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CASENOTE

PIG IN A POKE: MISSOURI DRAWS TENUOUS LINE BETWEEN PUBLIC HEALTH AND ZONING ORDINANCES IN ALLOWING COUNTY REGULATION OF CONCENTRATED ANIMAL FEEDING OPERATIONS

*Borron v. Farrenkopf*¹

I. INTRODUCTION

Government regulation of large hog farms and confinement operations has become a matter of growing public concern and increased litigation throughout states with economies based, in large part, on agriculture and farming.² Missouri has been no exception to this trend.³ On one side, environment and health concerns have caused many to advocate treating concentrated animal feeding operations ("CAFO's") with caution.⁴ On the other hand, advocates of the facilities say they will be of economic benefit to the communities in which they are located, and therefore should be allowed to operate as freely as possible.⁵ During the short history of CAFO's in Missouri, the balance between these competing perspectives has seldom been harmonious, and the current battleground on which these interests face off is the state legislature.⁶ In 1994, the state legislature promulgated regulations which governed CAFO's by setting buffer distances between CAFO's and their surrounding communities and also by allowing for local control of CAFO's by the communities in which they are located.⁷ Also in 1994, the state legislature passed a law that allowed county commissions to regulate CAFO's in their counties in order to promote public health and prevent the spread of disease.⁸ Those laws are counterbalanced, however, by MO. REV. STAT. § 64.620, which authorizes county commissions to establish zoning ordinances for unincorporated portions of such counties,⁹ but which expressly states that zoning ordinances may not regulate livestock production.¹⁰ In *Borron v. Farrenkopf*, the Missouri Court of Appeals for the Western District addressed the question of whether ordinances promulgated by the Linn County Commission regulating CAFO's were health ordinances promulgated under MO. REV. STAT. § 192.300, or zoning ordinances prohibited by MO. REV. STAT. § 64.620. In so doing, the court struck a blow against corporate farms and pollution, and in favor of family farms, good public health and the environment.

II. FACTS AND HOLDING

The county commissioners of Linn County, Missouri, passed a health ordinance that promulgated regulations regarding the permits necessary to operate a CAFO.¹¹ The ordinance was passed pursuant to

¹ 5 S.W.3d 618 (Mo. Ct. App. 1999).

² See *Goodell v. Humboldt County*, 575 N.W.2d 486 (Iowa 1998); *Welsh v. Centerville Township*, 595 N.W.2d 622 (N.D. 1999); *County Zoning Authority to Regulate Concentrated Animal Feeding Operations*, 1999 WL 238975 (Tenn. A.G.).

³ See *Premium Standard Farms, Inc. v. Lincoln Township of Putnam County*, 946 S.W.2d 234 (Mo. 1997). See also *Clay County v. Harley and Susie Bogue, Inc.*, 988 S.W.2d 102 (Mo. Ct. App. 1999).

⁴ See MO. REV. STAT. § 640.710.1 (1994) ("Such rules shall be designed to afford a prudent degree of environmental protection while accommodating modern agricultural practices.").

⁵ See Matt M. Drummermuth, *A Summary and Analysis of Laws Regulating the Production of Pork in Iowa and Other Major Pork Producing States*, 2 DRAKE JOURNAL OF AGRICULTURAL LAW 447, 451 (1997).

⁶ See MO. REV. STAT. §§ 640.710-.758 (1994).

⁷ MO. REV. STAT. § 640.710.

⁸ MO. REV. STAT. § 192.300 (1994).

⁹ MO. REV. STAT. § 64.620.1 (1994).

¹⁰ MO. REV. STAT. § 64.620.2 (1994).

¹¹ *Borron*, 5 S.W.3d at 619. See also LINN COUNTY, MO., CODE § 97-01 (1997).

MO. REV. STAT. § 193.300.¹² The ordinance outlined requirements which landowners must meet to avoid the damage that could be caused to soil, air and water by CAFO's.¹³ The ordinance also included building and setback requirements relevant to CAFO's.¹⁴

Plaintiffs-appellants Jeremy and Janice Borron ("the Borrns") owned 1,210 adjacent acres of land in Linn County.¹⁵ The Borrns wished to use this land to conduct a hog-finishing operation consisting of 18,000 hogs, as well as a farrowing operation involving approximately 2,750 sows.¹⁶ The Borrns filed for declaratory relief from the county ordinance.¹⁷ The issues in the trial court and on appeal were whether Linn County was either forbidden by state law or, in the alternative, was without the necessary authority to enact the ordinance in question, and whether other state statutes preempted Linn County from enacting the ordinance.¹⁸ The trial court granted Linn County's motion for summary judgment, determining that the ordinance was valid and enforceable.¹⁹

