

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

GREG PAGE, ET AL

Appellants

v.

SCAVUZZO, ET AL

Respondents

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DOCKET NUMBER WD75337

DATE: April 30, 2013

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Appeal From:

Circuit Court of Cass County, MO  
The Honorable R. Michael Wagner, Judge

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Appellate Judges:

Division Two  
Karen King Mitchell, P.J., Thomas H. Newton, and Lisa White Hardwick, JJ.

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Attorneys:

Derek Teeter, Kansas City, MO

Counsel for Appellants

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Attorneys:

Paul Campo, Lee's Summit, MO

Counsel for Respondents

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

GREG PAGE, ET AL, Appellants, v.  
SCAVUZZO, ET AL, Respondents

**WD75337**

**Cass County**

Before Division Two Judges: Mitchell, P.J., Newton, and Hardwick, JJ.

After the General Assembly enacted section 184.503, Friends of the Zoo (FOTZ) sought to have Cass County participate in the KC Zoo District and to implement the relevant county sales tax. It submitted a petition to the Cass County Commissioners seeking to put the question of Cass County’s participation in the KC Zoo District to the voters. The Cass County Clerk certified that the petition had the required number of signatures, but the Cass County Commissioners refused to place the question on the ballot. FOTZ sought a declaration from the circuit court that section 184.503 required the Cass County Commissioners to place the measure on the ballot. Each party filed a motion for summary judgment. The trial court granted summary judgment in favor of the Cass County Commissioners. FOTZ appeals.

**AFFIRMED.**

**Division Two Holds:**

FOTZ contends the trial court erred in granting summary judgment in favor of the Cass Commissioners because section 184.503.1 required the Cass County Commissioners to submit the ballot question to the voters. As relevant here, section 184.503 states that (1) “the governing body . . . may, by resolution, authorize the creation of or participation in a [zoo] district”; (2) “[a] petition *requesting* such creation of or participation in such district . . . may also be filed with the governing body; and (3) “[n]o such resolution adopted or petition presented . . . shall become effective *unless* the governing body of the eligible county submits to the voters . . . a proposal to authorize the governing body of the eligible county to create or participate in a district.” The trial court determined that the statute’s unambiguous, plain, and ordinary meaning, is that the Cass County Commissioners are the ultimate arbiters of whether to submit a valid zoo district petition question to the voters.

FOTZ argues that the trial court erred in placing emphasis on the word “unless” because it does not bear on whether the Commission is required to submit the ballot question to the voters and instead merely states that voters must approve joining the zoo district. We do not agree. The provision does not state that no resolution or petition becomes effective *unless approved* by the voters. It states that no resolution or petition becomes effective unless the Cass County Commissioners *submit it* to the voters.

Next, FOTZ takes issue with the trial court’s reliance on the statute’s use of the word “requesting.” FOTZ contends that the trial court erred because “requesting” refers to a request to the voters, not to the governing body. Again, we are bound by the plain language of the statute, which states simply that a request may be filed with the governing body.

FOTZ further contends that the trial court erred because it placed weight on the legislature's removal of the word "shall" while the bill was in Committee. Here, because the statute cannot reasonably be read to impose a mandatory duty on the Cass County Commissioners, there is no ambiguity requiring us to look outside the statutory language. Even if we did look to the legislative history, the amendment omitting the word "shall" supports the trial court's interpretation and lends no weight to FOTZ's argument.

Finally, FOTZ contends that the trial court erred because it read section 184.503 inconsistently with statutes governing the establishment of a zoo and museum district in St. Louis and a zoo district in Springfield. It argues that we must construe all these sections *in para materia* and if so construed, FOTZ's interpretation of section 184.503 is correct. *In para materia* refers to a rule of construction that directs that consistent statutes relating to the same subject are construed together as though constituting one act. Even if we were to apply this rule of construction, there is no inconsistency or disharmony in following each section's plain language. Moreover, these sections illustrate that where the General Assembly has intended the ballot submission to be mandatory, it has so stated in plain and unambiguous terms. FOTZ's sole point is denied.

Accordingly, we affirm the trial court's summary judgment.

Opinion by Thomas H. Newton, Judge

April 30, 2013

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