

NO. 80084-1-I

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**IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION I**

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TEN BRIDGES, LLC,

Appellant/Cross-Respondent,

v.

TERESIA GUANDAI,

Respondent/Cross-Appellant,

and

MIDAS MULLIGAN, LLC

Respondent.

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**BRIEF OF AMICI CURIAE  
NORTHWEST JUSTICE PROJECT, NORTHWEST CONSUMER  
LAW CENTER, WASHINGTON HOMEOWNERSHIP RESOURCE  
CENTER, AND THE FINANCIAL EMPOWERMENT NETWORK**

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## I. INTRODUCTION

This case presents a new twist on an age-old equity-stripping scheme: By taking advantage of Ms. Teresia Guandai's acute need for short-term cash and lack of knowledge about her legal options, Ten Bridges seeks to retain approximately 83 percent of the surplus funds from her foreclosure sale – i.e., the “equity” in her former home. Dressing up this action as an arms-length real estate transaction cannot disguise its predatory and unconscionable nature. As explained below, Ten Bridges' contract with Ms. Guandai bears all the hallmarks of traditional predatory financial practices.

Equity-stripping schemes target vulnerable Washingtonians of every stripe, but the damage can be most profound and long-lasting for minority communities. People of color have traditionally faced systemic obstacles to building intergenerational wealth in this manner, from discriminatory zoning ordinances to racial restrictive covenants to redlining to predatory subprime loans. Each of these practices is now unlawful, but structural barriers to intergenerational wealth-building remain. For several reasons – such as continuing workplace discrimination and a widening wage gap between black and white workers – homeowners of color are more likely than their white

counterparts to experience foreclosure. Additionally, African Americans are the most likely to be victimized by a predatory lender.

Today, rising home prices mean that many foreclosure sales generate surplus funds to which the borrower is generally entitled.<sup>1</sup> Post-foreclosure equity-stripping schemes syphon off surplus funds rightfully belonging to families – who could use it to invest in housing, pay other debts, or establish an emergency fund– to generate profits off of foreclosure. This draining of resources – particularly from minority communities –perpetuates and exacerbates the racial wealth gap. This Court should affirm the Superior Court and send a clear message that unlawfully charging exorbitant fees to recover surplus funds following foreclosure will not be tolerated in Washington.

## **II. IDENTITY AND INTEREST OF AMICI**

Northwest Justice Project (NJP) is a statewide non-profit law firm. NJP has counseled and represented thousands of low-income Washington consumers in all types of foreclosures and at all stages of the foreclosure process. NJP launched its foreclosure team, tasked with assisting

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<sup>1</sup> A former owner has homestead rights in the surplus funds following foreclosure, which provides the former owner with priority over all other creditors to the surplus funds up to \$125,000, except those creditors that are exempt from homestead protection pursuant to RCW 6.13.080. *Sweet v. O'Leary*, 88 Wn. App. 199, 200, 944 P.2d 414, 415 (1997); RCW 6.13.030; RCW 6.13.080.

homeowners who are facing foreclosure, in 2009. NJP expanded its foreclosure team in 2013, and broadened its case priorities to specifically include cases in which Washington consumers were the victims of foreclosure scams. NJP maintains a state-wide foreclosure hotline, employs one paralegal and two housing counselors who advise and assist Washington homeowners in the foreclosure process state-wide, and has attorneys around the state who represents client in foreclosure cases of all types (e.g. property tax foreclosures, judicial foreclosures, and nonjudicial foreclosures).<sup>2</sup>

Northwest Consumer Law Center (NWCLC) is a statewide non-profit law firm serving low and moderate income Washington consumers, and has counseled homeowners throughout Washington state. Since opening in 2013, NWCLC has provided direct legal representation to thousands of Washington residents facing foreclosure. NWCLC represents clients in pursuing loan modifications, mediations, and bankruptcy protection to save their homes. When saving a home is not possible, NWCLC assists clients after foreclosure including negotiating cash for keys and assisting clients in obtaining surplus funds from a court registry.

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<sup>2</sup> NJP is plaintiff's counsel in a separate case against Ten Bridges, LLC arising from the same practice. *Keck v. Ten Bridges, LLC and Matthew Cox*, Clark County Superior Court Case No. 19-2-00140-06.



