JUDICIAL FINANCE COMMISSION

O R D E R

In re Circuit Court Budget of the 22nd Judicial Circuit of the State of Missouri

CITY OF ST. LOUIS, et al., Petitioners,	)	
vs.	)	No. 84-0006
22nd JUDICIAL CIRCUIT and FREEMAN R. BOSLEY, JR., CLERK OF THE 22ND JUDICIAL CIRCUIT, CITY OF ST. LOUIS, Respondents.	)	

I, Judge Byron L. Kinder, Acting Chairman of the Judicial Finance Commission of the State of Missouri, certify that the attached opinion is a full, true and complete record of the decision of the Judicial Finance Commission, entered of record on the 25th day of October, 1984, in the above-captioned cause.

Given under my hand this 25th day of October, 1984.

Byron L. Kinder

Acting Chairman

JUDICIAL FINANCE COMMISSION
State of Missouri

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STATEMENT OF THE CASE, FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

STATEMENT OF THE CASE

This matter appears before the Judicial Finance Commission upon a petition filed on April 27, 1984, by the City of St. Louis, Petitioner herein, seeking the determination that the City is not legally obligated to purchase an IBM model 4331 mainframe computer for the Circuit Clerk's office. Subsequent to the filing of this petition, the Clerk filed a motion for a writ of mandamus compelling payment of previously approved funds in his 1983-84 budget for the project. Judge Anna Forder issued the writ and the City appealed to the Missouri Supreme Court. That appeal is currently pending before the Court, Bosley v. Berra, No. 65957. No funds have yet been released.

Pursuant to Section 50.640.2, RSMo Supp. 1983, the Commission held a settlement conference with both parties on June 29, 1984, at the Civil Courts Building, St. Louis, with Commission member, Judge John Yeaman, and alternate, Judge Mike Compton, in attendance. There was no resolution of the issue at that time. An agreement was reached to hold a joint hearing on both the contested 1983-84 budget issue and the 1984-85 budget issues raised by the City in a subsequent petition (No. 84-0007) because the 1984-85 budget also included the same computer question.

Following written notice to the parties, a hearing was held on August 14-16, 1984, at the Marriott Pavilion Hotel in St. Louis. Petitioner was represented by Julian Bush and Edward Hanlon, Assistant City Counselors. The Circuit Clerk was represented by Douglas A. Forsyth, Sr., of the firm of Coburn, Croft & Putzell and Jimmie Edwards, Legal Counsel to the Clerk. The Circuit Court was represented by Messrs. John C. Shepherd, G. Keith Phoenix and Raymond R. Fournie of the firm of Shepherd, Sandberg & Phoenix.

FINDINGS OF FACT

1. Petitioner, City of St. Louis, Missouri, the "City", is a body corporate and politic of the State of Missouri, operating under a charter form of government. Honorable Paul M. Berra is the duly elected and acting Comptroller of the City. Honorable Vincent C. Schoemehl is the duly elected and acting Mayor of the City. Honorable Thomas C. Zych is the duly elected President of the Board of Aldermen. All three individuals comprise the City's Board of Estimate and Apportionment, which has among its duties the review and approval of all budget proposals from agencies activities funded by the City.

2. Respondent Freeman R. Bosley, Jr., is the duly elected and qualified Circuit Clerk of the 22nd Judicial Circuit of the State of Missouri. He has served in that capacity since January 3, 1983, to date uninterrupted. Among the duties of his position is the preparation and submission of a budget proposal for the operation of his office.

3. The Clerk's budget proposal becomes an integral part of the budget proposal of the 22nd Judicial Circuit. In that budget, the Clerk's office is referred to as Department 310.

4. Respondent 22nd Judicial Circuit, "the Court", is the Circuit Court for the City of St. Louis and is comprised of 31 judges and associate circuit judges.

5. The first proposed budget of the 22nd Circuit Court for fiscal 1983-84, including the Clerk's office, was submitted to the Board of Estimate and Apportionment in March, 1983. In April, 1983, negotiations were held between the Budget Director of the City, Stephen P. Mullin, and the Chairman of the Circuit Court Budget Committee, the Honorable Thomas F. McGuire, to reduce the total budget request from $14,842,678.00 to $13,674,810.00. This reduced estimate was accepted and approved by the Board of Estimate and Apportionment.

