

State of Minnesota  
In Court of Appeals

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The City of Golden Valley,

*Appellant,*

vs.

Jason Wiebesick, Jackin Wiebesick,  
Jesse Treseler, and Tiffani Simons,

*Respondents.*

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**BRIEF AND ADDENDUM OF AMICUS CURIAE,  
AMERICAN CIVIL LIBERTIES UNION OF MINNESOTA**

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OF MINNESOTA

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## Introduction and Statement of *Amicus Curiae*<sup>1</sup>

The American Civil Liberties Union is a nationwide, nonprofit, nonpartisan organization with approximately 300,000 members dedicated to the principles of liberty and equality embodied in the Constitution and our nation's civil rights laws. The American Civil Liberties Union of Minnesota (ACLU-MN) is one of its statewide affiliates. Since its founding in 1952, the ACLU-MN has engaged in constitutional litigation, both directly and as *amicus curiae*, in a wide variety of cases. Among those rights that the ACLU-MN has litigated to protect is the right to be free from unreasonable searches under the Fourth Amendment to the U.S. Constitution and Article I § 10 of the Minnesota Constitution.

The ACLU-MN believes that the principles of the Fourth Amendment apply to individuals in their homes regardless of whether that home is a rental housing unit. We recognize and acknowledge the fact that, due to the nature of the landlord-tenant relationship, the government has a legitimate interest in regulating rental housing. The government's legitimate interests include ensuring that tenants are not subject to substandard living conditions and providing both parties with adequate legal remedies to address breaches in the rental agreement. However, the government's legitimate interest in enforcing its rental housing code should not, and may not be accomplished at the expense of the rental housing tenant's right to be free from unreasonable searches and

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<sup>1</sup> Counsel certifies that this brief was authored in whole by listed counsel for *amicus curiae* ACLU of Minnesota. No person or entity other than *amicus curiae* made any monetary contribution to the preparation or submission of the brief. This brief is filed on behalf of the American Civil Liberties Union of Minnesota, which was granted leave to participate as *amicus curiae* by this Court's Order dated December 1, 2015.

seizures. The ACLU-MN believes that it is inappropriate to victimize tenants by subjecting them to unreasonable searches all in the name of protecting their rights. There are other measures available that the government can employ to ensure that tenant's rights are protected while still respecting their right to be free from unreasonable searches and seizures.

There are few more vaunted American values than the privacy and sanctity of one's home. As such, the ACLU-MN respectfully urges this court to hold that Article I Section 10 of the Minnesota Constitution requires housing inspections to take place based on voluntary consent or a warrant that is based on individualized probable cause to believe that code violations will be found on a particular property. Ample case law interpreting the Minnesota Constitution should guide this court to this holding and such a requirement will not unduly hamper the ability of cities to address residential health and safety concerns.

### **Statement of the Case and Facts**

The ACLU-MN concurs with the Appellees' Statement of the Case and Facts and adopts and incorporates the facts set forth in the Brief of Appellees.

## Argument

**I. This Court should interpret Article I Section 10 of the Minnesota Constitution to require individualized probable cause for rental housing inspection warrants because the U.S. Supreme Court's decision in Camara v. Municipal Court of San Francisco does not adequately protect Minnesota citizens' basic rights and liberties.**

It is well settled that the expectation of privacy in one's home is "based on societal expectations that have deep roots in the history of the [Fourth] Amendment." Oliver v. United States, 466 U.S. 170, 178 n.8. (1981).

"Physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed." United States v. United States Dist. Court, 407 U.S. 297, 313 (1972). The Amendment's primary purpose is to "safeguard the privacy and security of individuals against arbitrary invasions by governmental officials." Camara v. Municipal Court of San Francisco, 387 U.S. 523, 528 (1967). Despite recognizing this highly important constitutional value, the U.S. Supreme Court in Camara went on to create an "administrative search" doctrine that essentially excludes innocent apartment dwellers from these strong protections of the Fourth Amendment.

The Supreme Court recognized that housing inspections of a tenant's residence have a significant impact on the tenant's privacy interests protected by the Fourth Amendment. As such, administrative searches must include traditional safeguards, including a warrant procedure, to protect those Fourth Amendment interests. Camara, 387 U.S. at 534. However; the Court went on to blunt that right by allowing "administrative" search warrants to be issued as long as "reasonable legislative or administrative standards for conducting area inspection are satisfied with respect to a

particular dwelling.” Camara, 387 U.S. at 538. Thus, according to the U.S. Supreme Court, intrusive housing inspections are reasonable under the Fourth Amendment if the government has reasonable standards for area-wide inspections that merely prevent the “unbridled discretion [of] executive and administrative officers ... as to when to search and whom to search.” Marshall v. Barlow’s Inc., 436 U.S. 307, 323 (1978).

In other words, under the administrative search doctrine set forth in Camara, the government need not show any specific knowledge of the conditions of a particular dwelling. The government can easily obtain a warrant merely by justifying the search based on the presence of a “reasonable” set of factors such as “the passage of time” and the overall condition of the area to be searched. Camara at 538.

The administrative search doctrine set forth in Camara eviscerates an individual’s right to the privacy and sanctity of his or her home by allowing intrusive inspections of every inch of that home by government agents based simply on a generalized area-wide inspection scheme.