The Washington Homeownership Resource Center (WHRC) works to empower current and future homeowners, and since 2012 has operated the official statewide, toll-free Housing Counseling Hotline created by the Foreclosure Fairness Act, helping over 44,000 struggling homeowners. WHRC's hotline operators also work closely with legal aid agencies and the Attorney General's Office to ensure that scams targeting homeowners are referred for appropriate follow up.

The Financial Empowerment Network (FEN) is a nonprofit, asset-building collaborative of public, private and nonprofit organizations dedicated to helping low- and moderate-income Washingtonians become financially stable. The FEN serves consumers and homeowners – ranging from first-time homebuyers to those facing foreclosure – by providing information and referrals to counseling and other services.

Amici and the clients they represent have a substantial interest in this Court's interpretation of whether RCW 63.29.350 applies to entities that assist former owners in the recovery of surplus funds following a foreclosure. Surplus funds result from a foreclosure when the amount paid at the foreclosure auction exceeds the amount owed to the foreclosing entity. Generally, the former owner is entitled to receive the surplus funds. RCW 63.29.350(1) limits any fee or compensation for locating or purporting to locate property held by the Washington

Department of Revenue or a county to 5 percent of the value of the property held. This brief addresses the public policy and societal interests served by applying RCW 63.29.350 to entities that currently charge exorbitant rates for access to the surplus funds.

### **III. STATEMENT OF THE CASE**

Amici adopt and incorporate by reference the Statement of the Case of Respondent Teresia Guandai. *See* Respondents' Appeal Brief at 4-13.

### **IV. ARGUMENT**

#### **A. Ten Bridges' Business Model Operates as an Equity-Stripping Scheme.**

Ten Bridges' business model is to separate foreclosed Washington homeowners from the equity that they built over years of mortgage payments and home appreciation, and to which the homeowners are legally entitled. This practice fits squarely within the constellation of schemes that prey on homeowners in foreclosure.

##### **1. The varieties of predatory schemes targeting homeowners in foreclosure.**

A 2005 report by the National Consumer Law Center identified three types of foreclosure rescue scams. "The first might be called "phantom help," where the "rescuer" charges outrageous fees either for light-duty phone calls and paperwork the homeowner could have easily

performed, or on a promise of more robust representation that never materializes.”<sup>3</sup> To protect Washingtonians from these schemes, the state offers free, HUD-certified housing counselors,<sup>4</sup> and Washington’s Consumer Loan Act and Mortgage Broker Practices Act now regulates the services provided by for-profit service providers and controls the amount and timing of fees. *E.g.*, RCW 31.04.293 (requiring disclosures and prohibiting advance fees); RCW 19.146.355 (enumerating requirements for third-party residential mortgage loan modification services providers).

In the second type of foreclosure rescue scam, the homeowner knowingly (or sometimes unknowingly) signs over the deed to an acquirer who usually promises to rent and eventually sell the home back to the now-former homeowner.<sup>5</sup> However, the homeowner almost always permanently loses possession, and the “rescuer” walks off with the equity.<sup>6</sup> In 1998, Washington’s Legislature recognized that “persons are engaging in patterns of conduct which defraud innocent homeowners

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<sup>3</sup> National Consumer Law Center, *Dreams Foreclosed: The Rampant Theft of Americans’ Homes Through Equity-Stripping Foreclosure “Rescue” Schemes*, p. 8 (June 2005) (hereinafter, “Dreams Foreclosed”), available online at [https://www.nclc.org/images/pdf/foreclosure\\_mortgage/scam/report-foreclosure-rescue-scams-2005.pdf](https://www.nclc.org/images/pdf/foreclosure_mortgage/scam/report-foreclosure-rescue-scams-2005.pdf)

<sup>4</sup> See, e.g., <https://dfi.wa.gov/homeownership/mortgage-assistance-programs>

<sup>5</sup> *Dreams Foreclosed*, *supra* note 3 at 8.

