

No. 22-166

In the Supreme Court of the United States

GERALDINE TYLER, on behalf of herself
and all others similarly situated,
Petitioner,

v.

HENNEPIN COUNTY, and
MARK V. CHAPIN, Auditor-Treasurer in his
official capacity,
Respondents.

On Petition for Writ of Certiorari to The United States
Court of Appeals for the Eighth Circuit

**BRIEF OF AMICI CURIAE AARP AND AARP
FOUNDATION SUPPORTING PETITION FOR
WRIT OF CERTIORARI**

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STATEMENT OF INTEREST¹

It is undisputed that Minnesota tax authorities, to collect a \$15,000 property tax debt from ninety-three-year-old Geraldine Tyler, seized all \$40,000 of the equity in her modest condominium, keeping \$25,000 for public use. The State offered no compensation in return. This shocking result was no aberration under present Minnesota law. Minnesota *requires* that the excess be seized for public use. Minn. Stat. §§ 282.07-08.

A further shocking fact is that Minnesota is not alone in this regard. While most states protect homeowners' "surplus equity" against foreclosure, as many as a dozen states permit the seizure of homeowners' entire equity to pay modest property tax debts.² Some states, like Minnesota, directly seize the

¹ Pursuant to the Court's Rule 37.6, amici state that this brief was not authored in whole or part by any party or its counsel and that no person other than amici, their members, or their counsel contributed any money that was intended to fund the preparation and submission of this brief. Pursuant to this Court's Rule 37.2(a), amici provided all counsel of record with timely notice of the intent to file this brief ten days or more before its due date. A letter by petitioner consenting to the filing of the amicus brief is on file with the Court. Respondents Hennepin County and Mark V. Chapin also have consented.

² Tyler Petition for Writ of Certiorari (No. 22-166) (hereinafter "Tyler Pet.") at 30-31.

money for government coffers; others, like Nebraska,³ get paid by selling tax liens to private investors and permitting *them* to seize the excess equity as profit if the debt remains unpaid. Jenna Christine Foos, *State Theft in Real Property Tax Foreclosure Procedures*, 54 Real. Prop. Tr. & Est. L.J. 93, 133 n.32 & 56 (2019). Either way, homeowners lose home equity that they, not the government or private investors, earned through years of financial sacrifice. Nevertheless, an Eighth Circuit panel upheld the constitutionality of the Minnesota statute. *Tyler v. Hennepin Cnty.*, 26 F.4th 789 (8th Cir. 2022).

Amici strongly support Tyler’s petition asking that the Court accept review of the case and condemn the Minnesota law as violating the Constitution’s Fifth Amendment Takings Clause (“Nor shall private property be taken for public use, without just compensation.”)⁴ Such laws are of extreme concern to amici AARP and AARP Foundation, given their devastating and disproportionate impact on the financial security of older adults. AARP is the nation’s largest nonprofit, nonpartisan organization dedicated to empowering Americans 50 and older to choose how they live as they age. With nearly 38 million members and offices in every state, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, AARP works to strengthen communities and advocate for what

³ Amici also have filed an amicus brief supporting a Petition for Writ of Certiorari in a case addressing the constitutionality of Nebraska’s tax lien regime. *Fair v. Continental Res.*, No. 22-160.

⁴ U.S. Const. amend. V.

matters most to families, with a focus on financial stability, health security, and personal fulfillment. AARP's charitable affiliate, AARP Foundation, works to end senior poverty by helping vulnerable older adults build economic opportunity and social connectedness.

Amici's efforts have included filing amicus briefs in state and federal court on this precise issue.⁵ Amici agree with Petitioner Tyler that review by the Supreme Court is needed to settle the deep and growing split among the lower courts about whether the Fifth Amendment's Takings Clause prevents government from seizing property tax debtors' home equity in excess of the taxes, penalties, interest, and costs that are owed. Tyler Pet. at 18-21 (conflicts with Supreme Court precedent); 21-24 (conflicts in federal and state courts).⁶

SUMMARY OF ARGUMENT

First, amici urge the Court to consider the larger policy consequences of one specific aspect of the Eighth Circuit panel opinion – the inappropriate

⁵ Cases in which AARP and AARP Foundation filed amicus briefs in support of the homeowner include *Knick v. Township of Scott*, 139 S. Ct. 2162 (2019); *Tyler v. Hennepin Cnty.*, 26 F.4th 789 (8th Cir. 2022); *Wayside Church v. Van Buren Cnty.*, 847 F.3d 812 (6th Cir. 2017), *cert. denied*, 138 S. Ct. 380 (2017); *Coleman v. District of Columbia*, 70 F. Supp.3d 58 (D.D.C. 2009); *Rafaeli, LLC v. Oakland Cnty.*, 952 N.W.2d 434 (Mich. 2020).

