

IN THE
Supreme Court of the United States

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

Petitioners,

v.

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

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF IN OPPOSITION

MICHAEL REDMOND
BALTIMORE CITY
LAW DEPARTMENT
100 Holliday Street
Baltimore, MD 21202
(410) 396-3944
michael.redmond@
baltimorecity.gov

Counsel for Respondents
Mayor and City Council of
Baltimore, Brandon Scott,
and Alice Kennedy

ANNE M. VOIGTS
Counsel of Record
PILLSBURY WINTHROP SHAW
PITTMAN LLP
2400 Hanover Street
Palo Alto, CA 94304
(650) 233-4500
anne.voigts@pillsburylaw.com

ANTHONY J. PHILLIPS
THOMAS L. HOWARD III
JAKE MITCHELL
PILLSBURY WINTHROP SHAW
PITTMAN LLP
1200 Seventeenth Street, NW
Washington, DC 20036
(202) 663-8000

Counsel for Respondents
La Cité, LLC, La Cité
Development, LLC, PSH 1 B,
LLC, Poppleton Development I,
LLC, and Dan Bythewood, Jr.

QUESTION PRESENTED

In 1975, the City of Baltimore designated the blighted Poppleton neighborhood an urban renewal area and began work on a comprehensive plan to redevelop the neighborhood. As part of that plan, and pursuant to a September 2006 agreement executed by and among Respondents, the City acquired a portion of the properties within a 13.8-acre project area using its power of eminent domain, and the rest by other means. Petitioners are six individuals (three couples) who own property *adjacent* to—but not within—the project area, along with a nonprofit community association they control that purports to advocate for neighborhood residents. None of the Petitioners had their property taken by eminent domain or owns property in the project area. Having suffered no taking of their own property, Petitioners nonetheless filed suit under the Fifth Amendment and 42 U.S.C. § 1983 challenging the City’s use of eminent domain to acquire their *neighbors’* property, alleging that the property was not taken for “public use.”

The questions presented are as follows:

1. Whether neighbors who hold no private property interest in property taken by eminent domain can nonetheless maintain a claim under the Takings Clause of the Fifth Amendment challenging the taking of other persons’ property.
2. Whether this Court should accept Petitioners’ invitation to overturn *Kelo v. City of New London*’s endorsement of commercial development as a public use, when *Berman v. Parker* unanimously recognized the validity of takings to remove and prevent urban blight, and neither court below reached the public-use question.

CORPORATE DISCLOSURE STATEMENT

La Cité, LLC, La Cité Development, LLC, PSH 1 B, LLC, and Poppleton Development I, LLC each have no parent corporation. No publicly traded corporation owns 10% or more of their respective stock.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
STATEMENT OF THE CASE.....	4
I. Baltimore’s Planned Redevelopment of the Poppleton Neighborhood.	4
II. Petitioners File Suit Challenging the Redevelopment Project.	8
REASONS FOR DENYING THE PETITION	11
I. No Circuit Has Held That a Plaintiff Need Not Have a Protected Property Interest in the Property in Question in Order to Assert a Takings Claim.....	11
II. The Petition’s Request that This Court Create an Amorphous New Class of “Intended Beneficiary” Plaintiffs Does Not Present a Question of Exceptional Importance.....	16
A. The Fifth Amendment Protects Property Owners, Not Beneficiaries.	16
B. Recognizing Petitioners’ Novel Cause of Action Would Dramatically Expand the Ability to Challenge the Exercise of Eminent Domain.	17
C. Section 1983 Provides No Independent Substantive Basis for Constitutional Claims.	19
D. Petitioners’ Complaints Are Better Brought As Due Process and Equal Protection Claims, Claims Which Petitioners Abandoned Below.	20

III. The Public-Use Question Was Not Decided Below and Is Not Properly Presented Here.....	21
A. Even If Properly Presented, the Public-Use Question Is Governed by <i>Berman</i> , Not <i>Kelo</i> , and Petitioners Offer No Reason to Revisit Either.	24
B. Taking Private Property to Address Urban Blight is a Permissible Public Use Under <i>Berman</i>	24
C. Petitioners' Public-Use Question is Not a Question of Exceptional Importance.....	28
CONCLUSION.....	28

TABLE OF AUTHORITIES

	Page(s)
 Cases	
<i>Adarand Constructors, Inc. v. Mineta</i> , 534 U.S. 103 (2001) (per curiam)	22
<i>Am. Pelagic Fishing Co., L.P. v. United States</i> , 379 F.3d 1363 (Fed. Cir. 2004)	13
<i>Asociacion De Subscripcion Conjunta Del Seguro De Responsabilidad Obligatorio v. Flores Galarza</i> , 484 F.3d 1 (1st Cir. 2007)	12
<i>Berman v. Parker</i> , 348 U.S. 26 (1954) 2, 3, 18, 23, 24, 25, 26, 27	
<i>Buffalo Teachers Fed’n v. Tobe</i> , 464 F.3d 362 (2d Cir. 2006)	12
<i>Chapman v. Houston Welfare Rights Org.</i> , 441 U.S. 600 (1979)	19
<i>Checker Cab Operators, Inc. v. Miami-Dade Cnty.</i> , 899 F.3d 908 (11th Cir. 2018)	13
<i>Cutter v. Wilkinson</i> , 544 U.S. 709 (2005)	22
<i>Degan v. Bd. of Trs. of Dallas Police & Fire Pension Sys.</i> , 956 F.3d 813 (5th Cir. 2020)	12

<i>Evans v. Burruss</i> , 401 Md. 586 (2007)	14
<i>F.D.A. v. All. for Hippocratic Med.</i> , 602 U.S. 367 (2024)	17
<i>Hawaii Housing Auth. v. Midkiff</i> , 467 U.S. 229 (1984)	26, 27
<i>Horne v. Mayor & City Council of Balt.</i> , 349 F. App'x 835 (4th Cir. 2009)	15
<i>Kelo v. City of New London</i> , 545 U.S. 469 (2005)	2, 3, 18, 23, 24, 25, 26, 27, 28
<i>Knellinger v. Young</i> , 134 F.4th 1034 (10th Cir. 2025)	13
<i>Knick v. Twp. of Scott</i> , 588 U.S. 180 (2019)	17
<i>Lucas v. S.C. Coastal Council</i> , 505 U.S. 1003 (1992)	15
<i>Manuel v. City of Joliet</i> , 580 U.S. 357 (2017)	19
<i>Mayor & City Council of Balt. v. Eaddy</i> , No. 24-C-20-000462 (Balt. City Cir. Ct. 2020)	7
<i>Mayor & City Council of Balt. v. Jamon Foods Inc.</i> , No. 24-C-07-006920 (Balt. City Cir. Ct., Sept. 19, 2007)	6

