No. 20-1214

IN THE
Supreme Court of the United States

FRED J. EYCHANER,
Petitioner,
v.
CITY OF CHICAGO,
Respondent.

On Petition for a Writ of Certiorari to the Appellate Court of Illinois

BRIEF OF LAW PROFESSORS AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

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QUESTIONS PRESENTED

1. Is the possibility of *future* blight a permissible basis for a government to take property in an unblighted area and give it to a private party for private use?

2. Should the Court reconsider its decision in *Kelo v. City of New London*, 545 U.S. 469 (2005)?

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INTEREST OF THE *AMICI CURIAE*[1]

Amici are law professors who study the intersection of eminent domain law with race, class, and wealth. Through their work, *amici* have seen how the takings power, particularly the use of blight or risk-of-future-blight designations, has been used by states to transfer property in poor neighborhoods and communities of color to private enterprises in the spirit of economic progress. *Amici* have an interest in ensuring that the law of eminent domain provides sufficient safeguards to ensure that takings are truly for a public use. Institutional affiliations are included for informational purposes only, the views represented herein represent *amici*'s personal views.

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INTRODUCTION

This is one of the most important eminent domain cases to come before this Court since *Kelo v. City of New London*, 545 U.S. 469 (2005). In the *Kelo*

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[1] No counsel for a party authored this brief in whole or part, and no counsel or party made a monetary contribution to fund the preparation or submission of this brief. No one other than the *amici curiae* and their counsel made any monetary contribution to its preparation and submissions. The parties were given timely notice and consented to this filing.

decision, the Court endorsed an expansive view of the "public use" requirement of the takings clause, whereby governmental transfers of property for the purpose of private economic development can be a valid public use in situations where the taking is non-pretextual and part of a comprehensive development plan. Although the public backlash against that decision resulted in some states enacting restrictions on their own takings authority, these initiatives have not curbed the problem of eminent domain abuse. Most states still broadly authorize transfers of property to private parties where the property in question is deemed "blighted," or, as is the case here, "may become a blighted area," based on vague multifactor tests that are easily manipulated and poorly designed to address the historical concept of "blight." In the instant case, the City of Chicago has attempted to use its takings authority to condemn property that is indisputably *not* blighted and transfer it to a nearby private business, on the theory that the property might become blighted in the future.

This Court has never endorsed a theory of takings that sanctions this type of direct transfer from one party to another. In *Kelo*, the Court recognized the risk that states may try to use their power of eminent domain to transfer property to a private entity, solely because the new owner "will put the property to a more productive use and thus pay more taxes," and it declined to endorse the constitutionality of such a scheme. 545 U.S. at 487. This case squarely presents that scenario. Using its vague and arbitrary statutory power to designate property as at risk of becoming blighted, Chicago has condemned

petitioner's property, despite no evidence that the property poses (or posed) a risk to health or safety (the historical justification for blight designations), and despite the development of the surrounding neighborhood into a vibrant, valuable community.

Across the country, similar designations have been used to condemn entire neighborhoods in the name of economic progress, but they frequently fail to produce the promised economic returns. Historically, blight-related takings disproportionately targeted communities of color as part of a nationwide effort toward "urban renewal," a pattern that continues to this day. Marginalized communities bear the brunt of the eminent domain burden because they lack the political power and the economic resources to resist such takings and protect their property rights. It should come as no surprise that poorer communities are also more likely to satisfy the vague criteria that states and localities have identified as indicating the risk of future blight: older housing structures, greater tax delinquency, diverse property ownership, lack of urban planning, and lower property values, among others. Statutes like the one used here by Chicago are tailor-made to justify property transfers from the poor and politically powerless to the wealthy and politically well-connected.

The Court should grant review in this case to curtail this pattern of eminent domain abuse. It should hold that using easily manipulable risk-of-future-blight designations to transfer property to private parties is not a "public use" authorized by the takings clause. If necessary, it should revisit the decision in *Kelo* to confirm that the type of taking

Chicago is attempting here does not satisfy the public use requirement of the takings clause.

