No. 26-

In the

Supreme Court of the United States

POPPLETON NOW COMMUNITY ASSOCIATION, INC.; CURTIS EADDY, SR.; SONIA EADDY; STERLING WALKER; FRANCINA WALKER; WILLIAM H. GUNN, JR.; YVONNE BROOKS GUNN,

Petitioners,

v.

LA CITE DEVELOPMENT, LLC; LA CITE, LLC; POPPLETON DEVELOPMENT I, LLC; PSH 1B, LLC; DAN BYTHEWOOD, JR.; MAYOR AND CITY COUNCIL OF BALTIMORE; BRANDON SCOTT; ALICE KENNEDY,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The Fifth Amendment prohibits government from taking private property except for public use. In *Kelo v. City of New London*, 545 U.S. 469 (2005), this Court allowed community development as a public use with restrictions. Although the *Kelo* Court was divided, all nine justices agreed that giving a politically-favored developer rights to taken land without requiring a public use would violate the Public Use Clause. Baltimore City took 13.8 acres, including more than five hundred owner-occupied homes in the historically Black and underprivileged neighborhood of Poppleton. Baltimore entered into, and then amended, an agreement to give the developer a perpetual, irrevocable and fully assignable right to all of the taken land without requiring that he first perform the public use. Nearly twenty years later and having not performed, the developer prevents all use of the taken land unless he is paid full market value for it. New information has also come to light that reflects a "plausible accusation of impermissible favoritism to private parties." *See Kelo*, 545 U.S. at 491 (Kennedy, J., concurring).

The Fourth Circuit found that although Petitioners – who are adjacent property owners – plausibly tie "quintessential" property damages to the *Kelo* and Public Use Clause violations, they lack a cause of action because their homes were not taken. The questions presented follow:

1. Whether ownership of condemned property is required to state a 42 U.S.C. § 1983 claim, where Petitioners allege that a violation of *Kelo* and the Public Use Clause is causing them ongoing damages

that can be redressed by a court order invalidating the offending contract, and Petitioners are also the intended beneficiaries of the community development project that had served as the City's pretext.

2. Whether this Court should revisit *Kelo v. City of New London*, 545 U.S. 469 (2005) – by strengthening the limits placed on community development as a public use or by overruling it – because the Fourth Circuit's decision, if retained, will provide local governments with a clear path to take property using the pretext of community development, extinguish the eminent domain cases, and then enter into, or amend, the developer agreement to eliminate the public use, and courts will have no means to impose limits because no plaintiff will retain a cause of action.

PARTIES TO THE PROCEEDING

Petitioners, Plaintiffs-Appellants below, are Poppleton Now Community Association, Inc.; Curtis Eaddy, Sr.; Sonia Eaddy; Sterling Walker; Francina Walker; William H. Gunn, Jr.; and Yvonne Brooks Gunn.

Respondents, Defendants-Appellees below, are La Cite Development, LLC; La Cite, LLC; Poppleton Development I, LLC; PSH 1B, LLC; Dan Bythewood, Jr.; the Mayor and City Council of Baltimore; Brandon Scott; and Alice Kennedy.

The Housing Authority of Baltimore City, Janet Abrahams, and former Baltimore City Council President and Mayor, Sheila Dixon, were not pursued as additional parties on appeal.

RELATED CASES

United States District Court (D. Md.):

Poppleton Now Cmty. Ass'n, Inc. v. La Cite Dev., LLC, No. 24-CV-2420-ABA, 2025 WL 1707254 (D. Md. June 17, 2025)

United States Court of Appeals (4th Cir.):

Poppleton Now Cmty. Ass'n, Inc. v. La Cite Dev., LLC, 175 F.4th 455 (4th Cir. May 4, 2026) (No. 25-1770)

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PETITION FOR A WRIT OF CERTIORARI

Poppleton Now Community Association, Inc.; Curtis Eaddy, Sr.; Sonia Eaddy; Sterling Walker; Francina Walker; William H. Gunn, Jr.; and Yvonne Brooks Gunn respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fourth Circuit is published at 175 F.4th 455 (4th Cir. 2026) and reproduced at App. A. The opinion of the United States District Court for the District of Maryland is reported at 2025 WL 1707254 and reproduced at App. B.

JURISDICTION

The Fourth Circuit entered judgment on May 4, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment provides in relevant part:

> "[N]or shall private property be taken for public use, without just compensation."

The Fourteenth Amendment provides in relevant part:

> "[N]or shall any State deprive any person of life, liberty, or property, without due process of law."

Section § 1983 of Title 42 of the United States Code provides in relevant part:

> Any person who, under color of state law, "subjects, or causes to be subjected, any citizen of the United States * * * to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured."

Section 2201(a) of Title 28 of the United States Code provides in relevant part:

> "In a case of actual controversy within its jurisdiction, * * * any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought."

STATEMENT

Petitioners allege that the land disposition contract between the City of Baltimore and the developer, as amended, involves a pretext and a wholly private benefit transaction that violates the Fifth Amendment's Public Use Clause and *Kelo*. The contract gives the developer a perpetual, irrevocable and assignable right in all of the taken land—which he is actively marketing for sale—without first requiring performance of a public use. Petitioners allege that new information came to light shortly before the filing of the Complaint that provides indicia of impermissible favoritism that concerned Justice

Kennedy and the dissent in *Kelo* and would have warranted a different result. Petitioners further allege that as a result of the City giving this developer the rights to 13.8 acres of adjacent land in the center of their neighborhood, the developer monopolizes and restricts all use of the land and demands that he be paid full market value, even by the City and even though he has not performed a public use in nearly twenty years. Petitioners allege a substantial depreciation in their home values and the loss of use and enjoyment of their properties and neighborhood as a direct result of the unconstitutional contract and the resultant 13.8 acre hole in the center of their community. Petitioners minimally seek declaratory judgment that the land disposition agreement, as amended, is void as unconstitutional.

This case presents a clean legal issue requiring intervention and guidance from this Court relating to the constitutional protections secured by the Public Use Clause of the Fifth Amendment to the United States Constitution, as well as whether a legal mechanism exists for Courts to hold government accountable to the restrictions *Kelo* attempted to place on purely private inurement transactions that use community development as a mere pretext to reward political patrons.

A. Allegations

Petitioners alleged as follows.

Petitioners are six residents and one community association. The six residents, Curtis and Sonia Eaddy, Sterling and Francina Walker, and William and Yvonne Gunn, live directly adjacent to the project area. Poppleton

Now Community Association advocates for current and former residents and the best interest of the neighborhood.

Petitioners allege that, in 2003, Dan Bythewood approached Baltimore with an unsolicited proposal to redevelop 13.8 acres in Poppleton, a historic predominantly Black neighborhood. The proposal contemplated the acquisition and demolition of more than 500 homes, many of them owner-occupied.

The City issued a request for proposals. Five parties submitted bids. The City's review panel ranked Bythewood last, citing his lack of development experience and his inability to finance a project of that scale.

Despite that ranking, the City selected Bythewood. As learned shortly before the Complaint was filed, while the proposals were pending, Bythewood arranged for then-City Council President Sheila Dixon to receive a day of beauty treatments and a magazine feature portraying her as a champion of community redevelopment. The magazine's editor was a purported investor in Bythewood's project. The review panel ranked Bythewood last on February 23, 2005. The magazine shoot appeared in the March 2005 edition, and the City reversed the panel to select Bythewood on March 16, 2005.

In 2006, the City and the developer executed a land disposition and development agreement. Through that agreement and five later amendments—some of which were executed after all eminent domain cases were complete and are material to this dispute—the City gave Bythewood an irrevocable, perpetual and fully-assignable right over all of the 13.8 "taken" acres without first requiring that he perform a public use.

Petitioners allege that the developer monopolizes and controls the land in the center of their neighborhood, which is left empty and in poor repair, and that the developer asserts his contractual right against the City and others to actively prevent a public use, unless and until he is paid the full market value for the land, which he does not own and should have no right to control.

Petitioners further contend that City officials used them and the neighborhood as the intended beneficiaries for the pretextual "public use," and that the City and developer have made countless untrue representations to them to either garner support or quell opposition. Petitioners contend that the title cloud and encumbrance over all of this land adjacent to their homes and the lack of any use allowed by the developer, let alone a public use, places a stigma over their neighborhood, causes the market values of their homes to suffer and causes them to lose the use and enjoyment of their land and the neighborhood where they live.

Petitioners also complain that with the passage of twenty years, the public use for the land, if any, is unknown or no longer exists, and that voiding this unconstitutional private benefit contract in favor of the developer would remove a substantial obstacle to securing the constitutionally mandated public use. Petitioners, therefore, primarily seek a declaration from the Court that the offending contract between the City and developer is void as against the Fifth Amendment's Public Use Clause and *Kelo*.

B Proceedings Below

Petitioners filed this action under the Fifth Amendment and 42 U.S.C. § 1983, alleging, *inter alia*, that the disposition of the land by City officials to the developer violates the Public Use Clause and *Kelo*. Petitioners also allege that Baltimore City violated and ignored a provision of Maryland State law—specifically put in place in the wake of *Kelo*-- that the City fully reauthorize the public use every four years, which did not occur. *See* Md. Code Ann., Real Prop. § 12-105(a) (LexisNexis 2026).

The district court judge dismissed for lack of Article III standing. *Poppleton Now Cmty. Ass'n v. La Cite Dev., LLC*, 2025 WL 1707254, at *7-9 (D. Md. June 17, 2025). In so doing, the court did not "consider whether [Petitioners] have stated claims on which relief can be granted." *Id.* at *9.

When addressing Petitioners' nuisance claim, the district court ruled that Petitioners' alleged loss of property value and loss of use and enjoyment of their homes were sufficient to establish injury in fact. *Id.* at *12. The court also found at least "some causal connection" between those injuries and the defendants' conduct, including the City's decision to condemn property in the neighborhood, and concluded that the injuries were "at least in theory, redressable." *Id.* The court nevertheless dismissed the nuisance claim for failure to state a claim by concluding that Petitioners had not adequately pleaded facts that the interference was sufficiently "substantial" under Maryland law. *Id.* at *12–13.

After briefing (primarily on the subject of standing given the lower court ruling) and oral argument, a three judge panel of the Fourth Circuit rejected the lower court's standing and nuisance analyses. *Poppleton Now Cmty. Ass'n, Inc. v. La Cite Dev., LLC*, 175 F.4th 455, 464–66 (4th Cir. 2026). In a published opinion, it held that Petitioners' alleged loss of property value was a concrete and particularized injury, describing monetary loss as a "quintessential injury in fact." *Id.* at 462. It further held that Petitioners' injuries were fairly traceable to the challenged conduct and redressable by declaratory relief. *Id.*

The Fourth Circuit panel nevertheless concluded that the Public Use claim must be dismissed for failure to state a claim. *Id.* at 464. The Court ruled that ownership of the property taken is an essential element of any claim under the Public Use Clause. *Id.* Acknowledging that this case presents a novel issue of law, the panel drew upon an analogy to a Fourth Amendment standing doctrine articulated in *Rakas v. Illinois*, 439 U.S. 128 (1978). *Id.* at 464, n.7.

Based on its newly-minted ownership pleading threshold, the Fourth Circuit panel vacated the portion of the judgment dismissing the Public Use Clause violation claim for lack of standing and remanded with instructions to dismiss instead for failure to state a claim. *Id.* at 465. The panel also directed the district court to decline supplemental jurisdiction over the nuisance claim and dismiss it without prejudice. *Id.* The declaratory-judgment count could not proceed absent an underlying claim. *Id.*

REASONS FOR GRANTING THE PETITION

This Court should review this case because of the novel legal questions it presents, as well as the important policy considerations relating to the limit and extent of local government's use of community or economic development as a pretext to avoid the constitutional protections secured by the Fifth Amendment's Public Use Clause an *Kelo*. This Petition presents two independent questions warranting review.

First, as explained in Part A, *Kelo* did not merely expand the Public Use Clause to permit takings for community development, it also imposed real restrictions on that power, and charged courts with enforcing them. No precedent supports the Fourth Circuit panel's rule that only owners of condemned property may invoke those restrictions, and the Fourth Amendment analogy the panel drew on instead, properly understood, confirms rather than forecloses Petitioners' cause of action. The Fourth Circuit panel's rule also cannot be reconciled with *Kelo's* own protections, because it leaves the very restrictions *Kelo* imposed with no one to enforce them. Petitioners, in any event, state an independent claim under 42 U.S.C. § 1983.

Second, as explained in Part B, twenty years of hindsight, as well as the facts of this case (which concurrently span nearly the same twenty-year period), all demonstrate that the *Kelo* majority decision is unworkable, that a case-by-case analysis of government's pretextual public use is next to impossible for courts to administer, and that this Court should either recognize the cause of action described in Part A or revisit *Kelo* to adopt a black and white rule that returns the Public Use Clause to the plain text of the Fifth Amendment and the understanding at the time it was written. At minimum, this Court should require that the public use be performed before perpetual and irrevocable rights to all of the taken land are given to the developer. Either course would easily prevent the inconsistent result of this case—where a community and adjacent property owners must live in perpetuity with the consequences of the unconstitutional actions of former government officials, yet there exists no vehicle to ask a court to enforce the constitution because all of the eminent domain cases have been resolved.

As Justice Thomas aptly wrote in his *Kelo* dissent: 545 U.S. at 521-22:

> If ever there were justification for intrusive judicial review of constitutional provisions that protect "discrete and insular minorities," *United States v. Carolene Products Co.*, 304 U.S. 144, 152, n. 4 (1938), surely that principle would apply with great force to the powerless groups and individuals the Public Use Clause protects.

A. The Court Should Grant Certiorari to Reverse the Fourth Circuit Panel's Decision and to Confirm that Persons Impacted by a Direct Violation of the Fifth Amendment Public Use Clause May Bring a Cause of Action to Enforce that Right.

The Fourth Circuit determined that Petitioners had standing and had suffered a "quintessential" injury to their properties that was fairly traceable to the alleged constitutional violation. Nevertheless, the Fourth Circuit ruled that Petitioners failed to state a cause of action because their homes were not subject to eminent domain. In establishing this new rule that goes beyond minimum pleading requirements, the panel overlooked the need to enforce key protections and limitations emphasized in *Kelo*. The panel also relied on a Fourth Amendment standing analogy that is inapposite to the Public Use Clause after *Kelo*, and it misapplied the analogy to this case. As explained below, that error should be corrected for three independent reasons: (1) *Kelo* imposed real restrictions on community or economic development that requires an enforcement mechanism, and the intended beneficiaries of the asserted public use are the proper enforcers; (2) the panel's own Fourth Amendment analogy, properly understood, confirms rather than forecloses Petitioners' cause of action; and (3) Petitioners plead plausible facts that support their 42 U.S.C. § 1983 claim.