<i>Minneapolis Taxi Owners Coal., Inc. v. City of Minneapolis,</i> 572 F.3d 502 (8th Cir. 2009)	13
<i>Nekrilov v. City of Jersey City,</i> 45 F.4th 662 (3d Cir. 2022)	12
<i>Palazzolo v. Rhode Island,</i> 533 U.S. 606 (2001)	11, 19
<i>Patrick v. Burget,</i> 486 U.S. 94 (1988)	23
<i>Phillips v. Wash. Legal Found.,</i> 524 U.S. 156 (1998)	11, 14, 21
<i>Protect Our Parks, Inc. v. Chicago Park Dist.,</i> 971 F.3d 722 (7th Cir. 2020)	13, 14
<i>Rakas v. Illinois,</i> 439 U.S. 128 (1978)	15
<i>Retirement Plans Committee of IBM v. Jander,</i> 589 U.S. 49 (2020)	22
<i>Roman Cath. Archbishop of Wash. v. Doe,</i> 489 Md. 514 (2025)	14
<i>Rubicon Real Estate Holdings, LLC v. City of Pontiac,</i> 179 F.4th 431 (6th Cir. 2026)	12
<i>Ruckelshaus v. Monsanto Co.,</i> 467 U.S. 986 (1984)	11

<i>Rumber v. D.C.</i> , 595 F.3d 1298 (D.C. Cir. 2010)	13
<i>Singleton v. Wulff</i> , 428 U.S. 106 (1976)	12
<i>Stanley v. City of Sanford</i> , 606 U.S. 46 (2025)	23
<i>United States v. Gen. Motors Corp.</i> , 323 U.S. 373 (1945)	16
<i>United States v. Powelson</i> , 319 U.S. 266 (1943)	11
<i>Zeyen v. Bonneville Joint Dist.</i> , 114 F.4th 1129 (9th Cir. 2024).....	13
<i>Zivotofsky v. Clinton</i> , 566 U.S. 189 (2012)	22

United States Constitution

Fifth Amendment, Takings Clause	1, 2, 9, 10, 11, 13, 14, 16, 17, 19, 20, 21
Fifth Amendment, Due Process Clause	9, 20
Fourteenth Amendment, Equal Protection Clause.....	9, 20

Statutes

United States Code Title 42, Section 1983	16, 19
--	--------

Balt. City Code	
Article 13, Section 2-7(h).....	6
Article 13, Section 2-7(mm).....	6
Balt. City Ordinance 19-0398 (Aug. 19, 2019).....	4
Balt. City Ordinance 14-0389 (Sept. 15, 2014).....	4
Balt. City Ordinance 75-837 (Mar. 31, 1975)	4
District of Columbia Redevelopment Act.....	24
Rules	
Supreme Court Rule 10	28

INTRODUCTION

Petitioners invoke the Takings Clause of the Fifth Amendment to challenge a redevelopment project in Baltimore's Poppleton district, a blighted neighborhood designated an urban renewal area since 1975. But none of Petitioners' own property was taken by the City's exercise of eminent domain. Instead, Petitioners are six individuals who own property adjacent to the 13.8-acre project area, along with a nonprofit organization ("Poppleton Now") they control that purports to represent the interests of the community. The Fourth Circuit correctly affirmed the dismissal of Petitioners' suit, holding that because Petitioners have no protected property interest in any of the property subject to the now-challenged takings, they cannot maintain a claim under the Takings Clause.

The decision below creates no conflict among the circuits. No court has ever permitted a plaintiff without a protected property interest in the taken property to bring a takings claim challenging the condemnation of another person's property. It is axiomatic that the Takings Clause protects property owners from deprivations of *their own* property—not anyone else's. As the Fourth Circuit correctly held, a protected property interest in the particular taken property is an essential element of any takings claim. Because Petitioners cannot satisfy that requirement, their claim was properly dismissed.

Petitioners' invitation to create an entirely new and amorphous class of so-called "intended beneficiary" plaintiffs who may invoke a free-wheeling right to enforce the Public Use Clause finds no support in the text of the Fifth Amendment, this Court's

precedent, or the decisions of any circuit. Not only should the Court decline to consider whether third parties can enforce the protections of the Fifth Amendment, but this antecedent deficiency (whether characterized in terms of standing or as an element of a takings claim) makes this case a poor vehicle for addressing the second question that Petitioners attempt to raise regarding the scope of the Public Use Clause.

Nor was the public-use question that Petitioners now seek to raise decided below. The district court and the Fourth Circuit both concluded that Petitioners' takings claim should be dismissed for failure to allege any protected property interest. The district court concluded that Petitioners therefore lacked Article III standing. The Fourth Circuit concluded that Petitioners do have standing (because their alleged diminution in property value is a cognizable injury-in-fact), but that Petitioners nonetheless failed to state a takings claim because they lack a protected property interest in the taken property. Neither court addressed whether the City's exercise of eminent domain was for a valid public purpose. This Court does not sit as a court of first view on questions not decided below.

Even if the public-use question were properly presented, Petitioners' attempt to make this case a vehicle for reconsidering *Kelo v. City of New London*, 545 U.S. 469 (2005), ignores more directly relevant precedent and the record here. More than 50 years before *Kelo*, this Court unanimously recognized that addressing urban blight as part of a comprehensive redevelopment plan was a valid public use in *Berman v. Parker*, 348 U.S. 26 (1954). By contrast, *Kelo* analyzed the use of eminent domain to promote

commercial development in an area that was not blighted. Here, Baltimore's city government determined that Poppleton needed revitalization when it was designated an urban renewal area, and the City exercised its power of eminent domain to address the persistent blight plaguing the neighborhood. Even if this Court were inclined to find that Petitioners could assert a claim without an actual property interest in the taken property, overruling *Kelo* would not resolve this case because Petitioners would still need to overcome *Berman*—a case they neither acknowledge nor challenge. The petition should be denied.

