Illinois Official Reports

Appellate Court

Blaha v. City of Chicago, 2022 IL App (1st) 210546

Appellate Court Caption	MIKE BLAHA, GABRIEL CARPIO, and KYLE GARCHAR, Individually and on Behalf of All Others Similarly Situated, Plaintiffs-Appellants, v. THE CITY OF CHICAGO, Defendant-Appellee.
District & No.	First District, Sixth Division No. 1-21-0546
Filed	May 6, 2022
Decision Under Review	Appeal from the Circuit Court of Cook County, No. 18-CH-8945; the Hon. Anna M. Loftus, Judge, presiding.
Judgment	Affirmed in part and reversed in part. Cause remanded.
Counsel on Appeal	Myron M. Cherry, Jacie C. Zolna, and Benjamin R. Swetland, of Myron M. Cherry & Associates, LLC, of Chicago, for appellants. Celia Meza, Corporation Counsel, of Chicago (Myriam Zreczny Kasper and Stephen G. Collins, Assistant Corporation Counsel, of counsel), for appellee.

Panel JUSTICE MIKVA delivered the judgment of the court, with opinion. Presiding Justice Pierce and Justice Oden Johnson concurred in the judgment and opinion.

OPINION

¶ 1 Plaintiffs filed a class action complaint alleging that the City of Chicago (City) violated section 11-208.3(b)(10) of the Illinois Vehicle Code (Vehicle Code) (625 ILCS 5/11-208.3(b)(10) (West 2020)), when it imposed fines in excess of $250 for ordinance violations that were adjudicated administratively. On behalf of themselves and a putative class of similarly situated individuals, plaintiffs sought (1) a declaration that all provisions of the Chicago Municipal Code (Municipal Code) that enabled the collection of such fines are void for exceeding what is permissible under the Vehicle Code and (2) disgorgement of all fines, penalties, and other amounts to remedy the City's unjust enrichment.

¶ 2 The City moved to dismiss the complaint, arguing that the $250 figure highlighted by plaintiffs in section 11-208.3(b)(10) of the Vehicle Code was a drafting error and that the larger statutory scheme set out in section 11-208.3, and the legislative history of the provision, demonstrate an intent to permit municipalities to impose fines and penalties of up to $500 per violation, as expressly specified in a separate subsection of the statute, section 11-208.3(a). *Id.* § 11-208.3(a). The circuit court agreed with the City's statutory interpretation and dismissed the complaint with prejudice.

¶ 3 On appeal, plaintiffs' primary argument is that the circuit court erred when it found that the $250 limit on fines and penalties in section 11-208.3(b)(10) of the Vehicle Code was a drafting error that was entitled to no effect. Plaintiffs also take issue with two other decisions made by the circuit court: (1) a determination that one of the plaintiffs, Gabriel Carpio, lacked standing because he was assessed only a $200 fine, which he promptly paid, and (2) the denial of a motion for substitution of judge as a matter of right filed by plaintiff Kyle Garchar on the basis that it was untimely.

¶ 4 We agree with plaintiffs' principal argument that the circuit court erred in concluding that the $250 figure in subsection (b)(10) was a legislative error. However, we agree with the circuit court that Mr. Carpio lacked standing. We decline to address the issue of the denial of Mr. Garchar's motion for substitution of judge, as plaintiffs expressly withdrew that issue on appeal at oral argument. Accordingly, we reverse the circuit court's dismissal order and remand for further proceedings as to plaintiffs other than Mr. Carpio.

¶ 5 ### I. BACKGROUND

¶ 6 #### A. Section 11-208.3 of the Vehicle Code

¶ 7 Since its passage in 1987, section 11-208.3 of the Vehicle Code has authorized counties and municipalities in Illinois to establish an administrative adjudication system to process certain parking offenses and moving violations, as defined both by ordinance and by state law. Pub. Act 85-876 (eff. Nov. 6, 1987); *Van Harken v. City of Chicago*, 103 F.3d 1346, 1349-50 (7th Cir. 1997). In 1990, the Chicago city council "took up the invitation" of section 11-208.3

and set up a system of administrative adjudication to deal with these offenses and violations as allowed in that statute. *Van Harken*, 103 F.3d at 1350.

¶ 8 Before 1990, parking tickets and citations for other minor traffic violations were treated as complaints for criminal infractions and processed through the judicial system. *Id.* at 1349. The shift to administrative adjudication was seen as a needed reform, a way to replace a highly inefficient system in which those who received simple parking tickets—a population numbering in the millions every year—had been "entitled to the usual safeguards of the criminal process," including jury trials. *Id.*; see also Lawrence Rosenthal, *Does Due Process Have an Original Meaning? On Originalism, Due Process, Procedural Innovation . . . and Parking Tickets*, 60 Okla. L. Rev. 1, 13-16 (Spring 2007) (describing the "enormous judicial resources" Chicago devoted to processing parking tickets under the old regime).

