

STATE OF NEW MEXICO  
COUNTY OF SANDOVAL  
THIRTEENTH JUDICIAL DISTRICT COURT

FILED  
13th JUDICIAL DISTRICT COURT  
Sandoval County  
10/3/2023 9:31 AM  
AUDREY GARCIA  
CLERK OF THE COURT  
Dominique Sanchez

KENNETH DeHOFF &  
KATHLEEN DeHOFF,

Appellants/Cross-Appellees  
Respondents,

Case No. D-1329-CV-2023-01382

*versus*

LINDA P. GALLEGOS,  
*in her official capacity as*  
SANDOVAL COUNTY ASSESSOR,

Judge Martinez

Appellee/Cross-Appellant/  
Petitioner.

---

**SANDOVAL COUNTY ASSESSOR LINDA P. GALLEGOS'S  
PETITION FOR A WRIT OF CERTIORARI TO THE  
SANDOVAL COUNTY VALUATION PROTESTS BOARD**

---

Linda P. Gallegos, in her official capacity as Sandoval County Assessor, petitions for a writ of certiorari under Rule 1-075, NMRA, directed to the Sandoval County Valuation Protests Board.

1. A notice of appeal was filed of this decision under this case number by appellants/cross-appellees/respondents Kenneth DeHoff and Kathleen DeHoff.
2. A notice of cross appeal was then filed by Gallegos.
3. Because the DeHoffs have filed a motion challenging the propriety of Gallegos's notice of appeal, this petition is being filed to ensure that Gallegos's objections to the Board's decision will be heard by this Court.

4. Gallegos seeks review of a decision of the Sandoval County Valuation Protests Board, in *In re Protest of DeHoff*, namely the “Decision and Order,” filed September 6th, 2023. A copy of that order is attached as Exhibit A.
5. The Board ruled on a protest of the valuation of real estate made by the Sandoval County Assessor.
6. The party seeking a writ of certiorari is Linda P. Gallegos, in her official capacity as Sandoval County Assessor, 1500 Idalia Road, Building D, P.O. Box 40, Bernalillo, New Mexico 87004.
7. Gallegos is the appellant/cross-appellee in this matter.
8. The other parties to this matter are Kenneth DeHoff and Kathleen DeHoff, 66 Bad Coyote Place, Corrales, New Mexico 87048.
9. The DeHoffs are the appellants/cross-appellees in this matter.
10. Venue is proper in the Thirteenth Judicial District Court sitting in Sandoval County as the Board’s hearing in this matter occurred in Sandoval County, the property at issue is located in Sandoval County, and all parties are residents of Sandoval County.
11. This petition is being filed within thirty days of the order of the Sandoval County Valuation Protest Board in compliance with Rule 1-075(D), NMRA.
12. A certificate that satisfactory arrangements have been made with the agency for preparation and payment for the transcript of the proceedings has already been filed in this case by Gallegos and the agency has already filed the transcript. Nevertheless, a second certificate of satisfactory arrangements is being submitted with this petition. Thus Gallegos has complied with Rule 1-075(E)(3), NMRA.

13. A copy of this petition is being served on the DeHoffs in compliance with Rule 1-075(E)(1), NMRA, and the proof of service in compliance with Rule 1-075(E)(2), NMRA, appears below.

14. Gallegos has complied with all requirements of Rule 1-075, NMRA, and is entitled to the relief sought.

*Prayer for Relief*

Gallegos requests the Court:

1. Grant the petition for a writ of certiorari to ensure her appeal may be heard.
2. Grant all other relief at law or in equity that she may be entitled to.

For the convenience of the Court, a proposed order granting the petition is being submitted to the Court's e-mail account.

