

In the Supreme Court of the United States

NATIONAL PARK SERVICE *et al.*,
Applicants,

v.

NATIONAL TRUST FOR HISTORIC PRESERVATION
IN THE UNITED STATES,
Respondent.

*On Application for a Stay of the Injunction Issued by the
United States District Court for the District of Columbia
and Request for an Immediate Administrative Stay*

**BRIEF OF MEMBERS OF CONGRESS
AS AMICI CURIAE IN SUPPORT OF RESPONDENT**

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INTEREST OF *AMICI CURIAE*¹

Amici curiae are Members of Congress who understand that the Constitution empowers Congress—not the President—to control federal property, including determining whether (and how) parts of the White House should be demolished or constructed. *Amici*, who filed an *amici curiae* brief before the D.C. Circuit earlier in this case, have a strong interest in protecting Congress’s constitutional responsibility for federal property from executive-branch encroachment and thus in the outcome of this application. A list of *amici* appears in the Appendix.

INTRODUCTION AND SUMMARY OF ARGUMENT

The Constitution grants Congress ultimate control over all “Property belonging to the United States,” including the power to “dispose of and make all needful Rules and Regulations respecting” federal property. U.S. Const. art. IV, § 3. The White House is, indisputably, federal property. It was built only after Congress authorized its construction and appropriated funds to cover that expense. And for over two centuries since, the White House has been renovated and maintained pursuant to congressional authorizations and appropriations. In short, whereas the President lives in the White House for only a finite period while in office, the Constitution entrusts Congress with making long-term decisions about the “People’s House.”

¹ Pursuant to Supreme Court Rule 37.6, *amici curiae* state that no counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amici curiae* or their counsel made a monetary contribution to its preparation or submission.

Congress neither authorized the demolition of the White House’s East Wing and construction of a ballroom nor appropriated funds to carry out that project. To begin, the authorization law Applicants cite “authorize[s]” *Congress* to act (by appropriating funds), not the President. 3 U.S.C. § 105(d). Moreover, that law lets Congress fund only maintenance and upkeep on the White House’s existing physical plant, permitting funding to be used for the “care, maintenance, repair, alteration, refurnishing, improvement, air-conditioning, heating, and lighting (including electric power and fixtures) of the Executive Residence.” *Id.* § 105(d)(1). And even if that law somehow covered the challenged project, there is an additional problem for Applicants: Congress never appropriated funds to carry it out. The 2024 appropriations act is narrower than § 105(d), funding only “required” and “continued preventative maintenance” and “safety and health issues” at the Executive Residence. Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47, 138 Stat. 460, 532 (2024). The appropriation itself confirms that Congress did not fund largescale construction: the entire amount, even if devoted to that project alone, would cover *less than 1%* of the ballroom’s estimated \$400,000,000 cost.

Recognizing all this, two courts have held that Applicants are unlikely to succeed on their claim that this project is lawful. *See* Appl. App. 35a-54a, 310a-42a. The President nonetheless seeks to continue work on the ballroom, arguing that national-security concerns necessitate its construction. But there is no national-security carveout to Congress’s control over federal property and federal spending. If the President believes national-security concerns require the project, there is a

solution: he can bring those concerns to Congress and convince Congress to authorize the project and appropriate the requisite funds. Until then, continued work on this project remains unlawful, and Applicants cannot show that they are “likely to succeed on the merits,” *Nken v. Holder*, 556 U.S. 418, 434 (2009) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)). The district court’s injunction should remain in place.

ARGUMENT

I. The Constitution Gives Congress—Not the President—Ultimate Control over Federal Property, Including the White House.

The Constitution grants Congress exclusive control over all federal property. As a result, the executive branch can only demolish or construct federal buildings when Congress authorizes that action and appropriates funds for it. Three constitutional provisions undergird that exclusive congressional authority. First, the Property Clause gives Congress the power “to dispose of and make all needful Rules and Regulations respecting . . . Property belonging to the United States.” U.S. Const. art. IV, § 3. Second, the Appropriations Clause provides that “[n]o Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.” *Id.* art. I, § 9. Third, as relevant here, the District Clause gives Congress the power to “exercise exclusive Legislation in all Cases whatsoever, over such District . . . as may . . . become the Seat of Government of the United States.” *Id.* art. I, § 8.

