IN THE SUPREME COURT OF THE STATE OF NEVADA

RENO REAL ESTATE DEVELOPMENT, LLC; AND RENO PROPERTY MANAGER, LLC,
Appellants/Cross-Respondents,
vs.
SCENIC NEVADA, INC.,
Respondent/Cross-Appellant.

No. 87514

CITY OF RENO,
Appellant/Cross-Respondent,
vs.
RENO REAL ESTATE DEVELOPMENT, LLC; AND RENO PROPERTY MANAGER, LLC,
Respondents,
and
SCENIC NEVADA, INC.,
Respondent/Cross-Appellant.

No. 87549

ORDER VACATING AND REMANDING

These are consolidated appeals and cross-appeals from a district court order granting in part and denying in part a petition for a writ of mandamus challenging a city ordinance adopting a development agreement and proposed signage. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Appellants/cross-respondents Reno Real Estate Development, LLC, and Reno Property Manager, LLC (collectively, the Developers), entered into a development agreement with appellant/cross-respondent City of Reno to develop Reno's Neon Line District in downtown Reno,

25-20745

Nevada. Bound by Keystone Avenue to the west, I-80 to the north, West Street to the east, and West Second Street to the south, the District was slated to be a dynamic, mixed-use entertainment district. The development agreement provided for the installation of things like streetlights and pedestrian amenities. Contained within the agreement were three "area identification signs," including (1) the "Archway Sign," which would span West Fourth Street between Keystone Avenue to the west and Vine Street to the east; (2) the "Gas Station Sign" which would be positioned near a gas station on the corner of Keystone Avenue and West Fourth Street; and (3) the "Cemetery Sign" which would be near a cemetery and visible to travelers eastbound on I-80 as they approach the Keystone Avenue exit. The three proposed signs would all contain the words "Reno's Neon Line District." The City Council approved the agreement and adopted it by ordinance.

Respondent/cross-appellant Scenic Nevada, Inc. (Scenic)—a non-profit corporation aimed at educating the public on the benefits of scenic preservation by encouraging billboard control—opposed the development agreement. Scenic filed the operative petition in the district court requesting a writ of mandamus and/or prohibition, arguing that the area identification signs contemplated within the agreement were billboards that violated city codes and that the Developers lacked the requisite interest to enter into the agreement. The district court partially granted and partially denied the petition. The court concluded that Scenic had standing to challenge the agreement and that the archway sign was a permissible area identification sign. But the district court found that the gas station sign was a billboard, and the cemetery sign was an on-premise advertising display, which both violated relevant sign codes. The district court severed the gas station and cemetery signs from the agreement.

Therefore, the district court issued a writ preventing the City from issuing, and the Developers from erecting, the gas station and cemetery signs. The agreement was otherwise left unchanged. These appeals and cross-appeals followed.

The three proposed signs are area identification signs

The Developers contend that the City properly classified the three signs as area identification signs and the district court's classification of the gas station and cemetery signs to the contrary was erroneous. Scenic argues that area identification signs must be classified as either on-premises signs or off-premises advertising displays (commonly referred to as billboards, for which we use the phrase interchangeably) under the Reno Municipal Code (RMC) and thus the archway sign should be classified as an off-premises advertising display, but the district court otherwise did not err. Developers, in turn, argue that area identification signs are unique under the RMC and need not be classified as either an on- or off-premises advertising display. Because the classification of the signs is dispositive as to at least one potential source of standing for Scenic, we first clarify the classification of the signs. In doing so, we initially address whether area identification signs exist independently under the code. We then address whether the district court properly classified the signs.

Area identification signs are distinct from on-premises advertising displays and billboards

We review de novo the interpretation of a municipal code provision. *City of Reno v. Citizens for Cold Springs*, 126 Nev. 263, 271-72, 236 P.3d 10, 16 (2010). "Courts must construe statutes and ordinances to give meaning to all of their parts and language." *Bd. of Cnty. Comm'rs of Clark Cnty. v. CMC of Nev., Inc.*, 99 Nev. 739, 744, 670 P.2d 102, 105 (1983). We will avoid an interpretation that "renders language meaningless or

superfluous," *Williams v. State, Dep't of Corr.*, 133 Nev. 594, 596 402 P.3d 1260, 1262 (2017) (internal quotation marks omitted), and interpretations that lead to absurd results. *State, Private Investigator's Licensing Bd. v. Tatalovich*, 129 Nev. 588, 590, 309 P.3d 43, 44 (2013).