<sup>6</sup> *Id.*

of their equity interest or other value in residential dwellings under the guise of a purchase of the owner's residence but which is in fact a device to convert the owner's equity interest or other value in the residence to an equity skimmer." The legislature found "equity skimming to be contrary to the public policy of this state" and made it a crime and a *per se* violation of the Consumer Protection Act. RCW 61.34.010. Washington's Distressed Property Conveyances Act, RCW 61.34, therefore prohibits these predatory practices. *See Jametsky v. Olsen*, 179 Wn.2d 756, 317 P.3d 1003 (2014) (explaining application in context of foreclosure rescue scam).

This case involves a third type of foreclosure "rescue." The National Consumer Law Center explains that "[a] third type of abuse involves those who 'buy' the homeowner's right to any equity in the home to which the homeowner is entitled after a foreclosure sale. This surplus 'sale' essentially is a loan secured by the equity proceeds."<sup>7</sup> The California Legislature stated the problem as follows:

Vulnerable homeowners are increasingly relying on the services of foreclosure consultants who advise the homeowner that the foreclosure consultant can obtain the remaining funds from the foreclosure sale if the homeowner executes an assignment of the surplus, a deed, or a power of attorney in favor of the foreclosure consultant. This results in the homeowner paying an exorbitant fee for a service

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<sup>7</sup> *Dreams Foreclosed*, *supra* note 3 at 46 fn. 23.

when the homeowner could have obtained the remaining funds ... for minimal cost if the homeowner had consulted legal counsel or had sufficient time to receive notices from the trustee pursuant to Section 2924j regarding how and where to make a claim for excess proceeds.

Cal. Civ. Code § 2945 (West).

In Washington, surplus funds are recovered by filing a straightforward motion with the superior court followed by a simple court hearing. RCW 61.24.080. The surplus funds are deposited into the court registry by the trustee and notice is mailed to each party to whom the notice of trustee's sale was sent. RCW 61.24.080(3). A party seeking disbursement of the surplus funds must file a motion requesting disbursement of the surplus funds with the superior court, notice shall be given to all parties who entered an appearance or to whom the trustee mailed notice of the surplus not less than twenty days prior to a hearing on the motion, and the clerk shall only disburse surplus funds upon order of the superior court. RCW 61.24.080(3). Recovery of surplus funds following a judicial foreclosure is substantially similar. RCW 61.12.150. Northwest Justice Project regularly assists clients with surplus funds motions at no cost to the clients.

Washington protects former homeowners from this third type predatory foreclosure-related “assistance” by capping the fees charged for

locating surplus funds from foreclosure sales. RCW 63.29.350(1).

Although Ten Bridges adorns its transactions with the trappings of an arms-length real estate transaction in an attempted end-run around the protections of RCW 63.29.350(1), the Court must look to the substance of the transaction, which bears all the hallmarks of a predatory, equity-skimming practice. *Port of Longview, Cowlitz Cty. v. Taxpayers of Port of Longview, Cowlitz Cty.*, 85 Wn.2d 216, 227, 527 P.2d 263, 269 (1974) (“It is not material what such undertakings may be called, or what forms are devised to conceal their main purpose, or how worthwhile they may appear to be...their substance will be examined”).

**2. Ten Bridges’ transaction with Ms. Guandai bears the hallmarks of a predatory equity-stripping scheme.**

Equity-stripping schemes, like many predatory financial practices, have several basic ingredients. First, the target is often experiencing a liquidity crisis, which is often accompanied by personal crises like facing the loss of the family home and a forced move. Here, Ten Bridges explained that Ms. Guandai was experiencing both types of crisis: It approached Ms. Guandai when she “was required to move out of the Home,”<sup>8</sup> App. Br. at 2, and explained to the Court that “Ms. Guandai ...

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<sup>8</sup> As the former homeowner, Ms. Guandai was entitled to live in the home during the 8- or 12-month redemption period, which is the reason that the need to find new housing did not arise until one year after the foreclosure sale. RCW 6.23.020(1); RCW 6.23.110(4).

used some of the \$15,000 that Ten Bridges paid to her to move into a new home, and that had she not received this money from Ten Bridges, she ‘would be without a home.’” Appr. Br. at 3 (quoting CP 262).

