No. 102770-2

SUPREME COURT FOR THE STATE OF WASHINGTON

C DAVIS, pro se, Appellant,

v.

CITY OF ABERDEEN, Respondent

RESPONDENT'S ANSWER TO APPELLANT'S PETITION FOR REVIEW

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I. INTRODUCTION

C. Davis, Appellant, requests this Court review a Court of Appeals Division II Order. The Order affirmed the dismissal of Davis's appeal, which challenged the Building Code Commission's decision on September 21, 2022. That decision mandated the demolition of Davis's property at 1119 E Market Street, Aberdeen, WA. The Respondent argues for denying review and upholding the Court of Appeals' decision due to the untimely nature of Davis's appeal.

II. STATEMENT OF THE CASE

The City of Aberdeen has been working to address a dilapidated building located at 1119 Market Street, owned by C. Davis. However, the process has been hampered by years of delays and inaction on the part of Mr. Davis.

This case arises from an unfit dwelling complaint administratively filed by the City of Aberdeen on December 3, 2020, following up on an inspection conducted in January 2019. *See,* Clerk's Papers ("CP"), at 3. An administrative hearing was

held by the City of Aberdeen on December 15, 2020. *Id.* Davis did not appear or respond to the complaint. *Id.*

On July 21, 2021, the City of Aberdeen Building Department issued a "Notice and Order To Demolish" the 1119 E Market Street property. *See,* CP, at 3-5. On August 17, 2021, Mr. Davis appealed this order to the City's Building Code Commission. *Id.* As acknowledged by the Notice of Appeal, the Building Code Commission denied Mr. Davis's appeal on September 21, 2021. *See,* CP, at 1.

Mr. Davis filed a "Notice of Appeal" of the Building Code Commissions' decision in Superior Court on October 20, 2021 – 29 days after the Commission's rejection of his appeal. *Id*. Despite filing, Mr. Davis failed to note an initial hearing in his appeal. Therefore, the court dismissed Mr. Davis's appeal for want of prosecution on September 21, 2022. CP 35.

Mr. Davis filed a Motion for Reconsideration in which he alleged that he did not receive adequate notice of the Notice of Dismissal. *See,* CP, at 29-34. The facts indicate the notice of

dismissal was in fact "mailed to an incorrect address and was returned to the Court as 'Undeliverable/Unable to Forward.'" *See,* CP, at 35-36. As a result, on December 6, 2022, the court reinstated Mr. Davis's appeal, setting an initial LUPA hearing date for January 9, 2023, in which the "plaintiff's appeal will be considered, including, the following: 1. Consideration of any motions to dismiss." *Id.*

On December 27, 2022, the Respondent filed a motion to dismiss the Appellant's appeal as untimely. *See*, CP, at 37-41. On January 9, 2023, the Superior Court dismissed Mr. Davis's appeal as untimely under the Land Use Petition Act. *See*, CP, at 42-43. Mr. Davis was present at the January 9, 2023 hearing. Mr. Davis then filed a Motion to Vacate on January 13, 2023, which the court summarily denied. *See*, CP, at 44.

Mr. Davis sought review of the Superior Court decision by the Court of Appeals Division II. The Court of Appeals affirmed the Superior Court's decision dismissing the appeal as untimely.

Mr. Davis now seeks review of this Court. Based on the following, the Respondent requests that review be denied.

III. SUMMARY OF ARGUMENT

Washington's Land Use Petition Act provides an exclusive means of appealing Building Code Commission decisions. These decisions are appealable within 21 days of issuance of the Board's decision. Mr. Davis failed to timely appeal the Board's decision. Therefore, Superior Court dismissed his appeal and the Court of Appeals affirmed this dismissal.

In seeking review, Mr. Davis fails to identify or meet any criteria for review under RAP 13.4(b). As such, the Respondent respectfully requests that this Court deny review.

IV. ARGUMENT

A. PETITIONER'S ISSUES ON APPEAL DO NOT MEET THE CRITERIA WARRANTING REVIEW UNDER RAP 13.4(b).

RAP 13.5(b) provides that a Petition for Review will be accepted for review by the Supreme Court only:

> (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
> (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or
> (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
> (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

RAP 13.4(b)(1)-(5). Mr. Davis fails to meet, let alone identify, any of the criteria for review.

