

Manhattan Condominium Association v. Stewardship Properties, LLC

AUTHOR: TIMOTHY SANSONE

CONTRIBUTOR: MICHAEL LECINSKI

In *Manhattan Condominium Association v. Stewardship Properties, LLC* (No. WD83751, Mo. App. W.D. Feb. 9, 2021), a condominium association levied a special assessment on the residential and commercial owners of units for “emergency repairs.” The association sued the owner of one unit (our client) for failing to pay this assessment. The owner disputed the validity of the assessment, arguing it was not for any emergency and instead involved general repairs and capital improvements—an assessment that required a vote of the owners, which did not occur.

The trial court found that the declaration and bylaws for the association did not provide any procedure for the association’s board to levy emergency assessments. It also found that the board did not follow the specified procedure to make a special assessment on the owners. Therefore, the unit owner did not owe for the improper assessment.

The association appealed this decision, but it was upheld by the Missouri Court of Appeals, Western District. Our Appellate Team pointed out that the association, for the first time on appeal, argued a new theory of recovery (unjust enrichment)—an improper approach to appeals. We also noticed that the association left out a key part of the record: the declaration and bylaws, which the association improperly placed in an appendix to its brief. As a result of the appellate court’s decision, our client did not have to pay the improperly levied special assessment. This case demonstrates how important it is to have an experienced appellate lawyer handling one’s case. If the detailed appellate rules, procedures, and customs are not followed, parties risk having their cases thrown out or not being reviewed on the merits—as happened in the above case.