

IN THE OHIO COURT OF CLAIMS

IN RE CITY OF EAST CLEVELAND )

CASE NO. 2025-00925RC

JUDGE LISA L. SADLER

MOTION TO INTERVENE PER ORC  
2735.01 et seq. BY CERTAIN DF. CITY  
RESIDENTS/FORMER EMPLOYEES  
& OTHER INTERESTED PARTIES  
WITH MERIT BRIEF ATTACHED

Now come certain Defendant City Party Respondents per RC 2735.01 *et seq.*, who by and through undersigned Counsel, who move this Honorable Court for permission to *Intervene* in the within action inasmuch they have a significant interest in the outcome of this case. Those City Party Respondents include certain Residents; former Employees, Contractors or other Interested Parties in pending City of East Cleveland related litigation or legal issues; not limited to HEATHER MCCOLLOUGH (former employee) and DARRYL MOORE (resident/contractor), CuyCommPleas Court Case No. 25CV125922; BRANDON KING (former employee/resident) and WILLA HEMMONS (former employee/contractor), CuyCommPleas Court Case No. 24 CV 997000; and, BRANDON KING, CuyCommPleas Case No. 23-981131 [Jurisdiction retained to enforce settlement (Pltff. Atty. Ken Myers, v. Df. City of East Cleveland)]. This *Motion to Intervene* is made by virtue of the fact that the proposed Intervenors have substantial rights that are not represented by the current parties. Civ. R. 20. The statutory basis for the Intervention of the parties is provided by RC 2735.01 *et seq.* as shown in the Merit Brief attached, hereto.

Respectfully submitted,



Willa Hemmons (0041790)  
Attorney for Df. Respondent-Interested Parties as Noted  
24490 Fairmount Blvd.  
Cleveland, Ohio 44122  
(216) 272-1186 cell phone  
(216) 464-8137 landline  
[wiltaylhemm@spectrum.net](mailto:wiltaylhemm@spectrum.net)

## **MERIT BRIEF IN SUPPORT OF MOTION TO INTERVENE**

### **INTRODUCTION**

Ohio Rule of Civil Procedure 20 states that: "...All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or succession or series of transactions or occurrences and if any question of law or fact common to all defendants will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.

Inherent in this Motion for Intervention is a Response to the Receivership Petition made by State Petitioner, November 5, 2025. Even though this is a complex case both potential Receivers have vast experience in managing massive entities with multiple layers of interests and issues. Such a Receiver has the background, the training and the experience to sort out the claims and causes of several additional parties without being unduly "confused." Transparency calls for nothing less. RC 2735.01 *et seq.* provides said Defendants with support for intervention in the within case.

Section 2735/ Appointment of receiver. [*in relevant part*]:

(A) A receiver may be appointed ... in causes pending ... in the following cases:

- (1) In an action...of a party whose right to or interest in the property or fund, or the proceeds of the property or fund, is probable, and when it is shown that the property or fund is in danger of being lost, removed, or materially injured;

*Exhibit A* of the State's petition amply shows that the property of the City of East Cleveland "is in danger of being lost, removed, or materially injured..." The parties seeking intervention herein all have interests in said property for which they have a right to seek protection. This is particularly true in that the omnipotent powers sought by the State for a receiver will necessarily involve determination of the interests of these intervening parties.

Included in this *Motion* is a request for a *Modification* of the Order, *See, ORC 118.29(C)* and *ORC 2735.04(A)(6)*, sought by Petitioner in that it does not consider the rights of the above parties. [See **Attached.**] Many of the conditions spawning said Petition were the result of actions or inactions perpetrated by the City's fiduciary branch--its City Council. In explanation, the 2023 and 2024 City Councils defaulted upon their appropriations, tax budget, fiscal legislative and financial plan responsibilities. The City Council serving during the 2023 and 2024 terms had the fiscal duties of performance allegedly breached, *Petition Exhibit A--the State Auditor's Affidavit.*

### **BACKGROUND**

1. In that vein, this Response acknowledges that said 2023 and 2024 City Councils consisted of two non-elected members and a Clerk who were appointed between January and March of 2023, *Cf. Brewer, et al. v. City of East Cleveland, et al.*, CuyCommPleas Ct. Case No. CV 23-981131. This disenfranchisement promulgated discord, gridlock and adversarial relations that thwarted the City government's ability to successfully submit 2023 and 2024 financial plans.

