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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

TAYLOR DANE,
Plaintiff and Appellant,
v.
CITY OF SANTA ROSA et al.,
Defendants and Respondents.

A138355
(Sonoma County
Super. Ct. No. SCV-253003)

Plaintiff Taylor Dane filed a complaint challenging the enforcement practices of defendants City of Santa Rosa (City) and County of Sonoma (County) related to statutory vehicle impound provisions. While conceding that she has not paid any property taxes in the County, she claims to have standing to bring the action as a resident taxpayer, pursuant to Code of Civil Procedure section 526a,¹ based on her payment of sales and gasoline taxes and water and sewage fees in the City and/or County, as well as her payment of state income taxes. She now appeals from the trial court's order sustaining a demurrer to her complaint, and the subsequent stipulated judgment of dismissal, based on lack of taxpayer standing under section 526a. She also challenges the related denial of her motion for a preliminary injunction. We agree with the various appellate courts that have unanimously held that payment of an assessed property tax is required for an

¹ All further statutory references are to the Code of Civil Procedure unless otherwise indicated.

individual to have standing to bring a taxpayer action. We shall therefore affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

On January 4, 2013, plaintiff filed a complaint for injunctive relief against both defendants that included claims challenging defendants' enforcement of Vehicle Code section 14602.6, which authorizes the 30-day impoundment of a vehicle being driven by a person with a suspended, revoked, or restricted driver's license, or who had never been issued a license.² The complaint alleged, in essence, that defendants "impound vehicles in circumstances where Vehicle Code section 14602.6 does not allow it, and provide post-seizure notice and an administrative hearing process which violate procedural due process guarantees."

In the complaint, plaintiff did not allege that either the Santa Rosa Police Department or the Sonoma County Sheriff's Office had impounded her vehicle, but instead stated that she was a resident of the City and County and that, "[w]ithin 1 year of the filing of this action, plaintiff paid taxes in and to the City of Santa Rosa, County of Sonoma and the State of California, such that she has taxpayer standing pursuant to . . . section 526a to bring this action seeking declaratory and injunctive relief against the governmental defendants in order to secure defendants' compliance with state and federal constitutional guarantees and enjoin the unlawful expenditure of taxpayer monies [¶] The taxes paid by plaintiff include sales tax, gasoline tax, water and sewage fees, and other taxes, charges and fees routinely imposed by municipalities, counties and the states,

² Vehicle Code section 14602.6, subdivision (a)(1), provides: "Whenever a peace officer determines that a person was driving a vehicle while his or her driving privilege was suspended or revoked, driving a vehicle while his or her driving privilege is restricted pursuant to Section 13352 or 23575 and the vehicle is not equipped with a functioning, certified interlock device, or driving a vehicle without ever having been issued a driver's license, the peace officer may either immediately arrest that person and cause the removal and seizure of that vehicle or, if the vehicle is involved in a traffic collision, cause the removal and seizure of the vehicle without the necessity of arresting the person in accordance with Chapter 10 (commencing with Section 22650) of Division 11. A vehicle so impounded shall be impounded for 30 days."

with the exception of property taxes. Payment of property taxes is not required for standing under section 526a. Plaintiff has not paid property taxes because, like millions of others, she does not own and cannot afford to buy real property in California, particularly in the Bay Area, one of the most expensive real estate markets in California—indeed, the entire United States.” (Fn. omitted.)

On January 30, 2013, the City filed a general demurrer to the complaint on the ground that plaintiff lacked taxpayer standing under section 526a because she did not pay property taxes in the County.

On March 26, 2013, the trial court issued a tentative ruling sustaining the demurrer, finding that, because plaintiff did not allege that she paid “assessed” taxes, she did not have taxpayer standing to bring her action. Plaintiff declined the trial court’s permission to amend the complaint. Plaintiff’s counsel explained that, if plaintiff were found to lack taxpayer standing based on non-payment of property taxes, rather than requesting leave to amend to substitute a resident property owner as plaintiff, “she will appeal so that this important legal question may be squarely addressed by the First District Court of Appeal and, if review be granted, the California Supreme Court.”³

Accordingly, the parties stipulated that the tentative ruling on the demurrer be made final as to both defendants, that dismissal of the case be made with prejudice, and that plaintiff’s prior motion for a preliminary injunction be denied, and, on March 27, 2013, the court entered a stipulated order and judgment of dismissal. The notice of entry of order and judgment was filed on April 3, 2013.

