

Testimony in Opposition to House Bills 478 and 480
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Chair Abrams, Vice Chair Williams, Ranking Member Brown and members of the House Criminal Justice Committee, thank you for the opportunity to provide testimony in opposition to House Bills 478 and 480.

My name is Barbara Reitzloff, and I am a supervising attorney in the Housing Practice Group of the Legal Aid Society of Cleveland. Legal Aid's mission is to secure justice, equity, and access to opportunity for and with people who have low incomes through passionate legal representation and advocacy for systemic change. The Housing Practice Group represents families in eviction proceedings as well as other landlord-tenant matters including the termination of subsidized housing vouchers, fair housing claims, and actions to compel repairs to rental premises.

House Bills 478 and 480 propose to permit property owners to avoid the eviction process of R.C. Chapter 1923 by submitting an affidavit to the Sheriff, whose deputies then may remove alleged squatters and their belongings from the property. The Bill attempts to expedite an already summary process. At the same time, the process proposed in the Bill poses a significant threat to tenants and other legitimate occupants of residential property.

R.C. Chapter 1923 sets forth the current process for eviction actions in Ohio. It is a summary process. For example, the hearing in an eviction action may take place before the defendant's answer period has run. The process is exempted from several other requirements of the Ohio Rules of Civil Procedure that have been found to frustrate the summary nature of the process.

A property owner faced with an unauthorized occupant may serve a notice to vacate and, three days later, file a complaint in forcible entry and detainer with the court. In most courts, a hearing on the eviction complaint is set for two to three weeks after the complaint is filed. If the property owner is granted judgment, a court-supervised move-out may take place within three to ten days after the entry of the judgment. An eviction action may be completed in thirty days or less, from the service of the three-day notice until the court-supervised move-out. While summary, the eviction process under R.C. Chapter 1923 includes a trial before a magistrate or judge, at which both parties may present evidence. The Court then determines whether the property owner is entitled to possession of the premises.

There are few defenses to eviction actions brought against actual squatters; that is, people who entered a property without permission of the then-owner and continue to live there without the permission of the current owner. Squatters are not entitled to use of the grievance process provided to some tenants of federally subsidized housing, nor are they entitled to notice under the CARES Act. As they have no agreement with the owner to pay rent, squatters may not avail themselves of defenses based upon the timing or acceptance of past rent payments. The lack of defenses makes it unlikely that a true squatter will be able to extend the eviction process under the current R.C. Chapter 1923.

The current eviction process, however, while summary, does provide legitimate tenants and other occupants with protections against illegal evictions. The property owner or landlord must serve

them a three-day notice which notifies them that legal action is forthcoming. Then, the occupant is sent a summons and complaint from the court. The tenant or other occupant may attend the hearing, and present legal and equitable defenses to the owner's claim. They also may inform the Court of extenuating circumstances. This is all accomplished at hearings usually held within two to three weeks of the date of filing of the complaint.

I was the Chief Magistrate for the Cleveland Housing Court for more than twenty-five years. During that time, the court heard tens of thousands of cases. In that time, I noticed a trend toward purchase of residential properties by investor owners who live outside the county, the city, the state, and even the country. Many properties are bought sight-unseen. Purchasers may rely on information from the seller, a local agent, or even the internet, to determine whether a property is occupied. Many new owners do not go the property and make an inquiry about the occupants. As a result, many evictions are filed against "John Doe" defendants, with owners knowing little to nothing about the people living in those properties and how those occupants came to live there.

The process proposed in HB 478 and 480 does not adequately protect legitimate tenants and other occupants from removal from their homes without adequate notice and a hearing. A mother of three children who fell behind in rent when she lost her job may drop her children off at school, go to work, and come home to find that a new owner of the property has had her belongings set out. An elderly tenant who has lived in the property for years, not knowing the home they live in has been sold, may be confronted by deputies instructing them to grab any belongings they can and leave immediately. A veteran living in a property owned by an out-of-state corporation that did not inform the tenant or the purchaser of the property that it was occupied may answer a knock on the door to see uniformed officers telling them to get out.

These dangers are exacerbated by the lack of a requirement that new property owners or managers introduce themselves to tenants in a particular way. It is not uncommon for people to approach a tenant at the beginning of the month, without warning, saying that the property has been sold and they are the new managing agent, there to collect the rent. That alleged agent is not required by law to provide any specific proof to the tenant of ownership or agency. A few weeks or a month later a new alleged agent appears, asking for rent. Tenants by necessity have become cautious about these alleged new owners and agents and are reluctant to talk with them. Permitting a new owner, who may never have spoken to the tenant, to evict the occupant of their property without a hearing deprives these tenants of the opportunity to explain their circumstances to the Court. In addition to legal defenses, tenants in eviction actions may present equity defenses, that is, defenses based upon the considerations of fairness in the conduct of both parties leading up to the eviction action. Some tenants will be deprived of the opportunity to present such defenses under HB 478 and 480.

HB 478 and 480 essentially move some eviction hearings from the courtroom to the curb. Deputy sheriffs will be confronted by occupants who assert that they are tenants of the current or previous owner of the property. The officer will be shown receipts, leases, and text messages, and be asked to listen to voicemail communications between the parties. Occupants fighting to keep their families from becoming unhoused will call others to the premises to serve as witnesses to their assertions. The deputies may be asked to address issues involving elderly individuals with nowhere to go, tenants with medical equipment they have no ability to move, and still others who have signed new leases for another unit and need only a few additional days to move, to avoid splitting up their family and moving to a shelter. These issues all are routinely addressed in Courts that have the staff, experience, and resources to address such issues. Requiring deputies to address these issues on the

scene and without advance notice regarding the number or make up of the occupants, makes the process of removing them more dangerous for the property owners, occupants, and the deputies themselves.

And while HB 478 and 480 permit suits for damages for improper use of the process, money damages are not sufficient to compensate individuals and families wrongly removed from their homes. In addition to clothing and furniture, those individuals and families likely will suffer disruption of their work and schooling. Their families may be divided and forced into shelters. Children may lose cherished items that provide them with security. People may lose vital records and identification, necessary medication, and equipment. And for those individuals, money cannot compensate for the damage suffered.

HB 478 and 480, while well-intentioned, create a new process, fraught with potential hazards and problems, to solve a problem legitimately faced by only a small number of property owners. Requiring those owners to proceed against the occupants as trespassers under the current law, or use the eviction process in R.C. Chapter 1923, will cause a lesser amount of harm to that owner than the harm suffered by legitimate occupants who are wrongfully removed.

For these reasons, we are opposed to the passage of House Bills 478 and 480.

Thank you for your attention.

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