

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

450 N. LINDBERGH LEGAL FUND, LLC, et al.,)	No. ED102404
)	
Appellants,)	Appeal from the Circuit Court of St. Louis County
)	
vs.)	
)	Honorable Steven H. Goldman
CITY OF CREVE COEUR, MISSOURI, et al.,)	
)	
Respondents.)	Filed: June 16, 2015

The plaintiffs, 450 N. Lindbergh Legal Fund LLC and ten individuals, appeal the judgment entered by the Circuit Court of St. Louis County against them and in favor of the defendants, the City of Creve Coeur, Grove Assisted Living, LLC, and Wm. Biermann Company, LLC. The plaintiffs sought judicial review of the City’s approval of Ordinance 5355, which authorized the issuance of a conditional-use permit for the construction and operation of an assisted-living facility in the plaintiffs’ neighborhood.

REVERSED AND REMANDED WITH INSTRUCTIONS .

DIVISION ONE HOLDS: We determine that the present case does not qualify as a contested case under the Missouri Administrative Procedures Act. The plaintiffs sought judicial review under sections 536.100 to 536.140 RSMo. (2000 & Supp. 2013), which govern review of contested cases, and the trial court proceeded with its review as though this were a contested case.

But because the case was not a contested one, the trial court had no authority under sections 536.100 to 536.140 to review the decision of the City on the agency record as a contested case. Therefore, we reverse the judgment, and remand the case to the trial court with directions for the court to dismiss the petition for review for failure to state a claim upon which relief can be granted.

Opinion by: Lawrence E. Mooney, P.J. Clifford H. Ahrens, J., and Lisa Van Amburg, J. concur.

Attorney for Appellants: Steven W. Koslovsky

Attorneys for Respondents: Carl J. Lumley, Christopher B. Graville, and Donald K. Anderson, Jr.

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.