IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS
CHANCERY DIVISION

GUNS SAVE LIFE, INC. and JOHN WILLIAM WOMBACHER III, Plaintiffs, v. VILLAGE OF DEERFIELD, ILLINOIS, and HARRIET ROSENTHAL, solely in her official capacity as Mayor of the Village of Deerfield, Defendants.	Case No. 18 CH 498

DEFENDANTS' BRIEF IN OPPOSITION TO MOTION FOR INJUNCTIVE RELIEF

Plaintiffs' Motion for Injunctive Relief should be denied: Plaintiffs cannot establish a likelihood of success on the merits of their claims, nor any of the other elements necessary for injunctive relief. Instead, the facts demonstrate that the Village of Deerfield ("Deerfield") acted within the scope of its home-rule authority to protect the health, safety and welfare of its citizens when it amended its assault weapons ordinance to ban these highly dangerous weapons.[1]

The undisputed record establishes that in July 2013, the Village of Deerfield passed an Ordinance heavily regulating the possession, sale and use of assault weapons within its jurisdictional borders. On April 2, 2018, in the wake of the horrific mass shooting at the Marjorie Stoneman Douglas High School in Parkland, Florida, and following a series of meetings with deeply-concerned students, parents and citizens, the Deerfield Board of Trustees amended its Ordinance and expanded its regulation to include a complete ban on assault weapons and large capacity magazines. In doing so, Deerfield joined states such as California,

[1] The Court also has before it a Motion for Injunctive Relief in a related case, *Easterday v. Village of Deerfield*, Case No. 18 CH 427. As the issues raised in that Motion are nearly identical, this brief serves as a response to that motion as well.

Connecticut, Hawaii, Maryland, Massachusetts, New Jersey and New York, and municipalities including Boston, Denver, Washington, D.C., Gary, Indiana, Cook County and Chicago, Illinois, and neighboring Highland Park, Illinois, and Highwood, Illinois, to name only a few. In all, more than a quarter of the United States population lives under the safety of bans imposed upon these highly dangerous weapons and accessories. Under the terms of Deerfield's amended Ordinance, people in possession of these weapons have until June 13, 2018 to: 1) "Remove, sell or transfer the Assault Weapon or Large Capacity Magazine from the limits of the Village"; 2) "Modify the Assault Weapon or Large Capacity Magazine either to render it permanently inoperable or to permanently make it a device no longer defined as an Assault Weapon"; or 3) "Surrender the Assault Weapon or Large Capacity Magazine to the Chief of Police of his or her designee for disposal . . ." Ordinance No. O-18-06, Section 15-89.

Plaintiffs assert two challenges to Deerfield's amended statute: 1) that Illinois state law "preempts" an amendment such as the one adopted by Deerfield; and, failing that, 2) that a ban on assault weapons and large capacity magazines constitutes a "taking" without "just compensation" prohibited by the Illinois State Constitution. For the reasons set forth in more detail below, neither argument is availing. Deerfield's amended ordinance is precisely the type of regulation of assault weapons and large capacity magazines recognized and expressly permitted by the Illinois Firearm Owners Identification Card Act. Beyond this, Deerfield's ban on assault weapons and large capacity magazines is not an unconstitutional taking, but simply a valid, and necessary, exercise of Deerfield's inherent power to protect the public health, safety and welfare. Accordingly, Plaintiffs' Motion for Injunctive Relief should be denied.

Factual Background

Plaintiffs' Motion ignores several of the qualities of Deerfield which underscore its decision regarding assault weapons. Specifically, Deerfield is a home-rule municipality with more than 18,000 residents living across roughly 5.6 square miles. www.deerfield.us Deerfield's elementary schools are served by School District 109 which is comprised of four public elementary schools, Kipling, South Park, Walden and Wilmot, and two public middle schools, Caruso and Shepard.[2] www.dps109.org Deerfield High School, recently ranked fifth in the State of Illinois, is within School District 113. www.dist113.org/dhs

In addition to its strong educational tradition, Deerfield is also home to an unusual number of significant corporate headquarters. Walgreens, Baxter International, Beam Suntory, CF Industries, Caterpillar, Consumers Digest, Fortune Brands Home & Security, Mondelez International, United Stationers, and the North American operations of Takeda Pharmaceutical Company all have corporate headquarters located in Deerfield. www.dbrchamber.com

Deerfield is also home to a thriving commercial district, including "Deerfield Square," composed of stores, restaurants, workout facilities and other retail elements. Deerfield Square also contains an outdoor plaza which in the summer becomes a venue for free outdoor concerts. www.deerfieldsquareshopping.com

Mass Shooting Incidents

The Congressional Research Service has defined a "mass shooting" as a "multiple homicide incident in which four or more victims are murdered with firearms, within one event, and in one or more locations in close proximity." *See* Krouse, William J., "Mass Murder with Firearms: Incidents and Victims, 1999-2013," Congressional Research Service, July 30, 2015.

