

March 2, 2016

Written testimony to the **Kansas House of Representatives Committee on Commerce, Labor and Economic Development** by Earl Long, Overland Park, Kansas, regarding:

HOUSE BILL No. 2665 – “AN ACT concerning city and county inspections of rental property”

Chairman and members of the Committee, I congratulate the author of this bill.

- It states the concern of the citizens accurately.
- It's on one page.
- The subject is very timely.

I thank Chairman Hutton for bringing this bill to the public for debate.

The very foundation of our State Government is to protect the people's rights to own property and to provide equal protection under the law without imposing upon the rights of others.

It has always been the intent of many unwise people in government to increase the size, power and funding of government control over the private lives of the governed.

Adding one more new tax to fund further government expansion is a classic example of government overreach. It was reprehensible for the Overland Park City Council on February 15, 2016, to ignore the will of its citizens by establishing a property owner license-required program to authorize unconstitutional and immoral searches of private property under the guise of public safety and community enhancement. Two courageous City Council members (Jim Kite and David White, representing my 3rd ward) voted against it.

Previously, on February 1, 2016, at a public hearing in the Overland Park City Council Chambers attended by more than 50 citizens, 25 of them testified regarding the proposed ordinance establishing the City Rental Inspection and Licensing Program. Fully eighty percent (80%) of those who testified opposed it. A public opinion poll conducted by a consulting company last year confirmed that a large majority of citizens did not want this program.

City government employees who were promoting this program gave misleading testimony regarding the limitations upon city inspectors and the purposes of the program. They said that inspectors would only be allowed to do drive-by visual inspections of properties from public access only. Yet the ordinance as written says that they can inspect a property by entering it without the owner's permission.

Those in favor claimed only the need to correct serious rental property code violations in high crime areas. However, the government will require every rental property owner throughout the entire city to pay for a license. The obvious ultimate goal is to expand the program to include residential property as well.

This new city ordinance has a structured penalty provision that can lead to confiscation of property and enforcement in the criminal justice system.

City employees promoting this program provided photos of only the worst types of property code violations: property needing painting, roofs in need of repairs, and wrecked vehicles parked in front of properties. Yet the printed inspection code violations include grass and other vegetation above 8" tall that in the inspector's opinion are unacceptable.

There are very few serious rental property appearance problems in high crime areas, especially in Overland Park. Other solutions were proposed. However, many City Council members who voted for this program said they were tired of hearing repeatedly about this proposal for three years and just wanted to try it. They claimed that most other cities in Kansas have similar programs, which seem to work just fine. **Yet people, who own property in Lawrence for example, disagree.**

Similar programs in other states have been tested by the courts and found to be unconstitutional.

Private citizens rely on the will of those in State Government, who represent us, to protect our right to own property and have equal treatment under the law.

The Fourth Amendment of the United States Constitution 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 on probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The Overland Park City ordinance contains no such language. HR 2665 contains the right language.

Municipal governments exist with the approval of the State. When local governments ignore the public's outrage upon learning of their unconstitutional denial of citizens' property rights, the State must take appropriate action to prevent it.

I hope that this committee will approve this bill forthwith and send it to the full House and Senate for quick passage.

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