1. Mr. Davis's Petition Does Not Raise a Conflict Between The Court Of Appeals Decision And This Court's Prior Precedent.

The Court of Appeals affirmed the dismissal of Mr. Davis's appeal on the grounds that LUPA applied to his action, and he failed to timely appeal the land use decision within 21 days. *Davis v. City of Aberdeen*, No. 57834-4-II, 2024 WL 34843, at *3 (Wash. Ct. App. Jan. 3, 2024)(unpublished). This decision is consistent with this Court's prior precedent. Indeed, this Court has previously determined that "LUPA governs judicial review of land use decisions" and establishes a "a

uniform 21–day deadline for appealing the final decisions of local land use authorities." *Durland v. San Juan Cnty*., 182 Wn.2d 55, 63, 340 P.3d 191 (2014) (citing RCW 36.70C.030); *Habitat Watch v. Skagit Cnty*., 155 Wn.2d 397, 406, 120 P.3d 56 (2005). Mr. Davis has not directed this Court to any contrary controlling authority, and this Court should not accept review on this basis.

2. Mr. Davis's Petition Does Not Raise a Conflict Between The Court Of Appeals' Decision And Its Prior Precedent.

Similarly, there is no conflict between the decision of the Court of Appeals Division II and its prior precedent. Washington's Court of Appeals Division II has long held that "LUPA is the exclusive means of judicial review of land use decisions" and the failure to file a land use petition within 21 days is determinative. *See e.g., Asche v. Bloomquist*, 132 Wn. App. 784, 790, 133 P.3d 475, 478 (2006), as amended (Apr. 4, 2006). Again, Mr. Davis fails to identify any contrary authority on the matter. Instead, his arguments rest on the fact that he

believed the appropriate deadline was 30 days – it was not. *See,* Petition for Review, at 25, 26, and 29. As such, there is no conflict in the Court of Appeals prior holdings warranting review of this Court.

3. Mr. Davis's Petition Does Not Involve Significant Questions Of Law Arising Under The Washington Constitution Or The United States.

Mr. Davis's claims of due process denial and unconstitutional taking do not warrant review by this Court. These arguments lack merit in the context of this case.

a. Due Process

"Both the Washington and United States constitutions provide that no person shall be deprived of 'life, liberty, or property, without due process of law.'" *Berst v. Snohomish Cnty*., 114 Wn.App. 245, 254, 57 P.3d 273, 278 (2002). "Procedural due process prohibits the State from depriving an individual of protected liberty interests without appropriate procedural safeguards." *Matter of Det. of M.S*., 18 Wn.App. 2d 651, 656, 492 P.3d 882, 885 (2021), review denied, 198 Wn.2d 1035, 501

P.3d 134 (2022)(citing *In re Pers. Restraint of Bush*, 164 Wn.2d 697, 704, 193 P.3d 103 (2008). "The two touchstones of procedural due process are notice and the opportunity to be heard." *Johnson v. City of Seattle*, 184 Wn.App. 8, 17, 335 P.3d 1027, 1032 (2014) (citing *King County Pub. Hosp. Dist. No. 2 v. Dep't of Health*, 178 Wn.2d 363, 380, 309 P.3d 416 (2013).

"Notice must be reasonably calculated to inform interested parties of an action against them and give them the ability to make an appearance on their own behalf." *Id.* (citing *Mullane v. Cent. Hanover Bank & Trust Co*., 339 U.S. 306, 314, 70 S.Ct. 652, 94 L.Ed. 865 (1950)). A party's opportunity to be heard must be meaningful in both time and manner. *Mathews v. Eldridge*, 424 U.S. 319, 333, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). Washington has adopted the test for adequate due process as laid out in *Mathews v. Eldridge. See, Berst v. Snohomish Cnty.*, 114 Wn.App. 245, 254, 57 P.3d 273, 278 (2002). The *Mathews* test requires the balancing of three factors:

> **First**, the private interest that will be affected by the official action; **second**, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and **finally**, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Id. (citing *Mathews*, 424 U.S. 319, at 333 (emphasis added)).

Mr. Davis raises two due process claims: dismissal of his untimely appeal and defective notice. The City will respond to each of these arguments in turn.

b. Dismissal of Mr. Davis's Appeal Did Not Violate His Due Process Rights.