These overlapping provisions provide Congress, acting for the people, with the sole authority to permit and fund construction on federal property in Washington, D.C. The Constitution thus vests Congress with exclusive authority to expand, maintain, and renovate the White House, even as individual presidencies come and

go.² And its “absolute” federal-spending authority, including over federal property, forms “a bulwark of the Constitution’s separation of powers,” serving as a “particularly important . . . restraint on Executive Branch officers.” *U.S. Dep’t of Navy v. FLRA*, 665 F.3d 1339, 1347-48 (D.C. Cir. 2012) (Kavanaugh, J.) (quotation marks omitted). When construction is necessary, Congress—not the President—has acted to authorize and fund specific work. This history belies Applicants’ suggestion that the President is empowered “to renovate, secure, and protect the White House and its grounds . . . without exception.” Appl. 3. Allowing the President to demolish an entire wing of the White House and rebuild it to his liking, while entirely bypassing Congress’s constitutional role and ignoring clear statutory constraints, disrupts the balance of powers put in place by the Constitution’s Framers.

II. Congress Neither Authorized nor Appropriated Funds to Demolish the East Wing and Construct a Massive Ballroom.

Congress has neither authorized nor appropriated funds for the East Wing’s demolition and the construction of a ballroom in its stead. *First*, Congress has not

² Congress has funded construction work on the White House since it was first built shortly after the Founding. After the War of 1812, Congress passed legislation providing for “the President’s House” to be “repaired or rebuilt forthwith” and funding that construction. Act of Feb. 13, 1815, ch. 41, 3 Stat. 205, 205; *see* Act of Feb. 10, 1820, ch. 10, 3 Stat. 541, 541. Later, Congress funded a series of White House expansions. *See* Act of Mar. 3, 1823, ch. 62, 3 Stat. 784, 784; Act of Mar. 3, 1829, ch. 51, 4 Stat. 362, 362-63; Act of June 28, 1902, ch. 1301, 32 Stat. 419, 460. And in the 1940s, Congress appropriated millions of dollars to modernize the White House. *See* Act of June 23, 1949, ch. 236, 63 Stat. 231, 235. More recently, Congress authorized and funded significant updates to the White House’s physical systems infrastructure. *See, e.g.*, Resolution Approving PDC-0017-WA10, S. Comm. on Env’t & Pub. Works, 111th Cong. (Feb. 4, 2010); Consolidated Appropriations Act, 2010, Pub. L. No. 111-117, 123 Stat. 3034, 3188 (2009); Omnibus Appropriations Act, 2009, Pub. L. No. 111-8, 123 Stat. 524, 661 (2009).

authorized such construction. Applicants claim to find authority in 3 U.S.C. § 105(d)(1). *See* Appl. 22-26. But the text of that statute does not authorize the demolition of an entire wing of the White House. Section 105(d) provides that “[t]here are authorized to be appropriated each fiscal year to the President such sums as may be necessary for” the “care, maintenance, repair, alteration, refurnishing, improvement, air-conditioning, heating, and lighting (including electric power and fixtures) of the Executive Residence at the White House.” 3 U.S.C. § 105(d)(1). If later “appropriated under” this Section, those approved funds may then be spent for the designated purposes. *Id.* This “appropriation authorization” operates only as a “directive to Congress itself,” U.S. Gov’t Accountability Off., *Principles of Federal Appropriations Law* 2-54, 2-56 (4th ed. 2016), and, as the D.C. Circuit recognized below, “confers no affirmative authority to act on the Executive Branch,” Appl. App. 323a.

On top of that, the text of § 105(d) provides no support for the challenged project. Demolishing the East Wing does not fall within the meaning of “alteration” or “improvement,” the only terms Applicants invoke to support their actions, *see* Appl. 22-23, and so falls outside the activities § 105(d) authorizes Congress to fund. To start, the specific expenses listed in the statute deal with discrete aspects of upkeep for an existing building. These words “immediately surrounding” references to alteration and improvement “cabin the[ir] contextual meaning.” *Yates v. United States*, 574 U.S. 528, 543 (2015). This “avoid[s] ascribing to one word a meaning so broad that it is inconsistent with its accompanying words, thus giving unintended

breadth to the Acts of Congress.” *Gustafson v. Alloyd Co.*, 513 U.S. 561, 575 (1995) (quotation marks omitted). Here, that principle counsels against a broad reading of “alteration” and “improvement,” which would not merely warp Congress’s statutory text but do so at Congress’s expense, giving the President *carte blanche* authority to demolish the entire White House if he so chose.

