

IN THE SUPREME COURT OF THE STATE OF NEVADA

LOIS J. MACK AND CUTHBERT E.A.  
MACK,

No. 36091

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA, IN AND FOR  
THE COUNTY OF CLARK, AND THE  
HONORABLE LEE A. GATES, DISTRICT  
JUDGE,

**FILED**

MAR 15 2001

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CHIEF DEPUTY CLERK

Respondents,

and

CITY OF LAS VEGAS, NEVADA,

Real Party in Interest.

ORDER DENYING PETITION FOR WRIT OF PROHIBITION

This original petition for a writ of prohibition challenges orders of the district court in a condemnation action. Pursuant to NRS 34.320, this court may issue a writ of prohibition to arrest the proceedings of the district court when such proceedings are in excess of its jurisdiction.

Here, the district court did not exceed its jurisdiction by denying petitioners' motion to dismiss the City of Las Vegas' eminent domain complaint because the right of eminent domain is an attribute of sovereignty, the express provisions of NRS Chapter 37 and 271 authorize the City to condemn property for local improvements, and a security wall is defined as a local improvement pursuant to NRS 271.203. Thus, the City's formation of a special improvement district (SID) and its efforts to condemn petitioners' property for purposes of constructing a security wall are not unconstitutional.


Additionally, the district court did not exceed its jurisdiction by denying petitioners' motion to dismiss because


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petitioners received proper notice of the September 28, 1998, public hearing and failed to file a timely written objection pursuant to NRS 271.305. Failure to object to a project in the manner provided by NRS 271.305 constitutes a waiver pursuant to NRS 271.310(4). Therefore, petitioners waived their right to object and do not have standing to challenge the formation of SID No. 1463 in this forum.<sup>1</sup>

Accordingly, we ORDER the petition DENIED.<sup>2</sup>

  
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Young J.

  
\_\_\_\_\_  
Leavitt J.

  
\_\_\_\_\_  
Becker J.

cc: Hon. Lee A. Gates, Chief District Judge  
Cuthbert E. A. Mack  
Las Vegas City Attorney  
Clark County Clerk

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<sup>1</sup>Having concluded that petitioners waived their right to challenge the formation of the SID by failing to file a timely written objection to the project, we need not reach the issue of whether the City is required to provide those who file written objections to a project with personal notice of subsequent actions taken disposing of their objections or whether notice by publication is reasonably calculated to inform them of their right to commence an action challenging the project within the time period specified in NRS 271.315.

<sup>2</sup>We have also considered petitioners' contention that the district court exceeded its jurisdiction by permitting the City immediate occupancy of their property. We conclude that this contention lacks merit because occupancy prior to condemnation pursuant to NRS 37.100 does not violate a property owner's due process rights. See Schrader v. District Court, 58 Nev. 188, 202-03, 73 P.2d 493, 498-99 (1937). Further, the City has shown that the security wall project in this case is for a public purpose, namely, to protect the tracts within the subdivision and their occupants from vandalism. See NRS 271.203.