

IN THE SUPREME COURT OF THE STATE OF NEVADA

OXBOW CONSTRUCTION, LLC, A  
NEVADA LIMITED LIABILITY COMPANY,  
Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA, IN  
AND FOR THE COUNTY OF CLARK, AND  
THE HONORABLE TIMOTHY C.  
WILLIAMS, DISTRICT JUDGE,  
Respondents,

and

LATIGO CONDOMINIUM UNIT OWNERS'  
ASSOCIATION, INC., A NEVADA  
NONPROFIT CORPORATION,  
Real Party in Interest.

No. 51921

**FILED**

JUL 10 2008

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY A. Libbey  
DEPUTY CLERK

ORDER DENYING PETITION FOR  
WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus, or in the alternative, writ of prohibition, challenges a district court order denying petitioner's motion to dismiss in a breach of implied warranties action arising from alleged constructional defects.

This court may issue a writ of mandamus to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station,<sup>1</sup> or to control a manifest abuse of discretion.<sup>2</sup> A

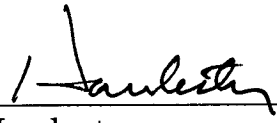
<sup>1</sup>NRS 34.160; see also Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

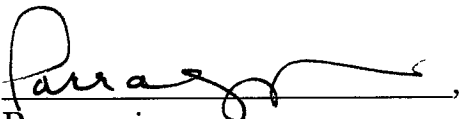
<sup>2</sup>Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

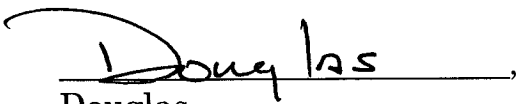
writ of prohibition is available to remedy district court acts taken without or in excess of jurisdiction.<sup>3</sup> Neither writ will issue, however, when the petitioner has a plain, speedy, and adequate remedy in the course of law, such as an appeal.<sup>4</sup> Whether we will consider petitions for extraordinary relief is within our sole discretion.<sup>5</sup>

We have considered this petition and are not satisfied that our intervention by way of extraordinary relief is warranted at this time. Accordingly, we deny the petition.<sup>6</sup>

It is so ORDERED.

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

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<sup>3</sup>NRS 34.320; State of Nevada v. Dist. Ct. (Anzalone), 118 Nev. 140, 146-47, 42 P.3d 233, 237-38 (2002).

<sup>4</sup>NRS 34.170; NRS 34.330; Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2001) (recognizing that the right to appeal is generally an adequate legal remedy precluding writ relief).

<sup>5</sup>Smith, 107 Nev. at 677, 818 P.2d at 851.

<sup>6</sup>See NRAP 21(b); Smith, 107 Nev. 674, 818 P.2d 849.

cc: Hon. Timothy C. Williams, District Judge  
Ellis & Gordon  
Koletsky, Mancini, Feldman & Morrow  
Robert C. Maddox & Associates/Las Vegas  
Eighth District Court Clerk