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SJC-12894

CHRISTOPHER D'ERRICO vs. BOARD OF REGISTRATION OF REAL ESTATE  
BROKERS AND SALESPERSONS.

July 28, 2022.

Supreme Judicial Court, Superintendence of inferior courts.  
Practice, Civil, Action in nature of mandamus.

Christopher D'Errico appeals from a judgment of the county court denying, without a hearing, his petition for relief in the nature of mandamus. By that petition, D'Errico sought relief from a decision of the Board of Registration of Real Estate Brokers and Salespersons (board) revoking his license to practice as a real estate broker. When D'Errico filed his petition, a judge in the Superior Court had already entered a judgment on the pleadings affirming the board's decision, and D'Errico had filed a notice of appeal from that judgment to the Appeals Court.<sup>1</sup> The single justice denied relief on the grounds that mandamus is not appropriate to compel performance of discretionary acts and that D'Errico had, and was pursuing, a remedy in the ordinary process of judicial review and appeal. The single justice neither erred nor abused his discretion by doing so. "It would be hard to find any principle more fully established in our practice than the principle that neither mandamus nor certiorari is to be used as a substitute for ordinary appellate procedure or used at any time when there is another adequate remedy." Matter of Burnham, 484 Mass. 1036, 1036 (2020), quoting Chawla v. Appeals Court, 482 Mass. 1001, 1002, cert. denied, 140 S. Ct. 521 (2019). Nor does mandamus

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<sup>1</sup> The Appeals Court has since affirmed the judgment of the Superior Court, D'Errico v. Board of Registration of Real Estate Brokers & Salespersons, 99 Mass. App. Ct. 1123 (2021), and we have denied further appellate review, 487 Mass. 1108 (2021).

"provide an additional layer of appellate review after the normal process has run its course" (citation omitted). Harrington v. Deutsche Bank Nat'l Trust Co., 484 Mass. 1041, 1042 (2020). "Moreover, '[a] complaint in the nature of mandamus is limited to requiring a public official to perform a "clear cut duty," as opposed to requiring the exercise of discretion in a particular way.'" Matter of Burnham, supra, quoting Chawla, supra. For all these reasons, relief in the nature of mandamus was properly denied.

Judgment affirmed.

The case was submitted on briefs.  
Christopher D'Errico, pro se.