The relevant code defines an area identification sign as "[a] permanent, decorative sign used to identify a neighborhood, subdivision, commercial or office complex, industrial district or similar distinct area of the community." RMC 18.09, art. 4 (Area Identification Sign). The definitions of an off-premises advertising display and an on-premises display are quite similar.[1] In fact, the only substantive distinction between

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[1]RMC 18.09, art. 4, defines an "off-premises advertising display" as:

> Any arrangement of material, words, symbols or any other display erected, constructed, carved, painted, shaped or otherwise created for the purpose of advertising or promoting the commercial interests of any person, persons, firm, corporation or other entity, located in view of the general public, which is not principally sold, available or otherwise provided on the premises on which the display is located. An off-premises advertising display includes its structure. Off-premises advertising displays are commonly called billboards.

And an on-premises sign means:

> Any arrangement of material, words, symbols or any other display erected, constructed, carved, painted, shaped or otherwise created for the purpose of advertising or promoting the commercial interests of any person, persons, firm, corporation or other entity, located in view of the general public, which is principally sold, available or otherwise provided on the premises on which the display is located.

the two definitions is "not principally sold" versus "is principally sold." That is, while both on- and off-premises advertising displays must advertise a commercial interest, an on-premises advertising display must advertise the interest where the sign is located whereas a billboard does not.

We conclude that area identification signs exist independently under the municipal code and need not be classified as either an on- or off-premises advertising display. The plain language of the relevant codes reveals two distinct purposes: the principal purpose of an on-premises advertising display or a billboard is the promotion of a commercial interest; the principal purpose of an area identification sign is to identify an area of the community. We are unpersuaded by Scenic's contention that an area identification sign must be classified as either an on- or off-premises advertising display. We must give meaning to the phrase "commercial interest" to avoid rendering that language meaningless. That is, if an area identification sign did not have to meet the commercial interest test to classify as an on- or off-premises advertising display, that language would become superfluous and produce absurd results. We therefore conclude that area identification signs are distinct.

The district court improperly re-classified the signs

We next address whether the district court erred in its classification of the signs. A city's interpretation of its "own land use laws is cloaked with a presumption of validity and will not be disturbed absent a manifest abuse of discretion." *Boulder City v. Cinnamon Hills Assocs.*, 110 Nev. 238, 247, 871 P.2d 320, 326 (1994). "A manifest abuse of discretion is a clearly erroneous interpretation of the law or a clearly erroneous application of a law or rule." *State v. Eighth Jud. Dist. Ct. (Armstrong)*, 127

Id.

Nev. 927, 932, 267 P.3d 777, 780 (2011) (citation and internal quotation marks omitted). "This court will not substitute its judgement for that of a municipal entity if substantial evidence supports the entity's action." *Citizens for Cold Springs*, 126 Nev. at 271, 236 P.3d at 15-16. Substantial evidence means that "which 'a reasonable mind might accept as adequate to support a conclusion.'" *State Emp't Sec. Dep't v. Hilton Hotels Corp.*, 102 Nev. 606, 608, 729 P.2d 497, 498 (1986) (quoting *Richardson v. Perales*, 402 U.S. 389, 401 (1971)), *superseded by statute on other grounds as stated in Countrywide Home Loans, Inc. v. Thitchener,* 124 Nev. 725, 192 P.3d 243 (2008).

