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STATE OF MICHIGAN
IN THE SUPREME COURT

LOUIS JACKSON, MICHAEL C. BIRAC, LEE CRAFT, GAYLYNN CRAFT, RONALD HAYES, SMFJ, LLC, EVERETT HODGE, DONALD SWINNEY, STEPHANIE BOYD, LISA SMITH, and KIRK BOYD,
Plaintiffs-Appellees,
v.

SOUTHFIELD NEIGHBORHOOD REVITALIZATION INITIATIVE, LLC, FRED ZORN, CITY OF SOUTHFIELD, KEN SIVER, and SOUTHFIELD NON-PROFIT HOUSING CORPORATION,
Defendants-Appellees,

OAKLAND COUNTY,
Defendant-Appellant,
and

E'TOILE LIBBETT, MICHAEL A. MANDELBAUM, SUSAN WARD-WITKOWSKI, a/k/a SUSAN WARD, and GERALD WITKOWSKI,
Defendants.

SC: 166320
COA: 361397
Oakland CC: 2018-162877-NZ

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BRIEF AMICUS CURIAE OF PACIFIC LEGAL FOUNDATION IN SUPPORT OF PLAINTIFFS-APPELLEES

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INTEREST OF AMICUS CURIAE[1]

Pacific Legal Foundation (PLF) is a nonprofit, tax-exempt corporation organized for the purpose of litigating matters affecting the public interest in constitutional rights including private property rights. Founded more than 50 years ago, PLF attorneys have extensive experience with the constitutional issues in this case, having represented more than two dozen former owners of tax-delinquent property lost to foreclosure, including in cases that set the most important precedents at issue here. *See Tyler v Hennepin Cnty*, 598 US 631 (2023); *Schafer v Kent Cnty*, __ Mich__, No. 164975, 2024 WL 3573500 (July 29, 2024); *Rafaeli, LLC v Oakland Cnty*, 505 Mich 429 (2020); *Hall v Meisner*, 51 F4th 185 (CA 6, 2022). *See also, e.g.*, *Fair v Cont'l Res*, 143 S Ct 2580 (2023); *Nieveen v TAX 106*, 143 S Ct 2580 (2023). Moreover, PLF participated as amicus in *Hathon v State*, 996 NW2d 565 (Mich, 2023), as well as other cases arising from confiscatory tax foreclosures like *Freed v Thomas*, 976 F3d 729 (CA 6, 2020), and *Dorce v City of New York*, 2 F4th 82 (CA 2, 2021).

Outside the context of tax foreclosures, PLF attorneys have participated as lead counsel in multiple landmark United States Supreme Court cases that defend individuals' constitutional rights under the Takings Clause, including *Sheetz v Cnty of El Dorado*, 601 US 267 (2024); *Cedar Point Nursery v Hassid*, 594 US 139 (2021); *Knick v Twp of Scott*, 588 US 180 (2019); *Koontz v St Johns River Water Mgmt Dist*, 570 US 595 (2013); *Palazzolo v Rhode Island*, 533 US 606 (2001); *Nollan v Cal Coastal Comm'n*, 483 US 825 (1987). As longstanding advocates for the constitutional right to just compensation, PLF believes its perspective will assist this Court here.

[1] Pursuant to MCR 7.212(H), Amicus Curiae informs the Court that no counsel for any party to the case authored this brief in any part, and no such counsel or party has made a monetary contribution to fund its preparation.

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INTRODUCTION AND SUMMARY OF ARGUMENT

In *Rafaeli*, 505 Mich 429, this Court held that the government violates the Michigan Takings Clause when it forecloses and sells real estate to collect a property tax, and then keeps more than it is owed in taxes, penalties, interest, and costs. *Id.* at 484–85. *Rafaeli* was a forerunner to the United States Supreme Court's decision last year in *Tyler,* which similarly held that the government cannot "use the toehold of the tax debt to confiscate more property than was due." 598 US at 639. When the government takes more property than due, it violates the federal Takings Clause. *Id.*

In December 2020, the Michigan Legislature amended the tax law to comply with *Rafaeli* (2020 PA 256). Those revisions, still applicable today, require former owners to follow complicated and onerous claim procedures to obtain surplus proceeds from the tax-foreclosure sale of that person's property. *See* MCL 211.78t. Former owners must first properly serve a notarized form notifying the government that they want the government to remit any surplus proceeds from a sale. MCL 211.78t(1), (6). Later, former owners must file a motion in court to obtain any surplus proceeds. MCL 211.78t(4), (6).

