



Kathryn A. Dale, AICP
Zoning & Planning Administrator

March 12, 2025

The Honorable Sandra O'Brien, Chair
Senate Local Government Committee
Ohio Senate Building
1 Capitol Square
Columbus, OH 43215

RE: SB 104 – In Opposition

Dear Chairwoman O'Brien,

Good afternoon, Chairwoman O'Brien, Vice-Chair Gavarone, Ranking Member Smith, and all members of the Senate Local Government Committee. My name is Kathryn Dale, AICP, Zoning and Planning Administrator for Danbury Township in Ottawa County. I have served 23 years in local government zoning. Danbury is located on the shores of Lake Erie, maybe better known for the Marblehead Peninsula and Lighthouse.

I would like to begin by sharing a little bit about our Township. Nearly 60% of the land is owned by someone who does not live in our community year-round. 56.8% of all housing units are seasonal (3,880 dwellings). This does not include our 32 Licensed Campgrounds with 2,914 camp sites, 20 Mobile Home Parks with 1,492 units, 60 Marinas with 2,751 docks (5,502 boat wells); 4,052 which are transient and not deeded to real property. We have 20 approved Hotel/Motels, Lodges, B & B's and Lakeside, 1 of 17 Chautauqua's in the United States, where all of the residential premises (978 dwellings) are permitted to be rented on a short-term, less than 30-day basis. Many of our seasonal businesses hire seasonal, temporary employees, often from foreign countries. Many of these employees need seasonal, short-term, temporary housing. The point is, transient stay is nothing new for us, but SB 104 means we will be prohibited from protecting our housing units, apartments, condominiums, cabins, and cottages, their owners and their neighbors, from regulating a use that should be seen as a "Hotel" and would typically be located in a commercial zoning district. I will expand upon this in a moment. SB 104 also invites all households to be operated by absentee property owners.

At the end of 2021, the Township successfully adopted a zoning map amendment that removed over 700 parcels of land in 21 residential subdivisions from a commercial zoning district designation that allowed hotels as a by-right, permitted use. These neighborhoods included a variety of housing styles and sizes. We held 2 open houses, reached out to homeowner associations, and had multiple people, to room capacity, in attendance at each of the public hearings. When we explained to our residents that these homes could potentially be used as a "Hotel" because they were in a commercial zoning district, and we were doing this to protect their residential, quarter-million, half-million, and million-dollar investments; there were zero objections. Prohibiting us from regulating a use, potentially prohibits a residential property owner and neighbor from their due process right of a public hearing to have a say in what happens on their street and in their immediate neighborhood.

I would like to read a few excerpts of some definitions currently in the ORC Chapter 3731 pertaining to "Hotels".

A(1) "Hotel" includes any structure consisting of one or more buildings containing any combination of more than five guestrooms... "Hotel" does not include agricultural labor camps, apartment houses, apartments or other similar places of permanent personal residence, lodging houses, rooming houses, or hospital or college dormitories.

A(2) "Transient hotel" means any structure consisting of one or more buildings, with more than five sleeping rooms, that is specifically constructed, kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered for pay to transient

guests for a period of thirty days or less, including, but not limited to, such a structure denoted as a hotel, motel, motor hotel, lodge, motor lodge, bed and breakfast, or inn.

A(4) "Residential Hotel" means any structure or structures consisting of one or more buildings, with more than five dwelling units, that are specifically constructed and approved through a valid certificate of occupancy issued by the building official having jurisdiction, as having both dwelling unit features for non-transient residence purposes and all of the transient residential occupancy features of a transient hotel...

A(5) "Temporary residence" means a dwelling unit accommodation room within a hotel. that is used by its occupants but is not used as the permanent or principal residence of its occupants."

According to Section 3731.01(B) *"This chapter does not apply to apartment buildings and other structures in which all of the units are residential premises."*

The proposed language of SB 104, specifically new Section 5325, is essentially duplicating definitions already in ORC 3731, but instead defining transient, less than 30-day stays as a "Short-Term Rental" (STR). The difference is a "Hotel" and ORC 3731 does not attempt to prohibit local governments from regulating where a "Hotel" use should or should not be allowed. SB 104 will prohibit local governments from enforcing, regulating, restricting STR's, and arguably overreaches the State's authority, by specifically dictating that STR's should be allowed in any *"area zoned to allow residential use"*.

