

IN THE CIRCUIT COURT OF ANDREW COUNTY, MISSOURI

THE ANDREW COUNTY)	
HEALTH DEPARTMENT, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 16AW-CC00255
)	
JOSEPH KNORR, <i>et al.</i> ,)	
)	
Defendants.)	

FINAL JUDGMENT

Defendants Joseph Knorr, John Knorr, Stone Ridge Pork, LLC (Missouri), G.J.L. Farms, LLC and Stone Ridge Pork, LLC (Iowa) (collectively “Defendants”) filed Defendants’ Joint Motion for Summary Judgment (“Defendants’ Motion”) on April 28, 2017. The Defendants’ Motion sought summary judgment and a dismissal of Plaintiffs’ Verified Petition For Declaratory and Injunctive Relief (the “Petition”). Plaintiffs, the Andrew County Health Department, by and through its trustees, filed their Motion for Summary Judgment (“ACHD’s Motion”) on May 1, 2017. The motions of Defendants and Plaintiffs sought summary judgment on all counts of the Petition. Both summary judgment motions were fully briefed, and Defendants also moved to strike portions of ACHD’s Motion.

A hearing on both motions was held on June 26, 2017. Counsel for all parties was present, including Samuel Blatnick for the Plaintiffs; Jennifer Griffin for Defendants Joseph Knorr, John Knorr, and Stone Ridge Pork, LLC (Missouri); and Brian Rickert for Defendants G.J.L. Farms, LLC and Stone Ridge Pork, LLC (Iowa). The Court discussed the motions with the parties at length, and the parties separately relied upon their briefings and arguments in submitting their positions

to the Court. The parties agreed that the motions were ripe for ruling by the Court, and the Court took the motions under advisement.

Comes now the Court this 14th day of July, 2017, and, being fully advised in the premises and having duly considered the motions, briefs, other information submitted with the motions, the argument of parties, and the applicable law, enters its judgment based upon the following findings of fact and conclusions of law. For the reasons stated below, the Court finds as a matter of law based upon the material facts not in dispute that the ordinance sought to be enforced in this case by Plaintiffs is invalid and unenforceable. As a result, the Court hereby *sustains* the summary judgment motion of Defendants as to Counts I and II of the Petition and *denies* the summary motion of Plaintiffs as to Counts I and II of the Petition. This Judgment is final and fully disposes of all issues in this case.

I. Facts and Procedural Background

This case revolves around an ordinance that Plaintiff Andrew County Health Department (“ACHD”) alleges it adopted by and through its board of trustees on November 23, 2010 and that is titled AN ORDINANCE ESTABLISHING HEALTH REGULATIONS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS; PROVIDING STANDARDS FOR THE PERMITTING OF CONCENTRATED ANIMAL FEEDING OPERATIONS; PROVIDING DEFINITIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR SEVERABILITY (the “Ordinance”). In general, the Ordinance seeks to regulate the operation of concentrated animal feeding operations (“CAFOs”) – as that term is defined in the Ordinance – in Andrew County, Missouri.

In 2015, Defendant Joseph Knorr began construction of a hog facility in Andrew County, Missouri on land owned by Defendant John Knorr. On June 17, 2016, Plaintiffs filed their Verified Petition For Declaratory and Injunctive Relief (the “Petition”) generally seeking to preclude Defendants from operating this hog

facility because Defendants allegedly did not obtain and could not qualify to obtain a permit required by the Ordinance. Specifically, Plaintiffs' Petition contains two counts. In Count I, Plaintiffs request a declaratory judgment that the Ordinance is valid and enforceable and that Defendants' anticipated operation of a CAFO in Andrew County, Missouri that was not issued a permit by the Andrew County Health Department would be unlawful under the Ordinance. In Count II, Plaintiffs seek injunctive relief to prevent Defendants from operating their proposed facility in Andrew County, Missouri, in violation of the Ordinance. Plaintiffs also sought the imposition of penalties. In their Answers, Defendants generally deny the allegations in Plaintiffs' Petition and ask the Court to find the Ordinance to be unenforceable, invalid, and void.

The validity and enforceability of the Ordinance is at the core of the issues presented, and all parties agree that if the Ordinance is found unenforceable, judgment should be entered in favor of Defendants and the case dismissed with prejudice.

