

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

URBAN RENEWAL OF K.C.

Respondent

v.

BANK OF NEW YORK

Appellant

DOCKET NUMBER **WD69665**

DATE: April 21, 2009

Appeal From:

Circuit Court of Platte County, MO
The Honorable Owens L. Hull, Jr., Judge

Appellate Judges:

Division One: Alok Ahuja, P.J., Harold L. Lowenstein, J., and Thomas H. Newton, C.J.

Attorneys:

Scott D. Mosier, Chesterfield, MO

Counsel for Appellant,

Attorneys:

Jeremiah Kidwell, Kansas City, MO
Jason C. Conkright, Kansas City, MO

Counsel for Respondent.
Co-Counsel for Respondent.

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

URBAN RENEWAL OF K.C., Respondent, v.
BANK OF NEW YORK, Appellant

WD69665

Platte County

Before Division One Judges: Ahuja, P.J., Lowenstein, J., and Newton, C.J.

Urban Renewal (Urban), a not-for-profit organization, petitioned the trial court for temporary possession to rehabilitate a house that the Bank of New York (NY) owned. The trial court granted the petition over NY's objection. Subsequently, NY exercised its statutory right to seek restoration of possession of its property; and Urban exercised its statutory right to request ownership of the property through a sheriff's deed. The trial court entered judgment denying Urban's request for ownership and restoring the property to NY on the condition that it pay Urban \$114,439.52 for its expenditures in rehabilitating the property. NY appeals the trial court's decision to compensate Urban, raising three points.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.

Division One holds:

NY argues in its first and second points that the trial court erred because Urban failed to meet the statutory requirements in section 447.622 because the property was not "continuously unoccupied for six months by persons legally entitled to possession" and that Urban was not an "organization" under section 447.620. NY argues in its third and final point that the trial court erred in awarding Urban \$114,439.52 because Urban's invoices only supported an award of \$86,687.00 and because Urban was not entitled to collect a separate contractor's fee or management fee because Urban was not a contractor and did not rent the property to anyone to support a management fee.

First, the trial court did not err because the statutory language supports the trial court's conclusion that Urban met the statutory requirements. Section 447.622 does not require that the *current* owner must have abandoned the property for six months; rather, it requires that the property was abandoned over a course of six months by those who have a legal right to possession. Second, section 447.620 does not require that a not-for-profit organization's articles of incorporation list its purpose as "the provision or enhancement of housing opportunities in its

community.” Rather, the section requires that the not-for-profit organization’s purpose include “the provision or enhancement of housing opportunities in its community.”

Finally, the trial court did not err in awarding an amount beyond the totaled invoices because other evidence supported the expenditures. Nor did the trial court err in awarding a contractor’s fee as part of the expenditures because the evidence supported the fee. However, the trial court erred in awarding a management fee to Urban because there was no evidence to support a management fee of \$8,151.74. Accordingly, we remand the case to the trial court to modify the judgment by deducting the management fee of \$8,151.74 from the \$114,439.52 award.

Opinion by: Thomas H. Newton, C. J.

April 21, 2009

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