No. 25-1131

IN THE

Supreme Court of the United States

MISSIONARIES OF SAINT JOHN THE BAPTIST, INC.,
Petitioner,

v.

JOEL FREDERIC AND ELIZABETH FREDERIC,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF KENTUCKY

BRIEF FOR ASSOCIATION OF CHRISTIAN SCHOOLS INTERNATIONAL AS AMICUS CURIAE IN SUPPORT OF PETITIONER

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

Page(s)

TABLE OF AUTHORITIES—Continued

STATUTES

LEGISLATIVE MATERIALS

TABLE OF AUTHORITIES—Continued

OTHER AUTHORITIES

TABLE OF AUTHORITIES—Continued

INTEREST OF AMICUS CURIAE

The Association of Christian Schools International (ACSI) is a nonprofit, non-denominational religious association that provides support services to 25,000 Christian schools in 108 countries. ACSI and its members seek to advance the common good by providing quality education and spiritual formation to students all over the world. For over forty years, ACSI has lived out its mission "[t]o strengthen Christian schools and equip Christian educators worldwide as they prepare students academically and inspire them to become devoted followers of Jesus Christ." *About ASCI*, https://www.acsi.org/about (visited Apr. 24, 2026). ACSI's religious calling aims to cultivate—in every student—a vibrant Christian faith that embraces every aspect of life. Accordingly, ACSI has an interest in protecting the right of religious institutions to freely exercise their religion and resist government attempts to treat them less favorably than their secular counterparts.[1]

INTRODUCTION

The decision below shows just how far many lower courts have strayed from the plain text and purpose of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) to the detriment of the very religious communities Congress enacted the statute to protect. Prior to the passage of RLUIPA, municipalities enforced land use regulations that treated religious

[1] No counsel for a party authored this brief in whole or in part, and no entity or person, other than amicus curiae, its members, and its counsel, made a monetary contribution intended to fund the preparation or submission of this brief. Counsel of record for the parties received notice of amicus' intent to file this brief at least ten days prior to its due date.

assemblies or institutions on less than equal terms with nonreligious counterparts. But no longer. Congress passed RLUIPA to prevent such discrimination against religious land uses, explicitly providing that unequal treatment violates federal law.

Despite RLUIPA's straightforward proscription of unequal terms, however, the Kentucky Supreme Court approved a local zoning ordinance that—on its face—imposes greater burdens on churches than on secular assemblies. As a prerequisite for a conditional use permit, the ordinance requires churches to be located on "arterial streets," but it does not impose that restriction on numerous other secular institutions, including libraries, nursery schools, community recreation centers, public parks, public schools, private golf courses, and private country clubs. Ignoring the facial disparity in treatment, the Kentucky Supreme Court held that there was no RLUIPA violation simply because the contested arterial-street restriction applied to *some* secular land uses.

The Court should grant certiorari to repudiate the Kentucky Supreme Court's rationale—a rationale that, if left unchecked, would hand municipalities yet another means of evading RLUIPA—and to halt the lower courts' troubling tendency to abandon the statute's text and purpose. RLUIPA's plain text requires that religious assemblies and institutions be afforded equal treatment with secular assemblies and institutions. It does not allow courts to rescue a land use regulation that discriminates against religious uses so long as that regulation also burdens at least one secular use. If the decision below stands, municipalities across the country will have a ready roadmap for evading RLUIPA's equal treatment requirement—by imposing burdensome

restrictions on religious land uses so long as just one secular assembly is treated the same. Unless this Court intervenes to restore a proper textual analysis of RLUIPA equal-terms claims, discriminatory treatment of religious land uses will persist, confusion will continue to abound, and Congress's purpose in enacting RLUIPA will continue to be frustrated.

ARGUMENT

I. RLUIPA'S EQUAL TERMS PROVISION DOES NOT CONTAIN A SINGLE-SECULAR-USE LOOPHOLE

RLUIPA contains two primary sections regulating land use. The first section—the Substantial Burden provision—bars land use regulations that impose a substantial burden on religious exercise, unless the government demonstrates that the burden "is in furtherance of a compelling governmental interest" and "is the least restrictive means of furthering that compelling governmental interest." 42 U.S.C. § 2000cc(a)(1). The second section—the Equal Terms provision—prohibits land use regulations that treat "a religious assembly or institution on less than equal terms with a nonreligious assembly or institution." *Id.* § 2000cc(b)(1).