¶ 9 The structure of the administrative system created in the wake of the passage of section 11-208.3 of the Vehicle Code is laid out in section 9-100-010 of the Municipal Code, which "provide[s] for the administrative adjudication of violations of ordinances defining parking, standing, compliance, automated speed enforcement system, and automated traffic law enforcement system violations, and to establish a fair and efficient system for the enforcement of such ordinances." Chicago Municipal Code § 9-100-010(a) (amended Oct. 28, 2015). As the Municipal Code makes clear, the "administrative *** system set forth in this chapter is established pursuant to Division 2.1 of the Illinois Municipal Code and Sections 11-208.3, 11-208.6 and 11-208.8 of the Illinois Vehicle Code." *Id.*

¶ 10 B. Sections 11-208.3(a) and 11-208.3(b)(10)

¶ 11 The dispute in this case centers on two specific subsections within section 11-208.3 of the Vehicle Code: subsections (a) and (b)(10). 625 ILCS 5/11-208.3(a), (b)(10) (West 2020). The parties disagree over whether these two sub-provisions can be read harmoniously and to what extent they restrict the powers of City officials processing local traffic ordinances through the administrative system.

¶ 12 Section 11-208.3(a) is an authorization provision, laying out the purpose of administrative adjudication and providing a broad framework for the types of minor civil offenses that are eligible for such treatment. It reads, in its entirety, as follows:

> "Any municipality or county may provide by ordinance for a system of administrative adjudication of vehicular standing and parking violations and vehicle compliance violations as described in this subsection, automated traffic law violations as defined in Section 11-208.6, 11-208.9, or 11-1201.1, and automated speed enforcement system violations as defined in Section 11-208.8. The administrative system shall have as its purpose the fair and efficient enforcement of municipal or county regulations through the administrative adjudication of automated speed enforcement system or automated traffic law violations and violations of municipal or county ordinances regulating the standing and parking of vehicles, the condition and use of vehicle equipment, and the display of municipal or county wheel tax licenses within the municipality's or county's borders. *The administrative system shall only have the authority to adjudicate civil offenses carrying fines not in excess of $500* or requiring the completion of a traffic education program, or both, that occur after the effective date of the ordinance adopting such a system under this Section. For purposes of this Section, 'compliance violation' means a violation of a municipal or county regulation governing the condition or use

of equipment on a vehicle or governing the display of a municipal or county wheel tax license." (Emphasis added). *Id.* § 11-208.3(a).

¶ 13 Section 11-208.3(b)(10) is one of 11 requirements in subsection (b) for what a local government's administrative adjudication system must provide. *Id.* § 11-208.3(b)(10). It reads:

> "(b) Any ordinance establishing a system of administrative adjudication under this Section shall provide for:
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> * * *
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> (10) A schedule of civil fines for violations of vehicular standing, parking, compliance, automated speed enforcement system, or automated traffic law regulations enacted by ordinance pursuant to this Section, and a schedule of penalties for late payment of the fines or failure to complete required traffic education programs, provided, however, that *the total amount of the fine and penalty for any one violation shall not exceed $250*, except as provided in subsection (c) of Section 11-1301.3 of this Code." (Emphasis added.) *Id.*

¶ 14 C. The Tickets Plaintiffs Received

¶ 15 Each of the plaintiffs received one or more tickets for violating section 9-64-125 of the Municipal Code, an ordinance regulating the display of "wheel tax license emblem[s]." Chicago Municipal Code § 9-64-125 (amended at Chi. City Clerk J. Proc. 106576 (Apr. 15, 2015)). The "wheel tax" is an annual tax levied on vehicle-owning residents of Chicago that is used to fund road maintenance. It is colloquially known as the "city sticker tax" because proof of payment comes in the form of a "City of Chicago Vehicle Sticker," which displays a date of expiration and is affixed to the front windshield of the vehicle. Section 9-64-125 makes it is a finable offense to park "on any portion of the public way, or on any city-owned property, or in a public parking garage ***, or in any parking lot open to pedestrian traffic" without properly displaying the sticker. *Id.* § 9-64-125(a).

¶ 16 One of the plaintiffs, Mike Blaha, also received three tickets for violating section 9-64-100(a) of the Municipal Code, which prohibits parking "within 15 feet of a fire hydrant." Chicago Municipal Code § 9-64-100(a) (added at Chi. City Clerk J. Proc. 18634 (July 12, 1990)).

