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State of Nevada Department of Employment, Training & Rehabilitation, Employment Security Division v. Sierra National Corporation, d/b/a The Love Ranch, A Nevada Corporation, 136 Nev., Adv. Op. 11 (Mar. 26, 2020)

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CIVIL LAW: ADMINISTRATIVE AGENCY

Summary

The Court held that because the records requested by the legal brothel the Love Ranch do not violate the limitations set forth in NRS 612.265, the district court was correct to grant the Love Ranch’s petition for a writ of mandamus.

Background

This is a public records case involving the Sierra National Corporation doing business as the Love Ranch (“Love Ranch”) and the Department of Employment, Training & Rehabilitation (“DETR”). In 2016, DETR’s Employment Security Division (“ESD”) audited the brothel the Love Ranch located in Lyon County, Nevada. Upon completing the audit, the ESD determined that the Love Ranch would need to pay money to the Unemployment Compensation Fund because its sex workers were considered employees.

As a result of the ESD’s evaluation, the Love Ranch took great strides to obtain all of its audits and those of other brothels. Of the many requests made, the one at issue in this case pertains to the Love Ranch’s Nevada Public Records Act (“NPR”) request to DETR’s public records officer. When DETR refused to comply with Love Ranch’s NPR request, the Love Ranch petitioned for a writ of mandamus. The district court ruled in its favor, leading to this appeal.

Discussion

NRS 239.010(1) explains that “all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person.”² Public records are accessible in order to show the government’s accountability and transparency. Thus, the statute is generally liberally construed.

When a record is deemed to be confidential by law, however, several exceptions apply. More specifically, under NRS 612.265(1), “information obtained from any employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person’s or employing unit’s identity.”³ In this context, the word ‘confidential’ is narrowly interpreted to mean the ability to not disclose a person or employing unit’s identity.

Here, the Court held that the Love Ranch’s public records request does not violate the limitations set forth in NRS 612.265 for several reasons. First, the identity of any person or employing unit was not asked for in the Love Ranch’s public records request, and therefore, confidentiality would be maintained. Additionally, the district court did not ask DETR to provide

¹ By Alexandra Matloff

² NEV. REV. STAT. 239.010(1) (2017).

³ NEV. REV. STAT. 612.265(1) (2017).

anything beyond the requested records. Thus, the Court decided that it was proper not to prohibit the disclosure of the ESD's records, and the district court's decision was affirmed.

Conclusion

The Court held that the Love Ranch complied with the limitations set forth in NRS 612.265. More specifically, the Love Ranch's request would abide by the statute's requirement that certain information remain confidential. Moreover, DETR will not violate the statute in fulfilling the district court's request to only provide the requested records. Therefore, the Court affirmed the district court's ruling granting the petition for a writ of mandamus.