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- (1) Screening shall consist of one or a combination of the following:
 - A. A dense vegetative planting incorporating trees and/or shrubs of a variety which shall be equally effective in winter and summer.
 - B. A solid non-living opaque structure such as a masonry wall or a solid fence constructed of materials approved by the Architectural Review Board.
 - C. A fence with openings through which light and air may pass together with a landscaped area at least 20 feet wide.
 - D. A landscaped mound or bank at least 20 feet wide with a maximum height of three feet.
- (2) The height of screening shall be in accordance with the following:
 - A. Visual screening walls, fences, or mounds and fences in combination shall be a minimum of six feet high measured from the natural grade.
 - B. Vegetation at the time of installation shall be a minimum of six feet high measured from the natural grade.
- (g) Screening of Waste Receptacles. Waste receptacles shall be screened from view on all sides by building walls and by supplemental opaque fences, walls, or landscaping having a minimum height of six feet.

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- (h) Screening of Loading Areas. Loading areas shall be screened from view from public streets, parking areas, and adjacent lots by a wall or dense vegetative planting incorporating trees and/or shrubs of a variety which shall be equally effective in winter and summer, having a minimum height of eight feet.
- (i) Flexibility in the Arrangement and Placement of Landscaping and Screening. The standards and criteria in divisions “(a)” through “(f)” establish the City’s objectives and levels of landscaping intensity expected. However, in applying these standards, the Planning Commission may exercise discretion and flexibility with respect to the placement and arrangement of the required elements to assure that the objectives of this district and the proposed development or redevelopment are best satisfied.

1982 Code, § 1124.03) (Ord. 99-45. Passed 12-20-1999.)

1274.04 Parking Facilities.

- (a) Parking facilities shall be planned and developed for total off-street use with adequate ingress and egress in such manner as to interfere as little as possible with the use and enjoyment of neighboring residential properties and with pedestrian and vehicular traffic on neighboring streets.
- (b) Parking facilities shall be located on the same lot as the main building or use served.
- (c) In addition to ingress and egress driveways, parking spaces shall be provided by applying the greater of divisions (1), (2) and (3) hereof.

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- (1) One parking space for each 200 square feet of gross floor area of the entire building or use, but not less than 30 parking spaces.
 - (2) One parking space for each two seats provided or to be provided within any and all rooms used for assembly such as auditorium, chapel, meeting rooms, dining rooms, cafeteria or lunch room.
 - (3) One parking space for each two persons allowed as the maximum occupancy under applicable State fire laws, rules or regulations.
 - (4) For exceptional circumstances or in cases of clear hardship, the Planning Commission, may, after consideration of the proposed building or use, recommend a parking variance subject to the approval, modification or rejection of Council, and provided that such variance will not violate the spirit or intent of this chapter and provided further that a more harmonious and beneficial use of the property will result.
- (d) The gross floor area of a building shall be the total area of all the floors, including the basement, measured from the exterior faces of the building.

(Ord. 89-26. Passed 7-6-1982.)

- (e) The City of University Heights requires that parking spaces are not less than the dimensional guidelines published in the latest edition of the Institute of Transportation Engineer's, Traffic Engineering Handbook, chapter on "Parking and Terminals", exclusive of drives and turning spaces which shall be added parking area.

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(Ord. 2001-14. Passed 3-19-2001.)

- (f) All parking areas and driveways shall be provided with an asphalt, concrete or other similar hard surface as shall be approved by the Building Commissioner. All parking areas and driveways shall provide adequate grading and drainage so that all water is drained within the lot on which the parking area or driveway is located in such manner that water shall not drain across public or private property. Concrete or stone curbs at least six inches above the level of the surface of the parking area and at least 18 inches below the surface shall be provided to define the limits of the parking area except at exits and entrances. Such curbs shall be at least six inches thick.
- (g) The location and width of entrance and exit driveways to parking facilities shall be planned to interfere as little as possible with the use of nearby property and with pedestrian and vehicular traffic on the nearest streets. Whenever possible, the centerline of the access driveways on the frontage street shall be at least 40 feet from the right-of-way line of the nearest intersecting street and spaced at not less than 120 feet intervals measured from the centerline of the driveways. Parking areas of 15 spaces or less shall have at least one single lane driveway and shall be designed so that vehicles can be driven forward into the street. Those having 16 or more spaces shall have two single-lane driveways, if possible, or at least one two-lane driveway.
- (h) Entrances and exits shall be limited to three lanes. The width of such entrances and exits,

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measured at the setback line, shall conform to the following schedule:

<u>Lanes</u>	<u>Width (in feet)</u>	
	<u>Min.</u>	<u>Max.</u>
One	10	12
Two	18	24
Three	27	33

In all cases, the radius of the edge of the apron shall be at least 12 feet so that a car entering from the curb lane shall be perpendicular to the setback line at the driveway without obstructing vehicles in other traffic lanes.

- (i) Sources of light for illumination of buildings or grounds shall be shielded so as not to be objectionable or hazardous to owners or users of adjacent property or public streets.

(1982 Code, § 1124.04) (Ord. 82-26. Passed 7-6-1982; Ord. 99-45. Passed 12-20-1999.)

1274.05 Development Plans.

- (a) Submission of Plans. Preliminary and final site plans shall be prepared for all types of proposed uses governed by this chapter and submitted to the Planning Commission. The plans include:
 - (1) Survey. A property line and topographic survey, showing the land owned and the proposed development and use.
 - (2) Buildings. The locations, size, heights and use of all main and accessory buildings and their general design and color, together with estimated maximum occupancy during usage.

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- (3) Traffic. The proposed system of circulation of vehicular traffic, including delivery trucks; details for connections to present streets; type of pavement; estimates of traffic volume; plans for control of traffic in and around the development.
 - (4) Utilities. The plans for all utility installations and connections and estimates required.
 - (5) Parking areas. A layout and estimate of the number of spaces, design features, type of pavement, locations and type of lighting fixtures.
 - (6) Site developments. Other site developments, including grading and drainage, designs of landscaped yards, planting areas and strips adjoining residential areas.
 - (7) Signs. The size, location, direction and nature of outdoor signs, subject to standards provided in other sign regulations contained in the Planning and Zoning Code.
 - (8) Occupancy requirements for applicant's maximum use, including usual time in use, number of occupants, number of grants and number of invitees.
 - (9) Fees and copies. A fee of one hundred dollars (\$100.00) shall be paid to the Division of Building Engineering and Inspection and six copies of all plans and other documents shall be filed.
- (b) Approval of Plans. If the Planning Commission finds the plans are in accord with this chapter and with the Planning and Zoning Code and other

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ordinances of the City, the final development plan shall be referred to the City Architect for study and approval. The plan may be modified by the same procedure. No building permits shall be issued by the Building Inspector until such development plan has been approved as provided herein and until all other City and State requirements have been met.

