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Senate Bill 201
Senate Civil Justice Committee
September 23, 2015

Chairman Bacon, Vice Chair Oelslager, Ranking Member Skindell and members of the Senate Civil Justice committee. Thank you for allowing me to provide sponsor testimony on Senate Bill 201, legislation, that if enacted, would expand Ohio's nuisance law to apply to any real property, including vacant land, on which an offense of violence has occurred or is occurring.

I was contacted by the City of Columbus and Columbus City Attorney Richard Pfeiffer to enact this legislative change, as there have been repeat sites and structures in which multiple stabbings, shootings and other violent crimes have occurred. These areas are known in their neighborhoods, and by law enforcement, as nuisance establishments and current statute does not allow the cities to apply the current law to keep our communities safe.

This measure, if enacted into law, would add "offense of violence" to R.C. 3767.01. This would reference a definition of "Offense of violence" that is already established in Revised Code 2901.01 to include the following code references consisting of: aggravated murder; murder; voluntary manslaughter; involuntary manslaughter; felonious assault; aggravated assault; assault; permitting child abuse; aggravated menacing; menacing by stalking; menacing; kidnapping; abduction; extortion; trafficking in persons; rape; sexual battery; gross sexual imposition; aggravated arson; arson; terrorism; aggravated robbery; robbery; aggravated burglary; inciting to violence; aggravated riot; riot; inducing panic; domestic violence; intimidation; intimidation of attorney, victim or witness in criminal case or delinquent child action proceeding; escape; improperly discharging firearm at or into a habitation, in a school safety zone or with intent to cause harm or panic to persons in a school building or at a school function and endangering children.

The City of Columbus has provided the following examples to capture the situations that this proposal is geared to address:

Example #1-

there was a location that had four shootings within four months. With current law, the city attorney's office could not abate the property as an "offense of violence." They had to send in undercover officers to purchase alcohol twice to qualify for one of the offenses that are currently in R.C. 3767.01 involving the provision of selling beer or intoxicating liquor in violation of law. Lives were put at risk with the undercover operations because the city could not use "offense of violence" that is utilized in others sections of the Revised Code. The city attorney had to cut a deal in part because acts of violence cannot be used to prove the elements of abatement. This legislative proposal, if enacted,

would allow all evidence that is collected, including the “offense of violence” to be entered into court proceedings of abatement.

Example #2-

This is a known drug house. Law Enforcement believes primary drug dealer at this residence has extensive criminal history and is “heavily armed.” Law enforcement has been unable to secure undercover drug buys at this residence, thus the city currently has no evidence to pursue a nuisance abatement.

3/16/15: **Shooting**—10-15 shell casings found, two different calibers, bullet holes in residence. Residents fled; would not cooperate with police.

3/11/15: **Shooting**—shell casings recovered, fresh bullet holes in residence. Children were playing at nearby school at time of shooting, had to be rushed back into school. Nobody at residence would cooperate with police.

Example #3-

This is a known hangout for the “Juan Gang.” Law enforcement has been unable to secure undercover drug buys at this residence, thus the city currently has no evidence to pursue a nuisance abatement.

8/20/14: Discharge Firearms into Occupied Structure—gang related **shooting**, firearms recovered

12/12/14: Assault

12/28/14: Firearm Recovered

2/7/15: Robbery/Assault

Example #4 -

Law Enforcement believes this to be a drug house. It has no furniture and nobody lives there; it is simply a staging area for drug transactions. Law enforcement has been unable to secure undercover drug buys at this residence, thus the city currently has no evidence to pursue a nuisance abatement.

7/19/14: Domestic Violence

11/1/14: Assault/Battery—fight

11/23/14: Assault /Battery

2/27/15: Disturbance—gun run

4/11/15: Felony Assault—**shooting** occurred inside the residence; 2 victims

Example #5-

This is a known drug house. Law enforcement has been unable to secure undercover drug buys at this residence, thus the city currently has no

evidence to pursue a nuisance abatement. There are multiple instances of violence at the residence, including a shooting.

- 6/12/14: Assault/Battery—Large fight at the residence
- 8/20/14: Assault/Battery/Domestic Dispute
- 8/31/14: Domestic Dispute
- 9/1/14: Assault/Battery
- 10/10/14: Assault/Battery
- 10/15/14: Assault/Battery
- 12/23/14: Menacing—Man came out of residence with firearm, pointed firearm at individuals in vehicle
- 2/24/15: Felony Assault/Robbery—**shooting** occurred inside the residence.

This legislation would add another tool for our cities to improve neighborhood safety and to ensure that cities have the legislative authority to pursue abatements against some of these dangerous places. These are all structures that can pose threats to their surrounding neighborhoods and it is my legislative intent to help cities have the legislative authority to clean up these dangerous properties.

Some of you might have worries that this legislation could cause issues where property owners might have no knowledge of the activity that is occurring on their property and could have their buildings boarded up against their will. This is not true as this legislation in **no way** affects existing measures that protect innocent property owners from losing their property. Both R.C. 3767 and the Ohio Supreme Court have protections in place to protect the rights of innocent property owners.

Property owners are no more, or less, subject to having their property boarded up before this legislation as they would be if it were enacted. A municipality cannot simply board-up a property at the onset of, or during the pendency of, a nuisance abatement case, unless it can prove that the City will be immediately and irreparably harmed. A municipality may seek to have a property found to be a nuisance—in which case a property owner would have an opportunity to defend oneself at a hearing. First, a court must decide whether or not the activity at the property constituted a nuisance. Secondly, the court must determine if the owner knowingly acquiesced to and participated in the creation or perpetuation of the nuisance. Only if the court determines these two issues to be present will a board-up be ordered. And all the while, the property owner has a right to present evidence at a hearing that (a) there was no nuisance at the property, and/or (b) the owner had no knowledge of the nuisance. Ohio laws, both statutory and common law, offer protections to “innocent property owners.”

Chairman Bacon and members of the Senate Civil Justice committee, thank you for allowing me to present sponsor testimony on Senate Bill 201. I am happy to answer any questions that the committee might have.