II. Summary Judgment Standard

The standard governing motions for summary judgment are stated in Rule 74.04 and are well-known. "Summary judgment is designed to permit the trial court to enter judgment, without delay, where the moving party has demonstrated, on the basis of facts as to which there is no genuine dispute, a right to judgment as a matter of law." *ITT Comm. Fin. Corp. v. Mid-Am. Marine Supply Corp.*, 854 S.W.2d 371, 376 (Mo. banc 1993). In *Goerlitz v. City of Maryville*, 333 S.W.3d 450 (Mo. banc 2011), the Supreme Court of Missouri stated that "[s]ummary judgment is only proper if the moving party establishes that there is no genuine issue as to the material facts and that the movant is entitled to judgment as a matter of law." *Id.* at 452; Missouri Rule of Civil Procedure 74.04(c)(6).

III. Law and Ruling

This Court agrees with Defendants’ arguments and authority as set forth in paragraph four of Defendants’ Motion and in Defendants’ suggestions in support thereof and finds that ACHD did not have the authority to adopt the Ordinance. More specifically, section 192.300¹ – which ACHD relies upon exclusively as its authority to adopt the Ordinance – does not grant a county health center board the authority to adopt an ordinance.

Under Missouri law, ACHD “possess[es] only those powers conferred or necessarily implied by statute. The scope of power and duties for public agencies is narrowly limited to those essential to accomplish the principal purpose for which the agency was created.” *Bd. of Educ. of St. Louis v. State*, 47 S.W.3d 366, 370 (Mo. banc 2001). When an agency’s actions exceed and violate those statutorily imposed limits, “its acts are void *ab initio*.” *Cantrell v. State Bd. of Registration for Healing Arts*, 26 S.W.3d 824, 827 (Mo. App. 2000). Here, ACHD’s powers are limited by statute, and those statutory powers do not include the authority to pass an ordinance like the Ordinance in question here.

ACHD argues that section 192.300 authorized it to adopt the Ordinance. The rules of statutory interpretation are well-known. When interpreting a statute, a court’s “primary responsibility is to ascertain the intent of the legislature from the language used and to give effect to that intent.” *Alberici Constr., Inc. v. Dir. of Revenue*, 452 S.W.3d 632, 636 (Mo. banc 2015) (internal quotations omitted). “Absent statutory definition, words used in statutes are given their plain and ordinary meaning with help, as needed, from the dictionary.” *Id.* “[P]rovisions in the statute are to be considered together, not read in isolation.” *Id.* at 638. The Court should presume “that the legislature did not insert idle verbiage or superfluous language in a statute.” *Id.* Finally, “construction of a statute should

¹ Unless otherwise specified, all statutory references are to the RSMo. 2000, as updated through the 2016 supplement.

avoid unreasonable or absurd results.” *Aquila Foreign Qualifications Corp. v. Dir. of Revenue*, 362 S.W.3d 1, 4 (Mo. banc 2012).

Section 192.300 provides:

The county commissions and the county health center boards of the several counties may make and promulgate orders, ordinances, rules or regulations, respectively as will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into such county, but any orders, ordinances, rules or regulations shall not be in conflict with any rules or regulations authorized and made by the department of health and senior services in accordance with this chapter or by the department of social services under chapter 198. The county commissions and the county health center boards of the several counties may establish reasonable fees to pay for any costs incurred in carrying out such orders, ordinances, rules or regulations, however, the establishment of such fees shall not deny personal health services to those individuals who are unable to pay such fees or impede the prevention or control of communicable disease. Fees generated shall be deposited in the county treasury. All fees generated under the provisions of this section shall be used to support the public health activities for which they were generated. After the promulgation and adoption of such orders, ordinances, rules or regulations by such county commission or county health board, such commission or county health board shall make and enter an order or record declaring such orders, ordinances, rules or regulations to be printed and available for distribution to the public in the office of the county clerk, and shall require a copy of such order to be published in some newspaper in the county in three successive weeks, not later than thirty days after the entry of such order, ordinance, rule or regulation. Any person, firm, corporation or association which violates any of the orders or ordinances adopted, promulgated and published by such county commission is guilty of a misdemeanor and shall be prosecuted, tried and fined as otherwise provided by law. The county commission or county health board of any such county has full power and authority to initiate the prosecution of any action under this section.

