

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI, EX REL. KAREN CHASTAIN, ET AL.,

APPELLANTS,

v.

CITY OF KANSAS CITY, MISSOURI, ET AL.,

RESPONDENTS.

DOCKET NUMBER WD70100

DATE: May 12, 2009

Appeal From:
JACKSON COUNTY CIRCUIT COURT
THE HONORABLE JOHN R O'MALLEY, JUDGE

Appellate Judges:
DIVISION ONE: ALOK AHUJA, Presiding Judge, HAROLD L. LOWENSTEIN,
Judge and THOMAS H. NEWTON, Chief Judge

Attorneys:
Valerie A. Chastain, Esq., Bedford, VA, **for appellant.**

Douglas McMillan, Esq., Galen P. Beaufort, Esq., George S. Diegel, Esq.,
Kansas City, MO and Jon M. Krebs, Esq. Liberty, MO and Steven B.
Salmon, Esq., Gladstone,, **for respondent.**

**MISSOURI APPELLATE COURT OPINION
SUMMARY**

COURT OF APPEALS -- WESTERN DISTRICT

STATE OF MISSOURI, EX REL. KAREN CHASTAIN, ET AL.,

APPELLANTS,

v.

CITY OF KANSAS CITY, MISSOURI, ET AL.,

RESPONDENTS.

WD70100

Jackson County

Before Division One Judges: Alok Ahuja, Presiding Judge, Harold L. Lowenstein, Judge and Thomas H. Newton, Chief Judge

In the summer of 2006, a group of five Kansas City residents formed a committee ("the Committee") and undertook the beginning stages of the initiative process. The Committee created a petition containing a proposed ordinance that called for extending an existing three-eighths cent transportation sales tax, set to expire on March 31, 2009, for twenty-five years, with the proceeds of the tax to be used solely for constructing, operating and maintaining a light rail transportation system in Kansas City. Following the procedures set forth in the Charter, the Committee obtained the requisite number of signatures and submitted the petition to the city clerk. However, the Council failed to pass the proposed light rail ordinance.

Acting under sections 702-03 of the Charter, the Committee required the Council to present the proposed ordinance to the electorate at the next available election. The Council complied, and the ordinance was placed on the November 7, 2006 ballot. The city's electorate voted to adopt the light rail ordinance.

One year and one day later, on November 8, 2007, nine members of the Council and the Mayor voted to repeal the light rail ordinance under the authority section 704 of the Charter. The Committee filed a petition for declaratory judgment and injunctive relief against the City of Kansas City, essentially seeking a declaration that Article VII, Section 704 of the Kansas City Charter is unconstitutional. The Committee contends that this particular provision of the Kansas City Charter provides the City of Kansas City the unconstitutional authority to interfere with voter initiated municipal ordinances. The City of Kansas City filed a motion to dismiss for failure to state a claim upon which relief can be granted. The trial court ultimately granted the motion and dismissed all of the claims contained in the Committee's petition. The Committee appeals.

AFFIRMED.

Division One holds: The trial court properly ruled that the Committee's petition failed to aver facts that would entitle them to relief. There is no provision contained in the Missouri Constitution which would secure the initiative on behalf of municipal voters. Moreover, in granting a

city the ability to adopt and amend a charter, the Missouri Constitution reflects a city's broad authority to tailor a form of government that its citizens believe will best serve their interest. Because the facts averred do not support a finding that Article VII, Section 704 of the Kansas City Charter is unconstitutional, the Committee fails to state a claim upon which relief can be granted. The trial court's judgment is affirmed.

Opinion by: Harold L. Lowenstein, Judge

May 12, 2009

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