SUMMARY OF THE ARGUMENT

The Court should take up this case to clarify that taking property for private development to prevent future blight is not a valid public use. In the latter half of the twentieth century, the definition of "blight" has evolved to become both broader and vaguer, giving municipalities unchecked authority to classify property as worthy of condemnation. Several states have now gone even further and expanded their understanding of blight to include property that is not blighted but merely "at risk" of becoming so, an even more malleable standard. Because eradication of blight has long been understood to be a public use in itself, declaring property blighted or at risk of blight has become an easy way to condemn property and transfer it to private developers, even in the absence of any other public benefit. These tools have been disproportionately used against poor neighborhoods, communities of color, immigrants, and the elderly, groups which have fewer resources and less political power to resist takings. This Court's intervention is necessary to prevent further eminent domain abuse.

ARGUMENT

I. Blight Designations Are Frequently Used to Justify Taking Property Owned by People of Color and the Economically Disadvantaged.

A. Since the 1950s, the Concept of "Blight" Has Steadily Expanded.

From its origins, the concept of blight has been convoluted and controversial. Beginning in the 1920s and 1930s, states and the federal government initiated projects to purportedly clear "slums" and build public housing. Martin E. Gold & Lynne B. Sagalyn, *The Use and Abuse of Blight in Eminent Domain*, 38 Fordham Urb. L.J. 1119, 1121 (2011). Around the time of World War II, states began authorizing private redevelopment projects to rebuild urban areas. *Id.* Toward that end, the Housing Act of 1949 "allocated millions of federal dollars to localities to buy and reclaim slum properties," and is frequently credited as starting the national "urban renewal" movement. Adam Cohen & Elizabeth Taylor, American Pharaoh: Mayor Richard J. Daley—His Battle for Chicago and the Nation 175 (2000). The concept of blight is a botanical term that was repurposed by redevelopment advocates to describe an area as an economic or social concern to municipalities.

Blight was originally understood to describe poor housing conditions that posed an *actual* threat to health and safety, otherwise called a "slum." The conditions included evident structural defects, health hazards, and insufficient access to air, light, and utilities. However, the concept has always been

nebulous. "The facilitating feature of 'blight' was that it was hard to know precisely what it was and therefore hard to define, yet this very vagueness would make it *easy* to find." Gold & Sagalyn, *supra*, at 1122.

Since the 1950s, states have gradually expanded their utilization of "blight" to encompass a number of vague factors indicating blighted (or potentially blighted) conditions. These include high vacancy rates, perceived urban planning or zoning defects, and inadequate tax generation. In addition, states began using factors not traditionally associated with presently blighted conditions, such as declining property values, on the theory that these factors showed the potential for future blight. These additional characteristics allowed municipalities to sweep a much greater range of property into the orbit of blight-based takings statutes. Many of these criteria described communities that were experiencing *economic* distress but did not present actual health or safety concerns. Declining property values or zoning issues could exist in a wide range of communities. Little empirical evidence supported the view that these conditions telegraphed the future presence of health or safety concerns. Rather than actually define blight in a concrete way, most states opted instead to adopt "a descriptive catalogue of blighted conditions—often pasted verbatim from Progressive-era health or safety statutes." Colin Gordon, *Blighting the Way: Urban Renewal, Economic Development, and the Elusive Definition of Blight*, 31 Fordham Urb. L.J. 305, 312 (2004).

Illinois's statute follows the national pattern. The statute allows the designation of a "conservation area" that "is not yet a blighted area" but "may become a blighted area" based on the presence of at least three of thirteen blighting factors. These factors include such ambiguous and manipulable criteria as "incompatible land-use relationships," structures "ill-suited for the original use," lack of community planning, and areas that are not increasing in value sufficiently quickly to keep pace with the rest of the municipality. *See* 65 Ill. Comp. Stat. 5/11-74.4-3(b). Illinois's statute is typical of many jurisdictions, most of which include factors beyond the presence of structural defects or health hazards to include obsolescent planning, taxation issues, and title problems. *See* Gold & Sagalyn, *supra*, at 1125.

These types of multifactor tests are easy to manipulate, particularly in the majority of states that rely on non-quantitative criteria or allow blight designations based on the presence of a small number of factors. It does not require much imagination to see how an underprivileged community could be characterized as meeting several of these blighting factors, even if the community is thriving. The "amorphous definition of blight," contributes "to the condemnation of properties in the most vulnerable communities." Patricia Hureston Lee, *Shattering 'Blight' and the Hidden Narratives that Condemn*, 42 Seton Hall Leg. J. 29, 31 (2017).