⁶ Amici address herein only the Takings Clause claims raised by Plaintiffs-Appellants.

burden of proof it places on homeowners to meet the threshold showing that they possessed a property interest in their own home equity. Here, Ms. Tyler, citing an abundance of statutory and common law, proved that this obvious right had existed for over a hundred years in Minnesota. The panel conceded as much, but then held that the very statute at issue – alleged to be unconstitutional – “abrogated” that right: “[E]ven assuming Tyler had a property interest in surplus equity under Minnesota common law as of 1884, she has no such property interest under Minnesota law today.” *Tyler*, 26 F.4th at 793. This approach offends Takings Clause jurisprudence. *See Phillips v. Washington Legal Found.*, 524 U.S. 156, 167 (1998) (Nor can the government “by *ipse dixit* . . . transform private property into public property without compensation simply by legislatively abrogating the traditional rule.”) (internal quote omitted).

Second, amici ask the Court to consider the human cost of such laws for the nation’s older citizens in particular. Inevitably, those laws will have a disproportionate impact on older homeowners of modest means. These homeowners are most at risk of property tax foreclosure in the first place, often for reasons beyond their control. Many live on low fixed incomes and face steadily rising utility and medical costs, suffer physical ailments, and are forced to navigate complex financial waters, such as reverse mortgages, without financial advice. Moreover, for them, tax authorities’ seizure of all of their home equity is nothing short of catastrophic. That equity in

their home often is their only sizeable financial asset. And, unlike their younger counterparts, many older citizens no longer have the option of re-entering the workforce to try to recoup the loss.

ARGUMENT

I. The Eighth Circuit Panel Decision Imposes a Harsh Test of Property Rights in Surplus Equity at Odds with Supreme Court Jurisprudence, State Law, and Common Sense.

Geraldine Tyler had purchased a condo in Minneapolis and, after moving to a rental for safety reasons, failed to pay a property tax debt of \$15,000. As required by statute, Hennepin County, on behalf of the State, took title to the entire property, giving notice of a three-year right of redemption if the debt were repaid. At the expiration of the period, Hennepin County sold the property for \$40,000 and kept the \$25,000 surplus for itself. The Minnesota collection statute contains detailed provisions on the public uses to which Ms. Tyler's funds could be applied, including county parks, schools, and county and city budgets. Minn. Stat. §§ 282.07-08.

Tyler challenged the County's seizure of her property on several grounds, including the Takings Clause of the Fifth Amendment. To prove the obvious – that she possessed a property right in the surplus

equity in her own home⁷ – Tyler in the Eighth Circuit pointed to English and American treatises;⁸ U.S. Supreme Court decisions;⁹ a wide variety of supportive federal and state court opinions; and the fact that most states expressly protect this right. On the Minnesota front, Tyler further pointed to a persuasive early Minnesota Supreme Court decision *Farnham v. Jones*, 19 N.W. 83, 85 (1884) (“right to the surplus exists independently” of the property tax collection provisions at issue). She also pointed to Minnesota statutes that, in analogous contexts, treat home equity as private property and require the refund of surplus equity.¹⁰

⁷ See *Phillips v. Washington Legal Found.*, 524 U.S. 156, 164 (1998) (“Because the [Takings Clause] protects rather than creates property interests, the existence of a property interest is determined by reference to existing rules or understandings that stem from an independent source such as state law.”).

⁸ Two of many examples included Am. Jur. 2d State and Local Taxation § 911 (1974) (“Any surplus remaining after the payment of taxes, interest, costs, and penalties must ordinarily be paid over to the landowner.”) and 2 William Blackstone, Commentaries *452 (when officials seize property for delinquent taxes, “they are bound, by an implied contract in law” to return it if the debt is paid before sale, or to sell it and “render back the overplus”).

⁹ See, e.g., *United States v. Taylor*, 104 U.S. 216, 219, 221-22 (1881) (construing tax collection statute to hold former owner entitled to surplus proceeds from the sale of his tax delinquent property).

