

**Summary of SC90866, *City of Sullivan, a Missouri Municipal Corporation in Franklin and Crawford Counties v. Judith Ann Sites, as Trustee of the Judith Ann Sites Trust***

Appeal from the Crawford County circuit court, Judge William Camm Seay

Argued and submitted Sept. 8, 2010; opinion issued Dec. 7, 2010

**Attorneys:** Sites was represented by Jonathan Sternberg of Sternberg Law PC in Kansas City, (816) 474-3000, and Dennis Owens, an attorney at law in Kansas City, (816) 474-3000. The city was represented by Kevin M. O’Keefe and Stephanie E. Karr of Curtis, Heinz, Garrett & O’Keefe PC in St. Louis, (314) 725-8788, and Matthew A. Schroeder of Hansen, Stierberger, Downard, Melenbrink & Schroeder LLC in Union, (636) 583-5118. The Missouri Municipal League, which filed a brief as a friend of the Court, was represented by Howard C. Wright Jr., an attorney at law 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 property owner challenges the constitutional validity of an ordinance imposing higher connection fees for properties in a location that previously did not receive city sewer services. In a unanimous decision written by Judge Mary R. Russell, the Supreme Court of Missouri affirms the trial court’s judgment in the city’s favor. The ordinance is not an unconstitutional special law as there was substantial justification for the city’s creation of a class based on location.

**Facts:** In 1996, the city of Sullivan developed a plan to improve its sewer system and install new sewer lines in areas that previously had no sewer access. It proposed a \$3.3-million revenue bond to fund the sewer project and gave voters certain information about the plan, including the new areas that would receive sewer service and the connection fees that would be imposed in those areas. The city included in its plan to implement the sewer improvement project an ordinance outlining new sewer connection fees. Fees under the ordinance varied depending on the size of the connection and were substantially higher for properties located in areas that previously did not have sewer service. The city built new sewer lines within 100 feet of property the Judith Ann Sites Trust owns in an area that previously did not have sewer service. Because of the proximity of the trust property to the new lines, the ordinance required the trust to connect to the new sewer system. Sites, as trustee of the trust, refused to pay the costs for connecting to the system, which included the city’s sewer connection fee and the construction costs for a sewer line leading from her home on the property to the city’s new sewer line. The city sued, seeking an order compelling Sites to pay the necessary costs for a sewer connection. The trial court ultimately entered judgment in the city’s favor; ordered Sites to pay the costs for connecting her home to the city’s new sewer system; ordered that the city be permitted to enter Sites’ property to make the connection; and awarded the city \$3,750 in damages, the amount of Sites’ connection fee. Sites appeals.

**AFFIRMED.**

**Court en banc holds:** The trial court did not err in entering judgment in the city's favor because the sewer connection fee ordinance that Sites challenged is constitutional. It is not a special law prohibited by article III, section 40(30) of the Missouri Constitution. Although the ordinance creates a class based on geography (properties with no previous sewer service), the city had substantial justification for creating the class. The higher connection fees imposed on the class were necessary for those property owners in the class to receive the direct benefit of the new sewer service, which is an important government function. Imposition of the higher fees contributed to the city's ability to fund the sewer improvement project, as the connection fees were included in the overall costs of the new sewer system.