

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL LATTIN, AN INDIVIDUAL;
AND CANYON CONSTRUCTION
COMPANY, A NEVADA
CORPORATION,
Petitioners,
vs.
THE CITY OF ELKO, A CHARTERED
MUNICIPALITY AND A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,
Respondent,
and
EL AERO SERVICES, INC.,
Real Party in Interest.

No. 50667

FILED

FEB 08 2008

TRACEE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges the City of Elko's purported failure to comply with various statutory requirements when it contracted with real party in interest El Aero Services, Inc., for El Aero to carry on as the fixed base operator at the Elko Regional Airport.

According to petitioners, the City of Elko failed to comply with requirements set forth in NRS 268.059, NRS 496.080, and NRS 496.090 for the lease of city-owned real property and the commercial use of airport facilities, when it entered the fixed based operator contract with El Aero. Based on documents submitted with the petition, it appears that the City of Elko believed that its fixed based operator contract with El Aero was effective before the Legislature's addition of the statutory requirements

that petitioners contend the City of Elko failed to follow, and that it was thus not required to comply with those requirements.¹

A writ of mandamus is available to compel the performance of an act that the law requires, or to control a manifest abuse or an arbitrary or capricious exercise of discretion.² The writ of mandamus's counterpart, a writ of prohibition, "arrests the proceedings of any tribunal, corporation, board or person exercising judicial functions, when such proceedings are," in terms of jurisdiction, excessive.³ Moreover, both mandamus and prohibition are extraordinary remedies, and whether a petition will be considered is within our discretion.⁴ Petitioners bear the burden to demonstrate that our intervention by way of extraordinary relief is warranted.⁵

Having considered this petition and its supporting documents, we are not persuaded that our extraordinary intervention is warranted.

¹See Pressler v. City of Reno, 118 Nev. 506, 511, 50 P.3d 1096, 1099 (2002) (recognizing that, unless the Legislature states otherwise, its statutory amendments "have only prospective effect").

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

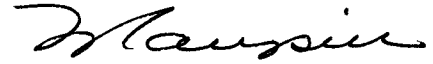
³NRS 34.320.

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).

In particular, unless the Legislature states otherwise, its statutory amendments “have only prospective effect.”⁶ Accordingly, we

ORDER the petition DENIED.⁷



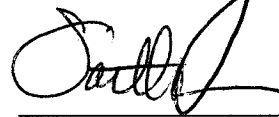
Maupin

J.



Cherry

J.



Saitta

J.

cc: Goicoechea, DiGrazia, Coyle & Stanton, Ltd.
Jones Vargas/Reno
Kathryn Gilbert
Michael J. Franzoia
Law Offices of Michael B. Springer

⁶Pressler, 118 Nev. at 511, 50 P.3d at 1099.

⁷NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.