³ In a declaration filed on February 5, 2013, in opposition to the demurrer, plaintiff’s counsel had stated that he had litigated numerous vehicle impound and forfeiture cases, including several against defendants, with the bulk of the litigation brought on behalf of taxpayer plaintiffs, pursuant to section 526a. Counsel further declared that he had “intentionally selected a party plaintiff, Taylor Dane, who does not own real property or pay property taxes, so that the issue of property tax payments may be litigated in this court and, if Ms. Dane falls short here, on direct appeal or by writ of mandate to the Court of Appeal and the California Supreme Court.”

On April 8, 2013, plaintiff filed a notice of appeal.⁴

DISCUSSION

We review the trial court's order sustaining the City's demurrer without leave to amend de novo. (*Reynolds v. City of Calistoga* (2014) 223 Cal.App.4th 865, 871 (*Reynolds*)). "When a demurrer is sustained, we determine whether the complaint states facts sufficient to constitute a cause of action. [Citation.] And when it is sustained without leave to amend, we decide whether there is a reasonable possibility that the defect can be cured by amendment: if it can be, the trial court has abused its discretion and we reverse; if not, there has been no abuse of discretion and we affirm. [Citations.] The burden of proving such reasonable possibility is squarely on the plaintiff." [Citation.]" (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)

Here, plaintiff challenges the trial court's interpretation of section 526a, on which it based its grant of defendants' demurrer. Interpretation of a statute presents questions of law, which we review de novo. (*Wheatherford v. City of San Rafael* (2014) 226 Cal.App.4th 460, 463 (*Wheatherford*)).

Section 526a, which confers standing to bring suit as a taxpayer, provides in relevant part: "An action to obtain a judgment, restraining and preventing any illegal expenditure of, waste of, or injury to, the estate, funds, or other property of a county, town, city or city and county of the state, may be maintained against any officer thereof, or any agent, or other person acting in its behalf, either by a citizen resident therein, or by a corporation, who is assessed for and is liable to pay, or, within one year before the commencement of the action, has paid a tax therein." "The fundamental purpose of this statute is to "enable a large body of the citizenry to challenge governmental action which would otherwise go unchallenged in the courts because of the standing

⁴ In addition to the briefing by the parties, on November 20, 2013, we granted the unopposed application by the League of California Cities and California State Association of Counties for permission to file an amicus curiae brief in this matter.

requirement.” ’ [Citation.]” (*Wheatherford, supra*, 226 Cal.App.4th at p. 464, quoting *Blair v. Pitchess* (1971) 5 Cal.3d 258, 267-268 (*Blair*).

In the present case, plaintiff argues that she has standing under section 526a, as a resident taxpayer, to bring this action challenging defendants’ enforcement practices related to the impoundment of vehicles pursuant to Vehicle Code section 14602.6 notwithstanding the fact that she has not been assessed or paid any property taxes in the County.

Over the past 20 years, multiple Courts of Appeal have rejected similar arguments that payment of sales taxes, gasoline taxes, state income taxes, or utility fees satisfies the taxpayer requirement of section 526a, and have unanimously held that payment of an assessed property tax is required for standing to pursue a taxpayer action. (See *Wheatherford, supra*, 226 Cal.App.4th at p. 462 [payment of sales tax and gasoline tax and fees for water and sewage service did not confer standing]; *Reynolds, supra*, 223 Cal.App.4th at p. 873 [payment of sales tax did not confer standing]; *Cornelius v. Los Angeles County etc. Authority* (1996) 49 Cal.App.4th 1761, 1779-1780 (*Cornelius*) [payment of sales tax, gasoline tax, subway fares, and state income tax did not confer standing]; *Torres v. City of Yorba Linda* (1993) 13 Cal.App.4th 1035, 1047-1048 (*Torres*) [payment of sales tax did not confer standing].)