- (c) Time Limit. Failure to begin the construction of all or any independent component of the plan within six months after the issuance of a permit shall void the plan as approved unless an extension of time is granted by Council.

(1982 Code, § 1124.05) (Ord. 82-26. Passed 7-6-1982; Ord. 99-45. Passed 12-20-1999.)

1274.06 Occupancy.

No use or occupancy shall be permitted until the plan as originally submitted and approved is completed and a certificate of occupancy is obtained from the Building Inspector as provided in the Building Code.

(Ord. 82-26. Passed 7-6-1982; Ord. 99-45. Passed 12-20-1999.)

1274.07 Renewal; Fee.

- (a) Use permits granted under this chapter shall be renewed annually upon payment of a renewal fee and certification by the Building Commissioner to the Planning Commission that there has been no material change in the use or conditions upon which the use permit was granted. No permit granted hereunder shall be transferable or assignable.

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(b) The renewal fee for annual inspections required herein shall be \$50.00.

(1982 Code, § 1124.07) (Ord. 82-26. Passed 7-6-1982; Ord. 99-45. Passed 12-20-1999.)

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**BRIEF FOR THE UNITED STATES AS
AMICUS CURIAE IN SUPPORT OF
APPELLANT DANIEL GRAND
AND URGING REVERSAL
(MARCH 31, 2025)**

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

DANIEL GRAND,

Plaintiff-Appellant,

v.

CITY OF UNIVERSITY HEIGHTS, OHIO, ET AL.,

Defendants-Appellees.

No. 24-3876

On Appeal from the United States District Court
for the Northern District of Ohio

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INTEREST OF THE UNITED STATES

Plaintiff-appellant Daniel Grand, who is Orthodox Jewish, alleges that the City of University Heights violated the land-use protections in the Religious Land Use and Institutionalized Persons Act (RLUIPA or the Act), 42 U.S.C. 2000cc *et seq.*, by attempting to use zoning codes to prevent Grand from hosting small prayer gatherings in his home. Grand alleges that the City incorrectly told him that he needed a special permit to host a small, informal prayer group in his home, held a hearing on his application that departed from normal zoning board practices, and when he withdrew his special use permit application, embarked on a harassment campaign against him. RLUIPA's land-use provisions safeguard the religious freedom of persons, places of worship, religious schools, and other religious assemblies or institutions. The fundamental premise of these land-use protections is that religious individuals should have a place to gather for worship and to carry out other religious activities.

Among other issues, this appeal concerns how to assess whether RLUIPA land-use claims are ripe for adjudication. The Attorney General has statutory authority to enforce RLUIPA, 42 U.S.C. 2000cc-2(f), and the United States therefore has a substantial interest in the resolution of that issue on appeal. Additionally, the United States has an interest in this case based on the President’s declared policy to combat anti-Semitism “vigorously, using all available and appropriate legal tools,” including “employ[ing] appropriate civil-rights enforcement authorities.” Exec. Order No. 14,118, 90 Fed. Reg. 8847 (Jan. 29, 2025).¹

The United States offers its views pursuant to Federal Rule of Appellate Procedure 29(a).

STATEMENT OF THE ISSUE

RLUIPA prohibits local governments from adopting and enforcing land-use regulations that discriminate against religious entities and individuals or unjustifiably burden religious exercise. Plaintiff-appellant Daniel Grand brought four distinct RLUIPA claims arising out of his efforts to host a small weekly prayer gathering in his home. The district court categorically dismissed these RLUIPA claims as unripe based on its finding that the City had not

¹ The United States routinely files amicus briefs in RLUIPA land-use cases. *See, e.g.*, U.S. Amicus Br., *Thai Meditation Ass’n of Ala., Inc. v. City of Mobile*, 980 F.3d 821 (11th Cir. 2020) (No. 19-12418); U.S. Amicus Br., *Jesus Christ is the Answer Ministries, Inc. v. Baltimore Cnty.*, 915 F.3d 256 (4th Cir. 2019) (No. 18-1450). The United States has also before filed a statement of interest addressing ripeness issues under the Act. *See* Statement of Interest, *Gethsemani Baptist Church v. City of San Luis*, No. 2:24cv00534 (D. Ariz. July 29, 2024).

issued a final determination regarding the application of the City's zoning laws to Grand's attempts to hold prayer gatherings in his home. The United States addresses the following question and takes no position on any other issues presented in this appeal:

Whether the district court erred by categorically applying the finality requirement articulated in *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City*, 473 U.S. 172, 186 (1985), *overruled on other grounds by Knick v. Township of Scott*, 588 U.S. 180 (2019), to dismiss all of Grand's RLUIPA claims without examining whether the specific claims he asserted depend on the application of zoning laws to a specific property.

STATEMENT OF THE CASE

A. Statutory Background

RLUIPA's land-use protections include four provisions that safeguard the right to use land for worship and religious exercise. The four provisions apply to a state or local government's enforcement of land-use regulations and guard against (1) substantial burdens on religious exercise; (2) treatment on less than equal terms; (3) discrimination based on religion; and (4) the exclusion or substantial limitation of religious assemblies in a particular area. 42 U.S.C. 2000cc(a)(1) and (b)(1)-(3).

First, RLUIPA prohibits States and local governments from imposing or implementing land-use regulations "in a manner that imposes a *substantial burden* on the religious exercise of a person" unless the burden serves a compelling governmental interest and is the least restrictive means for serving that interest.

42 U.S.C. 2000cc(a)(1) (emphasis added). For example, a city's denial of zoning approval for a house of worship may create a substantial burden on the religious practice of its congregation.

Second, RLUIPA prohibits a government from imposing or implementing land-use regulations in a manner that treats "religious assembl[ies] or institution[s] on less than *equal terms* with a nonreligious assembly or institution." 42 U.S.C. 2000cc(b)(1) (emphasis added). Establishing an equal-terms violation requires showing that a house of worship is treated worse than a similarly situated nonreligious institution, such as being subjected to more onerous zoning restrictions.

Third, RLUIPA prohibits a government from imposing or implementing land-use regulations that "discriminate[] against any assembly or institution on the basis of religion or religious denomination." 42 U.S.C. 2000cc(b)(2). A typical set of circumstances to which this prohibition would apply is when a local government adopts zoning ordinances targeting specific religious communities or treats applicants of one faith differently than another.

