

No. 25-1163

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IN THE  
**Supreme Court of the United States**

CARLOS PENA,

*Petitioner,*

v.

CITY OF LOS ANGELES, CALIFORNIA,

*Respondent.*

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

BRIEF OF LEO LECH, KIMBERLY LAYSON,  
AND STEPHEN RANIERI AS *AMICI CURIAE*  
IN SUPPORT OF PETITIONER

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## INTEREST OF THE *AMICI CURIAE*<sup>1</sup>

*Amici* are individuals who, through no fault of their own, had their homes severely damaged by law enforcement SWAT raids intended to apprehend criminal suspects.

*Amicus* Leo Lech lives in Greenwood Village, Colorado. In 2015, law enforcement officers destroyed his home while apprehending a crime suspect who had barricaded himself inside the home. As discussed further below, Greenwood Village did not compensate Lech for the destruction—leaving him to personally bear a significant cost as a result of the government’s actions.

*Amici* Kimberly Layson and Stephen Ranieri live in Las Vegas, Nevada. In 2025, their home was subject to a destructive SWAT raid while the police were searching for a suspect who had lived in the home at least five years earlier, before Layson purchased the home. Las Vegas agreed to compensate them for the property destruction.

*Amici*’s stories illustrate that government officers’ destruction of homes and other property is an important problem affecting homeowners across the country. Government raids can leave properties severely damaged, if not altogether destroyed. As a result, uncompensated raids can impose significant or even crippling costs on innocent homeowners. *Amici* want to

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<sup>1</sup> Pursuant to this Court’s Rule 37.6, counsel for *amici curiae* certifies that this brief was not authored in whole or in part by counsel for any party and that no person or entity other than *amici curiae* or their counsel has made a monetary contribution intended to fund the preparation or submission of this brief. All parties have received timely notice of *amici*’s intent to file.

ensure that other similarly situated property owners can secure relief under the Fifth Amendment.<sup>2</sup>

### INTRODUCTION AND SUMMARY OF ARGUMENT

Leo Lech was on track to retire by sixty. That all changed, however, when police officers destroyed his home while pursuing a crime suspect who did not have any connection to Lech and his family. The government refused to compensate Lech for the destruction of his home, leaving Lech to bear substantial costs of rebuilding. As a result, Lech has had to push back his expected retirement date by five years.

Kimberly Layson and Stephen Ranieri suffered more than \$30,000 of property damage when a SWAT team descended on their home. Like Lech, Layson, Ranieri, and their family had nothing to do with the suspect. Rather, law enforcement officers were searching for a suspect who had lived at that address at least five years earlier, before Layson purchased the home.

The Takings Clause of the Fifth Amendment protects property owners when property is taken for public purposes. But *amici* live in circuits that have held that the Takings Clause categorically would not apply to the government's destruction of their homes. Pet.App. 32a; *Lech v. Jackson*, 791 F. App'x 711, 712 (10th Cir. 2019). Had *amici* just so happened to live in other parts of the country, the government officers' destruction of their homes could give rise to a claim under the Takings

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<sup>2</sup> *Amici* are also filing this *amicus* brief in *Hadley v. City of South Bend*, No. 25-1158 (U.S. filed Apr. 6, 2026), another pending petition for *certiorari* presenting this question.

Clause. *See, e.g.*, Pet. at 7-13; *see also Hadley v. City of South Bend*, No. 25-1158, Pet. at 8-12.

*Amici*'s stories underscore the real consequences of the circuit split at issue in this petition. Compensation currently hinges on where in the country the destroyed property is located and on the discretion of local governments. Lech filed suit under the Takings Clause following the government's destruction of his home, but the Tenth Circuit held that law enforcement destruction of property does not give rise to a Takings Clause claim. *Lech*, 791 F. App'x at 712. Lech therefore was forced to bear a grievous financial injury. Layson and Ranieri, in contrast, received compensation for the damage to their home because Las Vegas voluntarily agreed to compensate them. The difference between these two outcomes was the product of government discretion rather than constitutional compulsion.

