



LCAV Case Study **Confirming a Community's Authority to Make the Rules— Research in Support of an Ohio Community's Ban on Gun Dealers**

The Challenge: Federal law imposes only limited regulation on commercial sellers of firearms, including paying licensing fees, initiating background checks, and maintaining records of purchases and sales. Some states go beyond the federal requirements, including such provisions as security and storage requirements for inventory, instituting a waiting period before a firearm can be transferred, prohibiting dealers from selling in residential areas, and requiring employee background checks.

While such federal and state laws serve a variety of public safety purposes, ultimately they do not go far enough for some communities whose residents and leaders do not want to open their doors to gun dealers. Some jurisdictions possess the authority to further regulate firearms at the local level in the interests of public health, safety and welfare. In some cases, this authority extends to the outright prohibition of gun dealers. Understanding the scope of local authority to regulate firearms requires an analysis of the interrelationship among a complex array of federal, state and local laws in each state.

In 2003, a firearms dealer filed an application with the City of East Cleveland, Ohio, for business permits to operate a dealership in the city. Prior to that time, the city of 27,217 people had no firearms dealers, but was – and continues to be – plagued by an influx of illegal firearms and a high crime rate. Seeking to stem this flood of firearms into a community already wrought with gun violence, East Cleveland's City Council proposed an ordinance providing that no person shall “engage in the business of selling air guns, rifles, shotguns, revolvers, pistols, or any other firearms within” East Cleveland.

LCAV's Role: The East Cleveland City Clerk's Office contacted LCAV to request an analysis of any potential federal or state constitutional or other legal impediments to East Cleveland's authority to adopt a local ordinance banning firearms dealers. LCAV attorneys reviewed the language of East Cleveland's proposed ordinance and conducted a thorough analysis of potential federal and state constitutional challenges. LCAV's review concluded that the proposed East Cleveland ordinance was well within the city's authority to regulate firearms, and would likely withstand possible challenges under the U.S. or Ohio Constitutions or other federal or Ohio law. LCAV submitted the analysis to the East Cleveland City Clerk's Office in October 2003.

Results: After reviewing LCAV's analysis, on November 18, 2003, the East Cleveland City Council voted 4-1 to adopt the ordinance prohibiting gun dealers within the city limits. LCAV's work gave the City Council the confidence to achieve its public safety goals through a legally defensible ordinance that will help limit access to firearms within East Cleveland. LCAV's analysis also will help other Ohio cities that may seek to follow East Cleveland's lead and prohibit firearms dealers in their communities.

LCAV is a public interest law center dedicated to preventing gun violence. Formed in the wake of the 1993 assault weapon massacre at 101 California Street in San Francisco, LCAV provides free legal assistance to activists and public officials, including law enforcement and government attorneys, working to prevent gun violence. To learn more about our services or to request assistance, visit our web site, www.lcav.org, the nation's most comprehensive source for information on U.S. firearms regulation.

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