The Borrns claimed that MO. REV. STAT. § 64.620 preempted the Linn County ordinance by depriving second and third class counties, such as Linn County, of the power to legislate building restrictions on land used for the raising of livestock,²⁰ and that a county may only exercise power expressly granted to it by the state.²¹ The court relied upon Missouri case law, however, to determine that even though the ordinance in question did possess zoning qualities, the ordinance was a health ordinance rather than a zoning ordinance, and that Linn County was authorized to promulgate health ordinances.²² The court stated that the Linn County ordinance in dispute was rationally related to the health problems that can result from CAFO's and was therefore permissible under § 192.300.²³

The Borrns next claimed that the county ordinance was inconsistent with state law and therefore, was preempted by state law.²⁴ The court, however, stated that although the Linn County ordinance did require CAFO's to comply with regulations additional to those outlined in §§ 640.700 through 640.758 of Missouri law, the county was entitled to require CAFO's to comply with additional requirements.²⁵ Moreover, the court stated its position that although the Linn County ordinance promulgated additional requirements to be met by CAFO's, those additional requirements did not amount to a prohibition on CAFO's.²⁶

The Borrns next argued that the Linn County ordinance was unenforceable because it regulated an area already regulated by state law.²⁷ The court determined, however, that the § 640.710(5) statement

¹² *Borron*, 5 S.W.3d 618, 619. See also MO. REV. STAT. § 192.300 (1994). Section 193.300 is part of a chapter of the Revised Statutes of Missouri which addresses the issues of public health and welfare. The section allows county commissions to create ordinances designed "to enhance the public health and prevent the entrance of infections . . . or dangerous diseases into such county, but . . . shall not be in conflict with rules or regulations . . . made by the department of health or the department of social services." The opening paragraph of the Missouri Court of Appeals for the Western District's opinion in *Borron v. Farrenkopf* states that the Linn County Commission enacted the relevant ordinance pursuant to MO. REV. STAT. § 193.300. It would appear that this statement is a typographical error, as nowhere else in the opinion is MO. REV. STAT. § 193.300. mentioned, and the remainder of the opinion liberally references MO. REV. STAT. § 192.300.

¹³ *Borron*, 5 S.W.3d at 619.

¹⁴ *Id.* See also LINN COUNTY, MO., CODE § 97-01 (1997). The setback requirements outline the minimum distance which must exist between CAFO's, as well as the minimum distances between CAFO's and occupied dwellings, and CAFO's and populated areas.

¹⁵ *Borron*, 5 S.W.3d at 619.

¹⁶ *Id.*

¹⁷ *Id.* at 620.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Borron*, 5 S.W.3d at 620.

²² *Id.* at 621.

²³ *Id.*

²⁴ *Id.* at 623.

²⁵ *Id.*

²⁶ *Id.* at 624.

²⁷ *Borron*, 5 S.W.3d at 624.

that “nothing in this section shall be construed as restricting local controls,” showed the state legislature’s intent to leave the issue of CAFO’s open for local regulation.²⁸

The Missouri Court of Appeals for the Western District held that because Linn County was given the authority to make health ordinances to promote the public health and prevent the spread of disease into the community, and because the disputed ordinance was not a zoning ordinance, but rather, a health ordinance, Linn County was permitted, under MO. REV. STAT. § 192.300, to enact such an ordinance.²⁹ Additionally, the court held that state law did not preempt the ordinance because the ordinance was not in conflict with any state law and because state law did not occupy the area governed by the ordinance.³⁰

III. LEGAL BACKGROUND

In most states, the purposes behind regulation of CAFO’s have included environmental concerns regarding water quality as well as the state’s desire to compete economically with other pork-producing states and countries.³¹

In 1997, the county commissioners of Linn County, Missouri, passed a health ordinance that promulgated regulations regarding the permits necessary to operate a concentrated animal feeding operation (CAFO).³² The ordinance was passed pursuant to MO. REV. STAT. § 193.300.³³ The ordinance outlined requirements which landowners must meet to avoid the damage that could be caused to soil, air and water by CAFO’s.³⁴ The ordinance also included building and setback requirements relevant to CAFO’s.³⁵