¶ 17 The fines for both types of ordinance violations are set in section 9-100-020 of the Municipal Code. Chicago Municipal Code § 9-100-020 (amended Apr. 21, 2021). Under the fine schedule, city sticker violations incur fines of $200 per violation. *Id.* § 9-100-020(c). Parking within 15 feet of a fire hydrant subjects violators to fines of $150 per violation. *Id.* § 9-100-020(b). Section 9-100-050(e) of the Municipal Code provides a penalty for late payment of fines, which is incurred if fines are not paid within 25 days. Chicago Municipal Code § 9-100-050(e) (amended Oct. 27, 2021). Under that subsection, "[e]xcept as otherwise provided in this subsection, the penalty for late payment shall be an amount equal to the amount of the fine for the relevant violation." *Id.* The City amended this subsection in September 2019 to carve out city sticker violations, giving them a penalty for late payment of $50. See Chicago Municipal Code § 9-100-050(e) (amended at Chi. City Clerk J. Proc. 4521 (Sept. 18, 2019)). Plaintiffs allege that they received tickets prior to the 2019 amendment.

¶ 18 D. Plaintiffs' Complaint

¶ 19 On July 17, 2018, Mike Blaha filed a complaint, together with a motion for class certification, alleging that through its ticketing practices, the City was routinely flouting the limits placed upon it by section 11-208.3(b)(10) of the Vehicle Code, which, he argued, should be read as a strict $250 cap on per-violation fines and penalties allowed under Chicago's administrative system. This $250 limit, Mr. Blaha claimed, exists to protect the due process rights of those who receive tickets as "[t]he Illinois Vehicle Code specifically provides that if a municipal code violation is minor enough to justify administrative adjudication, the penalty for the violation must be minor as well."

¶ 20 The complaint was later amended to add Mr. Carpio, Mr. Garchar, and an individual named Lekesha Boyd (who is not a party to this appeal) as plaintiffs. All plaintiffs, the complaint alleged, had received citations "for a number of parking, standing and/or compliance violations pursuant to a schedule of civil fines adopted by City ordinance where the total amount of the fine and penalty for any one violation exceeded $250."

¶ 21 E. The City's Motion to Dismiss

¶ 22 The City moved to dismiss the complaint on various grounds. The argument that remains the City's central focus on appeal is that there is a clear and irreconcilable conflict between section 11-208.3(b)(10), which provides that "the total amount of the fine and penalty for any one violation *shall not exceed $250*" (emphasis added) (625 ILCS 5/11-208.3(b)(10) (West 2020)), and section 11-208.3(a), which provides that "the administrative system shall only have the authority to adjudicate civil offenses carrying fines *not in excess of $500*" (emphasis added) (*id.* § 11-208.3(a)). This conflict, the City claimed, was the result of an oversight by the General Assembly. Citing our supreme court in *State v. Mikusch*, 138 Ill. 2d 242, 254 (1990), the City argued that, pursuant to the rules of statutory construction, the $500 figure in section 11-208.3(a) was controlling because, of the two sub-provisions, subsection (a) had been amended more recently.

¶ 23 As a separate ground for dismissal, the City argued that even assuming *arguendo* that plaintiffs' interpretation of the statute was correct, and there was indeed a statutory $250 limit on fines and penalties under the Vehicle Code, the City could nonetheless ignore such a limit under its home rule authority. Section 11-208.3, the City suggested, has no bearing on Chicago's ability to set fine rates because "it does not contain the language required to expressly preempt the authority of home-rule units such as the City."

¶ 24 In addition to these grounds, the City argued that the complaint should be dismissed because plaintiffs lacked standing, they had failed to exhaust administrative remedies, and plaintiffs' claims were barred by *res judicata*.

¶ 25 Plaintiffs argued in response to the City's statutory argument that there was no conflict between the two subsections, stating:

> "When the statute is read as a whole, the general authority to administratively adjudicate 'civil offenses' carrying fines of up to $500 contained in Section [11-]208.3(a) can and must be read harmoniously with the $250 limit for the specific violations set forth in Section [11-]208.3(b)(10). But that is not all. Section [11-]208.3(a) must be read in light of *four* other provisions of the [Vehicle Code] that provide for varying limits on fines and penalties. These other provisions demonstrate

that the General Assembly always meant for the $500 and $250 caps to work together." (Emphasis in original.)

To provide additional support for this argument that the two subsections could be read harmoniously, plaintiffs included a complicated analysis of section 11-208.3's legislative history. The City responded with its own legislative historical analysis in support of its position that the continued presence of the $250 figure through numerous amendments was due to legislative error.

