

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK;
AND THE HONORABLE KATHLEEN E.
DELANEY, DISTRICT JUDGE,
Respondents,
and
DENNIS E. RUSK,
Real Party in Interest.

No. 76792

FILED

OCT 12 2018

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

***ORDER DIRECTING ANSWER, DIRECTING SUPPLEMENTATION OF
THE RECORD, AND GRANTING EMERGENCY MOTION FOR STAY***

This original petition for a writ of prohibition challenges a district court order denying a motion to dismiss a petition for judicial review. Petitioner has filed an emergency motion to stay the district court proceedings pending this court's review of this petition. Real party in interest has filed an opposition to that motion and petitioner has filed a reply.

Having reviewed the petition, it appears that an answer may assist this court in resolving this matter. Because this petition concerns the district court's subject matter jurisdiction, it "necessitat[es] our immediate consideration," *Bd. of Review, Nev. Dep't of Emp't v. Second Judicial Dist. Court*, 133 Nev., Adv. Op. 35, 396 P.3d 795, 797 (2017), so as to promote sound judicial economy. If we do not consider this issue now, but later

determine that the district court lacked jurisdiction over this matter, the parties will have unnecessarily incurred significant legal expenses and needlessly devoted substantial time to proceeding with this matter below. Additionally, because NRS Chapter 233B is silent on premature petitions for judicial review, this issue may arise in other petitions for judicial review of agency decisions. Thus, we conclude an answer to the writ petition is warranted. Therefore, real party in interest, on behalf of respondents, shall have 11 days from the date of this order to file and serve an answer, including authorities, against issuance of the requested writ.

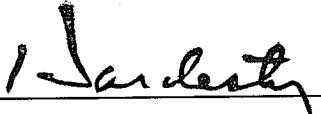
Because petitioner's appendix to the petition is limited, we further order petitioner to file and serve a supplemental appendix to the petition within 5 days of the date of this order. The supplemental appendix shall include, at the very least, the January 9, 2018, motion to dismiss filed in the district court, and any pleading filed in opposition or reply to that motion.

In regard to the stay motion, in determining whether to grant such a motion, this court considers the following factors: (1) whether the object of the writ petition will be defeated if the stay is denied, (2) whether petitioner will suffer irreparable or serious injury if the stay is denied, (3) whether real party in interest will suffer irreparable or serious injury if the stay is granted, and (4) whether petitioner is likely to prevail on the merits of the writ petition. NRAP 8(c); *see also Fritz Hansen A/S v. Eighth Judicial Dist. Court*, 116 Nev. 650, 657, 6 P.3d 982, 986 (2000). Having considered the parties arguments, we conclude the factors weigh in favor of a stay. Accordingly, we grant petitioner's motion and stay the district court

proceedings in Eighth Judicial District Court Case No. A-17-764562-J, pending further order of this court.

It is so ORDERED.


Gibbons, J.


Hardesty, J.

PICKERING, J., dissenting:

I respectfully dissent as this court's consideration of the writ petition is unwarranted. First, petitioner failed to provide this court with an adequate record to review the issues presented in the petition. *See* NRAP 21(a)(4) (requiring petitioner to submit parts of the record before the district court "that may be essential to understand the matters set forth in the petition"). Petitioner's failure to comply with NRAP 21(a)(4) alone warrants denial of the petition. In light of this court's docket, consideration of a petition requesting extraordinary writ relief that does not comply with NRAP 21 is unwarranted.

Second, even if petitioner had met its duty under NRAP 21(a)(4), consideration of the issue presented in the petition is unnecessary at this time. The parties will not be harmed by proceeding with this matter in the district court. Once the district court enters its final judgment, the issue raised in the underlying petition can be raised in an appeal from that judgment. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 88

P.3d 840, 841 (2004) (providing that “the right to appeal is generally an adequate legal remedy that precludes writ relief”). Additionally, consideration of that issue through a direct appeal would provide this court with the opportunity to consider the issue with the benefit of a full appellate record.

For these reasons, I would deny the petition for a writ of prohibition.

Pickering, J.
Pickering

cc: Hon. Kathleen E. Delaney, District Judge
Louis A. Ling
Nersesian & Sankiewicz
Eighth District Court Clerk