Finally, RLUIPA prohibits land-use regulations that "totally *exclude[]*" religious assemblies from, or "*unreasonably limit[]*" religious assemblies within, a particular jurisdiction. 42 U.S.C. 2000cc(b)(3)(A) and (B) (emphases added). For example, changes to a zoning code that significantly reduce the number of districts or sites available to a house of worship may violate RLUIPA's unreasonable limitation prohibition.

B. Factual and Procedural Background

1. This RLUIPA case arises from a zoning dispute between plaintiff-appellant Daniel Grand and the

City of University Heights, Ohio. Mem. Op., R. 93, PageID# 2768. As an Orthodox Jew, Grand's religious practice requires him to "daven" (or pray) three times daily with a group of ten men. *Ibid.* He must daven in either a synagogue or a "shul," which is a place where davening occurs but is not necessarily a synagogue. *Ibid.* Because Grand is permitted to walk, but not drive, on the Sabbath, and because the three davenings he attended per day were at local synagogues far from his home, he decided to host a group at his home for the three davenings required on the Sabbath. *Id.* at PageID# 2768-2769.

A neighbor complained to City Mayor Michael Brennan about Grand's intended use of his home, and Brennan, in turn, notified City Law Director Luke McConville. Mem. Op., R. 93, PageID# 2769-2770. Hours after Brennan and McConville spoke, McConville issued a cease-and-desist letter to Grand explaining that Grand's home was zoned for residential use and that the City's land-use regulations did not permit Grand to use his home to operate a house of worship including "a shul or synagogue." *Id.* at PageID# 2770 (quoting McConville email with cease-and-desist letter attached, R. 81-6, PageID# 1454-1455). Grand told Brennan he planned to host only a small informal prayer group, but Brennan thought Grand was dishonest about his intentions. *Ibid.* As a result, Brennan told Grand he must pursue a special use permit. Mem. Op., R. 93, PageID# 2771.

In University Heights, houses of worship are not permitted as of right in the residential district in which Grand's home was located—*i.e.*, a U-1 district. Mem. Op., R. 93, PageID# 2771. However, a person may apply for a special use permit, which, if granted,

allows certain special uses of properties in a U-1 district, including use as a house of worship or synagogue. *Ibid.* The City's Planning Commission issues these permits if the applicant can show by clear and convincing evidence that the proposed use will not negatively impact the surrounding properties based on several factors. *Id.* at PageID# 2771-2772.

Grand applied for a special use permit seeking to "utilize [his] current recreation room for periodic religious gatherings." Mem. Op., R. 93, PageID# 2772 (quoting Pl.'s Mot. for Partial Summ. J., R. 81, PageID# 1336; Grand's SUP Application, R. 81-8, PageID# 1459). The Planning Commission scheduled a meeting to discuss Grand's application. Mem. Op., R. 93, PageID# 2772. Before the meeting, Grand submitted a letter explaining his intent to "have an informal prayer group for services in his home on the Jewish Sabbath and High Holidays." *Id.* at PageID# 2772-2773 (quoting Cease-and-Desist Letter, R. 81-16, PageID# 1530-1531). The Planning Commission conducted the three-hour meeting as a "quasi-judicial" hearing, which Grand alleges deviated from normal practice. Mem. Op., R. 93, PageID# 2773. The Planning Commission did not reach a determination; rather, it adjourned the meeting with a request that Grand provide more information and schematics in support of his application. *Ibid.* Shortly after the meeting, the Planning Commissioners exchanged emails suggesting some resistance to Grand's request and intimating that Grand was not transparent or forthcoming. *Id.* at PageID# 2773-2774. Other aspects of the email discussion, however, questioned whether Grand should have to obtain a special use permit for small social gatherings (of 10-15 people) in a private home. *Ibid.*

A second Planning Commission meeting was scheduled; Brennan represented it would be limited to the record from the previous meeting. Mem. Op., R. 93, PageID# 2774. Grand withdrew his application before the meeting, however, stating that he did not intend to operate a house of worship requiring a special use permit. *Id.* at PageID# 2775. While discussing Grand's withdrawal of his application at this second meeting, Brennan encouraged community members who observed Grand using his residence as a house of worship, or people congregating there for religious reasons, to report such activity. *Id.* at PageID# 2776.

During the pendency of his application for a special use permit and shortly after its withdrawal, the conflict surrounding Grand's use of his home escalated. Mem. Op., R. 93, PageID# 2776. For instance, a neighbor set up "multiple cameras pointing directly at and into his home." *Ibid.* But the City refused to act when Grand filed police reports and subsequently required Grand to remove a landscaping sheet he used to block the cameras. *Ibid.* Grand also alleges that neighbors complained repeatedly to the City about cars parking at his residence, and that the City's police Department advised patrol units to frequently drive by his home. *Id.* at PageID# 2776-2777.

2. Grand sued the City and several City officials in the United States District Court for the Northern District of Ohio. Mem. Op., R. 93, PageID# 2777. As relevant here, Grand asserted claims against defendants based on all four of RLUIPA's religious land-use protections. Grand challenged the zoning code because it "permits[,] as of right[,] . . . [b]uildings, structures[,] and grounds owned and operated by a board of education, municipality[,] or by a library board," while a

special use permit is required to operate houses of worship. Second Am. Compl., R. 67, PageID# 621. He thus alleged that the code, “on its face,” treats houses of worship less favorably than other nonreligious buildings, and thereby, regulates religious groups on less than equal terms. *Id.* at PageID# 621-622, 635-636. He also advanced substantial burden and unreasonable limitation claims based on the same differential treatment. *Id.* at PageID# 618, 620, 635-636. Grand further asserted that defendants discriminated against him based on religion by using the zoning code to “wage[] a zealous campaign of capricious enforcement . . . specifically targeting Grand and several other Orthodox Jews.” *Id.* at PageID# 576. Grand sought declaratory and injunctive relief, compensatory damages, and attorney’s fees for the alleged RLUIPA violations. *Id.* at PageID# 639-640.

Defendants moved for summary judgment. Defs.’ Summ. J. Mot., R. 79, PageID# 1023-1026. In their filings in connection with this motion, Grand stated that he sought to host only a small informal prayer group, and the City acknowledged that such gatherings are “not subject to any of the City’s ordinances or permitting requirements.” Mem. Op., R. 93, PageID# 2780.

