



OHIO HOUSE CIVIL JUSTICE COMMITTEE

MAY 23, 2023

Opponent Testimony House Bill 64

Chair Hillyer, Vice Chair Mathews, Ranking Member Galonski, and members of the House Civil Justice Committee, thank you for the opportunity to provide opponent testimony on House Bill 64. My name is Robyn Stewart and I serve as Acting City Manager for the City of Worthington. On behalf of the City of Worthington, I am submitting this testimony in opposition to H.B. 64. Local governments work every day to maintain and enhance infrastructure that provides vital services to our communities. These infrastructure investments include facilities such as water and sewer lines, streets, sidewalks and bicycle facilities. They provide potable water to homes and businesses; collect wastewater away from buildings; and transport people to work, entertainment and family gatherings. These infrastructure projects benefiting the broader community require access to land across individually owned properties in order to serve the greater good.

Obtaining the property interests needed to implement such projects is very challenging. Even with current eminent domain authority, projects can drag on for years before finalizing access to the necessary property. This occurs whether it is vital infrastructure, like water and sewer lines, or infrastructure that enhances the quality of life in a community such as trails. H.B. 64 unnecessarily increases a single property owner's ability to significantly delay and increase the costs of necessary public improvements that benefit the entire community.

The City of Worthington is currently experiencing delay in a project to install an upsized sanitary sewer line that is required under an Order from the Ohio Environmental Protection Agency to

address sanitary sewer overflows. The current sewer line is under capacity and has surcharged (overflowed with raw sewage) between five and 24 times per year over the past decade. The City has obtained through voluntary negotiations all but one of the easements needed to install the larger sewer line. One property owner has refused to agree to provide a necessary easement even though the City has offered twice the appraised value and the project would occur along the same alignment as the existing sewer. After four years of unsuccessful negotiations, the City filed eminent domain proceedings. We are almost a year into those proceedings and the City still does not have the easement it needs. All the while, the sewer continues to overflow into park space, the roadway and on private property multiple times per year during rain events.

H.B. 64 would further limit and restrict the authority to accomplish a project such as this and it will make such projects more expensive and more likely to be subjected to additional litigation. Allowing any written offer to purchase property to be introduced as evidence at trial will discourage settlement offers above the appraised value, thereby reducing the likelihood of settlement, and increasing the number of trials.

Additionally, the bill excludes trails from the use of eminent domain. Bicycle and pedestrian facilities such as trails are highly valued by residents of Worthington. In 2019, the City adopted a Bicycle and Pedestrian Master Plan which involved extensive public engagement. The engagement showed that residents highly value bicycle and pedestrian facilities that connect neighborhoods and connect Worthington with the broader Central Ohio region. They want facilities that are safe for residents of all ages and abilities. A variety of strategies were recommended including bike lanes, sidewalks, shared use paths and shared roadways. The type of facility recommended by the Plan varied based on the specific environment in which the connection was desired.

In Worthington and many other Ohio communities, existing public roadways do not always provide safe and effective accommodations for pedestrians and cyclists. Right of way corridors established for public roadways favor the convenience of vehicles and may not be appropriate for trail users. Locating trails along existing greenways or rivers is often preferred by our community.

Worthington's ability to construct trails that meet the needs of our residents would be greatly limited by this bill.

The only way these facilities provide full connection for users is if they connect across the entire route from one destination to another. If eminent domain is not available or is much more difficult and expensive to achieve, some projects and desired connections will not be able to be built. People utilize these facilities for recreational purposes, which help facilitate our health and wellness, and also for transportation purposes when they either do not have access to a vehicle or choose to bike or walk instead.

Infrastructure projects need to balance serving the community's needs and interests with respecting individual property owners. That is why there are procedures already in place which include notice to the property owner, a professional appraisal of the value of the property to be acquired, negotiations prior to the filing of appropriation proceedings, and, when the value is disputed, jury determination of the appropriate compensation amount.

For these reasons, I urge you to oppose House Bill 64. Thank you for the opportunity to share our views. If you have questions, please do not hesitate to contact me at 614-436-3100 or robyn.stewart@worthington.org.