*(Signature Page Follows)*

Respectfully submitted:

MICHAEL ESHLEMAN,  
SANDOVAL COUNTY ATTORNEY

/s/Michael Eshleman  
Michael Eshleman,  
Sandoval County Attorney  
John M. Butrick,  
Deputy County Attorney  
Eric J. Locher,  
Assistant County Attorney  
Post Office Box 40  
Bernalillo, New Mexico 87004  
505-404-5812 (Eshleman)  
505-867-7536 (Butrick)  
505-404-5920 (Locher)  
505-771-7194 (fax)  
[meshleman@sandovalcountynm.gov](mailto:meshleman@sandovalcountynm.gov)  
[jbutrick@sandovalcountynm.gov](mailto:jbutrick@sandovalcountynm.gov)  
[elocher@sandovalcountynm.gov](mailto:elocher@sandovalcountynm.gov)

*Certificate of Service*

I certify that on October 3rd, 2023, I e-mailed a copy of this document to:

Kenneth & Kathleen DeHoff  
66 Bad Coyote Place  
Corrales, New Mexico 87048  
[ksdehoff@comcast.net](mailto:ksdehoff@comcast.net)  
[ksdehoff@netwks.com](mailto:ksdehoff@netwks.com)

/s/Michael Eshleman  
Michael Eshleman,  
Sandoval County Attorney

STATE OF NEW MEXICO  
COUNTY OF SANDOVAL  
THIRTEENTH JUDICIAL DISTRICT COURT

KENNETH DeHOFF &  
KATHLEEN DeHOFF,

Appellants/Cross-Appellees  
Respondents,

Case No. D-1329-CV-2023-01382

*versus*

LINDA P. GALLEGOS,  
*in her official capacity as*  
SANDOVAL COUNTY ASSESSOR,

Judge Martinez

Appellee/Cross-Appellant/  
Petitioner.

---

**EXHIBIT A**

**TO THE**

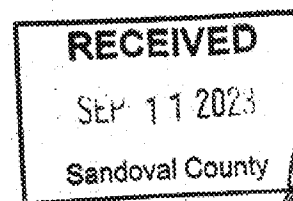
**PETITION OF LINDA P. GALLEGOS**

---

BEFORE THE SANDOVAL COUNTY  
VALUATION PROTESTS BOARD

IN THE MATTER OF THE PROTEST OF:

Kenneth & Kathleen DeHoff  
66 Bad Coyote Place  
Corrales, NM 87084



DECISION AND ORDER

This matter came on for hearing before the Sandoval County Valuation Protests Board (hereinafter called the "Board") on the 8<sup>th</sup> day of August 2023 at 9:00 AM. All applicable Statutes, Property Tax Division regulations, arguments, and evidence presented at the hearing were fully considered by the Board, and the Board, being fully informed in the premises, finds as follows:

1. The Board has jurisdiction of the subject matter and parties.
2. The property owner was fully informed as to all statutes and Property Tax Division regulations governing procedures before the Board and was further informed to the method of valuation used by the Sandoval County Assessor in determining the value of the subject property.
3. The Assessor appeared in person and was represented by Jake Ortiz y Pino, Edward Olona, and Lawrence Griego.
4. The property owners appeared in person.
5. Three vacant parcels are under protest identified by Parcel Codes; 1-017-070-085-125, assessed at \$195,044; 1-017-070-074-118, assessed at \$204,000; and 1-017-070-124-119, assessed at \$204,000. The property owners amend their values to \$153,000, \$160,000, and \$160,000 respectively.
6. The fourth parcel under protest is improved with a house and barn and is identified as Parcel code 1-017-070-022-122. The Assessor amends the assessed value for this parcel from \$1,163,993 to \$986,368. The property owners assert a value of \$793,000.
7. We start with the fundamental proposition of New Mexico law that "Values of property for property taxation purposes determined by the ... assessor are presumed to be correct." NMSA 1978, Section 7-38-6. In order to rebut that presumption, "the taxpayer has the burden of coming forward with evidence showing that the values for property taxation purposes ... are incorrect." Thus, we look to the property owner to show that "the assessor did not follow the

statutory provisions of the Act or by presenting evidence tending to dispute the factual correctness of the valuation." *New Mexico Baptist Foundation v. Bernalillo County Assessor*, 93 N.M. 363 (Ct. App. 1979).