Each of the plaintiffs in this case fell behind on the property taxes on homes they owned in Southfield, Michigan. *See* Plaintiffs' Second Amended Class Action Complaint (Compl.) at ¶¶ 71–81. Oakland County foreclosed to collect taxes, penalties, interest, and fees. *Id.* The City of Southfield then exercised a statutory right to take title by paying only the tax debt. MCL 211.78m (2016). Then the City conveyed the property for $1.00 to Southfield Neighborhood Revitalization Initiative (SNRI), a for-profit company owned by a private nonprofit corporation run by City officials. Compl. ¶¶ 24, 25, 71–81. All properties were worth substantially more than the tax debts. *Id.*

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For example, plaintiff Donald Swinney owed $20,590 in taxes, penalties, interest, and fees on his home. Compl. ¶¶ 4, 80. The County foreclosed. A few months later, on July 7, 2016, the County transferred Swinney's former property to the City, which paid $20,590, the minimum amount due under MCL 211.78m. Compl. ¶ 80. On September 22, 2016, the City effectively gifted the property to SNRI for the nominal consideration of $1.00. *Id.* SNRI sold the property for $175,000 and retained all proceeds. *Id.* Mr. Swinney was not paid the surplus proceeds realized by SNRI or for his equity. Compl. ¶ 81. The other owners have similar stories. For example, Louis Jackson owed $34,161 on his $225,000 home. Compl. ¶¶ 11, 72. Lee and Gaylynn Craft owed $31,445 on their $255,000 home. Compl. ¶¶ 13, 74. In each case, the City paid the amount of accrued taxes and penalties and then gave the property to SNRI in exchange for a single dollar. SNRI took the windfall while the former owners lost every penny of their equity.

In 2018, Mr. Swinney and the other plaintiffs filed this action, asserting federal and state takings claims. After losing below, this Court revived their case for reconsideration in light of *Rafaeli*. *Jackson v SNRI*, 953 NW2d 402, 403 (Mich, 2021). Now, this case has returned yet again to this Court. This Court should answer the important constitutional questions it asked the parties to brief.

By taking more property than was necessary to pay the debt, the County violated the Michigan and U.S. Constitutions. It is irrelevant whether the state statute provides a remedy. The remedy prescribed by the statute *cannot* be the exclusive remedy when that "exclusive" remedy deprives people of property without just compensation or due process of law. The legislature lacks the authority to bar federal takings claims. And it lacks the authority to substitute a new remedy that is inferior to that mandated by the Michigan Constitution. Thus, this Court need not decide whether the statute provides adequate relief. Instead, it should answer the takings questions—the

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claims raised by the plaintiffs here—and hold that Oakland County must pay just compensation for the taking. Just compensation must be the fair market value at the time of the taking, less the debt, plus pre-judgment interest. Moreover, former owners who prevail on claims brought pursuant to 42 USC 1983 are entitled to recover reasonable attorney fees. 42 USC 1988.

ARGUMENT

I. THE CLAIM STATUTE CANNOT PRECLUDE FORMER OWNERS FROM OBTAINING JUST COMPENSATION THROUGH TRADITIONAL TAKINGS CLAIMS

The Fifth Amendment to the U.S. Constitution provides that private property shall not be taken without just compensation. US Const, Am V. The Michigan Constitution provides the same protection, but goes further than its federal counterpart. Const 1963, art X, § 2; *Rafaeli*, 505 Mich at 449–50. These self-executing clauses require government to pay just compensation for property taken, even in the absence of a statutory cause of action. *See First English Evangelical Lutheran Church of Glendale v Los Angeles Cnty*, 482 US 304, 315–16 (1987); *Rafaeli*, 505 Mich at 454, n 54. Because "claims for just compensation are grounded in the Constitution itself," *First English*, 482 US at 315, "the owner's right to just compensation cannot be made to depend upon state statutory provisions." *Seaboard Air Line Ry Co v United States*, 261 US 299, 306 (1923). Indeed, the constitutional "right to full compensation arises at the time of the taking, *regardless* of post-taking remedies that may be available" under state law. *Knick*, 588 US at 190 (emphasis added).