Applicants’ view of “alteration” and “improvement” would also render most of § 105(d) superfluous, despite the “cardinal principle of statutory construction” that statutes must be “construed [so] that . . . no . . . word shall be superfluous, void, or insignificant.” *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) (quotation marks omitted). Understanding “alteration” and “improvement” to authorize changes to the White House’s existing structure short of demolition preserves the textual significance of each entry and avoids hiding “elephants” in statutory “mouseholes”—something Congress does not do, as this Court has “often remarked.” *Sackett v. EPA*, 598 U.S. 651, 677 (2023) (quoting in part *Whitman v. Am. Trucking Ass’ns*, 531 U.S. 457, 468 (2001)). Congress did not authorize the President to tear down the White House by giving him permission to conduct routine maintenance and upkeep.³

Second, Congress never appropriated funds for the unauthorized renovations. The 2024 Appropriations Act is narrower than § 105(d) and does not cover the East Wing’s demolition and reconstruction as a giant ballroom. The Act appropriated “[f]or

³ Given Congress’s constitutional control over all federal property, the President cannot demolish federal property without Congress’s authorization even if private funding were available. The President could not, say, unilaterally tear down the Washington Monument absent express congressional authorization—even if he raised private funds to cover the cost.

the repair, alteration, and improvement of the Executive Residence at the White House pursuant to 3 U.S.C. 105(d), \$2,475,000 . . . *for required maintenance, resolution of safety and health issues, and continued preventative maintenance.*” 138 Stat. at 532 (emphasis added). The challenged construction accomplishes none of those objectives. It is not “required maintenance” or “preventative maintenance,” both of which contemplate action taken to preserve existing property (rather than to tear down extant structures and build new ones). *See, e.g., Maintenance, Black’s Law Dictionary* (12th ed. 2024) (“The care and work put into property to keep it operating and productive; general repair and upkeep.”). Nor does “resolution of safety and health issues” encompass the challenged project. That language has long appeared in appropriations for White House repair and restoration.⁴ Paired together in the context of a building, “safety” and “health” refer to issues related to the building’s existing physical plant. *See, e.g.,* H.R. Rep. No. 118-145, at 55 (2023) (referring, in the Act’s accompanying House Report, to a program funding space rentals for “relocations from Federal buildings due to forced moves and relocations as a result of health and safety conditions”). Sandwiching “safety and health” between “required maintenance” and “continued preventative maintenance” confirms that the Act

⁴ From 1999 to 2009, the appropriation under 3 U.S.C. § 105(d) covered “required maintenance, safety and health issues, and continued preventative maintenance.” *See, e.g.,* Treasury and General Government Appropriations Act, 2000, Pub. L. No. 106-58, 113 Stat. 430, 446 (1999). From 2009 onward, the appropriation has covered “required maintenance, resolution of safety and health issues, and continued preventative maintenance.” *See, e.g.,* Consolidated Appropriations Act, 2010, 123 Stat. at 3168.

covers standard issues related to building conditions (for example, crumbling facades or asbestos remediation) rather than external security threats.

Third, the amount of appropriated funds as compared to the cost of the East Wing demolition and reconstruction confirms the appropriation was intended to fund only modest maintenance needs. An appropriation of \$2,475,000 falls well short of the estimated \$400,000,000 needed for that project. See Brett Samuels, *Trump: Cost of New Ballroom May Reach \$400M*, The Hill (Dec. 17, 2025), <https://thehill.com/blogs/in-the-know/5652531-trump-cost-new-ballroom-400m>. This dramatic gap belies any congressional plan to permit such a project. Even if *all* the funds Congress appropriated for “White House Repair and Restoration” were allocated toward that single project, they would cover less than 1% of estimated costs.⁵ Just as Congress does not “hide elephants in mouseholes,” *Whitman*, 531 U.S. at 468, it does not fund largescale construction projects with drop-in-the-bucket funding.

III. There Is No National-Security Carveout to Congress’s Control over Federal Property and Federal Spending.

Before this Court, the President argues that national-security interests weigh in favor of its application for a stay. See Appl. 33, 38. But to merit a stay, the President must make “a strong showing that he is likely to succeed on the merits.” *Nken*, 556 U.S. at 434 (quoting *Hilton*, 481 U.S. at 776); *id.* (“It is not enough that the

⁵ By way of contrast, recent proposals to fund East Wing renovations via congressional action contemplate far larger sums, up to \$1,000,000,000. See White House Safety and Security Act of 2026, S. 4430, 119th Cong. (\$400,000,000); *Committee on the Judiciary, Reconciliation Submission Pursuant to S. Con. Res. 33*, § 5 (May 4, 2026) (Sen. Leg. Couns. Draft MDM26A10 9PR) (\$1,000,000,000).

chance of success on the merits be better than negligible.” (quotation marks omitted)). He has not done so here.

