

BEFORE THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Aug 27 2018 03:04 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

NEVADA STATE BOARD OF)
ARCHITECTURE, INTERIOR DESIGN)
AND RESIDENTIAL DESIGN,)

Petitioner,)

vs.)

EIGHTH JUDICIAL DISTRICT COURT)
OF THE STATE OF NEVADA,)
DEPARTMENT 25, HONORABLE)
KATHLEEN DELANEY,)

Respondent)

and)

DENNIS RUSK,)

Real Party in Interest.)

-----)

Case No.

PETITION FOR A WRIT OF PROHIBITION

Petitioner Nevada State Board of Architecture, Interior Design and Residential Design (hereinafter "Board"), by and through its attorney Louis Ling, petitions this Court for a writ of prohibition directing the Eighth Judicial District Court to desist or refrain from exercising subject matter jurisdiction in the case of

Rusk v. Nevada State Board of Architecture, Interior Design and Residential Design (8th J.D. Case No. A-17-764562-J) and, thereby, to dismiss the case.

I. ROUTING STATEMENT (NRAP 17)

The instant case involves a petition for judicial review of a decision by the Nevada State Board of Architecture, Interior Design and Residential Design (the Board). Therefore, it would presumptively be assigned to the Court of Appeals pursuant to NRAP 17(b)(10).

Pursuant to NRAP 17(d), the Board requests that this matter be retained by the Supreme Court for the following reasons: (1) the issue involves the District Court's lack of subject matter jurisdiction, so if the petition is granted, a ruling by the Supreme Court would be full and final; and (2) the parties have been litigating this matter in various courts since 2011 (including once already before the Supreme Court Case No. 61844, which case was dismissed in favor of the Board) at considerable expense to both, and it can be anticipated that any ruling that might be issued by the Court of Appeals would be appealed to the Supreme Court as a matter of course, so a full and final ruling by the Supreme Court in the first instance would be judicially economical and advantageous to the parties.

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II. RELIEF SOUGHT

The Board seeks a writ of prohibition pursuant to NRS 34.320 instructing the Eighth Judicial District Court to desist or refrain from exercising subject matter jurisdiction over a petition for judicial review because the petition for judicial review was not timely filed and could not, as a matter of law, confer subject matter jurisdiction in the District Court pursuant to NRS 233B.130.

III. ISSUE PRESENTED

Can a district court have and exercise subject matter jurisdiction in a petition for judicial review of an administrative agency's decision brought pursuant to NRS ch. 233B where the petition for judicial was filed *before* the administrative agency issued its written order and no subsequent amendment or petition for judicial review was filed after and from the Board's written order?

IV. STATEMENT OF FACTS

The long and winding history of this matter begins on September 27, 2011 when the Board issued its Findings of Fact, Conclusions of Law and Order by which it imposed discipline upon real party in interest, Mr. Dennis Rusk, an architect registered with the Board. Mr. Rusk pursued a petition for judicial review in the Eighth Judicial District Court, Department 28 (Honorable Ronald Israel presiding) by which Judge Israel ultimately upheld the Board's disciplinary order *in toto*.

Thereafter, Mr. Rusk pursued an appeal before this Court, which appeal was fully and finally dismissed in favor of the Board on March 27, 2014.

Even though the matter was ended by this Court's order on March 27, 2014, on January 7, 2016, Mr. Rusk filed with the Board his Petition/Motion of Dennis Eugene Rusk Requesting That the Final Decision of the Board Be Vacated or Modified, Brought in the Nature of a Petition for Writ of Coram Nobis or Other Relief to Set Aside Order of Discipline or Alternatively, Remit Discipline, and Request/Motion for Appointment of Independent Counsel (hereinafter Petition/Motion). By this Petition/Motion, Mr. Rusk asked the Board to revisit certain evidentiary issues contained in the Board's disciplinary order. On January 11, 2017, after a proceeding before the Board, the Board issued an order denying the Petition/Motion.