¶ 26 F. The Circuit Court's Ruling on the Motion to Dismiss

¶ 27 On May 6, 2021, the circuit court issued a detailed memorandum opinion and order granting the City's motion to dismiss. The court summarized the relevant statutes and meticulously dissected the two parties' interpretive arguments, ultimately determining that "while not perfect, Chicago's construction [wa]s both an accurate reflection of statutory intent and a better match for the statute's operation."

¶ 28 The circuit court concluded that the plain language of sections 11-208.3(a) and 11-208.3(b)(10) was in conflict and could not be reconciled. It explained:

> "Both subsections purport to control the maximum fine that an administrative system may impose for a standing, parking, or compliance violation, but they control it differently. Subsection (a) imposes a cap in the grant of authority for the system in the first place; Subsection (b)(10) imposes a cap on the fines directly. The caps cannot both be in effect at the same time over the same set of violations: either the administrative system may adjudicate up to $500 in fines, or it is limited to $250. Both cannot be true."

¶ 29 Accepting the City's interpretation that, in light of this conflict, section 11-208.3(a) controlled and section 11-208.3(b)(10) was inoperable, the court found that section 11-208.3 "grants Chicago authority to impose fines of up to $500," which meant that plaintiffs' claims failed as a matter of law.

¶ 30 The court also found that Mr. Carpio lacked standing because, since he paid his fine before the late penalty doubling mechanism kicked in, he was never actually fined in excess of $250, meaning that even if plaintiffs were correct in their interpretation of the Vehicle Code, he suffered no injury. His claim was dismissed on that additional basis.

¶ 31 The circuit court rejected the City's alternative arguments that it lacked subject matter jurisdiction, that plaintiffs had failed to exhaust administrative remedies, that plaintiffs' claims were barred by *res judicata*, and that some of the plaintiffs lacked standing. The court expressed skepticism about, but ultimately declined to rule on, the City's home rule authority argument, as the case could be resolved on other grounds.

¶ 32 This appeal followed.

¶ 33 II. JURISDICTION

¶ 34 The circuit court entered a final judgment against plaintiffs dismissing their amended complaint with prejudice on May 6, 2021. Plaintiffs timely filed a notice of appeal on May 11, 2021. Accordingly, this court has jurisdiction pursuant to Illinois Supreme Court Rule 301 (eff. Feb. 1, 1994) and Rule 303 (eff. July 1, 2017), governing appeals from final judgments entered by the circuit court in civil cases.

¶ 35 III. ANALYSIS

¶ 36 On appeal, plaintiffs argue that the circuit court erred in determining that (1) the $250 figure in section 11-208.3(b)(10) was a drafting error that must be given no effect and (2) Mr. Carpio lacked standing. In their briefing materials, plaintiffs also contested the circuit court's ruling on a motion for substitution of judge filed by Mr. Garchar, but they unequivocally abandoned this third claim at oral argument. We thus address the two remaining claims, beginning with the circuit court's determination that the $250 cap in subsection (b)(10) was of no effect.

¶ 37 A. The Validity of the $250 Cap in Section 11-208.3(b)(10)

¶ 38 The circuit court dismissed this complaint on the basis that the $250 cap in section 11-208.3(b)(10) was of no effect and did not limit the City's authority to impose fines and penalties. The question of whether the $250 limit in section 11-208.3(b)(10) applies to these tickets is one of law that we consider *de novo*. See *Knolls Condominium Ass'n v. Harms*, 202 Ill. 2d 450, 454 (2002).

¶ 39 The "fundamental rule of statutory construction *** is to give effect to the intent of the legislature." *Mikusch*, 138 Ill. 2d at 247. We have long recognized that the "best evidence of legislative intent is the language of the statute, which should be given its plain and ordinary meaning." *In re Application of the County Collector*, 2022 IL 126929, ¶ 19. As our supreme court recently reiterated, "[t]he meaning of a rule or statute is determined first by examining the language of the provision itself, not extratextual sources." *People v. Deroo*, 2022 IL 126120, ¶ 24. Thus, our starting point is the statutory text.

¶ 40 At issue are the two potentially conflicting subsections of section 11-208.3 of the Vehicle Code: (a) and (b)(10). In trying to reconcile these two subsections, we are guided by a strong presumption that "the legislature, in enacting various statutes, act[ed] rationally and with full knowledge of all previous enactments." *Mikusch*, 138 Ill. 2d at 248; see also *Sigcho-Lopez v. Illinois State Board of Elections*, 2022 IL 127253, ¶ 28 ("a court presumes that the legislature did not intend absurd, inconvenient, or unjust results"). Where, as here, "two statutes are allegedly in conflict, a court has a duty to interpret the statutes in a manner that avoids an inconsistency and gives effect to both statutes, where such an interpretation is reasonably possible." *Barragan v. Casco Design Corp.*, 216 Ill. 2d 435, 441-42 (2005).

