

Ronald J.H. O'Leary, Judge
 Cleveland Housing Court
 1200 Ontario Street—Courtroom 13B
 Cleveland, OH 44113

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Cleveland Housing Court

Ronald J.H. O'Leary, Judge

Fall 2018 Issue

A Message from Judge O'Leary



**Housing Court Judge
 Ronald J.H. O'LEARY**

A woman recently told me about her experience looking to rent a new apartment. She found a place that she liked, but there was a problem. The landlord said that he wouldn't rent to her because she had been evicted nearly 20 years before. She had to keep looking.

This happens frequently. A tenant with an old eviction builds a good rental record, but some prospective landlords won't rent to the tenant because of the eviction. The tenant has limited options because there isn't a way to clear the eviction record.

Housing Court hears thousands of evictions every year. In each case, the tenant has a mark on his or her record that makes it harder to find a new home. To address the problem of this being a permanent mark, Housing Court is developing a process where tenants can apply to seal their eviction records.

To establish this process, Housing Court drafted a court rule setting the standard to review a motion to seal. To qualify for sealing an eviction record, a tenant must meet at least one of the following:

1. The landlord dismissed the eviction before the Court ruled on the complaint.
2. The tenant successfully defended against the eviction complaint.
3. The Court granted the eviction, but the following all occurred:
 - a. At least five years passed since judgment for the landlord;
 - b. At least five years passed since the tenant had an adverse judgment granting an eviction in any court; and,

c. The tenant paid any money judgment to the landlord in the eviction case where the tenant is requesting the Court to seal the record.

4. The landlord agreed to seal the record as part of a settlement with the tenant.

If Housing Court grants a motion to seal the eviction record, the clerk of courts will remove the tenant's name from all public records it maintains, including the electronic records, to the same extent that it would for sealing a criminal record.

As I considered creating a process to seal tenants' eviction records, I had to weigh the benefit of giving a tenant a second chance for a clean eviction record against the harm of limiting information that landlords use to screen applicants. Housing Court advises landlords to screen their tenant applicants, so I wanted to create a process that balances access to important information for landlords against limiting long-term disabilities for tenants.

I believe that the proposed process does this. But I want to hear from the attorneys, landlords, tenants, and tenant advocates who appear in Housing Court. I also want to hear from the public. For this reason, we will have a public-comment period on the proposed process through October 31, 2018. If you have any comments, please send them to us. My staff and I will review the comments through the end of November. After we consider any changes based on the comments, we will implement the new process starting January 1, 2019. I look forward to hearing from you.

Ronald J.H. O'Leary



Housing Court Contact Information

Housing Court Judge
216-664-4989

Housing Specialists
216-664-4295

Evictions/Bailiffs
216-664-4765

Justice Center
 Courtroom 13B
 1200 Ontario Street
 Cleveland, OH 44113

Neighborhood Housing Clinic

Bring Your Housing Issues...

- Landlord rights
- Tenant rights
- Eviction procedures
- Assistance for homeowners
- Purchasing lots/vacant houses
- Unsafe illegal/utilities
- Aging programs
- Bed bugs
- Lead issues
- Legal questions
- Home repairs
- Problem landlords
- Bed bugs
- Nuisance neighbors
- Health conditions
- Lead issues
- Foreclosures
- Voter registration
- Financial counseling
- Utility questions

OCT. 17, 2018
 6:00 p.m. to 8:00 p.m.

Christ United Methodist Church
 3625 West 138th St., Cleveland, Ohio

Participants May Include:

- City of Cleveland:
 - Community Dev.
 - Building & Housing
 - Dept. of Aging
 - Public Health
 - Energy Services Dept.
 - Water Pollution Control
- CHN Housing Partners
- Legal Aid Society
- Pest Control Expert
- Neighborhood Housing Services
- Volunteer Attorneys
- Cleveland Restoration Society
- Cleveland Housing Network
- Greater Cleveland Food Bank
- Habitat for Humanity
- County Land Bank
- Housing Research Advocacy
- Court Community Service
- Home Repair Resource Ctr.
- ESOP

NOV. 14, 2018
 6:00 p.m. to 8:00 p.m.

Mary Queen of Peace Catholic Church
 4423 Pearl Rd., Cleveland, Ohio

Land Banks—Investing In Neighborhoods

We usually think of banks as entities that help us save money. But some banks—specifically, land banks—can help save neighborhoods, too.

Two different land banks operate in the City of Cleveland: the Cuyahoga Land Bank and the City of Cleveland Land Bank.

The Cuyahoga County Land Reutilization Corporation, commonly known as the Cuyahoga Land Bank, was formed during the foreclosure crisis to help the county and the City of Cleveland deal with the increased number of vacant houses. The Cuyahoga Land Bank strategically acquires blighted properties, and then determines whether the neighborhoods in which they are located are best served by rehabilitating those properties, demolishing them, selling them to private owners, or making other creative use of them including green space, community gardens, or storm water management.

