

**IN THE CIRCUIT COURT OF ST. LOUIS
STATE OF MISSOURI
21ST JUDICIAL CIRCUIT**

IN RE: CREATION OF THE)
OLIA VILLAGE)
TRANSPORTATION DEVELOPMENT)
DISTRICT,)
)
10300 OLIVE LLC,))
)
Petitioners,)
)
v.) Case No.: 24SL-CC03630
)
ST. LOUIS COUNTY, MISSOURI, et al.,) Division 14
)
)
Respondents.)

**PUBLIC COMMENT SUBMISSION IN RESPONSE TO THE
PETITION FOR THE CREATION OF A TRANSPORTATION DEVELOPMENT DISTRICT**

COMES NOW, David Stokes, Director of Municipal Policy at the Show-Me Institute and in connection with the Petition for the Creation of the Olia Village Transportation Development District files these comments to provide the court informationw relevant to the creation of a transportation development district (TDD) in Creve Coeur. The Show-Me Institute is a nonprofit, nonpartisan Missouri-based think tank that supports free-market solutions for state and local policy. The ideas presented herein are my own.

TDDs are a common and increasingly popular type of special taxing district in Missouri. They are authorized to use sales taxes, property taxes, special assessments, or user fees (e.g., tolls) to fund transportation-related projects, including but not limited to roads, bridges, mass-transit facilities, and parking lots. They may be created by a vote of the people within the district or by signatures of the affected property owners.¹ They are independent government agencies and are required to submit financial reports and be subject to audits at certain intervals.

¹ RSMO §238.230.

A TDD, for example, operates the heavily traveled toll bridge in the Lake of the Ozarks. TDDs have also been successfully used to build needed roads in rural communities.² However, despite those public uses of TDDs, the large majority of TDDs operate as a troubling form of tax subsidy for private developers. TDDs created by votes of the public are rare. The large majority of them are simply formed by commercial property owners—often just one owner—to implement a special sales tax on their commercial property. They then use the funds generated by the tax—which are public tax dollars—for essentially private purposes, such as parking lots. These critiques are particularly valid in the case of the proposed Olia Village TDD.

The Missouri state auditor’s office and other local oversight agencies have routinely flagged TDDs for many reasons, including failure to use competitive bidding, board member conflicts of interest, failure to provide necessary financial reports, not notifying shoppers of the added taxes as required by law, and improperly collecting sales taxes from businesses outside of the districts.³ State auditors of both parties have called for much greater oversight, increased transparency, and other limits on TDDs.⁴ Despite these calls for reform, transparency, and oversight, the creation of TDDs and other special taxing districts continues on unabated.⁵

The proposed Olia Village TDD would fund maintenance on various transportation projects in Creve Coeur with a one-half of one percent (0.50%) sales tax within the proposed district’s boundaries. This proposed TDD exhibits many of the most harmful aspects of TDDs, including:

- There is no public vote on the proposal. To this end, it violates the spirit, if not the law, of the Hanock Amendment.
- The developers rather than the city will control the TDD board. While Creve Coeur will be designated to have two appointees to the TDD board, the developers will be granted a controlling

² For example, US Highway 36 from Hannibal to Macon, Missouri.

³ Stokes, David, “Here’s a Crazy Idea, Tax Yourself,” Show-Me Institute, June 2021.

<https://showmeinstitute.org/blog/taxes/heres-a-crazy-idea-tax-yourself/>.

⁴ Missouri State Auditor, List of State Audits – Special Taxing Districts:

<https://auditor.mo.gov/AuditReport/Reports?SearchLocalState=41>.

⁵ Tuohey, Patrick, and Renz, Graham, “Overgrown and Noxious, the Abuse of Special Taxing Districts in Missouri,” Show-Me Institute Report, June 2019.

majority with three representatives. That is a recipe for using these purportedly public funds for fundamentally private purposes. The oversight of tax dollars is crucial, as the state auditor has released reports on widespread financial mismanagement of TDDs statewide.⁶

- The list of allowable uses for the TDD tax dollars includes numerous expenses that are essentially private items. Should taxpayers really be expected to pay for bike racks, handrails, and landscaping on private commercial property? This borders on the absurd.⁷

While this proposed TDD would fund projects beyond just road maintenance, there are better ways to fund local road maintenance than through sales taxes.⁸ Paying for road maintenance with taxes only tangentially related to road usage promotes road usage choices that lead to faster road deterioration.⁹ City officials should consider implementing a local fuel tax to better connect the act of driving with paying for road upkeep. Local fuel tax revenue is constitutionally required to be spent on local road maintenance, decreasing the risk of financial misuse. At least seven other Missouri cities have local fuel taxes, with none higher than two cents per gallon.¹⁰ Creve Coeur should consider implementing a local gas tax to fund necessary road improvements within the city.

While there is no doubt this proposed TDD would raise more local tax revenue than a local gas tax, the purpose of taxation is not to maximize revenues. Taxes should be constructed in the best possible manner to fund government in a way that encourages efficient choices by consumers. A local gas tax does that. A general transportation sales tax does not.

Whatever the outcome, if a TDD is approved by the court, Creve Coeur should carefully manage the money raised from any tax and ensure that all proper reporting, transparency, and auditing rules are

⁶ Galloway, Nicole, "Transportation Development Districts," Office of the Missouri State Auditor. Report No. 2017-020. April 2017. <https://app.auditor.mo.gov/Repository/Press/2017020228917.pdf>.

⁷ Olia Village TDD Order to Publish Notice and Set a Public Hearing, Exhibit 1, Section 9.

⁸ Stokes, David and Jakob Puckett. Local Fuel Taxes are the Secret Garden of city road funding options. *Columbia Daily Tribune*. February 8, 2021. <https://www.columbiatribune.com/story/opinion/2021/02/08/local-gas-taxes-secret-garden-city-road-funding-options/4404425001/>; and Puckett, Jakob, "Creve Coeur Should Consider a Local Fuel Tax to Fund Its Transportation Needs, Not a TDD," Show-Me Institute, March 16, 202, <https://showmeinstitute.org/blog/special-taxing-districts/Creve-Coeur-should-consider-a-local-fuel-tax-to-fund-its-transportation-needs-not-a-tdd/>.

⁹ National Surface Transportation Infrastructure Financing Commission, "Paying Our Way: A New Framework for Transportation Finance," 2009. Pages 8, 84, 136. <https://rosap.ntl.bts.gov/view/dot/17160>

¹⁰ Puckett, Jakob, What to Know About Local Fuel Taxes, Show-Me Institute, February 11, 2021. <https://showmeinstitute.org/blog/state-and-local-government/what-to-know-about-local-fuel-taxes/>.

observed. City officials should also keep other policy options in mind as they look for ways to fund the proposed projects.

The Olia Village TDD is not in the best interest of the residents and taxpayers of Creve Coeur and St. Louis County. Before being approved, the many problems detailed in these comments should be addressed.

Respectfully submitted,

By:

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