IN THE SUPREME COURT OF OHIO

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

BRIEF OF AMICI CURIAE ADVCOCATES FOR BASIC LEGAL EQUALITY, COMMUNITY LEGAL AID SERVICES, LEGAL AID OF SOUTHEAST AND CENTRAL OHIO, LEGAL AID OF WESTERN OHIO, LEGAL AID SOCIETY OF CLEVELAND, AND LEGAL AID SOCIETY OF SOUTHWEST OHIO IN SUPPORT OF APPELLEE DEPARTMENT OF DEVELOPMENT SERVICES FOR THE CITY OF NORTH CANTON

Michael Loudenslager (0063755)
Kristie Ortiz (0104461)
Advocates for Basic Legal Equality
130 West Second Street, Suite 700 East
Dayton, OH 45327
(937) 228-8104 – Telephone
mloudenslager@ablelaw.org
kortiz@ablelaw.org

Attorneys for Amicus Curiae Advocates for Basic Legal Equality

Andrew D. Neuhauser (0082799)
Counsel of Record
Jasmine Oesterling (0105579)
Gregory A. Sain (0023674)
Community Legal Aid Services
50 South Main Street, Suite 800
Akron, OH 44308
(330) 535-4191 – Telephone
aneuhauser@communitylegalaid.org
joeseterling@communitylegalaid.org
gsain@communitylegalaid.org

Attorneys for Amicus Curiae Community Legal Aid Services

Michael Edwards (0083162)
Peggy P. Lee (0067912)
Thomas Pope (0101509)
Melissa C. Benson (0079836)
Mark Gnatowski (0102684)
Legal Aid of Southeast and Central Ohio
1108 City Park Avenue, Suite 100

Patricia Y. Hernandez (0062764)
Legal Aid of Western Ohio
525 Jefferson Avenue, Suite 400
Toledo, OH 43604
(419) 724-0030 – Telephone
pyhernandez@lawolaw.org

Columbus, OH 43206
(614) 737-0128 – Telephone
medwards@lasco.org
plee@lasco.org
tpope@lasco.org
mbenson@lasco.org
mgnatowski@lasco.org

Attorneys for Amicus Curiae Legal Aid of Southeast and Central Ohio

Abigail Staudt (0081602)
Lauren Onkeles-Klein (0104313)
Howard Strain (0069262)
Legal Aid Society of Cleveland
1223 West Sixth Street
Cleveland, OH 44113
(216) 861-5659 – Telephone
abigail.staudt@lasclev.org
lonkeles-klein@lasclev.org
howard.strain@lasclev.org

Attorneys for Amicus Curiae Legal Aid Society of Cleveland

Maurice A. Thompson (0078548)
1851 Center for Constitutional Law
122 East Main Street
Columbus, OH 43215
(614) 340-9817 – Telephone
mthompson@ohioconstitution.org

Thomas W. Connors (0007226)
Mendenhall Law Group
190 N. Union Street, Suite 201
Akron, OH 44304
(330) 888-1240 – Telephone
tconnors@warnermendenhall.com

Counsel for Appellants CF Homes LLC

Attorney for Amicus Curiae Legal Aid of Western Ohio

Stephanie Moes (0077136)
Legal Aid Society of Southwest Ohio
215 East Ninth Street, Suite 200
Cincinnati, OH 45202
(513) 362-2787 – Telephone
smoes@lascinti.org

Attorney for Amicus Curiae Legal Aid Society of Southwest Ohio

Brenden Heil (0091991)
Greg Peltz (0091542)
Brodi J. Conover (0092082)
Bricker Graydon LLP
1100 Superior Avenue, Suite 1600
Cleveland, OH 44114
(216) 523-5405 – Telephone
bheil@brickergraydon.com
gpeltz@brickergraydon.com
bconover@brickergraydon.com

Counsel for Appellee Department of Development Services for the City of North Canton

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Constitutions **Page**

Statutes and Regulations **Page**

Other Authorities **Page**

STATEMENT OF INTEREST OF AMICI CURIAE

Amici curiae are legal aid organizations who, together, serve all eighty-eight counties of Ohio: Advocates for Basic Legal Equality, Community Legal Aid Services, Legal Aid of Southeast and Central Ohio, Legal Aid of Western Ohio, Legal Aid Society of Cleveland, and Legal Aid Society of Southwest Ohio (collectively, "Ohio Legal Aid Organizations"). For decades, the Ohio Legal Aid Organizations have represented tenants living in unsafe rental properties in every county of Ohio.

Around thirty-four percent of Ohioans reside in rental units, and in many densely populated areas of the state, over fifty percent of residents are renters.[1] Amici are the only group of attorneys in the state that consistently represent tenants, usually in defense of evictions where poor conditions often become counterclaims. Collectively, amici represent more than one half of all Ohio tenants who have an attorney in the court process. Through that role, amici have a deep understanding of how the Ohio Revised Code and municipal ordinances help create a more even relationship between landlords and tenants.

The questions presented in this case directly concern the Ohio Legal Aid Organizations and their client population because Ohio tenants rely on the ability of municipalities to conduct housing safety inspections to ensure safe rental conditions in their homes. The Fifth District Court of Appeals correctly allowed an administrative warrant to issue for a basic health and safety inspection of an occupied rental property pursuant to a lawful rental registry ordinance.

---

[1] Smith, *What cities lead Ohio with the largest concentration of renters?* (Apr. 1, 2024), https://www.cleveland.com/news/2024/04/what-cities-lead-ohio-with-the-largest-concentration-of-renters.html (accessed Aug. 27, 2025) (also reporting on percent of residents in Ohio cities who are renters, including Akron (50 percent), Canton (51.8 percent), Cincinnati (60.7 percent), Cleveland (59.1 percent), Columbus (55.3 percent), Dayton (51.6 percent), Toledo (47.6 percent), and Zanesville (57.9 percent)).

The decision of the Fifth District Court of Appeals does not harm tenants as suggested by Appellant CF Homes, LLC (hereinafter "CF Homes"). The ordinance does not infringe on the privacy rights of tenants or landlords. Instead, the ordinance helps ensure that the rental housing stock in North Canton meets minimum safety requirements involving the health and safety of tenants.

STATEMENT OF THE CASE AND FACTS

Amici fully adopt the Statement of the Case and Facts in the merit brief of Appellee Department of Development Services for the City of North Canton (hereinafter "North Canton").

ARGUMENT

In enacting its ordinance, North Canton applied Benjamin Franklin's adage that an ounce of prevention is worth a pound of cure. For example, North Canton's inspectors check items such as smoke detectors, carbon monoxide detectors, and heating equipment to prevent a tragedy. This proactive approach differs from the Ohio Landlord-Tenant Act, codified in Chapter 5321 of the Ohio Revised Code, which puts the burden of policing landlords on unsophisticated tenants who also rely on those landlords for their housing. The Ohio Legal Aid Organizations represent many low-income tenants seeking to police their landlord to "cure" poor conditions. However, we have too few attorneys to serve the great need and the private bar is unable to fill that need. So, based on our experience with expensive and time-consuming litigation, we support North Canton's "ounce of prevention" approach to protecting tenants.

