

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

JOHN CHASNOFF,)	Nos. ED95050 & ED95204
Plaintiff/Appellant/Cross-Respondent,)	Appeal from the Circuit Court
v.)	of the City of St. Louis
BOARD OF POLICE COMMISSIONERS,)	Honorable Philip Heagney
Defendant,)	Date: February 22, 2011
and)	
WENDELL ISHMON, THOMAS KRANZ,)	
PHILLIP MENENDEZ, JOSEPH SOMOGYE,)	
AND JOHN DOE 1-30,)	
Intervenors/Respondents/Cross-Appellants.)	

Plaintiff appeals that part of the trial court's judgment allowing intervenors to intervene in the underlying lawsuit solely for the purpose of appealing the trial court's entry of summary judgment in plaintiff's favor, after defendant decided not to appeal. Intervenors cross-appeal, seeking reversal of the summary judgment ordering production of the documents.

REVERSED IN PART; DISMISSED IN PART; STAY ORDER TO REMAIN IN EFFECT.

Division One Holds:

1. The existence of an actual and vital controversy susceptible of some relief is essential to appellate jurisdiction.
2. Section 610.021 is "permissive," it describes records that may be closed. Nothing in section 610.021 mandates that any records be closed.
3. If allowed, intervenors' proposed appeal would be confined to the question resolved by the trial court—that is, whether the documents sought by plaintiff were required to be disclosed under the Sunshine Law, or whether they were "personal information" or personnel records that the Board was authorized to close. A hypothetical reversal on this issue would not have any practical effect on intervenors' claims that such documents should not be disclosed, because such a reversal could not compel the Board to close records that it is not required to close under sections 610.021 and 610.022.4. Accordingly, intervenors' proposed appeal under the Sunshine Law no longer presents a justiciable issue.
4. In addition, the proposed appeal could not litigate a claim based on intervenors' privacy and property rights, which would have been an independent cause of action that had never been before the trial court.
5. Because the order allowing intervention is reversed, the cross-appeal is dismissed.

Opinion by: Kathianne Knaup Crane, J.
Roy L. Richter, C.J. and Kenneth M. Romines, J., concur.

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Attorneys for Respondents: Mary L. Bruntrager, Neil J. Bruntrager, and James P. Towey

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