



To: Members of the Troy City Council  
From: Lori Grigg Bluhm, City Attorney  
Susan M. Lancaster, Assistant City Attorney  
Date: August 19, 2008  
Subject: Amber Creek East Apartments v. City of Troy

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Attached is Judge Kumar's ruling in favor of the City in the *Amber Creek East Apartments v. City of Troy* lawsuit. As you may recall, this lawsuit was filed on behalf of five tenants in the Amber Creek East Apartment complex, who sought to invalidate the administrative search warrants issued by 52-4 Judicial District Court Judge Michael Martone and affirmed by 52-4 Judicial District Court Judge William E. Bolle. These administrative search warrants were obtained so that the City could comply with the state mandate to conduct inspections of all apartment rental units in the City of Troy every two to three years. The City of Troy has also codified this state mandate in Chapter 82-A of the City of Troy ordinances. These inspections are to occur every two to three years, and are extremely limited in scope to verify that the apartments meet the minimum health, safety, and welfare standards. Administrative search warrants were sought only after several notifications and requests for consent were provided to both the landlord and also the individual tenants.

The attorney representing the tenants argued that the state statute and also Troy's rental housing inspection ordinance were unconstitutional. On behalf of the City, we responded to these allegations in both the written and also the oral argument. However, Judge Kumar did not rule on that substantive issue, and instead ruled in favor of the City because the inspections had already been completed. The attorney representing the tenants filed a Motion for Reconsideration on August 18, 2008. If Judge Kumar denies the request for Reconsideration, then an appeal may be filed by the tenants and/or the landlord for Amber Creek East Apartments. We will keep you apprised of any new developments in this case.

If you have any questions, please do not hesitate to call us.

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

IN RE: ADMINISTRATIVE SEARCH WARRANTS ISSUED  
FOR VARIOUS DWELLINGS IN AMBER CREEK  
APARTMENTS

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AMBER CREEK APARTMENTS, NICOLE HIGH,  
MICHAEL JONES, CAROLINE JONES,  
JACQULYNN FLACK, ROBERT ABROGAST,  
CHARLES BARTZ and ROBERT PLATTER,

Petitioners-Appellants,

Case No. 08-DA 8750-AV  
Hon. Shalina A. Kumar

v

CITY OF TROY,

Respondent-Appellee.

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OPINION AND ORDER

At a session of said Court held in the  
Courthouse, City of Pontiac, Oakland County,  
Michigan on AUG 05 2008

PRESENT: THE HONORABLE SHALINA D. KUMAR, Circuit Judge

This matter is before the Court on Petitioners' appeal from an order of the 52-4 District  
Court denying their ex parte motion to quash administrative inspection warrants. This Court

considered the parties' respective briefs and heard oral argument before taking the matter under advisement.

Petitioners acknowledge that the issues presented on appeal are moot because the subject inspections have already been conducted. This Court does not address moot questions or declare rules of law lacking practical legal effect. *Federated Publications, Inc v City of Lansing*, 467 Mich 98, 112; 649 NW2d 383 (2002), clarified in *Herald Co, Inc v Eastern Michigan Univ Bd of Regents*, 475 Mich 463, 471-472; 719 NW2d 19 (2006). However, an appellate court may decide cases that technically qualify as moot if they present issues of public significance that likely will recur in the future, yet evade judicial review. *Socialist Workers Party v Sec'y of State*, 412 Mich 571, 582 n 11; 317 NW2d 1 (1982). Although the issues presented here are publicly significant, this Court is not persuaded that they likely will recur with any regularity but evade judicial review.

First, the statute in question does not allow warrantless searches, has never before been challenged on its face and, based on the current state of the law, is not likely to be subjected to constitutional scrutiny in the future. Second, as a practical matter, the city represented that, in the nearly forty years that inspections have been conducted pursuant to the statute, these Petitioners were the only tenants that refused to consent to inspection of their units. This Court declines to decide the case.

WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that Petitioners' appeal is dismissed.

Dated: AUG 05 2008

  
SHALINA D. KUMAR, Circuit Judge