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IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

CITIZENS FOR COLD SPRINGS,
JOAN & RAYMOND LISCOM;

Petitioners/Plaintiffs,

v.

CITY OF RENO;

Respondent/Defendant,

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,
ZYGMUNT & CHRISTINE TERELAK,
FRANK & CAROLINE KURNIK, MIKE
& IRENE MULLEN;

Real Parties In Interest.

_____ /

Case No.: _____

Dept. No.: _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF/
PETITION FOR WRIT OF MANDATE

1 **INTRODUCTION**

2 1. By this action, Plaintiffs/Petitioners Citizens of Cold Springs and Joan and
3 Raymond Liscom challenge the March 9, 2005, approval of Ordinance 5667 by the City
4 Council of City of Reno (the “City”). Ordinance 5667 purports to annex into the City more
5 than 7,000 acres of land in Cold Springs and adjacent valleys. The Plaintiffs/Petitioners seek a
6 determination from this Court that the City’s annexation is contrary to law and otherwise
7 unsupported by the record below.
8

9 **PARTIES**

10 2. Citizens for Cold Springs (“Citizens”) is a group of residents of Cold Springs
11 Valley. Members of Citizens have lived in Cold Springs Valley for many years. Members of
12 Citizens moved to and live in Cold Springs Valley because of its rural character. Members of
13 Citizens own property bordering on, or in close proximity to, the property annexed by the City
14 under Ordinance 5667. Members of Citizens have for years worked to protect their water
15 supplies, other services including but not limited to sewer, fire and police protection, and the
16 natural resources of the area. The members of Citizens are concerned that the annexation and
17 development of land approved by Ordinance 5667 will adversely affect their social and
18 economic interests. The members of Citizens are not opposed to development in Cold Springs
19 Valley that is consistent with and complimentary to the rural character of the area. Members of
20 Citizens appeared before the Reno City Council to oppose the annexation approved in
21 Ordinance 5667. Citizens and its members have a direct and substantial interest in ensuring that
22 the City complies with the laws relating to regional planning and annexation.
23

24 3. Joan and Raymond Liscom own and live in a home located at 17780 Mockingbird
25 Drive in Cold Springs Valley. The Liscoms have lived on their property for 28 years. The
26 Liscoms’ Mockingbird Drive property is approximately 500 feet from the boundary of the
27 property annexed by the City under Ordinance 5667. The Liscoms are members of the Citizens.
28

1 The Liscoms appeared before the Reno City Council to oppose the annexation approved by
2 Ordinance 5667.

3 4. Defendant/Respondent City of Reno is a chartered city and municipal corporation
4 within Washoe County. Washoe County has a population of more than 100,000 but less than
5 400,000 people.

6 5. Real Parties in Interest, Lifestyle Homes TND, LLC, et al., (collectively
7 “Developers”) own the real property annexed to the City by Ordinance 5667.
8

9 **FACTS**

10 A. Adoption of Ordinance 5667

11 6. On October 1, 2002, Summit Engineering, on behalf of the Developers filed a
12 petition pursuant to NRS 268.670 requesting that the City annex over 8,000 acres of their
13 property in the Cold Spring Valley and adjacent areas. Summit Engineering legally
14 represented the Developers because each had executed an affidavit authorizing Summit
15 Engineering to act on their behalf for “development related” applications.

16 7. The final petition sought annexation by the City of approximately 7,045 acres of
17 undeveloped land lying primarily in Cold Springs Valley. When the Developers filed their
18 petition for annexation they paid a \$231 application fee to the City. The Developers have paid
19 no additional application fee. The current City application fee (effective July 1, 2004) for a
20 7,045-acre annexation application would be approximately \$1,056,797. The Developers
21 revised their petition several times including after July 1, 2004.

22 8. On July 7 and 21, 2004, the City continued consideration of the Developers’
23 request for annexation.

24 9. On January 26, 2005, the City held a public hearing for the first reading of
25 Ordinance 5667. The Reno City Council acted on Ordinance 5667 at the January 26, 2005
26 meeting with the narrowest possible margin (4 Council members in favor, 3 Council members
27 opposed).
28

1 10. On March 9, 2005, the City held a public hearing for the second reading of
2 Ordinance 5667. At the March 9, 2005 hearing, the City Council formally adopted Ordinance
3 5667 again by the narrowest possible margin (4 in favor, 3 opposed).

4 B. Effects on Citizens and Liscoms

5 11. The annexation approved by Ordinance 5667 directly and substantially affects
6 members of Citizens and the Liscoms (all herein after “Citizens”).