While this Court has considered and reviewed the statute as a whole, the most pertinent language for purposes of this Judgment is as follows: “The county commissions and the county health center boards of the several counties may make and promulgate orders, ordinances, rules or regulations, respectively as will tend to

enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into such county. . .” ACHD contends this statutory language provides it and other county health center boards authority to adopt ordinances, while Defendants contend this language provides county health center boards with the authority to adopt rules and regulations only.

This Court agrees with Defendants’ interpretation of section 192.300, and finds that section 192.300 did not authorize ACHD to adopt an ordinance regulating the operation of CAFOs in Andrew County, Missouri, even for health-related reasons. ACHD and other county health center boards created under section 205.042, through their boards of trustees, have the authority to make and adopt such bylaws, rules, and regulations for their own guidance and for the government of the county health center as may be deemed expedient for the economic and equitable conduct thereof. However, “statutory provisions relating to the same subject matter are considered *in pari materia*,” or in light of one another. *Preston v. State*, 33 S.W.3d 574, 579 (Mo. App. 2000) (internal quotations omitted). Courts “are required to interpret and apply statutory provisions with reference to each other to determine legislative intent.” *Id.* Courts presume that statutes on the same subject matter are “intended to be read consistently and harmoniously.” *Id.* With regard to constitutional provisions, “[i]t is a well-accepted canon of statutory construction that if one interpretation of a statute results in the statute being constitutional while another interpretation would cause it to be unconstitutional, the constitutional interpretation is presumed to have been intended.” *State ex rel. Union Elec. Co. v. Public Serv. Comm’n*, 399 S.W.3d 467, 482 (Mo. App. 2013).

When read *in pari materia* with section 205.042 and with other relevant statutes and constitutional provisions (as noted in Defendants’ suggestions), a plain reading and interpretation of section 192.300 does not give county health center boards the authority to pass regulatory ordinances such as the Ordinance adopted

by ACHD. The legislature's use of the word "respectively" in the statute reflects this, as it distinguishes between the powers of county commissions and county health center boards. With regard to county health center boards, section 192.300 simply refers to their authority to enact rules and regulations as will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into such county, within the parameters of authority granted under section 205.042. Conversely, under section 192.300, only county commissions have the authority to pass broad-sweeping regulatory ordinances such as the Ordinance, and then only in compliance with Missouri law. This is consistent with Missouri law, including article VI, section 7 of the Missouri Constitution, which provides that the county commission "shall manage all county business as prescribed by law." Notably, the Ordinance was not passed or adopted by the Andrew County Commission, only by ACHD.

In short, the Ordinance is not a valid exercise of authority granted to ACHD by Missouri law. Consequently, it is not a valid and enforceable ordinance, and is therefore void and unenforceable.

Because the above ruling is dispositive of the case, this Court finds it unnecessary to address either the other grounds raised by Defendants in attacking the validity of the Ordinance or Defendants' motions to strike.

FOR THE REASONS STATED IN THIS FINAL JUDGMENT AND ORDER, IT IS HEREBY ORDERED, ADJUDGED AND DECREED this 14th day of July, 2017, that:

The Court hereby SUSTAINS the summary judgment motion of Defendants as to all counts of the Petition, DENIES the summary motion of Plaintiffs as to all counts of the Petition, and issues Judgment in favor of Defendants with regard to all counts of the Petition and finds that Plaintiffs are not entitled to any of the relief sought in the Petition; and

IT IS FURTHER HEREBY ORDERED, ADJUDGED AND DECREED

that:

- (1) The Ordinance is invalid, unenforceable, and void.
- (2) Defendants are not required to comply with the Ordinance in order to operate their hog facility.
- (3) Plaintiffs' Petition is dismissed in its entirety, with prejudice.
- (4) All costs are taxed against Plaintiffs.
- (5) This ruling by the Court renders the July 24, 2017 trial moot because this Final Judgment fully disposes of all issues in this lawsuit.

SO ORDERED this 14th day of July, 2017.



RANDALL R. JACKSON
Circuit Judge
Signed: July 14, 2017

COURT SEAL OF



ANDREW COUNTY