OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

JANET BEHRICK,	)	No. ED108092
	)	
Plaintiff/Appellant,	)	Appeal from the Jefferson
	)	County Circuit Court
v.	)	
	)	
KONERT FARMS HOMEOWNERS'	)	
ASSOCIATION,	)	Honorable Troy Cardona
	)	
Defendant/Respondent.	)	Filed: May 12, 2020

Janet Behrick (Appellant) appeals from the trial court's granting of summary judgment in favor of Respondent Konert Farms Homeowners' Association (HOA) and denying Appellant's motion for summary judgment on Appellant's claims against the HOA for their failure to perform certain duties she alleges are owed under the Declaration of Trust, Covenants, Conditions and Restrictions of Konert Farms (Declaration). Appellant claims terms in the Declaration imposing a duty on the HOA to repair, maintain, and replace retaining walls installed by the developer of the subdivision give rise to a duty for the HOA to repair a native limestone rock cut (limestone rock wall) on Appellant's property. Appellant argues the uncontroverted material facts show she was entitled to summary judgment on her claim. In the alternative, Appellant argues there exists a question of material fact as to the parties' intent, rendering summary judgment in favor of the HOA inappropriate.

AFFIRMED.

Division Three Holds: There exists no genuine issue of material fact about the nature of the limestone rock wall on Appellant's property. Further, the terms of the Declaration are unambiguous, imposing upon the HOA a duty to repair retaining walls. Given the plain and unambiguous language in the Declaration, the HOA has no duty to repair the limestone rock wall on Appellant's property. Appellant fails to demonstrate a genuine issue of material fact which would render summary judgment inappropriate.

Opinion by: Sherri B. Sullivan, J. Mary K. Hoff, P.J., and Angela T. Quigless, J., concur.

Attorneys for Appellant: Andrew W. Blackwell, Drey A. Cooley

Attorneys for Respondent: Anthony J. Soukenik, Philip C. Graham, Jason C. Schmidt, Katrina L. Smeltzer

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.