While Mr. Davis has a property interest, due process is provided by the Land Use Petition Act ("LUPA") and was followed in this case. Mr.Davis received notice and the opportunity to be heard at both the City administrative level and through the LUPA appeal process available in court. However, Mr. Davis failed to file a timely LUPA appeal under RCW 36.70C.040, leading to dismissal of his untimely petition.

From the outset, the City provided opportunities for Mr. Davis to contest the demolition order. He could have participated in City proceedings, appealed to the Building Commission (which he did not do), and finally, appealed the Commission's decision to Superior Court within 21 days under LUPA. Unfortunately, Mr. Davis missed the LUPA deadline, resulting in the dismissal of his case. This dismissal aligns with established law and doesn't constitute a due process violation.

As indicated, "LUPA provides the exclusive means of judicial review of land use decisions." *Nickum v. City of Bainbridge Island*, 153 Wn.App. 366, 374, 223 P.3d 1172, 1175 (2009), as amended (Dec. 8, 2009)(citing *Samuel's Furniture, Inc. v. Dep't of Ecology*, 147 Wn.2d 440, 449, 54 P.3d 1194 (2002)). Under LUPA, "[a] land use petition is barred, and the court may not grant review, unless the petition is timely filed with the court and timely served. . ." RCW 36.70C.040(2). "The petition is timely if it is filed and served on all parties. . .within ***twenty-one days*** of issuance of the land use decision." RCW

36.70C.040(3)(emphasis added). "If a decision is not timely appealed, then the agency's initial decision is final." *Nickum, supra*, 153 Wn.App. 366, at 381 (citing *Twin Bridge Marine Park, L.L.C. v. State, Dep't of Ecology*, 162 Wn.2d 825, 854-55, 175 P.3d 1050 (2008)).

The decision under appeal here from the Building Code Commission to demolish a dangerous building is clearly a "land use decision" as defined by RCW 36.70C.020(2), which provides in pertinent part:

> 2) "Land use decision" means a final determination by a local jurisdiction's body or officer with the highest level of authority to make the determination, including those with authority to hear appeals, on:
>
> (c) The enforcement by a local jurisdiction of ordinances regulating the improvement, development, modification, maintenance, or use of real property. …

The City's code recognizes that decisions of the Building Code Commission are appealable land use decisions pursuant to LUPA. Aberdeen Municipal Code ("AMC") 15.50.110 provides for judicial appeals within LUPA's 21-day appeal period, stating:

> Any person who has standing to file a land use petition in the Superior Court of Grays Harbor County ***may file such a petition within twenty-one (21) days of issuance of the Board's decision*** pursuant to Section 15.50.090, as provided by Section 705 of Chapter 347 of the Laws of 1995. (emphasis added).

Chapter 347, Laws of 1995 is the session law adopting the Land Use Petition Act and is now codified as RCW 36.70C.040. This is the provision requiring appeals be filed and served within 21 days. Most importantly, land use decisions become ***unreviewable*** if not appealed to a superior court within the Land Use Petition Act's (LUPA) specified timeline. *Habitat Watch, supra,* 155 Wn.2d 397, at 406; *Brotherton v. Jefferson Cnty*., 160 Wn. App. 699, 703, 249 P.3d 666 (2011). Even an oral land use decision may trigger the 21-day appeal period. *Northshore Inv'rs, LLC v. City of Tacoma*, 174 Wn. App. 678, 689, 301 P.3d 1049, 1054 (2013), disapproved on other grounds *Durland v. San Juan Cnty.*, 182 Wn.2d 55, 340 P.3d 191 (2014). In *Northshore Investors,* the Tacoma City Council orally adopted the hearing examiner's recommendation by motion. Because LUPA

contains explicit directives for filing and service, the doctrine of substantial compliance does not apply to RCW 36.70C.040. Thus, any appeal of a land use decision must be filed and served within the 21-day appeal period set forth in RCW 36.70C.040. *Overhulse Neighborhood Ass'n v. Thurston County*., 94 Wn.App. 593, 599, 972 P.2d 470 (1999).

Mr. Davis's appeal window under the Land Use Petition Act (LUPA) began on September 21, 2021, the day the Building Code Commission denied his appeal of the demolition order. However, he didn't file his appeal in Grays Harbor Superior Court until October 20th, 29 days later. LUPA clearly mandates a 21-day filing deadline (RCW 36.70C.040(3)), making Mr. Davis's appeal untimely. While Mr. Davis claims a 30-day window applied, based on information from the court website, said deadline does not apply in this case. *See,* Petition for Review, pp. 25, 26, 29.

