

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT
DIVISION TWO

FRED EPPENBERGER, MAXINE)	No. ED95446
SMITH and WILLIAM BAIN, individually)	
and on behalf of others similarly situated,)	
)	
Plaintiffs/Appellants,)	
)	Appeal from the Circuit
vs.)	Court of St. Louis County
)	
METROPOLITAN ST. LOUIS SEWER)	
DISTRICT,)	
)	Honorable John F. Kintz
Defendant/Respondent.)	
)	Filed: April 19, 2011

Fred Eppenberger, Maxine Smith, and William Bain (hereinafter and collectively, “Homeowner”) brought suit against Metropolitan Saint Louis Sewer District (hereinafter, “MSD”) for a known dangerous condition of the River des Peres and inverse condemnation in connection with the flooding of their homes. MSD filed a motion for summary judgment which was granted by the trial court. Homeowner brings this appeal.

REVERSED AND REMANDED.

Division Two Holds: The trial court erred in entering summary judgment in favor of MSD because MSD failed to prove as a matter of law that it did not commit a tangible act which waived its sovereign immunity.

Opinion by: George W. Draper III, J.
Glenn A. Norton, P.J. and Kathianne Knaup Crane, J., concur

Attorneys for Appellants: John Campbell, Erich V. Vieth, David R. Dubin
Attorney for Respondent: Mary C. Bonacorsi, Pamela J. Meanes

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.
--