SIXTH DIVISION
March 31, 2016

No. 1-15-1104

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

MID-NORTH ASSOCIATION, an Illinois Not-for-Profit Corporation; PARK WEST COMMUNITY ASSOCIATION, an Illinois Not-for-Profit Corporation; JONAS FISHER; LISA BARROW; JANE ARMSTRONG; JAY ARMSTRONG; and DAVID McNEEL,	)	Appeal from the Circuit Court of Cook County.
Plaintiffs-Appellants,	)	No. 14 CH 9704
v.	)	
THE CITY OF CHICAGO, a Municipal Corporation,	)	Honorable Kathleen M. Pantle,
Defendant-Appellee.	)	Judge Presiding.

PRESIDING JUSTICE ROCHFORD delivered the judgment of the court.
Justices Hoffman and Hall concurred in the judgment.

ORDER

¶ 1 *Held*: Dismissal of this declaratory judgment action challenging the rezoning of an area within the City of Chicago is affirmed, where plaintiffs failed to strictly comply with a statutorily mandated requirement to provide presuit notice to all owners of property located within 250 feet of the rezoned area.

¶ 2 Plaintiffs-appellants, Mid-North Association, an Illinois not-for-profit corporation, Park West Community Association, an Illinois not-for-profit corporation, Jonas Fisher, Lisa Barrow, Jane Armstrong, Jay Armstrong, and David McNeel, filed the instant declaratory judgment action against defendant-appellee, the City of Chicago, a municipal corporation (the City). Plaintiffs' suit sought a declaration invalidating the City's rezoning of the site of the former

Children's Memorial Hospital. The City filed a motion to dismiss the suit, contending—*inter alia*—that plaintiffs had failed to provide presuit notice to all owners of property located within 250 feet of the rezoned property, as is required by section 11-13-8 of the Illinois Municipal Code. 65 ILCS 5/11-13-8 (West 2014). The circuit court granted the City's motion on that basis, and denied plaintiffs' motion to reconsider. Plaintiffs have now appealed, and we affirm.

¶ 3 I. BACKGROUND

¶ 4 Plaintiff's filed their complaint in this matter on June 10, 2014. Therein, the plaintiffs alleged that on April 2, 2014, the City adopted an ordinance which rezoned an area near the intersection of Halsted Street, Fullerton Avenue, and Lincoln Avenue that had previously been the location of Children's Memorial Hospital (the property). According to the complaint, the property was rezoned as part of a "planned development" allowing the construction of "two 214-foot twin towers with mixed residential and business uses" and which would include "760 residential units and 162,596 square feet of commercial space."

¶ 5 Plaintiffs were identified in the complaint as five individual owners of property located within 250 feet of the property, as well as two not-for-profit corporations whose members were primarily comprised of residents and owners of property located in neighborhoods within which the rezoned property was, at least in part, located. Plaintiffs contended that: (1) the planned development allowed by the City's ordinance "violated other ordinances establishing the substantive requirements for planned developments;" (2) the new development would be inconsistent with the uses and zoning currently allowed in the rezoned property and surrounding areas; and (3) the ordinance was therefore arbitrary, capricious, and in violation of plaintiffs' due process rights.

¶ 6 The complaint further contended that the new development allowed by the rezoning would cause the individual plaintiffs and the members of the neighborhood organizations to suffer a diminution in their property values, as well as a negative impact on their use and enjoyment of their own property, by "altering the existing character of the neighborhood, reducing available parking, increasing traffic, and creating dangerous and unsafe conditions." Contending that plaintiffs had no adequate remedy at law, and that this matter presented an actual controversy between the parties pursuant to section 2-701 of the Illinois Code of Civil Procedure (Code) (735 ILCS 5/2/701 (West 2014)), plaintiffs' complaint asked the circuit court to declare the City's rezoning ordinance invalid and to consequently preclude the City from allowing the redevelopment of the property to proceed.

