

# **Bond Case Briefs**

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## **COMMUNITY IMPROVEMENT DISTRICTS - MISSOURI**

### **Henderson v. Business Loop Community Improvement District**

**Missouri Court of Appeals, Western District - November 26, 2019 - S.W.3d - 2019 WL 6314755**

Voter brought action against community improvement district, district's president, and its executive director, challenging validity of election conducted by district that approved half-cent sales tax within district.

The Circuit Court granted district's motion to dismiss for lack of subject matter jurisdiction on ground that court had no statutory authority to hear the challenge. The Supreme Court granted voter's petition for a writ of mandamus directing the Circuit Court to issue a signed judgment, denominated as such, disposing of her claims, so she could appeal their dismissal. Voter appealed.

The Court of Appeals held that:

- Voter's challenge was not moot, even though tax was approved and collection had started;
- Voter's challenge was not moot, even though voter had moved outside district;
- Voter's challenge was a civil case over which circuit court had subject matter jurisdiction;
- Voter had statutory right to challenge validity of election, even though statute authorizing election did not provide for election contests;
- Election contest provisions contained in general election laws applied to sales tax elections; and
- Fact that election was a special election did not preclude registered voter's statutory right to challenge its validity.

Voter's challenge to validity of election approving half-cent sales tax in community improvement district was not moot, even though tax was approved and collection of the tax had started; voter was undisputedly eligible to vote in challenged election, and the trial court could invalidate the challenged election and prohibit collection of the tax, if voter prevailed.

Voter's challenge to validity of election approving half-cent sales tax in community improvement district was not moot, even though voter had moved outside the district's boundaries and might not be eligible to vote in a new election; voter's relocation did not make it unnecessary or impossible for trial court to rule on her allegations of irregularity directed at a previously held election in which she had participated, notwithstanding any effect of voter's relocation on her eligibility to vote in a potential future election.

Voter's challenge to validity of sales tax election in community improvement district was a civil case over which circuit court had subject matter jurisdiction pursuant to provision of State Constitution granting trial courts original jurisdiction over all cases and matters, civil and criminal.

Voter had statutory right under general election laws to challenge validity of election approving sales tax in community improvement district, even though statute authorizing community improvement district to hold sales tax election did not provide for election contests; State's election

laws generally applied to all public elections in the state not requiring ownership of real property to vote, and the election was public and did not require voters to own property, as it was open to all qualified registered voters in the district.

Although statute governing sales tax elections conducted by community improvement districts stated the statute applied “notwithstanding” the provisions of the State’s general election laws, the election contest provisions contained in the general election laws applied to sales tax elections conducted by community improvement districts; statute governing sales tax elections was silent on the issue of election contests and so did not conflict with general election law provisions governing such contests, and the “notwithstanding” clause only purported to avoid applying general election laws to manner in which district sales tax elections were conducted.

That community improvement district’s sales tax election was a special election did not preclude registered voter’s statutory right to challenge its validity; statute allowed voter to contest the result of any election, special or general, on any question, occurring in a geographic area where she was a registered voter.