This is an important and recurring issue. Law enforcement officers are carrying out SWAT raids—often using equipment that can damage or destroy property—with increasing frequency throughout the country. To be sure, in some cases, SWAT activity may be warranted or necessary to protect the public or achieve other important government purposes. But that does not answer the question of whether the Takings Clause requires just compensation when the government destroys the home or property of an innocent person. As Justice Sotomayor and Justice Gorsuch explained in another case raising this same issue, this is an “important question that has divided the courts of appeals.” *Baker v. City of McKinney*, 145 S. Ct. 11, 11 (2024) (Sotomayor, J., and Gorsuch, J., statement in dissent from denial of *certiorari*).

The text of the Takings Clause, this Court's precedents, and the historical evidence demonstrate that just compensation is required. This Court has repeatedly invalidated government actions that force property owners to bear "public burdens which, in all fairness and justice, should be borne by the public as a whole." *Armstrong v. United States*, 364 U.S. 40, 49 (1960). The Fifth Amendment's mandate of just compensation requires the government to internalize the costs of its actions and spread them throughout the community. And, as a historical matter, compensation was optional only in rare circumstances not applicable here.

The protection of property is sacrosanct to our constitutional order. Our homes are the "first among equals" warranting protection against government intrusion. *Florida v. Jardines*, 569 U.S. 1, 6 (2013). While the government sometimes must destroy property for public purposes, the Fifth Amendment serves as a critical backstop to preserve property rights. The petition for *certiorari* should be granted.

**ARGUMENT****I. *Amici's* Experiences Underscore the Importance of this Issue.****A. Leo Lech**

On June 3, 2015, a Walmart employee in Aurora, Colorado, phoned the police to report a suspected shoplifter. When police arrived, however, the suspect fled the scene in a vehicle. A pursuing officer later found the suspect fleeing on foot near the border of Greenwood Village, a nearby town.

Shortly thereafter, the suspect broke into the Greenwood Village home owned by Lech and his family. It is unclear why the shoplifter selected their house, as Lech and his family members did not know the suspect. A nine-year-old boy was in the home when the intruder forced his way inside, but the boy left the house upon seeing the intruder. The house was occupied solely by the suspected shoplifter by the time the Greenwood Village police officers arrived.

The officers surrounded the home and were shot at by the suspect. A standoff ensued. Officers were instructed to “take as much of the building as needed without making the roof fall in.” *Lech v. Jackson*, No. 16-cv-01956, 2018 WL 10215862, at \* 3 (D. Colo. Jan. 8, 2018) (quoting cited authority), *aff'd*, 791 F. App'x 711 (10th Cir. 2019).

Officers fired two 40 mm rounds of cold gas munitions, contaminating the family's personal belongings in the house with chemicals. They then deployed two “BearCats,” armored tank-like vehicles, to breach both the front and back doors of the home. When this proved unsuccessful, they deployed more gas

munitions and then decided to use the BearCat to open up holes in the sides of the home. The BearCats punched openings in the home (shown below) to create sightlines into the home, reduce the cover of the suspect, and create ports to allow sniper fire. The officers detonated C4 explosives where the police could not deploy the BearCats.

At the end of the standoff, the suspect was apprehended, but Lech's home was destroyed. The city declared the home uninhabitable. Damage to the walls meant asbestos was contaminating the home and property. Irreplaceable family photos and sentimental items were damaged or destroyed. Lech was invited to pick through the wreckage to see if any personal belongings could be salvaged, without being warned of the asbestos contamination.

The following pictures depict the home's condition in the immediate aftermath:



Ultimately, Lech was forced to tear the home down and build anew. Lech's insurance would pay out only some of the costs because the policy did not cover intentional acts by government officials. Suing the suspect was infeasible because he was judgment-proof. Lech therefore obtained a \$250,000 loan to rebuild his home. He is still paying off this loan, effectively ending his dream of an early retirement.