In *Torres, supra*, 13 Cal.App.4th at pages, 1038, 1046, the Fourth District Court of Appeal rejected the plaintiffs’ claim that they had taxpayer standing under section 526a to challenge a city’s proposed amended redevelopment project because they had paid a sales tax in the city. The court explained that payment of a sales tax did not confer standing on a consumer because the tax is imposed on the retailer, not the consumer. (*Torres*, at p. 1047.)⁵

⁵ The court also summarily rejected the plaintiffs’ claim that denying them standing violated equal protection because “case law clearly establishes plaintiffs are not similarly situated with others determined to have standing under these circumstances.” (*Torres, supra*, 13 Cal.App.4th at p. 1048, fn. 7.)

Two years after *Torres* was decided, the California Supreme Court in *Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1081-1082, 1086, held that three plaintiffs—one described as “a resident of Santa Ana” and two described as “homeless residents of Santa Ana, each of whom intends to remain in the city, and neither of whom can find affordable housing”—had taxpayer standing to challenge a city ordinance banning camping and storage of personal property in designated public places. There is no indication in the opinion that the court considered what taxes the plaintiffs had paid to achieve standing under section 526a. “ ‘ ‘It is axiomatic that language in a judicial opinion is to be understood in accordance with the facts and issues before the court. An opinion is not authority for propositions not considered.’ ’ [Citations.]” (*People v. Knoller* (2007) 41 Cal.4th 139, 154-155.) Because the Court in *Tobe* was focused on unrelated constitutional concerns, we do not believe *Tobe* is relevant to the standing issue raised in this case. (Accord, *Wheatherford*, *supra*, 226 Cal.App.4th at pp. 464-465.)

One year after *Tobe* was decided, the Second District Court of Appeal addressed whether a plaintiff who did not live or own property in Los Angeles County had taxpayer standing to challenge the County Transportation Authority’s (MTA) affirmative action program for awarding contracts. (*Cornelius*, *supra*, 49 Cal.App.4th at p. 1765.) The plaintiff claimed that his payment of sales and gasoline taxes within the county, his payment of subway fares to the MTA, as well as his payment of income taxes to the state, afforded him standing under section 526a. (*Cornelius*, at pp. 1774, 1777.) The court, citing *Torres*, held that the plaintiff’s payment of sales and gasoline taxes did not provide standing since such taxes “are generally construed to be taxes on the retailer, not the consumer to whom the retailer passes the burden.” (*Cornelius*, at p. 1777.) The court further found the plaintiff’s argument that his payment of fares to the MTA conferred standing was “borderline frivolous. A fare to ride a subway is not a tax; it is the consideration *voluntarily* given in return for the service provided.” (*Id.* at p. 1777, fn. 6.)

The court in *Cornelius* also addressed whether the plaintiff’s payment of state income taxes conferred standing to bring a taxpayer action, explaining that three factors militated against such a finding: first, state income taxes “constitute only a *partial and*

indirect source of funding for the MTA”; second, it would not be “sound public policy to permit the haphazard initiation of lawsuits against local public agencies based only on the payment of state income taxes”; and third, failure to grant standing to the plaintiff did not necessarily mean the program would go unchallenged, given various factors that gave the court “no reason to believe that a party who fulfills the case law requirement of actual injury cannot come forward to challenge the . . . program.” (*Cornelius, supra*, 49 Cal.App.4th at pp. 1778-1779.) The *Cornelius* court concluded that there was “no need to expand the concept of statutory taxpayer standing beyond that already recognized by law,” and that any further extension of the concept “must come from our state Supreme Court.” (*Id.* at p. 1779.)

More than 17 years after *Cornelius* was decided, Division Five of this District cited *Torres* in holding that the purchase of retail products in Napa County was insufficient to confer taxpayer standing on the plaintiff under section 526a. (*Reynolds, supra*, 223 Cal.App.4th at pp. 872-873.) “As *Torres* . . . explains, ‘The courts have liberally construed the standing requirement for taxpayers. . . . [¶] Nonetheless, a plaintiff must establish he or she is a taxpayer to invoke standing under section 526a [Citations.]’ [Citation.]” (*Reynolds*, at pp. 872-873, quoting *Torres, supra*, 13 Cal.App.4th at p. 1047.)

