatur Shopping Center would lose 35 percent of their Net Operating Income (NOI) through October 16, 2013, or the remaining term of the Mutual Parking Agreement.

In order to provide an opinion of the Just Compensation for the acquisition of the Mutual Parking Agreement, the appraiser has used a Discounted Cash Flow Analysis (DCF) in order to calculate the loss of 35 percent of the NOI through October 16, 2013. The annual NOI of \$685,410 as projected earlier in the Income Capitalization Approach is used to calculate the 35 percent loss of income. The loss of the NOI equates to \$239,894 ( $\$685,410 \times 0.35$ ).

The annual loss of the NOI of \$239,894 will not be increased during the remaining term of the Mutual Parking Agreement through October 16, 2013. However, in the last year of the agreement, or 2013, a full year of income would not be lost. This is due to the DCF beginning on March 12, 2004 and going through October 16, 2013. Therefore, in the last year of the DCF, a total loss of \$139,938 is used. This represents seven months of lost income in the time frame of March 2013 to October 2013. This figure is calculated as  $\$239,894 \div 12 \text{ months} = \$19,991 \text{ per month} \times \text{seven months} = \$139,938$ .

On the following page is a DCF that shows the net present value of the lost income due to the acquisition and cancellation of the Mutual Parking Agreement. As can be seen, a discount rate of 15 percent has been used in order to calculate the net present value. Since the NOI is being used, no further deductions for expenses are required.

The net present value for the loss of NOI through October 16, 2013 is \$1,179,265. However, the NOI that is used is based on a stabilized occupancy of 90 percent. As stated earlier, as of March 12, 2004, the effective date of the Just compensation, the subject retail center was not at a stabilized occupancy. Therefore, the same deductions for tenant improvements, rent loss and leasing commissions that were applied in order to provide an opinion of the "As Is" Fair Market Value of the subject whole property need to be applied to the \$1,179,265 net present value. The result is the final opinion of the value of the taking, which is the purchase and cancellation of the Mutual Parking Agreement. This calculation is \$1,179,265 less the leasing commissions of \$40,875, the finish-out costs of \$40,875 and the rent loss of \$61,812, which equates to \$1,035,703, rounded to \$1,035,000.

The final opinion of the value of the permanent acquisition of the Mutual Parking Agreement as of March 12, 2004 is as follows:

**ONE MILLION THIRTY-FIVE THOUSAND DOLLARS**

**\$1,035,000**

DISCOUNTED CASH FLOW ANALYSIS  
NORTH DECATUR SHOPPING CENTER

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Annual Ground Rent	\$239,894	\$239,894	\$239,894	\$239,894	\$239,894	\$239,894	\$239,894	\$239,894	\$239,894	\$139,836
Operating Expenses	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Net Operating Income	\$239,894	\$239,894	\$239,894	\$239,894	\$239,894	\$239,894	\$239,894	\$239,894	\$239,894	\$139,836
DISCOUNT RATE @	0.889585	0.758144	0.657518	0.571793	0.497177	0.432328	0.379937	0.326902	0.284262	0.247185
PRESENT VALUE OF NET PROCEEDS	\$208,603	\$181,394	\$157,734	\$137,160	\$118,270	\$103,713	\$90,185	\$78,422	\$68,183	\$34,591

TOTAL NET PRESENT VALUE \$1,179,285

## CERTIFICATE AND FINAL OPINION OF THE JUST COMPENSATION

The undersigned does hereby certify that, except as otherwise noted in this appraisal report:

Keith Harper, MAI has personally inspected the aforementioned subject whole property. My fee is in no way contingent upon the final opinion of the value of the subject whole property and subsequent Just Compensation reported herein.

To the best of my knowledge and belief, the statements of fact contained in this appraisal report, upon which the analyses, opinions and conclusions expressed herein are based, are reasonable and probable.

My selection to perform this appraisal was not contingent upon producing a specific value or value range. Further, I have no loan application pending which might be contingent upon the results of this appraisal. This appraisal assignment was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.

The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased, professional analyses, opinions and conclusions.

I have no present or prospective interest in the whole property that is the subject of this report, and have no personal interest or bias with respect to the parties involved. My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

This Complete Appraisal, Self-Contained Report has been prepared with the intent to conform to the *Uniform Standards of Professional Appraisal Practice* (USPAP) as promulgated by the Appraisal Standards Board of the Appraisal Foundation.

"The Appraisal Institute conducts a program of continuing education for its designated members. MAI's and SRA's who meet the minimum standards of this program are awarded periodic educational certification." "As of the date of this report, I, Keith Harper, MAI, have completed the requirements of the Continuing Education program of the Appraisal Institute."

The appraiser's state registration/certification has not been revoked, suspended, canceled, or restricted.

This report has been prepared in order to conform to the Code of Professional Ethics and Standards of the Appraisal Institute.

Morgan, Beebe & Harper  
File No. RT-04-04

**FINAL OPINION OF JUST COMPENSATION**

After analyzing the subject whole property and market data, the total Just Compensation for the permanent acquisition of the Mutual Parking Agreement, considering severance damages and special benefits to the remainder property, as of March 12, 2004, is as follows:

**ONE MILLION THIRTY-FIVE THOUSAND DOLLARS  
\$1,035,000**

*The final opinion of the Just Compensation is based on the subject property having to conform to the current parking requirements of the C-1 Limited Commercial District zoning per the City of Las Vegas Zoning Code. Per the current C-1 zoning, the subject retail center requires a total of 403 parking spaces in order to fully operate the 100,764 square feet of net rentable space. If the Mutual Parking Agreement is terminated, the subject would lose a total of 140 parking spaces. This would create a situation in which 35 percent of the total net rentable area could not be rented or leased. The final value of Just Compensation is based on this assumption.*

The marketing time for the subject whole property is projected at less than 12 months. The marketing time is based on the asking price being the "as is" prospective fair market value of the subject whole property with competitive marketing by a competent brokerage firm in the Las Vegas area.

The reader's attention is directed to all of the Assumptions and Limiting Conditions at the front of this report.