1. ***Kelo*'s Restrictions on the Community Development Public Use Require an Enforcement Mechanism, and the Intended Beneficiaries of the Public Use Are the Proper Enforcers.**

This case involves a novel issue of the rights of adjacent property owners to enforce the restrictions *Kelo* imposes when government uses "community development" or "economic development" as a pretext for a taking. *Kelo* instructs Courts to probe deeper into the facts to ensure that government does not engage in a wholly private inurement. This requirement, which instructs Courts to undertake additional review to protect against governmental abuse of the Public Use Clause of the Fifth

Amendment, read in conjunction with 42 USC § 1983, supplies the basis for Petitioners' Complaint.

The majority in *Kelo* upheld the condemnations before it, but it said it was not doing away with the Public Use Clause because it endorsed a case-by-case judicial inquiry to ensure that government met important restrictions on its new power. The Court began from the settled premise that the City "would no doubt be forbidden from taking petitioners' land for the purpose of conferring a private benefit on a particular private party," quoting *Midkiff* for the proposition that a purely private taking could not survive scrutiny under the public use requirement, would serve no legitimate governmental purpose, and would therefore be void. 545 U.S. at 477 (citing *Haw. Hous. Auth. v. Midkiff*, 467 U.S. 229, 245 (1984)). The Court added that neither "would the City be allowed to take property under the mere pretext of a public purpose, when its actual purpose was to bestow a private benefit." *Id.* at 478. Thus, all nine justices endorsed the principle that taking under the pretext of a public purpose but then turning around after the taking and giving the property to a politically-favored developer without the public use would violate the Public Use Clause.

Justice Kennedy, who provided the deciding vote in *Kelo*, instructed Courts to play an even greater evidentiary role to ensure that the public use is real and not merely pretextual or for the improper motive of ingratiating a political benefactor. Justice Kennedy instructed the lower courts to "strike down a taking that, by a clear showing, is intended to favor a particular private party, with only incidental or pretextual public benefits." *Id.* at 491 (Kennedy, J., concurring). He further instructed that a court "confronted with a plausible accusation of impermissible favoritism to private parties should treat the objection as a serious one and review the record to see if it has merit." *Id.* at 491. He also believed that a more demanding review, such as shifting the burden of proof, could be appropriate where "the risk of undetected impermissible favoritism" is acute, or where the transfers are suspicious, the procedures are prone to abuse, or the asserted public benefits are trivial or implausible. *Id.* at 493. Although *Kelo* involved the fact pattern of a challenge brought by the person whose home was condemned, the universal principles espoused by Justice Kennedy, including the need for lower courts to play a role in policing the use of community development as a public use, are not so limited.

These are not aspirational guidelines; they are restrictions the *Kelo* Court itself said must be judicially enforced. A restriction that no one may invoke is no restriction at all. When *Kelo* relaxed the Public Use Clause protection to include community development and charged lower courts with policing government activity in this area, it did one more thing—it expanded the class of protected persons to community members, who are the intended beneficiaries of the asserted public use and have a direct stake and cause of action to ensure that government lives up to its commitment. 42 USC § 1983 provides the right to persons harmed by a plain constitutional violation to petition federal courts for redress—to suggest that somehow this cause of action does not apply to this community under the facts of this case only because they are not property owners elevates form over function and deviates from nearly all of the principles and restrictions that *Kelo* claimed continue to exist.

2. The Fourth Circuit Panel's Ownership Requirement Finds No Support in Precedent, and the Fourth Amendment Analogy It Draws Upon Is Misapplied and Confirms, Rather Than Forecloses, Petitioners' Cause of Action.

The authorities cited by the Fourth Circuit do not stand for the proposition that only property owners may enforce the Public Use Claim. The cited authority addresses only whether a plaintiff possesses a protected property interest in the property or benefit that the government allegedly took from that plaintiff. *See Phillips v. Washington Legal Foundation*, 524 U.S. 156, 163–64 (1998); *Sunrise Corp. of Myrtle Beach v. City of Myrtle Beach*, 420 F.3d 322, 330 (4th Cir. 2005); *Quinn v. Board of County Commissioners*, 862 F.3d 433, 439 (4th Cir. 2017); *Chollet v. Brabrand*, 137 F.4th 241, 247 (4th Cir. 2025); *Degan v. Board of Trustees of Dallas Police & Fire Pension System*, 956 F.3d 813, 815 (5th Cir. 2020); *Zeyen v. Bonneville Joint District No. 93*, 114 F.4th 1129, 1139 (9th Cir. 2024); *Karuk Tribe of California v. Ammon*, 209 F.3d 1366, 1374 (Fed. Cir. 2000). These cases establish that a plaintiff seeking relief for the taking of the plaintiff's own property must identify a protected property interest in the thing taken. The primary focus of these cases is the taking and the payment of compensation—not a violation of limits this Court placed on using "community development" as the authority for a public use taking under *Kelo*. Indeed, no decision of this Court, nor the text of the Fifth Amendment or 42 U.S.C. § 1983, says that ownership of condemned property is a required element of a claim to enforce *Kelo's* Public Use protections when community or economic development is involved.

To hold that ownership of the taken property is an essential element of the Public Use Claim, the Fourth Circuit panel draws an analogy to the Fourth Amendment standing doctrine drawn from *Rakas v. Illinois*, 439 U.S. 128 (1978). *Poppleton Now*, 175 F.4th at 464, n.7. In *Rakas*, the Court held that passengers in a car have no legitimate expectation of privacy in the glove compartment or under the passenger seat because they are mere passengers and had no property or possessory interest in those areas. *Id.* at 148-49. The Fourth Circuit drew from *Rakas* for the concept of a "personal rights" requirement—there, a defendant's own expectations of privacy, and here, plaintiff's own property interest in the taken land.

The panel's own analogy, however, confirms, rather than forecloses, Petitioners' claim. Whereas a passenger may not have a legitimate expectation of privacy in another person's glove-box, Petitioners absolutely had a legitimate expectation in the public use. 13.8 acres of owner-occupied houses adjacent to their homes were taken and razed to the ground. The City and developer told them repeatedly that this was for their benefit. Petitioners are the persons who have suffered every moment of this saga, and it is Petitioners—not those whose homes were taken by eminent domain, were displaced, and are now living elsewhere—who continue to suffer in 2026 as a result of all of these unconstitutional activities. The "personal interest" that *Rakas* treats as dispositive — an interest belonging to the claimant, not a third party — is present here in a form far more concrete than a passenger's expectation in someone else's glove compartment: there exists a direct, promised, and repeatedly reaffirmed public use purportedly intended for the benefit of Petitioners, their properties and their neighborhood.

3. Petitioners' 42 U.S.C. § 1983 Claim Rests on Independent Grounds.

Petitioners' 42 U.S.C. § 1983 claim does not require this Court to resolve the Fourth Amendment analogy. In determining that Petitioners had standing, the Fourth Circuit ruled that Petitioners alleged the "quintessential injury" of property damage, that the injury is fairly traceable to the alleged constitutional violation and that a court order declaring the unconstitutional contract void is capable of redressing this harm. *Poppleton Now*, 175 F.4th at 462-63. The panel did not dismiss Petitioners' takings claim for want of factual detail; it dismissed on the undisputed fact that Petitioners do not own the property taken. But that categorical rule finds no authority in 42 U.S.C. § 1983 and should not be dispositive on the right to ask a Court to review the developer and the City's subsequent conduct, when a contract is amended to confer perpetual rights on the developer without requiring a public use and when new information comes to light strongly suggesting impermissible favoritism that calls into question the public use pretext. It is sufficient under 42 U.S.C. §1983 and the pleadings standards articulated in *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556, 570 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009), that Petitioners plausibly allege a violation of the public use clause as interpreted by *Kelo* and that this violation causes them harm. And although Petitioners acknowledge that standing and the elements of a cause of action are distinct inquiries, the Fourth Circuit panel's rulings on standing — that Petitioners plausibly allege the "quintessential" injury of property damage, that the injury is fairly traceable to the alleged violation and that the injury is redressable by a court order — make it difficult to reconcile that Petitioners did not plead a cause of action under 42 U.S.C. § 1983.

To summarize, the Fourth Circuit panel's newly-minted requirement that the claimant be a property owner overlooks that when government and a developer rely on community or economic development as the public use pretext for the taking, they necessarily implicate and expand the universe of people with a right to rely upon, and enforce, this constitutional protections embodied by the Public Use Clause.

For these reasons, the Court should grant certiorari to reverse the Fourth Circuit and reinstate Petitioners; Fifth Amendment and 42 U.S.C. § 1983 claims.

B. This Court Should Grant Certiorari to Revisit *Kelo* in Light of the Obvious Gaps Presented by the Facts of This Case and the Fourth Circuit Opinion.

The combination of *Kelo* plus the Fourth Circuit opinion strips the Public Use Clause of having any meaning or enforceability in the community or economic development context. Under *Kelo*, government can take using the mere pretext of a public use, and the limitations placed by the majority and concurring opinions in *Kelo* have never materialized into anything more than rational basis scrutiny when *Kelo* is applied by courts. The Fourth Circuit opinion in this case, then, prohibits anyone from enforcing the limitations of *Kelo* unless their property is subject to eminent domain.

The practical result of these two opinions together is a perfect roadmap to end-run the Public Use Clause entirely in the community or economic development context, and the facts of this case reflect this. Government can make-up a community development pretext to obtain taking authorization; take the property in eminent domain using that pretext and extinguish the eminent domain cases; then turn around and enter into a contract giving rights to the taken property to a politically-favored developer or accomplish the same objective with an entirely unreviewable contract amendment. By extinguishing the eminent domain claims, government is free to dispose of the land in any way it sees fit, even if doing so is directly contrary to the protections secured by the Public Use Clause or the limits the Court attempted to impose in *Kelo*.

This Court cannot countenance the complete stripping-away of all meaning of the Public Use Clause through this sequence of events. One way to make Kelo and the Public Use Clause enforceable is to allow the intended beneficiaries of the public use and other persons with standing and injury to sustain a cause of action to challenge the government action if it deviates from the public use, *ex post facto*, or when evidence of impermissible pretext or favoritism is later discovered. A second way for the Court to prevent government from abusing the Public Use Clause is to return to something closer to what the constitutional framers had originally intended and prohibit or much more clearly limit government from taking property for community or economic development purposes, which is so readily abused.

With the benefit of hindsight—including the twenty-year period in the wake of *Kelo* that runs concurrent to the facts of this case—taking for "community benefits" has never worked, and it results in all of the abuses predicted by the *Kelo* dissent and reflected by the facts of this case. In *Kelo*, Justice O'Connor warned that expanding public use to encompass private economic development effectively erases the Fifth Amendment's "public use" restriction. 545 U.S. at 503 (O'Connor, J., dissenting). By allowing community development to provide the public use, Justice O'Connor predicted "[t]he beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms," while the victims are citizens and communities with fewer resources. *Id.* She wrote that the *Kelo* community development exception to the plain text of the Public Use Clause eliminates the clear line between public and private utility, transforming the sovereign's power into a tool that rewards political connection and punishes the vulnerable. *Id.* at 494.

Justice Thomas wrote separately to predict the devastating consequences of the majority's rule for politically vulnerable and minority communities. He observed that the fallout from such economic development takings will not be distributed randomly, but will instead fall disproportionately on those who lack the political capital to resist the state's power. 545 U.S. at 521 (Thomas, J., dissenting). Drawing a direct historical line to the destructive "urban renewal" programs of the mid-twentieth century—which famously served as a euphemism for minority displacement—Justice Thomas warned that the Court's ruling would once again legitimize the systematic targeting of Black and low-income neighborhoods. *Id.* at 522. Because communities of color routinely reside in areas with depressed property values, an exception predicated on maximizing tax revenue or aesthetic appeal guarantees the destruction and displacement of the homes and businesses of the most vulnerable. *Id.* Ultimately, Justice Thomas warned that by stripping the Public Use Clause of its original meaning, the Court left marginalized groups entirely unprotected against an unholy alliance between municipal governments and powerful, wealthy developers. *Id.* at 521–22.

Moreover, even the majority decision in *Kelo* did not hold that a public use exists wherever the government invokes economic or community development. The Court reaffirmed that the government may not take property "for the purpose of conferring a private benefit on a particular private party," *Kelo*, 545 U.S. at 477, and further agreed that government cannot take property "under the mere pretext of a public purpose" when its actual purpose is private benefit. *Id.* at 478. As explained further below, this case does not require the Court to overrule *Kelo* — only to enforce the restrictions its majority opinion already forbids.

The facts of this case directly implicate the concerns recognized by a majority of judges in *Kelo*, including Justice Kennedy. As pleaded, Poppleton is a historic Black community of predominantly Black homeowners. Poppleton was the location of substantial public housing projects (including the nearby Poe Homes that is featured in the television show "The Wire"). A developer with no experience came to the City asking to take control over the neighborhood to build it back better. After the developer gave special gifts to the City Council President, and the request for proposal was changed in his favor, the City took all of the homes, paid for them, tore them down and gave the rights in the land to the developer. When it came to disposition, the contract, as amended, removes any time limit or requirement of performance, giving the politically-favored developer a perpetual, irrevocable and fully assignable right in all of the taken land without having to first perform a public use. Now, almost twenty years later, the land sits fallow and useless, yet the developer continues to restrict and monopolize all use of it, and demand payment of full market value, even from the City, for its use. Meanwhile, he tries to profit from it on by selling it on the open market without regard to any public use. The neighborhood and its residents were each the supposed intended beneficiaries of the pretextual public use; they were the ones promised the sky, moon and stars by the City and this developer but given nothing but aggravation and property depreciation. Each day when they walk out of their front door, they stare into the dilapidated abyss of the 13.8 acre hole left in the center of their community.

This parade of horribles is only possible because *Kelo* deviated from the plain text of the Fifth Amendment and created a system requiring judicial review of governmental action that has proven ineffective and unenforceable.

