

# Cleveland Municipal Court

HOUSING DIVISION

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October 9, 2019

Testimony to Senate Judiciary Committee in support of

Senate Bill 96

Dear Chairman Eklund and Distinguished Members of the Judiciary Committee:

My name is Ronald J.H. O'Leary, and I have been the Judge of the Housing Division of the Cleveland Municipal Court since April 2017. Thank you for the opportunity to present testimony regarding Senate Bill 96. I am here today to testify in support of this bill before the Committee that would expand the jurisdiction of Cleveland Housing Court to mirror the current jurisdiction of the Franklin County Municipal Court.

**SENATE BILL 96** – would expand Cleveland Housing Court's jurisdiction to include the ability to hear appeals from decisions of the City of Cleveland's Board of Building Standards ("BBS") and Board of Zoning Appeals ("BZA"). The Cuyahoga County Court of Common Pleas currently has exclusive jurisdiction over these administrative appeals. If the General Assembly adopts this legislation and expands Cleveland Housing Court's jurisdiction, then Cuyahoga Common Pleas and Cleveland Housing Court will have concurrent jurisdiction over these cases.

Under current law, if a resident or a business owner wishes to appeal an adverse ruling of the BBS or BZA, they must do so with the Cuyahoga County Common Pleas Court. That appeal is then assigned to one of thirty-four Common Pleas Judges. The appeal becomes part of a Common Pleas Judge's individual docket, which includes felony criminal cases involving robbery, rape, and murder. That docket also includes hundreds of other complex civil matters assigned to the Common Pleas Judge.

The appeals from BBS and BZA, which are the subject of SB 96 would include matters such as:

- Illegal use of property;
- Failure to repair dangerous conditions;
- Condemnation orders;
- Abatement of housing code violations;
- Failure to maintain exterior of property;
- Notice to remove graffiti;
- Notice to repair fire damage;
- Appeal from order for contractor to remedy conditions arising from shoddy work.

If the proposed language altering the Cleveland Housing Court's jurisdiction were to be adopted, those matters could then be appealed directly to Cleveland Housing Court, which already has a docket that includes housing-related matters and property-related code violations. The Cleveland Housing Court's jurisdiction already includes property-related issues such as: whether a property owner properly repaired their porch property after a storm; whether an auto-shop is operating under a proper certificate of occupancy, and whether the homeowner with debris in the yard is creating a health nuisance for the neighbors. The exposure to these issues has prepared Cleveland Housing Court staff with extensive knowledge of local Building, Housing, and Zoning Code issues that would be necessary to hear BBS and BZA Appeals.

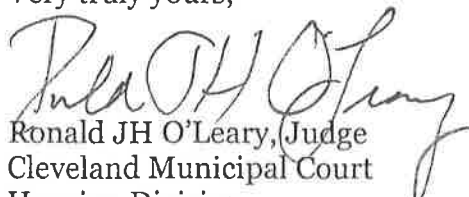
SB 96 will take advantage of the fact that the Cleveland Housing Court is intimately familiar with all aspects of cases involving property and code violations. Housing Court staff has years of expertise with Building Code violations and is familiar with commercial property owners in the city who have a history of code violations. This will help ensure that repeat offenders will be held accountable, rather than taking advantage of the fact that a Common Pleas judge might not be familiar with the facts of the case, the relevant history of the parties, or the history of, and impact upon, the particular neighborhood that is affected by the dispute at hand.

The following agencies and individuals have provided letters of support (those letters are attached to my testimony in support of SB 103, which I hope to offer this morning):

1. Cuyahoga County Prosecutor Michael C. O'Malley
2. Cuyahoga County Court of Common Pleas Administrative & Presiding Judge John J. Russo
3. Cuyahoga County Chief Public Defender Mark A. Stanton
4. Cleveland-Cuyahoga County Environmental Crimes Task Force
5. The Cleveland Metropolitan Bar Association
6. Cuyahoga County Executive Armond Budish
7. Cuyahoga County Council President Dan Brady and County Councilperson Sunny M. Simon
8. Bratenahl Mayor John M. Licastro
9. Bratenahl Village Council President Pro Tempore James F. Puffenberger
10. Cleveland Municipal Court Clerk of Court Earle B. Turner
11. Cuyahoga County Land Reutilization Corporation
12. CHN Housing Partners
13. Cleveland-Marshall College of Law Civil Litigation Clinic Professor of Law Kenneth J. Kowalski

In addition to the Resolution from Cleveland City Council in support of SB 96 (attached), Cleveland Mayor Frank Jackson has expressed his support for the changes in this bill (verbally).

Very truly yours,

  
Ronald JH O'Leary, Judge  
Cleveland Municipal Court  
Housing Division

encs:

City of Cleveland Resolution 340-2019

**Resolution No. 340-2019**

**Council Members:** Kelley, Polensek, Brancatelli and Griffin

**An emergency resolution supporting the proposal that the jurisdiction of the Cleveland Housing Court be expanded to include felony environmental crimes and administrative appeals from the Cleveland Board of Zoning Appeals and Cleveland Board of Building Standards.**

**WHEREAS**, currently, the Cuyahoga County Environmental Crimes Task Force (ECTF), comprised of representatives from the City, Cuyahoga County, the Cuyahoga County Solid Waste District and local health departments, refers environmental crimes to the County Prosecutor; and

**WHEREAS**, the ECTF investigations unit, led by the Cleveland Police Department, refers over 40 investigations to a Grand Jury every year; about half of those cases come under Ohio's scrap metal law, RC Chapter 4737, which violations can only be prosecuted as felonies; and

**WHEREAS**, currently, two Assistant County Prosecutors are dedicated to environmental felonies; however, any judge seated on the County Court of Common Pleas may be assigned an environmental felony case; and

**WHEREAS**, it is proposed that Cleveland's Housing Court be assigned all Cuyahoga County environmental cases; and

**WHEREAS**, Cleveland's Housing Court is already familiar with the City's building codes and environmental laws, therefore assigning all felony environmental cases to one judge in the Housing Court would make the system more efficient while maintaining the Housing Court's goals of code compliance and deterring future code violations; and

**WHEREAS**, similar to Cleveland's Housing Court, the Franklin County Municipal Court's Environmental Court has felony jurisdiction over environmental cases; and

**WHEREAS**, currently, appeals from decisions by the Board of Building Standards (BBS) and the Board of Zoning Appeals (BZA) are assigned to one of 34 Common Pleas Court judges; and

**WHEREAS**, it is proposed that Housing Court and Common Pleas would have concurrent jurisdiction to hear BBS and BZA appeals, with the appealing party deciding where to file the appeal; and

**WHEREAS**, Housing Court has expertise in the types of decisions appealed from BBS and BZA because many involve use of property and housing code violations; and

**WHEREAS**, this resolution constitutes an emergency measure for the immediate preservation of public peace, property, health or safety, now, therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLEVELAND:**

**Section 1.** That this Council supports the proposal that the jurisdiction of the Cleveland Housing Court be expanded to include felony environmental crimes and administrative appeals from the Cleveland Board of Zoning Appeals and Cleveland Board of Building Standards.

**Section 2.** That the Clerk of Council is hereby directed to forward a copy of this resolution Ronald J.H. O'Leary, Judge, Cleveland Housing Court.

**Section 3.** That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

**Adopted March 25, 2019.**

**Effective March 26, 2019.**