In The
Supreme Court of Ohio

Department of Development Services for the City of North Canton, Ohio,	:	Case No. 2025-0458
Plaintiff-Appellee,	:	On Appeal from the Fifth District Court of Appeals of Ohio, Stark County
vs.	:	
CF Homes LLC,	:	Court of Appeals Case No. 2024CA00108
Defendant-Appellant.	:	

BRIEF OF *AMICI CURIAE* OHIO MUNICIPALITIES, THE FRANKLIN COUNTY PROSECUTING ATTORNEY, AND THE OHIO MUNICIPAL ATTORNEYS ASSOCIATION IN SUPPORT OF APPELLEE

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INTRODUCTION

There is no shortage of horror stories in Ohio concerning tenants living in substandard rental housing. *See, e.g.*, Tucker, The Cincinnati Enquirer, *City seeks to have former Vision & Beyond property declared public nuisance* (updated July 9, 2025, 8:09 AM), https://www.cincinnati.com/story/news/2025/07/09/former-vision-beyond-renters-still-dealing-with-mold-sewage-leaks/84506981007/?gnt-cfr=1&gca-cat=p&gca-uir=true&gca-epti=z118545p116550c116550e005500v118545b0051xxd005165&gca-ft=167&gca-ds=sophi&sltsgmt=0154_C (accessed Sept. 15, 2025); Rantala, WSXY ABC6, *Galloway Village complex declared 'uninhabitable' in Franklin Co., 93 tenants must now move*, (updated Apr. 22, 2024, 12:08 PM), https://abc6onyourside.com/news/local/galloway-village-apartments-declared-uninhabitable-in-franklin-county-93-tenants-must-now-move (accessed Sept. 18, 2025); Lagatta, The Columbus Dispatch, *Residents voice frustrations over Colonial Village as Columbus pursues legal action* (updated July 15, 2021, 11:33 AM), https://www.dispatch.com/story/news/2021/07/15/residents-voice-frustrations-over-colonial-village-city-pursues-legal-action/7962578002/ (accessed Sept. 15, 2025). While these accounts more-often-than-not represent an exception to the norm, they nonetheless involve real people in often unsafe or dangerous situations.

The City of North Canton—like many other local governments across the State of Ohio—has opted to be proactive to protect these residents. *See generally* Chapter 703 of the Codified Ordinances of the City of North Canton. Doing so is as important now as it has ever been, as rising rental costs make rental housing increasingly unattainable for many in light of Ohio's housing shortage. *See* Ingles, The Statehouse News Bureau, *Ohio's affordable housing shortage lands on state lawmakers' doorstep* (Sept. 8, 2025 8:04 AM EDT), https://www.statenews.org/government-

politics/2025-09-08/ohios-affordable-housing-shortage-lands-on-state-lawmakers-doorstep (accessed Sept. 12, 2025), citing generally National Low Income Housing Coalition, *The GAP: A Shortage of Affordable Homes* (2025), available at https://nlihc.org/gap (accessed Sept. 15, 2025) (concluding that "the gap between what the average [Ohio] renter earns and what they need to make for that basic unit of housing . . . has risen 148% since 2020").

Each day, throughout these communities in Ohio, government officials interact with landlords and tenants to perform routine home inspections to ensure the rental properties in their communities meet minimum habitability standards under local law. This might involve, as it does here, something as simple as inspecting the premises to check items off from a list. *See Dept. of Dev. Servs. for the City of N. Canton v. CF Homes LLC*, 2025-Ohio-522, ¶ 7 (5th Dist.), citing North Canton's Rental Unit Inspection Form. And the items on that list—from an objective eye—are not controversial: Does the property have functional smoke detectors in and around its sleeping quarters, a functional carbon monoxide alarm, and windows adequate enough to use as an escape in the case of a fire? *Id.* Is the property "structurally sound" and free of "obvious signs of deficiencies or unsafe conditions"? Does it have at least one toilet; a bathroom sink; and a bathtub or shower? *Id.* Does it have a kitchen sink? Does it have HVAC equipment capable of heating it in the cooler months and cooling it in the warmer months? *Id.* There are others. *Id.*

Oftentimes, home inspectors are welcomed inside to accomplish this task. But not always, as was the case here. This case concerns what should happen next, when consent cannot be obtained. It is now settled under the Fourth Amendment to the United States Constitution that, where entry is refused, a home inspector must obtain a warrant to perform the inspection. *See Camara v. Mun. Court of San Francisco*, 387 U.S. 523 (1967); *Wilson v. City of Cincinnati*, 46 Ohio St.2d 138, 143-146 (1976) (Fourth Amendment challenge only). That wasn't always the

case, however, including in Ohio under Article I, Section 14 of the Ohio Constitution. *See Frank v. Maryland*, 359 U.S. 360 (1959); *State ex rel. Eaton v. Price*, 168 Ohio St. 123 (1958), *aff'd ex necessitate on other grounds by an equally divided court*, 364 U.S. 263 (1960).

But this case concerns a narrower issue. The disagreement here is not on whether a warrant is required before a non-consensual home inspection can proceed; rather, it is on the standard required under Article I, Section 14 to issue it . Appellant thinks Article I, Section 14 requires that a home inspector must show some likelihood of unlawful activity at the premises—much like a police officer seeking a warrant to snuff out criminal activity—before the inspection can take place, even though criminal activity does not actually spur the inspection. The City of North Canton and the reviewing courts below, on the other hand, disagree and understand there appears no persuasive reason to deviate, for purposes of the Ohio Constitution, from the probable-cause standard the United States Supreme Court established 60 years ago under the Fourth Amendment in *Camara*. Under the Supreme Court's view, a neutral officer may issue the administrative warrant in compliance with the Fourth Amendment on a showing by a government officer that "reasonable legislative or administrative standards for conducting an . . . inspection are satisfied with respect to a particular dwelling." *Camara*, 387 U.S. at 538.

It is, of course, for this Court to decide the proper probable-cause standard under the Article I, Section 14 of the Ohio Constitution for administrative warrants to issue. But Appellant's rationale is not persuasive. Instead, the pendulum swings toward following the U.S. Supreme Court in this context. As a result, this Court should affirm the well-reasoned decision below of the Fifth District recognizing the same and thus harmonize Article I, Section 14 with the Fourth Amendment in the context of administrative warrants to perform a routine, health-and-safety home inspections.

STATEMENT OF *AMICI CURIAE* INTEREST

Amici Ohio Municipalities, the Franklin County Prosecuting Attorney, and the Ohio Municipal Attorneys Association join to urge this Court to affirm the decision of the Fifth District Court of Appeals in *Dept. of Dev. Servs. for the City of N. Canton v. CF Homes LLC*, 2025-Ohio-522 (5th Dist.) (hereinafter "App. Ct. Op."). Appellant's argument is not only wrong on the text, history, and tradition of Article I, Section 14 of the Ohio Constitution, but it would jeopardize health-and-safety programs altogether, which are designed in this case to ensure citizens have, at a bare minimum, access to safe and habitable rental housing at all times. As a result, *Amici* have a great interest in preserving the ability of local governments to perform these routine inspections, including through the use of an administrative warrant in the few circumstances where consent cannot be obtained.

