**Written Testimony Opposing S.B. 36**

Robert Bender, Vice President

The Provident Companies

Senate Ways and Means Committee

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Chairman Terhar, Vice-Chair Roegner, Ranking Member Williams and members of the Ohio Senate Ways and Means Committee, my name is Robert Bender. I currently reside in the honorable Senator Huffman’s district in rural Logan County. I was the executive director of the 501(c)3 non-profit, Housing Services Alliance, Inc. (HSA) that sponsored, built and managed Notestine Manor Apartments and the president of the 501(c)3 non-profit owner board, Notestine Manor, Inc. at the time of the initial Board of Revision (BOR) complaint. I am currently the vice-president of The Provident Companies which is the current management company of Notestine Manor, Inc. and owner of 78 affordable housing properties located in Ohio mostly in rural areas. I also serve as a board member of Riverside Local School District in DeGraff and understand the importance of tax revenues for public education. I will speak specifically to the subject property in a manner and will also attempt to clarify many mischaracterizations of the case and situation which has become the premise and focal point of Senate Bill 36.

I will start with details presented in the sponsor hearing.

It was stated that the property was purchased for $145,000 and the owner acquired $1.5 million to build the property insinuating that the project total cost was $1.645 million. The United States Department of Housing and Urban Development (HUD) Section 202 Project Rental Assistance Contract (PRAC) Capital Advance grant was $1.223 million and that was the entirety of the cost of construction, softs costs and land purchase. There were no other funds other than a minimum capital investment (MCI) required by HUD from HSA in the amount of $10,000.

It was presented that the auditor valued the property at $811,000 for property tax purposes using the income approach. The former auditor testified before the Board of Tax Appeals (BTA) that he used the cost approach based on their estimate of construction completion and the dollar amount of the construction permit.

Also shared with this committee was that the owner built the property with the expectation of paying higher real estate taxes. Housing Services Alliance, Inc. has been developing housing in the state of Ohio since 2003. The agency was aware of the tax law, statues and precedents regarding affordable housing and the reaffirmation of those by the Ohio Supreme Court in *Woda Ivy Glen vs Fayette County BOR*. The original operating budget submitted to HUD at the time of application for the property grant reflected this expectation.

It was stated that some private land owners “go out of business” when new affordable housing properties are built. I have been involved in developing and managing affordable housing for ten years in mostly rural areas and I am not aware of a private land owner going out of business as the result of a new property being built.

It was also presented that developers of these properties are making very large profits. HSA received only $10,486 dollars at the completion of the project. When you consider the MCI of $10,000, HSA received $486 for hundreds of hours of service-oriented work. Also, the management agent grosses approximately $7,000 per year to manage the property. This is not a large profit.

I will now speak to details presented in the proponent hearing.

Former Logan County Auditor Mr. Mike Yoder and other members of the Logan County BOR refused our initial request to adjust the valuation to $165,000. If the BOR would have used the income approach as prescribed in *Woda Ivy Glen Vs Fayette County BOR* and the amount of construction completed at the valuation date initially, there would not have been $55,000 in taxes that had to be repaid nor an exorbitant legal expense to the non-profit, Notestine Manor, Inc., County and school board. After being questioned by ranking member Williams regarding the taxes, Mr. Yoder stated that the property paid the $55,000 in taxes showing they could afford to do so. What was left out was that the property was unable to reimburse the non-profit management company, HSA, for site management, site maintenance, office supplies, repair supplies, management fees or bookkeeping fees. HSA shouldered these costs initially believing the BTA would rule in favor of the property given the history of tax valuations our company had previously experienced with other county BORs and the BTA. When the case was appealed to the Supreme Court, the time frame became so extended that the board of directors for HSA began to consider the possibility of ceasing the operation of the property at risk of defaulting on a HUD grant. It wasn’t until the Supreme Court found in favor of Notestine Manor and when the county reimbursed the property that the financial burden was relieved.

Please note that the BTA gave Notestine Manor, Inc. an even lower valuation than originally asked at the BOR of $75,000. The BTA is Ohio’s administrative tax court and their website states the following, “…taxpayers are assured their appeal will be reviewed and considered by board members and a staff of attorney examiners who focus exclusively on tax issues and have considerable expertise in tax matters.”

If the BOR would have accepted our explanation that the federal government restricts and limits the rents collected, eliminates any possibility of profit and very strictly applies guidelines to the sale of the property on the owner for 40 years, they would have agreed as the BTA and the Supreme Court affirmed, that the value requested was appropriate. To explain the sale restrictions further, if we were to offer Notestine Manor for sale with the added contingencies placed on 202 PRAC projects by HUD that it has to be bought by a 501(c)3 non-profit organization that can only own one asset (meaning not own another property) and CANNOT derive a profit from the operation, how much would it be worth on the open market? If any of you are willing to set up a 501(c)3 non-profit and pay $811,000 for Notestine Manor while accepting the use-restrictions, please let me know.

Mr. Yoder argued at the BTA hearing and in front of this committee that due to the number of increased emergency calls and use of public services made by elderly citizens, there should be a higher tax value placed on the property. Not only is this not a valid argument for property valuation, the message sent by this is that our elderly citizens should not receive the benefit of income adjusted rents due to being older and needing more care from our first responders. It may also suggest the BOR was aware the income approach with restricted rents was to be used in the valuation but was arguing for a reason that the cost approach should be allowed.

Mr. Yoder referred to additional funds received by Notestine Manor from the federal government to cover expenses as coming from “a pool of money from somewhere”. For clarification, the rents in this property are called contract rents and are set by HUD. There is no other money paid above that amount to the property and it is only paid for occupied apartments. In fact, if 30% of a household’s income is above the contract rent, the amount above that is to be given back to HUD. The property does not keep what is referred to as “overage”.

In addressing the comment made that valuing affordable housing requires young couples and widows to pay more, I will point out that Notestine Manor has 11 - 540 sq. ft. 1-bedroom apartments and currently, ten of the eleven apartments are occupied by low-income widows that are 62 or older.

Finally addressing attorney Kelley A. Gorry’s testimony, I think the task of properly explaining tax law and case history is best left for the attorney(s) speaking today in opposition of SB 36.

I do present that her assertion that “…many subsidized housing properties… will continue to be built if SB 36 is passed” is inaccurate as the increased cost of operation and drop in the ability to repay debt will directly affect housing construction as a matter of simple math. I will also mention that it should not be considered a loss of tax revenue when it shouldn’t have been generated from these properties, if properly valued, in the first place.

Thank you for taking the time to consider my remarks. I pray that you understand the damage that would be done to affordable housing and vulnerable households in this state if you were to pass SB 36.

Respectfully,

Robert Bender