No. 26-179

IN THE

SUPREME COURT OF THE UNITED STATES

MITCHELL VEXLER, CATHERINE VEXLER, JIM SOLINSKI, AND GLORIA SOLINSKI,

Petitioners,

v.

DON SPENCER, IN HIS OFFICIAL CAPACITY AS CHIEF APPRAISER OF DENTON CENTRAL APPRAISAL DISTRICT; DENTON CENTRAL APPRAISAL DISTRICT; AND MAVEX SHOPS OF FLOWER MOUND, LP,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE SECOND DISTRICT OF TEXAS

BRIEF OF RESPONDENT MAVEX SHOPS OF FLOWER MOUND, LP IN SUPPORT OF THE PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Due Process Clause permits a State to make an administrative remedy exclusive when the designated tribunal lacks authority to grant the prospective relief sought, leaving no state court able to adjudicate the claim.

2. Whether a federal due-process objection to a state court's final foreclosure of all available remedies is timely under 28 U.S.C. § 1257 when the objection could not become complete until the state court of last resort denied rehearing.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Mavex Shops of Flower Mound, LP states that it is a Texas limited partnership. Mavex is not a publicly held corporation and has no parent company. No publicly held corporation owns 10% or more of Mavex's interests, and Mavex has no stock ticker symbol.

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STATEMENT OF RESPONDENT'S POSITION

Mavex Shops of Flower Mound, LP was a co-plaintiff and appellant below. Because it did not join the Petition when filed, it appears in this Court as a Respondent. Mavex does not attempt to join the Petition after filing. It submits this response as a party aligned with Petitioners below and supports granting the Petition under Rule 12.6.

Mavex supports both Questions Presented and the Petition's requested disposition. The judgment below should be vacated and the case remanded so that a court possessing equitable authority may adjudicate the preserved request for prospective relief under the proper federal constitutional standard. Pet. 13–14. Mavex does not ask this Court to determine a property value, award a refund, or decide whether the challenged appraisal allegations are ultimately correct. No state tribunal reached those merits. The question is whether Texas may make an administrative process exclusive after that process has been shown incapable of granting the injunction sought.

Mavex's status as a property-owning limited partnership makes the remedial distinction concrete. A yearly procedure may correct a number for a completed appraisal cycle. It cannot necessarily determine whether an allegedly continuing method must comply with governing law in future cycles. When the State treats the first procedure as the exclusive answer to the second claim, the existence of procedure becomes a reason no competent tribunal ever adjudicates the claim. That is the completed non-adjudication presented here.

STATEMENT

A. Mavex sought prospective compliance, not merely a different annual number.

Mavex is a Texas limited partnership that owns real property in Denton County. First Am. Pet. ¶ 2.03, C.R. 132. The Court of Appeals identified Mavex and the individual parties collectively as Denton County property owners. Pet. App. 1a. The First Amended Petition alleged that DCAD and its Chief Appraiser used appraisal procedures inconsistent with mandatory Texas law, including the mass-appraisal requirements of Texas Tax Code § 23.01(b). Pet. App. 34a–38a.

The pleading requested several forms of relief, but the claim relevant to this Petition was forward-looking. Mavex and the other plaintiffs requested a permanent injunction requiring DCAD and Spencer to follow the governing standards in future mass appraisals. First Am. Pet. ¶ 5.06, C.R. 140; Pet. App. 34a. The pleading separately alleged ultra vires conduct and requested declarations concerning the challenged methodology. Pet. App. 34a–38a.

That request was distinct from an appeal seeking a different value for a particular parcel in one completed year. The First Amended Petition identified Mavex as an owner that had already appealed an ARB appraisal to district court. First Am. Pet. ¶ 4.09, C.R. 138. The state action therefore presented the practical distinction between using the annual process and seeking an order that governs future conduct.

B. Texas treated the annual protest process as exclusive even though the ARB could not issue the prospective injunction.

Texas Tax Code § 41.41(a) authorizes protests concerning appraised value, unequal appraisal, and other actions that apply to and adversely affect an owner. Sections 41.01 and 41.02 authorize an appraisal review board to make specified determinations and direct corrections to appraisal records or the appraisal roll. Pet. App. 78a–79a. Section 42.09(a) makes the Tax Code procedures exclusive for adjudication of authorized protest grounds and restricts the use of those grounds in certain suits. Pet. App. 80a.

