

IN THE SUPREME COURT OF THE STATE OF NEVADA

DOUGLAS CATSMAN AND CYNTHIA
CATSMAN, AS INDIVIDUALS AND AS
HUSBAND AND WIFE; THOMAS
MCMANUS AND CALY MCMANUS, AS
INDIVIDUALS AND AS HUSBAND
AND WIFE; AND DOROTHY PARKER
AND JERRY PARKER, AS
INDIVIDUALS AND AS HUSBAND
AND WIFE,
Appellants,

vs.

COUNTY OF CLARK, THROUGH THE
BOARD OF COUNTY
COMMISSIONERS OF CLARK
COUNTY, NEVADA; COMMISSIONER
BRUCE WOODBURY; COMMISSIONER
ERIN KENNY; COMMISSIONER
YVONNE ATKINSON;
COMMISSIONER DARIO HERRERA;
COMMISSIONER MARY KINCAID;
COMMISSIONER LANCE MALONE;
COMMISSIONER MYRNA WILLIAMS;
ACQUISITION SCIENCES, LTD., AN
ARIZONA CORPORATION; AND
BEVERLY FRANCY, AN INDIVIDUAL,
Respondents.

No. 41620

FILED

FEB 13 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court summary judgment in a takings-related case. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

Clark County initiated negotiations and entered into contracts with several homeowners to secure property necessary for the future site of the "Northern and Western Segment of the Las Vegas Beltway."

Disputes regarding payment of relocation expenses arose between Clark County and the homeowners, prompting the homeowners to file a complaint asserting breach of contract, misrepresentation, and estoppel claims. The parties stipulated to stay district court proceedings while the homeowners pursued their administrative remedies concerning claims for relocation expenses. Claims remain pending in the administrative forum.

Arguing that the homeowners failed to exhaust administrative remedies, Clark County moved for summary judgment, which the district court granted. We affirm.

DISCUSSION

NRS Chapter 342 governs state agency acquisition of real property and the associated relocation of citizens affected by such an acquisition.¹ NRS 342.065(2) requires agencies to establish administrative procedures to handle grievances that arise in connection with relocation.

We determine that appellants failed to exhaust administrative remedies provided under NRS 342.065(2) because relocation payment claims remain unresolved at the administrative level.

Appellants argue that they should be able to proceed in district court with the causes of action unrelated to relocation expense claims. We disagree. "If administrative remedies are pursued to their fullest, judicial intervention may become unnecessary."² The possibility exists that resolution of claims regarding relocation expenses at the administrative level might lead appellants to withdraw one or more of

¹NRS 342.015; NRS 342.075(1).

²First Am. Title Co. v. State of Nevada, 91 Nev. 804, 806, 543 P.2d 1344, 1345 (1975).

their causes of action asserted in district court. Therefore, the appropriate procedure is for appellants to first obtain a final determination as to these claims at the administrative level, and then petition for judicial review under NRS 233B.130(1).

Appellants assert that the administrative process in place to resolve these claims is inadequate, and therefore their ability to exhaust administrative remedies is futile.³ However, appellants failed to request an evidentiary hearing below regarding the adequacy of the administrative process in place. The record is therefore underdeveloped with regard to their futility argument, and we are unable to properly assess the merits of it.⁴

Alternatively, appellants assert that the administrative procedures provided by NRS 342.065(2) are inapplicable according to NRS 342.075(1), which states that NRS 342.065 does not apply when a displaced property owner willingly agrees to the purchase price offered by the state agency. We disagree with appellants' assertion. If each appellant had willingly agreed to the purchase price offered, the disputes concerning relocation expenses would not exist. Therefore, we conclude

³See Engelmann v. Westergard, 98 Nev. 348, 353, 647 P.2d 385, 389 (1982) (stating that the exhaustion doctrine does not require one to participate in administrative proceedings that are futile).

⁴See Gibbons v. Martin, 91 Nev. 269, 270, 534 P.2d 915, 915 (1975) (stating that this court will not entertain arguments not raised below).

Due to our inability to properly assess appellants' futility argument, we decline to reach their argument that Clark County should be estopped from asserting the exhaustion defense.

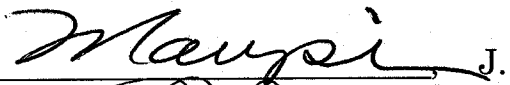
that the administrative process provided by NRS 342.065(2) applies to appellants' claims.

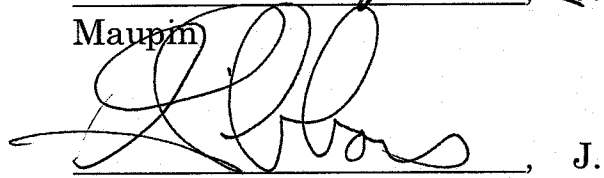
We have considered appellants' remaining contentions and conclude they are without merit.

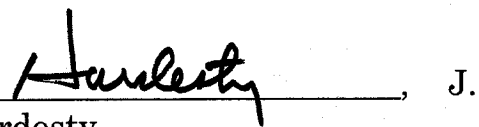
CONCLUSION

We conclude that appellants must obtain resolution of their relocation expense claims at the administrative level before proceeding with their causes of action in district court. Therefore, we

ORDER the judgment of the district court AFFIRMED.

 J.
Maupin

 J.
Gibbons

 J.
Hardesty

cc: Hon. Mark R. Denton, District Judge
Janalee M. Murray
Garcia-Mendoza & Snaveley, Chtd.
Clark County Clerk