

- FILED
ADAMS COUNTY
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
ADAMS COUNTY, OHIO

2025 APR 11 AM 9:32

Shawnee Ridge Hunting, LLC, *et al.*

PLAINTIFFS,

v.

Frank LaRose, Ohio Secretary of State,
et al.

DEFENDANTS.

CASE NO. CV20250087

CLERK

JUDGE BRETT SPENCER

**ORDER GRANTING PLAINTIFFS' MOTION FOR
PERMANENT INJUNCTION**

The Court having previously Granted Plaintiffs' Motion for Temporary Restraining Order on March 19, 2025, this matter came before the Court on April 1, 2025 and April 8, 2025 on Plaintiffs' Motion for Preliminary and Permanent Injunction.

First, the Court finds that the parties have had sufficient opportunity and notice of the issues before the Court, considering that the hearing spanned over two hearing dates scheduled seven days apart with multiple insightful and highly qualified lay and expert witnesses. Plaintiffs' oral Motion to convert the Preliminary Injunction hearing to a Permanent Injunction hearing is hereby **GRANTED**.

Having reviewed the pleadings, the testimony of witnesses, the arguments of the Parties, and for good cause shown, the Plaintiffs' Motion for Preliminary and Permanent Injunction is hereby **GRANTED**. The Court's reasoning is as follows:

“To be entitled to a preliminary injunction, the moving party must establish, by clear and convincing evidence, that (1) there is a substantial likelihood of ultimately prevailing on the merits, (2) irreparable injury will occur if the injunction is not granted, (3) the rights of third parties will not be harmed if the injunction is granted, and (4) the injunction will serve the public interest.” *Novy v. Ferrara*, 2014-Ohio-1776, ¶ 55 (11th Dist.) quoting *Arndt v. P & M Ltd.*, 2008-Ohio-2316, ¶ 64 (11th Dist.). “The requirements for a permanent injunction are essentially the same as those for a preliminary injunction, ‘except instead of the plaintiff proving a “substantial likelihood” of prevailing on the merits, the plaintiff must prove that he has prevailed on the merits.’” *Id.*

The Court also considered two additional factors: whether the movant had an adequate remedy at law and whether injunctive relief is for the purpose of maintaining the status quo pending a trial on the merits. *See Gati v. Americredit Fin.*, 2012-Ohio-361, ¶ 11 (8th Dist.) (quoting *Rein Const. Co. v. Trumbull Cty. Bd. of Commrs.*, 138 Ohio App.3d 622, 630-31 (11th Dist. 2000)).

In determining whether to grant injunctive relief, courts have recognized that “no one factor is dispositive,” but rather, the “four factors must be balanced ... with the ‘flexibility which traditionally has characterized the law of equity.’” *Cleveland v. Cleveland Elec. Illum. Co.*, 115 Ohio App.3d 1, 8,684 N.E.2d 343 (8th Dist. 1996) (quoting *Friendship Materials, Inc. v. Michigan Brick, Inc.*, 679 F.2d 100, 105 (6th Cir. 1982)).

Here, the Plaintiffs have asked the Court to enjoin House Substitute Bill 503 (“H.B. 503”) from going into effect and enjoin any enforcement efforts regarding the same, arguing that H.B. 503 is unconstitutional. In particular, the Plaintiffs have asked this Court to enjoin the amendments to and the new sections of Chapter 15 of the Ohio Revised Code found in Revised Code Sections 1531.01, 1533.01, 1533.731, 1533.75, and 1533.99.

The Court finds the Plaintiffs have prevailed on the merits by clear and convincing evidence on each of the six factors it has considered. “Constitutional” means not conflicting with any provision of the constitution. The United States Constitution provides the Constitutional right to due process in both the Fifth and the Fourteenth Amendments. Due process rights mean both procedural due process and substantive due process rights. Substantive due process rights protect people from unfair government taking or interference with property rights. In addition, Article 1, Section 19 of the Ohio Constitution prohibits Ohio’s government from taking without just compensation.

The Court finds that the definition of “Wild boar” or “feral swine” contained in the amendments to H.B. 503 in proposed R.C. 1533.01(HHH) includes the family Suidae, which encompasses all pigs, hogs and swine. The term “including” that follows “family Suidae” can be construed two ways: as either an enlargement of “family Suidae” or an illustrative application of “family Suidae.” The Court finds that H.B. 503 authorizes regulation, and taking of, all pigs, hogs, and swine in Ohio. The Court finds that H.B. 503 contains ill-conceived terminology that is overly and fatally broad/vague, and is unconstitutional.