The district court granted Defendants’ Motion for Summary Judgment on each RLUIPA claim. *See* Mem. Op., R. 93, PageID# 2789, 2803. Although defendants had raised ripeness challenges only as to Grand’s non-RLUIPA claims, the district court concluded that “the [ripeness] doctrine applies to all claims arising from a land-use dispute” and “goes to whether the Court has subject matter jurisdiction.” *Id.* at PageID# 2782 n.4. Accordingly, the court sua sponte analyzed whether

Grand's RLUIPA claims were ripe (*id.* at PageID# 2783). The court ruled that "[i]n the land-use context," the concreteness of the dispute "hinge[s] on whether there has been a final determination by the appropriate local or administrative body." *Ibid.* The court held that the City did not make a final determination with respect to Grand's property because Grand withdrew his special-use permit application in light of the parties' shared understanding that no such permit was necessary for Grand's stated purpose. *Id.* at PageID# 2789. As a result, the court dismissed Grand's RLUIPA claims for lack of subject-matter jurisdiction. *Ibid.*

Grand appealed the district court's decision. Notice of Appeal, R. 97, PageID# 2843.

SUMMARY OF ARGUMENT

The district court wrongly dismissed Grand's RLUIPA claims as categorically unripe. The court believed that the finality requirement articulated in *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City*, 473 U.S. 172, 186 (1985), *overruled on other grounds by Knick v. Township of Scott*, 588 U.S. 180 (2019) (*Williamson County*), applies to all land-use claims. But that finality requirement—which asks whether “the government entity charged with implementing the regulations has reached a final decision regarding the application of the regulations to the property at issue,” *Williamson Cnty.*, 473 U.S. at 186—applies *only* to land-use disputes where the plaintiff's claim depends on the ultimate application of zoning laws to a particular property. That requirement does not govern land-use disputes that turn on other conduct that inflicts injury.

Because not all RLUIPA claims turn on a regulation's application to a particular property, a court cannot automatically apply *Williamson County's* finality requirement to all RLUIPA claims. This Court should thus reverse the district court's decision dismissing Grand's RLUIPA claims and remand the case to the district court for further proceedings to analyze the ripeness of each claim.

ARGUMENT

The district court erred by categorically applying a finality requirement to dismiss Grand's RLUIPA claims as unripe.

The district court erred when it dismissed Grand's RLUIPA claims as unripe on the ground that the City never made a final determination applying its zoning code to Grand's request to host religious prayer gatherings in his home. Mem. Op., R. 93, PageID# 2788-2789. The court wrongly assumed that the finality requirement articulated in *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City*, 473 U.S. 172, 186 (1985), *overruled on other grounds by Knick v. Township of Scott*, 588 U.S. 180 (2019), applies to all RLUIPA claims. But that requirement applies only when the RLUIPA claim depends on the defendant's application of zoning laws to a specific property. RLUIPA, however, does not limit actionable claims to those where a defendant applies its zoning laws to the detriment of a property. The court should have instead engaged in a claim-by-claim inquiry to determine whether *Williamson County's* finality requirement applied and whether Grand's specific RLUIPA claims were ripe for adjudication.

A. The finality requirement applies in land-use disputes only when the legal claim depends on the ultimate application of zoning laws to a particular property.

In *Williamson County*, the Supreme Court addressed the ripeness of a Fifth Amendment taking-without-just-compensation claim, which focuses on the “effect” of government regulations on a particular property. 473 U.S. at 186 (emphasis added). The Court held that the “effect”—in that case, the “diminution in property value”—could not “be assessed with any degree of certainty until the municipality arrives at a final decision as to how the property owner will be permitted to develop his property.” *Nasiewrowski Bros. Inv. Co. v. City of Sterling Heights*, 949 F.2d 890, 894 (6th Cir. 1991); see also *Williamson Cnty.*, 473 U.S. at 191 (noting that a zoning regulation’s “economic impact” on, or interference with, a particular property “cannot be evaluated” without a “final, definitive position” on the regulation’s application to the property). For this reason, the Court held that a takings claim is “not ripe until the government entity charged with implementing the regulations has reached a final decision regarding the *application* of the regulations to the *property at issue*.” *Williamson Cnty.*, 474 U.S. at 186 (emphases added). As the Supreme Court observed, use of this finality requirement to assess ripeness “is compelled by the very nature of the inquiry” in a takings case. *Id.* at 190.

A plaintiff can satisfy *Williamson County*’s finality requirement with the “relatively modest” showing that “no question [remains] about how the regulations at issue apply to the particular land in question.” *Pakdel v. City of San Francisco*, 594 U.S. 474, 478

(2021) (per curiam) (alterations and internal quotations marks omitted) (quoting *Suitum v. Tahoe Reg'l Plan. Agency*, 520 U.S. 725, 739 (1997)). Having this type of final determination guarantees that the “elements of the case are [not] uncertain” and that any “delay” in adjudication will not result in an intervening administrative resolution to the dispute. *Roman Cath. Bishop of Springfield v. City of Springfield*, 724 F.3d 78, 89 (1st Cir. 2013) (citation omitted) (*Roman Cath. Bishop*). Accordingly, the finality requirement can ensure that certain land-use disputes—those involving the ultimate application of zoning laws to a particular property—are ripe for adjudication. *See Suitum*, 520 U.S. at 733-734 (describing finality requirement as a “prudential hurdle[]” for establishing ripeness); *Miles Christi Religious Ord. v. Township of Northville*, 629 F.3d 533, 541 (6th Cir. 2010) (concluding that the “finality rule . . . is a prudential requirement” that a court “need not follow when its application ‘would not accord with sound process’” (alteration and internal quotation marks omitted) (quoting *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 1012 (1992))).

B. The finality requirement does not apply categorically to all RLUIPA claims.

Williamson County's finality requirement applies to a RLUIPA claim only if that claim depends on the application of a land-use regulation to specific property. Because many RLUIPA claims do not turn on whether and how a regulation will apply to a specific property, a court cannot reflexively apply the finality requirement to all RLUIPA claims.

1. RLUIPA claims may arise from harms that occur before a governmental entity applies its zoning code to a particular property or from harms otherwise

inflicted in an underlying land-use dispute within the statute's scope. This conclusion flows directly from the statutory text. RLUIPA's coverage extends beyond the ultimate "effect" of land-use regulations on specific property, which is the relevant focal point for the finality requirement. *Williamson Cnty.*, 473 U.S. at 186. Each RLUIPA land-use prohibition explicitly reaches a state or local government's "impos[ition]" of land-use regulations *and* their "implement[ation]." 42 U.S.C. 2000cc(a)(1) and (b)(1)-(3). RLUIPA's "substantial burden" and "equal terms" prohibitions further cover the "manner" in which the governmental entity imposes or implements land-use regulations. Thus, RLUIPA covers conduct extending beyond final determinations, including any intervening measures taken to achieve those final determinations.