Thereafter, the Court was requested by the City to further reduce its proposal. $624,810.00 in new reductions were made across all departments, resulting in a total budget figure of $13,049,899.00. This final figure was approved and incorporated into the proposed budget for the City of St. Louis. This budget was adopted by the St. Louis Board of Aldermen and signed into law by the Mayor in October of 1983.

7. In conducting the negotiations which led to the reductions of the Circuit Court's budget, the principals agreed that, in light of

the reductions the Court was willing to absorb, the Court reserved the right to transfer funds as it deemed necessary among its various departments and that monies could be switched from one line item of proposed expenditure to another within a department in order to facilitate the operation of the Circuit Court and its subdivisions.

8. Petitioner Paul M. Berra, as City Comptroller, is responsible for auditing and approving all contracts for the City and its subdivisions and signing all warrants for payments of monies from the City Treasury.

9. At the time Freeman R. Bosley, Jr., the Circuit Clerk, took office in 1983, the record keeping system in the Circuit Clerk's office was ineffective in meeting the needs of an efficient Court system. The financial accounting system was -- and is -- kept by hand. Files were kept in stacks on window sills and piles on the floor. $180,000.00 was found on the premises with no owner identification. Mr. Bosley determined that the existing conditions must be radically improved by automating the financial accounting system to improve daily operations, meet statutory financial reporting requirements and improve internal control procedures. His budget proposal for 1983-84 contained a request for a computerized financial accounting system:

> Account No. 5503 Office Services - Maintenance Agreements for all equipment. Judge's [sic] books. Proposed Accounting System - $276,775....

10. All parties to this case acknowledge the necessity of automation in the Clerk's office. Furthermore, at the August, 1984, hearing before the Judicial Finance Commission, the City agreed to provide the Clerk with whatever computer services his office might desire through Rejis, irrespective of cost.

11. The Circuit Court en banc approved the Clerk's request for an automated financial accounting system.

12. Mr. Bosley contracted with the accounting firm of Ernst & Whinney to conduct a needs assessment of his office and make proposals for automation options. As a result of the Ernst & Whinney study, the Clerk was advised that the integration of an automated case management system with an automated financial accounting system would be the most advantageous method to improve service to the Court and the general public.

13. It was not until approximately November, 1983, that the Clerk decided to buy an IBM mainframe computer, to hire Ernst & Whinney to serve as consultants in implementing the integrated system on the IBM mainframe computer, and to contract with the firm of Inslaw for conducting a study on system requirements and design.

14. The specific master proposal for an integrated case management, financial accounting system operating on an IBM mainframe computer housed within the Clerk's office was never presented to the Circuit Court budget committee, the Court en banc or the Board of Estimate and Apportionment in the spring of 1983, when budget negotiations were being conducted.

15. The City did subsequently build a computer room for the Clerk at a cost of approximately $30,000.00 during fiscal year 1983-84. The room is capable of housing a mainframe computer.

16. Contracts with IBM, Ernst & Whinney and Inslaw were forwarded to Comptroller Berra from the Clerk's office for approval on February 17, 1984. They were never processed.

17. In February, 1984, the City informed the Court and the Clerk that it wished to make further reductions in the Court budget in order to improve the City's end of the year fiscal position. At that time the Clerk had approximately $600,000.00 left unspent in his 1983-84

approved budget, yet vouchers forwarded to the Comptroller's office for payment were not processed.

18. The Regional Justice Informations System - REJIS - was organized to provide the St. Louis metropolitan area and surrounding counties with computer services for agencies that are engaged in activities related to justice and to the court activities of those units. Rejis handles civil as well as criminal matters. The Clerk's office currently contracts with Rejis for automated caseload processing.

19. Rejis is owned in part by the City of St. Louis.

20. At the August, 1984, hearing before the Judicial Finance Commission, the City agreed to honor the financial obligations incurred by the Clerk in assessing the needs of his office and developing a computerized system to meet those needs, which obligations were incurred during fiscal year 1983-84 and were anticipated to be paid out of funds appropriated for the Clerk's 1983-84 budget. At the present time approximately $49,000.00 has been billed to the Clerk by Ernst & Whinney and Inslaw.