**A. Minnesota Courts are free to interpret the State Constitution more expansively than the Federal Constitution and they have a long history of doing so in order to extend protections for individual rights.**

Generally, the Minnesota court will interpret the Minnesota Constitution to provide greater protection than the federal constitution’s counterpart when “a more expansive reading of the state constitution represents the better rule of law.” State v. Askerooth, 681 N.W.2d 353, 362 n.5 (Minn. 2004). The Minnesota Supreme Court

provided a framework in Kahn v. Griffin, to explain the circumstances that warranted the Court's departure from U.S. Supreme Court precedent:

Our precedent indicates that we are most inclined to look to the Minnesota Constitution when we determine that our state constitution's language is different from the language used in the U.S. Constitution or that state constitutional language guarantees a fundamental right that is not enumerated in the U.S. Constitution. Skeen, 505 N.W.2d 299. We take a more restrained approach when both constitutions use identical or substantially similar language. But we will look to the Minnesota Constitution when we conclude that the United States Supreme Court has made a sharp or radical departure from its previous decisions or approach to the law and when we discern no persuasive reason to follow such a departure. See Carter, 697 N.W.2d at 213; Wiegand, 645 N.W.2d 125; In re Welfare of E.D.J., 502 N.W.2d 779. We also will apply the state constitution if we determine that the Supreme Court has retrenched on Bill of Rights issues, or if we determine that federal precedent does not adequately protect our citizens' basic rights and liberties. Hershberger, 462 N.W.2d at 397-99; Friedman v. Comm'r of Public Safety, 473 N.W.2d 828, 830 (Minn.1991); Skeen, 505 N.W.2d at 313-15.

Kahn v. Griffin, 701 N.W. 2d. 815, 828 (Minn. 2005) (*emphasis added*).

Minnesota Courts have long acted to protect the individual rights of Minnesotans in a multitude of areas. For example, the Minnesota Supreme Court has found greater protection under the state constitution for religious freedom, right to privacy, right to counsel, equal protection, and, of course, freedom from unreasonable searches. *See, e.g.*, Jarvis v. Levine, 418 N.W.2d 139, 148-9 (Minn. 1988) (privacy to make medical decisions); State v. Nordstrom, 331 N.W.2d, 901, 904-05 (Minn. 1983) (right to counsel); State v. Hershberger, 462 N.W.2d 393, 397-98 (Minn. 1990) (providing stronger right to free exercise of religion); State v. Russell, 477 N.W.2d 886, 889 (Minn. 1991) (establishing more vigorous test for equal protection violations); Ascher v. Comm'r of Pub. Safety, 519 N.W.2d 183, 186 (Minn. 1994) (invalidating law enforcement sobriety checkpoints as

an unreasonable search). Women of the State of Minn. by Doe v. Gomez, 542 N.W. 2d 17, 30–31 (Minn. 1995) (recognizing greater privacy right to reproductive decisions).

Minnesota courts have been especially concerned about protecting privacy and ensuring that Article I Section 10 of the Minnesota Constitution adequately protects Minnesotans' basic right to be free from unreasonable searches and seizures. For example, in Jarvis v. Levine, the Minnesota Supreme Court acted to protect the right to bodily integrity by recognizing an independent right to privacy in the context of the forcible administration of drugs to a patient at a mental hospital. Jarvis, 418 N.W.2d at 148-9. Often the courts have taken pains to enumerate a separate state constitutional ground for their decision in order to ensure that the constitutional principle will stand even if it is later eroded by the U.S Supreme Court's Fourth Amendment jurisprudence. *See e.g.* O'Connor v. Johnson, 287 N.W.2d 400 (Minn.1979) (warrant authorizing search of attorney's office invalid under both federal and state constitutions); State v. Cripps, 533 N.W.2d 388 (Minn. 1995) (holding that underage patron in a bar was seized, within the meaning of Article I, Section 10 of the Minnesota Constitution, when an armed and uniformed police officer approached her and sought identification for proof of legal age to consume alcohol because objectively reasonable person would have believed that he or she was neither free to disregard police questions nor free to terminate encounter); State v. Wiegand, 645 N.W.2d 125 (Minn. 2002) (reasonableness requirement of Art. 1, Sect. 10 prohibits expanding the scope of a routine traffic stop to conduct drug dog sniff of motor vehicle absent reasonable articulable suspicion of drug related criminal conduct);



State v. Larsen, 650 N.W.2d 144 (Minn. 2002) (holding that conservation officer’s search of a fish house without a warrant, consent or probable cause violates constitutional protections against search and seizure under the Fourth Amendment of the United States Constitution and Article I, section 10 of the Minnesota Constitution); In re Welfare of B.R.K., 658 N.W.2d 565, 578 (Minn. 2003) (“[E]ven if short-term social guests do not have a reasonable expectation of privacy under the Fourth Amendment, their expectation is legitimate under Article I, Section 10 of the Minnesota Constitution.”). Notably, the In re Welfare of B.R.K. Court noted that their result was necessary to “fully protect the privacy interest an individual has in his or her home.”