The Court of Appeals held that § 41.41(a) was broad enough to encompass the asserted noncompliance with mass-appraisal requirements and that § 42.09 supplied the exclusive remedy. Pet. App. 12a–15a. It applied that reasoning to declaratory and injunctive relief outside the Tax Code and affirmed dismissal for lack of jurisdiction. Pet. App. 16a–18a. The opinion recognized that the property owners requested future compliance, but it identified no statutory authority allowing the ARB to enjoin an appraisal district or chief appraiser from using an allegedly unlawful methodology in later years. Pet. App. 16a–17a.

C. The remedial mismatch was repeatedly presented, but no court adjudicated the prospective claim.

The Motion for Reconsideration argued that annual review of completed appraisal action did not provide forward-looking relief and again requested compliance with § 23.01 and USPAP in future mass appraisals. Pet. App. 65a–76a. The opening appellate brief made prospective relief its first issue, invoked Ex parte Young and Texas ultra vires authorities, and distinguished retrospective monetary relief from an injunction against continuing unlawful official conduct. Pet. App. 39a–44a. The reply explained that correcting past action was not redundant of an injunction governing future action and that owners otherwise remain in a repeated cycle of appraisal, protest, expense, and litigation. Pet. App. 45a–48a.

The Petition for Review and rehearing filings presented the same remedial incapacity to the Supreme Court of Texas. They argued that an ARB could correct an appraisal record but could not declare a countywide methodology unlawful, enjoin appraisal-district personnel, or require future compliance. Pet. App. 49a–64a. The Supreme Court of Texas denied review and rehearing without opinion. Pet. App. 32a–33a. The result was final dismissal without adjudication of the preserved prospective claim.

REASONS FOR GRANTING THE PETITION

I. AN ANNUAL VALUATION PROCEDURE CANNOT BE AN EXCLUSIVE REMEDY FOR A PROSPECTIVE CLAIM IT CANNOT DECIDE OR REDRESS.

The decision below equates a procedure addressing the same general subject matter with a remedy capable of resolving the actual claim. Due process requires more. When a State controls the path to adjudication, it must provide a meaningful opportunity to be heard, not merely a formal route that lacks authority to decide the claim or grant the requested relief. *Brinkerhoff-Faris Trust & Savings Co. v. Hill*, 281 U.S. 673, 678–82 (1930); *Boddie v.*

Connecticut, 401 U.S. 371, 377–80 (1971); *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 429–37 (1982).

Mavex does not dispute that an ARB may decide ordinary valuation protests or direct corrections to appraisal records. But those powers do not answer the prospective claim. Correcting an annual number does not adjudicate whether an official may continue a challenged method in later years. Directing a change to a record does not issue an injunction governing future conduct. And de novo judicial review of an ARB order does not solve the problem if Texas treats the requested relief as outside the annual order and therefore jurisdictionally barred.

The distinction is especially important for an owner subject to recurring appraisal cycles. A successful protest may reduce one completed assessment while leaving the same alleged methodology available the next year. The owner must then begin again: appraisal, protest, expense, and litigation. Pet. App. 45a–48a, 73a–75a. A process that requires repetition but cannot determine whether repetition is lawful is not a complete remedy for the prospective claim.

Texas law itself recognizes the importance of remedial competence. In Hensley v. State Commission on Judicial Conduct, the Supreme Court of Texas explained that exhaustion is unnecessary when an administrative path cannot moot or fully resolve the claim. 692 S.W.3d 184, 193–98 (Tex. 2024). Petitioners placed Hensley, the ARB's limited statutory powers, and the requested injunction before the Texas courts. Pet. App. 49a–64a. Yet the courts treated the incapable process as exclusive and dismissed the forum that possessed equitable authority.

That combination produces a constitutional dead end: the administrative body is declared exclusive because the dispute concerns property taxation, while the court is closed because the administrative body is declared exclusive, even though that body cannot issue the requested order. The Due Process Clause should not permit a State to preserve a right in theory while making its adjudication impossible in practice.

II. THE COMPLETED FORECLOSURE PRESENTS THE DUE-PROCESS AND FIRST-OPPORTUNITY QUESTIONS IDENTIFIED IN THE PETITION.

Mavex supports the Petition's candid treatment of the threshold issue under 28 U.S.C. § 1257. The state pleading did not label a freestanding Fourteenth Amendment count. Pet. 1–2. But the operative premises were preserved throughout: the claim was prospective; the ARB could not grant the injunction; requiring annual protests would be futile; and treating the limited process as exclusive would prevent adjudication. Pet. App. 34a–76a.

