

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
BUTLER COUNTY

TATE DAVID PROWS, et al.,	:	CASE NO. CA2026-01-015
Appellant,	:	
vs.	:	<u>OPINION AND</u>
	:	<u>JUDGMENT ENTRY</u>
CITY OF OXFORD,	:	9/8/2026
Appellee.	:	
	:	

CIVIL APPEAL FROM BUTLER COUNTY COURT OF COMMON PLEAS
Case No. CV 2025 06 1430

Green & Green, Lawyers, and Jared A. Wagner and Jane M. Lynch, for appellee.

Tate David Prows, pro se.

OPINION

BYRNE, P.J.

{¶ 1} Appellant, Tate David Prows, appeals pro se the decision of the Butler County Court of Common Pleas granting the Civ.R. 12(C) motion for judgment on the pleadings filed by appellee, the City of Oxford. For the reasons outlined below, we affirm the common pleas court's decision.

I. Facts and Procedural History

{¶ 2} Tate Prows, along with his parents, Ann and David Prows (collectively, the "Prowses"), own and operate a family-run short-term rental business. The business rents properties located in the City through online platforms such as Airbnb. The City is a municipal corporation located in Butler County, Ohio.

{¶ 3} On August 3, 2021, the City repealed the prior version and adopted a new version of Oxford Cod.Ord. Chapter 183, titled "HOTEL, SHORT-TERM RENTAL AND CONVENTION TAX." The new version imposed a 3% lodging excise tax on hotels and short-term rentals within the City, as authorized by R.C. 5739.091. The ordinance's stated purpose was to provide additional funds to the City and its housing trust fund, also known as its affordable housing fund. The new version defined "short-term rental" as:

any establishment offering at least one but less than five rooms for the accommodation of guests, which is rented for a fee for less than thirty (30) consecutive days, whether such rooms are in one or several structures.

Oxford Cod.Ord. 183.01(e).

{¶ 4} On June 5, 2025, the Prowses filed both an initial complaint and an amended complaint against the City. The amended complaint challenged the constitutionality of the new Oxford Cod.Ord. Chapter 183, arguing that the Ohio Constitution did not permit the tax on short-term rentals and that the proceeds from that tax could not be used for the City's housing trust fund. Based on these arguments, the Prowses sought: (1) a declaratory judgment that the new short-term rental tax was unconstitutional and unenforceable as to the Prowses' property; (2) a declaration that the ordinance violated Article VIII, Section 16 of the Ohio Constitution by providing for the deposit of funds received through the short-term rental tax into the City's affordable housing fund; (3) a permanent injunction prohibiting the City from enforcing the

ordinance's short-term rental tax; and (4) restitution of the short-term rental taxes the Prowses had paid to the City following the tax's enactment, under the theories of unjust enrichment and money had and received.

{¶ 5} On September 23, 2025, the City filed a Civ.R. 12(C) motion for judgment on the pleadings. To support its motion, the City argued that well-established black-letter law permitted it to levy taxes, including a short-term rental tax, under its powers of local self-government provided by the Home Rule Amendment to the Ohio Constitution, Article XVIII, Section 3. The City also argued that it was constitutionally permissible to deposit the funds it obtained from that tax into its affordable housing fund. The common pleas court agreed and, on January 23, 2026, entered judgment granting the City's Civ.R. 12(C) motion for judgment on the pleadings and dismissing the Prowses' claims against the City with prejudice.¹

{¶ 6} In so holding, the common pleas court noted:

The Court finds that Oxford Cod. Ord. 183 is constitutional and enforceable against [the Prowses] and further finds that current Ohio Supreme Court precedent has recognized that municipalities such as the City may impose taxes pursuant to their powers of local self-government granted by the Home Rule Amendment of the Ohio Constitution, Article XVIII, Section 3.

The common pleas court also noted:

The Court further finds that the City is permitted to deposit funds obtained from the short-term rental tax into its Affordable Housing Fund and that such actions do not violate Article III, Section 16 of the Ohio Constitution. The Court concludes that, under its interpretation of Article XVIII, Section 3 of the Ohio Constitution, the City's use of revenue from the short-term rental tax to its Affordable Housing Fund is permissible.