One might expect that the government would compensate Lech for its destruction of and damage to his property. After all, Lech did nothing wrong. His home

was sacrificed so the government could capture a suspect and remove a danger to the public. If the government razed Lech's home for other purposes, he would undoubtedly be entitled to just compensation under the Takings Clause. Greenwood Village offered Lech only \$5,000 in compensation on the condition he waive his right to sue.

Lech sued in state court, alleging in relevant part that Greenwood Village and its officers took his house for the benefit of the public and that this was a taking requiring compensation under the Fifth Amendment. The defendants removed to federal court. The district court rejected the Takings Clause claim, finding that (1) there should be an "emergency exception" to the Constitution's compensation requirement and (2) the actions of law enforcement here constituted an emergency. *See Lech*, 2018 WL 10215862, at \*9-10.

In an unpublished opinion, the Tenth Circuit affirmed, although on different grounds. Rather than relying on an emergency exception, the appellate court held that "when the state acts pursuant to its police power, rather than the power of eminent domain, its actions do not constitute a taking for purposes of the Takings Clause." *Lech*, 791 F. App'x at 717.

The Lech family also shared their story with the media, and their story quickly gained media attention. They did numerous interviews with media outlets throughout the United States, including an appearance on Inside Edition. Their story caught the attention of several foreign media outlets, as well.

Lech was left to pay tens of thousands of dollars to rebuild his destroyed home and repurchase destroyed

items, shouldering the cost the government imposed in the communal interest of protecting public safety.

### **B. Kimberly Layson and Stephen Ranieri**

August 20, 2025, started just like any other day for Kimberly Layson and Stephen Ranieri. But around 7:30 a.m. that morning, when Layson was taking a child to school, she saw an unusual notification from their online security system. Layson checked their security cameras online, and she was shocked to see a SWAT tank on the front lawn of her home.

Ranieri was the first to arrive at the home, and he found the property surrounded with police officers. Layson and Ranieri learned from officers on the scene that police were at the house searching for a suspected criminal who had no connection to Layson, Ranieri, or their family members.

The SWAT team deployed an armored tank-like vehicle to approach the home. Officers used gas in the backyard. The defensive operations severely damaged security cameras on the property, as well as the garage door. In total, the officers inflicted about \$30,000 worth of damage to the property.

It turns out that the officers had the wrong house. While Layson had bought the house five years earlier, the suspect apparently had owned or lived in the house prior to that. The police carried out the raid unaware of this transfer. No one was inside the home at the time of the officers' raid.

Officers at the scene provided Layson and Ranieri with information about how to file a claim for compensation with the city government. Homeowners insurance would not cover any of the damage because

the policy, like Lech's policy and many other policies across the country, excluded intentional acts of government destruction.

Layson and Ranieri promptly contacted the city about compensation for the significant damage to the home. They also shared their story in the media and online. Their story appeared everywhere from news outlets to social media.

Las Vegas agreed to compensate Layson and Ranieri for the damage to their home, ensuring that the family could get their home repaired in a timely fashion. Because Layson and Ranieri received the compensation, they could go about their lives without the sudden and significant financial hit. This is an example of just compensation in action.

## **II. Government Destruction of the Property of Innocent Property Owners During Raids Is a Widespread and Important Problem.**

As the Petition explains, federal circuits disagree about whether innocent property owners like *amici* can seek compensation under the Takings Clause when their properties are damaged or destroyed in government raids. *See, e.g.*, Pet. at 7-13; *Hadley*, No. 25-1158, Pet. at 8-12. And as a result, the availability of recourse under the Takings Clause currently depends on where in the country the innocent property owner resides. *Amici's* own stories illustrate that this is an important issue with real consequences for families.

