

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT
DIVISION FOUR

FLOYD WITHERS,)	No. ED94249
)	
Appellant,)	Appeal from the Circuit Court of
)	St. Charles County
vs.)	
)	Honorable Jon A. Cunningham
CITY OF LAKE SAINT LOUIS,)	
)	Cause No. 0811-CV10350
Respondent.)	
)	Filed: June 29, 2010
)	

Floyd Withers (hereinafter, “Withers”) appeals the trial court’s grant of summary judgment in favor of the City of Lake Saint Louis (hereinafter, “the City”). The dispute centers around language contained in a settlement agreement regarding which municipal ordinances govern property held by Withers’ corporation, Lakeside Plaza, Inc. Withers raises six points on appeal, claiming the trial court erred in entering summary judgment in the City’s favor as a matter of law.

AFFIRMED IN PART; REVERSED AND REMANDED IN PART.

Division IV Holds: The trial court erred in granting summary judgment in the City’s favor on Count I of Withers’ petition in that the settlement agreement entered into by the parties is latently ambiguous, omits the fundamental assumption upon which the agreement was reached, and omits essential terms. The trial court did not err in granting summary judgment in the City’s favor on Count II of Withers’ petition because any purported oral promise or agreement made by the City providing for de-annexation is unenforceable and void under Section 432.070 RSMo (2000).

Opinion by: George W. Draper III, J. Kurt S. Odenwald, P.J., and
Gary M. Gaertner, Jr., J.,
concur

Attorneys for Appellants: Alan G. Kimbrell
Attorney for Respondents: Jay A. Summerville
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