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*Kacie Barnes is a policy researcher at the Show-Me Institute, which promotes market solutions for Missouri public policy.*

# TESTIMONY

June 11, 2013

## SAINT LOUIS COUNTY SHOULD NOT PENALIZE PHOTOGRAPHERS

*By Kacie Barnes*

*Testimony Before the Saint Louis County Parks Department*

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### **To the Honorable Members of This Committee:**

My name is Kacie Barnes and I am a policy researcher for the Show-Me Institute, a nonprofit, nonpartisan Missouri-based think tank that supports free-market solutions for state and local policy. The ideas presented here are my own. This testimony is intended to describe my views about Saint Louis County's pending policy to ban professional photography in county parks without a permit.

In April, Saint Louis photographers were alarmed to find a sign posted in a county park banning professional photography without a permit. The sign was removed soon after complaints began. County officials stated that the policy would be under review, and a rule change requiring a permit may go into effect.

Saint Louis County should not enforce a permit fee for photographers to use county parks. Photographers

who most commonly use the parks are family photographers, spending a short amount of time snapping photos of engaged couples, new babies, newlyweds, and families. They are not setting up an elaborate photo shoot with props and equipment that damage the grass and require extensive set-up and take-down. These photographers do not impose a higher cost to the county than other park-goers and already contribute taxes to use the parks as area residents and business owners.<sup>1</sup>

Permits, in this instance, would function as "user fees" for photographers' use of the parks. In many circumstances, user fees are necessary and warranted. However, a user fee should only be implemented when people are using a particular government service and imposing a cost on the general public. A Michigan Supreme Court ruling in the 1990s explained that a user fee is a way to defray the cost of

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a government service or regulatory activity.<sup>2</sup> There is no marginal cost to allowing space for photographers in the park and the government is not providing an extra service. A user fee might be justified if photographers were doing something that implicitly or explicitly imposed a higher cost on county services and taxpayers. But photographers walk on the grass and take up space in the same way anyone else does. There is simply no evidence that small-scale professional photography imposes extra costs on county taxpayers.

The situation is different, however, for big production photo shoots or filming in parks. Large-scale productions may require additional resources from the government. That is why some municipalities, such as Orange County in California, distinguish between large-scale photography and filming, and photography for private use.<sup>3</sup> Extensive photo shoots and filming require a permit and a fee to the municipality to book the space, and for additional services, such as assistance from park rangers. Small-scale photographers are not required to pay the same fees, as their park usage does not dictate any special services from the county.<sup>4</sup>

Some may argue that photographers should pay the county a fee because they profit from taking pictures in the park. By that logic, however, there are many other groups that would need to pay a fee. How about babysitters and daycare providers who bring children to the park? Or dog walkers, yoga instructors, and personal trainers?<sup>5</sup> Should they all pay a fee and carry around a permit to show that they are authorized to conduct business in the park?

Photographers already pay taxes to support park maintenance and expenses. The county has chosen to support park expenses with general property tax and sales tax revenue that the residents and businesses of Saint Louis County pay. Why should photographers be taxed twice? Some parks do charge entrance fees, but this is generally reserved for parks with extraordinary features, such as the wild animals of Lone Elk Park in West County.<sup>6</sup>

One of the reasons we have public parks is to provide residents with open space to use as they see fit (as long as it is legal, of course). It would be unreasonable to single out a group of users and charge more for their time in the parks.

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# NOTES

<sup>1</sup> Photographers support county parks through local property taxes, local park sales taxes, and regional park sales taxes.

<sup>2</sup> This is to give an example of a legal definition of a user fee; it is not meant to specifically define a user fee in Missouri. From A Tax Is Not a User Fee! View online here: [http://www.fee.org/the\\_freeman/detail/a-tax-is-not-a-user-fee#axzz2VApl0pqP](http://www.fee.org/the_freeman/detail/a-tax-is-not-a-user-fee#axzz2VApl0pqP).

<sup>3</sup> Orange County, Calif., does not charge a fee for small-scale photography. View the policy online here: <http://www.largeformatphotography.info/photo-permits/PermitRegulations.htm#OCCounty>.

<sup>4</sup> These photographers do not alter the park's landscape, require alterations or close down resources, or demand specific or extra time commitments from staff.

<sup>5</sup> This is in reference to one-on-one and small, informal group yoga or fitness sessions. This comment excludes large groups such as regularly scheduled boot camp classes in a park, for example, which would impose an extra cost on the park.

<sup>6</sup> The author believes that the special fee for Lone Elk Park is justified.



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