Eliminating blight (and the risk of it) has long been understood to be a valid public use for takings purposes, regardless of what the property is later used for. Thus, states and municipalities have used

their expanded blight designation powers to condemn property and transfer it for private development, regardless of whether that development has any public benefits or alleviates the factors that made the area "at risk of blight" in the first place. More devastating is the fact that even where a project could be understood to have public benefits, those benefits typically do not flow to the property owners who were displaced from their communities during the eminent domain process. Lee, *supra*, at 38.

Moreover, the principles driving blight takings are often self-fulfilling. A governmental determination—or threat of it—that an area is blighted or will be condemned can itself cause physical or economic deterioration of property that is akin to blight. *See* Natalia C. Reyna-Pimiento, *Condemnation Blight as a* Per Se *Taking: Clarifying the Limits of the Government's Power of Eminent Domain Under Florida Law*, 47 Stetson L. Rev. 487, 490-92 (2018). Thus, the very act of designating a property as at risk of becoming blighted can cause property values to decrease and vacancies to rise—typical conditions used to justify condemnation. Even where no formal designation has been made, the ever-present threat of condemnation disincentivizes poorer residents to invest in their communities, which in turn can cause the economic and social distress that is likely to trigger a blight designation.

Over time, "blight" "lost any substantive meaning as either a description of urban conditions or a target for public policy." Gordon, *supra*, at 307. It became "a legal pretext for various forms of commercial tax abatement that, in most settings, divert money from

schools and county-funded social services … to subsidize the building of suburban shopping malls." *Id.* Blight statutes—especially those that authorize takings based on a risk of future blight, like the Illinois statute at play here—give states and localities unfettered latitude to designate virtually any property or neighborhood as in need of intervention in the form of new ownership. They invite arbitrary enforcement, and arbitrary enforcement means that certain communities are more likely to be targets of eminent domain than others.

B. Blight Designations Have Historically Been Used to Target the Underprivileged.

Blight designations have been disproportionately used to condemn property in poor neighborhoods and in communities of color. "Throughout the 1950s and into the 1960s, American cities undertook massive redevelopment projects that cleared large areas," particularly Black neighborhoods surrounding their central business districts. Wendell E. Pritchett, *The "Public Menace" of Blight: Urban Renewal and the Private Uses of Eminent Domain*, 21 Yale L. & Pol'y Rev. 1, 47 (2003). The use of blight takings to raze predominantly Black neighborhoods was so pervasive that the word "blight" itself became "infused with racial and ethnic prejudice." *Id.* at 6. "In cities across the country, urban renewal came to be known as 'Negro removal.'" *Id.* at 47. The end result was the displacement of more than one million people, two-thirds of them Black, as their property was condemned and turned over to private parties for development. *Id.*; Mindy Thompson Fullilove, Eminent Domain & African Americans, What is the

Price of the Commons, Perspectives on Eminent Domain Abuse 3 (2015).

Chicago in particular has a history of using eminent domain proceedings to target poorer, Black communities in the name of urban renewal. Illinois's Redevelopment and Relocation Act of 1947, which gave cities like Chicago the power to condemn slum land using eminent domain and transfer it to private developers, was enacted in part to develop land on Chicago's South Side around the Illinois Institute of Technology—to avoid having it be transformed into racially integrated public housing. *See* Cohen & Taylor, *supra*, at 175. Instead, the area was razed to build Lake Meadows apartments, which substantially increased the white population of the area and replaced a largely poor population with one that was predominately middle class. *Id.* at 176. Nearby, the area around the former Michael Reese Hospital and Medical Center was developed into the Prairie Shores housing complex, which deliberately gave priority housing to hospital staff, rather than nearby residents, to obtain 80 percent white occupancy. *Id.* at 177. Following these projects, the Chicago Central Area Committee began targeting "blighted" areas in downtown for redevelopment, "making it wealthier and whiter in the process." *Id.* at 176-77; *see also id.* at 216-19 (discussing how Chicago's 1958 urban development plan "must be seen now as an important step in a long-evolving process of making Chicago America's most racially segregated large city").

