

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1472**

Troy K. Scheffler,
Appellant,

vs.

Lake Edward Township,
Respondent.

**Filed June 21, 2021
Affirmed
Johnson, Judge**

Crow Wing County District Court
File No. 18-CV-20-2432

Troy K. Scheffler, Merrifield, Minnesota (*pro se* appellant)

Robert A. Alsop, Kennedy & Graven, Chartered, Minneapolis, Minnesota (for respondent)

Considered and decided by Slieter, Presiding Judge; Johnson, Judge; and Hooten,
Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

Troy K. Scheffler owns a parcel of land in Crow Wing County that is not connected to a public road. Scheffler orally requested that the Lake Edward Township board establish a cartway over a third party's property. The town board orally denied Scheffler's request. Scheffler then petitioned the Crow Wing County District Court for a writ of mandamus to compel the town board to establish a cartway. The district court denied the mandamus

petition. We conclude that the town board does not have a duty to establish a cartway or to consider doing so because Scheffler did not file a written cartway petition. Therefore, we affirm.

FACTS

Scheffler owns two parcels of real property in Crow Wing County. The first parcel, on which Scheffler has his home, is located near Perch Lake and is connected to a public road. The second parcel, which is larger in size, is adjacent to and south of the first parcel. The second parcel's eastern side is Perch Lake shoreline, and the parcel shares boundaries with nine other properties on its northern, western, and southern sides. The second parcel has a northern section and a southern section, which are separated by open water or a marsh. The second parcel does not connect to a public road.

In October 2019, Scheffler attended a meeting of the Lake Edward Township board. He alleges in his mandamus petition that he asked the board to establish a cartway to connect his second parcel with a public road to the south. He asserts that he provided the board with a map that showed the location of a proposed cartway over property that lies between the southern boundary of his second parcel and a public road. It is undisputed that the board offered to discuss the matter with its attorney.

In November 2019, Scheffler attended another meeting of the town board and asked about the matter he had raised at the prior meeting. Scheffler created an audio-recording of this conversation, which was introduced into evidence in the district court. One board member responded to Scheffler by saying that Scheffler has access to his second parcel, apparently referring to Scheffler's access to the northern section of the second parcel by

way of his first parcel. After some additional discussion, Scheffler asked, “So you guys are denying it?” One board member said, “Yes.” Scheffler asked whether he should speak with the town’s attorney before filing a court action; a board member responded in the negative. The minutes of the board’s meeting summarize this part of the meeting as follows:

Troy Scheffler came to see what was decided on the cartway he requested the township to create to allow him access to a parcel of land that he couldn’t get to as it is boggy. Mr. Scheffler was disappointed to hear that the township denied the cartway, as the property is not landlocked. He left threatening to see the township in court.

In July 2020, Scheffler petitioned the district court for a writ of mandamus. He asked the district court to require the town to establish the cartway that he had requested. After a hearing, the district court denied Scheffler’s mandamus petition. Scheffler appeals.

DECISION

Scheffler argues that the district court erred by denying his petition for a writ of mandamus.

A writ of mandamus is “an extraordinary legal remedy.” *Mendota Golf, LLP v. City of Mendota Heights*, 708 N.W.2d 162, 171 (Minn. 2006) (quotation omitted). The writ “may be issued . . . to compel the performance of an act which the law specially enjoins as a duty resulting from an office, trust, or station.” Minn. Stat. § 586.01 (2020). The writ “shall not issue in any case where there is a plain, speedy, and adequate remedy in the ordinary course of law.” Minn. Stat. § 586.02 (2020). To obtain a writ of mandamus, a petitioner must show that the defendant: “(1) failed to perform an official duty clearly

imposed by law; (2) that, as a result, the petitioner suffered a public wrong specifically injurious to the petitioner; and (3) that there is no other adequate legal remedy.” *Northern States Power Co. v. Minnesota Metro. Council*, 684 N.W.2d 485, 491 (Minn. 2004) (citations omitted); *see also Breza v. City of Minnetrista*, 725 N.W.2d 106, 109-10 (Minn. 2006). The petitioner bears the burden of proof with respect to “every material fact necessary to show the existence of the plain duty to act with respect to the relief sought.” *Mendota Golf*, 708 N.W.2d at 179. We apply a *de novo* standard of review to a district court’s determination that no official duty is clearly imposed by law. *Breza*, 725 N.W.2d at 110.