[2] Deerfield also has Rochelle Zell Jewish High School, formerly Chicagoland Jewish High School and two Montessori Schools. Holy Cross School, a Roman Catholic institution, is located within the village, as well, but is scheduled to close at the end of the 2017-18 school year.

Since 2011, mass shootings involving multiple homicides and injuries have occurred with increasing frequency and with greater losses of life. Morris, S., "Mass Shootings in the United States," The Guardian, February 15, 2018. These include:

Date	Location	Persons Killed	Persons Injured
January 8, 2011	Tucson, Arizona	6	14, including U.S. Representative Gabrielle Giffords
July 20, 2012	Aurora, Colorado	12	58
September 16, 2013	Washington, D.C. Navy Yard	13	8
June 17, 2015	Charleston, South Carolina	9	1
December 2, 2015	San Bernardino, California	14	22
June 12, 2016	Orlando, Florida	50	53
October 1, 2017	Las Vegas, Nevada	58	851
November 5, 2017	Sutherland Springs, Texas	26	20

Id.

Mass Shootings at Schools

Mass shooting incidents have all too often affected schools, students and teachers. On December 14, 2012, a mass shooting occurred at Sandy Hook Elementary School in Newton, Connecticut which resulted in the tragic deaths of 26 people, including 20 first graders between the ages of 6 and 7. *Id.* As this Court knows, the Sandy Hook tragedy was not an isolated incident. On October 1, 2015, a mass shooting occurred at Umpqua Community College in Roseburg, Oregon, which left 10 people dead and another 8 wounded. *Id.* The devastation continued this year as well: on February 14, 2018, at the Marjory Stoneman Douglas High School in Parkland, Florida, 17 people were killed and another 17 were injured. *Id.*

Deerfield residents are also well aware that mass shootings are not distant events far removed from the suburbs of Chicago. On May 20, 1988, Laurie Dann killed one student and wounded eight others when she attacked the Hubbard Woods school in the nearby Village of Winnetka and then took a local family hostage before killing herself. See "20 years later, Dann rampage still haunts," *Chicago Tribune*, May 20, 2008.

Deerfield's Initial Assault Weapons Ordinance

On July 9, 2013, Illinois amended the Firearm Owners Identification Act, 430 ILCS 65.1 *et seq.* ("the Act"). Under these amendments, Illinois addressed the regulation of assault weapons by home-rule municipalities. Specifically, the Act provided a narrow window under which a home-rule municipality could regulate assault weapons within its jurisdiction, so long as it enacted an initial ordinance or regulation within 10 days of the effective date of the Act. As the Act states:

> The Regulation of the possession or ownership of assault weapons are exclusive powers and functions of this State. Any ordinance or regulation, or portion of that ordinance or regulation, that purports to regulate the possession or ownership of assault weapons in a manner that is inconsistent with this Act, shall be invalid unless the ordinance or regulation is enacted on, before, or within 10 days after the effective date of this amendatory Act of the 98th General Assembly.

The Act expressly provided, however, that any ordinance adopted consistent with the terms of the Act, could be amended by the jurisdiction at its discretion. Specifically, the Act states:

> An ordinance enacted on, before, or within 10 days after the effective date of this amendatory Act of the 98th General Assembly ***may be amended.***

On July 1, 2013, Deerfield adopted an ordinance regulating assault weapons. Specifically, O-13-24, defined Deerfield's terms for what constituted an assault weapon and a

large capacity magazine. The ordinance also provided strict regulations for the safe storage and handling of these dangerous weapons.[3]

On April 2, 2018, following the horrific school shooting in Parkland, Florida, and in light of the recent tragedies in Las Vegas, Nevada (October 1, 2017) and Sutherland Springs, Texas (November 5, 2017), each involving multiple deaths and injuries from the use of assault weapons and large capacity magazines within just the past six months, Deerfield amended its ordinance to impose a complete ban on these weapons within its jurisdiction.