The Minnesota Supreme Court continues to reaffirm its authority to interpret the state constitution more broadly than the U.S. Constitution. For example, the Court in State v. Diede, 795 N.W.2d 836 (Minn. 2011) recently ensured that the right to be free from unreasonable searches and seizures under the Minnesota Constitution is vigorously enforced, citing the Minnesota Constitution as independent grounds for their decision.<sup>2</sup> In addition, the Minnesota Supreme Court made clear that Minnesota’s legal standard for assessing claims of inverse condemnation under the Minnesota Constitution differs from the Takings Clause under the U.S. Constitution, thereby providing a stronger basis to

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<sup>2</sup> The Minnesota Supreme Court also reaffirmed its authority to make independent determinations of fundamental fairness in the context of whether or not to retroactively apply a new rule of federal constitutional criminal procedure. Danforth v. State, 761 N.W.2d 493, 500 (Minn. 2009). While the Court in Danforth opted to voluntarily apply the standard articulated by the U.S. Supreme Court, the Court specifically noted that it was not bound by the U.S. Supreme Court’s determinations of fundamental fairness. Id.

challenge regulatory takings in Minnesota. DeCook v. Rochester Int'l Airport Joint Zoning Bd., 796 N.W.2d 299 (Minn. 2011).

**B. Individualized probable cause is necessary to “fully protect the privacy interest an individual has in his or her home” because housing code enforcement routinely goes hand-in-hand with criminal law enforcement.**

There can be no dispute that rental housing inspections are intrusive because they entail a government agent entering one’s home and rummaging through it in search of code violations. From the perspective of the home’s occupant, the experience is most certainly more intrusive than a conservation officer’s entry into a fish house on a lake or a stop in one’s vehicle at a sobriety checkpoint roadblock – both of which require individualized suspicion. *See* Larsen, 650 N.W.2d at 150; Ascher, 519 N.W.2d at 186.

Calling housing inspections an “administrative search” rather than a search for evidence of criminal conduct should be of little comfort given that rental housing inspection schemata, including the one in place in the City of Golden Valley, often go hand-in-hand with criminal law enforcement strategies. *See* Nicole Stelle Garnett, Ordering (and Order in) the City, 57 Stan. L. Rev. 1, 14-19 (2004) (detailing “multiagency enforcement ‘sweeps’ of struggling neighborhoods that include property inspections among a range of disorder-suppression devices” in numerous cities including Tampa, Atlanta, Houston, Omaha and San Antonio). For example, a 2003 multiagency sweep conducted in Tampa Florida, dubbed “Operation Commitment” paired police officers, property inspectors and drug and prostitution counselors in some of the city’s worst neighborhoods. In addition to code violations, one “sweep” also included seven felony

arrests. *Id.* at 14. *See also* Nicole Stelle Garnett, Relocating Disorder, 91 Va. L. Rev. 1075, 1091 (2005) (chronicling the use of rental housing inspections in community policing efforts to curb urban disorder and suggesting that lack of vigorous court oversight has encouraged cities to incorporate sweeps into their community policing efforts).

The City of Golden Valley is not the only Minnesota city to link rental housing licensing with crime control. A quick perusal of city codes from other cities around the state shows that numerous cities have adopted rental licensing and inspection programs that are linked with various crime control strategies including crime-free multi-housing programs that require landlords to initiate actions against tenants for criminal conduct even in the absence of a criminal conviction. *See e.g.* Plymouth City Code 410.42<sup>3</sup> (requiring landlords to “take appropriate action, with the assistance of the City, to prevent” enumerated criminal conduct deemed disorderly); Duluth City Code Sec. 29A-40<sup>4</sup> (requiring licensed landlords to initiate unlawful detainer actions for enumerated criminal “disorderly behavior” of tenants and/or their guests); St. Louis Park City Code §8-331 (same).

Indeed, there is ample evidence to suggest that City of Golden Valley’s rental inspection program includes identifying and rooting out criminal activity in the city. Unlike the ordinance at issue in McCaughtry, the City of Golden Valley ordinance does

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<sup>3</sup> Available at <http://plymouthmn.gov/Modules/ShowDocument.aspx?documentid=751>.

<sup>4</sup> Available at [http://www.stlouispark.org/webfiles/file/administration/2361-08\\_rental\\_housing\\_ordinance.pdf](http://www.stlouispark.org/webfiles/file/administration/2361-08_rental_housing_ordinance.pdf).

not contain any provisions that would limit inspectors from sharing with law enforcement in the event that they see evidence of a crime. And nothing in the ordinance prevents police from tagging along during inspections. In the past, police have actually accompanied inspectors. In an amicus brief filed with the Minnesota Supreme Court in McCaughtry v. City of Red Wing, 831 N.W.2d 518 (Minn. 2013) (McCaughtry II), Wiebesick Rental describes a housing inspection that took place in Golden Valley on April 30, 2012:

[The inspector] approached the property with two armed Golden Valley police officers (Officer #1 and Officer #2). Two more officers remained in their marked vehicles parked on the street. The presence of the armed officers added even more stress to an already tense situation. As Kunde moved through the house he asked Tenant questions about the condition of the property and specific items he was checking. Both Jason and Officer #1 followed Kunde and Tenant through the property, while Jacki and Officer #2 remained in the living room near the front door. Jason asked Officer #2 if it was normal for police officers to attend these inspections. Officer #2 replied that it was normal when a warrant was required.

