

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PHN MOTORS, LLC D/B/A)	CASE NO. 1:10 CV 2392
BILL DORATY KIA, et al.,)	
)	
Plaintiffs,)	
)	
v.)	JUDGE DONALD C. NUGENT
)	
MEDINA TOWNSHIP, et al.,)	
)	<u>MEMORANDUM OPINION</u>
)	<u>AND ORDER</u>
Defendants.)	

This case is currently before the Court on Defendants’ Motion For Judgment on the Pleadings. Defendants have moved this Court for dismissal of Plaintiff Scherba Industries, Inc. D/B/A Inflatable Images (“Scherba”), asserting that Scherba lacks standing to assert the constitutional claims brought in this case. (ECF #27). The matter has been fully briefed. After considering all of the arguments and all applicable law, the Court hereby DENIES Defendants’ Motion. Plaintiff, Scherba has alleged facts in the Complaint that satisfy the requirements of standing in this action. Scherba has alleged that it would suffer an injury in fact if the zoning regulations are upheld against PHN Motors; the alleged injury would have a causal connection to the conduct complained of in the Complaint; and it is likely that a favorable decision in this case would prevent that alleged injury. *See generally, United States v. Hays, et al.*, 515 U.S. 737, 743

(1995). For these reasons, Plaintiff Scherba has standing to pursue its complaint under Article III of the Constitution. Defendants' motion is, therefore, DENIED.

IT IS SO ORDERED.

/s/ Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: February 10, 2010