Flouting these constitutional precedents, the Michigan Legislature purports to establish the GPTA's claim statute as the "exclusive mechanism" by which an owner can recover compensation for the excess property taken when government is collecting a property tax debt. MCL 211.78t(11). But even if the statute could be construed as applying to the owners here, it cannot preclude the plaintiffs' federal or state takings claims. *Bowles v Sabree*, 121 F4th 539, 555 (CA 6, 2024) (MCL 211.78t cannot preclude federal takings claim); US Const, art VI, cl 2 ("This Constitution ... shall

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be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."). A "plaintiff with a federal constitutional claim under [42 USC] 1983 can always go straight to federal court" to obtain just compensation, regardless of what state statutory remedies might exist. *Bowles*, 121 F4th at 555 (citing *Knick*, 588 US at 185).

The statute also cannot bar taking claims because MCL 211.78t ensures that property owners always recover less than the full amount of constitutionally mandated just compensation, as explained in more detail below in Section III. The Legislature cannot by statute "lower the constitutional minimum of 'just compensation' established by the people who ratified the 1963 Constitution." *Michigan Dep't of Transp v Tomkins*, 481 Mich 184, 193 (2008). That is, someone whose property is taken is entitled to recover "the full measure of his injury." *Silver Creek Drain Dist v Extrusions Div, Inc*, 468 Mich 367, 377 (2003) (quoting Thomas M Cooley, The General Principles of Constitutional Law 341 (1880)). "[T]o diminish a constitutional standard by statute, is to place the legislators in the posture of acting unconstitutionally." *Silver Creek*, 468 Mich at 379. Yet MCL 211.78t expressly lowers the amount of just compensation to be paid (in all cases) and fails to provide any interest from the time of the takings, which here occurred in 2016 and 2017. *See Knick*, 588 US at 190 (just compensation must include interest from the time of the taking); *In re Elmwood Park Project Section 1, Group B v Cassese*, 376 Mich 311, 319 (1965) ("interest should be added from the date of taking to the date of award").

Certainly, "the Legislature may implement a remedial scheme that provides a means of vindicating the constitutional right," but unless that scheme is "at a level equal to a remedy th[e Michigan Supreme] Court could afford," the legislative remedy cannot preclude the constitutional claim. *See Bauserman v Unemployment Ins Agency*, 509 Mich 673, 687 (2022). Moreover,

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statutory procedural requirements that "completely divest[] a claimant of his or her right to pursue a constitutional claim" are themselves unconstitutional. *Mays v Snyder*, 323 Mich App 1, 33 (2018), *aff'd* 506 Mich 157 (2020). Even under a liberal statutory construction that here would calculate "remaining proceeds" in MCL 211.78t(11) from fair market value (rather than the actual sale price), the claim statute still provides less than just compensation. Thus to avoid violating the federal or Michigan Constitution, this Court should hold that the claim statute *cannot* preclude takings claims.

II. THE COUNTY TOOK HOME EQUITY WITHOUT JUST COMPENSATION

The Fifth Amendment to the U.S. Constitution and the Michigan Takings Clause provide that government must pay "just compensation" when it takes "private property" for a "public use." Both takings clauses apply when government seizes private property for the public purpose of tax collection. *See Tyler*, 598 US at 647; *Rafaeli*, 505 Mich at 462–73. While the government may sell private property to recover delinquent taxes, the government may "not use the toehold of the tax debt to confiscate more property than was due. By doing so, it effect[s] a classic taking." *Tyler*, 598 US at 639 (cleaned up).

The facts here are nearly identical to those at issue in *Hall*, 51 F4th at 196. It involves the same process and the same county, city, and SNRI. In *Hall*, the Sixth Circuit correctly held that the taking occurred when the County took "'absolute title' to the plaintiffs' homes" without compensation. *Id.* "Before that event, the plaintiffs held equitable title; after it, they held no title at all." *Id*; *see Knick*, 588 US at 190 ("[T]he act of taking is the event which gives rise to the claim for compensation.") (quoting *United States v Dow*, 357 US 17, 22 (1958)).

The County held each title before conveying the properties to the City, which used a statutory right to purchase the property for only the amount of the debt. MCL 211.78t. In determining the County's liability for the taking, it does not matter that it was the City's choice to

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purchase the property, which avoided the standard public auction. Neither the City nor SNRI extinguished the plaintiffs' property interest; the County did. *Hall*, 51 F4th at 196. Nor does the takings analysis turn on whether the County reaped a windfall. "The question is what has the owner lost, not what has the taker gained." *Brown v Legal Found of Wash*, 538 US 216, 236 (2003) (quoting *Boston Chamber of Commerce v Boston*, 217 US 189, 195 (1910)).

