



# ZACH KLEIN

COLUMBUS CITY ATTORNEY

eNewsletter

Volume 2, Issue 3

## From the Desk of City Attorney Zach Klein

During the Ohio Constitutional Convention of 1912, state leaders were pondering ways to update, improve, and modernize Ohio’s Constitution for the third time. Delegates heard from President William Howard Taft, former president Theodore Roosevelt, William Jennings Bryan, and other noted orators and political thinkers. After considerable deliberation, they proposed a total of 41 amendments—33 of which were ultimately approved by Ohio voters. One of the most profound changes was contained in a single sentence that established Home Rule. [Article XVIII, Section 3](#) simply states:

Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws.

More than 100 years later, the concept of Home Rule still resonates today. It also harkens back to the guiding principles at the very foundation of our Republic: self-determination and local control. I think most can agree that the closer elected representatives are to their constituents, the more attuned they are to their needs and desires. States certainly argue all the time that the federal government shouldn’t take away any of their rights. Reason would dictate that the same thinking should apply between the state and local municipalities. Yet, we’ve been talking a lot about Home Rule lately because the Ohio General Assembly over the past several years has launched an assault on the ability of cities to self-govern. In last month’s [e-newsletter](#), for example, we highlighted our sweeping court victory against the state for their attempt to prevent cities from protecting our drinking water reservoirs from toxic chemicals and pollutants.

Now the state legislature is coming after the common sense gun ordinances we passed last year. I say this all the time, but it gets to the very heart of what the Home Rule principle is all about: what works best for folks living in Columbus might not be the same as what’s best for those living in Belpre, or Toledo, or Xenia, or Ashtabula. And that’s okay because every city is different. That’s also why it’s critical for cities to protect their ability to address their own unique needs and concerns.

As it relates specifically to guns, consider these closing thoughts: a recent Baldwin Wallace University [poll](#) shows wide bipartisan support in Ohio for common sense gun measures—74 percent of Ohioans, including 70 percent of Republicans, would support a statewide ban on the sale of guns to people who have been charged with domestic violence. Similar numbers also support a mandatory waiting period on all gun sales. Let’s rally around and embrace our commonalities and make a difference.

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This is an e-publication of:  
**Columbus City Attorney  
Zach Klein**  
77 North Front Street  
Columbus, Ohio 43215  
Phone 614.645.7385  
Fax 614.645.6949  
[www.columbuscityattorney.org](http://www.columbuscityattorney.org)

## Standing Up for Home Rule

Last month, City Attorney Klein was joined by Mayor Andrew J. Ginther in announcing the city's lawsuit against the state, seeking to halt legislation enacted late last year that would make Ohio's currently broad gun laws even more expansive and favorable to the gun lobby. In a request for injunctive relief, the city's complaint states that the lame duck General Assembly violated the Ohio Constitution's Home Rule provision and Separation of Powers doctrine when they passed Am. Sub. House Bill 228 with enough votes to override Governor John Kasich's veto.



Governor Kasich vetoed the house bill last year, in part, due to his expressed concern that the changes violate the Ohio Constitution's Home Rule authority that allows local governments to pass ordinances specific to their residents' needs, without the threat of intrusion from the state. The bill also was opposed by the Ohio Fraternal Order of Police and the Ohio Prosecuting Attorney's Association.

The City of Columbus is suing specifically over changes the bill makes to Ohio Revised Code [Section 9.68](#), the state's so-called "Right to bear arms – challenge to law" provision. The new language—if allowed to go into effect—would place even greater restrictions on a municipality's ability to pass local gun ordinances, in addition to the significant limitations state law already imposes on cities. The legislation also expands the remedies available to anyone who challenges local gun regulations in court. In making it much easier for more potential plaintiffs to prevail in court, the new changes would force cities to pay significantly more in damages—even if they simply repeal an existing gun ordinance.

This legislative gambit seems to be the state's response to a series of common sense gun laws Columbus enacted last year, including a ban on bump stocks and prohibitions against domestic abusers and other violent criminals from possessing firearms. While the ordinances were passed last May, the City Attorney's office continues to defend them in court against litigation brought by gun lobby groups—with the city currently waiting on a 10th District Court of Appeals decision after a trial court judge earlier found Columbus' new weapons under disability ordinance to be constitutional.

The city's complaint also highlights the near absurdity of how far the new state law would go in extending protections and favorable preference to the gun lobby, noting that cities could not even prevent a gun manufacturer from building an industrial plant in the middle of a residential neighborhood, in what would normally be a clear violation of zoning codes.

In February, Columbus prevailed in a similar lawsuit against the Ohio General Assembly's unconstitutional overreach, successfully arguing that the state violated Home Rule in [City of Columbus, Ohio, et al. v. State of Ohio](#). In that case, the judge ordered a stay on the law going into effect pending the court's decision on the merits. Columbus is requesting a similar injunction to prevent the sweeping changes contained in Am. Sub. H.B. 228 from becoming law prior to a trial court considering the merits of the city's lawsuit.

The state has until April 19, 2019 to respond to the city's lawsuit. A hearing for oral arguments before Franklin County Court of Common Pleas Judge Stephen L. McIntosh is currently scheduled for May 13, 2019. Copies of the city's [complaint](#) and [motion](#) are available online.