CF Homes argues that R.C. Chapter 5321 eliminates the need for North Canton Cod.Ord. 703.01, et seq. (hereinafter "North Canton ordinance"). This fails for at least three reasons. First, the Ohio Landlord-Tenant Act's noble goal of requiring landlords to fix conditions exists only on paper; in fact, our experience and the experience of others demonstrate that the Ohio

Landlord-Tenant Act falls far short of its goal. Second, we urge this Court to follow its longstanding precedent in the area of administrative searches to find North Canton's ordinance to be valid. Finally, we demonstrate that administrative searches are required not only to protect North Canton tenants, but also to protect residents of residential care facilities, children in our child-care centers, and diners at restaurants.

I. The North Canton ordinance helps ensure that the Ohio General Assembly's goal of maintaining "access to livable, clean, and well-maintained residential rental premises" becomes a reality.

"In 1974, the General Assembly enacted R.C. Chapter 5321, which embodies what is commonly known as the Ohio Landlord-Tenant Act. The Act codifies the law of this state regarding rental agreements for residential premises, and governs the rights and duties of both landlords and tenants." *Vardeman v. Llewellyn*, 17 Ohio St.3d 24, 26 (1985). The General Assembly enacted R.C. Chapter 5321 "[i]n light of the previous common law immunity of landlords, and in recognition of the changed rental conditions and the definite trend to provide tenants with greater rights." *Shroades v. Rental Homes, Inc.*, 68 Ohio St.2d 20, 24-25 (1981). The Ohio Landlord-Tenant Act "was an attempt to balance the competing interests of landlords and tenants." *Id*. at 25.

R.C. Chapter 5321 has remained mostly unchanged since 1974. In 1991, the General Assembly added R.C. 5321.19, which says, in part, "This chapter does not preempt . . . [h]ousing, building, health, or safety code[s] . . . of any political subdivision." R.C. 5321.19(B)(1). In 2022, the General Assembly added R.C. 5321.20, which reiterated the General Assembly's interest in ensuring Ohio's tenants live in habitable housing. R.C. 5321.20 begins, "The general assembly finds and declares that maintenance of an adequate housing supply,

including access to livable, clean, and well-maintained residential rental premises, in the state of Ohio is an urgent statewide priority and necessary to the well-being of Ohioans."

R.C. Chapter 5321 is one part of the overarching system in place to ensure safe housing for Ohioans. Both state and municipal governments have enacted regulations and policies regarding safe housing in Ohio. The North Canton ordinance and other parts of the Ohio Revised Code support the General Assembly's goal to ensure tenants can access livable, clean, and well-maintained rental properties.

A. The Ohio Landlord Tenant Act, R.C. Chapter 5321, regulates the residential rental property industry in Ohio and places the responsibility for ensuring safe housing conditions on landlords.

When the owner of a residential property makes the decision to rent the property they own, the relationship between the property owner and the property materially changes. The property owner effectively relinquishes sole control of the property. R.C. 5321.01(C). Upon the execution of the rental agreement, the tenant has the right to exclusive possession of the property. R.C. 5321.01(A); R.C. 5321.01(C). The property owner retains only the right to reasonable inspection and a non-delegable responsibility for maintenance and repair. R.C. 5321.04; R.C. 5321.05(B).

The Ohio Constitution provides municipalities power to determine the best ways to implement laws, protect rights, and ensure responsibilities. Ohio Const., art. XVIII, § 7. The North Canton ordinance reflects a reasonable regulation designed to protect tenants and the community at large while also accounting for the rights of the property owner. The ordinance inspection protocol calls for pre-rental and post-rental inspections upon advance notice to the property owner of the specific items to be inspected. North Canton Cod.Ord. 703.04(c). The ordinance provides due process protections and judicial review to the property owner prior to the

issuance of an administrative warrant when voluntary consent to inspect the property is not given by the owner. North Canton Cod.Ord. 703.04(c)(4)(C)(i). The ordinance directly supports the public rental housing policy of Ohio for "livable, clean, and well-maintained residential rental premises." R.C. 5321.20. The ordinance also builds oversight to ensure landlords are meeting their duty under R.C. 5321.04 to maintain certain minimum rental housing condition standards.

1. The Ohio Landlord-Tenant Act regulates the rental housing industry.

Prospective and existing tenants, neighbors, and the public community at large have a reasonable expectation of habitability and safety from rental housing in their neighborhoods. For over fifty years, Ohio landlord-tenant law has required landlords to (1) comply with all state and local building, health, and safety codes, (2) make all repairs and do whatever is "reasonably necessary" to keep the rental property safe and habitable, (3) keep common areas safe and sanitary, (4) maintain all electrical, sanitary, heating, ventilating systems and all elevators, appliances, and air conditioning systems provided by the landlord, (5) supply water, hot water, and heat, and (6) provide refuse removal in buildings with four or more units. R.C. 5321.04(A). Simply put, Ohio law requires landlords to offer for rent properties that meet a standard for habitation. These are all ongoing obligations that the General Assembly deemed to be necessary and reasonable for property owners who willingly choose to do business as landlords and offer their dwellings to the public to as a place to live. Landlords like CF Homes cannot relinquish these foregoing obligations to keep the premises in a fit and habitable condition; in fact, the Ohio Landlord-Tenant Act explicitly prohibits rental agreements from including terms that are inconsistent with its provisions. R.C. 5321.06; R.C. 5321.13(A).

All persons and businesses subject to the laws of the state of Ohio are required to adhere to the Ohio Landlord-Tenant Act if they meet the definition of landlord or tenant. R.C. 5321.01.

As a result, prospective tenants, current tenants, their neighbors, and the community in the vicinity of such dwellings are entitled to expect that the landlords have met their ongoing obligations because by statute, and as a matter of public policy, Ohio expects a minimum standard of healthy and safe housing. R.C. 5321.20; R.C. 3767.41 (allowing for a rental property that is no longer fit and habitable to be declared a public nuisance upon the filing of a lawsuit by a municipality or a neighboring property owner). Tenants and the community at large should be able to expect that units held out for rental to the public are not dwellings that worsen health or risk the life or safety of tenants or their neighbors. As explained in more detail below, tenants and the community at large can be at risk of serious harm or life-threatening events as of the first day the property is occupied if the property is not yet ready for rental, including fire from defective wiring, and undetected conditions for carbon monoxide poisoning as a result of the lack of an operational carbon monoxide detector.

2. When landlords do not comply with the Ohio Landlord-Tenant Act, tenants suffer.

When landlords fail to maintain their rental properties to state and local standards for construction, repair, sanitation, electric, and plumbing, tenants and their neighbors are at risk. While many landlords meet these standards, municipalities and tenants cannot rely on all landlords to comply without external enforcement. In fact, this Court recently had to contend with a landlord who attempted to argue that "clean," "safe," and "sanitary" requirements of a city ordinance were too vague to be enforceable. *Huron v. Kisil*, 2025-Ohio-2921, ¶ 18-21.

