Missouri Court of Appeals
Western District

VERTICAL ENTERPRISE, LLC,	)	
	)	**WD87291**
Appellant,	)	
v.	)	**OPINION FILED:**
	)	
BUCHANAN COUNTY;	)	**November 25, 2025**
	)	
Respondent,	)	
	)	
DIRECTOR OF REVENUE,	)	
	)	
Respondent.	)	
	)	

Appeal from the Circuit Court of Buchanan County, Missouri
The Honorable Daniel F. Kellogg, Judge

Before Division Four: Anthony Rex Gabbert, Chief Judge Presiding, Edward R. Ardini, Jr., Judge, and Thomas N. Chapman, Judge

Vertical Enterprise appeals the judgment of the Buchanan County Circuit Court granting summary judgment in favor of Buchanan County[1] and denying its motion for summary judgment. The trial court found that Buchanan County as well as St. Joseph (an

[1] The respondents in this appeal are Buchanan County, Peggy Campbell in her official capacity as the Collector of Revenue for Buchanan County, and Wayne Wallingford in his official capacity as the Director of Revenue for the State of Missouri. The respondents will be referred to collectively as "Buchanan County."

incorporated city in Buchanan County) are both "local governments" that may impose and collect a three percent sales tax pursuant to article XIV, section 2 of the Missouri Constitution on Vertical Enterprise (which is located in St. Joseph, Buchanan County). The judgment is reversed, and the case is remanded to the trial court for further proceedings consistent with this opinion.

Background

In November 2022, Missouri voters approved an initiative petition amending the Missouri Constitution to include article XIV, section 2, legalizing the non-medical use and possession of marijuana for persons 21 years or older. *Robust Mo. Dispensary 3, LLC v. St. Louis Cnty.*, 721 S.W.3d 135, 137 (Mo. banc 2025). The purpose of the amendment "is to make marijuana legal under state and local law for adults twenty-one years of age or older, and to control the commercial production and distribution of marijuana under a system that licenses, regulates, and taxes the businesses involved while protecting public health. Mo. Const. art. XIV, sec. 2.1.

The amendment created a taxation scheme for the retail sale of non-medical marijuana. *Robust*, 721 S.W.3d at 137. In addition to the Missouri sales tax, the constitutional provision requires the state to levy a six percent tax on the sale of all non-medical marijuana sold to consumers at licensed marijuana facilities. *Id.*, Mo. Const. art. XIV, sec. 2.6(1). Local governments are also authorized to impose, by ordinance or order, an additional sales tax not to exceed three percent if approved by voters of the political subdivision. Mo. Const. art. XIV, sec. 2.6(5). "Local government" is defined in

the amendment as "in the case of an incorporated area, a village, town, or city and, in the case of an unincorporated area, a county." Mo. Const. art. XIV, sec. 2.2(12).

In August 2023, the voters of Buchanan County approved a countywide sales tax of three percent on the retail sale of adult use marijuana. The county sales tax became effective on January 1, 2024.

Vertical Enterprise is a state licensed marijuana dispensary located and operating in St. Joseph, an incorporated city in Buchanan County. On December 5, 2023, Vertical Enterprise filed its amended petition for permanent injunction seeking to enjoin Buchanan County from collecting an additional tax on the sale of marijuana by it within the city limits of St. Joseph. Both parties filed motions for summary judgment on March 8, 2024.

On May 29, 2024, the trial court entered its judgment, granting Buchanan County's motion for summary judgment and denying Vertical Enterprise's motion. It ruled that under the definition of "local government" in article XIV, section 2 of the Missouri Constitution, both the city of St. Joseph and Buchanan County are authorized to impose and collect a tax on the retail sale of marijuana by Vertical Enterprise. This appeal by Vertical Enterprise followed.

Standard of Review

Appellate review of the grant of summary judgment is *de novo*.[2] *Green v. Fotoohighiam*, 606 S.W.3d 113, 115 (Mo. banc 2021). Summary judgment is proper only if there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. *Id.* The record is viewed in the light most favorable to the party against whom summary judgment was entered. *Id.*

Point on Appeal

In its sole point on appeal, Vertical Enterprise contends that the trial court erred in granting Buchanan County's motion for summary judgment and denying its motion because under article XIV, section 2, a "local government" may impose an additional tax of up to three percent and its "local government" is only the incorporated city of St. Joseph.