Amici Ohio Municipalities are cities and villages with home rule authority under Article XVIII of the Ohio Constitution. Like the City of North Canton, *Amici* Ohio Municipalities maintain various health-and-safety programs under local law that authorize, as an integral component, government officials to inspect private premises first by seeking consent and, if that is refused, a warrant to do so. Thus, *Amici* Ohio Municipalities have a direct interest in this Court's conclusion on the propositions of law presented here.

Amicus Franklin County Prosecuting Attorney Shayla D. Favor ("Franklin County Prosecutor") is the legal officer in Franklin County tasked with, among other duties, a) prosecuting crimes within the county; b) representing the state, county board of commissioners, and county agencies in all complaints, suits, and controversies in which the state, board of commissioners, or county agencies are a party; c) acting as legal advisor to the board of county commissioners, board elections, all other county officers and boards, and all non-home-rule township officers, boards,

and commissioners. R.C. 309.01 *et seq.* Like the City of North Canton, *Amicus* Franklin County Prosecutor represents county boards, commissions, and officials—which maintain various health-and-safety programs under state and local law that authorize, as an integral component, government officials to inspect residential premises for violations of building, zoning, sanitation, and health codes, first by seeking consent, and if that is refused, an administrative warrant. Thus, *Amicus* Franklin County Prosecutor have a direct interest in this Court's conclusion on the propositions of law presented in this case.

Amicus the Ohio Municipal Attorneys Association ("OMAA") is an Ohio non-profit corporation incorporated in 1953 by city and village attorneys who saw the need for a statewide attorneys association to serve the interests of Ohio municipal government. Currently, the OMAA represents a majority of Ohio's cities and villages. The OMAA is closely aligned with the Ohio Municipal League. On a national basis, the OMAA is affiliated with the National League of Cities, and the International Municipal Lawyers Association. The Executive Director of the OMAA is a registered lobbyist and works with the Ohio legislature on matters of concern to municipalities. The OMAA has been accredited by the Supreme Court of Ohio as a sponsor for Continuing Legal Education Programs for municipal attorneys.

STATEMENT OF THE CASE AND FACTS

Amici Ohio Municipalities, the Franklin County Prosecutor, and the OMAA adopt in its entirety and incorporate by reference here the statement of the case and facts contained within the Brief of Plaintiff-Appellee the Department of Development Services for the City of North Canton, Ohio.

ARGUMENT

The Fifth District's decision should be affirmed. Appellant's presents the following two propositions of law:

> **Proposition of Law No. 1:** When municipalities seek warrants to force noncriminal interior searches, the requirement of *Probable Cause* in Article I, Section 14 is more protective of Ohioans' occupied homes than the Fourth Amendment baseline established in *Camara*.
>
> **Proposition of Law No. 2:** The original public meaning of *Probable Cause* in 1851 connotes that courts must confirm evidence suggesting the probability, however slight, of unlawfulness located at the home the municipality seeks a warrant to search.

In sum, Appellant asks this Court to recognize a different standard of probable cause under the Ohio Constitution as compared to the United States Constitution in the context of an administrative search warrant to perform a routine health-and-safety inspection of a residential premises. To get there, Appellant asserts the text and original public meaning of Article I, Section 14 of Ohio Constitution requires it. Specifically, Appellant claims that, under the provision's original meaning, a government official seeking to perform a routine inspection of a residential premises under a municipal health-and-safety program, absent the consent of the homeowner or occupant, must make the same showing of probable cause a police officer must make to obtain a criminal warrant to search for criminal wrongdoing. That is, Appellant contends Article I, Section 14 is more protective in this context than the Fourth Amendment, as articulated by the United States Supreme Court in *Camara*.

Appellant's propositions raise interrelated issues, so we consider them together in response. Appellant's argument—which would apply a criminal standard to a non-criminal inspection procedure—will effectively do away with these important programs designed to promote public health and the safety and welfare of citizens in communities across Ohio. But importantly for this Court, Appellant's assertions are neither persuasive nor well-grounded in this Court's search-and-

seizure jurisprudence. Thus, without persuasive justification to do otherwise, this Court should view the issue "through the lens of the Fourth Amendment," *State v. Jordan*, 2021-Ohio-3922, ¶ 14, and extend—as the Fifth District did—the probable-cause standard articulated by the Court in *Camara* to Article I, Section 14.

I. Appellant and the *amici* supporting it offer no persuasive reason for this Court to deviate from the blueprint to decide this case, and the Supreme Court's decision in *Camara* is consistent with this Court's search-and-seizure jurisprudence.

This Court has repeatedly acknowledged the connection that exists between Article I, Section 14 and the Fourth Amendment. *See, e.g.*, *Jordan* at ¶ 14; *State v. Robinette*, 80 Ohio St.3d 234, 238 (1997); *State v. Geraldo*, 68 Ohio St.2d 120, 125 (1981). Accordingly, this Court has already drafted the blueprint to decide this case: "Although the Ohio Constitution *may* provide greater protections than the United States Constitution" in certain instances, this Court typically " 'harmonize[s] [its] interpretation' of Article I, Section 14 with the Fourth Amendment 'unless there are persuasive reasons' for not doing so." (Emphasis added.) *Jordan* at ¶ 14, quoting *Robinette* at 239. *See also State v. Smith*, 2020-Ohio-4441, ¶ 29-34 (applying similar rationale to analyze issues under Ohio's double-jeopardy provision, Article I, Section 10).

A fellow state supreme court—the Supreme Court of Tennessee—takes a similar approach under its state constitution. *See State v. Downey*, 945 S.W.2d 102, 106 (Tenn.1997), quoting *Sneed v. State*, 423 S.W.2d 857, 860 (Tenn.1968) and citing *State v. Watkins*, 827 S.W.2d 293 (Tenn.1992) (recognizing that because its constitutional provision " 'is identical in intent and purpose with the Fourth Amendment,' . . . federal cases applying the Fourth Amendment should be regarded as 'particularly persuasive' "). And the Tennessee and Ohio Constitutions are linked with respect to these protections. *See* Steinglass & Scarselli, *The Ohio State Constitution*, 166 (2d Ed. 2022) (recognizing the connection between the search-and-seizure provisions of Ohio's 1802

Constitution and the Tennessee Constitution). *See also* DeWine, *Ohio Constitutional Interpretation*, 86 Ohio St.L.J. (forthcoming 2025), manuscript at 3, fn. 12, citing Barnhart, *Valley of Democracy: The Frontier Versus the Plantation in the Ohio Valley, 1775-1778*, 158 (1953) (recognizing that Ohio's first Constitution "drew principally on other state constitutions—particularly that of Tennessee").