Rather than requiring lower courts to strain to fashion new enforcement mechanisms for the Fifth Amendment's Public Use Clause to protect minority communities from despotic acts of government, this Court can make a much simpler choice—take this case to return the Public Use Clause to what it was intended by the framers of the Constitution, like building roads, schools and bridges. Return the framework to the place where local government lacks the right to take land for community or economic development purposes, and avoid entirely the need for courts to monitor against the issues raised in this case, as Justice Kennedy's concurrence anticipated would be necessary.

Traditional *stare decisis* factors confirm that this Court is not bound to retain *Kelo* in its current, unworkable form. This Court has identified several factors relevant to whether *stare decisis* should yield: the quality of the decision's reasoning, the workability of the rule it established, its consistency with other related decisions, and the reliance interests at stake. *See Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 263–68 (2022).

First, the quality of *Kelo's* reasoning was contested from the outset. *Kelo's* treatment of "public use" is difficult to reconcile with the constitutional text and the understanding at the time of its drafting — a conclusion the four dissenting Justices reached, as detailed above.

Second, and most significantly, *Kelo's* community-development exception has proven unworkable in application. Over the two decades since *Kelo* was decided, the limitations the majority and concurring Justices placed on that exception — such as that a taking may not be a "mere pretext" for private benefit, *Kelo*, 545 U.S. at 478, and that courts should treat "a plausible accusation of impermissible favoritism to private parties" as "a serious one" warranting judicial review of the record. *Id.* at 491 (Kennedy, J., concurring) — have never materialized into anything more than rational-basis review in the lower courts. This case is itself proof of that unworkability: even where Petitioners have pleaded specific facts evidencing favoritism, a twenty-year record of non-performance and a contract that plainly violates *Kelo*, the Fourth Circuit's opinion leaves no plaintiff in a position to invoke the scrutiny that *Kelo* requires.

Third, retaining *Kelo* in its current form in light of the Fourth Circuit Opinion and the facts of this case creates conflict with *Kelo's* own text, as well as a roadmap for governments to use the pretext of community or economic development to sidestep the Public Use Clause entirely — a result the *Kelo* majority itself disclaimed when it reaffirmed that government may not take property "for the purpose of conferring a private benefit on a particular private party," 545 U.S. at 477, or "under the mere pretext of a public purpose." *Id.* at 478. Correcting the Fourth Circuit's rule would not require overruling *Kelo* so much as enforcing what *Kelo's* own majority opinion already says.

Fourth, reliance interests are more limited than they might first appear. This Court has explained that *stare decisis* protects "concrete reliance interests like those that develop in 'cases involving property and contract rights,'" *Dobbs*, 597 U.S. at 260–61 (quoting *Payne v. Tennessee*, 501 U.S. 808, 828 (1991)). Petitioners recognize that, unlike the narrower fix to the Fourth Circuit's ownership rule, revisiting *Kelo* itself — whether by narrowing it or by overruling it altogether — implicates reliance by governments and developers that are planning to engage in takings based on *Kelo*'s authority. But any relief this Court affords need not — and generally cannot selectively — disturb transactions where the project is complete and no live dispute remains to be adjudicated. *See Harper v. Va. Dep't of Taxation*, 509 U.S. 86, 97 (1993).

Whether this Court narrows *Kelo* to require an enforcement mechanism for the promised public use or restores the Public Use Clause to its original meaning entirely, the impact is narrow in scope. First, the ruling would impact cases, like this one, where a constitutional defect presents continuing harm to a particular class of persons over an extended period of time. This should be a limited number of cases circumscribed by the standing doctrine, the statute of limitations and similar doctrines. Second, if *Kelo* is modified more substantially, the ruling may affect cases where the takings are still pending. Neither category, however, implicates the kind of reliance *stare decisis* protects. Moreover, any party that seeks a substantial governmental benefit or otherwise contracts with government assumes the risk that the law or policy underlying that authority may change abruptly — be it through a policy shift, a decision of a court, or even an election cycle. Nor may a party that contracts with government assume a settled expectation that their agreement, or the authority underlying it, will remain forever free from legal challenge. These risks are always captured in the price of doing business with government.

The Court can choose a narrower path than overturning *Kelo*. If the Court only imposes the minimum restriction that government cannot give the taken land to the developer without first requiring the developer to perform the public use—and confirms that persons with standing and continuing injury have a right to ask a court to enforce that rule—this, alone, would be enough to provide at least some protection against the despotic acts of local governments in direct violation of the Public Use Clause and would provide Petitioners with the relief they seek in this case. Such a result would be more in keeping with *Kelo*, where lower courts are asked to monitor government closely when the taking is in the economic or community development context. It would also be consistent with Petitioners' status as the intended beneficiaries of a Public Use justification that relies on a community benefits pact.

Minimally, however, the Court should address the implications of the Fourth Circuit decision either by overturning the owner-only rule or reconstituting *Kelo*. The Public Use Clause cannot tolerate a transaction in which the government condemns land in the name of community redevelopment, gives a private developer continuing control over that land, yet imposes no obligation that it carry out the public use asserted to justify the taking. *Kelo* directly forbids this transaction and enlists the lower courts to monitor against it. This Court never intended the community development exception to the Public Use Clause to render government action of this kind entirely unenforceable and unreviewable. If Petitioners, who are the only persons left standing, cannot contest this transaction, then no one can, and local government can act with impunity.

This Court should take this case to fully and finally resolve whether *Kelo* is a proper interpretation of the Public Use Clause, and, if it is, whether a legal vehicle exists, or should exist, for persons to challenge government actions when government engages in mere pretext, impermissible favoritism, a purely private benefit transaction, or otherwise side-steps the limits the *Kelo* court relied upon to prevent governmental abuse of the protections guaranteed by the Public Use Clause of the Fifth Amendment.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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APPENDIX

TABLE OF APPENDICES

APPENDIX A — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, FILED MAY 4, 2026

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1770

POPPLETON NOW COMMUNITY ASSOCIATION, INC.; CURTIS EADDY, SR.; SONIA EADDY; STERLING WALKER; FRANCINA WALKER; WILLIAM H. GUNN, JR.; YVONNE BROOKS GUNN,

Plaintiffs-Appellants,

v.

LA CITE DEVELOPMENT, LLC; LA CITE, LLC; POPPLETON DEVELOPMENT I, LLC; PSH 1B, LLC; DAN BLYTHEWOOD, JR.; MAYOR AND CITY COUNCIL OF BALTIMORE; BRANDON SCOTT; ALICE KENNEDY; HOUSING AUTHORITY OF BALTIMORE CITY; JANET ABRAHAMS; SHEILA DIXON,

Defendants-Appellees.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Adam B. Abelson, District Judge. (1:24-cv-02420-ABA)

Argued: January 28, 2026
Decided: May 4, 2026

Before GREGORY, HARRIS, and RICHARDSON, Circuit Judges.

Vacated in part and remanded with instructions by published opinion. Judge Harris wrote the opinion, in which Judge Gregory and Judge Richardson joined.

PAMELA HARRIS, Circuit Judge:

Roughly two decades ago, the City of Baltimore entered into an agreement with a property developer to redevelop 13.8 acres of land in the city's Poppleton neighborhood. Pursuant to this agreement, the city acquired the land at issue—much of it by using eminent domain. But in the intervening years, the redevelopment project suffered myriad complications and delays, and very little of the promised development ever occurred. Large portions of this land now sit vacant and neglected.

The plaintiffs in this case—six individuals who own property adjacent to the land at issue and a non-profit community organization—sued the developer and various Baltimore City defendants, challenging both the development agreement and subsequent actions (and inactions) of the defendants. Two of the plaintiffs' claims are now before this court: their Fifth Amendment takings claim, which alleges that the use of eminent domain to take their neighbors' land was unconstitutional because the property was not taken for public use, and a state law private nuisance claim. The district court dismissed both, finding that the plaintiffs lacked Article III standing to bring their takings claim and that they failed to state a private nuisance claim under Maryland law.

We agree with the district court that both claims must be dismissed. Because we reach that conclusion for different legal reasons, however, we vacate the district court's judgment in part and remand with instructions to (1) dismiss the plaintiffs' takings claim for failure to state a claim and (2) decline to exercise supplemental jurisdiction over the plaintiffs' private nuisance claim and dismiss it without prejudice.

I.

A.

This case arises out of long-running efforts by the City of Baltimore to redevelop the city's Poppleton neighborhood—portions of which have been designated as an urban renewal area since 1975.[1] Beginning in 2004, the city initiated a process to redevelop 13.8 acres of land in the neighborhood. And in September 2006, the city entered into a Land Disposition and Development Agreement ("LDDA") with the developer selected for this project.

The 13.8 acres chosen for redevelopment encompassed a number of existing city blocks with more than 500 individual homes. As part of the LDDA, the city agreed to "use its best efforts and all legal authority"—including

1. Because the district court dismissed this case at the pleading stage, we describe the facts as alleged in the complaint and its attachments. *See E.I. du Pont de Nemours & Co. v. Kolon Indus., Inc.*, 637 F.3d 435, 448 (4th Cir. 2011); *Episcopal Church in S.C. v. Church Ins. Co. of Vt.*, 997 F.3d 149, 154-55 (4th Cir. 2021).

its "power of condemnation" where necessary—to acquire all the properties within the project area. J.A. 109. Once acquired by the city, these properties were sold to the developer at what the plaintiffs allege was a highly preferential price.

But the redevelopment project soon became mired in delays and complications, and litigation between the city and the developer ensued. Starting in 2013, the parties to the LDDA amended the agreement five separate times in an effort to resolve these ongoing issues and get the project back on track. Nonetheless, little progress was made. By the time this lawsuit was filed in August 2024, only a single apartment complex had been completed, and the project area still contained hundreds of vacant plots of land. The plaintiffs describe the site as largely abandoned and overrun by weeds, rats, trash, and other environmental nuisances.

B.

The plaintiffs in this case are six Baltimore residents (three couples) who live and own property directly adjacent to the redevelopment project area, as well as a non-profit community organization that advocates for current and former Poppleton residents. None of them owns property that is part of the LDDA or was taken for the redevelopment project.[2]

2. Property owned by one of the couples was formerly on the LDDA acquisition list and subject to eminent domain proceedings. But the city voluntarily withdrew this property from those proceedings in 2022 and removed it from the LDDA acquisition

The plaintiffs filed this lawsuit in federal court, invoking federal question jurisdiction pursuant to 28 U.S.C. § 1331 and naming as defendants the property developer (including four corporate entities and the individual who serves as their principal officer), the Mayor and City Council of Baltimore, the Housing Authority of Baltimore City, and various current and former city officials. The five substantive counts[3] in the complaint challenge the constitutionality of the LDDA and Baltimore's land use policies more generally, as well as the impacts of the redevelopment project on the Poppleton neighborhood and its residents.

Only two of these claims are at issue in this appeal. Count I alleges that the use of eminent domain to acquire the plaintiffs' neighbors' property for the redevelopment project constituted an unlawful "taking" under both the Fifth Amendment and the Maryland Constitution because the property was not taken for public use. And Count IV claims that the blighted condition of the still-vacant land in the redevelopment project area amounts to a private nuisance under Maryland law.

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list as part of one of the amendments to the agreement. In the complaint, these plaintiffs expressly disclaim any claims they might have had for the past inclusion of their property on the acquisition list or in eminent domain proceedings, resting their claims solely on the present status of their property as adjacent to the redevelopment project area.

3. The complaint also includes a separate count seeking a declaratory judgment. *See infra* Part II.C.

C.

In six separate motions, the defendants moved to dismiss the complaint, and the district court dismissed all the plaintiffs' claims. *Poppleton Now Cmty. Ass'n v. La Cite Dev., LLC*, 2025 WL 1707254 (D. Md. June 17, 2025).

The district court first dismissed the takings claim for lack of Article III standing, finding that the plaintiffs failed to allege "a cognizable injury in fact" to support this claim. *Id.* at *7-9. The Takings Clause of the Fifth Amendment, the district court explained, "provides that 'private property [shall not] be taken for public use, without just compensation.'" *Id.* at *8 (alteration in original) (quoting U.S. Const. amend. V).[4] Importantly, none of the individual plaintiffs alleged that any of their own property was taken. *Id.* And the taking of property belonging to their *neighbors*, the district court reasoned, did not constitute an actual injury to the *plaintiffs* that would allow them to challenge as unconstitutional the use of eminent domain. *Id.* Similarly, the community organization plaintiff lacked standing because the complaint never alleged "that any of its members had their properties taken." *Id.* The district court also rejected the plaintiffs' reliance on Maryland state law standing doctrines, explaining that state statutes conferring additional types of standing could not alter Article III's minimum standing requirements for federal courts. *Id.* at *7-8.

4. The Maryland Constitution's provision governing eminent domain "ha[s] the same meaning and effect" as the Takings Clause of the U.S. Constitution. *Litz v. Md. Dep't of Env't*, 446 Md. 254, 131 A.3d 923, 930 (2016) (citing Md. Const. art. III, § 40).

After dismissing the plaintiffs' other federal law claims, *see id.* at *9-11, the district court turned to the state law private nuisance claim, *id.* at *12. Here, the district court concluded that the plaintiffs had standing to sue most of the defendants.[5] *Id.* The plaintiffs satisfied the injury-in-fact requirement for this claim, the district court reasoned, by alleging that they had suffered reductions in their property values and the loss of use and enjoyment in their homes. *Id.* At least some of these injuries, the district court found, were "related" to the condition of the abandoned land in the redevelopment project area, which in turn had at least "*some* causal connection" to actions taken by the developer and the city, including the decision to take that land in the first place. *Id.* And these injuries, moreover, were, "at least in theory, redressable." *Id.*

But on the merits, the district court found that the complaint failed to state a private nuisance claim against any of the remaining defendants. *Id.* at *12-13. Maryland law defines a private nuisance as "a nontrespassory invasion of another's interest in the private use and enjoyment of land" that is "substantial and unreasonable." *Id.* at *13 (first quoting *Rosenblatt v. Exxon Co.*, 335 Md. 58, 642 A.2d 180, 190 (1994), and then quoting *Gorman v. Sabo*, 210 Md. 155, 122 A.2d 475, 477 (1956)). Here, the district court concluded that the plaintiffs offered only conclusory

5. The plaintiffs lacked standing to sue the Housing Authority as well as its President and CEO, the district court found, because the complaint did not allege any causal connection between these defendants' actions and the plaintiffs' injuries. *Poppleton Now*, 2025 WL 1707254, at *12. The plaintiffs do not challenge that holding on appeal.

allegations that their use and enjoyment of their property had been impacted. *Id.* And the district court determined that the plaintiffs' allegations of interference with the use and enjoyment of their property—which largely related to the condition of the neighborhood around the plaintiffs' homes—were "not comparable" to the types of interference actionable under Maryland private nuisance law. *Id.*

After the district court dismissed the complaint, the plaintiffs timely appealed. Before this court, they challenge only the dismissal of their takings and private nuisance claims, as well as the district court's failure to address their separately pled claim seeking a declaratory judgment.