1. The common pleas court also denied motions for summary judgment and for judgment on the pleadings filed by the Prowses. The court's decision with respect to those motions, however, is not a part of this appeal.

II. Tate Prows' Appeal and Two Assignments of Error

{¶ 7} On January 30, 2026, Tate Prows (hereinafter, "Prows") filed a notice of appeal from the common pleas court's decision.² After the parties' briefing and the conclusion of oral argument, Prows' appeal was submitted to this court for consideration and is now properly before this court for decision. To support his appeal, Prows has raised two assignments of error, challenging certain aspects of the common pleas court's decision to grant the City's Civ.R. 12(C) motion for judgment on the pleadings. We address each of Prows' two assignments of error more fully below. Before addressing Prows' two assigned errors, however, we will first set forth the proper standard of review and the legal principles applicable to this appeal.

A. *De Novo Standard of Review Applies*

{¶ 8} "A trial court's decision on a Civ.R. 12(C) motion for judgment on the pleadings is reviewed by an appellate court de novo." *Elboco Ents. v. Billman*, 2020-Ohio-4877, ¶ 18 (12th Dist.). "De novo means that this court uses the same standard that the common pleas court should have used." *Boehm v. Ohio Dept. Pub. Safety*, 2025-Ohio-5092, ¶ 8 (12th Dist.). "Therefore, when conducting a de novo review, this court independently reviews the trial court's decision without giving it any deference." *Colwell v. Bob & Shawn Ents., LLC*, 2026-Ohio-976, ¶ 16 (12th Dist.). That is, under a de novo standard of review, "we examine the legal questions with fresh eyes, giving no deference to the trial court's conclusions." *Smith v. Mercy Health-Clermont Hosp., LLC*, 2025-Ohio-1590, ¶ 13 (12th Dist.).

2. We note that, rather than all three of the Prowses executing their own notices of appeal, it was only Tate Prows who executed the notice of appeal filed in this case. Therefore, because one pro se litigant cannot file a notice of appeal on behalf of another, see *Hineman v. Brown*, 2003-Ohio-926, ¶ 2 (11th Dist.), there is just one appellant in this case rather than three. That being, Tate Prows.

B. Civ.R. 12(C) Motion for Judgment on the Pleadings Standard

{¶ 9} "Pursuant to Civ.R. 12(C), after the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings." *Fields v. Van Ee*, 2026-Ohio-2926, ¶ 13 (12th Dist.). "Civ.R. 12(C) motions are specifically for resolving questions of law." *State ex rel. Conomy v. Rohrer*, 2025-Ohio-5296, ¶ 22, quoting *State ex rel. Midwest Pride IV, Inc. v. Pontious*, 1996-Ohio-459, ¶ 21. To that end, "[d]ismissal is appropriate under Civ.R. 12(C) when (1) the court construes as true, and in favor of the nonmoving party, the material allegations in the complaint and all reasonable inferences to be drawn from those allegations and (2) it appears beyond doubt that the plaintiff can prove no set of facts that would entitle him or her to relief." *Reister v. Gardner*, 2020-Ohio-5484, ¶ 17.

{¶ 10} Thus, in applying the Civ.R. 12(C) standard, "[j]udgment on the pleadings is appropriate when no material factual issues exist and the movant is entitled to judgment as a matter of law." *State ex rel. Harris v. Schwendeman*, 2025-Ohio-4769, ¶ 10. When making this determination, Civ.R. 12(C) permits consideration of both the complaint and the answer. *Conaway v. Mt. Orab*, 2021-Ohio-4041, ¶ 11 (12th Dist.). This differs from Civ.R. 12(B)(6), "which 'must be judged on the face of the complaint alone.'" *Smith v. Mercy Health-Clermont Hosp., LLC*, 2025-Ohio-1590, ¶ 12 (12th Dist.), quoting *Midwest Pride IV* at ¶ 21.

C. Taxation Power

{¶ 11} Prows' Assignment of Error No. 1 states:

THE TRIAL COURT ERRED BY CONCLUDING THAT MUNICIPAL TAXATION FALLS WITHIN THE POWERS OF LOCAL SELF-GOVERNMENT (LSG) ARTICLE XVIII, SECTION 3 OF THE OHIO CONSTITUTION.

