

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

PHILIP J. NAAS

Plaintiff

v.

INDIAN LAKE STATE PARK

Defendant

Case No. 2006-07198-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶1} 1) Plaintiff, Philip J. Naas, stated he has owned a home on Indian Lake in Lakeview, Ohio since 1965 and has paid a boat dock permit fee to defendant, Indian Lake State Park, for a number of years. Plaintiff explained that when he offered his boat dock permit fee for 2006, he was informed he did not owe a fee due to the fact his particular boat dock is located on his property. Apparently, boat docks which are located on private property and extend into lake waters are not subject to permit fees levied by defendant.

{¶2} 2) Plaintiff was issued a refund for fees he remitted in 2006. However, plaintiff has asserted he should be entitled to reimbursement for yearly boat dock permit fees he paid to defendant from 1980 to 2005. On November 13, 2006, plaintiff filed this complaint seeking to recover \$467.00, the estimated total amount of boat dock permit fees plaintiff paid to defendant from 1980 to 2005. Essentially plaintiff has claimed defendant wrongfully collected permit fees from him for a twenty-five year period. The filing fee was paid.

{¶3} 3) Defendant contended plaintiff's claims for reimbursement of collected fees paid from 1980 to July 6, 2004, are barred by R.C. 2743.16(A), the two-year statute of limitations in the Court of Claims. Defendant has also contended plaintiff's remaining claim should be dismissed, since this court does not have subject matter jurisdiction over this type of action.

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{¶4} 4) Plaintiff filed a response.

CONCLUSIONS OF LAW

{¶5} 1) Plaintiff's claims for monies collected from 1980 through 2004 is barred by the two-year statute of limitations for filing actions in this court. R.C. 2743.16(A), the statute of limitations for commencing actions in this court states:

{¶6} "Subject to division (B) of this section, civil actions against the state permitted by sections 2743.01 to 2743.20 of the Revised Code shall be commenced no later than two years after the date of accrual of the cause of action or within any shorter period that is applicable to similar suits between private parties."

{¶7} In the instant claim, defendant collected fees from 1980 to July 6, 2004. Plaintiff filed his complaint on November 16, 2006. Based on the time frames involved much of the wrongful collections claimed involved license purchases made outside the two-year period for commencing actions. All claims from 1980 through 2004 are dismissed as falling outside the statutory provision of R.C. 2743.16(A).

{¶8} 2) Furthermore, plaintiff's remaining claim for reimbursement of a permit fee collected in 2005 is also dismissed. This court at the Administrative Determination level does not have jurisdiction over claims grounded in equity based on the alleged wrongful collections of license fees. See *Borchers v. Grand Lake St. Marys State Park*, 2005-05485-AD, 2005-Ohio-6115.

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ENTRY OF ADMINISTRATIVE
DETERMINATION

Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, plaintiff's case is DISMISSED. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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RDK/laa
3/28
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