The Court of Appeals correctly upheld the dismissal due to the missed deadline. This dismissal doesn't violate Mr. Davis's due process rights.

c. The Defective Notice Did Not Amount to A Denial Of Due Process.

Mr. Davis complains that he was not properly served with notice of the clerk's dismissal when the Court dismissed the matter in September 2022. *See*, Petitioner for Review 14-17. As the Court of Appeals indicated, "the defect is irrelevant" and did not amount to a violation of due process. *Davis*, No. 57834-4-II, 2024 WL 34843, at *4.

It is irrelevant because the trial court reconsidered and vacated the clerk's dismissal. Thereafter, it ordered an initial LUPA hearing, at which time it considered the City's motion to dismiss. That motion allowed Mr. Davis a fair opportunity to respond consistent with due process.

On October 20, 2021, Mr. Davis filed his "Notice of Appeal" in Grays Harbor Superior Court. Nevertheless, Mr.

Davis failed to note an initial hearing. As such, the court dismissed Mr. Davis's appeal for want of prosecution on September 21, 2022. Mr. Davis contends he lacked notice of the September 12, 2022 hearing. The City does not contest this fact. Indeed, the record reflects that Mr. Davis did not receive notice of this hearing, which is what led to reinstatement of the case after the clerk's dismissal. However, any lack of notice for the September 12, 2022 hearing has no bearing on the lower court's January 9, 2023 dismissal of his appeal.

CR 41(b)(2)(A) provides for dismissal where no action has been taken within a specified timeframe. This rules states, in relevant part:

> (2) Dismissal on Clerk's Motion.
>
> (A)Notice. In all civil cases wherein there has been no action of record during the 12 months just past, the clerk of the superior court shall mail notice to the attorneys of record that such case will be dismissed by the court for want of prosecution unless within 30 days following said mailing, action of record is made or an application in writing is made to the court and good cause shown why it should be continued as

> a pending case. If such application is not made or good cause is not shown, the court shall dismiss each such case without prejudice. The cost of filing such order of dismissal with the clerk shall not be assessed against either party.

CR 41(b)(2)(A). "The rule serves a useful purpose. It protects litigants from dilatory conduct and prevents the cluttering of court records with unresolved and inactive litigation." *Landberg v. State, Dep't of Game & Fisheries*, 36 Wn.App. 675, 676, 676 P.2d 1027, 1028 (1984). However, "every reasonable opportunity should be afforded to permit the parties to reach the merits of the controversy." *Id.* at 676-77. This is precisely what the trial court did when it granted Mr. Davis's motion for reconsideration of the clerk's dismissal.

The trial court's decision to grant the City's subsequent motion to dismiss was correct. First, as shown, Mr. Davis's appeal was untimely as of the date of filing – nothing about the September 12th hearing alters this fact. Second, the lower court reinstated the LUPA appeal based on lack of notice, setting an initial hearing for January 9, 2023, wherein the parties would

present motions to dismiss. Thus, any defect based on lack of notice of the clerk's dismissal was effectively remedied and Mr. Davis was provided notice of the initial hearing on January 9, 2023, affording him adequate due process under the law.

d. Takings Clause.

As indicated by the Court of Appeals opinion, Mr. Davis's appellate brief "[made] a passing reference to a potential claim under the takings clause of the Fifth Amendment." *Davis*, No. 57834-4-II, 2024 WL 34843, at *2, n.4. However, "he failed to adequately support it with citations to the record or authority" in the Court of Appeals. *Id.* Where a party makes an argument unsupported by the record or "citation of authority", the Court need not consider it. *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549, 553 (1992). Additionally, arguments raised for the first time on appeal should not be considered. *Wingert v. Yellow Freight Sys., Inc.*, 146 Wn. 2d 841, 853, 50 P.3d 256, 262 (2002)(Federal preemption arguments raised for the first time on appeal to the Washington Supreme

Court were not to be considered). Based on this, the Court of Appeals refused to consider this issue, and, therefore, this Court should do the same.