Section 193.300 is part of a chapter of the Revised Statutes of Missouri that addresses the issues of public health and welfare.³⁶ The section grants “home rule” power to county commissions by allowing them to create ordinances designed to promote the public health and prevent the outbreak of infectious diseases in the county.³⁷ The statute notes, however, that such county ordinances shall not conflict with rules or regulations promulgated by the Missouri Department of Health or the Missouri Department of Social Services.³⁸

Section 64.620 is included in a chapter of the Revised Statutes of Missouri relating to planning and zoning in second- and third-class counties.³⁹ Like § 192.300, § 64.620 is also a “home rule” statute in that it gives second- and third-class counties such as Linn the power to regulate, in unincorporated areas, matters such as the location, size and use of buildings.⁴⁰ But § 64.620.2 of the Revised Statutes of Missouri notes that the provisions of § 64.620 shall not apply to land used for the raising of livestock.⁴¹

In *Premium Standard Farms, Inc. v. Lincoln Township of Putnam County*, the Supreme Court of Missouri noted that local governments have no inherent powers and instead are limited to the powers expressly delegated them by the sovereign, and the powers necessarily implied in order to carry out the enumerated powers.⁴² A county is limited to only the powers granted to it in express terms, the powers

²⁸ *Id.* (citing MO. REV. STAT. § 640.710(5) (1994)).

²⁹ *Borron*, 5 S.W.3d at 625.

³⁰ *Id.*

³¹ See Drummermuth, *supra* note 5 at 449.

³² *Borron*, 5 S.W.3d at 619. See also LINN COUNTY, MO., CODE § 97-01 (1997).

³³ *Id.* See also Mo. Rev. Stat. § 192.300 (1994).

³⁴ *Borron*, 5 S.W.3d at 619.

³⁵ *Id.* See also LINN COUNTY, MO., CODE § 97-01 (1997). The setback requirements outline the minimum distance which must be between CAFO’s, as well as the minimum distances between CAFO’s and occupied dwellings, and CAFO’s and populated areas.

³⁶ See MO. REV. STAT. §§ 192.005-.323 (1994).

³⁷ MO. REV. STAT. § 192.300 (1994).

³⁸ *Id.*

³⁹ See MO. REV. STAT. §§ 64.510-.727 (1994).

⁴⁰ MO. REV. STAT. § 64.620.1 (1994).

⁴¹ MO. REV. STAT. § 64.620.2 (1994).

⁴² *Premium Standard Farms, Inc. v. Lincoln Township of Putnam County*, 946 S.W.2d 234, 238 (quoting Robert H. Freilich,

necessarily implied in order to implement the express powers, and powers deemed essential to the purposes of the county, the court said.⁴³ When a county commission goes beyond these limitations in promulgating regulations, or, alternatively, the commission's act is expressly preempted by the state, the commission's act is void.⁴⁴

In *Avanti Petroleum, Inc. v. St. Louis County*,⁴⁵ the county enacted an ordinance requiring vendors of tobacco products to be licensed by the county department of health.⁴⁶ Another purpose behind the ordinance was to prevent tobacco vendors from selling tobacco products to minors under 18 years of age.⁴⁷ The court determined that the purpose of the ordinance was to regulate the use of tobacco, a known hazardous substance.⁴⁸ Thus, the restrictions imposed by the ordinance had a rational relation to the public health, and therefore the ordinance was permissible under § 192.300.⁴⁹ Thus, although the county lacked the enumerated power to regulate the sale of tobacco products, the ordinance was still permissible and valid, as § 192.300 did grant the county the general power to pass ordinances promoting the public health.⁵⁰

The Missouri Court of Appeals for the Western District of Missouri reached a similar decision in *Professional Houndsmen of Missouri, Inc. v. County of Boone*.⁵¹ In *Professional Houndsmen*, the court held that a county could pass an ordinance requiring dog owners to use leashes and to register and vaccinate their pets because § 192.300 permits counties to promulgate regulations which promote the public health, and animal control is reasonably related to the mission of preventing disease and promoting public health.⁵²

