

HEIGHTS OBSERVER

News and Views from Cleveland Heights and University Heights

Lawsuits threaten housing code enforcement

by Deborah Van Kleef and Carla Rautenberg

If you have owned a house in Cleveland Heights or University Heights, at some point you may have received from your city housing department a list of code violations, with a deadline for correcting them. It might have arrived following a systematic (routine) inspection of your home or rental unit, or a point of sale inspection (POS). Regardless, it's only human to grumble a little before getting down to the work of bringing our properties up to code.

Most of us understand, however, that code enforcement is key to protecting our greatest assets as older communities: safe, healthy, attractive and, in many cases, historically significant housing. In addition, regular inspections of rental properties can ensure the rights and well being of renters.

Cleveland Heights and University Heights are among 22 Cuyahoga County cities with ordinances requiring a POS inspection. It ensures a house meets interior and exterior codes, and protects the buyer from major unanticipated expenses. It allows the seller and buyer to negotiate with all cards on the table. It's a good thing.

Maurice Thompson doesn't agree. Thompson is a lawyer and executive director of the 1851 Center for Constitutional Law, a nonprofit law firm in Columbus. He seems to believe that individual property rights trump all other interests, including maintenance of a city's housing stock for all of the above reasons.

Thompson was the keynote speaker at April's "Pancakes and Politics"—an annual event sponsored by the Akron Cleveland Association of Realtors (ACAR), and attended by real estate professionals and local government officials. ACAR opposes POS, on the grounds that it delays housing sales and may result in lower prices.

ACAR's leaders perhaps failed to sufficiently vet their speaker. According to several people present, Thompson railed against city governments in general, and showed particular virulence toward a few local communities. He reportedly declared, "Any community in Northeast Ohio with the word 'Heights' in its name is just like Nazi Germany."

We are tempted to dismiss Thompson as a crank; however, he has successfully filed class-action lawsuits against two Ohio communities: Oakwood (a suburb of Dayton) and Bedford. He argued that POS and rental inspections are, in effect, warrantless searches, and thus violate Fourth Amendment protection against unreasonable search and seizure.

On that basis, the court found Bedford's POS and rental inspection ordinances unconstitutional. As a result, Bedford has had to amend its ordinances so that (1) a property owner can refuse an inspection unless the city obtains an administrative warrant, and (2) failure to correct violations is considered a civil offense, not a criminal one. The court also ordered Bedford to cease collecting inspection fees, and to refund \$40,677 collected 2014–2017.

The village of Newburgh Heights recently made similar amendments to its ordinances in order to avoid being sued. Cleveland Heights' ordinances already provide for warrants should a property owner refuse inspectors entry.

Thompson's rhetoric created an unnecessary divide between groups at the ACAR event, according to Newburgh Heights Building Commissioner Kristine Pagsuyoin. "Cities want to get along with realtors. You want dialog, you want discussion," she said.

Cleveland Heights Mayor Carol Roe, who also attended the April event, agreed. "We value the real estate people, who perform an essential service," she said, adding, "They have been so supportive of our efforts here in the Noble area." It is the city's responsibility, she said, "to make sure POS inspections are not bogging down the process of bringing in new homeowners."

In a democracy, lawmakers must balance individual rights with the well being of others, and of the community as a whole. Rigorously enforced housing codes benefit homeowners, home buyers, renters, neighborhoods and entire cities. Weakening them would tip the balance in the wrong direction.

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Cleveland, OH

 At 10:53 AM EDT
Clear
57°F
SSE 16 MPH G 24
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EVENTSCAENDAR

November 2020

1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

November, 2020

UPCOMINGEVENTS

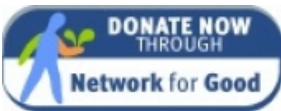
[Submit New Event](#)

Wednesday, November 4:

[9:00 AM - 12:00 PM - Hospice of the Western Reserve Virtual Volunteer Training](#)

[6:00 PM - 7:00 PM - 2021 Cuyahoga County Solar Co-op Online Info Session](#)

Thursday, November 5:



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A PROGRAM OF FUTUREHEIGHTS



Deborah Van Kleef and Carla Rautenberg

Deborah Van Kleef and Carla Rautenberg are longtime residents of Cleveland Heights. Contact them at heightsdemocracy@gmail.com.

[Read More on Heights of Democracy](#)

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[6:00 PM - 8:00 PM - CH Meet Your Police](#)

[7:00 PM - UH City Planning Commission](#)

Sunday, November 8:

[10:00 AM - 3:00 PM - \\$75 FAMILY PICTURE EVENT- 2 DAYS ONLY - SCHEDULE YOUR SESSION TODAY!](#)

Tuesday, November 10:

[5:00 PM - 12:00 AM - FREE Doctor appointments by phone or computer](#)

[5:30 PM - 8:30 PM - Hospice of the Western Reserve Virtual Volunteer Training](#)

[7:00 PM - BOE Regular Board Meeting](#)

Thursday, November 12:

[6:00 PM - 7:00 PM - Food Waste: The Biggest Problem We Can Solve.](#)

Saturday, November 14:

[10:00 AM - 4:30 PM - Usui Level II Reiki Class \(In-Person and Zoom\)](#)

[12:00 PM - 2:00 PM - Stories of Connection](#)

[1:00 PM - 2:30 PM - Virtual Author Event with Eliese Colette Goldbach](#)

Sunday, November 15:

[2:00 PM - 4:30 PM - Art on View: Portraits of Flowers by Gloria Plevin](#)

Thursday, November 19:

[8:30 AM - 4:00 PM - Ohio's Women's Entrepreneurship Day](#)

Saturday, November 21:

[10:00 AM - 4:30 PM - Usui Level I Reiki Class \(In-Person and Zoom\)](#)

[7:30 PM - 8:30 PM - Raphaël Feuillâtre in Concert \(online\)](#)

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