Even if this Court were inclined to analyze the facts of this case under the Takings Clause, this was not an unconstitutional taking. The Fifth Amendment to the United States Constitution states that private property shall not be "taken for public use, without just compensation." *Gonzales v. Inslee*, 21 Wn. App. 2d 110, 134, 504 P.3d 890, 903, *review granted*, 537 P.3d 1026 (Wash. 2022), and *aff'd*, 535 P.3d 864 (Wash. 2023). Article I, section 16 of the Washington Constitution also provides, "[n]o private property shall be taken or damaged for public or private use without just compensation having been first made." *Id.*

"There are two general types of takings: (1) a physical taking, where 'the government authorizes a physical occupation of property'; and (2) a regulatory taking, 'where the government merely regulates the use of property.' *Id.* (citing *Yee v. City of*

Escondido, Cal., 503 U.S. 519, 522, 112 S. Ct. 1522, 118 L. Ed.2d 153 (1992)).

"Land use regulations may be challenged as unconstitutional regulatory takings under article I, section 16 of the Washington Constitution." *Thun v. City of Bonney Lake*, 3 Wn. App. 2d 453, 459, 416 P.3d 743, 747 (2018)(citing *Presbytery of Seattle v. King County*, 114 Wn.2d 320, 333, 787 P.2d 907 (1990)). "A regulatory taking exists when the regulation of land 'goes too far.'" *Pa. Coal Co. v. Mahon*, 260 U.S. 393, 415, 43 S.Ct. 158, 67 L.Ed. 322 (1922).

"Pursuant to *Chevron U.S.A.*, there are only two categories of per se regulatory takings: (1) 'where government requires an owner to suffer a permanent physical invasion of her property' and (2) 'regulations that completely deprive an owner of 'all economically beneficial us[e]' of her property.'" *Chong Yim v. City of Seattle*, 194 Wn. 2d 651, 672, 451 P.3d 675, 689 (2019)(citing *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 538, 125 S. Ct. 2074, 2081, 161 L. Ed. 2d 876 (2005)). "Any other

alleged regulatory taking must be analyzed on a case-by-case basis according to the *Penn Central* factors." *Id*. at 670. Mr. Davis has not argued that this case meets either of the two per se categories, but, instead, addresses the *Penn Central* factors. *See,* Petition for Review, at 20-24.

"*Chevron U.S.A.* clarified the *Penn Central* factors for evaluating partial regulatory takings claims that do not fit within either per se category." *Chong Yim,* 194 Wn. 2d 651, at 671. The *Penn Central* factors are: (1) "[t]he economic impact of the regulation on the claimant," (2) "the extent to which the regulation has interfered with distinct investment-backed expectations," and (3) "the character of the governmental action." *Washington Food Indus. Ass'n & Maplebear, Inc. v. City of Seattle*, 524 P.3d 181, 198 (Wash. 2023)(citing *Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104, 124, 98 S. Ct. 2646, 57 L. Ed. 2d 631 (1978)). "[T]his inquiry 'aims to identify regulatory actions that are functionally equivalent to the classic taking in which government directly appropriates private

property or ousts the owner from [their] domain.'" *Id.* (citing *Chevron*, 544 U.S. 528, at 539).

Mr. Davis focuses primarily on the loss of the economic benefit. Indeed, he alleges that the demolition order amounts to a "total regulatory taking, based on the calculation of the value left to the owner after demolition." *See*, Petition for Review, at 20. In doing so, Mr. Davis makes factual assertions as to the fair market value of the property – alleging that he would be left with "a value of negative $55,000." *Id.* at 23. However, Mr. Davis's valuations of the property are wholly unsupported by the record on appeal. In fact, Mr. Davis makes no citation to the record and fails to identify any documents with which this Court can verify these unsupported claims, but instead bases them on "current offers from [sic] online listing." *See*, Petition for Review, at 22. Mr. Davis did not provide any evidence to the trial court to support his position, and this Court need not consider unsupported arguments on appeal. *Cowiche*, 118 Wn.2d 801, at 809.

Even still, Mr. Davis's valuations are contrary to what can easily be found in the public record. Mr. Davis asserts that the property has a fair market value of $225,000. *See,* Petition for Review, at 22. However, the County Assessor Website indicates that the property at issue has a 2024 Market Value of $129,826 – well below its estimated value. [1] Further, the Board's initial "Notice and Order to Demolish" contained factual; findings indicating that the structure was unfit for habitation with an estimated repair cost of $144,695.00. CP at 4. Thus, the property, as it stands today, has a negative value, which is a consequence of Davis's failure to properly maintain them in a safe, habitable manner. Consequently, there can be no loss of economic benefit in a property that has become unusable due to the property owner's neglect and where the cost to remediate the building is now more than the value of the parcel as a whole. As such, Mr.