Very recently, in *Wheatherford, supra*, 226 Cal.App.4th at pages 462-463, a case nearly identical to the present one, Division One of this District rejected the plaintiff’s claim that she had taxpayer standing under section 526a to challenge the vehicle impoundment practices, pursuant to Vehicle Code section 14602.6, of the City of San Rafael and County of Marin. The plaintiff had filed a complaint for declaratory and injunctive relief alleging that she had taxpayer standing because she had paid sales tax, gasoline tax, and water and sewage fees in the City of San Rafael and the County of Marin, and the trial court had entered a stipulated judgment of dismissal. (*Wheatherford*, at pp. 462-463.) As plaintiff does here, the plaintiff in *Wheatherford* asked the court to reject the holdings of *Torres* and *Cornelius*, and to find that she had standing under *Tobe*. (*Wheatherford*, at p. 463.) In light of its “agree[ment] with existing appellate decisions

that hold payment of an assessed property tax is required in order for a party to have standing to pursue a taxpayer action,” the appellate court affirmed the judgment. (*Id.* at p. 462.)⁶

We find Justice Dondero’s thorough and cogent analysis in *Wheatherford* applicable to the issues raised here, given the remarkable similarity between the facts and contentions in the two cases. Indeed, we concur in that analysis, from which we shall quote at length.⁷

The *Wheatherford* court first discussed the plain language of section 526a, which allows a “citizen resident” to bring an action if that individual “ ‘is assessed for and is liable to pay, or, within one year before the commencement of the action, has paid, a tax therein.’ ” Like plaintiff in this case, the plaintiff in *Wheatherford* claimed this language indicated that payment of *any* tax is sufficient to confer taxpayer standing. (*Wheatherford, supra*, 226 Cal.App.4th at p. 464.) Also like plaintiff in this case, the plaintiff in *Wheatherford* first claimed that “the statute is written in the disjunctive, asserting the word ‘or’ separates persons who have been assessed for and are liable to pay a tax from those who have merely ‘paid a tax’ in the relevant jurisdiction.” (*Ibid.*) As to the latter class of taxpayers, the plaintiff asserted that an assessment was not required. While she argued that the “ ‘overall meaning’ ” of the statute was “ ‘made difficult by the manner in which the words are parsed and separated by commas,’ ” the court found that, “in reality it is her own interpretation that is strained. Plainly, the word ‘or’ is intended to provide an alternative to the clause ‘is liable to pay.’ ” Thus, the statute gives standing to two classes of persons who have been assessed for taxes: (1) those who are liable to pay

⁶ The *Wheatherford* court noted that *Reynolds*, which had been filed some three months earlier, also endorsed the holding in *Torres*. (*Wheatherford, supra*, 226 Cal.App.4th at p. 464, fn. 2.)

⁷ Because *Wheatherford* was decided after briefing was complete in this case, at our request, the parties submitted supplemental briefs in which they acknowledge the applicability of *Wheatherford* to the present case, although plaintiff argues that it was wrongly decided.

an assessed tax but who have not yet paid, and (2) those who paid an assessed tax within one year before the filing of the lawsuit.” (*Ibid.*)

As here, the plaintiff in *Wheatherford* further argued that legislative intent supported her broad interpretation of section 526a, although she did not direct the court’s attention to any actual legislative history of the statute, which was enacted in 1909. (*Wheatherford, supra*, 226 Cal.App.4th at p. 466.) Instead, she pointed “to appellate decisions that have described the statute as providing ‘a general citizen remedy for controlling illegal governmental activity’ (*White v. Davis* (1975) 13 Cal.3d 757, 763), designed to ‘enable a large body of the citizenry to challenge governmental action’ (*Blair, supra*, 5 Cal.3d [at pp.] 267-268), and providing a broad basis of relief. (See *Van Atta v. Scott* (1980) 27 Cal.3d 424, 447-448.)” (*Wheatherford*, at p. 466.)

The *Wheatherford* court observed that it is unnecessary to rely on legislative intent when a statute is clear on its face, but found, in any event, that “plaintiff’s contentions are not persuasive. Her argument is based on her view that the ‘legislative intent of section 526a would be undermined if the statute is interpreted to afford standing only to a select sub-group of the most wealthy Californians who are fortunate enough to own real property in this state and pay taxes thereon.’ While it is true that persons with limited financial resources will find it difficult to purchase homes in today’s market, it does not follow that home ownership correlates with an individual’s wealth. Many wealthy people do not own homes, preferring instead to rent. Additionally, it is not a given that all lower income people are renters, as they may have purchased a home many years ago when their incomes were higher or may have inherited their homes from family members. Thus, plaintiff’s premise is flawed.” (*Wheatherford, supra*, 226 Cal.App.4th at pp. 466-467, fn. omitted.)⁸