Appellant does not ask this Court to deviate from its blueprint here. *See generally* Appellant's Merit Brief (hereinafter "Appellant's Br."). In fact, Appellant, makes no attempt to wrestle with the implication of *Robinette* or its progeny on this case. *Id.* That alone should sound the alarm to this Court and caution against giving Appellant's argument much weight.

Appellant nonetheless seeks to have this Court "issue a mandate ordering the denial of the City of North Canton's Warrant Application in this case." *Id.* at 48. Yet, Appellant offers no persuasive reason for this Court to conclude that Article I, Section 14 requires the warrant application be denied. *Smith*, 2020-Ohio-4441, at ¶ 29. Neither the text of Article I, Section 14, nor the history and tradition surrounding it, require it. To the contrary, those guideposts direct this Court to yet again harmonize Article I, Section 14 with the Fourth Amendment.

A. *Article I, Section 14 is similar, textually, to the Fourth Amendment, and the two provisions share a common historical lineage.*

"In construing our state Constitution, we look first to the text of the document as understood in light of our history and traditions." *Id.*, citing *Arnold v. City of Cleveland*, 67 Ohio St.3d 35, 43-46 (1993). Thus, we start here with the text of Article I, Section 14. That provision provides:

> The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the person and things to be seized.

Ohio Const., art. I, § 14.

Adopted in 1851, "[t]he language of Section 14, Article I of the Ohio Constitution and the Fourth Amendment is virtually identical." (Footnote omitted.) *Robinette*, 80 Ohio St.3d at 238, quoting Ohio Const., art. I, § 14 and U.S. Const., amend. IV; *State v. Toran*, 2023-Ohio-3564, ¶ 46, fn. 1 (same). In fact, Article I, Section 14 is more textually aligned with the Fourth Amendment than it is with its predecessor provision in Ohio's first Constitution. *See State v. Brown*, 2015-Ohio-2438, ¶ 33 (French, J., dissenting). *See* Ohio Const., art. VIII, § 5 (1802) ("That the people shall be secure in their persons, houses, papers, and possessions, from unwarrantable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without probable evidence of the fact committed, or to seize any person or persons not named, whose offenses are not particularly described, and without oath or affirmation, are dangerous to liberty, and shall not be granted.").

This convergence, rather than divergence, in text makes sense in light of the provision's history. This Court "presume[s] that a body that enacts a constitutional amendment is aware of relevant and existing constitutional provisions." *Brown* at ¶ 33 (French, J., dissenting), citing *State v. Carswell*, 2007-Ohio-3723, ¶ 6. At the time Article I, Section 14 was adopted in 1851, "the Fourth Amendment had been in effect for about 60 years." *Id.* at ¶ 32.

And "there is reason to think that at least at the time of its adoption," Article I, Section 14 "extended the same . . . protection" to Ohioans against their state government than was provided against the federal government by the Fourth Amendment. *Smith*, 2020-Ohio-4441, at ¶ 27 (discussing this in the context of double-jeopardy protections under Ohio Const., art. I, § 10 and U.S. Const., amend. V). In 1851, the Fourth Amendment did not apply to the states. *Brown* at ¶ 32 (French, J., dissenting). In fact, it would not be for another two decades that the Fourteenth

Amendment's Due Process clause would become law. U.S. Const., amend. XIV (1868). And "[i]t was not until 1949 that the United States Supreme Court held that the principle at the core of the Fourth Amendment . . . is enforceable against the states through the Due Process Clause of the Fourteenth Amendment to the United States Constitution." *Id.*, citing *Wolf v. Colorado*, 338 U.S. 25, 27-28 (1949), *overruled on other grounds by Mapp v. Ohio*, 367 U.S. 643, 645-655 (1961).

Article I, Section 14, of course, was not Ohio's first search-and-seizure provision. *See* Ohio Const., art. VIII, § 5 (1802). But even Article VIII, Section 5 of Ohio's 1802 Constitution and the Fourth Amendment share a common lineage .

When drafting Ohio's first Constitution, the delegates in 1802 looked more to state constitutions and the Articles of Confederation than they did the United States Constitution. *See* Steinglass & Scarselli at 23. But the Bill of Rights—and thus what would become the Fourth Amendment—was largely also a product of state constitutions then-existing. *See* Lutz, *The States and the U.S. Bill of Rights*, 16 S.Ill.U.L.J. 251, 258 (1992) (concluding that "Madison effectively extracted the least common denominator from [the state bills of rights originating between 1776 and 1787] as the basis for his proposed list of amendments . . . ."). Perhaps most notably, Virginia's Declaration of Rights of 1776 and the Pennsylvania Constitution of 1776 influenced the federal Bill of Rights. *See Id.* (these documents "came closest to duplicating the content of the national Bill of Rights") *See also* Amar, *The Words that Made Us: America's Constitutional Convention, 1760–1840*, 155-165 (2021); Amar, *The Law of the Land: A Grand Tour of Our Constitutional Republic*, 241 (2015).

The delegates to Ohio's 1802 Convention also looked to the Pennsylvania Constitution when drafting Ohio's first search-and-seizure provisions. *Id.* at 23-24. They also looked to Tennessee. *Id.* Tennessee's first Constitution of 1796 drew much inspiration from the North

Carolina Constitution of 1776. Laska, *The Tennessee State Constitution: A Reference Guide*, 2 (1990). And Article XI of North Carolina's 1776 Constitution—which sets out its early search-and-seizure provision—"follows verbatim" Article 10 of the Virginia Declaration of Rights of 1776. Ketcham, *The Sources of the North Carolina Constitution of 1776*, 6 N.C. Historical Rev. 215, 219, 221-222 (1929).

Article I, Section 14 and the Fourth Amendment were also a response to the same evils that had persisted in Colonial America—the writs of assistance and, more broadly, general warrants. Steinglass & Scarselli at 166. Like the federal guarantee, Ohio's first search-and-seizure provision was "aimed directly at the English 'writs of assistance,' which were general warrants that gave officials of the Crown unlimited authority to search and seize without probable cause." *Id. See also Stanford v. Texas*, 379 U.S. 476, 481-482 (1965), quoting *Boyd v. United States*, 116 U.S. 616, 625 (1886) ("Vivid in the memory of the newly independent Americans were those general warrants known as writs of assistance under which officers of the Crown had so bedeviled the colonists. The hated writs of assistance had given customs officials blanket authority to search where they pleased for goods imported in violation of the British tax laws."); Maclin, *The Central Meaning of the Fourth Amendment*, 35 Wm. & Mary L.Rev. 197, 212-213 (1993) ("Those who framed and ratified the Fourth Amendment undoubtedly opposed the general warrants used in England and the writs of assistance utilized by colonial customs officers.").

