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The Associated Landlords of Kansas (TALK) was created in 1981 by landlords in Kansas to "Promote a strong voice in the legislature, a high standard of ethics, and provide educational opportunities for landlords." Some of our members helped create The Residential Landlord-Tenant Act of 1975, a model of fair law for both landlords and tenants.

In this 2016 legislative session, we will continue to promote property rights, and fair and decent housing for all.

Testimony on HB 2665

- 1) The purpose of this Bill is to protect the rights of Tenants to refuse "routine" intrusions into their homes in the guise of "protecting" them.
- 2) It forbids local Government agencies from threatening to declare the Tenants home "uninhabitable", "unfit", or otherwise require removal of the lawful occupants if the Tenant refuses the routine inspections.
- 3) It forbids local Government agencies from using "Administrative Search Warrants" to enter a Tenants home to search for code violations in an effort to avoid using a regular Search Warrant which requires probable cause. (lines 4-8)
- 4) It excludes property that is not privately owned, such as a public housing authority. (line 6)
- 5) It protects the Tenants right to ask for an inspection by a local Government agency if the Tenant feels that the home may be unsafe. (lines 13-16)
- 6) It requires that the local Government contact the Landlord before scheduling a Tenant requested inspection to ensure that the Tenant is not in the middle of eviction proceedings. (lines 16-19)

NOTHING in this Bill prohibits a local Government from enacting or operating a Rental License program as long as the above conditions are met.

If we can be of help to you in any area concerning property rights, tenants, or landlords, please feel free to contact us at your convenience.

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Landlords of Lawrence Inc.
Landlords of Johnson County, Ks Inc.
K.C.KS. Landlords Inc., Wyandotte Co.
Eastern Kansas Landlords Assoc., Miami Co.
Franklin Co. Landlords Assoc.
Osage Co. Landlords Assoc.

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Labette Co. Landlords Assoc.
Geary County Landlords Inc.
Shawnee Co. Landlords Assoc.
Salina Rental Property Providers Inc.
South Central Kansas Landlord Assoc.
Serving Sumner and Reno Counties

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Cherokee County Landlords Assoc.
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By Dan Sewell

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CINCINNATI — A federal judge has ruled that a southern Ohio city's inspections of rental properties without a warrant are unconstitutional.

U.S. District Judge Susan Dlott agreed last week with property owners who last year sued the Ohio River city of Portsmouth, contending that the city's rental-dwelling code violated their constitutional protections to due process and against unreasonable searches by forcing them to allow inspections without warrants describing probable cause.

Court documents show that city officials explained that much of Portsmouth's housing stock dates to post-World War II construction, and the wave of foreclosures during the Great Recession resulted in many old homes sitting vacant for long periods, then being converted into rental properties.

City officials said many families were living in unsafe and unsanitary conditions, so a new rental-dwelling code adopted in 2012 required buying rental permits and allowing inspections.

"This code is to protect the public health, safety and welfare of occupants in all rental dwellings," the city stated at the time.

The code required rental-property owners to apply for a permit to rent their property, subject to code-enforcement approval. Annual license fees started at \$50.

Dlott said that while securing public health, safety and welfare is a valid and important government concern, she found that the warrantless inspections "impact a substantial privacy interest ... (and) are also significantly intrusive" and "unreasonable."

Maurice Thompson, executive director of the Columbus-based 1851 Center for Constitutional Law, which represented property owners in the case, called the ruling a victory for both property owners and tenants by protecting them from "suspicion-less" inspections. He also called such rental codes "back-door tactics" to collect revenue.

"Local government agents do not have unlimited authority to force entry into Ohioans' homes or businesses," Thompson said.

Dlott's order also said the property owners are entitled to seek repayment of inspection fees related to unconstitutional inspections.

The *Portsmouth Daily Times* reported that City Solicitor John Haas said he'll discuss the ruling with the city insurance carrier's legal counsel and other city officials before deciding how the city will proceed.

The city revised its rental-dwelling rules last year after the lawsuit was filed, and Haas said he interprets the ruling as describing acceptable rules that appear to follow the amended ordinance.

Dlott's ruling noted that the code had been amended, but said the court "expresses no opinion on the constitutionality of or any other claim" from the revised ordinance.

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