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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1564**

Joel Storland, et al.,
Respondents,

vs.

Nordic Townhomes Limited Partnership et al.,
Appellants,

Barbara Volstad Kent, et al.,
Defendants.

**Filed May 6, 2019
Affirmed
Jesson, Judge**

Dakota County District Court
File No. 19HA-CV-17-2671

Joseph F. Schmidt, Minneapolis, Minnesota (for respondents)

Anthony Gabor, Morris Law Group, P.A., Edina, Minnesota (for appellants)

Considered and decided by Johnson, Presiding Judge; Ross, Judge; and Jesson,
Judge.

UNPUBLISHED OPINION

JESSON, Judge

Appellant Nordic Townhomes Limited Partnership challenges the district court's
order that it dissolve, in accordance with the partnership agreement, on the basis that

respondents lacked standing to bring their suit. Because we conclude respondents suffered an injury-in-fact affording them standing to enforce the partnership agreement, we affirm.

FACTS

Appellant Nordic Townhomes Limited Partnership (Nordic) was established May 25, 1990. When Nordic was formed, it had three limited partners (Vincent Storland, Andrew Volstad, and Helge Nordby) and three general partners. As an entity, Nordic acquired, leased, and sold property.

When limited partner Vincent Storland died, his wife inherited his financial interest in Nordic. But she did not become a limited or general partner. In February 2005, Storland's wife sold her interest in Nordic to respondents Joel Storland, Janet Anderson, and Judy Rusten. Respondents have never been limited or general partners in Nordic.

All of the original limited partners are now deceased, and nothing in the record indicates that Nordic currently has a limited partner. Pursuant to the partnership agreement, once Nordic did not have any limited partners, the partnership was to dissolve, liquidate, and cease doing business. Despite the fact that Nordic does not have any limited partners, it continued to exist as an entity and conduct business.

In August 2017, respondents—who are not partners but hold a 33% ownership interest in Nordic—filed a complaint with the district court seeking an order directing Nordic to wind up business of the limited partnership, appoint a receiver to liquidate the assets of the partnership, and disburse any remaining balance to the interested parties. In response, Nordic filed a motion for summary judgment. Nordic alleged that respondents did not have standing to seek judicial or nonjudicial dissolution of the partnership because

they are neither limited nor general partners. Respondents then filed a motion seeking summary judgment on the basis that the partnership agreement required dissolution and liquidation of Nordic.

The district court granted respondents' motion for summary judgment and ordered that Nordic be dissolved, reasoning that the language of the partnership agreement indicated that "the signatories intended that the partnership would dissolve under the current factual circumstances."¹ On the issue of standing, the district court concluded that "there [was] nothing presented that the Legislature intended that [respondents'] interest not be protected." Nordic appeals.

DECISION

Nordic argues that respondents did not have standing to seek judicial or nonjudicial dissolution of Nordic because they were not partners and did not suffer an injury-in-fact. We review whether a party has standing de novo. *In re Custody of D.T.R.*, 796 N.W.2d 509, 512 (Minn. 2011).

Before a court can exercise jurisdiction over a case, a party must have standing. *Id.* "Standing is a legal requirement that a party have a sufficient stake in a justiciable controversy to seek relief from a court." *Enright v. Lehmann*, 735 N.W.2d 326, 329 (Minn. 2007). In general, standing to bring an action is conferred in one of two ways: either by a legislative enactment granting standing or by the plaintiff suffering an injury-in-fact. *Id.*

¹ The district court subsequently granted Nordic's request to stay execution of its order pending appeal.

To establish an injury-in-fact, a plaintiff must demonstrate “a concrete and particularized invasion of a legally protected interest.” *Id.* (citing *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560, 112 S. Ct. 2130, 2136 (1992)). “Economic injury or the prospect of economic injury may be sufficient to establish standing.” *In re Application of Crown CoCo, Inc.*, 458 N.W.2d 132, 135 (Minn. App. 1990).

At the outset, we note that although Nordic characterizes respondents’ action as seeking dissolution of the partnership, we view respondents’ action as asking the district court to enforce the partnership agreement. Respondents never cited to relevant Minnesota statutes regarding judicial or nonjudicial dissolution of a limited partnership as the basis for their action against Nordic. And the relief respondents sought—an order directing Nordic to wind up business, appoint a receiver to liquidate the assets of the partnership, and disburse any remaining balance to the interested parties—is consistent with our conclusion that respondents sought enforcement of the partnership agreement.

