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Commonwealth Of Kentucky

Court of Appeals

NO. 2004-CA-000101-MR
AND
NO. 2004-CA-000177-MR

ERIC P. LIGHT AND CONNIE LIGHT,
ON BEHALF OF THEMSELVES AND ALL
OTHERS SIMILARLY SITUATED — APPELLANTS/CROSS-APPELLEES

APPEAL AND CROSS-APPEAL FROM JEFFERSON CIRCUIT COURT
v. HONORABLE LISABETH HUGHES ABRAMSON, JUDGE
ACTION NO. 00-CI-001660

CITY OF LOUISVILLE, KENTUCKY;
LOUISVILLE/JEFFERSON COUNTY METRO
GOVERNMENT; HON. DAVID L. ARMSTRONG,
IN HIS OFFICIAL CAPACITY AS MAYOR OF THE
CITY OF LOUISVILLE, KENTUCKY; AND
HON. JERRY E. ABRAMSON, IN HIS OFFICIAL
CAPACITY AS MAYOR OF THE LOUISVILLE/
JEFFERSON COUNTY METRO GOVERNMENT — APPELLEES/CROSS-APPELLANTS

OPINION
AFFIRMING

** ** ** ** **

BEFORE: BUCKINGHAM, JOHNSON, AND SCHRODER, JUDGES.

JOHNSON, JUDGE: Eric P. and Connie Light, on behalf of themselves and all others similarly situated, (collectively “the

Lights") have appealed from orders entered by the Jefferson Circuit Court following remand from this Court[1] for the trial court to consider the appellants/cross-appellees class action, seeking declaration of rights and refunds from the City of Louisville (the City). This Court concluded that the Lights had properly exhausted all administrative remedies and the Jefferson Circuit Court was the proper forum in which to bring this action. The Lights have appealed the trial court's order following appeal, as it denied the Lights's motion for summary judgment and granted the City's motion for summary judgment. Based on the language of KRS[2] 132.285 and KRS 132.0225 and the statutory construction of the two statutes, the trial court found that the City did not charge excessive ad valorem property taxes in 1998 and 1999 to its citizens, and did not owe the Lights a refund. The City has filed a protective cross-appeal in which it argues that the trial court erred in certifying the taxpayers as a class, determining the City was a taxing district under KRS 132.0225, and determining that KRS 132.0225 was unambiguous. For reasons other than those stated by the trial court, we affirm.[3]

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[1] The prior appellate case numbers were 2001-CA-001310-MR and 2001-CA-001402-MR and this Court's Opinion is published as Light v. City of Louisville, Kentucky, 93 S.W.3d 696 (Ky.App. 2002).

[2] Kentucky Revised Statutes.

[3] See Haddad v. Louisville Gas & Electric Co., 449 S.W.2d 916, 919 (Ky. 1970).

The Lights own real estate in the City. The City issued its tax bills separate from Jefferson County (the County), but used the annual county assessment of property situated within the City as the basis for the levy of its annual property taxes for the 1998 and 1999 tax years.[4] For both years, the City adopted tax rates at the 4% increase tax rate. In 1998 the City filed its 1998 tax rate ordinance 69 days after certification of the Jefferson County tax roll and 52 days after certification in 1999. The Lights timely paid their real property taxes for both tax years.

On December 15, 1999, the Lights filed a class refund claim with the City for the overpayment on their 1998 and 1999 city real property taxes, pursuant to KRS 134.590 and common law. The City responded by denying the claim. On March 9, 2000, the Lights filed this action in the Jefferson Circuit Court, on behalf of themselves and all others similarly situated, seeking a declaratory judgment that the taxes levied by the City in 1998 and 1999 were excessive, and seeking class action refunds of the taxes. On March 24, 2000, the Lights filed an amended complaint, in order to plead common law remedies. The trial court dismissed the action by order entered

[4] Cities may assess property under KRS Chapter 91 or elect to use the county tax base under KRS 91A.070 to collect their ad valorem taxes. If a city adopts a county's assessment, the Revenue Cabinet controls the process under KRS 133.220.

