



## STATE OF NEVADA

### BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Kurt Carson**, Council Member, Seat 2,  
City of Ely, State of Nevada,

Request for Opinion No. **17-23C**

Subject. /

#### DEFERRAL AGREEMENT

1. On October 19, 2017, this Review Panel authorized the Executive Director of the Nevada Commission on Ethics ("Commission") and Kurt Carson ("Carson"), a Member of the Ely City Council, to develop this Deferral Agreement (the "Agreement") to address the conduct at issue in Third-Party Request for Opinion No. 17-23C (the "RFO") instead of referring the RFO to the Commission for further proceedings.

2. At all material times, Carson served as a City Council Member for the City of Ely, Nevada and was an elected public officer as defined in NRS 281A.160. The Ethics in Government Law ("Ethics Law") set forth in NRS Chapter 281A gives the Commission jurisdiction over Carson as an elected public officer whose conduct is alleged to have violated the provisions of NRS Chapter 281A, as amended by Senate Bill 84 of the 79<sup>th</sup> Session of the Nevada Legislature (2017) ("S.B. 84").<sup>1</sup> See NRS 281A.280.

3. This Agreement is entered into based upon the statement of facts established by sufficient credible evidence to support just and sufficient cause for the Commission to render an opinion in this matter. See attached Appendix A (the "Statement of Facts").<sup>2</sup>

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<sup>1</sup> S.B. 84 amends and enacts various provisions of NRS Chapter 281A, which statutes have yet to be formally codified.

<sup>2</sup> The Statement of Facts does not constitute part of the "Investigative File" as that term is defined by NRS 281A.440(17), as amended by S.B. 84. All statutory and common law protections afforded to the Investigative File shall remain and are not affected by this Agreement. The Review Panel's Determination considered the Executive Director's Panel Recommendation and the record of proceedings.

### **Procedural History**

4. On or about June 27, 2017, the Commission received RFO No. 17-23C from a member of the public (“Requester”), alleging that Carson:

- a. Failed to disclose his commitment in a private capacity to the interests of his father and step-mother who own a mobile home park in Ely during Ely City Council meetings on March 24, 2016 and January 26, 2017 (NRS 281A.420(1)); and
- b. Failed to abstain from voting on agenda items at Ely City Council meetings on March 24, 2016 and January 26, 2017 that purportedly had a material effect on the mobile home park owned by his family members (NRS 281A.420(3)).

5. On July 12, 2017, staff of the Commission issued a Notice to Subject under NRS 281A.440(2), stating that the Commission accepted jurisdiction to investigate the allegations and Carson was provided an opportunity to respond to the RFO.

6. On or about August 30, 2017, Carson, through his legal counsel, Ely City Attorney Charles H. Odgers, Esq., provided a written Response to the RFO.

7. On October 12, 2017, the Executive Director presented a recommendation relating to just and sufficient cause to a three-member review panel pursuant to Section 4 of S.B. 84.

8. A Panel Determination issued on October 19, 2017 concluded that:
  - a. There is sufficient credible evidence to support a determination that just and sufficient cause exists for the Commission to render an opinion in the matter regarding the allegations pertaining to Carson’s failure to disclose a conflict at the March 24, 2016 City Council meeting;
  - b. There is not sufficient credible evidence to support a determination that just and sufficient cause exists for the Commission to render an opinion in the matter regarding the allegations pertaining to Carson’s failure to abstain at the March 24, 2016 meeting and his failure to disclose and abstain at the January 26, 2017 City Council meeting; and
  - c. Carson’s alleged failure to disclose the interests of his family’s mobile home park at the March 24, 2016 City Council Meeting may be appropriately

addressed through corrective action under the terms and conditions of a deferral agreement instead of referring this RFO to the Commission for further proceedings.

**Terms and Conditions**

9. This Agreement shall be in effect for a period of two years (the “Deferral Period”) from the date of approval by the Review Panel.

10. Carson must comply in all respects with the provisions of NRS Chapter 281A during the Deferral Period without being the subject of another ethics complaint arising from an alleged violation occurring during the Deferral Period and for which the Review Panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter.

13. The Review Panel recognizes that Carson attended an ethics training presented by the Commission’s Executive Director on September 28, 2017.

12. The Executive Director shall monitor Carson’s compliance with this Agreement. Should the Executive Director discover that Carson has not complied with any term or condition of this Agreement, the Executive Director shall:

- a. Inform the Commission of any alleged failure of Carson to comply with the Agreement;
- b. Give Carson written notice of any alleged failure to comply with the Agreement; and
- c. Allow Carson not less than 15 days to respond to such a notice.

13. The Commission may vacate this Agreement and conduct further proceedings in the matter if the Commission finds that Carson has failed to comply with any terms and conditions of the Agreement.

14. If Carson complies in a satisfactory manner with this Agreement, the Commission shall dismiss the matter.

15. This Agreement is entered and approved without prejudice and depends on and applies only to the specific facts, circumstances and law related to this RFO. Any facts or circumstances that may come to light after its entry that are in addition to or differ from those contained herein may create a different resolution of this matter.