STATEMENT OF THE CASE

I. Baltimore’s Planned Redevelopment of the Poppleton Neighborhood.

The Poppleton neighborhood in southwest Baltimore has long struggled with urban blight. By the 1970s, there were numerous unoccupied residential buildings and other derelict structures, and the neighborhood was scarred by open spaces where houses had been demolished because of their unsafe condition. More recently, problems of crime and pervasive drug distribution plagued the area.

For decades, the City of Baltimore has sought to address these problems and revitalize the neighborhood through redevelopment initiatives. The City designated Poppleton as an urban renewal area in 1975, adopting the Urban Renewal Plan for Poppleton (“URP”) to address deteriorating conditions. Balt. City Ordinance 75-837 (Mar. 31, 1975) (adopting the URP) ¹; *see also* Pet. App. 3a, 22a; 4th Cir. J.A. 107. ² Among other objectives, the URP aimed to “eliminate blight and deterioration,” to “bring about a general physical improvement in the area,” and to “provide homeownership opportunities to diverse economic groups.” Balt. City Ordinance 14-0389 (Sept. 15, 2014), attach. 2, “Urban Renewal Plan for Poppleton” § A(2); *see also* Balt. Ordinance 75-837 § 4(c) (enacted, *inter alia*, to “remove blighting influences”).

¹ The Urban Renewal Plan for Poppleton has been amended several times since its adoption. *See, e.g.*, Balt. City Ordinance 19-0398 (Aug. 19, 2019).

² Citations to “4th Cir. J.A.” refer to the Joint Appendix filed in the Court of Appeals, *Poppleton Now Cmty. Ass’n, Inc. v. La Cite Dev., LLC*, Case No. 25-1770 (4th Cir.), Dkt. No. 23.

In an effort to meet the objectives set forth in the URP, in 2004 the City initiated a process to redevelop approximately 13.8 acres in Poppleton (the “Project Area”). Pet. App. 3a, 22a. In September 2006, after years of outreach and assessment, including four community meetings and several smaller meetings that revealed general support for the project, the City entered into a Land Disposition and Development Agreement (“LDDA”) with affiliates of La Cité Development (collectively “La Cité,” or the “Developer”). Pet. App. 3a, 23a–24a; 4th Cir. J.A. 107. Although the Baltimore Department of Housing and Community Development initially recommended awarding the LDDA to a different developer, the department revised its recommendation after it was presented with additional information about La Cité’s partnership with an experienced lead developer and the extent of La Cité’s financial commitments to the project. 4th Cir. J.A. 98, 101.³

The LDDA contemplates a large-scale, mixed-use project featuring roughly 1,650 housing units and 100,000 square feet of commercial retail space. 4th Cir. J.A. 105. The project, as envisioned under the LDDA, is expected to proceed in four sequential phases, with each new phase commencing after the sale or lease of a substantial majority of units

³ Petitioners speculate that La Cité arranged a full-day makeover and a magazine feature for former City Council President Sheila Dixon, insinuating that these purported benefits influenced the City’s award of the LDDA. *See* Pet. 4; Compl. ¶¶ 13–14. But the Complaint alleges no facts connecting those alleged benefits to the award, and it identifies no action taken by Ms. Dixon or any other City official at her behest to secure the LDDA for La Cité.

constructed in the prior phase. 4th Cir. J.A. 106, 118. The City bears responsibility for acquiring ownership in and assembling the land as required for each phase, while La Cité is responsible for financing and building the improvements. *See* 4th Cir. J.A. 111, 113, 115–19.

At the time the LDDA was executed, the City already owned or would soon acquire title to 358 of the Project Area’s 525 properties. *See* 4th Cir. J.A. 108–09, 143–56.⁴ The overwhelming majority of this initial group of properties had escheated to the City after being abandoned or were acquired through negotiated purchases. The City agreed to use its condemnation authority, where necessary, to acquire the remaining 167 properties. Pet. App. 3a–4a, 24a; 4th Cir. J.A. 109. The City relied on its statutory authority to acquire and dispose of any “blighted” or “deteriorated or abandoned property.” *See* Balt. Code Art. 13 § 2-7(h) & (mm); 4th Cir. J.A. 109.

In the years following the LDDA’s execution, the City initiated individual eminent domain proceedings to acquire the remaining properties. *See, e.g., Mayor & City Council of Balt. v. Jamon Foods Inc.*, No. 24-C-07-006920 (Balt. City Cir. Ct., Sept. 19, 2007). The majority of these properties were abandoned, vacant, or not owner-occupied at the time the City acquired title.⁵

⁴ The precise number of properties included in the Project Area fluctuated over time.

⁵ Petitioners’ assertion that the City acquired more than 500 owner-occupied homes through eminent domain (*see* Pet. i., 14) is exaggerated. Petitioners’ claim that La Cité is attempting to sell property in the Project Area “on the open market” (Pet. 20) is likewise a material misstatement. Rather, La Cité has

Critically, none of the Petitioners own property that was taken or that is subject to the LDDA. The individual Petitioners' homes are located adjacent to the Project Area, not within it. Pet. App. 4a. One couple's property was formerly included on the City's acquisition list, but Respondents voluntarily removed it in 2022, and Petitioners disclaim any claims based on the prior inclusion of that property within the Project Area.⁶ Pet. App. 4a, 25a; Compl. ¶42. Poppleton Now (the organizational Petitioner) does not allege that it owns any property, or that any of its members own property, within the Project Area. Pet. App. 12a.

Under the LDDA's terms, ownership of property within the Project Area—whether acquired by eminent domain or by some other means—remains with the City until shortly before construction is set to begin on a particular phase, at which point the property is conveyed to La Cité for development. 4th Cir. J.A. 109–11. Before the City is obligated to convey the property, the LDDA requires La Cité to satisfy several conditions precedent to demonstrate progress toward completing the development, including furnishing evidence of approved engineering documents and building permits, together with

entertained offers to partner with other developers (as it has for Phases 2 and 3) and to transfer its development rights in other phases in exchange for fair compensation, as it is permitted to do under the LDDA.

⁶ Petitioners Curtis and Sonia Eaddy challenged the condemnation of their property on public-use grounds, but the Circuit Court for Baltimore City rejected their challenge. See *Mayor & City Council of Balt. v. Eaddy*, No. 24-C-20-000462 (Balt. City Cir. Ct. 2020). Nevertheless, Respondents later agreed to voluntarily remove the Eaddys' property from the Project Area. 4th Cir. J.A. 265; Compl. ¶ 42.

adequate equity capital or financing commitments for construction of that phase's improvements. 4th Cir. J.A. 115–19.