Thereafter, Mr. Rusk filed a Petition of Dennis E. Rusk and Dennis E. Rusk Architect, LLC, for Issuance of a Writ of Mandamus, or Alternatively, Judicial Review of Action of the Nevada State Board of Architecture, Interior Design and Residential Design Taken in Reference to a Petition/Motion Filed by the Petitioners and Avoided/Determined Before Said Board on January 11, 2017, which was filed with the Eighth Judicial District Court, Department 30 (Judge Gerald Weise presiding). Judge Weise ultimately ordered that the matter be remanded to the

Board for it to consider Mr. Rusk's arguments and to review a piece of evidence that had not been introduced at the Board's hearing in 2011, namely a life/safety engineering report.

On October 25, 2017, the Board conducted the remand proceeding ordered by Judge Weise. At the conclusion of the proceeding, the Board made and passed unanimously a motion denying Mr. Rusk's requested relief. The motion and the brief but telling discussion that ensued follows:

MR. WAUGH [Board Member]: I'll make a motion. After reviewing the previous proceedings, previous evidence, and after listening to both sides, I move that the Board uphold the September 27th Order and that Cases Nos. 08-080R and 11 – oh doesn't –

MS. LONG [Deputy Attorney General]: That's it.

MR. WAUGH: Okay. So I'll end. Do you want me to restate it correctly then?

MS. LONG: That's fine.

MR. ERNY: Second.

MR. MICKEY: Any discussion, further discussion on the motion? I'll call for a vote. All those in favor? (All members join in ayes.)

MR. MICKEY: Anybody opposed? Motion carries. *With that, I believe that the next step is that we must draw up an order. So he if – I – I can't if you would get that please and we could go ahead and get the order drafted.* Thank you.

MR. NERSESIAN [Mr. Rusk's Counsel]: Thank you.

MR. MICKEY: And we will adjourn.

MR. NERSESIAN: *So I will get an order and nothing is effective and no time frames are running until I get the order?*

MS. LONG: *That's correct.*

MR. NERSESIAN: Okay. Can I get a copy of the transcript please? Thank you. Thank you all. (Emphasis supplied.)

A copy of the pages 66-69 of the transcript of the proceedings on October 25, 2017 is contained in Petitioner's Appendix at APPX1. The above discussion can be found on page 67, line 20 through page 68, line 22.

On November 9, 2017 – only 15 days after the Board's proceeding – Petitioners filed the instant Petition for Judicial Review in the Eighth Judicial District Court (Case No. A-17-764562-J). The instant matter was assigned to Department 29 (Judge David Jones presiding). A copy of the Petition for Judicial Review is contained in Petitioner's Appendix at APPX2 – APPX4.

On December 1, 2017 – 22 days *after* Mr. Rusk filed his Petition for Judicial Review – the Board issued its written Findings of Fact, Conclusions of Law, and Order Regarding Remand From Judge Weise to Determine Whether to Vacate its September 27, 2011 Board Order Based Upon the Newly Discovered Evidence Consisting of the March 6, 2007 Schirmer Report and Drawings (Board Order on Remand). The Board Order on Remand was served on the parties on December 1, 2017. A copy of the Board Order on Remand is contained in Petitioner's Appendix at APPX5 – APPX11.

On January 9, 2018, the Board filed its Second Motion to Dismiss in Case No. A-17-764562-J by which the Board sought dismissal of the Petition for Judicial Review for lack of subject matter jurisdiction. Simultaneous therewith the Board

filed its Motion to Strike Lodging and Notice of Lodging of DVD. The matters were thereafter fully briefed and oral argument was held before Judge Jones on February 14, 2018.

On June 19, 2018, Judge Jones issued a Minute Order by which he denied the Board's motion to dismiss and granted the Board's motion to strike. Before Judge Jones could sign the written order resultant from his Minute Order, the case was transferred to Department 25 (Honorable Kathleen Delaney presiding). On August 9, 2018, Judge Delaney signed the Order Regarding Respondent's Motion to Dismiss and Motion to Strike (8th JD Order). The 8th JD Order ruled that the district court had subject matter jurisdiction in the matter. A copy of the 8th JD Order is contained in Petitioner's Appendix at APPX12 – APPX14.