2. Likewise, this 'checkmate' resulted in there being no 2023-24 City Council Minutes nor access to legislative public records as required by ECMC §113 [Rule 12 Minutes] and

§107 *et seq.* [Public Records Policy], respectively, *Cf. Coleman et al. v. Brewer, et al.* CuyCommPleas Ct. Case No. CV 24-997000. Hence, presently, there is no official documentation of aforesaid fiscal irresponsibility causing irreparable harm to the parties by denying their rights.

3. The outcome of East Cleveland's fractious legislative dysfunction during 2023 and 2024 is that the taxpayers of Ohio, through the Office of Budget and Management, are being made subject to the indefinite and substantial costs of a receiver along with the support entourage of attorneys, accountants, and company, *et al.* Such expenses could amount to millions of dollars.

4. With the abdication of 2023/2024 legislative fiscal propriety, East Cleveland residents are facing the loss of valuable services, personnel, real property and infrastructure renovation due to the reduced resources caused by exorbitant legal fees and vindictive in-fighting.

5. East Cleveland Union employees are the lowest paid in the state. Current Union contracts [FOP, Police; IAFF 500, Fire; and, AFSCME, Service] do not essentially change that relatively low compensation status. Therefore, existing Collective Bargaining Agreements should be honored at the least. The CBA's are on file with the State Personnel Relations Board [SERB] which have codes, statutes and ordinances that provide the polices and practices for management-union relations in Ohio. Similarly, there are municipal and state Civil Service Commissions.

6. The Employee Handbook has City policies for non-union employees [Lexipol LLC 2025/01/08]. Compensation for non-union employees is per East Cleveland ORD 101-11.

7. As of 1918, the City of East Cleveland is a Chartered Home Rule municipality per Section 3, ART. XVIII of the Ohio Constitution. City Council is the authority permitting any deed conveyances, building code enforcement and police, sanitary or other similar regulations enacted for the health, safety and welfare of East Cleveland residents. These police powers include the ability to appropriate outside, external revenue from forgivable loans, grants, gifts and agency

awards such as ODOT, NEORS, HUD, COPS, FEMA, EPA, ARPA, NOACA, NOPEC, CCLB, CHN, OPWC, CDBG, OCJS and OWDA. Failure to meet grant deadlines imperiled their fund distribution. Separate trust accounts set up for such grant funded line items; corresponding to their respective departments; providing for the portions of personnel, services and products funded would have helped eliminate the appearance of deficiencies until the monies were received from the respective city, county, state and federal governmental as well as private agency grantors.

8. Constraints on the City's ability to reasonably rely upon and incorporate probable grant funds into its financial plan—even after legislative approval--helped precipitate perceived failure by the state auditor's office to comply with the multiple 85% fiscal spending restrictions successively imposed upon it. Those severe financial sanctions exacerbated City administrative fund planning for public improvement/infrastructure [broadband, demolition, energy, street light, sewer and road repair] as well as COPS, SAFER and HOME grant supported projects.

9. No appropriations estimate was sent to City Council per § 60 of the East Cleveland Charter by November 15, 2025; No tax budget was adopted by the 2025 City Council by July 15, 2025—nor an exemption sought thereof per O.R.C. 5705.28 even though ORC 5705.38 allows a temporary appropriation measure to be passed and effected until April 1, 2026; No tax advance legislation was approved to reconcile insufficient fund balances or to transfer money between line items appropriated as authorized by East Cleveland Charter § 62.

10. New executive and legislative branch officials of the City have been elected for terms beginning, January, 2026. The state auditor's office identified numerous 2023 and 2024 financial non-compliances such that new officials may not have adequate time to exhaustively evaluate the financial status of the departments, the incoming administration, vendors and creditors. Any appointed receiver should have the capacity to prepare and submit delinquent city,

county and state financial requisites as well as those for the 2026 and 2027 fiscal years utilizing municipal/forensic accountants, city planner professionals and the state auditor's office. Otherwise, the addition of a Receiver just creates another layer for the new City's governance to navigate in addition to that of the Fiscal Commission which has had troubled effect in the past. The numbers are what they are and there is no need to overly politicize them with multiple hurdles. The previous model of back and forth with the Fiscal Commission with the City trying to maintain services in the face of declining revenues has been very challenging. The new City Council, by itself, cannot immediately redress past due bills [i.e., pension fund, health care, life insurance and workers' compensation premiums] which have missed deadlines, also. The City departments, administration, vendors and creditors will provide their financial needs to the Receiver so that the Receiver can juxtapose them with the resources. The state auditor's office has the records from the past 13 years so that it can build upon what it has in its financial data base for the next year or two. Thereby, providing a solid foundation for the future. Hence, the new City Council members will not have instantaneous responsibility for prior financial conditions with which it was not complicit as it and the Receiver seek to bring the City into RC 118 compliance with all deliberate speed.

