**OPINION SUMMARY**
**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

**DIVISION TWO**

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| METRO FILL DEVELOPMENT, LLC,<br><br>Appellant,<br><br>v.<br><br>ST. CHARLES COUNTY, MO.,<br><br>and<br><br>JOE KRONIN,<br>MIKE ELAM,<br>DAVE HAMMOND,<br>TERRY HOLLANDER,<br>MIKE KLINGHAMMER,<br>JOHN WHITE, and<br>JOE BRAZIL, in their official capacities,<br><br>Respondents. | ) | No. ED108533<br><br>Appeal from the Circuit Court<br>of Saint Charles County<br>1811-CC01090<br><br>Honorable Michael J. Fagras<br><br>Filed: November 24, 2020 |

Metro Fill Development, LLC, ("Metro Fill") appeals from the trial court's order and judgment dismissing its petition for review of the Saint Charles County Council's denial of its application for a conditional use permit (Count II) and for inverse condemnation based on this denial (Count I). Metro Fill argued the trial court erred in dismissing both counts of its petition and in denying its post-judgment motion for leave to amend the petition.

PARTIALLY AFFIRMED, PARTIALLY REVERSED AND REMANDED.

Division Two Holds: The trial court did not err in its dismissal of Count II of Metro Fill's petition, which sought non-contested case review under Section 536.150, RSMo., of the Missouri Administrative Procedures Act. This dismissal was proper because the trial court had neither the ability to review nor to grant relief under that section, in that the trial court was empowered only to review and grant relief pursuant to Sections 536.100 to 536.140, RSMo., because the County Council's decision on the conditional use permit was a contested case.

The trial court erred in its dismissal of Count I of Metro Fill's petition, which sought just compensation for inverse condemnation under Article I, Section 26 of the Missouri Constitution. The statutory procedures outlined in the Missouri Administrative Procedures Act did not provide the exclusive means of review for the inverse condemnation claim, even where it arose from an administrative decision, and therefore the trial court erred in dismissing Metro Fill's claim for

inverse condemnation on this basis. Further, it was an abuse of discretion for the trial court not to grant Metro Fill leave to amend its petition related to its inverse condemnation claim.

Opinion by: Robin Ransom, P.J.
Sherri B. Sullivan, J., and Lisa P. Page, J., concur.

Attorney for Appellant: Paul Joseph Puricelli

Attorneys for Respondent: Ardita Roark and James Robert Layton

**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.**