

Judge rules against city of Bloomington on smoke detector rules

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The smoke detector fight between landlords and the city of Bloomington has been extinguished.253256

Monroe Circuit Judge E. Michael Hoff ruled Monday that the city ordinance requiring all rental units to install hard-wired smoke detectors by Dec. 31, 2018, was unenforceable because the city cant prohibit what state law allows.

The Bloomington City Council unanimously passed the ordinance in November 2012, despite pushback from local landlords.State law requires all smoke detectors to be battery-operated or hard-wired and allows for city regulations to be more stringent or detailed, but they cannot conflict with state code.

Hoff wrote in his opinion that municipalities are allowed to expand on the states requirements, but a citys requirements cant restrict something that state law allows.

71589The citys ordinance does just that,2 Hoff wrote. 4083330It disallows battery operated smoke detectors that Indiana Code 22-11-18-3.5 expressly permits. For that reason, the citys ordinance is not enforceable.

Attorney Michael McBride filed the lawsuit in July 2013 on behalf of Fierst Rentals LLC, Hays Building LLC, the trusts of Marjorie Hudgins and Donald E. Geels and John and Sharon Kirtland. McBride argued the citys ordinancewas ineffective and unenforceable because state law allows for multiple types of smoke detectors, while the city requirement would limit landlords to one type.

Before the city council passed the new requirements in 2012, landlords expressed concerns about the costs of installing the new smoke detectors, which they estimated at \$500 to \$1,000 per unit, so the council delayed the compliance date until Dec. 31, 2018. The citys Department of Housing and Neighborhood Development was looking to add protection for renters who don1137463t change the batteries or who removed them completely.

252971I think it was the correct ruling, McBride said. 302This was a case just about ... whether or not the city overstepped its powers when enacting that provision of the ordinance.

City attorneys had argued86710that the city57s rental inspection code doesn02t conflict with state code, because the provision regarding smoke detectors allows city law to be more stringent.

Were a little disappointed in the result, but we respect the courts authority,36834 city corporation counsel Margie Rice said.0

Hoff also ruled that the city code should have been reviewed and approved by the Indiana Fire Prevention and Building Safety Commission.McBride argued that it should be subject to approval of the commission because it is classified as a fire safety law and building law.

City attorneys argued that the commission didnt need to approve the regulation because it concerns the installation of smoke detectors in residential structures, which is exempt from commission approval.

253256252The Commission has the authority to review and approve fire safety laws and building laws of cities to prevent conflict, duplication or overlap with the statewide code of building and fire safety laws, Hoff wrote.

The battle may fire up again, but city officials haven8961201240t made any decisions yet. Rice said the city will have to discuss the ruling internally and decide the best course of action.

Obviously, well be enforcing state law, Rice said.

City Hall