II.

A.

The district court dismissed the plaintiffs' takings claim for lack of Article III standing, finding that they failed to allege a cognizable injury in fact because they did not allege that they owned any taken property. *Poppleton Now*, 2025 WL 1707254, at *7-9. We review a district court's dismissal for lack of standing de novo. *Ass'n of Am. R.R.s v. Hudson*, 144 F.4th 582, 589 (4th Cir. 2025). "When, as here, standing is challenged on the pleadings, we accept as true all material allegations of the complaint and construe the complaint in favor of the complaining party, so long as the allegations state a claim to relief that is plausible on its face." *Id.* (internal citations and quotation marks omitted).

We agree with the district court that the plaintiffs' takings claim cannot proceed. We also think the district court correctly identified this claim's fatal flaw: The plaintiffs do not allege that any of their own property was taken. But we conclude that this omission is better characterized as the failure to allege an essential element of a takings claim on the merits, rather than the lack of a cognizable injury in fact for Article III standing purposes. In other words, the plaintiffs fail to state a takings claim.

1.

To establish Article III standing, a plaintiff must show "(i) that he suffered an injury in fact that is concrete, particularized, and actual or imminent; (ii) that the injury was likely caused by the defendant; and (iii) that the injury would likely be redressed by judicial relief." *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423, 141 S.Ct. 2190, 210 L.Ed.2d 568 (2021). The purpose of this inquiry is to ensure the plaintiff has a "personal stake" in the case, *id.*, and not merely a "generally available grievance about government," *Gill v. Whitford*, 585 U.S. 48, 54, 138 S.Ct. 1916, 201 L.Ed.2d 313 (2018).

Here, the individual plaintiffs each allege that property they own has diminished in value as a result of the LDDA and the related use of eminent domain. These allegations, we conclude, are sufficient to establish that the plaintiffs have a "personal stake" in—and thus Article III standing to bring—their takings claim. *See TransUnion*, 594 U.S. at 423, 141 S.Ct. 2190.

Consider first the injury-in-fact requirement, where the district court focused its analysis. The injury alleged by each individual plaintiff is a reduction in the value of their property. *See*, *e.g.*, J.A. 25, 39, 50; *Poppleton Now*, 2025 WL 1707254, at *6, *12. As we have explained, "past monetary loss is a quintessential injury in fact." *Penegar v. Liberty Mut. Ins. Co.*, 115 F.4th 294, 302 (4th Cir. 2024). This type of "monetary harm" constitutes a "traditional tangible harm" that "readily qualif[ies]" as a concrete injury under Article III. *TransUnion*, 594 U.S. at 425, 141 S.Ct. 2190. The loss of property value, as alleged in the complaint, is an injury that affected these plaintiffs "in a personal and individual way"—as owners of property adjacent to the redevelopment project area—and is not merely a "generalized grievance" or a "general legal, moral, ideological, or policy objection" to the project. *See FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 381, 144 S.Ct. 1540, 219 L.Ed.2d 121 (2024). And the loss they claim is "actual," not "conjectural or hypothetical." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992) (internal quotation marks omitted).

The plaintiffs' alleged loss of property value therefore satisfies all the requirements for a cognizable injury in fact, as the district court itself concluded when analyzing the plaintiffs' private nuisance claim. *See Poppleton Now*, 2025 WL 1707254, at *12. That is all we require at this stage of the litigation. "With regard to the injury-in-fact prong of the standing test, [the plaintiffs] need not prove the merits of [their] case in order to demonstrate that [they] ha[ve] Article III standing." *Pitt Cnty. v. Hotels.com, L.P.*, 553 F.3d 308, 312 (4th Cir. 2009); *see also*

Cooksey v. Futrell, 721 F.3d 226, 239 (4th Cir. 2013) ("[F]or purposes of standing, we must assume the Plaintiffs' claim has legal validity."). By alleging they suffered an injury that is "concrete, particularized, and actual," the plaintiffs have satisfied their burden at the first step of the standing inquiry. *See TransUnion*, 594 U.S. at 423, 141 S.Ct. 2190.

As to causation and redressability, the plaintiffs claim their property value losses resulted from the condemnation of properties in their neighborhood and the subsequent condition of the vacant land in the redevelopment project area, which is adjacent to their homes. *See*, *e.g.*, J.A. 25, 39, 50. In analyzing standing for the plaintiffs' private nuisance claim, the district court found that there was "*some* causal connection" between the "alleged reduction" in the plaintiffs' property values and the defendants' actions, including that "some of the complained-of neighborhood conditions came about after the City listed homes in the neighborhood for condemnation." *Poppleton Now*, 2025 WL 1707254, at *12. We agree that the connections identified by the district court are sufficient to satisfy the "relatively modest" causation standard at the motion-to-dismiss stage. *Id.* (quoting *DiCocco v. Garland*, 52 F.4th 588, 592 (4th Cir. 2022)). And we also agree that this injury is, "at least in theory, redressable," including by "a financial judgment." *Id.*

Because the plaintiffs have satisfied each of the Article III standing requirements, they have standing to bring their takings claim.

2.

That the plaintiffs have standing to bring their takings claim, however, does not mean they can succeed on the merits of that claim. Again, as the district court correctly identified, the individual plaintiffs "all maintain ownership over their properties and . . . do not contend that any of their properties have been taken," either physically or by regulation. *Poppleton Now*, 2025 WL 1707254, at *8.[6] This fact does not preclude the plaintiffs from establishing standing, as we have explained. But it does prevent them from succeeding on the merits. As our precedents make clear, the Takings Clause does not provide the plaintiffs with a mechanism to challenge the taking of their former neighbors' properties because holding a protected property interest in taken property is an essential element of any takings claim.

The Takings Clause "provides that 'private property' shall not 'be taken for public use, without just compensation.'" *Phillips v. Wash. Legal Found.*, 524 U.S. 156, 163-64, 118 S.Ct. 1925, 141 L.Ed.2d 174 (1998) (quoting U.S. Const. amend. V). This provision, we have explained, "protects private property." *Quinn v. Bd. of Cnty. Comm'rs*, 862 F.3d 433, 439 (4th Cir. 2017). For that reason, "[t]he analysis in a takings case necessarily

6. In their appellate briefing, the plaintiffs assert that members of the community organization plaintiff had their property taken as part of the LDDA. But that allegation is not made in the complaint, which states only that the organization "advocates" for current and former residents of the neighborhood. *See* J.A. 27, 51; *Poppleton Now*, 2025 WL 1707254, at *8.

begins with determining whether the government's action actually interfered with" the plaintiff's property rights. *Sunrise Corp. of Myrtle Beach v. City of Myrtle Beach*, 420 F.3d 322, 330 (4th Cir. 2005). And we have found that plaintiffs fail to state a takings claim when they "fail to show" that they hold "a sufficient property interest" in the thing they allege the government took. *Quinn*, 862 F.3d at 439; *see also, e.g.*, *Chollet v. Brabrand*, 137 F.4th 241, 247 (4th Cir. 2025) (affirming dismissal of a takings claim because the plaintiffs did not hold a "private property" right in public education); *accord, e.g.*, *Degan v. Bd. of Trs. of Dall. Police & Fire Pension Sys.*, 956 F.3d 813, 815 (5th Cir. 2020) ("[T]o allege a takings claim, Plaintiffs must have a property interest. . . ."); *Zeyen v. Bonneville Joint Dist., # 93*, 114 F.4th 1129, 1139 (9th Cir. 2024) (explaining that, to state a takings claim, "the plaintiff must own 'private property'" that was "taken"); *Karuk Tribe of Cal. v. Ammon*, 209 F.3d 1366, 1374 (Fed. Cir. 2000) ("A takings claim calls for a two-step analysis" where, in the first step, "a court determines whether the plaintiff possesses a valid interest in the property affected by the governmental action[.]").

In many cases, deciding whether the plaintiff has alleged a property interest that is sufficient to state a takings claim requires examining whether the interest claimed is protected "private property" within the meaning of the Takings Clause. *See, e.g.*, *Chollet*, 137 F.4th at 245-47; *Quinn*, 862 F.3d at 439-40. Our task is much simpler here, however, because the plaintiffs have not *claimed* any property interest in anything taken by the government. Nor have they identified any cases holding that someone other than the owner of the taken property may bring a takings claim. As explained above, caselaw from our court and other circuits makes clear why: A protected property interest in the taken property is an essential element of a takings claim. The plaintiffs' failure to satisfy this element means their takings claim fails as a matter of law.[7]

For these reasons, we agree with the district court that the plaintiffs' takings claim must be dismissed. To align this dismissal with our reasoning, however, we vacate the portion of the judgment dismissing the plaintiffs' takings claim for lack of standing and remand to the district court with instructions to dismiss this claim for failure to state a claim.

7. Though it may seem far afield, when it comes to the distinction between lack of standing and failure to state a claim, there is a helpful analogue in Fourth Amendment jurisprudence. Fourth Amendment rights are "personal rights," which means that only individuals with "a legitimate expectation of privacy in the invaded place" can challenge a search. *Rakas v. Illinois*, 439 U.S. 128, 133-34, 143, 99 S.Ct. 421, 58 L.Ed.2d 387 (1978). This restriction is sometimes referred to colloquially as Fourth Amendment "standing." But caselaw makes clear that it is not jurisdictional and "should not be confused with Article III standing." *Byrd v. United States*, 584 U.S. 395, 410-11, 138 S.Ct. 1518, 200 L.Ed.2d 805 (2018). Instead, it operates as part of the Fourth Amendment merits analysis, to "captur[e] the idea that a person must have a cognizable Fourth Amendment interest in the place searched before seeking relief." *Id.* at 410, 138 S.Ct. 1518. So too here: As described above, a plaintiff must have a protected property interest in taken property to raise a Takings Clause challenge. And while that might sound like an Article III standing rule, it actually tests whether the plaintiff has a cognizable claim to relief.

B.

We next turn to the plaintiffs' state law private nuisance claim. We review a dismissal for failure to state a claim de novo. *Meridian Invs., Inc. v. Fed. Home Loan Mortg. Corp.*, 855 F.3d 573, 580 (4th Cir. 2017).

Here, the district court considered the private nuisance claim after it had dismissed each of the plaintiffs' federal law claims. *See Poppleton Now*, 2025 WL 1707254, at *12. As discussed, the district court found that the plaintiffs had standing as to most of the defendants but failed to state a private nuisance claim under Maryland law. *Id.* at *12-14. On appeal, we do not reach the district court's substantive analysis. Instead, we conclude that the district court skipped an important step by considering the merits of this claim without first deciding whether to exercise supplemental jurisdiction.

When, as here, a district court has subject matter jurisdiction under 28 U.S.C. § 1331, "it also has supplemental jurisdiction over related state-law claims." *Kovachevich v. Nat'l Mortg. Ins. Co.*, 140 F.4th 548, 556 (4th Cir. 2025). But if it dismisses all the federal claims, and no other basis for jurisdiction over the state law claims exists, the district court must decide whether to exercise supplemental jurisdiction over the remaining state law claims. *Id.*

As a general rule, "when a district court dismisses all federal claims in the early stages of litigation . . . it should decline to exercise jurisdiction over any remaining pendent state law claims by dismissing those claims without prejudice." *Henderson v. Harmon*, 102 F.4th 242, 251 (4th Cir. 2024); *see also Royal Canin U. S. A., Inc. v. Wullschleger*, 604 U.S. 22, 32, 145 S.Ct. 41, 220 L.Ed.2d 289 (2025) (explaining that district courts "ordinarily should" decline to exercise supplemental jurisdiction to "kick the case to state court"). The district court should have done so here. All the plaintiffs' federal claims were dismissed when this litigation was still in its "early stages"—at the motion-to-dismiss stage—and no discovery had yet occurred. *See Henderson*, 102 F.4th at 251. Moreover, the issues in this case implicate particularly strong state interests, and there is no substantial caselaw applying Maryland private nuisance law to claims analogous to this one. *See United Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 726, 86 S.Ct. 1130, 16 L.Ed.2d 218 (1966) (explaining that one reason not to exercise supplemental jurisdiction is to avoid "[n]eedless decisions of state law").

We therefore vacate the dismissal of the plaintiffs' private nuisance claim for failure to state a claim, and remand to the district court with instructions to decline to exercise supplemental jurisdiction over this claim and dismiss it without prejudice. *See Oneida Indian Nation of N.Y. v. Madison Cnty.*, 665 F.3d 408, 436-40, 444 (2d Cir. 2011).

C.

Finally, we briefly consider the plaintiffs' contention that the district court erred by not specifically addressing their separately pled claim for a declaratory judgment.

This was not error. The Declaratory Judgment Act "does not create an independent cause of action." *Chevron Corp. v. Naranjo*, 667 F.3d 232, 244-45 (2d Cir. 2012). It "is remedial only" and does not "create[] any substantive rights." *CGM, LLC v. BellSouth Telecomms., Inc.*, 664 F.3d 46, 55 (4th Cir. 2011); *accord* 22A Am. Jur. 2d *Declaratory Judgments* § 163, Westlaw (database updated Feb. 2026) ("Under the Federal Declaratory Judgment Act, a count for declaratory relief is not cognizable as [a] separate cause of action, but it is more properly included in [the] prayer for relief[.]"); *id.* § 162 ("A complaint for a declaratory judgment must state a claim on which relief can be granted or [a] cause of action, meaning that the plaintiff must plead substantive claims for which declaratory relief may be granted."). Thus, when all the plaintiffs' substantive claims were dismissed, their declaratory judgment claim also necessarily failed. *CGM*, 664 F.3d at 56.

III.

For the foregoing reasons, we vacate the judgment of the district court in part, and remand with instructions for the district court to dismiss the plaintiffs' takings claim for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6), decline to exercise supplemental jurisdiction over the plaintiffs' private nuisance claim, and dismiss that claim without prejudice.