¹⁰ See, e.g., Minn. Stat. Ann. § 580.10 (surplus proceeds from mortgage foreclosure after paying debts returned to former owner); *id.* § 550.20 (“No more shall be sold than is sufficient to

Given the self-evident nature of Ms. Tyler's property right, those sources should have been more than enough for the Eighth Circuit. The panel, in fact, conceded the probable earlier existence of the right in common law. However, the panel, with breathtaking circular logic, then held that the very statute alleged to be unconstitutional in this case "abrogated" that right. With no note of the irony, the panel stated:

We conclude that any common-law right to surplus equity recognized in *Farnham* has been abrogated by statute. In 1935, the Minnesota legislature augmented its tax-forfeiture plan with detailed instructions regarding the distribution of all "net proceeds from the sale and/or rental of any parcel of forfeited land." 1935 Minn. Laws, ch. 386, § 8. The statute allocated the entire surplus to various entities but allowed for no distribution of net proceeds to the former landowner. The necessary implication is that the 1935 statute abrogated any common-law rule that gave a former landowner a right to surplus equity.

Tyler, 26 F.4th at 793.

satisfy the execution"); *id.* § 336.9-608 (recognizing equity as proper subject of marital property division).

Of course, this begged the question before the court – was that “abrogation” constitutional? Was it a “tak[ing] for public use, without just compensation?” The panel, seeing no issue, proceeded to detail the exact “public uses” to which Ms. Tyler’s funds could be put, such as forest development, school funding, and padding city and county budgets. To the panel, the statute’s detailed accounting was merely further evidence that “even assuming Tyler had a property interest in surplus equity under Minnesota common law as of 1884, she has no such property interest under Minnesota law today.” *Id.*

The panel’s approach offends both common sense and Fifth Amendment Takings jurisprudence. First, it implies that even an unconstitutional statute can serve as the last word on the existence of the property right. This cannot be the law. In *Rafaeli, LLC v. Oakland Cnty.*, 952 N.W.2d 434 (Mich. 2020), the Michigan Supreme Court struck down a similar state law, addressing the “abrogation” point:

It is clear that our 1963 Constitution protects a former owner's property right to collect the surplus proceeds following a tax-foreclosure sale under Article 10, § 2. This right existed at common law; was commonly understood to exist in the common law before the 1963 ratification of our Constitution; and continues to exist after 1963 . . . *Because this common-law property right is constitutionally protected by our state's Takings Clause,*

the Legislature's amendments of the GPTA could not abrogate it. While the Legislature is typically free to abrogate the common law, it is powerless to override a right protected by Michigan's Takings Clause. [emphasis added]

Rafaeli, 952 N.W.2d at 460; *see also Phillips v. Washington Legal Found.*, 524 U.S. 156, 167 (1998) (Nor can the government “by *ipse dixit* . . . transform private property into public property without compensation simply by legislatively abrogating the traditional rule.”) (internal quote omitted).

The panel’s elevation of the offensive debt collection statute as the litmus test for the existence of this property right – versus an abundance of common and statutory law – is particularly inappropriate given the intuitive nature of this property right. If this were a traditional mortgage foreclosure, it would not even occur to American homeowners that the lender possibly could seize home equity more than twice the size of the debt. The panel’s casual dismissal of Ms. Tyler’s proffered evidence severely undermines the Constitution’s promise that “the government’s power to redefine [property rights is] necessarily constrained by constitutional limits.” *Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1014 (1992); *see also First Eng. Evangelical Lutheran Church of Glendale v. Los Angeles Cnty., Cal.*, 482 U.S. 304, 314 (1987) (The Takings Clause “places a condition on the [government’s] exercise of” the power to take private property in the first instance).

