SUPREME COURT OF KENTUCKY

Knox County v. Hammons

129 S.W.3d 839 (Ky. 2004) · No. Nos. 2002-SC-0530-DG, 2002-SC-1080-DG · Decided March 19, 2004

SUMMARY

The Supreme Court of Kentucky reviewed the validity of a Knox County occupational tax ordinance challenged on vagueness, open-meetings, and publication grounds. The court held that KRS 67.077(2) is directory and that Knox County substantially complied with the statutory publication requirements, rendering the ordinance valid. The court also held that the county did not violate Kentucky's Open Meetings Act.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Johnstone, Justice; Lambert, C.J.; Cooper, J.; Graves, J.; Johnstone, J.; Keller, J.; Stumbo, J.; Wintersheimer, J.
JURISDICTION	Kentucky
DECIDED	March 19, 2004
DOCKET	Nos. 2002-SC-0530-DG, 2002-SC-1080-DG
DISPOSITION	other
PROCEDURAL POSTURE	Discretionary review of a Kentucky Court of Appeals decision affirming in part and reversing in part a Knox County Circuit Court judgment concerning the validity of a county occupational tax ordinance.
STANDARD OF REVIEW	De novo review of statutory interpretation and the legal validity of the ordinance; the court reviewed the undisputed facts concerning publication and the meeting conditions.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion; precedential
PARTIES	Knox County, Kentucky v. George Hammons, Jack Davis, Jerry Strong, David Evans

TOPICS

municipal finance · ordinances · statutory interpretation · appellate procedure · public utilities

PRACTICE AREAS

municipal law | tax | statutory interpretation | appellate procedure

QUESTIONS PRESENTED

1. Whether KRS 67.077(2), together with KRS 67.075(2), required strict compliance with the statutory certification and publication requirements for the occupational tax ordinance or permitted substantial compliance.
2. Whether Knox County violated KRS 61.820 or KRS 61.840 by holding the special meeting during the Daniel Boone Festival and in a crowded courtroom that required some members of the public to observe from the hallway.

HOLDINGS

1. KRS 67.077(2) is directory rather than mandatory, and its requirements may be satisfied by substantial compliance. Knox County substantially complied because its published summary accurately identified the time and place of the meeting, the location where the full ordinance could be inspected, and the ordinance's main points; the absence of formal fiscal-court certification did not invalidate the ordinance.
2. Knox County did not violate KRS 61.820 or KRS 61.840 by holding the special meeting during the Daniel Boone Festival and in the district courtroom. The Open Meetings Act requires a time and place that are not so inconvenient as to effectively prevent public knowledge or participation; it does not require the most convenient time or location.

KEY QUOTATIONS

> *“In considering whether the provision is mandatory or directory, we depend "not on form, but on the legislative intent, which is to be ascertained by interpretation from consideration of the entire act, its nature and object, and the consequence of construction one way or the other."”* (843)

> *“The obvious intent of KRS 67.077(2) is to ensure that no county ordinance is passed in secret or without reasonable notice to the public.”* (843)

> *“The intent of the open meetings statutes is to ensure that government business is not conducted in secret, that the public is adequately notified of the time and nature of government proceedings, and that interested citizens be afforded the opportunity to participate in such proceedings.”* (845)

> *“In short, the open meetings statutes are designed to prevent government bodies from conducting its business at such inconvenient times or locations as to effectively render public knowledge or participation impossible, not to require such agencies to seek out the most convenient time or location.”* (845)

FACTUAL BACKGROUND

Knox County enacted an occupational license fee tax ordinance to increase county tax revenues. The ordinance was read at a September 28, 1999, regular fiscal-court meeting and again at an October 8, 1999, special meeting held during the Daniel Boone Festival. Knox County published a newspaper summary identifying the meeting and describing the proposed one-percent tax, but the fiscal court did not formally certify the summary's accuracy.

The October meeting was publicly announced and attended by a large crowd, although some citizens observed from the hallway because the courtroom was full.

PROCEDURAL HISTORY

Citizens and taxpayers challenged the Knox County occupational tax ordinance as vague and overbroad, enacted in violation of Kentucky's Open Meetings Act, and adopted without satisfying statutory publication requirements. The Knox County Circuit Court rejected all three challenges. The Court of Appeals affirmed on vagueness, overbreadth, and open-meetings issues but held that Knox County had not strictly complied with KRS 67.077(2) and remanded with instructions to invalidate the ordinance. The Kentucky Supreme Court granted discretionary review on the publication and open-meetings issues.

DISPOSITION

other

REMAND INSTRUCTIONS

None. The court reversed the portion of the Court of Appeals' decision that invalidated the ordinance and affirmed its ruling rejecting the Open Meetings Act challenge.

CASES CITED

- Skaggs v. Fyffe, 266 Ky. 337, 98 S.W.2d 884 (1936)
- Conrad v. Lexington-Fayette Urban County Government, 659 S.W.2d 190 (Ky. 1983)
- Webster County, Kentucky v. Vaughn, 365 S.W.2d 109 (Ky. 1963)
- Queenan v. City of Louisville, 313 Ky. 816, 233 S.W.2d 1010 (1950)
- Arnett v. Sullivan, 279 Ky. 720, 132 S.W.2d 76 (1939)
- Bowen v. Commonwealth ex rel. Stidham, 887 S.W.2d 350 (Ky. 1994)
- Bailey v. Reeves, 662 S.W.2d 832 (Ky. 1984)