

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Fair Housing Opportunities of Northwest Ohio v. Ohio Fair Plan*, Slip Opinion No. 2023-Ohio-2667.]

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SLIP OPINION NO. 2023-OHIO-2667

**THE STATE EX REL. FAIR HOUSING OPPORTUNITIES OF NORTHWEST OHIO,
D.B.A. FAIR HOUSING CENTER, APPELLEE AND CROSS-APPELLANT, v. OHIO
FAIR PLAN, APPELLANT AND CROSS-APPELLEE.**

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Fair Housing Opportunities of Northwest Ohio v. Ohio Fair Plan*, Slip Opinion No. 2023-Ohio-2667.]

Public records—R.C. 149.43 and 149.011—R.C. 3929.43—The Ohio Fair Plan Underwriting Association is a “public office” subject to the Ohio Public Records Act—Court of appeals’ judgment affirmed.

(No. 2022-0244—Submitted March 22, 2023—Decided August 3, 2023.)

APPEAL and CROSS-APPEAL from the Court of Appeals for Franklin County, No. 20AP-351, 2022-Ohio-385.

DONNELLY, J.

{¶ 1} Appellant and cross-appellee, the Ohio Fair Plan Underwriting Association (“OFP”), appeals the judgment of the Tenth District Court of Appeals

granting a writ of mandamus ordering OFP to provide documents in response to the public-records request of appellee and cross-appellant, Fair Housing Opportunities of Northwest Ohio, d.b.a. the Fair Housing Center (“Fair Housing”). Fair Housing has cross-appealed the portion of the court of appeals’ judgment denying it statutory damages and attorney fees. We affirm the court of appeals’ judgment in all respects.

I. FACTUAL AND PROCEDURAL BACKGROUND

A. OFP

{¶ 2} OFP is an association created under R.C. 3929.43 and has existed since the late 1960s. All insurers licensed to write basic property insurance policies in Ohio must be members of OFP. R.C. 3929.43(A). The General Assembly created OFP to (1) help applicants in urban areas secure basic property insurance or homeowners’ insurance and (2) formulate and administer a program for the equitable apportionment of basic property insurance or homeowners’ insurance when such insurance cannot be obtained in the normal market. *Id.*

{¶ 3} OFP is governed by a 12-member board of governors. Four members are appointed by the governor of Ohio with the advice and consent of the Senate to serve two-year terms. R.C. 3929.43(G). The remaining eight members are representatives from OFP’s member insurance companies and are elected annually by members of OFP. *Id.* OFP’s employees are not state employees and do not participate in the Ohio Public Employees Retirement System.

{¶ 4} The Ohio superintendent of insurance supervises OFP. R.C. 3929.43(H). OFP’s board of governors must submit a plan of operation to the superintendent for approval. R.C. 3929.43(C). The plan

shall provide for economical, fair, and nondiscriminatory administration of a program for the equitable apportionment among members of basic property insurance or homeowners insurance

which may be afforded in urban areas to applicants whose property is insurable in accordance with reasonable underwriting standards, but who are unable to procure such insurance through normal channels.

Id. OFP’s approved plan of operation and any amendments thereto are codified in the Ohio Administrative Code. *See id.*; Ohio Adm.Code 3901-1-18.

{¶ 5} Under R.C. 3929.44(A), any person unable to obtain basic property insurance in an urban area may apply to OFP for it. OFP must inspect the property, and if the inspection finds the property to be insurable under reasonable underwriting standards, OFP must issue a binder or policy of insurance subject to the applicant’s payment of the premium. R.C. 3929.44(B) and (C); *see also* R.C. 3929.481 (authorizing OFP to issue insurance policies in its own name). A binder or policy issued by OFP lasts one year. Ohio Adm.Code 3901-1-18(H)(6) and (I)(5). OFP, as a joint underwriting association, assumes 100 percent of the risk on behalf of the member insurers. Ohio Adm.Code 3901-1-18(O)(1).

{¶ 6} Any person or insurer “aggrieved by any action or decision” of OFP may appeal to OFP’s board of governors. R.C. 3929.47; Ohio Adm.Code 3901-1-18(J)(1). Decisions of the board are appealable to the superintendent of insurance; all final orders and decisions of the superintendent are appealable under R.C. Chapter 119. *See* R.C. 3929.47; Ohio Adm.Code 3901-1-18(J)(2).

