

The Construction Conversation

Ohio's Legislative, Administrative, and Judicial Two-Way Newsletter

September, 2023

A Service of Luther L. Liggett, Attorney at Law
LLiggett@columbus.rr.com

Legislative: Occupational Review

The House State and Local Government Committee held hearings regarding whether design professional licensing boards should continue to require licenses to practice in the professions. (Cont'd p. 2.)

Legislative: Monopolizing Starter Homes

Senate Bill 76 would levy a Housing Market Impact Tax of \$1,500.00 per house owned by a landlord who owns 50 houses or more, to discourage monopolistic neighborhood practices. (Cont'd p. 2.)

Administrative: New Building Codes

The Governor announced that the adoption of the 2024 Ohio Building, Mechanical, and Plumbing Codes resulted in the decrease of unnecessary language and reduction of 610,000 words, in theory making the Codes easier to understand. (Cont'd p. 2.)

Judicial: Municipal Park is "Personal Service Contract" Exempt from Bidding

A Court of Appeals reversed a trial court decision that a local municipality failed to follow Ohio construction bidding law when selecting a design-builder for a children's play park. (Cont'd p. 3.)

Administrative: Tax Credit Funds Project

The Ohio Tax Credit Authority approved six projects to create 332 new jobs

by offering Ohio income tax rebates to qualifying employers, resulting in an estimated \$27 million in new payroll. (Cont'd p. 3.)

Administrative: National Construction Appreciation Week

The Ohio Department of Job and Family Services provided Ohio data about the construction industry for "National Construction Appreciation Week", focusing on the Intel plant and Honda project. (Cont'd p. 3.)

Legislative: Community Solar Pilot Program

The House Public Utilities Committee held a second, Proponent Testimony hearing for House Bill 197, to establish the Community Solar Pilot Program and the Solar Development Program. (Cont'd p. 3.)

The Construction Conversation

September, 2023

Page 2

Legislative: Occupational Review **(Cont'd)**

Effective April 5, 2019, prior session Senate Bill 255 required review of all state licenses to determine whether any should be eliminated or revised. This process will occur every 6 years.

Executive Director Shannon Himes of the separate Architects' Board and Landscape Architects' Board submitted answers to a Committee Questionnaire, and testified on September 26th.

The American Institute of Architects of Ohio submitted a letter testifying in support of the Boards' combined staff in their enforcement of licensure requirements, specifically to ensure the health, safety, and welfare of the public.

Separately, the Ohio Chapter, American Society of Landscape Architects also submitted a letter, stressing that the Boards' hard work is "ensuring the rules of professional practice are fairly enforced."

A week earlier, Executive Director John Greenhalge of the Board of Registration for Professional Engineers and Surveyors testified, citing the Board's efforts to streamline the process, including reciprocity with other jurisdictions.

After the Committee hears all testimony, it will recommend legislative changes to individual boards as might improve the licensing process.

Legislative: Monopolizing Starter Homes **(Cont'd)**

With joint, bipartisan sponsorship from Senator Bill Blessing (R, Cincinnati) and Senator Nikki Antonio (D, Cleveland),

the legislative issue is receiving national attention with a New York Times analysis of property data which studied 13 major city examples.

"Wall Street Is Buying Up Starter Homes" detailed the practice of investors buying up multiple starter homes in city neighborhoods, with the intent to remove them from sale and control rental prices in the area.

The result is that an individual buyer cannot find affordable housing to purchase, and otherwise is faced with monopolistic, corporate landlords from whom to rent.

Of course, history repeats itself. Two centuries ago, the State of Virginia offered Ohio land bounties for service in the American Revolutionary War. Known as the "Virginia Military District" in central Ohio, at one time only 100 veterans owned 70% of the 4.2 million acres in the 1790's. Nathaniel Massie was one such speculator and surveyor, who laid out the State's Capitol in Chillicothe.

For further information, see New York Times article, "Wall Street Is Buying Up Starter Homes", Friday, September 22, 2023.

Administrative: New Building Codes **(Cont'd)**

By adopting uniform codes by reference instead of placing the actual language in an administrative rule, Ohio avoids duplicity. Instead, only differences with the uniform codes are in the rules.