No one other than the undersigned provided any professional assistance in the final opinion of the Just Compensation. However, recognition is given to Charlton H. Wood, Certified General Appraiser #00873 in the State of Nevada who provided significant real property appraisal assistance in the final opinion of the subject whole property before acquisition.

Respectfully submitted,

MORGAN, BEEBE & HARPER



Keith Harper, MAI  
Certified General Appraiser - Nevada #00604  
Expires March 31, 2006

Morgan, Beebe & Harper  
File No. RT-04-04



**EXHIBIT 11**

# DECATUR SHOPPING CENTER ASSOCIATES

P.O. BOX 260486  
Encino, CA 91426

Tel: 818-788-1946; Fax: 818-788-5687

Mr. David Roark, Manager  
City of Las Vegas, Public Works  
400 Stewart Avenue 4<sup>th</sup> Floor  
Las Vegas, Nevada 891 01

September 14, 2004

**SENT BY FACSIMILE AND U.S. MAIL (702-384-0527 )**

**Re: Letter of Understanding re Parking Easement**

Dear Mr. Roark

Pursuant to your request, the following represents the terms under which I am willing to sell the rights in the cross easement that were granted under the Mutual Parking Agreement dated October 17, 1963:

1. Purchase Price           \$ 435,000.00
  
2. Permanent Variance of Parking Requirements The City of Las Vegas shall grant a permanent variance that waives the required number of parking spaces for the property located at 1401 N. Decatur Blvd., Las Vegas, Nevada, as set forth in the Las Vegas Zoning Code, Chapter 19.10.010 (c), entitled "Parking, Loading and Traffic Standards dated March 1997 and as revised in June 2003.  
  
On-site parking consists of 267 spaces while 635 parking spaces are required for the current tenants. The City of Las Vegas therefore agrees to grant a permanent variance that allows a reduction in the number of required parking from 635 to 267 parking spaces;
  
3. Easement- A twenty (20) foot- setback-easement from the northern side of the property line for 1401 N. Decatur Blvd., Las Vegas, Nevada, to any new construction on the property located at 1501 N. Decatur Blvd., Las Vegas, Nevada. Said 20-foot easement to run from Decatur Blvd. back to Laurelhurst;
  
4. Westmoreland Street to be open access from Decatur Boulevard and Laurelhurst to the north side of the 1401 N. Decatur Blvd. property line, in addition to the above-

referenced 20-foot setback easement;

5. Two (2)- hour parking shall be permitted on Westmoreland and on Laurelhurst;
6. The right of first refusal on all R3 parcels located on Westmoreland and Laurelhurst if said property is to be sold separately from the ten (10) acre-parcel directly north of 1401 N. Decatur Blvd., Las Vegas, Nevada.

Sincerely yours,

Decatur Shopping Center Associates



---

By: Burt J. Blum

**EXHIBIT 12**



February 1, 2005,

Mr. Burt J. Blum  
Decatur Shopping Center Associates  
P.O. Box 260486  
Encino, CA 91426

Re: Parcel #138-25-503-006  
(Commonly referred to as Wonder World Property)

LAS VEGAS CITY COUNCIL

OSCAR B. GOODMAN  
MAYOR

GARY REESE  
MAYOR PRO TEM

LARRY BROWN  
LAWRENCE WEEKLY  
MICHAEL MACK  
STEVE WOLFSON  
LOIS TARKANIAN

DOUGLAS A. SELBY  
CITY MANAGER

Dear Mr. Blum:

This letter is in response to your letter dated September 14, 2004 regarding the basic terms our offices have negotiated for a pending settlement agreement for the purchase of the Parking Agreement of 1963.

My office agrees that a settlement is obtainable under the terms and conditions stated in your letter and will proceed with preparing a final written agreement. As you are aware, the first step in this process was getting a waiver of the parking space requirements for your shopping center approved by the Planning Commission and City Council in December 2004. We are now in the process of finalizing the agreement.

The draft agreement will be sent to you for review very shortly and I suggest we meet or have a conference call regarding any comments you may have prior to going to City Council for their consideration and final approval

I remain hopeful that this will bring our many months of negotiations to resolution.

Sincerely,

A handwritten signature in black ink that reads "David Roark".

David Roark, Manager  
Real Estate & Asset Management

DR/bh

CITY OF LAS VEGAS  
400 STEWART AVENUE  
LAS VEGAS, NEVADA 89101

VOICE 702.229.6011

TTY 702.386.9108

[www.lasvegasnevada.gov](http://www.lasvegasnevada.gov)

18112-001-1-05  
CLV 7009



EXHIBIT 13

## AGREEMENT FOR RESCISSION OF MUTUAL PARKING AGREEMENT

The parties to this Agreement, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and among the **City of Las Vegas**, a municipal corporation of the State of Nevada (hereinafter the "City"), the **City of Las Vegas Redevelopment Agency**, a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Community Redevelopment Law of the State of Nevada (hereinafter the "Agency") and **Decatur Shopping Center Associates**, a Nevada Limited Partnership (hereinafter the "Center"), in consideration of the mutual covenants and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, do hereby agree as follows:

1. **Agreement Approval Process.** Center shall execute four duplicate originals of this Agreement, each of which shall be deemed an original, and shall deliver such four originals to the Agency for presentation to the members of the Agency and the members of the City Council, for consideration. Each original, following execution by Center, shall be deemed to be an offer of Center to the City and Agency to enter into this Agreement on the terms and conditions set forth herein. Such offer shall only be deemed accepted by the City and Agency, and result in a binding Agreement among the parties, when the members of the City Council and Agency approve, and the Mayor of the City of Las Vegas, acting in his capacity as both the Mayor and as the Chairman of the Agency, executes the originals. Upon execution of the originals by the City and Agency, one duplicate original shall be delivered to Center, two duplicate originals shall be deposited with the City Clerk / Secretary of the Agency, and the final duplicate original shall be delivered to the Escrow Agent referred to below.
2. **Closing Agreement Through Escrow.** Upon approval and execution of this Agreement by the City and Agency, the Agency shall deliver one duplicate original hereof, to Chicago Title of Nevada, 2300 West Sahara, Las Vegas, Nevada 89102 (the "Escrow Agent"), which shall constitute the escrow instructions to close the transaction as soon as all matters necessary to close escrow under the terms of this Agreement have been fulfilled. The parties shall execute any additional escrow instructions deemed necessary by the Escrow Agent. The City Manager/Executive Director of Agency, Douglas A. Selby, or his written designee, shall have the authority to execute all documents necessary to close escrow, extend escrow, or amend or terminate this Agreement on behalf of the City and Agency. The document entitled Rescission of Mutual Parking Agreement shall be in a form attached hereto as Exhibit A, or as corrected by Escrow Agent to conform to the requirements of this Agreement, and shall be executed by Agency and Center and delivered to Escrow Agent. The document entitled Easement, in the form attached hereto as Exhibit B shall be executed by the Agency and delivered to Escrow Agent. The parties shall execute all documents and provide the payments necessary to close escrow in a timely manner. Escrow Agent shall provide to the Agency a policy of Title Insurance requested by Agency at Close of Escrow. Escrow Agent shall record the Rescission of Mutual Parking Agreement and Easement and shall deliver any funds due Center under the terms of this Agreement at Closing. Agency shall pay all title insurance and closing costs.

**DRAFT**

3. **Condition Of Closing.** As a condition of closing, Escrow Agent shall provide a commitment to issue to Agency a policy of title insurance with respect to the Agency's property which is subject to the Mutual Parking Agreement dated October 17, 1963, recorded as Instrument No. 392752 in Book No. 487, Official Records, Clark County, Nevada, or at Agency's request, shall provide such policy of title insurance to Agency, insuring that following the recordation of the Rescission of Mutual Parking Agreement as set forth herein, the Mutual Parking Agreement shall be rescinded and shall have no further force or effect whatsoever, and that no persons or entities shall have any rights thereunder. Center shall execute any documents and shall secure any signatures required by Escrow Agent necessary to guarantee that the Rescission of Mutual Parking Agreement shall have such effect.
4. **Payment To Center upon Closing Escrow.** When Escrow Agent is ready to close escrow herein, Agency shall electronically transfer to Escrow Agent the sum of Four Hundred Thirty Five Thousand Dollars (\$435,000.00), to be delivered or, at Center's direction, electronically transferred to Center upon close of escrow, after all conditions of closing have been met.
5. **Center's Right of Ingress And Egress.** The City shall not vacate Laurelhurst or Westmoreland streets adjacent to the Center's property, APN 138-25-503-007, without assuring the half of such streets adjacent to the Center's property shall revert to the Center so that Center shall have ingress and egress through and over such half of the streets adjacent to the Center's property in perpetuity, unless otherwise agreed by Center. Additionally, prior to any such vacation of such streets, the City shall allow at least 2 hour parking on such streets, by meter or otherwise. This paragraph 5 shall survive the closing of escrow and shall be a covenant running with and benefiting the Center's property referred to herein.
6. **Right Of First Refusal.** In the event the City elects to sell any parcels of currently zoned residential property it currently owns or may acquire in the future on Laurelhurst or Westmoreland streets separately from the Agency's 10-acre parcel (APN 138-25-503-006) directly north of the Center's property, the Center shall have the right of first refusal to purchase all of such parcels, but not any parcels separately, from City on the same terms and conditions as the City proposal. This paragraph 6 shall survive the closing of escrow, but shall only be a covenant benefiting Center, under its current ownership and management, and not its successors or assigns. This provision is not a covenant running with the land.
7. **Notice.** Whenever this Agreement requires or permits any delivery, consent, approval, notice, request, or demand from one party to the other (collectively "Notice"), such Notice must be in writing to be effective and shall be effective on the date of actual receipt of such Notice by the addressee or when the attempted initial delivery is refused or when it cannot be made because of a change of address of which the sending party has not been notified. The following shall, without limitation, be prima facie evidence of actual receipt of Notice by the addressee: (a) if mailed, by a United States certified mail return receipt, signed by

**DRAFT**



the addressee or the addressee's agent; (b) if by telegram, by a telegram receipt signed by the addressee or the addressee's agent; or (c) if hand-delivered, by a delivery receipt, signed by the addressee or the addressee's agent. The parties' respective addresses for delivery of any Notice are set forth below unless another address is designated in writing by any party to the other.

IF TO CITY OR AGENCY:

City of Las Vegas  
c/o City Manager  
400 Stewart Avenue, 8<sup>th</sup> Floor  
Las Vegas, Nevada 89101

WITH COPIES TO:

City of Las Vegas  
Real Estate And Asset Management  
400 Stewart Avenue, 4<sup>th</sup> Floor  
Las Vegas, NV 89101-2986

IF TO CENTER:

Decatur Shopping Center Associates  
PO Box 260486  
Encino, CA 91426

8. **Entire Agreement.** This Agreement embodies the entire agreement between the parties relative to the subject matter hereof, and there are no oral or written agreements between the parties or any representations made by either party relative to the subject matter hereof which are not expressly set forth herein.
9. **Amendment.** Only a written instrument executed by the parties hereto may amend this Agreement.
10. **Headings.** The captions and headings used in this Agreement are for convenience only and do not in any way limit, amplify, or otherwise modify the provisions of this Agreement.
11. **Governing Law.** The laws of the State of Nevada and the applicable federal laws of the United States shall govern this Agreement. Venue for any action with respect to this matter shall be only in the State of Nevada.
12. **Successors and Assigns.** This Agreement shall bind and inure to the benefit of Center, City and Agency and their respective heirs, executors, administrators, personal and legal representatives, successors and assigns, except as otherwise specified.

**DRAFT**

13. **Invalid Provision.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provisions had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement.

14. **Attorneys' Fees.** In the event of any litigation with respect to this Agreement, the parties shall bear their own attorneys fees and costs.

15. **Date of This Agreement.** As used in this Agreement, the terms "Effective Date", "date of this Agreement", or "date hereof" shall mean and refer to the date this Agreement, following the execution by the Center, is executed by the City and Agency.