Second, the target must have a valuable asset from which she lacks the knowledge or sophistication (for any number of reasons) to extract the cash she needs. Here, Ms. Guandai had a valuable asset: the foreclosure of her condominium generated \$89,006.95 in surplus proceeds that were sitting in the court’s registry. App. Br. at 2. But she did not know how to retrieve these proceeds on her own, and Ten Bridges deceptively represented that the process to recover these funds was speculative and difficult. App. Br. at 6.

Third, the perpetrator has both cash to “invest” in the short term and the knowledge and ability to extract value from the target’s asset after capture. Ten Bridges had \$15,000 to pay Ms. Guandai, and an arrangement with a law firm to file the usually straightforward motion to release surplus funds.

The perpetrator therefore takes advantage of the target’s short-term need by offering a pittance in exchange for the asset’s long-term value. The economics – and to a large degree the mechanics – of equity-stripping schemes operate the same whether they are perpetrated before or after a foreclosure sale.

**3. The disputed transaction transferred the vast majority of Ms. Guandai's home equity to Ten Bridges.**

This equity skimming scam is both harmful to Ms. Guandai and lucrative for Ten Bridges. In exchange for rights to the \$89,006.95 in surplus funds to which Ms. Guandai was entitled, she received \$15,000, or 17 percent of her entitlement. Conversely, Ten Bridges stood to capture \$74,006.95, or 83 percent of the surplus funds (less its minimal legal expenses). Indeed, Ten Bridges' arrangement stood to net it significantly more than both the Association (the foreclosing party) and Ms. Guandai *combined*.<sup>9</sup>

Transactions such as Ten Bridges' "purchase" of Ms. Guandai's right to surplus proceeds actually operates as a loan.<sup>10</sup> A \$15,000 loan that matures into a balloon payment over a period of 58 days<sup>11</sup> with \$69,006.95 to be repaid in addition to the principal carries an interest rate of 2,895 percent.

Ten Bridges stood to profit handsomely. Even if Ten Bridges paid \$5,000 in legal fees for a routine motion to disburse the surplus funds, it

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<sup>9</sup> Ms. Guandai's home was sold for \$116,000. [CP 157.] The Association received \$26,993.05 less clerk's costs. [*Id.*] Ms. Guandai would receive \$15,000, for a combined total of \$41,993.05.

<sup>10</sup> *Dreams Foreclosed*, *supra* note 3 at 46 n. 23 ("This surplus "sale" essentially is a loan secured by the equity proceeds.").

<sup>11</sup> The time of 58 days assumes two weeks (14 days) from the date of the judge's order to the date the recipient receives the check for the surplus funds from the Clerk of the Superior Court.



stood to make a profit of \$69,006.95 on its investment of \$15,000 in a period of fifty-eight (58) days.<sup>12</sup> This represents a 345.03 percent return on investment of in under two months. It yields an annualized internal rate of return of 1,203,300 percent on a cash flow basis. However, there is no conscionable, fair, or lawful way to generate that kind of return on investment off the backs of Washingtonians who just lost their homes to foreclosure.

**B. Surplus Fund “Purchase Agreements” and Similar Schemes Perpetuate and Exacerbate the Racial Wealth Gap.**

The racial wealth gap – the enormous and consistent gap between the levels of wealth accumulated by families of color and their white counterparts – is exacerbated by scams that target equity in a family’s home. The racial wealth gap cannot be explained by factors like education level – for example, one study found that “[b]lack households whose heads graduated from college have about 33 percent *less* wealth than white families whose heads dropped out of high school.”<sup>13</sup> The same study also found that income does not explain the wealth gap: “The

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<sup>12</sup> Ms. Guandai signed Ten Bridges’ agreement on April 1, 2019, and the superior court’s first hearing on Ten Bridges’ motion to distribute the surplus funds was on May 15, 2019. It often takes approximately two (2) weeks after a hearing ordering disbursement of surplus funds for the check to be issued.