B. Fair Housing’s Public-Records Request

{¶ 7} In a letter dated April 9, 2020, Fair Housing made a public-records request to OFP by certified mail, seeking:

1. A complete copy of every underwriting standards [sic] (sometimes referred to as “underwriting guidelines”) that [OFP] has used since 1999.

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2. A list of every address that has received insurance through [OFP] since 2015. * * *

3. A list of every address that [OFP] rejected for insurance coverage since 2015. * * *

4. Any records explaining, detailing, providing guidance on the meaning of, or stating why [OFP] adopted the underwriting criteria of “Dwelling structure must have coverage equal to or greater than Insurance Services Office’s rating minimum * * *.” * * *

5. Any records explaining, detailing, or providing guidance on the meaning of, or stating why [OFP] adopted the underwriting criteria of “Dwelling structure coverage carried must be at least 50% of the replacement cost.”

(Third ellipsis sic.)

{¶ 8} In a letter dated April 20, OFP responded to Fair Housing’s request, stating that OFP is “not a public agency and thus [is] not subject to public records requests.” OFP further stated that disclosure of the information requested by Fair Housing “may violate [OFP’s] customer/client privacy rights.” OFP nonetheless offered to discuss with Fair Housing ways that OFP could accommodate the request. OFP subsequently sent additional letters to Fair Housing, explaining that OFP is excluded from the statutory definition of “public agency” in R.C. 101.82 and indicating that OFP had never been required to respond to a public-records request. In a letter dated May 19, OFP provided information that it contends is partially responsive to Fair Housing’s public-records request.

{¶ 9} Fair Housing commenced this action in the Tenth District Court of Appeals on July 10, 2020, seeking a writ of mandamus ordering OFP to provide records responsive to the April 9 public-records request. Fair Housing also sought

awards of statutory damages and attorney fees under R.C. 149.43. The court of appeals referred the case to a magistrate, who recommended that the court (1) grant a writ directing OFP to produce the records responsive to Fair Housing’s request and (2) deny Fair Housing’s request for statutory damages and attorney fees. Both parties objected to the magistrate’s decision.

{¶ 10} The court of appeals unanimously overruled OFP’s objections to the magistrate’s decision. 2022-Ohio-385, 184 N.E.3d 952, ¶ 11. It found that OFP is a “public office” subject to the Public Records Act, in part because “OFP and its board of governors, and its purpose, operation, and regulation thereof, were specifically established by the Ohio legislature [in] R.C. 3929.41 through 3929.49[,]” “evinc[ing] a legislative intent that OFP be considered a public office.” *Id.* at ¶ 12. The court of appeals also overruled Fair Housing’s objection to the magistrate’s decision to deny statutory damages and attorney fees. *Id.* at ¶ 27, 32. The court agreed with the magistrate’s determination that OFP was “prompt and cooperative” in responding to Fair Housing’s request and that the issue of OFP’s public-office status was a matter of first impression. *Id.* at ¶ 29. Thus, the court of appeals found that statutory damages and attorney fees were unwarranted.

{¶ 11} OFP appealed the court of appeals’ judgment granting a writ of mandamus ordering OFP to provide records in response to Fair Housing’s April 2020 public-records request. Fair Housing cross-appealed the portion of the judgment denying statutory damages and attorney fees.

II. ANALYSIS

A. *OFP’s Appeal*

{¶ 12} Mandamus is the appropriate remedy to compel compliance with Ohio’s Public Records Act, R.C. 149.43. *State ex rel. Dispatch Printing Co. v. Johnson*, 106 Ohio St.3d 160, 2005-Ohio-4384, 833 N.E.2d 274, ¶ 16. This court reviews the judgment of a court of appeals in a mandamus action as if it had been

filed originally in this court. *State ex rel. Armatas v. Plain Twp. Bd. of Trustees*, 163 Ohio St.3d 304, 2021-Ohio-1176, 170 N.E.3d 19, ¶ 12.

{¶ 13} R.C. 149.43(A)(1) defines a “public record” as a record kept by “any public office.” The dispute in this case centers on whether OFP is a “public office” within the meaning of the Public Records Act. A “public office” is defined as “any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government.” R.C. 149.011(A). Any doubt as to the “public” status of an entity for purposes of the Public Records Act should be resolved in favor of finding it subject to the statute’s provisions requiring the disclosure of records. *See State ex rel. Toledo Blade Co. v. Univ. of Toledo Found.*, 65 Ohio St.3d 258, 261, 602 N.E.2d 1159 (1992); *see also State ex rel. Strothers v. Wertheim*, 80 Ohio St.3d 155, 156, 684 N.E.2d 1239 (1997) (plurality opinion).

