

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

FILED

BLUE TRAIN, INC. dba
PLAY BAR AND GRILL
1051 WEST 10TH STREET,
CLEVELAND, OHIO 44113

Plaintiff

vs.

CITY OF CLEVELAND
601 LAKESIDE AVENUE
CLEVELAND, OHIO 44114

and

MAYOR JUSTIN BIBB
CITY OF CLEVELAND
601 LAKESIDE AVENUE
CLEVELAND, OH 44114

and

DOROTHY A. TODD
CHIEF OF POLICE
CITY OF CLEVELAND
601 LAKESIDE AVENUE
CLEVELAND, OHIO 44114

and

CASE NO:

2025 SEP 10 P 1:30

CLERK OF COURTS
CUYAHOGA COUNTY

JUDGE:

Judge: PETER J CORRIGAN

CV 25 124324

**PLAINTIFF'S MOTION FOR
TEMPORARY RESTRAINING
ORDER**

[Ohio Civ.R.65]

PROCESSED
Imaging Department

SEP 11 2025

Clerk of Courts
Cuyahoga County, Ohio

CV25124324

201380273



DORNAT A. DRUMMOND)
CHIEF DIRECTOR OF PUBLIC SAFETY)
CITY OF CLEVELAND)
601 LAKESIDE AVENUE)
CLEVELAND, OHIO 44114)
)
)
)
Defendants)

Now comes Plaintiff, Blue Train, Inc, dba Play Bar and Grill, by and through counsel, and respectfully moves this Court pursuant to *Ohio Civ.R. 65* and *Ohio Revised Code § 2727.02* for a Temporary Restraining Order (“TRO”) against Defendants, the City of Cleveland and its officials, to enjoin them from closing, boarding up, or otherwise interfering with the lawful operation of Plaintiff’s business.

This Motion is supported by the attached Verified Complaint, Affidavit of Blue Train, Inc, dba Play Bar and Grill, and the following Memorandum.

FACTUAL BACKGROUND

1. Plaintiff owns and operates Blue Train, Inc dba Play Bar and Grill located at 1051 West 10th Street, Cleveland, OH 44113, which is duly licensed by the State of Ohio and the City of Cleveland to serve alcoholic beverages.
2. On or about September 7, 2025, at approximately 6:15 PM shooting occurred between West 11th, West 10th, and the surrounding areas.
3. At approximately 7:00 PM City officials notified Plaintiff of their intent to summarily close and board up the premises. The notice of this decision to destroy Plaintiff’s business and reputation occurred less than an hour after the incident that occurred between West 11th, West 10th, and the surrounding areas.

4. At approximately 9:00 PM, on September 7, 2025, the City of Cleveland did summarily board up the premises at 1051 West 10th Street, Cleveland, Ohio.
5. Plaintiff has not been given adequate notice, hearing, or an opportunity to contest the City's allegations, in violation of Plaintiff's due process rights.
6. Plaintiff was not provided with any written notice of violation on September 7, 2025, nor was plaintiff given the opportunity to contest the closure of its business.
7. Prior to the City of Cleveland summarily closing the location, Plaintiff received no notice of violations regarding the operation of the business from the City of Cleveland.
8. If Defendants are permitted to proceed, Plaintiff will suffer immediate and irreparable harm, including loss of business goodwill, loss of customers, reputational damage, and potential permanent closure.

LEGAL STANDARD

Ohio Rule of Civil Procedure R(65)(A) states the following:

A temporary restraining order may be granted without written or oral notice to the adverse party or his attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give notice and the reasons supporting his claim that notice should not be required. The verification of such affidavit or verified complaint shall be upon the affiant's own knowledge, information or belief; and so far as upon information and belief, shall state that he believes this information to be true. Every temporary restraining order granted without notice shall be filed forthwith in the clerk's office; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed fourteen days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for one like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension

shall be set forth in the order of extension. In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character. When the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if he does not do so, the court shall dissolve the temporary restraining order. On two days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification, and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require. *Ohio Civ.R. 65*

Additionally, Ohio Revised Code provides the following regarding temporary restraining orders:

A temporary order may be granted restraining an act when it appears by the petition that the plaintiff is entitled to the relief demanded, and such relief, or any part of it, consists in restraining the commission or continuance of such act, the commission or continuance of which, during the litigation, would produce great or irreparable injury to the plaintiff, or when, during the litigation, it appears that the defendant is doing, threatens or is about to do, or is procuring or permitting to be done, such act in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual. *Ohio Rev. Code § 2727.02*

To establish entitlement to a temporary restraining order, a party must demonstrate: 1) a strong or substantial likelihood or probability of success on the merits; *Valco Cincinnati, Inc. v. N & D Machining Serv., Inc.*, 24 Ohio St.3d 41 (1986) 2) imminent threat of irreparable harm to the plaintiff if the injunction is not granted; 3) the absence of harm to others if the injunction is granted; and 4) that the public interest would be served by the issuance of an injunction. *Corbett v. Ohio Building Authority*, 86 Ohio App.3d 44, 49 (10th Dist.1993). A party seeking injunctive relief must establish these elements by clear and convincing proof. *Hydrofarm, Inc. v. Orendorff*, 180 Ohio App.3d 339, 2008-Ohio-6819, ¶18 (10th Dist.). Under Ohio Civ.R. 65, a TRO may

issue when it clearly appears from specific facts shown by affidavit or verified complaint that the applicant will suffer immediate and irreparable injury, loss, or damage before the adverse party can be heard.

