

Southern Nevada CCIM Chapter

# Perspective

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## Incoming President's Message

Paul Chaffee, CCIM

2023 Southern Nevada CCIM Chapter President



## Welcome 2023!

I am extremely honored to be a part of this amazing organization and want to thank each of you for giving me the pleasure of representing you this year. Bobbi Miracle has done an amazing job representing our chapter in 2022, along with her Board of Directors and Committees. I want to thank Bobbi for all her leadership and guidance! As we head into uncertain times, I know that our chapter will continue to flourish with the support of our members.

2023 offers me the privilege to serve with a dedicated and professional Board of Directors and Committee Chairs. My goal is to bring you the best possible programs, community outreach and social events. If you have any programs that you would like to see presented, please let me know. The continued support of our sponsors allows us to put on the fun and informative events, if you aren't one yet, consider being a sponsor in 2023.

I'm excited to see what 2023 has in store for all of us and I look forward to working with you!





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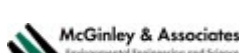
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# Legal Corner

## Supreme Court Decision: The Implied Warranty of Habitability in the Commercial Context

by Nicholas J. Klein, Esq.

This article follows the January-February 2022 CCIM article which addressed a pending case. Now the Supreme Court has made a decision. Bour Enterprises, LLC, a commercial property owner, sued 4520 Arville, its commercial tenant for damages resulting from the tenant's early termination of the lease and failure to pay amounts owed under the lease agreement. Tenant raised arguments and counterclaims arguing that their breach of the lease was due to landlord's constructive eviction - that is, failure to maintain the commercial premises in a "habitable" condition by failing to remedy unsanitary conditions in the warehouses. Tenant argued that the commercial lease, similar to a residential lease, contained an "implied warranty of habitability."

There are some courts in other states that have found that a commercial landlord has an obligation to maintain a commercial property in a "habitable" condition. However, on September 16, 2022, in an unpublished opinion, the Nevada Supreme Court affirmed the Bour Enterprises case that the implied warranty of habitability remains a claim that only residential tenants can make against landlords of residential properties.


In its short decision, the Nevada Supreme Court emphasized that Nevada law explicitly provides in NRS 118A, the Nevada Residential Landlord and Tenant Act, a warranty of habitability for residential tenants. NRS 118C, the Nevada Commercial Landlord and Tenant Act, does not contain such a warranty. Further the Court reasoned that even if there were an implied warranty of habitability in all commercial leases, the terms of the lease at issue clearly outlined that the problems tenant complained of were tenant's own responsibility to repair and maintain.

NRS 118C.200 does include a list of obligations imposed upon a commercial landlord including not turning off utilities a tenant pays directly to the utility company, not removing doors, windows, or furnishings, and not changing the door locks or excluding a tenant except in certain cases. Further, NRS 118C.200

provides that the terms of a commercial lease supersede NRS 118C.200 where there may be any conflict. As you may all know, the law often views commercial lease agreements as binding contracts between two sophisticated parties with few restrictions on the terms they may agree to, and this case affirms that notion. MAC:00002-339 4921594\_1


In the Bour Enterprises case, the Nevada Supreme Court found the following language to clearly place the burden on the tenant: [Tenant must] keep the premises...in good order, condition and repair [regardless of] whether or not the need for such repairs occurs as the result of [Landlord's] use, [or] any prior use" of the premises.

*Continued on page 14*



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(David Alleman and Lance Earl - not pictured)

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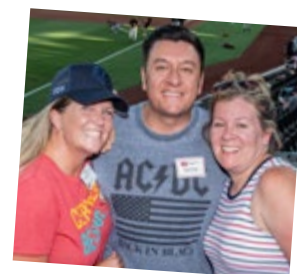
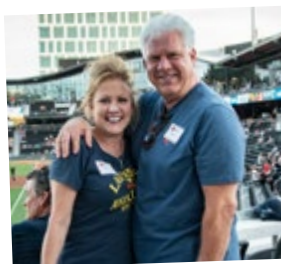
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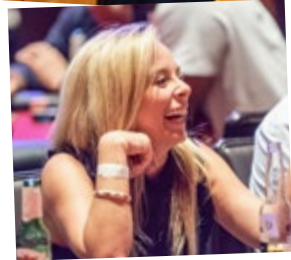
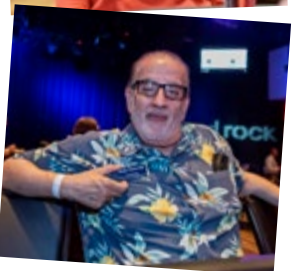
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Position the Chapter as the premier commercial real estate organization for Southern Nevada by enhancing the value of the CCIM designation and increasing the number of designees and candidates through professionalism & educational excellence.

# Southern Nevada CCIM DEALMAKERS



Cathy Jones, CPA,  
SIOR, CCIM

**Cathy Jones, CPA, SIOR, CCIM, of Sun Commercial Real Estate** represented the Seller in the sale of 86,070 SF of industrial space at 5795 Rogers St., Las Vegas with a value of \$19,250,000.

**Chris Lane, SIOR, CCIM, of Colliers** represented SunCap Property Group in the sale of 13.15 acres of land at 425 E. Bruner Avenue & 1640 Amigo St., Henderson with a value of \$45,000,000.

...represented SunCap Property Group in the sale of 730,771 SF of land at 2025 - 2305 W. Cheyenne Ave., N. Las Vegas with a value of \$143,000,000.

...represented Solis Properties, LLC and Moreno Street Property, LP in the sale of 31,000 of industrial space at 4432 Calimesa St., Las Vegas with a value of \$7,800,000.