8. The Board is bound to make our decision based on substantial and competent evidence. NMSA 1978, Section 39-3-1.1; Rule 1-074 NMRA. "A valuation may not be placed on a property arbitrarily." *Cibola Energy Corporation v. Roselli*, 105 N.M. 774 (Ct. App. 1987).
9. "What is most important is that the appraisers, the assessor and the protest board exercise an honest judgment based upon the information they possess or are able to acquire." *First National Bank v. Bernalillo County Valuation Protests Board*, 90 N.M. 110,114, 560 P.2d 174,178 (N.M. Ct. App. 1977).
10. The Board interprets the statutory requirements that one of the three board members must have demonstrated experience in the field of valuation of property and that one be an employee of the Property Tax Division (NMSA 1978, Section 7-38-25) to be an indication that the legislature expects us to review the evidence in front of us in light of our training and experience in the area of appraisal practice. See also, NMAC Section 3.6.7.36(H)(1), ("Board members may use their knowledge and experience to evaluate evidence admitted.")
11. "[T]he value of property for property taxation purposes shall be its market value as determined by application of the sales of comparable property, income or cost methods of valuation or and combination of these methods. In using any of the methods of valuation authorized by this subsection, the valuation authority ... shall apply generally accepted appraisal techniques." NMSA 1978, Section 7-36-15(B).
12. Generally accepted appraisal techniques often provide more specific guidance as to which valuation approach is an appropriate method of solving a given problem. See generally, Appraisal Institute, *The Appraisal of Real Estate*, (10th ed. 1992); International Association of Assessing Officers, *Property Assessment Valuation*, (2nd ed. 1996).
13. Evidence of the assessed value of comparable properties is not relevant to show valuation, *Peterson Properties v. Valencia County Valuation Protests Board*, 89 N.M. 239 (Ct. App. 1976), and is not relevant to a property owner's case absent proof of "some well-defined and established scheme of discrimination or some fraudulent action," *Skinner v. New Mexico State Tax Commission*, 66 N.M. 221 (S. Ct. 1959), which we find entirely lacking here.

14. We cannot assume that the current and correct market value equates to the assessed valuation of surrounding properties. Rather, in our experience, it often does not.
15. This results in a situation with a certain amount of imbedded inequity, but not a situation that we are at liberty to rectify in the absence of appropriate data to support our order. See, e.g., *Hannahs v. Anderson*, 126 N.M. 1, 1998-NMCA-152 (S. Ct. 1998) ("mathematical exactitude" is not required).
16. The property owners timely filed an application for the special method of valuation for irrigated use with the Sandoval County Assessor for the three vacant parcels of land.
17. NMSA 1978, Section 7-36-20A provides, "The value of land used primarily for agricultural purposes shall be determined on the basis of the land's capacity to produce agricultural products. Evidence of bona fide primary agricultural use of land for the tax year preceding the year for which determination is made of eligibility for the land to be valued under this section creates a presumption that the land is used primarily for agricultural purposes during the tax year in which the determination is made."
18. The property owners testified the land was not used primarily for agricultural purposes, nor had the capacity to produce agricultural products in the year preceding the tax year they applied. Therefore, the Board finds the presumption of correctness in favor of the Assessor has not been overcome and upholds the Assessor's denial of the special method of valuation for agricultural purposes for the three vacant parcels.
19. For the valuation of the three vacant parcels of land the property owner argues the Assessor is valuing their land with dissimilar comparables, and the property owner presented additional sale data, assessed values, and analysis.
20. The property owner presented an exhibit Agenda with photos and argument, an exhibit of "Evidence" containing market data and analyses, and an exhibit of the agricultural applications submitted to the Assessor's office.
21. The Assessor presented three vacant land sales and photographs, the opinion from *In re Alexander* (1999-NMCA-021, 126 N.M. 632, 973 P.2d 884), six improved sales in support of the amended value for the parcel improved with the residence and barn, and additional case law including *In re First Nat'l Bank*, 1977-NMCA-005, 90 N.M. 110, 560 P.2d 174 (Ct. App. 1977), and *Hannahs v. Anderson*, 126 N.M. 532, 972 P.2d 351 (S. Ct. 1998).
22. The property owner's evidence and testimony convinced the Board that the land values in south Corrales are not comparable to north Corrales. Thus, for



the three vacant parcels, the Board finds the property owner met and overcame the statutory presumption of correctness as to value.