Indeed, despite landlords' obligations to maintain their rentals in a fit and habitable condition, the reality is that additional protections and procedures like the North Canton inspection process are needed. In fact, the depth of experience Amici's housing advocates around the state have in representing tenants whose landlords refuse to make repairs or meet

minimum safety standards highlights the legitimate interest of municipalities to strengthen enforcement mechanisms. These cases include:

- *Francis v. Peters*, Chillicothe M.C. No. 05 CVG 1116 (Sept. 11, 2006) (awarding damages to tenant due to basement flooding and electrical issues that resulted in the furnace and hot water heater not working; the conditions lasted twenty months).
- *Rosier v. Newman*, Washington Court House M.C. No. CVE-0500771 (Mar. 5, 2007) (awarding damages to tenant due to leaking roof, leaking pipes, clogged drains, a furnace that did not work, and wastewater backing up in the basement).
- *Ohio Specialized Investments, Ltd. v. Leavitt*, Belmont C.P. No. 17 CV 350 (Jul. 11, 2018) (awarding damages to tenants with minor children because the landlord refused to fix dozens of conditions issues that were present at move-in including a lack of running water, holes in the floor, animal feces in the basement, electrical issues, holes in the walls, and mold).
- *Johnson v. Rahim*, Cleveland M.C. No. 2019-CVG-008127 (Jan. 15, 2020) (awarding damages to tenant after the tenant and her two minor children were without water for seventy-seven days due to the landlord's conduct).
- *State ex rel. Klein v. Paxe Latitude LP*, Franklin M.C. No. 2022 EVH 060061 (Feb. 16, 2023) (awarding $2.5 million in damages to tenants who were forced from their homes on Christmas Day due to burst pipes and unable to return after asbestos was released throughout the buildings when the property owner made unpermitted repairs).

- *Sheff v. Yazar*, Youngstown M.C. No. 22 CVF 2487 (in a case that settled, alleging that a landlord failed to address a pest infestation, plumbing issues, chipping paint, inadequate doors and windows, and a documented electrical issue that resulted in the fire that caused significant damage to the house).
- *DSV SPV1, LLC v. Stanley*, Summit C.P. No. CV-2023-12-4677 (in a case that settled, alleging that a landlord rented a house that was under a condemnation order because it did not have electrical service, water service, a furnace, a hot water tank, or a functioning roof).
- *Coulter v. Woodside*, Licking M.C. No. 24CVG00118 (May 2, 2024) (awarding damages to tenant because the landlord refused to repair roof leaks, which lead to water damage, mold, and a rodent infestation, all of which prevented the tenant from using seventy percent of the house).
- *Lanch v. Judd*, Chillicothe M.C. No. 24 CVF 463 (Jun. 27, 2024) (awarding damages to tenant because the landlord did not keep the property in a habitable condition at any time during the tenants' eight-month tenancy).
- *Corn v. Filliez*, Canton M.C. No. 2024CVF03630 (Oct. 9, 2024) (in a case in which the tenant could not move into the house because the landlord refused to clean up a large amount of dog feces and trash in the basement – which made it impossible for the gas company to turn on gas service – and the landlord refused to turn on the water, granting a judgment on the pleadings in favor of the tenant).

These cases are examples of Amici's work. Tenants in every part of Ohio are currently facing similar conditions issues.

The North Canton ordinance and its inspection checklist process provide a reasonable way to prevent these conditions issues tenants regularly face. *Dept. of Dev. Servs. for North Canton v. CF Homes LLC*, 2025-Ohio-3013, ¶ 7, 26 (5th Dist.). Inspection procedures are recognized as a practical, common-sense method for reasonably ensuring rental property is ready for occupancy, and that it continues to be ready for occupancy; for example, the inspection procedure in this case is akin to the United States Department of Housing and Urban Development's longstanding requirement that properties pass inspection prior to approval for rental occupancy with the Section 8 Housing Choice Voucher program in addition to ongoing annual and interim inspections. 24 C.F.R. 982.405.

Indeed, the nexus between the inspection checklist and health and safety concerns is supported by a growing body of studies that link health to safe housing. "Researchers have linked substandard housing to a broad range of physical and mental health problems, as well as to financial hardship, social isolation, and neighborhood instability. Negative spillovers also accrue in the form of neighborhood abandonment, higher disaster damages, and increasing utility bills." Martín, et al., *Catalyzing a Movement to Produce Greater Public, Private, and Civil Resources to Improve Housing Conditions Through Home Repair Programs*, 1 (Aug. 2024).[2] According to the United States Surgeon General, "Many factors influence health and safety in homes, including structural and safety aspects of the home (i.e., how the home is designed, constructed, and maintained; its physical characteristics; and the presence or absence of safety devices); quality of indoor air; water quality; and chemicals; resident behavior; and the house's immediate surroundings. Such factors support or detract from the health of those who live there."

[2] Available at https://www.jchs.harvard.edu/sites/default/files/research/files/harvard_jchs_home_repair_programs_martin_etal_2024.pdf (accessed Sept. 10, 2025).

Office of the Surgeon General, *The Surgeon General's Call to Action to Promote Healthy Homes (2009)*, 1.[3]

Poor housing conditions affect the health of household members in four main areas: "lead poisoning, asthma and other respiratory illnesses, physical injuries, and mental health." Martín at 10. For low-income tenants, this can ultimately mean shorter life spans. *Id*. at 14. At the same time, housing deterioration depreciates the value of surrounding properties, leading to "housing decline, home devaluation and structural disinvestment at the neighborhood level." *Id*. The "lack of critical repairs [to rental housing] exacerbate health disparities, so much so that multiple recent papers have linked renting instable, poorly maintained properties to mortality in statistically significant ways." *Id*. at 13. As a result, it is clearly in the public's health and safety interests for the City of North Canton to perform inspections of rentals to evaluate whether minimum standards of habitability are met. As North Canton's ordinance says, "The purpose of this Chapter is to hold all property owners and agents to the same property maintenance standards as set forth in Part 17 of the Codified Ordinances of the City of North Canton and to provide a safe and sanitary environment for the residents and their guests of all rental dwelling units." North Canton Cod.Ord. 703.01.

B. The North Canton ordinance helps address the power imbalance between landlords and tenants concerning the condition of the rental property.

The imbalance of power in the landlord tenant relationship, especially for low-income renters, makes it very difficult for the tenant to effectuate repairs and acts as an extreme disincentive for tenants to report code violations. Requiring tenants to provide evidence of poor

[3] Available at https://www.ncbi.nlm.nih.gov/books/NBK44192/pdf/Bookshelf_NBK44192.pdf (accessed Sept. 10, 2025).

housing conditions to demonstrate probable cause for a rental inspection will make it very difficult for municipalities to inspect rental units, if not prevent inspections from ever occurring.

1. Tenants face legal barriers when attempting to resolve conditions issues on their own.

Although R.C. 5321.04 makes landlords responsible for repairs to their rental units and R.C. 5321.13(A) says landlords cannot force this responsibility onto a tenant, without municipal enforcement of housing and habitability standards, the enforcement burden shifts onto tenants themselves. Unfortunately, a tenant has little legal power or control over repair enforcement. A portion of the Ohio Landlord-Tenant Act, R.C. 5321.07 through R.C. 5321.10, gives tenants the option to terminate a lease or to deposit rent, but that process can take several months or years. *E.g., Anderson v. Landmark Renovations LLC*, Akron M.C. No. 19-CV-11027 (tenants deposited twenty-nine months of rent with the court and the landlord still failed to remedy the conditions issues).