Consider, finally, the history of Article I, Section 14 since its adoption in 1851. The provision has never been amended, despite a few opportunities to do so, including in light of these court precedents. Steinglass & Scarselli at 166. Since 1851, there have been eight calls for constitutional conventions in Ohio, and two resulted in actual conventions. *Id.* at 579. Further, since the U.S. Supreme Court decided *Camara* in 1967, there have been three calls, each of which

failed. *Id.* Thus, despite several opportunities, Article I, Section 14's text remains as it was in 1851. *See* Ohio Const., art. I, § 14.

With all that said, what should this shared history say about the meaning of the two provisions? At least with respect to the Fourth Amendment, there is some disagreement on the issue among legal scholars. *See* Mannheimer, *The Local-Control Model of the Fourth Amendment*, 108 J. Crim. L. & Criminology 253, 260-267 (2018). *See also* Bradley, *Two Models of the Fourth Amendment*, 83 Mich.L.Rev. 1468 (1985). At least one legal scholar contends that the arc of history supports three different models: a (1) "Reasonableness Model"; (2) "Warrant Model"; and (3) "Local-Control Model." Mannheimer, 108 J. Crim. L. & Criminology at 254-257. Proponents of the first model "see the history surrounding the adoption of the Fourth Amendment as pointing to a general requirement that the government be reasonable when it searches and seizes. On this view, reasonableness is determined largely by after-the-fact jury determinations, not a before-the-fact warrant requirement." *Id.* at 255. Proponents here take the position that "[t]he words of the Fourth Amendment . . . do not require warrants, even presumptively, for searches and seizures." *Id.* at 261, quoting Amar, *Fourth Amendment First Principles*, 107 Harv.L.Rev. 757, 761 (1994). Proponents of the "Warrant Model," however, see that same history "as more strongly supporting a warrant requirement as a mechanism for judges to control the discretion of executive officers." *Id.* at 255. As a result, under this view, " 'a warrant is always required for every search and seizure when it is practicable to obtain one.' " *Id.* at 257, quoting Bradley, 83 Mich.L.Rev. at 1471. And finally, those who espouse the "Local-Control Model" argue that the "touchstone" of the provision "is neither warrants nor reasonableness, but local control." *Id.* at 255. This contingent, in essence, asserts that history supports the view that it was "the search-and-seizure practices of the individual

States" that set the benchmark for whether a search or seizure was "not 'unreasonable' " under the Fourth Amendment. *Id.* at 294.

That scholar concludes, under the prevailing models, "history cannot tell us when warrants are required by the Fourth Amendment." *Id.* at 267. This conclusion is no less clear than within the jurisprudence surrounding home inspections under on health-and-safety standards. Before the United States Supreme Court in *Camara* required a warrant for a health-and-safety home inspection, the Court had concluded that a warrant was not required. *See generally Frank*, 359 U.S. 360. And a year earlier, this Court drew largely the same conclusion under the Fourth Amendment (and Article I, Section 14). *See generally Eaton*, 168 Ohio St. 123, *aff'd ex necessitate on other grounds by an equally divided court*, 364 U.S. 263 (1960).

The approach this Court took in *Eaton*—and the United States Supreme Court took in *Frank*—is not, however, contrary to the history and development of home inspections under health-and-safety standards. *See Wyoming v. Houghton*, 526 U.S. 295, 299-300 (1999), citing *Wilson v. Arkansas*, 514 U.S. 927, 931 (1995); *California v. Hodari D.*, 499 U.S. 621, 624 (1991) ("In determining whether a particular governmental action violates [the Fourth Amendment], we inquire first whether the action was regarded as an unlawful search or seizure under the common law when the Amendment was framed."). The "[i]nspection by administrative officials of private premises in order to determine their condition or use is a longstanding American practice." 5 LaFave, *Search and Seizure*, § 10.1 (6th Ed. 2020) (Nov. 2024 update). For example, in the early 1800s, local governments examined premises as a means of preventing fire-related injuries. *Id.*, citing Trull, *The Administration of Regulatory Inspectional Services in American Cities* (1932). And, in Baltimore, Maryland in 1801, "health laws first authorized warrantless entries . . . to enforce protection of the public from disease under the increasingly crowded conditions of urban

living." Barber, *Inspecting the Castle: The Constitutionality of Municipal Housing Code Enforcement at Point of Sale*, 10 Loy.U.Chi.L.J. 1, 2, fn. 4 (1978), citing Baltimore Ordinance No. 23, § 6 (1801-1802), cited in *Frank*, 359 U.S. at 369-370, fn. 12. *See also Frank* at 368-369 (setting forth Maryland's history of inspections).

This was also true, to a limited extent, in Ohio when Article I, Section 14 was adopted. In 1851, Ohio was still largely rural. Roseboom & Weisenburger, *A History of Ohio*, 216 (1964). But home inspections were not novel in its larger cities at the time. In the mid-1800s, the cities of Cincinnati and Cleveland were "[t]he leading cities of the state." *Id.* at 217. And like other urban settings across the country, Cincinnati and Cleveland both utilized health-and-safety home inspections, specifically to prevent fires, in the early part of the 19th Century. *See* Ordinance for Preventing and Extinguishing Fires, and to Regulate the Keeping of Gunpowder; Also, to prevent the Erection of Wooden Buildings within Certain Limits (passed Dec. 16, 1826) (hereinafter "Cincinnati 1826 Fire Prevention Inspection Ordinance"), printed in *Charter, Amendments, and General Ordinances of the City of Cincinnati* (1850), at 200-208; Ordinance of the Prevention and Extinguishment of Fires, § 7 (passed June 13, 1836) (hereinafter "Cleveland 1836 Fire Prevention Inspection Ordinance"), printed in *Charters of the Village of Cleveland, and the City of Cleveland, With their Several Amendments: To Which are Added the Laws and Ordinances of the City of Cleveland* (1851), at 70 (setting forth similar authority). *See also* Ordinance to Prevent Fires (passed Jan. 10, 1856), § XIII, printed in *General Acts Relative to the Organizations of Cities and Villages, The School Laws Governing the City Schools, and the Revised Ordinances of the City of Cleveland* (1868), at 431 (similar). Specifically, Cincinnati authorized "firewardens . . . to enter any house or building . . . or premises, in this city, between sun rising and setting, on any week day, for the purpose of examining any fireplaces . . . or fixtures, which may be dangerous in

causing or promoting fires . . . . " Cincinnati 1826 Fire Prevention Inspection Ordinance at § IV. And the fire "marshal" had the authority to inspect "all dwellings . . . twice in each year, whose owners or occupants are required to furnish fire-buckets by provisions of this ordinance . . . . " *Id.* at § XVII. *Amici* are aware of no constitutional challenge to these ordinances—let alone a successful one under Article I, Section 14.

