

IN THE SUPREME COURT OF THE STATE OF NEVADA

BASCAL PROPERTIES-I, LLC, A
DELAWARE LIMITED LIABILITY
COMPANY; AND JASON BARZILAY,
A/K/A YAIR BARZILAY, AN INDIVIDUAL,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK, AND
THE HONORABLE ELIZABETH GOFF
GONZALEZ, DISTRICT JUDGE,

Respondents,

and

ALEXANDER SANDEL, AN INDIVIDUAL,
Real Party in Interest.

No. 48380

FILED

NOV 16 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges a district court order directing that, among other things, certain real property be listed for sale.

Petitioner Jason Barzilay and real party in interest Alexander Sandel each have a 50 percent membership interest in petitioner Bascal Properties-I, LLC. According to petitioners, Bascal Properties-I's sole asset is a parcel of real property in Las Vegas. To initiate the sale of this property, apparently because the parties were at an impasse concerning the property's disposition, Sandel moved the district court to appoint a receiver to facilitate the property's sale. Petitioners opposed the motion, essentially arguing that, in this matter, the appointment of a receiver would be unduly harsh. Petitioners' opposition included a countermotion requesting that the district court stay the underlying proceedings because

the property was implicated in pending litigation involving Sandel and petitioner Barzilay in California.

Thereafter, the district court, instead of directing that a receiver be appointed to facilitate any sale of the property, entered an order directing that the property be listed for sale through the parties' property manager.¹ The court's order further directed that any final sale required the court's approval and that neither party was precluded from making an offer to purchase the property. The court's order also denied petitioners' request for a stay. This petition for extraordinary relief followed.

A writ of mandamus is available to compel the performance of an act that the law requires, or to control an arbitrary or capricious exercise of discretion.² This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial function, when such proceedings are in excess of the district court's jurisdiction.³ Both mandamus and prohibition are extraordinary remedies, and it is within this court's discretion to determine if a petition will be considered.⁴ And petitioners bear the burden of demonstrating that extraordinary relief is warranted.⁵

¹According to petitioners, the parties must confirm to the district court at a November 27, 2006 status hearing that the property has been listed for sale.

²See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

³See NRS 34.320.

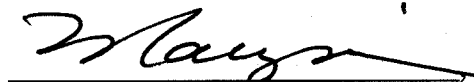
⁴See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

⁵Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

Here, although the district court's order essentially directs and allows nothing more than the mere listing of the property for sale, petitioners contend that this court's extraordinary intervention is necessary immediately to avoid the financial penalties related to any sale of the property and because the property, according to petitioners, is implicated in litigation in California. Petitioners request that this court direct the district court to vacate its order or that this court prohibit the district court from enforcing its order, and that this court stay the underlying action pending the resolution of the purportedly related litigation in California. Having reviewed the petition and accompanying documentation, we conclude that petitioners have failed to demonstrate that our intervention by way of extraordinary relief is warranted.⁶

Accordingly, we

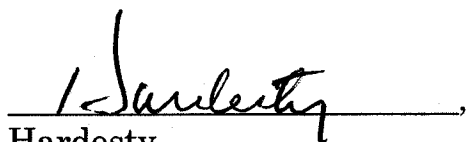
ORDER the petition DENIED.⁷



Maupin J.



Gibbons J.



Hardesty J.

⁶See *id.* at 228-29, 88 P.3d at 844.

⁷In light of this order, we deny as moot petitioners' alternative motion for a stay.

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Marquis & Aurbach
Lionel Sawyer & Collins/Las Vegas
Clark County Clerk