*Amici's* experiences are far from unique. As SWAT deployments have increased, so too have incidents in which law enforcement destroys property belonging to innocent homeowners. *See* Bonnie Kristian, *The*

*Troubling Rise of SWAT Teams*, The Week (Jan. 19, 2015), <https://theweek.com/articles/531458/troubling-rise-swat-teams>; Josh Sanburn, *This Is Why Your Local Police Department Might Have a Tank*, Time (June 24, 2014), <https://time.com/2907307/aclu-swat-local-police/>.

These tactics are used throughout the country. As of 1999, all fifty states have SWAT teams. PBS, *Independent Lens*, <https://www.pbs.org/independent-lens/content/the-rise-of-swat-sources/> (last visited May 7, 2026). And while SWAT teams were once concentrated in larger departments, they are now widespread: In 1984, only 25.6 percent of communities with populations between 25,000 and 50,000 had a SWAT team; by 2005, that number rose to 80 percent. See Radley Balko, *Rise of the Warrior Cop* 308 (New York: Public Affairs, 2013). The use of SWAT tools and tactics like the BearCats and cold-gas munitions used on *amici*'s homes have spread, as well. Alicia Parlapiano, *The Flow of Money and Equipment to Local Police*, N.Y. TIMES (updated Dec. 1, 2014), <https://www.nytimes.com/interactive/2014/08/23/us/flow-of-money-and-equipment-to-local-police.html>; Rick Leventhal, *Controversial Armored Police Vehicle Factory Expands Production to Meet Demand*, FOX NEWS (May 18, 2018), <https://www.foxnews.com/us/controversial-armored-police-vehicle-factory-expands-production-to-meet-demand>.

Data confirm that property damage is not incidental to SWAT deployments, but instead is a routine feature. In 2014, a study found that “SWAT teams either forced or probably forced entry into a person’s home using a battering ram or other breaching device 65 percent of the time” when deployed to search for drugs. See ACLU, *War Comes Home: The Excessive Militarization of*

*American Policing* 6 (June 2014), <https://assets.aclu.org/live/uploads/publications/jus14-warcomeshome-text-rel1.pdf>. The results reflect the destructiveness of these tactics: Half of the incidents reviewed involved property damage, and in another 30 percent of cases, it was impossible to determine whether property damage occurred. *Id.* at 21-22. This suggests the true figure may be even higher. Yet despite the frequency of this damage, incident reports almost never addressed compensation for innocent homeowners who find their homes damaged or destroyed. *Id.* at 22.

More recent research suggests that even these figures understate the scope of the problem. A 2020 study examining hundreds of liability claims filed against law enforcement agencies found that property damage claims are “much more common” than other types of claims yet are significantly less likely to result in litigation. Aurélie Ouss & John Rappaport, *Is Police Behavior Getting Worse? Data Selection and the Measurement of Policing Harms*, 49 J. LEGAL STUD. 153, 177 (2020). As a result, lawsuit data “drastically undercount the incidence of property harms”—as many claims are filed for police damage that never make it to court. *Id.*

Therefore, it is no surprise that details of cases reported in legal filings and in the media vary widely. See, e.g., Tarik Minor, *I-Team: City Won't Repair Damage to Jacksonville Man's Property That Occurred During SWAT Standoff*, News4Jax (Aug. 17, 2021), <https://www.news4jax.com/i-team/2021/08/17/i-team-city-wont-repair-damage-to-jacksonville-mans-property-that-occurred-during-swat-standoff/> (Jacksonville, Florida SWAT team pursuing a murder suspect deployed “Bobcat” tractor that destroyed an Army

veteran's fence and ruptured his septic line—even though the suspect never entered the property owner's land); Trisha McCauley, *Kalamazoo to Pay \$150K for Tearing Down Home During Standoff*, News Channel 3 (Mar. 7, 2022), <https://wwmt.com/news/local/kalamazoo-to-pay150k-for-tearing-down-home-during-standoff> (City of Kalamazoo, Michigan agreed to pay \$150,000 to a tenant and landlord after a SWAT team demolished their home during a standoff).