1. OFP Is a “Public Office”

{¶ 14} Under a straightforward reading of R.C. 149.011(A), OFP is a “public office.” First, OFP was created by statute. *See* R.C. 3929.43(A). Second, it was created to (1) ensure stability in the property insurance market for property located in urban areas, (2) ensure availability of property and homeowners’ insurance, (3) encourage maximum use of the “normal insurance market provided by authorized insurers,” R.C. 3929.41(D), and (4) provide for the equitable distribution among authorized insurers of the responsibility for insuring eligible property. R.C. 3929.41. As explained below, these functions of OFP are sufficient indicia of its “exercise of any function of government” for the purposes of meeting the definition of “public office” under R.C. 149.011(A). OFP, therefore, is a “public office” subject to the Public Records Act. *See* R.C. 149.43(A)(1), (B)(1).

{¶ 15} OFP argues that it cannot be a public office subject to the Public Records Act because it “does not perform a governmental function.” OFP contends that its function is to provide homeowners’ insurance and basic property insurance,

which, it notes, this court has found not to be a historically governmental function. *See State ex rel. Bell v. Brooks*, 130 Ohio St.3d 87, 2011-Ohio-4897, 955 N.E.2d 987, ¶ 22, quoting the court of appeals’ opinion in that case (insurance “ ‘has traditionally been provided by private entities’ ”). And, OFP argues, because Ohio’s private insurers are not subject to the Public Records Act, it also should not be subject to the law.

{¶ 16} OFP’s reliance on *Bell* is inapposite. We applied a functional-equivalency test in *Bell* because the joint self-insurance pool at issue there was a private entity; but OFP was established by the General Assembly in R.C. 3929.43 and is not a private entity. OFP was “established by the laws of this state for the exercise of [a] function of government,” R.C. 149.011(A), which, as noted earlier, is the definition of “public office” under R.C. 149.011. When an entity is a “public office” under R.C. 149.011(A), the functional-equivalency test is inapplicable. *See State ex rel. Schiffbauer v. Banaszak*, 142 Ohio St.3d 535, 2015-Ohio-1854, 33 N.E.3d 52, ¶ 13.

{¶ 17} The fact that providing insurance is not a “historically governmental function,” *Bell* at ¶ 22, does not undercut OFP’s status as a public office. An entity does not have to perform a historically governmental function to be a “public office” under R.C. 149.011. “A public office is any entity that exercises any function of government.” *State ex rel. Fox v. Cuyahoga Cty. Hosp. Sys.*, 39 Ohio St.3d 108, 110, 529 N.E.2d 443 (1988). In *Fox*, this court rejected the argument that certain records of a county hospital were not public records because the county’s operation of the hospital was proprietary rather than governmental. *Id.* In other words, the government’s undertaking of a function through an entity established by law necessarily makes that function a function of government, even if the function is not historically governmental. *See State ex rel. Beacon Journal Publishing Co. v. Bodiker*, 134 Ohio App.3d 415, 422, 731 N.E.2d 245 (10th Dist.1999) (finding that the Ohio Public Defender’s office is a “public office” under

the Public Records Act because it was created by statute to further a government objective).

{¶ 18} That OFP performs a “function of government” is further supported by the appeal and judicial-review scheme created by the General Assembly in R.C. 3929.47. “Any person or insurer aggrieved” by an action of OFP or its administrator may appeal to the board of governors. R.C. 3929.47. The decision of the board of governors may then be appealed to the superintendent of insurance, and all final orders and decisions of the superintendent “are subject to judicial review as provided in [R.C. Chapter 119],” which governs administrative appeals from decisions of state agencies. R.C. 3929.47; *see also* R.C. 119.12(B). That the General Assembly would create an appeal mechanism that could ultimately result in judicial review of an OFP action under R.C. Chapter 119 is further evidence that OFP was created to perform a “function of government” within the meaning of R.C. 149.011.