¶ 7 Of particular relevance to this appeal, plaintiffs' also alleged that they had complied with the requirements of section 11-13-8 of the Illinois Municipal Code, which provides:

> "In municipalities of 500,000 or more population, when any zoning ordinance, rule or regulation is sought to be declared invalid by means of a declaratory judgment proceeding, not more than 30 days before filing suit for a declaratory judgment the person filing such suit shall serve written notice in the form and manner and to all property owners as is required of applicants for variation in Section 11-13-7, and shall furnish to the clerk of the court in which the declaratory judgment suit is filed, and at the time of filing such suit, the list of property owners, the written certificate and such other information as is required in Section 11-13-7 to be furnished to the board of appeals by an applicant for variation. A property owner entitled to notice who shows that his property will be substantially affected by the outcome of the declaratory judgment proceeding may enter his appearance in the proceeding, and if he does so he shall have

> the rights of a party. The property owner shall not, however, need to prove any specific, special, or unique damages to himself or his property or any adverse effect upon his property from the declaratory judgment proceeding." 65 ILCS 5/11-13-8 (West 2014).

The notice requirements of section 11-13-7 of the Illinois Municipal Code referenced therein are as follows:

> "[I]n municipalities of 500,000 or more population, an applicant for variation or special use shall, not more than 30 days before filing an application for variation or special use with the board of appeals, serve written notice, either in person or by registered mail, return receipt requested, on the owners, as recorded in the office of the recorder of deeds or the registrar of titles of the county in which the property is located and as appears from the authentic tax records of such county, of all property within 250 feet in each direction of the location for which the variation or special use is requested; provided, the number of feet occupied by all public roads, streets, alleys and other public ways shall be excluded in computing the 250 feet requirement. The notice herein required shall contain the address of the location for which the variation or special use is requested, a brief statement of the nature of the requested variation or special use, the name and address of the legal and beneficial owner of the property for which the variation or special use is requested, a statement that the applicant intends to file an application for variation or special use and the approximate date on which the application will be filed. If, after a *bona fide* effort to determine such address by the applicant for variation or special use, the owner of the property on which the notice is served cannot be found at his or her last known address, or the mailed notice is returned because the owner cannot be found at the last known address, the notice requirements of this sub-section shall be deemed satisfied.

> In addition to serving the notice herein required, at the time of filing application for variation or special use, the applicant shall furnish to the board of appeals a complete list containing the names and last known addresses of the owners of the property required to be served, the method of service and the names and last known addresses of the owners of the service and the names and addresses of the persons so served. The applicant shall also furnish a written statement certifying that he or she has complied with the requirements of this subsection." 65 ILCS 5/11-13-7 (West 2014).

¶ 8 Plaintiffs specifically alleged in their complaint that "on June 2, 2014, they served written notice, by certified mail, return receipt requested, on owners within 250 feet in each direction of the subject property, [of] their intent to file this action. Plaintiffs have filed the list of property owners, the written certification and a copy of the notice with the Clerk of the Court at the same time of the filing of the Complaint." The plaintiffs' list of property owners indicates that notice was provided to owners of 469 individual properties.

¶ 9 The City filed a motion to dismiss plaintiffs' complaint, contending—in part—that plaintiffs had not actually provided presuit notice to all of the owners of property located within 250 feet of the rezoned property. The City specifically asserted that—following a review of the records of both the Cook County Recorder of Deeds (Recorder) and Cook County Treasurer (Treasurer)—it determined that plaintiffs had failed to notify *all* of the owners for 129 of the properties identified by plaintiffs themselves, with over 125 owners of such property receiving no notice of plaintiffs' suit at all. As explained in an affidavit attached to the motion, "[t]he number of owners who did not receive notice is different than the number of parcels because some owners own more than one parcel and some parcels have two or more owners."

¶ 10 The affidavit and other exhibits attached to the City's motion to dismiss provided further explanation of plaintiffs' alleged failures. The City identified a number of instances where plaintiffs only notified a single owner for a particular piece of property, even though the information the City obtained from the Recorder's office revealed that the property was owned by more than that single person. The remainder of the purported notice errors occurred in those instances where the records maintained by the Recorder's office reflected that ownership of a property was held by a trustee, but plaintiffs did not provide that trustee with notice. In most if not all instances, the City argued that plaintiff appeared to have improperly provided notice only to one of the individuals identified on the property tax bills prepared for a particular property by the Treasurer, as opposed to the additional owners reflected in the records of the Treasurer or the Recorder. Contending that the requirements of section 11-13-8 of the Illinois Municipal Code were required to be strictly construed, the City argued that plaintiffs' failure to strictly comply with those requirements was fatal to their suit.

