



Missouri Supreme Court Denies Petition to Review Constitutionality of Mandatory Water/Sewer Hookup Laws

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In August, a three-judge panel of the Missouri Court of Appeals ruled in a constitutional challenge brought by a landowner arguing that the Town of Whitewater's mandatory water and sewer connection ordinances create a taking, given that the landowner's well and septic system are fully functional. The ruling affirmed the Circuit Court's ruling convicting Nathan Stroder (landowner) for not connecting to the Town's sewer and water systems. The court issued a short opinion agreeing that the landowner failed to properly preserve any of his arguments. Notwithstanding Mr. Stroder's failure to preserve issues for appeal, the court conducted a review of the case file and found no reason to conclude there is anything unconstitutional or unlawful about the Town's mandatory connection ordinances. Soon after the Court of Appeals ruling, the plaintiff homeowner asked the full Court of Appeals to rehear the case and the Missouri Supreme Court to take the case.

The plaintiff argued that the MO Supreme Court should "reexamine existing law that mandatory hookups to public sewers and water systems are not a taking of property for public purposes without compensation." The plaintiff also argued that "while the law is well-settled in favor of public sewer and water systems as a valid public purpose, recent knowledge demonstrates public water systems are actually a health hazard of increasing frequency (lead, other contaminants, boil water orders, sewage overflows)."

Fortunately, the Court of Appeals declined to rehear the case and the MO Supreme Court also decided not to take the case. This leaves mandatory connection requirements legally intact.