

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAS VEGAS TAXPAYER
ACCOUNTABILITY COMMITTEE; LAS
VEGAS REDEVELOPMENT REFORM
COMMITTEE; D. TAYLOR;
CHRISTOPHER BOHNER; AND KEN
LIU,
Petitioners,

vs.

CITY COUNCIL OF LAS VEGAS,
NEVADA AND BEVERLY K. BRIDGES,
IN HER OFFICIAL CAPACITY AS CITY
CLERK OF THE CITY OF LAS VEGAS,
Respondents,
and
LIVE WORK LLC, FC VEGAS 20 LLC,
AND FC VEGAS 39 LLC,
Intervenors.

No. 53388

FILED

APR 08 2009
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus seeks to compel the Las Vegas City Council and the Las Vegas City Clerk to place a municipal initiative and a municipal referendum on the June 2009 municipal ballot.

A writ of mandamus is available to compel the performance of an act that the law requires or to control a manifest abuse of discretion. See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981). Mandamus is an extraordinary remedy, however, and the decision to entertain such a petition is addressed to our sole discretion. See Poulos v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982). Petitions for extraordinary relief generally may only issue when there is

no plain, speedy, and adequate remedy at law. Pan v. Dist. Ct., 120 Nev. 222, 224, 88 P.3d 840, 841 (2004). Petitioner bears the burden to demonstrate that our extraordinary intervention is warranted. Id. at 228, 88 P.3d at 844. Moreover, this court “is not an appropriate forum in which to resolve disputed questions of fact.” Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 604, 637 P.2d 534, 536 (1981).

As a matter of statutory and constitutional law, both the district court and the supreme court have original mandamus jurisdiction. Nev. Const. art. 6, §§ 4, 6(1); NRS 34.160. The power of a supreme court to issue an extraordinary writ is discretionary and, as the United States Supreme Court has recognized, should be “sparingly exercised.” See Parr v. United States, 351 U.S. 513, 520-21 (1956). Ordinarily, application should be made in the first instance to the district court so that factual and legal issues are fully developed, giving this court an adequate record on which to make a reasoned decision. State v. County of Douglas, 90 Nev. 272, 276-77, 524 P.2d 1271, 1274 (1974) (noting that “this court prefers that such an application [for mandamus] be addressed to the discretion of the appropriate district court” in the first instance); MPC Contractors v. Appeals Officer, 111 Nev. 606, 894 P.2d 384 (1995). There are expedient and efficient remedies available in the district court to address matters such as those presented here, including the statutory 3-day notice procedure set forth in NRS 295.210(4) to review final sufficiency determinations, declaratory relief under NRS 30.030, see City of Mesquite v. Horne, 120 Nev. 700, 100 P.3d 168 (2004), and mandamus in the district court.

While we have entertained original writ petitions in cases involving exigent circumstances, see State of Nevada v. Justice Court, 112 Nev. 803, 805 n.3, 919 P.2d 401, 402, n.3 (1996), the exigent circumstances here were created in part by the parties and we are not convinced that the matter cannot and should not be addressed by the district court in the first instance. Based on the pleadings, including supporting documentation, and oral argument, we are not persuaded that extraordinary intervention by this court is appropriate at this time. Accordingly, we

ORDER the petition DENIED.

Hardesty, C.J.
Hardesty

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: McCracken, Stemberman & Holsberry
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Lewis & Roca, LLP/Las Vegas
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