

No. _____

In the Supreme Court of the United States

**RAFAEL MARFIL, VERGE PRODUCTIONS, L.L.C., ENRICO MARFIL, NAOMI MARFIL,
KOREY A. RHOLACK, DANIEL OLVEDA, AND DOUGLAS WAYNE MATHES,
*Petitioners,***

v.

**CITY OF NEW BRAUNFELS, TEXAS,
*Respondent.***

*On Petition for a Writ of Certiorari
to the U.S. Court of Appeals for the Fifth Circuit*

**APPLICATION TO EXTEND THE TIME TO FILE A PETITION
FOR A WRIT OF CERTIORARI**

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To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

RULE 29.6 STATEMENT

Applicant Verge Productions, L.L.C., has no parent corporation, and no publicly held corporation owns 10% or more of its stock. The remaining Applicants are natural persons.

**APPLICATION TO EXTEND TIME
TO FILE A PETITION FOR A WRIT OF *CERTIORARI***

Pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rules 13.5, 22, and 30.2, Rafael Marfil; Verge Productions, L.L.C.; Enrico Marfil; Naomi Marfil; Korey A. Rholack; Daniel Olveda; and Douglas Wayne Mathes (“Applicants”) respectfully request a 30-day extension of time, to and including November 18, 2026, within which to file a petition for a writ of certiorari. The petition for a writ of certiorari is currently due October 19, 2026. This application is being filed on September 28, 2026, more than ten days before the current deadline. This Court’s jurisdiction will be invoked under 28 U.S.C. § 1254(1).

1. Applicants own homes in New Braunfels, Texas, across the street from one of the largest waterparks in the country. Like hundreds of other families in New Braunfels, Applicants would like to rent those homes to other families when they are not using them. New Braunfels passed an ordinance forbidding them from doing so, while allowing other rental properties and more intensive commercial uses in the same neighborhood. Applicants sued, alleging that this arbitrary restriction on their common-law leasing rights violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

2. The district court initially dismissed the federal claims at the pleading stage. But, in *Marfil v. City of New Braunfels*, 70 F.4th 893 (5th Cir. 2023) (*Marfil I*), the Fifth Circuit reversed and remanded for discovery, holding that even under rational-basis scrutiny, evidence can be relevant to determine whether a restriction on a traditional property right is rationally related to a legitimate government interest.
3. On remand, the parties developed the evidentiary record contemplated by *Marfil I* and filed cross-motions for summary judgment. The district entered judgment for the City, again concluding that consideration of local evidence was unnecessary.
4. A different panel of the Fifth Circuit affirmed on June 18, 2026, holding that the City's restriction on leasing did not implicate property rights under the Fourteenth Amendment, Op. at 5-6, and even if it did, local evidence is categorically irrelevant when determining the constitutionality of a local land-use decision under rational basis review. *Id.* at 15-16 & n. 8.
5. The Fifth Circuit denied Applicants' timely petition for rehearing on July 21, 2026.
6. Because the Fifth Circuit's holdings on both issues are in tension with this Court's precedents and conflict with decisions of other appellate courts, Applicants now seek review in this Court. Preparation of the petition will require careful consideration of several substantial and research-intensive issues, including the historical meaning of "property" protected by the Fourteenth Amendment, the development of this Court's precedents concerning the relevance of evidence in rational-basis review of land-use restrictions, and a detailed analysis of growing disagreements among appellate courts on both issues.

7. Applicants' counsel also face substantial competing litigation obligations during the period in which the petition would otherwise be prepared. Counsel are currently preparing for an October 8 oral argument before the Texas Supreme Court in *Texas Public Policy Foundation v. Highland Park Independent School District*, No. 25-0759 (Tex.), and for an October 29 dispositive motions hearing in the federal district court in *Bernard v. City of Oakland*, No. 4:26-cv-06551-KAW (N.D. Cal.). Applicants' counsel also have had substantial briefing obligations during this period, including a response brief and sur-reply in *Smith v. U.S. Department of the Treasury*, No. 25-40071 (5th Cir.); a response brief in *Bernard v. City of Oakland*, No. 4:26-cv-06551-KAW (N.D. Cal.); a reply brief in *Kyles v. City of Dallas*, No. 25-11423-467 (Tex. App.—15th Dist); and multiple amicus briefs. A short extension will allow Applicants' counsel to provide this Court with better briefing, and to accommodate several prospective *amici* who have expressed interest in filing supporting briefs.
8. Applicants have conferred with Respondent, who stated that Respondent is not opposed to this extension. A 30-day extension would therefore not prejudice Respondent.
9. Applicants therefore request a 30-day extension for counsel to prepare a petition that fully addresses the issues raised by the decision below and frames those issues in a manner that will be most helpful to the Court.

CONCLUSION

For the foregoing reasons, Applicants respectfully request that an order be entered extending the time to file a petition for a writ of *certiorari* to and including November 18, 2026.

Dated: September 28, 2026

Respectfully submitted,

/s/Chance Weldon

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