{¶ 19} Moreover, R.C. 3929.48 suggests that the General Assembly meant to create OFP as a “public office” subject to the Public Records Act. R.C. 3929.48 provides:

There shall be no liability on the part of, and no cause of action of any nature shall arise against any insurer, inspection bureau, or the Ohio fair plan underwriting association, or a director, agent, or employee of any of these, or the superintendent of insurance or his authorized representatives, for any inspections undertaken or statements made by any of them concerning the property to be insured, or any acts or omissions in connection therewith. Any reports and communications in connection therewith are not public documents.

{¶ 20} The General Assembly excepted a specific category of documents—reports and communications relating to inspections undertaken or statements made about a property to be insured—from the meaning of “public documents.” Accordingly, these records are not subject to disclosure under the Public Records Act. *See* R.C. 149.43(A)(1)(v). The specific exception for certain categories of OFP documents implies that other documents of OFP are public records. *See Thomas v. Freeman*, 79 Ohio St.3d 221, 224-225, 680 N.E.2d 997 (1997), quoting *Black’s Law Dictionary* 581 (6th Ed.1990) (“ ‘if a statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded’ ”). The General Assembly’s declaration that certain records of OFP are not “public documents” evinces a legislative understanding that other categories of OFP’s records *are* public documents.

2. *OFP’s Exemption from the Definition of “State Agency” in the Sunset-Review Law Is of No Significance*

{¶ 21} OFP contends that the General Assembly specifically excluded it from the definition of “agency” in the sunset-review law, R.C. 101.82 to 101.87, and that such exclusion supports the conclusion that it is not subject to the Public Records Act.¹ R.C. 101.82(A)(11) does expressly exclude the OFP board of governors from the definition of “agency” used in R.C. 101.82 to 101.87. But the fact that the General Assembly has exempted OFP from sunset review does not mean that OFP cannot be a “public office” for purposes of the Public Records Act; it simply means that the General Assembly does not intend for OFP to automatically expire under the sunset-review law. Moreover, as the court of appeals noted, the list of other entities exempted from the definition of “agency” for purposes of sunset

1. The sunset-review law states, “It is the intent of the general assembly that an agency shall expire by operation of [R.C. 101.82 to 101.87], four years more or less after the effective date of the act that established the agency,” unless renewed in accordance with R.C. 101.83(E). R.C. 101.83(A). In R.C. 101.82(A), the General Assembly exempts 26 categories of entities from the meaning of “agency” for the purposes of the sunset-review law.

review are unquestionably subject to the Public Records Act. 2022-Ohio-385, 184 N.E.3d 952, at ¶ 16, quoting the magistrate’s opinion (“ ‘the list of other agencies exempt from sunset review consists in large part of agencies that indisputably are subject to public records requests, such as the Industrial Commission, Employment Relations Board, and Public Utilities Commission, to name but a few’ ” [emphasis deleted]); *see generally* R.C. 101.82(A)(1) to (A)(26).

{¶ 22} Accordingly, OFP’s argument that it is not an “agency” under R.C. 101.82 to 101.87 does not support its contention that OFP is not a “public office.”

3. *Other States’ Cases Do Not Inform the Interpretation of Ohio Law*

{¶ 23} OFP also argues that courts in other states that have similar fair-access-to-insurance plans or guaranty associations have held that such entities are not state agencies subject to those states’ public-records laws. None of the cases cited by OFP, however, involved statutes that define “public office” in the same way as the General Assembly has in R.C. 149.011(A).

{¶ 24} OFP cites *Minnesota Joint Underwriting Assn. v. Star Tribune Media Co.*, 862 N.W.2d 62 (Minn.2015), *Property Ins. Assn. of Louisiana v. Theriot*, 31 So.3d 1012 (La.2010), *Boettcher v. Montana Guar. Fund*, 332 Mont. 279, 2006 MT 127, 140 P.3d 474, *Al Boenker Ins. Agency, Inc. v. Texas Fair Plan Assn.*, Tex.App. No. 03-04-00050-CV, 2004 WL 1686598 (July 29, 2004), and *Greenfield v. Pennsylvania Ins. Guar. Assn.*, 24 Pa.Comm. 127, 353 A.2d 918 (1976), as cases in which courts in other states have found that their states’ fair-access-to-insurance plans were not state agencies. These cases do not inform the issue here, because regardless of whether OFP is considered a state agency, it is a public office within the meaning of R.C. 149.011(A), thereby bringing it within the reach of the Ohio Public Records Act.²

2. R.C. 149.011(B) defines “state agency” to include “every department, bureau, board, commission, office, or other organized body established by the constitution and laws of this state for the exercise

4. 2023 Am.Sub.H.B. No. 45 Does Not Change the Result

{¶ 25} Since the merit briefing closed in this case, both parties submitted as supplemental authority 2023 Am.Sub.H.B. No. 45 (“H.B. 45”), which was signed into law by the governor on January 6, 2023. Under H.B. 45, effective April 7, 2023, newly enacted R.C. 3929.43(J)(1) and (2) state:

(1) Except as provided in division (J)(2) of this section, records created, held by, or pertaining to [OFP] are not public records under section 149.43 of the Revised Code, are confidential, and are not subject to inspection or disclosure.

