

No. 21-809

In The  
**Supreme Court of the United States**

Alexander Gallo,  
*Petitioner*

v.

District of Columbia,  
*Respondent*

**On Petition for Certiorari to the District of  
Columbia Court of Appeals**

**Petitioner's Motion for Leave to File Petition  
for Rehearing Out-of-Time**

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## Motion for Leave to File Petition for Rehearing Out-of-Time

Petitioner requests consideration of the attached Petition for Rehearing. On March 7, 2022, several weeks after denial of certiorari, the Superior Court ruled that the opinion challenged here required a holding that the District's moratorium does not violate the Contracts Clause. It also held formally that *Knick* abolished the injunctive power of a state court to halt or void an uncompensated taking (Petition Questions 3 and 4). It thereby dismissed the instant case and dozens of others.

In light of this intervening dismissal and merits resolution, the Petition for Rehearing requests *Towers* be vacated with instruction to consider the Contracts Clause claim in accordance with the entirety of this Court's precedents. It proposes a corrected "test" to do so- faithful to all precedent and answering the call in *Sveen* for a restated test. It shows precisely where the current "test" – restated over the years- went awry with doctrinal errors now sowing confusion.

Case in point: the brief of the City of Los Angeles- presented to this Court on this issue recently- is *incorrect*. "The Court has applied that framework in analyzing Contracts Clause claims since 1934" *Brief of Respondent City of Los Angeles*, at 17 (case 21-788). No: The *Blaisdell* framework has not been applied by this Court since 1965 and is *not the current framework*. The analysis presented here reveals just how far the "test" has morphed- without

explanation. The culprit appears to be *United States Trust*. The analysis here is original and does not appear in any brief in any federal court or law article on this subject.

Such a remand order correcting the “test” could instantly resolve the decades of confusion and circuit splits as to which doctrine and cases control. As this Petition for Rehearing shows, allegedly “modern” holdings are nothing of the sort.

### *Timeliness*

Out of time re-hearing has been granted “where the interests of justice would make unfair the strict application of our rules.” *United States v. Ohio Power Co.*, 353 U.S. 98 (1957) (collecting cases vacating denial of certiorari). This includes subjecting constitutional rights to needless litigation and delay. See *Hawkins v. Board of Control*, 350 U.S. 413 (1956), reversing a denial of certiorari two years prior and vacating (“There is no reason for delay.”)

It is commonplace for this Court to grant certiorari and resolve questions left unanswered below (see for example *Delk v. St. Louis S. F. R. Co.*, 220 U.S. 580; *O’Leary v. Brown-Pacific-Maxon*, 340 U.S. 504 (1951).

Respectfully submitted,

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