⁸ The court further pointed out that standing under section 526a is not limited to real property owners, citing *Santa Barbara County Coalition Against Automobile Subsidies v. Santa Barbara County Assn. of Governments* (2008) 167 Cal.App.4th 1229, 1236, in which the appellate court held that a retailer that paid sales tax on the sale of its T-shirts in the county had established taxpayer standing under section 526a because it

Finally, the court in *Wheatherford* rejected the plaintiff’s related argument—also raised in this case—that section 526a violates equal protection principles because its requirement that a litigant pay assessed taxes to have standing to sue created a “ ‘wealth-based classification,’ ” thereby raising constitutional concerns that were subject to strict scrutiny. (*Wheatherford, supra*, 226 Cal.App.4th at p. 467.) The court again noted that “the correlation between wealth and home ownership” was not as clear as the plaintiff suggested and concluded that, even assuming the plaintiff was similarly situated to taxpayers who had been accorded standing under section 526a, the rational basis test applied, under which a statute “ ‘should be sustained if we find that its classification is rationally related to achievement of a legitimate state purpose.’ [Citation.]” (*Wheatherford*, at pp. 467, 469, quoting *Western & Southern Life Ins. Co. v. State Bd. of Equalization* (1981) 451 U.S. 648, 657; but see *Torres, supra*, 13 Cal.App.4th at p. 1048, fn. 7 [holding that plaintiffs were not similarly situated with others found to have taxpayer standing under section 526a].)⁹

The court then analyzed the plaintiff’s equal protection claim: “Here, plaintiff does not contend section 526a serves no conceivable state purpose. She merely argues that the statute, as construed under *Torres* and *Cornelius*, discriminates against some taxpayers on account of the fact that they did not pay property taxes. Courts have noted

was liable to pay a tax assessed by the county. (*Wheatherford, supra*, 226 Cal.App.4th at p. 467, fn. 6; accord, *Cornelius, supra*, 49 Cal.App.4th at p. 1777.) The *Wheatherford* court observed that the defendants there had noted that “section 526a applies to individuals and business owners on whom a governmental entity directly assesses a tax. Such individuals would include, but would not necessarily consist solely of, real property owners.” (*Wheatherford*, at p. 467, fn. 6.)

⁹ The court rejected the plaintiff’s assertion that a strict scrutiny constitutional analysis applied, given that “courts have held that classifications based on wealth do not merit strict scrutiny.” (*Wheatherford, supra*, 226 Cal.App.4th at p. 468 [citing cases].) The court also distinguished *Serrano v. Priest* (1971) 5 Cal.3d 584, relied on by the plaintiff, explaining that the issue in that case “was that the [public school] financing system itself *created* an inequality affecting a fundamental right, not that poor people are, as such, members of a protected class.” (*Wheatherford*, at p. 468.)

that it is not irrational to limit standing in taxpayer lawsuits. . . . ([See, e.g.,] *Cornelius, supra*, 49 Cal.App.4th at pp. 1778-1779.) We also see a rational purpose in limiting taxpayer standing to persons who pay property tax in the jurisdiction corresponding to the public entity defendant. Individuals who have directly paid a tax to the government have obtained ‘a sufficiently personal interest in the illegal expenditure of funds by county officials to become dedicated adversaries.’ (*Blair, supra*, 5 Cal.3d at p. 270.) Additionally, given the apparent widespread nature of defendants’ vehicle impoundment practices, this is not a case in which taxpayer standing must be construed liberally to allow a challenge to governmental action which would otherwise go unchallenged because of the stricter requirement of standing imposed by case law. (See *Blair*, at pp. 267-268.) Presumably there are many individuals whose vehicles have been impounded by defendants, and who therefore can fulfill the case law requirement of actual injury. Alternatively, there are many homeowners who pay taxes directly to defendants and who have standing to raise the claims plaintiff seeks to pursue. We thus agree with defendants that plaintiff lacks standing to bring the instant action.” (*Wheatherford, supra*, 226 Cal.App.4th at pp. 469-470, fn. omitted.)¹⁰

