OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FOUR

LARRY D. BLANKENSHIP,	)	No. ED108824
	)	
Appellant,	)	Appeal from the Circuit Court of
	)	Franklin County
vs.	)	
	)	
FRANKLIN COUNTY COLLECTOR, ET AL.,	)	Honorable Daniel G. Pelikan
	)	
	)	
Respondent.	)	Filed: March 2, 2021

Larry Blankenship, individually and on behalf of a certified class of owners of real estate and personal property (collectively, "Taxpayers") appeals from the trial court's judgment finding the Strain-Japan R-XVI (R-16) School District's ("District") operating funds tax levies for 2013, 2014, 2015, 2016, 2017, and 2018 were properly adjusted using section 137.073.5(2) and did not violate article X, section 22(a) of the Hancock Amendment or section 137.073, thus entitling Taxpayers to no refunds on their 2013, 2014, 2015, 2016, 2017, and 2018 tax bills.

In Point I, Taxpayers argue the trial court erred in determining the District's levies did not violate section 22(a) of the Hancock Amendment. In Point II, Taxpayers argue the trial court erred in determining the District's levies complied with section 137.073 because, although section 137.073.5(2) provides a method for the District to increase its levies in accordance with the consumer price index ("CPI") to allow for inflationary assessment growth, section 137.073.4(2) requires the District to use the lowest tax levy ceiling calculated by section 137.073.5(2) or section 22(a) of the Hancock Amendment, which the District failed to do. In Point III, Taxpayers argue the trial court erred in determining they were not entitled to refunds on their 2013, 2014, 2015, 2016, 2017, and 2018 tax bills under section 137.073.9. In Point IV, Taxpayers argue the trial court erred in determining they were not entitled to refunds on their 2013, 2014, 2015, 2016, 2017, and 2018 tax bills under article X, section 23 of the Hancock Amendment. In Point V, Taxpayers argue the trial court erred in determining all class members had to comply with section 139.031.1-2 to be entitled to refunds under section 137.073.9, section 23 of the Hancock Amendment, or section 139.031.1. In Point VI, Taxpayers argue the trial court erred in determining they were not entitled to costs and attorney's fees under section 23 of the Hancock Amendment. In Point VII, Taxpayers argue the trial court erred in determining they were not entitled to costs and attorney's fees under section 137.073.8.

REVERSED AND REMANDED.

DIVISION IV HOLDS: The District's levies for 2013, 2014, 2015, 2016, 2017, and 2018, as adjusted using section 137.073.5(2), violated section 22(a) of the Hancock Amendment and section 137.073 because they exceeded the maximum tax levy authorized by section 22(a) of the Hancock Amendment.

Because Taxpayers sought injunctive relief before December 31 of the taxable year for 2017 and 2018, Taxpayers are entitled to refunds on their 2017 and 2018 tax bills under section 137.073.9. Because Taxpayers did not seek injunctive relief before December 31 of the taxable year for 2013, 2014, 2015, or 2016, they are entitled to no refunds under section 137.073.9 on their tax bills for those years. Taxpayers are not entitled to refunds on their 2013, 2014, 2015, 2016, 2017, or 2018 tax bills under section 23 of the Hancock Amendment because section 23 does not authorize lawsuits for refunds. Because Blankenship complied with the procedure in section 139.031.1-2 for obtaining refunds of taxes erroneously collected in 2017 and 2018, Blankenship is entitled to refunds on his 2017 and 2018 tax bills under section 139.031.1. Thus, his recovery of taxes he erroneously paid in 2017 and 2018 may be based on either sections 137.073.9 or 139.031.1. However, the class members Blankenship represents failed to comply with the procedures in section 139.031.1-2 for obtaining refunds of taxes erroneously collected in 2017 and 2018 and, therefore, are not entitled to any refunds under section 139.031. The class members' recovery of taxes they erroneously paid in 2017 and 2018 is limited to section 137.073.9.

The judgment of the trial court is reversed. We remand to the trial court with instructions to make specific findings and calculate the appropriate refunds due to Taxpayers for 2017 and 2018 under section 137.073.9 and to determine the reasonable costs and attorney's fees incurred by Taxpayers in maintaining this lawsuit in the trial court and on appeal under section 23 of the Hancock Amendment or section 137.073.8.

Opinion by: Philip M. Hess, J.
Gary M. Gaertner, Jr., P.J. and Michael E. Gardner, J. concur.

Attorney for Appellant: John S. Steward

Attorney for Respondent: Mark C. Piontek, Joshua E. Douglass, Thomas A. Mickes and Anne R. Kerns

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.