May 22, 2001, finding that the Lights had failed to exhaust their administrative remedies before filing the action. The Lights appealed to this Court on June 19, 2001, and the City cross-appealed.[5] This Court rendered its Opinion on September 20, 2002, reversing and remanding the case for further proceedings, holding "that [the Lights] fully exhausted their administrative remedies by seeking a refund of the property taxes paid from the city, and that the trial court erred by dismissing this action on the ground that the KBTA[6] had exclusive jurisdiction over this dispute."[7]

On November 20, 2002, the City answered the Lights's complaint. On January 9, 2003, the Lights filed a motion for class certification and on May 9, 2003, the trial court entered an order granting the Lights's motion as to declaratory judgment relief, but denied certification to obtain refunds. The trial court certified the classes as follows:

> 1. All persons who owned an interest in real property located in the City of Louisville on the January 1, 1998 assessment date and paid ad valorem taxes thereon to the City of Louisville; and

[5] The City argued to this Court on its previous cross-appeal that the Lights did not have the right to seek refunds by class action. This issue had not been addressed by the trial court, so this Court declined to address this issue until the trial court had an opportunity to do so on remand. See Light, 93 S.W.3d at 699.

[6] Kentucky Board of Tax Appeals.

[7] Light, 93 S.W.3d at 699.

2. All persons who owned an interest in real property located in the City of Louisville on the January 1, 1999 assessment date and paid ad valorem taxes thereon to the City of Louisville.

The trial court found that the prerequisites of CR[8] 23.01 and CR 23.02 were met and that the action could be maintained as a class action, and also appointed the Lights as class representatives. Then, on June 10, 2003, the Lights moved for summary judgment asserting that the City's levies of taxes in 1998 and 1999 were excessive because the levies were not timely assessed in violation of KRS 132.0225. On June 11, 2003, the City filed a cross-motion for summary judgment arguing that KRS 132.0225 did not apply to the City, or in the alternative, that the City met the statute's requirements. Oral arguments were held on July 14, 2003, and the trial court entered an order on December 18, 2003, granting the City's cross-motion and denying the Lights's motion for summary judgment. Due to the restructure of the City's governmental system, and upon the Lights's motion, the trial court entered an order on January 13, 2004, naming the Louisville/Jefferson County Metro Government as a party to this action, as well as the City's new mayor, Jerry E. Abramson. On January 13, 2004, the Lights filed their notice

[8] Kentucky Rules of Civil Procedure.

of appeal and on January 26, 2004, the City filed its notice of cross-appeal.

The Lights's arguments to this Court have several subparts, but consist of essentially two underlying issues. First, the Lights argue that the trial court erred in interpreting KRS 132.0225 and KRS 132.285, and by doing so, (1) incorrectly found the two statutes could not jointly govern the City's levy of real property taxes, (2) misapplied the rules of statutory construction, (3) failed to resolve any inconsistencies in the two statutes in favor of the taxpayers, and (4) misconstrued the policy and purposes behind the two statutes. Second, the Lights argue that the trial court erroneously denied class refund relief based on statutory and common law.

The City argues in its protective cross-appeal (1) that KRS 132.0225 does not apply to cities that issue their own tax bills; (2) that KRS 132.285 exempts the City from the requirements of KRS 132.0225; (3) that the City has substantially complied with KRS 132.0225; and (4) that this class of taxpayers is not entitled to any refunds on taxes paid.

In addressing these arguments, we will discuss the two statutes at issue in this case, i.e., KRS 132.285 and KRS 132.0225. Cities may establish their own assessor and make

their own assessments of property subject to city taxation.[9] In 1942 the General Assembly partially integrated[10] county and city property valuation by authorizing all cities to elect to use their county's assessment of property within the city.[11] KRS 132.285 provides in part as follows:

> (1) Except as provided in subsection (3) of this section, any city may by ordinance elect to use the annual county assessment for property situated within such city as a basis of ad valorem tax levies ordered or approved by the legislative body of the city. Any city making such election shall notify the Revenue Cabinet and property valuation administrator prior to the next succeeding assessment to be used for city levies. In such event the assessment finally determined for county tax purposes shall serve as a basis of all city levies for the fiscal year commencing on or after the county assessment date. . . . Notwithstanding any statutory provisions to the contrary, the assessment dates for such city shall conform to the corresponding dates for the county, and such city may by ordinance establish additional financial and tax procedures that will enable it effectively to adopt the county assessment. The legislative body of any city adopting the county assessment may fix the time for levying the city tax rate, fiscal year, due and delinquency dates for taxes and any other dates that will enable it

[9] KRS 91.310.