The federal due-process characterization concerns the state courts' completed disposition of that preserved claim. Before state review ended, the Court of Appeals or the Supreme Court of Texas could have reversed, applied Hensley, or remanded. The alleged federal injury became complete only when the Supreme Court of Texas denied rehearing on May 8, 2026, leaving no state tribunal able to supply adjudication. Pet. App. 32a–33a.

Brinkerhoff-Faris recognizes that a federal objection arising from a state court's own elimination of the available remedy may be timely when raised at the first opportunity. 281 U.S. at 677–82. *Reece v.*

Georgia similarly recognizes that a federal objection is not forfeited when state procedure supplies no earlier meaningful opportunity. 350 U.S. 85, 89–90 (1955). The Petition does not conceal the demanding presentation rules of *Adams v. Robertson*, 520 U.S. 83 (1997), and *Webb v. Webb*, 451 U.S. 493 (1981). It squarely asks whether those rules foreclose review when the operative remedial defect was continuously presented and the completed federal consequence depended on the State's final denial.

That question warrants review. Otherwise, a State could make the final act completing a deprivation an unexplained denial and then invoke the absence of an earlier completed federal objection as a bar to review. Due process should not become least reviewable at the moment state procedure finally extinguishes every forum.

III. THE QUESTION IS RECURRING AND EXTENDS BEYOND PROPERTY TAXATION.

The issue is not whether States may employ specialized administrative bodies. They may, and such bodies often provide expertise, consistency, and efficient correction. The constitutional boundary is crossed when a State combines four features: exclusive designation, restricted remedial authority, mandatory exhaustion, and judicial dismissal. That architecture can make a claim non-adjudicable without expressly denying the underlying right.

The pattern is readily replicable. A State may designate a specialized body as the exclusive forum, limit it to correcting completed individual decisions, and then bar courts from hearing prospective challenges. The same mismatch can arise in licensing, public benefits, professional discipline, land use, education, election administration, and other fields where transaction-specific review cannot remedy a continuing policy or method. Pet. 12–13.

Mavex's position illustrates why the question has practical importance for businesses as well as individuals. Governmental consequences continue while the legality of the underlying method remains unadjudicated. Owners may be required to repeat procedures, incur expenses, and comply with official determinations, even though no tribunal is permitted to determine whether the continuing method itself is lawful. The issue is therefore not a request to constitutionalize every administrative disagreement. It is a request to preserve one forum with authority to decide a properly preserved claim and grant relief if the claim is proved.

Review would not invalidate ordinary appraisal protests or disrupt Texas's annual review system. It would clarify only that exclusivity depends on the existence of a remedy capable of resolving the claim —not merely a procedure bearing the same broad subject matter. That federal boundary is important, recurring, and suitable for resolution under Rule 10.

IV. THIS CASE IS A FOCUSED VEHICLE FOR NARROW RELIEF.

First, the relevant issue is legal. The jurisdictional pleas were directed to the pleadings, and the Court of Appeals reviewed jurisdiction de novo while construing the allegations under Texas standards. Pet. App. 7a–9a. This Court need not resolve appraisal mathematics, determine whether any property was overvalued, or decide whether the alleged methodology violated Texas law.

Second, the requested disposition is modest. Mavex does not ask this Court to fix values, order refunds, revive the state takings claim, or adjudicate an unpleaded § 1983 claim. It supports vacatur and remand so that a court with equitable authority may adjudicate the preserved prospective claim under the proper due-process standard. Pet. 13–14.

Third, the record demonstrates preservation with unusual clarity. The First Amended Petition, postjudgment motion, opening brief, reply, Petition for Review, rehearing motion, and combined reply repeatedly distinguished the ARB's parcel-specific correction power from the injunction requested. Pet. App. 34a–76a. The Court of Appeals supplied the operative exclusivity rationale, Pet. App. 12a–18a, and the certified Supreme Court of Texas orders supplied finality, Pet. App. 32a–33a.

Finally, Mavex seeks the same relief as Petitioners. It does not enlarge the Questions Presented or ask the Court to accept any disputed allegation as established. A remand would restore adjudication while leaving the merits, defenses, and equitable prerequisites to the tribunal assigned to decide them. That is precisely why certiorari is warranted.

CONCLUSION

The Petition for a Writ of Certiorari should be granted. The Court should vacate the judgment below and remand for further proceedings consistent with the Due Process Clause. In the alternative, the Court should grant review to resolve the Questions Presented.

Respectfully submitted,

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Dated: August 25, 2026