VACATED IN PART AND REMANDED WITH INSTRUCTIONS

APPENDIX B — MEMORANDUM OPINION OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND, DATED JUNE 17, 2025

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

Case No. 24-cv-2420-ABA

POPPLETON NOW COMMUNITY ASSOCIATION, INC., *et al.*,

Plaintiffs,

v.

LA CITE DEVELOPMENT, LLC, *et al.*,

Defendant.

Signed June 17, 2025

MEMORANDUM OPINION

This case is about the development (or lack thereof) of the Poppleton neighborhood in Baltimore over the past two decades. In 2006, the Mayor and City Council of Baltimore and a developer, Poppleton Development I, LLC, entered into a Land Disposition and Development Agreement ("LDDA" or "the Agreement") to develop 13.8 acres of land—much of which the City would need to acquire through eminent domain—into more than 1,600 housing units and 100,000 square feet of new commercial retail space. Since the LDDA's commencement, the project has experienced significant delays and complications, including multiple lawsuits and disputes between the parties to the Agreement.

Plaintiffs in this case are six Poppleton residents and a non-profit organization. They have sued various individuals and entities involved in the genesis and implementation of the LDDA, including the developers and several former and current Baltimore public officials. Plaintiffs allege that the LDDA constitutes an unconstitutional taking and violates their rights to equal protection and due process. They also allege claims of a private nuisance and unjust enrichment. Plaintiffs also challenge Baltimore City's land use practices generally as violations of equal protection and due process. Each of the defendants has filed a motion to dismiss. For the reasons stated below, the Court will grant Defendants' motions to dismiss.

I. BACKGROUND

As noted above, the history of Poppleton Development I, LLC and related corporate entities' involvement in the Poppleton neighborhood has been ongoing for over two decades and is protracted and fraught.[1] The factual background below is focused on the discrete issues presented in this case.

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1. *See, e.g.*, ECF No. 1-2 (*Baltimore Banner* article describing the history of La Cité's involvement in the Poppleton neighborhood).

A. The Parties

Plaintiff Poppleton Now Community Association ("Poppleton Now") is a non-profit corporation that describes itself as focused on "bettering the Poppleton neighborhood and advocating for the rights and desired uses of current and former neighbors." ECF No. 1 ¶ 41. The complaint states that the majority of the organization's members are Black, but does not state where its members live or lived (*e.g.*, if any of the organization's members once lived within the LDDA area). *Id.*

Plaintiffs Curtis Eaddy, Sonia Eaddy, Sterling Walker, Francina Walker, Yvonne Gunn, and Skip Gunn (collectively, "Individual Plaintiffs") are Poppleton residents who live adjacent to the LDDA area; none of them owns property that remains part of the LDDA or otherwise was taken by eminent domain. *Id.* ¶¶ 42-44. The Eaddys' property was formerly a part of the eminent domain proceedings associated with this project, but the city voluntarily withdrew it from those proceedings in 2022. *Id.* ¶ 42; *see also* ECF No. 30-1 at 6.

Defendant La Cité Development is a New York corporation with several subsidiaries that do business in Maryland. *Id.* at ¶ 47. Defendants La Cité, LLC, Poppleton Development I, LLC and PSH 1B, LLC are subsidiaries of La Cité Development. *Id.* ¶¶ 35-37. Defendant Dan Blythewood Jr. is the principal officer of these entities. *Id.* ¶ 38. These defendants are collectively referred to herein as the "Developer Defendants."

Appendix B

Defendants Brandon Scott (Mayor of Baltimore), Alice Kennedy (Director of Baltimore's Department of Housing and Community Development), and the City Council of Baltimore are collectively referred to herein as the "City Defendants." *Id.* ¶¶ 30-32.

Defendant Housing Authority of Baltimore City ("HABC"), as described by Plaintiffs, "was an agency within Baltimore City government until 2017" and is, at least according to Plaintiffs, a "governmental corporate body in the State of Maryland." *Id.* ¶ 33.[2] Defendant Janet Abrahams is HABC's President and CEO. *Id.* ¶ 34. These defendants are collectively referred to herein as "HABC Defendants."

Defendant Sheila Dixon ("Defendant Dixon" or "Ms. Dixon") is a former mayor of Baltimore and former City Council President. *Id.* ¶ 39.

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2. HABC Defendants argue that the characterization of HABC as a city agency is not correct, and state that "the *sole* legal affiliation between HABC and the City of Baltimore" is a cooperative agreement that allows the U.S. Department of Housing and Urban Development to provide federal loans for low-income housing. ECF No. 32-1 at 8- 9 (citing 42 U.S.C. § 1437c(e)(2)).

B. Factual Background[3]

Since 1975, part of the Poppleton neighborhood has been designated as the Poppleton Urban Renewal Area ("Poppleton URP"). ECF No. 1 at ¶ 69. In 2003, Developer Defendants approached the City about developing the Poppleton URP. *Id.* at ¶ 70. In July 2004, a Review Panel and the Office of Asset Management and Disposition (the "Review Panel") issued a Request for Qualifications (RFQ)[4] to redevelop a 13.8 acre site within the Poppleton URP.[5] *Id.* ¶ 73. Five developers, including La Cité, responded to the RFQ. *Id.* ¶ 74. Two entities were deemed non-competitive and the list was narrowed to three developers. *Id.* ¶ 75; ECF No. 1-3 at 2-3. The Review Panel gave Pennrose Properties an average score of 87 and all five voting members ranked it in first place. ECF No. 1 ¶ 77; ECF

3. At the pleadings stage, the Court must "accept as true all of the factual allegations contained in the complaint and draw all reasonable inferences in favor of the plaintiff." *King v. Rubenstein*, 825 F.3d 206, 212 (4th Cir. 2016). The facts in this section, therefore, are drawn from the allegations in the Plaintiffs' complaint. The complaint sometimes uses terms such as "the City" and "the Developer" without identifying specific defendants; when referring to such facts, this section uses those same terms.

4. Plaintiffs describe this as a Request for Proposals, or RFP, but documents that Plaintiffs attached to their complaint indicate this was a Request for Qualifications. *See* ECF No. 1-3.

5. It appears that the 13.8 acres includes property within both the Poppleton Urban Renewal Area and an area called the Franklin Square Urban Renewal Area. *See* ECF No. 1-5 at 5 (describing the "Project Area" in the LDDA as "certain propert[ies]" within both Renewal Areas).

No. 1-3 at 3. The Review Panel gave La Cité an average score of 73 and ranked it third out of the three remaining bidders. ECF No. 1 ¶ 80; ECF No. 1-3 at 3. Based on this ranking and survey feedback from community meeting attendees who ranked Pennrose Properties, LLC as their top choice, ECF No. 1-3 at 2, on February 23, 2005, the Review Panel and the Office of Asset Management and Disposition ("OAMD") recommended that the city award the "right to plan and develop" the Poppleton Housing Site to Pennrose Properties. ECF No. 1 ¶¶ 75-76; ECF No. 1-3 at 2.

In March 2005, an article featuring City Council President Sheila Dixon ran in the magazine *Essence*. *Id.* ¶ 83; *see also* ECF No. 1-2 at 12. Plaintiffs state that La Cité and an investor in the Poppleton development associated with the magazine arranged this feature, and also provided Ms. Dixon a "spa day in the Hamptons." ECF No. 1 ¶ 82.

On March 16, 2005, OAMD issued a memo recommending that the city award the right to redevelop the Poppleton Housing Site to La Cité. *Id.* at ¶ 83; ECF No. 1-4. The memo noted that "[w]hile the La *Cite* team has weaknesses that were reflected in the scoring by the Review Panel," the scoring was low because the fact that the "strong, experienced lead developer" WestPac would be involved "was not made clear to the Review Panel." ECF No. 1-4 at 2. The development rights were awarded to "the development team of La Cite Development and WestPac, which [] formed the entity Poppleton Development I, LLC." ECF No. 1-5 at 3. Plaintiffs characterize the awarding of the RFQ as "suspicious" in light of the benefits that Ms. Dixon allegedly received from individuals affiliated with La Cité. ECF No. 1 at 22.

In 2006, Baltimore City entered into the Land Disposition and Development Agreement with Poppleton Development I, LLC. ECF No. 1 ¶ 85; ECF No. 1-5. The LDDA included four phases, "all of which [were] required to be completed by 2013." ECF No. 1 ¶ 87. The LDDA stated that the City owned or "w[ould] soon have in title" 358 of the 525 properties in the area and it would "use its authority through the Poppleton [URP] to acquire" the remaining 167 properties. ECF No. 1-5 at 3. Plaintiffs allege that the LDDA timeline was unreasonable, and that the properties' alleged taking for "public use was inconceivable from inception." ECF No. 1 ¶ 91.

In 2013, following litigation in which the developers alleged that Baltimore had failed to acquire enough property through eminent domain, the LDDA parties agreed to amend the Agreement. ECF No. 1 ¶¶ 92-93. The amended agreement changed the timing for each phase (for example, phase 1 was dividing into subphases of 1A, 1B, and 1C, and discussions to revise the LDDA to would begin no earlier than closing on phase 1B), "removed 2013 as the end date for the project," but "failed to replace it with a new end date." *Id.* ¶¶ 96, 97; *see also* ECF No. 1-6 (First Amendment to the LDDA). Plaintiffs describe the amendment as "confer[ing] an indefinite and perpetual private property 'right'" on the Developer "over all 13.8 acres and across all four phases." ECF No. 1 ¶ 97. Since 2013, the parties to the LDDA have amended the

Agreement five times, each of which has extended project deadlines. *Id.* ¶ 99. Plaintiffs allege that the "initial vague concept" of the LDDA and the many subsequent changes to it demonstrate that "the LDDA was always more about a private property transfer than about executing a public plan." *Id.* ¶ 95.

Plaintiffs also challenge two specific payments from the City and HABC to Developer Defendants. The first challenged payment relates to Plaintiff Ms. Eaddy's house, which was located within the original LDDA area. ECF No. 1 ¶ 42. The state filed to take Ms. Eaddy's property through eminent domain, a proceeding she challenged in state court. ECF No. 1 ¶ 103. While the case was on appeal, the City voluntarily chose to remove her home and several neighboring rowhouses from the LDDA area. ECF No. 1 ¶ 103; *see also* ECF No. 30-1 at 6 (City Defendants' statement that "[w]hile the Eaddys once had their home listed for eminent domain, the City voluntarily withdr[e]w the Eaddys property from that list"). In July 2022, the City paid the Developer $260,000 (the market value the City would have paid Ms. Eaddy had it completed the eminent domain action) to remove Ms. Eaddy's home and another parcel she owned from the LDDA area. ECF No. 1 ¶ 104; *see also* ECF No. 1-10. This revision to the LDDA area is reflected in the Fifth Amendment to the LDDA. ECF No. 1 ¶¶ 100, 104.

The second challenged payment involves the City's Transform Poe Redevelopment Project ("Poe Project").

Id. ¶¶ 105-08.[6] In August 2023, HABC paid $550,000 to the Developer for the development rights with respect to three parcels located within the Poppleton Housing Site that the City wanted as part of the Poe Project. *Id.* ¶¶ 106, 107. Plaintiffs maintain that the new project "constituted a material change of the public use for properties acquired by eminent domain" and that because the City already owned these properties, "both payments (the $260,000 and the $550,000) . . . are the property of the City of Baltimore and must be paid-back." *Id.* ¶¶ 108, 112.

C. Procedural History

Plaintiffs filed their complaint in August 2024 with five counts: a violation of the Takings Clause (count 1); a violation of the Equal Protection and Due Process Clauses (count 2); a violation of the Equal Protection and Due Process Clauses based on Baltimore's land use practices (count 3, alleged against Baltimore City only); private nuisance (count 4); unjust enrichment (count 5).[7] Plaintiffs seek damages, injunctive relief, and a declaratory judgment (including a declaration that the LDDA "is void"). *Id.* at 58, 63.

6. The Poe Project is a planned redevelopment of the Edgar Allan Poe Public Housing Complex, which is close to the Poppleton Housing Site. ECF No. 1 ¶ 22.

7. The numbering of the counts in the complaint is not sequential. For clarity, the court will use these count numbers throughout the opinion.

All Defendants have filed motions to dismiss. *See* ECF Nos. 12 & 13 (Developer Defendants); ECF No. 27 (Defendant Dixon); ECF Nos. 30 & 31 (City Defendants); ECF No. 32 (HABC Defendants). Plaintiffs filed opposition briefs to each motion. *See* ECF No. 22 & 23 (opposition to Developer Defendants' motions); ECF No. 38 (oppositions to Defendant Dixon's motion); ECF Nos. 36 & 37 (opposition to City Defendants' motions); ECF No. 42 (opposition to HABC Defendants' motion). And Defendants filed reply briefs for each motion. *See* ECF Nos. 25 & 26 (Developer Defendants); ECF No. 39 (Defendant Dixon); ECF Nos. 40 & 41 (City Defendants); ECF No. 43 (HABC Defendants).

In addition, the Developer Defendants filed a motion for sanctions against the Plaintiffs, seeking dismissal of the complaint with prejudice and reasonable attorney's fees and costs in defending the action. ECF No. 18; *id.* at 11.

II. STANDARD OF REVIEW

A complaint must contain "a short and plain statement of the claim showing the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). When a defendant asserts that, even assuming the truth of the alleged facts, the complaint fails "to state a claim upon which relief can be granted," the defendant may move to dismiss the complaint. Fed. R. Civ. P. 12(b)(6). As noted above, in considering such a motion, the Court must "accept as true all of the factual allegations contained in the complaint and draw all reasonable inferences in favor of the plaintiff." *King*, 825

F.3d at 212. A motion under Rule 12(b)(6) "does not resolve contests surrounding the facts, the merits of a claim, or the applicability of defenses." *Edwards v. City of Goldsboro*, 178 F.3d 231, 243 (4th Cir. 1999) (quoting *Republican Party v. Martin*, 980 F.2d 943, 952 (4th Cir. 1992)).

When a defendant moves to dismiss for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1), "[t]he plaintiff has the burden of proving that subject matter jurisdiction exists." *Evans v. B.F. Perkins Co., a Div. of Standex Int'l Corp.*, 166 F.3d 642, 647 (4th Cir. 1999). "The district court should grant the Rule 12(b)(1) motion to dismiss 'only if the material jurisdictional facts are not in dispute and the moving party is entitled to prevail as a matter of law.'" *Id.* (quoting *Richmond, Fredericksburg & Potomac R. Co. v. United States*, 945 F.2d 765, 768 (4th Cir. 1991)).