...represented Panattoni in the sale of 135,000 of industrial space at 6405 Ensworth St., Las Vegas with a value of \$35,300,000.

...represented Macauley Family Trust in the sale of 5.12 acres of land at Via Inspirada & S. Las Vegas Blvd., Henderson with a value of \$1,765,000.

**David Bauman, CCIM, of Logic Commercial Real Estate** represented the Seller in the sale of 13,096 SF of office space at 8335 W Flamingo Rd., Las Vegas with a value of \$3,975,000.



David Bauman, CCIM

## SALES

## SALES

**Devin Lee, CCIM, of Northcap Commercial** represented Cobra 28 No. 8 LP in the sale of 45 Multi-family units at 521 N. 14th St., Las Vegas with a value of \$5,500,000.

**Eric Larkin CCIM, Leslie Houston CCIM, and Mike Kenny, CCIM, of NAI Vegas** represented the Seller in the sale of 9.19 acres of land at NEC of Simmons St & Evans Ave., N. Las Vegas with a value of \$10,000,000.

**Marlene Fujita-Winkel, CCIM, of Cushman & Wakefield** represented JP Morgan Chase in the sale of 4,252 SF of retail space at 8580 W Desert Inn Rd., Las Vegas with a value of \$4,450,000.

## LEASE

**Cathy Jones, CPA, SIOR, CCIM, of Sun Commercial Real Estate** represented the Landlord in the lease of 4,210 SF of office space at 3291 E. Warm Springs Rd., Las Vegas with a value of \$380,917.

**Chris Lane, SIOR, CCIM, of Colliers** represented Clarion Partners in the lease of 76,930 SF of industrial space at 3035 E. Lone Mountain Rd., N. Las Vegas with a value of \$4,999,021.

...represented Nutrition Corp, Inc. in the lease of 171,083 SF of industrial space at 5450 N. Sloan Ln., N. Las Vegas with a value of \$7,119,277.



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The CCIM Perspective is a bimonthly publication of the Southern Nevada CCIM Chapter. To submit an article, contact [ccimnewsletter@amnevada.com](mailto:ccimnewsletter@amnevada.com). The CCIM Perspective may contain controversial or unsubstantiated information by the authors. The contents herein are not necessarily the views of the Southern Nevada CCIM Chapter. The Southern Nevada CCIM Chapter cannot be held responsible for opinions, views or facts expressed.

# Boots & Barrels



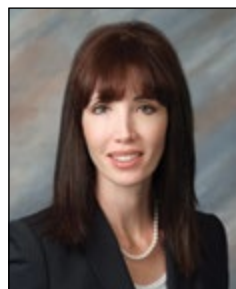
# Southern Nevada CCIM DEALMAKERS



Devin Lee, CCIM



Eric Larkin, CCIM



Marlene Fujita-Winkel, CCIM



Brian Sorrentino, CCIM



Angelica Clemmer, CCIM



Isabella Sorrentino, CCIM

## LEASE

**Chris Lane, SIOR, CCIM**, of **Colliers** represented Dean & Penny Drunner 1985 Trust in the lease of 6,000 SF of industrial space at 5969 McLeod Dr., Las Vegas with a value of \$489,088.

...represented Prologis in the lease of 5,536 SF of industrial space at 6275 S. Pearl St., Las Vegas with a value of \$627,472.

...represented Chagaroot, Inc. in the lease of 27,466 SF of industrial space at 6955 Speedway Blvd., Las Vegas with a value of \$792,288.

**David Bauman, CCIM**, of **Logic Commercial Real Estate** represented the Landlord in the lease of 3,019 SF of office space at 851 S Rampart Blvd., Las Vegas with a value of \$914,032.

...represented the Landlord in the lease of 4,038 SF of office space at 851 S Rampart Blvd., Las Vegas with a value of \$840,066.

...represented the Landlord in the lease of 3,376 SF of office space at 851 S Rampart Blvd., Las Vegas with a value of \$548,938.

**Brian Sorrentino, CCIM, Angelica Clemmer, CCIM, Isabella Sorrentino, CCIM**, of **ROI Commercial Real Estate** represented It's Sugar in the lease of 2,090 SF retail space land at 2030 Fashion Show, Las Vegas.

## LEASE

**David Bauman, CCIM**, of **Logic Commercial Real Estate** represented the Landlord in the lease of 7,127 SF of office space at 851 S Rampart Blvd., Las Vegas with a value of \$1,339,448.

...represented the Landlord in the lease of 4,400 SF of mixed use space at 3585 S Town Center Dr., Las Vegas with a value of \$627,396.

...represented the Tenant in the lease of 4,000 SF of retail space at 4590 W. Sahara Ave., Las Vegas with a value of \$394,924.

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# *Holiday Party*



## Legal Brief - Cont. from page 3

The lease in Bour Enterprises additionally contained a clause whereby tenant "assumed all responsibility for the condition of the premises.

What do we learn from the Bour Enterprises case? First, commercial parties need sharp contract drafting that dictates which matters are the responsibility of each party. Second, commercial landlords should review their lease agreements in light of the intended use and tenant. Third, commercial landlords should update any form leases to ensure that it has language that corresponds to the decisions of the local jurisdiction and new case law. In other words, if commercial parties desire to place the habitability obligation upon the landlord, such obligation must be in the lease.



Nicholas J. Klein is an attorney with the Las Vegas law firm Marquis Aurbach ("MAC"). He can be reached at (702) 382-0711 or by visiting the firm's website at [maclaw.com](http://maclaw.com).



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