

STATE OF INDIANA)
) ss:
COUNTY OF LAKE)

IN THE LAKE SUPERIOR COURT
CIVIL DIVISION, ROOM FIVE
SITTING AT HAMMOND, INDIANA

JEFF NICHOLSON, DOUGLAS GRIMES,
GREG SERBON and CHEREE CALABRO,
Plaintiffs,

vs.

CAUSE NO. 45D05-1802-MI-000014

CITY OF GARY, INDIANA, CITY OF GARY
COMMON COUNCIL, CLORIUS LAY,
WILLIAM GODWIN, COSEY E.
WEATHERSPOON, MARY BROWN, TAI
ADKINS, LINDA BARNES CALDWELL,
DWIGHT WILLIAMS, RONALD BREWER,
and MICHAEL BROWN, in their official
capacities as City of Gary Common Council
members, and JEROME A. PRINCE, in his
official capacity as City of Gary Mayor,
Defendants.

Filed in Open Court

NOV 16 2020

Lorenzo Alvaredo
CLERK LAKE SUPERIOR COURT

STATE OF INDIANA
Intervenor.

**ORDER GRANTING DEFENDANTS’ MOTION TO DISMISS,
ORDER GRANTING PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT,
and ORDER DENYING DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

On 10/13/2020, the parties were before the Court for a hearing on all pending dispositive motions, *to wit* (in non-chronological filing order): 1) the *Defendants’ Motion to Dismiss* as filed on 02/21/2018; 2) the *Plaintiffs’ Summary-Judgment Motion* as filed on 12/27/2017; and 3) the *Defendant City of Gary’s Cross-Motion for Summary Judgment* as filed on 02/28/2018. Party-intervenor State of Indiana had previously been granted leave to intervene, and presented filings and argument supportive of the Plaintiffs’ positions on the issues. Upon conclusion of the 10/13/2020 hearing, the Court took all matters under advisement.

The Court has reviewed the record of this case, including without limitation all documents filed by all parties that are attendant to the pending motions. The Court has taken stock of the parties’ arguments as heard on 10/13/2020, and the applicable law.

After due consideration, the Court determines that the *Defendants' Motion to Dismiss* as filed on 02/21/2018 should be GRANTED as set forth below; that the *Plaintiffs' Summary-Judgment Motion* as filed on 12/27/2017 should be GRANTED as set forth below; and that the *Defendant City of Gary's Cross-Motion for Summary Judgment* as filed on 02/28/2018 should be DENIED.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:


1) The *Defendants' Motion to Dismiss* as filed on 02/21/2018 is GRANTED. It is hereby ORDERED that party-defendants City of Gary Common Council, Clorius Lay, William Godwin, Cosey E. Weatherspoon, Mary Brown, Tai Adkins, Linda Barnes Caldwell, Dwight Williams, Ronald Brewer, Michael Brown and Jerome A. Prince are DISMISSED from this cause of action. The City of Gary, Indiana hereby stands as the sole remaining party-defendant to this action.

2) The *Plaintiff's Summary-Judgment Motion* as filed on 12/27/2017 is GRANTED as to its claims against the sole remaining party-defendant, City of Gary, Indiana, such that City of Gary, Indiana is hereby prohibited from enforcing those provisions of its City of Gary Ordinance 9100 Section 26-52, Section 26-55, Section 26.58(c) and Section 26.59¹ that are violative of Indiana Code §§5-2-18.2-3, 5-2-18.2-4 and/or other applicable state or federal law.

3) The *Defendant City of Gary's Cross-Motion for Summary Judgment* as filed on 02/28/2018 is DENIED.

4) There is no just reason for delay, and this is a final judgment pursuant to Trial Rule 54(B) and other applicable law. This cause is in all ways disposed.

ALL OF WHICH IS SO ORDERED this 16th day of November, 2020.



Stephen E. Scheele, Judge
Lake Superior Court, Room 5

Distribution: T.R. 72 Notice

¹ The Court has retained the numbering of the ordinances from their original, which uses both hyphens and periods.