As outlined by the Supreme Court of Missouri in *Morrow v. City of Kansas City*,⁵³ there are two ways that state law may preempt local law.⁵⁴ First, if the local ordinance conflicts with the state law, then the ordinance is invalid.⁵⁵ It should be noted, however, that although preemption prohibits a county ordinance from conflicting with state law, it does not prohibit the county from promulgating extra regulations in addition to the state law already in existence.⁵⁶ In other words, for a local ordinance to conflict with state law, it must be prohibitory rather than regulatory.⁵⁷ Alternatively, the local ordinance will be preempted if the county has legislated the ordinance in an area that is occupied by state law.⁵⁸ According to the Supreme Court of Missouri in *Union Electric Company v. City of Crestwood*,⁵⁹ a local ordinance infringes upon an area of the law occupied by the state if the body of state law in the area leaves no room for local control.⁶⁰

IV. INSTANT DECISION

In attacking the lawfulness of the Linn County Ordinance, the Borrons advanced several different

Missouri Law of Land Use Controls: with National Perspectives, 42 UMKC L. REV. 1, 27 (1973).

⁴³ *Id.*

⁴⁴ *Lancaster v. County of Atchison*, 180 S.W.2d 706, 708 (Mo.1944).

⁴⁵ 974 S.W.2d 506 (Mo. Ct. App. 1998).

⁴⁶ *Id.* at 508.

⁴⁷ *Id.*

⁴⁸ *Id.* at 509.

⁴⁹ *Id.*

⁵⁰ *Id.* at 509.

⁵¹ 836 S.W.2d 17 (Mo. Ct. App. 1992).

⁵² *See id.* at 19.

⁵³ 788 S.W.2d 278 (Mo. 1990).

⁵⁴ *Id.* at 281.

⁵⁵ *Id.*

⁵⁶ *State ex rel. Hewlett v. Womach*, 196 S.W.2d 809, 814 (Mo. 1946).

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ 499 S.W.2d 480 (Mo. 1973).

⁶⁰ *Id.*

arguments. First, the Borrns argued that MO. REV. STAT. § 64.620. deprived the Linn County Commission of the power to legislate zoning restrictions on farms.⁶¹ In assessing the merits of this particular argument, the court weighed the positions adopted by the Missouri Supreme Court in *Premium Standard Farms v. Lincoln Township of Putnam*, against the position adopted by the Missouri Court of Appeals for the Eastern District in *Avanti Petroleum, Inc. v. St. Louis County*.⁶² The Borrns relied on *Premium Standard* to advance the proposition that a county's power is limited to the powers expressly granted to it by the state, to those powers necessary and proper to effectuate the enumerated powers granted by the state, or to those powers essential to the purposes of such county.⁶³ In *Premium Standard*, Lincoln Township promulgated regulations creating setback and bonding requirements for CAFO lagoons and buildings.⁶⁴ *Premium Standard* argued that Lincoln Township was prohibited from imposing zoning regulations on *Premium Standard*'s buildings as they were "farm structures," and therefore exempt from county zoning regulations.⁶⁵ The Missouri Supreme Court held that the lagoons and buildings in dispute in the case were "farm structures" and therefore were exempted from county zoning ordinances.⁶⁶

The *Borrn* court contrasted *Premium Standard* with *Avanti Petroleum Inc. v. St. Louis County*, in which St. Louis County, acting under the auspices of MO. REV. STAT. § 192.300, enacted an ordinance which prohibited the sale of tobacco products by vendors not licensed by the county board of health.⁶⁷ The plaintiffs in the case, a group of tobacco retailers located in the county, claimed that the ordinance was not a valid health measure because it was not reasonably related to public health.⁶⁸ The court, however, stated that tobacco was a known health hazard and thus, the ordinance was rationally related to promoting the public health.⁶⁹ Moreover, the court stated that under MO. REV. STAT. § 192.300, a county is not limited in the means it may employ to protect its citizenry from known health hazards.⁷⁰

The *Borrn* court was more persuaded by the decision in *Avanti Petroleum* than by the decision of the Missouri Supreme Court in *Premium Standard*.⁷¹ Because the county ordinance at issue in *Borrn* referenced its own intention to protect the public health, and because health problems can easily be linked to livestock animals, the court rejected the Borrns' contention that the Linn County ordinance was a zoning rather than a health statute.⁷² The court thus determined that the Linn County ordinance was permissible under MO. REV. STAT. § 192.300.⁷³

The Borrns next argued that the Linn County ordinance was preempted by state law, because it was in direct conflict with state law, specifically, MO. REV. STAT. §§ 640.700 through 640.758, which establish state regulations for CAFO's.⁷⁴ The Borrns argued that because the Linn County ordinance promulgated regulations in addition to those enumerated in MO. REV. STAT. §§ 640.700 through 640.758, the ordinance was in conflict with state law and was thus preempted by state law.⁷⁵ The court rejected this argument, however, on the grounds that the Linn County ordinance merely imposed additions to the regulations already promulgated by the state, and was therefore, permissible.⁷⁶

The Borrns' final argument was that the Linn County ordinance was unenforceable because it regulated an area already occupied by state law, namely MO. REV. STAT. §§ 640.700 through 640.758,

⁶¹ *Borrn*, 5 S.W.3d at 620.