In February 1958, the University of Chicago proposed the Final Plan, an urban renewal project that was designed to reverse the rapidly growing

racial diversity of the surrounding Hyde Park neighborhood. *See* Cohen & Taylor, *supra*, at 206-12. Ostensibly to remove "blight," the plan called for demolishing 20 percent of the neighborhood's buildings and replacing them with open space or new, higher-income housing. With $30 million in federal and local funds, the project razed thousands of residences and largely achieved its goal of forcing poorer, Black residents out of the neighborhood. During the 1960s, average income in the neighborhood increased by 70 percent, while the Black population fell by 40 percent. *Id.* at 212. Meanwhile, the university successfully blocked most attempts to build racially diverse affordable housing, and constructed barrier-type buildings to separate nearby Black neighborhoods from the university's campus. *Id.*

From the 1950s to the 1970s, Chicago continued a pattern of establishing new redevelopment plans that used eminent domain to demolish poor neighborhoods and openly prevent racial integration. The Clark-LaSalle Redevelopment Project spent $10 million of largely federal money to bulldoze blocks of Chicago's Near North Side to create "buffers" for existing white neighborhoods. *Id.* at 529-30. The city's 1967 redevelopment plan called for 1,850 acres of "slum" clearance and other measures to "reduce future losses of white families" from the city. *Id.* at 430-31. The Chicago 21 redevelopment plan, released in 1973, similarly proposed bulldozing Black and Latino neighborhoods south of the Loop in an attempt to draw wealthier white residents back to the downtown area. *Id.* at 528-31. The result is now the Dearborn

Park area, which was designed with no north-south through streets to prevent poorer, Black residents from driving north toward downtown. *Id.*

Chicago was certainly not alone its efforts to use blight designations in this way. Similar projects during the 1960s and 1970s in Pittsburgh, Detroit, Boston, Atlanta, and other American cities targeted neighborhoods for demolition that were disproportionately made up of the poor, the elderly, immigrants, or people of color. *See, e.g., Poletown Neighborhood Council v. City of Detroit*, 304 N.W.2d 455, 470 (Mich. 1981) (discussing the displacement of an entire neighborhood composed of "generally elderly, mostly retired and largely Polish-American residents" for the purpose of building a GM plant). The Federal Housing Act funded 2,532 projects in 992 cities to clear "blighted" neighborhoods between 1949 and 1973. Fullilove, *supra*, at 2. African-Americans were five times more likely to be displaced during these projects than they should have been given their population numbers. *Id.* Nationwide, between 1949 and 1963, "sixty-three percent of all the families displaced by urban renewal were non-white." Derek Werner, *The Public Use Clause, Common Sense and Takings*, 10 B.U. Pub. Int. L.J. 335, 350 (2001).

These practices continue to the present, albeit with less explicitly racist overtones. Even today, blight designations are commonly used to take property in communities of color, particularly in the industrial Midwest and Northeast. *See* Lee, *supra*, at 36-37 (surveying news coverage of blight takings in 2017); *see also* Charles Toutant, *Alleging Race-Based Condemnation*, N.J. L.J. (Aug. 2, 2004),

https://www.law.com/njlawjournal/almID/900005412467/alleging-racebased-condemnation/ (discussing lawsuit by New Jersey property owners alleging redevelopment plans disproportionately affect "low-income, minority neighborhoods with high concentrations of African-Americans and Hispanics"); David Firestone, *Black Families Resist Mississippi Land Push*, N.Y. Times (Sept. 10, 2001), https://www.nytimes.com/2001/09/10/us/black-families-resist-mississippi-land-push.html (discussing taking of property owned for 60 years by Black families in Canton, Mississippi, to make way for a parking lot for a Nissan factory provided with more than $295 million in state tax incentives).

There are several intersecting factors that cause communities of color and the underprivileged to bear the greater burden of blight takings, even setting aside the backdrop of overt racial prejudice that motivated many takings during the middle of the twentieth century. First, marginalized communities lack the political power to prevent their communities from becoming targets for takings in the first place. *See Kelo*, 545 U.S. at 521-22 (Thomas, J., dissenting) (noting that the communities targeted by redevelopment-oriented takings are "the least politically powerful"). Second, poorer communities are prime targets for takings because property values are generally lower, and such communities are less likely to put their property toward its most efficient economic use, reducing the amount of "just compensation" necessary to effect the taking compared to the property's future value. *See id.* at 521 ("[E]xtending the concept of public purpose to

encompass any economically beneficial goal guarantees that these losses will fall disproportionately on poor communities."). Finally, underprivileged communities have fewer resources to resist efforts to purchase their property or litigate eminent domain proceedings. *See* Laura Mansnerus, *Public Use, Private Use, and Judicial Review in Eminent Domain*, 58 N.Y.U. L. Rev. 409, 435-38 (1983) (discussing the difficulty of opposing condemnation proceedings). These intersecting factors make these communities easy political and economic targets.