7 12. The annexation approved by Ordinance 5667 increases the likelihood of the City
8 annexing Citizens members’ properties. These properties were once substantially distant from
9 City boundaries. The annexation approved by Ordinance 5667 extends the City’s boundaries
10 adjacent to or in close proximity to plaintiffs/petitioners’ properties. Property adjacent to or in
11 close proximity boundaries of a municipality are more likely to be annexed than properties
12 separated by a significant distance from the municipalities’ boundaries. In addition, the
13 annexation approved by Ordinance 5667 created a swath of City territory down the middle of
14 Cold Springs Valley. The annexation approved by Ordinance 5667 makes annexation of the
15 entire Cold Springs Valley more likely because it makes little planning sense to have a
16 patchwork and intermingled pattern of City and Washoe County territories in one general area.
17 The Citizens do not desire to be annexed by the City.

18 13. The annexation approved by Ordinance 5667 will likely lead to additional
19 annexation initiated pursuant to NRS 268.670 in the Cold Springs Valley. Upon annexation
20 property once not contiguous to the City’s boundary becomes contiguous. The territory
21 annexed by the City under Ordinance 5667 creates significant additional contiguous property
22 in Cold Springs Valley. The owners of these properties may now initiate annexation
23 proceedings pursuant to NRS 268.670. For example, the Citizens are informed and believe
24 that after the City annexed property in Verdi, property in the Verdi area once not contiguous
25 was annexed to the City pursuant to applications initiated under NRS 268.670.

26 14. The annexation approved by Ordinance 5667 increases the likelihood that the
27 Citizens and other Cold Springs residents will be subject to the regulatory jurisdiction of the
28 City even though not formally annexed by the City. Because the annexation approved by

1 Ordinance 5667 moved the City's territorial boundary adjacent to or in close proximity to the
2 Citizens' property and other properties in Cold Springs, the likelihood of being included within
3 the City's sphere of influence is increased. Once included within the City's sphere of
4 influence, the City may exercise regulatory control over those properties pursuant to NRS
5 278.02788. In addition, Plaintiffs/Petitioners are informed and believe that the City may
6 require annexation in exchange for a building permit for property included within its sphere of
7 influence. The Citizens do not desire to be subject to the City's regulatory control or have
8 additional property in Cold Springs subject to the City's regulatory control.

9 15. The City's sphere of influence has been expanded to adjust to annexations
10 initiated pursuant to NRS 268.670 in the past. For example, Plaintiff/Petitioners are informed
11 and believe that after annexing property near Verdi, the City's sphere of influence was
12 expanded to include not only property outside of its sphere of influence and annexed into the
13 City but also property beyond City's new boundaries.

14 16. The annexation approved by Ordinance 5667 results in a change in zoning of the
15 Developers' property. Immediately prior to the annexation approved by Ordinance 5667, the
16 majority of the Developers' property was controlled by Washoe County General Rural zoning
17 and limited to one residence per forty acres and little commercial uses. Upon adoption of
18 Ordinance 5667 and pursuant to the October 17, 2002 settlement agreement in Civil Case No.
19 CV02-03469, the Developers' property became zoned under the rules applicable to
20 annexations at the time the Developers application for annexation was filed (October 1, 2002).
21 The City rules applicable to annexation applications on October 1, 2002, would zone the
22 property annexed by Ordinance 5667 at substantially higher densities than Washoe County
23 zoning.

24 17. The annexation approved by Ordinance 5667 results in a substantial and
25 immediate change in the design standards applicable to new development. Immediately prior
26 to the annexation approved by Ordinance 5667, new development proposed by the Developers
27 would have to meet Washoe County development requirements and design standards. For
28 example, Washoe County requires proof of sufficient water supply at the initial master plan

1 approval stage. Upon adoption of Ordinance 5667, the new development proposed by the
2 Developers would only have to prove sufficient water supply at the significantly later
3 development stage of final map approval.

4 18. As a result of the annexation approved by Ordinance 5667, the City is obligated
5 to provide snow removal and maintenance of roads within City boundaries including portions
6 of White Lake Parkway and Old 395. Based on information and belief, the City's snow
7 removal services are of a poorer quality than services provided by Washoe County.

8 19. As a result of the annexation approved by Ordinance 5667, the City is obligated
9 to provide police, fire and emergency services to those portions of the Cold Springs Valley
10 now under its jurisdiction. Based on information and belief, City fire crews have the exclusive
11 right to fight fires within the City limits such that the ability of the Cold Springs Volunteer Fire
12 Department to more quickly respond to brush fires on annexed property may be reduced.

13 20. The development contemplated in the annexation approved by Ordinance 5667
14 will directly, substantially, and adversely affect the Citizens. The City premised its decision to
15 annex Developers' land on a development scenario that adds to Cold Springs Valley 13.5
16 million square feet of new commercial development, over 5,000 new residential units, 13,000
17 new residents, and 33,000 new workers. This level of new development will, among other
18 things, diminish the rural character of Cold Springs Valley, increase traffic, noise, lighting,
19 adversely affect water supplies and sewer capacity, remove open space, and crowd schools.