¶ 41 The circuit court in this case concluded that sections 11-208.3(a) and 11-208.3(b)(10), on their face, conflicted. This conclusion allowed the court to look beyond the bare text and consider the statute's complicated legislative history. This was no easy undertaking as, by our count, section 11-208.3 has been amended 25 times since its passage in 1987. Carefully comparing distinct iterations of the statute and considering extensive legislative materials, the court determined that the $250 limit in subsection (b)(10) was a legislative error and that the $500 cap in subsection (a) controlled. In our view, the court erred in its willingness to find that the strong presumption that the legislature acted rationally and with full knowledge of previous enactments, as described above, was overcome.

¶ 42 We have an obligation to read sections 11-208.3(a) and 11-208.3(b)(10) in harmony if such an interpretation is reasonably possible. Plaintiffs offer what they argue is a plausible, harmonized reading of the two provisions. According to plaintiffs, "a plain language reading of Section 11-208.3 demonstrates that the $500 limit in subsection (a) applies to 'fines' for the entire administrative system whereas the $250 limit on 'fines and penalties' in subsection

(b)(10) is a more specific limitation on violations enacted under a municipality's own ordinance."

¶ 43 We agree with plaintiffs that a harmonized interpretation is reasonably possible. In our view, the two subsections can be read in a way that (1) gives effect to both provisions, (2) does not lead to absurd outcomes, and (3) avoids the necessity of wading into the murky waters of legislative history, which both parties cite in support of their conflicting interpretations. To make sense of this harmonized interpretation, we examine each subsection in some detail.

¶ 44 Section 11-208.3(a), restated in full above (*supra* ¶ 12), is an authorization provision granting municipalities and counties the power to establish a system of administrative adjudication for two different categories of civil offenses. The first category includes those violations "described in this subsection," which, the subsequent statutory language clarifies, are "violations of municipal or county ordinances" related to (1) "the standing and parking of vehicles," (2) "the condition and use of vehicle equipment," and (3) "wheel tax licenses." 625 ILCS 5/11-208.3(a) (West 2020). The second category includes those "automated traffic law violations" and "automated speed enforcement system violations" as defined in several other Vehicle Code provisions that are listed in section 11-208.3(a): sections 11-208.6, 11-208.9, 11-1201.1, and 11-208.8. *Id.* The limitation described in this section is for the "administrative system" as a whole, which "shall only have authority to adjudicate civil offenses carrying fines not in excess of $500." *Id.*

¶ 45 Section 11-208.3(b) provides a list of requirements for what "[a]ny ordinance establishing a system of administrative adjudication" must include. *Id.* § 11-208.3(b). Section 11-208.3(b)(10), the tenth requirement on that list, mandates that administrative adjudicatory systems established under section 11-208.3 must provide for a schedule of fines for violations "enacted by ordinance" and penalties for the late payment of fines. *Id.* § 11-208.3(b)(10). It additionally specifies that for any single violation, the total amount of the combined fine *and* penalty shall not exceed $250 ("except as provided in subsection (c) of Section 11-1301.3 of this Code").[1] *Id.* This is the limitation that plaintiffs claim applies here because all the tickets at issue were imposing fines that had been "enacted by ordinance." We agree.

¶ 46 As explained above, under the basic framework of section 11-208.3(a), two types of civil offenses are eligible for administrative adjudication: (1) "violations of *municipal or county ordinances*" related to "the standing and parking of vehicles," "the condition and use of vehicle equipment," and the wheel tax, and (2) violations of specifically referenced *statutes* regulating automated traffic law violations and automated speed enforcement violations. (Emphasis

[1]Section 11-1301.3 regulates the "[u]nauthorized use of parking places reserved for persons with disabilities." 625 ILCS 5/11-1301.3 (West 2020). Section 11-1301.3(c) provides, in relevant part, as follows:

> "Any person found guilty of violating the provisions of subsection (a) shall be fined $250 in addition to any costs or charges connected with the removal or storage of any motor vehicle authorized under this Section; *but municipalities by ordinance may* impose a fine up to $350 and shall display signs indicating the fine imposed." (Emphasis added). *Id.* § 11-1301.3(c).

