

OPINION SUMMARY

**MISSOURI COURT OF APPEALS EASTERN DISTRICT
DIVISION ONE**

CITY OF RICHMOND HEIGHTS, Appellant,)	No. ED91353
)	
vs.)	Appeal from the Circuit Court
)	of St. Louis County
DOROTHY WAITE, Respondent,)	
)	
and)	
)	
LAMONICA WRIGHT, NATION ONE)	
MORTGAGE COMPANY, INC.,)	
MICHAEL J. STARRETT, Trustee, MERS,)	
and UNKNOWN HUSBANDS, WIVES,)	
GRANTEES, and SUCCESSORS, Defendants.)	Filed: April 7, 2009

The City of Richmond Heights (the City) appeals from the trial court’s judgment dismissing the City’s condemnation action. The City seeks to condemn a parcel of property owned by Dorothy Waite (Seller) located within the Hadley Township Redevelopment Area. The trial court dismissed the City's petition based on its finding that the offer made by the City to purchase the property was not a binding offer, and that the City failed to engage in good faith negotiations as required by Missouri's condemnation statutes.

REVERSED AND REMANDED.

Division One holds: The trial court failed to differentiate between the separate requirements of Section 523.253 and Section 523.256 in finding that the liquidated damages clause rendered the Purchase Agreement unenforceable because the City did not make a binding offer and failed to engage in good faith negotiations. We are constrained to review that trial court's action in light of the express statutory scheme enacted by the legislature under each of these provisions. The record supports a finding that the City made a written offer to purchase Seller's property in compliance with Section 523.253, and the inclusion of the liquidated damages clause does not render the City's offer non-binding. Additionally, the City properly engaged in good faith negotiations according to Section 523.256. The liquidated damages clause does not strip the trial court of its jurisdiction in this condemnation proceeding under either statute.

Opinion by: Kurt S. Odenwald, P.J. Glenn A. Norton, J. and Patricia L. Cohen, J., Concur.

Attorneys for Appellant: James E. Mello, Jeffery T. McPherson and Cynthia A. Petracek

Attorney for Respondent: Steven E. Spoeneman

Attorney for Defendants: Cynthia Garnholz

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.