III. DISCUSSION

City Defendants and Developer Defendants argue that the complaint fails for lack of standing and failure to state a claim. *See* ECF Nos. 12, 31 (motions to dismiss under Fed. R. Civ. P. 12(b)(1), for lack of standing); ECF Nos. 13, 30 (motions to dismiss under Fed. R. Civ. P. 12(b)(6), for failure to state a claim). And although HABC Defendants and Defendant Dixon do not raise 12(b)(1) standing arguments, the Court may consider standing issues as to all defendants because "[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." Fed. R. Civ. P. 12(h)(3). As discussed below, some counts fail for a lack of standing, some fail for a failure to state a claim, and some fail for both reasons. The Court begins with an overview of standing doctrine before considering each count.

A. Standing

Under Article III, jurisdiction over a "case or controversy" requires (among other things) that at least one plaintiff has standing to sue. *See Murthy v. Missouri*, 603 U.S. 43, 56-57 (2024) ("The case or controversy requirement is fundamental to the judiciary's proper role in our system of government.") (internal quotations omitted). There are three required elements to establish standing: (1) an injury in fact that is concrete and particularized; (2) a causal connection between the injury and the allegedly wrongful conduct; and (3) redressability (i.e., a likelihood that the injury will be redressed by a favorable outcome in the case). *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992) (referring to these three elements as an "irreducible constitutional minimum"). Because a plaintiff may have standing to recover for one claim, but lack standing for another—even when the claims involve related facts—the question of standing must be determined on a claim-by-claim basis. *See Town of Chester, N.Y. v. Laroe Estates, Inc.*, 581 U.S. 433, 439 (2017) ("Our standing decisions make clear that 'standing is not dispensed in gross.'") (quoting *Davis v. Fed. Election Comm'n*, 554 U.S. 724, 734 (2008)). But as to each claim, "the presence of one party with standing is sufficient." *Rumsfeld v. Forum for Acad. & Inst. Rts., Inc.*, 547 U.S. 47, 52 n.2 (2006).

With respect to the first element, standing requires a "concrete and particularized" injury, which is something more than a "generalized grievance[] about the conduct of government." *United States v. Richardson*, 418 U.S. 166, 174 (1974) (quoting *Flast v. Cohen*, 392 U.S. 83, 106 (1968)). A "particularized" injury is one that "affect[s] the plaintiff in a personal and individual way." *Lujan*, 504 U.S. at 560 n.1.

Plaintiffs must next demonstrate that there is a causal connection between their alleged injuries and the alleged wrongdoing. *See Lujan*, 504 U.S. at 560. The alleged injury must be one "that fairly can be traced to the challenged action of the defendant" rather than "the independent action of some third party not before the court." *Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 41-42 (1976). The burden of establishing causation for standing purposes is "relatively modest" at the pleadings stage. *DiCocco v. Garland*, 52 F. 4th 588, 592 (4th Cir. 2022) (quoting *Bennett v. Spear*, 520 U.S. 154, 171 (1997)).

Finally, Plaintiffs must demonstrate that their injury "likely would be redressed by the requested judicial relief." *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 380 (2024). The requirements of causation and redressability "are often flip sides of the same coin" because "[i]f a defendant's action causes an injury," an injunction or damages "will typically redress that injury." *Id.* at 380-81 (internal quotations omitted).

A plaintiff that is an organization—such as here, Poppleton Now—may establish standing based on its own injury or based on its members' injuries, the latter of which is often called representational or associational standing. *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 199 (2023). To establish representational standing, "an organization must demonstrate that '(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.'" *Id.* (quoting *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977)). Only one identified member of the organization needs to establish injury to support associational standing. *See S. Walk at Broadlands Homeowner's Ass'n, Inc. v. OpenBand at Broadlands, LLC*, 713 F.3d 175, 184 (4th Cir. 2013).

Although Plaintiffs note many non-concrete grievances related to the Defendants' actions,[8] their allegations of injury fall within four general categories: (1) the award of 13.8 acres of property within the Poppleton Housing Site to Developer Defendants, some of which was obtained through eminent domain, ECF No. 1 at 4; (2) destruction of Plaintiff's property values, *id.*; (3) the loss of their use and enjoyment of their land, *id.*; and (4) the "denial of

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8. *See*, *e.g.*, ECF No. 1 ¶ 197 ("Defendants . . . destroyed people's lives"), *id.* ¶ 26 (noting "devastation wrought by the LDDA and the Developer's improper actions"), *id.* ¶ 140 ("As a direct and proximate result of [Defendants'] Unconstitutional actions, the Plaintiffs . . . live in a vacated wasteland left behind by this project."), *id.* ¶ 98 ("broken promises" by the developer "caused great harm").

meaningful opportunities to participate or gain market value or amenities through natural market forces," *id.* ¶ 175.

Here, the fourth category of harm is essentially a complaint that the Defendants' activities (or inactivity) within the Poppleton Housing Site area has disrupted "natural market forces," which has denied Plaintiffs "meaningful opportunities . . . to gain market value." 45. This injury is too conjectural to support standing. *See Lujan*, 504 U.S. at 560 (for standing purposes, an injury must be "concrete" and "actual or imminent," as opposed to "conjectural or hypothetical") (internal quotations omitted). Plaintiffs' beliefs about what might have happened to their property values or neighborhood amenities based on so-called "natural market forces" are too speculative to establish standing. These alleged injuries are also not "particularized"; that is, Plaintiffs have not asserted that the alleged disruption in market forces has affected them in "a personal and individual way." *Lujan*, 504 U.S. at 560 n.1. For these reasons, the Court will not consider this alleged injury. The three remaining categories of alleged injury will be considered in the analysis below.

B. Plaintiffs have not alleged sufficient facts to state a claim against Defendant Dixon

Before diving into each of the individual causes of action, the Court considers the claims against Defendant

Dixon,[9] who seeks dismissal of the claims against her on statute of limitations grounds. ECF No. 27 ¶ 4. Plaintiffs contend that the "harm set in motion by Ms. Dixon" began with the signing of the LDDA and "continues to this day." ECF No. 38 at 1. They also alternatively argue their claims are timely because certain aspects of Ms. Dixon's involvement in the LDDA "only recently came to light." *Id.* at 2. Ms. Dixon also argues that Plaintiffs have failed to state a claim for which relief can be granted. ECF No. 27 ¶ 5.

Plaintiffs have failed to adequately state any claim against Ms. Dixon. Plaintiffs do not allege that she took any actions that gave rise to any of the four claims they raise against her. The complaint alleges that Ms. Dixon received "a full-day of makeovers and a spread in Essence Magazine that touted her community redevelopment prowess," arranged by the Developer, ECF No. 1 ¶ 13; *see also id.* ¶ 82 (alleging that Ms. Dixon was also provided a "spa day"), and "acted in concert with [Defendant] Blythewood to deny Plaintiffs their Constitutional rights," *id.* ¶ 39.

Though "a plaintiff need not 'forecast' evidence sufficient to prove the elements of the claim," the complaint "must allege sufficient facts to establish those elements." *Walters v. McMahen*, 684 F.3d 435, 439 (4th Cir. 2012); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) ("To

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9. The only count that Plaintiffs appear to exclude Defendant Dixon from is count 3, which they bring against "Baltimore City [o]nly." ECF No. 1 at 43. The Court therefore will treat the complaint as raising counts 1, 2, 4, and 5 against Ms. Dixon.

survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'") (citation omitted). Here, although Plaintiffs characterize the timing of the *Essence* spread as "nothing short of extraordinary," ECF No. 1 ¶ 14, and the RFQ award as "suspicious," *id.* at 22, they do not allege that any of Ms. Dixon's actions support any of the claims in their complaint. That is, they do not allege, even upon information and belief, that Ms. Dixon influenced or attempted to influence the Review Panel's recommendation, or that any such influence would be a constitutional violation. Absent any other factual allegations, Ms. Dixon's alleged spa day, makeover, and magazine spread arranged by the Developer do not constitute a violation of the Takings Clause, the Equal Protection Clause, or the Due Process Clause. Those allegations about the magazine spread also do not support claims for private nuisance or unjust enrichment. The remaining allegation against Ms. Dixon—that she acted "to deny Plaintiffs their Constitutional rights"—is conclusory. *See Twombly*, 550 U.S. at 555 ("a plaintiff's obligation to provide the grounds of his entitle[ment] to relief requires more than labels and conclusions") (internal quotation marks omitted) (alteration in original).

While the Court at the pleadings stage must "draw all reasonable inferences" in Plaintiffs' favor, *King*, 825 F.3d at 212, it cannot fill in gaps with allegations that do not appear in the complaint. *See Martin v. Duffy*, 858 F.3d 239, 248 (4th Cir. 2017) (with motion to dismiss, court is not required to accept "unwarranted deductions of fact, or unreasonable inferences."). The complaint does not sufficiently plead any claims against Ms. Dixon upon which relief can be granted. The counts against her will be dismissed under Rule 12(b)(6).[10]

C. Count 1 – Takings

The Fifth Amendment of the U.S. Constitution provides that "private property [shall not] be taken for public use, without just compensation." U.S. Const. amend. V. None of the Plaintiffs here were owners of properties that were taken by eminent domain. But in Count 1, Plaintiffs allege that when the City exercised eminent domain to take some of their neighbors' properties pursuant to the LDDA, those exercises of eminent domain were unconstitutional because Defendants did not "ensur[e] the delivery of a public use" of the properties. *See*, *e.g.*, ECF No. 23 at 2. Defendants move to dismiss this claim for both a lack of standing and failure to state a claim.

As to standing, City Defendants and Developer Defendants argue that Plaintiffs have not established any of the three elements of standing, especially a particularized injury-in-fact. *See* ECF No. 31-1; ECF No. 12-1 at 22-28. They also argue that Plaintiffs have not stated a cognizable takings claim because Plaintiffs themselves have not had any property condemned by the government (*i.e.*, a direct taking), *see* ECF No. 30 at 7-8, ECF No. 13-1 at 20, and Plaintiffs also do not allege a *per*

10. Because the Court dismisses the claims against Ms. Dixon on failure-to-state-a-claim grounds, it need not reach the alternative argument that any claims against Ms. Dixon are barred by the statute of limitations.

se or regulatory taking. *See* ECF No. 30 at 8-11; ECF No. 13-1 at 21-22. HABC Defendants add that because the complaint often refers to "Defendants" collectively, "Plaintiffs nowhere allege that HABC, expressly, itself, or Ms. Abrahams, individually, disseized Plaintiffs of their properties, controlled Plaintiffs' private properties, occupied Plaintiffs' properties, or transferred possession or control of their properties." *See* ECF No. 32-1 at 11-13.

The Court concludes that Plaintiffs' takings claim (count 1) fails because Plaintiffs have not alleged a cognizable injury in fact; the Court need not reach the other reasons Defendants contend count 1 should be dismissed. Plaintiffs say they have standing because Maryland law recognizes the adjacent or nearby property owners as a "subset of . . . *Lujan* standing." ECF No. 23 at 5. They also argue that the interest needed for standing "need only be slight" when the issues presented are of great public interest. *Id.* at 6 (quoting *Balt. Cnty. v. Churchill, Ltd.*, 271 Md. 1, 5 (1974)). Developer Defendants contend that Plaintiffs cannot establish any of the three elements of standing, and emphasize that "the connection between [] Defendants' actions and Plaintiffs' purported injuries is too tenuous" to support the causation requirement of standing. ECF No. 12-1 at 27; *see also* ECF No. 31-1 at 6-7, 11-13 (City Defendants' argument that Plaintiffs lack each element of standing as to their taking claim).

Plaintiffs' primary standing argument is based on a type of standing termed "property owner standing" that is recognized under Maryland law in limited circumstances.

ECF No. 23 at 5-8; s*ee also Anne Arundel Cnty. v. Bell*, 442 Md. 539, 569 (2015) ("the doctrine of property owner standing may apply to administrative land use decisions and other land use actions undertaken as executive functions"). "Property owner standing" stems from Maryland zoning statutes, which grant an "aggrieved person" the right to challenge certain zoning actions. *Bell*, 442 Md. at 556 (citing *State Center, LLC v. Lexington Charles Ltd. P'ship*, 438 Md. 451, 522-23 (2014)).

But that is a state-law doctrine, and Plaintiffs have identified no authority for incorporating it into federal Article III standing doctrine. States can have their own standing requirements that differ from federal standing requirements, and often do. *See*, *e.g.*, *Village of Arlington Heights*, 429 U.S. 252, 262 n.8 (1977) (dismissing petitioners' argument that respondent lacked standing, noting, "Illinois may choose to close its courts to [certain parties] unless they have an interest more direct than MHDC's, but this choice does not necessarily disqualify MHDC from seeking relief in federal courts for an asserted injury to its federal rights"); *ASARCO Inc. v. Kadish*, 490 U.S. 605, 617 (1989) (explaining that "state courts are not bound to adhere to federal standing requirements," even when interpreting federal law). The fact that Maryland state courts confer standing, based on a state statute, on certain parties through property owner standing does not alter the "irreducible minimum requirements" of standing required under Article III of the U.S. Constitution. *See Lujan*, 504 U.S. at 560. *Cf. Bauer v. Elrich*, 8 F.4th 291, 298 (2021) ("Maryland taxpayer standing doctrine . . . merely *confers standing in state court* for taxpayers to enforce a right or obligation imposed by some other provision of law.") (emphasis added).

Focusing on the elements of Article III standing, Plaintiffs have not alleged an actual, particularized injury sufficient to establish standing for their takings claim. As noted above, the Takings Clause of the U.S. Constitution provides that "private property [shall not] be taken for public use, without just compensation." U.S. Const. amend. V. Individual Plaintiffs here all maintain ownership over their properties and, therefore, do not contend that any of their properties have been taken for public use.[11] The fact that the Individual Plaintiffs' *neighbors* had their properties taken through eminent domain does not constitute an actual injury to *Plaintiffs* that would permit these Plaintiffs to challenge as unconstitutional the takings of their former neighbors' properties. These Plaintiffs do not have standing to retroactively challenge their neighbors' eminent domain transactions.