¶ 11 In their written response to the motion to dismiss, and in an accompanying affidavit completed by plaintiffs' attorney, plaintiffs acknowledged that they did not send notice to every owner where the Recorder or Treasurer's records reflected multiple owners for a particular property. Plaintiffs explained that in 76 such cases, the additional owners were identified "as joint tenants, tenants in common or tenants by the entirety." Plaintiffs further contended that "[w]ith little to no exception, the address for all the owners was the same and that "[i]n practical terms, we provided the notice to one of the two spouses who held title jointly." Plaintiffs' response also indicated that where records reflected that title was held by a land trust, plaintiffs often attempted to send notice to "likely" beneficiaries rather than the identified trustee. Where

no beneficiary could be identified, plaintiffs provided notice to the owner reflected on the Treasurer's records.

¶ 12 Plaintiffs further argued that section 11-13-8 of the Illinois Municipal Code did not require strict compliance, and that their "substantial compliance" with the presuit notice requirements was sufficient. Moreover, plaintiffs argued that they had cured any possible error in response to the City's motion to dismiss, by sending supplemental "postsuit" notice of their lawsuit to each of the additional individuals identified by the City as being entitled to notice.

¶ 13 Finally, plaintiffs noted that the statutory language of section 11-13-8 clearly indicates that the legislature intended notice of a declaratory judgment action challenging a zoning decision should be sent to the same persons entitled to initial notice of an application for a rezoning under section 11-13-7. Plaintiffs noted that, as a home rule municipality, the city had altered the notice requirements for such applications to require only notice to owners as identified "from the most recent authentic tax records of Cook County," and that such notice need only be sent by first class mail. See Chicago Municipal Code § 17-13-0197-A (amended May 9, 2012). Plaintiffs contended that, at the very least, they complied with these less stringent requirements.

¶ 14 In its reply, the City acknowledged that it had incorrectly identified one property owner as having not received notice, but nevertheless asserted that there remained 124 owners that did not receive proper presuit notice of plaintiffs' lawsuit. The City reiterated its position that strict compliance was required and that even if substantial compliance was permitted under the Illinois Municipal Code, no such substantial compliance occurred where plaintiffs made the deliberate decision not to notify all of the property owners of which they had knowledge and to not notify those trustees of which they were aware. The City contended that its own requirements for

notice of an initial application for rezoning were irrelevant to the statutory scheme at issue here, and that plaintiffs had in any case failed to even comply with those requirements. Furthermore, the City argued that plaintiffs' provision of "postsuit" notice was insufficient, because no additional owners would be able to intervene in plaintiffs' suit due to the expiration of the 90-day statute of limitations applicable to declaratory judgment actions challenging rezoning decisions. See 65 ILCS 5/11-13-15 (West 2014) (providing that "[a]ny action seeking the judicial review of [a rezoning] shall be commenced not later than 90 days after the date of the decision").

¶ 15 In a written order entered on December 30, 2014, the circuit court granted the City's motion to dismiss with prejudice. The circuit court first concluded that plaintiffs were required to strictly comply with the notice requirements of section 11-13-8, and that plaintiffs admittedly had not done so where "a substantial number of those who were entitled to notice"—124—were not notified. The circuit court also agreed with that City that: (1) even if substantial compliance was allowed, plaintiffs had not substantially complied in light of their deliberate actions in not providing notice to all of the property owners of which they were aware; (2) plaintiffs' postsuit notice was ineffective to cure the failure to comply with section 11-13-8, where the statute of limitations had expired prior to the date that notice was provided; and (3) the notice provisions contained in the City's municipal code with respect to applications for rezoning were irrelevant.

