

ORDINANCE NO. 104-2023(PSH), *Second Reading as Amended*

By Mayor Seren

An Ordinance amending Section 1351.34 “Registration of Dwelling Structure By Out-of-County Owners” of Chapter 1351 “Basic Standards for Residential Occupancy” and Section 1369.16 “Registration of Business Structures by Out-of-County Owners” of Chapter 1369 “Basic Standards for Business Occupancy” of the Codified Ordinances of the City of Cleveland Heights.

WHEREAS, in 2007, this Council adopted Sections 1351.34 and 1369.16 of the Codified Ordinances to provide for the registration of dwelling structures and business structures by out-of-county owners for the designation of an authorized agent who maintains a physical office with a street address in Cuyahoga County, Ohio, or who resides in Cuyahoga County, who shall consent to and agree to receive any and all notices of violation of City ordinances and to receive process in any court proceeding or administrative enforcement proceeding related to the use or maintenance of the structure; and

WHEREAS, since 2007, the City of Cleveland Heights has collected a \$100 registration fee to offset the cost of processing and enforcing the out-of-county registration requirement; and

WHEREAS, the City of Cleveland Heights, and this Council, have observed trends in the increased ownership of one-to-three family residential properties by investors, many of whom are not based in the City or in Cuyahoga County; and

WHEREAS, the City of Cleveland Heights, and this Council, have observed that business purchases of 1-3 family homes in the inner ring suburbs on the east side of Cleveland have increased from just over 5% in 2004 to over 25% in 2020, as reported in *The Impact of Real Estate Investor Activity on the Cuyahoga County, Ohio Housing Market 2004-2020*, prepared by the Vacant and Abandoned Property Action Council, and have received complaints from residents of poorly-maintained rental properties owned by investors from outside the City; and

WHEREAS, as reported by the Vacant and Abandoned Property Action Council, enforcement of local health and safety regulations and codes can be complicated by multiple legal mechanisms to obscure the identity of owners and responsible parties, and to shield them from liability in connection with such regulations; and

WHEREAS, in December 2020, the City amended Section 1351.34 and 1369.16 in an effort to improve the City’s ability enforcement of its Housing Code, improve its ability to address problems arising from the increasing ownership of foreclosed properties by investors, many of whom were out of county, out of state, or even out of the country, and positively impact the quality of the City’s housing stock; and

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WHEREAS, the December 2020 amendments removed the reference to the \$100 registration fee in Section 1351.34(c) because it was duplicative of the \$100 registration fee set forth in Section 1369.16(c), which applied to an out-of-county owner of a “dwelling” structure under Section 1369.16(a); and

WHEREAS, the December 2020 amendments were never intended to eliminate the long-standing requirement that all out-of-county owners that are involved in the business of leasing dwelling structures that are located within the City of Cleveland Heights must pay the same \$100 registration fee that all other out-of-county property owners must pay; and

WHEREAS, since December 2020 the City of Cleveland Heights has continued to collect the \$100 registration fee from out-of-county property owners in the business of leasing dwelling structures in the City; and

WHEREAS, in order to clarify the legislative intent and to ensure that all of the out-of-county registration requirements set forth in Sections 1351.34 and 1369.16 are the same for all out-of-county owners of real property that is located within the City of Cleveland Heights, this Council has determined that it would be in best interest to make minor amendments in the language of Section 1351.34 and 1369.16.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Section 1351.34, “Registration of Dwelling Structure By Out-of-County Owners,” of Chapter 1351, “Basic Standards for Residential Occupancy,” of the Codified Ordinances of the City of Cleveland Heights shall be and is hereby amended to read as follows (additions bolded and underlined, deletions strikethrough):

1351.34 REGISTRATION OF DWELLING STRUCTURE BY OUT-OF-COUNTY OWNERS.

(a) If a dwelling structure located within the City is owned by a person or persons, none of whom reside within Cuyahoga County, the owner(s) of the dwelling structure, within thirty (30) days after the effective date of this Section 1351.34 or within thirty (30) days after obtaining ownership of the dwelling structure, whichever is later, and annually thereafter, shall register with the Building Commissioner on a form prescribed by the Building Commissioner or his or her designee and shall designate an authorized agent for each such dwelling structure. The authorized agent must be a natural person eighteen (18) years of age or older who maintains a physical office with a street address in Cuyahoga County, Ohio, or who resides within Cuyahoga County. A Post Office Box shall not satisfy the physical office requirement. By designating an authorized agent under the provisions of this Section 1351.34, the owner consents and agrees to receive any and all notices of violation of City ordinances and to receive process in any court proceeding or administrative enforcement proceeding related to the use or maintenance of the property or dwelling structure, including, but not limited to, proceedings related to the enforcement

of the Housing Code, by service of the notice or process on said agent. The registration statement shall include the name and address of the designated agent and shall reflect the owner's and agent's express agreement to appear in court when summoned, that the agent shall be authorized to testify on behalf of the owner in such case, and that the agent's testimony shall be deemed to be binding upon the owner in any administrative enforcement proceeding, or court proceeding, instituted by the City against the owner or owners of the dwelling structure. The failure of the owner of the dwelling structure to obtain a deed for the property or to file the deed with the County Recorder shall not excuse the owner from compliance with this Section 1351.34.