In other words, RLUIPA claims may be predicated on conduct that occurs *during* the administrative process before a final determination is reached. *See* 42 U.S.C. 2000cc(a)(1) and (b)(1)-(3). Local decisionmakers can discriminate based on religion or religious practice well before (or even without) any final determination applying a zoning ordinance to a specific property. For example, Grand alleges that the City discriminated against him based on his religion with "a zealous campaign of capricious enforcement" of its ordinances, including by deviating from normal practices during the planning commission hearing on his application for a special use permit. Second Am. Compl., R. 67, PageID# 576.

Applying the finality requirement to Grand's discrimination claim makes no sense. Grand will not get any formal determination on his special use permit request as he subsequently withdrew his application.

More significantly, a final determination of how the zoning ordinance would have been applied to Grand's property would not change the ultimate harm that Grand alleged: discrimination. In such cases, the finality requirement cannot meaningfully determine whether a claim is ripe for adjudication. And a court "staying [its] hand" to await a final determination in such circumstances would serve no purpose other than to "perpetuate the [injury]." *Temple B'Nai Zion, Inc. v. City of Sunny Isles Beach*, 727 F.3d 1349, 1357 (11th Cir. 2013).

2. *Williamson County's* finality requirement is similarly inapplicable to RLUIPA cases involving a facial violation of the statute's land-use protections. "[B]y its nature," a facial challenge "does not involve a decision applying the statute or regulation." *Hacienda Valley Mobile Estates v. City of Morgan Hill*, 353 F.3d 651, 655 (9th Cir. 2003). For example, "[i]f a locality wrote a zoning law that explicitly gave worse terms to religious assemblies than other assemblies—museums get sewers by the river, but churches don't—that would violate the Equal Terms provision *facially*." *Canaan Christian Church v. Montgomery Cnty.*, 29 F.4th 182, 200 (4th Cir. 2022) (Richardson, J., concurring) (emphasis added). For facial claims, the "mere enactment of a regulation" is the type of harm inflicted in violation of the statute. *County Concrete Corp. v. Town of Roxbury*, 442 F.3d 159, 164 (3d Cir. 2006).

Facial challenges thus ripen "the moment the challenged regulation or ordinance is passed." *Suitum*, 520 U.S. at 736 n.10. Consequently, courts have routinely concluded that the finality requirement "presents no barrier" to facial RLUIPA claims. *Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 287

(5th Cir. 2012); *Temple B’Nai Zion, Inc.*, 727 F.3d at 1359 n.6; *Christian Fellowship Ctrs. of N.Y., Inc. v. Village of Canton*, 377 F. Supp. 3d 146, 154-155 (N.D.N.Y. 2019); *Redemption Cmty. Church v. City of Laurel*, 333 F. Supp. 3d 521, 530 (D. Md. 2018) (citing *Beacon Hill Farm Assocs. II Ltd. v. Loudon Cnty. Bd.*, 875 F.2d 1081, 1084-1085 (4th Cir. 1989)); *Sisters of St. Francis Health Servs., Inc. v. Morgan Cnty.*, 397 F. Supp. 2d 1032, 1047-1048 (S.D. Ind. 2005).

3. Accordingly, courts must assess the ripeness of RLUIPA claims on an individual basis by looking to the “nature of the [statutory] inquiry” and whether that inquiry “compel[s]” a final decision about the application of a regulation to a specific property to fully adjudicate the claim. *Williamson Cnty.*, 473 U.S. at 190-191. The First and the Eleventh Circuits—the two courts of appeals that have decided whether the finality requirement applies to RLUIPA claims that do not involve a final application of zoning law to a particular property—have taken this claim-based approach. See *Temple B’Nai Zion, Inc.*, 727 F.3d at 1357; *Roman Cath. Bishop*, 724 F.3d at 91-92; see also *Sunrise Detox V, LLC v. City of White Plains*, 769 F.3d 118, 123 (2d Cir. 2014) (recognizing with respect to an ADA claim that “discrimination in the context of a land-use dispute is subject to the final-decision requirement unless” there is “some injury independent of the challenged land-use decision”). A claim-by-claim approach ensures the “broad protection of religious exercise, to the maximum extent permitted” by the statute “and the Constitution,” 42 U.S.C. 2000cc-3(g). This Court should embrace that approach.

C. The district court’s dismissal of Grand’s RLUIPA claims should be reversed, and his claims remanded for a proper analysis of ripeness.

Because the district court categorically applied the finality requirement to all of Grand’s RLUIPA claims, this Court should reverse the district court’s decision and remand for further proceedings to assess whether the finality requirement applies to each of Grand’s claims.

On remand, the district court should begin by assessing each of Grand’s RLUIPA claims individually to determine, first, whether they involve a facial RLUIPA challenge to a land-use regulation. If the claim alleged is facial in nature, then the finality requirement does not apply. If the claim is not a facial challenge, the court then must determine whether it alleges an injury that depends on a final land-use decision. This inquiry requires consideration of both the theory of each individual claim (*i.e.*, the specific RLUIPA protection at issue) and the facts supporting the claim:

Substantial burden. A substantial burden claim requires a plaintiff to identify an imposition on “religious exercise” of “some degree of severity” and “more than an inconvenience.” *Catholic Healthcare Int’l, Inc. v. Genoa Charter Township*, 82 F.4th 442, 449 (6th Cir. 2023) (*Catholic Healthcare*) (citation omitted). A substantial burden is one that “places significant pressure on a . . . plaintiff to modify its behavior.” *Livingston Christian Schs. v. Genoa Charter Township*, 858 F.3d 996, 1004 (6th Cir. 2017). One factor relevant to such pressure includes whether the plaintiff “will

suffer substantial delay, uncertainty, and expense.” *Catholic Healthcare*, 82 F.4th at 449.

To assess ripeness of a substantial-burden claim, a district court should ask what aspect of the government’s “impos[ition] or implement[ation]” of its land-use regulations caused the plaintiff’s burden (*i.e.*, the significant delay, uncertainty, or expense). 42 U.S.C. 2000cc(a)(1). A court should apply *Williamson County*’s finality requirement to such claims only if those burdens result from the challenged regulations’ ultimate effect on a particular property rather than, for example, from the government’s conduct in the administrative process leading up to enforcement (or, in this case, nonenforcement). *See Catholic Healthcare*, 82 F.4th at 449 (finding two years of administrative process and considerable expense imposed a substantial burden).

Equal terms. A prima facie case establishing an equal terms claim “requires proof that (1) the plaintiff is a religious assembly or institution, (2) subject to a land use regulation,” which is imposed or implemented in a way that “(3) treats the plaintiff on less than equal terms, compared with (4) a nonreligious assembly or institution.” *Tree of Life Christian Schs. v. City of Upper Arlington*, 905 F.3d 357, 367 (6th Cir. 2018) (citation, internal quotation marks, and alterations omitted). These unequal terms may result from the application of a land-use regulation to a specific property, but also from the procedural and other enforcement mechanisms applied to religious and nonreligious entities.

