IN THE SUPREME COURT OF IOWA

BRYAN C. SINGER, an individual, ERIKA L. NORDYKE, an individual, BEVERLY A. VAN DAM, an individual, JOSHUA L. DYKSTRA, an individual, 3D RENTALS, LLC, and DP HOMES, LLC,
Plaintiffs-Appellees,
v.
CITY OF ORANGE CITY and KURT FREDERES, in his official capacity as Orange City code enforcement officer and building inspector,
Defendants-Appellants.

No. 23–1600

FINAL BRIEF OF PLAINTIFFS-APPELLEES

Appeal from the Iowa District Court for Sioux County
Hon. Jeffrey A. Neary, District Judge

Case No. EQCV029175

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Scott E. Sundby, *A Return to Fourth Amendment Basics: Undoing the Mischief of Camara and Terry*, 72 Minn. L. Rev. 383 (1988)

William Baude & James Y. Stern, *The Positive Law Model of the Fourth Amendment*, 129 Harv. L. Rev. 1821 (2016)

William J. Cuddihy, THE FOURTH AMENDMENT: ORIGINS AND ORIGINAL MEANING, 602-1791 (2009)

II. The City notified Plaintiffs-Appellees that it would inspect their rental home pursuant to its newly enacted rental ordinance, and Plaintiffs-Appellees refused to allow those searches in the absence of a warrant based on probable cause. The City responded that it will conduct nonconsensual inspections pursuant to administrative warrants, which remains the City's intention today. Do Plaintiffs-Appellees have standing to assert their Article I, § 8 rights against the City's threatened searches?

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Gospel Assembly Church v. Iowa Dep't of Revenue, 368 N.W.2d 158 (Iowa 1985)

Hawkeye Foodservice Distrib., Inc. v. Iowa Educators Corp., 812 N.W.2d 600 (Iowa 2012)

Iowa Bankers Ass'n v. Iowa Credit Union Dep't, 335 N.W.2d 439 (Iowa 1983)

Rivera v. Borough of Pottstown, No. 722 C.D. 2019, 2020 WL 57181 (Pa. Commw. Ct. Jan. 6, 2020)

Sierra Club Iowa Chapter v. Iowa Dep't of Transp., 832 N.W.2d 636 (Iowa 2013)

ROUTING STATEMENT

The Iowa Supreme Court should retain this case. Iowa R. App. P. 6.1101(2). Whether Article I, § 8 of the Iowa Constitution prohibits the City from using administrative warrants to conduct nonconsensual, suspicionless searches of renters' homes is a substantial constitutional question of first impression. *See* Iowa R. App. P. 6.1101(2)(a) and (c). The district court held that the City's ordinance, which requires such searches, violates Article I, § 8. *See Id.* at 6.1101(2)(a).

STATEMENT OF THE CASE

Nature of the Case

Plaintiffs-Appellees Bryan Singer, Erika Nordyke, Beverly Van Dam, Joshua Dykstra, 3D Rentals, LLC, and DP Homes, LLC ("Plaintiffs"), sued Defendants City of Orange City and Code Enforcement Officer Kurt Frederes (collectively "the City") for threatening to forcibly search Bryan and Erika's rental home pursuant to an "administrative" warrant not based on probable cause. The district court granted Plaintiffs' motion for summary judgment and denied Defendants' cross-motion for summary judgment. The Honorable Jeffrey A. Neary, District Court Judge of the Third Judicial District, presided over all proceedings relevant to this appeal.

Course of Proceedings

Plaintiffs sued the City on May 26, 2021. App. 8. The City filed a pre-answer motion to dismiss on June 28, 2021, *id.* at 95, which Plaintiffs resisted, *id.* at 117. Following a July 26, 2021 hearing, the district court denied the City's motion to dismiss on October 14, 2021. *Id.* at 147. The City answered on October 25, 2021. *Id.* at 155.

The district court heard argument on cross-motions for summary judgment on May 12, 2023. *Id.* at 1013. On August 31, 2023, the district court granted Plaintiffs' motion and denied the City's motion. *Id.* at 965. The

district court held that the City's inspection ordinance violates Article I, § 8 of the Iowa Constitution, permanently enjoined the City from seeking administrative warrants pursuant to the Ordinance, and awarded Plaintiffs $1.00 in nominal damages. *Id.* at 984–85. The City now appeals.

STATEMENT OF THE FACTS

I. In February 2021, the City Enacted a Mandatory Inspection Requirement Despite Not Receiving a Single Complaint About the Quality or Safety of Rental Homes.

Prior to February 2021, Orange City treated owner- and renter-occupied homes equally—no homes in the City had to be registered or inspected. *Id.* at 570–71 (26:19–27:16). There were no widespread problems with the approximately 426 rental properties in the City, *id.* at 819 (21:3–14), and the City never received a complaint about those homes, *id.* at 815 (17:13–17).

The City's regulatory interest was "stimulated," however, when neighboring communities adopted rental ordinances. *Id.* at 816–17 (18:18–19:5). Although the City asserts that four properties had signs of exterior deterioration, Defendant Kurt Frederes—the City's code enforcement officer—testified that he did not know why the City did not simply enforce its existing code against these properties. *Id.* at 817–19 (19:6–21:2).

At a November 2020 meeting, the City shared its proposed rental ordinance with property owners, *id.* at 815–16 (17:18–18:12), who suggested self-certification as an alternative to mandatory inspections, *id.* at 535. But City Administrator Earl Woudstra emailed his staff that he "would not favor" self-certification because "[w]hile many will do the right things—unfortunately not all will . . . . [W]e are creating an ordinance to deal with those that are a problem—but the truth is that is why most laws are enacted." *Id.* Woudstra later testified that he did not know why the City rejected self-certification. *id.* at 589 (45:14–25). The City also did not consider a complaint-based system or code violation education as alternatives to mandatory inspection. *Id.* at 584 (40:16–19); 591–92 (47:20–48:2).

On February 15, 2021, the City enacted Ordinance No. 825 (the "Ordinance"), which established a mandatory rental inspection program. *Id.* at 348.

II. The Ordinance Requires the City to Conduct Nonconsensual Rental Home Searches Pursuant to "Administrative" Search Warrants.

The Ordinance requires property owners to obtain a permit before renting to a paying tenant. *Id.* at 349. To obtain or renew a permit, owners must pay $100 per unit, plus $15 per additional unit in the same building. *Id.* at 350. The City has never denied an application, *id.* at 680 (136:21–23), and as of November 2022, collected $13,910, *id.* at 626 (82:8–14).

Although the City demands payment, and universal compliance with every word of its housing code, it expressly disclaims any responsibility for the condition of rental properties it inspects. The Ordinance provides that the City "do[es] not warrant or guarantee the safety, fitness, or suitability of any dwelling in the City of Orange City. Owners and occupants should take whatever steps they deem necessary or appropriate to protect their interests, health, safety, and welfare." *Id.* at 353. Just as it was before the Ordinance, renters are ultimately responsible for determining the safety and suitability of their homes—and universal compliance remains chimerical. *Id.* at 713–16 (168:19–171:10).

The City "shall inspect all rental[s]" every five years. *Id.* at 351. Owner-occupied homes are exempt, *id.* at 348–49; 708 (163:17–20), as are homes with no "exchange [of] cash or other valuable consideration for the right to occupy," *id.* at 348. A tenant's home is thus subject to inspection simply because the tenant pays rent. *Id.* at 614–15 (70:15–71:10).

To initiate an inspection, the City schedules a date and time with the property owner. *Id.* at 351; 680 (136:15–20). Tenants must then submit to a home inspection conducted by either a City or third-party inspector. *Id.* at 348–51. If a tenant refuses to allow any inspector into their home, the City's Code Enforcement Officer conducts a nonconsensual inspection using an "administrative" search warrant. *Id.* at 351; 719–21 (174:21–176:16).

Administrative warrants are issued without any evidence that a violation exists, has existed, or will exist in the targeted home. Iowa Code § 808.14. Because administrative warrants are issued *ex parte*, objecting tenants receive neither notice nor an opportunity to contest the application. Iowa Code Ch. 808 *et seq.*; App. 419. An objecting tenant will not know about the administrative warrant until the City forces its way into their home. App. 419.

III. The City's Rental Home Inspections Are Unrestricted in Scope.

Inspectors have unlimited discretion to conduct wall-to-wall home searches under the Ordinance, the Rental Housing Checklist, and the Rental Inspection Form. *Id.* at 689–91 (145:21–147:22). The Ordinance broadly requires compliance "with the [City's] applicable building code." *Id.* at 351. The Rental Housing Checklist, provided to the property owner (but not their tenant) summarizes what will generally be inspected. *Id.* at 354; 689–90 (145:21–146:15). The Rental Inspection Form lists 30 items the inspector will specifically search for. *Id.* at 355; 689–90 (145:21–146:15). The City's Rule 1.707(5) designated witness testified that no room, closet, or door in a renter's home is off-limits to inspectors:

> Q. But the City can open . . . any door in the home . . . during the inspection, correct?
> A. Yes.
> Q. Okay. Is the City authorized to open closets while . . . conducting a rental inspection?
> A. Yes.
> [. . .]
> Q. Is the City authorized to enter bedrooms to conduct the inspections?
> A. Yes.
> Q. What about living rooms?
> A. Yes.
> Q. Hallways?
> A. Yes.
> Q. Bathrooms?

