

**Summary of SC89186, *The City of Valley Park, Missouri v. Matthew Armstrong, et al.***  
Appeal from the St. Louis County circuit court, Judge Patrick Clifford.

**Attorneys:** The boundary commission was represented by David T. Hamilton and Elizabeth M. Chostner of Hazelwood & Weber LLC in St. Charles, and Valley Park was represented by Eric M. Martin of Chesterfield.

*This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.*

**Overview:** A circuit court determined that a county boundary commission's decision rejecting an annexation proposal was arbitrary, capricious or unreasonable and ordered that the proposed annexation go to a vote in the affected areas. In a 7-0 per curiam decision that cannot be attributed to any particular judge, the Supreme Court of Missouri affirms the circuit court's decision. The circuit court properly conducted an evidentiary hearing because the proceeding before the boundary commission was a noncontested case that lacked the necessary evidentiary record for review, and the evidence supports the circuit court's decision reversing the boundary commission's decision and finding the annexation proposal to be in the best interests of the affected parties.

**Facts:** In 2004, Valley Park submitted to the St. Louis County boundary commission a proposal to annex Peerless Park. After a public hearing, Valley Park submitted an amended proposal, which the commission rejected. Valley Park sought review in the circuit court, which reversed the commission's decision – finding it was arbitrary, capricious and unreasonable – and remanded (sent back) the annexation proposal to the boundary commission for referral to the county board of election commissioners for an election on the annexation proposal to be held in the two towns. The boundary commission appeals.

**AFFIRMED.**

**Court en banc holds:** (1) Because section 72.403, RSMo 2000, does not provide for an adjudicatory hearing in which Valley Park was permitted to try its case before the boundary commission and develop an evidentiary record, this case must be reviewed as a noncontested case. Contested cases provide an opportunity for a formal hearing and the presentation of evidence, including sworn testimony and cross-examination of witnesses, and require written findings of fact and conclusions of law. In reviewing a contested case, a circuit court does not take additional evidence but looks to the record developed before the administrative body. In contrast, noncontested cases do not require formal proceedings or hearings before the administrative body. In reviewing a noncontested case, a circuit court does not review the administrative record but instead hears evidence, determines facts and adjudges the validity of the agency action. Here, although there was

a public hearing, Valley Park was limited to a 15-minute presentation, witnesses did not give testimony under oath and were not cross-examined, interested parties were allowed to submit letters about the proposal for 21 days after the hearing, and the formal rules of evidence were not followed. As such, the case was a noncontested case.

(2) Substantial evidence supports the circuit court's judgment that the annexation proposal was in the best interests of the affected parties and, therefore, that the boundary commission's decision was arbitrary, capricious or unreasonable. In determining whether a proposed boundary change will be in the best interests of the affected areas, section 72.403, RSMo 2000, requires the boundary commission to consider a number of specific factors. After considering all the evidence and the relevant statutory factors, the court found that the proposed annexation was in the best interests of Valley Park, Peerless Park, contingent unincorporated areas and contingent areas of the county. Its findings and conclusions are supported by the record, which demonstrates that if the proposal went into effect, sales, real estate and personal property taxes would increase but would not create an unreasonable burden on Peerless Park, which would receive new, sought-after services. Its finding that the estimated annual revenue loss to St. Louis County is insignificant also is supported by the evidence, which shows the revenue loss would represent only 0.03 percent of the county's annual budget. No facts in the record contravene the court's finding that the proposed boundary is a logical progression of current boundary lines or that the nearby Meramec River presents no obstacle to the proposed extension of Valley Park's boundary lines. Further, a number of the few people who live in the proposed area to be annexed – which is mostly industrial and commercial – submitted a petition to allow them to vote on the proposed annexation.