The Supreme Court has made clear that, under the Takings Clause, the government has no more right to redefine the homeowner’s property right than does a private mortgage lender. States cannot lawfully extinguish established property rights with a wave of the legislative wand, *Webb’s Fabulous Pharmacies, Inc. v. Beckwith*, 449 U.S. 155, 164 (1980) (the State of Florida cannot “transform private property into public property without compensation” by simply recharacterizing interest in funds held by the court as “public money”); *Armstrong v. United States*, 364 U.S. 40, 44-45 (1960) (ship contractor property rights do not “vanish into thin air” just because Government seeks to collect its own debt). When the government physically takes possession of an interest in property for some public purpose, it has a categorical duty to compensate the former owner. . . .” *Tahoe-Sierra Pres. Council v. Tahoe Reg’l Plan. Agency*, 535 U.S. 302, 322 (2002) (citation omitted).¹¹

Petitioner observes that the high courts of Michigan, Minnesota, Mississippi, New Hampshire,

¹¹ Here, unlike some cases, there is no genuine disagreement that there was an act of “taking.” “[W]hen the government commands the relinquishment of funds linked to a specific, identifiable property interest such as a . . . parcel of real property, a ‘*per se* [takings] approach’ is the proper mode of analysis” *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595, 614 (2013) (quoting *Brown v. Legal Found. of Wash.*, 538 U.S. 216, 235 (2003); see also *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 430, 436 (1982) (holding that the government’s taking physical control over a property interest for public use is a taking *per se*).

Vermont, and Virginia – plus federal district courts in Michigan, Ohio, and West Virginia – have recognized that the government acts unconstitutionally when it forecloses on property to collect delinquent taxes or related debts and keeps more than it is owed. Tyler Pet. at 19-20.¹² Amici respectfully recommend that the Court accept this case for review and resolve the split in the lower courts.

II. Older Homeowners Face a Disproportionate Risk of Experiencing Severe Harm Due to Tax Foreclosures.

Homeownership is the lynchpin of well-being for older Americans. As of the fourth quarter of 2020, approximately 28 million (80.2 percent) of 34.93 million householders over age 65 owned their homes. Indeed, “[o]lder Americans often use[] their home equity in retirement to finance health care, home maintenance, and other large expenses and as a safety net that could be used to meet unexpected needs.” Lori A. Trawinski, *Nightmare on Main Street: Older Americans and the Mortgage Market Crisis*, AARP Pub. Pol’y Inst. 3 (July 2016), <https://bit.ly/3lU9mwJ>. “For most older people, the home is . . . their most valuable asset.” *Id.*

¹² In two further New York and District of Columbia federal court cases, plaintiffs’ allegations that government’s seizure of surplus equity was unconstitutional survived motions to dismiss. *Dorce v. City of New York*, No. 19-cv-2216, _ F.Supp.3d _, 2022 WL 2286381, at *12 (S.D.N.Y. June 24, 2022); *Coleman through Bunn v. D.C.*, No. 13-1456, 2016 WL 10721865 *2-3 (D.D.C. June 11, 2016).

Yet, for many reasons, older people face disproportionate risk of losing their homes to tax foreclosures. These include fixed incomes, rising costs, higher incidence of disability, and having no escrow account to cover property taxes (because owners have no mortgage payment or have a subprime or reverse mortgage). John Rao, *The Other Foreclosure Crisis: Property Tax Lien Sales*, Nat'l Consumer Law Ctr. at 5, 8-10 (Jul. 2012), <http://bit.ly/1MLTZMc> (hereafter "*The Other Foreclosure Crisis*"); Odette Williamson & Jillian McLaughlin, *Tax Lien Sales Put Low-Income, Seniors, and the Disabled at Risk of Foreclosure*, 34 *Bifocal* 1 (Oct. 2012), <https://bit.ly/2VgQhtJ> (hereafter "*Williamson & McLaughlin, Tax Lien Sales*").

Thus, it is Minnesota's older, most vulnerable citizens who are most likely to be victimized by Minnesota's tax foreclosure law and feel the effects most strongly. Home equity is a fundamental source of family stability and financial security for this population. William M. Rohe & Mark Lindblad, *Reexamining the Social Benefits of Homeownership after the Housing Crisis*, Harv. Univ. Joint Ctr. for Hous. Studs. (Aug. 2013), <https://bit.ly/3sscWAD>.

A. Older homeowners face extraordinary economic pressures that make them disproportionately vulnerable to tax foreclosures.