A. Yes.
Q. Kitchens?
A. Yes.
Q. Attics?
A. Yes, if they are used to be habitable.
Q. [H]ow . . . would the City check to determine whether they're being used?
A. If there's a doorway to it.
Q. Okay. Utility rooms?
A. Yes.
Q. Basements?
A. Yes.
Q. What about storage areas?
A. Yes.

Id. at 696–98 (152:5–154:4). When asked whether the Ordinance, Checklist, or Form "place any restriction on the locations inside a rental property in which inspection authority can be exercised," the City's witness answered, "No." *Id.* at 698 (154:11–24).

If the inspector observes "evidence of some illegal activity in the rental home" during an inspection, that information is conveyed to the City Attorney. *Id.* at 700–01 (156:23–157:12). Similarly, nothing in the Ordinance prevents inspectors from informing police officers about what they observe in tenants' homes. *Id.* at 699–700 (155:16–156:2). In fact, nothing in the Ordinance prevents officers from accompanying the inspector inside a renter's home. *Id.* at 348–53; 699 (155:8–15).

IV. The City Targets Plaintiffs for Suspicionless Home Searches.

Plaintiffs Bryan Singer and Erika Nordyke rent their home in Orange City. *Id.* at 365. They care deeply about maintaining their privacy, and they value the right to determine who will enter their home. *Id.* Plaintiff Joshua Dykstra, through Plaintiff DP Homes, LLC, owns the property where Bryan and Erika live. *Id.* at 368; 512–13. Plaintiff Beverly ("Bev") Van Dam, through Plaintiff 3D Rentals, LLC, also owns rental properties in the City. *Id.* at 367; 524–25. Joshua and Bev care about their tenants' rights to security and privacy, and each are committed to helping their tenants protect those rights.[1] *Id.* at 367–68.

On February 22, 2021, the City sent letters to Joshua and Bev. *Id.* at 361–64. Those letters state that the City Council approved the Ordinance, provided a "Rental Housing registration" form, and offered early registration discounts. *Id.*

On April 27, 2021, Bryan and Erika informed the City in writing that they would not allow any inspector into their home. *Id.* at 365. "[U]nder

[1] Bev's then-tenant, Amanda Wink, similarly objected to the City's suspicionless inspections and was a plaintiff when this lawsuit was filed. App. 366. Amanda was voluntarily dismissed from this lawsuit when she moved into a home not subject to the City's inspection requirement. *Id.* at 845.

Article I, Section 8 of the Iowa Constitution," they asserted, the government must "obtain a warrant based on individualized probable cause before it can conduct a rental inspection without consent." *Id.* They maintained that "Article I, Section 8 requires the government to meet a higher standard of probable cause to obtain a warrant to search a rental home than the standard articulated in *Camara v. Municipal Court*, 387 U.S. 523 (1967)." *Id.*

On April 24 and 26, Bev and Joshua wrote to the City that their tenants were refusing suspicionless inspections and that they respected their tenants' constitutional rights. *Id.* at 367–68. Each owner stated that their rental fees were paid "under protest and in no way concedes that we or our tenants submit to an inspection or that an inspection without a tenant's consent is appropriate." *Id.*

On May 10, 2021, Defendant Frederes responded to each Plaintiff, stating that the City would nevertheless "continue to follow the process of the Rental Ordinance including inspection of your properties . . . [i]n the event that the inspections are refused, the City at that time will take the necessary steps to complete the process per the terms of the ordinance." *Id.* at 369–74. When the City responded, it had no evidence of code violations at Plaintiffs' home or properties. *Id.* at 721–23 (176:13–178:10). The City's letters meant

the inspections would proceed "pursuant to an administrative search warrant" if it was "denied access." *Id.* at 719–21 (174:21–176:7); 722–23 (177:15–178:3).

Today, the City still lacks evidence of code violations at Bryan and Erika's home. *Id.* at 726 (181:6–13). Yet the City still intends to search their home using an administrative warrant and, "but for this lawsuit," would have done so already. *Id.* at 720–21 (175:23–176:12).

STANDARD OF REVIEW

Plaintiffs' Article I, § 8 claim is subject to *de novo* review. *State v. Jackson*, 878 N.W.2d 422, 428 (Iowa 2016) ("We review constitutional issues de novo."). This Court "examine[s] the whole record and make[s] an independent evaluation of the totality of the circumstances." *State v. Wilson*, 968 N.W.2d 903, 909 (Iowa 2022) (quotation marks and citation omitted). In seeking to sustain an exception to Article I, § 8's warrant requirement, the City bears the burden of proof. *Id.* This Court "review[s] questions of standing and whether an action should be dismissed as nonjusticiable for correction of errors at law." *Iowa Citizens for Cmty. Improvement v. State*, 962 N.W.2d 780, 787 (Iowa 2021).

ARGUMENT

Article I, § 8 of the Iowa Constitution prohibits government officials from searching Iowans' homes pursuant to "general" warrants, which are not based on probable cause. The City seeks this Court's blessing of general warrants—and suspicionless home searches more broadly—simply because the occupant *rents*, rather than owns, their home. But "the sanctity of private property and, more specifically, of the home," has never hinged on an arbitrary renter/owner distinction. *State v. Ochoa*, 792 N.W.2d 260, 274–75 (Iowa 2010).

The district court granted summary judgment for Plaintiffs on the ground that there must be "some plausible basis for believing that a violation is likely to be found" before an administrative warrant is issued—and insisted that the warrant application process must include notice and hearing. App. 975, Ruling on Cross-Mot. Summ. J., at 11 & n.3 (citing *In re Inspection of Titan Tire*, 637 N.W.2d 115, 123 (Iowa 2001)). But *Titan Tire* involved only a Fourth Amendment claim, *id.* at 122, and its "some plausible basis" standard derives

from federal doctrine[2] governing complaint-based administrative inspections, *id.* at 122–23 (citing *Marshall v. Barlow's, Inc.*, 436 U.S. 307, 320 (1978)).

The district court also found "great value in th[e] safeguards set forth by the Minnesota Supreme Court in the *City of Golden Valley* case," adopting much of the reasoning from that opinion. App. 983, Ruling on Cross-Mot. Summ. J., at 19 (citing *City of Golden Valley v. Wiebesick*, 899 N.W.2d 152 (Minn. 2017)). But the district court's reliance on *Golden Valley* is misplaced. Although *Golden Valley* created laudable *procedural* safeguards for obtaining and executing administrative search warrants, it removed the *evidentiary* safeguard—the only issue in this case—inherent in the probable cause requirement. This Court's Article I, § 8 precedents forbid laws authorizing government officials to conduct searches pursuant to warrants lacking probable cause, and the district court's adoption of procedural protections cannot justify its departure from that constitutionally mandated evidentiary requirement. When a search warrant issues without traditional probable cause, the constitutional harm has already been done.

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[2] Under Fourth Amendment doctrine, "administrative probable cause . . . may be based *either* on (1) specific evidence of an existing violation; *or* (2) a showing that reasonable legislative or administrative standards for conducting an inspection are satisfied with respect to a particular establishment." *Titan Tire*, 637 N.W.2d at 122.

The City rejects even the district court's slim guardrails because it believes that there should be *no* evidentiary requirement at all. Appellants Br. at 26 (conceding that "the City has never alleged that they have evidence of an[y] existing violations" at Plaintiffs' home). A ruling adopting the City's standard would be a dangerous step backward for each Iowan's right to be secure in their home, out of keeping with this Court's unbroken line of precedents rejecting suspicionless home searches. Instead, this Court should affirm the district court's grant of summary judgment—but on the ground that Article I, § 8 prohibits nonconsensual rental home searches in the absence of a warrant based on traditional *probable cause.*

The "*plausible* basis" required by the district court is conjectural, and thus weaker than the probable cause required under Article I, § 8. *Compare State v. Moriarty*, 566 N.W.2d 866, 868 (Iowa 1997) ("In the context of evidentiary searches, 'probable cause' exists when a reasonably prudent person would believe that evidence of a [violation] will be discovered in the place to be searched."), *with Titan Tire*, 637 N.W.2d at 123 (holding that "some plausible basis" for an administrative warrant requires "less than that needed to show a probability of a violation"). And *only* probable cause is consistent with the text of Article I, § 8 and this Court's precedents.

Below, Plaintiffs show (I) the City's use of suspicionless warrants violates Article I, § 8; and (II) the City's justiciability arguments fail.

I. The City's Use of Administrative Warrants to Conduct Suspicionless Home Searches Violates Article I, § 8 of the Iowa Constitution.

The City concedes that it lacks any evidence of code violations or other illegality in Bryan and Erika's home. Appellants Br. at 26. Despite that lack of evidence, the City asserts that it can forcibly search their home using an administrative warrant. *Id.* But this Court has always rejected "general search warrants," issued without traditional probable cause, as categorically "unreasonable" under Article I, § 8. *Santo v. State*, 2 Iowa 165, 215 (1855). The text of Article I, § 8, the historical record, and this Court's precedents uniformly condemn the City's use of suspicionless warrants.

So, the City resorts to an anomalous 1967 U.S. Supreme Court decision, *Camara v. Municipal Court*, which held—as a matter of federal Fourth Amendment doctrine—that administrative warrants can be issued to search renters' homes without any evidentiary showing. But this Court has condemned *Camara* for "not only relax[ing] the warrant requirement, but also the particularity requirement of probable cause," an innovation that has led to "an increasingly broad category of administrative searches" that go "well

beyond those recognized at the time of the enactment of the Fourth Amendment." *State v. Ochoa*, 792 N.W.2d 260, 278–29 (Iowa 2010). Accordingly, this Court has refused to import a "free-floating and open-ended concept of 'reasonableness'"—the cornerstone of *Camara*'s reasoning—into Article I, § 8. *State v. Ingram*, 914 N.W.2d 794, 804 (Iowa 2018) (cleaned up).