*Brief and Appendix of Amicus Curiae Wiebesick Rental* at 10, McCaughtry II, 831 N.W.2d 518.<sup>5</sup>

Moreover, the City's rental housing licensing ordinance also directly regulates what landlords must do in relation to crimes committed by tenants, their guests or people affiliated with the tenants. For example, the ordinance requires every lease to include provisions making any illegal activity by a "Tenant, any members of the Tenant's household or a guest or other person affiliated with the Tenant" a "material and irreparable violation of the lease and good cause for immediate termination of tenancy." GOLDEN

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<sup>5</sup> Available at <http://mn.gov/lawlib/briefs/pdfs/a100332scac3.pdf>.

VALLEY CITY CODE §6.29, Subd. 4(I). Additionally, three incidents of conduct on licensed premises that is deemed to be disorderly conduct (the determination of which need only be based on “substantial evidence” not actual criminal convictions or charges) within a period of 36 months triggers a requirement that the landlord provide and implement a written management plan to prevent future incidents and allows the City to revoke the rental license in the event that the landlord fails to do so or there is another incident within the next twelve months. GOLDEN VALLEY CITY CODE §6.29, Subd. 6.

When you add the facts that the ordinance requires tenants to “...grant access to any part of its Rental Dwelling at reasonable times for the purpose of effecting inspection...,” GOLDEN VALLEY CITY CODE §6.29, Subd. 4(F), and that the scope of the inspections is intrusively broad as illustrated by City’s Inspection Checklist<sup>6</sup>, it becomes evident that the City views its rental housing licensing and inspection program as an important tool to identify and root out criminal activity in the city.

It is well-established law under the U.S. Constitution that the government may use evidence derived from non-law-enforcement searches, i.e., searches not based on a reasonable belief regarding the commission of a crime, that otherwise satisfy the Fourth Amendment's reasonableness requirement to prosecute crimes; thus, in the administrative context, inspectors lawfully on the premises may report any violations of law that they find. United States v. Duka, 671 F.3d 329 (3d Cir. 2011) cert. denied, 132 S.

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<sup>6</sup> See City of Golden Valley, Inspection Checklist, Rental Housing: Interior, *available at* <http://www.goldenvalleymn.gov/homeyard/rent/pdf/rental-housing-checklist-interior.pdf>.

Ct. 2754 (U.S. 2012). Without this Court's intervention to require individualized probable cause for housing inspections, the City of Golden Valley and other cities throughout the State of Minnesota will continue to be allowed to do indirectly, through the use of suspicionless administrative housing inspection warrants, what it cannot do directly without obtaining a warrant based on individualized probable cause.

Even if it was crystal clear that these inspections have no law enforcement purpose whatsoever, “the home is ‘the most essential bastion of privacy recognized by the law.’” In re Welfare of B.R.K. 658 N.W.2d at 576, *citing* Minnesota v. Carter, 525 U.S. 83, 109 (1998). Like a search by law enforcement officers, the search by housing inspectors can be incredibly intrusive, subjecting the home's occupant to a search that can include opening and inspecting cabinets and closets and seeking consent from the occupant to open containers, drawers and medicine cabinets. In addition to identifying code violations, inspectors also have the authority to encourage tenants to repair or change items in their home. Such itemized suggestions from a government inspector about how one keeps one's home are simply inappropriate. This is exactly the type of intrusive search for which that this Court must require a showing of individualized probable cause rather than the near rubberstamp “administrative warrant” that is allowed by the U.S. Supreme Court under Camara.

**C. Individualized probable cause is the “better rule of law” because it will provide greater protection for marginalized populations.**

The Minnesota Supreme Court considers a number of factors when determining whether to interpret the Minnesota Constitution more broadly than the U.S.

Constitution. See Kahn, 701 N.W.2d at 82 (citing seven non-exclusive factors courts may review). The overarching theme of those factors is to ensure that Minnesota courts adopt and implement the “better rule of law.” Askerooth, 681 N.W.2d at 362 n.5; see also Terrence J. Fleming and Jack Nordby, *The Minnesota Constitution: “Wrapt in the Old Miasmial Mist,”* 7 Hamline L. Rev. 51, 76 (1984). “In determining the proper resolution of a case under the Minnesota Bill of Rights, the court may legitimately consider the resolution it finds the most intellectually persuasive and socially satisfactory.” Fleming and Nordby, 7 Hamline L. Rev. at 76–77.

When the Court has determined either that a federal precedent does not adequately protect the rights of Minnesotans or constitutes a “sharp departure” from a long-standing approach to the law, it generally turns to the Minnesota Constitution because that federal precedent is not the “better rule of law.” By focusing on the “better rule of law”, the Court is able to fortify their decision to independently apply the Minnesota Constitution. See, e.g., Ascher, 519 N.W.2d at 187. The intrusive nature of administrative housing inspections and the impact that these inspections have on marginalized populations should lead this Court to conclude that the Camara administrative-warrant doctrine is not “the better rule of law.”

As discussed above, from the perspective of the tenant, housing inspections are incredibly intrusive. Much can be learned about a tenant’s private life from entering their home including: their general income level, hobbies, religious beliefs and practices, decorating style, the books he or she reads, the musicians he or she listens to, whether he

or she has any medical conditions, and multitude of other private personal details that can be gleaned from observing the interior of one's home. Administrative warrants in essence require rental housing tenants - but not private homeowners - to give uninvited guests open access to their kitchen, bedroom, and bathroom where they can easily observe all of this private information.