The plain language of the Equal Terms provision bans a land use regulation that treats any religious assembly or institution less favorably than any nonreligious counterpart. Unlike the Substantial Burden provision, the Equal Terms provision does not allow some unequal treatment if the government can show the unequal treatment is narrowly tailored to further a compelling governmental interest; rather, it says the terms of land use regulations must be "equal"—full stop. The approach taken by the Kentucky Supreme Court is impossible to square with the text or purpose of RLUIPA, as

it would allow governments to justify imposing unequal terms on religious assemblies as long as they can point to a single secular use that is similarly burdened. That is clearly not what RLUIPA says nor what it was designed to do.

A. RLUIPA's Text Requires Equal Terms For Religious And Nonreligious Institutions

RLUIPA's text is clear: The Equal Terms provision prohibits local governments from "treat[ing] a religious assembly or institution on less than equal terms with a nonreligious assembly or institution." 42 U.S.C. § 2000cc(b)(1). This provision prevents the government from treating any religious assembly or institution differently from any other assembly or institution, regardless of the government's regulatory objectives or interests. It is an "objective rule" that specifies "the way in which the two land uses must be similar" (*i.e.*, "they must both fall within the categories of 'assembly' or 'institution'") and requires that such similar uses "must be regulated on equal terms." Laycock & Goodrich, *RLUIPA: Necessary, Modest, and Under-Enforced*, 39 Fordham Urb. L.J. 1021, 1062 (2012).

The plain-language reading of the statute's text should be the end of the matter—zoning regulations that treat religious institutions less favorably than their secular counterparts violate RLUIPA. This Court has explained many times over many years that where an "examination of the ordinary meaning and structure of the law itself … yields a clear answer, judges must stop." *Food Mktg. Inst.* v. *Argus Leader Media*, 588 U.S. 427, 436 (2019) (citations omitted); *see also Henson* v. *Santander Consumer USA Inc.*, 582 U.S. 79, 89 (2017) ("[W]hile it is of course our job to apply faithfully the law

Congress has written, it is never our job to rewrite a constitutionally valid statut[e].").

Congress's purpose in passing the Equal Terms provision buttresses this plain reading of the statute. *See, e.g.*, *Smith* v. *Spizzirri*, 601 U.S. 472, 477-478 (2024) (using a statute's "structure and purpose" to alleviate "any doubt" about its meaning). The purpose of the provision, Congress explained, was to "prevent a municipal zoning authority from treating houses of worship, scripture studies in homes, and religious schools in a manner less favorably than nonreligious assemblies." H.R. Rep. No. 106-219, at 17 (1999). The Equal Terms provision embodies Congress's judgment that "the only possible basis for disparate treatment of religious and secular assemblies is bias against religion." Campbell, *Restoring RLUIPA's Equal Terms Provision*, 58 Duke L.J. 1071, 1083 (2009); *see also River of Life Kingdom Ministries* v. *Village of Hazel Crest*, 611 F.3d 367, 389 (7th Cir. 2010) (Sykes, J., dissenting) (provision "reflects a congressional judgment about state and local regulation of religious land uses: Regulations that treat religious assemblies or institutions less well than nonreligious assemblies or institutions are inherently not neutral"). RLUIPA remedies anti-religious bias by holding state and local governments to a uniform rule of neutrality—religious assemblies cannot be subjected to less favorable land use regulations than nonreligious assemblies.

Nothing in the text of the Equal Terms provision instructs courts to consider the purposes of a land use regulation or to take broader zoning criteria into account. The provision does not allow local governments "to come up with a regulatory purpose that justifies the exclusion of religion." Mosley, *Zoning Religion Out of the Public Square: Constitutional Avoidance and Conflicting*

Interpretations of RLUIPA's Equal Terms Provision, 55 Ariz. L. Rev. 465, 495 (2013). Rather, RLUIPA directs courts to evaluate whether a land use regulation treats a religious assembly or institution on "less than equal terms" compared to a secular assembly or institution and, if such unequal treatment exists, to hold that discriminatory treatment unlawful.