As Ohio's cities grew after the Civil War and into the 20th Century, state law provided more authority for local health-and-safety inspections, with no apparent statutory warrant requirement. *See*, *e.g.*, History of Legislative Enactments Concerning R.C. 715.26(B), including R.S. 1536-100 (1903), available in Bates at 749 ("All municipal corporations shall have the following general powers and council may provide by ordinance or resolution . . . [t]o regulate . . . the sanitary condition [of buildings] . . . within the corporate limits . . . and to provide for the inspection of all buildings or other structures . . . ."). And, at least as of the middle of the 20th century, these laws did not violate Ohio's search-and-seizure provision by permitting *warrantless* inspections and criminal prosecution of those who objected to them. *See Eaton*, 168 Ohio St. at paragraph one of the syllabus. *See also id.* at 137 (stating that if a home inspector could not, absent consent or a warrant, enter a home to make inspect in the manner at issue in the case, "the writer can conceive of no circumstances under which a reasonable search could be made, or, to state it another way, any search without a search warrant would be unreasonable. We are not ready to say that the framers of the Constitution used the word, 'unreasonable,' for no purpose whatsoever.").

B. *The Supreme Court's approach in* Camara *is consistent with this Court's case law under Article I, Section 14; current state statutory law; and decisions of fellow state supreme courts.*

The heart of the disagreement among the justices in *Camara* concerned whether a warrant was required for the administrative health-and-safety inspection before it. *See generally* 387 U.S. 523. The three dissenters would have affirmed and applied *Frank* to answer the question in the negative. *See v. City of Seattle*, 387 U.S. 541, 546-548 (1967) (Clark, J., dissenting). Thus, to them, the majority's "new test for the long-recognized and enforced Fourth Amendment's 'probable-cause' requirement" was a by-product of a wrong decision to require a warrant in the first instance. *Id.* at 547. That was because "the Fourth Amendment guarantee of individual privacy is, by its language, specifically qualified. It prohibits only those searches that are 'unreasonable.' " *Id.* And, at least to the dissenters, "there [was] nothing unreasonable about the [particular inspections] undertaken here." *Id.* at 548-549.

The majority did not necessarily disagree that an "area inspection is a 'reasonable' search of private property within the meaning of the Fourth Amendment . . . . " *Camara* at 538. But it concluded that "administrative searches . . . are significant intrusions upon the interests protected by the Fourth Amendment" and, when "authorized and conducted without a warrant procedure," they "lack the traditional safeguards which the Fourth Amendment guarantees to the individual." *Id.* at 534. The majority recognized that "[t]he basic purpose of [the Fourth] Amendment . . . is to safeguard the privacy and security of individuals against arbitrary invasions by governmental officials," and, "except in certain carefully defined classes of cases, a search of private property without proper consent is 'unreasonable' unless it has been authorized by a valid search warrant," (Citations omitted.) *id.* at 528-529. In so doing, the Court deviated from its earlier precedent—*Frank*—and required a warrant in this context. *Id.* at 534.

But, as the Court in *Camara* further recognized, "reasonableness" remains "the ultimate standard" under the Fourth Amendment. *Id.* at 539. Further, "reasonableness" under the Fourth Amendment is determined by "balancing the need to search against the invasion which the search entails" *Id.* at 537. And " 'probable cause' is the standard by which a particular decision to search is tested against the constitutional mandate of reasonableness." *Id.* at 534. Thus, " '[i]f a valid public interest justifies the intrusion contemplated, then there is probable cause to issue a suitably restricted search warrant.' " *City of Los Angeles v. Patel*, 576 U.S. 409, 431 (2015) (Scalia, J., dissenting), quoting *Camara* at 539. Stated a different way, in this context, the Court "formally require[s] that administrative warrants be supported by 'probable cause,' because . . . [it] use[s] that term as referring not to a quantum of evidence, but merely to a requirement of reasonableness." *Griffin v. Wisconsin*, 483 U.S. 868, 877, fn. 4 (1987), citing *Marshall v. Barlow's, Inc*., 436 U.S. 307, 320 (1978); *Camara* at 528.

In the context of an administrative warrant to perform a health-and-safety inspection, the Court in *Camara* concluded that the private citizens' interest in this context does not outweigh that of the public. 387 U.S. at 535-538. Thus, "probable cause" will be present if the "reasonable legislative or administrative standards for conducting [the] area inspection are satisfied with respect to a particular dwelling." *Id.* at 538. "Such standards, which will vary with the municipal program being enforced, may be based upon the passage of time, the nature of the building (e. g., a multi-family apartment house), or the condition of the entire area, but they will not necessarily depend upon specific knowledge of the condition of the particular dwelling." *Id.* Finally, in reaching this conclusion, the Court in *Camara* soundly rejected the argument Appellant tries to make here—that these "warrants should issue only when the inspector possesses probable cause

to believe that a particular dwelling contains violations of the minimum standards prescribed by the code being enforced." *Id.* at 534.

The *Camara* Court's approach is legally sound. It requires a warrant, absent consent, to perform a routine home inspection, but it also recognizes that an "administrative search need only be reasonable" to satisfy the constitutional command. *Patel*, 576 U.S. at 438 (Scalia, J., dissenting).

This Court's case law supports such that approach. This Court has recognized that Article I, Section 14 "protects" against warrantless searches of "private homes and offices." *State v. Penn*, 61 Ohio St.3d 720, 723 (1991), citing among others *Marshall*, 436 U.S. at 311-312. *See also Brigham City v. Stuart*, 547 U.S. 398, 403 (2006), quoting *Groh v. Ramirez*, 540 U.S. 551, 559 (2004), quoting *Payton v. New York*, 445 U.S. 573, 586 (1980) (" ' "[S]earches and seizures inside a home without a warrant are presumptively unreasonable . . . ." ' "). Thus, a warrant is preferred in this context. But like the Fourth Amendment, the ultimate " 'standard' " under Article I, Section 14 is also " 'reasonableness.' " *Robinette*, 80 Ohio St. 3d at 239, quoting *Geraldo*, 68 Ohio St.2d at 125-126. *See also Stuart* at 403 ("[T]he ultimate touchstone of the Fourth Amendment is 'reasonableness.' " (Citations omitted.)). Stated differently, Article I, Section 14 "protects only against searches which are *unreasonable*" (Emphasis in original.) *Stone v. Stow*, 64 Ohio St.3d 156, 163-164 and fn. 3 (1992) (referring to the Fourth Amendment and to Article I, Section 14 "collectively"). The standard or probable cause for administrative warrants to issue as set forth by the Supreme Court in *Camara* adheres to this same mandate. *Camara* at 535-538.