The Court might be concerned about whether it is unfair that SNRI reaped the windfall and yet the County must pay just compensation. Michigan law offers a solution: the County could bring an unjust enrichment claim against the City and SNRI, which reaped the benefits of the confiscation. *See Dean v Dep't of Nat Res*, 399 Mich 84, 88 (1976) (allowing an unjust enrichment claim to proceed against state agency that reaped the windfall from a tax foreclosure); *Wright v Genesee Cnty*, 504 Mich 410, 418, 434 (2019) (unjust enrichment claim may be brought "whenever a person, natural or artificial, has in his or its possession money which in equity and good conscience belongs to the plaintiff, and neither express promise nor privity between the parties is essential.") (internal quote omitted). The City reaped the benefits of the public purposes behind the economic revitalization efforts; and SNRI reaped windfalls from their subsequent ownership and/or sales of the homes. But it was the County, pursuant to state law at the time, that actually took title to the plaintiffs' homes without just compensation.[2] Thus the federal and Michigan takings clauses require that the County compensate them.

[2] Due to the close working relationship between the County, City, and SRNI, it could also be appropriate to hold the three entities jointly and severally liable. *See Georgia v McCollum*, 505 US 42, 51, n 7 (1992); *Lugar v Edmondson Oil Co*, 457 US 922, 932–33, 941–44 (1982) (in some circumstances a private party may be a state actor in some constitutional cases).

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III. JUST COMPENSATION IS THE FAIR MARKET VALUE, MINUS THE DEBT, PLUS INTEREST

Just compensation is the "full and perfect equivalent in money of the property taken. The owner is to be put in as good position pecuniarily as he would have occupied if his property had not been taken." *United States v Miller*, 317 US 369, 373 (1943). A property owner subject to a taking is generally entitled to "compensation as if it had been paid contemporaneously with the taking—that is, the compensation must generally consist of the total value of the property when taken, plus interest from that time." *Knick*, 588 US at 190; *Seaboard Air Line*, 261 US at 306. (Compensation is "not limited to the value of the property at the time of the taking[.]").[3]

In the tax foreclosure context, that usually means that an owner must be promptly paid the surplus proceeds remaining from a fair and public tax-foreclosure sale. *Freed v Thomas*, 81 F4th 655, 658–59 (CA 6, 2023); *see also Slater v Maxwell*, 73 US 268, 277 (1867) (an unfair auction is invalid). That's because "the best evidence of a foreclosed property's value is the property's sales price, not what it was worth before the foreclosure." *Id.* at 659. But when, as here, the government deprives the owner of a fair market sale, courts must look to the "fair market value" of the property at the time the government took title. *Bowles*, 121 F4th at 548 ("A plaintiff can sue for surplus equity when there's no public auction (*Hall*), but not when there is one (*Freed*)."). Thus, the plaintiffs here are entitled to the fair market value of the properties when they were foreclosed in 2016 and 2017, respectively, less any tax debt.[4]

Where compensation is not made contemporaneously with the taking, the property owner is constitutionally entitled to pre-judgment interest sufficient to place him "in as good a position

[3] Former owners who prevail on constitutional claims brought pursuant to 42 USC 1983 are also entitled to recover reasonable attorney fees. 42 USC 1988.

[4] "Tax debt" includes interest and fees. *See Tyler*, 598 US at 637–38 ("In collecting these taxes, the State may impose interest and late fees); *Rafaeli*, 505 Mich at 474 (can collect "any interest, penalties, and fees associated with the foreclosure and sale of plaintiffs' properties.").

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pecuniarily as he would have occupied if the payment had coincided with the appropriation."[5] *Kirby Forest Indus, Inc v United States*, 467 US 1, 10–11 (1984); *Knick*, 588 US at 190 (just compensation must include interest from the time of the taking); *In re Elmwood Park Project*, 376 Mich at 319 ("interest should be added from the date of taking to the date of award").