(b) The designation of an authorized agent under this Section shall be deemed effective until the owner notifies the Building Commissioner or his/her designee, in writing, of a change of authorized agent or files a new annual registration statement, or until the Building Commissioner is notified in writing that such registration is no longer required because an owner of the dwelling structure now resides in Cuyahoga County.

(c) The registration fee under this Section 1351.34 shall be \$100.00. The registration process under this Section 1351.34 shall be the same as the registration process set forth in Section 1351.33 and as further set forth by the Commissioner of Buildings. Registration under Section 1351.33 shall not negate the requirement for registration under this Section 1351.34.

(ed) A violation of this Section 1351.34 is hereby classified as a misdemeanor of the first degree, punishable by a fine of not more than one thousand dollars (\$1,000), imprisonment not more than six (6) months, or both. Every day such violation occurs or continues shall constitute a separate offense. Nothing in this section shall limit the court in fashioning a remedy other than those set forth herein that shall maintain the building to prevent it from harming the neighborhood in which it stands.

SECTION 2. Current Section 1351.34 of Chapter 1351 of the Codified Ordinances of the City of Cleveland Heights, as it existed prior to the effective date of this ordinance, is hereby repealed.

SECTION 3. Section 1369.16, "Registration of Business Structures by Out-of-County Owners," of Chapter 1369, "Basic Standards for Business Occupancy," of the Codified Ordinances of the City of Cleveland Heights shall be and is hereby amended to read as follows (additions bolded and underlined, deletions strikethrough):

1369.16 REGISTRATION OF BUSINESS STRUCTURES BY OUT-OF-COUNTY OWNERS.

(a) If a business structure, including without limitation a commercial, industrial or institutional structure, located within the City is owned by a person or persons, none of whom reside within Cuyahoga County, the owner(s) of the ~~dwelling~~**business** structure, within thirty (30) days after the effective date of this Section 1369.16 or within thirty (30) days after obtaining ownership of the structure, whichever is later, and annually thereafter, shall register with the Commissioner of Buildings on a form prescribed by the

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Commissioner of Buildings and designate an authorized agent for each structure. The authorized agent must be a natural person eighteen (18) years of age or older who maintains a physical office in Cuyahoga County, Ohio, or actually resides within Cuyahoga County, Ohio. By designating an authorized agent under the provisions of this section, the owner is consenting to receive any and all notices of violations of City ordinances and to receive process, in any court proceeding or administrative enforcement proceeding related to the use or maintenance of the property or business structure, including, but not limited to, proceedings related to the enforcement of the Business Maintenance Code or Building Code, by service of the notice or process on the authorized agent. The failure of the owner of the structure to obtain a deed for the property or to file the deed with the County Recorder shall not excuse the owner from compliance with this Section 1369.16.

(b) Any owner who has designated an authorized agent under the provisions of this Section 1369.16 shall be deemed to consent to the continuation of the agent's designation for the purpose of this subsection until the owner notifies the Commissioner of Buildings in writing on a form prescribed for such purpose by the Commissioner of Buildings of a change of authorized agent or until the Commissioner of Buildings is notified in writing that an owner of the business structure is now residing within Cuyahoga County and registration is no longer required under this section.

(c) The registration fee under this Section 1369.16 shall be \$100.00. The registration process under this Section 1369.16 shall be the same as the registration process set forth in Section 1369.17 and as further set forth by the Commissioner of Buildings. Registration under Section 1369.17 shall not negate the requirement for registration under this Section 1369.16.

SECTION 4. Current Section 1369.16 of Chapter 1369 of the Codified Ordinances of the City of Cleveland Heights, as it existed prior to the effective date of this ordinance, is hereby repealed.

SECTION 5. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 6. This Ordinance shall take effect and be in force at the earliest time permitted by law.



MELODY HART

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President of Council



ADDIE BALESTER
Clerk of Council

PASSED: 6/22/2023

Presented to Mayor: 06/23/2024

Approved: 6/29/2023



KAHLIL SEREN
Mayor