<sup>13</sup> Derrick Hamilton et al., *Umbrellas Don’t Make It Rain: Why Studying and Working Hard Isn’t Enough for Black Americans*, p. 3 (The New School, Duke Center for Social Equity, and Insight Center for Economic and Community Development, April 2015), available online at [http://www.insightcced.org/wp-content/uploads/2015/08/Umbrellas\\_Dont\\_Make\\_It\\_Rain\\_Final.pdf](http://www.insightcced.org/wp-content/uploads/2015/08/Umbrellas_Dont_Make_It_Rain_Final.pdf)

poorest white families—those in the bottom quintile of the income distribution— have slightly more wealth than black families in the middle quintiles of the income distribution.”<sup>14</sup> Instead, “[i]t is the unearned birthright of inheritance or other family transfers that has the greatest effect on wealth accumulation, and likewise is the largest factor erecting barriers to wealth accumulation for people of color.”<sup>15</sup>

In addition to the inequity due to disparities in home ownership between African American and white communities, African Americans are more likely to be the victims of scams, including payday loan scams, health care scams (such as unsubstantiated weigh loss supplements), business opportunity scams, work from home scams, and mortgage relief scams.<sup>16</sup> As explained below, post-foreclosure equity-stripping schemes prevent homeowners from stabilizing their lives following foreclosure, rebuilding wealth, and transmitting wealth to their children and grandchildren.

**1. People of color have faced – and continue to face – hurdles in wealth-building through homeownership.**

The home is often a family’s single largest investment, and for most families the equity built over years from mortgage payments and

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.*; see also Richard Rothstein, *The Color of Law*, 179 (1<sup>st</sup> ed. 2017).

<sup>16</sup> Devesh Raval, Federal Trade Commission, *Who is Victimized by Fraud? Evidence from Consumer Protection Case* (September 10, 2019).

home appreciation is the single greatest vehicle for building wealth and transferring it down through generations.<sup>17</sup> However, people of color have historically been denied full access to this critical intergenerational wealth-building mechanism.<sup>18</sup> For generations, government-sanctioned policies like redlining, restrictive covenants, lending discrimination, and encouraging neighborhood segregation kept African-American families from accumulating wealth.<sup>19</sup>

These barriers have historically existed even in Washington and Seattle. Redlining in Seattle continued well into the 1970s, when a 1975 report entitled “Redlining and Disinvestment in Central Seattle: How the Banks are Destroying our Neighborhoods” prompted policy changes.<sup>20</sup> Seattle’s white residents also used racial restrictive covenants that prohibited the sale or rental of the property to non-whites.<sup>21</sup>

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<sup>17</sup> Richard Rothstein, *The Color of Law*, 185 (1st ed. 2017).

<sup>18</sup> *Id.*

<sup>19</sup> See, e.g., Amy Traub et al., *The Asset Value of Whiteness: Understanding the Racial Wealth Gap*, DEMOS (2017), <http://www.demos.org/publication/asset-value-whiteness-understanding-racial-wealth-gap>; Katie Nodjimbadem, *The Racial Segregation of American Cities Was Anything But Accidental*, SMITHSONIAN (2017), <https://www.smithsonianmag.com/history/how-federal-government-intentionally-rationally-segregated-american-cities-180963494/>.

<sup>20</sup> See Seattle Municipal Archives, Redlining in Seattle (undated), available at <https://www.seattle.gov/cityarchives/exhibits-and-education/online-exhibits/redlining-in-seattle>

<sup>21</sup> See generally Catherine Silva, *Racial Restrictive Covenants History: Enforcing Neighborhood Segregation in Seattle* (University of Washington Seattle Civil Rights & Labor History Project 2009), available at [https://depts.washington.edu/civilr/covenants\\_report.htm](https://depts.washington.edu/civilr/covenants_report.htm)

While the most explicit of these practices are in the past, practices like “pocket listings,”<sup>22</sup> discriminatory lending, and *de facto* segregation remain problems. Moreover, “the legacy of segregation is still apparent on the map and in social patterns.”<sup>23</sup> Nor is Seattle’s legacy of discriminatory housing practices unique – Redfin CEO Glenn Kelman recently observed that “[i]t’s been 50 years since the passage of the Fair Housing Act and still we have American cities that are deeply segregated by race and class.”<sup>24</sup> On top of that, the progress of minority families in intergenerational wealth-building through homeownership is cut short by foreclosure at disproportionately high rates.

