

## Bloomington law requiring hard-wired smoke detectors subject of court battle

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The city continues to battle with property owners who are legally challenging a new Bloomington requirement that rental units have hard-wired smoke detectors.

City of Bloomington assistant attorneys Greg Small and Patty Mulvihill responded to the property owners request for summary judgment in the case with a similar request, asking for a summary judgment in the city's favor. They argue that the city's rental inspection code doesn't conflict with state code, because the provision regarding smoke detectors allows city law to be more stringent.

The Bloomington City Council passed the ordinance in November 2012 that requires rental property owners to install hard-wired smoke detectors by Dec. 31, 2018.

State law requires all smoke detectors to be battery-operated or hard-wired. It allows for city regulations to be more stringent or detailed, but they cannot conflict with state code.

State law says smoke detectors can be either battery-operated or hard-wired. The city, in the interest of public safety, chose to pursue the more stringent requirement of hard-wired systems, Small and Mulvihill wrote.

Attorney Michael McBride filed the lawsuit on behalf of Fierst Rentals LLC, Hays Building LLC, the trusts of Marjorie Hudgins and Donald E. Geels and John and Sharon Kirtland in July, and requested a summary judgment in October in Monroe County court.

McBride claims the city ordinance is 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 last fall, 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 2018. The city's Department of Housing and Neighborhood Development was looking to add protection for renters who didn't change the batteries or who removed them completely.

The requirement has not been sent to the Indiana Fire Prevention and Building Safety Commission for approval, and McBride argued that it should be subject to approval there because it was established to safeguard life or property from the hazards of fire, which makes it a fire safety law and building law.

Small and Mulvihill argued that the commission doesn't need to approve the regulation because it concerns the installation of smoke detectors in residential structures, which is exempt from commission approval.

A hearing on the requests is scheduled for Jan. 27 in Monroe Circuit Court.