[10] This effort has been popular with 95% to 98% of Kentucky cities currently using their county assessments.

[11] KRS 132.285.

> effectively to adopt the county assessment, notwithstanding any statutory provisions to the contrary. . . .

If a city so chooses to use its county's assessment, it must (1) conform its assessment date to that of the county and (2) establish its rates only after the Revenue Cabinet certifies the county tax role.[12] Upon certification, the Revenue Cabinet notifies the counties and the Department of Local Government (the DLG) of the certification.[13]

In 1979 the General Assembly placed limitations on taxing districts that chose to use this method of property valuation. The General Assembly enacted House Bill 44, known as the "Rollback Law," which was codified in KRS 132.017 and KRS 132.027, and had the purpose of reducing the impact of inflation of property taxes.[14] This law has three tiers of taxing rates: Tier I Rate – a rate equal to or less than the Compensating Tax Rate; Tier II Rate – a rate in excess of the Compensating Tax Rate but equal to or less than the 4% Increase Tax Rate; Tier III Rate – a rate in excess of the 4% Increase Tax Rate.

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[12] This provision was added to KRS 133.185 in 1949. 1949 Ky. Acts 2 (Ex. Sess.).

[13] The City states that it has, as a matter of practice, levied its tax rate in time for the bills to be received by taxpayers at the beginning of November. The City claims it was not notified by the Revenue Cabinet, the DLG, or the County when certification was made during 1998 or 1999. Nor, did the DLG certify the City's tax rates during 1998 and 1999.

[14] 1979 Ky. Acts 25 (Ex. Sess. preamble); Kling v. Geary, 667 S.W.2d 379, 381 (Ky. 1984).

The “compensating tax rate” allows the City the same tax revenue from real property that was produced in the preceding year.[15] As assessments rise, the tax rate is “rolled back” so that revenue from real property that was in existence and taxed the previous year remains the same. The “4% Increase Tax Rate” is that rate which when applied to the current year’s assessment of existing property will produce no more than 4% additional revenue from that property. No limitations apply to the levy of compensating tax rate. A Tier II Rate, however, requires public notice and a hearing before it can be levied by a taxing district. Before a Tier III Rate can be levied, a taxing district must issue public notice and hold a public hearing, and 10% of the voters can petition that the increase above 4% be put to a recall vote.[16]

In 1994 the General Assembly enacted KRS 132.0225 which provides as follows:

> (1) A taxing district that does not elect to attempt to set a rate that will produce more than four percent (4%) in additional revenue, exclusive of revenue from new property as defined in KRS 132.010, over the amount of revenue produced by the compensating tax rate as defined in KRS 132.010 shall establish a final tax rate within forty-five (45) days of the cabinet’s certification of the county’s property

[15] KRS 132.010(6) and (8).

[16] KRS 132.017(1) and (3).

> tax roll. Any taxing district that fails to meet this deadline shall be required to use the compensating tax rate for that year's property tax bills.
>
> (2) A taxing district that elects to attempt to set a rate that will produce more than four percent (4%) in additional revenue, exclusive of revenue from new property as defined in KRS 132.010, over the amount of revenue produced by the compensating tax rate as defined in KRS 132.010 shall follow the provisions of KRS 132.017.

Thus, a taxing district governed by this statute must establish a final tax rate within 45 days of the Revenue Cabinet's certification of the county's property tax roll, if it intends to set the rate higher than the compensating tax rate for that year's property tax bills. According to the undisputed facts of this case, the City established its 1998 and 1999 tax rates after the 45-day deadline set in KRS 132.0225, and in both years the City set the tax rates above the compensating rate for that year, i.e., Tier II of the "Rollback Law."[17] In continuation of the integration attempt, the General Assembly in 1982 authorized cities to collect taxes through the county ad valorem property tax bill and to engage the county sheriff as

[17] The City argues that, even if KRS 132.0225 applied, it had substantially complied with the statute and this language was directory. The Lights argue that KRS 132.0225(1) is mandatory, and thus, substantial compliance was insufficient.

tax collector.[18] During the years in question, the City did not opt to use this provision and issued its 1998 and 1999 tax bills independently of the County.