23. For the parcel improved with the house and barn the Board finds the property owner did not overcome the statutory presumption of correctness, and the Board further notes the evidence and testimony supported the assessor's amended value.

The Board, therefore, orders the following changes to the 2023 valuation records of the Sandoval County Assessor with respect to the following described properties:

Property Code: 1-017-070-085-125

FROM: \$195,044  
TO: \$153,000

Property Code: 1-017-070-074-118

Property Code: 1-017-070-124-119

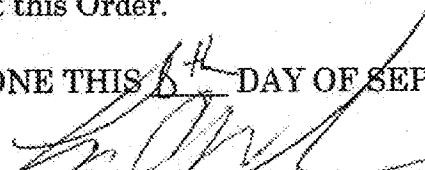
FROM: \$204,000  
TO: \$160,000

Property Code: 1-017-070-022-122

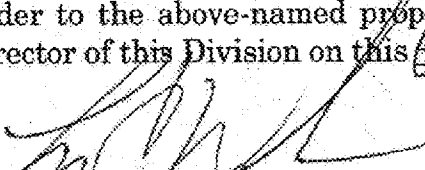
FROM: \$1,163,993  
TO: \$986,368

The Board directs the Sandoval County Assessor to take appropriate action to carry out this Order.

DONE THIS 6<sup>th</sup> DAY OF SEPTEMBER 2023

  
\_\_\_\_\_  
Lisa C. Wilkens, Chairperson  
Sandoval County Valuation  
Protests Board

I, Lisa C. Wilkens, Chairperson, certify that I sent, by certified mail, a copy of this Order to the above-named property owner, the Sandoval County Assessor, and the Director of this Division on this 6<sup>th</sup> day of September 2023.

  
\_\_\_\_\_  
Lisa C. Wilkens, Chairperson

State of New Mexico  
County of Sandoval  
Thirteenth Judicial District

Kenneth and Kathleen DeHoff,  
Appellants

vs.

No. D-1329-CV-2023-1382

Linda Gallegos in her role as Sandoval County Assessor  
Appellee

### **Appellant Opposition to granting the Petition of Writ of Certiorari to Appellees**

On October 3 Appellee served Appellants with a notice of petition of writ of certiorari. Appellants summarize their position: The petition is substantively defective for several reasons Appellants highlight and propose the petition be denied.

As the first matter, Appellants point out the obvious: Appellants are not an agency. 1-075(A) Scope of Rule provides *"This rule governs writs of certiorari to administrative officers and agencies pursuant to the New Mexico Constitution when there is no statutory right to an appeal or other statutory right of review. For purposes of this rule, an "agency" means any state or local government administrative or quasi-judicial entity."* We note that the text of the petition refers to the "Sandoval County Valuation Protests Board", however that agency is not a party in this proceeding. So while the constitutional path to a writ of certiorari is open to Appellees, it does not pass through our Appeal where Appellee is the only party that is an agency.

Further, The Appellee has not provided for any substance whatsoever within the petition. Appellants note the Prima Facie evidentiary requirement for establishing a basis for granting the writ requires an argument sufficiently complete to proceed to judgement. Appellee fails to provide this.

The specific failures against 1-075 NMRA include:

G.1 The petitioner has not complied with paragraph C hence has not complied per G.1

A description of the proceedings of the agency relating to the petition is missing;

A concise statement showing that the petitioner is entitled to relief is missing;

G.2 The petitioner has not made any attempt to establish a prima facie showing that the petitioner is entitled to relief

Finally, the Prayer for Relief to hear the Appellee's Appeal Appellants read as a request by Appellees to establish a right to Appeal that is statutorily unavailable per NMSA 7-38-28 and NMSA 39-3-1.1 hence not within the jurisdiction of the courts to provide.

