

SUPREME COURT OF ARKANSAS

No. 12-911

DR. RHONDA COLEMAN
APPELLANT

V.

CITY OF PINE BLUFF; CITY OF PINE
BLUFF PLANNING COMMISSION;
PINE BLUFF CITY COUNCIL; CARL
REDUS, INDIVIDUALLY AND IN HIS
OFFICIAL CAPACITY AS MAYOR OF
PINE BLUFF; IRENE HOLCOMB,
THELMA WALKER, CHARLES BOYD,
WAYNE EASTERLY, GLEN BROWN,
BILL BRUMETT, AND JANICE L.
ROBERTS, INDIVIDUALLY AND IN
THEIR OFFICIAL CAPACITIES AS
MEMBERS AND ALDERMEN OF THE
PINE BLUFF CITY COUNCIL
APPELLEE

Opinion Delivered March 14, 2013

APPEAL FROM THE JEFFERSON
COUNTY CIRCUIT COURT
[NO. CV2010-719-2]

HONORABLE ROBERT H. WYATT,
JR., JUDGE

AFFIRMED.

JIM HANNAH, Chief Justice

Appellant, Dr. Rhonda Coleman, appeals from the Jefferson County Circuit Court's entry of summary judgment in favor of appellees, City of Pine Bluff; City of Pine Bluff Planning Commission; Pine Bluff City Council; Carl Redus, individually and in his official capacity as Mayor of Pine Bluff; and Irene Holcomb, Thelma Walker, Charles Boyd, Wayne Easterly, Glen Brown, Bill Brumett, and Janice L. Roberts, individually and in their official capacities as members and aldermen of the Pine Bluff City Council (collectively referred to as "the City"). Dr. Coleman contends that the circuit court erred in granting summary

judgment on the ground that, pursuant to Arkansas Rule of Civil Procedure 17, she lacked standing to bring suit. Specifically, she contends that she had standing, pursuant to Pine Bluff City Ordinance 29-37, to seek judicial relief in the circuit court when her application for Use Permitted on Review (“UPOR”) permit was denied by the City. We affirm the circuit court.

In June 2010, Dr. Coleman submitted a proposal to the Planning Commission requesting a UPOR permit to utilize the premises located at 3701 South Main in Pine Bluff as a foster-care facility for displaced children. The Planning Commission denied her request, as did the City Council. Dr. Coleman then appealed to the circuit court. In its order granting summary judgment for the City, the circuit court noted that, while Coleman had argued that Pine Bluff City Ordinance 29-37 confers standing on her to bring the action as an “applicant” for the UPOR permit, the ordinance is in conflict with Arkansas Rule of Civil Procedure 17, which requires that an action be brought by the real party in interest. The circuit court found that Rule 17 overrides the ordinance and that the requirement that the action be brought by the real party in interest is the standard that the court must follow. Consequently, the circuit court ruled that, because Coleman was not the real party in interest, she lacked standing to bring suit.

The basis of Dr. Coleman’s claim on appeal is that the ordinance specifically confers standing on applicants to sue. The City responds that, even assuming that the ordinance confers standing on applicants, Dr. Coleman cannot prevail because the ordinance requires that applicants be property owners, and Dr. Coleman is not a property owner.

Here, the entire case turns on our interpretation of the ordinance, but we do not have the ordinance before us in the record. This court does not take judicial notice of city ordinances. *See, e.g., Smith v. City of Springdale*, 291 Ark. 63, 65, 722 S.W.2d 569, 570 (1987); *Asher v. City of Little Rock*, 248 Ark. 96, 98, 449 S.W.2d 933, 935 (1970); *Walthour v. Alexander*, 243 Ark. 621, 623, 421 S.W.2d 613, 614 (1967); *Skiles v. State*, 150 Ark. 300, 304, 234 S.W. 721, 722 (1921) (supplemental opinion on denial of rehearing). *But cf. Bolstad v. Pergeson*, 305 Ark. 163, 166–67, 806 S.W.2d 377, 378–79 (1991) (considering the recitation of the ordinance in the appellee’s brief as a supplemental index where the appellant had admitted violating the ordinance and where the circuit court had, without objection, taken judicial notice of the ordinance).

We have consistently held that it is the duty of the appellant to bring up an adequate record for our review. *E.g., Rodriguez v. Ark. Dep’t of Human Servs.*, 360 Ark. 180, 187, 200 S.W.3d 431, 435 (2004). Failure to do so precludes our review. *Id.*, 200 S.W.3d at 435. Because we do not have the ordinance before us and thus cannot conduct a sufficient review, we affirm without reaching the merits of Dr. Coleman’s arguments on appeal.

Affirmed.

Law Office of Chrishauna Clark, by: *Chrishauna E. Clark*, for appellant.

Michael Mosley, for appellee.