¶ 16 Plaintiffs filed a motion to reconsider the circuit court's decision, to which they attached a supplemental affidavit completed by their attorney to "explain in greater detail the analysis undertaken by plaintiffs for each of the properties for which alleged defective or insufficient notice exists for failing to send notice to the land trustee." In response to the motion to reconsider, the City argued—*inter alia*—that the supplemental affidavit should not be considered on rehearing because it did not contain any newly-discovered evidence. The City was also

subsequently granted leave to submit, as additional authority, this court's March 13, 2015, decision in *Scott v. City of Chicago*, 2015 IL App (1st) 140570, wherein this court concluded that the "failure to strictly comply with the plainly worded notice requirement" of section 11-13-8 was "fatal" to a lawsuit seeking a declaratory judgment invalidating another of the City's zoning decisions. *Id.* ¶ 36. In turn, and over the City's objection, plaintiffs were granted leave to supplement the record with evidence of media reports of their lawsuit, which plaintiffs contended were relevant in light of the analysis contained in the *Scott* decision and their argument that they had substantially complied with the notice requirements. *Id.*

¶ 17 Following oral argument, the circuit court denied plaintiffs' motion to reconsider on March 23, 2015. The circuit court began by noting that it agreed with the City's position regarding the supplemental affidavit, and that the information contained therein was "waived" and would not be considered for purposes of the motion to reconsider. The circuit court then concluded that, pursuant to the language of the statute and the *Scott* decision, strict compliance with the presuit notice requirements was required and no supplemental postsuit notice could cure a failure to provide all property owners so entitled with notice prior to the time a suit was filed. Plaintiffs timely appealed.

¶ 18 II. ANALYSIS

¶ 19 On appeal, plaintiffs contend that the circuit court improperly granted the City's motion to dismiss and improperly denied their request to reconsider that decision. We disagree.

¶ 20 A. Standards of Review

¶ 21 The circuit court dismissed plaintiffs' complaint pursuant to section 2-619(a)(9) of the Code. 735 ILCS 5/619(a)(9) (West 2014). A section 2-619 motion generally admits the legal sufficiency of the complaint (*Henderson Square Condominium Ass'n v. LAB Townhomes, LLC*,

2014 IL App (1st) 130764, ¶ 77), while a motion brought specifically under section 2–619(a)(9) allows involuntary dismissal of a claim that is "barred by other affirmative matter avoiding the legal effect of or defeating the claim" (735 ILCS 5/2–619(a)(9) (West 2014)). In a section 2-619(a)(9) motion, such an affirmative matter is recognized to be "something in the nature of a defense which negates the cause of action completely or refutes crucial conclusions of law or conclusions of material fact contained in or inferred from the complaint." *Illinois Graphics Co. v. Nickum*, 159 Ill. 2d 469, 486 (1994). Such a motion provides a means of obtaining summary disposition of issues of law, or disposition of easily proven issues of fact. *Henderson*, 2014 IL App (1st) 130764, ¶ 81. " 'Our review of a section 2-619(a)(9) motion to dismiss "is limited to consideration of the legal questions presented by the pleadings, but such review is independent and need not defer to the trial court's reasoning." [Citation.] Accordingly, we apply a *de novo* standard of review.' " *Carlson v. Glueckert Funeral Home, Ltd*., 407 Ill. App. 3d 257, 260 (2011) (quoting *Frydman v. Horn Eye Center, Ltd*., 286 Ill. App. 3d 853, 857-58 (1997)).

¶ 22 This appeal also involves the proper construction of the notice requirements contained in the Illinois Municipal Code. In construing statutes, our primary objective is to ascertain and give effect to the legislature's intent. *Phoenix Bond & Indemnity Co. v. Pappas*, 194 Ill. 2d 99, 106 (2000). "The most reliable indicator of the legislature's intent is the language of the statute, given its plain, ordinary, and popularly understood meaning." *Gardner v. Mullins*, 234 Ill. 2d 503, 511 (2009). "[W]here an enactment is clear and unambiguous a court is not at liberty to depart from the plain language and meaning of the statute by reading into it exceptions, limitations or conditions that the legislature did not express." *Kraft, Inc. v. Edgar*, 138 Ill. 2d 178, 189 (1990). The proper construction of statutes presents a question of law which we also review *de novo*. *Acme Markets, Inc. v. Callanan*, 236 Ill. 2d 29, 35 (2009).