20 21. NRS Chapters 268 and 278 provide opportunities for the citizens to participate in
21 the creation and adoption of regional and master plans prior to the annexation of territory by
22 the City. The annexation approved by Ordinance 5667 deprives the Citizens of their
23 opportunity to participate in these regional and master planning processes prior to the
24 expansion of City territory into Cold Springs Valley.

25 22. NRS 268.668 provides that any person claiming to be adversely affected by an
26 annexation may apply to the District Court for an order annulling an annexation initiated under
27 NRS 268.668.

1 23. Under Section 18.02.060 of the Reno Municipal Code, the City must provide
2 written notice by mail of the public hearing on an application to annex property initiated
3 pursuant to NRS 268.670 to owners of real property within 750 feet of property proposed to be
4 annexed.

5 24. Under Section 18.02.075 of the Reno Municipal Code, the applicant for
6 annexation initiated under NRS 268.670 must post signs on the property to be annexed prior to
7 the public hearing on their annexation application. The signs posted pursuant to Section
8 18.02.075 must provide the current county zoning, the city zoning if the property were to be
9 annexed, the date, time and place of the public hearing and a telephone number which may be
10 used by interested persons to obtain additional information regarding the proposed annexation.

11 25. The notice provisions of Chapter 18 of the Reno Municipal Code described above
12 recognize that persons living near property annexed by the City have legitimate interests in
13 whether property should be annexed to the City.

14 C. The Nature of the Annexation

15 26. None of the property annexed by Ordinance 5667 touches on, or is coterminous
16 with, any boundary of the City.

17 27. Only one of the parcels or lots of land annexed under Ordinance 5667 shares a
18 common corner with property owned by Washoe County. The property owned by Washoe
19 County referred to in the prior sentence shares a common boundary with territory of the City.

20 28. At several points, the parcels or lots annexed by Ordinance 5667 do not share a
21 common boundary line but only share a common corner.

22 29. Less than fifteen percent of the total area annexed by Ordinance 5667 was
23 coterminous with the prior existing boundary of the City.

24 30. All of the property annexed by Ordinance 5667 lies outside of the current sphere
25 of influence for the City adopted in the Truckee Meadows Regional Plan.

26 31. Approximately sixty-five percent of the area annexed by Ordinance 5667 lies
27 outside of the Truckee Meadows Service Area.

1 32. At the request of the City, the Developers prepared an analysis of the fiscal
2 impacts of the proposed annexation. The purpose of the fiscal analysis was to demonstrate to
3 the City that the annexation would provide a net tax benefit to the City. The Developers' fiscal
4 analysis considered the likely development scenario under City zoning for the lands proposed
5 to be annexed. The likely development scenario for the annexed lands included 13.5 million
6 square feet of new commercial space and more than 5,000 new residential units. The
7 development scenario would add more than 14,000 residents and 33,000 workers to the Cold
8 Springs Valley.

9 33. No fiscal analysis was completed on the existing land use pattern of the property
10 annexed by Ordinance 5667.

11 34. Development at the level anticipated by the Fiscal Analysis would not happen but
12 for the City annexing the Developers' property.

13 35. No water supplies or sewer facilities exist to service the development
14 contemplated by the City in the fiscal analysis. The City did not identify any future water
15 supplies or sewer capacity to serve the development contemplated by the City in its fiscal
16 analysis.

17 36. The services and facilities required for the development of the property annexed
18 by Ordinance 5667 cannot be provided upon annexation.

19 37. The annexation approved by Ordinance 5667 creates an island of land of Washoe
20 County jurisdiction of less than forty acres (APN 556-120-06).

21 38. The annexation approved by Ordinance 5667 is inconsistent with the Truckee
22 Meadows Regional Plan. At the time of adoption of Ordinance 5667, no master plan existed
23 for property to be annexed.

24 39. The annexation approved by Ordinance 5667 is not specified for consideration in
25 the City's current Program of Annexation. The annexation approved by Ordinance 5667 is not
26 consistent with the City's current Program of Annexation.

1 40. Under Washoe County’s applicable planning and zoning regulations, the property
2 annexed by the City by Ordinance 5667 could be developed with only a maximum of 960 new
3 residential units and no commercial uses.

4 41. The Developers desired to annex their property to the City so that development
5 could occur on the annexed property at a higher density and intensity and include commercial
6 development than could have been approved by Washoe County.