Moreover, the intrusion on the private lives of tenants has a disparate impact on populations that are traditionally marginalized such as immigrants, people living in poverty, and racial and ethnic minorities. As noted in Gomez, "Minnesota possesses a long tradition of affording persons on the periphery of society a greater measure of government protection and support than may be available elsewhere." Gomez, 542 N.W.2d at 30. According to data the U.S. Census Bureau, renter-occupied housing units in the City of Golden Valley are more likely to include racial and ethnic minorities than owner-occupied housing units. Addendum at 1. 94% of owner-occupied housing units are occupied by White householders, compared to only 77% for renter-occupied housing units. Id. This despite the fact that Whites comprised only 85.4% of the city's population. Id. at 2. Moreover, only 6% of owner-occupied housing units are occupied by people of color. Id. at 1. The statewide demographics show similar disparities with only 6% of owner-occupied housing units occupied by people of color. Id. at 4. And because rental housing ordinances similar to the one at issue here are being adopted throughout the state, the impact on marginalized populations in Minnesota will continue to grow. As municipalities are turning to housing inspection regimes, their primary goal



appears to be controlling and reducing crime and other “disorderly” behavior. *See* Garnett, 91 Va. L. Rev. at 1088; Garnett, 57 Stan. L. Rev. at 13. Without more vigorous oversight by this Court in the form of stronger protections against unreasonable searches and seizures than those afforded under the U.S. Constitution and Camara, cities in Minnesota will continue to use rental housing inspection regimes as a shortcut for traditional law enforcement strategies and the people who will bear the brunt of those abuses will be “persons on the periphery of society.” Put simply, Camara is not the “better rule of law” and should be rejected by this Court.

## **II. Requiring individualized probable cause will not render the City of Golden Valley’s inspection program ineffective.**

To the extent that the city’s inspection program is aimed at ensuring that its housing stock is free of conditions that are dangerous to human life, the city can meet that goal even if they are required to show individualized probable cause that there are code violations before obtaining a search warrant.

Census records show that renter-occupied housing units account for only 1,959 (22%) of the 8,816 occupied housing units in the City. Add. At 1. By the City’s own admission, they have conducted consensual inspections of 442 single-family or duplex homes. *Appellant’s Brief and Addendum* at 6. The City does not provide data on the number of consensual inspections of multi-family housing units, nor the number of times it has had to obtain an administrative warrant to accomplish an inspection; however, a review of publicly available court records from 2010 to the present show only a handful of

actions filed by the City of Golden Valley involving property issues. Add at 5-6. There is simply no reason to believe that a heightened standard for issuance of an administrative search warrant will have anything other than a negligible impact on the City's inspection program. Moreover, the overall odds that some code violations will be missed by the City is relatively low and likely not much higher than they would be if the City were not required to demonstrate individualized probable cause.

Even so, the City can take some proactive measures to empower tenants that will allow the City to more easily identify problem properties and demonstrate that there is individualized probable cause to believe that code violations exist. First, the City could embark on a public campaign to educate tenants about their rights and to provide tenants with tools to advocate for their own rights when it comes to substandard housing conditions. The City could also provide tenants with information about some of the most common and some of the most dangerous housing code violations and ask them to report violations in their unit or their building. This information could be mailed to tenants or even posted in common areas of the building. Even more empowering, the City could create and staff a tenant's rights hotline for Golden Valley residents or provide funding and assistance to establish a Golden Valley tenants union that could independently advocate for safe and fair rental housing conditions in the city. Finally, the City should act to assuage reluctant tenants' fears of retaliation by prohibiting lease provisions that penalize tenants for allowing housing inspectors in without the landlord's

permission and enacting strict penalties against landlords who retaliate against tenants who report housing code violations.

With owners, the City could provide incentives such as low-interest loans or other financial assistance to owners who come forward and disclose the serious code violations in their building that will require significant resources to fix. The City could then partner with landlords to address health and safety issues rather than approaching the issue in an adversarial setting of forced suspicionless inspections.

Lastly, the City could focus on the exteriors of rental housing to identify code violations in plain view which would provide the individualized probable cause to believe that code violations exist inside the building. This, in combination with the other suggested strategies will go a long way towards addressing the City's interest in protecting health and safety.

It is clear from the language of the ordinance that the City does not believe that it is necessary to inspect every housing unit in the City in order to adequately protect the health and lives of its residents. The inspection program only applies to rental housing and there is no analogous inspection program for owner-occupied housing, even though the number of owner-occupied housing units in the city far exceeds the number of renter-occupied units. Add at 1. This suggests that, at least for owner-occupied housing units, the City recognizes and is sensitive to the fact that people do not want the City rifling through their homes at regular intervals. It also suggests that the City understands

that it can achieve its public health and safety goals by inspecting only a fraction of all the housing units in the City.

### III. Conclusion

For all of the foregoing reasons, the American Civil Liberties Union of Minnesota, *amicus curiae*, urges this Court to uphold the District Court's decision and hold that Article I Section 10 of the Minnesota Constitution requires housing inspections to take place with consent or a warrant based on individualized probable cause to believe that code violations will be found in the property to be inspected.