ATTEST:

CITY OF LAS VEGAS

\_\_\_\_\_  
Barbaro Jo Ronemus, Clerk

By: \_\_\_\_\_  
Oscar B. Goodman, Mayor

Approved as to form

\_\_\_\_\_  
Deputy City Attorney                      Date

CITY OF LAS VEGAS REDEVELOPMENT  
AGENCY

ATTEST

\_\_\_\_\_  
Barbaro Jo Ronemus, Secretary

By: \_\_\_\_\_  
Oscar B. Goodman, Chairperson

Approved as to form

\_\_\_\_\_  
Deputy Agency Attorney                      Date

DECATUR SHOPPING CENTER ASSOCIATES

By: \_\_\_\_\_  
Burt J. Blum, General Partner

**DRAFT**

EXHIBIT A

APN: 138-25-503-006  
138-25-503-007

**Upon Recordation, Return to:**  
City of Las Vegas  
400 Stewart Ave.,  
Las Vegas, NV 89101  
Attn: David Roark

**RESCISSION OF MUTUAL PARKING AGREEMENT**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

**DECATUR SHOPPING CENTER ASSOCIATES**, a Nevada Limited Partnership, and

**CITY OF LAS VEGAS REDEVELOPMENT AGENCY**, a public body, corporate and politic, organized and existing under the Community Redevelopment Law of the State of Nevada,

Do hereby rescind, cancel, terminate and end the Mutual Parking Agreement and the covenant running with the land declared therein, dated October 17, 1963 and recorded as instrument 392752 in book 487 of the official records, Clark County Recorder's Office, Clark County Nevada, so that said Mutual Parking Agreement shall have no further force or effect whatsoever as though it had never existed or been recorded.

CITY OF LAS VEGAS REDEVELOPMENT  
AGENCY

ATTEST:

\_\_\_\_\_  
Barbaro Jo Ronemus, Secretary

Approved on to form

\_\_\_\_\_  
Deputy Agency Attorney                      Date

By: \_\_\_\_\_  
Oscar B. Goodman, Chairperson

DECATUR SHOPPING CENTER ASSOCIATES

By: \_\_\_\_\_  
Burt J. Blum, General Partner

*(Acknowledgements to be inserted upon execution)*

**DRAFT**

EXHIBIT B

APN: 138-25-503-006  
138-25-503-007

**Upon Recordation, Return to:**

City of Las Vegas  
400 Stewart Ave.,  
Las Vegas, NV 89101  
Attn: David Roark

**20' WIDE PUBLIC INGRESS AND EGRESS EASEMENT**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the

**CITY OF LAS VEGAS REDEVELOPMENT AGENCY**, a public body, corporate and politic, organized and existing under the Community Redevelopment Law of the State of Nevada ("Grantor") does hereby grant and convey to

**DECATUR SHOPPING CENTER ASSOCIATES**, a Nevada Limited Partnership, ("Grantee"), and its successors in interest

20' wide public ingress and egress easement over and through that certain portion of property described in the Legal Description attached hereto, to Grantee's property located directly south thereof. Grantor shall not allow any buildings or other structures to be built on said easement such that ingress or egress to or from Grantee's property would be impeded or prevented, but may allow any type of pavement or surface treatment that would not impede such ingress or egress. This easement shall run with and bind the Grantor's property described in the attached Legal Description for the benefit of Grantee's property immediately to the south thereof, but may not be enforced and is not for the benefit of any other person or entity.

CITY OF LAS VEGAS REDEVELOPMENT  
AGENCY

ATTEST:

\_\_\_\_\_  
Barbara J. Ronemus, Secretary

Approved as to form

\_\_\_\_\_  
Deputy Agency Attorney Date

By: \_\_\_\_\_  
Oscar B. Goodman, Chairperson

Date: \_\_\_\_\_

*(Acknowledgement to be inserted upon execution)*

**DRAFT**

APN: 138-25-503-006  
138-25-503-007

Upon Recordation, Return to:

City of Las Vegas  
400 Stewart Ave.,  
Las Vegas, NV 89101  
Attn: David Roark

**RESCISSION OF MUTUAL PARKING AGREEMENT**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

**DECATUR SHOPPING CENTER ASSOCIATES**, a Nevada Limited Partnership, and

**CITY OF LAS VEGAS REDEVELOPMENT AGENCY**, a public body, corporate and politic,  
organized and existing under the Community Redevelopment Law of the State of Nevada,

Do hereby rescind, cancel, terminate and end the Mutual Parking Agreement and the covenant running with the land declared therein, dated October 17, 1963 and recorded as instrument 392752 in book 487 of the official records, Clark County Recorder's Office, Clark County Nevada, so that said Mutual Parking Agreement shall have no further force or effect whatsoever as though it had never existed or been recorded.

CITY OF LAS VEGAS REDEVELOPMENT  
AGENCY

ATTEST:

\_\_\_\_\_  
Barbaro Jo Ronemus, Secretary

Approved as to form

\_\_\_\_\_  
Deputy Agency Attorney Date

By: \_\_\_\_\_  
Oscar B. Goodman, Chairperson

Subscribed and sworn to before me by Oscar B. Goodman,  
Chairperson of the City of Las Vegas Redevelopment Agency,  
This \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public

DECATUR SHOPPING CENTER ASSOCIATES

By: \_\_\_\_\_  
Burt J. Blum, General Partner

Subscribed and sworn to before me by Burt J. Blum,  
General Partner of Decatur Shopping Center Associates,  
This \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public

**DRAFT**

APN: 138-25-503-006  
138-25-503-007

**Upon Recordation, Return to:**  
City of Las Vegas  
400 Stewart Ave.,  
Las Vegas, NV 89101  
Attn: David Roark

**20' WIDE PUBLIC INGRESS AND EGRESS EASEMENT**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the

**CITY OF LAS VEGAS REDEVELOPMENT AGENCY**, a public body, corporate and politic, organized and existing under the Community Redevelopment Law of the State of Nevada ("Grantor") does hereby grant and convey to

**DECATUR SHOPPING CENTER ASSOCIATES**, a Nevada Limited Partnership ("Grantee"), and its successors in interest

20' wide public ingress and egress easement over and through that certain portion of property described in the Legal Description attached hereto, to Grantee's property located directly south thereof. Grantor shall not allow any buildings or other structures to be built on said easement such that ingress or egress to or from Grantee's property would be impeded or prevented, but may allow any type of pavement or surface treatment that would not impede such ingress or egress. This easement shall run with and bind the Grantor's property described in the attached Legal Description for the benefit of Grantee's property immediately to the south thereof, but may not be enforced and is not for the benefit of any other person or entity.