### **ANALYSIS**

11. The General Assembly passed ORC 118.29 *et seq.* to apply the Receivership provisions of ORC 2935 *et seq.* effective September 30, 2025, to Ohio municipalities. The City of East Cleveland is the first municipality referred by the state auditor's office to the Ohio attorney general's office for application of ORC 118.29 *et seq.*

12. On November 5, 2025, the office of Attorney General Dave Yost, petitioned the Ohio Court of Claims for the City of East Cleveland's Receivership.

13. Certain City Residents, former Employees, certain Contractors, certain Lawsuit litigants and other Interested Parties are Responding, thereto.

14. The authority for the appointment of a Receiver under ORC § 2735.01 et seq. is in equity. Pursuant to Ohio's receivership statutes, a trial court must exercise sound judicial discretion in overseeing a receivership, *State ex rel. Celebrezze v. Gibbs*, 50 Ohio St. 3d 69, 72 (1991).

15. In the instant case, RC 118.29(A)(2), sets forth more or less strict liability prerequisites for a municipal corporation referred by the state auditor that "has been in a state of fiscal emergency for a continuous period of ten years etc. ...". Such referral, *ipso facto*, allows for the appointment of a receiver. Hence, precedent law that, unless the parties agree, a party seeking appointment of a receiver must demonstrate that the failure to do so would place the petitioning parties in danger of suffering irreparable loss or injury, *Cf. Ohio Bur. of Workers Comp. v. A. Professional Emp., Inc.*, 184 Ohio App. 3d 156 (10<sup>th</sup> Dist. 2009), citing *Equity Ctrs. Dev. Co. v. S. Coast Ctrs., Inc.*, 83 Ohio. 3d 643 (8<sup>th</sup> Dist. 1992), is possibly inapplicable. And, receivership is waivable, *City Natl. Bank v. WBP Invest, LLC*, 2011-Ohio-6129 ¶12 (10<sup>th</sup> Dist.).

16. RC 2735.04(A) mandates that the powers of a receiver be set forth in the court order appointing the receiver and the court has discretion to limit or expand the receiver's powers as it deems appropriate. *Norris v. Dudley*, 10<sup>th</sup> Dist. No. 07AP-425, 2007 Ohio-Ohio-6646, ¶21.

17. An order appointing a receiver is a final appealable order that affects a substantial right in a special proceeding; RC 2505.02(B)(2). *Hummer v. Hummer*, 8<sup>th</sup> dist. No. 96132, 2011-Ohio-3767, ¶12., citing *Cunningham v. Ohio Police & Fire Pension Fund*, 175 Ohio App. 3d 566, 2008-Ohio-218, ¶6 (8<sup>th</sup> Dist.).

18. A receiver has the power to take possession of a subject defendant's real and personal property, records as well as access thereof, *State ex rel. Yost v. Summer Rays, Inc.*, 2019-

Ohio-3907, (10<sup>th</sup> Dist., P.J. Klatt; Sadler and Nelson, JJ, concurring). *Also See.* RC 2735.04 (B)(2) and (5). However, a receiver's power can be negotiated by the parties via contract or an agreed order, *GZK, Inc. v. Schumaker*, 2d Dist. No. 22172, 2008-Ohio-1980, ¶108, fn. 4 citing *Hayes v. White*, 7<sup>th</sup> Dist. No. 01 CO 00 (Dec. 3, 2001) (noting that “[a]n agreed judgment entry is the court’s acknowledgement that the parties have entered into a binding contract.”). Also, protection from real property divestments in regard to municipal property is found in Section 3, ART. XVIII of the Ohio Constitution for chartered cities with home rule--a defense against any abuse of discretion.

**WHEREFORE AND BY REASON OF THE FOREGOING**, the defendant parties noted above hereby pray that this Court grants their Motion to Intervene.