Specifically, the Court finds that the specific amendments and additions to Chapter 15 in H.B. 503 described above are void for vagueness, and therefore violate Plaintiffs’ rights to due process. Under these amendments and additions, Plaintiffs are unable to act without engaging in criminal activity: they cannot own, kill, transport, feed, or fail to feed the members of the family Suidae that they own, without committing misdemeanor or felony criminal acts. The Court also finds that the specific amendments and additions to Chapter 15 in H.B. 503 described above violate Article 1, Section 19 of the Ohio Constitution as they would constitute an unjust and uncompensated taking.

In addition, the Court finds that the specific amendments and additions to Chapter 15 in H.B. 503 do not meet rational basis review. Feral pigs provide no benefit, but the Court cannot find that there is a rational basis connecting the prohibition on owning, killing, feeding, transporting, or failing to feed any member of the family Suidae with the elimination of feral pigs. The Court finds well beyond clear and convincing evidence that the specific amendments and additions to Chapter 15 in H.B. 503 are unconstitutional for the three reasons listed above.

The Court finds by clear and convincing evidence that Plaintiffs have no adequate remedy at law. The Court inquired of Defendants what Plaintiffs could do to avoid criminal sanction; not one was able to answer. This injunction is Plaintiffs' only remedy.

In addition, the Court finds by clear and convincing evidence that Plaintiffs will suffer irreparable injury if the specific amendments and additions to Chapter 15 in H.B. 503 are not enjoined permanently. Plaintiffs' constitutional rights may be violated, and the moment these amendments and provisions of H.B. 503 are enforceable, Plaintiffs may be charged with forty or more misdemeanors related to his property, which if stacked could place Plaintiff Richter in jail for twenty years and cause Plaintiffs to be fined \$40,000. Regardless of what Defendants might suggest, there is a strong possibility that some law enforcement agent could impose these provisions on Plaintiffs; a permanent injunction is the only means of preventing this.

The Court finds by clear and convincing evidence that there is no risk of harm to third parties through this permanent injunction. The Ohio Department of Natural Resources has indicated that it did not intend to begin enforcing these laws until June of 2025, and admitted that it did not even have a plan and/or "clear line drawn", to enforce the laws. This injunction will hopefully shine a spotlight for the Ohio Pork Council and

the 3,400 pork-producing farms in Ohio on what could readily happen if these specific amendments and additions to Chapter 15 in H.B. 503 are not enjoined.

The Court finds by clear and convincing evidence that there is great public interest in this permanent injunction. The pork industry admirably contributes \$3.4 billion to Ohio's economy annually, and provides at a minimum 28,000 jobs to Ohioans. Absent this permanent injunction, this economic engine that helps move Ohio could be substantially impaired. The 3,400 pork farmers and their families and all the innovations they bring to the industry could be substantially injured. So too would the livelihoods and customers of Plaintiffs and the other hunting preserves in Ohio be substantially injured. In addition, it is always in the public interest to protect constitutional rights. *G & V Lounge, Inc. v. Michigan Liquor Control Comm'n*, 23 F.3d 1071, 1079 (6th Cir. 1994).

Finally, the Court finds by clear and convincing evidence that issuing this permanent injunction maintains the status quo, pending resolution of Plaintiffs' declaratory judgment action.

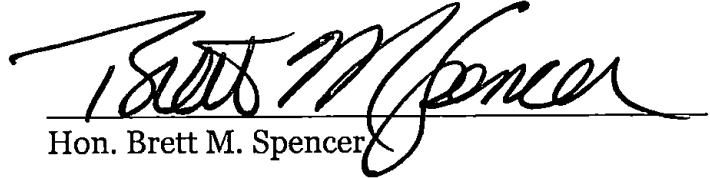
This Order shall be binding upon parties, officials, agents, servants, employees, associates, and any persons who are in active concert with the same.

The Court sets as a bond to be paid as a surety by Plaintiffs the amount of \$1,000, which is equal to what the state of Ohio could demand of Plaintiffs' for just one of the criminal misdemeanor charges that might await them if the specific amendments and additions to Chapter 15 in H.B. 503 are not enjoined permanently.

The Court and the Record of proceedings duly notes the objections of Defendants to this Court's conversion from temporary injunction to permanent injunction, as well as the Court's ultimate rulings.

IT IS SO ORDERED.

This is a Final appealable Order and there is not Just Reason for Delay.


Hon. Brett M. Spencer

Date: April 11, 2025
@ 9:28 A.M.