

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

CARL AND JANICE DUFFNER,) ED102898
)
Appellants,) Appeal from the Circuit Court
) of St. Charles County
v.) 1411-CC00919
)
CITY OF ST. PETERS,) Honorable Daniel G. Pelikan
)
Respondent.) Filed: January 12, 2016

Carl and Janice Duffner (Appellants) appeal the dismissal of their petition against the City of St. Peters (City), which attacked the validity of a City ordinance requiring them to plant turf grass on at least 50 percent of their yard areas, and appealed a partial variance granted by the City Board of Adjustment (Board). They argue the trial court erred in concluding they failed to exhaust administrative remedies, because they were not required to do so when bringing claims that the underlying ordinance was invalid.

AFFIRMED IN PART; REVERSED AND REMANDED IN PART.

Division Two Holds: Section 89.110, RSMo. (2000), providing that any party aggrieved by a decision of a board of adjustment may seek judicial review of that decision by requesting a writ of certiorari in the circuit court, encompasses only claims attacking a decision of the Board, not claims that the underlying ordinance is invalid. Thus, the trial court had general plenary jurisdiction over claims that the ordinance was invalid, and it erred in dismissing Counts I, III, and IV of Appellants’ petition for that reason. Count II attacked the Board’s decision but failed to follow the procedure in Section 89.110, and thus the trial court properly dismissed Count II. Finally, though the trial court had general plenary jurisdiction over Counts I, III, and IV, Count I failed to adequately state a claim upon which relief could be granted, so we affirm the dismissal of Count I on that basis. We reverse the trial court’s dismissal of Counts III and IV and remand to the trial court for proceedings consistent with this opinion.

Opinion by: Gary M. Gaertner, Jr., J.
Philip M. Hess, P.J., and Angela T. Quigless, J., concur.

Attorney for Appellant: David E. Roland
Attorneys for Respondent: V. Scott Williams, Jared D. Howell

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