

IN THE SUPREME COURT OF THE STATE OF NEVADA

OXBOW CONSTRUCTION, LLC,
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. 55984

FILED

JUN 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY: *[Signature]*
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 for summary judgment in a constructional defects action.

A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station, or to control a manifest abuse of discretion. NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981). A writ of prohibition is available to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the district court's jurisdiction. NRS 34.320. Neither writ will issue when the petitioner has a plain, speedy, and adequate remedy in the course of

law, such as an appeal. NRS 34.170; NRS 34.330; Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 844 (2004). Both mandamus and prohibition are extraordinary remedies, and it is within the discretion of this court to determine if a petition will be considered. Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991). A petitioner seeking extraordinary relief has the burden of demonstrating that this court's intervention is warranted. Pan, 120 Nev. at 228-29, 88 P.3d at 844.

Having considered the petition and appendix, we are not satisfied that our intervention by way of extraordinary relief is warranted. Accordingly, we deny the petition. NRAP 21(b)(1); Smith, 107 Nev. 674, 818 P.3d 849.

It is so ORDERED.

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

cc: Hon. Timothy C. Williams, District Judge
Ellis & Gordon
Koletsky, Mancini, Feldman & Morrow
Maddox, Isaacson & Cisneros, LLP
Eighth District Court Clerk