The instant petition for writ of prohibition seeks this Court's writ to instruct the Eighth Judicial District Court to desist or refrain from exercising subject matter jurisdiction over Mr. Rusk's petition for judicial review for lack of subject matter jurisdiction.

V. WHY THE WRIT SHOULD ISSUE

A. STANDARD OF REVIEW

NRS 34.330 provides:

The writ may be issued only by the Supreme Court, the Court of Appeals or a district court to an inferior tribunal, or to a corporation,

board or person, in all cases where there is not a plain, speedy and adequate remedy in the ordinary course of law. It is issued upon affidavit, on the application of the person beneficially interested.

“A writ of prohibition may issue to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court. NRS 34.320. Petitions for extraordinary writs are addressed to the sound discretion of the court. [citation omitted.] A writ of prohibition may issue only where there is no plain, speedy, and adequate remedy at law. NRS 34.330.” *State v. Eighth Judicial District Court*, 111 Nev. 1023, 1025, 899 P.2d 1121, 1122 (1995).

Where a case presents the issue of a district court’s lack of subject matter jurisdiction, the Supreme Court will give that case immediate consideration and a petition seeking a writ related thereto is the proper means. *Board of Review v. Second Judicial District Court of Nevada*, 133 Nev. ___, ___, 396 P.3d 795, 797 (2017). The failure by a party to follow the statutory requisites for the filing of a petition for judicial review deprives the district court of subject matter jurisdiction to hear the petition and the issuance of a writ of prohibition directing the district court to dismiss the matter is required. *Board of Review*, 133 Nev. at ___, 396 P.3d at 797.

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B. LEGAL ARGUMENT

1. Mr. Rusk Did Not Comply With NRS 233B.130(1) and NRS 422A.400(1) and Did Not, Therefore, Invoke the District Court's Subject Matter Jurisdiction.

Per NRS 233B.130(2)(d), a petition for judicial review ***must*** “be filed within 30 days ***after service of the final decision of the agency.***” (Emphasis supplied.)

Similarly, NRS 622A.400(1) and (2) provide:

1. Except as otherwise provided in the Constitution of this State, a party ***may not seek*** any type of judicial intervention or review of a contested case ***until after the contested case results in a final decision of the regulatory body.***

2. Except as otherwise provided in this section, a party may seek judicial review of a final decision of the regulatory body in accordance with the provisions of chapter 233B of NRS that apply to a contested case.

The provisions of NRS 233B.130(2) are mandatory and jurisdictional. *Liberty Mutual v. Thomasson*, 130 Nev. ____, ____, 317 P.3d 831, 833 (2014); *Washoe County v. Otto*, 128 Nev. 424, 434-5, 282 P.3d 719, 727 (2012). “[T]o invoke a district court’s jurisdiction to consider a petition for judicial review, ***the petitioner must strictly comply*** with the APA’s [NRS ch. 233B] procedural requirements.” (Emphasis supplied.) *Otto*, 128 Nev. at 432, 282 P.3d 719, 725 (2012). NRS 233B.130(2)(c) is a mandatory jurisdictional requirement, and noncompliance with the jurisdictional requirements in NRS 233B.130(2) “***is grounds for***

dismissal.” (Emphasis supplied.) *Liberty Mutual v. Thomasson*, 130 Nev. at ____, 317 P.3d at 834.

Both the *Otto* case and the *Thomasson* case are on point. In *Otto*, the petitioner failed to properly name all of the parties as required by NRS 233B.130(2)(a) and the district court dismissed the petition for judicial review pursuant to NRCP 12(b)(1). The district court thereafter allowed the petitioner to amend the petition to name the proper parties, but the amended petition was filed four months after the running of the 30-day time limit under NRS 233B.130(2)(c). This Court found that because the 30-day time limit was jurisdictional, the district court erred in allowing the late filed amended petition, stating: “We agree with these authorities and similarly *conclude that even if Washoe County's amended petition cured the jurisdictional defect, it does not relate back to the original petition because it was filed four months after the State Board's decision, well after the APA's 30-day time limit.*” (Emphasis supplied.) *Otto*, 128 Nev. at 435, 282 P.3d at 727.