As discussed above, the Constitution grants Congress ultimate control over both federal spending and federal property, including the White House. These constitutional powers do not contain carveouts whenever the President invokes national-security concerns. To be sure, courts “accord[] great weight and deference to invocations of national security,” but “such arguments are not an automatic get-out-of-law-free card” that allows the executive branch to bypass Congress’s constitutional role. Appl. App. 354a; *cf. President & Fellows of Harv. Coll. v. U.S. Dep’t of Homeland Sec.*, 788 F. Supp. 3d 182, 201 (D. Mass. 2025) (finding it “difficult . . . to conclude” that asserted national-security grounds were “anything other than pretextual”); *Susman Godfrey LLP v. Exec. Off. of the President*, 789 F. Supp. 3d 15, 47 (D.D.C. 2025) (finding no “evidence to remotely support” any “national-security-related” interest); *Anthropic PBC v. U.S. Dep’t of War*, 825 F. Supp. 3d 1101, 1132-33 (N.D. Cal. 2026) (finding stated national-security grounds “implausible,” “contrary to the evidence,” and “pretextual”).

If the President believes national-security concerns warrant the demolition or construction of federal property, the Constitution requires him to come to Congress. Indeed, Congress has passed legislation in the past addressing security needs related to the White House. *See, e.g., Consolidated Appropriations Act, 2016*, Pub. L. No. 114-113, 129 Stat. 2242, 2503 (2015) (appropriating funds “for security improvements at the White House complex”); *Consolidated Appropriations Act, 2017*, Pub. L. No.

115-31, 131 Stat. 135, 435 (2017) (appropriating to the Secret Service “an additional amount for ‘Procurement, Construction, and Improvements’ for necessary expenses for Presidential security”). And if similar needs arise now or in the future, Congress can do so again.

Today, no less than in the past, questions about how best to protect current and future White House residents, staff, and visitors fall well within the ambit of Congress’s powers over federal property and federal spending. And that means that the construction the President seeks should not proceed until Congress authorizes that construction and appropriates the funds for it.

CONCLUSION

For the foregoing reasons, this Court should deny the application.

Respectfully submitted,

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APPENDIX

APPENDIX

LIST OF *AMICI CURIAE*

Members of Congress

Sen. Sheldon Whitehouse

Ranking Member, Senate Committee on Environment and Public Works

Sen. Richard J. Durbin

Senate Minority Whip

Ranking Member, Senate Committee on the Judiciary

Sen. Angela Alsobrooks

Sen. Richard Blumenthal

Ranking Member, Senate Committee on Veterans' Affairs

Sen. Martin Heinrich

Ranking Member, Senate Committee on Energy and Natural Resources

Sen. John Hickenlooper

Sen. Mazie Hirono

Sen. Amy Klobuchar

Ranking Member, Senate Committee on Agriculture, Nutrition, and Forestry

Sen. Ben Ray Lujan

Sen. Edward Markey

Ranking Member, Senate Committee on Small Business and Entrepreneurship

Sen. Gary Peters

*Ranking Member, Senate Committee on Homeland Security
and Governmental Affairs*

Sen. Jack Reed

Ranking Member, Senate Committee on Armed Services

Sen. Adam Schiff

Sen. Jeanne Shaheen

Ranking Member, Senate Committee on Foreign Relations

Sen. Chris Van Hollen

Sen. Ron Wyden
Ranking Member, Senate Committee on Finance

Rep. Robert Garcia
Ranking Member, House Committee on Oversight and Government Reform

Rep. Jared Huffman
Ranking Member, House Committee on Natural Resources

Rep. Hakeem Jeffries
House Minority Leader

Rep. Katherine Clark
House Minority Whip

Rep. Pete Aguilar
Chair, House Democratic Caucus

Rep. Jim Himes
Ranking Member, House Permanent Select Committee on Intelligence

Rep. Ro Khanna
Ranking Member, Select Committee on the Chinese Communist Party

Rep. Rick Larsen
Ranking Member, House Committee on Transportation and Infrastructure

Rep. Zoe Lofgren
Ranking Member, House Committee on Science, Space, and Technology

Rep. Gregory Meeks
Ranking Member, House Committee on Foreign Affairs

Rep. Joseph Morelle
Ranking Member, House Committee on House Administration

Rep. Jamie Raskin
Ranking Member, House Committee on the Judiciary

Rep. Bobby Scott
Ranking Member, House Committee on Education and the Workforce

Rep. Adam Smith
Ranking Member, House Committee on Armed Services

Rep. Mark Takano
Ranking Member, House Committee on Veterans' Affairs

Rep. Bennie Thompson
Ranking Member, House Committee on Homeland Security

Rep. Maxine Waters
Ranking Member, House Committee on Financial Services