Unfortunately, the project has experienced delays, Pet. App. 2a–3a, 24a–26a, and, as a result, the LDDA has been amended several times to accommodate changes in the anticipated timeline for future phases. Pet. App. 4a, 24a–25a. Phase 1 was divided into sub-phases, the first of which has been completed: two modern apartment buildings have been constructed on the site together with a public pocket park and a public dog park. The development completed to date has added more than 250 new-construction multifamily residential units to the Poppleton neighborhood, a significant portion of which are affordable, inclusionary housing units. 4th Cir. J.A. 181–84, 232.

La Cité has design and building plans in place for Phase 1B, has obtained Baltimore Site Plan Review Committee approval for that phase, and has obtained from the City title to the Phase 1B property. A partnership agreement is in place for the construction of homes located within Phases 2 and 3, and a development plan has been approved by the Baltimore Planning Commission. Title to the properties slated for development in Phases 2 through 4 remains vested in the City at this time. *Poppleton Now Cmty. Ass'n, Inc. v. La Cite Dev., LLC*, No. 25-1770 (D. Md.), ECF No. 12-1 at 3–4.

II. Petitioners File Suit Challenging the Redevelopment Project.

In August 2024, Petitioners filed suit in the District of Maryland against La Cité, LLC, La Cité Development, LLC, PSH 1 B, LLC, Poppleton

Development I, LLC, and Dan Bythewood, Jr. (together, the “Developer Respondents”), as well as the Mayor and City Council of Baltimore, Brandon Scott, in his individual capacity and official capacity as Mayor of Baltimore, and Alice Kennedy, in her individual capacity and official capacity as director of the Department of Housing and Community Development (together, the “Baltimore City Respondents”).⁷

The complaint alleged that the LDDA and the associated exercise of eminent domain violated the Takings, Due Process, and Equal Protection Clauses of the Fifth and Fourteenth Amendments. Pet. App. 5a, 26a. Petitioners also asserted state law claims for private nuisance and unjust enrichment. Pet. App. 5a, 26a.⁸ The petition concerns only Petitioners’ Fifth Amendment Takings Claim.

The district court dismissed all claims. On the takings claim, the district court found that Petitioners lacked Article III standing because they did not allege that any of their own property was taken. Pet. App. 35a–39a. The district court reasoned that the individual Petitioners had not alleged “an actual, particularized injury” under the Takings Clause because they “all maintain ownership over their properties.” Pet. App. 38a. “The fact that the Individual Plaintiffs’ *neighbors* had their properties taken through eminent domain does not constitute an

⁷ Petitioners also brought claims against the Baltimore City Housing Authority and various other current and former city officials who are no longer parties to this case. Pet. iii.; Pet. App. 5a, 26a.

⁸ Petitioners asserted both federal- and state-law takings claims.

actual injury to *Plaintiffs* that would permit these Plaintiffs to challenge as unconstitutional the takings of their former neighbors' properties." Pet. App. 38a (emphasis in original). Poppleton Now lacked standing for the same reason: none of "its members had their properties taken." Pet. App. 38a.

Petitioners appealed. In a unanimous, published decision, the Fourth Circuit affirmed the dismissal of the takings claim, albeit on different grounds. Pet. App. 3a, 9a. Writing for the panel, Judge Pamela Harris ruled that Petitioners *do* have Article III standing to assert their takings claim, because their alleged diminution in property value constitutes a cognizable injury-in-fact. Pet. App. 9a–11a. But the court held that Petitioners nonetheless failed to state a takings claim. The Fourth Circuit explained that "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." Pet. App. 12a.

The Fourth Circuit's reasoning was straightforward: because the Fifth Amendment protects private property, "[t]he analysis in a takings case necessarily begins with determining whether the government's action actually interfered with' the plaintiff's property rights." Pet. App. 12a–13a (alteration in original) (quoting *Sunrise Corp. of Myrtle Beach v. City of Myrtle Beach*, 420 F.3d 322, 330 (4th Cir. 2005)). For that reason, "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." Pet. App. 13a (quoting *Quinn v. Bd. of Cnty. Comm'rs*, 862 F.3d 433, 439 (4th Cir. 2017)).

REASONS FOR DENYING THE PETITION

This court should deny the petition because there is no circuit split, the case as litigated presents no question of exceptional importance, and this case presents a poor vehicle for answering a question that the lower courts never confronted and that would not resolve this dispute.

I. No Circuit Has Held That a Plaintiff Need Not Have a Protected Property Interest in the Property in Question in Order to Assert a Takings Claim.

The Fourth Circuit applied the foundational principle that a Takings Clause plaintiff must possess a protected property interest in the property alleged to have been taken. That principle is rooted in the constitutional text, consistent with this Court’s precedent, and adopted by every circuit court.

The Takings Clause provides: “nor shall private property be taken for public use, without just compensation.” U.S. Const. amend. V. It is elementary that a claimant must allege a loss of “private property” in order to assert a takings claim. *See Phillips v. Wash. Legal Found.*, 524 U.S. 156 (1998); *United States v. Powelson*, 319 U.S. 266, 281 (1943). The analysis necessarily begins with the threshold question: whether the government’s action actually interfered with the claimant’s property rights. Under the Fifth Amendment, “it is the person who owned the property at the time of the taking that is entitled to the recovery.” *Palazzolo v. Rhode Island*, 533 U.S. 606, 639 (2001) (Stevens, J., concurring in part and dissenting in part); *see also Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1000–01 (1984) (in order to make a successful claim under the Takings Clause, claimants

must establish first that they possess a constitutionally protected property interest). A plaintiff who does not have a protected property interest in the taken property cannot state a takings claim. *Cf. Singleton v. Wulff*, 428 U.S. 106, 113–14, (1976) (A litigant may assert only his own legal rights and interests and cannot rest a claim to relief on the legal rights or interests of third parties.).

There is no circuit split on this question. Petitioners do not—and cannot—identify any court that has permitted a non-property-owner to bring a takings claim challenging the taking of someone else’s property.