Thus, in an increasing number of communities across the country, the question is arising whether innocent property owners must bear the costs of property destruction inflicted by law enforcement for public purposes. This exacerbates the unfairness of allowing the constitutional standard to vary across jurisdictions.

### **III. Government Destruction of the Property of Innocent Property Owners Requires Just Compensation.**

This Court has not hesitated to intervene when courts misinterpret the Takings Clause. *See, e.g., Tyler v. Hennepin Cnty.*, 598 U.S. 631, 639 (2023) (reversing the Eighth Circuit when the government confiscated more property than it was owed in tax debt); *Sheetz v. Cnty. of El Dorado*, 601 U.S. 267, 270-71 (2024) (reversing state courts that incorrectly distinguished between legislative and administrative permit conditions). The Court should do so now to correct the refusal of some courts to apply the Takings Clause to intentional government destruction of innocent property owners' property.

**A. The Fifth Amendment Protects Private Property Through the Just Compensation Requirement.**

The Fifth Amendment is a property-protecting rule. It undid the repressive and arbitrary British system in which Parliament could take property and compensate only if it chose to do so—the sort of discretionary justice given to Layson and Ranieri, but not to Lech. This discretion was replaced with a clear textual command: “When the government physically takes possession of an interest in property for some public purpose, it has a categorical duty to compensate . . .” *Tahoe–Sierra Pres. Council, Inc. v. Tahoe Reg’l Plan. Agency*, 535 U.S. 302, 322 (2002).

The founders were deeply concerned about this property protection principle. As John Adams wrote, “[p]roperty must be secured, or liberty cannot exist.” *Cedar Point Nursery v. Hassid*, 594 U.S. 139, 147 (2021), quoting *Discourses on Davila*, in 6 *The Works of John Adams* 280 (Charles F. Adams ed. 1851). Protecting property is “necessary to preserve freedom”; it “empowers persons to shape and to plan their own destiny in a world where governments are always eager to do so for them.” *Murr v. Wisconsin*, 582 U.S. 383, 394 (2017).

No one can enjoy their property, feel safe in their home, or plan their affairs while the specter of uncompensated government destruction looms. That is why “government-authorized invasions of property—whether by plane, boat, cable, or beachcomber—are physical takings requiring just compensation.” *Cedar Point Nursery*, 594 at 152.

The Fifth Amendment thus prevents a property owner from being forced to make “a far greater contribution to the public fisc” than what they owe through generalized taxes. *Tyler*, 598 U.S. at 647. Lower courts invert this rule when they categorically exempt government law enforcement destruction of property from the reach of the Takings Clause.

**B. Destroying Property of Innocent Property Owners Is a Taking.**

*Amici* had their homes extensively damaged through intentional government action. The Court has “long considered a physical intrusion by government to be a property restriction of an unusually serious character for purposes of the Takings Clause.” *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 426 (1982). Accordingly, when the government intentionally destroys property, it intrudes on the use or enjoyment of property in a way that implicates the Takings Clause. This occurs even when the government does not physically retain the property. *See United States v. Dickinson*, 331 U.S. 745, 751 (1947).

The government also effects a taking when an “owner of real property has been called upon to sacrifice *all* economically beneficial uses [of their property] in the name of the common good, that is, to leave his property economically idle.” *Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1019 (1992). That is precisely what happened with *amicus* Lech. His home had to be razed and completely rebuilt due to the government’s actions.

As this Court’s precedents establish, the fact that innocent homeowners later can rebuild or repair their destroyed homes does not change the calculus. *United States v. Dickinson* is instructive. After his property

was flooded, Dickinson undertook “considerable expense” to reclaim the land. 331 U.S. at 751. The Court rejected the government’s argument that takings claims were limited to only situations involving the permanent dispossession of property. Ultimately, “no use to which Dickinson could subsequently put the property by his reclamation efforts changed the fact that the land was taken when it was taken and an obligation to pay for it then arose.” *Id.* So too here. Fifth Amendment considerations were triggered the moment the police began destroying *amici*’s property to advance the public good.

