

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT DIVISION IV

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| ST. LOUIS COUNTY, MISSOURI, |) | No. ED94471 |
| |) | |
| Appellant, |) | Appeal from the Circuit Court |
| |) | of St. Louis County |
| vs. |) | |
| |) | Honorable Steven Goldman |
| RICHARD F. BERCK, and |) | |
| ALL AMERICAN PAINTING, L.L.C., |) | |
| |) | |
| Respondents, |) | FILED: October 12, 2010 |

St. Louis County (County) appeals from the trial court's Judgment awarding interest in the amount of \$40,438.36 to Richard F. Berck and All American Painting's (hereafter collectively referred to as Berck). The award of interest was made pursuant to Section 523.045, RSMo 2000¹ following County's termination of condemnation proceedings against Berck's property. County argues that the trial court erred in awarding Berck interest because, pursuant to Section 99.810.1(3) of the Real Property Tax Increment Allocation Redevelopment Act (TIF Act), the trial court lost jurisdiction to act when it did not acquire Berck's property within five years from the date County approved the redevelopment plan. County further argues that County did not abandon the condemnation proceedings to trigger the application of Section 523.045, nor did Berck suffer a deprivation of property rights under Section 523.045.

AFFIRMED.

Division Four holds: In accordance with the Missouri Supreme Court's pronouncement regarding jurisdiction in *J.C.W. ex rel. Webb v. Wyciskalla*, 275 S.W.3d 249 (Mo. banc 2009), we find that the trial court retained constitutional subject matter jurisdiction over the condemnation action after County abandoned the action by filing its "Memorandum to Court Regarding Jurisdiction." Despite the time restrictions of Section 99.810.1(3) of the TIF Act, we hold that the trial court also had statutory authority under Chapter 523 to consider Berck's rights according to Section 523.045, including an award of interest. The trial court acted within its discretion in awarding interest pursuant to Section 523.045, and thus, we affirm the trial court's judgment.

Opinion by: Kurt S. Odenwald, P.J. Robert G. Dowd, Jr., J. and Nannette A. Baker, J., Concur.

Attorney for Appellant: Paul J. Puricelli and Sam J. Alton
Attorneys for Respondent: Robert Denlow and Paul G. Henry

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.

¹ All subsequent statutory citations are to RSMo 2000, unless otherwise indicated.