¶ 23 Plaintiffs also ask this court to review the circuit court's denial of their motion to reconsider. It is well recognized that the "purpose of a motion to reconsider is to bring to the court's attention newly discovered evidence which was not available at the time of the hearing, changes in the law or errors in the court's previous application of existing law." *Pence v. Northeast Illinois Regional Commuter R.R. Corp.*, 398 Ill. App. 3d 13, 16 (2010). Furthermore, "when a motion to reconsider sets new matters before the court, such as new facts or legal theories, the submitting party essentially seeks a 'second bite at the apple,' and the circuit court therefore has discretion over whether to consider the new matter as well as its decision on the motion." *Kyles v. Maryville Academy*, 359 Ill. App. 3d 423, 433 (2005) (quoting *O'Shield v. Lakeside Bank*, 335 Ill. App. 3d 834, 838 (2002)). Thus, "[w]hen a party seeks to have a motion to reconsider granted on grounds of newly discovered evidence, the movant must provide a reasonable explanation for why the evidence was not available at the time of the original hearing." *Stringer v. Packaging Corp. of America*, 351 Ill. App. 3d 1135, 1141 (2004). The absence of such a reasonable explanation is itself a sufficient basis to reject a motion to reconsider, regardless of the contents of the newly proffered evidence. *Gardner v. Navistar International Transportation Corp.*, 213 Ill. App. 3d 242, 248 (1991).

¶ 24 "When a denial of a motion to reconsider is based on new matter not presented during the proceedings leading to the challenged order, an abuse of discretion standard of review applies. [Citation.] However, we review the trial court's application of existing law to the facts presented *de novo*." *Byer Clinic & Chiropractic, Ltd. v. State Farm Fire & Casualty Co.*, 2013 IL App (1st) 113038, ¶ 15.

¶ 25 B. Analysis

¶ 26 In deciding this appeal, the obvious place to begin our discussion is with the relevant statutory language itself.

¶ 27 As noted above, plaintiffs' suit sought a declaratory judgment invalidating the City's ordinance rezoning the property. Section 11-13-8 of the Illinois Municipal Code specifically provides that, with respect to municipalities the size of the City, plaintiffs seeking to challenge a zoning decision by filing a declaratory judgment action must, "not more than 30 days before filing suit for a declaratory judgment the person filing such suit shall serve written notice in the form and manner and to all property owners as is required of applicants for variation in Section 11-13-7." 65 ILCS 5/11-13-8 (West 2014). In relevant part, section 11-13-7 of the Illinois Municipal Code provides that such written notice shall be served "either in person or by registered mail, return receipt requested, on the owners, as recorded in the office of the recorder of deeds or the registrar of titles of the county in which the property is located and as appears from the authentic tax records of such county, of all property within 250 feet in each direction of the location for which the variation or special use is requested." 65 ILCS 5/11-13-7 (West 2014).

¶ 28 Thus, the plain language of these two provisions clearly required plaintiffs to, not more than 30 days prior to filing the instant lawsuit, serve written notice of this lawsuit "either in person or by registered mail, return receipt requested, on the owners, as recorded in the office of the recorder of deeds or the registrar of titles of the county in which the property is located and as appears from the authentic tax records of such county, of all property within 250 feet in each direction of" the rezoned property. 65 ILCS 5/11-13-7, 11-13-8 (West 2014). Plaintiffs were also required to "furnish to the clerk of the court in which the declaratory judgment suit is filed, and at the time of filing such suit," a "complete list containing the names and last known

addresses of the owners of the property required to be served, the method of service and the names and last known addresses of the owners of the service and the names and addresses of the persons so served." *Id*. Finally, plaintiffs were required to provide the clerk of the circuit court, at the time they filed their lawsuit, with a written statement certifying that they had complied with the above requirements. *Id*.

¶ 29 It is evident that plaintiffs did not fully comply with these requirements. Plaintiffs have acknowledged—both below and again on appeal—that they did not provide presuit notice to each and every owner where the Recorder or Treasurer's records reflected multiple owners for a particular property. Plaintiffs' have also acknowledged that where the records reflected that title was held by a land trust, plaintiffs often attempted to send notice to "likely" beneficiaries rather than the identified trustee. Where no beneficiary could be identified, plaintiffs provided notice only to the owner reflected on the Treasurer's records, who was often not the trustee.