(2) Division (J)(1) of this section does not apply to the plan of operation and other information required to be filed with the superintendent under this chapter unless otherwise prohibited from release by law.

{¶ 26} OFP calls the court’s attention only to R.C. 3929.43(J)(1), which states that records held by it are not public records. Fair Housing, however, states that R.C. 3929.43(J)(2) is equally significant because it makes clear that “any insurance-related records that OFP holds are indeed public records.”

{¶ 27} The supplemental authority does not support OFP’s arguments for reversal, principally because the law was not in effect at the time of Fair Housing’s public-records request. Moreover, H.B. 45 does not state an intention to clarify existing law. *See State ex rel. Cincinnati Enquirer v. Jones-Kelley*, 118 Ohio St.3d 81, 2008-Ohio-1770, 886 N.E.2d 206, ¶ 49, fn. 2. Even if we assume that R.C. 3929.43(J)(1) as enacted by H.B. 45 applies to the records at issue in this case, we

of any function of state government, including any state-supported institution of higher education, the general assembly, any legislative agency, any court or judicial agency, or any political subdivision or agency of a political subdivision.”

have cautioned against interpreting a new enactment to apply retroactively to pending claims. *See Jones-Kelley* at ¶ 49, fn. 2 (“it does not make ‘good sense’ for courts to judicially legislate exceptions to the Public Records Act that have not been retroactively applied to pending claims by the General Assembly”), citing *State ex rel. WBNS TV, Inc. v. Dues*, 101 Ohio St.3d 406, 2004-Ohio-1497, 805 N.E.2d 1116, ¶ 36-37.

{¶ 28} If anything, the supplemental authority cuts against OFP’s argument that it is not a public office for purposes of the Public Records Act. The General Assembly’s prospective enactment of a law stating that OFP’s records, subject to certain exceptions, are not public records evinces the legislature’s understanding that OFP is a public office that would otherwise be subject to the Public Records Act.

{¶ 29} Under R.C. 149.011(A), OFP is a “public office” subject to the Public Records Act. We therefore affirm the court of appeals’ judgment granting a writ of mandamus.

B. Fair Housing’s Cross-Appeal

{¶ 30} Fair Housing has cross-appealed the portion of the court of appeals’ judgment denying its recovery of statutory damages under R.C. 149.43(C)(2) and attorney fees under R.C. 149.43(C)(3)(c).

1. Statutory Damages

{¶ 31} Under R.C. 149.43(C)(2), “the requester shall be entitled to recover” statutory damages if (1) he submits a written request “by hand delivery, electronic submission, or certified mail,” (2) the request “fairly describes the public record or class of public records,” and (3) “a court determines that the public office or the person responsible for public records failed to comply with an obligation” imposed by R.C. 149.43(B).

{¶ 32} Fair Housing submitted its April 2020 request by certified mail, qualifying it for statutory damages. OFP does not argue that Fair Housing’s request

failed to fairly describe the records sought. Further, the parties do not dispute that OFP has not provided all the requested records. The issue, therefore, is whether the court of appeals properly declined to award statutory damages based upon R.C. 149.43(C)(2), which provides:

The court may reduce an award of statutory damages or not award statutory damages if the court determines both of the following:

(a) That * * * a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(b) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

{¶ 33} The court of appeals found that statutory damages are unwarranted here because of (1) the “ ‘prompt and cooperative nature of OFP’s response’ ” to Fair Housing’s request and (2) OFP’s public-office status under Ohio law being a matter of first impression. 2022-Ohio-385, 184 N.E.3d 952, at ¶ 29, quoting the magistrate’s opinion. The first rationale is irrelevant, as OFP’s being “prompt and cooperative” in denying a valid public-records request informs neither of the two prongs set forth in R.C. 149.43(C)(2). “[A] public office’s good or bad faith is

irrelevant in a statutory-damages analysis.” *State ex rel. Horton v. Kilbane*, 167 Ohio St.3d 413, 2022-Ohio-205, 194 N.E.3d 288, ¶ 18.