**Acceptance:** We, the undersigned parties, have read this Agreement, understand each and every provision therein, and agree to be bound thereby.

DATED this 7 day of Nov., 2017. Kurt Carson  
Kurt Carson

The above Stipulated Agreement is approved by:

FOR KURT CARSON, Subject  
DATED this 7 day of Nov, 2017. Charles H. Odgers  
Charles H. Odgers, Esq.  
Ely City Attorney

FOR YVONNE M. NEVAREZ-GOODSON, ESQ.  
Executive Director, Commission on Ethics

DATED this 7<sup>th</sup> day of November, 2017. Judy A. Prutzman  
Judy A. Prutzman, Esq.  
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this \_ day of \_\_\_\_\_, 2017. \_\_\_\_\_  
Tracy L. Chase, Esq.  
Commission Counsel

The above *Deferral Agreement* is approved by the Review Panel.

DATED \_\_\_\_\_, 2017.

By: \_\_\_\_\_  
Cheryl A. Lau, Esq.  
Chair

By: \_\_\_\_\_  
Phillip K. O'Neill  
Commissioner

By: \_\_\_\_\_  
Brian Duffrin,  
Commissioner

**Acceptance:** We, the undersigned parties, have read this Agreement, understand each and every provision therein, and agree to be bound thereby.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017. \_\_\_\_\_  
Kurt Carson

The above Stipulated Agreement is approved by:

FOR KURT CARSON, Subject

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017. \_\_\_\_\_  
Charles H. Odgers, Esq.  
Ely City Attorney

FOR YVONNE M. NEVAREZ-GOODSON, ESQ.  
Executive Director, Commission on Ethics

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017. \_\_\_\_\_  
Judy A. Prutzman, Esq.  
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this 13th day of November, 2017. /s/ Tracy L. Chase  
Tracy L. Chase, Esq.  
Commission Counsel

The above *Deferral Agreement* is approved by the Review Panel.

DATED November 13, 2017.

By: /s/ Cheryl A. Lau  
Cheryl A. Lau, Esq.  
Chair

By: /s/ Phillip K. O'Neill  
Phillip K. O'Neill  
Commissioner

By: /s/ Brian Duffrin  
Brian Duffrin,  
Commissioner

## **Appendix A – Statement of Facts**

At all times relevant to this RFO, Carson’s father and stepmother, Keith and Paula Carson, owned one of six mobile home parks in Ely through a Nevada limited-liability company called KP Investments, LLC. The park sits on a 40,000 square foot parcel and has 10 mobile home lots. When Keith and Paula purchased the mobile home park in 2006, it was being operated as the Bristlecone Trailer Park and this name appeared in the Ely County Assessor’s records until sometime in 2016, when the property name was changed to “Creekside Park.” However, there are no signs on the property to identify the mobile home park and Keith and Paula’s business license identifies the business as KP Investments.

During the City Council Meeting on March 24, 2016 (March Meeting), Agenda Item 9A required the Ely City Council to consider zoning changes recommended by the City Planning Commission for four of the six mobile home parks in Ely. The zoning for these parks needed to be corrected to M-H-1 zoning, which applied to mobile home parks, because they had been incorrectly zoned as M-H-3, which applies to a residential lot for a single mobile home outside a mobile home park.

The meeting minutes reflect that City Attorney Odgers recommended that the Council combine Agenda Items 9A1, 2, 3 and 5 under a consent agenda. The City Planning Commission recommended approval of all four of the following agenda items:

1. Recommendation to correct the zoning on the Apeceche Trailer Park,<sup>3</sup> APN 0108102, from M-H-3 to M-H-1 pursuant to City Ordinance 410.
2. Recommendation to correct the zoning on the White Pine Mobile Home Park,<sup>4</sup> APN 02-193-01, from M-H-3 to M-H-1 pursuant to City Ordinance 410.
3. Recommendation to correct the zoning on the Joe Ciscar Trailer Park,<sup>5</sup> APN 02-203-02, from M-H-3 to M-H-1 pursuant to City Ordinance 410.
4. Recommendation to correct the zoning on the Bristlecone Trailer Park, APN 0104502, from M-H-3 to M-H-1 pursuant to City Ordinance 410.

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<sup>3</sup> Apeceche Trailer Park sits on a 27,500 square foot parcel and has 9 mobile home lots.

<sup>4</sup> White Pine Mobile Home Park sits on a 101,200 square foot parcel and has 30 mobile home lots.

<sup>5</sup> Joe Ciscar Trailer Park sits on a 38,750 square foot parcel and has 11 mobile home lots.

Carson did not make any disclosures and voted on the consent agenda item, which was approved unanimously.

Carson received meeting materials for the March Meeting prior to the meeting. However, 20 pages of meeting materials associated with Agenda Item 9A were not provided to City Council members prior to the meeting and were placed at each Council member's seat when the meeting started. Page 9 of these materials included parcel details from the Assessor's website for the mobile home park listed in Agenda Item 9A4. Although the property was, at the time, incorrectly designated as Bristlecone Trailer Court, KP Investments was correctly noted as the property's owner. Carson knew or should have known the mobile home park was owned by his father and stepmother through KP Investments.