IN THE SUPREME COURT OF THE STATE OF NEVADA

CITIZENS FOR COLD SPRINGS, JOAN LISCOM AND RAYMOND LISCOM,
Appellants,
vs.
CITY OF RENO; LIFESTYLE HOMES TND LLC; WOODLAND VILLAGE HOMES; WOODLAND VILLAGE NORTH LLC; H & N PROPERTIES LLC; JOSEPHINE SWEENEY TRUST; WALLACH IX LLC; DENNIS CHARLEY; JOE E. GARDNER FAMILY TRUST; CHRISTINE TERELAK; ZYGMUNT TERELAK; CAROLINE KURNIK; FRANK KURNIK; MIKE MULLEN; AND IRENE MULLEN,
Respondents.

No. 45906

vacated per order 9-4-08 SY

FILED

JAN 23 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order dismissing a complaint for declaratory and injunctive relief in an annexation dispute. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

Respondent City of Reno (Reno) annexed 7,000 acres of land adjacent to homes in Cold Springs Valley, Washoe County, Nevada, located just north of Reno. Appellants Citizens for Cold Springs, Joan Liscom, and Raymond Liscom (collectively, "Cold Springs") brought an action in district court, arguing that the annexation would adversely affect their rural lifestyle by causing high density housing, traffic congestion and noise pollution. The district court dismissed their claims on the ground that Cold Springs lacked standing because the harm alleged was both speculative and remote. The district court found that Cold Springs failed to establish that it had sustained actual harm.

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Although we disagree with the district court's finding that Cold Springs was required to show actual harm, we conclude that the district court properly dismissed the action because Cold Springs failed to allege that it was being adversely affected by the annexation.

DISCUSSION

On appeal, Cold Springs argues that the district court erred in dismissing its claim on the ground that it lacked standing because NRS 268.668 confers standing for its action.[1] We conclude that Cold Springs' arguments are without merit.

We review an order granting a motion to dismiss for an abuse of discretion.[2] In reviewing an order granting a motion to dismiss, this court's task is to determine whether or not the challenged pleading sets forth allegations sufficient to establish a right to relief.[3] In addition, all inferences must be construed in favor of the non-moving party, and all factual allegations in the complaint must be accepted as true.[4] Here, because Cold Springs failed to set forth sufficient elements to afford relief under the statute, we conclude that the district court properly granted Reno's motion to dismiss.

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[1]Cold Springs also argues that it has standing under Hantges v. City of Henderson, 121 Nev. 319, 113 P.3d 848 (2005). We reject this argument because that case concerns a change in land use and did not concern an annexation.

[2]Abreu v. Gilmer, 115 Nev. 308, 312-13, 985 P.2d 749, 749 (1999).

[3]Edgar v. Wagner, 101 Nev. 226, 227, 699 P.2d 110, 111 (1985).

[4]Breliant v. Preferred Equties Corp., 109 Nev. 842, 845, 858 P.2d 1258, 1260 (1993).

Although a majority of jurisdictions require a showing of actual harm in order to have standing to challenge an annexation, Nevada does not.[5] NRS 268.668 confers standing to challenge annexation if certain conditions are met.

NRS 268.668

Statutory interpretation is a pure question of law, which this court reviews de novo without deference to the district court's decision.[6] When reading a statute, this court ascribes to its words their plain meaning, unless this meaning was clearly not intended.[7] NRS 268.668 states in pertinent part:

> At any stage of an annexation or detachment proceeding, or within 90 days from the date of its completion as provided in NRS 268.658 or 268.664, any person or city claiming to be adversely affected by such proceeding may apply to the district court having jurisdiction of the territory proposed to be annexed for an order staying such proceeding or annulling such completed action.

(Emphasis added.)

Here, the plain language of the statute requires only an assertion that the party is being adversely affected by the annexation in order sustain an action. The only restriction is that as the assertion must be made within 90 days after the governing body enacts an ordinance

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[5]See NRS 268.668.