The City does not regulate area identification signs in the same manner as other signs, and the City unambiguously classified the three signs at issue as area identification signs. Absent a manifest abuse of discretion, we will not disturb the City's classification. Analyzing the three signs at issue here, we conclude that the City has not clearly erred in its interpretation or application of the code. To be classified as an area identification sign, each of the three proposed signs must (1) be permanent, (2) be decorative, and (3) identify a distinct area of the community. *See* RMC 18.09, art. 4 (Area Identification Sign). Our review of the proposed signs supports the City's classification because each of the three proposed signs falls squarely within the definition of area identification signs. We are unpersuaded that minimal directional language or proximity to other signs necessarily promotes a commercial interest and overcomes the presumption that the City's classification was valid. We conclude that substantial evidence supports the City's classification of the signs as area identification signs. Therefore, the district court's conclusion to the contrary was error. Having concluded that the three signs at issue are area

identification signs, we next address whether Scenic has standing to challenge the development agreement through a writ petition.

Scenic lacks standing to challenge the development agreement by way of petition for a writ of mandamus

Standing is a question of law that we review de novo. *Arguello v. Sunset Station, Inc.*, 127 Nev. 365, 368, 252 P.3d 206, 208 (2011). As a threshold issue, "[s]tanding is the legal right to set judicial machinery in motion." *Heller v. Legis. of Nev.*, 120 Nev. 456, 460, 93 P.3d 746, 749 (2004) (internal quotation marks omitted). For the reasons set forth below, Scenic lacks standing to challenge the development agreement by writ petition, and we therefore vacate the district court's order.

Scenic lacks a beneficial interest in writ relief

"To establish standing in a mandamus proceeding, the petitioner must demonstrate a 'beneficial interest' in obtaining writ relief." *Id.* at 460-61, 93 P.3d at 749. "To demonstrate a beneficial interest sufficient to pursue a mandamus action, a party must show a direct and substantial interest that falls within the zone of interests to be protected by the legal duty asserted." *Id.* at 461, 93. P.3d at 749 (quoting *Lindelli v. Town of San Anselmo*, 4 Cal. Rptr. 3d 453, 461 (Ct. App. 2003)). Writ relief is not appropriate if the petitioner will gain no direct benefit from its issuance and suffer no direct detriment if denied. *Id.*

Scenic argues that the legal duty asserted was the City's duty to comply with signage laws and relevant statutes when adopting the ordinance and incorporated signage. And it argues that the direct and substantial interest is the enforcement of signage laws pursuant to the settlement agreement that Scenic claims is unique to them. However, having concluded that the three signs at issue are not billboards, Scenic has failed to demonstrate a beneficial interest in writ relief. Scenic has no

substantial interest in the development agreement when none of the signs it proposes are billboards.

We are also unpersuaded by Scenic's contention, and the district court's rationale, that our jurisprudence allows unfettered challenges to land use decisions by the public at large. In very limited circumstances, we have recognized standing on behalf of the public; but pertinent to these circumstances is that standing for the general public was conferred under particular statutes. *See, e.g., Citizens for Cold Springs v. City of Reno* (*Cold Springs I*), 125 Nev. 625, 629-30, 218 P.3d 847, 850 (2009) (land annexation under NRS 268.668); *Hantges v. City of Henderson*, 121 Nev. 319, 322-23, 113 P.3d. 848, 850 (2005) (redevelopment plans under NRS 279.609). In cases where standing was not conferred under statute, this court has required that the challenger have a beneficial interest in challenging the land use. *See Mesagate Homeowners' Ass'n v. City of Fernley*, 124 Nev. 1092, 1097, 194 P.3d 1248, 1252 (2008) (explaining that "[i]n the absence of a beneficial interest, a writ petition must be denied").