{¶ 12} In his first assignment of error, Prows argues broadly that taxation is not within the powers of local self-government under Article XVIII, Section 3 of the Ohio Constitution. Prows further argues that the common pleas court erred in finding that well-established black-letter law permitted the City to impose taxes, including the short-term rental tax at issue in this case, under the City's powers of local self-government under the Ohio Constitution, Article XVIII, Section 3.

{¶ 13} We need not undertake a lengthy analysis of Prows' argument because the Ohio Supreme Court has long settled the question of whether taxation falls within the powers of local self-government, and the answer is "yes." See *Schaad v. Alder*, 2024-Ohio-525, ¶ 43 ("Through the Home Rule Amendment, the state has delegated to municipalities the 'authority to exercise all powers of local self-government.' Ohio Constitution, Article XVIII, Section 3. We have long understood the power of taxation to be among the powers of local self-government."), citing *Cincinnati Bell Tel. Co. v. Cincinnati*, 1998-Ohio-339, ¶ 20 ("The municipal taxing power is one of the 'powers of local self-government' expressly delegated by the people of the state to the people of municipalities"); and *State ex rel. Zielonka v. Carrel*, 99 Ohio St. 220, 227 (1919) ("There can be no doubt that the grant of authority to exercise all powers of local government includes the power of taxation, for without this power local government in cities could not exist for a day.").

{¶ 14} "[T]his court has no authority to overrule the Ohio Supreme Court." *Rumpke Rd. Dev. Corp. v. Union Twp. Bd. of Trustees*, 115 Ohio App.3d 17, 21 (12th Dist.1996). We are instead "'bound by and must follow decisions of the Ohio Supreme Court, which are regarded as law unless reversed or overruled.'" *Id.*, quoting *Schlachet v. Cleveland Clinic Found.*, 104 Ohio App.3d 160, 168 (8th Dist.1995). Therefore, given the Ohio Supreme Court's holdings set forth above, the common pleas court did not err in finding

that well-established black-letter law permitted the City to implement taxes, including a short-term rental tax, under the City's powers of local self-government provided by the Home Rule Amendment to the Ohio Constitution, Article XVIII, Section 3. Accordingly, Prows' first assignment of error lacks merit and is overruled.

D. Short-Term Rental Tax and the Affordable Housing Fund

{¶ 15} Prows' Assignment of Error No. 2 states:

THE TRIAL COURT ERRED BY CONCLUDING THAT MUNICIPAL HOME RULE AUTHORITY PERMITS THE DIVERSION OF TAX REVENUE TO AN AFFORDABLE HOUSING FUND UNDER ARTICLE VIII, SECTION 16 [OF THE OHIO CONSTITUTION].

{¶ 16} In his second assignment of error, Prows argues that the common pleas court erred in finding that it was constitutionally permissible for the City to deposit funds that it had obtained from the short-term rental tax into its affordable housing fund, and that such actions did not violate Article VIII, Section 16 of the Ohio Constitution. To support this assertion, Prows argues that the common pleas court erred by treating Article VIII, Section 16 "as a broad authorization permitting municipalities to divert tax revenues to housing purposes whenever they invoke home rule authority" rather than as a "bounded constitutional framework for housing assistance."

{¶ 17} Article VIII, Section 16 of the Ohio Constitution states in relevant part:

To enhance the availability of adequate housing in the state and to improve the economic and general well-being of the people of the state, it is determined to be in the public interest and a proper public purpose for the state or its political subdivisions, directly or through a public authority, agency, or instrumentality, to provide, or assist in providing, by grants, loans, subsidies to loans, loans to lenders, purchase of loans, guarantees of loans, or otherwise as determined by the general assembly, housing, including shelters to provide temporary housing, in the state for individuals and families by the acquisition, financing, construction, leasing, rehabilitation, remodeling, improvement, or equipping of publicly or privately owned housing, including the acquisition of real property and

interests in real property. *Laws, including charters, ordinances, and resolutions, may be passed to carry into effect those purposes, including but not limited to the authorization of the making of grants, loans, subsidies to loans, loans to lenders, purchase of loans, and guarantees of loans by the state or its political subdivisions, directly or through a public authority, agency, or instrumentality,* which laws, charters, ordinances, resolutions, grants, loans, subsidies to loans, loans to lenders, purchase of loans, guarantees of loans, and any other actions authorized by the general assembly shall not be subject to the requirement, limitations, or prohibitions of any other section of Article VIII, or Sections 6 and 11 of Article XII, Ohio Constitution.