Unfortunately, MCL 211.78t provides less than just compensation. The statute provides that former owners of foreclosed properties may only make a claim on the "remaining proceeds" from a subsequent sale. MCL 211.78t(9). The statute calculates the remaining proceeds as 95% of the fair market value minus the taxes, penalties, interest, fees, costs, and all related expenses. MCL 211.78t(12)(b); MCL 211.78m(16)(c) (defining "minimum bid" as the total of all "delinquent taxes, interest, penalties and fees due on the property, and may include any additional expenses incurred . . . in connection with the" property). Although the statute calls the 5% deduction from the sale price a "commission" for the county, it cannot be likened to a realtor's fee, which is already deducted pursuant to MCL 211.78m(16)(c). Indeed, the county takes this 5% kickback *even if the county itself purchased the property* for the fair market value under MCL 211.78m. In other words, the statute plainly seeks to avoid paying just compensation in order to benefit the government.[6]

Moreover, the claim statute does not pay interest from the time of the taking, nor does it return interest earned by the County's investment of the former owner's money. MCL

[5] *Rafaeli* held that the taking there occurred when the government failed to refund the surplus proceeds from the sale of the property. *Rafaeli* may be read harmoniously with *Freed* and *Hall* by looking to the common law. Oakland County in *Rafaeli* followed the common law tradition up until it failed to refund the surplus proceeds to the owner. It was at that point that the county formally disclaimed its duty and made clear it was taking more than it was owed. By contrast, in this case and in *Hall*, the common law duty to sell the property and refund the surplus proceeds was abandoned earlier—when the County conveyed the property without a fair and public sale.

[6] When property is sold via auction, the statute still takes an illegal 5% kickback, siphoning the former owner's own money as a windfall, since that 5% is not a tax, penalty, interest, cost, fee, expense, or other allowable deduction. *See* MCL 211.78m(16)(c), 211.78t(12).

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211.78t(12)(b); MCL 211.78m(16)(c). Both the Michigan and US Constitutions guarantee interest from the time of the uncompensated taking. *Knick*, 588 US at 190; *Seaboard Air Line*, 261 US at 306. *See also Webb's Fabulous Pharmacies, Inc v Beckwith*, 449 US 155, 162 (1980) (When the government takes custody of private property and earns interest on it, that interest belongs to the owner, regardless of whether the principal earned interest when the state took custody); *O'Connor v Eubanks*, 83 F4th 1018, 1023 (CA 6, 2023) (same). Even with a curative construction of the statute that would treat the sale price here as fair market value, the difference between the claim statute's remedy and the Takings Clause is profound. For example, the County confiscated Ronald Hayes' home in 2016 to collect $32,007 in taxes, penalties, interest, and fees. Compl. ¶¶ 14, 78. If the home was worth $275,000 (*see id.*), when the County confiscated it to collect the debt, the federal and Michigan Constitutions required the County to pay Mr. Hayes $242,993 in 2016, *at the time of the taking*. But since the County failed to pay just compensation, it must pay interest on that amount for the 8 years that it held custody of his money. Amicus PLF does not endorse a particular interest rate here, but using a rate of 4% (compounding),[7] the County would have to pay $91,461 in interest after 8 years, for a total of $334,454 in just compensation. Yet the claim statute would rob the owners of interest plus an additional 5% of their money. *See* MCL 211.78t, 211.78m. In Mr. Hayes' case (under the above assumptions), that would mean he would only be paid $229,243.[8] That would be $105,211 less than what is constitutionally required.

[7] *See, e.g., United States v 50.50 Acres of Land*, 931 F2d 1349, 1355 (CA 9, 1991) (holding that a statute cannot fix a maximum rate and instead "it is proper, when payment of just compensation is delayed, to fix interest on any deficiency award at the rate a reasonably prudent person investing funds so as to produce a reasonable return while maintaining safety of principal would receive.") (cleaned up); *Miller Bros v Department of Natural Resources*, 203 Mich App 674, 690 (1994) (using two statutes to calculate interest rate).

[8] MCL 211.78t takes 5% off the sale price under MCL 211.78m. Sales under the right of first refusal are the greater of fair market value or the minimum bid (i.e., the total debt). Here, the

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This Court must guard against the government unconstitutionally decreasing just compensation. "Requiring just compensation for public use of private property is a basic right lying at the heart of rule-bound government in Michigan and the United States more broadly." *Schafer*, 2024 WL 3573500, at *14. Allowing the government to shrink that amount by statute "requires delinquent taxpayers 'alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.'" *Rafaeli*, 505 Mich at 481 (quoting *Webb's Fabulous Pharmacies*, 449 US at 163). Practically speaking, awarding interest on the debt is crucial for individuals whose property is taken without just compensation. If, for example, Mr. Hayes had been given his money back, he could have purchased a more affordable home with it. Or he could have invested in an index fund in the stock market and doubled his money during that time.[9] To the extent the property owners have other debts the surplus funds and interest would allow them to pay other creditors. *See Tyler*, 598 US at 637 (noting that "[h]ad Tyler received the surplus from the tax sale, she could have at the very least used it to reduce any such liability" for debts for which she was personally liable). Instead, Mr. Hayes and the other plaintiffs are deprived of the ability to reinvest their own money in a way that builds a future for their families.