Nondiscrimination. Nondiscrimination claims differ from substantial burden and equal terms protections because they “require[] evidence of dis-

criminatory intent.” *Alive Church of the Nazarene, Inc. v. Prince William Cnty.*, 59 F.4th 92, 104 (4th Cir. 2023). To establish a prima facie case for such claims, a plaintiff must demonstrate “facts sufficient to show that the challenged government decision was motivated at least in part by discriminatory intent.” *Ibid.* (internal quotation marks and citation omitted). In RLUIPA cases, plaintiffs can accomplish this using the factors in *Village of Arlington Heights v. Metropolitan Heights Housing Development Corp.*, 429 U.S. 252, 266 (1977), which assesses, among other things, “the series of events leading up to a land use decision” and “the context in which the decision was made.” *Chabad Lubavitch of Litchfield Cnty., Inc. v. Litchfield Historic Dist. Comm’n*, 768 F.3d 183, 199 (2d Cir. 2014). Thus, a RLUIPA plaintiff can challenge any government decision within RLUIPA’s scope, including both the government’s final determination of a land-use regulation’s applicability to a property *and* decisions taken under local authority to implement or impose such regulation. The district court should therefore analyze the scope of the alleged discriminatory conduct to determine whether the finality requirement applies.

Exclusion/Unreasonable Limits. As with the other RLUIPA claims, an exclusion or unreasonable limitation on religious entities within a jurisdiction may arise from any source within the statute’s coverage. For example, a government’s “unbridled” or “standardless” discretion to reject special use permits for religious entities may provide the basis for such a claim, regardless of whether that discretion is ultimately applied to a specific property. *Vision Church v. Village of Long Grove*, 468 F.3d 975, 990-991 (7th Cir. 2006).

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CONCLUSION

For the foregoing reasons, this Court should reverse the district court's decision dismissing Grand's RLUIPA claims and remand to the district court for further proceedings.

Respectfully submitted,

MAC WARNER
Deputy Assistant Attorney General
MICHAEL E. GATES
Deputy Assistant Attorneys General
s/ Barbara A. Schwabauer
ELIZABETH PARR HECKER
BARBARA A. SCHWABAUER
Attorneys
Department of Justice
Civil Rights Division
Appellate Section
Ben Franklin Station
P.O. Box 14403
Washington, D.C. 20044-4403
(202) 598-9427

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CHAD MIZELLE
Acting Associate Attorney General

JASON MANION
Counselor to the Associate
Attorney General

Date: March 31, 2025

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**CEASE AND DESIST LETTER FROM
LAW DIRECTOR FOR THE CITY OF
UNIVERSITY HEIGHTS
(JANUARY 21, 2021)**

**Nicola, Gudbranson & Cooper, LLC
Attorney at Law**

Landmark Office Towers
Republic Building Suite 1400
25 West Prospect Avenue
Cleveland, OH 44115
Phone: 216-621-7227
Fax: 216-621-3999
www.nicola.com

Direct Email: mconville@nicola.com

VIA EMAIL: talk@dannygrand.com;
danieljoshua@me.com; daniel@violationremoval.com
AND VIA CERTIFIED AND REGULAR U.S. MAIL

Mr. Daniel Grand
Ms. Rakhel Davidoff
2343 Miramar Boulevard
University Heights, OH 44118

Shomayah Tefillah Beis Hekeneset
2343 Miramar Boulevard
University Heights, OH 44118

Re: 2343 Miramar, University Heights, OH 44113
Planned Operation of Shul/Place of Religious
Assembly

Dear Mr. Grand and Ms. Davidoff:

I am Writing to you in my capacity as Law
Director for the City of University Heights (the

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“City”). The City has been made aware that you intend to use the premises at 2343 Miramar Boulevard (the “Premises”) as a place of religious Assembly and in operation of a shul. Pursuant to the zoning map and codified ordinances of the City, the premises are zoned U-1 for residential use. The use or operation of the Premises as a religious place of assembly and/or in operation as a shul or synagogue is not permitted under the City’s ordinances.

The City hereby notifies you that the use of the Premises as a place of religious assembly and/or in operation of a shul or synagogue is prohibited. To the extent that the Premises are currently being used for said purposes or are intended to be used for such purposes in the immediate or near future, the City hereby demands that you immediately cease and desist any and all such operations. Violation of the City’s ordinances in this manner may result in building code citations against you and in the pursuit of additional remedies.

The City is particularly disturbed to learn of the proposed use of the Premises as a place of religious assembly given that you recently appeared before the City’s Board of Zoning Appeals in connection with your application for variances. The City is exploring whether variances granted for the Premises may be voidable based upon a subsequent illegal use of the Premises, or due to material omissions during the bearing process relating to your intent to utilize the Premises as a place of religious assembly.

Allow me to refer you to City Codified Ordinance Chapter 1274 entitled “Houses of Assembly and Social Service Uses.” Under Chapter 1274, you may make

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application to the City's Planning Commission for a
Special Use Permit.

Sincerely.

NICOLA, GUDBRANSON & COOPER, LLC

/s/ Luke P. McConville

LFM/cdwj

cc: Mayor Michael Dylan Brennan

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**DANIEL J. GRAND
SPECIAL USE PERMIT APPLICATION
(JANUARY 22, 2021)**

Kelly Thomas

From: Daniel J. Grand <danieljoshua@me.com>

Sent Friday, January 22, 2021 10:46 AM

To: Kelly Thomas

Cc Michael Brennan

Subject: 2343 Miramar request for special use permit
Attachments Scan.pdf

Dear University Heights Clerk of Council, Ms. Thomas,

Daniel Grand

2343 Miramar Blvd

Home: 216-772-7384

google voice: 347-254-4779

I have been advised to apply for a special use permit for a place of religious assembly in my home at 2343 Miramar Blvd.

My Intention is as follows:

I wish to utilize my current recreation room for periodic religious gatherings.

I can share the following details; This room was used as my computer room music room, it was built with the idea that it would be my music room and is soundproofed, via sound attenuation insulation, I have played my drum set very late in the evening and no one has heard it Since I wasn't playing music all that much, the idea dawned on me about 2 weeks ago to use the space as a place for people to come and pray

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with me in my home. I am a religious man and am a Rabbinic student.

The total room size is a tinge over 700 square feet.

I have 11 tables set up and 21 chairs set up-there is plenty of walking space between the tables and chairs as well.

This is the ground floor, it is on slab as well, so there is not a weight issue to contend with, there is no basement below it.

There are 3 means of egress In this Parler/ recreation room-one that leads to the center of the house, one that leads to the garage, and on that leads to the back yard. The windows are egress windows too.