(Emphasis added.)

{¶ 18} Stated more simply, this provision of the Ohio Constitution allows "the state or its political subdivisions," such as the City in this case, to provide or assist in providing public housing by means of "[l]aws, including . . . ordinances." Ohio Const. art. VIII, § 16. These laws may promote public housing by means "*including but not limited to the authorization of the making of grants, loans, subsidies to loans, loans to lenders, purchase of loans, and guarantees of loans . . .*" (Emphasis added.) *Id.*

{¶ 19} Prows argues that Article VIII, Section 3's list of means that a city may use to promote public housing ("the making of grants, loans, subsidies to loans, loans to lenders, purchase of loans, and guarantees of loans") is a limitation, and that because taxation is not explicitly included in this list, the constitutional provision does not authorize the City to use taxation to raise revenue for its affordable housing fund. We agree with Prows to the extent that the plain text of Article VIII, Section 16 "permits the state and political subdivisions to make grants, loans, subsidies to loans, loans to lenders, purchase of loans, and guarantees of loans to aid the housing industry in Ohio . . ." *State ex rel. Lake Cty. Bd. of Commrs. v. Zupancic*, 62 Ohio St.3d 297, 302 (1991).

{¶ 20} However, contrary to Prows' contention, Article VIII, Section 16 of the Ohio Constitution, which includes the phrase "including but not limited to," does not restrict the

State or its political subdivisions to making grants, loans, loan purchases, and loan guarantees as the only available means of providing or assisting in the provision of such housing. Instead, Article VIII, Section 16 provides a non-exhaustive, illustrative list of the ways in which the State or its political subdivisions may act, through the passage of laws, including ordinances, to provide or assist in providing affordable housing for individuals and families. This would include, for instance, the passage of an ordinance establishing a short-term rental tax, as enacted by the City in this case.

{¶ 21} This interpretation is not "especially implausible," as Prows suggests, nor does it create "a license for boundless expansion untethered from context." Far from it. This is particularly true when considering the language provided by the General Assembly in R.C. 176.04(A), which expressly authorizes municipalities like the City to expend tax moneys to provide or assist in providing housing pursuant to Ohio Constitution, Article VIII, Section 16, so long as the municipality "has, among other things, established or designated a housing advisory board under R.C. 176.01 or contracted for the services of such a board pursuant to R.C. 176.02." 1992 Ohio Atty.Gen.Ops. No. 92-065, at 2-268.

{¶ 22} In so holding, we believe the Ohio Supreme Court said it best, for it is well established that the phrase "including but not limited to" means exactly what it says; the expressly given examples constitute an illustrative, non-exhaustive list of examples to be considered, and not, as Prows suggests, the full and complete list in and of itself. See *State ex rel. Clay v. Cuyahoga Cty. Med. Examiner's Office*, 2017-Ohio-8714, ¶ 35. Therefore, given these principles, the common pleas court did not err in finding that it was constitutionally permissible for the City to deposit funds that it had obtained from the short-term rental tax into its affordable housing fund, and that such actions did not violate Article VIII, Section 16 of the Ohio Constitution. Accordingly, Prows' second assignment of error also lacks merit and is overruled.

III. Conclusion

{¶ 23} For the reasons outlined above, and having now overruled Prows' two assignments of error, Prows' appeal from the common pleas court's decision granting the City's Civ.R. 12(C) motion for judgment on the pleadings is denied.

{¶ 24} Judgment affirmed.

HENDRICKSON and SIEBERT, JJ., concur.

JUDGMENT ENTRY

The assignments of error properly before this court having been ruled upon, it is the order of this court that the judgment or final order appealed from be, and the same hereby is, affirmed.

It is further ordered that a mandate be sent to the Butler County Court of Common Pleas for execution upon this judgment and that a certified copy of this Opinion and Judgment Entry shall constitute the mandate pursuant to App.R. 27.

Costs to be taxed in compliance with App.R. 24.

/s/ Matthew R. Byrne, Presiding Judge

/s/ Robert A. Hendrickson, Judge

/s/ Melena S. Siebert, Judge