OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION TWO

THE FRED KEMP COMPANY, LLC, Respondent, v. KITRELL BRASELMAN, IN HIS OFFICIAL CAPACITY AS THE DIRECTOR OF PUBLIC WORKS, CITY OF BLACK JACK, DEPARTMENT OF PUBLIC WORKS, CITY OF BLACK JACK, AND CITY OF BLACK JACK, Appellants.	)	ED108418 Appeal from the Circuit Court of St. Louis County 19SL-CC00558 Honorable Robert M. Heggie Filed: February 9, 2021

The City of Black Jack (City) appeals from a judgment of the circuit court in favor of The Fred Kemp Company, LLC (Kemp) regarding a public nuisance. The circuit court found Kemp was not the owner or person in control of the property in question and reversed a hearing officer's decision holding Kemp responsible for the nuisance.

AFFIRMED.

Division 2 holds: Section 71.780, RSMo. 2016, as updated, grants cities the power to suppress nuisances, but limits who the cities may hold responsible for the expense of abating them to the "owner or occupant of the property" on which the nuisance exists. Section 13–1 of the City's Code of Ordinances, which permits the City to hold "the owner or other person in control of such property" responsible for abating the nuisance, exceeds the statutory authority granted to cities to suppress nuisances because Section 71.780 does not allow cities to hold persons merely "in control" of property responsible for abating nuisances on that property. Thus, the City did not have the authority to hold Kemp responsible for abating the nuisance because Kemp was neither the owner or occupant of the property. Kemp's first point is granted and we decline to address the remaining points because the first is dispositive.

Opinion by: Lisa P. Page, J.

Robin Ransom, P.J. and Sherri B. Sullivan, J., concur.

Attorney for Appellant: Erwin O. Switzer III and Ronnie L. White

Attorney for Respondent: Patrick A. Bousquet and John B. Goss

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