The City argued, based on the legislative intent of the statute, that it was not a taxing district under KRS 132.0225 because the term "taxing district" was not defined. Further, because the City issued its own tax bills, it argued that it was not subject to KRS 132.0225 because the statute's purpose is to make taxing districts who shared tax bills with the county timely set their rates. The trial court found, contrary to the City's arguments, that KRS 132.0225 was unambiguous, refused to consider the legislative intent of the statute in its interpretation, refused to insert language into the statute, and found the City to be a taxing district. However, the trial court found the 45-day deadline in KRS 132.0225 did not apply to the City, when viewing KRS 132.0225 simultaneously with KRS 132.285. The trial court focused on the freedom given to the City under KRS 132.285 to set "the time for levying the city tax rate . . . and any other dates that will enable it effectively to adopt the county assessment, notwithstanding any statutory provisions to the contrary." The trial court stated, "[t]he latitude granted to the City by this statute is obviously greatly undercut if KRS 132.0225 is deemed

[18] KRS 91A.070 (1982 Ky. Acts 434, sec. 12); KRS 134.140.

to limit the City's ability to levy taxes to a forty-five (45) day window immediately following certification of the county property tax roll."[19]

The Lights argued that KRS 132.285 and KRS 132.0225 can be harmonized because KRS 132.285 relates to the time of the tax, while KRS 132.0225 relates to the amount of the tax. The trial court rejected this reasoning and found that KRS 132.285 was the more specific statute, applying specifically to cities, while KRS 132.0225 applied to any taxing district. The trial court also found that, in addition to KRS 132.285, KRS 132.027 specifically addressed city ad valorem tax role limitations,[20] and it did not include the 45-day deadline set out in KRS 132.0225. Finding that the 45-day restriction in KRS 132.0225 had no apparent meaningful purpose except to "assure the orderly dissemination of county tax bills," the trial court found that

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[19] While the trial court made it clear that its decision was based solely on the language of the statutes in question and the principles of statutory construction, it noted that its decision is consistent with the administrative policies and interpretations of the Kentucky Revenue Cabinet.

[20] KRS 132.027 provides in part as follows:

> (1) No city . . . shall levy a tax rate which exceeds the compensating tax rate defined in KRS 132.010 until the city . . . has complied with the provisions of subsection (2) of this section.
>
> (2)(a) Cities . . . proposing to levy a tax rate which exceeds the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. . . .

giving effect to KRS 132.0225, in light of KRS 132.285 and KRS 132.027, would create an illogical result. This review of the proceedings below brings us to the issues on appeal and cross-appeal.

"Taxing laws should be plain and precise, for they impose a burden upon the people."[21] Before analyzing the applicability of KRS 132.0225 to the City, this Court must determine whether the statute is ambiguous.[22] "[A]ny language used by the legislature must be given its clear and commonly accepted meaning" [footnote omitted].[23] In reviewing other portions of KRS Chapter 132, it is apparent that the Legislature intended to include cities as taxing districts in KRS 132.0225.[24] Further, the Supreme Court of Kentucky has recognized and adopted the construction of taxing districts to include cities.[25]

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[21] George v. Scent, 346 S.W.2d 784, 789 (Ky. 1961).

[22] The City argues that KRS 132.0225 is ambiguous because it does not define the term "taxing district" and because it is in conflict with KRS 132.285.

[23] SmithKline Beecham Corp. v. Revenue Cabinet, 40 S.W.3d 883, 887 (Ky.App. 2001).

[24] KRS 132.027(2)(a) requires the City and other cities seeking to levy a rate in excess of the compensating tax rate to hold a hearing "in the principal office of the taxing district" [emphasis added]. A number of statutes in KRS Chapter 132 apply to a "city, urban-county government, consolidated local government, or other taxing district" [emphasis added]. KRS 132.017(1)(a) and (b). See also KRS 132.010(6).

[25] Kling, 667 S.W.2d at 382 (holding that "KRS 133.185 . . . relates to the imposition of a tax rate for a taxing district, such as a city, county or school" [emphases original]).

Thus, we conclude that the term "taxing district" as found in KRS 132.0225 includes cities.