ARGUMENT

A. Plaintiff is likely to succeed on the merits.

The City's intended action exceeds its lawful authority and deprives Plaintiff of due process under the Ohio and U.S. Constitutions. Plaintiff has complied with all licensing and operational requirements. Plaintiff has been provided no notice of any violations involving municipal, state, or federal law.

B. Plaintiff will suffer irreparable harm without a TRO.

Boarding up the premises will cause permanent loss of goodwill, customers, and business reputation. These harms cannot be remedied by monetary damage alone. Despite the September 7, 2025, shooting occurring between West 11th, West 10th and surrounding areas. The actions of the City of Cleveland have created the public perception that Plaintiff is somehow responsible for the criminal actions of citizens outside of its business. Plaintiff's business has been a constant source of news coverage and exposure since the late evening of September 7, 2025. The closure and boarding of Plaintiff's place of business on September 7, 2025, has linked its business reputation to a tragic all too common occurrence of gun violence.

C. The balance of equities favors Plaintiff.

The City will suffer no harm from maintaining the status quo pending full hearing, whereas Plaintiff faces business destruction. The City of Cleveland, on September 8, 2025,

issued public statements proclaiming, despite putting Plaintiff out of business, that the investigation involving the events of September 7, 2025, remains ongoing.

D. The public interest supports granting the TRO.

The public interest favors ensuring government action is lawful and constitutional. The foundational principle of our constitutional system is rendered moot without fundamental due process. The Constitution of the United States steadfastly guards against this type of governmental action stating:

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” *U.S. Const.amend. XIV, § 1.*

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Immediately issue a Temporary Restraining Order Enjoining Defendants, their agents, and employees from boarding up, closing, or otherwise interfering with the operation of Play Bar and Grill;
2. Schedule a prompt hearing on Plaintiff’s request for a Preliminary Injunction.
3. Require such bond, if any, as the Court deems proper under Civ.R. 65(C); and
4. Grant all other relief to which Plaintiff may be entitled.

Respectfully submitted,



JOSEPH P. MORSE (0073298)
323 W. Lakeside Avenue, Suite 220
Cleveland, Ohio 44113
Phone: (216) 241-0520
Fax: (216) 241-6961
Email: jpm@jmorse-law.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER" was served via electronic mail on this 9th day of September, 2025 upon the following:

Mark Griffin
Chief Legal Officer
City of Cleveland
601 Lakeside Ave.
Cleveland, Ohio 44114



JOSEPH P. MORSE (0073298)
Attorney for Plaintiff

10.) Play Bar and Grill and Blue Train, Inc. to date have been provided with no written declaration of any violations that cause the City of Cleveland to interfere with the business.

11.) Play Bar and Grill and Blue Train, Inc. were provided with no opportunity to contest the closure of the business. The actions of the City of Cleveland have caused irreparable harm to the business and caused irreparable harm to the reputation of Play Bar and Grill and Blue Train, Inc.

12.) The actions of the City of Cleveland in summarily closing Play Bar and Grill have also caused irreparable harm to the employees of Play Bar and Grill.

Further, affiant sayeth naught,

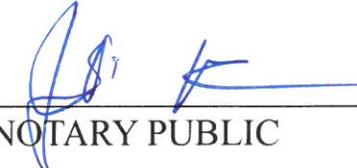


DAVID HILL

9/10/25

Date

SWORN TO BEFORE ME and subscribed in my presence this 10TH day of September, 2025 by David Hill.



NOTARY PUBLIC

JOSEPH P. MORSE, Attorney at Law
Notary Public, State of Ohio
My commission has no expiration date
Section 147.02 B.C.

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**TEMPORARY RESTRAINING
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[Ohio Civ.R.65]

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This matter came before the Court on Plaintiff's Motion for Temporary Restraining Order pursuant to **Ohio Civ.R. 65**. The Court, having reviewed the Verified Complaint, supporting Affidavit(s), and applicable law, finds as follows:

1. Plaintiff has demonstrated a **substantial likelihood of success on the merits** of its claims.
2. Plaintiff has shown that it will suffer **immediate and irreparable harm** if the requested relief is not granted, including the loss of business goodwill, customers, and constitutional rights.
3. The **balance of equities** favors Plaintiff, as the harm to Plaintiff absent relief outweighs any harm to Defendants from maintaining the status quo.
4. The requested relief is consistent with the **public interest**.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. Defendants, including the City of Cleveland, its officers, agents, employees, and all persons acting in concert with them, are hereby **enjoined and restrained** from boarding up, closing, or otherwise interfering with the operation of Plaintiff's business, Play Bar and Grill located at 1051 West 10th Street, Cleveland, Ohio 44113.
2. This Temporary Restraining Order shall remain in effect for **14 days** from the date of entry, unless extended by further order of this Court or by agreement of the parties, as permitted under Civ.R. 65(B).
3. A hearing on Plaintiff's Motion for Preliminary Injunction is set for:

Date: _____

Time: _____

Courtroom: _____

4. Pursuant to Civ.R. 65(C), Plaintiff shall post bond in the amount of \$ _____ as security for costs and damages sustained by any party found to have been wrongfully enjoined.

IT IS SO ORDERED.

DATE: _____

Judge _____
Court of Common Pleas
Cuyahoga County, Ohio