

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

WINDHOVER, INC. AND)	
JACQUELINE GRAY,)	
)	
Plaintiffs,)	Cause No. 07-cv-881 ERW
)	
v.)	
)	
CITY OF VALLEY PARK, MISSOURI,)	
)	
Defendant.)	

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rules of Civil Procedure 56(a) and for the reasons set forth in the Memorandum in Support of this Motion and Statement of Uncontroverted Material Facts, which are filed herewith, Plaintiffs Windhover, Inc. and Jacqueline Gray respectfully move this Court for entry of summary judgment against Defendant City of Valley Park.

As fully set forth in the accompanying Memorandum in Support, Plaintiffs are entitled to judgment on their behalf as a matter of law with respect to their claim that Valley Park Municipal Ordinance No. 1722, as amended, is invalid unenforceable because there is a prior state-court judgment that the same penalty provision that appears in Ordinance No. 1722 is invalid under Mo.R.Stat. § 79.470. The invalidation of the penalty provision renders the entire Ordinance invalid under state law. Summary judgment on this issue will obviate litigation regarding the validity of Ordinance No. 1722 under federal law.

Plaintiffs request oral argument on this motion, and respectfully request that it be consolidated with any oral argument on Defendant's Motion for Summary Judgment.

WHEREFORE, Plaintiffs respectfully request that the Court issue an order granting summary judgment in favor of Plaintiffs declaring Ordinance No. 1722 to be void and invalid, and permanently enjoining Defendant from enforcing Ordinance No. 1722, as amended, or any ordinance that is substantially the same and that suffers from the same flaws under state law.

Dated: August 29, 2007

Respectfully submitted,

/s/ Daniel J. Hurtado

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served on Defendant's counsel of record, listed below, by operation of the Court's ECF/CM system on August 29, 2007.

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