

**SC91640, St. Louis Association of Realtors v. City of Ferguson**

Appeal from the St. Louis County circuit court, Judge Mary Elizabeth Ott  
Argued and submitted Sept. 14, 2011; opinion issued Oct. 25, 2011

**Attorneys:** The association was represented by Stephen C. Murphy and Joseph F. Devereaux III of Devereaux Murphy LLC in Clayton, (314) 721-1516; and the city was represented by Stephanie E. Karr, Kevin M. O’Keefe and Edward J. Sluys of Curtis, Heinz, Garrett & O’Keefe PC in Clayton, (314) 725-8788.

The Missouri Society of Association Executives, the Missouri School Boards’ Association and the Missouri Association of Realtors – which filed a brief as a friend of the Court – were represented by Charles W. Hatfield of Stinson Morrison Hecker LLP in Jefferson City, (573) 636-6263, and Crustal K. Hall of Stinson Morrison Hecker LLP in St. Louis, (314) 863-0800. The Missouri Municipal League, which filed a brief as a friend of the Court, was represented by Howard C. Wright Jr., a solo practitioner in Springfield, (417) 883-6705.

*This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.*

**Overview:** A real estate trade association appeals the trial court’s dismissal of its declaratory judgment action challenging the validity of a city ordinance imposing various regulations and fees on owners of residential property within the city who lease or rent their property to others. The trial court found that the association had no standing (legal right) to sue as it was not affected directly by the ordinance. In a 7-0 decision written by Judge Laura Denvir Stith, the Supreme Court of Missouri reverses the trial court’s judgment and finds that the association has standing to challenge the ordinance. Judge Brian C. Wimes, a circuit judge from the 16th Judicial Circuit (Jackson County), sat in this case by special designation to fill the vacancy on the Court.

**Facts:** In 2006, Ferguson enacted an ordinance that created a regulatory fee and licensing system for owners of residential property within the city who lease or rent their property to others. To qualify for a rental license, property owners must complete building inspections, file affidavits stating whether any adult tenants are registered as sex offenders, retain a property manager residing within 25 miles of the rental property and pay licensing fees. The ordinance makes it unlawful for property owners to rent or lease their property without a license. The St. Louis Association of Realtors challenged the validity of Ferguson’s ordinance on both constitutional and statutory grounds. A trade association registered as a Missouri not-for-profit corporation, the association has approximately 9,000 members in the St. Louis metropolitan area, including Realtor members; real estate owners and other non-Realtor individuals and firms as affiliate members; and individuals interested in the real estate profession who are employees of, or are affiliated with, educational, public utility, governmental or similar organizations. After a bench trial, the trial court dismissed the petition without addressing the merits of the association’s challenge to Ferguson’s ordinance, holding instead that the association lacked standing to file suit because it was not a property owner and so was not affected directly by the ordinance. The association appeals.

**REVERSED AND REMANDED.**

**Court en banc holds:** The trial court erred in dismissing the association's suit for lack of standing. Under Missouri law, an association may assert standing to protect the interests of its members even when the organization has not itself suffered direct injury. To do so, the association must establish that: its members otherwise would have standing to sue in their own right; the interests it seeks to protect are germane to the organization's purpose; and neither the claims asserted nor the relief requested requires the participation of individual members in the lawsuit. Here, the record demonstrates that the association presented sufficient evidence to satisfy the requirements of associational standing. At trial, the association established the first and third prongs of associational standing by showing that some of the organization's members would have standing to challenge Ferguson's ordinance in their own right and that it did not seek individual damages but injunctive relief. It is not necessary that a majority of an association's members have personal standing. Further, the association established that the interests at stake in the litigation are germane to its purpose. It showed that protecting property rights was part of its vision statement and bylaws; it also showed it long had undertaken lobbying and litigation activities supportive of property rights.