Recent scholarship has highlighted the compounding negative effects of blight takings on vulnerable communities, which are not fully addressed by existing just compensation schemes. *See Kelo*, 545 U.S. at 521 (Thomas, J., dissenting) ("[N]o compensation is possible for the subjective value of these lands to the individuals displaced and the indignity inflicted by uprooting them from their homes."). Beyond the market value of their properties, razing an entire community disrupts social networks, destroys small businesses, and wastes cultural capital. *See* Lee, *supra*, at 40; *see also* Fullilove, *supra*, at 5. And frequently, prior residents are unable to afford to live in the "revitalized" community. Where one of the locality's stated goals is to improve the tax base, it is axiomatic that lower-income housing will be replaced with businesses and higher-income housing beyond the reach of former residents. Rather than improve the living conditions of the local residents, the primary result of blight-based takings, particularly in Chicago, has been to

displace Black and poor residents from their homes to protect largely white, wealthier neighborhoods.

II. Private Redevelopment of Neighborhoods "At Risk of Future Blight" Is Not a Public Use.

Although Justices of this Court have disagreed about the meaning of the "public use" requirement, not one has ever endorsed the view that it permits the condemnation of property that is indisputably neither "blighted" nor a "slum," solely for the purpose of transferring it to another private owner. Since this Court's decision in *Kelo*, many states enacted restrictions limiting their ability to take property for private economic development. However, states have continued to retain their expansive and amorphous tests for blight takings, leaving a loophole that is easy to exploit. Courts have historically given states virtually unfettered discretion to determine what constitutes "blight," and have generally sanctioned the condemnation of property deemed blighted or at risk of blight regardless of the ultimate intended use for the property, on the theory that any productive use will benefit the public. This has allowed states to condemn large swaths of non-distressed property and turn it over to private economic development, as this case illustrates. The Court should intervene to prevent this ongoing abuse of the eminent domain power.

"Our Constitution places the ownership of private property at the very heart of our system of liberty." Barack Obama, The Audacity of Hope 149 (2006). The Fifth Amendment enshrines that principle by prohibiting the deprivation of property without due

process and "allowing the government to take property not for 'public necessity,' but instead for 'public use.'" *Kelo*, 545 U.S. at 505 (Thomas, J., dissenting). At a minimum, the public use clause has been universally understood by this Court to prohibit "a one-to-one transfer of property, executed outside the confines of an integrated development plan." *Id.* at 487 (majority opinion).

That understanding has become distressingly relaxed when it comes to blight-related takings. In *Berman v. Parker*, the Court addressed the concept of blight takings in the context of an integrated redevelopment plan for an area of Washington, D.C. The Court concluded that because much of the area was "slums," a taking was authorized that not only would clear out the slums, but also prevent their return by redeveloping the area "as a whole." 348 U.S. 26, 34 (1954). Over time, the necessity for an integrated development plan to justify blight takings that encompassed non-blighted areas diminished. "[W]ith few exceptions the courts agreed that, whatever the proposed use of the property in question, elimination of slums was in and of itself a valid public purpose." Mansnerus, *supra*, at 415.

Two critical features that defined the taking in *Berman*—(1) actual conditions posing a threat to health and safety and (2) an integrated development plan that required taking surrounding area to prevent the recurrence of those conditions—are not present in the instant case. No one contends that the property at issue (or the surrounding property) presents any health or safety concerns, and thus the taking cannot be justified as necessary to prevent

health or safety concerns from resurfacing. The only justification offered in this case is that the property in question is part of a "conservation area" that has been identified as at risk of future blight based on the presence of a small number of blight factors.

The public use justifications for the taking in *Berman* cannot support the type of taking the Illinois courts endorsed here. The historical understanding of "blight" sanctioned the removal of "slums" because such housing conditions present an affirmative harm that is damaging to public health and welfare. Such action would be independently justified by the state's exercise of its police power to abate public nuisances. *See Kelo*, 545 U.S. at 510-11, 519-20 (Thomas, J., dissenting). And because the removal of an affirmative harm serves the public interest, transferring the property to virtually any private party that will put it to productive use results in a net public benefit. But that logic evaporates when the property is indisputably *not* blighted and not sufficiently proximate to blighted property to require a taking. In that event, transferring the property to another private owner simply increases the property's value and provides increased tax revenue to the locality.