B. RLUIPA's Equal Terms Provision Does Not Conceal A Simple Escape Hatch For Governmental Discrimination

The Kentucky Supreme Court warped the Equal Terms provision by voiding RLUIPA's protections wherever the government burdens at least one secular use with the same burden it foists on religious uses. That loophole exists nowhere in the statute's text. The Equal Terms provision bans discrimination using singular articles: RLUIPA's protections attach whenever the government treats "***a*** religious assembly" on "less than equal terms with ***a*** nonreligious assembly." *See* 42 U.S.C. § 2000cc(b)(1) (emphasis added). Thus, if a single religious assembly is treated less favorably than a single secular assembly, the Equal Terms provision applies, and the discriminatory regulation is void. The Kentucky Supreme Court ignored that rule, inviting absurd results.

The ordinance at issue in this case treats many nonreligious assemblies and institutions more favorably than religious assemblies like Petitioner the Missionaries of Saint John the Baptist. The ordinance allows for approval of conditional uses of property as long as the property fits within one of the enumerated categories. App.28a-29a. Many of the property types are categorical: Cemeteries, nursery schools, public and parochial schools, public parks, public playgrounds, golf courses,

community recreational centers, libraries, and private country clubs can receive conditional use permits anywhere in the locality. *Id.* But certain other categories (churches, institutions of higher education, institutions for human medical care, and police and fire stations) must be "located adjacent to an arterial street" to qualify for a conditional use permit. *Id.* (emphasis omitted). Put simply, this land use regulation does not apply equal terms to churches and other similarly regulated secular assemblies. Secular assemblies like public schools, golf courses, and country clubs may seek conditional use permits without showing (as churches must) that a proposed structure is located beside an arterial street. *Id.*

The Kentucky Supreme Court, however, saw no RLUIPA problem with this regulatory scheme, holding that the ordinance did not treat churches on less than equal terms because institutions of higher education, institutions for human medical care, and police and fire stations also had to be located on an arterial street to qualify for a conditional use permit. App.29a. In other words, the Kentucky Supreme Court believed that RLUIPA's protections would apply only if the ordinance required churches to be on an arterial street while subjecting *no* secular assembly to the same burden. In that court's view, so long as the ordinance requires churches *and* police stations (or churches and colleges, or churches and hospitals) to be on an arterial street—even if that burden applied to no other secular use—then the Equal Terms provision was not implicated. That interpretation fails to comport with the broad statutory language passed by Congress mandating that a religious assembly be treated the same as a secular assembly.

Indeed, the workaround fashioned by the Kentucky Supreme Court is recognized by no other court in the

country—and for good reason. That at least one nonreligious institution is also subject to a restriction does nothing to cure the unequal treatment churches and other places of worship face relative to the numerous favored secular uses listed in the ordinance. *See, e.g.*, *Tandon* v. *Newsom*, 593 U.S. 61, 62 (2021) (per curiam) ("It is no answer that a State treats some comparable secular businesses or activities as poorly or even less favorably than the religious exercise at issue."). If the Kentucky Supreme Court's holding were to spread beyond the borders of the Bluegrass State, a local land use regulation could entirely evade RLUIPA by treating religious institutions worse than all similarly regulated secular institutions *but one*. Such an enormous loophole would effectively write the Equal Terms provision—which is an unqualified prohibition on *any* unequal treatment between *any* religious use and *any* nonreligious use—out of RLUIPA.

It would also contravene the statute's established rule of construction. This Court has explained that "several provisions of RLUIPA underscore its expansive protection for religious liberty." *Holt* v. *Hobbs*, 574 U.S. 352, 358 (2015). One of these provisions is 42 U.S.C. § 2000cc-3(g), which provides that RLUIPA "shall be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of [the statute] and the Constitution." Grafting a gaping workaround into the Equal Terms provision that allows places of worship to be treated worse than nonreligious assemblies as long as one nonreligious assembly is similarly mistreated directly conflicts with that rule of construction.

The Kentucky Supreme Court's alternative reasoning fares no better. The court concluded that because

parochial schools were among the institutions free of the arterial-street burden, the Equal Terms provision was not violated. App.29a. In short, the court believed, because one type of religious institution dodged the contested burden, RLUIPA's guarantee of equal terms does not shield other (less fortunate) religious assemblies from unequal treatment. That view flies in the face of the statutory text, which requires a straightforward, bilateral comparison between the terms applied to "a religious assembly or institution" (here, Petitioner) and any nonreligious institution subject to the same regulation. *See* 42 U.S.C. § 2000cc(b)(1) (prohibiting "a religious assembly or institution" from being treated "on less than equal terms with a nonreligious assembly or institution"). Whether other religious institutions are free from the restriction burdening churches like Petitioner is irrelevant to the Equal Terms inquiry. Were it not so, any land use regulation that favors just one type of religious institution (*e.g.*, a religious hospital favored because it generates employment, tax revenue, or health services) is immune from scrutiny under the Equal Terms provision, regardless of the burdens the regulation places on all other religious assemblies. Such reasoning disregards RLUIPA's plain text.

