



TO: Gahanna City Council
Clerk of Council

FROM: Priya D. Tamilarasan, Esq., City Attorney

Cc: Mayor Laurie A. Jadwin

DATE: June 6, 2025

SUBJECT: Department of Law – Request for Council Action (June 9, 2025 Committee of the Whole)

ACTION ITEMS

ACTION ITEM #1: REQUEST FOR ADOPTION OF RESOLUTION

The Ohio Supreme Court has accepted a case from Cincinnati for review that involves the question of whether allegations that a person is a taxpayer and the allegation that a particular action by a city is illegal is sufficient to grant taxpayer standing.

In Cincinnati, Council passed a notwithstanding Ordinance allowing a development project to proceed, essentially allowing an exception for this specific project. Plaintiff demanded the city solicitor initiate a taxpayer litigation under R.C. 733.56, claiming Council's actions were administrative or executive and an abuse of Council's power. The city solicitor opined that notwithstanding ordinances are not administrative actions and declined to bring suit. Plaintiff filed suit in county court on behalf of the city. The trial court found that the Plaintiff had no standing to bring the claim and dismissed the action. The First District affirmed the decision.

Standing refers to a party's right or capacity to bring a legal claim. In common-law, standing is satisfied if the party suffered an alleged injury that was caused by the defendant's allegedly unlawful conduct and can be redressed by the requested relief. In this case, the Plaintiff had no private injury or personal stake in the outcome of this case.

Standing can also be established pursuant to statute. Under R.C. 733.6, a city attorney may seek on behalf of a city an order of injunction to restrain the abuse of its corporate powers. A taxpayer may demand that the city attorney seek injunctive relief under the statute and if they decline, the taxpayer may institute suit in their own name, on behalf of the city. However, the Ohio Supreme Court has long held that to pursue a taxpayer action under R.C. 733.59, the taxpayer must be an

individual who volunteers to enforce a right of action on behalf of and for the benefit of the public, regardless of any personal or private motive or advantage. It has further held that a plaintiff who attempts to invalidate a local ordinance merely upon the ground that it is unauthorized and invalid is not seeking to enforce a public right and fails to meet the requirements of taxpayer standing. The Plaintiff in this case does not state a specific public right affected and the court found that it has no potential to affect a public right.

Basically, the court found that this ordinance affects only a small number of people in the immediate vicinity of the development, which does not include Plaintiff, so it is not a public right nor Plaintiff's private right, that is impacted. If the Supreme Court overturns this ruling, it would essentially allow any individual taxpayer to sue the city just because they do not like a program or expense authorized by Council.

There has been a call to action from the City of Columbus and Ohio Municipal Attorneys Association (OMAA) to sign on to an amicus brief written by City of Columbus in support of Cincinnati and against this proposition. Thus far, municipalities in Ohio that have expressed support include Grandview Heights, Athens, and Chagrin Falls. Many others are discussing this with their respective Council.

It is important to note that maintaining the standards for taxpayer litigation would not impact citizens' right to a referendum on any ordinance.

Conclusion:

The Department of Law respectfully requests Council approve a resolution authorizing the City Attorney to sign onto an amicus brief in support of Cincinnati.

Requested Legislation and Funding:

Legislation Needed:	Resolution
Emergency/Waiver:	N/A
Vendor Name:	N/A
Vendor Address:	N/A
Already Appropriated:	N/A
Supplemental/Transfer:	N/A

Attachments:

- LEG-ATT Cincinnati Appeal Decision
- LEG-ATT Plaintiff Memo for Jurisdiction
- LEG-ATT Cincinnati Memo in Opposition