7 42. The annexation approved by Ordinance 5667 does not represent a logical
8 extension of the City’s boundaries. The boundaries of the land annexed by Ordinance 5667 do
9 not follow geographic or topological land features. The boundaries of the land annexed by
10 Ordinance 5667 do not follow roadways or other identifiable man-made or natural corridors or
11 boundaries. The only pattern of the boundaries of the property annexed by Ordinance 5667 is
12 to connect certain property owned by the Developers.

13 43. The Developers included at least one parcel in the property annexed by Ordinance
14 5667 to provide alleged contiguity to other parcels and intend to remove the developable
15 portion of this parcel from the City’s territory at a later date.

16 44. The City does not need the annexation approved by Ordinance 5667 to
17 accommodate regional growth.

18 45. The annexation approved by Ordinance 5667 promotes no goal of the Cold
19 Springs community that could not have been otherwise accomplished. Extension of City
20 services to the property annexed would not improve provided public services or is necessary to
21 allow phased urban expansion.

22 46. The annexation approved by Ordinance 5667 will not promote the efficient and
23 cost effective provision of service areas and capital facilities.

24 47. The development analyzed in the Developers’ fiscal analysis proposes levels of
25 development significantly greater than in Washoe County’s draft Cold Springs Community
26 Management Plan.

27 48. The annexation approved by Ordinance 5667 creates an area of Washoe County
28 territory surrounded on ninety-three percent of its boundary by territory within the City. The

1 annexation approved by Ordinance 5667 creates in effect an island of county jurisdiction of
2 approximately 5,440 acres.

3 49. The annexation approved by Ordinance will lead to increased demand for water
4 and other natural resources in Cold Springs. No water and other critical resources, e.g. sewer
5 capacity, currently exist to support urban development of the property annexed by Ordinance.

6 50. The City did not consider the effect on mutual social and economic interests of
7 adjacent areas caused by the annexation approved by Ordinance 5667. The City did not
8 consider the effect on the local government structure of Washoe County caused by the
9 annexation approved by Ordinance 5667.

10 51. The City did not consider the topography of the Cold Springs Valley when
11 approving Ordinance 5667.

12 52. Chapter 18 of the Reno Municipal Code permits the City to annex land outside of
13 its designated sphere of influence.

14 53. Section 18.02.080(c) of the Reno Municipal Code contains factors that the City
15 shall consider when taking action on an application for annexation initiated pursuant to NRS
16 268.670.

17 54. NRS 268.670 provides the City with discretion to approve or deny an application
18 for 100 percent of landowners contiguous to City boundaries.

19 55. The annexation factors of listed in Section 18.02.080(c) do not limit the exercise
20 of the City's discretion when acting on annexation applications initiated pursuant to NRS
21 268.670.

22 FIRST CAUSE OF ACTION

23 (FOR DECLARATORY AND INJUNCTIVE RELIEF)

24 56. Petitioners/Plaintiffs realleges and incorporate by reference Paragraphs 1 through
25 55 inclusive, of this Complaint/Petition, as if fully set forth below.

26 57. When taking actions annexing property, the City must comply with the applicable
27 provisions of NRS 268.610 through 268.670 and 278.026 et seq.

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3. That the Court enter a declaratory judgment finding that adoption of Ordinance 5667 was not supported by the record then before the City.

4. That the Court issue temporary, preliminary or permanent injunctive relief precluding the City from considering and approving any development on the property described in Ordinance 5667 and directing the City to vacate Ordinance 5667.

5. That this Court issue a writ of mandate ordering the Respondent to vacate and set aside its March 9, 2005 adoption of Ordinance 5667 and vacate and set aside the annexation of land described therein.

- 6. For Citizens' costs associated with this action;
- 7. To the extent permitted by law, for an award of reasonable attorneys' fees.
- 8. For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

Dated: April 1, 2005.

By _____
John L. Marshall
Attorney for Plaintiffs/Petitioners
Citizens for Cold Springs, et al.

1 VERIFICATION

2 I, Joan Liscom, under penalty of perjury, state:

3 I have read the foregoing COMPLAINT FOR DECLARATORY AND
4 INJUNCTIVE RELIEF/PETITION FOR WRIT OF MANDATE (“Complaint”) and
5 know the contents thereof; that the contents thereof were prepared with the assistance
6 and advice of counsel for myself and the other Plaintiffs/Petitioners and I relied upon
7 that assistance and counsel. The contents of the Complaint, subject to inadvertent or
8 undiscovered errors, are based on and therefore limited by the records and information
9 still in existence, presently recollected and thus far discovered in the course of
10 preparation of this Complaint, are true to the best of my knowledge and information
11 and belief. I reserve the right to make any changes in the contents of this Complaint if
12 it appears at any time that omissions or errors have been made or that more accurate
13 information is available.
14
15
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17 _____
18 JOAN LISCOM

19 Subscribed and sworn to me this ___ day of _____, 2005.
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