To the contrary, every circuit has reached the same conclusion as the Fourth Circuit: a protected property interest is an essential element of a takings claim. *See* Pet. App. 12a–13a; *Asociacion De Subscripcion Conjunta Del Seguro De Responsabilidad Obligatorio v. Flores Galarza*, 484 F.3d 1, 30 (1st Cir. 2007) (no takings claim for the “property of others”); *Buffalo Teachers Fed’n v. Tobe*, 464 F.3d 362, 374 (2d Cir. 2006) (protectable property interest is “threshold” inquiry); *Nekrilov v. City of Jersey City*, 45 F.4th 662, 669 (3d Cir. 2022) (“Without a legally cognizable property interest, [the plaintiff] has no cognizable takings claim.” (alteration in original) (citation omitted)); *Degan v. Bd. of Trs. of Dallas Police & Fire Pension Sys.*, 956 F.3d 813, 814–15 (5th Cir. 2020) (“[T]o allege a takings claim, Plaintiffs must have a property interest” in the property that was taken); *Rubicon Real Estate Holdings, LLC v. City of Pontiac*, 179 F.4th 431, 447 (6th Cir. 2026) (“A takings claim necessarily requires proof of a cognizable property interest as well as a government taking of that interest without just

compensation.”); *Protect Our Parks, Inc. v. Chicago Park Dist.*, 971 F.3d 722, 736–37 (7th Cir. 2020) (Barrett, J.) (community organization’s claimed “beneficial interest” in park insufficient to state a takings claim); *Minneapolis Taxi Owners Coal., Inc. v. City of Minneapolis*, 572 F.3d 502, 507, 510 (8th Cir. 2009) (“[M]arket value” of property was “collateral interest incident to ownership . . . not protected by the Fifth Amendment.”) (second alteration in original); *Zeyen v. Bonneville Joint Dist.*, 114 F.4th 1129, 1139 (9th Cir. 2024) (“To state a claim under the Takings Clause, . . . the plaintiff must own ‘private property’ as contemplated under the Takings Clause” and “that the private property was ‘taken’ for ‘public use.’”); *Knellinger v. Young*, 134 F.4th 1034, 1043 (10th Cir. 2025); *Checker Cab Operators, Inc. v. Miami-Dade Cnty.*, 899 F.3d 908, 917 (11th Cir. 2018) (“[T]o state a Takings claim under [federal] law, a plaintiff must first demonstrate that he possesses a ‘property interest’ that is constitutionally protected. Only if the plaintiff actually possesses such an interest will a reviewing court then determine whether the deprivation or reduction of that interest constitutes a ‘taking.’” (alterations in original) (quoting *Givens v. Ala. Dep’t of Corr.*, 381 F.3d 1064, 1066 (11th Cir. 2004))); *Rumber v. D.C.*, 595 F.3d 1298, 1301 (D.C. Cir. 2010) (only property owners, and “not their employees or stakeholders” could challenge condemnation); *Am. Pelagic Fishing Co., L.P. v. United States*, 379 F.3d 1363, 1372 (Fed. Cir. 2004) (“First, as a threshold matter, the court must determine whether the claimant has established a property interest for purposes of the Fifth Amendment.”).

Petitioners concede, as they have at every stage of this litigation, that none of them has a property interest in any property acquired through the City's exercise of eminent domain. Pet. i, 3–4, 13–14. Petitioners' homes are adjacent to, not within, the Project Area. Pet. App. 3. No property belonging to Petitioners has been taken. Rather, their grievance is with the City's acquisition and management of *other people's* property. That fails to state a takings claim.

To the extent that Petitioners allege some abstract interest beyond real property, that too is plainly insufficient to support their takings claim. The Takings Clause does not itself define what it means by “private property.” *Phillips*, 524 U.S. at 164. For that, the Court draws on “existing rules or understandings” about property rights, including state law. *Id.* (citations omitted).

Here, Petitioners' asserted “beneficial interest” in the condition of their neighborhood is not a recognized property interest under Maryland law or any other traditional understanding of property rights. See *Protect Our Parks*, 971 F.3d at 736–37 (Barrett, J.) (adjacent property owners who brought a Fifth Amendment challenge to planned construction in a public park claiming a “beneficial interest” in the park “lack[ed] . . . a property interest” necessary to state a takings claim); *Evans v. Burruss*, 401 Md. 586, 595 (2007) (“abutting or neighboring property owners” have no inherent property rights in the use of nearby property); *Roman Cath. Archbishop of Wash. v. Doe*, 489 Md. 514, 537–38 (2025) (constitutionally protected property interests require “a vested right,” defined as “something more than a *mere expectation* based on the anticipated continuance of the existing law; *it must have become a title*, legal or equitable, to

the present or future enjoyment of a property.” (quoting *Muskin v. State Dep’t of Assessments & Tax’n*, 422 Md. 544, 560 (2011)) (emphasis in original)).

Maryland law does not recognize any property rights in the condition or use of neighboring property. As the Fourth Circuit has observed, “Maryland courts have declined to forestall changes on one piece of property simply because of its effects on neighboring properties.” *Horne v. Mayor & City Council of Balt.*, 349 F. App’x 835, 839 (4th Cir. 2009) (citing, *inter alia*, *Hoffman v. Mayor & City Council of Balt.*, 197 Md. 294 (1951)); *cf. Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1022–30 (1992) (property owner must be denied *all* economically beneficial or productive use of his or her property to suffer a regulatory taking).

Petitioners’ failure to identify any protected private property interest that they might have in the taken property is fatal to their takings claim; and their failure to identify a single contrary decision is fatal to their arguments for this Court’s review.⁹ That straightforward application of uniform, existing law does not warrant certiorari.

⁹ Petitioners claim that the Fourth Circuit saw the property ownership requirement as a “novel issue,” one that the court had to resort to analogy to resolve. *See* Pet. 7. But Petitioners misunderstand the Fourth Circuit’s discussion of *Rakas v. Illinois*, 439 U.S. 128 (1978). The panel cited *Rakas* to explain the distinction it was drawing between standing and the elements of a takings claim, not for whether Petitioners have a protected property interest sufficient to bring a takings claim. *See* Pet. App. 14a n.7. There is nothing “newly minted” about the Fourth Circuit’s holding that a protected property interest is a prerequisite to the assertion of a takings claim, which not only applied Fourth Circuit precedent but is also consistent with the decisions of this Court and of every circuit.

II. The Petition’s Request that This Court Create an Amorphous New Class of “Intended Beneficiary” Plaintiffs Does Not Present a Question of Exceptional Importance.

Lacking their own protected property interest in property taken here, Petitioners ask this Court to enlarge the Fifth Amendment and permit suit by others claiming to be “intended beneficiaries” of the asserted public use. *See* Pet. ii, 8–12, 17, 24. That theory has no basis in the Fifth Amendment’s text, Petitioners point to no authority recognizing such a right, and they proffer no reasons warranting this Court’s consideration of the question, let alone warranting such an expansion.