The update included the Electrical Code reference to the 2023 National Electrical Code edition, instead of the 2017 edition, with one change. There appeared an

The Construction Conversation

September, 2023

Page 3

incompatibility between certain HVAC equipment and GFCI requirements, which had a sunset date not in the Ohio version.

The Ohio Board of Building Standards continues to work on the Residential Code, expecting a March 1, 2024 effective date.

The new law enacted by Senate Bill 9 requires all agencies to reduce all administrative regulations by one third in three years.

Senate Bill 9 included an exception when adopting law by reference as a whole. Accordingly, the Board adopted the ICC's 2021 edition of the Codes.

Judicial: Municipal Park is “Personal Service Contract” Exempt from Bidding (Cont’d)

The municipality accepted playground design proposals from multiple vendors, selecting one for a half-million dollar contract. An unsuccessful bidder sued, did not obtain a preliminary injunction, and did not seek a stay of the judgment, so the municipality proceeded. This rendered the remedy of award to the unsuccessful vendor moot.

It is unclear how a party can obtain a stay of a judgment that does not order a remedy.

The Court of Appeals further reasoned that the design-build proposal was a “service contract” and therefore not construction. Focusing on the “design” and ignoring the “build”, the Court held that a local municipality could exercise “home rule” to hire service vendors without construction competitive bidding.

Parkplay Sols. LLC v. City of Avon Lake, 9th Dist. Lorain, Case No. 22CA011848, 2023-Ohio-3103.

Administrative: Tax Credit Funds Project (Cont’d)

Included in the approval is a 1.325% eight-year Job Creation Tax Credit to Viega LLC in Portage County, for the manufacturing and sale of plumbing, heating, and pipe connection products for HVAC and drainage technology. The Credit's estimated value is \$315,000.00. For more information, see:

<https://development.ohio.gov/about-us/boards-and-commissions/ohio-tax-credit-authority>

Administrative: National Construction Appreciation Week (Cont’d)

Ohio construction employment exceeds 245,000 individuals at an average income of \$72,000.00 annually, including many trained through state-certified apprenticeship programs.

The Department of Development announced disbursement of \$600 million for Intel's two chip factories, matched by Ohio's grant of \$500 million for water, wastewater and road infrastructure, and \$300 million for an on-site water reclamation facility.

The project will generate 7,000 construction jobs, followed by 3,000 jobs at an estimated \$405 million in annual payroll.

Legislative: Community Solar Pilot Program (Cont’d)

Sponsored by Representatives Jim Hoops (R, Napoleon) and Sharon Ray (R,

The Construction Conversation

September, 2023

Page 4

Wadsworth), the Committee took testimony from 66 Proponents, including representatives of the IBEW and various energy companies.

If passed, the legislation would require the Public Utilities Commission (PUCO) to establish a Community Solar Pilot Project, consisting of 1,500 megawatts implemented throughout Ohio. Electric Distribution Utilities would have to purchase the power generated, and subscribers would receive a credit on their invoice.

The legislation also requires the PUCO to establish a Solar Development Program, consisting of 250 megawatts of capacity, for community solar facilities or solar fields on Appalachian-region sites distributed among the Electric Distribution Utilities serving the Appalachian region.

The bill prioritizes the development of community solar on brownfield and distressed land where power plants once operated.

-- 30 --

The Construction Conversation

September, 2023

Page 5

Join us in

The Construction Conversation Call-In

on

Thursday, October 12, 2023

3:30 p.m.

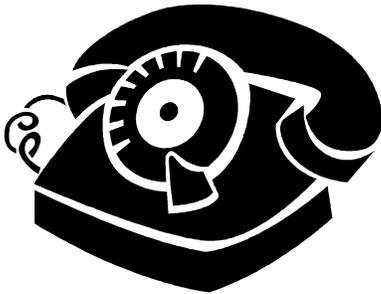
Join Zoom Meeting

[https://us02web.zoom.us/j/82890594091?
pwd=TnQzQjg1RGRTbWhuQjFIT2NqO
UI4dz09](https://us02web.zoom.us/j/82890594091?pwd=TnQzQjg1RGRTbWhuQjFIT2NqOUi4dz09)

Meeting ID: 828 9059 4091

Passcode: 698938

301 715 8592 US (Washington DC)



The Construction Conversation

September, 2023

Page 6