

## City Attorney Report for 2020

This has been quite a 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. The following are the lawsuits for which the City is currently involved.

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 for Summary Judgment was granted to the City of Gahanna, and Speedway Transportation appealed. The briefs have been filed by both parties. Oral arguments have not been scheduled as the Court of Appeals has recessed for the year.

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 of Gahanna has filed a Motion to Dismiss, alleging, amongst other things, that the Complaint does not contain sufficient facts to state a claim, and that several of the claims were already disposed of in the State Court filing. We are awaiting Speedways response to our Motion.

Carolyn Burica: Was dismissed by plaintiff without prejudice, after we filed our Motion for Summary Judgment. Plaintiff has one year to refile the Complaint.

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 has appealed. Briefs have been filed and oral arguments were held on November 19, 2020. We are awaiting a decision by the Court.

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 will now proceed with the Discovery stage of a lawsuit in which both sides can request information from the other.

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. They 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. The Municipal Court has not set any dates for the parties to address this issue.

Raymond Frutchev: The City of Gahanna, through the Board of Health, filed a Complaint against Mr. Frutchev for his failure to connect to the public sanitary sewer system. An agreed Permanent Injunction was granted wherein Mr. Frutchev's use of a household sewage treatment system was enjoined and required him to connect to the public sanitary sewer system.

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. Attorney for Plaintiff has indicated that they were going to dismiss the suit, but despite frequent request by my office, they have yet to do so.

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 City of Gahanna has filed their answer and we are in the Discovery process. I do not anticipate much Discovery, as the case was fully prepared 10 years ago.