Additionally, a reality of renting in Ohio is that a large portion of Ohio's housing is old. Not only are older houses are subject to the natural deterioration that occurs without constant upkeep, but older houses likely contain lead paint, which is particularly harmful for children under age six. Ohio Housing Finance Agency, *Fiscal Year 2024-2025 Ohio Housing Needs Assessment, Executive Summary*, 7 (stating, "One in four housing units in Ohio was built before 1950 when the nation's first laws banning lead-based paint were enacted. . . . These homes are more likely to contain chipped lead paint or lead-contaminated dust, which can be ingested by young children.").[4] "Lead can damage nearly every system in the human body, and has harmful effects on both adults and children. It is a serious environmental public health threat to children

[4] Available at https://ohiohome.org/news/documents/24-25-HNA-ExecutiveSummary.pdf (accessed Sept. 10, 2025).

in Ohio." Ohio Department of Health, *Childhood Lead Poisoning*, https://odh.ohio.gov/know-our-programs/childhood-lead-poisoning (accessed Sept. 14, 2025). As a result, there is a significant need for pre-rental inspections of rental properties. *E.g., Mack v. Toledo*, 2019-Ohio-5427, ¶ 3-4 (6th Dist.) (explaining that the city's reasons for implementing a pre-rental lead paint inspection program are sufficient to withstand a challenge), *appeal not accepted*, 2020-Ohio-1634. North Canton's inspection checklist, which looks for "peeling, chipping, flaking or abraded paint" is one way to address this issue. Such dangerous, life-altering hazards affecting young children should be dealt with prior to any tenant family inhabiting a rental home.

2. Due to a shortage of affordable housing, tenants are more likely to not attempt to resolve conditions issues on their own.

Despite Ohio law placing the duty to make repairs squarely on the shoulders of landlords and in light of the age of Ohio's housing stock, several factors make it difficult for tenants – especially low-income tenants – to compel landlords to make repairs to leased premises.

First, the housing market in Ohio is currently very tight as renters are faced with the confluence of high rents and a reduced affordable housing stock. Ohio Housing Finance Agency at 4-5. These issues create barriers for tenants – particularly low-income tenants – to both secure a property to rent and to ensure that their landlord allow them to remain in their rental homes. As the Ohio Housing Finance Agency noted, "The housing market in Ohio is tight with limited options for prospective homebuyers and renters on fixed incomes." *Id*. at 4. In 2021, the Ohio rental vacancy rate of 4 percent "hit [its] lowest recorded levels," and by the end of 2022 this rate still remained low at 6.2 percent. *Id*.

The shortage of affordable housing for the poorest Ohioans is especially acute. According to 2023 data, there are 438,108 Ohio households with extremely low incomes but only 174,025 rental units that are available and affordable for those households. National Low

Income Housing Coalition, *The Gap: A Shortage of Affordable Homes*, 32 (Mar. 2025).[5] This represents a shortage of 264,083 homes for extremely low-income Ohio renters. *Id.* This means that there are only forty affordable units available for every 100 extremely low-income households in Ohio. *Id.* Some cities in Ohio have an even more severe housing gap for this population. For example, in Columbus, there are only twenty-five affordable units available for every 100 extremely low-income households, a gap larger than that currently experienced by the extremely expensive cities of San Francisco and New York. National Low Income Housing Coalition, *No State Has an Adequate Supply of Affordable Rental Housing for the Lowest-Income Renters*, https://nlihc.org/gap (accessed Sept. 4, 2025).

Second, this shortage of affordable rental housing leaves many Ohio renters paying a significant share of their income toward housing costs. This makes retention of their housing precarious and leaves them with very little money to spend on relocation should they lose their housing. Currently, "Rent in Ohio is higher than any year on record other than 2021 when adjusted for inflation." Ohio Housing Finance Agency at 5. In such an environment, the tenant's good faith reporting of repair issues to the landlord puts the tenant in a potentially and particularly precarious position with the landlord.

Consequently, the number of people experiencing severe housing costs burden has risen. Seventy-one percent of extremely low-income Ohio tenants spend over half their income on housing costs. *The Gap: A Shortage of Affordable Homes* at 32. National statistics collected through 2013 indicated that at least one in four poor renters dedicated "over 70% [of their

[5] Available at https://nlihc.org/sites/default/files/gap/2025/gap-report_2025_english.pdf (accessed Sept. 10, 2025). Renters of "extremely low-income" include "those with incomes at or below either the federal poverty guideline or 30% of the area median income (AMI), whichever is higher." *Id*. at 4.

income] to paying the rent and keeping the lights on." Desmond, *Evicted: Poverty and Profit in the American City* at 3 (2017). With housing costs having significantly risen over the past decade, it is likely that even a larger percentage of poor renters are paying this much of their income on housing costs today.

With rent increasing to record levels, there is a strong disincentive for tenants to report conditions issues when they find or live in a property they can afford. They do not want to place themselves at risk of losing the housing they have. Super, *The Rise and Fall of the Implied Warranty of Habitability*, 99 Cal.L.Rev. 389, 408 (2011) (stating, "in a tight housing market, tenants of substandard housing may feel they dare not assert the warranty because the likelihood they will end up somewhere worse is high."). Thus, it can be difficult for low-income renters to find units to rent, and once they have found a unit, they want to hold on to that unit and not have to incur moving expenses because they are already paying so much on their housing. This acts as a disincentive for tenants to complain to landlords, housing authorities, or code inspectors about poor conditions in their units because they fear retaliation from their landlord due to complaining about substandard rental conditions. This retaliation could come through the formal eviction process, such as through non-renewal of their lease and the filing of a forcible entry and detainer action in court if they do not leave, or through informal means such as changing locks, removal of front doors, utility shut-offs, or other illegal means in an attempt to dispossess the tenant. Moreover, tenants of rentals that over time have come to be in particularly bad condition have to worry about becoming unhoused if they report those conditions to the local authorities due to the risk that their home will be declared unfit for habitation.

The remedies available to tenants under the Ohio Landlord-Tenant Act pale in comparison to the rental market forces that subject the tenant to enormous potential risk of the

loss of housing by a landlord who becomes committed to finding a way to get rid of the reporting tenant. While Ohio law also prohibits landlords from retaliating against tenants who seek repairs, enforcement of these prohibitions is limited, especially when a landlord can offer a facially justifiable reason for the decision to terminate a tenancy through non-renewal. R.C. 5321.02; *e.g., Karas v. Floyd*, 2 Ohio App.3d 4, 6-7 (2d Dist. 1981) (discussing the burden of proof the tenant must meet to succeed under R.C. 5321.02). Many tenants fear that they will lose their housing if they contact local housing code enforcement, escrow their rent, or otherwise demand repair of unsafe living conditions. *E.g.,* Super, 99 Cal.L.Rev. at 408 (explaining the direct and indirect costs of tenants litigating conditions issues and noting that, "they include the chance that the landlord, although losing in the initial action, will retaliate against the tenant by terminating her or his lease, raising the rent, changing the locks, or taking other actions that injure the tenant or induce her or him to move").

For low-income tenants, the costs of day-to-day living combined with a need to come up with a security deposit, first month's rent and the costs associated with moving put tremendous pressure on them to stay where they are. The North Canton ordinance helps ensure the property is properly maintained while tenants live there without the need for the tenant to report repair issues.

While there is a strong disincentive for the poorest Ohioans to not complain about conditions issues, there is a strong incentive – absent regular government involvement in the form of routine inspections – for landlords to not fix those conditions issues. As Mathew Desmond noted, "The high demand for the cheapest housing told landlords that for every family in a unit there were scores behind them ready to take their place. In such an environment, the

incentive to lower the rent, forgive a late payment, or spruce up your property was extremely low." Desmond at 46.