II. THE KENTUCKY SUPREME COURT'S APPROACH FOSTERS DISCRIMINATION AGAINST RELIGIOUS ASSEMBLIES AND INSTITUTIONS

Importing Kentucky's single-secular-use loophole is not only contrary to RLUIPA's text, it also would enable the very discrimination RLUIPA was designed to quell. In hearings held before RLUIPA's passage, Congress found voluminous evidence of municipalities using zoning codes and interests to treat religious institutions and assemblies "in a manner less favorably than nonreligious

assemblies." H.R. Rep. No. 106-219, at 17. Congress drafted the Equal Terms provision to prevent such discrimination, yet the Kentucky Supreme Court's focus on whether just one secular institution received comparable treatment invites the very discrimination Congress sought to foreclose.

A. RLUIPA's History Demonstrates Congress's Concern With Local Governments Using Zoning Codes To Discriminate Against Religious Institutions

"The equal-terms provision is best understood not in isolation but in the context of RLUIPA's other protections for religious land uses and against the backdrop of the decade-long tug of war between Congress and the Supreme Court over the protection of religious liberty." *River of Life*, 611 F.3d at 378 (Sykes, J., dissenting). Until 1990, courts "require[d] the government to justify any substantial burden on religiously motivated conduct by a compelling state interest and by means narrowly tailored to achieve that interest." *Employment Div., Dep't of Hum. Res. of Or.* v. *Smith*, 494 U.S. 872, 894 (1990) (O'Connor, J., concurring). In *Smith*, however, this Court held that facially neutral and generally applicable laws need not satisfy strict scrutiny. *Id.* at 878-879.

"Three years later, in direct response to the *Smith* decision … Congress enacted the Religious Freedom and Restoration Act (RFRA), reapplying and extending the strict scrutiny test to all government actions, including those of state and local governments, that imposed substantial burdens on religious exercise." 146 Cong. Rec. 16,698, 16,702 (2000) (statement of Sen. Harry Reid). But in 1997 this Court "held that Congress lacked the authority to enact RFRA as applied to state and local governments." 146 Cong. Rec. 14,283 (2000)

(statement of Sen. Orrin Hatch). Specifically, the Court held that RFRA's protections exceeded Congress's remedial power under Section 5 of the Fourteenth Amendment, and that "[w]hile preventive rules are sometimes appropriate remedial measures, there must be a congruence between the means used and the ends to be achieved." *City of Boerne* v. *Flores*, 521 U.S. 507, 530 (1997). The Court noted that, although Congress had held hearings prior to drafting, "RFRA's legislative record lacks examples of modern instances of generally applicable laws passed because of religious bigotry." *Id.*

After *City of Boerne*, Congress proceeded to build a careful record of the problems RLUIPA was ultimately designed to remedy. Congress held numerous hearings[2] on religious discrimination prior to drafting RLUIPA, which revealed that "land use regulations, either by design or neutral application, often prevent religious assemblies and institutions from obtaining access to a place of worship." 146 Cong. Rec. 14,283 (statement of

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[2] *See, e.g.*, *Issues Relating to Religious Liberty Protection, and Focusing on the Constitutionality of Religious Protection Measures: Hearing Before the S. Comm. on the Judiciary*, 106th Cong. (1999); *Religious Liberty Protection Act of 1999: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary*, 106th Cong. (1999); *Religious Liberty Protection Act of 1998: Hearing Before the Subcomm. on the Constitution of the S. Comm. on the Judiciary*, 105th Cong. (1998); *Religious Liberty Protection Act of 1998: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary*, 105th Cong. (1998); *Protecting Religious Freedom After Boerne v. Flores (Part III): Hearing Before the H. Comm. on the Judiciary*, 105th Cong. (1998); *Protecting Religious Freedom After Boerne v. Flores (Part II): Hearing Before the H. Comm. on the Judiciary*, 105th Cong. (1998); *Protecting Religious Freedom After Boerne v. Flores: Hearing Before the H. Comm. on the Judiciary*, 105th Cong. (1997).