CITY OF LAS VEGAS REDEVELOPMENT  
AGENCY

ATTEST

\_\_\_\_\_  
Barbaro Jo Ronemus, Secretary

Approved as to form

\_\_\_\_\_  
Deputy Agency Attorney                      Date

By: \_\_\_\_\_  
Oscar B. Goodman, Chairperson  
Date: \_\_\_\_\_

Subscribed and sworn to before me by Oscar B. Goodman,  
Chairperson of the City of Las Vegas Redevelopment Agency,  
This \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public

**DRAFT**

**EXHIBIT 14**



May 26, 2005

**VIA FEDERAL EXPRESS**

LAS VEGAS CITY COUNCIL

OSCAR B. GOODMAN  
MAYOR

GARY REESE  
MAYOR PRO TEM

LARRY BROWN  
LAWRENCE WEEKLY  
MICHAEL MACK  
STEVE WOLFSON  
LOIS TARKANIAN

DOUGLAS A. SELBY  
CITY MANAGER

RICHARD D. GOECKE  
PUBLIC WORKS DIRECTOR

Mr. Bert Blom  
12997 Blairwood Drive  
Studio City, CA 91604

Subject: Agreement for Rescission of Mutual Parking Agreement

Dear Mr. Blom:

Please find enclosed two original Agreements for Rescission of Mutual Parking Agreement for your signature. A return envelope is enclosed for your convenience.

A fully executed copy will be returned to your attention once signed by the Mayor. If I may be of further assistance, please feel free to contact our office at (702) 229-1020.

Sincerely,

A handwritten signature in black ink that reads "K. John McNellis". The signature is written in a cursive style with a large, stylized "K" and "M".

K. John McNellis  
Deputy Public Works Director

JM:jm

Enclosures

Cc: Scott Adams, , Director, Business Development  
Steve Van Gorp, Redevelopment Officer, Business Development  
Robin Yoakum, Acting Manager, Real Estate  
Stoney Douglas, Sr. Economic Development Officer

Originals to Blom

DEPARTMENT OF PUBLIC WORKS  
CITY OF LAS VEGAS  
400 STEWART AVENUE  
LAS VEGAS, NEVADA 89101

OFFICE 702.229.6276

FAX 702.382.0848

TTY 702.386.9108

[www.lasvegasnevada.gov](http://www.lasvegasnevada.gov)





**EXHIBIT 15**

# FAX COVER SHEET

DECATUR SHOPPING CENTER  
P.O. Box 260486  
Encino, CA 981426

Tele: 818-788-1946  
Fax: 818-788-5687

DATE: 6-1-2005

SEND TO: *City of Las Vegas  
Robin*

Total pages, including cover :

FAX NUMBER:

From: Burt J. Blum

SUBJECT:

Urgent       Reply ASAP       Please comment       Please review

## MESSAGE

*Enclosed find two (2) agreement for discussion of Mutual Parking Agreement. Also I am enclosing an additional Exhibit to accompany legal description which should be included in the agreement papers.*

*Please inform me when this will appear before the City Council so I can plan to be there if necessary*

*Burt J. Blum*

**AGREEMENT FOR RESCISSION OF  
MUTUAL PARKING AGREEMENT**

The parties to this Agreement, entered into this 1 day of June, 2005, by and among the **City of Las Vegas**, a municipal corporation of the State of Nevada (hereinafter the "City"), the **City of Las Vegas Redevelopment Agency**, a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Community Redevelopment Law of the State of Nevada (hereinafter the "Agency") and **Decatur Shopping Center Associates**, a Nevada Limited Partnership (hereinafter the "Center"), in consideration of the mutual covenants and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, do hereby agree as follows:

1. **Agreement Approval Process.** Center shall execute four duplicate originals of this Agreement, each of which shall be deemed an original, and shall deliver such four originals to the Agency for presentation to the members of the Agency and the members of the City Council, for consideration. Each original, following execution by Center, shall be deemed to be an offer of Center to the City and Agency to enter into this Agreement on the terms and conditions set forth herein. Such offer shall only be deemed accepted by the City and Agency, and result in a binding Agreement among the parties, when the members of the City Council and Agency approve, and the Mayor of the City of Las Vegas, acting in his capacity as both the Mayor and as the Chairman of the Agency, executes the originals. Upon execution of the originals by the City and Agency, one duplicate original shall be delivered to Center, two duplicate originals shall be deposited with the City Clerk / Secretary of the Agency, and the final duplicate original shall be delivered to the Escrow Agent referred to below.
  
2. **Closing Agreement Through Escrow.** Upon approval and execution of this Agreement by the City and Agency, the Agency shall deliver one duplicate original hereof, to Chicago Title of Nevada, 2300 West Sahara, Las Vegas, Nevada 89102 (the "Escrow Agent"), which shall constitute the escrow instructions to close the transaction as soon as all matters necessary to close escrow under the terms of this Agreement have been fulfilled. The parties shall execute any additional escrow instructions deemed necessary by the Escrow Agent. The City Manager/Executive Director of Agency, Douglas A. Selby, or his written designee, shall have the authority to execute all documents necessary to close escrow, extend escrow, or amend or terminate this Agreement on behalf of the City and Agency. The document entitled Rescission of Mutual Parking Agreement shall be in a form attached hereto as Exhibit A, or as corrected by Escrow Agent to conform to the requirements of this Agreement, and shall be executed by Agency and Center and delivered to Escrow Agent. The document entitled Easement, in the form attached hereto as Exhibit B shall be executed by the Agency and delivered to Escrow Agent. The parties shall execute all documents and provide the payments necessary to close escrow in a timely manner. Escrow Agent shall provide to the Agency a policy of Title Insurance requested by Agency at Close of Escrow. Escrow Agent shall

record the Rescission of Mutual Parking Agreement and Easement and shall deliver any funds due Center under the terms of this Agreement at Closing. Agency shall pay all title insurance and closing costs.

