

IN THE CIRCUIT COURT OF CLAY COUNTY, MISSOURI

GLADSTONE SPECIAL ROAD DISTRICT
NUMBER 3 OF CLAY COUNTY, ET AL.,

Plaintiffs,

vs.

COUNTY OF CLAY, MISSOURI

Defendant.

Case No. CV104-007225 CC

Division No. 2

JUDGMENT

NOW ON THIS 23rd day of December, 2006, the Court takes up the cross Motions for Summary Judgment of the Plaintiffs and Defendant, and based on the record before the Court, and arguments of counsel, the Court makes the following determinations:

I. FINDINGS OF FACT

1. The Court adopts and incorporates the Joint Stipulation of Facts filed by the Plaintiffs and Defendant as the factual basis for the Court's Judgment;
2. The parties have jointly stipulated to the voluntary dismissal without prejudice of Count II of the Plaintiffs' Petition; and
3. That the Court finds that there are no material facts in dispute as to Count I of the Plaintiff's Petition, and therefore, summary judgment as a matter of law is appropriate in this matter.

II. CONCLUSIONS OF LAW

4. That the Plaintiffs' are entitled to judgment on Count I of their Petition as a matter of law;

5. That Section 67.548, Revised Statutes of Missouri, is unambiguous and may be applied in its plain meaning;

6. That subsection 1. of Section 67.548 provides an alternative means that the Clay County Commission may use, in its discretion, to supplement or fully fund its road and bridge obligations to the Plaintiffs through the use of County sales taxes.

7. That the Clay County Commission's reduction of its road and bridge levy in 1988 was done pursuant to Section 67.548, thereby obligating the County to the duties imposed by Section 67.548.2.

8. That subsection 2. of Section 67.548 mandates funding by the County Commission to the Plaintiffs based upon the equivalent of the last annual road and bridge property tax levy imposed in the year immediately prior to the reduction or elimination of such levy, applied to the current assessed value of property within the jurisdiction of each Plaintiff.

9. That subsection 2. of Section 67.548 further requires the County Commission to continue funding to the Plaintiffs from County sales tax revenues at the same property tax rate equivalency applied to current assessed valuation "in subsequent years."

10. That the "subsequent years" language in subsection 2 clarifies the intent of the General Assembly that the minimum-funding guarantee must continue in each of the years following the "year of reduction." *Kearney Special Road District v. Clay*, 863 S.W.2d 841 (Mo. 1993).

11. That Section 67.548.2. mandates that the Clay County Commission continue to provide funding to the Plaintiffs at the property tax levy equivalent of the last road and

bridge property tax levy, which occurred in the 1987 tax year, in all subsequent years so long as the County continues to utilize the sales tax alternative method of funding the Plaintiffs as provided for in Section 67.548.1.

12. That the Court declares that Section 67.548 operates only prospectively and is not an *ex post facto* enactment in violation of the Constitution of the State of Missouri;

13. That the Court declares that the proposition presented to the voters of Clay County in the election held in November, 2001 as to the future levy rate for the County Road and Bridge Property Tax, was an unauthorized advisory election that did not change the County's obligation to fund roads and bridges pursuant to Section 67.548, and was also an unauthorized delegation of Defendant's authority under Section 137.555 to set the county road and bridge levy, rendering the election invalid.

14. That the Court declares that Section 67.548 does not violate the restrictions of Article X, Sections 16 and 21 of the Missouri Constitution, commonly known as "the Hancock Amendment," in that the statute does not mandate new or additional financial requirements upon the Defendant County, but rather only provides an alternative funding mechanism that the Defendant is free to adopt or reject in lieu of the traditional property tax levy system of road and bridge funding.

15. That the Court declares that Section 67.548 does not infringe upon the authority of the Missouri State Auditor under Section 137.073.6., RSMO, in that the State Auditor has no authority to set levies or other tax rates for Clay County.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

THAT the Court declares that the plain meaning of Section 67.548.2, RSMo, is that payments to be made to the Plaintiff Special Road Districts and Cities by

Defendant Clay County for road and bridge purposes from the County's sales tax revenues are mandated to be at least the equivalent of the property tax levy as it existed in the year prior to reduction or elimination of such levy.


FURTHER, THAT the Court declares that payments by the Clay County Commission to the Plaintiffs are mandated under Section 67.548.2., Revised Statutes of Missouri, to be based upon the equivalent of the 1987 Clay County Road and Bridge property tax levy of 24 cents per \$100 of assessed valuation as applied to the current assessed valuation of the property within the jurisdiction of each Plaintiff, for all years subsequent to 1988, so long as the Clay County Commission elects to use the sales tax alternative method for such funding provided under Section 67.548.1. RSMo.

FURTHER, THAT the Plaintiffs' Motion for Summary Judgment is granted and the Defendant's Motion for Summary Judgment is denied;

FURTHER, THAT any legal issues raised by the Defendant not determined by the Court in this Judgment are declared to have no material or legal effect on the judgment of the Court; and

FURTHER, THAT the costs of this cause of action are assessed against the Defendant.

Entered this 28th day of December, 2006.



A. Rex Gabbert, Judge

ATTEST A TRUE COPY:

CLAY COUNTY CIRCUIT CLERK

By  D.C.