

JIM GIBBONS
GOVERNOR

STATE OF NEVADA



DIANNE CORNWALL
DIRECTOR

MICHAEL TANCHEK
LABOR COMMISSIONER

REPLY TO:

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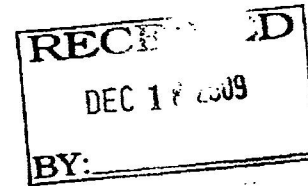
Department of Business & Industry
OFFICE OF THE LABOR COMMISSIONER

www.LaborCommissioner.com

COPY

December 17, 2009

Chet Adams
City Attorney
City of Sparks
431 Prater Way
Sparks, NV 89431



Neil Krutz
Community Development Director
City of Sparks
1675 E Prater Way #107
Sparks NV 89434

Re: **NOTICE OF COMPLAINTS**

Dear Mr. Adams & Mr. Krutz:

PLEASE TAKE NOTICE THAT THE FOLLOWING COMPLAINTS HAVE BEEN FILED WITH THE LABOR COMMISSIONER:

Building Construction Trades Council of Northern Nevada
vs.

RED Development; Scheel's; Sampson Construction; A & K Earthmovers; BCM Construction; Gradex Construction Company; Electro-tech; Northern Nevada Excavating; Spanish Springs Construction; Stanley Convergent Security Solutions; Electrical Reliability Services and Converse Consultants

Building Construction Trades Council of Northern Nevada
vs.
City of Sparks

California Arizona Nevada District Organization
vs.
Top Flite Construction

on projects being constructed at the Legends at Sparks Marina. Copies of the complaints are attached.

Prior to August 18, 2009, the Labor Commissioner took the position that the provisions of NRS 338.010 to 338.090, inclusive, were unenforceable on projects undertaken by the recipients of STAR Bonds as set forth in the Labor Commissioner's Opinion and Order issued on June 18, 2008 in the matter of Building and Construction Trades Council of Northern Nevada vs. City of Reno. On August 18, 2009, the Second Judicial District Court issued an Order Remanding Labor Commissioner's Opinion overruling the Labor Commissioner and directing the Labor Commissioner to undertake additional proceedings not inconsistent with the Court's ruling. While the City of Reno has appealed the District Court decision to the Nevada Supreme Court, the District Court has declined to issue a stay of its ruling. Copies of the orders are attached. As a result of the Court's ruling, several complaints have been lodged against various contractors working on the Legends project.

In addition, complaints have also been filed directly against the City of Sparks for failing to enforce the provisions of NRS 338.010 to 338.090, inclusive.

Pursuant to Nevada Revised Statutes (NRS) 338.070(1), any public body and its officers or agents awarding a contract shall:

- (a) Investigate possible violations of the provisions of NRS 338.010 to 338.090, inclusive, committed in the course of the execution of the contract and determine whether a violation has been committed and inform the Labor Commissioner of any such violations.

Pursuant to Nevada Administrative Code (NAC) 338.110(1):


- (1) On its own initiative or upon notice of a possible violation, an awarding body shall cause such an investigation to be made as may be necessary to determine whether a violation of NRS 338.010 to 338.090, inclusive, or NAC 338.005 to 338.125, inclusive, was committed in the course of the execution of a contract for a public work that was awarded by the awarding body...Such an investigation must commence and conclude within a reasonable time, except **that the investigation must not exceed 30 days** unless an additional period of time is approved by the labor commissioner.
- (4) Upon the conclusion of its investigation, an awarding body shall issue, in writing, its determination of whether a contractor or subcontractor violated NRS 338.010 to 338.090, inclusive, or NAC 338.005 to 338.125, inclusive, and shall transmit a copy of the determination to the labor commissioner, the contractor and, if the contractor is a subcontractor, then to the prime contractor and any intermediate subcontractors, and any person who filed a claim or complaint with the labor commissioner relating to the investigation.

Enclosed is a form entitled, ATTACHMENT: Sample Cover Letter for Determinations. The form is intended to assist in your compliance with NAC 338.110. Please complete the information and

documentation listed on the form and return it along with your Determination.

If you have any questions or require assistance, please call our office at (775) 687-4850.

Sincerely,
Michael Tanchek
Labor Commissioner State of Nevada

BY: 
Phil Andrews
Compliance Investigator

CC: Red Development - Kevin Felton
Scheels - Jason Loney
Sampson Construction - Justin Schulz
Building and Construction Trades Council of Northern Nevada - Paul McKenzie
A&K Earthmovers; Gradex Construction Company; Electro-tech; Northern Nevada
Excavating; Spanish Springs Construction; Stanley Convergent Security Solutions; Electrical
Reliability Services; Converse Consultants;
CANDO - Michele Justice; Q&D Construction and Top Flite.

Enclosures