A. The Fifth Amendment Protects Property Owners, Not Beneficiaries.

“[T]he Fifth Amendment concerns itself solely with the ‘property,’ *i.e.*, with the owner’s relation as such to the physical thing and not with other collateral interests.” *United States v. Gen. Motors Corp.*, 323 U.S. 373, 378 (1945). It is a shield against government deprivation of one’s *own* property. It does not create a free-wheeling affirmative right in third parties to enforce the “public use” component of the Takings Clause independent of any property interest.

Petitioners contend that, absent their novel theory, “no one” can enforce the Public Use Clause. *See* Pet. 12. That is simply wrong. As a matter of black-letter law, *any* property owner *whose property is taken* may challenge the constitutional validity of that action when the taking occurs. *See Knick v. Twp. of Scott*, 588 U.S. 180, 189 (2019) (“a property owner” may bring a Fifth Amendment claim under § 1983 “as soon as the

government takes his property”). Also (and equally) as a matter of black-letter law, third parties with no protected property interest have no right to challenge the taking of another’s property at any time, let alone years (here, decades) after the taking occurred.

B. Recognizing Petitioners’ Novel Cause of Action Would Dramatically Expand the Ability to Challenge the Exercise of Eminent Domain.

What Petitioners ask is for this Court to carve out a new right available to a new, broad, and poorly defined class of plaintiffs. But doing so would have sweeping, dangerous consequences: Any member of the public claiming to be an “intended beneficiary” of any government project involving the exercise of eminent domain could invoke the Fifth Amendment to challenge the taking of someone else’s property—even decades after the taking occurred. Petitioners offer no limiting principle to define who qualifies as an intended beneficiary, which government projects their theory would reach, or when such a claim would accrue.¹⁰ Petitioners’ theory would thus transform the Takings Clause from a constitutional means to protect property rights into a vehicle for virtually limitless challenges based on policy disagreements and alleged governmental non-performance. That, in turn, would dramatically expand the scope of takings litigation beyond anything contemplated by the Fifth Amendment.

¹⁰ Third-party standing principles cannot bridge the gap. Even when permitted to assert another person’s rights, a litigant must have suffered a concrete injury of its own. *F.D.A. v. All. for Hippocratic Med.*, 602 U.S. 367, 393 n.5 (2024).

Petitioners’ theory that the constitutionality of a taking depends on whether the anticipated public benefits ultimately materialize would require courts to monitor redevelopment projects indefinitely and to reassess completed takings based on later events. *See* Pet. 23. Petitioners cite no authority for this extraordinary proposition, let alone explain how that bell could possibly be unrung. To the contrary, even *Kelo* rejected a requirement of “reasonable certainty” that the expected public benefits would actually accrue, emphasizing that the parties’ legal rights must be established *before* redevelopment work could begin. *See Kelo*, 545 U.S. at 487–88 (“A constitutional rule that required postponement of the judicial approval of every condemnation until the likelihood of success of the plan had been assured would unquestionably impose a significant impediment to the successful consummation of many such plans.” (citing *Hawaii Housing Auth. v. Midkiff*, 467 U.S. 229, 242–43 (1984) and *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 544 (2005))). Petitioners’ approach would require federal courts to second-guess legislative judgments about redevelopment progress and outcomes for years or even decades after a taking is complete, an obligation this Court has expressly disclaimed. *See Berman*, 348 U.S. at 35–36.

The Court should decline Petitioners’ invitation to transform the Takings Clause from a protection for protected property interests into a vehicle for public-interest litigation by putative community representatives with no interest in the property taken. After all, “[a] taking is a discrete event, a governmental acquisition of private property for which the State is required to provide just compensation. Like other transfers of property, it

occurs at a particular time, that time being the moment when the relevant property interest is alienated from its owner.” *Palazzolo*, 533 U.S. at 638–39 (Stevens, J., concurring in part and dissenting in part). And policy disputes over community development are better resolved at the ballot box, rather than in a courtroom.

C. Section 1983 Provides No Independent Substantive Basis for Constitutional Claims.

Petitioners’ reliance on 42 U.S.C. § 1983 as somehow providing “independent grounds” for their claim is misplaced. Section 1983 provides a procedural mechanism for enforcing rights “secured by the Constitution,” it does not enlarge the substantive scope of those rights. *See Chapman v. Houston Welfare Rights Org.*, 441 U.S. 600, 617–18 (1979). As a result, “the threshold inquiry in a § 1983 suit . . . requires courts to ‘identify the specific constitutional right’ at issue. After pinpointing that right, courts still must determine the elements of, and rules associated with, an action seeking damages for its violation.” *Manuel v. City of Joliet*, 580 U.S. 357, 370 (2017) (quoting *Albright v. Oliver*, 510 U.S. 266, 271 (1994)).

Before Petitioners can invoke § 1983 as the key to the courthouse door, therefore, they must first establish that the Fifth Amendment gives them a personal right to challenge the taking of property belonging to others. As explained above, it does not.

Nor does the Fourth Circuit’s conclusion that Petitioners alleged an Article III injury establish a substantive Fifth Amendment right, as Petitioners appear to suggest. *See* Pet. 15. Even assuming Petitioners have established Article III standing (and

they have not), they still must identify a protected property interest to show a cognizable Fifth Amendment right to relief.¹¹ *See* Pet. App. 14a n.7 (citing *Rakas*, 133–34, 143). Even if Petitioners’ alleged diminution in property value could constitute an injury-in-fact, it does not confer upon them a right to enforce the Public Use Clause with respect to other people’s property.

D. Petitioners’ Complaints Are Better Brought As Due Process and Equal Protection Claims, Claims Which Petitioners Abandoned Below.

Petitioners’ essential grievance is that the planned redevelopment has yet to produce the anticipated urban revitalization. *See* Pet. 14, 19–20. But the Takings Clause neither guarantees the success of a redevelopment project nor gives neighboring residents a constitutional right to enforce the parties’ obligations under a development agreement. The Fifth Amendment requires only that private property be: (1) taken for a public use, and (2) compensated properly; it does not create a free-floating right in third parties to enforce the government’s land-use plans as they see fit.