Below, subsection A shows that Article I, § 8 is a time-honored bulwark against suspicionless home searches, especially those conducted pursuant to general warrants. Subsection B establishes that the City's use of suspicionless administrative warrants to forcibly search renters' homes violates Article I, § 8. Lastly, in subsection C, Plaintiffs demonstrate that *Camara* runs headlong into this Court's longstanding rejection of suspicionless warrants.

A. *For nearly two centuries, this Court has interpreted Article I, § 8 as a bulwark against suspicionless home searches, especially searches conducted pursuant to general warrants.*

Article I, § 8 of the Iowa Constitution provides:

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

This Court interprets that protection by looking to the "text of the constitution as illuminated by the lamp of precedent, history, custom, and practice."

State v. Wright, 961 N.W.2d 396, 402 (Iowa 2021). Plaintiffs travel under that rubric in the following subsections.

Subsection 1 shows that the use of general warrants was instrumental in sparking the American Revolution and led to constitutional protections against warrants lacking probable cause; subsection 2 shows that this Court's early Article I, § 8 jurisprudence cherished those protections; subsection 3 describes a temporary departure from these founding principles during the 20th century; and subsection 4 celebrates this Court's reinvigoration of Article I, § 8's historical protections.

1. Outrage against general warrants "kindled the Revolution" and played a central role in debates about the Nation's new Constitution.

This Court's Article I, § 8 jurisprudence is steeped in Founding-era history. "[T]he controversy involving search and seizure was at the heart of the American Revolution. The raw power of the government to engage in general searches and seizures was not a footnote to history but was a chapter title." *Wright*, 961 N.W.2d at 421 (Appel, J., concurring specially). That controversy has its roots in 17th century England, when the Crown authorized the use of "general warrants" to suppress libel and sedition, and to enforce customs laws. *Ochoa*, 792 N.W.2d at 269. General warrants authorized searches

of any place, at any time, for any duration, without any evidence of illegality, leading—inevitably—to abuses, and—eventually—to public condemnation. *See id.* at 269–70 (discussing *Wilkes v. Wood*, (1763) 98 Eng. Rep. 489 (C.P.) and *Entick v. Carrington*, (1765) 95 Eng. Rep. 807 (C.P.)); *see also* Laura Donohue, *The Original Fourth Amendment*, 83 U. CHI. L. REV. 1181, 1196–1207 (2016) (same).

Although general warrants were less common in the American colonies,[3] a "particular form of general warrant" did find a foothold: writs of assistance. *Id.* at 1242; *see also Ochoa*, 792 N.W.2d at 271. The writs allowed customs and naval officers "to search places ranging from ships and warehouses to private dwellings in order to look for goods that failed to meet the customs requirements." Donohue, *supra*, at 1242. Contrary to common law and colonial sensibilities, statutes authorizing the writs "allowed for house-to-house searches, *without any demonstration of illegal acts by those subject to search*." *Id.* at 1248 (emphasis added). Colonists objected to the writs on two independent

[3] "In the seventeenth century, New England had only about half as many statutory categories of promiscuous search and seizure as had old England, and that was not the norm in the colonies but the exception to it." William J. Cuddihy, THE FOURTH AMENDMENT: ORIGINS AND ORIGINAL MEANING, 602–1791, at 228 (2009). In the American colonies, "[t]he debate was not under what conditions the Crown could enter dwellings . . . but whether homes could be entered at all." Donohue, *supra*, at 1241.

grounds: government officials neither "specif[ied] the precise place or person to be searched" nor "provid[ed] evidence under oath to a third-party magistrate of a particular crime suspected." *Id.* at 1194.

Colonial outrage against suspicionless warrants grew "as Britain attempted to extend its control over the colonies through the Stamp and Townshend Acts, which were potentially enforceable through writs of assistance." *Ochoa*, 792 N.W.2d at 271. In *Paxton's Case*, James Otis famously argued that the writs were "most destructive of English liberty" because they "place[d] the liberty of every man in the hands of every petty officer." Charles Francis Adams Ed., 2 THE WORKS OF JOHN ADAMS 523–25 (1850); *see also* William J. Cuddihy, THE FOURTH AMENDMENT: ORIGINS AND ORIGINAL MEANING, 602–1791, at 377–78 (2009) (discussing Otis's insistence that the writs of assistance would "totally annihilate" the "freedom of one's house"). Although Otis lost his court case, his attack against the writs had "kindled the Revolution[.]" Donohue, *supra*, at 1249.

After the Revolution, state delegates gathered to discuss the framing of a new constitution. *Id.* at 1281. But as the 1787 Constitutional Convention drew to a close, George Mason, author of the Virginia Declaration of Rights, worried that the Convention "had failed to address individual rights." *Id.*

Although others shared Mason's concern, especially that the draft Constitution lacked an express guarantee against "unreasonable searches [and] seizures," Congress voted to forward the new Constitution to the states for ratification without a bill of rights. *Id.* at 1281–83. But in the ensuing ratification debates, "[c]oncerns about general warrants, and about ensuring that specific warrants contained sufficient particularity, figured largely in the conversation[.]" *Id.* at 1284. Influential Virginia and New York narrowly passed the Constitution only after proposing explicit protections against general warrants.[4] These concerns left "little question" that "Congress would have to incorporate a bill of rights into the Constitution for the United States to survive." *Id.* at 1297.

James Madison, who drafted the Fourth Amendment, believed that the addition of amendments to protect "the rights of conscience, freedom of the press, trials by jury, [and] exemption from general warrants" would "provid[e] additional guards in favor of liberty." *Id.* at 1298. Reflecting

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[4] *Id.* at 1287. For example, New York conditioned its ratification on the addition of language prohibiting "promiscuous search and seizure[.]" *Id.* at 1289. At the time, Virginia and New York accounted for approximately one quarter of the country's total population. *Id.* at 1289 & n.623. The call to prohibit general warrants also arose in other states' ratification debates, including Rhode Island, Maryland, Massachusetts, North Carolina, and Pennsylvania. *Id.* at 1290–93.

Madison's concern that the Constitution lacked "a ban against general warrants," the Amendment rejects "warrants that failed to reflect 'probable cause,' were not 'supported by oath or affirmation,' or did not particularly describe 'the places to be searched, or the persons or things to be seized.'" *Id.* at 1300 (quoting 1 Annals of Cong 434-35 (June 8, 1789)). On December 15, 1791, following Virginia's ratification, the Fourth Amendment was officially adopted. *Id.* at 1305.

2. This Court's earliest Article I, § 8 decisions reject the use of suspicionless general warrants—especially in the home—as categorically "unreasonable."

When the nation expanded westward, Iowa inherited the Founding era's respect for liberty—and disdain for general warrants. George W. Ells, chair of the committee responsible for drafting the Bill of Rights for the 1857 Constitution,[5] cautioned that written protections were necessary to preserve the people's freedoms:

> The annals of the world also furnish many instances in which the freest and most enlightened governments that have ever existed upon earth, have been gradually undermined, and actually destroyed, in consequence of the people's rights not being guarded by written constitutions.

[5] The 1857 Constitution made a minor change to Article I, § 8 by replacing the 1846 Constitution's "*papers* and things to be seized" with "*persons* and things to be seized."

1 *The Debates of the Constitutional Convention of the State of Iowa* 100–01 (W. Blair Lord rep., 1857).

That solicitude for Iowans' rights manifested in Article I, § 8, which expressly prohibits general warrants: "[N]o warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized." Accordingly, this Court's earliest decisions uniformly reject general warrants as categorically "unreasonable," especially when used to search Iowans' homes.

In *Santo v. State*, 2 Iowa 165 (1855), this Court recognized that the category of "unreasonable" searches alludes to "what had been practiced before our revolution, and especially, to general search warrants, in which the person, place or thing was not described." *Id.* at 215. Consequently, a law "guard[s] against unreasonable searches and seizures" only if it leaves "no discretion with either the informant or the magistrate; *there must be probable cause, before a warrant can issue*." *Id.* at 183 (emphasis in original).

The same year, this Court struck down a liquor law that authorized warrants lacking traditional probable cause. *Sanders v. State*, 2 Iowa 230, 255 (1855). The law, and attendant search, merely required a description of illegal liquor in the warrant application "particularly as may be, meaning that the

persons may give such information as they have," which could be no information at all. *Id.* at 255. A warrant was issued under that provision to search the defendant's house for evidence of illegal liquor. *Id.* at 231. This Court held that the liquor law authorized what were effectively suspicionless "general warrants," and that Article I, § 8 was enacted "[t]o prevent such warrants from ever being considered valid[.]" *Id.* at 262.

In *McClurg v. Brenton*, 98 N.W. 881 (Iowa 1904), this Court invalidated yet another home search conducted without a warrant based on probable cause. There, the mayor of Des Moines led a group of city officials, including the chief of police, the captain of the night force, a city alderman, the city physician, and the owner of several bloodhounds, on a search for stolen chickens. *Id.* at 881. The hounds led to the plaintiff's house, and the search party forcibly entered without a warrant based on probable cause. *Id.* at 882. The plaintiff sued for trespass and lost in the trial court. *Id.* On appeal, this Court reversed:

> The right of the citizen to occupy and enjoy his home, however mean or humble, free from arbitrary invasion and search, has for centuries been protected with the most solicitous care by every court in the English-speaking world, from Magna Charta down to the present, and is embodied in every bill of rights defining the limits of governmental power in our own republic. The mere fact that a man is an officer, whether of high or low degree, gives him no more right than is possessed by the ordinary private citizen to break in upon the privacy of a home and subject its occupants to

> the indignity of a search for the evidences of crime, without a legal warrant procured for that purpose.