Therefore, it is not reasonable to require tenants to provide evidence of poor housing conditions as the sole means of establishing probable cause for purposes of conducting an inspection of a rental unit. Of necessity, tenants have a strong disincentive to report the need for repairs, which is why a pre-rental inspection by local authorities is so important as a means to keep Ohio's aging rental housing stock safe and habitable. The constitutional protections for reasonable housing inspections should not be used in such a way that it contributes to the deterioration of the rental housing stock in Ohio, and the disruption of housing stability among tenant families.

C. The Ohio Landlord-Tenant Act and the North Canton ordinance are consistent with the Ohio Constitution's objective of allowing municipalities to exercise its powers to enact and enforce health and safety laws.

Ohio's Constitution reflects the paramount concern for the health and safety of Ohio residents. Although there were no building standards at the time the Ohio Constitution was drafted, the drafters did, in fact, build flexibility into the enforcement powers of municipalities by permitting them to exercise "all powers of local self-government to adopt and enforce within their limits such local police, sanitary and other similar regulations as are not in conflict with general laws." Ohio Const., art. XVIII, § 3. With those constitutional powers in place, for over one hundred years, Ohio law has recognized the importance of oversight in the construction and maintenance of all buildings – commercial and residential. In 1911, Ohio enacted its first statewide building code, which focused on construction, sanitation, heating, and ventilation of public buildings. 102 Ohio Laws 586 (1911).

Access to safe and stable housing remains critical to the health and safety of Ohioans who reside in rental units. *The Surgeon General's Call to Action to Promote Healthy Homes* at 1-4. Structural issues, improperly installed or maintained plumbing and electric systems, and improper remediation of the lead-based paint can lead to catastrophic outcomes for the health and safety of Ohio's residents. Despite CF Homes's attempt at conflation, the rights of owner-occupied residences are not at issue in this case, nor is anyone attempting the search and seizure of personal belongings of tenants in their homes. At issue is the right of the state and local governments to inspect residential rental units owned by those who have availed themselves of Ohio laws for profit, and by extension, the rights of Ohio tenants to live in safe homes, free from dangerous and unhealthy living conditions.

As discussed above, Ohio law requires landlords to "comply with the requirements of all applicable building, housing, health, and safety codes that materially affect health and safety." R.C. 5321.04(A)(1). Municipalities throughout Ohio uphold and enforce these legal requirements through ordinances that establish the parameters for oversight and inspection of residential rental units. Without inspections or repairs of issues that impact health and safety, Ohio tenants find themselves living in dangerous conditions such as infestations of rodents and cockroaches and the lack of electricity, gas, or heat;[6] having their children poisoned by lead

[6] Gallion, *Problem landlord to serve 175 days in jail for failing to maintain rental properties*, Columbus Dispatch (May 9, 2024), https://www.dispatch.com/story/news/local/2024/05/09/problem-landlord-joseph-alaura-jailed-for-unlivable-rental-properties/73627197007/ (accessed Aug. 28, 2025) (stating, "A Columbus landlord will serve 175 days in jail for failing to maintain livable conditions at his 32 rental properties after the city found numerous violations, including rodent and roach infestations and properties lacking electricity, gas or heat.").

paint;[7] facing fire and carbon monoxide hazards;[8] and becoming homeless in the early hours of Christmas Day after a water pipe burst.[9] Landlords cannot be responsible for policing their own compliance with licensing rules and regulations; for example, after Columbus filed a nuisance lawsuit in 2020, the landlord, Southpark Preservation Limited Partnership Properties, said it "would use their best efforts to maintain the premises." Rantala, *"This is a hell hole!" Tenants of Columbus problem properties demand city accountability* (July 8, 2021).[10] However, years later, the problems remained and the tenants remained in substandard conditions. Gill, *Hundreds of Colonial Village tenants still need housing as deadline to vacate motels looms*, Columbus Dispatch (Apr. 26, 2024).[11] The landlord's failure to comply with landlord-tenant laws cost the city of Columbus more than $5 million. *Id*.

As with many areas covered by housing inspections, it is unreasonable to expect the average tenant in Ohio to understand building, health, and safety codes in residential housing. *E.g.,* Pagonakis, *Cleveland Tenants Exploited by Landlords Renting Condemned Homes* (Oct. 15,

---

[7] Cleveland Clinic, *Lead Poisoning*, https://my.clevelandclinic.org/health/diseases/11312-lead-poisoning (accessed Aug. 27, 2025) (noting that elevated lead levels can lead to a host of health and safety concerns including learning and developmental delays in children, cardiovascular and renal complications in adults, and neurological symptoms like seizures and hearing loss).

[8] Blake, *Landlord Gets Six Months in Jail, Community Control in Carbon Monoxide Deaths*, Toledo Blade (Sept. 30, 2011), https://www.toledoblade.com/local/courts/2011/09/30/Landlord-gets-six-months-in-jail-community-control-in-carbon-monoxide-deaths/stories/20110930042 (accessed Sept. 3, 2025).

[9] Rantala, *Same ownership group identified for problem properties Latitude Five25 & Colonial Village* (Jan. 17, 2024), https://abc6onyourside.com/newsletter-daily/same-ownership-group-identified-for-problem-properties-latitude-five25-colonial-village-central-columbus-ohio-january-2024 (accessed Sept. 3, 2025) (describing the Latitude Five25 and Colonial Village disasters in Columbus, which required over 1,000 families to relocate after their apartment buildings were condemned).

[10] https://abc6onyourside.com/on-your-side/tenants-problem-properties-columbus-demand-city-accountability-7-8-2021 (accessed Sept. 2, 2025).

[11] https://www.dispatch.com/story/news/local/2024/04/26/colonial-village-residents-motel-eviction-deadline-columbus-housing/73416064007 (accessed Sept. 2, 2025).

2018).[12] Inspections regularly conducted by trained professionals are critical to ensuring the health and safety of Ohioans.

D. Residential rental properties are also regulated by other parts of the Ohio Revised Code.

In Ohio, the residential rental business is subject to regulations in light the significant harm that can result from substandard housing conditions. While the Ohio Landlord-Tenant Act regulates tenancies, Ohio laws also regulate the rental housing business from the time a residential rental property is first advertised for rent rental applications are taken and the successful tenant is selected. *E.g.,* R.C. 4112.02(H) (prohibiting discrimination in all stages of residential rental housing transactions). The oversight continues throughout the tenancy, including the landlord's obligation to meet certain minimum property standards as of the moment the tenant is authorized to occupy the property. R.C. 5321.04. The oversight continues beyond the tenancy as the Ohio Landlord-Tenant Act governs how a landlord must handle the tenant's security deposit after the tenant moves out. R.C. 5321.16.

However, the Ohio Revised Code does not vest sole ability to enforce the right to safe and habitable rental properties in tenants. R.C. 3767.41 establishes a statutory framework for municipal corporations, townships, neighbors, tenants, and nonprofit organizations to take legal action when real property, including residential rental property, is unsafe to tenants and neighbors and threatens public health, safety, or welfare. This statute is part of Ohio's broader nuisance abatement scheme under R.C. Chapter 3767, which provides mechanisms to identify, address, and remedy nuisance properties through civil actions. Nevertheless, these legal options are difficult for tenants to navigate without hiring an attorney.

[12] https://www.news5cleveland.com/news/local-news/cle-tenants-exploited-by-landlords-renting-condemned-homes (accessed Sept. 2, 2025).

