

# Appeals court: Ky. library tax is legal



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(Photo: The Enquirer/Patrick Reddy)

It doesn't look like libraries in Kentucky will have to close after all.

The Kentucky Court of Appeals in a 3-0 decision handed down on Friday reversed two circuit court decisions in Kenton and Campbell counties that declared the library districts in those counties had improperly raised taxes for decades.

The appeals court found the libraries can raise their tax without having to gather a petition—so long as the amount doesn't bring in four percent more revenue than the year before, just like other taxing districts. It means library budgets won't get slashed and library branches won't get closed as some had feared.

The court case garnered national attention, and library associations across the country rejoiced at the news.

"More than just a vital resource, we know that libraries are vital to democracy in the great state of Kentucky and everywhere," American Library Association President Courtney Young and Public Library Association President Larry Neal said in a joint statement on Friday.

The plaintiffs can appeal to the Kentucky Supreme Court, but library officials feel confident the unanimous decision by the appeals court has put them on firm ground.

"I view this decision as fairly powerful and persuasive," said Jeff Mando, attorney for the libraries of Campbell and Kenton counties. "It was a unanimous, published opinion and a very common sense ruling. It provides stability for the libraries. While the litigation has been pending, there was the potential threat of closures, of closing branches, laying off staff and eliminating programs."

After three years of litigation, the news on Friday came as a big relief for loyal library patrons.

Joan Thamann, of Fort Wright, takes her four children, ages 2 to 9, to Kenton County Public Libraries at least once a week. They're voracious readers and the librarians know them by name.

"I think it's a huge sigh of relief that our libraries are safe and can stay open and continue to offer all the great events, free resources, books for kids and everything else the libraries have to offer," Thamann said.

## Lawsuits challenged library boards' authority

The lawsuits, filed by tea party activists three years ago in Kenton and Campbell counties, challenged the authority of library boards to raise property taxes without submitting a petition and putting it on the ballot.

Campbell County Commissioner Charlie Coleman, one of the plaintiffs in the lawsuit in Campbell County, didn't have a comment on Friday. Calls to other plaintiffs and their attorney, Brandon Voelker, were not returned Friday.

The plaintiffs objected to the fact that library board members are appointed, not elected.

Voelker and the plaintiffs have argued that they are not against libraries but wanted more public control over library tax increases.

"It's not about whether you're for or against the library," Voelker told the Enquirer in February. "It's about whether it's unelected boards or the right of the people to determine the tax rate."

If successful, the lawsuit would have rolled library taxes back to their rates in the 1970s and decimated library revenues, likely causing the closure of branches and other cutbacks. It would have affected more than 80 libraries around the state.

The plaintiffs argued 1979 legislation passed by the General Assembly that allowed taxing districts to raise property taxes didn't include libraries created by petition.

This included libraries in Kenton and Campbell counties, as well as more than 80 others around the state.

But these libraries, on advice from the state, followed the 1979 legislation.

Taxing districts can raise property tax rates enough to where it brings in 4 percent more revenue than the previous year. Anything above that is subject to a voter recall and referendum.

The plaintiffs, however, argued that library districts created by petition weren't included under that 1979 legislation and therefore didn't have the authority to raise tax rates on their own.

Circuit court judges in Campbell and Kenton counties agreed.

### **Library boards 'acted in good faith'**

The appeals court, however, didn't see a conflict in the state statutes and believed it was the legislative intent for the 1979 law to apply to libraries.

In its decision, the appeals court noted that upholding the decisions of the lower court would adversely affect at least 80 library districts across the state. The appeals court found that the legal issues regarding taxing authority is best addressed by the General Assembly, not the courts.

"For over 30 years, without protest or challenge, the library districts created by petition have acted in good faith and conducted their affairs in accordance with the directions of the executive branch, which was charged by law to implement the applicable statutes in question," Appeals Court Judge Jeff Taylor wrote in the opinion.

### **The end of an anxious three years**

Barring the Supreme Court overturning the decision, the appeals court ruling marks the end of an anxious three years for libraries across the state.

"There was a lot of tension," said Tom Underwood with the Kentucky Library Association. "Staff didn't know what the future would be. Their morale was challenged."

At one point, Campbell County Libraries had to consider operating on 1/3 of its current budget, should the tax rate be rolled back to the 1970s level, said J.C. Morgan, executive Director of the Campbell County Libraries.

"I'm so glad we can move on and go forward and keep providing the services people appreciate so much here in Campbell County and across Kentucky," Morgan said.

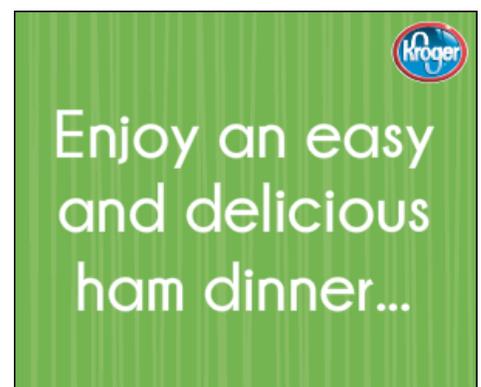
The decision means the Kenton County Library can once again invest more money into education programs and outreach, said Dave Schroeder, executive director of the Kenton County Public Library.

Kenton County Public Library District held off on investing more in outreach programs that brought books to seniors and day cares and spending more on education programs, said Dave Schroeder. These programs, which range from photography to local history, have increased in attendance by 18 percent this fiscal year compared to last year, Schroeder said.

Now libraries can put the lawsuit behind them, Schroeder said.

"This court ruling says emphatically that board members have been following the law," Schroeder said. "To me, this ruling really re-affirms our board of trustees has been very professional. They take their taxing authority very seriously."

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