Dated: January 26, 2016

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION  
OF MINNESOTA

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**ADDENDUM**

## INDEX TO ADDENDUM

<u>Description</u>	<u>Page Number</u>
United States Census Bureau, American FactFinder Tenure By Race of Householder, 2010, Golden Valley city, Minnesota	Addendum 1
United States Census Bureau, U.S. Census Quick Facts, Golden Valley city, Minnesota	Addendum 2
United States Census Bureau, American FactFinder Tenure By Race of Householder, 2010, Minnesota	Addendum 4
Minnesota State Courts, Civil, Family & Probate Case Records Search Results, Name Search, City of Golden Valley	Addendum 5



H14 | TENURE BY RACE OF HOUSEHOLDER

Universe: Occupied housing units  
2010 Census Summary File 1

NOTE: For information on confidentiality protection, nonsampling error, and definitions, see <http://www.census.gov/prod/cen2010/doc/sf1.pdf>.

	<b>Golden Valley city, Minnesota</b>
Total:	8,816
Owner occupied:	6,857
Householder who is White alone	6,409
Householder who is Black or African American alone	188
Householder who is American Indian and Alaska Native alone	10
Householder who is Asian alone	157
Householder who is Native Hawaiian and Other Pacific Islander alone	1
Householder who is Some Other Race alone	19
Householder who is Two or More Races	73
Renter occupied:	1,959
Householder who is White alone	1,479
Householder who is Black or African American alone	328
Householder who is American Indian and Alaska Native alone	11
Householder who is Asian alone	66
Householder who is Native Hawaiian and Other Pacific Islander alone	0
Householder who is Some Other Race alone	28
Householder who is Two or More Races	47

Source: U.S. Census Bureau, 2010 Census.



[/www.census.gov/en.html](http://www.census.gov/en.html)



Search

U.S. Census Quick Facts

## QuickFacts

### Golden Valley city, Minnesota

QuickFacts provides statistics for all states and counties, and for cities and towns with a population of 5,000 or more.

All Topics	GOLDEN VALLEY CITY, MINNESOTA
<b>People</b>	
<b>Race and Hispanic Origin</b>	
White alone, percent, July 1, 2014, (V2014) (a)	X
White alone, percent, April 1, 2010 (a)	85.4%
Black or African American alone, percent, July 1, 2014, (V2014) (a)	X
Black or African American alone, percent, April 1, 2010 (a)	7.1%
American Indian and Alaska Native alone, percent, July 1, 2014, (V2014) (a)	X
American Indian and Alaska Native alone, percent, April 1, 2010 (a)	0.4%
Asian alone, percent, July 1, 2014, (V2014) (a)	X
Asian alone, percent, April 1, 2010 (a)	3.5%
Native Hawaiian and Other Pacific Islander alone, percent, July 1, 2014, (V2014) (a)	X
Native Hawaiian and Other Pacific Islander alone, percent, April 1, 2010 (a)	Z
Two or More Races, percent, July 1, 2014, (V2014)	X
Two or More Races, percent, April 1, 2010	2.7%
Hispanic or Latino, percent, July 1, 2014, (V2014) (b)	X
Hispanic or Latino, percent, April 1, 2010 (b)	2.6%
White alone, not Hispanic or Latino, percent, July 1, 2014, (V2014)	X
White alone, not Hispanic or Latino, percent, April 1, 2010	84.0%
<b>Businesses</b>	
<b>Geography</b>	

**A** This geographic level of poverty and health estimates are not comparable to other geographic levels of these estimates

Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable. Click the Quick Info **i** icon to the left of each row in TABLE view to learn about sampling error.

The vintage year (e.g., V2015) refers to the final year of the series (2010 thru 2015). Different vintage years of estimates are not comparable.

- (a) Includes persons reporting only one race
- (b) Hispanics may be of any race, so also are included in applicable race categories
- (c) Economic Census - Puerto Rico data are not comparable to U.S. Economic Census data

- D** Suppressed to avoid disclosure of confidential information
- F** Fewer than 25 firms
- FN** Footnote on this item in place of data
- NA** Not available
- S** Suppressed; does not meet publication standards
- X** Not applicable
- Z** Value greater than zero but less than half unit of measure shown

QuickFacts data are derived from: Population Estimates, American Community Survey, Census of Population and Housing, Current Population Survey, Small Area Health Insurance Estimates, Small Area Income and Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits.

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**PEOPLE & HOUSEHOLDS**

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

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H14 | TENURE BY RACE OF HOUSEHOLDER

Universe: Occupied housing units  
2010 Census Summary File 1

NOTE: For information on confidentiality protection, nonsampling error, and definitions, see <http://www.census.gov/prod/cen2010/doc/sf1.pdf>.

	Minnesota
Total:	2,087,227
Owner occupied:	1,523,859
Householder who is White alone	1,437,173
Householder who is Black or African American alone	22,968
Householder who is American Indian and Alaska Native alone	9,155
Householder who is Asian alone	32,562
Householder who is Native Hawaiian and Other Pacific Islander alone	308
Householder who is Some Other Race alone	9,816
Householder who is Two or More Races	11,877
Renter occupied:	563,368
Householder who is White alone	433,032
Householder who is Black or African American alone	67,219
Householder who is American Indian and Alaska Native alone	9,923
Householder who is Asian alone	24,913
Householder who is Native Hawaiian and Other Pacific Islander alone	295
Householder who is Some Other Race alone	15,037
Householder who is Two or More Races	12,949

Source: U.S. Census Bureau, 2010 Census.