Here, respondents suffered an injury-in-fact sufficient to give them standing to ask the district court to enforce the partnership agreement. The partnership agreement is clear: Nordic was to be dissolved when there were no longer any limited partners. That process involves liquidating assets, and respondents are entitled to their share of any profits remaining once partnership obligations are resolved. *See* Minn. Stat. § 321.0702(b)(2) (2018) (stating that “upon the dissolution and winding up of the limited partnership’s activities [a transferee is entitled to] the net amount otherwise distributable to the transferor”). Because respondents are entitled to their share of that money, and because

Nordic refused to take steps to dissolve the partnership and liquidate assets, respondents suffered an injury-in-fact sufficient to confer standing.

Nordic raises several arguments that respondents did not have standing. Nordic first contends that respondents did not suffer an injury-in-fact because they did not allege damages and have not demonstrated that they are entitled to any funds resulting from liquidation of partnership assets. But this argument is contrary to the partnership agreement—which states that upon dissolution and liquidation, respondents are entitled to their share (33%) of any profit remaining after the partnership’s debts and other obligations are resolved—and Minnesota law. *See* Minn. Stat. § 321.0702(b)(2) (providing that a transferee is entitled to their respective share of the profits upon dissolution and liquidation).

Nordic also contends that no statutory provision gives respondents standing. Nordic cites Minnesota Statutes section 321.0802 (2018), which states that a district court may order dissolution of a limited partnership “[o]n application by a partner” in situations where it is not “reasonably practicable” for the limited partnership to continue business in accordance with the partnership agreement. Because respondents were never partners, Nordic contends that the statute prevents them from seeking judicial dissolution of the limited partnership. But as we noted above, respondents’ action is more properly characterized as seeking enforcement of the partnership agreement rather than seeking judicial dissolution of the partnership. And because we conclude that respondents have standing because they suffered an injury-in-fact, respondents do not need a statutory basis

to have standing. See *Enright*, 735 N.W.2d at 329 (stating that standing can be conferred by statute or by suffering an injury-in-fact).

Finally, Nordic alleges that this court’s decision in *Gale v. Rittenhouse* supports its position that respondents sought judicial dissolution of the limited partnership. 686 N.W.2d 50 (Minn. App. 2004). In *Gale*, pursuant to a limited partnership agreement, the limited partner removed the general partner. *Id.* at 52. The partnership agreement provided that a removed general partner was required to resolve any disputes regarding the value of the partnership interest through arbitration. *Id.* Without attempting arbitration, the removed general partner asked the district court to “grant a declaratory judgment determining that the [p]artnership must be dissolved, terminated and liquidated.” *Id.* at 53. This court concluded that the language was ambiguous regarding whether the former general partner sought judicial dissolution or a determination that a nonjudicial dissolution occurred. *Id.* And this court affirmed the district court’s determination that Gale lacked standing because the partnership agreement clearly stated that Gale was required to resolve any disputes regarding her partnership interest through arbitration. *Id.* at 53-54.

We do not read *Gale* as supporting Nordic’s position. Instead, we read *Gale*—much like the district court did here—as standing for the proposition that courts enforce the plain language of partnership agreements. And here, the partnership agreement clearly states that Nordic was to be dissolved when there were no limited partners. Accordingly, as transferees, respondents had standing to ask the district court to enforce the partnership agreement and the district court correctly required Nordic to follow the partnership agreement’s mandate of dissolution and liquidation.

Finally, although our opinion rests on our application of the law, we observe that adopting Nordic's position could effectively result in no one having standing to seek enforcement of the partnership agreement. We do not discern that Minnesota law leaves transferees like respondents without redress in cases where remaining general partners fail to abide by the partnership agreement.²

Because respondents, as transferees, suffered an injury-in-fact as a result of Nordic's failure to abide by the partnership agreement, we conclude that respondents had standing to seek enforcement of the partnership agreement.

Affirmed.

² Nordic also alleges that respondents' complaint was not properly pleaded with respect to requirements for a derivative action. Although Nordic did raise this issue in its motion for summary judgment, the district court's order did not address this argument at all. But, "[a]ppellate courts cannot assume a district court erred by failing to address a motion, and silence on a motion is therefore treated as an implicit denial of the motion." *Palladium Holdings, LLC v. Zuni Mortg. Loan Tr.* 2006-OA1, 775 N.W.2d 168, 177–78 (Minn. App. 2009), review denied (Minn. Jan. 27, 2010). We view the district court's silence as an implicit rejection of this argument. Respondents' action is not a derivative suit. A derivative suit seeks relief in favor of the *entity*, rather than the *individuals*. See *PJ Acquisition Corp. v. Skoglund*, 453 N.W.2d 1, 4 (Minn. 1990). Here, respondents sought relief for themselves as individuals, not for Nordic as an entity. As such, respondents' action is not properly characterized as a derivative action and this argument is without merit.