R.C. 3767.41 defines a "public nuisance" as a building that is "structurally unsafe, unsanitary, [or] otherwise dangerous to human life," "that constitutes a fire hazard" or is unfit for habitation due to "inadequate maintenance, dilapidation, or abandonment." R.C. 3767.41(A)(2)(a). The statute specifically contemplates subsidized rental housing and incorporates federal standards, requiring compliance with specific safety and habitability criteria under 24 C.F.R. 5.703. R.C. 3767.41(A)(2)(b). The statute also defines "abatement" as the removal or correction of conditions constituting a public nuisance, excluding mere closure or boarding up of the building. R.C. 3767.41(A)(3). Cities in Ohio have brought civil nuisance actions against residential rental properties for unsafe housing conditions for many years. *E.g., Cincinnati v. PE Alms Hill Realty LLC*, Hamilton C.P. No. A1500883; *Whitehall v. Olander*, Franklin M.C. No. 2007 EVH 060217; *State ex rel. Pfeiffer v. Apex Colonial OH, LLC*, Franklin M.C. No. 2021 EVH 060155.

Despite the regular use of R.C. 3767.41 by municipalities to ameliorate conditions issues in rental properties and the court-supervised inspections that are associated with the process, no court has found R.C. 3767.41 to conflict with Ohio's constitution or otherwise interfere with the property owner's rights. Instead, these sections of the Ohio Revised Code – like the North Canton ordinance – are in line with longstanding Ohio case law that allows municipalities to ensure that their residents live in safe and habitable housing.

II. Administrative warrants are lawful under state and federal law, and municipalities have broad authority to regulate the residential housing industry through their use.

With the need for enforcement of existing landlord-tenant laws clear, the next issue is whether a municipality can use an administrative warrant to help enforce those laws. Under Ohio's Constitution and longstanding case law, municipalities clearly have this authority.

CF Homes and its amici argue that Ohio courts owe no deference to federal precedent and should instead look to early state constitutional history and common-law traditions. *E.g.,* Appellant's Merit Brief at 20-44. Their position is not supported by existing Ohio law. First, the near-verbatim adoption of Fourth Amendment language into Ohio's Constitution suggests an intentional alignment with federal law. Second, historical practice at the Founding provides little guidance for modern administrative searches, which were not formally distinguished from criminal investigations until the mid-twentieth century. Third, Ohio case law, particularly *State ex rel. Eaton v. Price*, and *State v. VFW Post 3562*, already establishes a coherent state-law framework that both permits administrative searches and limits their scope. Finally, Ohio's balancing test, when applied in the administrative-search context, confirms that reasonableness remains the ultimate constitutional standard. Ultimately, Ohio constitutional law in this area should remain harmonized with federal precedent, balancing individual rights against the state's compelling interest in public health and safety.

A. Article I, Section 14, of Ohio's Constitution mirrors the Fourth Amendment of the United States Constitution and both should be analyzed together.

State constitutions often mirror their federal counterpart but also provide opportunities for independent doctrinal development. Article I, Section 14, of the Ohio Constitution says, "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." The text is virtually identical to the Fourth Amendment to the United States Constitution, which says, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be

violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

CF Homes and its amici urge this Court to reject reliance on federal search-and-seizure precedent. *E.g.,* Appellant's Merit Brief at 6. According to amici Institute for Justice, Ohio courts should ground their analysis in the state's 1802 Constitution and inherited Anglo-American common-law traditions. Brief of Amicus Curiae Institute for Justice at 3. Such an approach is historically inaccurate, doctrinally unsound, and practically unworkable. Instead, Ohio jurisprudence on administrative searches is best understood as harmonized with federal law while maintaining state-specific safeguards.

Institute for Justice relies heavily on *State v. Brown* for the proposition that "this Court owes no deference to federal precedents." *State v. Brown*, 2003-Ohio-3931, ¶ 21 (holding that Ohio courts may interpret the state constitution independently but ultimately rejecting the defendant's challenge under both federal and state law). While this statement reflects the doctrine of independent state constitutionalism, it overlooks Ohio's constitutional history.

During Ohio's 1851 constitutional convention, delegates revised Section 14 to track the Fourth Amendment almost verbatim. Unlike other provisions in which Ohio law diverged from federal language, the Framers here made no such choice. The absence of debate on the search-and-seizure clause underscores that no substantive departure was intended. Under standard principles of constitutional interpretation, textual replication implies alignment.

B. The originalists analysis of CF Homes and its amici is limited by both the historical record and relevant caselaw.

CF Homes and their amici consistently misconstrue the historical record and relevant case law. Institute for Justice urges reliance on the "history and common-law traditions" of the American colonies and England. Brief of Amicus Curiae Institute for Justice at 22. However,

the historical record reveals that administrative and investigative functions were deeply entangled during the Founding era. The English High Commission and Star Chamber exercised quasi-judicial and quasi-executive authority, blending regulatory and investigative functions. William J. Cuddihy, *The Fourth Amendment: Origins and Original Meaning, 602-1791* at 171 (2009) (describing how the High Commission and Star Chamber combined investigative and administrative functions). Writs issued by courts to customs officers authorized wide-ranging inspections, often indistinguishable from general warrants. *Id*. at 446-458 (explaining how commission-based writs authorized customs officers to conduct sweeping inspections).

In addition, Institute for Justice misconstrues the landmark case *Entick v. Carrington*, a case actually dealt with executive writs generally rather than a distinct category of administrative search warrants. *Entick v. Carrington*, 19 Howell's State Trials 1029 (1765) (invalidating a general warrant but dealing with executive – rather than administrative – authority). The Supreme Court of the United States did not formally recognize a separate administrative-search doctrine until *Camara v. Municipal Court* in 1967. *Camara v. Mun. Court of San Francisco*, 387 U.S. 523, 534-539 (1967) (holding that administrative inspections of residences require a warrant based on the "reasonableness of the enforcement agency's appraisal of conditions in the area as a whole" and not a perceived violation of a particular dwelling"). Because *Camara* marks the first clear recognition of administrative searches as a distinct category, to insist that Ohio's 1851 Constitution codified a distinction that did not exist in 1789 or 1851 is to impose a historical fiction.

C. The North Canton ordinance is valid under Ohio precedent regarding administrative searches.

Applicable precedent confirms that Ohio has long balanced individual privacy rights against collective welfare in the administrative-search context. Two decisions from this Court

and one post-*Camara* decision from the Supreme Court of the United States are particularly instructive.

In *State ex rel. Eaton v. Price*, this Court explicitly rejected the claim that code-enforcement inspections required individualized suspicion or a warrant. *State ex rel. Eaton v. Price*, 168 Ohio St. 123, 138 (1958) (upholding warrantless building-code inspections). In *Eaton*, Dayton enacted an ordinance that established "minimum standards 'governing utilities, facilities and other physical things and conditions essential to make dwellings safe, sanitary and fit for human habitation,' and 'governing the conditions and maintenance of dwellings.'" *Id*. The ordinance also "authorize[d] a housing inspector to make inspections of 'dwellings, dwelling units, rooming houses, rooming units and premises located within the city,'" and authorized the inspector to "'upon showing appropriate identification . . . to enter, examine and survey at any reasonable hour all dwellings.'" *Id*. The ordinance required the '"owner or occupant of every dwelling' [to] give such inspector 'free access to such dwelling . . . at any reasonable hour for the purpose of such inspection, examination and survey.'" *Id*. If the property owner did not cooperate with the inspection process, he or she was subject to "penalties of fines or imprisonment or both." *Id*. This Court found that the ordinance was "not violative of Section 14 of Article I of the Ohio Constitution prohibiting unreasonable searches and seizures." *Id*.