Sen. Orrin Hatch). Examples of findings from the hearings include:

- "[Z]oning authorities have used their power to restrict churches' times of operation and the number of persons who may attend worship services, and zoning policies have effectively excluded minority faiths from certain jurisdictions and shut down the community ministries of houses of worship." H.R. Rep. No. 106-1048, at 272 (2001).
- There was "massive evidence that" religious institutions and assemblies were "frequently discriminated against on the face of zoning codes and also in the highly individualized and discretionary processes of land use regulation. Zoning codes frequently exclude churches in places where they permit theaters, meeting halls, and other places where large groups of people assemble for secular purposes. Or the codes permit churches only with individualized permission from the zoning board, and zoning boards use that authority in discriminatory ways." 146 Cong. Rec. 16,698 (2000) (joint statement of Sens. Orrin Hatch and Ted Kennedy).
- "Sometimes, zoning board members or neighborhood residents explicitly offer race or religion as the reason to exclude a proposed church, especially in cases of black churches and Jewish shuls and synagogues." *Id.*

- "Churches have been excluded from residential zones because they generate too much traffic, and from commercial zones because they don't generate enough traffic. Churches have been denied the right to meet in rented storefronts, in abandoned schools, in converted funeral homes, theaters, and skating rinks—in all sorts of buildings that were permitted when they generated traffic for secular purposes." *Id.*

Further, Congress criticized municipalities for concealing their objections to religious organizations "behind such vague and universally applicable reasons as traffic, aesthetics, or not consistent with the city's land use plan." 146 Cong. Rec. 16,698 (joint statement of Sens. Orrin Hatch and Ted Kennedy). Congress explained that "[f]inding a location for a new church … can be extremely difficult in the face of pervasive land use regulation and the nearly unlimited discretionary power of land use authorities" such that "[c]hurches, large and small, are unwelcome in suburban residential neighborhoods and in commercial districts alike." H.R. Rep. No. 106-219, at 18. Indeed, it was "not uncommon for ordinances to establish standards for houses of worship differing from those applicable to other places of assembly, such as where they are conditional uses or not permitted in any zone." *Id.* at 19. One example from suburban Chicago demonstrated that "twenty-two of the twenty-nine suburbs effectively denied churches the right to locate except by grant of a special use permit." *Id.* In another instance in Pennsylvania, a town "insisted that a synagogue construct the required number of parking spaces despite their being virtually unused," and once the synagogue agreed, "the city denied the permit anyway,

citing the traffic problems that would ensue from cars for that much parking." *Id.* at 23.

Faced with this evidence, Congress enacted RLUIPA to provide specific protections against unequal treatment. It found that "[l]and use regulation is commonly administered through individualized processes [and the] standards in individualized land use decisions are often vague, discretionary, and subjective." H.R. Rep. No. 106-219, at 24. Congress recognized, for example, that traffic was an oft-cited justification for zoning regulations that treated religious organizations unequally. *See id.* at 20 (Local governments "deny many religious groups their right to free exercise, often using mere pretexts (such as traffic, safety, or behavioral concerns) to mask the actual goal of prohibiting constitutionally protected religious activity.").

B. By Ignoring The Text, Lower Courts Are Undermining RLUIPA's Remedial Purpose

Congress passed RLUIPA to address the serious and urgent problem of unfair treatment of religious organizations under municipal zoning laws. But federal and state courts have largely failed to apply the law as written, instead crafting an array of atextual interest-balancing tests, burden-shifting frameworks, and (like the Kentucky Supreme Court below) loopholes that have frustrated and obscured RLUIPA's basic prescription of "equal terms."

