

No. \_\_\_\_\_

**IN THE SUPREME COURT OF THE UNITED STATES**

**CAROLYN J. FLORIMONTE**

Petitioner,

v.

**BOROUGH OF DALTON**

Respondent.

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On Application for an Extension of Time to file Petition for a Writ of  
Certiorari to the Supreme Court of Pennsylvania

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**PETITIONER'S APPLICATION TO EXTEND TIME  
TO FILE PETITION FOR WRIT OF CERTIORARI**

CAROLYN J. FLORIMONTE, Pro Se  
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*To the Honorable Elena Kagan, Associate Justice of the  
Supreme Court of the United States*

Petitioner, Carolyn J. Florimonte, respectfully requests an order to extend the time to file a Petition for a Writ of Certiorari in this matter for sixty (60) days, concerning an issue relating to a Major Question Doctrine, which will doubly affect Petitioner directly, as well as all others similarly afflicted singularly.

The Supreme Court of Pennsylvania, in direct conflict with lower court decisions rendered by the Commonwealth Court of Pennsylvania, regarding a continuing trespass in *Graybill v. Providence Township*, *140 Pa. Commw. 505, at 512 (Pa. Commw. Ct. 1991)*, and *Lake v. The Hankin Group, et al, No. 278 C.D. (2013) at 13*, denied request by Petitioner for Permission to Appeal for Extraordinary Relief on November 6, 2023. Ninety (90) days from that date would be February 4, 2024. Therefore, an extension of sixty days would fall on April 4, 2024, as a final date for filing of Petition for a Writ of Certiorari.

*(Both Graybill and Lake Opinions ruled that continuing trespass on private property permits filing of a succession of lawsuits until the continuing trespass is ended as all injuries occurring over a period of*

*years cannot be claimed in one lawsuit).*

Petitioner is of an advanced age – the last twenty-four (24) of those years have been consumed by anguish and despair after repeated events of ravaging of her property, by flooding, multiple times a year, year after year. Warned of the danger to Petitioner caused by the severe flooding, Respondent knew or should have known, but ignored, the repercussions of the illegal flooding.

Petitioner's request for extension is a *direct result of ongoing personal injuries suffered during the September, 2023*, event of supersaturation flooding, of her home and property, intentionally caused by Respondent, Borough of Dalton, in a disturbing example of government overreach, thus resulting in delay of her ability to meet the standard ninety (90) days for filing a Petition for Writ of Certiorari.

This Court has jurisdiction under 28 U.S.C. Section 1257 and the Constitution of the United States, Fifth Amendment.

## **BACKGROUND**

In support of this application, Petitioner avers as follows:

1. For the last twenty-four (24) years, Petitioner has suffered

overwhelming, illegal flooding of her home and property by the Borough of Dalton, Respondent.

2. Petitioner has *never, at any time*, had control of the property which she owns. The first *thirteen (13) years* involved her attempts to legally end Respondent's *unconstitutional occupation* of her property.

3. On May 5, 2000, Petitioner purchased the property located at 219 Third Street, Dalton, PA (hereinafter known as the Property).

4. Sellers falsely signed a disclosure statement that no flooding occurred on the Property.

5. The Property consists of three surveyed lots which were conveyed as one parcel when purchased in May, 2000.

6. One third of the Property was impassable - heavily overgrown with vines, downed trees and debris which Petitioner intended to clear in anticipation of a possible future lot sale, after obtaining a variance.

7. Hidden from view on that portion of the Property were two enormous pipes, which the Borough of Dalton had illegally installed and hidden on the Property, sometime after 1986. (*This was confirmed by previous owners during Injunction Hearings in May, 2009*).

8. During Trial in August, 2011, Respondent's Engineer testified that the excessive amounts of water artificially directed by pipe to the Property were originating not from only all other properties on Third Street but also the *sixteen (16) acres uphill from Third Street*.

9. *Those sixteen acres contain a newly developing community now known as Huntington Woods, Dalton, PA. (New homes are still being constructed).*

10. The lawsuit filed by her counsel in 2003, before Petitioner became pro-se in 2009, was dismissed by a Judge in Lackawanna County Civil Court, on December 28, 2011.

11. Florimonte, pro-se, appealed to the Commonwealth Court of Pennsylvania, which resulted in overturning of the dismissal of 2011.

12. Respondent was required to remove the pipes from the Property in 2013, but the *Commonwealth Court did not provide compensation for the thirteen (13) years of trespass occupation of the Property as there was no admission of guilt by the Borough of Dalton.*

13. *Despite providing catch basins to surrounding streets which never flood, in 2013, Respondent, in retaliation refuses to install those*

*same protections on Third Street which always floods during heavy rain.*

14. This practice enables Respondent to continue to use the Property as a conduit for disposal of storm water.

15. Warnings, again and again, of the damages to her home and danger to her person, have fallen on Respondent's deaf ears.

16. When the massive amounts of stormwater deluging the Property can no longer be absorbed, water backs up onto Third Street and surrounding properties, *causing dangerous conditions in winter.*

17. Trees killed in the Borough's right of way have fallen on the road, *endangering drivers and pedestrians who travel the roadway.*

18. In actuality, this is a taking as this Court, in ***Arkansas Game & Fish Commission v. United States, 568 U.S. 23 (2012), held:***

Ordinarily, this Court's decisions confirm, if government action would qualify as a taking when permanently continued, temporary actions of the same character may also qualify as a taking.

