Court of Appeals, State of Michigan

ORDER

William Scott Kincaid v City of Flint

Docket No. 310221

Kurtis T. Wilder
Presiding Judge

Jane E. Markey

Henry W. Saad
Judges

The motion for immediate consideration is GRANTED.

The motion for leave to supplement the motion for temporary restraining order is GRANTED.

The Court orders that plaintiffs' complaint and remaining motion are DISMISSED pursuant to MCR 7.206(E)(3)(b). The rate increases that went into effect on September 16, 2011, and that will go into effect on July 1, 2012, constitute revisions of existing user fees that do not implicate the Headlee Amendment. Const 1963, art 9, § 31; MCL 141.121; *Bolt v City of Lansing*, 459 Mich 152; 587 NW2d 264 (1998); *Ripperger v City of Grand Rapids*, 338 Mich 682; 62 NW2d 585 (1954). Furthermore, this Court lacks original subject matter jurisdiction over plaintiffs' remaining claims that the City violated its own ordinance in the manner in which the rate increases were imposed, and that the City is unlawfully commingling the revenue generated by the user fees with the City's general revenue in an investment account. This Court also lacks original jurisdiction to enjoin the City from misappropriating revenue generated by user fees for general governmental purposes, should plaintiffs be able prove same. Const 1963, art 9, § 32; *Durant v State of Michigan (On Remand)*, 238 Mich App 185; 605 NW2d 66 (1999).

Defendant's motion for summary disposition is DISMISSED as MOOT.

A true copy entered and certified by Larry S. Royster, Chief Clerk, on

JUN 29 2012
Date

Chief Clerk