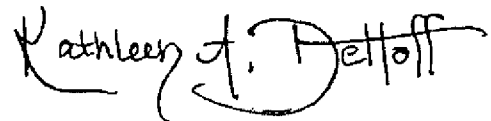
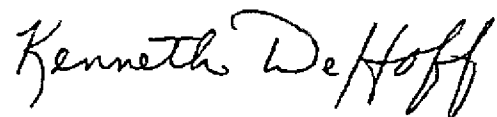
WAKELAND V. NEW MEXICO DEP'T OF WORKFORCE SOLUTIONS, 2012-NMCA-021, 274 P.3d 766 establishes that non-conforming petitions for a writ of certiorari are acceptable and provides a descriptive summary of the expectations for the content of a petition, conforming or non-conforming "The Supreme Court held that the petitioner's notice of appeal could not substitute for a petition for writ of certiorari. Id. It stated that it was "amply clear" that "the notice of appeal [was] not sufficient" because "a formal application showing a prima facie case for relief is a prerequisite to issuance of certiorari" and a notice of appeal does not meet these requirements. Id. at 300, 430 P.2d at 871 (internal quotation marks and citation omitted). While the Court stated that it was not holding that "any particular nicety of pleading or precision of drafting is required," it would not construe the notice as a petition because "the record here discloses a total absence of any pleading which remotely approximates a petition or which contains any of the elements required as a minimum to merit such a description in a proceeding wherein certiorari is sought.

Kenneth and Kathleen DeHoff

[ksdehoff@netwks.com](mailto:ksdehoff@netwks.com)

505-301-5629

66 Bad Coyote Place, Corrales NM 87048

Handwritten signature of Kathleen J. DeHoff in cursive script.Handwritten signature of Kenneth DeHoff in cursive script.

STATE OF NEW MEXICO  
COUNTY OF SANDOVAL  
THIRTEENTH JUDICIAL DISTRICT COURT

KENNETH DeHOFF &  
KATHLEEN DeHOFF,

Appellants/Cross-Appellees/  
Respondents,

Case No. D-1329-CV-2023-01382

*versus*

LINDA P. GALLEGOS,  
*in her official capacity as*  
SANDOVAL COUNTY ASSESSOR,

Judge Martinez

Appellee/Cross-Appellant/  
Petitioner.

---

**APPELLEE/CROSS-APPELLANT/PETITIONER  
SANDOVAL COUNTY ASSESSOR'S  
REPLY IN SUPPORT OF HER  
PETITION FOR A WRIT OF CERTIORARI**

---

Appellee/cross-appellant/petitioner Linda P. Gallegos, the Sandoval County Assessor, offers this reply to the opposition to the petition for a writ of certiorari filed by appellants/cross-appellees/respondents Kenneth and Kathleen DeHoff.

The DeHoffs state they “are not an agency” within the terms of Rule 1-075(A), NMRA, and note that the Sandoval County Valuation Protests Board is not a party to this case. The Court of Appeals ruled in *In re Addis (Addis v. Santa Fe County Valuation Protests Board)*, 1977-NMCA-122, ¶ 18, 91 N.M. 165, 571 P.2d 822, that the valuation protests boards are not proper parties to an appeal of their decisions—only the property owners and the county assessors are. The petition for a writ of a certiorari here requests the Court to direct the Sandoval County Valuation Protests Board to bring the record to

this Court for review. *Black's Law Dictionary* defines “certiorari” as “an extraordinary writ issued by an appellate court . . . directing a lower court to deliver the record in the case for review.” *Certiorari*, *Black's Law Dictionary* (9th ed. 2009). A century ago, our Supreme Court held “certiorari is the appropriate process to review the proceedings of bodies and officers acting in a judicial or quasi judicial character.” *State ex rel. Sisney v. Board of Commissioners of Quay County*, 1921-NMSC-054, ¶ 9, 27 N.M. 228, 199 P. 359 (cleaned up).