⁶² *Id.* at 620-21.

⁶³ *Id.* at 620.

⁶⁴ See *Premium Standard Farms, Inc. v. Lincoln Township of Putnam County*, 946 S.W.2d 234, 235-36 (Mo. 1997).

⁶⁵ *Id.* at 238.

⁶⁶ *Id.* at 240.

⁶⁷ *Avanti Petroleum, Inc. v. St. Louis County*, 974 S.W.2d 506, 508 (Mo. Ct. App. 1998).

⁶⁸ *Id.* at 509.

⁶⁹ See *id.*

⁷⁰ *Id.*

⁷¹ *Borrn*, 5 S.W.3d at 621.

⁷² *Id.* at 621-622.

⁷³ *Id.* at 622.

⁷⁴ *Id.* at 623.

⁷⁵ *Id.* at 624.

⁷⁶ *Id.*

which already regulated CAFO's.⁷⁷ Citing the Supreme Court of Missouri's decisions in the cases of *Union Electric Co. v. City of Crestwood*,⁷⁸ and *City of Maryville v. Wood*,⁷⁹ the court determined that the test for whether state law occupies an area of the law is whether the state "has created a comprehensive scheme on a particular area of the law, leaving no room for local control."⁸⁰ If the state's laws have done so, then the local act is preempted.⁸¹ The *Borron* Court determined, however, that the rule established by *Union Electric Company* and *City of Maryville* did not apply to the case at hand, because § 640.710(5) plainly states, "Nothing in this section shall be construed as restricting local controls."⁸² The *Borron* Court interpreted this statement as implying the state legislature's intent of leaving a window for local regulation of CAFO's.⁸³ Thus, the court reasoned, Linn County's regulations did not conflict with state law, but rather, only created more rigorous regulations and therefore, were not preempted.⁸⁴

V. COMMENT

In deciding the case of *Borron v. Farrenkopf*, the Supreme Court of Missouri clearly issued an opinion that was friendly to the environment, but the court based its decision upon tenuous reasoning. The determinative issue in the case was whether the Linn County ordinance in question was a zoning statute or a health statute.⁸⁵ In rejecting the *Borrons'* contention that the case should be governed by *Premium Standard Farms, Inc. v. Lincoln Township of Putnam County*, the court noted that in *Premium Standard*, Lincoln Township had enacted a zoning statute which provided no indication that it was intended to guard the health of the community.⁸⁶ Although the court admitted that the Linn County Ordinance did possess a zoning quality, the court found more persuasive a line of case law and research describing the health-related issues stemming from corporate hog farms.⁸⁷ The court stated that the Linn County ordinance logically followed this line of legal reasoning, stating that the ordinance's setback requirements and building regulations were rationally related to the purpose of public health.⁸⁸ Although the Linn County ordinance repeatedly mentions that it arose out of the county commission's concern for the public health,⁸⁹ it nevertheless cannot be denied that the ordinance attempts to realize its lofty goals through the promulgation of regulations which possess at least some of the elements of typical zoning regulations.⁹⁰

The *Borron* Court implied that the test for whether an ordinance is related to zoning or health is whether the purpose of the ordinance is to regulate for health concerns rather than for a uniform

⁷⁷ *Id.*

⁷⁸ 499 S.W.2d 480 (Mo. 1973).

⁷⁹ 216 S.W.2d 75 (Mo. 1948).

⁸⁰ *Borron*, 5 S.W.3d 618 at 624 (citing *Union Electric*, 499 S.W.2d at 482 and *City of Maryville*, 216 S.W.2d at 77).

⁸¹ *Id.* (citing *Union Electric*, 499 S.W.2d at 482).

⁸² *Borron*, 5 S.W.3d at 624 (quoting MO. REV. STAT. 640.710(5) (1994)).

⁸³ *Borron*, 5 S.W.3d at 624.

