

FILED

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STOREY COUNTY CLERK

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5 **FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
6 *******
7 **IN AND FOR THE COUNTY OF STOREY**

8 GARY HAMES, individual;
9
10 vs.
11 STOREY COUNTY, a political subdivision of
12 Nevada; and A ; and DOES 1-10;
13 Plaintiffs,
14 Defendants.

**PETITION FOR
WRIT OF MANDAMUS**

13 Petitioner, GARY HAMES is an individual resident of Storey County and on behalf of the
14 citizens of Storey County (hereinafter "Petitioner"), petitions this Court for a writ of mandamus to
15 order the Storey County Board of Commissioners to comply with its legal duties and enforce Storey
16 County Resolution Number 08-269.

17 1. This Court has jurisdiction over this matter pursuant to NRS 34.160.

18 2. Petitioner has no adequate remedy at law.

19 3. At the June 18, 2019 meeting of the Storey County Board of Commissioners,
20 discussion and action to refund \$71,266.97 in community development building permit fees was
21 continued until the July 2, 2019 meeting.

22 4. Petitioner was the former head of the Storey County Community Development
23 Department under contract with Storey County. Petitioner was terminated upon disagreement over
24 the enforcement of Storey County Resolution No. 08-269. Petitioner is aggrieved and believes the
25 termination was in bad faith and without full transparency of the facts related to community
26 development building permit fees, including the fact that enforcement was vetted through the Storey
27 County District Attorney's Office in 2017 and Resolution No. 08-269 was confirmed as enforceable.

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1 5. This petition is filed within a reasonable time after notice of resolution to return
2 probably incurred and collected fees.

3 6. The First Judicial District is the proper venue because Petitioner resides in Storey
4 County and the proceeding occurred within Storey County.

5 **STATEMENT OF FACTS**

6 7. Building permit fees in Storey County are set by ordinance and resolution. In 2003,
7 the Storey County Board of Commissioners set residential and commercial building permit fees as
8 set forth in Resolution No. 03-172. The language of the resolution tied permit fees to the adopted
9 building code schedules, specifically UBC 199 Table 1-A.

10 8. The permit fees were left at 2003 levels in January 2005 with Resolution No. 04-197.

11 9. In 2008, the Board of Commissioners enacted Resolution No. 08-269, pursuant to
12 Storey County Code 15.04.020, Building and Construction.

13 10. The Resolution No. 08-269 was effective December 2, 2008.

14 11. The Resolution No. 08-269 raised the permit fees for Fire Department Construction
15 permits to the UBC 1997 Table 1-A, plus 10%, **and** consistent with the Storey County Building
16 Department.

17 12. In July 2017, Petitioner, thought Battle Born Consulting Services, entered into
18 contract with Storey County to manage the Storey County Community Development Department.
19 One of the Department's responsibilities is to administer and collect building application permit fees
20 consistent with existing County ordinances.

21 13. Beginning in 2017, Petitioner inquired of the Storey County District Attorney's
22 Office, why fees were still being collected on 1997 and 2003 rates despite the adoption of Resolution
23 No. 08-269. At that point, Fire Department Construction permit fees and building application
24 permit fees were not consistent.

25 14. Storey County District Attorney's Office informed Petitioner that Resolution No.
26 08-269 was the effective ordinance and permit fees should be calculated accordingly.

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1 15. Petitioner, with the assistance of the Storey County's District Attorney's Office
2 began drafting a resolution for consideration by the Board of Commissioners updating and
3 consolidating all construction permit applications fees.

4 15. Petitioner instituted the practice, after notice, of calculating and collecting building
5 permit application fees on the 2008 schedule, that is 1997 UBC Table 1-A, plus 10%.

6 16. Petitioner notified the Community Development Department staff of this change
7 and requested that all permits be calculated and collected accordingly.

8 17. Community Development Department administrative staff person, Sarah Dillon,
9 disagreed with her supervisor's position and repeatedly questioned the increase of fees. Ms. Dillon
10 went as far as reporting the matter to the County Manager.

11 18. Dillon then turned over confidential and County deliberative process privileged
12 documents to a third-party, namely a local blogger, in an attempt to discredit the Petitioner. Dillon's
13 actions were in violation of Storey County code and Nevada law.

14 19. Despite that the Storey County District Attorney's Office had approved the
15 interpretation of Resolution No. 08-269 and the increase in fees commensurate with 1997 UBC
16 Table 1-A plus 10% to be consistent with Fire Construction Permit fees, the District Attorney's
17 Office hired outside legal counsel to begin an investigation into the Community Development
18 Department and Petitioner.

19 20. Outside legal counsel, Law Office of Allison MacKenzie, had a conflict of interest in
20 investigating Petitioner, as that legal counsel helped negotiate Petitioner's employment contract with
21 Storey County. Said conflict was not disclosed or waived, and outside legal counsel attempted to
22 interview Petitioner anyways.

23 21. Petitioner's contract with Storey County was terminated at the recommendation of
24 the Storey County District Attorney's Office in May 2019.

25 22. Community Development Department, and upon information and belief, Sarah
26 Dillon, continued to use Petitioner's signature stamp for approval of permits and business licenses
27 after Petitioner was terminated. Said permits and licenses were presented to the County
28 Commissioners for approval in June 2019.

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1 23. District Attorney's Office has requested the Board of Commissioners to return
2 \$71,266.97 in community development building permit fees collected between 2017 and 2019.
3 These fees have been collected in accordance with Storey County ordinances, earned by the
4 Community Development Department and included in the revenue for the County.

5 **FIRST CLAIM FOR RELIEF**
6 **MANDAMUS**

7 24. Petitioner hereby incorporates by reference the allegations of the above paragraphs.

8 25. Petitioner has standing to challenge the approval of any resolution returning
9 collected County fees and income. Petitioner was also aggrieved by the termination of his
10 employment contract over the same fee issues.

11 26. The Board of Commissioners' plan to return building application permit fees
12 collected in accordance with Resolution No. 08-269 violates Section 10 of Schedule 1 of Resolution
13 No. 08-269 which states that the fee schedules and permits shall take effect and be in full force from
14 and after its approval on December 2, 2008.

15 27. Therefore, a writ should issue compelling the Storey County Board of
16 Commissioners from returning building department application fees properly collected pursuant to
17 Storey County ordinance.

18 WHEREFORE, Petitioner respectfully prays for the following relief:

- 19 1. For the Court to accept jurisdiction over this matter;
20 2. For the Court to establish a briefing schedule to allow briefing of these issues;
21 3. For the Court to review the Board of Commissioners' decision and make a
22 determination that the Board of Commissioners is improperly attempting to return
23 County funds to private parties;

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- 1 4. For attorneys' fees and costs required to bring this petition for judicial review; and
2 5. For such other and further relief as the Court deems to be just, equitable and proper.

3 *Affirmation*

4 The undersigned does hereby affirm that this document filed herein does not contain the
5 social security number of any person.

6
7 **DATED** this 1st day of July, 2019.

8 DOYLE LAW OFFICE, PLLC

9
10 By: 

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