Should SB 104 progress and pass, it is possible that for this reason, the language will be challenged. Unbeknownst to some, Ohio had a pivotal role establishing the constitutionality of zoning nearly 100 years ago. This resulted in the Standard State Zoning Enabling Act, police powers of political subdivisions and the US Supreme Court upholding zoning in the Village of Euclid, Ohio. The State's enabling language establishes that zoning must be done *"in accordance with a comprehensive plan"*. My question to this Committee and the General Assembly is; if SB 104 is going to regulate that specific uses are permitted in residential zoning districts, does the State have a Comprehensive Plan? In effect, SB 104 essentially rezones all residential property in the State to allow a specific type of commercial use of residential property, which is an unprecedented interference with local government's role in zoning.

As an example of how SB 104 language will become a conflicting issue; ORC 3731 repeatedly refers that a "Hotel" consists of 5 or more sleeping rooms. On March 5, 2025, during your Proponent testimony hearing, Mr. Matt MacLaren from the Ohio Chamber of Commerce stated that this proposed language would only apply to homes with 4 or fewer bedrooms based on the definition being proposed. I would ask that you re-read the proposed definition for "Short-term Rental". You will see that it refers to *"one or more rooms"* and does not set a limitation. The quandary becomes when a large, single-family residence that has *"more than 5 rooms available for sleeping arrangements, offered for pay to transient guests for a period of thirty days or less"*, according to State statute, that is now a defined "Hotel" in a residentially zoned neighborhood. Most jurisdictions across this State are not going to allow "Hotels" in residentially zoned districts due to the commercial nature. "Hotels" fall under a different Ohio Basic Building Code classification, involves the State Fire Marshal's oversight for inspections, licensing, and is subject to further requirements of ORC 3731. Property owners will use SB 104 language to circumvent these other regulations established in the ORC because they will be protected as a residential dwelling in a residential neighborhood.

The proposed language of 5325.01(C) states that local governments will be allowed to collect a \$20 fee per STR property per year, however, this fee can only be used for the enforcement of regulations on STR's. In the opening paragraph (B), the language states: *"No local government shall adopt or enforce a regulation, requirement, restriction or other resolution or ordinance concerning short-term rental properties..."*. Townships pass resolutions, cities & villages ordinances to legislate. How exactly are we expected to enforce anything or use that STR fee if our legislative ability to adopt language related to STR's via a resolution is being taken away? How do we enforce bypassing other ORC language if we cannot use zoning requirements to state this...because that would be a "limit" or "restriction" on STR's. How do we, or what exactly can we enforce if problems or nuisances related to STR's arise? The current wording of SB 104 will handcuff us with the inability to adopt resolutions to address these issues.

ORC 505.87 allows us to pursue nuisances on properties such as tall grass, junk & debris; 505.86 unsafe structures and 505.173 junk motor vehicles. The difference is, these sections of the ORC provide us the means to abate the nuisance, deal with repeat offenses and hold the property owner responsible. SB

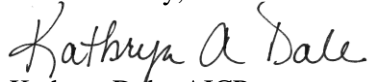
104 does not provide local governments or neighbors with any relief to the problems that will arise with short-term rentals. That is a concoction for the destruction of our neighborhoods and added strain to our law enforcement officers and Township staff with limited means to stop a problem or deal with issues.

With all due respect, it is not any of you who will be the 1st line of defense for our residents. You will not receive the 3:00a.m. loud music call, or the complaint regarding streets being blocked due to an influx of vehicles, or outcry from neighbors about renters urinating along the side of their houses, or the anger from the neighbor whose trash can is being filled because the rental owner fails to provide trash service. You will not receive the concerns from brick & mortar hotel owners, paying commercial property tax, that their livelihood & business is being taken away from them because so many homes will now be allowed to be rented transiently. SB 104 allows us no way to deal with any of this, offers us no tools for resolve and will force us to tell our residents the worst thing you possibly can, which is *"I can't help you"*, because we will be prohibited from doing anything about it.

In conclusion, we implore you to research what is happening and has happened in Florida, Arizona, and Colorado when these States passed similar legislation, and the detrimental effect it had in those communities. All of these States are now looking to repeal parts of their legislation and allow communities to impose greater regulations, more than what was initially adopted prior to the State getting involved. All we ask is if you pass similar legislation for Ohio, learn from these other States to make the language better than what is being offered. Allow our communities to have some role in deciding what works best at the local level.

Thank you for your time this afternoon and consideration.

Professionally,



Kathryn Dale, AICP

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