¶ 30 The question then becomes, what is the significance of plaintiffs' clear failure to comply with these presuit notice requirements? Both section 11-13-7 and 11-13-8 of the Illinois Municipal Code use the word “shall” in defining plaintiffs' presuit obligations. *Id*. "The use of the word 'shall' generally indicates a mandatory requirement." *Illinois Department of Healthcare & Family Services ex rel. Wiszowaty v. Wiszowaty*, 239 Ill. 2d 483, 487 (2011). Moreover, the procedural presuit notice requirements at issue here are specifically applicable only where a municipality's zoning decision is challenged in a declaratory judgment action. A declaratory judgment action is purely statutory, and the statutory provisions for a declaratory judgment statute must be strictly complied with. *Beahringer v. Page*, 204 Ill. 2d 363, 373 (2003). Further, "the prescribed rules of procedure in actions for declaratory judgment are to be strictly complied with." *Gagne v. Village of La Grange*, 36 Ill. App. 3d 864, 867 (1976).

¶ 31 The courts that have previously considered the presuit notice requirements at issue here have also concluded that strict compliance is required. In *LaSalle National Bank v. City Suites, Inc.*, 325 Ill. App. 3d 780 (2001), we affirmed the dismissal of a declaratory judgment suit challenging a zoning ordinance where proper presuit notice was not provided, after finding "the language and mandate of [sections 11-13-7 and 11-13-8] to be clear in requiring that notice be given in all declaratory actions to invalidate zoning, without exception." *Id.* at 790. Confronted with similar circumstances in *Figiel v. Chicago Plan Comm'n*, 408 Ill. App. 3d 223 (2011), we found that "the plaintiffs' failure to comply with the notice requirements of section 11–13-8 *** was fatal to their amended complaint," after concluding that "both the language of the statute and the case law is clear that any property owner challenging a zoning ordinance must provide such notice within 30 days before filing a suit for declaratory judgment." *Id*. at 230, 235. And, most recently, when we were faced with this exact issue in *Scott*, we concluded that "strict compliance with the presuit notice provision is required" and that "the plaintiffs' failure to strictly comply with the presuit notice requirement warranted the dismissal of their complaint with prejudice." *Scott*, 2015 IL App (1st) 140570, ¶¶ 30, 32.

¶ 32 Indeed, the *only* justifiable possible "exception" to providing proper notice to all nearby owners is actually contained within the language of the statute itself, which states that "[i]f, after a *bona fide* effort to determine such address by the applicant for variation or special use, the owner of the property on which the notice is served cannot be found at his or her last known address, or the mailed notice is returned because the owner cannot be found at the last known address, the notice requirements of this sub-section shall be deemed satisfied." 65 ILCS 5/11-13-7 (West 2014). However, this provision has no application here, where plaintiffs did not simply fail to notify an owner because the owner could not be located after plaintiffs made a

bona fide effort to locate that owner's last known address. In this case, plaintiffs made the deliberate decision not to provide presuit notice to over 100 property owners for whom they admittedly had already obtained a name and address.

¶ 33 For all of the above reasons, we affirm the circuit court's decision to dismiss plaintiffs' instant lawsuit with prejudice, due to their clear failure to strictly comply with the presuit notice requirements contained in sections 11-13-7 and 11-13-8 of the Illinois Municipal Code. In reaching this conclusion, we necessarily reject a number of specific arguments raised by plaintiffs on appeal.

¶ 34 First, we obviously reject plaintiffs' contention that substantial compliance with the presuit notice requirements was sufficient and, therefore, find irrelevant plaintiffs' arguments that they had in fact substantially complied. In support of this position, plaintiffs cite to *Behl v. Gingerich*, 396 Ill. App. 3d 1078 (2009). There, the court recognized that "a mandatory provision does not always require strict compliance. 'Substantial compliance can satisfy even a mandatory provision.' [Citation.]" *Id.* at 1086. The court went on to state that, in order to answer the question of whether substantial compliance is sufficient, "we conduct a twofold analysis. First, we look to the purpose of [a statute] to determine whether the purpose was achieved without strict compliance. Next, we decide whether defendant suffered any prejudice from plaintiff's failure to strictly comply with [a statute]. *Id.* at 1087. Plaintiffs contend that this standard has been met here, such that their substantial compliance should be deemed sufficient.

¶ 35 We disagree. To begin with, this exact argument—including a citation to *Behl*—was considered and rejected by this court in *Scott*. *Scott*, 2015 IL App (1st) 140570, ¶¶ 19-22. To the analysis contained in *Scott*, we add the fact that the circumstances presented in *Behl* did not require a determination of whether a mandatory, procedural rule applicable to declaratory

judgment actions can be satisfied by substantial compliance. *Behl*, 396 Ill. App. 3d at 1086. As we have already discussed, it is well recognized that such procedural rules are to be "strictly complied with." *Beahringer*, 204 Ill. 2d at 373; *Gagne*, 36 Ill. App. 3d at 867 (same). And, as we have also already discussed, the language of the statue at issue here already contains its own, limited exception to strict compliance.