Petitioners brought claims below under both the Due Process Clause and the Equal Protection Clause but abandoned them on appeal. *See Poppleton Now*, Case No. 25-1770 (4th Cir.), Dkt. No. 22 at 2. Instead, Petitioners chose to pursue their novel theory that

¹¹ To be clear, Petitioners also lack Article III standing because their alleged diminution in property value is not redressable through a takings claim based on other persons’ property—an antecedent jurisdictional issue that further complicates this case as a vehicle for review.

third parties with no property interest but a policy disagreement can nonetheless enforce the Public Use Clause. Claims of government favoritism and discrimination are more properly brought under due process and equal protection principles—not a distorted expansion of the Takings Clause untethered from any protected property interest.

Truth be told, though, Petitioners’ “intended beneficiary” concept does not sound in constitutional law at all. It is a creature of contract law. But Petitioners are not parties to, and do not claim to be third-party beneficiaries of, any contract with the City. And the Fifth Amendment provides no textual or historical basis for importing factually immaterial contract-law principles into takings jurisprudence. *Cf. Phillips*, 524 U.S. at 178 (Souter, J. dissenting) (warning against the “danger in ‘cutting loose the notion of “just compensation” from the notion of “private property”” (quoting *Almota Farmers Elevator & Warehouse Co. v. United States*, 409 U.S. 470, 486 (1973) (Rehnquist, J., dissenting))). Petitioners’ attempt to graft contract-law concepts onto the Takings Clause should be rejected.

III. The Public-Use Question Was Not Decided Below and Is Not Properly Presented Here.

Even if Petitioners could bring their challenge despite the absence of any property interest, this Court still should not grant certiorari. The public-use question that Petitioners seek to present was not litigated below and is not raised by this case. The district court dismissed Petitioners’ takings claim for lack of Article III standing, reasoning that because none of the plaintiffs had a protected property interest

affected, none had suffered an injury in fact redressable by a takings claim. Pet. App. 38a. The Fourth Circuit affirmed dismissal of the takings claim on different grounds but for the same essential reason: because Petitioners lacked a protected property interest affected by a government taking, they could not bring a takings claim. Pet. App. 13a. At no point did either court consider, much less decide, the question whether the City’s use of eminent domain satisfied the Public Use Clause. *See* Pet. App. 36a (“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.”).¹²

The petition thus asks the Court to be the first to consider the public-use question in this case. That is inconsistent with this Court’s usual role as “a court of final review and not first view.” *Zivotofsky v. Clinton*, 566 U.S. 189, 201 (2012); *Cutter v. Wilkinson*, 544 U.S. 709, 718 n.7 (2005) (same). As has been repeatedly observed, the Court ordinarily “do[es] not decide in the first instance issues not decided below.” *Adarand Constructors, Inc. v. Mineta*, 534 U.S. 103, 109 (2001) (per curiam) (quoting *National Collegiate Athletic Assn. v. Smith*, 525 U.S. 459, 470 (1999)); *see also Retirement Plans Committee of IBM v. Jander*, 589 U.S. 49, 52 (2020) (“The Second Circuit ‘did not address the[se] argument[s], and, for that reason, neither shall we.’” (alterations in original) (quoting *F. Hoffmann-La Roche Ltd. v. Empagran S.A.*, 542 U.S. 155, 175 (2004))).

¹² Petitioners concede that briefing in the Fourth Circuit focused “primarily on the subject of standing.” Pet. 7.

The absence of any lower court analysis on the public-use question makes this case a poor vehicle for review. *See Stanley v. City of Sanford*, 606 U.S. 46, 72 (2025) (Thomas, J., concurring in part) (“We . . . ordinarily wait to see if ‘the crucible of adversarial testing . . . , along with the experience of our thoughtful colleagues on the district and circuit benches, [can] yield insights (or reveal pitfalls) we cannot muster guided only by our own lights.’” (alterations in original) (quoting *Maslenjak v. United States*, 582 U.S. 335, 354 (2017) (Gorsuch, J., concurring in part))). Indeed, neither lower court here had occasion to consider any of the subsidiary questions that Petitioners’ public-use theory would necessarily entail: whether the redevelopment purpose was pretextual, whether alleged favoritism affected the constitutional validity of the condemnations, whether amendments to the LDDA could affect the validity of previous condemnations, or whether non-performance can transform an originally valid taking into an unconstitutional one. These are questions that should not be taken up by this Court in the first instance without the benefit of lower court analysis. *See Patrick v. Burget*, 486 U.S. 94, 99 n.5 (1988) (“[T]he Court of Appeals did not address this question. This Court usually will decline to consider questions presented in a petition for certiorari that have not been considered by the lower court.” (citing *Youakim v. Miller*, 425 U.S. 231, 234 (1976) (per curiam))).

A. Even If Properly Presented, the Public-Use Question Is Governed by *Berman*, Not *Kelo*, and Petitioners Offer No Reason to Revisit Either.

Petitioners frame this case as a vehicle to reconsider *Kelo v. City of New London*. It is not. The taking of property to address urban blight as part of a comprehensive redevelopment plan has been recognized as a valid public use since *Berman v. Parker*—decided more than fifty years before *Kelo*. This case falls squarely within *Berman*’s framework, but Petitioners do not even acknowledge *Berman*, let alone offer any reason to revisit it.

Under *Berman* and its progeny (which includes *Kelo*), courts afford substantial deference to legislative determinations of public use. Here, the City of Baltimore condemned property in Poppleton to remove blight and to assemble land for redevelopment in accordance with the 1975 URP and the LDDA. Pet. App. 3a–4a, 24a. The City’s exercise of eminent domain easily merits deference. Thus, even if this Court were to overturn *Kelo*, the public use at issue in this case (removal of blight and urban redevelopment) would independently survive constitutional scrutiny under *Berman*.

B. Taking Private Property to Address Urban Blight is a Permissible Public Use Under *Berman*.

In *Berman*, this Court upheld takings under the District of Columbia Redevelopment Act, which authorized the acquisition of blighted properties (as well as a non-blighted commercial property) in an area designated for redevelopment. 348 U.S. at 28–31. The *Berman* Court held unanimously that condemnation

of property to address existing slum conditions, and to prevent future blight, was a valid public use. 348 U.S. at 33–35. Specifically, the *Berman* Court recognized that the development plan in that case would not only remove existing blight but prevent “revert[ing] again to a blighted or slum area.” 348 U.S. at 34; *see id.* at 35. In *Kelo*, by contrast, the City of New London took non-blighted homes and gave the land to a private developer for commercial development near a planned Pfizer facility, based on the hope that it would “draw new businesses to the area.” 545 U.S. at 473–75, 483.

