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Photos: Scott Gragson and John D. Kilpatrick talk about acquiring land | Craig Walton

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Law keeps identity of landowners a secret

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Investigators probing questionable Clark County airport land deals are running into problems identifying all the businessmen involved because of a veil of secrecy written into state law.

Most of the former federal Bureau of Land Management acreage in the McCarran International Airport overlay district that was sold through a 1998 federal act was purchased by limited liability companies, or LLCs.

Under state law, LLC owners, who are known as members, do not have to be disclosed when the company registers with the Nevada secretary of state's office.

This lack of public disclosure, combined with the rapidly increasing popularity of LLCs, has made it increasingly difficult to learn the identities of individuals who are involved in many of the Las Vegas Valley's real estate transactions and developments. And this shroud of secrecy is also creeping into political campaign financing.

The only way Southern Nevada residents can learn the identity of LLC members is if an LLC happens to do business with a local government, through a land swap or through a contract for goods and services.

When it comes to disclosure, the city of Las Vegas is far more rigid than the county. Any LLC that does business with the city must disclose all members with more than 1 percent ownership. The county only requires disclosure for individuals who own more than 5 percent.

That means that a company with 20 members would have to disclose to the county only one member if, for instance, that individual controlled 24 percent of the company and the other members controlled only 4 percent each. The 19 minority owners wouldn't be disclosed even though they control a combined 76 percent of the LLC.

"Right now if somebody came along and put down that they had more than 5 percent ownership, we would have to take their word for it," Clark County Auditor Jerry Carroll said.

But no disclosure is required if the LLC merely approaches the city or county for a zoning change or for approval of development plans.

ASSEMBLY JUDICIARY

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SUBMITTED BY: Assemblywoman Buckley

"What has been created is a legal device for secrecy," Craig Walton, UNLV emeritus professor of ethics and policy studies, said. "They can acquire public land or make campaign contributions without us knowing who is benefitting."

"On the face of it, it sounds like a heck of a problem. We could be turning the entire county over to the Communist Chinese government. How would we know? If we don't know who is doing this stuff, it just doesn't make sense."

LLCs are popping up everywhere in town.

When an unsuccessful attempt was made last year to lure a major league baseball team to Las Vegas from Montreal, one of the businesses involved was the Las Vegas Stadium Co. LLC.

When the Clark County Commission decided last month to rename Industrial Road after the late entertainer Dean Martin, the proposal was made by Panorama Towers LLC.

And when the Las Vegas Planning Commission was asked last month to review a proposed 38-story condominium tower in the city's Arts District, the pitch was made by Saucy Strategic Planning LLC.

Growing popularity

LLCs, first formed in Wyoming in 1977 and made legal in Nevada in 1991, are now allowed to exist in all 50 states.

Nevada and other states that legalized LLCs in the early 1990s did so after the Internal Revenue Service ruled in 1988 that the companies could be taxed as partnerships.

That meant that instead of a company having to file its own federal income tax return and having its shareholders also having to claim dividend income on their individual returns -- a form of double taxation common with privately held corporations -- LLC members simply could report their share of company income on their individual tax returns.

The IRS ruling made it easier for states such as Nevada to attract small businesses because with an LLC they could enjoy the tax advantages of a partnership combined with the legal protections against lawsuits that a corporation affords its shareholders.

"An LLC takes on some of the characteristics of a partnership and some of the characteristics of a corporation and enjoys the best of both worlds," Derek Rowley, president of the Nevada Resident Agent Association, said. "The popularity of LLCs has to do with the litigious society we live in."

Like LLCs, privately held corporations in Nevada are not required to reveal their owners. But more disclosure is required of corporations when they file with the Secretary of State's office because they have to list their officers, Rowley said. All an LLC has to reveal is its managing member or a resident agent, and the resident agent can operate from a post office box.

"If you had an opportunity to do business with an entity that has a lot of disclosure or a business that doesn't have a lot of disclosure, which would you choose?" Rowley said.

LLCs have become so popular nationwide that in 2003 the number of new LLCs grew by 20 percent, versus a growth rate of only 2 percent for new corporations, Rowley said.

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That popularity is reflected in Nevada, where the number of LLCs skyrocketed from 3,317 in 1995 to 73,500 as of Dec. 31.

"We contemplate that either this year or in 2006 the number of limited liability company filings will exceed the number of corporate filings in Nevada," Scott Anderson, deputy secretary of state for commercial recordings, said.

An Internet search turned up numerous Web sites operated by resident agent services that are promoting Nevada as one of the best states to set up LLCs.

A variety of businesses can form LLCs in Nevada. Major exceptions include businesses specializing in insurance, accounting, auditing, banking or engineering, though the law allows the state to approve LLCs connected to these specialties under certain circumstances.

LLCs are especially popular with developers, Rowley said, because LLCs are easier than corporations to create and dismantle, often after a single real estate transaction or development has been completed. Much of the land surrounding the Las Vegas Beltway was sold and developed through LLCs.

Challenging task

A series of questionable land trades coordinated by the county aviation department -- now being investigated by auditor Carroll, Clark County District Attorney's Office, Metro Police and the FBI -- offers a glimpse into the challenges LLCs pose to anyone who wants to probe them.

The difficulty of sorting out the members of the LLCs involved in the transactions has proven to be a headache for Carroll as he researches land deals involving about 5,000 acres of federal land that were transferred to the county for disposal under the Southern Nevada Public Lands Management Act of 1998.

