
SC91125

IN THE SUPREME COURT OF MISSOURI

KANSAS CITY PREMIER APARTMENTS, INC.,

Plaintiff-Appellant,

v.

MISSOURI REAL ESTATE COMMISSION,

Defendant-Respondent.

APPEAL FROM THE CIRCUIT COURT OF PLATTE COUNTY

The Honorable Abe Shafer, Judge

APPELLANT'S MOTION TO MODIFY OPINION

DAVID E. ROLAND, Mo. Bar #60548
Freedom Center of Missouri
5938 De Giverville Ave.
St. Louis, Missouri 63112
Telephone: (314) 604-6621
Facsimile: (314) 720-0989
dave@mofreedom.org

Attorney for the Appellant

Comes now Appellant Kansas City Premier Apartments (KCPA), pursuant to Rule 84.17, and respectfully moves the Court to modify the majority opinion in *Kansas City Premier Apartments, Inc. v. Missouri Real Estate Commission*, published on July 19, 2011, on the following grounds:

1. While the majority made clear its position that at least part of KCPA's business activities are neither permitted under Chapter 339 nor protected by the U.S. and Missouri Constitutions, it also stated that "if KCPA merely wanted to advertise or provide information... it would be exempt from regulation by the Commission." *Kansas City Premier Apartments, Inc. v. Missouri Real Estate Commission*, 2011 WL 2848191, *4 (Mo. banc 2011).
2. KCPA intends to restrict its services to those it may lawfully provide without a license from the Commission, but needs clarification as to where the line is drawn between the advertising or communication of information that the Court has stated is "exempt from regulation by the Commission" and the unlawful practice of real estate brokerage without a license.
3. Specifically, KCPA asks the Court to clarify:
 - a. Must it disable or discontinue any aspect of its website in order to comply with Chapter 339?
 - b. May unlicensed persons associated with KCPA lawfully answer questions about specific rental properties if their answers are strictly

limited to factual information prepared by licensed brokers or property owners?

- c. May unlicensed persons associated with KCPA lawfully provide prospective renters with honest opinions about various aspects of the Kansas City area as long as they refrain from any mention of specific rental properties?
4. KCPA also seeks clarification as to whether it must continue to abide by the injunction against offering gift cards to prospective renters if its business activities are limited to those not requiring a license from the Commission.

Wherefore, Appellant respectfully requests that this motion be sustained and that the majority's opinion be modified to provide the guidance necessary for KCPA to conform its business model to what is legally permissible for citizens not holding a license from the Commission.

Respectfully submitted,

DAVID E. ROLAND, Mo. Bar #60548
Freedom Center of Missouri
5938 De Giverville Ave.
St. Louis, Missouri 63112
Telephone: (314) 604-6621
Facsimile: (314) 720-0989
dave@mofreedom.org

Attorney for the Appellant

CERTIFICATE OF SERVICE

I hereby certify that one true and correct copy of the foregoing was mailed,
postage prepaid, this 3rd day of August, 2011, addressed to the following:

Edwin Frownfelter
Office of the Attorney General
615 East 13th Street, Suite 401
Kansas City, MO 64106
Phone: (816) 889-5019
Fax: (816) 889-5006
Attorney for the MREC

Respectfully submitted,

DAVID E. ROLAND, Mo. Bar #60548
Freedom Center of Missouri
5938 De Giverville Ave.
St. Louis, MO 63112
Phone: (314) 604-6621
Fax: (314) 720-0989
EMAIL: dave@mofreedom.org

Attorney for the Appellant