Id. The search, if it occurred as alleged, violated Article I, § 8.

Finally, in *Burtch v. Zeuch*, 202 N.W. 542 (Iowa 1925), this Court emphasized that search warrants must be based on specific facts establishing the existence of probable cause. The officer in *Burtch* asserted that they had "good reason to believe" illegal liquor was present in someone's home. *Id.* at 543. However, this Court held that "information based upon mere belief and unsupported by sworn facts is not a basis for the issuance of a legal search warrant." *Id.* at 544. Especially because the application for such warrants is "in derogation of personal liberty," probable cause "must be shown . . . prior to the issuance of the warrant." *Id.*

These early decisions illustrate that Article I, § 8 "received a broad and liberal interpretation for the purpose of preserving the spirit of constitutional liberty." *State v. Height*, 91 N.W. 935, 938 (Iowa 1902). Because suspicionless warrants were categorically "unreasonable," this Court repeatedly insisted that "*there must be probable cause, before a warrant can issue.*" *Santo*, 2 Iowa at 183.

3. During the mid-20th century, this Court temporarily departed from the original understanding of Article I, § 8 by looking to innovations in Fourth Amendment doctrine . . .

However, during the mid-20th century, this Court began to interpret Article I, § 8 as co-extensive with the U.S. Supreme Court's interpretation of the Fourth Amendment. *Wright*, 961 N.W.2d at 407 (noting that this Court began to diverge from the original understanding of Article I, § 8 following incorporation of the Bill of Rights). And as the U.S. Supreme Court "moved away from the original understanding of the Fourth Amendment," *id.*, this Court simultaneously moved further from the original understanding of Article I, § 8.

In retrospect, this Court has identified two concepts that, although foreign to Article I, § 8 as a matter of original understanding, were imported from evolving Fourth Amendment doctrine during this period. *Id.* at 407.

First, the U.S. Supreme Court "adopted a relativistic sense of reasonableness . . . as in determining whether the action was reasonable under the circumstances." *Id.* at 407 (citing *Carroll v. United States*, 267 U.S. 132, 147 (1925)). In place of common law principles, the novel, relativistic understanding of "reasonableness" substituted a balancing test that weighs "an individual's privacy" against the "promotion of legitimate governmental interests."

Wright, 961 N.W.2d at 407–08 (quoting *Riley v. California*, 573 U.S. 373, 385 (2014)); *see also State v. Ingram*, 914 N.W.2d 794, 804 (Iowa 2018) (noting that "the new innovative touchstone under the more recent Supreme Court cases is a free-floating and open-ended concept of 'reasonableness'"). "By the 1970s, the [U.S. Supreme] Court concluded the 'touchstone' of the Fourth Amendment was 'the reasonableness in all the circumstances of the particular governmental invasion of a citizen's personal security.'" *Wright*, 961 N.W.2d at 407 (quoting *Pennsylvania v. Mimms*, 434 U.S. 106, 108–09 (1977)).

Second, the U.S. Supreme Court "refocused the inquiry from common law trespass to the aggrieved party's reasonable expectation of privacy." *Id.* (citing *Katz v. United States*, 389 U.S. 347, 353 (1967)). In *Katz*, Justice Harlan articulated, in a concurring opinion, a new test for determining whether an unconstitutional search occurred: "first that a person have exhibited an actual (subjective) expectation of privacy and, second, that the expectation be one that society is prepared to recognize as 'reasonable.'" *Katz*, 389 U.S. at 361 (Harlan, J., concurring). That "reasonable expectation of privacy" test quickly took root. In *Terry v. Ohio*, decided less than a year later, the U.S. Supreme Court relied on *Katz* for the proposition that "wherever an individual may harbor a reasonable 'expectation of privacy,' he is entitled to be free from

unreasonable governmental intrusion." 392 U.S. 1, 9 (1968) (citations omitted). "By 1979, the Court stated *Katz* was the 'lodestar' for evaluating claims arising under the Fourth Amendment." *Wright*, 961 N.W.2d at 408 (quoting *Smith v. Maryland*, 442 U.S. 735, 739 (1979)).

This Court gradually developed a "lockstep"[6] approach to Article I, § 8, importing both a "relativistic sense of reasonableness" and the "reasonable expectation of privacy" test from Fourth Amendment doctrine. By 1985, this Court declared that its "interpretation of article I, section 8 has quite consistently tracked with prevailing federal interpretations of the fourteenth amendment in deciding similar issues." *Kain v. State*, 378 N.W.2d 900, 902 (Iowa 1985); *see also State v. Carter*, 733 N.W.2d 333, 337 (Iowa 2007) (describing Art. I, § 8 as "coextensive with the federal court's interpretation of the Fourth Amendment").

Lockstep interpretation is controversial, especially "[g]iven the uncertainty and lack of clarity in federal search and seizure jurisprudence." *Wright*, 961 N.W.2d at 411. An array of scholars caution that the U.S. Supreme

[6] "Under the lockstep approach, a state court adopts prevailing federal authority in its interpretation of parallel state constitutional provisions, even though theoretically recognizing their independent nature." *State v. Ochoa*, 792 N.W.2d 260, 266 (Iowa 2010).

Court's turn to a relativistic understanding of "unreasonableness," unmoored from the term's historical context, opened the door to searches that would have shocked the Framers. *See, e.g.*, Donohue, *supra*, at 1185 ("Over time, the essence of the [Fourth] Amendment has at times become lost, risking diminution of the rights that existed at the Founding."); *see also* Scott E. Sundby, *A Return to Fourth Amendment Basics: Undoing the Mischief of Camara and Terry*, 72 Minn. L. Rev. 383, 385 (1988) (describing the U.S. Supreme Court's endorsement of "a broad reasonableness standard and an ill-defined balancing test" as a "Faustian pact" that "significantly undermined the role of probable cause and set the stage for the long-term expansion of the reasonableness balancing test without proper justification or limits."); Jack Wade Nowlin, *The Warren Court's House Built on Sand: From Security in Persons, Houses, Papers, and Effects to Mere Reasonableness in Fourth Amendment Doctrine*, 81 Miss. L.J. 1017, 1059 (2012) (arguing that the "analysis of 'reasonableness' as an open-ended policy-oriented standard" was a departure from the text of the Fourth Amendment and common law).

4. . . . But in 2010, this Court rekindled its independent, historical approach to Article I, § 8, including its forceful rejection of general warrants and suspicionless home searches.

In 2010, this Court ended the lockstep approach and reclaimed its authority to interpret Article I, § 8 independently. In doing so, the Court reemphasized a historical understanding of Article I, § 8, including its rejection of general warrants and suspicionless home searches.

The sea change happened in *State v. Ochoa*, 792 N.W.2d 260 (Iowa 2010). There, this Court held that a police officer violated Article I, § 8 by searching a parolee's motel room without a warrant based on probable cause. *Id.* at 262–64. Under a recent U.S. Supreme Court decision, *Samson v. California*, 547 U.S. 843 (2006), such searches of parolees did not violate the Fourth Amendment. But after outlining deficiencies of the lockstep approach and the merits of independent constitutional interpretation, this Court "engage[d] in independent analysis of the content of our state search and seizure provisions." *Ochoa*, 792 N.W.2d at 267. The Court observed that:

> The power asserted by the State in this case too closely resembles authority pursuant to a general warrant, provides no meaningful mechanism to control arbitrary searches, avoids the warrant preference rule that this court has traditionally recognized, utilizes a balancing test that improperly weighs the interests involved, and does not adequately recognize the security and sanctity interests of parolees in their home.

Id. at 291. The Court rejected *Samson* as unpersuasive and invalidated the search as a violation of Article I, § 8. *Id.* at 291–92.

Two years later, this Court disclaimed *all* prior decisions to the extent that they relied on a lockstep approach to Article I, § 8. *State v. Short*, 851 N.W.2d 474, 492 (Iowa 2014). The question in *Short* was whether law enforcement officers can, as the U.S. Supreme Court held in *United States v. Knights*, 534 U.S. 112 (2001), constitutionally search a probationer's apartment without a warrant based on probable cause. 851 N.W.2d at 478–79. This Court again rejected a lockstep approach, engaged in independent interpretation, and concluded that the search violated Article I, § 8. *Id.* at 506. The Court reemphasized the "unlawful character" of general warrants, and its historic commitment to the "traditional warrant requirement, probable cause, and particularity requirements of search and seizure law." *Id.* at 500–01. The Court went further, "specifically overrul[ing]" any prior holdings that relied on a lockstep approach to Article I, § 8. *Id.* at 492.

In *State v. Ingram*, 914 N.W.2d 794, 799 (Iowa 2018), this Court again refused to interpret Article I, § 8 in lockstep with an "ever-shrinking Fourth Amendment." There, the defendant moved to suppress after a suspicionless inventory search of their impounded vehicle revealed a controlled substance.

