

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION**

ERNEST ALBIERO, )  
)  
Plaintiff, )  
)  
v. )  
)  
THE TOWN OF GOODLAND, INDIANA, )  
an Indiana Municipal Corporation; and )  
JASON SMILEY, individually and in his )  
official capacity as an employee of the )  
Town of Goodland, Indiana )  
)  
)  
Defendants. )

CASE NO. 4:11-CV-15 JVB

**OPINION AND ORDER**

On May 12, 2011, the Court granted in part Defendant’s motion to dismiss and denied Plaintiff’s Motion for Summary Judgment. Soon thereafter, Plaintiff moved the Court to reconsider its ruling. The Court denied that motion on June 7, 2011. Plaintiff now again requests the Court to reconsider its May 12 Opinion and Order. This time, Plaintiff claims that new facts come to light, warranting the Court to reconsider its grant of Defendants’ motion to dismiss Plaintiff’s takings claim. In particular, Plaintiff suggests that he has uncovered evidence “that none of the members of the hearing committee acting as Building Commissioners had been sworn into their positions” before the hearing regarding his properties. He claims he has received this information from the meeting’s minutes which the Town did not supply to him until his 240-mile-round-trip to get the minutes on August 23, 2011. Plaintiff then argues that the hearing was unlawful and that no state remedy is available to him to correct the wrongs perpetrated by Defendants. Plaintiff presents no information suggesting that he had appealed the Building

Commissioners unfavorable ruling in state court.

Plaintiff's second motion to reconsider fails for the same reasons as did the first one. Moreover, Plaintiff's repeated claim that he could not pursue a state remedy, when he did not even attempt to appeal the Commissioners' ruling, is unavailing.

Accordingly, the Court denies Plaintiff's second motion to reconsider (DE 84).

SO ORDERED on December 14, 2011.

s/Joseph S. Van Bokkelen  
JOSEPH S. VAN BOKKELEN  
UNITED STATES DISTRICT JUDGE