## **2. People and communities of color are disproportionately impacted by foreclosure.**

The data confirms that minority families and communities were hit much harder by the recent foreclosure crisis than their white peers.<sup>25</sup> For

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<sup>22</sup> “Pocket Listing” is the practice wherein a real estate agent promotes a home for sale “exclusively to his or her network, rather than the whole market.” Glenn Kelman, *Why We Should All Support Clear Cooperation* (Nov. 6, 2019), available at <https://www.redfin.com/blog/why-we-should-all-support-clear-cooperation/> This practice tends to disproportionately exclude potential homebuyers of color.

<sup>23</sup> Knute Berger, *Seattle’s Ugly Past: Segregation in Our Neighborhoods* (Seattle Magazine, March 2013), available at <https://www.seattlemag.com/article/seattles-ugly-past-segregation-our-neighborhoods>

<sup>24</sup> Alina Ptaszynski, *Redfin Hosts Race and Real Estate Symposium* (Sept. 7, 2018), available at <https://www.redfin.com/blog/redfin-hosts-race-and-real-estate-symposium/>

<sup>25</sup> See generally Ben Henry, Jill Reese, and Angel Torres, *Wasted Wealth: How the Wall Street Crash Continues to Stall Economic Recovery and Deepen Racial*

example, the Economic Policy Institute recently noted that “[b]etween 2005 and 2009, the median net worth of black households dropped by 53 percent, while white household net worth dropped by 17 percent.”<sup>26</sup> A recent study by Zillow offers two explanations.

First, homeowners and communities of color experienced foreclosure during the Great Recession at disproportionately high rates. Lower-middle class African American communities were targeted by mortgage brokers for subprime lending during the pre-2008 housing bubble, which left more African American families than economically similar white families subject to default and foreclosure.<sup>27</sup> Zillow found that 12.7 percent of foreclosures from 2007 through 2015 occurred in predominantly black communities, even though only 7.7 percent of homes are located in those communities.<sup>28</sup> Ultimately, “homes in black and Hispanic communities were 2 and 2.5 times as likely to succumb to

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*Inequity in America*, Alliance for a Just Society (May 2013), available at <http://allianceforajustsociety.org/wp-content/uploads/2013/05/Wasted.Wealth.NATIONAL.pdf>

<sup>26</sup> Christopher Famighetti and Darrick Hamilton, *The Great Recession, education, race, and homeownership* (Economic Policy Institute, May 15, 2019) (citing Rebecca Tippet et al., *Beyond Broke: Why Closing the Racial Wealth Gap Is a Priority for National Economic Security* (Center for Global Policy Solutions, May 2014), available online at <https://www.epi.org/blog/the-great-recession-education-race-and-homeownership/>)

<sup>27</sup> Richard Rothstein, *The Color of Law*, 185 (1st ed. 2017).

<sup>28</sup> Sarah Mikhitarian, *How the Housing Bust Widened the Wealth Gap for Communities of Color* (Zillow, Inc., April 25, 2019), available at <https://www.zillow.com/research/housing-bust-wealth-gap-race-23992/>

foreclosure as homes in white communities.”<sup>29</sup> Disproportionately high foreclosure rates prevailed in Seattle’s predominantly black and Hispanic neighborhoods.<sup>30</sup>

Second, homeowners of color have a larger portion of their total wealth tied up in their homes than white homeowners.<sup>31</sup> According to Zillow, “[f]or the typical Hispanic and black homeowner, their home accounts for the majority of their wealth (64.7% and 55.6%, respectively), while a home accounts for just over a third (38.1%) for the typical white homeowner.”<sup>32</sup> This means that when foreclosure hits minority communities, it hits especially hard. It also means that when people of color are foreclosed upon, it is absolutely critical that they recoup the greatest possible portion of their surplus funds.

These unjust patterns of economic harm to minority communities did not stop with the Great Recession and accompanying foreclosure crisis. One recent study found that “long-standing racial disparities in

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<sup>29</sup> *Id.*

<sup>30</sup> Bill Conroy, *Seattle Communities of Color Were Hit Hard by Home-Foreclosure Surge*, Seattle Business Magazine (April 26, 2019), available at <https://www.seattlebusinessmag.com/real-estate/seattle-communities-color-were-hit-hard-home-foreclosure-surge>