Id. at 797. The State's policy authorized it to conduct inventory searches without any evidence that items in the vehicle actually posed a safety risk to officers. *Id.* at 819–20. But this Court held that the State's mere speculation concerning officer safety was insufficient under Article I, § 8. *Id.* at 819. The State's sweeping theory would authorize it to search "any locked and parked automobile to protect the public." *Id.* And searching all impounded cars "without any showing at all regarding potential safety issues is akin to a general warrant." *Id.*

In *State v. Wright*, this Court emphasized its historical approach to Article I, § 8. 961 N.W.2d 396 (Iowa 2021). An officer removed and searched trash bags placed outside the defendant's residence after receiving a tip that the defendant might be selling drugs. *Id.* at 400. The trash contained evidence of drug activity, which the officer used to obtain a warrant. *Id.* at 401. The defendant moved to suppress under Article I, § 8, *id.* at 402, and this Court found the search unconstitutional under two tests.

First, the search "constituted a *trespass*." *Id.* at 416 (emphasis added). A trespass occurs when "government officials have engaged in an investigative act that would be unlawful for a similarly situated private actor to perform." *Id.* at 416 (quoting William Baude & James Y. Stern, *The Positive Law*

Model of the Fourth Amendment, 129 Harv. L. Rev. 1821, 1825–26 (2016)). The quintessential example of a trespass is, of course, "physically trespass[ing] on protected property." *Id.* at 416.

Second, this Court alternatively held that the search violated the defendant's reasonable expectation of privacy. *Id.* at 417–20. The Court considered the defendant's interest in preventing individuals from rummaging through his garbage, as well as a local ordinance making it unlawful for anyone other than garbage collectors to handle trash. *Id.* at 418–19. In conclusion, this Court recognized that the State cannot circumvent Article I, § 8 merely by asserting its interests in some "public good":

> [T]he Constitution [is not] a public enemy whom judges are charged to disarm whenever possible. It is the protector of the people, placed on guard by them to save the rights of the people against injury . . . . To hold that attack upon it is for the public good is to commend the soldier for tearing down the rampart which enables him to sleep in safety.

Id. at 420 (quoting *Hunter v. Colfax Consol. Coal Co.*, 154 N.W. 1037, 1047 (Iowa 1915).

This Court applied *Wright*'s principles in *State v. Wilson*, 968 N.W.2d 903, 913 (Iowa 2022), finding an officer's warrantless home entry violated Article I, § 8. An officer approached the defendant's door to investigate a noise complaint. *Id.* at 907. The defendant partially opened her door but attempted

to close it after "an unproductive exchange." *Id.* at 915. The officer held the door open with his foot and entered without consent. *Id.* at 916–17. This Court held that the officer both "committed a trespass" and violated the defendant's "expectation of privacy." *Id.* at 915–16.

Most recently, in *State v. Burns*, 988 N.W.2d 352 (Iowa 2023), this Court considered whether officers needed a warrant to retrieve and test DNA from a used drinking straw that the defendant threw in the garbage at a public restaurant. The Court began by affirming its "duty to 'interpret our constitution consistent with the text given to us by our founders,' and to 'give the words used by the framers their natural and commonly-understood meaning' in light of the 'circumstances at the time of adoption[.]'" *Id.* at 360 (citations omitted). "It follows that if a federal interpretation of the Fourth Amendment is not consistent with the text and history of section 8, we may conclude that the federal interpretation should not govern our interpretation of section 8." *Id.* Burns, however, did not argue that the straw or DNA qualified as his "person," "house," "papers," or "effects," *id.* at 361, and the Court concluded that he voluntarily abandoned the straw, *id.* at 368. While rejecting Burns' challenge to the officers' search, this Court reaffirmed its independent approach to Article I, § 8.

This Court's recent decisions reflect three key principles. First, Article I, § 8 prohibits searches deemed "unreasonable"—incompatible with the reason of the common law—at the Founding. Second, searches conducted pursuant to warrants not based on traditional probable cause are categorically unreasonable and thus unconstitutional. Finally, this Court has refused to create new exceptions to Article I, § 8's probable cause requirement based on a relativistic, open-ended balancing test.

B. *The City's use of suspicionless administrative warrants to forcibly search renters' homes violates Article I, § 8.*

The Ordinance requires the City to search nonconsenting renters' homes pursuant to "administrative" warrants, which, like general warrants, are not based on any evidence of code violations or other illegality. Article I, § 8's probable cause requirement ensures that search warrants are a guardrail against suspicionless government entry, but *Camara*-style administrative warrants, by the City's own admission, remove that evidentiary requirement entirely. The City's "adequate explanation" for an administrative warrant would be that "the property subject to inspection was a rental property rather than owner occupied." Appellants Br. at 28. From their own pen, the City acknowledges that an administrative warrant offers no real protection; it is simply a meaningless hoop that lets the City treat renters as second-class

members of the community, whose homes are perpetually open to government searches.

Every renter-occupied home in the City is subject to that mandatory inspection requirement. App. 351. Although the City concedes that it has no evidence of code violations at Plaintiffs' home, Appellant Br. at 26, its agents will forcibly conduct unrestricted, wall-to-wall home searches using administrative search warrants without probable cause, App. 698 (154:11–24); *id.* at 720–21 (175:23–176:12). In every relevant sense, the City's suspicionless warrants are merely writs of assistance by another name.

The City does not dispute that its threatened inspections are "searches" under Article I, § 8, or that Plaintiffs have protected interests in their home and properties.[7] As shown below, the City's threatened searches are unconstitutional under this Court's "trespass" and "reasonable expectation of privacy" tests.

[7] Nor could it. As renters, Bryan and Erika have exclusive possessory interests in their home. *See Lewis v. Jaeger*, 818 N.W.2d 165, 187 (Iowa 2012) ("A tenant's right to possession is generally exclusive, and the tenant, not the landlord, has legal control of the leased premises."). Joshua and Bev, who retain ownership interests in their respective properties, want to respect their tenants' objections to the City's suspicionless searches. App. 367–68.

First, the City's threat to invade Plaintiffs' home against their will, without a warrant based on probable cause, is the quintessential "trespass on protected property." *Wright*, 961 N.W.2d at 416; *Wilson*, 968 N.W.2d at 916. That prohibition is grounded in the common law and the Founding generation's disdain for trespasses based on suspicionless warrants. *Sanders v. State*, 2 Iowa 230, 262 (1855) (holding that Article I, § 8 was enacted "[t]o prevent such warrants from ever being considered valid[.]"). The City's threat to forcibly enter and search Bryan and Erika's home, without a warrant based on probable cause, is precisely the kind of lawless physical invasion that Article I, § 8 was designed to prevent.

Positive law provides further evidence that the challenged searches constitute a "trespass." *Wright*, at 961 N.W.2d at 416. Indeed, the City's threatened searches fall squarely within the statutory definition of a "trespass":

> Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the . . . lessee, or person in lawful possession . . . . A person has been notified or requested to abstain from entering or remaining upon or in property within the meaning of this subparagraph (2) if . . . [t]he person has been notified to abstain from entering or remaining upon or in property personally, either orally or in writing . . . ."

Iowa Code § 716.7(2a)(2). Bryan and Erika refused a suspicionless inspection in writing, and the City nevertheless threatened to search their home using a

warrant that lacks probable cause. App. 719–21 (174:21–176:7). Additionally, the Iowa Uniform Residential Landlord and Tenant Act prohibits even property owners from entering their tenants' homes without a statutorily prescribed justification for doing so. *See* Iowa Code §§ 562A.19(1), 562B.20(2). Forcibly searching Bryan and Erika's home would be "unlawful for a similarly situated private actor" to do. *Wright*, 961 N.W.2d at 416. Without a warrant based on probable cause, the City has no more authority than "the ordinary private citizen" to break into and search Bryan and Erika's home. *McClurg v. Brenton*, 98 N.W. 881, 882 (Iowa 1904).

Second, this Court has long recognized that Plaintiffs have a reasonable expectation of privacy in their home. It is no surprise that Article I, § 8 explicitly protects "[t]he right of the people to be secure in their . . . houses":

> [T]he home is a remarkable place. It is a place of solitude and group activity, love and tears, arguments and forgiveness, grace and selfishness, individual expression and collective decisions, couch surfing and weight lifting, fine wine and bad beer, live goldfish and dead pizza, clothing that is too loose, clothing that is too tight, diaries and personal notes, and prescription drugs and intimate items. It is the place where we learn to crawl and where we want to be when we die, where marriages prosper and fail, where family problems are discussed over the kitchen table, and where the new in-laws come seeking, and sometimes getting, acceptance. And on and on.

State v. Wilson, 968 N.W.2d 903, 912 (Iowa 2022). Psychological studies of privacy and territoriality confirm those observations. Dr. Jacob Benfield, Plaintiffs' expert witness, explains in his report that forced home entries necessarily "provide information about everything from political affiliation, religious practice, and personality traits" to "prescriptions, medical paperwork, or books left out." App. 879. Accordingly, the City's nonconsensual searches "violate[ ] conditions of privacy by allowing uncontrolled access to a primary territory by individuals that would normally not be granted any access." *Id.* at 886. Without a warrant based on probable cause, "[a]ny physical invasion" of Plaintiffs' home, "by even a fraction of an inch is too much." *Wilson*, 968 N.W.2d at 912 (cleaned up).

Although Article I, § 8 does not distinguish between invasions of owner- and tenant-occupied "houses," the Ordinance does. Imagine two identical homes on an Orange City street. A City inspector walks up to House "A," knocks, and requests permission to search. The folks in House "A," who happen to own, decline, so the inspector must move on. The inspector walks up to House "B," knocks, and requests the same permission to search. Bryan and Erika live in House "B," and they also decline the search. This time, however, the City's position is that—without *any* evidence—it can force

its way into Bryan and Erika's home using an administrative search warrant. Why? Because Bryan and Erika rent. That's it. But "the sanctity of private property and, more specifically, of the home," has never hinged on an arbitrary renter/owner distinction. *Ochoa*, 792 N.W.2d at 274–75. The City's use of suspicionless warrants to forcibly search Plaintiffs' home violates Article I, § 8.