"The problem is that we still don't know all of the people who were involved in the LLCs," Carroll said. "I would like to know who was involved in these deals and if there were any conflicts of interest. We're trying to gather as much information on these LLCs as we can publicly, but there isn't a whole lot available."

The probe, begun in February, focuses on the sales of former BLM acreage under the direction of the aviation department, which operates McCarran International Airport. The land sales have been approved by the county commission based on the aviation department's recommendations.

The legislation was intended to allow the county to sell the land in ways that were compatible with McCarran's use, with the proceeds helping the federal government acquire environmentally sensitive land elsewhere in Nevada.

But investigators want to know if the county under-appraised the property it sold to LLCs, other partnerships and individual investors, because those businessmen often quickly sold the acreage for millions of dollars in profit.

Following public criticism of the aviation department's role in the land sales, the county commission on April 6 transferred that responsibility to the county's real property management department. The commission also decided that all future county land sales would be made through public auctions, except for swaps among government agencies and sales to nonprofit groups.

Investigators also want to know if there were any conflicts of interest between businessmen and county employees and officials in connection with the land trades.

For help, the investigators have the option of turning to the IRS, since members of LLCs are required to report their shares of company income on their individual federal tax returns.

Rowley, whose association represents resident agents of more than 60,000 Nevada corporations, LLCs and partnerships, also said LLCs have to file with the IRS informational returns that list each member and the amount of income they will be reporting on their individual returns.

To get that confidential information, though, investigators of the airport land deals would have to go to federal court.

"If the case does not involve tax evasion, where we would be involved, you need a court order from a judge," Mercedes Manzur, special agent for IRS criminal investigations in Las Vegas, said. "It's not a very frequent request."

A potentially less difficult route, of course, would be for the investigators to gain the cooperation of the LLCs' managing members. Robert Lawless, professor of corporate law at the UNLV Boyd School of Law, said the protections that LLC members enjoy from legal action against their companies only go so far.

"The LLC doesn't shield you from criminal actions," Lawless said. "You're always liable for what you do. The LLC protects you solely in your status as an owner."

Much of the media focus in the airport land deals has been on Las Vegas land broker Scott Gragson, grandson of the late Las Vegas Mayor Oran Gragson. Scott Gragson was involved in 20 of the 46 land trades that are being probed.

Gragson, who would not return messages seeking comment that were left on his business and cellular telephones, was affiliated with at least 13 different LLCs that acquired land from the county's aviation department from 2000 through this year, according to documents recorded with the county.

Campaign money

Some of those LLCs contributed money to then-Clark County Commissioner Erin Kenny's unsuccessful 2002 campaign for lieutenant governor about the time she reportedly pushed for zoning changes that benefitted Gragson during some of his land deals with the county.

But Gragson's LLCs weren't the only ones to support Kenny. Of the \$1.61 million raised by Kenny during that campaign, at least \$198,950 -- one-eighth of her total contributions -- came from LLCs, according to her campaign finance reports.

Kenny has since pleaded guilty to political corruption charges involving Michael Galardi's Las Vegas strip clubs. There has been speculation that the federal probe, which also resulted in indictments of former county commissioners Dario Herrera, Lance Malone and Mary Kincaid-Chauncey, has expanded to include developers.

Companies affiliated with Gragson and his partners gave Kenny at least \$39,000 in contributions, including \$24,000 on Sept. 23, 2002, when the money came from nine different LLCs and partnerships

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with the same address, 3960 Howard Hughes Parkway, Suite 150.

That revelation troubled Paul Brown, Southern Nevada director of the Progressive Leadership Alliance of Nevada, a coalition of groups representing organized labor, environmentalists and minorities that has advocated campaign finance reform.

LLCs, like corporations, can give statewide candidates up to \$5,000 each in primaries and general elections. But there is nothing in Nevada law to stop individuals from exceeding those amounts -- which are already among the nation's highest limits -- by simply funnelling money through multiple LLCs.

"LLCs basically represent hidden money," Brown said. "My advice is to look at the addresses of the LLCs. If they all have the same address, that sends up a caution flag. What they're basically doing is bundling contributions. And if they can hide the partners, that leads to all kinds of questions."

Because an LLC is required to disclose all members who own more than 5 percent of the company in cases where the LLC is doing business with the county, there is some ownership information about some of Gragson's LLCs.

He was required to reveal the names of owners of LLCs in three land trades with the county, according to records kept in the county clerk's office. They included:

- GKT Acquisitions LLC and GKT 4 LLC (both listing Gragson, John Kilpatrick and Robert Torres).
- GKT II LLC (Gragson, Jill Gragson, S & J Gragson Family Trust, DK IV Limited Partnership, Kilpatrick, Manny's Limited Partnership and Torres).
- Easterfield #9 LLC (Gragson, James Clemons, Peter Garrity and GK Acquisitions LLC).
- Gragson Lone Mesa II LLC (William Balelo, Neal Rudnick, Robert and Debbie Strimling and Henry Besuden).

But 17 of the 20 land deals Gragson participated in occurred before the county adopted its resolution in June 2002, so no ownership disclosure was required in those earlier transactions.

Carroll, the county auditor, is aiming to give the county commission a status report on his investigation around May 20, though it is possible the audit will continue well beyond that date.

"Then it would be up to the district attorney and Metro Police in terms of where to go from there," Carroll said.

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