

Summary of SC90790 *City of Lake St. Louis, Missouri v. City of O'Fallon, Missouri*

Appeal from the St. Charles County circuit court, Judge Ted House

Argued and submitted Sept. 7, 2010; opinion issued Oct. 26, 2010

Attorneys: Lake St. Louis was represented by Jeffrey T. McPherson, Jay A. Summerville and Jonathan D. Valentino of Armstrong Teasdale LLP in St. Louis, (314) 621-5070; and O'Fallon was represented by Kevin M. O'Keefe and Stephanie E. Karr of Curtis, Heintz, Garrett & O'Keefe PC in St. Louis, (314) 725-8788.

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: Lake Saint Louis appeals the trial court's dismissal of its petition for declaratory judgment because the trial court believed that Lake Saint Louis had no right to seek a declaration that certain disputed property is within its boundaries and that O'Fallon's attempted annexation of it is invalid. In a unanimous decision written by Judge Laura Denvir Stith, the Supreme Court of Missouri reverses the trial court's decision and remands (sends back) the case for further action, finding the trial court erred in granting O'Fallon's motion to dismiss. While individuals are not authorized to bring a declaratory judgment action to determine a boundary dispute as to a municipality, this limitation does not apply to a suit brought by the affected municipality, school district or other public corporation itself.

Facts: Lake St. Louis and O'Fallon are municipalities in St. Charles County. In March 2009, Lake St. Louis filed a petition for declaratory judgment against O'Fallon in which Lake St. Louis alleged that, in 1982, it had annexed certain property to the north of its prior boundary. The petition alleged O'Fallon disputed the northern boundary of Lake Saint Louis and claimed to have annexed property, issued permits and taken other actions within the boundary. The petition did not state when O'Fallon undertook its allegedly improper annexation. It did claim that Lake St. Louis had a legally protectable interest in enforcing its ordinances, collecting and administering taxes, and protecting the rights of the city and its residents in the disputed area. Lake St. Louis asked the trial court to enter judgment declaring that the northern boundary of Lake St. Louis included the area Lake St. Louis had annexed in 1982 and that O'Fallon had not annexed property legally within that boundary. O'Fallon filed a motion to dismiss the action, asserting that Lake St. Louis was not entitled to bring a declaratory judgment action to determine its boundaries and that, even if it could, the statute of limitations had run. The trial court granted O'Fallon's motion to dismiss without stating on which ground it ruled. Lake St. Louis appeals.

REVERSED AND REMANDED.

Court en banc holds: (1) A declaratory judgment action is not available to individual plaintiffs challenging a municipality's boundary. An individual who seeks to determine the legality of an annexation may do so only if the attorney general or county prosecutor agrees to file an action in quo warranto on behalf of the state at the relation of the individual. Certain court of appeals opinions have assumed that public corporations similarly are prohibited from bringing a declaratory judgment action to resolve a territorial dispute. On at least two occasions, this Court

has recognized that the policy considerations that prohibit a direct declaratory judgment action by an individual may not apply in the case of a directly affected public corporation such as a school district or city.

(2) Public corporations may bring declaratory judgment actions to determine their boundaries. To require a directly affected municipality to rely on a third party – the attorney general or county prosecutor – to bring suit over its boundaries would risk leaving it without a remedy if the attorney general and prosecutor exercise their discretion not to act. While this is appropriate when an individual litigant is involved, to avoid the multiplicity of suits that otherwise would ensue and to ensure that spurious claims are not asserted in an effort to affect the public body adversely, such reasoning does not apply to a municipality or other public corporation, which has a direct and vital interest in determining its own boundaries. Dismissal of Lake St. Louis's petition, therefore, was unwarranted.

(3) The statute of limitations issue is not ripe for determination as it cannot be determined from the petition when the alleged encroachment occurred.