

No. 25-95

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IN THE  
*Supreme Court of the United States*

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MICHAEL PUNG, PERSONAL REPRESENTATIVE OF THE  
ESTATE OF TIMOTHY SCOTT PUNG

*Petitioner,*

v.

ISABELLA COUNTY, MICHIGAN

*Respondent.*

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

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**BRIEF FOR NEW DISABLED SOUTH AND  
EMORY LAW SCHOOL DISABLED LAW  
STUDENTS ASSOCIATION AS *AMICI CURIAE*  
IN SUPPORT OF PETITIONER**

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## **TABLE OF CONTENTS**

TABLE OF CONTENTS .....	i
TABLE OF AUTHORITIES .....	ii
INTERESTS OF <i>AMICI CURIAE</i> .....	1
INTRODUCTION AND SUMMARY OF ARGUMENT .....	1
ARGUMENT .....	2
I. Disabled individuals disproportionately encounter economic hardship and foreclosure .....	2
II. Disabled individuals encounter disproportionately harmful impacts because of foreclosure .....	5
CONCLUSION .....	10

## **TABLE OF AUTHORITIES**

Abigail Lindsay, et al., <i>Evaluating Housing Concerns for People with Disabilities</i> , CENTER FOR HEALTH & RESEARCH TRANSFORMATION (2022), <a href="https://bit.ly/3Lo1DrI">bit.ly/3Lo1DrI</a> . ....	9
Am. Bar Ass’n Comm’n on Law & Aging, <i>Tax Lien Sales Put Low-Income, Seniors, Association’s the Disabled at Risk of Foreclosure</i> , 34 BIFOCAL (2012). ....	2
Carli Friedman, <i>Financial Hardship Experienced by People with Disabilities During the COVID-19 Pandemic</i> , 15 DISABILITY & HEALTH J., 2022 at 1. ....	6, 7
Carli Friedman, <i>Housing Insecurity of Medicaid Beneficiaries with Cognitive Disabilities during the COVID-19 Pandemic</i> , 16 DISABILITY & HEALTH J. 101375 (2023), <a href="https://doi.org/10.1016/j.dhjo.2022.101375">https://doi.org/10.1016/j.dhjo.2022.101375</a> . ....	4
Christin Landivar, <i>Rising Home Equity Boosted Household Wealth During Pandemic</i> , U.S. CENSUS BUREAU (Dec. 17, 2024), <a href="https://www.census.gov/library/stories/2024/12/home-equity.html">https://www.census.gov/library/stories/2024/12/home-equity.html</a> . ....	6
David U. Himmelstein et al., <i>Medical Bankruptcy: Still Common Despite the Affordable Care Act</i> , 109 AM. J. PUB. HEALTH 431 (2019). ....	4

G. Thomas Kingsley, Robin E. Smith & David Price, <i>The Impacts of Foreclosures on Families and Communities: A Primer</i> , METROPOLITAN HOUS. & COMMUNITIES CTR., URBAN INST. (July 2009). .....	6, 8
Gina Schaak et al., Tech. Assistance Collaborative, <i>Priced Out: The Housing Crisis for People with Disabilities</i> (2017), <a href="https://bit.ly/43eoMD9">bit.ly/43eoMD9</a> . ....	5, 8
Grace Sparks et al., <i>Americans' Challenges with Health Care Costs</i> , KFF (Jul. 11, 2025), <a href="https://www.kff.org/health-costs/americans-challenges-with-health-care-costs/">https://www.kff.org/health-costs/americans- challenges-with-health-care-costs/</a> . ....	3
Jason N. Houle & Danya E. Keene, <i>Getting Sick and Falling Behind: Health and the Risk of Mortgage Default and Home Foreclosure</i> , 37 J. EPIDEMIOLOGY & COMMUNITY HEALTH 616 (2015). ....	3
Kartik Trivedi, Tatjana Meschede & Finn Gardiner, <i>Unaffordable, Inadequate, and Dangerous: Housing Disparities for People with Disabilities in the U.S.</i> , COMMUNITY LIVING POLICY CENTER, THE HELLER SCHOOL FOR SOCIAL POLICY AND MANAGEMENT, BRANDEIS UNIVERSITY (Apr. 2020). ....	8