Under the terms of the amended ordinance, O-18-06, the Village Code now provides: "It shall be unlawful to possess, bear, manufacture, sell, transfer, transport, store or keep any assault weapon in the Village. Section 15-87." Deerfield then provided anyone possessing these weapons as of the enactment date with three alternatives to comply with the amended regulation:

> (a) Remove, sell or transfer the Assault Weapon or Large Capacity Magazine from within the limits of the Village;
>
> (b) Modify the Assault Weapon or Large Capacity Magazine either to render it permanently inoperable or to permanently make it a device no longer defined as an Assault Weapon or Large Capacity Magazine;
>
> (c) Surrender the Assault Weapon or Large Capacity Magazine to the Chief of Police or his or her designee for disposal . . .

Effective Date

Deerfield adopted these amendments on April 2, 2018. The ordinance was published on April 3, 2018. In accordance with Illinois law, the ordinance did not become effective until 10 days after publication. Beyond this, the ordinance provides a 60-day period within which residents may comply with the law by affirmatively accepting one of the three options. Compliance is therefore required on or before June 13, 2018.

[3] Although Deerfield acted shortly before the official commencement date of the Act's 10-day window, the Act grandfathers municipal actions concerning assault weapons *before* the commencement date and therefore Deerfield's Ordinance was valid under the terms of the Act.

ARGUMENT

I. Plaintiffs cannot meet the standards for either a preliminary injunction or a temporary restraining order.

"When seeking injunctive relief under the common law, the party seeking a preliminary injunction or TRO must establish facts demonstrating the traditional equitable elements that: (1) it has a clearly ascertainable right in need of protection; (2) it will suffer irreparable harm if injunctive relief is not granted; (3) its remedy at law is inadequate; and (4) there is a likelihood of success on the merits. *Houseknecht v. Zagel*, 112 Ill.App.3d 284, 291–92, 67 Ill.Dec. 922, 445 N.E.2d 402 (1983)." *County of Du Page v. Gavrilos*, 359 Ill. App. 3d 629, 634 (2d Dist. 2005). Here, Plaintiffs cannot meet any of the elements necessary for injunctive relief.

II. Plaintiffs have not identified a "clearly ascertainable right" to assault weapons and large capacity magazines.

Plaintiffs begin their argument for injunctive relief by properly recognizing that in order to obtain a temporary restraining order under Illinois law, they must establish "a clearly ascertained right in need of protection[.]" Plaintiffs' Brief at 3, citing *Mohanty v. St. John Heart Clinic S.C.*, 225 Ill.2d 52, 62 (2006). Plaintiffs then promptly ignore this requirement as they fail to identify any "clearly ascertained right." This is plainly because there is no "clearly ascertainable right" to an assault weapon in Illinois. As Plaintiffs are well aware, the U.S. Court of Appeals for the Seventh Circuit determined in *Friedman v. City of Highland Park*, 784 F.3d 406 (2015), cert denied ___ U. S. ___, 136 S. Ct. 447 (2015), that assault weapons and large capacity magazines are not protected by the Second Amendment and therefore can be regulated and even banned as a result. Plaintiffs' failure to confront this case law is glaring. Because the

Seventh Circuit has made clear that there is no "protected right" to an assault weapon or a large capacity magazine, Plaintiffs' motion for injunctive relief fails on this ground alone.

III. Plaintiffs have no likelihood of success on the merits of their alleged claims.

Even if Plaintiffs were able to establish that a "clearly ascertainable right" existed– a threshold they have made no attempt to meet – Plaintiffs cannot establish a likelihood of success on any of the issues claimed in their suit because: 1) Deerfield's ban on assault weapons was not preempted by Illinois state law; 2) Deerfield's ordinance is a proper exercise of its police power and does not constitute an unconstitutional taking of private property; and 3) there is no basis for Plaintiffs to seek a declaration that Deerfield's Ordinance does not affect Large Capacity Magazines.

A. Illinois State Law Does Not Preempt a Ban on Assault Weapons but Instead Expressly Permits Such Regulations.

Plaintiffs' contention that Illinois state law somehow preempts Deerfield's ability to regulate assault weapons and large capacity magazines ignores the plain language of the 2013 Amendments to the Act. Despite Plaintiffs' arguments to the contrary, the Act expressly provides the authority for home-rule jurisdictions to regulate and ban these highly dangerous weapons.

