MISSOURI COURT OF APPEALS EASTERN DISTRICT
OPINION SUMMARY

DIVISION FOUR

MILLSTONE PROPERTY OWNERS ASSOCIATION,	)	No. ED110871
Respondent/Cross-Appellant,	)	Appeal from the Circuit Court of Jefferson County, Missouri
vs.	)	17JE-AC02497
NITHYANANDA DHYANAPEETAM OF ST. LOUIS,	)	Honorable Victor J. Melenbrink
Appellant/Cross-Respondent,	)	
FOGARTY FARMS,	)	
Respondent/Cross-Appellant.	)	Filed: March 5, 2024

Before John P. Torbitzky, P.J., James M. Dowd, J., and Michael S. Wright, J.

The twenty-four lot Millstone subdivision in Jefferson County, Missouri, is at the center of this dispute between appellant Nithyananda Dhyanapeetam of St. Louis, a Missouri corporation and current owner of three Millstone lots, and respondent/cross-appellant Fogarty Farms, the owner of the remaining twenty-one lots, over Nithyananda's non-conforming use of one of its lots in violation of the Millstone subdivision's covenant restricting the use to single-family dwellings. After a bench trial, Nithyananda appeals alleging the trial court erred (1) in finding that Essex Development, the original developer of Millstone, transferred developer rights to Ananda LLC in 2007; (2) in failing to find that even if Ananda received developer rights from Essex, Ananda abandoned or waived those restrictions as to all lots; and (3) in awarding Millstone $50,000.00 in attorneys' fees. On cross-appeal, the MPOA and Fogarty allege the trial court erred: (1) by voiding under estoppel principles MPOA's deed of conveyance to Fogarty of the lake lot after the MPOA amended to the restrictions to exclude the lot from subdivision common ground; and (2) by not awarding the MPOA the full amount of its attorneys' fees.

AFFIRMED IN PART AND REVERSED IN PART.

DIVISION IV HOLDS: We affirm the trial court's judgment in all respects except with regard to Nithyananda's second point which we grant in part and hold that the single-family dwelling restriction has been waived for lot fourteen only and we reverse the trial court's injunction with respect to lot fourteen only including its restriction on its use.

Opinion by: James M. Dowd, J.

John P. Torbitzky, P.J., and Michael S. Wright, J., concur.

Attorney for Appellant/Cross-Respondent: Allison M. Sweeney

Attorney for Respondent/Cross-Appellant: Benjamin R. Wesselschmidt

Attorney for Cross-Respondent: Floyd T. Norrick

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.