Similarly, in *Thomasson*, the petitioner timely filed a petition for judicial review, but not in a proper court as required by NRS 233B.130(2)(b). Upon a motion to dismiss based upon NRCP 12(b)(1), the district court did not dismiss the matter and, instead, changed venue from its court (Second Judicial District) to the

First Judicial District Court. The Nevada Supreme Court reversed the decision of the district court and dismissed the petition, stating: “Furthermore, the 30-day period for filing such a petition in the proper county has passed, and thus the petition cannot be amended to correct the error.” *Thomasson*, 130 Nev. at ____, 317 P.3d at 836.

The *Otto* and *Thomasson* cases are reinforced by and concordant with another line of cases involving unemployment compensation appeals that span from 1954 to 2017. See *Board of Review v. Second Judicial District Court*, 133 Nev. ____, 396 P.3d 795 (2017); *Kame v. Employment Security Department*, 105 Nev. 22, 769 P.2d 66 (1989); *Caruso v. Nevada Employment Security Department*, 103 Nev. 75, 734 P.2d 224 (1987); *Scott v. Nevada Employment Security Department*, 70 Nev. 555, 278 P.2d 602 (1954). In each of these four cases, the failure to strictly follow the timing and venue provisions of the pertinent statutes by which a petition for judicial review could be pursued resulted in this Court’s holding that the respective district courts lacked subject matter jurisdiction.

The most recent example of this Court’s analysis in the unemployment context is found in *Board of Review* – a 2017 opinion – in which an employer sought judicial review of an unfavorable unemployment compensation determination made by the Board of Review for the Employment Security Division (ESD). In its petition

for judicial review, the employer did not name the claimant as required by NRS 612.530(1). Months after the original 11-day filing period had passed, the employer named the claimant in an amended petition. ESD moved to dismiss the petition for judicial review for a lack of subject matter jurisdiction, and when the motion was denied, ESD sought a writ of prohibition with this Court.

This Court unanimously found that because the employer did not name the claimant in the original petition for judicial review, the employer “failed to follow the statutory requirements of NRS 612.530(1), thus depriving the district court of jurisdiction to hear its petition for judicial review.” *Board of Review*, 133 Nev. at ____, 396 P.3d at 797. Based upon this conclusion, the Supreme Court entered a writ of prohibition directing the district court to grant ESD’s motion to dismiss the case for lack of subject matter jurisdiction. *Board of Review*, 133 Nev. at ____, 396 P.3d at 797.

The Supreme Court’s holdings in *Otto*, *Thomason*, *Board of Review*, *Kame*, *Caruso*, and *Scott* compel the granting of the Board’s instant petition. Subject matter jurisdiction is only conferred on a district court where all the requisite in NRS 233B.130 are present. In the instant matter, the uncontroverted facts prove that the Eighth Judicial District Court lacked subject matter jurisdiction over the instant

petition for judicial review. On October 25, 2017, the Board held the hearing in the instant matter. At the conclusion of the hearing, a brief discussion ensued:

MR. MICKEY [Board President]: Anybody opposed? Motion carries. ***With that, I believe that the next step is that we must draw up an order. So he if – I – I can't if you would get that please and we could go ahead and get the order drafted.*** Thank you.

MR. NERSESIAN [Mr. Rusk's Counsel]: Thank you.

MR. MICKEY: And we will adjourn.

MR. NERSESIAN: ***So I will get an order and nothing is effective and no time frames are running until I get the order?***

MS. LONG [Deputy Attorney General]: ***That's correct.***

MR. NERSESIAN: Okay. Can I get a copy of the transcript please? Thank you. Thank you all. (Emphasis supplied.)