A few final points to close. *First*, consider also state statutory law on warrants and probable cause. *See, e.g.*, R.C. 2933.21(F); R.C. 2933.22(B). Current state law provides that "[a] judge of a court of record may, within his jurisdiction, issue warrants to search a house or place . . . [f]or

the existence of physical conditions which are or *may become* hazardous to the public health, safety, or welfare, when governmental inspections of property are authorized or required by law." (Emphasis added.) R.C. 2933.21(F). And that warrant "shall" issue "upon probable cause to believe that conditions exist upon such property which are or *may become* hazardous to the public health, safety, or welfare." (Emphasis added.) R.C. 2933.22(B). Thus, current state law does not limit searches to Appellant's scenario—that is, to only where, for example, conditions that jeopardize public health and safety already exist. To the contrary, a search is valid under state statutory law if there is a belief that hazardous conditions will develop. The General Assembly added these provisions to state law roughly five years after the Court's decision in *Camara*. *See* Am.Sub.S.B. No. 397, 134 Ohio Laws 695, 712. And the City of North Canton pointed to R.C. 2933.21(F), in addition to federal law, in its warrant application filed in the trial court. *Dept. of Dev. Servs. for the City of N. Canton v. CF Homes, LLC*, Stark C.P. No. 2023CV01178, 2024 Ohio Misc. LEXIS 268, *5-6, 11-12 (June 20, 2024).

Second, also consider court decisions of Ohio's fellow state supreme courts, of which at least one has come to recognize the administrative-warrant standard of probable cause under the Fourth Amendment under its own state search-and-seizure provision. *See Yocom v. Burnette Tractor Co.*, 566 S.W.2d 755, 757-758 (Ky.1978) (extending *Camara* to the Kentucky Constitution in the context of workplace inspections). *See also City of Golden Valley v. Wiebesick*, 899 N.W.2d 152, 153-154 (Minn.2017) (extending *Camara* to the Minnesota Constitution in the context of rental-unit inspections). *But see In re Y.W.-B.*, 265 A.3d 602, 620-622 (Pa.2021) (recognizing the significance of *Camara* but not extending it to a targeted child-abuse-and-neglect home inspection by a government child-protection caseworker). In *Yocum*, the Supreme Court of Kentucky was faced with the issue whether a warrant was required before a health-and-safety

inspector could inspect a business premises for "health and safety conditions . . . statutorily regulated for the benefit of the employees working therein." *Yocom* at 757. The state supreme court agreed with the state intermediate appellate court that a warrant was required, but it went further to articulate the proper standard. *Id.* at 757-758. It did so by looking to *Camara*. It concluded that "probable cause" exists for an administrative search of the business premises if "the place to be inspected is of the general type due for inspection under statutory or administrative standards" that "set[s] up categories of places subject to inspection and bear[s] a rational connection to the goal sought to be achieved by the" state employee health-and-safety law. *Id.*

C. *Appellant's arguments, and those of its* amici*, are not persuasive.*

Appellant makes a series of arguments, but they boil down to one central claim: Appellant argues that Article I, Section 14 offers greater protection to persons than the Fourth Amendment does in the context of an administrative warrant to inspect a rental unit under a health-and-safety law. It sets forth a few bases that, it claims, support that assertion. We focus on four here and conclude they are not persuasive. Finally, we consider the arguments of Appellant's *amici* and conclude they do not change that result.

First, Appellant focuses the bulk of its argument on an assertion that the original meaning of the phrase "probable cause" in Article I, Section 14 was understood by those who adopted it to require a showing of "evidence suggesting the probability, however slight, of unlawfulness located at the home the municipality seeks a warrant to search." Appellant's Proposition of Law No. 2. But, here, Appellant loses sight of a threshold question. *Id.* at 20-44. Before establishing the standard of probable cause for a warrant to issue, Appellant must first ask whether a warrant would have been required, as a historical matter, for purposes of a health-and-safety home inspection. Appellant fails wrestle with this query. *See generally id.* And as has already been mentioned, the

text of Article I, Section 14—illuminated by the history and tradition—suggest the answer to the question is "no." *See, e.g.*, Cincinnati 1826 Fire Prevention Inspection Ordinance; Cleveland 1836 Fire Prevention Inspection Ordinance; R.S. 1536-100 (1903); *Eaton*, 168 Ohio St. 123; *Frank*, 359 U.S. 360.

Second, Appellant argues that "Article I, Section 14 is more protective of Ohioans' occupied homes than the Fourth Amendment . . . . " Appellant's Proposition of Law No. 1. To support this contention, it largely resorts to policy arguments about why "lock-stepping" is neither "required" nor "advisable." *Id.* at 7-20. It also contends, however, that, because this Court has recognized, in certain circumstances, that the Ohio Constitution provides "greater protection of private property rights related to the home," government must "demonstrate compelling reasons" before it engages in a search of a home under Article I, Section 14. *Id.* at 15-18.

Appellant appears to be introducing an entirely new, scrutiny-based analysis for this Court to apply under Article I, Section 14 yet cites no authority supporting it. The cases Appellant does predominately cite do not support the argument it tries to draw from them. *Id.* at 15-18, citing among others *United States v. Jones*, 565 U.S. 400 (2012) and *City of Norwood v. Horney*, 110 Ohio St.3d 353 (2006). In *Norwood*, this Court recognized that Article I, Section 19 of the Ohio Constitution precludes government from taking private property solely for "economic development" or "benefit." *Id.* at ¶ 78. That case did not review Article I, Section 14. And Appellant cites no authority for the proposition that a takings analysis implicates a search-and-seizure analysis, including under Ohio's Constitution. And in *Jones*, the Supreme Court addressed whether, in the context of a criminal prosecution, the particular government conduct at issue in the case—tracking a vehicle through the use of a GPS device—constituted a "search" requiring a warrant under the Fourth Amendment. *Id.* at 402. That case concerned a *warrantless* search of a

vehicle, and the issue was what to do about the conviction support by evidence obtained through it. *See generally id.* Thus, that case did not involve the issue this Court faces here.

Appellant's new analysis should be rejected for other reasons, however. Notably, this Court has consistently made clear, time and again that, in reviewing the Ohio Constitution, it "look[s] first to the text of the document as understood in light of our history and traditions." *Smith*, 2020-Ohio-4441, at ¶ 29, citing *Arnold*, 67 Ohio St.3d at 43-46. Those guideposts point toward harmonizing the federal and state provisions here. Moreover, what Appellant fundamentally misses here is that the United States Supreme Court's decision in *Camara* recognized the "the sanctity of the home." Appellant's Br. at 18. In fact, the Court in *Camara* moved away from its earlier precedent to require a warrant, recognizing that home searches were "significant intrusions upon the interests protected by the Fourth Amendment." *Camara*, 387 U.S. at 534. However, again, an "administrative search need only be reasonable." *Patel*, 576 U.S. at 438 (Scalia, J., dissenting). Moreover, it is reasonable when conducted pursuant to a warrant, absent consent, issued on a showing of compliance with "reasonable legislative or administrative standards." *Camara*, 387 U.S. at 538.

Third, Appellant asserts that a slight punctuation difference between Article I, Section 14 and the Fourth Amendment demands an entirely different reading between them. *Id.* To be sure, there are a few subtle, textual differences between the Fourth Amendment and Article I, Section 14. *Brown*, 2015-Ohio-2438, at ¶ 32 (French, J., dissenting). Appellant focuses on one: Article I, Section 14's use of a semicolon, rather than a comma, between its two conjunctive clauses. Appellant's Br. at 30-31. Appellant argues that, as a result of this punctuation difference, Article I, Section 14 "creates two *independent* requirements." (Emphasis in original.) *Id.* at 30.