One of the ways the Cuyahoga Land Bank acquires property is through their property donation program. The donation program helps property owners give up vacant houses that they cannot take care of. If you are interested in donating property to the Land Bank, the Land Bank will require information about the property and your finances. Regarding the property, the Land Bank's first

question will be: are there liens on the property? Mortgages, unpaid taxes, and unpaid judgments against you from lawsuits all may show up as liens. If there are liens on the property, you must take steps to remove them before the Land Bank will accept the property. The Land Bank also requires information about your finances. Any property that is beyond repair will be demolished. That usually costs about \$10,000. To help defray those costs, the Land Bank may require you to make a financial donation of some or all of those costs.

In addition to accepting donated properties, the Cuyahoga Land Bank also sells properties to people who will either occupy them, or rehabilitate them. If you are interested in donating a property to, or purchasing a property from, the Cuyahoga Land Bank, you can call them at (216) 698-8853, or visit their website: <http://www.cuyahogalandbank.org>.

The City of Cleveland Land Bank accepts only vacant lots, some of which may be made available to owners of adjoining properties for side yard expansion. You can reach the City Land Bank at (216) 664-4126, or visit their website: <http://www.city.cleveland.oh.us/CityofCleveland/Home/Government/CityAgencies/CommunityDevelopment/LandBank>.

The City through the Trees



Cleveland has the nickname “The Forest City” in part because of the many beautiful trees in our neighborhoods. Along with that beauty comes responsibility and laws regarding trees that property owners need to know.

Starting with the basics, a tree on your property is your responsibility. City-owned trees—trees in parks, on public streets, and on tree lawns—are the City's responsibility.

Trees on your neighbor's property generally are your neighbor's responsibility. If the branches from your neighbor's tree hang over your property, you may trim them. But be careful: you don't want to over-trim or damage the tree itself!

One common question is, “who is responsible for the damage if my neighbor's tree falls onto my property?” Tree owners generally are not responsible for damages caused by their trees. But a tree owner may be responsible if the tree was in poor condition and the owner knew about it before the damage occurred. If the tree was in good condition, but branches fell in a storm, the tree owner typically is not liable. If you notice that a tree on your neighbor's property is in poor condition, notify your neighbor and ask to have the tree pruned or removed before damage occurs. If possible, document your discussion so you can show that you notified your neighbor about the tree's poor condition.

If your neighbor's tree falls and damages your home or property, you can make a claim on your homeowner's insurance. This may provide funds to remove the debris and pay for damage.

The City's Urban Forestry Section—part of the Division of Park Maintenance and Properties—is a specialized resource available to help residents resolve tree-related issues. Urban Forestry will not remove trees from private property. But it will remove dead or sick City-owned trees (including those on the tree lawn), trim branches that block stop signs or rights-of-way, and remove roots that raise sidewalks. Urban Forestry will even remove bees or wasps from City-owned trees. For more information or to request services, you can contact the Urban Forestry Section at (216) 664-3104.

Bankruptcy: *A Fresh Start?*

While there are signs that the economy is improving, many Cleveland residents still turn to bankruptcy for a fresh financial start. Bankruptcy is an effective option for many people. Unfortunately, some people do not leave that process understanding bankruptcy's effect on real property they own.

People who have filed bankruptcy are often surprised to be summonsed to appear in Housing Court for property they thought transferred through bankruptcy. There are two issues to understand for people who have filed bankruptcy.

First, simply filing bankruptcy does not transfer title to real property. Because it does not, the property owner remains responsible for keeping it free of code violations even after filing for bankruptcy. The law imposes this responsibility on property owners because a bankruptcy filing does not transfer the responsibility to anyone else. The City may cite a lienholder like a bank for code violations along with the titled owner if the lienholder has taken sufficient possession or control of the property. But the titled owner also remains responsible for the violations. The owner's responsibility to maintain the property up to City code continues until title to the property transfers to someone else.

Second, the bankruptcy trustee—who is responsible for maximizing the money available to creditors—frequently “abandons” the property because of its low value. This means that the bankruptcy could be completed with the bankrupt person still owning the property. People often find out that they still own real property when they receive a violation notice from the City!

If you are considering bankruptcy, be sure to ask your bankruptcy attorney specific questions about what will happen to the real property you own, including if and when the title to that property will leave your name. If you previously filed bankruptcy and want to know whether title to real property you owned is still in your name, you can look up your name or the property address in the Cuyahoga County records at <https://myplace.cuyahogacounty.us>.

What Every Landlord Should Know: *Advanced Course*

Wed., Nov. 7, 2018 | 3:30 p.m. – 6:30 p.m.

Our Lady of Mt. Carmel School
6928 Detroit Avenue, Cleveland, Ohio 44102

This free seminar will provide landlords with additional information about topics not covered in-depth in our Basic Class, including subsidized housing, drafting lease terms, bedbugs and other pests, and fair housing.

To register call: 216-664-6927 or
email: gonzalezj@cmcoh.org

Housing Court Specialist and Compliance Officer **Debra Zeleny-Kukla** was recognized this week by Judge Ron O'Leary for coordinating the 500th Housing Court Community Work Service Project since the start of her career in 2011. Judge O'Leary and the Specialists Department work to identify owner occupants with special circumstances that prevent them from maintaining their yard, removing graffiti, victimized with dumping, securing doors and windows and hoarding issues, to mention a few. Deb coordinates these efforts for the Team providing a successful outcome. Congratulations Housing Court!

