# IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

#### COMPLETE TITLE OF CASE

CITY OF KANSAS CITY, MISSOURI,

Respondent,

v.

KAREN CHASTAIN, et al.,

Appellants.

### **DOCKET NUMBER WD**75029

# MISSOURI COURT OF APPEALS WESTERN DISTRICT

**DATE:** January 15, 2013

### APPEAL FROM

The Circuit Court of Jackson County, Missouri The Honorable Sandra C. Midkiff, Judge

## **JUDGES**

Division Four: Welsh, C.J., Pfeiffer, J., and Shafer, Sp.J.

CONCURRING.

#### **ATTORNEYS**

Sarah Baxter, Assistant City Attorney Kansas City, MO

Attorney for Respondent,

Jeffrey J. Carey Lee's Summit, MO

Attorney for Appellants.



# MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

SOURI,	)	
Respondent,	)	
•	)	OPINION FILED: January 15, 2013
	)	January 13, 2013
Appellants.	)	
	Respondent,	Respondent, ) )

WD75029 Jackson County

**Before Division Four Judges:** James Edward Welsh, Chief Judge, Mark D. Pfeiffer, Judge, and Abe Shafer, Special Judge

Karen Chastain and additional members of a "Committee of Petitioners" (hereinafter "Chastain") appeal the judgment of the Circuit Court of Jackson County, Missouri ("trial court") declaring that a proposed ordinance initiative petition violates the Missouri Constitution. Chastain also appeals the trial court's dismissal of her counterclaim and the trial court's admission of several of the City of Kansas City's exhibits at the evidentiary hearing. On appeal, Chastain claims that the trial court lacked authority to rule on the constitutionality of the proposed initiative ordinance because the City failed to prove that it lacked an adequate remedy at law. Chastain also claims that the trial court erred in declaring the proposed ordinance to be a facially unconstitutional appropriation ordinance and, therefore, that her counterclaim for mandamus should have been granted.

#### AFFIRMED.

#### **Division Four holds:**

Missouri courts have held, as a matter of law, that pre-ballot judicial review of proposed initiative measures is appropriate to determine whether the proposed initiative facially violates the Missouri Constitution. In this case, the proposed ordinance adopts two sales taxes to "help fund" a transportation system extending throughout Kansas City and to "finance bonds and secure federal matching funds." Because the plain language of the initiative evidences that the proposed project is not completely funded by the sales taxes that the initiative imposes, it is an

unconstitutional appropriation ordinance and, therefore, need not be submitted to the voters of Kansas City. Furthermore, the "Information Sheet" that was passed with the petition by committee members gathering signatures for the initiative estimates that the new sales taxes would fund less than half of the total cost of the project. Therefore, the trial court did not abuse its discretion in admitting the document into evidence.

Opinion by: Mark D. Pfeiffer, Judge

January 15, 2013

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.