3. **Condition Of Closing.** As a condition of closing, Escrow Agent shall provide a commitment to issue to Agency a policy of title insurance with respect to the Agency's property which is subject to the Mutual Parking Agreement dated October 17, 1963, recorded as Instrument No. 392752 in Book No. 487, Official Records, Clark County, Nevada, or at Agency's request, shall provide such policy of title insurance to Agency, insuring that following the recordation of the Rescission of Mutual Parking Agreement as set forth herein, the Mutual Parking Agreement shall be rescinded and shall have no further force or effect whatsoever, and that no persons or entities shall have any rights thereunder. Center shall execute any documents and shall secure any signatures required by Escrow Agent necessary to guarantee that the Rescission of Mutual Parking Agreement shall have such effect.
  
4. **Payment To Center upon Closing Escrow.** When Escrow Agent is ready to close escrow herein, Agency shall electronically transfer to Escrow Agent the sum of Four Hundred Thirty Five Thousand Dollars (\$435,000.00), to be delivered or, at Center's direction, electronically transferred to Center upon close of escrow, after all conditions of closing have been met.
  
5. **Center's Right of Ingress And Egress.** The City shall not vacate Laurelhurst Drive or Westmoreland Drive adjacent to the Center's property, APN 138-25-503-007, without assuring that half of such streets adjacent to the Center's property, together with the half of Laurelhurst Drive adjacent to the easement area described in Exhibit B hereto, shall revert to the Center so that Center shall receive title to such half of the streets pursuant to NRS 278.480(7) and have ingress and egress through and over such half of the streets adjacent to the Center's property and easement area in perpetuity, unless otherwise agreed by Center in writing. Additionally, prior to any such vacation of such streets, the City shall allow at least 2 hour parking on such streets, by meter or otherwise. This paragraph 5 shall survive the closing of escrow and shall be a covenant running with and benefiting the Center's property referred to herein.
  
6. **Right Of First Refusal.** In the event the City elects to sell any parcels of currently zoned residential property it currently owns or may acquire in the future on Laurelhurst or Westmoreland Drives separately from the Agency's 10-acre parcel (APN 138-25-503-006) directly north of the Center's property, the Center shall have the right of first refusal to purchase all of such parcels, but not any parcels separately, from City on the same terms and conditions as the City proposal. This paragraph 6 shall survive the closing of escrow, but shall only be a covenant benefiting Center, under its current ownership and

management, and its successors or assigns so long as any current partner of Center remains a partner thereof. This provision is not a covenant running with the land.

7. **Parking Variance.** As part of the consideration for entering into this agreement, Center requested and City granted, a parking variance for the Center allowing 237 spaces where 635 are required. The variance was granted by the City Council on December 15, 2004 as agenda item 94, VAR-4340. The parties agree that as a result of such variance, the Center is now considered a "Parking-Impaired Development" pursuant to Las Vegas Municipal Code (LVMC) Section 19.10.010 (C), and that pursuant to said Section: (1) building permits and certificates of occupancy shall be issued for remodeling or structural alterations of the Center without compliance with LVMC 19.10.010, so long as all other requirements are met and provided that such redevelopment does not increase the overall building area of the Center or result in a change of use which requires an increased number of regular parking spaces greater than 635 regular spaces for the entire Center, and (2) if any such redevelopment of the Center requires more than 635 spaces for the Center, then only the increased number of parking spaces exceeding 635 spaces shall be required.
8. **Notice.** Whenever this Agreement requires or permits any delivery, consent, approval, notice, request, or demand from one party to the other (collectively "Notice"), such Notice must be in writing to be effective and shall be effective on the date of actual receipt of such Notice by the addressee or when the attempted initial delivery is refused or when it cannot be made because of a change of address of which the sending party has not been notified. The following shall, without limitation, be prima facie evidence of actual receipt of Notice by the addressee: (a) if mailed, by a United States certified mail return receipt, signed by the addressee or the addressee's agent; (b) if by telegram, by a telegram receipt signed by the addressee or the addressee's agent; or (c) if hand-delivered, by a delivery receipt, signed by the addressee or the addressee's agent. The parties' respective addresses for delivery of any Notice are set forth below unless another address is designated in writing by any party to the other.

IF TO CITY OR AGENCY:

City of Las Vegas  
C/o City Manager  
400 Stewart Avenue, 8<sup>th</sup> Floor  
Las Vegas, Nevada 89101

With copies to:

City of Las Vegas  
Real Estate and Asset Management  
400 Stewart Avenue, 4<sup>th</sup> Floor  
Las Vegas, NV 89101-2986

IF TO CENTER:

Decatur Shopping Center Associates  
PO Box 260486

9. **Entire Agreement.** This Agreement embodies the entire agreement between the parties relative to the subject matter hereof, and there are no oral or written agreements between the parties or any representations made by any party relative to the subject matter hereof which are not expressly set forth herein.
10. **Amendment.** Only a written instrument executed by the parties hereto may amend this Agreement.
11. **Headings.** The captions and headings used in this Agreement are for convenience only and do not in any way limit, amplify, or otherwise modify the provisions of this Agreement.
12. **Governing Law.** The laws of the State of Nevada and the applicable federal laws of the United States shall govern this Agreement. Venue for any action with respect to this matter shall be only in the State of Nevada.
13. **Successors and Assigns.** This Agreement shall bind and inure to the benefit of Center, City and Agency and their respective heirs, executors, administrators, personal and legal representatives, successors and assigns, except as otherwise specified.
14. **Invalid Provision.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provisions had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement.
15. **Attorneys' Fees.** In the event of any litigation with respect to this Agreement, the parties shall bear their own attorneys fees and costs.
16. **Date of This Agreement.** As used in this Agreement, the terms "Effective Date", "date of this Agreement", or "date hereof" shall mean and refer to the date this Agreement, following the execution by the Center, is executed by the City and Agency.
17. **Disclosure Of Principals.** Pursuant to Resolution R-105-99 adopted by the City Council on November 17, 1999, the Center warrants that it has disclosed, on the form attached as

Exhibit C hereto, all principals, including partners, of the Center, as well as all persons and entities holding more than a 1% interest in the Center, or any principal or controlling entity of the Center. If the Center, principals or partners described above are required to provide disclosure under federal law (such as disclosure required by the Securities and Exchange Commission (SEC) or the Employee Retirement Income Act (ERISA)), and attaches current copies of such federal disclosures to Exhibit A, the requirement of this Section shall be satisfied. Throughout the term hereof, the Center, shall within fifteen (15) days notify City in writing of any material change in the above disclosure. Copies of new federal disclosure filings shall also be sent to the City within fifteen (15) days of any such filing.

