

FILED

SEP 27 2019

STATE OF NEVADA
E.M.R.B.

STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

CITY OF LAS VEGAS,

Complainant,

v.

LAS VEGAS PEACE OFFICERS
ASSOCIATION,

Respondent.

Case No. 2019-016

NOTICE OF ENTRY OF ORDER

ITEM NO. 851

TO: Complainants and their attorneys of record Morgan Davis, Chief Deputy City Attorney and the Las Vegas City Attorney's Office;

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

PLEASE TAKE NOTICE that the **ORDER ON RESPONDENT'S MOTION TO DISMISS** was entered on the 27th day of September 2019, a copy of which is attached hereto.

DATED this 27th day of September 2019.

GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY:


MARISU ROMUALDEZ ABELLAR
Executive Assistant

1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Government Employee-Management Relations
3 Board, and that on the 27th day of September 2019, I served a copy of the foregoing NOTICE OF
4 ENTRY OF ORDER by mailing a copy thereof, postage prepaid to:

5 Morgan Davis
6 Chief Deputy City Attorney
7 City of Las Vegas
8 495 S. Main Street, Sixth Floor
9 Las Vegas, NV 89101

10 Law Office of Daniel Marks
11 Daniel Marks, Esq.
12 Adam Levine, Esq.
13 610 South Ninth Street
14 Las Vegas, NV 89101



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MARISU ROMUALDEZ ABELLAR
Executive Assistant

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

PANEL E

ITEM NO. 851

On September 17, 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 Government-Management Relations Act (the "Act"); NAC Chapter 288 and NRS Chapter 233B.

At issue was Respondent Las Vegas Peace Officers Association's (LVPOA), Motion to Dismiss the Complaint. LVPOA argues that there is no probable cause for the complaint and/or the complaint only presents issues that have been previously decided by the Board. Specifically, the actual basis for the City's Complaint is that withdrawal of a tentative agreement, which LVPOA alleges, is permissible.

In Opposition, the City argues that its Complaint is based on the prohibited practice of bad faith bargaining surrounding the facts and circumstances of LVPOA's attempt to withdraw a TA and declaration of impasse. The City indicated that the culminating act was the attempt to reopen a TA and the imposition of impasse. However, the City is not alleging that withdrawal of the TA amounts to liability in and of itself, but rather many factual issues need to be heard and resolved after a full evidentiary hearing. In other words, the City's Complaint is based on the totality of the circumstances.

As this Board has repeatedly held, cases involving factual disputes and credibility determinations require a hearing and cannot be disposed of by a motion to dismiss. NAC 288.375 provides that the Board **may** dismiss a matter if the Board determines that no probable cause exists for the complaint or a complaint presents only issues that have been previously decided by the Board. An

1 evidentiary hearing is required in order to determine the issues presented including the proper
2 submission and presentation of evidence, as well as credibility determinations in accordance with NRS
3 and NAC 288.

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

5 IT IS FURTHER ORDERED that pre-hearing statements shall be due within 21 days of the date
6 of the Notice of Entry of this Order.

7 Dated this ____ day of September 2019.

8 GOVERNMENT EMPLOYEE-
9 MANAGEMENT RELATIONS BOARD

10 BY: 

11 BRENT C. ECKERSLEY, Presiding Officer
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