C. Camara v. Municipal Court, *which this Court has criticized by name, is incompatible with the original understanding of Article I, § 8.*

The City declines to distinguish most of this Court's precedents discussed in the preceding sections. Nor does the City rely on a narrowly defined, historically based exception to the warrant and probable cause requirements, such as consent or exigent circumstances.

Instead, the City proposes a new exception to Article I, § 8's traditional warrant and probable cause requirement based on *Camara v. Municipal Court*, 387 U.S. 523 (1967). *Camara*—severely criticized by this Court—declared that "probable cause" to search a renter-occupied home exists under the Fourth Amendment "if reasonable legislative or administrative standards for conducting an area inspection are satisfied with respect to a particular dwelling." *Id.* at 538. In other words, "probable cause" exists merely because that

rented home is subject to inspection. *Camara*'s tortured version of "probable cause" effectively recreated the writs of assistance.

Because *Camara* conflicts with Article I, § 8 precedents, which uniformly reject general warrants and suspicionless home searches, the City attempts to cobble together policy arguments, irrelevant statutory provisions, and several cases involving *only* Fourth Amendment claims. Below, Plaintiffs show that (1) *Camara*'s endorsement of suspicionless rental home searches is incompatible with this Court's interpretation of Article I, § 8; (2) the City cannot rehabilitate *Camara*; and (3) the City's statutory and policy arguments fail.

1. *Camara* drained "probable cause" of its evidentiary requirement, privileged government searches over people's security, and endorsed a relativistic understanding of "reasonableness." This Court has refused to import any of *Camara*'s innovations into Article I, § 8.

In *Camara*, an inspector entered a San Francisco apartment building in search of housing code violations. 387 U.S. at 525–26. The building manager informed the inspector that Camara, a ground floor lessee, was using part of his property as an illegal permanent residence. *Id.* at 526. Camara denied entry in the absence of a search warrant and was ordered to appear at the district attorney's office. *Id.* When Camara failed to appear, inspectors returned and

again demanded warrantless entry. *Id.* Camara again denied entry and was arrested for refusing a lawful inspection. *Id.* at 527. Camara argued that the search of a private dwelling without a warrant supported by probable cause violates the Fourth Amendment. *Id.*

The U.S. Supreme Court began by asserting that "there can be no ready test for determining reasonableness other than by balancing the need to search against the invasion which the search entails." *Id.* at 536–37. Applying that test, the Court held, on one hand, that the government had a "reasonable goal [ ] of code enforcement." *Id.* at 535. On the other hand, the Court characterized the inspections as a "relatively limited invasion of the urban citizen's privacy." *Id.* at 537. While recognizing that "typical Fourth Amendment cases" require a warrant supported by probable cause, the Court rejected that standard for "area inspection[s]" where the government lacks "knowledge of conditions in each particular building." *Id.* at 534, 536. The Court's solution was to redefine "probable cause" for rental inspections. Its reasoning was circular: "'probable cause' to issue a warrant to inspect must exist if reasonable legislative or administrative standards for conducting an area inspection are satisfied with respect to a particular dwelling." *Id.* at 538.

This Court has rejected each of *Camara*'s premises. First, as discussed above at 34–47, this Court rejects *Camara*'s relativistic test that threatens to balance rights out of existence. *Compare Camara*, 387 U.S. at 536–37 (asserting "there can be no ready test for determining reasonableness other than by balancing the need to search against the invasion which the search entails"), *with Wright*, 961 N.W.2d at 404–05 (rejecting the U.S. Supreme Court's interpretation of "reasonableness in a relativistic, balancing sense"), *and Ingram*, 914 N.W.2d at 804 (rejecting a "free-floating and open-ended concept of 'reasonableness'"), *and Short*, 851 N.W.2d at 502 (rejecting that the "reasonableness clause" is a "generalized trump card to override the warrant clause in the context of home searches"), *and Ochoa*, 792 N.W.2d at 291 (rejecting a "balancing test that improperly weighs the interests involved" under Article I, § 8). The cornerstone of *Camara*'s reasoning is a "free-floating and open-ended concept of 'reasonableness,'" which this Court rejects.

Second, this Court refuses to override Article I, § 8's probable cause requirement based on mere speculations about public safety. *Camara* relied heavily on the government's alleged public interest, preventing and abating dangerous conditions, in departing from traditional, individualized probable cause. *Camara*, 387 U.S. at 537. But the "mere fact that law enforcement may

be made more efficient can never by itself justify disregard of the [constitution].” *Wright*, 961 N.W.2d at 420 (citation and quotation marks omitted). Accordingly, this Court declines to dilute traditional probable cause where the government paternalistically speculates about health and safety without any individualized suspicion. *Ingram*, 914 N.W.2d at 819 (holding that government’s general interests in “police safety” and “protect[ing] the public” could not justify searching all impounded vehicles “without any showing at all regarding potential safety issues” in particular vehicles); *Hunter v. Colfax Consol. Coal Co.*, 154 N.W. 1037, 1047 (Iowa 1915) (“To hold that attack upon [Article I, § 8] is for the public good is to commend the soldier for tearing down the rampart which enables him to sleep in safety.”).

Finally, contrary to *Camara*, this Court recognizes that nonconsensual home searches are innately intrusive. *See Ingram*, 914 N.W.2d at 817 (noting that “the Iowa framers placed considerable value on the sanctity of private property”); *Short*, 851 N.W.2d at 500 (emphasizing “the sanctity of the home . . . under article I, section 8 of the Iowa Constitution”); *Ochoa*, 792 N.W.2d at 274–75 (“[I]t is clear that the Iowa framers placed considerable value on the sanctity of private property and, more specifically, of the home.”); *McClurg*, 98 N.W. at 882 (recognizing the “right of the citizen to

occupy and enjoy his home, however mean or humble, free from arbitrary invasion and search"). By describing forced home searches as "a relatively limited invasion of the urban citizen's privacy," 387 U.S. at 537, *Camara* casually discarded an ancient right that this Court jealously guards.

Article I, § 8 leaves no room for *Camara*'s reasoning, and this Court should reject the City's invitation to weaken Iowans' "right to be secure" in their homes.

2. The City's attempt to rehabilitate *Camara* runs headlong into this Court's rejection of suspicionless home searches.

The City's efforts to rehabilitate *Camara* are based on its misreading of this Court's Article I, § 8 jurisprudence.

First, the City is wrong that this Court has "approvingly" cited *Camara*. Appellants Br. at 31. On the contrary, in the very decision that the City relies on, this Court explicitly criticized *Camara* for "not only relax[ing] the warrant requirement, but also the particularity requirement of probable cause," an innovation that has led to "an increasingly broad category of administrative searches and special needs exceptions"[8] that go "well beyond

[8] The City does not rely on the so-called "special needs" exception to justify its suspicionless rental home searches—nor could it. That exception originates from a handful of U.S. Supreme Court decisions upholding

those recognized at the time of the enactment of the Fourth Amendment." *Ochoa*, 792 N.W.2d at 278–29. This Court discussed *Camara* only to highlight a troubling development in Fourth Amendment doctrine before rejecting that approach under Article I, § 8.

Second, the City is incorrect that *State v. Carter* imported *Camara*'s reasoning into Article I, § 8. Appellants Br. at 25, 31. *Carter* involved an administrative warrant issued for the purpose of recovering drug taxes, based on evidence that collection of those taxes would be "jeopardized by delay." 733 N.W.2d at 336. An evidence-based administrative warrant issued for an "emergency-collection procedure," *id.*, has no resemblance to the suspicionless home searches here. Furthermore, to the extent that this Court understands *Carter* to have endorsed administrative warrants under Article I, § 8, that portion of *Carter*'s holding did not survive the last decade of this Court's

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warrantless searches of individuals subject to the government's direct supervisory authority. *See, e.g.*, *New Jersey v. T.L.O.*, 469 U.S. 325 (1985) (children in public schools); *Griffin v. Wisconsin*, 483 U.S. 868 (1987) (probationers subject to probation programs). This Court has only applied that exception in three contexts: the search of a student's locker at a public school by a school official, *State v. Jones*, 666 N.W.2d 142 (Iowa 2003), the search of a parolee's home by a parole officer based on reasonable suspicion, *State v. King*, 867 N.W.2d 106 (Iowa 2015), and the search of a probationer's home by a probation officer based on probable cause, *State v. Brooks*, 888 N.W.2d 406, 413 (Iowa 2016). Those contexts are a far-cry from the City's suspicionless search of someone's home simply because they rent.

caselaw. *Compare Short*, 851 N.W.2d at 492 ("specifically overrul[ing]" prior cases insofar as they employed a lockstep approach to Article I, § 8), *and Ochoa*, 792 N.W.2d at 267 (rejecting lockstep in favor of "independent analysis of the content of our state search and seizure provisions"), *with Carter*, 733 N.W.2d at 337 (describing Article I, § 8's "scope and purpose" as "coextensive with the . . . Fourth Amendment" and referring to both "collectively as 'Fourth Amendment rights.'").