- Lauren Rogers, *The Case for Abolishing Tax Foreclosure of Primary Residences: Can Originalists and Progressives Agree?*, 47 W. NEW ENG. L. REV. 217 (2025), <https://digitalcommons.law.wne.edu/lawreview/vol4with7with/iss2/4/>..... 4
- Manasi Deshpande, Tal Gross & Yalun Su, *Disability and Distress: The Effect of Disability Programs on Financial Outcomes*, 13 AM. ECON. J.: APPLIED ECON. 1 (2021), <https://doi.org/10.1257/app.20190709>. .... 4
- Median Annual Earnings Map*, OFFICE OF DISABILITY EMPLOYMENT POLICY (July 2, 2025), <https://www.dol.gov/agencies/odep/research-evaluation/MAEmap>. .... 8
- Michigan Financial Hardship Among People with Disabilities*, UNITED FOR ALICE (2019), [https://www.unitedforalice.org/assets/Michigan/MI\\_Disability.pdf](https://www.unitedforalice.org/assets/Michigan/MI_Disability.pdf). .... 3
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<https://www.nationaldisabilityinstitute.org/wp-content/uploads/2019/01/ndi-finra-report-2017.pdf>. ..... 3
- Rakesh Kochhar & Mohamad Moslimani, *The Assets Households Own and the Debts They Carry*, PEW RESEARCH CTR. (Dec. 4, 2023),  
<https://www.pewresearch.org/2023/12/04/the-assets-households-own-and-the-debts-they-carry/>. ..... 6
- Samara Sheckler, et al., *How Well Does the Housing Stock Meet Accessibility Needs?*, JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY (2022), [bit.ly/3JjXBjB](https://bit.ly/3JjXBjB). ..... 9
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## INTERESTS OF *AMICI CURIAE*<sup>1</sup>

New Disabled South is a regional nonprofit organization dedicated to improving the lives of disabled individuals and cultivating strong disability rights and disability justice frameworks in the South. The legal issues presented in this case are of interest to New Disabled South because of the harmful effects tax foreclosure can have on disabled homeowners.

The Emory Law School Disabled Law Student Association (EDLSA) is a student organization dedicated to empowering legal professionals with disabilities throughout their legal education and beyond. EDLSA's members are students within the Emory Law School community, which has over 800 students. EDLSA seeks to confront ableism in the legal system and promote disability justice locally, regionally, and nationally. Protecting disabled homeowners from unfair tax foreclosures fits squarely within EDLSA's purpose to promote disability justice.

## INTRODUCTION AND SUMMARY OF ARGUMENT

As more fully elaborated below, a ruling in favor of respondent would disproportionately harm disabled individuals, who are more likely to experience severe financial and housing instability due to the

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<sup>1</sup> Pursuant to Sup. Ct. R. 37.6, *amici curiae* affirm that no counsel for a party has written this brief in whole or in part, and that no person or entity, other than *amici curiae*, its members, or its counsel, has made a monetary contribution to the preparation or submission of this brief.

government taking and selling a home to satisfy a debt and keeping the surplus value as a windfall.

## ARGUMENT

### **I. Disabled individuals disproportionately encounter economic hardship and foreclosure**

Tax-foreclosure regimes disproportionately endanger disabled individuals, who face compounding structural barriers that increase the likelihood of property-tax delinquency and housing loss. The *American Bar Associations' Commission on Law and Aging* has recognized that tax-lien sales and foreclosures present particular dangers for disabled individuals, who often encounter procedural and cognitive barriers when navigating legal processes.<sup>2</sup> This risk is not just theoretical: the National Consumer Law Center found that in some regions, tax foreclosures increased by nearly 300%, disproportionately affecting low-income seniors and individuals with cognitive disabilities such as dementia or mental illness.<sup>3</sup>

Across the United States, disabled individuals experience higher rates of poverty, debt, and housing

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<sup>2</sup> Am. Bar Ass'n Comm'n on Law & Aging, *Tax Lien Sales Put Low-Income, Seniors, Association's the Disabled at Risk of Foreclosure*, 34 BIFOCAL (2012).