<sup>31</sup> See Sarah Burd-Sharps and Rebecca Rasch, *Impact of the U.S. Housing Crisis on the Racial Wealth Gap Across Generations*, p. 12 (Social Science Research Council, June 2015), available at [https://www.aclu.org/sites/default/files/field\\_document/discrimlend\\_final.pdf](https://www.aclu.org/sites/default/files/field_document/discrimlend_final.pdf)

<sup>32</sup> Sarah Mikhitarian, *How the Housing Bust Widened the Wealth Gap for Communities of Color* (Zillow, Inc., April 25, 2019), available at <https://www.zillow.com/research/housing-bust-wealth-gap-race-23992/>

homeownership have worsened in the post-recession recovery.”<sup>33</sup>

Another recent analysis by the Economic Policy Institute found that

a significant black–white wage gap remains. Black workers can’t simply educate their way out of the gap. Even black workers with an advanced degree experience a significant wage gap compared with their white counterparts. And after controlling for age, gender, education, and region, black workers are paid 16.2 percent less than white workers.<sup>34</sup>

The wage gap is even more drastic in King County than nationally.

In 2013, “Black/African American residents [of King County] earned an estimated median income of \$36,150, while whites earned an estimated median income of \$75,437.”<sup>35</sup>

This persistent and unjust wage gap is one reason why black and Hispanic households are less likely to have “an emergency or rainy day fund that would cover their expenses for three months in case of sickness, job loss, economic downturn or some other emergency,” which makes

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<sup>33</sup> Christopher Famighetti and Darrick Hamilton, *The Great Recession, education, race, and homeownership* (Economic Policy Institute, May 15, 2019), available online at <https://www.epi.org/blog/the-great-recession-education-race-and-homeownership/>

<sup>34</sup> Elise Gould, *Stark black-white divide in wages is widening further* (Economic Policy Institute, February 27, 2019), available at <https://www.epi.org/blog/stark-black-white-divide-in-wages-is-widening-further/>

<sup>35</sup> Francesca Murnan and Alice Park, *Understanding King County Racial Disparities*, p. 9 (United Way, November 2015), available at [https://www.uwkc.org/wp-content/uploads/ftp/RacialDisparityDataReport\\_Nov2015.pdf](https://www.uwkc.org/wp-content/uploads/ftp/RacialDisparityDataReport_Nov2015.pdf)

them more vulnerable to both foreclosure<sup>36</sup> and result in greater exposure to schemes that take advantage of those experiencing liquidity crises. Accordingly, systemic factors mean that minority homeowners will almost certainly continue to suffer foreclosure, and the accompanying exposure to scams, at disproportionately high rates.

**3. The loss of equity following foreclosure perpetuates unjust racial inequities and prevents foreclosed homeowners from reestablishing financial stability.**

The booming housing market in much of Washington means that both judicial and nonjudicial foreclosure sales often generate surplus proceeds. For Washingtonians struggling through the post-foreclosure process of relocating and re-establishing a financial life, these surplus funds can mitigate, though not fully remedy, the loss of the wealth accrued in the family home.

In the short term, post-foreclosure equity-stripping schemes rob families of the surplus funds to which they are entitled and compromise their ability to stabilize their financial situation and make a fresh start. In the long term, the loss of surplus funds can delay or block the route back to home ownership and rebuilding familial assets, which affects future generations and perpetuates unjust racial economic disparities.

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<sup>36</sup> Sarah Mikhitarian, *How the Housing Bust Widened the Wealth Gap for Communities of Color* (Zillow, Inc., April 25, 2019), available at <https://www.zillow.com/research/housing-bust-wealth-gap-race-23992/>



## V. CONCLUSION

For the foregoing reasons, Amici request that the Court affirm the trial court's ruling that RCW 63.29.350 limits the amount Ten Bridges can receive from the surplus funds following the foreclosure of Ms. Guandai's condominium.

DATED this 26<sup>th</sup> day of December, 2019.

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**CERTIFICATE OF SERVICE**

I, Jade O’Neil, certify under penalty of perjury under the laws of the State of Washington that on the 26<sup>th</sup> day of December, 2019, I caused a copy of the **BRIEF OF AMICI CURIAE** to be FILED IN THE Court of Appeals- Division 1 and a true copy of the same to be served on the following in the manner indicated below:

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SIGNED at Seattle, Washington, this 26<sup>th</sup> day of December, 2019.

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