Appellant points to no part of the convention record related to the drafting of Article I, Section 14 that suggests the inclusion of the semicolon was to promote a different meaning between the two provisions. And, of course, if Appellant were correct that the text sets up two independent *requirements*, that presumably would mean a warrant is always required by Article I, Section 14. But we know that is not the case. *See, e.g.*, *Toran*, 2023-Ohio-3564 (reviewing warrantless inventory searches); *Stone*, 64 Ohio St.3d at 164, fn. 4, quoting *Penn*, 61 Ohio St.3d at 723-724, quoting *State v. Akron Airport Post No. 8975*, 19 Ohio St.3d 49, 51 (1985) (reviewing exceptions to the warrant requirement under Ohio's search-and-seizure provision, including by adding "administrative searches" to the list).

The text of Article I, Section 14—like the Fourth Amendment—sets up two independent *clauses*, but one central *requirement*. As this Court has recognized, the text of Article I, Section 14—like the Fourth Amendment—sets up a " 'standard' " of " 'reasonableness.' " *Robinette*, 80 Ohio St. 3d at 239, quoting *Geraldo*, 68 Ohio St.2d at 125-126. *See also Stuart*, 547 U.S. at 403 (recognizing "the ultimate touchstone of the Fourth Amendment is 'reasonableness' " (Citations omitted.)). And that is confirmed by its text: the first clause drives the provision's meaning. The semicolon signals a "close relationship between the two" clauses to the reader—a connection that could be considered "one of cause and consequence." *See* Strunk & White, *The Elements of Style*, 5-6 (4th Ed. 2000). Thus, stated differently, Article I, Section 14 requires that a search not be unreasonable; the consequence of that being, among other things, that any warrant must be issued "upon probable cause." Ohio Const., art. I, § 14.

The late Justice Scalia recognized the connection between the two clauses in the Fourth Amendment, which has import here for Ohio's provision. He recognized that

> [g]rammatically, the two clauses of the [Fourth] Amendment seem to be independent—and directed at entirely different actors. The former tells the

> executive what it must do when it conducts a search, and the latter tells the judiciary what it must do when it issues a search warrant. But in an effort to guide courts in applying the Search-and-Seizure Clause's indeterminate reasonableness standard, and to maintain coherence in our case law, we have used the Warrant Clause as a guidepost for assessing the reasonableness of a search, and have erected a framework of presumptions applicable to broad categories of searches conducted by executive officials. Our case law has repeatedly recognized, however, that these are mere presumptions, and the only constitutional *requirement* is that a search be reasonable.

(Emphasis in original.) *Patel*, 576 U.S. at 430-431 (Scalia, J., dissenting). Thus, as relevant here, like other searches, again an "administrative search need only be reasonable." *Id.* at 438. There is no reason to think that that conclusion is different Article I, Section 14 because it makes use of a semicolon between its two clause. To the contrary, the provision's semicolon can be filed away—in the words of a dissenting judge on this Court from not that long ago—as a "minimal, nonsubstantive" difference between it and the Fourth Amendment, which does not suggest a drastically different meaning between their guarantees. *Brown*, 2015-Ohio-2438, at ¶ 32 (French, J., dissenting).

Fourth, Appellant cautions against harmonizing the two provisions because, as Appellant's argument goes, affirming the Fifth District and adopting the standard for probable cause set forth by the Court in *Camara* would lead to a "patchwork of uneven constitutional rights throughout the state." Appellant's Br. at 20. Appellant argues that "Ohioans in municipalities with ordinances or governmental interests deemed by courts to be sufficiently 'reasonable' maintain less protection under a statewide constitution than those who live outside of such municipalities." *Id.*

Appellant's argument here is an apparent nod to Article XVIII of the Ohio Constitution, through which Ohioans gave home-rule authority to the State's municipalities to enact their own health-and-safety laws—including those which authorize inspections and administrative warrants when necessary—so long as they are not in conflict with the general health-and-safety laws of the

state. Ohio Const., art. XVIII, § 3. Regardless, Appellant's assertion carries no weight. Appellant fails to justify it with any authority, and its very premise presupposes that municipalities in the state arbitrarily enacting their laws and that Ohio courts do not decide cases before them in an even-handed way. Appellant's argument has no basis in law or in practice, and Appellant cited no evidence in support of it.

Finally, the arguments set forth by the *amici* supporting Appellant do not change the calculus here. One of Appellant's *amici* fails to cite—let alone address—this Court's case law, including *Robinette*. *See* Brief of *Amicus Curiae* Pacific Legal Foundation in Support of Appellant (filed Aug. 11, 2025). In fact, it fails to cite a single Ohio case aside from the Fifth District's decision below. *Id.*

The arguments of the other *amici* supporting Appellant fare no better. Although these *amici* do cite and analyze Ohio law, neither addresses the history of *warrantless* inspections in Ohio. *See* Merit Brief of Friend of the Court Ohio Realtors® in Support of Appellant (filed Aug. 11, 2025); Brief of *Amicus Curiae* Institute for Justice in Support of Appellant (filed Aug. 11, 2025) (hereinafter "IJ Br."). For example, the Institute for Justice cites a litany of historical cases and state laws, but it fails to mention Cincinnati or Cleveland's Fire Prevention Inspection Ordinances, which were passed in 1826 and 1836, respectively, and presumably in effect when Article I, Section 14 was adopted. *See* IJ Br. at 22-27. It also short-shrifts the relevance of this Court's decision in *Eaton* to any historical analysis of the issue presented here. *Id.* at 8.

The laws the Institute for Justice does mention do not involve health-and-safety home inspections and are thus inapplicable. *Id.* at 25. Moreover, the fact that a particular law was repealed by the legislature before 1851 does not move the needle. *Id.*, citing Act of Feb. 5, 1847, Section 3, 45 Ohio Local Laws 38. It is axiomatic that, like federal courts under the United States

Constitution, in Ohio it is "the courts of law" under the Ohio Constitution that "possess the power of enquiring into the constitutionality of legislative acts." *Rutherford v. M'Faddon* (1807) (unpublished), published at 2001-Ohio-56, at 11-12, available at https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2001/2001-Ohio-56.pdf (reprinted from Ervin H. Pollack, Ed., *Ohio Unreported Judicial Decisions Prior to 1823*, 71 (1952)); *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803) ("It is emphatically the province and duty of the judicial department to say what the law is."). The Institute for Justice points to no decision in which an Ohio court found any of the laws it cites unconstitutional, including under either the Fourth Amendment or Article I, Section 14. *See* IJ Br. at 22-27. And the fact that a legislative body repealed some inspection laws while letting others remain, *see id.* at 25 (discussing Cincinnati's inspection laws), only supports the point already suggested by one legal scholar for the Fourth Amendment: that, under prevailing models, "history" may not be the best judge of "when warrants are required by [the constitutional provision]." Mannheimer, 108 J. Crim. L. & Criminology at 267.