Plaintiffs concede, as they must, that Deerfield appropriately passed its initial ordinance, O-13-24, which defined large capacity magazines and heavily regulated and defined assault weapons. Plaintiffs also concede that the Illinois General Assembly not only permitted the regulation of assault weapons, but expressly provided that any municipality that properly adopted an ordinance regulating assault weapons could then amend its ordinance at any time. As the Act provided: "an ordinance enacted on, or before, or within 10 days after the effective date of this amendatory Act of the 98th General Assembly **may be amended."**

Despite this explicit authority to amend an assault weapon regulation once adopted, Plaintiffs contend that Deerfield's amendment to ban these highly dangerous weapons was too great a change to be considered a proper "amendment." What Plaintiffs fail to acknowledge, however, is the fact that the ability to amend the ordinance has in no way been limited by the legislature. The General Assembly stated flatly that any ordinance adopted within the 10-day window "may be amended." Indeed, the legislation did not impose any restriction on the scope of such an amendment, the time when such an amendment could be considered or adopted, or, most importantly, how often any such ordinance could be amended. This last point is critical since the crux of Plaintiffs' argument is that Deerfield's move from regulation to ban was too great a change. Plaintiffs do not assert, however, that a series of incremental amendments arriving at the same ban would not be permitted. There is no rational basis for distinguishing between a series of incremental amendments and a single amendment which arrives at the same place.

Furthermore, there is no question that Deerfield could have adopted an outright ban on assault weapons as an initial matter. Deerfield's neighboring suburb, Highland Park, adopted such a ban, and the constitutionality of that ban has now been litigated and confirmed as far as the United States Supreme Court.

Plaintiffs' preemption argument also seeks to obscure the recent events that led Deerfield to impose a ban upon, rather than simply regulating, assault weapons. The amended ordinance expressly recognizes that Deerfield is home to a number of public schools, public venues, places of worship and places of public accommodation. The amended ordinance also recognizes that assault weapons have been used to kill multiple people in Las Vegas, Nevada (public venue),

Sutherland Springs, Texas, (place of worship), Orlando, Florida (public nightclub), and Parkland, Florida (public school), in circumstances all too familiar to the citizens of Deerfield.

A ban on assault weapons and large capacity magazines was accordingly reasonable, prudent, constitutionally permitted, and authorized by the Illinois General Assembly.

B. Deerfield's Ordinance is a Lawful Exercise of Its Police Power not an Unconstitutional Taking.

As a threshold matter, Deerfield's ordinance does not "take" Plaintiffs assault weapons. Anyone possessing an assault weapon or large capacity magazine not permitted under the ordinance may sell or otherwise transfer the weapon outside of Deerfield. In the alternative, they may modify the weapon to make it inoperable or to make it fall outside of the ordinance's definition of "Assault Weapon". Only if Plaintiffs choose to exercise the third option, surrendering the weapon to the Chief of Police, would the ordinance contemplate a complete loss of value. Significantly, Plaintiffs do not even confront the question of whether permitting the sale of property or simply the transfer to a facility outside of Deerfield would involve a "taking" under any circumstance. A failure to confront this option is entirely inconsistent with Plaintiffs' burden of demonstrating a "likelihood of success" on this question.

Beyond this, Plaintiffs' "takings" analysis misconstrues the distinction under Illinois law between a valid exercise of police power and an unconstitutional taking. Illinois law has long-recognized that all elements of state government, including home-rule municipalities like Deerfield, have the inherent authority to impose regulations for the protection of the public health, safety and welfare. *Leavell v. Dep't of Nat. Res.*, 397 Ill. App. 3d 937, 958–59, 923 N.E.2d 829, 849–50 (2010). This police power is distinguishable from a "taking" of private property. As Illinois courts' have frequently discussed:

> "[A]n exercise of police power to prevent a property owner from using his property so as to create a nuisance or a risk of harm to others is not a 'taking' in the constitutional sense."[4]

Village of Lake Villa v. Stokovich, 211 Ill.2d 106, 130, 284 Ill.Dec. 360, 810 N.E.2d 13 (2004) (citing *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 1030, 112 S.Ct. 2886, 2901, 120 L.Ed.2d 798, 822 (1992)). In *Leavell*, the court upheld enforcement of a regulation for the **protection of the public health, safety, and welfare** by providing the procedures for plugging abandoned wells. *Leavell*, 397 Ill. App. 3d at 959. The court found that the regulation was not an unconstitutional "taking" of private property without "just compensation" but rather a permissible exercise of police power for the protection of residents. *Id.* Accordingly, no compensation was required. *Id.* Indeed, "**the exercise of police power is presumed to be constitutionally valid**." *Vill. of Algonquin v. Tiedel*, 345 Ill. App. 3d 229, 236, 802 N.E.2d 418, 424–25 (2003) (citing *Bibb v. Navajo Freight Lines*, 359 U.S. 520, 529, 79 S.Ct. 962, 967, 3 L.Ed.2d 1003, 1009–10 (1959)) (emphasis added). "The party contending that an ordinance is not a valid exercise of police power has the burden of proving that the ordinance is unreasonable." *Vill. of Algonquin*, 345 Ill. App. 3d at 236.