ATTEST:

\_\_\_\_\_  
Barbara Jo Ronemus, Clerk

Approved as to form

\_\_\_\_\_  
Deputy City Attorney                      Date

CITY OF LAS VEGAS

By: \_\_\_\_\_  
Oscar B. Goodman, Mayor

ATTEST:

\_\_\_\_\_  
Barbara Jo Ronemus, Secretary

Approved as to form

\_\_\_\_\_  
Deputy Agency Attorney                      Date

CITY OF LAS VEGAS REDEVELOPMENT  
AGENCY

By: \_\_\_\_\_  
Oscar B. Goodman, Chairperson

DECATUR SHOPPING CENTER ASSOCIATES

By: Burt J. Blum  
Burt J. Blum, General Partner

EXHIBIT A

APN: 138-25-503-006  
138-25-503-007

**Upon Recordation, Return to:**  
City of Las Vegas  
400 Stewart Ave.,  
Las Vegas, NV 89101  
Attn: David Roark

**RESCISSION OF MUTUAL PARKING AGREEMENT**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

**DECATUR SHOPPING CENTER ASSOCIATES**, a Nevada Limited Partnership, and

**CITY OF LAS VEGAS REDEVELOPMENT AGENCY**, a public body, corporate and politic, organized and existing under the Community Redevelopment Law of the State of Nevada,

Do hereby rescind, cancel, terminate and end the Mutual Parking Agreement and the covenant running with the land declared therein, dated October 17, 1963 and recorded as instrument 392752 in book 487 of the official records, Clark County Recorder's Office, Clark County Nevada, so that said Mutual Parking Agreement shall have no further force or effect whatsoever as though it had never existed or been recorded.

CITY OF LAS VEGAS REDEVELOPMENT  
AGENCY

ATTEST:

\_\_\_\_\_  
Barbara Jo Ronemus, Secretary

Approved as to form

\_\_\_\_\_  
Deputy Agency Attorney                      Date

By: \_\_\_\_\_  
Oscar B. Goodman, Chairperson

DECATUR SHOPPING CENTER ASSOCIATES

By: Burt J. Blum  
Burt J. Blum, General Partner

*(Acknowledgements to be inserted upon execution)*



**EXHIBIT B**

APN: 138-25-503-006  
138-25-503-007

**Upon Recordation, Return to:**  
City of Las Vegas  
400 Stewart Ave.,  
Las Vegas, NV 89101  
Attn: David Roark

**20' WIDE PUBLIC INGRESS AND EGRESS EASEMENT**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the

**CITY OF LAS VEGAS REDEVELOPMENT AGENCY**, a public body, corporate and politic, organized and existing under the Community Redevelopment Law of the State of Nevada ("Grantor") does hereby grant and convey to

**DECATUR SHOPPING CENTER ASSOCIATES**, a Nevada Limited Partnership, ("Grantee"), and its successors in interest

20' wide public ingress and egress easement over and through that certain portion of property described in the Legal Description attached hereto, to Grantee's property located directly south thereof. Grantor shall not allow any buildings or other structures to be built on said easement such that ingress or egress to or from Grantee's property would be impeded or prevented, but may allow any type of pavement that would not impede such ingress or egress provided the same be maintained by the Grantor and its assigns in perpetuity. This easement shall run with and bind the Grantor's property described in the attached Legal Description for the benefit of Grantee's property immediately to the south thereof in perpetuity.

CITY OF LAS VEGAS REDEVELOPMENT  
AGENCY

ATTEST:

\_\_\_\_\_  
Barbara Jo Ronemus, Secretary

Approved as to form

\_\_\_\_\_  
Deputy Agency Attorney Date

By: \_\_\_\_\_  
Oscar B. Goodman, Chairperson  
Date: \_\_\_\_\_

*(Acknowledgement to be inserted upon execution)*

# EXHIBIT C--CERTIFICATE DISCLOSURE OF OWNERSHIP/PRINCIPALS

## 1. Definitions

"City" means the City of Las Vegas.

"City Council" means the governing body of the City of Las Vegas.

"Contracting Entity," means the individual, partnership, or corporation seeking to enter into a contract or agreement with the City of Las Vegas.

"Principal" means, for each type of business organization, the following: (a) sole proprietorship – the owner of the business; (b) corporation – the directors and officers of the corporation; but not any branch managers of offices which are a part of the corporation; (c) partnership – the general partner and limited partners; (d) limited liability company – the managing member as well as all the other members; (e) trust – the trustee and beneficiaries.

## 2. Policy

In accordance with Resolution 79-99 and 105-99 adopted by the City Council, Contracting Entities seeking to enter into certain contracts or agreements with the City of Las Vegas must disclose information regarding ownership interests and principals. Such disclosure generally is required in conjunction with a Request for Proposals (RFP). In other cases, such disclosure must be made prior to the execution of a contract or agreement.

## 3. Instructions

The disclosure required by the Resolutions referenced above shall be made through the completion and execution of this Certificate. The Contracting Entity shall complete Block 1, Block 2, and Block 3. The Contracting entity shall complete either Block 4 or its alternate in Block 5. Specific information, which must be provided, is highlighted. An Officer or other official authorized to contractually bind the Contracting Entity shall sign and date the Certificate, and such signing shall be notarized.

