

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI EX REL  
MISSOURI CLEAN ENERGY DISTRICT**

**RESPONDENT,**

**v.  
LYDIA MCEVOY IN HER OFFICIAL  
CAPACITY AS COLLECTOR OF  
REVENUE OF CLAY COUNTY**

**APPELLANT.**

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DOCKET NUMBER WD81207

DATE: August 7, 2018

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Appeal From:

Clay County Circuit Court  
The Honorable Shane T. Alexander, Judge

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Appellate Judges:

Division One: Thomas H. Newton, Presiding Judge, Alok Ahuja, Judge and Gary D. Witt, Judge

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Attorneys:

Robert M. Thompson, Kansas City, MO, for respondent.

Patricia L. Hughes, Liberty, MO, for appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI EX REL MISSOURI CLEAN ENERGY  
DISTRICT, RESPONDENT,**

**v.**

**LYDIA MCEVOY IN HER OFFICIAL CAPACITY AS COLLECTOR OF REVENUE  
OF CLAY COUNTY, APPELLANT.**

WD81207

Clay County

Before Division One Judges: Thomas H. Newton, Presiding Judge, Alok Ahuja, Judge, and Gary D. Witt, Judge

The Collector of Revenue of Clay County, Missouri (the "Collector") appeals the judgment of the Circuit Court of Clay County granting a writ of mandamus against the Collector in favor of the Missouri Clean Energy District ("MCED"). MCED is the political subdivision of the State of Missouri responsible for administering the Property Assessment Clean Energy ("PACE") Act. The PACE Act allows property owners to obtain PACE financing for certain environmentally conscious property improvements, such financing to be repaid through annual special property assessments. MCED filed its petition for writ of mandamus ("Petition") seeking the court to order the Collector to place the financing payments on the tax bills of the property owners. The Collector raises four allegations of error on appeal.

**AFFIRMED.**

**Division One holds:**

(1) Pursuant to Rule 94, the circuit court should have issued a preliminary writ ordering the Collector to file an answer to MCED's petition for writ of mandamus ("Petition"). However, because the circuit court granted the writ on the merits after a full hearing, this Court may, in its discretion, review the claims on appeal. The Collector suffered no prejudice from either the circuit court's actions or from this Court exercising its discretion to hear this appeal.

(2) The circuit court did not err in granting the writ despite the Collector's erroneous contention that it had not received the full PACE assessment contracts. The circuit court had a sound factual bases to find that MCED had met its statutory requirements for delivering the contracts at the time the circuit court ordered the Collector to place the PACE assessments on the tax bills.

(3) The circuit court did not err in issuing the writ of mandamus because the Collector's duty was ministerial over which she had no discretion. The Collector's various allegations that the PACE assessment contracts were flawed are irrelevant to the performance of her duty. Further, it is immaterial that the contracts may have allowed for alternative means of collecting the debt, a writ of mandamus was the proper remedy by which to require the Collector to place the financing payments on the property tax bills.

(4) The Collector's allegation that the circuit court erred in finding that the Collector was unwilling to enter into a collection agreement with MCED is without merit. The Collector provides no citation to such a finding, and this Court can find no indication that such a finding was ever made by the circuit court.

**Opinion by: Gary D. Witt, Judge**

August 7, 2018

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