

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

JAMESTOWNE HOMEOWNERS)	No. ED99277
ASSOCIATION TRUSTEES, Respondent,)	Appeal from the Circuit Court of
)	St. Louis County
vs.)	
)	Honorable Mary B. Schroeder
SHANNON E. JACKSON, Appellant.)	Filed: December 24, 2013

Shannon E. Jackson (“Homeowner”) appeals the Circuit Court of St. Louis County’s judgment in favor of Jamestowne Homeowners Association Trustees (“Association”) and against Homeowner for delinquent assessments, interest, collection costs, and attorneys’ fees. Homeowner argues that the trial court erred in: (1) entering judgment in favor of Association because Association failed to prove it complied with the Trust Agreement and Indenture of Restrictions of Jamestowne Subdivision (“Indenture”); (2) admitting evidence over Homeowner’s objections; (3) awarding attorneys’ fees; (4) awarding collection costs; (5) denying Homeowner leave to file her answer and affirmative defenses; and (6) entering judgment without addressing Homeowner’s requested findings of fact and conclusions of law.

AFFIRMED IN PART, REVERSED IN PART AND REMANDED.

Division Four Holds: The trial court did not err in admitting into evidence a copy of a 2012 assessment invoice mailed to Homeowner and a report of Homeowner’s unpaid assessments because Association laid a sufficient foundation under the business records exception. The trial court did not err in entering judgment in favor of Association for unpaid assessments for 2012 because the record supports the conclusion that Association provided sufficient notice as required by the Indenture. However, the trial court erred in entering judgment in favor of Association for unpaid assessments for the years 2003 through 2011 because Association failed to prove it provided notice to Homeowner as required by the Indenture.

The trial court did not err in awarding Association attorneys’ fees because Association counsel’s affidavit provided substantial evidence to support the trial court’s award. Nor did the trial court err in awarding collection costs because the Indenture provided for their recovery. However, we remand to the trial court to reconsider the amount of attorneys’ fees and collection costs in light of our opinion. We also hold that the trial court did not abuse its discretion in denying Homeowner leave to file an answer and affirmative defenses because Homeowner failed to establish she had good cause for filing her motion out of time. To the extent trial court failed to address Homeowner’s requested findings of fact, Homeowner failed to demonstrate that interference with our review and therefore reversal is not warranted. Finally, we grant Association’s motion for attorneys’ fees on appeal and remand to the trial court to determine the reasonable amount in light of our opinion.

Opinion by: Patricia L. Cohen, J.
Lisa S. Van Amburg, P.J., and Gary M. Gaertner, Jr., J., concur.

Attorney for Appellant: Bryan E. Brody

Attorney for Respondent: Martin L. Daesch

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.