<sup>3</sup> Nat'l Consumer Law Ctr., *The Other Foreclosure Crisis: Property Tax Lien Sales* (2011), cited in Am. Bar Ass'n Comm'n on Law & Aging, *Tax Lien Sales Put Low-Income, Seniors, and the Disabled at Risk of Foreclosure*, 34 BIFOCAL (2012).



instability than the population at large. National data shows disabled adults are twice as likely to have negative equity on their homes, meaning they owe more than their property is worth, and are more likely to experience difficulty paying monthly expenses.<sup>4</sup> In Florida and Georgia, more than two million adults, approximately 29% or more of the population, live with a disability.<sup>5</sup> Nearly half of these individuals experience persistent financial hardship and 18% live below the federal poverty line.<sup>6</sup>

Nationwide, 44% of adults report difficulty affording healthcare, and disabled individuals are more likely to postpone treatment or medication, thereby worsening financial and health instability.<sup>7</sup> Medical debt is a major driver of financial distress and can substantially increase the risk of foreclosure and mortgage default, particularly for households managing chronic illness or disability.<sup>8</sup>

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<sup>4</sup> Nicholas Goodman, Bonnie O'Day & Michael Morris, *Financial Capability of Adults with Disabilities: Findings from the National Financial Capability Study*, NAT'L DISABILITY INST. (2017), <https://www.nationaldisabilityinstitute.org/wp-content/uploads/2019/01/ndi-finra-report-2017.pdf>.

<sup>5</sup> *U.S. State Profile Data: Adults 18+ years of age*, CDC: DISABILITY AND HEALTH DATA SYS. (Apr. 3, 2025), <https://www.cdc.gov/dhds/impacts/index.html>.

<sup>6</sup> *Michigan Financial Hardship Among People with Disabilities*, UNITED FOR ALICE (2019), [https://www.unitedforalice.org/assets/Michigan/MI\\_Disability.pdf](https://www.unitedforalice.org/assets/Michigan/MI_Disability.pdf).

<sup>7</sup> Grace Sparks et al., *Americans' Challenges with Health Care Costs*, KFF (Jul. 11, 2025), <https://www.kff.org/health-costs/americans-challenges-with-health-care-costs/>.

<sup>8</sup> See Jason N. Houle & Danya E. Keene, *Getting Sick and Falling Behind: Health and the Risk of Mortgage Default and Home*

Even when public benefits exist, they are often inadequate to prevent foreclosure. Medicaid and Social Security disability benefits frequently lag behind inflation and housing costs, leaving homeowners on fixed incomes unable to meet rising property-tax obligations.<sup>9</sup> Receiving disability benefits is associated with about a one-third reduction in foreclosure risk.<sup>10</sup> However, at the same time, applicants often face elevated housing distress in the period before benefit approval, a gap during which they remain vulnerable to default or foreclosure.<sup>11</sup> Among Medicaid beneficiaries with cognitive disabilities, 26% fell behind making housing payments between 2021 and 2022, and more than half were likely to face eviction or foreclosure.<sup>12</sup>

The consequences of foreclosure for homeowners with disabilities extend far beyond

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*Foreclosure*, 37 J. EPIDEMIOLOGY & COMMUNITY HEALTH 616 (2015); see also David U. Himmelstein et al., *Medical Bankruptcy: Still Common Despite the Affordable Care Act*, 109 AM. J. PUB. HEALTH 431 (2019).

<sup>9</sup> Lauren Rogers, *The Case for Abolishing Tax Foreclosure of Primary Residences: Can Originalists and Progressives Agree?*, 47 W. NEW ENG. L. REV. 217 (2025), <https://digitalcommons.law.wne.edu/lawreview/vol4with7with/iss2/4/>.

