

2008 Supplement to Chapter 12

Intergovernmental Relations- Cooperation and Conflicts

Supplemented:

§§12.37

12.38

12.52

12.54

II. Cooperation

D. Procedure for Entering Intergovernmental Agreements

1. (§12.37) Procedure Set Forth in Enabling Statutes

In 2004, the General Assembly removed the requirement in § 70.300, now RSMo Supp. 2007, that political subdivisions file a copy of their contracts with the Missouri Secretary of State and the recorder of deeds in the county where each contracting

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**Mr. Mealy received his B.A., 2002, from Westminster College and J.D., 2005, from the University of Missouri-Columbia. He is an associate in the firm of Riley & Dunlap, P.C., in Fulton. political subdivision is located. S.B. 951, 92nd Gen. Assembly, 2nd Reg. Sess. (Mo. 2004). Therefore, § 70.300 now only requires that the contract be:

- authorized by a majority vote of the members of the governing body; and
- in writing.

2. (§12.38) Statute of Frauds

In Gill Construction, Inc. v. 18th & Vine Authority, 157 S.W.3d 699 (Mo. App. W.D. 2004), the court found that the contract was unenforceable because of the lack of substantial compliance with § 432.070, RSMo 2000, which requires that a contract with a city be in writing. The city of Kansas City passed an ordinance entering into a contract between it and the Authority to revitalize and redevelop a district in Kansas City. Under the ordinance, the city of Kansas City and the Authority entered a management agreement that provided, in part, that the city of Kansas City would finance the project. The Authority then contracted to perform the work. Following a dispute over payment, the contractor filed suit against the city of Kansas City and the Authority. The Western District affirmed the trial court's dismissal of the city of Kansas City as a party because the contractor did not enter into a contract with the city of Kansas City and the contractor's contract with the Authority was insufficient to support a claim against the city of Kansas City under § 432.070.

III. Conflict

C. Interlocal Conflict

1. (§12.52) Zoning

"A public utility's power of eminent domain and a county's power to zone are derived from a legislative grant of authority. Both powers are police powers derived from statute and are without a constitutional basis, thus neither trumps the other, and both powers can be exercised in harmony." *StopAquila.Org v. Aquila, Inc.*, 180 S.W.3d 24, 41 (Mo. App. W.D. 2005).

3. (§12.54) Condemnation

The legislature adopted significant changes to the eminent domain statutes in 2006. These changes affect, *inter alia*, the authority of public condemnors. See H.B. 1944, 93rd Gen. Assembly, 2nd Reg. Sess. (Mo. 2006).