

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAND W, LLC, A NEVADA LIMITED
LIABILITY COMPANY,
Appellant,
vs.
CITY OF HENDERSON, A MUNICIPAL
CORPORATION,
Respondent.

No. 56889

FILED

JUN 21 2012

TRAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. Lindeman*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court order dismissing an inverse condemnation complaint. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

Appellant Land W, LLC, owner of undeveloped property located in Henderson, Nevada, argues on appeal that the district court erred in dismissing its inverse condemnation complaint based on respondent City of Henderson's alleged failure to perform customary duties that would have ensured access to develop its property.

We review de novo the district court's order granting the motion to dismiss under NRCP 12(b)(5) and "subject [the order] to a rigorous standard of review on appeal." Buzz Stew, LLC v. City of N. Las Vegas, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008) (internal quotation omitted). In conducting this analysis, "we regard all factual allegations in the complaint as true and draw all inferences in favor of the nonmoving party." Stockmeier v. State, Dep't of Corrections, 124 Nev. 313, 316, 183 P.3d 133, 135 (2008). A complaint is properly dismissed "only if it appears beyond a doubt that [the plaintiff] could prove no set of facts, which, if true, would entitle [him or her] to relief." Buzz Stew, 124 Nev. at 228, 181

P.3d at 672 (emphasis added). Taking all factual allegations in the complaint as true, we conclude that Land W has sufficiently pleaded a cause of action for inverse condemnation. Therefore, we conclude that dismissal at this juncture is premature.

Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

Cherry, C.J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

cc: Hon. Valerie Adair, District Judge
Jay Earl Smith, Settlement Judge
Kemp, Jones & Coulthard, LLP
Henderson City Attorney
Eighth District Court Clerk