Because this penalty provision provides municipalities with the option to impose, by ordinance, fines *over* $250 for this specific offense, it makes sense that section 11-1301.3 was included as an exception to the general rule, elaborated in section 11-208.3(b)(10), that municipalities cannot, by ordinance, impose a fine of over $250.

added.) *Id.* § 11-208.3(a). The reason section 11-208.3(a) contains a $500 cap is that it is intended to apply to fines set by statute for these statutory offenses, some of which expressly authorize fines or penalties of up to $500 per violation. See, *e.g.*, *id.* § 11-208.9(k) (authorizing a "civil penalty not exceeding *** $500 for a second or subsequent violation" for passing a school bus where the "motor vehicle is recorded by an automated traffic law enforcement system"); *id.* § 11-1201.1(j) (authorizing a civil fine of $500 for a subsequent violation of the automated railroad crossing enforcement system).

¶ 47 The $250 cap elaborated in section 11-208.3(b)(10), on the other hand, is directed at all fines and penalties imposed by municipal and county ordinances, rather than by these specifically referenced statutes regulating automated traffic law and speed enforcement violations. It is certainly plausible that the legislature chose to impose a stricter and lower cap of $250 for fines and penalties that the cities and counties set through ordinances than it did for fines and penalties imposed by statute, which the legislature can control directly.

¶ 48 Although we rest our interpretation of this statute on its plain language and our resistance to any assumption that there has been a legislative error, we note that the history of the $500 cap in section 11-208.3(a) also supports this understanding. For most of section 11-208.3's history, the caps in subsections (a) and (b)(10) were both set at $250. Then, in 2010, the statute was amended to allow for the administrative adjudication of violations of section 11-1201.1 of the Vehicle Code, a provision that deals with automated railroad crossing enforcement systems. See Pub. Act 96-478, § 5 (eff. Jan. 1, 2010) (amending 625 ILCS 5/11-208.3(a)). As part of this same amendment, in addition to new language on section 11-1201.1, the cap in section 11-208.3(a) was raised to $500 for the first time, presumably to accommodate the higher fines now permitted by the new railroad crossing statute. See *id.* Meanwhile, in that same 2010 amendment, the $250 cap in section 11-208.3(b)(10) was left unchanged. See *id.* Plaintiffs argue convincingly that the decision not to raise the $250 figure in section 11-208.3(b)(10), either in 2010 or in any subsequent amendments, reflects a legislative intent "to leave in place the $250 limitation for the ordinance violations that were already in existence prior to the passage of the railroad safety law."

¶ 49 The City argues that this distinction between ordinance and statutory violations is illusory: "the plain text of section 11-208.3 refutes it by making clear that the authorization provision and the schedule provision apply to the same offenses." Using ordinances enacted by the City of Prospect Heights as an example, the City argues that where Prospect Heights enforced what plaintiffs would label as "statutory offenses," it first granted itself the power to do so via an ordinance. This means that when, for example, drivers in Prospect Heights are ticketed after a camera captures them not properly stopping at a red light (a statutory offense under section 11-208.6 of the Vehicle Code (625 ILCS 5/11-208.6 (West 2020))), they are violating a state law and, simultaneously, are violating a local ordinance that permits Prospect Heights to administratively adjudicate violations of that state law. In practice, the City explains, the two categories of violations identified by plaintiffs—ordinance and statutory violations—are really just one category: ordinance violations. Thus, the City concludes, sections 11-208.3(a) and 11-208.3(b)(10) conflict, and the $250 figure must be a drafting error. We disagree with this interpretation.

¶ 50 The City's formulation ignores the important distinction between a city or county's collection of fines and penalties that it has set and a city or county's use of its administrative system to enforce a state statute and impose the penalty set out in that statute. In the former

situation, the locality is using the administrative system to collect fines and penalties that it has set. In the latter situation, the locality is enforcing (via ordinance) substantive offenses that have been defined for it, along with relevant penalties, all set by the state legislature. Thus, when Prospect Heights passes an ordinance setting up an automated traffic enforcement system that incorporates a number of Vehicle Code violations and also incorporates the penalties that the Vehicle Code has established for those violations, the $500 cap applies because it is enforcing state law and its accompanying penalty provisions. That is not what the City did in this case. Here, all the tickets at issue are for ordinance violations for locally defined offenses, the fines for which are set not by statute, but by the City itself. Thus, in contrast to the Prospect Heights scenario, the $250 cap in section 11-208.3(b)(10) applies.