The Institute for Justice also attempts to analogize the administrative warrants at issue here supporting health-and-safety home inspections to the writs of assistance. *Id.* at 17-22, citing among others *Paxton's Case*; *Entick v. Carrington*, 19 Howell's State Trials 1029 (K.B.1765); and *Wilkes v. Wood*, 98 Eng. Rep. 489 (K.B.1763). It claims these administrative warrants allow for a "general search[ ] without particularized cause." *Id.* at 18.

An administrative warrant supporting a health-and-safety home inspection is not, however, akin to the writs of assistance that plagued the American Colonies at the Founding. These "hated writs . . . [gave] customs officials blanket authority to search where they pleased for goods imported in violation of the British tax laws." *Stanford*, 379 U.S. at 481. They permitted "officers

to rummage through homes in an unrestrained search for evidence of criminal activity." *Riley v. California*, 573 U.S. 373, 403 (2014). The administrative warrants at issue here are dissimilar for a number of reasons. Notably, the health-and-safety home inspections they support do not seek to uncover evidence of criminal activity but rather seek to ensure compliance with health-and-safety standards. Further, they are not unrestrained in scope but rather are limited, for example here, by the City of North Canton's ordinances and, further, by its Rental Unit Inspection Form. *See* App. Ct. Op. at ¶ 5-7.

Furthermore, the Institute for Justice cites no case that supports its argument. In fact, a fellow state supreme court has concluded the contrary. *Wiebesick*, 899 N.W.2d at 162. In *Wiebesick*, the Supreme Court of Minnesota rejected this argument, concluding that "[a]dministrative search warrants under *Camara* are materially different" from general warrants and writs of assistance. *Id.* In short, "unlike general warrants and writs of assistance, an administrative search warrant . . . does not authorize 'a general, exploratory rummaging in a person's belongings.' " *Id.*, quoting *Coolidge v. New Hampshire*, 403 U.S. 443, 467 (1971). To the contrary, among other things, an administrative warrant has particularity and a limited scope and is issued by a neutral third party. *Id.* Thus, as the court in *Wiebesick* further concluded, the Institute for Justice's argument "lacks merit." *Id.*

II. Appellant's proposed rule would not only be wrong on the law, it would be wrong for Ohio tenants.

North Canton's program sets out to ensure that the rental properties in its community can meet the basic standards of habituality it has established under local law. *See* App. Ct. Op. at ¶ 7 (setting out the "checklist" on the "City of North Canton Rental Unit Inspection Form"). And its aim is to do so before a particular landlord opens up its premises to tenants (and periodically

thereafter). *See generally* Sections 703.03 and .04 of the Codified Ordinances of the City of North Canton.

Inspections are an integral facet of health-and-safety programs. And that is particularly true in the rental-housing context. *See* Rose & Harris, *The Three Tenures: A Case of Property Maintenance*, 59(9) Urban Studies 1926, 1927-1928 (2022), available at https://doi.org/10.1177/00420980211029203 (reviewing data from the home-inspection program utilized by the City of Rochester, NY). In fact, proactive home inspections of rental units, arguably, are most the effective means to ensure these properties are maintained under minimum habitability standards consistent with local law. *Id.* at 1936.

The significance of these health-and-safety home inspections has even been acknowledged in the Supreme Court's case law. In fact, the majority and dissenting justices in *Camara* seemed to agree on this point. The dissent restated that " '[t]ime and experience have forcefully taught that the power to inspect dwelling places, either as a matter of systematic area-by-area search or . . . to treat a specific problem, is of indispensable importance to the maintenance of community health . . . .' " *Seattle*, 387 U.S. at 546 (Clark, J., dissenting), quoting *Frank*, 359 U.S. at 372. And the majority didn't disagree. In fact, it too reaffirmed this central statement from *Frank*. *Camara*, 387 U.S. at 537, quoting *Frank* at 372. Further, the majority recognized that "[t]here is unanimous agreement among those most familiar with this field that the only effective way to seek universal compliance with the minimum standards required by municipal codes is through routine periodic inspections of all structures." *Id.* at 535-536. Aside from a home inspection upon consent or a warrant, it recognized, "it is doubtful that any other canvassing technique would achieve acceptable results." *Id.* at 537.

Appellant's rule is both incompatible with the purpose of these health-and-safety home inspections and impractical. At bottom, Appellant seeks to apply a criminal standard to a non-criminal process. But "[u]nlike the search pursuant to a criminal investigation," a health-and-safety home inspection "[is] aimed at securing city-wide compliance with minimum physical standards for private property. . . . to prevent even the unintentional development of conditions which are hazardous to public health and safety." *Id.* at 535. It is "neither personal in nature nor aimed at the discovery of evidence of crime." *Id.* at 537. Thus, to require some showing of unlawful conduct before the inspection can take place for a process that does not involve snuffing out criminal or unlawful behavior is inconsistent with the very purpose of the inspection itself. Moreover, Appellant's complaint-based approach is unworkable. "Many such conditions—faulty wiring is an obvious example—are not observable from outside the building and indeed may not be apparent to the inexpert occupant himself." *Id.* Thus, it is unlikely that a complaint-based system will capture and resolve the various deficiencies at issue here—that is, at least until perhaps the problem results in an emergency.

In sum, Appellant's proposed rule will result in what the majority of the Supreme Court in *Frank* foreshadowed: it will " 'greatly hobble[ ]' " local governments where the " 'need for preventive action is great.' " *Id.*, quoting *Frank* at 372. This Court need not follow Appellant's unreasoned approach. The United States Supreme Court provides a legally sound, alternative approach in its Fourth Amendment jurisprudence, which fellow state supreme courts have extended to their own state constitutions. As the Minnesota Supreme Court concluded when faced with many of the same issues Appellant raises here, "if *Camara* was a departure [from precedent] at all, it was a departure toward *increasing* Fourth Amendment protections." (Emphasis in original.) *Wiebesick*, 899 N.W.2d at 163. Because the Supreme Court's approach in *Camara*

upholds the fundamental reasonableness of health-and-safety inspections yet also recognizes the significant privacy interests involved by requiring a warrant absent—in a manner consistent with the similar text and shared history of Article I, Section 14—this Court can comfortably extend it to that provision of the Ohio Constitution now.

CONCLUSION

For the foregoing reasons, and those advanced by Plaintiff-Appellee, this Court should affirm the decision of the Fifth District Court of Appeals.

Respectfully submitted,

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I hereby certify that a copy of the foregoing Brief of Amici Curiae Ohio Municipalities, the Franklin County Prosecuting Attorney, and the Ohio Municipal Attorneys Association in Support of Appellee was served this 22nd day of September, 2025, by email on the following:

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