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State ex rel. Missouri Clean Energy District v. McEvoy

Missouri Court of Appeals, Western District - August 7, 2018 - S.W.3d - 2018 WL 3736893

Missouri Clean Energy District (MCED) petitioned for writ of mandamus to order county collector of revenue to deliver tax bills that included Property Assessment Clean Energy (PACE) Act special assessments.

The Circuit Court granted the MCED's request for mandamus relief. Collector appealed.

The Court of Appeals held that:

- Proper procedure for issuing a permanent writ of mandamus was not followed;
- Issuance of a permanent writ based on hearing for a preliminary writ was not prejudicial to the collector, and thus was not reversible error;
- Collector did not have discretion in collecting PACE Act special assessments, and thus contracts between collector and MCED were not contradicted by statute; and
- Petition for a writ of mandamus was appropriate remedy for MCED to pursue in its action against the collector.

Proper procedure for issuing a permanent writ of mandamus was not followed in proceedings in which Missouri Clean Energy District's (MCED) sought to require county collector of revenue to deliver tax bills that included Property Assessment Clean Energy (PACE) Act special assessments; a summons was issued instead of a preliminary writ.

Issuance of a permanent writ of mandamus based on hearing for a preliminary writ was not prejudicial to a county collector of revenue, despite not allowing the collector another hearing to present evidence, and thus was not reversible error, in mandamus proceedings on Missouri Clean Energy District's (MCED) seeking to require the collector to deliver tax bills that included Property Assessment Clean Energy (PACE) Act special assessments; collector's own time constraints necessitated issuance of a permanent writ within a week of the hearing and collector did not identify any issues that she would have raised at a second hearing that were not raised in the first hearing.

County collector of revenue did not have discretion in collecting Property Assessment Clean Energy (PACE) Act special assessments, and thus contracts between collector and Missouri Clean Energy District (MCED) to deliver tax bills with PACE assessments were not contradicted by statute; the PACE statute provided that such contracts were to be delivered to the collector but not that the collector would have any discretion over whether contracts should be enforced.

Petition for a writ of mandamus was appropriate remedy for Missouri Clean Energy District (MCED) to pursue in its action against county collector of revenue alleging that the collector failed to deliver tax bills that included Property Assessment Clean Energy (PACE) Act special assessments; MCED could have brought action to otherwise collect the amounts contracted for with the collector, but there was no alternative measure to force the collector to place the PACE assessments on tax bills, as required by law.

