

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

CITY OF OLIVETTE, MISSOURI, et al.,)
)
Plaintiff,)
) Cause No. 15SL-CC04142
vs.)
) Division No. 1
ST. LOUIS COUNTY, MISSOURI, et al.,)
)
Defendants.)

FILED
2015 4 - 2015
JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

JUDGMENT

Pending before the Court are Cross-Motions For Summary Judgment.

The parties agree that there are no genuine issues of material fact in dispute and that the matters before the Court may be decided as a matter of law. More particularly, the Plaintiffs and Defendants each seek a Judgment construing St. Louis County Ordinance No. 26254, codified in the St. Louis County Ordinances as Section 701.250, and determining its validity and enforceability. The municipal and individual Plaintiffs are asking the Court to declare that the Ordinance is invalid and unenforceable, and the Defendants have asked for a declaration that the Ordinance is valid and enforceable.

Ordinance 701.250 establishes, among other things, an extensive and multifaceted system of standards, contractual reviews, audits and supervision of municipal police departments by St. Louis County government. There are provisions for the takeover of municipal police departments by the St. Louis County Police Department, at the expense of the municipalities, as well as provisions for the prosecution of municipal officials for failure to comply with requirements set by St. Louis County.

There is no need to dissect the St. Louis County Ordinance into its component parts and then to evaluate each. The fundamental question to be addressed is whether the Ordinance rests upon a sound legal footing.

St. Louis County asserts that the powers granted to it in under the heading of “public health” support the enactment of the Ordinance.

St. Louis County cites to expert testimony adduced at the hearing before the St. Louis County Council on the proposed Ordinance. A witness recognized the benefits to the community of professional police standards. Another witness stated that the term “health” can include the “complete physical, mental, social and emotional well-being on an individual as well as a community and not merely the absence of disease or infirmity.”

It should be noted that the Plaintiffs objected to the County’s reference to the expert testimony as not being within the evidentiary record before the Court. Regardless, it is evident that adherence to professional law enforcement standards benefits the community.

Certainly many, if not all, of the services provided by St. Louis County government add to the physical, mental, social and emotional well-being of individuals and the community, but all are not public health services.

Powers Granted to St. Louis County

The powers granted to St. Louis County government derive from the Missouri Constitution, the Statutes of the State of Missouri and the St. Louis County Charter. They are not unlimited. Rather, they are limited and defined.

Missouri Constitution

Missouri Constitution Article VI, section 18(c) (provisions applicable to Charter Counties) states that Charter counties may provide for legislative power and services outside of incorporated areas and to incorporated areas by contract or by a County-wide vote. There is neither a contract between the municipal Plaintiffs and the County, nor a vote authorizing legislative powers or services to be provided to them by St. Louis County. Significantly,, “(W)hen such a proposition is submitted to the voters of the county the ballot shall contain a clear definition of the power, function or service to be performed and the method by which it will be financed.”

Missouri Statutes

Section 192.300 of the Missouri Revised Statutes authorizes Counties to promulgate ordinances “to enhance the public health and prevent the entrance of infections, contagious, communicable or dangerous diseases into County.”

Cities are authorized by the Missouri statutes to provide police services, subject to standards set by the State of Missouri. See Section 590.120 et seq. (Police Officer Standards and Training – POST).

St. Louis County Charter

The St. Louis County Charter does not permit the County to legislate, regulate, supervise or take over municipal police departments, unless, under Section 21, by contract or by a vote of the municipality authorizing the County to take over law enforcement services. The County has legislative power over public health and police and traffic in unincorporated areas under Section 23. See Sections 2.180.22, 23 and 24 of the St. Louis County Charter. There is neither a

contract between the municipal Plaintiffs and the County, nor a municipal vote authorizing legislative powers or services to be provided to them by St. Louis County.

Discussion

There is no doubt that, at the time of the adoption of the referenced portions of the Missouri Constitution, the Missouri Statutes, and the St. Louis County Charter, the terms “health” and “public health” meant freedom from disease. Law enforcement was a separate and distinct subject. The organization of St. Louis County government and the division of its governmental responsibilities demonstrate that St. Louis County has recognized these distinctions as well.

St. Louis County has a Department of Public Health. According to its website, “Public Health is the science and practice of preventing and improving the health of a community through a variety of means, including preventative medicine, health education, the control of communicable diseases, the application of sanitary measures, and the monitoring of environmental hazards.”

To this end, the St. Louis County Department of Health has divisions concerning themselves with: animal and mosquito control; birth and death records; disease and immunizations; emergency preparedness, environmental services; food and restaurants; and recycling and waste management, and others.

The Department of Health maintains health centers and provides medical services. It promotes community health and plans for community health improvement. It has an office of medical examiner. In its division of human services, it provides a variety of services from youth programs to older resident services, from homeless programs to veterans’ programs. Notably absent is any reference to law enforcement.

The St. Louis County Police Department provides law enforcement services to unincorporated areas within St. Louis County. It also provides services to municipalities under contract and provides services throughout the County in the case of special needs and hostage calls. It deploys crime scene investigators and maintains a crime lab with forensic scientists. It investigates major crimes. Notably absent is any reference to health or public health as within the authority or responsibility of the St. Louis County Police Department.

CONCLUSION

Neither the Missouri Constitution nor the Statutes of the State of Missouri nor the St. Louis County Charter authorized St. Louis County to enact Ordinance No. 26254, now Section 701.250 of the Ordinances of St. Louis County.

JUDGMENT

Plaintiffs' Motions For Summary Judgment are hereby Sustained, under Counts 1, 2 and 4 of Plaintiffs' Petition.

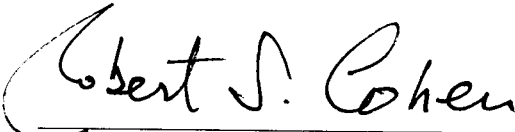
It is Ordered, Adjudged, Decreed and Declared that St. Louis County Ordinance Section 701.250 is invalid and unenforceable.

Defendants' Motion For Summary Judgment is Denied.

By this Judgment, the Court has not addressed the subject of Plaintiffs' claim for attorney fees, Plaintiffs' Motion For Temporary Restraining Order or Plaintiffs' claim under Count V of

the Ordinance being violative of the Hancock Amendment as an unfunded mandate.

SO ORDERED:


Robert S. Cohen, Judge

Date: May 4, 2016

Cc: Attorneys for Plaintiff
St. Louis County Counselor