Petitioner's Appendix, at APPX1, page 68, lines 9-22.

Obviously, all parties – and most especially Mr. Rusk and his counsel – left the Board's meeting room on October 25, 2017 with the clear understanding that the Board's motion would be reduced to a written order and that, as Mr. Rusk's counsel iterated, “nothing is effective and no time frames are running until I get the order.”

Despite the clear understanding that a written order would be forthcoming and after waiting only 15 days, on November 9, 2017 Mr. Rusk filed the instant petition for judicial review.

On December 1, 2017, the Board issued the Board Order on Remand and served it upon Mr. Rusk. At no time after December 1, 2017 did Mr. Rusk file a

petition for judicial review related to the Board Order on Remand nor did he amend the November 9, 2017 petition for judicial review to seek review of the Board Order on Remand in that proceeding.

Per NRS 233B.130(2)(d), Mr. Rusk's petition for judicial review of the Board Order on Remand had to "be filed within 30 days *after service of the final decision of the agency*," which period would have expired on January 2, 2018. When no petition for judicial review of the Board Order on Remand was filed by January 2, 2018, the district court lacked subject matter jurisdiction over the matter per NRS 233B.130(2), NRS 622A.400(1), *Otto, Thomason, Board of Review, Kame, Caruso*, and *Scott*. The matter should have been and must now be dismissed for lack of subject matter jurisdiction.

2. The 8th JD Order, Especially Conclusions of Law ##1 and 2, Is Incorrect as a Matter of Law.

After reciting the facts that demonstrated the premature filing of the petition for judicial review by Mr. Rusk (*see* Petitioner's Appendix, APPX13, lines 8-17), the 8th JD Order made two errant conclusions of law as follow:

1. Pursuant to NRS 233B.125, decisions of administrative bodies can be effective when made orally at a hearing.
2. The rendering of an oral decision at a public hearing in the form of a motion carried adopting a prior order on the Petitioners' matter is effective on the parties when made and is a triggering event for the appeal period under NRS 233B.130(2)(d).

Petitioner's Appendix, at APPX13, lines 23-27. The 8th JD Order is incorrect for four reasons.

First, the conclusions of law defy the applicable statutes, namely NRS 233B.125, 233B.130(2) and NRS 622A.400(1). Per NRS 233B.130(2)(d), a petition for judicial review *must* "be filed within 30 days *after service of the final decision of the agency.*" (Emphasis supplied.) Similarly, NRS 622A.400(1) provides that a party "may not seek any type of judicial intervention or review of a contested case *until after the contested case results in a final decision of the regulatory body.*" (Emphasis supplied). While it is true that the first sentence of NRS 233B.125 states that an administrative agency's decision "must be in writing or stated in the record," the remaining five sentences of NRS 233B.125 provide detailed directives related to the contents of the written order that must be issued by the administrative agency and how that written order must be served upon the parties.

In the instant case, the Board's decision was not "stated in the record" but was, instead, reduced to writing in compliance with the requirements set out in NRS 233B.125. As has already been shown, in the discussion that occurred after the Board's motion was made, the Board made clear to Mr. Rusk and Mr. Rusk acknowledged on the record that the Board's motion would be reduced to a written order. The undisputed fact is that the Board's Order on Remand was issued and

served on Mr. Rusk on December 1, 2017 (See Petitioner's Appendix, APPX5-APPX11) in full compliance with NRS 233B.125, and the petition for judicial review thereof must have been filed by January 2, 2018, which it was not.

Second, as has already been shown, the Board indicated at its hearing immediately after the motion passed that the Board's bare motion would be reduced to a written order, and Mr. Rusk, through his counsel, acknowledged the effect of the Board's pronouncement by iterating that "nothing is effective and no time frames are running until I get the order." Petitioner's Appendix, at APPX1, page 68, lines 17-19. Later, in the prematurely filed Petition for Judicial Review, Mr. Rusk openly acknowledged that he knew a written order would be forthcoming, stating:

Although the Board counsel stated at the hearing that a written order would be provided, none has been received as of yet. As the oral determination remains made, although not documented, in an abundance of caution, this Petition is filed in order to timely protect the right to appeal should the oral pronouncement be found sufficient on its own.