In *Robust Missouri Dispensary 3, LLC v. St. Louis County*, 721 S.W.3d 135 (Mo. banc 2025), the Missouri Supreme Court recently decided the issue of whether a county may impose a three percent sales tax on the sale of non-medical marijuana sold within an incorporated area of the county. Robust operates a marijuana dispensary in Florissant, an incorporated city in St. Louis County. *Id* at 137. The voters of both the city of Florissant

[2] Generally, the denial of a motion for summary judgment is not a final judgment and is not appealable. *Johnson v. Am. Fam. Mut. Ins. Co, S.I.*, 694 S.W.3d 529, 531-32 (Mo. App. W.D. 2024). "However, the denial of a motion for summary judgment may be reviewable when…the merits of the motion for summary judgment are intertwined with the propriety of an appealable order granting summary judgment to another party." *Id.* (internal quotes and citation omitted).

and St. Louis County voted to impose a three percent sales tax on the retail sale of non-medical marijuana pursuant to article XIV, section 2.6(5). *Id.* Robust collected and remitted the three percent sales tax to Florissant but did not remit the same to St. Louis County. *Id.* After receiving a sales tax change notification letter from the department of revenue informing it that it was required to remit an additional three percent, Robust petitioned for declaratory judgment and injunctive relief against St. Louis County and the Missouri director of revenue.[3] *Id.* It sought a declaration that article XIV, section 2 does not authorize a county to impose an additional sales tax when the dispensary is located within the boundaries of an incorporated village, town, or city and that article XIV authorizes a county to impose such tax only if the dispensary is located in an unincorporated area of the county. *Id.* at 137-138. After the parties filed motions for summary judgment, the trial court entered summary judgment in favor of the Counties and overruled Robust's motion, finding that the definition of "local government" must include a county in an incorporated area. *Id.* at 138. Robust appealed.[4] *Id.*

On appeal, Robust argued that the plain language of section 2.2(12) distinguishes what constitutes a "local government" between incorporated and unincorporated areas. *Id.* at 139. The Counties disputed Robust's interpretation, asserting that a county may also institute a three percent tax in an incorporated area. *Id.* at 139-40. As previously

[3] St. Charles County was allowed to intervene in the case because its voters had also passed a three percent sales tax on the retail sale of marijuana. *Id.*

[4] After opinion by the Eastern District Court of Appeals, the Missouri Supreme Court granted transfer. *Id.* at 138 n.5.

stated, article XIV, section 2.2(12) defines "local government" as "in the case of an incorporated area, a village, town, or city and, in the case of an unincorporated area, a county." The *Robust* Court found that section 2.2(12) is unambiguous and that in an incorporated area, the "local government" is an incorporated village, town, or city, and in an unincorporated area, the "local government" is a county. *Robust*, 721 S.W.3d at 144. It explained,

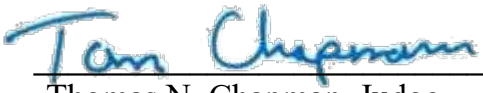
> The drafters of article XIV, section 2 specified a "local government" is based on the area in which the dispensary is located. If a marijuana dispensary is located in an incorporated area, that village, town, or city is the only local government that may institute the 3 percent tax pursuant to section 2.6(5). If the dispensary is located in an unincorporated area, however, then the county is the only local government authorized to institute the 3 percent tax.

Id. at 140-41. Thus, it concluded that "article XIV, section 2 authorizes a county to impose a retail sales tax at a dispensary located in an unincorporated area of that county but not at a dispensary located within the boundaries of an incorporated village, town, or city such as Florissant." *Id.* at 144. Accordingly, the *Robust* Court vacated the summary judgment in favor of the Counties and remanded the case. *Id.*

In this case, because St. Joseph is an incorporated city in Buchanan County, it is the "local government" authorized by art. XIV, section 2 to impose an additional sales tax on Vertical Enterprise. Buchanan County is not authorized to impose such tax on Vertical Enterprise. The trial court, therefore, erred in granting summary judgment in favor of Buchanan County.

Conclusion

The judgment is reversed, and the case is remanded for further proceedings consistent with this opinion.



Thomas N. Chapman, Judge

All concur.