¶ 51 The City's argument is further undermined by the text of section 11-208, which is titled "Powers of local authorities." *Id.* § 11-208. As that provision states, "[a] municipality or county" "may enact an ordinance" to enforce either violation of the specific statutory offenses described in 11-208.3(a) (violations of sections 11-208.6, 11-1201.1, 11-208.8 or 11-208.9), "or a similar provision of a local ordinance." *Id.* § 11-208(f)-(i). In other words, a locality may choose to administratively adjudicate statutory Vehicle Code violations directly and collect the fines established by the relevant guiding statutes (which in some circumstances permit fines of up to $500). Alternatively, the locality may administratively adjudicate those violations indirectly through enacting ordinance provisions similar to those of the Vehicle Code, but more suited to its individual needs. If the locality chooses the latter path, however, fines and penalties must be capped at $250, as section 11-208.3(b)(10) makes clear. The use of the word "or" in section 11-208 recognizes that there is a qualitative difference between these two types of ordinances.

¶ 52 In sum, viewing the totality of the statutory language, we agree with plaintiffs that subsections (a) and (b)(10) of section 11-208.3 can be read harmoniously. The $250 cap in subsection (b)(10) applies to the fines and penalties "enacted by ordinance," which include the city sticker and fire hydrant violations at issue in this litigation.

¶ 53 B. Mr. Carpio's Standing

¶ 54 We turn next to plaintiffs' claim that the circuit court erred in its determination that Mr. Carpio lacked standing. We review the circuit court's dismissal of Mr. Carpio for lack of standing *de novo*. *Village of Willow Springs v. Village of Lemont*, 2016 IL App (1st) 152670, ¶ 21.

¶ 55 The purpose of the standing doctrine is to ensure that only those with a real interest in the outcome of a controversy may raise and litigate issues before the court. *Wexler v. Wirtz Corp.*, 211 Ill. 2d 18, 23 (2004). To have standing to challenge the constitutionality of a law, one must be "in immediate danger of sustaining a direct injury as a result of enforcement of the challenged statute." *Id.*

¶ 56 Plaintiffs contend that Mr. Carpio has standing, even though he paid his ticket before a late fee kicked in, because the ordinance under which he was fined $200 is facially unconstitutional and thus can be challenged by anyone prosecuted under that ordinance. Plaintiffs rely on our supreme court's observation that "[w]hen a court declares a statute unconstitutional and void *ab initio*, the court means only that the statute was constitutionally infirm from the moment of its enactment and, therefore, is unenforceable." *People v. Davis*, 2014 IL 115595, ¶ 25.

¶ 57 By itself, the ordinance requiring a city sticker, which Mr. Carpio was administratively charged with violating (section 9-64-125 of the Municipal Code), is not void *ab initio*, unconstitutional, or even violative of any state statute. Rather, it is the penalty provision for late payment (section 9-100-050(e) of the Municipal Code)—which operated to double the fine imposed by the city sticker ordinance if the fine was not paid within 25 days—that plaintiffs claim violated state law when it was applied to an ordinance violation that carried a fine of over $125. In Mr. Carpio's case, that doubling provision was never applied. The circuit court was correct in its determination that he has no standing to bring this suit.

¶ 58 C. The City's Home Rule Authority

¶ 59 The final issue to address is the City's argument, in the alternative, that even if the $250 limit in section 11-208.3(b)(10) applies, Chicago has the power to enact fines in excess of that limit, pursuant to its home rule authority.

¶ 60 Our constitution provides that "[h]ome rule units may exercise and perform concurrently with the State any power or function of a home rule unit to the extent that the General Assembly by law does not specifically limit the concurrent exercise or specifically declare the State's exercise to be exclusive." Ill. Const. 1970, art. VII, § 6(i). The City argues that because section 11-208.3 contains no language specifically limiting its home rule authority, it has no obligation to follow the fine and penalty limits delineated in that statute. While it is true that the text of section 11-208.3 contains no specific preemptory language, in our view, it does not have to, as the section of the Vehicle Code immediately preceding section 11-208.3 does contain such language and is clearly meant to apply to section 11-208.3 as well.

¶ 61 Section 11-208.2 of the Vehicle Code, titled "Limitation on home rule units," provides that "[t]he provisions of this Chapter of this Act limit the authority of home rule units to adopt local police regulations inconsistent herewith except pursuant to Sections 11-208, 11-209, 11-1005.1, 11-1412.1, and 11-1412.2 of this Chapter of this Act." 625 ILCS 5/11-208.2 (West 2020). Notably, section 11-208.3 is not included in the list of exceptions to this general preemption provision, suggesting that the legislators intended to preempt home rule authority as it relates to section 11-208.3. The City makes a series of arguments for why section 11-208.2 should not be read to cover section 11-208.3, none of which we find persuasive.

