



Ohio Legislative Service Commission

Bill Analysis

Wendy H. Gridley

S.B. 104

131st General Assembly
(As Introduced)

Sens. Tavares, Williams

BILL SUMMARY

- Provides an express right to a hearing to owners and lienholders of insecure, unsafe, or structurally defective or unfit buildings before a board of township trustees proceeds to remove, repair, or secure the buildings.
- Generally requires a board of township trustees to give notice including a statement informing parties in interest that each party is entitled to a hearing if requested in writing within 30 days after the day on which the notice was mailed.
- Expands current law's requirement for publishing notice from once in a newspaper of general circulation in the township to once a week for three consecutive weeks in a newspaper of general circulation in both the township and the county in which the building is located.
- Establishes the time and manner of the hearing to be held before the board of township trustees if timely requested by a party in interest.

CONTENT AND OPERATION

Notice of Hearing

Current law authorizes a board of township trustees to provide for the removal, repair, or securance of buildings or other structures in the township that have been declared insecure, unsafe, or structurally defective by any fire, health, or building enforcement authority after giving parties in interest (see **COMMENT**) certified mail notice at least 30 days before doing so.

The bill requires the notice to include a statement informing the parties in interest that each party is entitled to a hearing if the party requests it, in writing, within

30 days after the date on which the notice was mailed. If a party's address is unknown and cannot reasonably be obtained, the bill requires publication of the notice once a week for three consecutive weeks in a newspaper of general circulation in the township and the county in which the building or structure is located. Current law requires publication only once in a newspaper of general circulation in the township.¹

Hearing requirements

If a party in interest timely requests a hearing, the board of township trustees must set the date, time, and place for the hearing and notify the party by certified mail, return receipt requested. The hearing must occur between 7 and 15 days after the party requested it, unless otherwise agreed to by the board and the party in interest.

At the hearing, the party in interest is entitled to appear in person, be represented by an attorney, and present evidence and make arguments to show the board's intention to remove, repair, or secure a building or structure is not reasonable or justifiable in fact or in accordance with law. The hearing must be recorded by stenographic or electronic means.²

The order

The bill requires a board of township trustees to issue an order within 30 days after the hearing, or not later than 30 days after mailing the initial notice of a right to hearing when no party in interest requested a hearing. The order may dismiss the matter or direct the removal, repair, or securance of the building or other structure. The board must prepare a written memorandum of its order that explains the order and the reasoning for it. A party in interest may consent to an order at any time.

A party in interest who is adversely affected by the order, and who requested and participated in a hearing may appeal the order to a court of common pleas under the current authority to appeal final orders or decisions of a political subdivision.³

Exception for emergency situations

The bill provides that if the building or other structure creates a hazard jeopardizing public health or safety that cannot be delayed, the board may proceed to remove, repair, or secure it without complying with the notice and hearing

¹ R.C. 505.86(B).

² R.C. 505.86(B)(2).

³ R.C. 505.86(B)(3) and (4).

requirements. The board, however, is required to comply with those provisions as soon as reasonably possible after beginning the emergency actions.⁴

As under current law, the bill allows a party in interest to enter into an agreement with the board of township trustees to perform the removal, repair, or securance. The bill adds that the board may incorporate the agreement by reference into its order.

COMMENT

The bill defines "party of interest"⁵ as an owner of record of the real property on which the building or structure is located, and includes a holder of a legal or equitable lien of record on the real property or the building or other structure. Current law applies to the holders of legal or equitable liens of record upon the real property on which the building is located and to owners of record of the property.

HISTORY

ACTION	DATE
Introduced	03-03-15

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⁴ R.C. 505.86(B)(5).

⁵ R.C. 505.86(A). The bill actually does not use the defined term but uses "party [or parties] in interest" instead throughout its provisions. "Party *in* interest" is common legal usage.

