

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KYLE KRCH,  
Appellant,  
vs.  
JOSEPH DECKER, ADMINISTRATOR;  
AND THE STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND  
INDUSTRY, REAL ESTATE DIVISION,  
Respondents.

No. 69903

**FILED**

MAR 06 2017

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order dismissing a petition for judicial review for lack of subject matter jurisdiction. Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

Kyle Krch filed a petition for judicial review challenging a Decision against him by the Nevada Real Estate Commission (Commission), which arose from a proceeding under the Administrative Procedure Act (APA). However, Krch omitted the Commission from the caption and failed to serve the petition upon it, instead naming only Joseph Decker and the Nevada Real Estate Division (Division) as a respondent. The Division moved to dismiss the petition for lack of subject matter jurisdiction under NRS 233B.130(2)(a), which the district court granted.<sup>1</sup>

Krch appeals the dismissal to this court, arguing that *Washoe County v. Otto*, 128 Nev. \_\_\_, \_\_\_, 282 P.3d 719, 725 (2012) is either

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<sup>1</sup>We do not recount the facts except as necessary to our disposition.

distinguishable or should be overturned in light of various other sources of Nevada law. First, we decline to adopt Krch's invitation to overturn *Otto*. See Nev. Const. art. 6, § 4; see also NRAP 36(c) (a published opinion creates mandatory precedent).<sup>2</sup> Thus, we turn to Krch's argument that *Otto* is distinguishable. We review a district court's interpretation of caselaw de novo. *Liu v. Christopher Homes, LLC*, 130 Nev. \_\_\_, \_\_\_, 321 P.3d 875, 877 (2014).


Below, the district court declined to distinguish this case from *Otto*, determining "*Otto* did not find a description of the missing parties within the body of the petition would have rendered the petition compliant." We agree. *Otto* is clear that the procedural requirements of the APA are jurisdictional and must be strictly followed, and Krch did not strictly follow them. See *Otto*, 128 Nev. at \_\_\_, 282 P.3d at 725 ("Nothing in the language of [NRS 233B.130(2)] suggests that its requirements are anything but mandatory and jurisdictional."). Further, the plain language of the statute specifically requires that petitions for judicial review must "name *as respondents* the agency and all parties of record to the administrative proceeding." NRS 233B.130(2)(a) (emphasis added). Krch admits in his opening brief that "The Petition did not name the Commission as a respondent in the caption." Therefore, both *Otto* and the

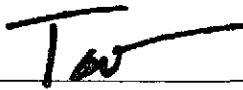
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<sup>2</sup>Accordingly, we need not reach Krch's related arguments regarding whether the supreme court's holding in *Washoe County v. Otto*, 128 Nev. \_\_\_, \_\_\_, 282 P.3d 719, 725 (2012) was inconsistent with other aspects of Nevada law.

plain language of the statute compel affirmance.

Accordingly, we ORDER the judgment of the district court  
AFFIRMED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Elliott A. Sattler, District Judge  
Robert L. Eisenberg, Settlement Judge  
Holland & Hart LLP/Reno  
Attorney General/Carson City  
Attorney General/Las Vegas  
Washoe District Court Clerk