We must determine whether applying KRS 132.0225 to all cities makes KRS 132.0225 ambiguous. "Ambiguity of a statute or other writing may exist on its face, i.e., there may be confusion, doubt or uncertainty of meaning within itself. It may develop when the statute is brought into contact with collateral facts, as where the consequences or results of a literal application of the language would be absurd or unreasonable."[26] KRS 132.285 specifically addresses cities and gives them the discretion to determine when to set their tax rates. In looking at the plain meaning of KRS 132.0225, it cannot be determined how this latter enacted statute affects the broad power given to cities by KRS 132.285. If KRS 132.0225 applies to all cities, then the statute requires the City to set its real property tax rates no later than 45 days after the Revenue Cabinet's certification of the county's property tax roll, regardless of the fact that the City issues its own tax bills, which we conclude would yield an unreasonable result.

"[S]tatutes always have some purpose or object to accomplish . . . and imaginative discovery is the surest guide

[26] Fidelity & Columbia Trust Co. v. Meek, 294 Ky. 122, 171 S.W.2d 41, 48 (1943); see also Kentucky Industrial Utility Customers, Inc. v. Kentucky Utilities Co., 983 S.W.2d 493, 500 (Ky. 1998).

to their meaning."[27] "In construing statutes the courts may look to the reasons for, the purpose back of, and the circumstances surrounding, the enactment of a law in order to arrive at its proper construction."[28] "[T]he policy and purpose of the statute will be considered in determining the meaning of the words used."[29] Because of its ambiguity, we turn to the legislative intent of KRS 132.0225 and look at the legislative history of the statute,[30] which indicates that the 45-day deadline in KRS 132.0225 was enacted to prevent taxing districts that use the county tax bill from delaying the bills.[31] Because the City does not use the county tax bill, it could not delay the issuance of the tax bills, and thus would not frustrate the stated intent of KRS 132.0225. The Lights argue that KRS 132.0225 does not

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[27] Cabell v. Markham, 148 F.2d 737, 739 (2d Cir. 1945).

[28] Swift v. Southeastern Greyhound Lines, 294 Ky. 137, 171 S.W.2d 49, 50 (1943).

[29] Kentucky Region Eight v. Commonwealth, 507 S.W.2d 489, 491 (Ky. 1974); see also Kentucky Industrial Utility Customers, 983 S.W.2d at 500.

[30] Dougherty v. Kentucky Alcoholic Beverage Control Board, 279 Ky. 262, 130 S.W.2d 756, 760 (1939)(stating that "the entire act is to be considered with the judicial eye upon the historical setting, the public policy, the objects to be accomplished, the mischief intended to be remedied, and all other attendant facts and circumstances which throw intelligent light upon the intention of the law-making body" [citation omitted]).

[31] The Lights argue that KRS 132.0225 makes it probable that all taxing districts, including cities issuing their own tax bills, will issue their bills timely and that taxpayers receiving multiple tax bills will receive them at roughly the same time. The Lights also argue that KRS 132.0225 removes any disincentive from electing to use combined city or county tax bills by denying unlimited time to set tax rates to taxing districts which issue their own bills and seek to levy Tier II rates. With support, we are not persuaded by this argument.

infringe upon the City's authorization under KRS 132.285 to set real property tax rates when it desires, but only limits the amount the City can set in compliance with the Rollback Law. Otherwise, the Lights argue that the Rollback Law would have no effect. We disagree. Regardless of when the City sets its tax rates, it must comply with the timing requirements of the Rollback Law. The City complied with the Rollback Law in both 1998 and 1999 when the City set tax rates at more than 4% over the amount of revenue produced by the compensating tax rate.[32] Thus, we are not persuaded that the Rollback Law will lose its effect if the City does not have to comply with the 45-day rule set out in KRS 132.0225. We agree with the City that if the Legislature had intended for KRS 132.0225 to apply to cities

[32] The City in its brief states that the Revenue Cabinet certified the County's property tax roll for the January 1, 1998, assessment date on August 11, 1998. In 1998 the City did not receive notice from the Revenue Cabinet or the DLG that the Revenue Cabinet had certified the county tax roll. Consequently, the City followed its usual practice and began the procedure for adopting the ad valorem tax rate in time for the City to levy a rate and send out its tax bills in a timely manner. The City published two notices on October 3, 1998, and October 5, 1998, in The Courier-Journal regarding the hearing at which the ad valorem tax rate would be adopted. The Board of Aldermen passed Ordinance No. 230, Series 1998 on October 13, 1998, adopting the ad valorem tax rate, and the Mayor signed the Ordinance on October 19, 1998.