Indeed, despite RLUIPA, municipalities continue to refuse to accommodate religious organizations for a host of reasons: traffic and noise (S*pirit of Aloha Temple* v. *County of Maui*, 132 F.4th 1148, 1157 (9th Cir. 2025)), parking space (*River of Life*, 611 F.3d at 373; *Fortress Bible Church* v. *Feiner*, 694 F.3d 208, 215 (2d Cir. 2012)), and even the protection of water supplies (*Hunt Valley*

Baptist Church, Inc. v. *Baltimore City*, 2017 WL 4801542, at *28 (D. Md. Oct. 24, 2017)). Other criteria are even more vague and subjective: "'complement[ing] the historic nature and traditional functions of the … area as the heart of community life'" (*Opulent Life Church* v. *City of Holly Springs*, 697 F.3d 279, 285 (5th Cir. 2012)), "ensur[ing] quiet seclusion for families living in the area" (*Eagle Cove Camp & Conference Ctr., Inc.* v. *Town of Woodboro*, 734 F.3d 673, 683 (7th Cir. 2013)), or the "main street" criterion—creating a "vibrant" and "vital" downtown residential community with "extended-hours traffic and synergetic spending" (*Lighthouse Inst. for Evangelism, Inc.* v. *City of Long Branch*, 510 F.3d 253, 270 (3d Cir. 2007)).[3]

Traffic, noise, and parking are particularly troubling zoning criteria. Municipalities often use traffic, noise, and parking management interests as a basis to discriminate against religious institutions. *See, e.g.*, *Thai Meditation Ass'n of Alabama, Inc.* v. *City of Mobile*, 83 F.4th 922, 932 (11th Cir. 2023) (noting the "inappropriate" use of "generalized, sometimes speculative" complaints from

[3] It is reasonable for a zoning board to consider things like traffic and noise when creating a zoning plan, and RLUIPA does not stop it from imposing restrictions on religious organizations. Those terms simply must be applied equally to all assemblies and institutions. *See, e.g.*, *Digrugilliers* v. *Consolidated City of Indianapolis*, 506 F.3d 612, 615 (7th Cir. 2007) ("Whatever restrictions the City imposes on other users of land in C–1 it can impose on the Baptist Church of the West Side without violating the 'equal terms' provision."). A municipality can go so far as to ban all assemblies and institutions from an area if it wants to. *Lighthouse Inst.*, 510 F.3d at 286 (Jordan, J., concurring in part and dissenting in part) ("[A]n ordinance prohibiting churches in a zone would not likely violate [the Equal Terms provision] if nonreligious assemblies and institutions were also prohibited") (citing *Konikov* v. *Orange Cnty.*, 410 F.3d 1317, 1325-1326 (11th Cir. 2005) (per curiam)).

neighbors about traffic). Here, for instance, "several members of the community" voiced opposition to Petitioner's permit because, according to them, "traffic and parking in the neighborhood, which were already a problem, would be exacerbated." App.8a. Although on the surface the "arterial street" requirement in the conditional use ordinance at issue here related to concerns about traffic on local streets, that would not explain why other traffic-generating uses like public schools and country clubs were not subject to the same restriction. To quote the Congressional record:

> [L]and use decisions are wrapped in neutral sounding language about parking, setbacks, traffic impacts, and the like, which may constitute substantial and tangible harm to surrounding property owners, but in too many cases merely serves as an empty verbal mask hiding illicit discriminatory conduct aimed at the exercise of religion.

Religious Liberty Protection Act of 1998: Hearing Before the Subcomm. on the Constitution of the S. Comm. on the Judiciary, 105th Cong. 137-138 (1998) (statement by W. Cole Durham, Jr., Professor at Brigham Young University Law School).

Congress crafted and unanimously enacted RLUIPA to address these problems, requiring municipalities to apply equal terms to religious and nonreligious assemblies alike. But that protection depends on judicial enforcement. The Kentucky Supreme Court's atextual approach fails to enforce the statute and instead highlights persistent confusion among the lower courts over how to apply the Equal Terms provision. This Court should step in to provide much-needed clarity.

* * *

As Judge Thapar explained eight years ago, lower courts are sharply divided over the meaning of the Equal Terms provision:

> There comes a time with every law when the Supreme Court must revisit what the circuits are doing. That time has come. Every circuit to address the issue has given its own gloss to the Equal Terms provision. Whether a religious plaintiff can succeed under the Equal Terms provision thus depends entirely on where it sues.

Tree of Life Christian Schools v. *City of Upper Arlington*, 905 F.3d 357, 387 (6th Cir. 2018) (Thapar, J., dissenting). Now that the Kentucky Supreme Court has joined the fray, this Court should intervene before this confusing and irreconcilable conflict spreads to even more States in our Union.

CONCLUSION

This Court should grant certiorari and reverse.

Respectfully submitted.

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