[6]Walker v. Dist. Ct., 120 Nev. 815, 819, 101 P.3d 787, 790 (2004).

[7]Harris Assocs. v. Clark County Sch. Dist., 119 Nev. 638, 641-42, 81 P.3d 532, 534 (2003).

formalizing the annexation.[8] Thus, in Nevada, in order to have standing under the statute, one need not establish that he or she is actually affected by annexation. However, one must show or allege that he or she is being adversely affected currently by the annexation and that such affect is neither remote nor hypothetical.

In deciding whether a case is ripe for judicial review this court considers "the degree to which the harm alleged by the party seeking review is sufficiently concrete, rather than remote or hypothetical, to yield a justiciable controversy."[9] Here, we conclude that Cold Springs' claims are not ripe.

A close reading of Cold Springs' complaint reveals that the adverse affect it claims interest is based upon occurrences that are remote

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[8]NRS 268.658(1) states in pertinent part:

> The governing body, at the regular meeting after the 20-day notice period or if there is no such regular meeting at a special meeting called for such purpose within 30 days after the expiration of such period, shall hear any property owner who has filed a written protest as provided in NRS 268.656, and who desires to be heard. After hearing and considering such protests the governing body shall vote upon the question of such annexation. If a majority of all the members vote for such annexation an ordinance shall be enacted or other appropriate legal action taken declaring the annexation of the territory and the extension of the limits of the city accordingly.

[9]Herbst Gaming, Inc. v. Sec'y of State, 122 Nev. 877, 887, 141 P.3d 1224, 1231 (2006).

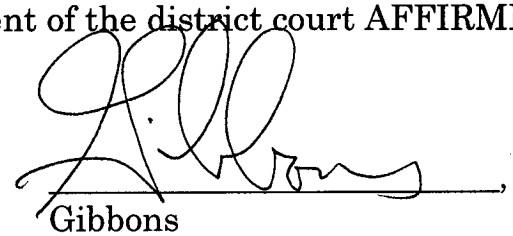
in time and merely speculative. It claims: (1) that the entire Cold Springs Valley, including the property owned by Cold Springs is "more likely" to be annexed; (2) that the annexation increases the likelihood that Cold Springs will be subject to the regulatory jurisdiction of Reno; (3) that the annexation will increase the residential density; and (4) that the annexation will result in poor quality of snow removal, road maintenance services and fire protection. All of these claims are conjecture and speculative and merely suggest that Cold Spring could be adversely affected sometime in the future. In short, Cold Springs failed to allege that it was suffering from current adverse effect because of the annexation; it merely alleged that it would suffer adverse harm in the future. Therefore, the district court was within its discretion in dismissing Cold Springs' claim.

CONCLUSION

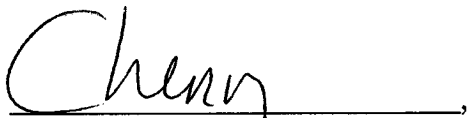
Accepting all allegations set forth in Cold Springs' pleading as true, we find that because they have not yet suffered from any harms, the district court was within its discretion in granting the motion to dismiss.

We have carefully considered all of Cold Springs' arguments and find them to be without merit. Therefore, we conclude that the district court did not err in granting Reno's motion to dismiss.[10] Accordingly, we

ORDER the judgment of the district court AFFIRMED.



_____, J.
Gibbons



_____, J.
Cherry

_____, J.
Saitta

cc: Hon. Steven P. Elliott, District Judge
Carolyn Worrell, Settlement Judge
John L. Marshall
Mark H. Gunderson, Ltd.
Reno City Attorney
Washoe District Court Clerk

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[10]See Sengel v. IGT, 116 Nev. 565, 570, 2 P.3d 258, 261 (2000) (stating that this court will affirm a district court decision if it reaches the correct decision, even if for the wrong reason).