Rising costs, coupled with low income, play a significant role in making many older people extremely vulnerable to losing their homes through tax foreclosures. U.S. Dep't of Hous. and Urb. Dev., *Aging in Place: Facilitating Choice and Independence*, (Fall 2013), <https://bit.ly/3rloGDH>. One problem is that a growing share of older households are carrying housing and other debt into their retirement years. Whitney Airgood-Obrycki et al., *Housing America's Older Adults 2019*, Joint Ctr. For Hous. Stud. Of Harv. Univ. 7 (Marcia Fernald ed., 2019), <https://bit.ly/31mEETO>. In 2016, 46 percent of homeowners aged 65-79, and 26 percent of homeowners over 80, had mortgage debt. *Id.*

Older adults who own their homes also have other significant housing related costs, including taxes, utilities, insurance, and repairs and maintenance; yet, such costs are often difficult to afford for older adults who no longer work and have limited retirement income. *Id.* at 6-7. More than one in four homeowners 65 and older is cost-burdened (paying more than 30 percent of income for housing). *Id.* at 8. That percentage is even greater among homeowners still paying off mortgage debt, with 43 percent of homeowners 65 and older having cost burdens. *Id.* Older adults with housing cost burdens may cut back on other necessary budget items – in

2018 burdened households in the bottom quartile of expenditures spent only \$195 a month on food, while those without burdens spent an average of \$368. *Id.* at 9. Similarly, they spent 50% less on average for out-of-pocket healthcare than those without burdens. *Id.*

Older persons also are more likely to take on debt to aid or pay the debts of a family member, thereby making them more vulnerable in adverse economic conditions. *Id.* at 8. As basic expenses such as housing, utilities, prescription drugs, and health care continue to rise, many people now enter their retirement years incurring costs for basic needs that exceed their modest or limited incomes.¹³ Increasingly, this includes their own, or family members', school debt. The share of households aged 50-64 with student loan debt doubled from 7 percent of households in 2001 to 16 percent in 2016. *Id.* at 7-8.

Older Minnesota homeowners also may be suffering lingering financial effects from losses during the COVID-19 pandemic. In 2020 aggregate retirement deficits had been projected to increase by 11.2% or \$412.77 billion.¹⁴ Many older adults have

¹³ Jack VanDerhei, *Retirement Savings Shortfalls: Evidence from EBRI's 2019 Retirement Security Projection Model*®, Emp. Benefit Rsch. Inst. (Mar. 7, 2019), <https://bit.ly/2NULnps>.

¹⁴ Jack VanDerhei, *Impact of the COVID-19 Pandemic on Retirement Income Adequacy: Evidence from EBRI's Retirement Security Projection Model*®, Emp. Benefits Rsch. Inst. (Apr. 23, 2020), <https://bit.ly/3cpihTN>.

lost income because of the pandemic, with 21 percent of homeowners over age 65 reporting loss of employment income in 2020. Jennifer Molinsky, *Ten Insights About Older Households from the 2020 State of the Nation's Housing Report*, Joint Ctr. for Hous. Studs. of Harvard Univ. (Dec. 17, 2020), <https://bit.ly/3w2iMew>. Five percent of older homeowners reported having fallen behind on housing payments. *Id.* Initial job losses from the pandemic hit older adults harder than similarly situated younger workers. Kenneth Terrell, AARP, *Unemployment's Toll on Older Workers Is Worst in Half a Century* (Oct. 21, 2020), <https://bit.ly/3c3hDLK>. During the first six months of the COVID-19 pandemic, workers aged 55 and older were 17 percent more likely to lose their jobs than employees a few years younger. *Id.*

Finally, economic security is particularly tenuous for older people in the lowest income brackets, who suffer hunger or food insecurity due to income shortfalls. An estimated 5.3 million seniors, or 7.3% of the U.S. senior population, were food insecure in 2018. James P. Ziliak & Craig Gundersen, *The State of Senior Hunger in America in 2018*, Feeding America 4 (May 21, 2020), <https://bit.ly/3d5SZte>. “[F]or those with incomes below the poverty line, 29.5% were food insecure.” *Id.*

In sum, it is older Minnesota citizens of modest means, struggling with chronic income shortfalls, who are most likely to struggle paying their property taxes. That means they also are the group most likely to lose

all the equity surplus in their homes as a result of Minnesota's confiscatory property tax foreclosure law.

