

IN THE CIRCUIT COURT OF COOK COUNTY  
CHANCERY DIVISION

JAMES NUCCIO; GABRIEL  
WIESEN; and AFTER HOURS  
PIZZA LLC D/B/A BEAVER  
DONUTS,

Plaintiffs,

v.

CITY OF EVANSTON.

Defendant.

12 CH 30062

JUDGE PRENDERGAST ROONEY  
CALENDAR 8

ORDER

This cause coming to be heard on the court's own motion, the City of Evanston's §2-615 motion to dismiss the plaintiff's amended complaint having been set for hearing on November 18, 2013 at 11:30 a.m., and the court having reviewed the parties' briefs and all exhibits related to said Motion to Dismiss,

IT IS HEREBY ORDERED:

- 1) The court concludes that the plaintiffs have failed to allege sufficient facts to support its claims that the ordinance at issue violates the Equal Protection Clause of the Illinois Constitution, that the ordinance violates the prohibition against special legislation and that the ordinance violates substantive due process. The amended complaint sets forth mere conclusions and inadequate facts. The allegations of the amended complaint are insufficient to rebut the presumption of the validity of the ordinance. Therefore, the amended complaint is dismissed without prejudice.
- 2) The previously set hearing date of November 18, 2013 at 11:30 a.m. is hereby stricken.
- 3) The plaintiffs have until October 15, 2013 to replead and file a Second Amended Complaint. The plaintiffs are directed to provide this court with a courtesy copy of the Second Amended Complaint, if filed, on or before October 17, 2013.
- 4) This matter is set for status on October 22, 2013 at 10:00a.m. in Room 2510.

ENTERED: September 26, 2013

Judge Jean Prendergast Rooney

SEP 26 2013

Circuit Court - 2044

JUDGE JEAN PRENDERGAST ROONEY