

INTRODUCTION

My name is Bill Sperlazza. I am a Senior Attorney with the Columbus City Attorney's Office. In my capacity I have filed multiple cases under ORC 3767. I have litigated these cases in front of multiple judges with favorable rulings in all. Two of these cases were appealed to the 10th District Court of Appeals, who affirmed in both. I have presented on the topic of nuisance abatement at human trafficking conferences, to the Ohio Municipal Attorneys Association this past July, and I will do so again to the Ohio Municipal League later this month. I have a firm functional knowledge of ORC 3767, and I hope my testimony can be of use to this committee. I greatly appreciate the opportunity to be here today.

IN SHORT

The law currently states that Ohio courts can consider (1) drug activity (2) prostitution activity, and (3) liquor law violations when deciding if a property is a nuisance.

SB 201 simply allows courts to consider (4) acts of violence as well. It does nothing else.

IN NO WAY does SB 201 affect the due process rights of an innocent property owner, and IN NO WAY does it change the State's burden to prove every element of it's case in a court of law.

WHERE IS THE GAP?

While investigating nuisance abatement cases, we kept running into a problem. That problem is that, as currently constructed, the Ohio nuisance abatement code does not consider acts of violence as evidence of a nuisance. That problem manifested itself to us in at least two ways:

1. Properties exhibited evidence of violent activity, but law enforcement was unable to secure undercover evidence of drug activity, prostitution activity, or liquor law violations.
2. Defense attorneys filing motions in limine seeking to exclude evidence of violent activity.

This does not make sense. Everyone would agree that acts of violence are more severe than drug offenses, prostitution offenses, and liquor law offenses—shouldn't violent acts be considered as well?

Most would agree that one of the primary reasons a community seeks to keep drugs, prostitution and drunkenness out of it's neighborhoods is to avoid the robberies, fights, stabbings, gun play and murders that often accompany this type of activity.

SB 201 does not create a new law, it simply modernizes a law that has been around since 1953.

THE UNFORTUNATE NARRATIVE

There is an mistaken concern that SB 201 will negatively affect an innocent property owner's due process rights, and/or the State's burden to prove the facts of it's case in a court of law. This concern, in a vacuum, is a noble one, and one I share. Fortunately Ohio law has already addressed this concern; laws are firmly in place to protect innocent property owners, and SB 201 **would not affect** these laws.

Ohio law does not allow an innocent property owner to have his/her property boarded up against his/her will.

For nearly two decades, the Ohio Supreme Court has held that the State must prove in a court of law that a property owner acquiesced to and participated in the creation or perpetuation of the nuisance. *State ex rel. Pizza v. Rezcallah* (1998), 84 Ohio St. 3d 116. A property cannot be boarded up without the State meeting this burden, and SB 201 clearly does not change that.

NUISANCE PROPERTIES

Nuisance properties are a statewide problem. Our recent work with the abatement code has sparked calls from around the state of Ohio—Zanesville, Lima, Hilliard, Canton, Lorain, Warrensville Heights, Lancaster, and Brook Park—asking how they too can fight these nuisance properties.

While nuisance properties can be anywhere, they are often found in urban settings. The 2010 Census indicates that nearly 73% of Ohioans live in urban settings.

Nuisance properties are a statewide problem. The tools municipalities have to combat them are missing an essential element. SB 201 will provide municipalities with the tools necessary to keep dangerous properties from harming citizens.