Third, the City cites three other pre-*Ochoa* cases that do not even involve Article I, § 8 claims. Appellants Br. at 31–32. In *State v. Green*, 540 N.W.2d 649, 654 (Iowa 1995), this Court merely cited *Camara*'s definition of probable cause in explaining why the lower court's reliance on *Camara* was inappropriate. *Id.* at 654–65. *Green* did not cite the Iowa Constitution, let alone Article I, § 8. Similarly, *In re Inspection of Titan Tire*, 637 N.W.2d 115, 124 (Iowa 2001), involved a Fourth Amendment challenge to a complaint-based inspection of a manufacturing plant. This Court only cited *Camara* in its discussion of Fourth Amendment precedent, as the case did not implicate the Iowa Constitution or Article I, § 8. *Id.* at 122. The City also cites *City of Fort Dodge v. Martin*, Appellants Br. at 22, 36, a court of appeals decision upholding a city's housing certification and inspection program as a legitimate exercise

of the police power. 695 N.W.2d 43 (table), 2004 WL 2677235 (Iowa Ct. App. 2004). But *Martin* did not involve any search or seizure claim, nor did it cite *Camara* or discuss administrative warrants.

Fourth, the City argues that *Fisher v. Sedgwick*, 364 N.W.2d 183 (Iowa 1985)—a case in which no search was challenged under *either* the U.S. or Iowa constitutions—"suggest[s]" that administrative warrants are acceptable. Appellants Br. at 29–30. *Fisher* "suggested" no such thing. There, this Court held that a district court judge lacked authority to issue an *ex parte* administrative warrant to inspect a property when there was no statutory basis for issuing such warrants. *Id.* at 184. In its decision, the Court relied on an earlier case that similarly rejected administrative warrants issued in the absence of statutory authority. *Id.* The City relies on a portion of *Fisher* in which the Court merely clarified that its prior holding did not address courts' authority to issue compulsory orders under their "general equity jurisdiction." *Id.* The City's reliance on *Fisher* is misplaced.

Fifth, the City suggests that this Court would endorse *Camara*'s reasoning because that case did not involve "searches conducted by law enforcement based on a party's 'status' as a parolee or probationer." Appellants Br. at 33. However, the City asserts that it can use *Camara*-style warrants to

search Plaintiffs' home simply because "the property subject to inspection [is] a rental property rather than owner occupied." Appellants Br. at 28–29. So, according to the City, an occupant's "status" as a renter is enough to dispense with Article I, § 8's probable cause requirement. But Article I, § 8's protection against suspicionless warrants extends to renters no less than "the Lord of the Manor who holds his estate in fee simple." *Minnesota v. Carter*, 525 U.S. 83, 95–96 (1998) (Scalia, J., concurring); *see also id.* (observing that "[p]eople call a house 'their' home when legal title is in the bank, when they rent it, and even when they merely occupy it rent free"). Furthermore, this Court has never indicated that its rejection of lockstep interpretation is confined to cases involving parolees and probationers. *See, e.g.*, *Wilson*, 968 N.W.2d at 906; *Wright*, 961 N.W.2d at 402. Indeed, suspicionless warrants are contrary to Article I, § 8 not because they can be used to enforce criminal law, but because they "totally annihilate" the "freedom of one's house." Cuddihy, *supra*, at 377–78.

The City spends much of its brief "distinguishing between the rental inspections authorized by the Ordinance and searches related to criminal investigations and general law enforcement." Appellants Br. at 37. That law-enforcement versus health-and-safety distinction is both incompatible with

Article I, § 8 and illusory in practice. The City's witness admitted that nothing in the Ordinance prevents a police officer from accompanying the inspector during a search, App. 699 (155:8–15), and if the inspector observes "evidence of some illegal activity in the rental home" during an inspection, that information is conveyed to the City Attorney. *Id.* at 700–01 (156:23–157:12). Finally, the City's witness also admitted that nothing in the Ordinance prevents the City's inspector from informing police officers about observations made during the course of an inspection. *Id.* at 699–700 (155:16–156:2). Indeed, in his expert report, Dr. Benfield notes that "some objects within the home could be misidentified or given an incorrect negative attribution by outsiders leading to embarrassment, stigma, or worse":

> For instance, smoking tobacco from a Hookah represents a social activity with a long cultural history among many middle eastern groups but the device itself could also be assumed to be paraphernalia for cannabis or other illicit drug use by someone unfamiliar with the cultural practice. Likewise, a diabetic pet or family member would generate the need for several syringes in the home that can also be interpreted by a naïve outsider as being connected to opioid abuse.

Id. at 879–80 (discussing additional examples). The supposed line between "civil" and "criminal" searches ignores that forced home searches are inately invasive, and that outsiders risk misidentifying criminal activity.

Sixth, the City contends that the Ordinance is constitutional because the "rental inspection checklist proves that the inspections are based on health and safety and not 'general law enforcement' activities." Appellants Br. at 37. But just as the government cannot circumvent Article I, § 8 when it wants to enforce customs laws, *Ochoa*, 792 N.W.2d at 271, or liquor laws, *Sanders v. State*, 2 Iowa at 255, or noise ordinances, *Wilson*, 968 N.W.2d at 913–14, neither can the City search Plaintiffs' home using suspicionless warrants merely because it wants to look for code violations. The City's purported interest in "protect[ing] the public" cannot justify searching all rental properties "without any showing at all regarding potential safety issues" in particular homes. *Ingram*, 914 N.W.2d at 819; *see also supra* at 44–45.

Finally, finding no help in this Court's precedents, the City resorts to Minnesota's—invoking the Minnesota high court's interpretation of Minnesota constitutional law. Appellants Br. at 47 (citing *City of Golden Valley v. Wiebesick*, 899 N.W.2d 152 (Minn. 2017)). In *Golden Valley*, the Minnesota Supreme Court held that Minnesota's constitution did not require administrative warrants to be issued based on a showing of traditional probable cause. 899 N.W. 2d at 154–55. That decision breaks fundamentally with this Court's interpretation of Article I, § 8. *Compare id.* at 157 (noting that Minnesota

courts "favor uniformity with the federal constitution" and will only "depart from federal precedent when we have a 'clear and strong conviction that there is a principled basis' to do so") (quoting *Kahn v. Griffin*, 701 N.W.2d 815, 828 (Minn. 2005)), *with Wright*, 961 N.W.2d at 411–12 ("Given the uncertainty and lack of clarity in federal search and seizure jurisprudence, we conclude it is no longer tenable to follow federal precedents in lockstep. Article I, section 8, as originally understood, was meant to provide the same protections as the Fourth Amendment, as originally understood, but the Supreme Court's interpretation and construction of the Fourth Amendment has deviated from the text and original meaning.").

Those differing approaches have led to different results in Iowa and Minnesota. Indeed, this Court routinely diverges from federal precedent that the Minnesota Supreme Court follows, in the same context, under its own constitution. *Compare State v. Wright*, 961 N.W.2d 396 (Iowa 2021) (departing from federal precedent in holding law enforcement cannot conduct warrantless searches of garbage under the Iowa Constitution), *with State v. McMurray*, 860 N.W.2d 686, 690–93 (Minn. 2015) (declining to depart from the same federal precedent under the Minnesota Constitution); *compare also State v. Short*, 851 N.W.2d 474 (Iowa 2014) (departing from federal precedent in

holding that law enforcement cannot conduct warrantless searches of probationers' homes under the Iowa Constitution), *with State v. Anderson*, 733 N.W.2d 128, 140 (Minn. 2007) (declining to depart from the same federal precedent under the Minnesota Constitution). The City cannot shoehorn Article I, § 8 into a constitutional framework that this Court flatly rejects.

3. The City's policy and statutory arguments also fail. There is no "home rule authority" exception to Article I, § 8.

The City grasps for a statutory basis to conduct suspicionless, nonconsensual rental home searches. But none of those statutes support the City's position and, even if they did, they could not trump Article I, § 8.

Article I, § 8, like all rights protected under the Iowa Constitution, cannot be abrogated by statutes or municipal laws. For example, Article I, § 8 prevents "the legislature [or] a municipality" from passing "laws declaring your house or papers to be your property except to the extent the police wish to search them without cause." *Wright*, 961 N.W.2d at 417 (internal quotation marks omitted); *see also id.* at 463 (Mansfield, J., dissenting) (observing that municipalities lack the power to "redefine property rights or common law trespass"). Indeed, "[o]ne of the specific ways in which the constitutional prohibition against unreasonable seizures and searches limited the power of lawmakers was its prohibition on legislation authorizing the use of general

warrants (or enacting laws that would have the same effect)." *Lennette v. State*, 975 N.W.2d 380, 410 (Iowa 2022) (McDonald, J., concurring). That prohibition is a "constitutional minimum" that "[n]o department of the government can circumvent." *Wright*, 961 N.W.2d at 417.

Regardless, none of the statutes that the City relies on supports its arguments. First, the City attempts to justify the challenged searches under Iowa Code § 364.1, which merely grants the City home rule authority. Appellants Br. at 22–23. But the City concedes that § 364.1 prohibits cities from "exercis[ing] any power" that is "expressly limited by the Constitution of the State of Iowa." Appellants Br. at 22 (quoting Iowa Code § 364.1). Home rule authority does not allow the City to alter "traditional search and seizure principles" by "redefin[ing] property rights or common law trespass." *Wright*, 961 N.W.2d at 463 (Mansfield, J., dissenting) (citing Iowa Code § 364.1).

