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Jayhawk Racing Properties, LLC v. City of Topeka

Court of Appeals of Kansas - November 2, 2018 - P.3d - 2018 WL 5728254

Owner of a reversionary interest in a multi-purpose motorsports facility brought action against city, seeking declaration of its rights under a memorandum of understanding and alleging breach of agreement for city's purchase of the reversionary interest.

The District Court granted summary judgment for city. Owner appealed.

The Court of Appeals held that:

- Agreement for purchase of the interest was proprietary and, thus, enforceable against city, and
- Agreement did not violate Cash-Basis Law or Budget Law.

In deciding whether a city is carrying on a proprietary or governmental function, a court must consider whether the activity is for the state as a whole or for a special local benefit; whether the activity arises out of a statutory duty or a privilege that has been granted to it; whether the activity is normally done by private entities; and whether the city's actions were commercial in nature.

Issuing industrial revenue bonds under the permissive authority given to a city by statute to finance the acquisition of real estate, construction of a facility, and leasing of the facility to a private for-profit business constitutes proprietary conduct.

If a contract entered into by a city's governing body involves the exercise of the city's business or proprietary powers, the contract may extend beyond the term of the contracting governing body and is binding on successor governing bodies if, at the time the contract was entered into, it was fair and reasonable and necessary or advantageous to the municipality; if the contract, however, involves the legislative functions or governmental powers of the city, the contract is not binding on successor boards or councils.

Agreement for city's purchase of a reversionary interest in a multi-purpose motorsports facility financed by issuance of sales tax and revenue (STAR) bonds was proprietary and, thus, enforceable against city, even after new members were elected to the city council; the agreement did not contract away the city's discretion to manage its financial affairs and control its budget, subject matter of the agreement had to be examined, not just how it might be financed, and purchase of a racetrack was a proprietary matter, rather than a governmental one.

Agreement for city's purchase of a reversionary interest in a multi-purpose motorsports facility did not violate restrictions on spending in excess of a municipality's budget under the Cash-Basis Law or the Budget Law, where the purchase was to be financed by issuance of sales tax and revenue (STAR) bonds, thus implicating exceptions under both laws for payments to be made with proceeds from bonds.

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