

Summary of SC89558, *South Metropolitan Fire Protection District v. City of Lee's Summit, Missouri*

Appeal from the Jackson County circuit court, Judge Marco A. Roldan.

Attorneys: Lee's Summit was represented by Paul Campo and Betsy Blake of Williams & Campo PC in Lee's Summit, (816) 251-4646, and Robert H. Handley and Michael A. Rump of the city's law department, (816) 969-1400; and South Metro was represented by Cindy Reams Martin, a solo practitioner in Lee's Summit, (816) 554-6444. The Missouri Association of Fire Protection Districts, which filed a brief as a friend of the Court, was represented by Joy D. McMillen and Timothy W. Jones of Doster Guin James Ullom Benson & Mundorf LLC in Chesterfield, (636) 532-0042. The Missouri Municipal League, which also filed a brief as a friend of the Court, was represented by Howard C. Wright Jr. in Springfield, (417) 883-6705.

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 trial court granted judgment to a fire protection district in a dispute as to whether the district or the city is to provide fire protection and emergency medical services to property formerly within the district that was annexed voluntarily into the city. In a unanimous decision written by Judge William Ray Price Jr., the Supreme Court of Missouri reverses the trial court's judgment and instead enters judgment in the city's favor. There is a conflict between two potentially applicable statutes – sections 72.418 and 321.320, RSMo – because application of each yields a different result. To harmonize and give meaning to both statutes, and based on their language and history, the conflict is resolved by drawing a distinction based on whether the county in which the annexed property is located has established a boundary commission. Here, because the county in which the property is located does not have a boundary commission, section 321.320 applies to exclude the annexed property from the fire protection district.

Facts: Lee's Summit, a constitutional charter city in Cass and Jackson counties, operates its own fire and ambulance services. South Metropolitan Fire Protection District, formed in accordance with chapter 321 provides fire and ambulance services within its geographic boundaries, which includes some property in Cass County. In January 2005, Lee's Summit annexed approximately 320 acres of unincorporated property within the South Metro district in Cass County. As the city began developing the annexed property two years later, South Metro became aware the city was using its own fire and ambulance services for the area. In October 2007, South Metro filed suit for declaratory judgment and injunctive relief. The trial court applied section 72.418 and granted declaratory judgment and injunctive relief in South Metro's favor. Lee's Summit appeals.

REVERSED.

Court en banc holds: (1) The legislature has enacted three statutes that address fire protection services and revenues for property located within both a city and a fire protection district. One of these – section 321.322 – does not apply directly here, for the only city that currently fits its terms is Harrisonville. The other sections are section 321.320 and section 72.418. Section 72.418 was included in Senate Bill No. 256 in 1993, which took effect immediately upon its passage

through an emergency clause noting there were several annexation proposals pending at the time before a boundary commission that were leading to disputes as to fire protection and emergency medical services jurisdiction between municipal fire departments and fire protection districts. Both sections address the provision of fire protection and emergency medical services for property that is annexed voluntarily, and both permit the district to levy taxes on the property to pay bonded indebtedness that existed prior to annexation. In addition, section 72.418 provides the district with direct compensation from the city for fire protection and emergency medical services, while section 321.320 does not.

(2) When examined together, sections 321.320 and 72.418 conflict with respect to whether the city or the fire protection district provides fire protection and emergency medical services to the property at issue here and what resources are available to each entity. Section 321.320 excludes from a fire protection district any property located in the district's boundaries and included in a city with at least 40,000 inhabitants and that is not wholly within the fire protection district. According to this section, the annexed property is excluded from the district because it is included in Lee's Summit, which has more than 40,000 inhabitants, maintains a fire department and is located within – but not wholly within – South Metro's boundaries. In contrast, section 72.418 provides that fire protection districts serving an area included in any annexation by a city with a fire department shall continue to provide fire protection and emergency medical services to such an area. According to this section, South Metro shall continue to provide the services because the property previously received services from South Metro and Lee's Summit acquired the property through annexation. Because each section provides for a different result, the legislature could not have intended both to apply to this situation.

(3) This Court must harmonize the conflicting sections and give both meaning. Applying rules of statutory construction to sections 72.418 and 321.320, however, does not resolve their conflicting application conclusively. This conflict is resolved by applying section 72.418 to counties with a boundary commission and section 321.320 to counties without a boundary commission. Such a resolution is supported by the statutory language. By its terms, section 72.418 applies only in counties that establish a boundary commission. The population language contained in section 321.322.3 excludes application in St. Louis County, currently the only county with a boundary commission. Other specific language contained in section 321.322.4, in effect, authorizes section 72.418 to apply to Harrisonville, a city in a county with no boundary commission. This application was drawn narrowly, providing further evidence that section 72.418 is intended primarily to apply in counties with a boundary commission. As a result, there is not sufficient reason to distinguish or overrule *Battlefield Fire Prot. Dist. V. City of Springfield*, 941 S.W.2d 491 (Mo. banc 1997) (addressing section 321.320 in context of the fire protection district's standing but not directly addressing the interplay between section 321.320 and 72.418). Here, because Lee's Summit is not located in a county with a boundary commission, section 321.320 applies to exclude the annexed property from the fire protection district.