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Record Count: 40

Search By: Party Exact Name: on Party Search Mode: Business Name Last Name: city of golden valley All All Date Filed On or After: 01/01/05 Date Filed On or Before: 01/23/16 Sort By: Filed Date

Case Number	Style	Filed/Location/Judicial Officer	Type/Status
<a href="#">27-CV-05-003266</a>	PETERS II,JAMES,GREGORY VS 1995 CHRYSLER MOTOR-VEHICLE	03/01/2005 - Hennepin Civil McGunnigle, George F.	Forfeiture Closed
<a href="#">27-CV-TC-000032463</a>	WORKABILITIES INC VS CITY OF GOLDEN VALLEY	03/17/2005 - Hennepin Civil	Tax Court Closed
<a href="#">27-CV-TC-000032954</a>	WENDY'S INTERNATIONAL INC VS CITY OF GOLDEN VALLEY	04/28/2005 - Hennepin Civil	Tax Court Closed
<a href="#">27-CV-TC-000032965</a>	VALLEY VILLAGE APARTMENTS LIMITED P VS CITY OF GOLDEN VALLEY	04/28/2005 - Hennepin Civil	Tax Court Closed
<a href="#">27-CV-TC-000032984</a>	HEINRICH ENVELOPE CO VS CITY OF GOLDEN VALLEY	04/28/2005 - Hennepin Civil	Tax Court Closed
<a href="#">27-CV-TC-000033025</a>	JMV ENTERPRISES LLC VS CITY OF GOLDEN VALLEY	04/28/2005 - Hennepin Civil	Tax Court Closed
<a href="#">27-CV-TC-000033082</a>	ND PROPERTIES INC VS CITY OF GOLDEN VALLEY	04/29/2005 - Hennepin Civil	Tax Court Closed
<a href="#">27-CV-TC-000033101</a>	COTTLE,L,E VS CITY OF GOLDEN VALLEY	04/29/2005 - Hennepin Civil	Tax Court Closed
<a href="#">27-CV-TC-000033116</a>	HAGV LLP VS CITY OF GOLDEN VALLEY	04/29/2005 - Hennepin Civil	Tax Court Closed
<a href="#">27-CV-TC-000033198</a>	CAMBRIDGE APARTMENTS INC VS CITY OF GOLDEN VALLEY	04/29/2005 - Hennepin Civil	Tax Court Closed
<a href="#">27-CV-TC-000033157</a>	THEISEN,THOMAS,N VS CITY OF GOLDEN VALLEY	05/02/2005 - Hennepin Civil	Tax Court Closed
<a href="#">27-CV-CD-000002772</a>	THE CITY OF GOLDEN VALLEY VS WOODRUFF JR,JOHN,E	05/03/2005 - Hennepin Civil Anderson, Catherine L.	Condemnation Closed
<a href="#">27-CV-06-7510</a>	Aljuan C Hixon vs CITY OF GOLDEN VALLEY, Dennis Arons, MARIO HERNANDEZ, David Kuhnly, Christine McCarville	04/18/2006 - Hennepin Civil Wernick, Mark S.	Personal Injury Closed
<a href="#">27-CV-06-14694</a>	Sandra Brown vs City of Golden Valley, and Golden Valley Police Officer Rob Zarrett	07/31/2006 - Hennepin Civil	Civil Other/Misc. Closed
<a href="#">27-CV-06-15221</a>	EFP, LLC, a Minnesota Limited Liability Company vs City of Golden Valley, a Municipal Corporation and Ames Construction, Inc., a Minnesota Corporation	08/10/2006 - Hennepin Civil Reilly,Denise D. , Corporation	Personal Injury Closed
<a href="#">27-CV-07-6135</a>	CITY OF GOLDEN VALLEY vs JOHN WILLIAM REITAN	03/29/2007 - Hennepin Civil	Restitution Judgment Closed
<a href="#">27-CV-07-6136</a>	CITY OF GOLDEN VALLEY vs Amanda Elizabeth Magoffin	03/29/2007 - Hennepin Civil	Restitution Judgment Closed
<a href="#">27-CV-07-19637</a>	In Re: The Matter of a Hazardous Building Located at 305 Sunnyridge Lane, City of Golden Valley, Hennepin County, Minnesota	09/19/2007 - Hennepin Civil	Civil Other/Misc. Closed
<a href="#">27-CV-08-18812</a>	In Re: The Matter of a Hazardous Building Located at 6200 Olson Memorial Highway, Golden Valley, Minnesota	08/01/2008 - Hennepin Civil	Civil Other/Misc. Closed
<a href="#">27-CV-08-24382</a>	Steven Dargi, Andrea Dargi, CITIZENS INDEPENDENT BANK, Black on Black Inc, Black on Black Music Publishing Inc et. al. vs City of Golden Valley, NORTHWEST ASPHALT INC	09/25/2008 - Hennepin Civil Peterson, Bruce A.	Contract Closed
<a href="#">27-CV-09-10915</a>	Karl Koenen vs City of Golden Valley, County of Hennepin	04/29/2009 - Hennepin Civil Larson, Gary R.	Civil Other/Misc. Closed
<a href="#">27-CV-10-7259</a>	City of Golden Valley vs. 2003 Ford Truck, VIN: 1FTNW21L13ED78148, Jessica Renee Gustafson and Douglas William Gustafson	04/07/2010 - Hennepin Civil Zimmerman, Lloyd B.	Forfeiture Closed
<a href="#">27-CV-10-16503</a>	Donnie Shoultz and Terri Grafnitz individually, and	07/07/2010	Personal Injury