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## Violent After-Hours Club Shut Down after Emergency Court Order

A northeast side auto repair shop—moonlighting illegally as an after-hours nightclub—was put out of business after city attorneys secured an emergency court order to close down the property. It was the scene of multiple shootings, drug dealing, and violent assaults. In one incident, officers arrived just in time to save a gunshot victim from bleeding to death by applying a tourniquet to his leg before paramedics arrived. In another shooting, no one called 911—instead, the wounded victim was removed from the club by a bouncer and left outside to fend for himself.



The City Attorney’s office filed a motion requesting a temporary restraining order to board up the premises at [2084 Mock Road](#), which is zoned for an auto repair shop and a banquet hall, but instead was operating as “Club Wadinasi.” The property, which would contain up to 200 patrons from 2:00 a.m. to 6:00 a.m., was located in a residential area with an elementary school and several houses of worship nearby.

On June 24, 2018, Columbus Police were dispatched to the premises at 3:43 a.m. on reports of an assault. Officers located a female victim who said she was struck in the face and robbed by another patron at the club.

On July 18, 2018, Columbus City Code Enforcement issued a notice of violation to the property owners and an individual, identified as the operator/tenant of the building, who fashioned himself as “Curtis Wadinasi.” Police officials also began a covert investigation of the premises around this time.

On August 5, 2018 at 1:50 a.m., officers and paramedics responded to the premises and found an unconscious female passed out in the road in front of the club. Later that month, police obtained evidence that marijuana was being sold, along with \$10 shots of Hennessy, from inside the premises.

On September 30, 2018 at 2:50 a.m., police responded to a report of a shooting. Officers found a victim who had been shot through the left thigh, wounded in the right leg, and had facial injuries. The victim was bleeding profusely and, according to court documents, would have died had the officer not arrived in time to apply a tourniquet. During the incident, officers observed between 150-200 patrons inside the premises.

On October 26, 2018 officers responded to a report of another assault at the premises. A female victim reported that she was punched in the face. A second victim indicated she was choked by the same suspect when trying to intervene to help the first victim.

On December 2, 2018 at 3:45 a.m., police responded to a report of multiple shots fired at the premises. More than 100 patrons were inside at the time. A victim was found with a gunshot wound in the leg. Officers recovered two guns under a pool table, along with live rounds and a Glock magazine. One of the guns was reported as stolen. On February 23, 2019 at 3:40 a.m., shots were fired inside the premises, resulting in at least one person being shot in the leg. No one called 911, but instead the victim was pulled from the club and left outside by a bouncer.

On March 6, 2019, police responded to reports of four to five shots fired at the premises. On March 9, 2019 at 2:50 a.m., approximately 10 shots were fired near the parking lot.

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## Community Action

City Attorney Klein and Franklin County Sheriff Dallas Baldwin announced just days ago that their offices' joint efforts led to an emergency court order to shut down a massage parlor that investigators say was a front for illegal sex acts. It's the second time the City of Columbus has used civil litigation authorized under the state's nuisance abatement code to shut down a potential human trafficking ring operating out of a local massage parlor.



City attorneys filed a request for an *ex parte* temporary restraining order in the Franklin County Environmental Court to board up Sunflower Asian Spa, located at [5327 Westpointe Plaza Dr.](#) in a popular retail center near the intersection of Renner Rd. and Hilliard-Rome Rd. In a surprise raid city and county agents enforced the judge's order, evacuating the premises and boarding it up. Representatives from [Asian American Community Services](#) were onsite to assist any of the workers who were in need of help.

"Human trafficking and prostitution are a real problem in our society, and I want to thank the Franklin County Sheriff's office for working with us on this case," said City Attorney Klein.

Ohio is fourth in the nation for reported human trafficking cases and studies show that women trapped by sex trafficking have mortality rates 200 times greater than average, with the most common causes of death being homicide, suicide, and substance abuse.

Detectives from the Sheriff's special investigations unit began investigating the business last September after receiving information about potential prostitution and human trafficking occurring at the premises. According to court documents, investigators obtained consistent evidence that sexual conduct in exchange for money was occurring regularly at the premises from the point of their investigation on September 26, 2018 through March of this year.

Patrons paid \$60 upfront for an hour-long massage and were led to a back room. The patrons were then typically asked if they wanted a "soft, medium, or hard massage." Workers usually requested an additional \$40 to perform illegal sex acts, with one individual stating that her "boss" keeps the \$60 initial payment and she "only makes money from tips."

City law enforcement officials sent notices of the illegal activity occurring at the premises via certified mail to the property owner of record in October and November of last year. While the business Sunflower Asian Spa was never properly registered with the state, investigators determined that Yulian Fu of Grandview Heights is the person in charge of care and control of the premises and the holder of a massage license that expires on April 20, 2019.

In filing a civil motion for injunctive relief along with the emergency TRO request, the City Attorney's office is seeking to prove that the owner/operators are guilty of maintaining a nuisance by establishing that they "knew of, participated in, or acquiesced to the activity which constituted the nuisance."

The hearing for preliminary and permanent injunctive relief is scheduled for 1:00 p.m. on April 15, 2019. If the property is ultimately declared to be a statutorily defined public nuisance, state law grants the court authority to order the premises shut down for up to one year following the permanent injunction hearing.

A copy of the [court's order](#) is available online.

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