## 4. Incorporation

This Certificate shall be incorporated into the resulting contract or agreement, if any, between the City and the Contracting entity. Upon execution of such contract or agreement, the Contracting Entity is under a continuing obligation to notify the City in writing of any material changes to the information in this Certificate. This notification shall be made within fifteen (15) days of the change. Failure to notify the City of any material change may result, at the option of the City, in a default termination (in whole or in part) of the contract or agreement, and/or a withholding of payments due the Contracting Entity.

<b>Block 1 Contracting Entity</b>
DECATUR SHOPPING CENTER ASSOC.
Name P.O. BOX 260486
Address ENCINO, CALIF 91426
Telephone 818. 788.1946

<b>Block 2 Description</b>
<b>Subject Matter of Contract/Agreement</b>
RECISSION OF MUTUAL PARKING AGREEMENT

<b>Block 3</b>	<b>Type of Business</b>
<input type="checkbox"/> Individual <input checked="" type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Other.	

# CERTIFICATE – DISCLOSURE OF OWNERSHIP/PRINCIPALS (CONTINUED)

**Block 4 Disclosure of Ownership and Principals**  
 In the space below, the Contracting Entity must disclose all principals (including partners) of the Contracting Entity, as well as persons or entities holding more than one-percent (1%) ownership interest in the Contracting Entity.

	FULL NAME/TITLE	BUSINESS ADDRESS	BUSINESS PHONE
1.	BURT J. BLUM	12997 BLAIRWOOD DR.	818-788-1946
2.		STUDIO CITY, CA. 91604	
3.	JOHN L. BLUM	4305 CLEAR VALLEY DR.	818-986-6976
4.		ENCINO, CAL. 91436	
5.			
6.			
7.			
8.			
9.			
10.			

The Contracting Entity shall continue the above list on a sheet of paper entitled "disclosure of Principals – Continuation" until full and complete disclosure is made. If continuation sheets are attached, please indicate the number of sheets: \_\_\_\_\_

**Block 5 DISCLOSURE OF OWNERSHIP AND PRINCIPALS – ALTERNATE**

If the Contracting Entity, or its principals or partners, are required to provide disclosure (of persons or entities holding ownership interest) under federal law (such as disclosure required by the Securities and Exchange Commission or Employee Retirement Income Act), a copy of such disclosure may be attached to this Certificate in lieu of providing information set forth in Block 4 above. A description of such disclosure documents must be included below.

Name of Attached Document: \_\_\_\_\_

Date of Attached Document: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

I certify under penalty of perjury, that all the information provided in this Certificate is current, complete and accurate. I further certify that I am an individual authorized to contractually bind the above named Contracting Entity

DECATUR SHOPPING CENTER ASSOCIATES

By: Burt J. Blum  
 Burt J. Blum, General Partner

Subscribed and sworn to before me  
 this 31 day of MAY 2005.  
[Signature]  
 Notary Public Seal



VEGAS DRIVE

LAURELHURST DRIVE

DECATUR BOULEVARD

PROPERTY OF  
CITY OF LAS VEGAS  
REDEVELOPMENT AGENCY  
(20000925: 01388)  
APN # 138-25-503-006

20' WIDE PUBLIC  
INGRESS/EGRESS  
EASEMENT

20.0'

20.0'

DECATUR SHOPPING  
CENTER ASSOCIATION  
(20030321: 01898)  
APN # 138-25-503-007

WESTMORELAND DRIVE



SCALE: 1" = 200'

SHEET 1 OF 1



EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION

A PORTION OF NE 1/4 OF S. 25, T. 20 S., R. 60 E.  
M.D.M., CITY OF LAS VEGAS, CLARK COUNTY, NEVADA

CITY OF LAS VEGAS - SURVEY  
3001 RONEMUS DRIVE, LAS VEGAS, NEVADA 89128 (702) 229-6217

DRAWING: DECATUR VEGAS EASEMENT

DRAWN BY: HJB

CHECKED BY: ARR

DATE: 09-21-2004

**EXHIBIT 16**



MAYOR  
OSCAR B. GOODMAN

CITY COUNCIL  
GARY REESE  
(MAYOR PRO-TEM)  
LARRY BROWN  
LAWRENCE WEEKLY  
STEVE WOLFSON  
LOIS TARKANIAN  
STEVEN D. ROSS

CITY MANAGER  
DOUGLAS A. SELBY

August 8, 2005

**SENT BY CERTIFIED MAIL AND FAX (818-788-5687)**

Mr. Burt J. Blum  
Decatur Shopping Center Associates  
P.O. Box 260486  
Encino, CA 91426

Dear Mr. Blum:

I am in receipt of your letter sent by certified mail and fax dated August 4, 2005 regarding the Agreement For Rescission of Mutual Parking Agreement between the City of Las Vegas and your firm.

As I stated to you previously by phone, the City is not proceeding with execution of this agreement until we complete our negotiations for the development of the 1501 Decatur site. We do not want to do anything that might negatively impact the redevelopment potential of our site.

As I previously stated to you, I understand you have signed your side of the agreement, and may be uneasy as to what the City's position in this matter would be. We would certainly understand should you decide to rescind your execution of the agreement or take whatever steps are necessary to affect same.

Should you have any questions regarding this matter, please feel free to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott D. Adams".

Scott D. Adams  
Director  
Office of Business Development

cc: Doug Selby, City Manager  
Steve Houchens, Deputy City Manager  
John McNellis, Deputy Director Public Works  
Steve van Gorp, Redevelopment Manager  
Stoney Douglas, Sr. Economic Development Officer  
Robin Yoakum, Acting Manager Field Operations  
Jill Melone, Business Specialist

OFFICE OF  
BUSINESS DEVELOPMENT  
400 STEWART AVENUE  
LAS VEGAS, NEVADA 89101

VOICE 702.229.6551

TTY 702.386.9108

EMAIL [obd@lasvegasnevada.gov](mailto:obd@lasvegasnevada.gov)

[www.lasvegasnevada.gov](http://www.lasvegasnevada.gov)