

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

ST. CHARLES COUNTY, MISSOURI) No. ED93983
)
Plaintiff/Respondent,)
)
) Appeal from the Circuit Court
) of St. Charles County
v.) Case Number: 0811-CV08506
)
LACLEDE GAS COMPANY,) Honorable Jon A. Cunningham
)
Defendant/Appellant.)
)
) Filed: February 8, 2011

Laclede Gas Company (Laclede) appeals from the grant of summary judgment in favor of St. Charles County (County) in this case involving whether Laclede or County should bear the expense of Laclede moving its utility lines when the County is making improvements to a public road.

AFFIRMED.

Division Four Holds: The trial court did not err in granting summary judgment for County because Laclede's "utility easements" did not "predate" the public right-of-way and requiring Laclede to pay to relocate its utility lines for improvements to the public road is not an unconstitutional taking of Laclede's property without just compensation. Laclede's first point is dispositive of the appeal and therefore we decline to rule on Laclede's second and third points that address certain affidavits. Because the issues involved are of general interest and importance, the case is ordered transferred to the Missouri Supreme Court pursuant to Rule 83.02.

Opinion by: Gary M. Gaertner, Jr., P.J.
Roy L. Richter, C.J., concurs.
Kenneth M. Romines, J., dissents in a separate opinion.

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THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.