Petitioner's Appendix, at APPX2, lines 25-28. In so iterating his understanding of the actual state of affairs, Mr. Rusk entirely undermined Conclusions of Law ##1 and 2 in the 8th JD Order that the Board's oral motion was the final, appealable order from which he could seek judicial review.

Third, Mr. Rusk did not provide to the district court and cannot provide to this Court any case that holds or supports the novel notion that an administrative

agency's oral motion constitutes an appealable order under NRS 233B.125 and 233B.130(2)(d): no such case exists. Rather, when faced with the identical argument, this Court held in *Department of Commerce v. Hyt*, 96 Nev. 494, 611 P.2d 1096 (1980) that an oral pronouncement by an administrative agency's board – in that case the Real Estate Advisory Commission – ***does not*** constitute a final order from which a petition for judicial review can be taken and, instead, the subsequent written order constitutes the final order from which a petition for judicial review can be taken. *Hyt*, 96 Nev. at 497, 611 P.2d at 1097. This Court could not have been clearer, holding:

An administrative agency should not be penalized for announcing its conclusion at the end of a hearing by requiring the agency to compile a complete transcript within thirty days of that date. ***The written findings of fact and conclusions of law constitute the final decision.*** (Emphasis supplied.)

Hyt, 96 Nev. at 497, 611 P.2d at 1097.

Fourth, though this Court has not had prior cause to rule on a prematurely filed petition for judicial review, a sister state's court of appeals has ruled that a prematurely filed petition for judicial review does not confer subject matter jurisdiction. *Johnson v. State*, 153 Idaho 246, 280 P.3d 749 (Idaho App. 2012). In *Johnson*, the licensee filed his petition for judicial review four days after the completion of the hearing in his matter and one month before the hearing officer

released a written decision. One month after the release of the written decision, the hearing officer denied in writing the licensee's motion for reconsideration. At no time after the written decision or the written decision denying the motion for reconsideration did the licensee file another petition for judicial review; instead, he relied upon his original, premature petition. Under such facts, the reviewing district court did not dismiss the matter for lack of subject matter jurisdiction as moved for by the state, but the Idaho Court of Appeals reversed the district court, holding:

For the reasons stated above, we dismiss the district court's order vacating the hearing officer's decision. Johnson had twenty-eight days to file a petition for review of the hearing officer's decision and his time began to run on January 10, 2010, the date his motion for reconsideration was denied; it has since expired. ***Although this result appears harsh, jurisdiction for judicial review in this case is limited by the time period specified in I.C. § 67-5273(2) and applicable rules, and this Court has no authority to disregard those limits.*** (Emphasis supplied.)

Johnson, 153 Idaho at 251, 280 P.3d at 754.

Mr. Rusk's Petition did not invoke the subject matter jurisdiction of this Court because a timely petition for judicial review must "be filed within 30 days of ***after*** service of the final decision of the agency." (Emphasis supplied.) NRS 233B.130(2)(d). Pursuant to NRS 622A.400(1), Mr. Rusk could not seek "any type of judicial intervention or review of a contested case ***until after the contested case results in a final decision of the regulatory body.***" Thus, as a matter of law, Mr.

Rusk's prematurely filed Petition for Judicial Review could not invoke the district court's subject matter jurisdiction and must now be dismissed.

VI. CONCLUSION AND REQUEST FOR RELIEF

A district court must have subject matter jurisdiction. Subject matter jurisdiction is not a "technicality": rather it is fundamental. Subject matter jurisdiction cannot be waived, passed over, ignored, or fudged. Subject matter jurisdiction is binary: either it exists or it does not. In a petition for judicial review, subject matter jurisdiction can only be conferred through strict compliance with NRS 233B.130. Subject matter jurisdiction is so fundamental that NRCPP 12(h)(3) mandates that a district court dismiss a case at any time that subject matter jurisdiction is lacking. Pursuant to *Board of Review*, this Court has ruled that a writ of prohibition must issue when a district court lacks subject matter jurisdiction. *Board of Review*, 133 Nev. at ___, 396 P.3d at 797.