Just this month, the United States District Court for the Central District of California considered precisely this question of whether a ban on assault weapons and large capacity magazines constitutes a valid exercise of "police power" or whether it is instead more akin to an unconstitutional "taking." In a lengthy opinion, the federal court held that an assault weapons ban is a valid exercise of the power to protect the health, safety and welfare of residents and did not implicate the "takings clause." *Rupp v. Becerra*, No. 817CV00746JLSJDE, 2018 WL 2138452, at *4 (C.D. Cal. May 9, 2018). In *Rupp*, the court addressed whether California's

[4] A "taking" on the other hand, involves the governmental taking of property "for public use." *Forest Pres. Dist. of Du Page Cty. v. W. Suburban Bank*, 161 Ill. 2d 448, 456–57, 641 N.E.2d 493, 497 (1994). Plaintiffs fail to assert that the Village of Deerfield intended or even now intends to remove the property of its residents for use by the public. As such, Plaintiffs' "takings" argument fails as an initial matter based solely on definitional grounds.

statewide Assault Weapons Control Act was a valid exercise of police power or a taking of private property requiring just compensation. *Id.* The Court stated:

> Plaintiffs argue that the AWCA enacts both a physical and regulatory taking. (FAC ¶ 115). They assert that the law prevents them from bequeathing their weapons to family members and severely constrains their property rights in the weapons by forbidding their sale or transfer.
>
> Defendants argue that Plaintiffs' Taking Clause claim fails as a matter of law, because the law is a valid exercise of the state's police power.
>
> **"If [an] ordinance is otherwise a valid exercise of the [government's] police powers, the fact that it deprives the property of its most beneficial use does not render it unconstitutional."** *Goldblatt v. Town of Hempstead*, N.Y., 369 U.S. 590, 592 (1962)
>
> It seems to us that the property owner necessarily expects the uses of his property to be restricted, from time to time, by various measures newly enacted by the State in legitimate exercise of its police powers; "[a]s long recognized, some values are enjoyed under an implied limitation and must yield to the police power[ ]" ... In the case of land, however, we think the notion pressed by the Council that title is somehow held subject to the "implied limitation" that the State may subsequently eliminate all economically valuable use is inconsistent with the historical compact recorded in the Takings Clause that has become part of our constitutional culture. 505 U.S. 1003, 1027–28 (1992) (quoting *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 413 (1922)). **Thus, legislation pursuant to the police power is generally not a taking, but there are exceptions under certain limited circumstances, such as where land will no longer have any economically valuable use.**
>
> **The Court is persuaded that the AWCA represents an exercise of police power and is not a taking. The AWCA does not compel conveyance of the guns for public use, but regulates possession of an object the legislature has found to be dangerous. The law offers a number of options to lawful gun owners that do not result in the weapon being surrendered to the government.**

Id. (emphasis added). Here, the same reasoning applies. Just as in *Rupp*, Deerfield's decision to ban assault weapons is a valid exercise of its inherent police power to protect its citizens. Plaintiffs' "takings" theory must fail here just as it did in *Rupp*.[5]

[5] Similarly, because "an exercise of police power to prevent a property owner from using his property so as to create a nuisance or a risk of harm to others is not a 'taking' in the constitutional sense" Plaintiffs reliance on eminent domain law is also misplaced. Eminent domain is triggered only when a taking has occurred. Leavell v. Dep't of Nat. Res., 397 Ill. App. 3d at 959

C. Deerfield's Amended Ordinance Bans Large Capacity Magazines.

Plaintiffs also seek a declaration that the amended Ordinance does not ban large capacity magazines. This claim is unavailing as well. Deerfield's initial ordinance concerning assault weapons stated expressly:

> **WHEREAS**, the corporate authorities of the Village of Deerfield are of the opinion that assault weapons, as defined in this Ordinance, are subject to regulation as provided herein, and should be regulated as provided herein within the corporate limits of the Village of Deerfield; and
>
> **WHEREAS**, the corporate authorities of the Village of Deerfield find that assault weapons are capable of a rapid firing rate of fire and have the capacity to fire a large number of rounds **due to large capacity fixed magazines or the ability to use detachable magazines**;

Deerfield's initial ordinance then provided the following specific definitions:

> *Assault weapon* means: a semiautomatic rifle that has the **capacity to accept a large capacity magazine** detachable or otherwise . . .
> . . . .
> *Large Capacity Magazine* means any ammunition feeding device with the capacity to accept more than ten rounds . . .