Three decades later, in *State v. VFW Post 3562*, this Court refined this balance. *State v. VFW Post 3562*, 37 Ohio St.3d 310 (1988). At issue were warrantless inspections by the Department of Liquor Control. This Court held that statutes authorizing unlimited inspections were unconstitutional unless they incorporated time, place, and scope limitations. *Id*. at 316. Moreover, evidence obtained from administrative searches could not be used in general criminal prosecutions unrelated to the regulatory scheme. *Id*. at 315-16. Contrary to Institute for Justice's

assertion that Ohio lacks a distinct state-law framework, *VFW Post 3562* provides precisely that: warrantless administrative searches may be permissible, but only within some constraints.

Finally, *New York v. Burger* supplies useful guardrails for such inspections: they must occur during regular business hours, be limited to industries subject to close regulation, and be narrowly tailored to relevant records and items. *New York v. Burger*, 482 U.S. 691, 711-712 (1987) (upholding administrative inspections of vehicle-dismantling businesses where the statute provided time, place, and scope limits). Ohio's jurisprudence, especially *VFW Post 3562*, reflects these same principles. Thus, Ohio participates in a broader constitutional dialogue rather than operating in isolation.

D. When applying Ohio's balancing test and the reasonableness standard, the North Canton ordinance is clearly constitutional.

In *State v. Jones*, this Court articulated a balancing framework for state constitutional rights, weighing (1) the degree to which the government's action intrudes on a person's liberty and privacy, and (2) the degree to which the intrusion is necessary to further the government's legitimate interests. *State v. Jones*, 88 Ohio St.3d 430, 438 (2000). As the Court explained in *Camara*, health and safety inspections are "neither personal in nature nor aimed at the discovery of evidence of crime," but instead involve "a relatively limited invasion of the urban citizen's privacy." *Camara*, 387 U.S. at 537. *Camara*'s predecessor, *Frank v. Maryland*, went further, emphasizing that inspections are "of indispensable importance to the maintenance of community health" and have a long history of judicial and public acceptance. *Frank v. Maryland*, 359 U.S. 360, 372 (1959) (upholding health inspections as "indispensable").

Under both the United States and Ohio constitutions, the ultimate standard remains the reasonableness of the action. As *Camara* held, probable cause in this context does not require individualized suspicion of criminality; instead, it exists when "reasonable legislative or

administrative standards for conducting an area inspection are satisfied with respect to a particular dwelling." *Camara* at 538. Thus, the passage of time, neighborhood conditions, or systematic enforcement policies may themselves constitute sufficient cause. *Id*. This adaptation of probable cause to administrative needs reflects both constitutional flexibility and fidelity to the warrant requirement.

Moreover, the state constitutional guarantee cannot be invoked to nullify compelling government interests in public health and safety. CF Homes and its amici ask this Court to conflate the privacy rights of a tenant subject to a criminal warrant with those of a provider in a regulated industry subject to an administrative warrant. Housing inspections protect not only the privacy interests of an individual tenant but also the rights and well-being of entire communities, particularly in multi-unit dwellings where hazards such as faulty wiring or unsanitary conditions can endanger neighbors. As scholars have long observed, routine inspections are the only effective means of achieving universal compliance with housing codes. Note, *Municipal Housing Codes*, 69 Harv.L.Rev. 1115, 1124-1125 (1956) (finding, "Comprehensive inspection on an area-by-area or block-by-block basis has proved more effective than haphazard inspection based only upon receipt of complaints, and repeated follow-up inspections are important."); Fossum*, Rent Withholding and the Improvement of Substandard Housing*, 53 Cal.L.Rev. 304, 316-17 (1965) (stating that regular inspections, "as opposed to inspections occasioned by complaint, are important not only because they enable the department to act upon a maximum number of violations, but also because the haphazard complaint method debilitates the entire enforcement procedure"); Carlton, Landfield & Loken, *Enforcement of Municipal Housing Codes*, 78 Harv.L.Rev. 801, 807 (1965) (noting that the uneven enforcement pattern of complaint-initiated inspections reduces incentives to voluntary compliance).

In this way, the balance struck in *Eaton*, *Camara*, *VFW Post 3562*, and *Burger* ensures that inspections advance vital public interests while preserving meaningful judicial oversight. CF Homes and its amici invite this Court to abandon its precedent and reconstruct administrative-search doctrine on the basis of eighteenth-century practices. Such an approach is unconvincing. Ohio's Framers chose to harmonize Article I, Section 14, with the Fourth Amendment, and Ohio case law already establishes meaningful limits on administrative searches. The proper course is not to reinvent Ohio constitutional law but to uphold *Eaton* and *VFW Post 3562*, ensuring both protection of individual rights and preservation of public health and safety.

III. If this Court invalidates the North Canton ordinance, all Ohioans will suffer the consequences.

CF Homes exaggerates the gravity and reach of North Canton's rental inspection mandate by using language to suggest that all Ohio homes will be subjected inspections. CF Homes repeatedly attempts to expand the application of the North Canton Ordinance – which, of course, is entitled Registration of Rental Units – to owner-occupied homes, arguing about "safeguards provided to homeowners," "the final word on the protection of *Ohioans'* homes," and even stating that, "the lower courts hold that search warrants should be issued to forcibly enter all North Canton homes." (Emphasis in original.) Appellant's Merit Brief at 7, 12, 14. These misstatements of the application of the North Canton ordinance and the decisions from the lower courts attempt to distract this Court from the subject of the required inspections: any building containing one or more rental units. North Canton Cod.Ord. 703.04(a). The Ohio Landlord-Tenant Act creates a clear line between owner-occupied homes and rental homes, evidenced by its clear definition of "landlord" and the delineation of landlord's responsibilities addressed above. R.C. Ch. 5321.

The obvious difference between a landlord and an owner-occupied house is that property owners renting residential property to others are engaging in a business practice governed by state and local law. *Id*. After all, CF Homes exists to make money for its owners.[13] Property owners like CF Homes are not required to provide residential rentals to the public, but when they do, states and municipalities have a legitimate government interest in regulating and providing oversight – ensuring landlords maintain rental properties that conform to all health, building, and safety codes. R.C. 5321.04; R.C. Ch. 119 (outlining the requirements for promulgating and regulating administrative procedures). CF Homes has not argued that North Canton violated Ohio law in the creation of its licensing requirements for rental homes, nor that North Canton lacks the ability to enforce their licensing requirement in relation to this business activity. If municipalities are not permitted to properly enforce regulations that apply to those engaging in a business practice, the regulations themselves are diminished in both strength and impact.

While a ruling in favor of North Canton will not affect any owner-occupied homes, a ruling in favor of CF Homes will negatively affect every Ohioan. When the right of regular inspection is curtailed for one type of business upon which Ohioans rely, inspection is at risk for other privately owned businesses that Ohioans regularly access. The risk is particularly high for businesses offering services in which there is an expectation of safety, but where average Ohioans are not trained and may not feel empowered to enforce that expectation of safety. For example, if property owners like CF Homes are permitted to block municipal inspections of rental property they own and profit from, Ohio municipalities could lose inspection access in

[13] CF Homes LLC is a business licensed in Ohio established for "[a]cquiring real property for the pourpose [sic] if [sic] investment" by Julien Way, Ltd., a business not licensed in Ohio. Articles of Organization for a Domestic Limited Liability Company filed Mar. 9, 2011, and amended Jan. 6, 2012.

other businesses critical to Ohioans like, residential care facilities, restaurants, and child care centers. R.C. Ch. 3721 (residential care facilities); R.C. Ch. 3717 (restaurants); R.C. Ch. 5104 (child care facilities).

