

CITY V. COUNTY

Constitutional Conflicts

by Ken Heinz

Several recent circuit court decisions have raised interesting questions of the extent of county authority over municipalities. In each case, the home rule charter was pitted against the constitutional authority of home rule counties. In the first case, *Pepper, et al. v. St. Charles County, et al.*, the Plaintiffs were the municipalities of St. Peters, O'Fallon and Lake St. Louis, plus two registered voters. The dispute arose when a county charter amendment was approved by the voters in November 2014 that prohibited the use of red light cameras or automated traffic enforcement systems to enforce traffic regulations. The Missouri Municipal League intervened on behalf of the municipalities. The circuit court concluded that the charter amendment does not violate Article VI, Sections 18a, b and c of the Missouri Constitution. The Plaintiffs contended that the referendum violates Article VI, Section 18a because it does not provide for counties their "own" government. The circuit court disagreed and held that Section 18a was a mere enabling provision and does not prohibit the County from enacting legislation pertaining to municipal functions. Secondly, Plaintiffs contended that the charter amendment invaded the province of general legislation involving public policy of the state as a whole, specifically the exclusive authority of cities to control traffic on municipal streets. The circuit court concluded that the County could enact reasonable

traffic regulations, even though the cities also had authority. The authority of cities is not exclusive. The court found that the charter amendment implicated no statewide or national concern. Finally, the circuit court found that Article VI, Section 18c granted the County authority to exercise power in the area of traffic regulation. The court granted Summary Judgment to the Defendants and against the municipalities. The matter is now on direct appeal to the Supreme Court of Missouri.

The second decision originated from a dispute in St. Louis County, Missouri. In the wake of the Ferguson riots in August and November, 2014, the St. Louis County Council passed an ordinance, which required that each municipality meet the minimum standards set by St. Louis County or risk various penalties, both financial and otherwise. Ordinance 701.250 established, among other things, an extensive and multifaceted system of standards, contractual reviews, audits and supervision of municipal police departments by St. Louis County government.

Approximately 16 municipalities in St. Louis County filed two separate lawsuits challenging the authority of St. Louis County to legislate in the incorporated areas of the County. The Plaintiffs challenged the power of St. Louis County to enact and enforce an ordinance under Missouri Constitution, Article VI, Section 18(c). That section

provides that home rule charter counties may provide for legislative power and services outside of incorporated areas, and may provide service to incorporated areas by contract or by countywide vote. Since there was no contract or vote for county ordinance 701.250, the court granted Summary Judgment to the Plaintiffs and declared the ordinance invalid and unenforceable. The court rejected the Defendant's argument that the County's ordinance was authorized pursuant to general statutory authority to promulgate ordinances relating to public health. The circuit court's decision was rendered on May 4, 2016. The County is appealing the decision to the Eastern District of the Missouri Court of Appeals.

City-county conflicts have occurred in the past, but these two cases could well define future city-county relations. □

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