As the Board has shown, its petition for a writ of prohibition must be granted because the Eighth Judicial District Court lacked subject matter jurisdiction in this matter. First, Mr. Rusk, the real party in interest, filed his Petition for Judicial Review prematurely and in violation of NRS 233B.130(2) and NRS 622A.400(1). Per this Court's considerable body of case law – *Board of Review*, *Otto*, *Thomason*, *Kame*, *Caruso*, and *Scott* – Mr. Rusk's failure to strictly comply with NRS

233B.130(2) and NRS 622A.400(1) prevented the Eighth Judicial District Court from invoking subject matter jurisdiction. Second, the 8th JD Order's conclusions of law related to NRS 233B.125 and NRS 233B.130 were incorrect for the four reasons shown herein. As this Court recently did in *Board of Review*, it must now grant the Board's petition for writ of prohibition and direct the Eighth Judicial District Court to dismiss its case in this matter for lack of subject matter jurisdiction.

Louis Ling

LOUIS LING
Nevada Bar No. 3101
933 Gear Street
Reno, Nevada 89503
T: (775) 233-9099

Attorney for Petitioner Nevada State Board
of Architecture, Interior Design and
Residential Design

VII. VERIFICATION

I, Monica Harrison, hereby swear and verify under penalty of perjury as follows:

1. I am the Executive Director of the Petitioner herein, namely the Nevada State Board of Architecture, Interior Design and Residential Design (the Board), and as such, am familiar with and knowledgeable regarding the contents of the instant Petition for Writ of Prohibition and the facts, circumstances, and matters related thereto.
2. On August 22, 2018, the Board approved the initiation of the present matter at its regular meeting.
3. I have read the within Petition for Writ of Prohibition and verify that all matters contained herein are true and correct to the best of my knowledge and recollection.

4. I have reviewed the documents included in Petitioner's Appendix and verify that all such documents are true and correct copies of the original documents.

Signed this _____ day of _____, 2018.

MONICA HARRISON
Executive Director
Nevada State Board of Architecture,
Interior Design and Residential Design

SUBSCRIBED AND SWORN TO

before me this _____ day of _____, 2018

by Monica Harrison, a person known to me.

NOTARY PUBLIC

CERTIFICATE OF COMPLIANCE

1. I hereby certify that this PETITION FOR WRIT OF PROHIBITION complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

☒ It has been prepared in a proportionally spaced typeface using Microsoft Word for Macintosh 2008, Version 12.3.6 in Goudy Old Style 14 Point type.

2. I further certify that this petition complies with the page- or type-volume limitations of NRAP 40 or 40A because it is:

[X] Proportionately spaced, has a typeface of 14 points or more, and contains 4,444 words.

3. Finally, I hereby certify that I have read this petition, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying petition is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 23rd day of August, 2018.

Louis Ling

LOUIS LING
Nevada Bar No. 3101
933 Gear Street
Reno, Nevada 89503
T: (775) 233-9099

CERTIFICATE OF SERVICE

I certify that I served on the below date a copy of the attached Petition for Writ of Prohibition and Petitioner's Appendix filed herewith upon the following:

By personal service:

Judge Kathleen Delaney, Department 25
Eighth Judicial District Court
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

Respondent

By U.S. Mail postage prepaid:

Robert Nersesian
Nersesian & Sankewicz
528 S. Eighth Street
Las Vegas, Nevada 89128

Counsel for Real Party in Interest Dennis
Rusk

Dated this 27th day of August, 2018.

Louis Ling

LOUIS LING
Nevada Bar No. 3101
933 Gear Street
Reno, Nevada 89503
T: (775) 233-9099