

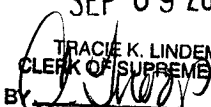
IN THE SUPREME COURT OF THE STATE OF NEVADA

ANNCO PROPERTIES, LTD., A
NEVADA LIMITED LIABILITY
COMPANY,
Appellant,
vs.
CARSON CITY, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,
Respondent.

No. 49152

FILED

SEP 09 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting summary judgment in a breach of contract action. First Judicial District Court, Carson City; William A. Maddox, Judge.

The parties are familiar with the facts, and we do not recount them except as pertinent to our disposition.

Appellant Ancco Properties, Ltd. argues that the district court erred in granting summary judgment in favor of respondent Carson City (the City) and dismissing its action against the City for property damages allegedly caused by water run-off from an inadequate culvert running beside a nearby Carson City business, Carson Truck & Auto Repair (CTAR). Ancco Properties argues that it was a third-party beneficiary to an alleged 1998 agreement between then Carson City Manager John Berkich and the owners of CTAR. Under the purported agreement, Ancco Properties claims the City assumed liability for damages to businesses surrounding CTAR resulting from the culvert running next to CTAR's

property. The district court concluded that, even if the agreement was valid, it statutorily expired in 2002.¹

This court reviews a summary judgment order de novo.² Summary judgment is proper only if, based on the pleadings and other evidence in the file, no genuine issue of material fact remains and the moving party is entitled to judgment as a matter of law.³ “The substantive law controls which factual disputes are material and will preclude summary judgment; other factual disputes are irrelevant.”⁴ Further, statutory interpretation is matter of law, reviewed de novo by this court.⁵ Absent ambiguity, we look no further than the plain language of the statute to interpret its plain meaning.⁶

Pursuant to NRS 244.320(1), contracts entered into by the City’s board of supervisors (the Board), which extend beyond the term of office of those members who approved it are binding “only to the extent that money is appropriated, therefor[.]” Board members serve four-year

¹The district court also granted summary judgment on three other grounds. Because of our disposition of this matter, we decline to further address these issues.

²Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).

³Id.; see NRCP 56(c).

⁴Wood, 121 Nev. at 731, 121 P.3d at 1031.


⁵Torrealba v. Kesmetis, 124 Nev. ___, ___ 178 P.3d 716, 721 (2008).

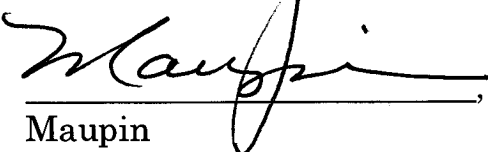
⁶Id.


terms.⁷ Here, no money was specifically appropriated to fund the purported 1998 agreement so the agreement would have expired no later than 2002, when the board members' terms would have concluded.

We conclude that pursuant to NRS 244.320(1), the alleged agreement under which Annco Properties claims or purports to have third-party beneficiary status expired at the end of the term of the Supervisors who approved it and was no longer in effect when the alleged damage occurred to appellant's property. Accordingly we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Maupin


_____, J.
Saitta

cc: Hon. William A. Maddox, District Judge
Lester H. Berkson, Settlement Judge
Jeffrey A. Dickerson
Watson Rounds
Carson City Clerk

⁷See NRS 244.030 (providing, in pertinent part, that the “[c]ounty commissioners shall enter upon their duties on the first Monday of January succeeding their election, and, . . . shall hold their offices for 4 years as provided in this chapter”).