	as husband and wife vs Jeffrey A Marshall, County of Hennepin, Hennepin County Sheriff's Office, Officer Sleavin, individually, Officer Kuhnly, individually, Officer Johnson, individually, City of Golden Valley, Golden Valley Police Department and Defendants X, Y and Z	- Hennepin Civil Poston, Janet N.	Closed
<a href="#">27-CV-10-22393</a>	City of Golden Valley vs 2001 Audi; Vin#: WAUYP54B31N080399; Plate: TL798, Javier Joel Cisneros, David Kimball Whitney	09/22/2010 - Hennepin Civil Burke, Susan N.	Replevin Closed
<a href="#">27-CV-10-26348</a>	City of Golden Valley vs Union Land X LLC, Associated Commercial Finance Inc, Beal Bank SSB successor in interest to New South Federal Savings Bank, Associated Bank N A, SB1 General Portfolio Owner LLC, Hazardous Building 700/800 Xenia Ave South, Golden Valley, MN 55416	11/10/2010 - Hennepin Civil	Civil Other/Misc. Closed
<a href="#">27-CV-10-28129</a>	Christopher Gise vs City of Golden Valley	12/14/2010 - Hennepin Civil Howard, William R.	Civil Other/Misc. Closed
<a href="#">27-CV-11-1123</a>	Felix Ibarra vs Seized Property: 1997 Mercedes VIN#WDBJF55F9VJ026819, Minnesota State Patrol, City of Golden Valley	01/10/2011 - Hennepin Civil Poston, Janet N.	Conciliation Appeal Closed
<a href="#">27-CV-11-10327</a>	Brian R Anderson vs City of Golden Valley	05/06/2011 - Hennepin Civil Reilly, Denise D. ,	Assessment Appeal Closed
<a href="#">27-CV-11-12171</a>	City of Golden Valley, County of Hennepin vs Lyle Mandel	06/03/2011 - Hennepin Civil Rosenbaum, Marilyn Brown	Civil Other/Misc. Closed
<a href="#">27-CV-12-8470</a>	City of Golden Valley vs Jason Wiebesick, owner 510 Jersey Ave, Golden Valley, MN 55427	04/24/2012 - Hennepin Civil Bush, Philip D.	Civil Other/Misc. Closed
<a href="#">27-CV-12-13390</a>	Thomas Alan Darrow vs City of Golden Valley	06/15/2012 - Hennepin Civil Bernhardson, Ivy S.	Personal Injury Closed
<a href="#">27-CV-13-3567</a>	City of Golden Valley vs Steven B Dargi, Andrea L Dargi, Citizens Independent Bank, City of Golden Valley, County of Hennepin	02/27/2013 - Hennepin Civil Vasaly, Mary R.	Condemnation Closed
<a href="#">27-CV-13-9456</a>	City of Golden Valley vs Timothy James Richardson	05/09/2013 - Hennepin Civil	Restitution Judgment Closed
<a href="#">27-CV-14-9282</a>	Metropolitan Council vs Duke Realty Limited Partnership, MLCFC 2006-4 South Highway Office LLC, et al.	06/06/2014 - Hennepin Civil Burke, Susan N.	Condemnation Closed
<a href="#">27-CV-14-14813</a>	State Farm Fire and Casualty Company vs Robert Louzon, Michelle Yantes, Dale Yantes, Wells Fargo Home Mortgage, CRDN of Minnesota et. al.	08/29/2014 - Hennepin Civil Moore, James	Civil Other/Misc. Closed
<a href="#">27-CV-15-1930</a>	City of Golden Valley vs LOCK UP GOLDEN VALLEY LLC, Americana Community Bank, Century Link Inc f/k/a Qwest Corporation, TCF National Bank, Northern States Power Company, BRB Development LLC, Hennepin County, et al.	02/05/2015 - Hennepin Civil Manning, Bruce D.	Condemnation Closed
<a href="#">27-CV-15-4538</a>	City of Golden Valley vs Center Point Energy Resources Corp, Wells Fargo Bank N A, Northern States Power Company, Hennepin County, Nanette K Quade trustee of the Nanette K Quade Revocable Living Trust, Leigh Ann S Comb, David F Comb, Mortgage Electronic Registration Systems Inc, GMAC Bank, Associated Bank et al	03/20/2015 - Hennepin Civil Chu, Regina M.	Condemnation Closed
<a href="#">27-CV-15-11593</a>	Kelley M Janes vs City of Golden Valley	07/06/2015 - Hennepin Civil Chu, Regina M.	Employment Open
<a href="#">27-CV-15-15657</a>	City of Golden Valley vs Jason Wiebesick, Jacki Wiebesick, owner 510 Jersey Ave, Golden Valley, MN 55427	09/04/2015 - Hennepin Civil Robiner, Susan	Civil Other/Misc. Dormant
<a href="#">27-CO-15-7137</a>	Bryan Hutchison vs Brookview Golf Course, CITY OF GOLDEN VALLEY	10/19/2015 - Hennepin Civil	Conciliation Closed