Here, NRS 278.0201-.0207 govern challenges to development agreements. These statutes provide no enforcement mechanism that would allow Scenic to sue on behalf of the public at large. Rather, these statutes confer standing on *the parties* to the agreement to pursue a private cause of action. NRS 278.3195 provides a mechanism for private individuals to challenge land use decisions. But these individuals still must be "aggrieved" pursuant to the statute. And an aggrieved person under the municipal code is "one whose personal right or right of property is adversely

and substantially affected by the action of a discretionary body."[2] RMC 18.09, art. 4 (Aggrieved Person). Scenic has not established any personal or property right that is adversely and substantially affected by the ordinance. Scenic does not own any property that is subject to the agreement, is not a party to the agreement, and will suffer no direct harm if the entirety of the agreement is enforced. Outside of its contention that the signs are billboards, Scenic's only purported purpose is to protect the future interests of potential title holders who might have clouded title because the Developers have certain parcels held by their affiliate entities. This is not a direct detriment *to Scenic* and Scenic cannot litigate speculative future injury to unrelated parties. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992) (recognizing that to establish standing, an injury must be two things: (1) concrete and particularized and (2) actual or imminent, not hypothetical). We therefore conclude that Scenic lacked standing to seek writ relief.

The settlement agreement cannot confer standing because the signs are not billboards

Scenic argues that its 2017 settlement agreement with the City confers standing. Because the terms of the settlement agreement require a banked receipt to erect a billboard in Reno, Scenic argues that the development agreement's allowance of billboards without a banked receipt violates their contract with the City. The district court agreed. Having

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[2]NRS 278.3195(1) defines the term "aggrieved" for counties with populations of 700,000 or more. When a county does not meet this population threshold, the relevant code will apply. *See City of North Las Vegas v. Eighth Jud. Dist. Ct.*, 122 Nev. 1197, 1206, 147 P.3d 1109, 1115 (2006) (explaining that the amendment to NRS 278.3195 "was not intended to preclude ordinances from . . . addressing who may appeal from a planning decision").

concluded that the three signs at issue are not billboards, the settlement agreement is inapplicable here. The settlement agreement only concerns the regulation of billboards, and, given that the signs are not billboards, Scenic has no standing under that settlement agreement to challenge the signs or the agreement as a whole. Therefore, we conclude that the settlement agreement cannot confer standing on Scenic to challenge the development agreement.

We also note that writ relief was not appropriate because Scenic could have enforced any alleged breach of the settlement agreement under contract law. *See* NRS 34.170 (providing that mandamus relief is not appropriate if the petitioner has a "plain, speedy and adequate remedy in the ordinary course of law"); *May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005) ("Because a settlement agreement is a contract, its construction and enforcement are governed by principles of contract law.").

Scenic waived representational standing

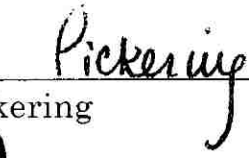
The district court relied, in part, on its conclusion that Scenic had representational standing. However, Scenic expressly disclaimed representational standing to the district court and concedes on appeal that it did not allege representational standing below. We therefore conclude that Scenic has waived representational standing. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court, unless it goes to the jurisdiction of that court, is deemed to have been waived and will not be considered on appeal").

In sum, we conclude that the district court improperly re-classified the signs without applying the correct legal presumption. The three signs contained within the development agreement are area identification signs as defined under the RMC—not billboards or on-premises advertising displays. Therefore, Scenic lacks standing to

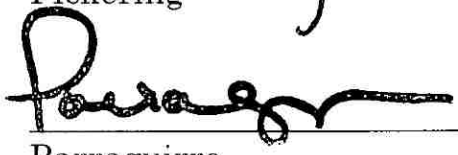
challenge the development agreement because Scenic failed to meet the beneficial interest requirement for writ relief, Scenic cannot rely on the settlement agreement given that the signs are not billboards, and Scenic waived representational standing below.[3] Given that Scenic's lack of standing is dispositive as to its ability to challenge the development agreement, we

VACATE the district court's order and REMAND this matter to the district court for proceedings consistent with this order.

_____, C.J.
Herndon



_____, J.
Pickering



_____, J.
Parraguirre

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Bell

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Stiglich

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Cadish

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[3]Given our conclusion, we need not address the parties' remaining claims on appeal.

Lee, J.

cc: Hon. Connie J. Steinheimer, District Judge
Jonathan L. Andrews, Settlement Judge
Womble Bond Dickinson (US) LLP/Las Vegas
Reno City Attorney
Womble Bond Dickinson (US) LLP/Reno
Law Offices of Mark Wray
Washoe District Court Clerk