

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

CITY OF UNIVERSITY CITY, et al.,)	No. ED96940
)	
Appellants,)	Appeal from the Circuit Court
)	of St. Louis County
vs.)	
)	Honorable B.C. Drumm, Jr.
)	
AT&T WIRELESS SERVICES, et al.,)	
)	
Respondents,)	FILED: March 27, 2012

The City of Lebanon, Missouri (“City”) appeals from the trial court’s final order and judgment denying City’s challenge to the rejection of its claim to be included in a settlement class by Defendant Alltel Communications, LLC (“Alltel”). City argues that the trial court erred in finding Section 26.8 of the Code of Laws of the City of Lebanon (“Section 26.8”) imposes a right of way usage fee rather than a Business License Tax, thereby removing City from the settlement class.

AFFIRMED

Division IV holds: Because Section 26.8 is not ambiguous and the application of the plain meaning of the language used in the ordinance does not create an absurd or illogical result, we apply the plain meaning of the text of Section 26.8 to the requirements of the Settlement Agreement. The plain language of Section 26.8 imposes a “use or rental fee,” which is expressly excluded from the Settlement Agreement. Therefore, the trial court did not err in denying City’s challenge to its exclusion from the settlement class. We do not address City’s argument that Section 26.8 imposes a franchise tax because we find no evidence in the record that City presented that theory before the trial court.

Opinion by: Kurt S. Odenwald, C.J., Patricia L. Cohen, J., and Robert M. Clayton III, J., Concur.

Attorney for Appellant: John F. Mulligan, Jr. and James H. White

Attorney for Respondent: Jason L. Ross and Kirsten M. Ahmad

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.