The denial of just compensation can be especially hard on the populations most likely to lose their homes to tax foreclosure—the elderly, sick, and poor. *See, e.g.*, John Rao, *The Other Foreclosure Crisis*, Nat'l Consumer Law Ctr 5, 9, 33, 38 (July 2012); Jennifer C.H. Francis, *Comment, Redeeming What Is Lost: The Need to Improve Notice for Elderly Homeowners Before*

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complaint alleges the fair market value was at least $275,000. Thus the 5% kickback would give the County $13,750. Then it would deduct the taxes, penalties, fees, and all related expenses—$32,007.

[9] Sean Ross, *Has Real Estate or the Stock Market Performed Better Historically?*, Investopedia (Dec 2, 2024) (the S&P Index Fund chart shows that a $10,000 investment in mid-2016 would be worth more than $22,000 today), https://www.investopedia.com/ask/answers/052015/which-has-performed-better-historically-stock-market-or-real-estate.asp.

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and After Tax Sales, 25 Geo Mason U Civ Rts LJ 85, 86–87 (2014). Amicus Curiae PLF has represented more than two dozen property owners who lost homes and other real estate to confiscatory tax foreclosures. Most of these owners are elderly or otherwise struggling with severe medical issues that hinder their ability to keep up with debts and notices. *See, e.g.*, *Tyler*, 598 US at 635 (Geraldine Tyler was 94 years old when her case reached SCOTUS); *Cont'l Res v Fair*, 971 NW2d 313, 318 (Neb, 2022) (owner was caring for wife who was dying of multiple sclerosis). Cases filed by other firms reveal the same trend. *See, e.g.*, *Coleman through Bunn v District of Columbia*, 70 F Supp 3d 58, 64 (DDC, 2014) (elderly veteran suffering from dementia); *Wisner v Vandelay Invs*, LLC, No. A-16-451, 2017 WL 2399492, at *1–2 (Neb Ct App May 30, 2017), *rev'd*, 300 Neb 825 (2018) (elderly widow in nursing home). Even trial judges who regularly hear tax foreclosure and related cases have noted that those who lose their homes this way are often from especially vulnerable populations. *See, e.g., Cherokee Equities, LLC v Garaventa*, 887 A2d 1203, 1210 (NJ Ch Div, 2005) (tax foreclosure defendants are often "among society's most unfortunate."). When vulnerable populations are unconstitutionally deprived of just compensation, they can become homeless, lose medical care, or be forced to take on loans with high interest rates to survive. *See, e.g.*, *Foss v City of New Bedford*, 621 F Supp 3d 203, 206 (D Mass, 2022) (confiscatory foreclosure law took an indigent senior's $240,000 home over a $9,626 tax debt, forcing her to live in her car while struggling with chronic disease).

This Court should fiercely defend the constitutional mandate to pay just compensation. Allowing the government to shirk its just compensation duty here because of MCL 211.78t would reward avarice, causing more such injustice to persist in this state. *See, e.g.*, Application for Leave to Appeal, *In re Petition of Iron County Treasurer*, Supreme Court No. 167713 (filed Oct 24, 2024) (senior citizen Lillian Joseph was denied her surplus proceeds because she sent her notice of claim

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via the wrong kind of mail); Application for Leave to Appeal, *In re Petition of Manistee County Treasurer*, Supreme Court No. 167367 (filed July 24, 2024) (Chelsea Koetter was denied more than $100,000 in surplus proceeds from the sale of the home because she was only 8 days late filing administrative claim form, which was still before the property was sold). Worse, it undermines government's "primary obligation … to comport itself with compunction and integrity." *Seago v Bd of Trustees, Teachers' Pension and Annuity Fund*, 313 A3d 916, 925 (NJ, 2024) (citation omitted).

CONCLUSION

This Court should hold that MCL 211.78t cannot preclude takings claims and that the County must pay just compensation, including pre-judgment interest.

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CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limitation of Michigan Court Rules 7.312(A) and 7.212(B) because, excluding the part of the document exempted, this brief contains no more than 16,000 words. This document contains 4,415 words.

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/s/ Thomas J. Lambert
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