

Bond Case Briefs

Municipal Finance Law Since 1971

TAX - KENTUCKY

Sewell-Scheuermann for Use and Benefit of City of Audobon Park v. Scalise

Court of Appeals of Kentucky - April 15, 2016 - S.W.3d - 2016 WL 1534636

Taxpayer filed action against city's mayor and members of city council, alleging that city council diverted a portion of tax revenue generated from a sanitation tax and placed such funds in city's general fund in violation of state constitution and statutes.

City defendants filed motion to dismiss. The Circuit Court granted the motion.

The Court of Appeals held that, despite fact that diverted funds were used for the benefit of the city, allegations stated claim under private-right-of-action statute.

Allegations by taxpayer that city of the home rule class diverted a portion of tax revenue generated from sanitation tax and placed such funds in city's general fund stated claim against city's mayor and members of city council under statute providing private right of action when tax revenue was expended for purpose other than that for which the tax was imposed, despite fact that diverted funds were used for the benefit of the city. Statutes served as a check for the very conduct that appeared to have occurred, and while city may not have been damaged in the traditional sense, it was apparent that the statutes were violated.