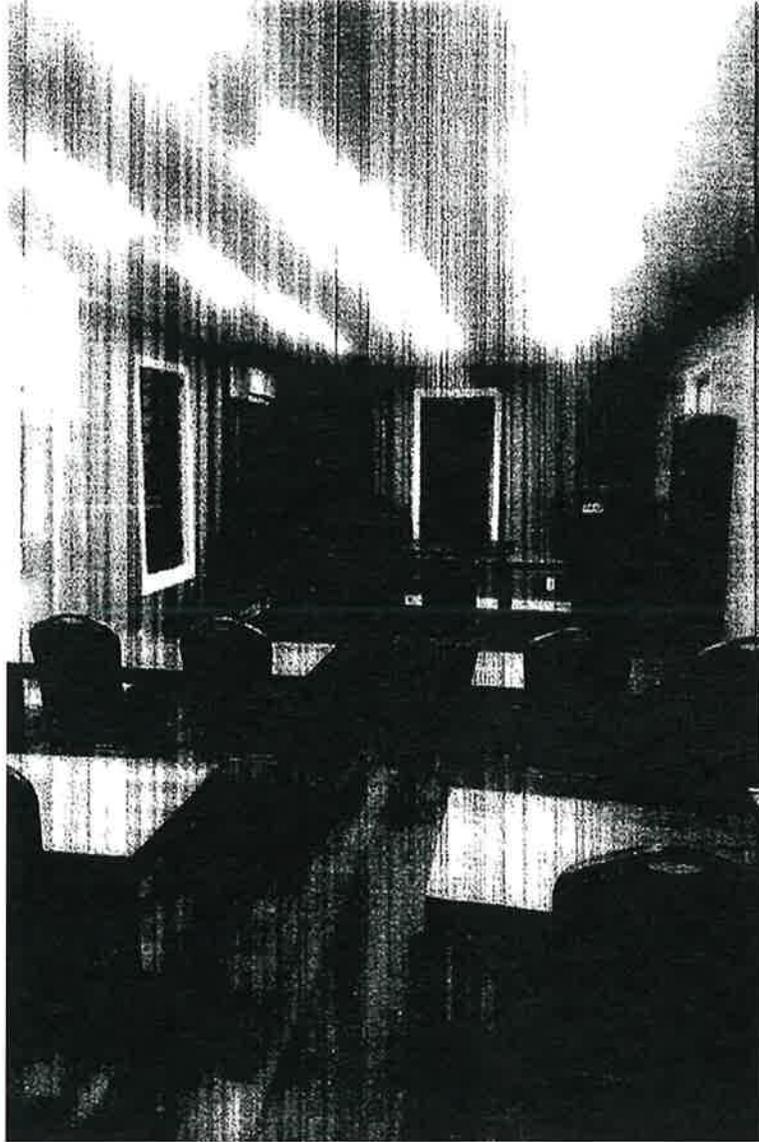
No one will be parking in my driveway-except my wife and myself-and on Sabbath people can not bring car either . . .

Please consider this my formal request for a special use permit and a meeting before the planning commission. Thank you.

If there is any other information you need prior to my request for a special use permit please let me know if I have not satisfied any of the requirements, and again after our discussion I understand that I would miss this upcoming meeting, and could be on the "docket" for the next one.

Thank you,
Daniel Grand

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**PAUL SIEMBORSKI MASSIVE ADMISSION(S) -
ILLEGAL DISCUSSION
(MARCH 5, 2021)**

From: Paul Siemborski
<psiemkowski@DLRGROUP.com>
Sent time: 03/05/2021 07:33:07 AM
To: April Urban <april.h.urban@gmail.com>
Cc: Michael Brennan <MDB@universityheights.com>;
Kelly Thomas <kthomas@universityheights.com>;
John Rach <jrach@universityheights.com>;
Michael Fine <mfine@ohioconsumerlawyer.com>;
Luke McConville
Subject: Re: Planning Commission Meeting tonight
(March 4, 2021)

I felt we handled the meeting last night poorly. Never had we allowed such a format. And I was appalled at the Grand standing and showmanship we allowed between the applicant and his attorney. I am just an Architect That we turned this into a court proceeding was wrong in my opinion. Luke, you should put time limits on presentations. 195 petitions against this and we treated those against this request with lip service and we subjected them to cross examination. Unbelievable.

As I said, I am disappointed that this even came to us. In my opinion we need to cut back on all the legal wrangling citing code section by code section and simply say up front: this is not allowed on Miramar. If you want to consider such a place of assembly there are streets where you can petition for special use.

We must change the format of what happened last otherwise, otherwise I will not be involved.

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Paul

Sent from my iPhone

On Mar 5, 2021, at 7:10 AM, April Urban
<april.h.urban@gmail.com> wrote:

-257 ?

I would be happy to meet again as soon as possible to expedite resolution to this matter. Most of my questions are for Mr. McConville. If appropriate, I'm happy to email or call.

On Fri, Mar 5, 2021, 12:21 AM Michael Brennan
<MDB@universityheights.com> wrote:

This message was sent from the City of University Heights.

Regards,

Mayor Michael Dylan Brennan

sent from my mobile device

-----Forwarded message-----

From: Josiah Sell <josiahsell@gmail.com>

Date: Mar 4, 2021 11:30 PM

Subject: Planning Commission Meeting tonight
(March 4, 2021)

To: Michael Brennan

MDB@universityheights.com,

Michele Weiss

<mweiss@universityheights.com>,

Sandra Berry

<sberry@universityheights.com>,

Barbara Blankfeld

<bblankfeld@universityheights.com>,

Phillip Ertel <pertel@universityheights.com>,

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Justin Gould <jgould@universityheights.com>,
Susan Pardee
<spardee@universityheights.com>,
John Rach <jrach@universityheights.com>,
Luke McConville
<mconville@universityheights.com>,
Brendan Zak <bzak@universityheights.com>,
Mike Cook <mcook@universityheights.com>,
Susan Drucker <sdrucker@universityheights.com>,
Dennis Kennedy <DKennedy@universityheights.com>,
Rita Drew <rdrew@universityheights.com>,
Denise Balint <dbalint@universityheights.com>

Cc:

Mr. Mayor, et al:

The adjournment of tonight's meeting is only causing more angst in the community. The applicant (Mr. Grand) clearly failed on all standards to justify the need for approval of the special use permit. The applicant, his attorney, and everyone attending the meeting could easily understand the applicant failed and should be denied the special use permit. Mr. Cooney and Mr. Kluznik's arguments were spot on. Mr. Grand failed on all fronts.