This Court has repeatedly recognized that even minor or temporary intrusions against property constitute a taking. *See, e.g., Loretto*, 458 U.S. at 422 (installing a half-inch diameter cable on the exterior of a building); *Horne v. Dep’t of Agric.*, 576 U.S. 350, 354 (2015) (allocating portion of raisin crop to government); *United States v. Causby*, 328 U.S. 256, 261 (1946) (conducting flights immediately above an owner’s property); *Cedar Point Nursery*, 594 U.S. at 149 (requiring temporary right of access for union organizers on private property); *Dickinson*, 331 U.S. at 751 (flooding claimant’s land even when he eventually “reclaimed most of his land which the Government originally took”).

It would be an exceedingly strange result if the government must compensate a homeowner for a very minor intrusion, like a small cable outside one’s home, but can inflict tens of thousands of dollars in damage to the homes of innocent property owners without having to pay anything. Yet Petitioner’s case illustrates that this is a reality for innocent property owners.

**C. The Takings Clause Does Not Categorically Exempt Law Enforcement Officers' Destruction of the Property of Innocent Property Owners.**

Lower courts' holdings that the Takings Clause categorically excludes government actions like those imposed on Petitioner and *amici* are wrong.

Lower courts tellingly have not even agreed on the basis for the categorical exclusion. In Petitioner's case, the Ninth Circuit held that "law enforcement's reasonable and necessary destruction of property to protect public safety falls outside the scope of the Takings Clause." Pet. App. 11a-12a. The Ninth Circuit's holding applies even when the property would not be inevitably destroyed. *Id.* In *Hadley v. City of South Bend*, by contrast, the Seventh Circuit found a "police power[s]" exception to the Takings Clause, holding that no compensation is due "when property is retained or damaged as the result of the government's exercise of its authority pursuant to some power other than the power of eminent domain." *Hadley v. City of South Bend*, 154 F.4th 549, 553 (7th Cir. 2025), *petition for cert. filed*, 94 U.S.L.W. 3322 (U.S. Apr. 6, 2026) (No. 25-1158), *quoting Johnson v. Manitowoc County*, 635 F.3d 331, 336 (7th Cir. 2011). *Id.* While the Ninth and Seventh Circuit holdings differ, they are wrong for similar reasons.

Even when government action is necessary, historical practice and this Court's precedents require compensation to innocent property owners. The lower courts' exceptions, untethered from a requirement that the property would have inevitably been lost absent government action, violates the original understanding of the Fifth Amendment. St. George Tucker, author of

the first American treatise on the Constitution, wrote that the Takings Clause was likely a response to “the arbitrary and oppressive mode of obtaining supplies for the army, and other public uses, by impressment, as was too frequently practised during the revolutionary war, without any compensation whatever.” *Horne*, 576 U.S. at 359, quoting 1 *Blackstone’s Commentaries*, Editor’s App. 305-06 (1803). It is hard to think of a more pressing public necessity than provisioning a wartime army. But even when it was absolutely imperative that property be taken for the public benefit, the Framers contemplated compensation.

This Court’s precedents reflect the same principle, repeatedly requiring the Government to pay compensation when it took property, even for strategic purposes during World War II. See *United States v. Peewee Coal Co.*, 341 U.S. 114, 118 (1951); *Kimball Laundry Co. v. United States*, 338 U.S. 1, 16 (1949); *United States v. Gen. Motors Corp.*, 323 U.S. 373, 384 (1945).

To be sure, this Court’s precedents suggest that no compensation is owed in cases where taken property would be inevitably destroyed, even absent government action. See, e.g., *Bowditch v. Boston*, 101 U.S. 16, 18 (1879) (no compensation at common law for destruction of building to stop a fire from spreading, where fire would soon destroy it anyway); *United States v. Caltex (Philippines), Inc.*, 344 U.S. 149, 155-56 (1952) (companies operating oil terminals in Manila not entitled to compensation when the Army ordered them destroyed during World War II, where seizure or destruction of the terminals by the Japanese was inevitable).