B. Many older people are at risk of tax foreclosures because they no longer pay their taxes into an escrow account.

For many people with a mortgage, a portion of their property taxes is collected with their monthly payment and held in an escrow account until the taxes are due. At that time, the mortgage servicer pays taxes directly to the taxing authority. Ironically, paying off one's mortgage – a potential sign of greater economic security – often plays a significant role in greater vulnerability to tax delinquency and tax foreclosure. Williamson & McLaughlin, *Tax Lien Sales, supra*. Upon paying off a mortgage, homeowners assume responsibility for setting aside sufficient funds to pay taxes when they come due and for making payment themselves. This adjustment can create significant problems for older homeowners, particularly for those who have difficulty with financial decision making or have diminished capacity or disabilities. They may not understand the process, inadvertently miss payment dates, or be unable to set aside sufficient funds to pay tax bills when required. *Id.*

Similarly, homeowners who have reverse or subprime mortgage loans face challenges paying their taxes. Reverse mortgages, a product largely serving older homeowners, generally do not feature escrow

accounts for taxes. Hence, as with older homeowners who no longer make mortgage payments, those with reverse mortgages must manage tax (and insurance) payments on their own.¹⁵ “[A] lack of understanding that they were required to pay these charges” was “the most significant factor” for the recent surge in (mostly older) reverse mortgage borrowers “losing their homes to foreclosure.” Sarah B. Mancini & Odette Williamson, *Reversing Course: Stemming the Tide of Reverse Mortgage Foreclosures Through Effective Servicing and Loss Mitigation*, 26 Elder L.J. 85, 102 (2018) (citing 2012 Report to Congress by the Consumer Financial Protection Bureau).¹⁶ In

¹⁵ Reverse mortgages insured through the Home Equity Conversion Mortgage (HECM) Program permit borrowers 62 years or older to obtain a lump sum or line of credit based on the value of their home. They are not required to make payments on the reverse mortgage while they continue to live in the home, but they must carry hazard insurance and make tax payments. Reverse mortgage servicers are required to protect the security for the mortgage by paying property tax on the borrower’s behalf if taxes become delinquent. This shifts to the borrower the risk of foreclosure, as HUD requires the servicer to declare the mortgage due and payable if the borrower does not repay property taxes advanced. See U.S. Dep’t of Hous. and Urb. Dev., *Home Equity Conversion Mortgage (HECM) Financial Assessment and Property Charge Requirements*, Mortgagee Letter 2014-22 (Nov. 10, 2014), <http://1.usa.gov/1MYKrnM>.

¹⁶ In November 2016, HUD reported nearly 90,000 reverse mortgages in default on property charges, mostly consisting of tax or insurance shortfalls. *Id.*; see also Ctr. for NYC Neighborhoods, *Policy Brief: Protecting Senior Homeowners from Reverse Mortgage Foreclosure*, (Aug. 2017), <https://bit.ly/3w7wF1o> (reporting that “[n]ationwide, reverse

addition, “the vast majority of subprime mortgage loans made prior to 2008 did not include an escrow account”; indeed, “[s]ome lenders used the lower monthly loan payment to induce consumers into believing the loans were affordable.” *The Other Foreclosure Crisis*, *supra* at 5.

C. Older homeowners are at increased risk of losing their home to a tax foreclosure because they have a significantly higher incidence of disability and associated incapacity.

“Homeowners most at risk [of losing their homes to tax foreclosure] are those who have fallen into default because they are incapable of handling their financial affairs, such as individuals suffering from Alzheimer’s, dementia, or other cognitive disorders.” *The Other Foreclosure Crisis*, *supra* at 5. The risk of having such disorders increases exponentially with advancing age. Stacey Wood & Peter A. Lichtenberg, *Financial Capacity and Financial Exploitation of Older Adults: Research Findings, Policy Recommendations and Clinical Implications*, 40 *Clinical Gerontologist* 3-13 (2017); Peter Boersma, Lindsey I. Black & Brian W. Ward, *Prevalence of Multiple Chronic Conditions Among US Adults, 2018*, 17 *Preventing Chronic Disease* 1-4 (2020).

mortgage defaults from taxes and insurance doubled from 2015 to 2016”).

The factors that make many older people particularly vulnerable to becoming delinquent on their taxes also make them least able to save their homes and avoid the devastating loss of their equity. Some will be forced into nursing homes prematurely, and others may be forced to rely on government benefits. The Fifth Amendment Takings Clause was designed to prevent such effects of the “arbitrary use of governmental power.” *Webb’s Fabulous Pharmacies, Inc.*, 449 U.S. at 164.

CONCLUSION

For the reasons set forth above, amici curiae AARP and AARP Foundation urge the Court to grant Geraldine Tyler’s Petition for Writ of Certiorari.

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Respectfully submitted,

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