

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DALE L. ROLLINGS, TRUSTEE of the) No. ED95275
EDWARD L. and MARY LOU HARRIS)
CHARITABLE REMAINDER ANNUITY)
TRUST, Respondent,) Appeal from the Circuit Court of
) St. Charles County
vs.)
) Honorable Ted C. House
SCOTT SHIPMAN, ASSESSOR,)
ST. CHARLES, COUNTY, MISSOURI,)
Appellant.) Filed: May 24, 2011

St. Charles County Assessor, Scott Shipman (the Assessor) appeals from the judgment of the Circuit Court of St. Charles County reversing the decision of the State Tax Commission of Missouri (the Commission). Dale Rollings (the Trustee) contends that the Commission's decision to assess an *ad valorem* tax on real property located in Wentzville, Missouri (the Property) is arbitrary, capricious, and unreasonable because the Property qualifies for a tax exemption under Mo. Rev. Stat. § 137.100(5) (2000).

AFFIRMED

Division Five Holds: The Commission erred in denying the Property an exemption from *ad valorem* real estate taxes during the 2007 and 2008 tax years, because the Property met the three-part test of Franciscan Tertiary Province of Missouri, Inc. v. State Tax Commission, 566 S.W.2d 213 (Mo. banc. 1978), in that: (1) Wentzville R-IV School District (the District) used the Property exclusively for exempt school purposes; (2) although legal title to the Property was held in trust, the District was the equitable owner of the Property and owned and operated the Property on a non-profit basis; and (3) the District's use of the Property for its public school was for the benefit of an indefinite number of persons and directly and indirectly benefited society generally.

Opinion by: Patricia L. Cohen, J. Gary M. Gaertner, Jr., P.J., and Mary K. Hoff, J., concur.

Attorney for Appellant: Charissa I. Mayes

Attorney for Respondent: John T. Shaw

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.