

SUPREME COURT OF IOWA

Robert P. Kleiman, on Behalf of Himself and All Others Similarly  
Situatd v. City of Waterloo, Iowa

No. 07-1855 (Iowa June 4, 2010) · No. No. 07-1855 · Decided June 4, 2010

SUMMARY

The Iowa Supreme Court reviewed an interlocutory appeal concerning a class action seeking refunds of franchise fees imposed by the City of Waterloo on cable television services. The court held that Iowa Code section 477A.7(5), which ratified the city's past assessment and collection of the fees, did not violate federal or state due process protections. The court reversed the denial of summary judgment and remanded for entry of judgment in favor of the city.

CASE DETAILS

|                       |                                                                                                                                                      |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Iowa                                                                                                                                |
| WRITING FOR THE COURT | Per curiam                                                                                                                                           |
| JURISDICTION          | Iowa                                                                                                                                                 |
| DECIDED               | June 4, 2010                                                                                                                                         |
| DOCKET                | No. 07-1855                                                                                                                                          |
| DISPOSITION           | reversed_and_remanded                                                                                                                                |
| PROCEDURAL POSTURE    | Interlocutory appeal from the denial of the city's motion for summary judgment in a class action seeking refunds of cable television franchise fees. |
| STANDARD OF REVIEW    | Review of a summary judgment ruling and the constitutionality of a statute; the opinion adopts the analysis stated in Zaber v. City of Dubuque.      |
| PRECEDENTIAL VALUE    | Nonprecedential; opinion states that it shall not be published.                                                                                      |
| PARTIES               | City of Waterloo, Iowa v. Robert P. Kleiman, on behalf of himself and all others similarly situated                                                  |

TOPICS

- municipal law
- public utilities
- due process
- summary judgment
- interlocutory appeal

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether Iowa Code section 477A.7(5) violated the Due Process Clause of the Fifth Amendment to the United States Constitution when applied to the city's past assessment and collection of cable television franchise fees.
2. Whether Iowa Code section 477A.7(5) violated article I, section 9 of the Iowa Constitution by retroactively validating the city's past assessment and collection of franchise fees.
3. Whether the plaintiffs were entitled to refunds of franchise fees after the legislature ratified the city's past assessment and collection of those fees.

## HOLDINGS

1. Iowa Code section 477A.7(5) does not violate the Due Process Clause of the Fifth Amendment to the United States Constitution.
2. Iowa Code section 477A.7(5) does not violate the due process clause of article I, section 9 of the Iowa Constitution.
3. Because the legislature ratified the city's past assessment and collection of franchise fees, the plaintiffs are not entitled to refunds of those fees.

## KEY QUOTATIONS

*“Because the legislature has ratified the city’s past assessment and collection of franchise fees, the plaintiffs are not entitled to a refund of those fees.” (at 3)*

## FACTUAL BACKGROUND

Robert Kleiman brought a class action seeking refunds of franchise fees paid on cable television services to the City of Waterloo, alleging that the fees were illegally exacted. The district court certified the class. The city relied on Iowa Code section 477A.7(5), which prospectively legalized the franchise fees, while Kleiman argued that retroactive application violated the Due Process Clauses of the federal and Iowa Constitutions.

## PROCEDURAL HISTORY

Kleiman filed a class action against the City of Waterloo seeking refunds, declaratory and injunctive relief, and related remedies concerning franchise fees imposed on cable television services. The district court certified the class and denied the city's motion for summary judgment, concluding that Iowa Code section 477A.7(5) was not a curative act and that its application violated the plaintiffs' due process rights. The Supreme Court of Iowa granted the city's application for interlocutory appeal, reversed, and remanded for entry of summary judgment in favor of the city.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Remand to the district court for entry of summary judgment in favor of the City of Waterloo.

## CASES CITED

- Zaber v. City of Dubuque, \_\_\_ N.W.2d \_\_\_ (Iowa 2010)
- Curtis v. City of Bettendorf, No. 07-1856
- Lindstrom v. City of Des Moines, No. 07-1641

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