Neither remediating nor preventing future blight was a public use motivating the takings in *Kelo*. Yet *Kelo* itself recognized the controlling force of *Berman*: “It is a misreading of *Berman* to suggest that the only public use upheld in that case was the initial removal of blight.” 545 U.S. at 484 n.13. “The public use described in *Berman* extended beyond that to encompass the purpose of developing that area to create conditions that would prevent a reversion to blight in the future.” *Id.*

Here, the Poppleton neighborhood was designated as an urban renewal area in 1975—thirty years before the takings at issue here and nearly fifty years before this suit was filed. As in *Berman*, the City used eminent domain in Poppleton to remove blighted property as part of a comprehensive plan for urban redevelopment. The City’s use of eminent domain thus fell squarely within both public uses recognized in *Berman*: removing current and preventing future blight.

In *Berman*, moreover, the Court explained that “[t]he concept of the public welfare is broad and inclusive” and it is “within the power of the legislature

to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.” 348 U.S. at 33. Thus, when the legislature determines that a development project would serve a public use, the legislature is “the main guardian of the public needs,” and courts play only an “extremely narrow” role. *Id.* at 32–34. “Once the question of the public purpose has been decided, the amount and character of land to be taken for the project and the need for a particular tract to complete the integrated plan rests in the discretion of the legislative branch.” *Id.* at 35–36. Indeed, “community redevelopment programs need not, by force of the Constitution, be on a piecemeal basis—lot by lot, building by building.” *Id.* at 35.

The “‘public use’ requirement is . . . coterminous with the scope of a sovereign’s police powers.” *Midkiff*, 467 U.S. at 240. The courts, therefore, must defer to legislative judgments “‘unless the use be palpably without reasonable foundation.’” *Id.* at 240–41 (quoting *United States v. Gettysburg Elec. Ry. Co.*, 160 U.S. 668, 680 (1896)). *Midkiff* further observed that “[w]here the exercise of the eminent domain power is rationally related to a conceivable public purpose, the Court has *never* held a compensated taking to be proscribed by the Public Use Clause.” *Id.* at 241 (emphasis added). This Court has long recognized that legislative judgments about the “public use” supporting the exercise of eminent domain are “entitled to deference.” *Kelo*, 545 U.S. at 469. Even in *Kelo*, the Court “decline[d] to second-guess” the legislature’s determination that a comprehensive redevelopment plan would “serve a public purpose.” *Id.* at 488–98. That same deference should foreclose review here.

Overruling *Kelo* would not decide this case, because Petitioners would still need to overcome *Berman*. Even Justice O'Connor's dissent in *Kelo* acknowledged that *Berman*'s holding—that blight removal is a constitutionally permissible public purpose—should (and does) remain good law. 545 U.S. at 500–01 (O'Connor, J., dissenting) (distinguishing the economic development taking in *Kelo* from the blight-removal taking in *Berman*). Petitioners offer no reason to disturb *Berman*'s settled framework. For Petitioners to prevail here, overturning *Kelo* alone would not suffice; the Court would have to go further and reject its earlier, foundational takings jurisprudence deferring to legislative determinations of public use in the context of urban blight.

That is not to say, of course, that courts have no role in policing the boundaries of permissible takings. “A purely private taking could not withstand the scrutiny of the public use requirement” because “it would serve no legitimate purpose of government and would thus be void.” *Midkiff*, 467 U.S. at 245; *see Kelo*, 545 U.S. at 477 (“sovereign may not take the property of *A* for the sole purpose of transferring it to another private party *B*”). Petitioners may allege the condemnations here were privately motivated and imply they were pretextual—claims that are hotly disputed issues of fact which no court has resolved—but the crux of their complaint is that a public redevelopment project has not achieved the public benefits on the timeline they expected. That grievance, however sympathetic, does not state a constitutional claim under *Berman*, *Midkiff*, or *Kelo*. And neither court below considered or decided whether Petitioners' allegations plausibly establish a purely private taking.

**C. Petitioners' Public-Use Question is
Not a Question of Exceptional
Importance.**

This Court grants certiorari to resolve questions of broad legal significance, not to correct fact-bound, case-specific error. Sup. Ct. R. 10 (certiorari granted only for “compelling reasons”). Yet Petitioners’ public-use question, as framed, is so bound up with the specific facts of this case that even if this Court were to grant review, any ruling would offer little to no guidance for future cases. Moreover, Petitioners’ public-use question has not been properly raised, and Petitioners offer no justification for overturning settled law and allowing individuals with no property interest in the affected properties to second-guess legislative policy decisions. Accordingly, this Court should not expend its limited resources on a case that would require it to decide a deeply fact-bound issue in the first instance.

CONCLUSION

Petitioners ask this Court to grant review and open the floodgates to a slew of litigation brought by plaintiffs kibbitzing over legislative policy determinations and second-guessing how complex, master-planned housing development projects are designed, built, and delivered to revitalize a blighted urban neighborhood. No reason proffered by Petitioners warrants opening that Pandora’s box. Nor is there any reason for this Court to consider Petitioners’ public use claim. Neither court below reached the issue, and this case presents no reason to revisit this Court’s precedent. Indeed, even if this Court were to take Petitioners up on their invitation to revisit *Kelo*, that would not entitle them to relief.

For all the aforementioned reasons, the petition for writ of certiorari should be denied.

Respectfully submitted,

Anne M. Voigts
Counsel of Record
PILLSBURY WINTHROP SHAW PITTMAN LLP
2400 Hanover Street
Palo Alto, California 94304
(650) 233-4500
anne.voigts@pillsburylaw.com

Anthony J. Phillips
Thomas L. Howard III
Jake Mitchell
PILLSBURY WINTHROP SHAW PITTMAN LLP
1200 Seventeenth Street, NW
Washington, DC 20036
(202) 663-8000

Counsel for Respondents La Cité, LLC, La Cité Development, LLC, PSH 1 B, LLC, Poppleton Development I, LLC, and Dan Bythewood, Jr.

Michael Redmond
BALTIMORE CITY LAWDEPARTMENT
100 Holliday Street
Baltimore, MD 21202
(410) 396-3944
michael.redmond@baltimorecity.gov

Counsel for Respondents Mayor and City Council of Baltimore, Brandon Scott, and Alice Kennedy

OCTOBER 5, 2026