19. Since the year 2000, Petitioner has been subjected to massive flooding events by Respondent, year after year for the *last 24 years.*

20. Petitioner has been forced into *servitude* by Respondent as the flooding continuously prevents any attempt to sell her home.

21. Additionally, there is the matter of *unwarranted deference* given to governmental entities which have engaged in illegal actions, despite *Transcript testimony by Respondent's own witness, stating that sometime after his purchase of the Property in 1986, he came home from work one day to discover a pipe spewing unrestrained stormwater on the Property*. The witness, complained to Respondent and was told that *unless the 100' x 200' portion of the Property was deeded to Respondent for one dollar (\$1.00), nothing would be done to contain the flooding. (During Injunction Hearings in May, 2009, the previous owner remained unaware of the second pipe installed on the Property after 1986).*

22. This is known as *extortion by government (taking)* and is prohibited by the Constitution of the Commonwealth of Pennsylvania and the Constitution of the United States.

## CONCLUSION

Petitioner's subjection to a continuing trespass, now includes serious injuries sustained during the overwhelming flooding events of September, 2023, that are a direct result of Respondent's retaliatory refusal to provide catch basins to Third Street, and is the very reason

that this Application for an Extension is presented to the Court.

Over time, Petitioner has learned that not just she and her neighbors but *others are similarly affected by government overreach because she has received calls from others requesting her help*, which she cannot provide, as she is not an attorney. Those calls were from plaintiffs who had read Petitioner's Petition for a Writ of Certiorari for Fraud Upon the Court, which was submitted to and published by this Court, in 2019.

To ensure that Petitioner will prevail in an upcoming Complaint for Personal Injury due to continuing trespass, it is imperative that this Court fully settles the Major Question Doctrine of continuing trespass which will reverse the dismissal of the Continuing Trespass Complaint of 2021, so that no doubt is left in the minds of judges of the lower courts (*those who insist that all injuries should be claimed in one lawsuit*) as to the difference between a one-time event, and a continuing trespass - a legal area which causes conflict in the lower appeals courts and a concept which remains unrecognized in the lower federal courts, thus resulting in continuing injuries and harms to private property



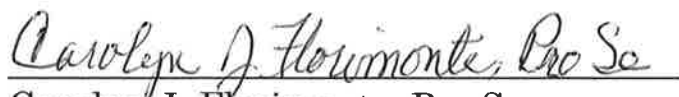
owners and a loophole for local governments, often claiming immunity, which seek to defy both state and federal Constitutions.

This request for an extension of time of sixty additional days to file a Petition for a Writ of Certiorari is presented to the Court more than ten (10) days before the expiration of the ninety (90) day time frame allowed to file.

Further, an extension of time to file will not cause prejudice to Respondents, in comparison, to twenty-four years of using and ravaging Petitioner's Property for purposes of illegally disposing of ever increasing amounts of stormwater from Huntington Woods, Dalton, PA.

***Wherefore for the foregoing reasons,*** Petitioner respectfully requests an order approving a sixty (60) day extension of time to file a Petition for a Writ of Certiorari until April 4, 2024.

Respectfully submitted,



Carolyn J. Florimonte, Pro Se

219 Third Street

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Dalton, PA 18414

(570) 561-0426

**IN THE SUPREME COURT OF PENNSYLVANIA  
MIDDLE DISTRICT**

CAROLYN J. FLORIMONTE,

Petitioner

v.

BOROUGH OF DALTON,

Respondent

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**ORDER**

**PER CURIAM**

**AND NOW**, this 6<sup>th</sup> day of November, 2023, the "**Notice of** Petition for Permission to Appeal or in the Alternative, Application for Extraordinary Relief" is DENIED.

A True Copy Elizabeth E. Zisk  
As Of 11/06/2023

Attest: *Elizabeth Zisk*  
Chief Clerk  
Supreme Court of Pennsylvania

January 10, 2024

Carolyn J. Florimonte  
219 Third Street  
P.O. Box 375  
Dalton, PA

Honorable Associate Justice Elena Kagan  
U. S. Supreme Court  
1 First Street NE  
Washington, DC 20543

Honorable Associate Justice Kagan:

As a person who is 78 years old, and now seriously injured after the September, 2023, flooding event in Dalton, PA, I find it necessary to request an extension of the ninety (90) day requirement to file a Petition for a Writ of Certiorari, as multiple medical visits and procedures have considerably shortened the time to adequately prepare a Petition.

The Borough of Dalton has conducted a supersaturating, continuing trespass flooding of my property whenever there are heavy rains, first by physically occupying my property for thirteen (13) years and now by refusing to provide catch basins to protect my property, despite being warned repeatedly of the peril and distress to me personally.


The U. S. Supreme Court is my last hope of ending the flooding and

damage to my home and property, and the danger in which the flooding has placed me, multiple times a year, year after year, for the last twenty-four (24) years.

Please approve an additional sixty (60) day extension from February 4, 2024, to April 4, 2024, to allow for the delay caused by injury.

*(Order of November 6, 2023, is herein provided).*

Respectfully submitted,

  
Carolyn J. Florimonte, Pro Se

*cc: Mark J. Kozlowski, Esquire*

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Petitioner, Carolyn J. Florimonte, pro-se, hereby certifies that a true and complete copy of the Petitioner's Application for Extension of Time to File Petition for a Writ of Certiorari was filed and served via USPS postage prepaid on January 10, 2024, to:

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Counsel for Respondent: Marshall Dennehey  
Mark J. Kozlowski, Esq.  
P. O. Box 3118  
Scranton, PA 18503

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Petitioner:

  
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DATED: January 10, 2024