21. The Clerk's contract with IBM for the computer calls for $90,000.00 initial outlay, with a total long term cost of $470,000.00 for the computer and overall expense of $1,500,000.00 for the project.

CONCLUSIONS OF LAW

I.

Section 50.640.2, RSMo Supp. 1983 provides:

> If the county governing body deems the [budget] estimates of the circuit court to be unreasonable the governing body may file a petition for review with the Judicial Finance Commission on a form provided by the Commission after the estimates are included in the county budget...the Commission, to the maximum extent practicable shall resolve the dispute prior to the beginning of the fiscal year in question."

The threshold question presented to us is the jurisdiction of the Finance Commission to hear this dispute, arising as it does in the middle of the fiscal year in question, rather than before the beginning of the fiscal year. Judge Anne Forder, in entering a preemptory writ of mandamus in the case of State of Missouri ex rel. Freeman R. Bosley, Jr., vs. Hon. Paul M. Berra, which required the City of St. Louis to approve and fund budget expenditures for the new computerized record keeping system at issue here, declared that primary jurisdiction over this budget dispute was properly in the circuit court rather than in the Judicial Finance Commission because § 50.640 RSMo Supp. 1983 "expressly limits the Commission's jurisdiction to disputes dealing with estimates of the circuit court... It does not apply to budgets already approved and signed into law." State of Missouri ex rel. Freeman R. Bosley, Jr., vs. Honorable Paul M. Berra, et al., No. 844-0012, Slip. op. at 1 (22nd Cir., April 30, 1984).

Such reasoning runs contrary to our interpretation of the legislative intent behind Sections 50.640 and 477.600 to create in the Commission a mechanism for handling all budget disputes, preferably before the start of the budget year in question, but not necessarily before the start of the budget year or the approval of the budget.

Such an interpretation of this statute also runs contrary to the Supreme Court's recent discussion of the role of the Commission:

> The legislature revised and codified the process for resolving budget disputes between the counties and circuit courts with the amendment of § 50.640 in 1982. The legislature created the Judicial Finance Commission and charged it with mediating and, if necessary, adjudicating circuit court budget disputes.

In Re 1983 Budget for Circuit Court of St. Louis, 665 S.W. 2d 943, 944 (Mo. banc 1984).

IV.

Section 483.015.1, RSMo 1978 provides:

At the general election in the year 1982, and every four years thereafter, except as herein provided and except as otherwise provided by law, circuit clerks shall be elected by the qualified voters of each county and of the city of St. Louis, who shall be commissioned by the governor, and shall enter upon the discharge of their duties on the first day in January next ensuing their election, and shall hold their offices for the term of four years, and until their successors shall be duly elected and qualified, unless sooner removed from office.

V.

Section 483.082, RSMo 1978 provides:

1. Notwithstanding the provision of any other statute to the contrary, it shall be the duty of the clerks of all courts to keep such records of the courts and in such a manner as may be directed by rule of the supreme court so that they shall accurately record all essential matters relating to the causes and matters within the jurisdiction of the court which are and have been pending before the court, including pleadings, motions, and related documents, transactions, orders and judgments or decrees related thereto showing the course and disposition of causes and matters, the taxing and collection of court costs, and the setting of trial calendars or dockets of pending cases.

2. Recognizing that improved methods and systems of keeping records and data have been and will continue to be developed from time to time and that all court clerks should be empowered to utilize improved methods, systems and techniques of keeping records of essential matters, and notwithstanding the provisions of any other statute to the contrary, the methods, form and systems of keeping all such files and records shall be as directed and approved by rule of the supreme court.

VI.

Section 483.150, RSMo 1978 provides:

The clerks of the several courts of record shall keep a true account of all fines, penalties, forfeitures and judgments imposed, adjudged or rendered in favor of the state or any county by their respective courts, distinguishing those payable to the state from those payable to the county, and shall keep the same open for the inspection of the judges of the respective courts and the county treasurer.

VI.

The first issue presented to this Commission is whether it is reasonable for a circuit court, or any of its subdivisions or departments, in this case the circuit clerk, to so alter or expand an approved line item in its budget to not only draw on the instant fiscal year's appropriations as originally agreed, but also impact on future budget years, without first having a clear meeting of the minds with the local governing body. We think not.