¶ 36 We also decline to adopt a number of plaintiffs' other, related arguments. Specifically, plaintiffs contend that the presuit notice they provided should be deemed sufficient, as they provided notice to each of the owners identified in the Treasurer's records and provided notice to at least one owner of each relevant property, as identified in the records of both the Treasurer and the Recorder.

¶ 37 Noting that the Recorder's records were never even reviewed by the plaintiff in *Scott*, (*Scott*, 2015 IL App (1st) 140570, ¶ 31), plaintiffs also contend that that the *Scott* decision therefore never addressed the proper standard for the use of those records. Plaintiffs contend that substantial compliance is all that should be required with respect to the identification of owners identified in the Recorder's records, as use of those records requires "judgment." Plaintiffs also argue that the notice that they sent to "likely beneficiaries" of the land trusts identified as owners in the Records of the Recorder substantially complied with the statutory requirements, as "the purpose of § 11-13-8 is to provide notice to a person who will be making the decision whether or not to intervene in the litigation." Plaintiffs thus contend that "sending notice to the beneficiary is a *superior* method as compared to sending notice to the land trustee" (emphasis in original), and further contend that—in instances where the records reflect ownership held by a trustee at "a bank that no longer exists"—the "*purpose* of § 11-13-8 is frustrated by blind compliance with the statute" (emphasis in original).

¶ 38 Plaintiffs would essentially have us read statutory language that plainly required presuit notice on "the owners *** of all property within 250 feet" (65 ILCS 5/11-13-7 (West 2014)), of the rezoned property to have been satisfied by notice on only "some" of those owners. Plaintiffs would also have us read language that clearly requires, without distinction, proper notice "on the owners, as recorded in the office of the recorder of deeds or the registrar of titles of the county in which the property is located *and* as appears from the authentic tax records of such county" (*id*.) (emphasis added), to have been satisfied by strict compliance with respect to those owners identified in the Treasurer's records, but merely substantial compliance with respect to the owners reflected in the Recorder's files. Finally, plaintiffs would have us condone their decision to provide notice to "likely beneficiaries" as opposed to the trustees identified as owners in the Recorder's files, because that practice was actually "superior" to the one created by the legislature.

¶ 39 We reject these arguments. For this court to permit some other type of procedure to satisfy the requirements of the statute would not be proper, as "a court must construe a statute as it is written and may not, under the guise of construction, supply omissions, remedy defects, annex new provisions, substitute different provisions, add exceptions, limitations, or conditions, or otherwise change the law so as to depart from the plain meaning of language employed in the statute." *Shaw Industries, Inc. v. Community College District No. 515*, 318 Ill. App. 3d 661, 665-66 (2000).

¶ 40 We also reject plaintiffs' contention that strict compliance should not be required because "[t]he legislature could not have intended § 11-13-8 to create a trap for would-be litigants or require the equivalent of a bullet-proof, 100% perfect title search for every property entitled to notice." First, we note again that the statute contains its own provision allowing *bona fide* efforts

to notify owners to suffice. Moreover, whatever merit this argument might have, plaintiffs are in no position to make it where they made the deliberate decision not to not to provide presuit notice to over 100 property owners of which they were actually aware.

¶ 41 Plaintiff also relies on this court's decision in *Hanna v. City of Chicago*, 331 Ill. App. 3d 295 (2002), *overruled on other grounds* by *Napleton v. Village of Hinsdale*, 229 Ill. 2d 296 (2008), in support of its position that the mailing of supplemental postsuit notice to all of the additional owners identified by the City cured any possible deficiency in their presuit notice. In *Hanna*, we reviewed the dismissal of a complaint filed against the City seeking declaratory, injunctive, and other relief with respect to a zoning decision. *Id*. at 298. We concluded that some of the plaintiff's claims were improperly dismissed on the merits, and that the matter should therefore be remanded for further proceedings. *Id*. In considering the City's contention that the dismissal was also proper because the plaintiff failed to provide proper presuit notice pursuant to section 11-13-8, we concluded that the "Municipal Code is clear in its pronouncement that when a party seeks to have a zoning ordinance invalidated by means of a declaratory judgment, the party seeking such relief shall serve written notice to owners of all property 'within 250 feet in each direction of the location' which are affected by the alleged invalid ordinance." *Id*. at 309. We went on to state "[t]hus, on remand, in the event [the plaintiff] wishes to pursue declaratory relief, he should be afforded the opportunity to give appropriate notice to all property owners within 250 feet." *Id*. at 310.

