

**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

THE VENTANA OWNERS ASSOCIATION, INC.,	)	ED102290
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of the City of St. Louis
	)	1322-CC09408
v.	)	
	)	Honorable David L. Dowd
VENTANA KC, LLC,	)	
	)	
Respondent.	)	Filed: December 15, 2015

The Ventana Owners Association, Inc. (Association) appeals the summary judgment of the trial court in favor of Ventana KC, LLC (VKC) on the Association’s foreclosure action to enforce liens for outstanding assessments. The Association argues that though its bylaws precluded enforcement of its assessment liens against VKC, the bylaws conflict with the Uniform Condominium Act, and the Act controls.

REVERSED AND REMANDED.

Division Two Holds: The bylaws conflict with the Uniform Condominium Act (Act) because the bylaws purport to extinguish the Association’s assessment lien in the case of foreclosure, which is not one of the statutory exceptions to priority status of an association’s liens. When such a conflict occurs, the Act controls. Thus, the trial court erred in granting summary judgment in favor of VKC on the basis of the Association’s bylaws. Further, none of the statutory exceptions to the priority of the Association’s assessment lien applies here. Finally, we vacate the trial court’s award of attorneys’ fees to VKC and direct the trial court to determine the appropriate amount of attorneys’ fees on remand. We reverse the trial court’s judgment and remand for proceedings consistent with this opinion.

Opinion by: Gary M. Gaertner, Jr., J.  
Philip M. Hess, P.J., and Angela T. Quigless, J., concur.

Attorneys for Appellant: Todd J. Billy, Jaime K. Fraser  
Attorneys for Respondent: Sarah E. Mullen, Michael L. Jente

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