Similarly, the Revenue Cabinet certified the County's property tax roll for the January 1, 1999, assessment date on August 13, 1999. Again, neither the Revenue Cabinet nor the DLG notified the City that the county tax roll had been certified. In accordance with its usual procedure, the City began the process of adopting an ad valorem tax rate so that the property tax bills could be sent out in the beginning of November. The City published notices in The Courier-Journal on September 18, 1999, and September 20, 1999, regarding the date of the hearing at which an ad valorem tax rate would be considered. The Board of Aldermen passed Ordinance No. 135, Series 1999 on September 28, 1999, and the Mayor signed the Ordinance on October 4, 1999.

that issued their own tax bills, then there should have been a procedure in place for notifying the cities of the Revenue Cabinet's certification of the county tax roll, so the cities would be aware of when the 45-day period set out under the statute began to run. It is also important to note that KRS 132.285 was amended subsequent to the enactment of KRS 132.0225 and no change was made to the provisions permitting cities to fix their own time for levying a tax rate.

The Lights also argue that this Court must first attempt to reconcile any conflict between the statutes as they are written,[33] and that any doubts or ambiguity in the application of these statutes must be construed in favor of the taxpayer.[34] Having concluded that KRS 132.0225 is ambiguous on its face, in accordance with Kentucky law, we have looked to legislative intent and determined that this statute does not apply to cities who issue their own tax bills. Therefore, there is no conflict between the two statutes. This Court's interpretation of KRS 132.0225 does not void the Rollback Law, but rather prevents an absurd result under the statute, and

[33] Sumpter v. Burchett, 304 Ky. 858, 202 S.W.2d 735, 736 (1947)(stating that "any apparent conflict between [the statutes] must be reconciled, if possible, so as to give effect to both" [citations omitted]); see also Commonwealth v. Martin, 777 S.W.2d 236, 238 (Ky.App. 1989).

[34] Owens-Illinois Labels, Inc. v. Commonwealth, Revenue Cabinet, 27 S.W.3d 798, 803 (Ky.App. 2000)(noting that it is well settled that when there is confusion, ambiguity or doubt about the meaning of a tax statute, such doubt must be resolved in favor of the taxpayer).

allows KRS 132.0225 and KRS 132.285 to be construed consistently to the greatest extent possible.

If we had determined that both statutes applied to the City, we would have been required to determine which statute would have prevailed over the other in this case. We acknowledge that the general rule of statutory construction provides, "[w]here two statutes deal with the same subject matter, the one treating it in a particular manner is preferred over the general."[35] However, we conclude that because KRS 132.285 specifically addresses cities and based on the law of Kentucky that "[t]he legislature is presumed to be aware of the law at the time of the enactment of any statute[,]"[36] we hold KRS 132.285 to be more specific.[37] Furthermore, while we find no Kentucky law on point, we find the view of the USRCA[38] persuasive. The USRCA provides that "an earlier enacted specific . . . statute prevails over a later enacted general statute unless the context of the later enacted statute

[35] Schooler v. Commonwealth, 628 S.W.2d 885, 886 (Ky.App. 1981).

[36] Id.

[37] In this case, the City argues that KRS 132.285 is the more specific statute because it deals directly with the time given to cities to establish their real property tax rate. The Lights argue that KRS 132.0225 ought to control in this case because it is the most specific and that it was enacted later in time.

[38] Uniform Statute and Rule Construction Act.

indicates otherwise."[39] There is no such indication in KRS 132.0225, and thus, we affirm the trial court's finding that the 45-day deadline of KRS 132.0225 is not applicable to the City and hold that the trial court correctly granted the City's cross-motion for summary judgment and denied the Lights's motion for summary judgment.

Because we find KRS 132.0225 inapplicable to the City and uphold the trial court's ruling in its favor, the Lights's and the City's arguments regarding the taxpayers' class status and common law remedies are moot and we will not address them further.[40] For the above reasons, we affirm the order of the Jefferson Circuit Court.

ALL CONCUR.

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[39] USRCA § 10(a).

[40] We do point out that the Supreme Court of Kentucky has just recently ruled that class action refund relief is proper in taxpayer refund actions. See City of Bromley v. Smith, 149 S.W.3d 403, 406 (Ky. 2004).