{¶ 34} The second reason given—OFP’s status as a public office being a matter of first impression—cuts against awarding statutory damages. Though OFP was statutorily created, its membership consists of private insurance companies and its function—providing insurance—had previously been found by this court (albeit with regard to a different entity) to be a private one that was not historically governmental. *See Bell*, 130 Ohio St.3d 87, 2011-Ohio-4897, 955 N.E.2d 987, at ¶ 22. OFP could reasonably believe that its customers and member insurers were entitled to the same protection and security in their records and data as insureds and insurers in the private sector. The court of appeals therefore did not err in finding that the R.C. 149.43(C)(2)(a) and (b) factors cut against an award of statutory damages.

2. Attorney Fees

{¶ 35} Under R.C. 149.43(C)(3)(b), when a writ of mandamus is granted ordering a public office to comply with R.C. 149.43(B), the prevailing relator is eligible for an award of attorney fees. In this case, however, the court of appeals properly denied an attorney-fee award.

{¶ 36} Similar to the statutory-damages inquiry, a court shall not award attorney fees if it determines that (1) based on the law as it existed at the time of the denied request, a well-informed public office would have reasonably believed that R.C. 149.43(B) did not require disclosure of the requested records and (2) a well-informed person responsible for the requested public records would have reasonably believed that withholding the records would serve the public policy that underlies the authority asserted for withholding the records. *See* R.C. 149.43(C)(3)(c)(i) and (ii). Thus, the same reasons stated above to support the denial of statutory damages support the court of appeals’ decision to deny recovery

of attorney fees.³ *See State ex rel. Hicks v. Fraley*, 166 Ohio St.3d 141, 2021-Ohio-2724, 184 N.E.3d 13, ¶ 28. We therefore affirm the court of appeals' denial of Fair Housing's request for an attorney-fee award.

III. CONCLUSION

{¶ 37} For the foregoing reasons, the Tenth District Court of Appeals correctly determined that OFP is a public office subject to the Public Records Act and that Fair Housing is not entitled to awards of statutory damages or attorney fees. We therefore affirm the court of appeals' judgment.

Judgment affirmed.

FISCHER, DEWINE, STEWART, BRUNNER, and DETERS, JJ., concur.

KENNEDY, C.J., concurs in judgment only.

George Thomas, for appellee and cross-appellant.

Crabbe, Brown & James, L.L.P., Larry H. James, and Christopher R. Green, for appellant and cross-appellee.

Community Legal Aid Services, Inc., Andrew D. Neuhauser, Gregory R. Sain, and Joshua L. Hinkel, urging affirmance for amicus curiae Community Legal Aid Services, Inc.

Advocates for Basic Legal Equality, Inc., Michael Loudenslager, Chelsea Kemper, and Heather L. Hall, urging affirmance for amicus curiae Advocates for Basic Legal Equality, Inc.

Legal Aid of Western Ohio, Inc., and Kevin Mulder, urging affirmance for amicus curiae Legal Aid of Western Ohio, Inc.

Legal Aid Society of Cleveland and Thomas Mlakar, urging affirmance for

3. OFP also argues that Fair Housing is not entitled to recover attorney fees because it utilized in-house counsel and, therefore, did not incur any recoverable attorney fees. *See State ex rel. Beacon Journal Publishing Co. v. Akron*, 104 Ohio St.3d 399, 2004-Ohio-6557, 819 N.E.2d 1087, ¶ 62. Because we find that an attorney-fee award is not warranted under R.C. 149.43(C)(3)(b), we need not reach this argument.

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amicus curiae Legal Aid Society of Cleveland.

Legal Aid Society of Columbus, Melissa Lenz, Thomas Pope, and Benjamin Horne, urging affirmance for amicus curiae Legal Aid Society of Columbus.

Legal Aid Society of Southwest Ohio, L.L.C., and John E. Schrider Jr., urging affirmance for amicus curiae Legal Aid Society of Southwest Ohio, L.L.C.

Southeastern Ohio Legal Services and Kristen Finzel Lewis, urging affirmance for amicus curiae Southeastern Ohio Legal Services.