¹⁰ We agree that the fact that taxpayer standing to sue under section 526a requires payment of an assessed tax does not create a suspect classification based on wealth that is subject to strict scrutiny, and further agree that there is no due process or equal protection violation here. First, as discussed in *Wheatherford*, the corollary between home ownership, or lack thereof, and wealth is not as clear-cut as plaintiff avers. (Compare *Serrano v. Priest, supra*, 5 Cal.3d at p. 597 [“ ‘[A] careful examination on our part is especially warranted where lines are drawn on the basis of wealth . . . [a] factor which would independently render a classification highly suspect and thereby demand a more exacting judicial scrutiny’ ”].) Nor does section 526a’s standing requirement preclude access to the courts for people directly harmed by government actions. Rather, it provides taxpayers who have not suffered such direct harm an additional avenue for challenging governmental action. (See *Blair, supra*, 5 Cal.3d at pp. 267-268.) Indeed, plaintiff’s logic would ultimately require a finding that limiting taxpayer standing to taxpayers of any kind violates the equal protection rights of individuals without the means, not only to own a home, but also to those people unable pay other taxes, such as sales, gasoline, and income taxes.

In sum, we agree with the appellate court in *Wheatherford*, as well as the courts in *Reynolds*, *Cornelius*, and *Torres* that the existence of a policy of liberally construing section 526a (e.g., *Blair*, *supra*, 5 Cal.3d at pp. 267-268) does not mean that we may ignore the plain language and commonsense meaning of the statute. We therefore conclude the trial court properly granted the City’s demurrer on the ground that plaintiff’s allegations that she paid sales and gasoline taxes and water and sewage fees in the City and/or County, as well as state income taxes, failed to establish that she had standing under section 526a to pursue her claims. (See *Wheatherford*, *supra*, 226 Cal.App.4th at p. 462; *Reynolds*, *supra*, 223 Cal.App.4th at p. 873; *Cornelius*, *supra*, 49 Cal.App.4th at pp. 1779-1780; *Torres v.*, *supra*, 13 Cal.App.4th at pp. 1047-1048.)¹¹ Furthermore, because it is not reasonably possible that plaintiff can amend her complaint to establish taxpayer standing, the court did not abuse its discretion when it sustained the demurrer without leave to amend. (See *Blank v. Kirwan*, *supra*, 39 Cal.3d at p. 318.)¹²

¹¹ We do not agree with plaintiff that this conclusion conflicts with 100 years of California Supreme Court precedent broadly construing section 526a. As discussed, affording taxpayer standing to individuals like plaintiff, who has neither been assessed nor paid property taxes in Sonoma County, would go beyond a liberal reading of the statute and would undermine both the plain language of the statute and the purpose of the assessed tax requirement. (See, e.g., *Wheatherford*, *supra*, 226 Cal.App.4th at pp. 469-470, *Cornelius*, *supra*, 49 Cal.App.4th at pp. 1778-1779.)

¹² In light of our conclusion that plaintiff does not have taxpayer standing to bring an action under section 526a, we need not address her contention that we should reverse the trial court’s order denying her motion to preliminarily enjoin the City from impounding vehicles in certain circumstances, which she states was based on “existing appellate case law which collectively imposes a blanket prohibition on preliminary injunctive relief in taxpayer suits where, as here, the action is designed to prevent harm to nonparties and the citizenry generally, not the plaintiff personally or the public fisc.” Nor will we address plaintiff’s assertion, raised for the first time in her reply brief, that, even if we conclude that she lacks taxpayer standing, we should nonetheless reach the merits of this claim because the correct legal standard for preliminary injunctive relief in taxpayer cases is a matter of significant importance that consistently evades review. (See *Crowley Maritime Corp. v. Boston Old Colony Ins. Co.* (2008) 158 Cal.App.4th 1061, 1072 [points raised for first time in reply brief will generally not be considered].)

DISPOSITION

The judgment is affirmed.

Kline, P.J.

We concur:

Richman, J.

Brick, J.*

* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Likewise, we decline to address plaintiff’s contention, also raised for the first time in her reply brief, that she has “citizen standing” to bring her action. (*Ibid.*)

Finally, we will not address the request of amicus curiae League of California Cities and California State Association of Counties that we take judicial notice of certain local ordinances, given that the request was made in its brief and, therefore, was not in compliance with California Rules of Court, rule 8.252(a). Moreover, the subject matter of the request is not necessary to our determination here.