<sup>10</sup> Manasi Deshpande, Tal Gross & Yalun Su, *Disability and Distress: The Effect of Disability Programs on Financial Outcomes*, 13 AM. ECON. J.: APPLIED ECON. 1 (2021), <https://doi.org/10.1257/app.20190709>.

<sup>11</sup> *Id.*

<sup>12</sup> Carli Friedman, *Housing Insecurity of Medicaid Beneficiaries with Cognitive Disabilities during the COVID-19 Pandemic*, 16 DISABILITY & HEALTH J. 101375 (2023), <https://doi.org/10.1016/j.dhjo.2022.101375>.

simple foreclosure. Housing loss often leads to homelessness, institutionalization, or substandard living conditions, especially for disabled individuals, given the severe shortage of accessible and affordable housing.<sup>13</sup> These conditions create a structural cycle of exclusion. Disabled homeowners enter the tax-foreclosure process at greater risk due to lower income and higher costs, face systemic barriers to navigating the process itself, and encounter limited options for recovery or housing afterward.

## **II. Disabled individuals encounter disproportionately harmful impacts because of foreclosure**

Using the depressed auction price, rather than the property's fair market value, to determine surplus compensation has a disproportionate impact on disabled individuals. For these homeowners, home equity is often the foundation of financial security, independence, and stability. When the government seizes a home for unpaid taxes and withholds extra remaining equity, the result is the uncompensated loss of the single largest source of wealth for many disabled households.

Home equity represents a major source of wealth for all Americans. Owning a primary residence is one of the two most valuable assets for U.S.

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<sup>13</sup> Gina Schaak et al., Tech. Assistance Collaborative, *Priced Out: The Housing Crisis for People with Disabilities* (2017), [bit.ly/43eoMD9](https://bit.ly/43eoMD9).

households.<sup>14</sup> In fact, for homeowners, the median amount of home equity accounts for roughly 45% of total net wealth.<sup>15</sup> A study by the Census Bureau found that among more commonly held assets, or assets held by at least half of all households, home equity had the largest value.<sup>16</sup> Accordingly, the loss of a home through foreclosure results in a substantial loss in wealth—erasing both accumulated equity and the tax advantages of ownership.<sup>17</sup> For homeowners with disabilities, these consequences are often more severe, as they are less likely to have savings or other investments to offset the loss.<sup>18</sup> Measuring the taking solely as the difference between the sale price and the tax debt fails to capture the true extent of what the homeowner has lost in equity and the financial burden that it imposes.

Further, the same factors that render disabled individuals more vulnerable to foreclosure in the first instance also make it difficult for them to recover after

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<sup>14</sup> Rakesh Kochhar & Mohamad Moslimani, *The Assets Households Own and the Debts They Carry*, PEW RESEARCH CTR. (Dec. 4, 2023), <https://www.pewresearch.org/2023/12/04/the-assets-households-own-and-the-debts-they-carry/>.

<sup>15</sup> *Id.*

<sup>16</sup> Christin Landivar, *Rising Home Equity Boosted Household Wealth During Pandemic*, U.S. CENSUS BUREAU (Dec. 17, 2024), <https://www.census.gov/library/stories/2024/12/home-equity.html>.

<sup>17</sup> G. Thomas Kingsley, Robin E. Smith & David Price, *The Impacts of Foreclosures on Families and Communities: A Primer*, METROPOLITAN HOUS. & COMMUNITIES CTR., URBAN INST. (July 2009).

<sup>18</sup> Carli Friedman, *Financial Hardship Experienced by People with Disabilities During the COVID-19 Pandemic*, 15 DISABILITY & HEALTH J., 2022 at 1.

a tax foreclosure and the taking of surplus home equity. They face greater challenges in obtaining full-time employment, and their overall wages remain lower. For example, only one in three working-age adults with a disability is employed, a number much lower than the general average.<sup>19</sup> In part, this is because disabled individuals are nearly 20 percentage points less likely than those without disabilities to have a college degree.<sup>20</sup>

