

IN THE SUPREME COURT OF THE STATE OF NEVADA

USA CASH SERVICES, LLC, A  
NEVADA LIMITED LIABILITY  
COMPANY,  
Appellant,

vs.

CITY OF LAS VEGAS; OSCAR B.  
GOODMAN; JANET MONCRIEF;  
MICHAEL MACK; LARRY BROWN;  
LAWRENCE WEEKLY; GARY REESE;  
STEVEN B. WOLFSON; AND LAS  
VEGAS CITY COUNCIL,  
Respondents.

No. 43946

**FILED**

**FEB 13 2006**

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a petition for writ of mandamus. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge.

USA Cash Services, LLC, is a deferred deposit loan services company and a licensed payday lender. In 2002, USA Cash purchased real property from an established business. Even though the prior business had been operating a financial institution on the property, the City of Las Vegas required USA Cash to apply for a special use permit to operate its similar business at that location. On October 29, 2003, the Las Vegas City Council denied USA Cash's permit application. On October 30, 2003, the city clerk recorded the notice of final action on USA Cash's permit application.

After the city council hearing, representatives of USA Cash met with Councilwoman Janet Moncrief several times to discuss placing the permit issue back on the City Council's agenda. However, on April 19,

2004, Councilwoman Moncrief declined to add the permit issue to the agenda. On July 6, 2004, USA Cash filed its petition for writ of mandamus with the district court, challenging the denial of its application. As the challenge was untimely, the district court denied the petition, and USA Cash appealed.

We affirm the district court's order denying USA Cash's petition for writ of mandamus for two reasons. First, USA Cash failed to file its petition within the deadline mandated by NRS 278.0235. And second, the deadline is statutorily mandated and cannot be overcome by estoppel.

NRS 278.0235 states that "[n]o action or proceeding may be commenced for the purpose of seeking judicial relief or review from . . . any final action . . . of any governing body . . . unless the action or proceeding is commenced within 25 days after the date of filing of notice of the final action . . . with the clerk or secretary of the governing body." On October 30, 2003, the city clerk recorded the notice of final action. USA Cash did not file its petition until July 6, 2004, well beyond the 25-day deadline. Thus, the express language of NRS 278.0235 forecloses the use of an untimely petition for writ of mandamus to challenge the City Council's order in district court.

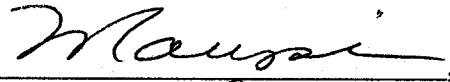
Additionally, USA Cash's argument that the City of Las Vegas is estopped from asserting the 25-day limitations period is without merit. "This court . . . has never applied the doctrine of equitable tolling to statutory periods that are mandatory and jurisdictional."<sup>1</sup> Because NRS


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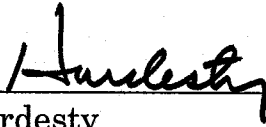
<sup>1</sup>Seino v. EICON, 121 Nev. \_\_\_\_, \_\_\_\_, 111 P.3d 1107, 1112 (2005).

278.0235 is mandatory and jurisdictional, equitable estoppel cannot be used to avoid the 25-day limitations period. Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>2</sup>

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Stewart L. Bell, District Judge  
Kolesar & Leatham, Chtd.  
Las Vegas City Attorney  
Clark County Clerk

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<sup>2</sup>Having considered all the arguments raised by USA Cash, we conclude its remaining contentions lack merit and do not warrant reversal of the district court's order.