

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

ARBOR INVESTMENT COMPANY,	)	No. ED92933
LLC, et al., Appellants,	)	
	)	Appeal from the Circuit Court
vs.	)	of Gasconade County
	)	
CITY OF HERMANN, Respondent.	)	Filed: June 22, 2010

Arbor Investment Company, LLC, et al. (“Appellants”) appeal from the trial court’s grant of summary judgment in favor of the City of Hermann (“the City”). Appellants argue the trial court erred in entering summary judgment in favor of the City.

REVERSED AND REMANDED.

Division Two Holds: The trial court erred in entering summary judgment in favor of the City because there is a genuine dispute of material fact as to whether and for what purpose the City increased utility fees in violation of the Hancock Amendment by setting charges at a level to increase the City’s general revenue and to subsidize general government expenditures rather than to compensate for the provision of services.

Opinion by: Robert G. Dowd, Jr., P.J.  
Sherri B. Sullivan, J. and Kurt S. Odenwald, J., concur.

Attorneys for Appellants: James E. Mello, Jeffery T. McPherson, Matthew S. Shorey and Thomas B. Weaver

Attorneys for Respondent: David P. Politte and Kenneth J. Heinz

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