Residential care facilities provide housing, supervision, and care for Ohioans unable to live safely on their own. Those who own a residential care business and those who own the property housing such facilities must be licensed and comply with pre- and post-licensure inspections by the director of health. R.C. 3721.02(B); R.C. 3721.05. The director of health can conduct any inspection at any time. R.C. 3721.02(B)(1); R.C. 3721.05(D). At least one unannounced inspection must occur every fifteen months. Adm.Code 3701-16-04(A). Neither a residential care facility operator nor the property owner where a residential care facility is located can refuse inspections by the direct of health and continue to run their businesses without recourse. R.C. 3721.02(B)(1); R.C. 3721.05(D). If the operator or building owner fails to allow inspections, the business' license can be revoked or not granted, and/or the operator can face civil penalties. R.C. 3721.99(A). Inspections and reinspections are critical to assessing residential facilities' ongoing compliance with regulations and can uncover shocking conditions.[14]

Running a child care center in Ohio also requires governmental oversight. As with providers of rental property and residential care facilities, operating a child care center requires a license that includes inspection of the physical premises. R.C. 5104.05(A). As part of that licensing procedure, all child care centers must permit regular inspections regardless of whether

[14] Kocot, *Multiple Violations Force Closure of Assisted Living Facility* (July 10, 2015), https://www.10tv.com/article/news/multiple-violations-force-closure-assisted-living-facility/530-c27a1f5f-2b83-44cf-b06e-188e4451ae49 (accessed Aug. 30, 2025); Walsh, *"It's heartbreaking": More Problems at King David Nursing & Rehab* (Sept. 6, 2024), https://www.news5cleveland.com/news/local-news/investigations/its-heartbreaking-more-problems-at-king-david-nursing-rehab-senator-asks-if-police-should-step-in (accessed Aug. 30, 2025).

the center is in a rented facility, a rental home, or an owner-occupied residence. R.C. 5104.04. Inspections may be unannounced and Ohio law prohibits any person, firm, organization, institution, or agency from interfering with the inspection in a stand-alone child care facility or a home. R.C. 5104.04(B)(1)(a). The state can deny or revoke the license to operate if the owner of the child care center or home does not comply with these requirements. R.C. 5104.04(D).

Restaurants, too, are licensed to ensure they adhere to health, safety, and sanitation requirements. R.C. 3717.21. Part of that licensing requirement is a requirement to permit licensed and state inspectors onto the premises for regular inspections. R.C. 3717.27; R.C. 3717.47; Adm.Code 3701-21-02.4. If a restaurant owner or the owner of the property housing the restaurant refuses an inspection, he or she will face fines, license revocation, and other penalties. R.C. 3717.29.

Just like those who choose to run residential care facilities, child care centers, and restaurants, property owners who choose to become landlords should not be able to run their business free from inspections. And just like residents in residential care facilities, parents or children at child care centers, and patrons of restaurants, tenants are not in a position to ensure that the necessary inspections take place.

CONCLUSION

For the reasons stated above, amici curiae Ohio Legal Aid Organizations respectfully request that this Honorable Court uphold the decision of the Fifth District Court of Appeals.

Respectfully submitted,

/s/ Michael Loudenslager
Michael Loudenslager (0063755)
Kristie Ortiz (0104461)
Advocates for Basic Legal Equality
130 West Second Street, Suite 700 East
Dayton, OH 45327

/s/ Andrew D. Neuhauser
Andrew D. Neuhauser (0082799)
Jasmine Oesterling (0105579)
Gregory A. Sain (0023674)
Community Legal Aid Services
50 South Main Street, Suite 800

(937) 228-8104 – Telephone
mloudenslager@ablelaw.org
kortiz@ablelaw.org

Attorneys for Amicus Curiae Advocates for Basic Legal Equality

/s/ Michael Edwards
Michael Edwards (0083162)
Peggy P. Lee (0067912)
Thomas Pope (0101509)
Melissa C. Benson (0079836)
Mark Gnatowski (0102684)
Legal Aid of Southeast and Central Ohio
1108 City Park Avenue, Suite 100
Columbus, OH 43206
(614) 737-0128 – Telephone
medwards@lasco.org
plee@lasco.org
tpope@lasco.org
mbenson@lasco.org
mgnatowski@lasco.org

Attorneys for Amicus Curiae Legal Aid of Southeast and Central Ohio

/s/ Abigail Staudt
Abigail Staudt (0081602)
Lauren Onkeles-Klein (0104313)
Howard Strain (0069262)
Legal Aid Society of Cleveland
1223 West Sixth Street
Cleveland, OH 44113
(216) 861-5659 – Telephone
abigail.staudt@lasclev.org
lonkeles-klein@lasclev.org
howard.strain@lasclev.org

Attorneys for Amicus Curiae Legal Aid Society of Cleveland

Akron, OH 44308
(330) 535-4191 – Telephone
aneuhauser@communitylegalaid.org
joeseterling@communitylegalaid.org
gsain@communitylegalaid.org

Attorneys for Amicus Curiae Community Legal Aid Services

/s/ Patricia Y. Hernandez
Patricia Y. Hernandez (0062764)
Legal Aid of Western Ohio
525 Jefferson Avenue, Suite 400
Toledo, OH 43604
(419) 724-0030 – Telephone
pyhernandez@lawolaw.org

Attorney for Amicus Curiae Legal Aid of Western Ohio

/s/ Stephanie Moes
Stephanie Moes (0077136)
Legal Aid Society of Southwest Ohio
215 East Ninth Street, Suite 200
Cincinnati, OH 45202
(513) 362-2787 – Telephone
smoes@lascinti.org

Attorney for Amicus Curiae Legal Aid Society of Southwest Ohio

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was emailed to the following on September 22, 2025, pursuant to Rule 3.11(B)(1)(a):

Maurice A. Thompson
1851 Center for Constitutional Law
122 East Main Street
Columbus, OH 43215
(614) 340-9817 – Telephone
mthompson@ohioconstitution.org

Thomas W. Connors
Mendenhall Law Group
190 N. Union Street, Suite 201
Akron, OH 44304
(330) 888-1240 – Telephone
tconnors@warnermendenhall.com

Counsel for Appellants CF Homes LLC

Brenden Heil
Greg Peltz
Brodi J. Conover
Bricker Graydon LLP
1100 Superior Avenue, Suite 1600
Cleveland, OH 44114
(216) 523-5405 – Telephone
bheil@brickergraydon.com
gpeltz@brickergraydon.com
bconover@brickergraydon.com

Counsel for Appellee Department of Development Services for the City of North Canton

/s/ Andrew D. Neuhauser
Andrew D. Neuhauser (0082799)
Community Legal Aid Services
50 South Main Street, Suite 800
Akron, OH 44308
(330) 535-4191 – Telephone
aneuhauser@communitylegalaid.org

One of the Attorneys for Amici Curiae