[1] https://graysharborwa-taxsifter.publicaccessnow.com/Assessor.aspx?keyId=816840&parcelNumber=015003100500&typeID=1 (last visited April 10, 2024).

Davis fails to establish that this regulation will result in a negative economic impact.

Next, Mr. Davis hasn't provided any evidence to substantiate his claim that the City's orders interfered with his investment-backed expectations. While he expresses an intention to renovate the property for rental purposes, the record lacks any supporting documentation. His sole support – a permit application from 2001 (23 years ago) – demonstrates a lack of follow-through. The property remains neglected and faces demolition. This pattern suggests Mr. Davis's intentions weren't backed by tangible efforts, failing to establish the necessary investment-backed expectations.

Finally, Washington Courts have previously indicated that "[l]andowners do not have the right to use their property in a manner that injures the community." *Thun*, 3 Wn. App. 2d 453, at 462 (citing *Presbytery*, 114 Wn.2d at 329 n.13, 787 P.2d 907). The City's actions were justified due to the severity of the situation. Mr. Davis's property posed a health and safety hazard

due to its extreme disrepair, with remediation costs exceeding the property's value. Notably, there's no evidence the City acted out of any motive other than protecting public health, including future occupants. Moreover, the City provided Mr. Davis with ample opportunity to address the issues after the 2019 inspection, before resorting to demolition. Given these facts, the government's intervention does not constitute an unlawful taking. Accordingly, Mr. Davis fails to meet the *Penn Central* test to show that there was a regulatory taking and this Court should not accept review on this record or on the flimsy allegations provided in the Petition.

4. Mr. Davis's Petition Does Not Involve An Issue Of Substantial Public Interest That Should Be Determined By The Supreme Court.

"To determine whether a case presents an issue of continuing and substantial public interest, we consider three factors: '[(1)] the public or private nature of the question presented, [(2)] the desirability of an authoritative determination for the future guidance of public officers, and [(3)] the likelihood

of future recurrence of the question.'" *State v. Beaver*, 184 Wn. 2d 321, 330–31, 358 P.3d 385, 390 (2015)(citing *State v. Hunley*, 175 Wn.2d 901, 907, 287 P.3d 584 (2012) (quoting *In re Pers. Restraint of Mattson*, 166 Wn.2d 730, 736, 214 P.3d 141 (2009)). "As a fourth factor, the court may also consider the level of adversity between the parties." *Id.* at 331 (citing *Hart v. Dep't of Soc. & Health Servs.*, 111 Wn.2d 445, 448, 759 P.2d 1206 (1988). "The continuing and substantial public interest exception has been used in cases dealing with constitutional interpretation, the validity of statutes or regulations, and matters that are sufficiently important to the appellate court." *Id.* (citing *Hart*, 111 Wn.2d 445, at 449). "This exception is not used in cases that are limited to their specific facts." *Id*. "Cases involving interpretation of the constitution or interpretation of statutes are public in nature and provide guidance to future public officials." *Id.* (citing *Hunley*, 175 Wn.2d 901, at 907).

This case does not raise significant issues requiring Supreme Court review. While it touches on constitutional

concepts, it only involves applying established legal principles of Due Process and the Takings Clause to the specific facts. Therefore, it is unlikely to provide new legal interpretations or guidance for future cases. Additionally, there is no indication this situation is likely to happen again, and the broader public interest is not significantly at stake.

V. CONCLUSION

Based on the foregoing, Mr. Davis fails to identify any adequate basis for review and this Court should affirm the Court of Appeals dismissal of his appeal.

I certify that this brief contains 4,394 words as determined by computer word count in conformity with RAP 18.17.

DATED this 16th day of April 2024.

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CERTIFICATE OF SERVICE

I, the undersigned, certify, under penalty of perjury, under the laws of the United States of America, that on the 16th day of April, 2024, I caused a true and correct copy of this pleading to be served, by the Washington State Supreme Court e-filing system as well as by U.S. Mail, first class, postage prepaid, upon the following person(s):

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