⁸⁴ *Id.*

⁸⁵ *See id.* at 620 ("The legal questions presented to the trial court, and here on appeal, are whether the County was either prohibited by state law or without the power to enact the Ordinance, or was preempted from passing the Ordinance because of other state statutes."). *See also id.* at 621 ("In the case at bar, the Ordinance enacted by Linn County falls not under the ruling of *Premium Standard* as Appellants contend, but under the ruling of *Avant/Petroleum* [sic]. The Ordinance in question here 'establishes health regulations for concentrated animal feeding operations.'").

⁸⁶ *Borron*, 5 S.W.3d at 621 (citing *Premium Standard Farms, Inc. v. Lincoln Township of Putnam County*, 946 S.W.2d at 236).

⁸⁷ *Borron*, 5 S.W.3d at 622.

⁸⁸ *Id.*

⁸⁹ LINN COUNTY, MO., CODE § 97-01 (1997).

⁹⁰ *See* BLACK'S LAW DICTIONARY 1618 (6th ed. 1990) (defining "zoning" as "The division of a city or town by legislative regulation into districts and the prescription and application in each district of regulations having to do with structural and architectural designs of buildings and of regulations prescribing use to which buildings within designated districts may be put. Division of land into zones, and within those zones, regulation of both the nature of land usage and the physical dimensions of uses including height [,] setbacks and minimum area.").

development of real estate.⁹¹ It is true that the Linn County ordinance's requirements that CAFO's obtain county health permits and that CAFO's not threaten water, air and soil quality, seem to be rationally related to health.⁹² Although the ordinance's setback requirements that CAFO's not be located within certain distances of occupied dwellings could also be justified on health-related grounds, those health-related justifications could also be little more than pretenses for the fact that many would regard CAFO's as eyesores.⁹³ Likewise, the ordinance requires that all CAFO's provide adequate security to ensure proper cleanup in the event of waste spills or other accidents at the facilities, but these ordinances could also be pretenses for the county attempting to ensure that any CAFO doing business within its borders is solvent and therefore more likely to provide employment stability for the county's citizens.⁹⁴ Nevertheless, the *Borron* Court was probably properly persuaded by the decision of the Supreme Court of Iowa in the similar case of *Goodell v. Humboldt County*, in which the court noted that although the regulations at issue in that case did advance the health and general welfare of the community, they did not do so by regulating land usage by district, and thus, were not zoning regulations.⁹⁵

But perhaps the greatest doubt about the true nature of the Linn County ordinance as a health regulation rather than a zoning regulation is created by the fact that the ordinance allows for hardship exceptions for some CAFO's.⁹⁶ Section 7 of the ordinance states that if, due to an exceptional situation or the condition of a certain parcel of land, the application of the ordinance would create a hardship upon the landowner, the county commission may authorize a variation from the requirements of the ordinance if doing so will not substantially harm the public good.⁹⁷ This provision belies the contention that the ordinance is really a health regulation by implying that the health risks guarded by the ordinance are not so great that it is impossible to envision a circumstance in which they would be subjugated to the county's interest in erecting a CAFO. Moreover, it is highly unlikely that the health problems posed by CAFO's are limited to Linn County alone. If the health risks associated with these facilities are so great, it would seem to be most sensible to promulgate statewide regulations to prevent disputes of this nature, rather than leave governance of CAFO's up to the less-informed and often more capricious county commissions around the state.

VI. CONCLUSION

The problems addressed in *Borron v. Farrenkopf* could have easily been avoided through promulgation of responsible state regulations which address the serious health risks posed by CAFO's, but it's likely that the powerful lobbies of corporate farms have stymied attempts to pass such legislation. Until such regulations come to fruition, courts and county commissions will need to continue to employ creative strategies and reasoning like those used by the Linn County Commission and the *Borron* Court, in order to reduce the stranglehold of large, industrial farms on a community's government and health.

WILLIAM C. ELLIS

⁹¹ See *Borron*, 5 S.W.3d at 622.

⁹² LINN COUNTY, MO., CODE § 97-01 (1997).

⁹³ See LINN COUNTY, MO., CODE § 97-01 (1997).

⁹⁴ See LINN COUNTY, MO., CODE § 97-01 (1997).

⁹⁵ *Goodell v. Humboldt County*, 575 N.W.2d 486, 496 (Iowa 1998).

⁹⁶ See LINN COUNTY, MO., CODE § 97-01 (1997).

⁹⁷ LINN COUNTY, MO., CODE § 97-01 (1997).