

Library District to Appeal Court Ruling in Tax Case

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The Franklin County Library District will appeal a court decision finding that it overcharged taxpayers in 2003, 2004, 2005 and 2006.

Last week, the Missouri Court of Appeals Eastern District reversed a 2007 decision by Franklin County Circuit Judge Cynthia Eckelkamp and ruled in favor of a group of taxpayers who alleged the Franklin County Library District violated the state's Hancock Amendment in setting its property tax rates from 2003 through 2006.

The taxpayers, led by Jack Koehr, a retired St. Louis City judge who moved to Franklin County in 1997, alleged the library district failed to use the proper prior year tax rate in calculating its year 2000 tax rates which resulted in the collection of approximately \$678,000 in excess property tax revenues in the disputed years.

Koehr has filed a series of lawsuits against Franklin County taxing entities alleging Hancock violations over the past 10 years. The Hancock Amendment imposes limitations on a political subdivision's ability to increase taxes without a vote of the people.

In 2006, Eckelkamp approved a structured settlement involving four of those lawsuits which resulted in county taxpayers receiving nearly \$1.9 million worth of tax credits through 2010. The settlement was reached after the court of appeals ruled the county violated the Hancock Amendment when it rounded up its tax rates to the next higher whole cent.

Credits

The credits to taxpayers are small, in most cases less than \$5. But Koehr was successful in forcing the county to recalculate its tax rates in the disputed years. The case against the library district was severed from those lawsuits on procedural grounds. Koehr also is seeking tax refunds in the case against the library district.

"The Franklin County Library Board has met and directed our attorney to proceed with an appeal," Ken Rohrbach, director of the Scenic Regional Library, said Tuesday.

"This (decision) is very frustrating because we followed the recommendations of the state auditor's office

in setting every levy. They reviewed the levies and certified them. We are required to do so by law, we don't have a choice. We followed their procedures and they approved them. We don't do anything willy-nilly and we didn't here. We acted with the advice of our attorney and with the state auditor regulations. Judge Eckelkamp saw it that way but the appeals court didn't," Rohrbach explained.

Byron Francis, one of the attorneys representing the taxpayers, said the issues raised in this case were the same as those raised in a series of companion cases against Franklin County. Francis said the library district refused to settle.

"On behalf of the taxpayers and Franklin County we are pleased with the court's decision for obvious reasons," Francis said.

Marc Ellinger, who represented the library district in the case and Franklin County in some of the other cases, acknowledged some of the issues were similar to the other cases previously adjudicated, but others were not.

"The (appeals) court didn't address some of those issues in its opinion," Ellinger explained. "We hope the appeals court will take another look at those or the Supreme Court will."

The central issue in the case involved the calculation of the tax rate ceiling in 2000. The tax rate levied in 2000 by the district was \$0.0979 based on a tax rate ceiling of \$0.1000. The taxpayers argued that if the prior tax rate ceiling in 1999 was \$0.0833, then the tax rates imposed and collected by the library district from 2000 forward were excessive because of the

rounding.

The Issue

At issue in the case was the tax rates imposed and collected in the years 2003 through 2006. However, the appeals court concluded the library district overcharged taxpayers from 2000 through 2006.

The library district, like other taxing entities here and statewide, followed a practice sanctioned at the time by the state auditor's office that permitted rounding to a cent. Those regulations have since been discontinued.

Judge Eckelkamp ruled that the rounding methods used by the state auditor passed constitutional requirements. "The library and the state auditor were following the regulations in effect at the time every time a tax rate ceiling was set. This court cannot say that was wrong," she wrote in her judgment in August 2007.

The court of appeals, in a sharply worded opinion, disagreed ruling that a regulation of the state auditor cannot trump the Missouri Constitution. It also noted that the library district's attorney had warned that the auditor's rounding instructions were unconstitutional and could lead to additional litigation.

Sallie Hancox, who retired from Scenic Regional Library in 2008 after serving as its director for 32 years, testified in the case.

"The one thing that I found upsetting and unfortunate in the case was that the whole thing centered on the methodology of computing the taxes. What the library district did was no different than what every other political subdivision or taxing entity was doing at the time. Basically we were all using the same formulas. If the methodology was at issue, we had nothing to do with that," she explained.

Koehr filed another lawsuit against the library district in December 2008. The court of appeals did not address that suit in its opinion.