Second, the City points to Iowa Code § 364.17's requirement that cities of over 15,000 people adopt "a program for regular rental inspections, rental inspections upon receipt of complaints, and certification of inspected rental housing[.]" Appellants Br. at 21 (quoting Iowa Code § 364.17(3)). The City agrees that it is not even subject to § 364.17 because it "is not a city with a

population of 15,000 or more[.]" *Id.* Regardless, § 364.17 neither explicitly nor implicitly blesses an inspection regime that violates the Iowa Constitution.

Finally, the City argues that Iowa Code § 808.14, which regulates administrative warrants, supports the City's use of such warrants to conduct suspicionless home searches. Appellants Br. at 22–23. The City's reliance on § 808.14 is misplaced for two reasons. On one hand, § 808.14 merely authorizes cities with home rule authority to conduct inspections "to the extent necessary . . . to carry out such authority[.]" Because that home rule authority is limited by the Iowa Constitution, § 808.14 necessarily does not authorize the City to use administrative warrants in violation of Article I, § 8. On the other hand, § 808.14 limits administrative warrants in accordance with "common law requirements for the issuance of such warrants[.]" As discussed above at 34–47, Article I, § 8 was "intended to reject the issuance of 'general warrants without probable cause and without particularity as reflected in pre-Revolutionary practice,'" *Wright*, 961 N.W.2d 409 (quoting *State v. Ochoa*, 792 N.W.2d at 272). Using administrative warrants in a manner that effectively recreates the reviled general warrants, *see* above at 30–34, is incompatible with the rights protected under Article I, § 8.

II. Plaintiffs' Challenge to the City's Threatened Home Searches is Justiciable.

The City renews its trial court objections to the justiciability of Plaintiffs' claim on the ground that the City has not yet obtained administrative warrants to search Plaintiffs' home. *See* Appellants Br. at 55–57. But the City threatened to do just that—and would have done so already "but for" this lawsuit. App. 720–21 (175:23–176:12). Indeed, the only way for the City to conduct those nonconsensual inspections without evidence of a code violation (which the City concedes it lacks, Appellants Br. at 26) is by using *Camara*-style warrants. The district court properly rejected the City's standing and ripeness arguments because Plaintiffs' injury is sufficiently likely. This Court should affirm that holding.

Ripeness is a two-factor inquiry: "(1) are the relevant issues sufficiently focused to permit judicial resolution without further factual development and (2) would the parties suffer any hardship by postponing judicial action?" *Sierra Club Iowa Chapter v. Iowa Dep't of Transp.*, 832 N.W.2d 636, 649 (Iowa 2013) (reversing lower court's holding that highway location challenge was not ripe, even where "the actual building of the highway may be contingent on future funding"). "The key to ripeness in a declaratory judgment setting . . . is an antagonist assertion and denial of right." *Berent v. City of Iowa*

City, 738 N.W.2d 193, 203, 205 (Iowa 2007) (cleaned up) (holding preelection challenge with respect to threshold process requirements should generally be considered ripe for adjudication).

Standing is also analyzed under a two-part test: Plaintiffs must "(1) have a specific personal or legal interest in the litigation, and (2) be injuriously affected." *Hawkeye Foodservice Distrib., Inc. v. Iowa Educators Corp.*, 812 N.W.2d 600, 606–07 (Iowa 2012) (internal quotation marks omitted) (reversing determination that plaintiffs did not have standing). Injury "cannot be 'conjectural' or 'hypothetical,' but must be 'concrete' and 'actual or imminent.'" *Id.* at 606 (citation omitted). "Only a likelihood or possibility of injury" is required to satisfy standing, and "[a] party need not demonstrate injury will accrue with certainty, or already has accrued." *Iowa Bankers Ass'n v. Iowa Credit Union Dep't*, 335 N.W.2d 439, 445 (Iowa 1983).

Here, the facts relevant to ripeness and standing overlap. In his deposition, the City's 1.707(5) witness admitted that Plaintiffs' home and properties are subject to the City's inspection requirement; that the City intended to search Plaintiffs' home and properties without their consent and pursuant to administrative search warrants before this lawsuit; and that the City *still* intends to do so—and would have "but for this lawsuit," App. 720–21 (175:23–

176:12). The City can obtain those administrative warrants in ex parte proceedings without any evidence that a code violation exists, has existed, or will exist in Plaintiffs' home. Iowa Code Ch. 808 *et seq.* At no point will Plaintiffs receive notice or a hearing regarding the City's application for an administrative warrant. *Id.*; *see* App. 153, Ruling on Defs. Mot. Dismiss. Because of that opaque process, Plaintiffs will not even know that the City has obtained an administrative warrant until it conducts a nonconsensual inspection. *Id.*

The district court correctly concluded that those facts satisfy the ripeness requirement. The Ordinance requires the City to conduct the challenged searches pursuant to administrative warrants. App. 351; *id.* at 719–21 (174:21–176:16). And the City still intends to do so despite Plaintiffs' objections. *Id.* at 720–21 (175:23–176:12).

The City nevertheless argues that Plaintiffs' claim cannot be ripe until the City seeks an administrative warrant. The City relies on *Gospel Assembly Church v. Iowa Department of Revenue*, 368 N.W.2d 158 (Iowa 1985), but that case is inapposite. In *Gospel Assembly*, a church's claim against the Department of Revenue was based on mere anxiety that the Department might possibly request too many sensitive documents in a future audit. *Id.* at 160–61. But neither the Department's policies nor prior audits supported the church's

concerns, and there was no statute requiring the Department to demand that the church produce sensitive documents. *Id.* Here, however, Plaintiffs are being threatened with searches that are explicitly required under the Ordinance. App. 351; *id.* at 719–21 (174:21–176:16). The City has confirmed that it will conduct those nonconsensual searches pursuant to administrative warrants despite Plaintiffs' objections. *Id.* at 720–21 (175:23–176:12). That threat of a government agent entering Plaintiffs' home without their permission is sufficiently harmful to allow this case to proceed. *Accord Rivera v. Borough of Pottstown*, No. 722 C.D. 2019, 2020 WL 57181, at *4 (Pa. Commw. Ct. Jan. 6, 2020) (finding rental inspection challenge was ripe because requiring "Tenants to endure the inspections before challenging the inspection requirement would render Tenants' Article I, Section 8 privacy rights illusory.").

Plaintiffs also have standing because their rights have been concretely and injuriously affected. Plaintiffs asserted, by letter, their Article I, § 8 right to be free from invasive, suspicionless, and nonconsensual inspections conducted pursuant to administrative warrants. App. 365. The City responded to Plaintiffs' letters that it will proceed according to the Ordinance, which authorizes it to conduct the challenged searches pursuant to administrative warrants. *Id.* at 369–74. The City's own witness confirmed that the City still wants

to search Plaintiffs' home and properties pursuant to administrative search warrants and, "but for this lawsuit," would have done so already. *Id.* at 720–21 (175:23–176:12). Indeed, during the hearing on the City's motion to dismiss, counsel for the City confirmed that the City intends to use administrative warrants to "enforce their ordinance." App. 1009 (21:11–13). The City will obtain those warrants without any evidence that a code violation exists, has existed, or will exist in a targeted rental home. Plaintiffs have, at a minimum, established "a likelihood or possibility of injury" sufficient to confer standing. *Iowa Bankers*, 335 N.W.2d at 445.

The City suggests that Plaintiffs lack standing because the City may not ultimately conduct the challenged searches pursuant to administrative warrants. Appellants Br. at 58. But as discussed above, the Ordinance and the City's witness say otherwise. The Ordinance states that rental properties "*shall*" be inspected. App. 351. Plaintiffs objected to those inspections. *Id.* at 365. And the City's remedy to enforce a nonconsensual inspection is to conduct the inspection pursuant to an "administrative search warrant," *id.* at 351; 719–21 (174:21–176:16), which it still intends to do, *id.* at 720–21 (175:23–176:12). The City's concession that it intends to search Plaintiffs' home despite lacking evidence of code violations, Appellants Br. at 26, further

confirms that *Camara*-style warrants are the City's *only* enforcement option. Plaintiffs will not receive notice or a hearing on the City's application for an administrative warrant—they will only learn that the warrant exists once the inspector arrives at their doors to conduct the challenged searches. Iowa Code Ch, 808 *et seq.*

As the district court recognized when it rejected the City's arguments, "if the Plaintiffs are required to wait until the inspection is in process, they will have little, or likely no, recourse to the Courts to prevent the injury(ies) they assert they will suffer to their privacy rights." App. 152, Ruling on Defs. Mot. Dismiss. The City was not able to evade the merits of this case in the trial court, and it should not be permitted to do so here.

CONCLUSION

The Court should affirm. It should find that the City's Ordinance, which requires it to forcibly search Plaintiffs' home using suspicionless warrants, violates Article I, § 8 of the Iowa Constitution because such searches can only be conducted pursuant to warrants based on traditional probable cause.

REQUEST FOR ORAL SUBMISSION

Plaintiffs-Appellees request to be heard in oral argument.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) because it contains 12,868 words, excluding parts of the brief exempted by that rule. This brief complies with the typeface requirements of Iowa R. App. P. 6.903(1)(e) and the typestyle requirements of Iowa R. App. P. 6.903(1)(f) because it has been prepared in a proportionally spaced typeface using Microsoft Word in Equity, 14-point type.

/s/ John G. Wrench
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CERTIFICATE OF FILING AND SERVICE

I certify that on the 6th day of May, 2024, this Final Brief of Plaintiffs-Appellees was electronically filed with the Clerk of Court and served on all counsel of record to this appeal using EDMS.

/s/ John G. Wrench
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