¶ 42 Plaintiffs read the *Hanna* decision as rejecting the requirement for strict compliance and allowing for the type of supplemental postsuit notice employed by plaintiffs here. Plaintiffs specifically contend that "[i]f § 11-13-8 required *absolute* compliance *prior* to filing a complaint, the Court would not have given the plaintiff the opportunity, on remand, to 'give appropriate

notice.' " (Emphasis in original.) However, the *Hanna* decision itself does not include any discussion of strict or substantial compliance in this context, and never directly addressed the issue. In addition, a similar argument was made and rejected in *Scott*, where we concluded that the *Hanna* decision "does not excuse *** noncompliance with the statute at issue. The opinion does not state or imply that plaintiffs may be lax in giving presuit notice and that Illinois courts will be 'lenient' in enforcing the notice standard. The plaintiffs' failure to strictly comply with the plainly worded notice requirement is fatal to their lawsuit." *Scott*, 2015 IL App (1st) 140570, ¶ 36. We come to the same conclusion here, and reject the contention that the *Hanna* decision in any way allows for or validates plaintiffs' efforts to provide postsuit notice.

¶ 43 Next, plaintiffs contend that the interplay between sections 11-13-7 and 11-13-8 clearly establish the legislature's intent that the same type and scope of notice provided with respect to initial applications for rezoning should be provided in instances where a zoning decision is subsequently challenged in court *via* a declaratory judgment action. Plaintiffs contend that the City has "altered this parallel relationship" because, as a home rule municipality, the city has altered the notice requirements for applications for planned developments such as the one at issue here to require only notice to owners as identified "from the most recent authentic tax records of Cook County," and that such notice need only be sent by first class mail. Chicago Municipal Code § 17-13-0197-A (amended May 9, 2012). While plaintiffs specifically acknowledge that they have not challenged the City's ability to make this modification, they do contend that it is relevant that, at the very least, they complied with the City's own requirements.

¶ 44 We find this argument unfounded. The City's own notice requirements were adopted by the City, which is a home rule unit of local government. Ill. Const. 1970, art. VII, § 6(a); *City of Chicago v. Roman*, 184 Ill. 2d 504, 512 (1998). However, "[t]he administration of justice under

our constitution is a matter of statewide concern and does not pertain to local government or affairs." *Ampersand, Inc. v. Finley*, 61 Ill. 2d 537, 542 (1975). Thus, our state constitution "does not contemplate nor does it authorize the exercise of any control over or permit the imposition of a burden on the judicial system by any local entity." *Id.* Under this authority, we find the City's own notice requirements with respect to zoning applications to be irrelevant here. Those local requirements relate to an application to the City for a local municipal zoning decision. The notice requirements we address here are those required by the legislature in order to access the courts to challenge a local zoning ordinance *via* a declaratory judgment action.

¶ 45 Finally, we address plaintiffs' appeal from the denial of their motion to reconsider. To the extent that their motion asked the circuit court to reconsider its previous application of existing law, we affirm the denial of that motion for all of the reasons discussed above. To the extent that the plaintiffs' motion to reconsider attempted to present additional information to the circuit court in order to "explain in greater detail the analysis undertaken by plaintiffs for each of the properties for which alleged defective or insufficient notice exists," we note that the circuit court specifically rejected this effort and refused to consider any such evidence. Other than incorrectly contending that the circuit court did not actually make such a ruling, plaintiffs have made no effort on appeal to challenge the circuit court's decision in this regard. Any further challenge to that decision has therefore been forfeited. See Ill. S. Ct. R. 341(h)(7) (eff. Feb.6, 2013) (points not argued on appeal are forfeited).

¶ 46 III. CONCLUSION

¶ 47 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 48 Affirmed.