

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

CITY OF CHESTERFIELD,)	ED101916
)	
Appellant,)	
)	Appeal from the Circuit Court
v.)	of St. Louis County
)	12SL-CC03917
FREDERICH CONSTRUCTION INC.)	
and TRAVELER'S CASUALTY AND)	Honorable Richard C. Bresnahan
SURETY COMPANY OF AMERICA)	
)	
Respondents.)	Filed: April 21, 2015

The City of Chesterfield (City) appeals the judgment of the trial court confirming an arbitration award that included an award of attorneys' fees against the City. The City argues the arbitrators exceeded their authority in awarding attorneys' fees.

AFFIRMED.

Division Three Holds: The issue on appeal arises from the Construction Industry Arbitration Rules of the American Arbitration Association (AAA), specifically Rule R-45(d)(ii), which allows arbitrators to award attorneys' fees if all parties request them. Though there was no provision for attorneys' fees in the contract here, the contract did incorporate AAA rules, which put the issue of attorneys' fees within the scope of the agreement if both parties requested them. It was the role of the arbitrators to interpret and apply Rule R-45(d)(ii), and to determine whether the statements contained in the City's pleadings constituted a request for attorneys' fees under the circumstances. Our standard of review does not permit us to re-litigate whether the City's actions constitute a request for fees, but merely to determine whether the arbitrators' decision was on a matter within the scope of their agreement. Because we find that it was, the arbitrators did not exceed their authority, and the trial court did not err in confirming the arbitrators' award of attorneys' fees.

Opinion by: Gary M. Gaertner, Jr., J.
Kurt S. Odenwald, P.J., and Robert G. Dowd, Jr., J., concur.

Attorneys for Appellant: Robert M. Heggie, Mark D. Mittleman, Harold V. O'Rourke
Attorney for Respondent: Keith Witten

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