

City Attorney Report for 2021

This has been another interesting year. My yearly Report to Council is as follows:

Along with the normal aspects of advising Council, the Mayor, the Police Department, City staff and the Boards, I have also prepared and amended multiple ordinances, which have been approved by Council. I have also registered the City to be a party to the Big Three and Johnson and Johnson Opioid Settlement lawsuits. The following are the lawsuits for which the City was involved during 2021.

Speedway Transportation – State Court: Speedway Transportation claims that in 2016 and 2017, they relied to their detriment, upon oral representations made by employees of the City of Gahanna when they were trying to obtain the contract with the Police department, for towing vehicles. A Motion on the Pleadings was granted to the City of Gahanna, and Speedway Transportation appealed. The Court of Appeals granted their Appeal in part and denied it in part. Two of their issues were remanded to the trial Court in order for them to allow the plaintiff an opportunity to conduct discovery before Motions for Summary Judgment can be filed to address those issues.

Speedway Transportation – Federal Court: Speedway Transportation has filed a case in Federal Court alleging that they were discriminated against based upon the owners Ethnicity and Religion. The City was granted a Judgment on the Pleadings, stating that the Complaint did not state sufficient facts to set forth a claim against the City. Speedway Transportation has filed an Appeal. Briefs have been filed, the Court upon their own motion waived the oral arguments, and we are awaiting a decision.

Carolyn Burica: Was dismissed by plaintiff without prejudice, after we filed our Motion for Summary Judgment. Plaintiff refiled her Complaint within the one-year time period and the case was settled by agreement.

Gahanna v. Ohio Municipal Joint Self-Insurance Pool:

The City of Gahanna filed a lawsuit against our Insurance carrier, for breach of the Errors and Omissions portion of the property/liability policy agreement. Summary Judgment was granted in favor of the Ohio Municipal Joint Self-Insurance Pool. The City of Gahanna appealed, and the Court of Appeals held in favor of the Self-Insurance Pool.

Brian Weaver: Mr. Weaver has lost several appeals with the Ohio Civil Rights Commission, wherein he contested his firing and that the City failed to provide reasonable accommodations for his disability. He has filed a Complaint on the same issues. The City of Gahanna has filed their answer. We are currently in the with the Discovery stage of the lawsuit in which both sides can request information from the other. Since there has been an abundance of information obtained during the previous claims, the City is preparing a Motion for Summary Judgment in order to dispose of this matter, hopefully once and for all.

Access Ohio: Access Ohio was denied a variance by the Planning Commission and that denial was upheld by the Board of Zoning and Building Appeals. Access Ohio filed an appeal to the Franklin County Municipal Court. The Municipal Court upheld the denial, but rejected the stipulation by the City, that Access Ohio was eligible for a variance. Access Ohio appealed the decision. The Court of Appeals granted the appeal on the basis that the lower court did not follow

the stipulation of the City stating that Access Ohio was eligible for a variance. In the decision, the Court of Appeals agreed with the City of Gahanna about the reasons why they denied the request, but sent it back to the Municipal Court, because in the Municipal Courts decision, they did not accept the stipulation. This case has been pending all year and the plaintiff has failed to file any Motions to move the case forward.

Scott Gilmore, et. al.: Mr. Gilmore filed a lawsuit requesting the return of items that were seized pursuant to a search warrant. Upon receipt of the lawsuit, the office of the City Attorney worked with the Police Department to have the content of the items analyzed and return the items that were not needed for evidence. The case has been dismissed.

Robert Peterson: In 2010, Mr. Peterson filed a lawsuit against the City of Gahanna, alleging he was injured by one of Gahanna's police officers during an explosives training course. After winding through the Courts for nine years, Plaintiff dismissed his case, without prejudice, which allowed him one year to refile it. 364 days from the dismissal, Mr. Peterson refiled his Complaint. The case has been dismissed with prejudice.

Julie Dean: Mrs. Dean, filed a Civil Rights complaint against the Gahanna Police Department claiming they discriminated against her and her family on the basis of denial of a public accommodation because they allegedly reinforced discriminatory actions taken by Columbus Academy. Specifically, Ms. Dean asserted that the Gahanna Police discriminated against her by failing to overrule a directive by Columbus Academy officials that all attendees must wear facial coverings during sporting events held at the school. After both sides briefed their positions, the

Commissioner determined that there was no discrimination by the Gahanna Police Department, and the case was dismissed.

Other than the Julie Dean complaint, no other actions were filed on behalf of, or against the City this year.