



INSTITUTE FOR JUSTICE

April 8, 2024

**Via email**

Mayor Kim A. Adams  
Council President Bobby Jordan  
Councilperson Tracy Justice  
Councilperson Asu Mook Robinson  
Councilperson Cassandra A. Nelson  
Councilperson Brian Silver  
Councilperson Daniel J. Ursu  
Councilperson Juanita Lewis

*RE: Richmond Heights' Unconstitutional Surveillance Camera Ordinances*

Dear Mayor Adams & the City Council:

The Institute for Justice is writing to you concerning the City of Richmond Heights' ordinances requiring video surveillance systems at all businesses and apartment complexes. These laws are unconstitutional. The government cannot require businesses and residences to install police-approved cameras and turn the footage over to police on demand. IJ recommends that the city reverse course and repeal both laws.

The Institute for Justice is a national nonprofit law firm that works to protect and defend people's rights to be secure in their persons and property against government encroachment. The right to exclude strangers, including government officials, from one's property is a hallmark of both property rights and the Fourth Amendment to the United States Constitution. IJ has been litigating search-and-seizure cases across the nation for years, including challenges to rental inspection ordinances in Iowa and Pennsylvania, and major class actions against the FBI, DEA, and other federal agencies. These and other cases have led to the entry of consent decrees, including one against the City of New York prohibiting it from conditioning a business owner's right to remain in business on his agreement to provide the NYPD access to his laundromat's security footage. *See Cho, et al. v. City of New York, et al.*, No. 1:16-cv-7961 (S.D.N.Y.). We also recently convinced

DeKalb County, Georgia, to amend a similar surveillance ordinance that required gas stations to install cameras and allowed police to seize their footage.

Our work challenging government surveillance programs led us to learn about Richmond Heights' surveillance system ordinances. Business owners and apartment residents have a right to be free from unwarranted searches. *Florida v. Jardines*, 569 U.S. 1, 22-23 (2013); *Lo-Ji Sales, Inc. v. New York*, 442 U.S. 319, 329 (1979). By forcing businesses and apartment buildings to install cameras so that the city can collect evidence of crimes, Richmond Heights is both physically intruding on private property and conducting searches within the meaning of the Fourth Amendment. *United States v. Jones*, 565 U.S. 400, 404 (2012). The Supreme Court recently held that police must obtain a warrant for just seven days' worth of GPS-location data. *Carpenter v. United States*, 138 S. Ct. 2206, 2218 (2018). The City's ordinances, which authorize constant warrantless surveillance, are far more intrusive.

The constitutional analysis does not change just because the City's new law targets businesses. As the Supreme Court held in *City of Los Angeles v. Patel*, government officials cannot demand access to a business' guest registries. 576 U.S. 409 (2015). The same is true for a business' surveillance system. Just as police must comply with the Fourth Amendment before they can seize video footage, police also need a business' consent, a warrant based on probable cause, or exigent circumstances before they can "inspect" a surveillance system.

Furthermore, by requiring private businesses and apartment complexes to install cameras on the government's behalf, Richmond Heights' ordinances also violate the Fifth Amendment. Even "a minor but permanent physical occupation" of a private building is a "taking" for which the government must pay just compensation. *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 421 (1982). Ordinances that require private citizens to bear the cost of purchasing the cameras for the government might seem appealing. But the Constitution plainly requires the government to foot the bill.

We urge the city to repeal both surveillance system ordinances. Although public safety is a laudable goal, it cannot come at the expense of people's constitutional rights. Unless the City repeals the ordinances, it will likely invite a meritorious lawsuit from a member of the community. Defending against such a suit would not only deplete the City of time and resources but would also result in Richmond Heights having to pay attorneys' fees to the prevailing party.

As DeKalb County recently learned, amending your unconstitutional ordinances is the easiest course. The Institute for Justice is willing to work with

communities that wish to protect public safety while ensuring people's constitutional rights. Should you wish to discuss this matter in more detail, please contact us at your earliest convenience.

Thank you,



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