

2240/19-7571.DU

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JOSEFINA LOZANO, ROBERT PIERCE, DORICE PIERCE, and DELLA SIMS,	)	
	)	
Plaintiffs,	)	
v.	)	No. 1:19-cv-06411
CITY OF ZION, a municipal corporation, et al.,	)	Judge Mary M. Rowland
	)	
Defendants.	)	

**DEFENDANTS’ MOTION TO DISMISS  
PLAINTIFFS’ SECOND AMENDED COMPLAINT**

Defendants, CITY OF ZION, BILLY MCKINNEY, JACQUELINE HOLMES, RICHARD IANSON, and WARREN FERRY, by and through one of their attorneys, MICHAEL J. ATKUS of KNIGHT HOPPE KURNIK & KNIGHT, LTD., and pursuant to Fed. R. Civ. P. 12(b)(1) moves this Honorable Court to dismiss Plaintiffs’ Second Amended Complaint, and state as follows:

1. This case, brought pursuant to 42 U.S.C. § 1983 presents a constitutional challenge to Section 10-180 of the City of Zion’s Municipal Code which provides for rental housing inspections and certification.

2. The one-count Second Amended Complaint (“SAC”), alleges that the ordinance runs afoul of the Fourth Amendment of the U.S. Constitution on its face and as-applied to them and seeks injunctive relief, monetary damages, and declaratory relief.

3. As more fully argued in the accompanying Memorandum of Law, the SAC fails to clearly allege facts demonstrating that Plaintiffs have standing under Article III of the U.S. Constitution, and thus this court lacks subject matter jurisdiction over this action. *See Spokeo Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016).

**WHEREFORE**, the Defendants respectfully request that this Honorable Court enter an order dismissing the Second Amended Complaint for lack of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1).

Respectfully Submitted,

/s/ Michael J. Atkus

**CERTIFICATE OF ELECTRONIC SERVICE**

I hereby certify that on December 17, 2019 the foregoing **Defendants' Motion to Dismiss Plaintiffs' Second Amended Complaint** was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants.

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