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Lazy 8 suit goes to NV Supreme Court today

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A group of 13 local citizens and representatives from John Ascuaga's Nugget will appear before the entire Nevada Supreme Court today in the hope that the court will reverse a contentious 2006 decision touching the Lazy 8 hotel and casino project in Spanish Springs.

The group, represented by attorney Stephen Peek, believes that the 2006 decision excluded proper public input on the project.

Adams v. City of Sparks will be heard at 10 a.m. and is a consolidation of three cases that primarily deal with a dismissal of petitions for judicial review regarding a settlement agreement between the city of Sparks and the Red Hawk Land Co.

Oral arguments on the three cases will be heard on an en banc basis, which means all seven Nevada Supreme Court judges will participate, rather than the usual three members of the northern panel.

In preparation for the trial, Peek said the arguments for the reversal will be made based on the dismissal of a petition for judicial review, which was filed after the Sparks City Council approved a legal settlement with Red Hawk Land Co. in September 2006.

"(In August 2006) the city denied the application of Red Hawk to move their claim entitlement from Wingfield Springs to Tierra del Sol and that was by vote of the council," Peek said.

After the council denied the application by a 3-2 vote, Red Hawk sued the city for \$100 million, claiming the city violated a 1994 agreement with the company. Sparks City Attorney Chet Adams warned the council that he would not be able to defend the city against such a costly lawsuit.

The city then entered into a settlement agreement with Red Hawk, thereby approving the Lazy 8 project.

The Nugget and 15 citizens subsequently sued to overturn the settlement agreement.

A week after the council vote, the decision was overturned by Washoe District Court Judge Brent Adams. The citizens then had Judge Adams removed from the case and District Court Judge Jerome Polaha took over.

In April 2007, Polaha dismissed all arguments in the petition for judicial review of a settlement agreement for the proposed Lazy 8. Polaha concluded that the petitioners attempted to attack the settlement collaterally, and that the law prohibits such an attack.

The citizens and the Nugget will argue today that they weren't permitted to intervene properly in the six days that lapsed between the vote and the overturn.

"One, we didn't know about it," Peek said. "Two, we didn't participate and three, it would be very unusual when you don't know about a procedure to be able to intervene. ... We weren't invited, we weren't asked to join in the procedure."

Doug Thornley, a Sparks assistant city attorney, said the city will argue that the citizens and the Nugget weren't party to the lawsuit, and as such, did not need to be asked to join in the procedure.

"There's no reason they would be consulted," Thornley said. "The thing is, the terms of settling the agreement (with their involvement) would be a breach of client/attorney privilege. The city was sued by Red Hawk, not by the Nugget."

Thornley said the Nugget and citizens chose an "erroneous course of action."

"They're now barred from bringing the right course of action," he said.

Thornley said hearing the cases en banc means the judges have a great deal of interest in procedure of the case.

"My impression is because we're not dealing necessarily with the facts of the case, it's a procedural argument," he said. "It's a fairly important issue in terms of land use in the state of Nevada. The challenge is in a zoning decision whether you can intervene after judgment. That needs clarification."

The other two cases, according to Thornley, will argue against Polaha's order to deny reconsideration as requested by the Nugget and on an order of granting costs. Thornley said the three cases were consolidated for the sake of efficiency.

Asked what outcome he expects, Thornley said, "We're going to win."

The appellants are hopeful that the Supreme Court will reverse this decision, Peek said.

The case numbers for Adams v. City of Sparks are 50251, 49682 and 49504.