All parties agree here that the efforts of Mr. Bosley to improve the morass which faced him when he took office as circuit clerk were not only welcome but also necessary to the effective operation of his office and the circuit court. However, agreement breaks down on the question of whether the purchase of an IBM 4331 mainframe computer to replace the use of the existing system, REJIS, was contemplated by all parties at the time Line Item 5503 was negotiated and approved.

At the beginning of the budget year the City approved the purchase of a computerized "financial accounting system" in Line Item 5503, as well as user fees for case processing from Rejis in Line Item 5572. That the City later realized a project larger than the one initially contemplated by the Clerk was being undertaken is possible.[1] That the Clerk developed an intention to expand his original aspirations for an accounting system into plans for an integrated case tracking, financial accounting system, run on an in-house mainframe computer, during the course of the 1983-84 fiscal year but only after negotiations had concluded, is probable. That during the 1983-84 budget negotiations neither party specifically discussed the installation of a mainframe computer in the Clerk's office to replace services received from Rejis

[1]The computer room constructed by the City in the Clerk's office would be appropriate for housing a mainframe computer.

is certain. As such a project not only impacts on a specific fiscal year, but also mortgages the future of both City and Court, the approach used here to implement it cannot be recommended.

Certainly, a budget item which has been authorized by the local government unit and which is also acknowledged by all parties to be reasonably necessary for the court to carry out its functions is a lawful expenditure. State ex rel. Judges for the Twenty-Second Judicial Circuit v. City of St. Louis, 494 S.W. 2d 39, 41 (Mo. banc 1973). The Clerk's intention to go a step farther in bringing order out of chaos and in improving the administration of justice by introducing into an operation that badly needed it, a contemporary, state-of-the-art, integrated case tracking, financial accounting system is commended. However, the implementation of such a large scale project, costing well over a million dollars, necessarily demanded closer examination by all parties in light of the ramifications on not only the budget of a city grappling with financial restraints, but also a court operation which must carefully weigh the needs of all its subsidiary departments. This is especially true when the proposed project was presented for funding shortly before the beginning of a new fiscal year and practically on the heels of the budget negotiations for that new fiscal year, and where the City and the Court already had available to them the expertise and facilities of Rejis which has been providing computer services to the area for the past ten years. See In Re 1983 Budget for Circuit Court of St. Louis, 665 S.W. 2d at 945.

VIII.

The second issue presented here is whether the City, or any local governing body, can refuse to honor requests for payment of previously approved funds. Again, we think not.

All the parties are in agreement that, at the least, a computerized financial accounting system for the Clerk's office was negotiated and approved by the Court en banc and the City. Certainly the Clerk is now entitled to receive funds to cover the costs incurred in conducting the studies and needs assessments attendant on exploring and developing computerization. The Clerk relied in good faith on the representations of the City when it approved his budget request, a request that had already been reduced in response to requests from the City for fiscal restraint. The City is now estopped to deny that it is obligated to fund the legitimate expenses incurred therein.[2] State ex inf. Anderson v. St. Louis County, 421 S.W. 2d 249 (Mo. banc 1967).

VIII.

Understandably, fiscal emergencies can arise in mid-year as can innovative projects which would seem to cry out for funding. However, to preserve the integrity of the budgetary process and the good faith negotiations which should be involved therein, both parties, government and court, should make every effort to adhere to that to which they agreed at the beginning of the fiscal year. Such an approach preserves the integrity of the separate departments of government and allows for a harmonious relationship between each of such departments. See State ex rel. Judges of the Twenty-Second Circuit v. City of St. Louis, 494 S.W. 2d at 40.

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[2] The Clerk has established that approximately $49,000.00 is owed to Ernst and Whinney and Inslaw for surveys, consultant services and the development of a system design software package.

DECISION

The request for payment of expenses which were incurred by the Clerk in evaluating his office's needs for computerization are reasonable. The attempt to utilize a portion of an approved budget line item for a project which would have a significant impact on future budget years, but which was not initially contemplated by the parties, is not reasonable under the circumstances presented here.

Dated this 23 day of October, 1984

Byron L. Kinder

Honorable Byron L. Kinder
Acting Chairman

Honorable Douglas Haile
Honorable Gene Huckstep
Honorable Archie McGee
Honorable Daniel J. O'Toole
Honorable James R. Reinhard
Honorable John M. Yeaman