

**IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE**

HARPETH VALLEY UTILITIES)	
DISTRICT OF DAVIDSON AND)	
WILLIAMSON COUNTIES,)	
)	
Plaintiff/Appellant,)	
)	
VS.)	
)	
THE METROPOLITAN GOVERNMENT)	
OF NASHVILLE AND DAVIDSON)	
COUNTY,)	Davidson Chancery
)	No. 97-2895-III
Defendant/Appellee,)	
)	Appeal No.
)	01A01-9711-CH-00686
RAY BELL, GLENDA BELL, WILLIAM)	
COBLE, DR. ROY PARKER, JIMMY)	
JONES, WESLEY BARNES, FANNIE C.)	
BUCHANAN, KEITH VAUGHN, JOEL)	
CHEEK, DANNY GRAVES, EDDIE)	
GRAVES, JERRY GRAVES, ANNIE K.)	
GRAVES, MACK LOVELL, WANDA)	
LOVELL, JOE COLLIER, JIM FESMIRA,)	
MAC KELL, THOMAS ROGERS, GENE)	
ROGERS, and GEORGE ROGERS,)	
)	
Intervenors-Defendants/Appellees.)	

CONCURRING OPINION

We concur with the results of the presiding judge’s opinion because we believe that the holding of *Davidson County v. Harmon*, 200 Tenn. 575, 292 S.W.2d 777 (1956) controls the outcome of this case. The Harpeth Valley Utility District has been operating since 1959 under the aegis of the Utilities Law of 1937 [Tenn. Code Ann. §§ 7-82-101, -804 (1992 & Supp. 1997)] providing water and sewerage disposal services to areas of Davidson, Williamson, and Cheatham Counties. As such, it is a governmental entity. See Tenn. Code Ann. § 7-82-301(a)(1) (Supp. 1997); *First Suburban Util. Dist. v. McCanless*, 177 Tenn. 128, 132-34, 146 S.W.2d 948, 950 (1941). Unless specifically provided otherwise, a city’s zoning power does not extend to state government instrumentalities located within its borders. See *Davidson County v. Harmon*, 200 Tenn. at 583-84, 292 S.W.2d at 780-81.

While a state governmental entity could be enjoined from maintaining a nuisance on its property, *see Davidson County v. Harmon*, 200 Tenn. at 585, 292 S.W.2d at 781, there is no evidence in this record that Harpeth Valley's proposed wastewater treatment plant on the Cumberland River, when constructed, will be a nuisance. To the contrary, the plans for the plant have already been approved by the Tennessee Department of Environment and Conservation.

WILLIAM C. KOCH, JR., JUDGE

JERRY SMITH, SPECIAL JUDGE