Ordinance No. O-13-24 (emphasis added). Thus, Deerfield's initial ordinance made abundantly clear the Village's intent that 1) large capacity magazines are covered by the ordinance; 2) for purposes of the Village, a large capacity magazine was one capable of accepting more than 10 rounds; and 3) these assault weapons and large capacity magazines would both be the subject of heavy regulation.

In the 2018 amendment to this Ordinance, Deerfield maintained the identical definition of *assault weapon* as one accepting a large capacity magazine. In turn, Deerfield maintained the identical definition of a large capacity magazine as one capable of accepting more than ten rounds. The amended ordinance, however, now provides: "Any person who, prior to the effective date of [this] Ordinance, was legally in possession of an Assault Weapon or Large

Capacity Magazine prohibited by this Article, shall have 60 days from the effective date" to 1) remove, sell or transfer; 2) modify; or 3) surrender "the Assault Weapon or Large Capacity Magazine[.]" Section 15-90. Clearly, the Amendment's plain language of "Large Capacity Magazine prohibited by this Article" is incontrovertible evidence that such magazines are banned by the amendment. While the Amendment does not contain the language identical to the provision banning "assault weapons," of which large capacity magazines are defined elements, the Amendment, taken in full context, clearly imposes a ban on large capacity magazines. *See King v. Burwell*, 135 S. Ct. 2480, 2489 (2015) ("If the statutory language is plain, we must enforce it according to its terms."). As the U.S. Supreme Court further noted when assessing whether the language of a statute or ordinance is "plain" courts "must read the words in their context and with a view to their place in the overall statutory scheme." (internal quotation omitted) *Id.* Here, not only is the language of Deerfield's amendment clear and unequivocal, but it also fits soundly within a statutory scheme to regulate the possession and use of both assault weapons and large capacity magazines.

IV. Plaintiffs have not identified any irreparable harm and the law provides more than adequate remedies.

Finally, even if Plaintiffs could define an "ascertainable right in need of protection" and could further demonstrate a likelihood of success on the merits, they cannot demonstrate either irreparable harm or a lack of adequate remedies at law.

At most, under the amended ordinance, Plaintiffs must either sell their assault weapons or locate a storage facility outside of Deerfield, such as a gun range or gun club. Indeed, the amendment does not *force* Plaintiffs to take permanent measures such as selling or disposing of their property. As such, Plaintiffs cannot genuinely contend that the potential harm to them is

irreparable, where, if they were to succeed on the merits of their claim, they can retrieve their firearm from whatever storage facility they have chosen to use.

Further, if Plaintiffs do face a burden complying with the amended ordinance, they may seek damages at law for the costs that they believe are unreasonable. Such costs may include the price of storing their weapon or even the loss of value from having sold or disposed of their weapon.

Friedman v. Highland Park, however, makes clear that Plaintiffs do not have and cannot assert a constitutional injury to their rights under the Second Amendment. 784 F.3d 406. States and municipalities may regulate and even ban assault weapons and large capacity magazines. Such bans do not implicate the Second Amendment, nor do Plaintiffs attempt to assert anything to the contrary here.

Accordingly, to the extent Plaintiffs seek any relief from the costs of complying with Deerfield's amended ordinance, such claims can be resolved at law and any damages can be ascertained through the legal process. There is no basis for either a temporary restraining order or any other injunctive relief.

V. Conclusion

WHEREFORE, for the foregoing reasons, Defendants the Village of Deerfield and Harriet Rosenthal respectfully request an Order of this Court denying Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction.

DATE: June 5, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Christopher B. Wilson, an attorney, certify that on Tuesday, June 5, 2018, the foregoing **DEFENDANTS' BRIEF IN OPPOSITION TO MOTION FOR INJUNCTIVE RELIEF** was filed electronically with the Clerk of the Circuit Court of Lake County, Illinois, and served by electronic mail upon the following:

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