Likewise, Poppleton Now does not allege that any of its members had their properties taken. *See* ECF No. 1 ¶ 148 (stating that the organization "advocates for the rights of . . . past tenants of the Poppleton neighborhood (whose homes were taken)," but failing to identify any

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11. As noted above, Ms. Eaddy's property was originally identified for condemnation, but the City later removed her property from the LDDA area. ECF No. 1 ¶ 103. The Eaddys specifically note that they "do not claim any damages as a result of her home having been listed by the city for eminent domain, then removed by the City." *Id.* ¶ 42.

members who have had their homes taken for public use).[12]

For these reasons, Count 1 will be dismissed for lack of standing. Because Plaintiffs have not established standing, the Court cannot and will not consider whether Plaintiffs have stated claims on which relief can be granted.

D. Count 2 – Equal Protection and Due Process

Next Plaintiffs allege equal protection and due process violations under 42 U.S.C. § 1983, as well as comparable violations under the Maryland constitution. The equal protection and due process analyses are generally the same under the Maryland and federal constitutions. *See Tyler v. City of College Park*, 415 Md. 475, 499 (2010) ("[A]s a general rule, we interpret Article 24 *in pari materia* with the Fourteenth Amendment to the United States Constitution.").

i. Equal protection

Plaintiffs contend that the LDDA unconstitutionally transferred private property from Black individuals to a

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12. The Court does not decide at this time whether, if one or more members of Poppleton Now were among those whose properties were subject to eminent domain, the organization could establish standing to challenge those takings. Such a claim may very well run afoul of the requirement of associational standing that "neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Students for Fair Admissions*, 600 U.S. at 199 (quoting *Hunt*, 432 U.S. at 343).

"political-favored ally" at a "preferential price, without any real obligation that [Developer Defendants] perform." ECF No. 1 ¶¶ 151-52. Plaintiff alleges that Developer Defendants targeted the Poppleton neighborhood because it was an "underprivileged and minority community" and argue that the LDDA and related property transfers were "only possible" because the activities took place in a "poor and underprivileged neighborhood." *Id.* ¶ 153. Plaintiffs also allege that City Defendants paid Developer Defendants "for the value of property taken from black homeowners that is required to be held in the public trust." *Id.* ¶ 160. Defendants argue this claim should be dismissed because Plaintiffs have not (1) alleged any "specific violation of legally protected rights," ECF No. 13-1 at 16; (2) identified a similarly situated comparator who has been treated differently, ECF No. 30-1 at 16; or (3) alleged facts establishing purposeful discrimination, ECF No. 32 at 15-16.

To make out an equal protection claim, "a plaintiff must plead sufficient facts to demonstrate plausibly that he was treated differently from others who were similarly situated and that the unequal treatment was the result of discriminatory animus." *Equity in Athletics, Inc. v. Dep't of Educ.*, 639 F.3d 91, 108 (4th Cir. 2011); *see also Vill. of Arlington Heights v. Metro. Hous. Dev.*, 429 U.S. 252, 265 (1977) ("Proof of racially discriminatory intent or purpose is required to show a violation of the Equal Protection Clause.").

Here, Plaintiffs have not made out an equal protection claim because, to the extent they have alleged discriminatory animus, those allegations are conclusory. *See Iqbal*, 556 U.S. at 678. Plaintiffs maintain throughout their complaint that the Poppleton neighborhood was targeted because the residents of the neighborhood were predominantly Black. *See*, *e.g.*, ECF No. 1 ¶ 145 ("Poppleton was targeted by this Developer for private interests because it was an underprivileged and minority community, yet had potential future market value due to its proximity to the University of Maryland Medical Center."); *id.* ¶ 154 ("Developer targeted a historically minority/underprivileged community near certain amenities with potential future market value (like the Medical Center) and already subject to an old URP, and then began an extended campaign of influence over elected officials to take 13.5 acres and give them to him."); *id* ¶ 22 ("The LDDA and associated URP . . . is an impermissible zoning practice under the equal protection clause (particularly when directed at a black community . . .).").

Although these statements allege that Poppleton was "targeted" because of the residents' race, they do nothing more to allege that Defendants' decisions were motivated by racial animus or discriminatory purpose. *See*, *e.g.*, *Sheppard v. Visitors of Va. State Univ.*, 993 F.3d 230, 238 (4th Cir. 2021) (dismissing an equal protection claim because plaintiff relied only on an allegation that a university administrator's actions were "because of his male gender" without "any specific allegations that [the administrator] was motivated by discriminatory animus"). In fact, Plaintiffs themselves note that there are other reasons why the Poppleton neighborhood would be an attractive location for development, including its proximity to "certain amenities," ECF No. 1 ¶ 154, suggesting a motivation other than racial animus. "[P]leadings that . . . are no more than conclusions[] are not entitled to the assumption of truth" at the pleadings stage. *Iqbal*, 556 U.S. at 679. Simply put, discriminatory animus is a necessary element of an equal protection claim, and Plaintiffs have not sufficiently alleged it here. Therefore, Count 2 does not state an equal protection claim on which relief can be granted.

ii. Due process

Plaintiffs' due process claim is based on the premise that the exercise of eminent domain "for a use that is not imbued with a public interest is such a violation of the basic and essential features of constitutional government that it amounts to a taking without due process of law." ECF No. 1 ¶ 63 (quoting *High Ridge Ass'n, Inc. v. Cnty. Comm'rs of Carroll Cnty., Md.*, 105 Md. App. 423 (1995)). Plaintiffs also clarify in their opposition brief that their due process claim includes their allegations that Defendants "bypassed procedural guardrails." ECF No. 22 at 9. Specifically, they contend that state law requires the government to "re-establish eminent domain authority every four years" under a so-called "lookback law." *See*, *e.g.*, ECF No. 1 ¶¶ 98, 135, 176 (citing Md. Code Ann., Real Property Art., § 12-105.1). Because these claims are based on alleged deprivation without appropriate procedural protections, the Court interprets Plaintiffs' claim as a procedural due process claim.

Defendants contend (1) the complaint fails to establish state deprivation of a cognizable property interest, ECF No. 13 at 25-26, ECF No. 30-1 at 15-16, and (2) to the extent Plaintiffs have alleged a reduction in property values, "[n]o property owner has a legal entitlement, grounded in an independent source such as state law, to rising property values." ECF No. 30 at 16.

To bring a procedural due process claim, Plaintiffs must identify "a cognizable property or liberty interest and a deprivation without due process." *Sheppard*, 993 F.3d at 239. For a property interest to be protected by procedural due process, a plaintiff "must have more than an abstract need or desire for it [or] a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it." *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 577 (1972).

Plaintiffs' main contention is that a government taking that is not for the public interest amounts to a taking without due process. *See* ECF No. 1 ¶ 63. That reasoning, however, is based on dicta from the Appellate Court of Maryland's *High Ridge Ass'n, Inc.* opinion, which was subsequently reversed by the Supreme Court of Maryland. *See Green v. High Ridge Ass'n*, 346 Md. 65 (1997). The Supreme Court of Maryland's opinion does not address the question of due process at all and, in fact, cautions that the decision of whether a particular condemnation is "necessary" is a question that should generally be left to the legislative and executive branches. *See Green*, 346 Md. at 79. Plaintiffs offer no other support for the argument that a taking not for the public interest is *inherently* a due process violation. The Court, therefore, must apply the typical analysis and consider whether Plaintiffs have alleged a deprivation of any constitutionally protected property or liberty interest.

Here, none of the Plaintiffs' alleged injuries constitute a specific liberty or property interest protected by due process. For example, Plaintiffs allege that their property values have fallen as a result of the LDDA. *See* ECF No. 1 ¶ 140. But property owners do not have a "legitimate claim of entitlement" to rising or even stable property values. *Roth*, 408 U.S. at 577; *see Ancarrow v. City of Richmond*, 600 F.2d 443, 447 (4th Cir. 1979) (explaining that the Fourteenth Amendment "does not protect the owner from fluctuations in the value of his property resulting from governmental decisions to put neighboring public property to a lawful, albeit unattractive, use"). To be sure, a party who has lost "*all* economically beneficial uses" of their property can allege a regulatory taking, *Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1019 (1992), but here Plaintiffs have expressly disclaimed any regulatory takings claim, which in any event would be different from the vague allegations of lowered property values made in this case. *See* ECF No. 36 at 7 (Plaintiffs' statement that "do not allege a regulatory or *per se* taking").[13]

13. Because Plaintiffs have not pled a cognizable deprivation of a protected liberty or property interest, the Court need not and does not decide whether the government followed the procedures that Plaintiffs allege were required under section 12-105.1 of the Real Property Article of the Maryland Code. *See* ECF No. 1 ¶ 135.

E. Count 3 – Equal Protection and Due Process – Baltimore City's Land Use Practices

Along with their claims challenging the creation and implementation of the LDDA, Plaintiffs also allege that Baltimore's land use practices—including Urban Renewal Plans, land banking, the use of separate corporate entities to undertake governmental functions, alleged spot-zoning, and a practice called "conditional use by ordinance"—violate their equal protection and due process rights under the federal and Maryland constitutions. ECF No. 1 ¶¶ 172, 176. Plaintiffs note that although nearby Baltimore County engages in "comprehensive rezoning" every four years, Baltimore City "lacks the process" of other Maryland counties because it rezones only every forty years. *Id.* ¶ 166. Plaintiffs also point to Baltimore City's legacy of redlining and contend that "deep racial biases and constitutional infirmities remain written into the Baltimore City Zoning Code." *Id.* ¶¶ 164, 167-68.

City Defendants argue that Plaintiffs lack standing for this claim, characterizing the complaint as "broad and generalized" and noting that Plaintiffs do not draw a connection between the complained-of land use practices and their own alleged injuries. ECF No. 31 at 2. City Defendants also contend that, even if Plaintiffs could establish standing, Plaintiffs have not stated a claim because they have not alleged that any of the land practices they challenge have been applied to them. *See* ECF No. 30 at 17 ("Plaintiffs at best allege that they have been indirectly affected as a result of living nearby to individuals, who are not parties to this case, who have allegedly been affected by these practices.").

Plaintiffs' broad-based challenge to Baltimore City's zoning practices fails for lack of standing. First, Plaintiffs have not identified a concrete, particularized injury that they have experienced in connection with the alleged constitutional violations. *See Lujan*, 504 U.S. at 560. The complaint broadly alleges wrongs that Plaintiffs contend result from the challenged zoning practices. *See*, *e.g.*, ECF No. 1 ¶ 169 (Baltimore's zoning practices "prevent[] the City from breaking down barriers that would afford equal opportunities to historically disadvantaged individuals"); *id.* ¶ 170 (historical zoning decisions have led to "vast residential zones without amenities, like grocery stores and other commercial uses"); *id.* ¶ 176 ("subdivisions are blocked routinely in white neighborhoods, like Mt. Vernon, but routinely allowed in black neighborhoods"). But Plaintiffs do not identify a non-hypothetical, particularized injury—that is, an injury that "affect[s] the plaintiff in a personal and individual way," *Lujan*, 504 U.S. at 560 n.1. As an example, Plaintiffs challenge the practice of Urban Renewal Plans as essentially a mechanism for illegal spot zoning and seek to "abolish" all URPs in Baltimore City "as unconstitutional vestiges of segregation." ECF No. 1 ¶ 176. But as to the Poppleton URP, Plaintiffs merely contend that the URP was what allowed the Developer to implement the LDDA and "[h]ad Poppleton also not been saddled with this URP, free market forces could have been permitted to take root in the neighborhood for the last twenty years, elevating the property values." *Id.* This type of injury is too conjectural and hypothetical and not sufficiently particularized to establish standing. *See Lujan*, 504 U.S. at 560. Count 3 is essentially a catalogue of zoning practices that Plaintiffs believe cause harm and perpetuate injustices. However, generalized grievances of this type cannot support standing. *Lujan*, 504 U.S. at 573-74 ("a plaintiff raising only a generally available grievance about government . . . does not state an Article III case or controversy").

Finally, to the extent Plaintiffs *have* alleged injury under Count 3, they have not shown a causal link between their harm and City Defendants' challenged actions. The complaint identifies numerous actors who have contributed to the zoning realities of Baltimore, including "financing parties [who] continue to 'redline' Baltimore City," "politicians [who] routinely interject their arbitrary political interests into each land use decision," and "white flight." ECF No. 1 ¶ 175-76. Even recognizing that the bar to establish causation is "relatively modest" at the pleadings stage, *DiCocco*, 52 F. 4th at 592, Plaintiffs have not established that any injury they have experienced "fairly can be traced to the challenged action of the defendant, and not . . . the independent action of some third party not before the court." *Simon*, 426 U.S. at 41-42. This count will be dismissed for lack of standing. Because Plaintiffs have not established standing, the Court cannot and will not consider whether Plaintiffs have stated a claim on which relief can be granted.

F. Private Nuisance (Count 4)

As noted above, in Count 4 Plaintiffs allege that Defendants have created "nuisance conditions" in the neighborhood and that their "abandon[ment]" and underdevelopment of the LDDA area is a "substantial and unreasonable" use of their land. ECF No. 1 ¶¶ 139, 190, 191.

i. Plaintiffs have standing to bring a private nuisance claim against some Defendants

As an initial matter, Plaintiffs have standing to assert their private nuisance claim against the Developer and City Defendants (who own the properties that comprise the LDDA area), but not against the HABC Defendants.[14]

The injuries that Plaintiffs rely upon in Count 4 are an alleged reduction of their properties' market values and the loss of the use and enjoyment of their homes since 2007. *Id.* ¶ 192. Some of the specific injuries are related to issues in the neighborhood (*e.g.*, vacated homes, trash, weeds, and parking issues). *Id.* ¶ 98. Plaintiffs also have alleged *some* causal connection between their alleged injuries and Developer Defendants' actions (for example, that the parking issues in the neighborhood are caused by Developer Defendants' parking charges, *id.*) and City Defendants' actions (for example, that some of the complained-of neighborhood conditions came

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14. Because Count 4 is a *private* nuisance claim, this claim does not implicate the special- injury doctrine applicable to public nuisance claims. *See, e.g.*, Restatement (Second) of Torts § 821C (1979); *Hoffman v. United Iron & Metal Co., Inc.*, 108 Md. App. 117, 135 (1996) (holding that a private person seeking to enjoin a public nuisance must show that he or she "has suffered from it some special and particular damage, different not merely in degree, but different in kind, from that experienced in common with other citizens") (quoting *Balt. & Ohio R.R. Co. v. Gilmor*, 125 Md. 610, 617 (1915)).

about after the City listed homes in the neighborhood for condemnation, *id.*). *See DiCocco*, 52 F. 4th at 592 (the burden to establish causation for standing purposes is "relatively modest" at the motion to dismiss stage). These injuries are, at least in theory, redressable. *See* ECF No. 1 at 63 (Plaintiffs' request for relief, including a financial judgment, to "abate ongoing nuisances"). Plaintiffs, therefore, have established standing to bring their private nuisance claim against Developer Defendants and City Defendants (though that claim must be dismissed for failure to state a claim, for the reasons discussed below).

