



January 15, 2020

Supreme Court of the United States
1 First Street NE
Washington, DC 20543

Re: Extension of Time to File Petition for Writ of Certiorari

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States, and Circuit Justice for the Ninth Circuit,

Pursuant to Rule 13.5, Petitioners Chong and MariLyn Yim, Kelly Lyles, Eileen LLC, CNA Apartments LLC, and Beth Bylund respectfully request a **30-day extension** of time in which to file their petition for writ of certiorari in this Court, to and including **March 13, 2020**. The parties have conferred and the motion is unopposed.

Petitioners will seek review of an opinion of the Washington Supreme Court filed on November 14, 2019, attached as Exhibit A. The time to file a petition of writ of certiorari currently expires on February 12, 2019, and this application has been filed more than ten days before that date. The Court has jurisdiction under 28 U.S.C. § 1257.

This case involves a constitutional challenge to a law adopted by the City of Seattle known as the “first-in-time rule” (Seattle Municipal Code § 14.08.050), which requires landlords to rent to the first applicant who meets the property owner’s pre-established rental criteria. Petitioners, a group of local landlords who own and manage seven rental units or less, brought takings, public use, due process, and free speech claims in Washington state court.

The trial court granted summary judgment to Petitioners on all four claims. The Washington Supreme Court granted direct review and, based on its interpretation and application of “current federal law,” reversed on all claims, overruling 68 state takings and due process precedents in the process. The Washington Supreme Court purported to interpret federal constitutional law in holding that the first-in-time rule did not effect a taking, did not violate the public use requirement, and did not violate due process.¹

The Washington Supreme Court’s decision incorporated by reference a separate opinion issued the same day in a similar case, *Yim v. City of Seattle*, 451 P.3d 694 (2019) (*Yim II*). *Yim II* involves a due process challenge to Seattle’s ban on criminal background checks on rental applicants. *See* Seattle Municipal Code Ch. 14.09. There, the Washington Supreme

¹ Petitioners do not challenge the Washington Supreme Court’s holding that the first-in-time rule does not violate the freedom of speech.

Court held that, under federal law, alienation of property is not a fundamental right and due process claims with respect to restrictions on that right face only minimal rational basis scrutiny. The City of Seattle nonetheless moved for reconsideration, asking the Court to excise two sentences comprised of a direct quote from this Court's decision in *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528 (2005), regarding the proper due process standard. The Court granted that motion on January 9, 2020, which bears on the nature of the questions to be presented in *Yim I*.

The petition to be filed by Yim, et al., in this case will present the Court with important constitutional questions regarding regulatory takings, takings for private use, and the due process of law. The petition will ask whether a law that forbids property owners from selecting their tenants constitutes a taking, whether forcing landlords to give a first-in-time applicant a right of first refusal is a taking for public use, and whether a law found by a trial court to be "unduly oppressive" and broader than necessary deprives Petitioners of property without due process of law.

Petitioners' counsel have significant workloads between now and the current due date of the petition. The obligations of counsel include preparing for oral argument before the Ninth Circuit, drafting appellate briefs in a separate matter before the Ninth Circuit, filing three amicus briefs before this Court, briefing and arguing two motions for preliminary injunction, and fulfilling discovery obligations.

Petitioners therefore request an extension to allow counsel to fully research the issues presented and draft a petition for writ of certiorari that concisely and cogently frames the issue for the Court. The unopposed 30-day extension sought herein will work no hardship on any party, and no action is pending that could be adversely affected by the requested extension of time. Petitioners have requested no previous extension from this Court.

WHEREFORE, Petitioners respectfully request than order be entered extending the time to file a petition for writ of certiorari to and including **March 13, 2020**.

Sincerely,



ETHAN W. BLEVINS
Attorney

Enclosure