Respectfully submitted,



#### **CERTIFICATE OF SERVICE**

The foregoing has been sent via e-mail to Matthew L. Fornshell (Matthew.fornshell@icemiller.com) and John C. Cannizzaro (John.cannizzaro@icemiller.com), Special Counsel for the Ohio Attorney General, Ice Miller LLP, 250 West Street, Suite 700, Columbus, OH 43215; as well as, Kenneth D. Myers, 6100 Oak Tree Blvd., Suite 200; Cleveland, OH 44131 [Kdmy@aol.com](mailto:Kdmy@aol.com) and Alix M. Nouredine, 14340 Euclid Ave., East Cleveland, OH 44112, [Anouredine@eastcleveland.org](mailto:Anouredine@eastcleveland.org), East Cleveland Counsel, on this 12th day of January, 2026.



**IN THE OHIO COURT OF CLAIMS**

**IN RE CITY OF EAST CLEVELAND** ) **CASE NO. 2025-00925RC**  
 ) **JUDGE LISA L. SADLER**  
 )

**PROPOSED MODIFICATIONS TO PETITIONER ORDER FOR RECEIVERSHIP**

**ORDER APPOINTING RECEIVER FOR THE CITY OF EAST CLEVELAND**  
**AGREED AS WAIVED**

**FACTUAL FINDINGS**  
**AGREED AS WAIVED**

**RECEIVERSHIP APPOINTMENT**  
UNNUMBERED PARAGRAPH ONE = AGREED AS WAIVED  
UNNUMBERED PARAGRAPH TWO = AGREED AS WAIVED

UNNUMBERED PARAGRAPH THREE=*Modifications are Italicized*

The Court hereby ORDERS that the Receiver shall have all powers and duties set forth in R.C. §118.29(C). These include the duty to consult with the legislative authority of the City to make recommendations ~~or, if necessary,~~ to assume responsibility for implementing cost reductions and revenue increases to achieve a balanced budget and carry out the financial plan, and to make reductions in force or spending to resolve the fiscal emergency conditions. The Receiver may ensure that the City complies with all aspects of the financial plan approved by the Financial Planning and Supervision Commission in accordance with R.C. §118.06, or as amended in accordance with Chapter 118. ~~If no financial plan has been approved by the Commission, t~~The Receiver, after consulting with the legislative authority of the City, ~~may make recommendations to~~ will assume, ~~if necessary,~~ the responsibility for crafting and submitting a financial plan to the Commission. *The Receiver shall interact with the Fiscal Commission, directly, for this purpose.*

The Receiver shall ensure that the City complies with all other relevant aspects of Chapter 118.

UNNUMBERED PARAGRAPH FOUR – AGREED AS WAIVED  
UNNUMBERED PARAGRAPH FIVE = *Modifications are Italicized*

The Court further ORDERS that in addition to the powers conferred by R.C. § 118.39, the Receiver shall have all powers set forth in R.C. § 2735.04 *except as relate to the sale and transfer of real property.* Under the supervision of this Court, the Receiver may bring and defend actions in the Receiver’s own name, ~~take and keep possession of real and personal property,~~ collect rents and other obligations, compromise demands, enter into contracts including contracts of sale, lease, construction, or completion of construction work, ~~sell and make transfers of real or personal property, execute deeds, leases or other documents of conveyance of real or personal property,~~ open and maintain deposit accounts, and generally perform any other acts that this Court authorizes. ~~The Receiver may sell property free and clear of liens, subject to the procedures and approvals required by R.C. § 2735.04(D).~~ *Notwithstanding §§ 2735.01(A) et seq.; 2735.04(B) et seq.; or 2735.04(D) et seq., Receiver shall not compromise the boundaries or real property of the City of East Cleveland, Ohio by lien, sale, transfer or deed conveyance.*

UNNUMBERED PARAGRAPH SIX = AGREED AS WAIVED  
UNNUMBERED PARAGRAPH SEVEN = AGREED AS WAIVED  
UNNUMBERED PARAGRAPH EIGHT= AGREED except as to City boundaries & real property as noted in Paragraph Five  
UNNUMBERED PARAGRAPH NINE = AGREED AS WAIVED  
UNNUMBERED PARAGRAPH TEN = AGREED AS WAIVED

\_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

So **ORDERED**

\_\_\_\_\_ Judge Date \_\_\_\_\_