

Summary of SC91802, *State of Missouri ex rel. SLAH LLC v. City of Woodson Terrace, Missouri, a municipal corporation, et al.*

Appeal from the St. Louis County circuit court, Judge Larry L. Kendrick
Argued and submitted Dec. 1, 2011; opinion issued Aug. 14, 2012

Attorneys: The city was represented by Kevin M. O’Keefe and Edward J. Sluys of Curtis, Heinz, Garrett & O’Keefe PC in St. Louis, (314) 725-8788; and Frank J. Vatterott of Vatterott, Shaffar & Dolan PC in Maryland Heights, (314) 770-2100. SLAH was represented by David R. Bohm and Laura G. Long of Danna McKittrick PC in St. Louis, (314) 726-1000.

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 city appeals a trial court’s declaratory judgment invalidating its ordinances regarding hotel- and motel-license tax rates, setting the tax rate at that allowed by a state statute, and ordering the city to issue a hotel license and tax the hotel accordingly. In a 6-0 decision written by Judge Patricia Breckenridge, the Supreme Court of Missouri reverses the trial court’s judgment and remands (sends back) the case. A declaratory judgment action is improper here because a particular statute provides the exclusive remedy for challenging the legality of the city’s hotel-license tax rate, and this remedy is adequate to protect the hotel’s interests here.

Judge Scott Hayes, presiding judge of the 14th circuit (Howard and Randolph counties), sat in this case by special designation in place of Judge George W. Draper III.

Facts: Woodson Terrace imposed a hotel- and motel-license tax rate of \$10 per room per year until July 2004, the effective date of the city’s Ordinance 1606, which imposed a license tax on hotels and motels at a rate of 85 cents per day on each room occupied for a fee by transient guests. In August 2004, a statute passed earlier that year became effective. This statute – section 94.270.3, RSMo – prohibits particularly described cities from levying or collecting a hotel or motel license fee in excess of \$13.50 per room per year and automatically reduces to \$13.50 per room per year any fee that exceeds that allowed by the statute. According to 2000 census data, Woodson Terrace is the only city to which the description in the statute currently applies. In 2005, the legislature enacted section 94.270.6, RSMo, providing that no fourth-class city may increase its hotel or motel license tax by more than 5 percent per year and that the total tax levied may not exceed the greater of either 0.125 percent of the hotel or motel’s gross revenue or the license tax rate for the hotel or motel as it existed May 1, 2005. Each year, SLAH LLC has applied for a Woodson Terrace business license to operate its St. Louis Airport Hilton hotel. For fiscal 2005 through 2006, the city required SLAH to pay \$13.50 per room per year for the business license, consistent with section 94.270.3. In 2008, SLAH reapplied for a business license, but the Woodson Terrace city collector advised SLAH that it must use a new application form that set out the hotel license tax rate at 85 cents per room per day, consistent with Ordinance 1606. SLAH filed suit against the city, contesting the legality of the city’s increased hotel-license tax rate under the ordinance. In response to the suit, the city in December 2007 enacted Ordinance 1719 to reduce the hotel-license tax to 32 cents per occupied room per day and to permit increases of 5 percent up to the statutory maximum. Notwithstanding this decrease

in the tax, the city's hotel-license tax rate still exceeded the maximum rate of \$13.50 per room per year. Following a trial, the circuit court entered a declaratory judgment in SLAH's favor. It ruled that section 94.270.3 prohibits the city from charging a hotel-license tax rate in excess of \$13.50 per room per year and that section 94.270.6 prohibited the city from charging a tax rate exceeding 0.125 percent of the hotel's gross revenue or increasing the license tax rate by more than 5 percent per year. Under these statutes, the court found Ordinance 1719 to be invalid and reduced the tax rate under Ordinance 1606 to \$13.50 per room per year. The court entered its writ mandating that the city issue SLAH a business license for fiscal 2008 and 2009 and its writ prohibiting the city from charging SLAH more than \$13.50 per room per year or collecting any penalty or interest from SLAH for late payment of the taxes. The city appeals.

REVERSED AND REMANDED.

Court en banc holds: The trial court erred in entering a declaratory judgment in SLAH's favor because such an action is improper here. Rather, the exclusive remedy for SLAH to challenge the legality of Woodson Terrace's hotel-license tax rates is that afforded under section 139.031, RSMo. Section 527.010, RSMo, authorizes trial courts to "declare" rights, status and other legal relation regardless of whether further relief is or could be claimed. Section 527.020, RSMo, expressly authorizes trial courts to determine the validity of a statute or ordinance in a declaratory judgment action. Such actions are not intended to be a substitute for all existing remedies. A general remedy here is provided by section 139.031, RSMo, which establishes a procedure under which a taxpayer can adjudicate the legality of an imposed tax. That statute generally is the exclusive remedy for such a taxpayer. Here, had SLAH paid the disputed taxes under protest and brought suit pursuant to section 139.031, it would have placed before a court the same issues that it now claims in its declaratory judgment action. Further, a remedy under section 139.031 is adequate to protect SLAH's interests under the facts here.