As to HABC, however, Plaintiffs lack standing for Count 4 because the complaint does not allege a connection between Plaintiffs' alleged private nuisance injuries and any actions by HABC. The allegations about HABC are focused on its $550,000 payment to Developer for three plots within the LDDA area, *id.* ¶¶ 106-08, along with general allegations that HABC's structure is used to "shield" the City's actions from "constitutional scrutiny." ECF No. 1 at 5. Plaintiffs have not shown even an attenuated causal connection between this payment and the injuries that they allege constitute private nuisances. Therefore, Plaintiffs have only established standing to bring this claim against City Defendants and Developer Defendants.

ii. Plaintiffs have not stated a private nuisance claim

Although Plaintiffs have standing for their nuisance claim, their alleged facts do not support a claim for private nuisance. Under Maryland law, private nuisance requires "an unreasonable and substantial interference" with the use and enjoyment of one's property. *Exxon Mobil Corp. v. Albright*, 433 Md. 303, 409 (2013), *reconsidered in part on other grounds*, 433 Md. 502 (2013). Individual Plaintiffs argue that they have "lost the market value and use of enjoyment of their homes" due to the "deplorable conditions" caused by the LDDA and the fact that the LDDA has "block[ed] free market forces and new market entrants." ECF No. 1 ¶ 192. They specifically point to problems in the vacant area ("emptiness, vacated homes, demolished homes, rats, trash and all types of environmental nuisances," "tall grass and weeds"), embarrassment during family visits, a sense of fear from losing neighbors, and residents of the Poppleton apartment building that Developer Defendants constructed parking on the street. *Id.* ¶ 98. Defendants argue that none of the alleged facts actually support substantial interference with Plaintiffs' use of their properties. *See*, *e.g.*, ECF No. 13-1 at 27 (arguing that of the many grievances in the complaint "none . . . impact Plaintiffs' use of their own property"); ECF No. 30-1 at 19 ("Plaintiffs here have not alleged *any* restriction on the use of their land, let alone a crippling one."). Developer Defendants also contend that "mere diminution of property value" on its own is not enough to establish a private nuisance. ECF No. 13-1 at 27.

Private nuisance is "a nontrespassory invasion of another's interest in the private use and enjoyment of land." *Rosenblatt v. Exxon Co.*, 335 Md. 58, 80 (1994) (quoting Restatement (Second) of Torts § 821D (Am. Law Inst. 1965)). The disturbance of the property interest must be "substantial and unreasonable . . . such as would be offensive or inconvenient to the normal person." *Id.* at 125 (citing *Gorman v. Sabo*, 210 Md. 155, 159 (1956)). Actions that do not depreciate a property's market value may nonetheless constitute a nuisance based on the resulting discomfort and annoyance. *See Wash. Suburban Sanitary Comm'n v. CAE-Link Corp.*, 330 Md. 115, 125 (1993) (citing cases). But the inverse is not necessarily true; actions that depreciate a property's market value without an attendant disturbance of the property's use and enjoyment is not enough to constitute a private nuisance. *See Gorman*, 210 Md. at 159 ("If noise causes physical discomfort and annoyance of persons of ordinary sensibilities, tastes and habits and seriously interferes with the ordinary comfort and enjoyment of their homes, *and thus diminishes the value of the use of their property rights*, it constitutes a private nuisance.") (emphasis added); *Albright*, 443 Md. at 411 (holding that property owners who had not demonstrated interference with the use and enjoyment of their land could not recover damages for diminution in property value for nuisance).

Although Plaintiffs state in several points in their complaint that Defendants have interfered with or destroyed the "use and enjoyment" of their property, *see*, *e.g.*, ECF No. 1 ¶¶ 28, 42, 98, 140, 192, these are conclusory statements. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Turning to Plaintiffs' factual allegations, none actually allege a substantial interference with the use of any of Plaintiffs' own property. For example, Plaintiff Ms. Eaddy asserts that the properties bordering her home include vacated and demolished homes, ECF No. 1

¶ 98, but does not plausibly allege that this "emptiness" has interfered with her own use or enjoyment of her property in any substantial way. *Id.* In another example, Plaintiff Mr. Walker alleges that apartment residents' use of nearby street parking "burden[s] the community," but does not include any facts about how his neighbors' parking decisions unreasonably interfere with the use and enjoyment of his own property. Other allegations refer to Plaintiff's feelings about the condition of the area (*e.g.*, embarrassment, fear). *Id.*

These allegations are not comparable to the type of interference with the use and enjoyment of one's property that is necessary to make out a private nuisance claim. *Compare, e.g.*, *Bishop Processing Co. v. Davis*, 213 Md. 465, 470, 474 (1957) (odors from a nearby processing plant that were "so bad that even though the doors and windows of [neighbors' homes] are closed, it comes into the homes causing throat irritations [and] severe headaches" "interfered seriously with the ordinary comfort and enjoyment" of appellants' properties) *with Stottlemyer v. Crampton*, 235 Md. 138, 144 (1964) (cattle driving that caused "occasional damage to grass and flowers," "the obstruction of traffic for a few minutes, the presence of manure on the highway, and the occasional tracking of it into buildings" in a rural community did not substantially interfere with the use and enjoyment of the appellees' properties) *and Albright*, 433 Md. at 410 (residents near a underground gasoline leak whose wells did not test positive for contaminants did not experience a substantial interference with the use and enjoyment of their properties, notwithstanding their use of "bottled water or

Brita filters, entertaining in and around their homes less than expected, reducing the frequency of use of outdoor spaces, and taking shorter showers”). *See also Nat’l Fair Housing Alliance v. Bank of America*, 401 F. Supp. 3d 619, 644 (D. Md. 2019) (holding that plaintiffs’ allegations that defendant’s poor property maintenance caused “water in her basement for months,” “a rat-infested garage next door,” “routine commotion from squatters next door,” and “squirrels in their attic” raised a reasonable inference that plaintiffs “incurred serious interference with the ordinary comfort and enjoyment of their homes”).

In sum, Plaintiffs have not pled sufficient facts of the type of substantial and unreasonable interference necessary to bring a private nuisance claim. Therefore, this claim must be dismissed.

G. Unjust Enrichment (Count 5)

As a threshold issue, Plaintiffs do not have standing to bring their unjust enrichment claim. *See Lujan*, 504 U.S. at 560 (standing requires that the alleged injury is “fairly traceable to the challenged action of the defendant”) (cleaned up); *see also Bennett v. Spear*, 520 U.S. 154, 167-68 (1997) (although at the pleading stage the factual allegations may be general rather than specific, standing still requires “allegations of injury *resulting from* the defendant’s conduct”) (emphasis added). Plaintiffs have not adequately pled that there is a causal connection between their injuries (here, the alleged reduction in their property values, the loss of the “use and enjoyment” of their land, and the awarding of property in the neighborhood to Developer Defendants) and the challenged action of Defendants (*i.e.*, their alleged unjust acceptance or retention of a benefit).[15] Therefore, the Court must dismiss this claim against all Defendants for lack of standing.[16]

But even if Plaintiffs could establish standing, they have failed to state a claim for unjust enrichment. Unjust enrichment is an equitable claim that serves to "deprive [a] defendant of benefits that in equity and good conscience he ought not to keep." *Hill v. Cross Country Settlements, LLC*, 402 Md. 281, 295 (2007) (quoting *Dep't of Hous. & Cmty. Dev. v. Mullen*, 165 Md. App. 624, 659 (2005)). Plaintiffs allege that they have conferred on Defendants the benefit of "the market value and use of enjoyment of all of the 500 homes taken plus entire value of the neighborhood" and that Defendants' continued retention of this benefit is unjust. ECF No. 1 ¶¶ 193-201. Defendants argue that Plaintiffs did not confer any benefit upon the Defendants, or at least any benefit of the type that can

15. A causal connection between injury and a defendant's actions is typically straightforward in an unjust enrichment claim, as the defendant's unjust gain comes *from* the plaintiff. *See Hill*, 402 Md. at 295 (unjust enrichment includes a "benefit conferred upon the defendant by the plaintiff"). But, as noted below, this direct causal connection is absent where the complained-of benefit is conferred by someone other than the plaintiff.

16. The complaint does not make clear which Defendant(s) Plaintiffs brings their unjust enrichment claims against. *Compare* ECF No. 1 at 56 ("Individual Plaintiffs . . . have conferred on the *Developer and City* a benefit") (emphasis added) *with id.* at 57 (stating that "Defendants," meaning all named defendants, "retain this benefit"). For completeness, the Court considers this claim as one brought against each Defendant.

give rise to an unjust enrichment claim. *See*, *e.g.*, ECF No. 13-1 at 29 (Developer Defendants' motion to dismiss); ECF No. 30-1 at 21 (City Defendants' motion to dismiss).

"Unjust enrichment consists of three elements: 1. A benefit conferred upon the defendant by the plaintiff; 2. An appreciation or knowledge by the defendant of the benefit; and 3. The acceptance or retention by the defendant of the benefit under such circumstances as to make it inequitable for the defendant to retain the benefit without the payment of its value." *Hill*, 402 Md. at 295.

Plaintiffs have not made out an unjust enrichment claim because they have not alleged the first element, *i.e.*, that there was a "benefit conferred upon the defendant *by the plaintiff*." *Id.* (emphasis added). As to Plaintiffs' claim that they have conferred the "market value and use [and] enjoyment of all of the 500 homes taken plus entire value of the neighborhood," ECF No. 1 ¶ 194, no Individual Plaintiffs have alleged that they conveyed value to any Defendant; Plaintiffs concede they have maintained ownership of their properties, as their homes are not within the LDDA area. Defendant Poppleton Now likewise has not made out an unjust enrichment claim because the complaint does not establish that the organization, or any of its members, conveyed any benefit to any Defendant.[17] As to Plaintiffs' claim that Developer Defendants have

17. While Plaintiffs state that Poppleton Now "advocates for . . . past tenants of the Poppleton neighborhood (whose homes were taken)," ECF No. 1 ¶ 148, they do not allege that any of the organization's members had their property taken by eminent domain.

been unjustly enriched "in the form of $810,000 plus interest plus any other public monies he has been paid," ECF No. 1 ¶ 201, that claim likewise fails because it was HABC and the City Defendants—not the Plaintiffs—who conferred this alleged financial benefit. *See id.* ¶ 106 (alleging that HABC paid Developer Defendants $550,000 in "public money" to allow the City to redevelop parcels included in Phase IV of the LDDA); *id.* ¶ 104 (alleging that the City Defendants paid Developer Defendants the market value of Ms. Eaddy's two properties, $260,000, to remove them from the LDDA area); *see also* ECF No. 1-10 at 2. For these reasons, Plaintiffs' unjust enrichment claim does not state a claim on which relief can be granted.

H. Developer Defendants' motion for sanctions

Developer Defendants also filed a motion for sanctions against Plaintiffs and their counsel. *See* ECF No. 18. The motion asserts that the complaint is "legally frivolous" and "disregard[s] . . . elementary standing requirements," which Developer Defendants contend show that "Plaintiffs' counsel failed to conduct a reasonable inquiry into the law and facts before filing suit, violating [Federal Rule of Civil Procedure] 11(b)." *Id.* at 1-2. Developer Defendants request "appropriate sanctions" in the form of dismissal with prejudice and payment of their reasonable attorney's fees and costs. *Id.* at 11.

Federal Rule of Civil Procedure 11(c) allows for sanctions when an attorney submits a complaint that includes claims or legal contentions that are not warranted by either existing law or a nonfrivolous argument for "extending, modifying, or reversing existing law." *See* Fed. R. Civ. P. 11(b), (c). Here, although the Court ultimately finds that Plaintiffs lack standing to bring these claims and have failed to state claims on which relief can be granted, the filing of the complaint does not rise to the level of sanctionable activity under Rule 11. *See Hunter v. Earthgrains Co. Bakery*, 281 F.3d 144, 151 (4th Cir. 2002) ("[I]t is axiomatic that asserting a *losing* legal position, even one that fails to survive summary judgment, is not of itself sanctionable conduct."); s*ee also Cleveland Demolition Co., Inc. v. Azcon Scrap Corp.*, 827 F.2d 984, 988 (4th Cir. 1987) ("Rule [11] does not seek to stifle the exuberant spirit of skilled advocacy . . . [but] attempts to discourage the needless filing of groundless lawsuits."). The Court will, therefore, deny Developer Defendants' motion for sanctions.

IV. CONCLUSION

For the foregoing reasons, the Court will dismiss Plaintiffs' complaint and deny Developer Defendants' motion for sanctions. An appropriate order follows.

Date: June 17, 2025 /s/
Adam B. Abelson
United States District Judge

APPENDIX C — ORDER OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND, DATED JUNE 17, 2025

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

Case No. 24-cv-2420-ABA

POPPLETON NOW COMMUNITY ASSOCIATION, INC., *et al.*,

Plaintiffs,

v.

LA CITE DEVELOPMENT, LLC, *et al.*,

Defendants.

ORDER

Upon review of all pending motions, oppositions and replies thereto, and having held a hearing on April 9, 2025, and for the reasons set forth in the accompanying memorandum opinion, it is ORDERED that:

1. Developer Defendants' Motions to Dismiss (ECF Nos. 12, 13) are GRANTED in part and DENIED as moot in part;

1. HABC Defendants' Motion (ECF No. 34) seeking to correct typographical errors in their motion to dismiss is also GRANTED.

2. City Defendants' Motions to Dismiss (ECF Nos. 30, 31) are GRANTED in part and DENIED as moot in part;

3. Defendant Dixon's Motion to Dismiss (ECF No. 27) is GRANTED;

4. HABC Defendants' Motion to Dismiss1 (ECF No. 32) is GRANTED;

5. Developer Defendants' Motion for Sanctions (ECF No. 18) is DENIED;

6. Plaintiffs' complaint (ECF No. 1) is DISMISSED; and

7. The Clerk shall CLOSE the case.

Date: June 17, 2025

/s/
Adam B. Abelson
United States District Judge