Broader references to a “necessity” exception arise in cases involving takings in the theater of war near armed conflict—a context in which property is often at imminent risk of loss to the enemy, and in which distinct wartime doctrines inform the analysis. In *Respublica v. Sparhawk*, 1 Dall. 357, 357, 362-63 (Pa. 1788), for example, the court denied compensation for flour seized to prevent capture by British forces, explaining that the property was in danger of being seized by the enemy. The court further explained that the seizure was justified by the wartime exigencies and the Continental Congress’s war powers: “The transaction[] . . . happened *flagrante bello*; and many things are lawful in that season, which would not be permitted in a time of peace. The seizure of the property in question, can, indeed, only be justified under this distinction[.]” *Id.* at 362; *see also United States v. Pac. R.R. Co.*, 120 U.S. 227, 228 (1887) (stating in dicta that no compensation was owed for bridges destroyed to impede the advancing Confederates under war-specific doctrines, as both Union and Confederate forces “deemed the destruction of [railroads a] necessary” component of their military strategy). The Court’s reasoning thus reflected the twin principles that (1) no compensation is owed where property would otherwise have been destroyed or seized by the enemy and (2) some wartime losses are non-compensable as incidents of armed conflict.

Where law enforcement destroys the property of an innocent property owner to apprehend a suspect, however, the common law inevitability exception does not apply and wartime powers have no relevance. The destruction of Petitioner’s property occurred far away from any ongoing military wartime emergency. *See Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579,

587 (1952) (“[e]ven though ‘theater of war’ be an expanding concept, we cannot with faithfulness to our constitutional system hold that the Commander in Chief of the Armed Forces has the ultimate power as such to take possession of private property”).

It may have been prudent or even necessary for the police to use a BearCat to open holes in the Lechs’ home to apprehend a suspect for their own and the public’s protection. But absent these actions, the Lechs’ home would not have been destroyed. There is no indication that the suspect or anything else would have destroyed the Lechs’ home if law enforcement had not. The Takings Clause thus requires that property owners be compensated for the costs they were forced to bear for the public’s benefit, through no fault of their own.

**D. Policy Considerations Also Support Compensation.**

Finally, as *amici*’s stories underscore, intentional police destruction of the homes of innocent families can result in astounding financial, logistical, and emotional costs. “Homeowners’ insurance policies generally do not provide coverage for damage caused by the government.” *Baker*, 145 S. Ct. at 12 n.\* (statement of Sotomayor, J., respecting the denial of certiorari) (citing 10A. J. Plitt, D. Maldonado, & J. Rogers, *Couch on Insurance* § 152:22 (3d ed. Supp. 2024)). Requiring innocent families to bear the expense of government destruction makes no sense as a policy matter.

Cities can engage in cost-spreading for property destruction; innocent owners cannot. Police departments are usually insured against liability claims for property damage. Ouss & Rappaport, *supra*, 49 J. LEGAL STUD. at 162, 166-67 (finding that one insurer of

350 police departments made payouts in 54% of 839 claims brought for police-caused property damage). And to the extent that any police departments are underinsured, municipalities and states can self-insure by engaging in loss-spreading across a broader population, something individual homeowners can never do.

If government officers consider it appropriate to use a BearCat to catch a suspect, the Takings Clause of course presents no barrier to their doing so. But applying the Takings Clause in cases like these could encourage police departments to adopt thoughtful policies and procedures regarding the destruction of property. And requiring governments to account for the cost to the innocent property owners in making that decision encourages governments to calibrate destructive means to the needs of a given situation. As such, it could reinforce to officers when destruction of property is warranted and appropriate—and also when it is not.

In any event, the Court's intervention is necessary to bring clarity to this question of Takings Clause jurisprudence for innocent property owners, law enforcement officers, government entities, and lower courts.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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