¶ 62 First, the City points out that section 11-208 is listed as an exception to the general preemption provision of section 11-208.2, and section 11-208(a)(1) makes clear that "[t]he provisions of this Code shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from *** [r]egulating the standing or parking of vehicles." *Id.* § 11-208(a)(1). The City argues that the inclusion of section 11-208 in the list of exceptions means that "a municipality may adopt 'local police regulations' of standing and parking that are 'inconsistent' with the Vehicle Code." We disagree.

¶ 63 Section 11-208 makes clear that Chicago, like all local municipalities, home rule or not, has the authority to enact local police regulations related to the standing and parking of vehicles. However, the power to enact regulations is not the same as the power to *administratively adjudicate violations of* those regulations, which is the province of section 11-208.3, not section 11-208. Nothing in the text of section 11-208 suggests that the City may bypass the limitations set forth in section 11-208.3.

¶ 64 The City's second argument is to highlight that section 11-208.6, and not 11-208.3, includes a specific preemption sub-provision. *Id.* § 11-208.6(c). Section 11-208.6(c) provides:

> "Except as provided under Section 11-208.8 of this Code, a county or municipality, including a home rule county or municipality, may not use an automated traffic law enforcement system to provide recorded images of a motor vehicle for the purpose of recording its speed. Except as provided under Section 11-208.8 of this Code, the regulation of the use of automated traffic law enforcement systems to record vehicle speeds is an exclusive power and function of the State. This subsection (c) is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution." *Id.*

The inclusion of this specific preemption language in section 11-208.6(c) is relevant, the City asserts, because it indicates that "when the General Assembly intends a particular part of the Vehicle Code to preempt home-rule authority, it includes preemption language in that provision." Thus, by implication, because section 11-208.3 contains no similar language, we should presume that home rule authority is not preempted. We disagree.

¶ 65 In our view, the presence of specific preemptory language in section 11-208.6(c) does not mean that every section of the Vehicle Code needs to have its own stand-alone preemption language. For one, such an interpretation renders entirely meaningless section 11-208.2, a provision whose obvious purpose is to serve as a general bar on home rule authority unless an exception applies. But beyond that, the additional preemptive language in section 11-208.6 makes sense when that language is contextualized.

¶ 66 Section 11-208.6 authorizes counties and municipalities to use cameras to capture red light-related traffic violations. *Id.* § 11-208.6. Since section 11-208.6 is not included in the list of exceptions set out in section 11-208.2, the legislature presumably intended to limit home rule authority in this area of regulation. Section 11-208.6(c) merely clarifies that the grant of authority to use cameras to capture red light traffic violations does not extend to speed limit enforcement, as "the regulation of the use of automated traffic law enforcement systems to record vehicle speeds is an exclusive power and function of the State." *Id.* § 11-208.6(c). The inclusion of this additional clarification does not nullify the effect of the general bar on home rule authority in section 11-208.2.

¶ 67 Finally, while the plain text of section 11-208.2 provides ample justification for rejecting the City's home rule authority argument, the City's position is further weakened by the basic history of section 11-208.3 sketched out above (*supra* ¶¶ 7-9). In short, if the City is not bound by section 11-208.3, as it now claims, then why then did it wait until section 11-208.3 became law to construct an administrative system for dealing with minor traffic violations? The circuit court was similarly troubled by this timeline, writing,

> "Once upon a time, Chicago adjudicated these violations in court. Chicago pushed for the enactment of Section [11-]208.3, even bemoaning an early legislative roadblock. [Citation]. It waited until Section [11-]208.3 took effect before implementing its ordinance—which explicitly states its adoption was pursuant to Section [11-]208.3. [Citation]. If Chicago had authority to adjudicate, why did it support, wait for, and call upon Section [11-]208.3? In other words, for the past fifty years, Chicago has uniformly acted as if it *was* bound by the provisions of Section [11-]208.3, and appears to have relied entirely on that Section for its adjudicative authority. To argue now that it was Home Rule all along appears suspect." (Emphasis in original.)

As the circuit court recognized, the City's claim that its authority to administratively adjudicate derives not from the Vehicle Code but from its own home rule authority loses credibility when we consider the City's past actions, the language in its own ordinances, and the basic history of section 11-208.3.

¶ 68 IV. CONCLUSION

¶ 69 For the above reasons, we affirm the circuit court's determination that Mr. Carpio lacked standing but reverse the circuit court's dismissal of plaintiffs' complaint. We thus remand this cause to the circuit court for further proceedings.

¶ 70 Affirmed in part and reversed in part.

¶ 71 Cause remanded.