The DeHoffs state that the petition is deficient regarding Rule 1-075(G). But the petition in paragraph 4 cites the decision to be appealed by referring to the caption of the case and the title of the document. Paragraph 5 describes the nature of the proceedings. In addition, the decision in question is attached to the petition. Paragraph 2 states that Gallegos seeks review of objections to that decision. The details of the objections—that it arbitrary, capricious, an abuse of discretion, or otherwise did not comply with law—would come out in the briefing on the appeal. It was not necessary to detail them here.

The DeHoffs are valuing form over substance. They are in no way prejudiced by the absence of talismanic language in the petition. Under our system, “notices of appeal, even where technically defective, should be liberally construed to allow consideration of the case on the merits.” *Schultz ex rel. Schultz v. Pojoaque Tribal Police Dept.*, 2010-NMSC-034, ¶19, 148 N.M. 692, 242 P.3d 259. The prime directive of the Civil Rules is that they “shall be construed and administered to secure the just, speedy and inexpensive determination of every action.” Rule 1-001(A), NMRA. The New Mexico Supreme Court has elaborated on this philosophy vis-à-vis appeals:

The courts must ensure that the procedural rules expedite rather than hinder this right [to appeal]. Behind every evaluation of judicial procedure is the recollection that our modern system evolved in response to the

involved procedures of the courts of England in which the substantive issues of a case could be lost in a labyrinth of procedural rules. Modern rules promote expedience and uniformity and attempt to balance constitutional rights with the need for the efficient administration of justice. As we have previously stated, it is the policy of this court to construe its rules liberally to the end that causes on appeal may be determined on the merits, where it can be done without impeding or confusing administration or perpetrating injustice. Procedural formalities should not outweigh basic rights where the facts present a marginal case which does not lend itself to a bright-line interpretation. Where there are two possible interpretations relating to the right to an appeal, that interpretation which permits a review on the merits rather than rigidly restricting appellate review should be favored.

*Trujillo v. Serrano*, 1994-NMSC-024, ¶9, 117 N.M. 273, 871 P.2d 369 (cleaned up).

Even if the Court were inclined to find the DeHoff's argument meritorious, Gallegos should be given leave to amend the petition in accordance with the spirit of Rule 1-001, NMRA, Rule 1-008(F) ("All pleadings shall be so construed as to do substantial justice."), and Rule 1-015 ("leave shall be freely given when justice requires").

The petition for a writ of certiorari directed to the Sandoval County Valuation Protests Board should be granted.

*(Signature Page Follows)*

Respectfully submitted:

MICHAEL ESHLEMAN,  
SANDOVAL COUNTY ATTORNEY

/s/Michael Eshleman  
Michael Eshleman,  
Sandoval County Attorney  
John M. Butrick,  
Deputy County Attorney  
Eric J. Locher,  
Assistant County Attorney  
Post Office Box 40  
Bernalillo, New Mexico 87004  
505-404-5812 (Eshleman)  
505-867-7536 (Butrick)  
505-404-5920 (Locher)  
505-771-7194 (fax)  
[meshleman@sandovalcountynm.gov](mailto:meshleman@sandovalcountynm.gov)  
[jbutrick@sandovalcountynm.gov](mailto:jbutrick@sandovalcountynm.gov)  
[elocher@sandovalcountynm.gov](mailto:elocher@sandovalcountynm.gov)

*Certificate of Service*

I certify that on October 17th, 2023, I e-mailed a copy of this document to:

Kenneth & Kathleen DeHoff  
66 Bad Coyote Place  
Corrales, New Mexico 87048  
[ksdehoff@comcast.net](mailto:ksdehoff@comcast.net)  
[ksdehoff@netwks.com](mailto:ksdehoff@netwks.com)

/s/Michael Eshleman  
Michael Eshleman,  
Sandoval County Attorney