Some state courts have drawn a line at takings based on the mere potential that the property could become blighted in the future. The most notable example is the Ohio Supreme Court's decision in *Norwood v. Horney*, 853 N.E.2d 1115 (Ohio 2006). The case involved property that the locality had found was not blighted, but merely "deteriorating." *See id.* at 1143-44. Much like the Illinois statute at issue

here, this finding was based on the presence of a number of vague factors that the Ohio Supreme Court acknowledged "could apply to many neighborhoods," including: "incompatible land uses, nonconforming uses, lack of adequate parking facilities, faulty street arrangement, obsolete platting, and diversity of ownership." *Id.* at 1144. The Ohio Supreme Court rejected this multi-factor definition of a deteriorating area as a "standardless standard" that "invite[s] ad hoc and selective enforcement." *Id.* at 1145. It also noted that a taking based on this definition is inherently speculative, because it is based on a finding not that an area is deteriorated or necessarily will deteriorate, but is merely "in danger" of deteriorating. *Id.* The Ohio Supreme Court refused to permit a taking on this shaky foundation. Instead, it held that to justify a blight-based taking, there must be a finding that the property, "because of its existing state of disrepair or dangerousness, poses a threat to the public's health, safety, or general welfare." *Id.*

This Court should grant certiorari in this case and adopt a standard similar to *Norwood*. A taking of property based solely on the speculative conclusion that the property may become blighted in the future is not a permissible use of the eminent domain power. As this case illustrates, speculation often turns out to be wrong; the property that Chicago seeks to condemn here has surged in value since it was first designated a conservation area. Instead, at a minimum, a blight-based taking should require a finding that the property presents an affirmative, present harm to the community because it is dangerous or unsafe. Using

eminent domain on such properties to eliminate the affirmative harm aligns with states' longstanding police power to abate nuisances. It also better protects property rights and the expectations of property owners, who can take steps to avoid condemnation by removing the offending conditions. Right now, the conscientious owner of a well-maintained property is powerless to forfend a determination that the property may be condemned because it is at risk of becoming blighted.

Unless the Court intervenes, no property will be safe from speculative takings justified by nothing but the debatable conclusion that the property could become blighted in the future. This case illustrates the problem. Eychaner's property is not blighted, and the City's prediction that it was at risk of blight has obviously borne out to be false. The property has enormous potential value, and transferring it to a nearby private business solely for use by that business does not serve any public purpose. Indeed, the transfer could even *reduce* the value of the property if it is not put to its highest-performing use. This taking does nothing to reduce or eliminate blight, and barely even purports to do so.

As noted above, people of color, immigrants, the elderly, and the poor will disproportionately suffer if such taking are allowed to continue. Many of the factors used in Illinois and other states to classify property as at risk of blight are similar to those rejected in *Norwood* because they could be used to describe any neighborhood, inviting arbitrary enforcement against the most vulnerable populations. For instance, the Illinois statute identifies

"deterioration" as a blighting factor, but defines it so broadly as to include defects in "gutters and downspouts" and "weeds protruding through paved surfaces." 65 Ill. Comp. Stat. 5/11-74.4-3(b)(3). To the extent the factors in the statute describe anything quantitative, such as property values that are not increasing at a sufficient rate, 65 Ill. Comp. Stat. 5/11-74.4-3(b)(13), those factors are highly correlated with wealth. All of them facilitate the disproportionate use of these statutes to take property from the poor and give it to wealthier developers.

This Court should not sanction an eminent domain scheme that permits takings purely for economic gain justified by nothing but speculation and arbitrary enforcement. A locality's desire to generate more tax revenue through a property is not a public use sufficient to abrogate the foundational right to property protected by the takings clause. This country's long history of abusing eminent domain to displace vulnerable groups in the name of economic progress counsels against giving states this arbitrary power. The Court should take up this case and clarify that transferring property to a private party for the sole purpose of preventing the risk of future blight is not a valid public use, absent actual conditions affecting public health and safety. If necessary, it should revisit its holding in *Kelo* to clarify the meaning of the public use requirement.

CONCLUSION

For the foregoing reasons, the Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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