

FILED

AUG 19 2019

STATE OF NEVADA
E.M.R.B.

STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

LAS VEGAS PEACE OFFICERS
SUPERVISORS ASSOCIATION,

Complainant,

v.

CITY OF LAS VEGAS,

Respondent.

Case No. 2019-013

**NOTICE OF ENTRY OF ORDER
PANEL D**

ITEM NO. 848

TO: Complainant and their attorneys, Adam Levine, Esq. and the Law Office of Daniel Marks;

TO: Respondent City of Las Vegas and their attorneys, Morgan Davis, Chief Deputy City Attorney,
and the City Attorney's Office.

PLEASE TAKE NOTICE that an **ORDER ON RESPONDENT'S MOTION TO DISMISS
COMPLAINT** was entered in the above-entitled matter on August 19, 2019.

A copy of said order is attached hereto.

DATED this 19th day of August 2019.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY

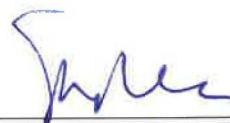

MARISU ROMUALDEZ ABELLAR
Executive Assistant

CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Local Government Employee-Management Relations Board, and that on the 19th day of August 2019, I served a copy of the foregoing **NOTICE OF ENTRY OF ORDER** by mailing a copy thereof, postage prepaid to:

Law Office of Daniel Marks
Daniel Marks, Esq.
Adam Levine, Esq.
610 South Ninth Street
Las Vegas, NV 89101

Morgan Davis
Chief Deputy City Attorney
City of Las Vegas
495 S. Main Street, Sixth Floor
Las Vegas, NV 89101



MARISU ROMUALDEZ ABELLAR
Executive Assistant

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Case No. 2019-013

**ORDER ON RESPONDENT'S MOTION
TO DISMISS COMPLAINT**

PANEL D

ITEM NO. 848

On August 13, 2019, this matter came before the State of Nevada, Government Employee-Management Relations Board ("Board") for consideration and decision pursuant to the provisions of the Employee-Management Relations Act, NAC Chapter 288, and NRS Chapter 233B. At issue was Respondent, CITY OF LAS VEGAS' ("City") Motion to Dismiss the Complaint.

The City argues that, pursuant to NAC 288.375(2), the Board should dismiss this matter as the parties disagree over the interpretation and application of a threshold issue – whether the CBA language created an exclusive category of bargaining unit work for AOD duties. Article 21, Section 3 of the CBA provides that any dispute related thereto must be subjected to the grievance procedure. The City further argues that LVPOSA agreed that the matter was a contract language issue covered by the grievance procedure, as LVPOSA filed a grievance, which at its core alleges an identical theory to the one set forth in the complaint in this matter.

In Opposition, Complainant argues that dismissal would be improper as it is permissible to bring an action for both a breach of the collective bargaining agreement and a statutory unfair labor practice. Further, dismissal would work a hardship on LVPOSA as it elected to pursue statutory remedies in lieu of contractual remedies. However, Complainant also states that there only "may" not be a contractual remedy available as by filing the instant Motion urging a contractual remedy, the City waived any timeliness issues.

1 The Board has repeatedly emphasized that the preferred method for resolving disputes is through
2 the bargained-for processes, and the Board applies NAC 288.375(2) liberally to effectuate that purpose.
3 See also NAC 288.040; see also, e.g., *Ed. Support Employees Ass'n v. Clark Cty. School Dist.*, Case
4 No. A1-045509, Item No. 288 (1992); *Nevada Serv. Employees Union v. Clark Cty.*, Case No. A1-
5 045759, Item No. 540 (2003); *Carpenter vs. Vassiliadis*, Case No. A1-045773, Item No. 562E (2005);
6 *Las Vegas Police Protective Ass'n Metro, Inc. v. Las Vegas Metropolitan Police Dep't*, Case No. A1-
7 045783, Item No. 578 (2004); *Saavedra v. City of Las Vegas*, Case No. A1-045911, Item No. 664
8 (2007); *Las Vegas City Employees' Ass'n v. City of Las Vegas*, Case No. A1-045940, Item No. 691
9 (2008); *Jessie Gray Jr. v. Clark County School Dist.*, Case No. A1-046015, Item No. 758 (2011); *Las*
10 *Vegas Metropolitan Police Dep't v. Las Vegas Police Protective Ass'n, Inc.*, Case No. 2018-017 (2018).

11 IT IS, THEREFORE, ORDERED that the Motion to Dismiss the Complaint is DENIED.

12 IT IS FURTHER ORDERED that the matter be STAYED pending exhaustion of contractual
13 remedies.

14 Dated this 19th day of August 2019.

15 GOVERNMENT EMPLOYEE-
16 MANAGEMENT RELATIONS BOARD



17 BY: _____
18 BRENT C. ECKERSLEY, Chair