

**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

**DIVISION FOUR**

|                                       |   |                                  |
|---------------------------------------|---|----------------------------------|
| THE ARBORS AT SUGAR CREEK             | ) | No. ED99730                      |
| HOMEOWNERS ASSOCIATION, INC.,         | ) |                                  |
| ET AL.,                               | ) |                                  |
|                                       | ) |                                  |
| Plaintiffs/Appellants,                | ) | Appeal from the Circuit Court of |
|                                       | ) | St. Louis County                 |
| vs.                                   | ) |                                  |
|                                       | ) | Honorable Gloria Clark Reno      |
| JEFFERSON BANK & TRUST                | ) |                                  |
| COMPANY, INC.,                        | ) |                                  |
|                                       | ) |                                  |
| Defendant/Respondent/Cross-Appellant, | ) |                                  |
|                                       | ) | Filed: October 28, 2014          |
| AND                                   | ) |                                  |
|                                       | ) |                                  |
| MCKELVEY HOMES, LLC,                  | ) |                                  |
|                                       | ) |                                  |
| Defendant/Respondent.                 | ) |                                  |

Ten residents and homeowners of a subdivision located in St. Louis County (“Homeowners”) appeal the trial court’s judgment dismissing their petition for declaratory judgment and claims for damages, and granting declaratory relief in favor of Jefferson Bank & Trust Co., Inc. (“Bank”) and McKelvey Homes, L.L.C. (“McKelvey”). Their first point challenges the trial court’s ruling on partial summary judgment that the neighborhood association Bank formed is authorized to govern the subdivision. Homeowners’ remaining points challenge the court’s entry of final judgment, contending the trial court erred in: (2) finding that Bank did not violate the subdivision’s covenants when it appointed its own executives—non-residents of the subdivision—to the neighborhood association’s board of directors; (3) finding that Bank’s executives acted reasonably and not in bad faith when, in their capacity as directors, they approved McKelvey’s plans to develop houses in the subdivision; (4) finding McKelvey’s construction plans do not violate the subdivision’s architectural covenants; (5) ordering Homeowners to reimburse Bank for certain subdivision maintenance costs allegedly incurred by Bank; and (6) entering judgment in favor of Bank and McKelvey on Homeowners’ remaining claims for damages. Bank raises two points on cross-appeal, arguing the trial court erred in dismissing on summary judgment its counterclaims for slander of title and abuse of process.

**AFFIRMED IN PART, REVERSED IN PART AND REMANDED.**

DIVISION FOUR HOLDS: We affirm the trial court's grant of Homeowners' motions for summary judgment on Bank's counterclaims of slander of title and abuse of process. We also affirm the trial court's grant of partial summary judgment in favor of Bank on Bank's claim that ASC HOA has the authority to govern the Subdivision. However, we reverse the trial court's judgment denying Homeowners injunctive relief and granting Bank and McKelvey declaratory relief. We remand to the trial court for entry of judgment in favor of Homeowners on their claim for declaratory judgment and injunctive relief.

Opinion by: Lisa S. Van Amburg, P. J.,  
Patricia L. Cohen, J. concurs and Gary M. Gaertner, Jr., J. dissents in a separate opinion.

Attorney for Appellant: Mark Leadlove, Christopher Blaesing (co-counsel)  
Attorney for Respondents: Kevin Cushing, Tina Babel and John Hilton (co-counsel)

**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.**