Additionally, households with a disability are 21 percentage points less likely to report doing “at least okay” financially, and the hidden costs of disability, aside from the earnings penalty, account for over 40% of the difference in financial well-being between households with and without disabilities that prevent being in the labor force.<sup>21</sup> Poverty and disability are intertwined, as not only are those who have a disability more likely to be experiencing financial hardship, but being impoverished can also exacerbate disability.<sup>22</sup> Once a disabled homeowner has experienced tax foreclosure, and most, if not all, of their equity has been wiped out, they face new challenges in seeking alternate housing arrangements. Working disabled individuals

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<sup>19</sup> Nanette Goodman et al., *Financial Inequity: Disability, Race and Poverty in America*, NAT’L DISABILITY INST. & MONEYWISE FOUND. (2019).

<sup>20</sup> *Id.*

<sup>21</sup> Zofsha Merchant, Erin Troland & Douglas A. Webber, *The Hidden Costs of Disability*, FED. RES. BD., FEDS Notes No. 2025-01-10-1 (Jan. 10, 2025), <https://www.federalreserve.gov/econres/notes/feds-notes/the-hidden-costs-of-disability-20250110.html>.

<sup>22</sup> Friedman, *supra* note 18.

nationwide earn 31% less than their non-disabled counterparts on average.<sup>23</sup> Disabled individuals who rely on Supplemental Security Income often face greater hardship in finding affordable housing, as the median rent prices in most housing markets exceed 80% of their benefit income.<sup>24</sup>

Disabled individuals face unique financial challenges in accessing accessible housing. For renters, high rental costs and related expenses frequently make housing unattainable.<sup>25</sup> Poor credit resulting from foreclosures can make insurance more expensive, limit housing options, and hinder efforts to secure employment.<sup>26</sup> Nearly half of households with a disability are unbanked, lacking a checking or savings account, or underbanked, relying on alternative financial services such as payday loans and pawn shops, despite having bank accounts.<sup>27</sup> This lack of access to traditional financial systems further limits their ability to rebuild credit or accumulate savings after losing a home.

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<sup>23</sup> *Median Annual Earnings Map*, OFFICE OF DISABILITY EMPLOYMENT POLICY (July 2, 2025), <https://www.dol.gov/agencies/odep/research-evaluation/MAEmap>.

<sup>24</sup> Schaak et al., *supra* note 13.

<sup>25</sup> Kartik Trivedi, Tatjana Meschede & Finn Gardiner, *Unaffordable, Inadequate, and Dangerous: Housing Disparities for People with Disabilities in the U.S.*, COMMUNITY LIVING POLICY CENTER, THE HELLER SCHOOL FOR SOCIAL POLICY AND MANAGEMENT, BRANDEIS UNIVERSITY (Apr. 2020).

<sup>26</sup> Kingsley, Smith & Price, *supra* note 17.

<sup>27</sup> Goodman et al., *supra* note 19.

Additionally, disabled individuals confront a housing stock that will likely not meet their accessibility needs. Less than one percent of U.S. housing is fully wheelchair accessible, and under four percent of all units can be considered livable by people with moderate mobility disabilities.<sup>28</sup> While individuals may request accommodations based on fair housing laws, the availability of accommodations may not be immediate. The accommodation search may also be fraught with disputes. In 2019, more than 60% of housing discrimination claims were based on disability status and failure to make reasonable accommodations.<sup>29</sup>

Accordingly, given that foreclosures already fall most heavily on disabled individuals, the government should be required to return the full surplus value after a tax foreclosure to prevent further disproportionate harm.

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<sup>28</sup> Samara Sheckler, et al., *How Well Does the Housing Stock Meet Accessibility Needs?*, JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY (2022), [bit.ly/3JjXBjB](https://bit.ly/3JjXBjB).

<sup>29</sup> Abigail Lindsay, et al., *Evaluating Housing Concerns for People with Disabilities*, CENTER FOR HEALTH & RESEARCH TRANSFORMATION (2022), [bit.ly/3Lo1DrI](https://bit.ly/3Lo1DrI).

**CONCLUSION**

The judgment below should be reversed.

Respectfully submitted.

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