The requirements for the establishment of a cartway are specified by statute. For a property of five acres or more, a town board “shall establish a cartway,” if certain prerequisites are satisfied, “[u]pon petition presented to the town board by the owner.” Minn. Stat. § 164.08, subd. 2(a) (2020) (emphasis added). “The petition shall be filed with the town clerk, who shall forthwith present it to the town board.” Minn. Stat. § 164.07, subd. 2(a) (2020); *see also* Minn. Stat. § 164.08, subd. 2(b) (stating that “proceedings of the town board shall be in accordance with section 164.07”). The petition “shall contain a description of the [cartway],” “the names of the owners of the land, if known, over which such [cartway] is to pass,” the “point of beginning, general course, and termination” of the cartway, and “a statement of the purpose and necessity for establishing . . . the [cartway].” Minn. Stat. § 164.07, subd. 1; *see also* Minn. Stat. § 160.02, subd. 28 (2020). Within 30 days of the filing of a cartway petition, the town board shall issue an order “fixing a time and place when and where it will meet and act upon the petition.” Minn. Stat. § 164.07,

subd. 2(a). The town board's order "must also contain a notice to affected landowners that a landowner is entitled to judicial review of damages, need, and purpose under subdivision 7." *Id.* In addition, the petitioner must serve the order and a copy of the petition on each person who occupies land that may be affected by the establishment of a cartway. *Id.* Before establishing a cartway, a town board must determine whether the owner of the property has insufficient access to the property. *See* Minn. Stat. § 164.08, subd. 2(a). The town board also must determine the amount of damages that the petitioner must pay to the town board, which includes, among other things, "the compensation, if any, awarded to the owner of the land upon which the cartway is established," and whether the expenditure of town funds "is in the public interest." *Id.*, subd. 2(c)-(d).

In its order denying Scheffler's mandamus petition, the district court stated that Scheffler did not file a petition for a cartway and that the town board did not take any formal action on the issue. The district court reasoned that Scheffler "failed to demonstrate that the town board had a clear and present duty to perform the act as requested and that he had no other legal remedy."

In his appellate brief, Scheffler makes numerous arguments, many of which relate to his claimed entitlement to a cartway. For purposes of this appeal, we necessarily focus on the arguments that challenge the district court's determination that Scheffler did not satisfy the requirements of mandamus relief.

To reiterate, the first requirement for mandamus relief is that the respondent has "failed to perform an official duty clearly imposed by law." *Breza*, 725 N.W.2d at 109-10 (quotations omitted). Scheffler argues that his oral request for a cartway is sufficient to

impose a duty on the town board because the cartway statute does not expressly prohibit an oral petition. But the cartway statute expressly requires a “petition.” Minn. Stat. § 164.08, subd. 2(a). The well-accepted meaning of the word “petition” is a “formal *written* request presented to a court or other official body.” *Black’s Law Dictionary* 1329 (10th ed. 2014) (emphasis added). As a practical matter, an oral cartway petition could not comply with the statutory requirements that the petition be filed with the town clerk and that it include a description of the property, the names of the owners of the land over which the proposed cartway is to pass, and a statement of the purpose and necessity of the proposed cartway. *See* Minn. Stat. § 164.07, subds. 1, 2(a). Scheffler also argues that his oral request for a cartway is sufficient because the town board denied it, as reflected in the minutes of its November 2019 meeting. The record reflects that the town board informally denied Scheffler’s informal oral request for a cartway. The town board’s informal action on Scheffler’s informal request is not equivalent to the formal action that is required upon the filing of a cartway petition. Thus, Scheffler cannot satisfy the first requirement for mandamus relief.

The third requirement for mandamus relief is that the petitioner has “no other adequate legal remedy.” *See Breza*, 725 N.W.2d at 110 (quotations omitted). Scheffler argues that he does not have an adequate legal remedy because the board likely would deny a written petition if he were to file one. Scheffler retains the right to seek a cartway by filing a petition. If he were to do so, the town board would have a legal duty to act on the petition. *See* Minn. Stat. §§ 164.07, subds. 1, 2(a), .08, subd. 2(a)-(b); *see also Horton v. Township of Helen*, 624 N.W.2d 591, 594 (Minn. App. 2001), *review denied* (Minn. Jun.

19, 2001). There is no basis for a determination that such a petition would be futile. Thus, Scheffler cannot satisfy the third requirement for mandamus relief.

In sum, Scheffler has not established that the town board has failed to perform an official duty clearly imposed by law or that he has no other adequate legal remedy. Thus, the district court did not err by denying Scheffler's petition for a writ of mandamus.

Affirmed.

A handwritten signature in black ink, reading "Matthew Johnson". The signature is written in a cursive style with a large, stylized initial "M".