In the interest of time, I didn't speak tonight. However, I am 100% opposed to granting the special use permit and I would have said: I like to walk to church also, which is why my first house in University Heights was at 2466 Glendon Road (directly across from Gesu). My family outgrew that house, so I moved over to Carroll Boulevard. Now, I have a little bit of a longer walk. However, I'm not about to hire a priest and open a church in my house on Carroll Blvd., that would be ridiculous as it would anger my neighbors to

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the hilt. If Mr. Grand would like a shorter walk, then I advise him to buy a house closer to a shul or synagogue, not disrupt the fabric of the community. Please just deny this special use permit and he can continue to play his drums in his "sound proof" room. I have no sympathy for him putting the cart before the horse-building and planning for this before he received permission. Residents testified under oath tonight that Mr. Grand has been dishonest about his intentions for years. Those facts should not be overlooked.

Please forward to all planning commission members since their emails are not readily available on the city's website.

Sincerely,
Josiah Sell
4148 Carroll Blvd
University Heights, OH 44118
216-632-0238
Josiahsell@gmail.com

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**LARGE ILLEGAL CONVERSATION
ABOUT SPECIAL USE PERMIT
(MARCH 9, 2021)**

From: Michael Brennar
<MDB@universityheights.com>
Send time: 03/09/2021 10:30:10 AM
To: Luke McConville
<mconville@universityheights.com>;
Michael Fine <mfine@ohioconsumerlawyer.com>;
April Urban <april.h.urban@gmail.com>
Cc: Paul Siemborski <psiemkowski@dlgroups.com>;
Kelly Thomas <kthomas@universityheights.com>;
John Rach <jrach@universityheights.com>;
Rachel Mullen <rmullen@universityheights.com>;
Subject RE: Planning Commission Meeting tonight
(March 4, 2021)

I suggest we schedule a public meeting at everyone's next availability to deliberate over what we have heard thus far, and what we might do from here. Also, April 1 is during Passover, so that cannot be our next meeting date.

Kelly, please poll the commission for dates for the week of March 22. I'm booked every night week already

Michael Dylan Brennan | Mayor
City of University Heights
2300 Warrensville Center Road, University Heights,
Ohio 44118-3895
(216) 932-7800 x222 | Mobile (216) 906-0383
Fax: (216) 932-8531

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From: Luke McConville <mcconville@nicole.com>
Sent: Tuesday, March 9, 2021 9:56AM
To: Michael Fine <mfine@ohioconsumerlawyer.com>;
April Urban <april.h.urban@gmail.com>
Cc: Paul Siemborski <psiemborski@dlgroups.com>;
Michael Brennen <MDB@universityheights.com>;
Kelly Thomas <kthomas@universityheights.com>;
John Rach <jrach@universityheights.com>;
Subject RE: Plan, Commission Meeting tonight
(March 4, 2021)

Attorney Client

From: Michael Fine <mfine@ohioconsumerlawyer.com>;
Sent: Tuesday, March 9, 2021 9:40 AM
To: April Urban <april.h.urban@gmail.com>
Cc: Paul Siemborski <psiemborski@dlgroups.com>;
Michael Brennen <MDB@universityheights.com>;
Kelly Thomas <kthomas@universityheights.com>;
John Rach <jrach@universityheights.com>;
Luke McConville <mcconville@nicole.com>
Subject RE: Plan, Commission Meeting tonight
(March 4, 2021)

Dear All,

Thank you, April, for your thoughts. I concur.

As wrote previously, a tension exists regarding at what point does a social gathering become a house of worship.

If someone is going to come to planning for a special use permit, I believe that they must come with architectural plans a fire with maximum capacity findings; the result of a police review with findings regarding traffic patterns and parking; and the results of an

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inspection for compliance with state building codes that evidences whether the intended use is even feasible. If an applicant cannot get past these hurdles, which exist for Denciger, Grand, and other existing/planned situation, then zoning, use permits, and fair use considerations are the least of their issues—and the City can avoid to the resulting political storm.

If a house is going to be a place of assembly, then applicant needs to fairly address parking, traffic, capacity, fire & safety, as well as consideration of the neighbors and character of the neighborhood. If a person is just going to have a social gathering, this is unnecessary.

The Grand application is problematic because he seems to want to have it both ways, which is untenable—from all perspectives.

Again, I think that Grand and the community would be best served if he voluntarily withdraws his application, and takes sometime to reconcile with his neighbors and to clarify his intentions. In the meantime, he would be wise to avoid the appearance of proceeding with a “shul” as a opposed to a social gathering—lest he cause further neighbors angst his neighbors and have the Police called to address a nuisance.

Michael Fine

From: April Urban <april.h.urban@gmail.com>
Sent: Tuesday, March 9, 2021 8:47 AM
Cc: Paul Siemborski <psiemborski@dIrgroup.com>,
Michael Brennen MDB@universityheights.com>;
Kelly Thomas <kthomas@universityheights.com>;
John Rach <jrech@universityheights.com>;
Luke McConville Forward <mconville@nicole.com>

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Subject: Re Planning Commission Meeting tonight
(March 4, 2021)

I hope it is productive to continue our discussion through email. I humbly present my thoughts on the Issue. This email is longer than is desirable, but it is a complicated issue. Please know my intentions are merely to help bring about resolution to the issue.

I believe it would have been imprudent to dismiss the application presented and give the reason for dismissal as the public testimony only. I firmly believe that course of action would have toed the line of violating fair housing law, and would have put the city in bad position.

However, at this moment, I do think the application should be dismissed. I think the reason for dismissal should be that the use presented (the applicant proposed gathering 10-15 friends at his house once a week, as well as three times a year on the high holidays for prayer) does not require a special use permit. We don't require other social gatherings occurring in a private home to have a special use permit. If the applicant's intentions are truly within the bounds they describe, why would he need a special use permit? If the application is dismissed, and there's no mention of how the proposed use would not require a special permit, do neighbors interpret this action on as a right to police every guest and goings on at Mr. Grand's home? If it is mentioned, does Mr. Grand interpret it as a right to do whatever he wants? Can It be made clear that private gatherings in one's home are permissible, but if they occur at a frequency or size that is disruptive to the neighbors, more akin to a house of assembly than a private residence, actions would need to be taken?

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The community outlines a long list of wrongdoings of the applicant regarding additions to his home, which seem to have generated considerable ill-will toward him and the house. In addition, it has raised suspicions, perhaps correctly, that the addition was built for the purpose of becoming a Shul. The community Expresses that, because of these negative experiences, that Mr. Grand can not be trusted at his word, and though he says only 10-15 people will be attending worship at his house, he can not be trusted and the crowd will grow to a disruptive size.

In regards to the addition, it seems to me that we do not have any authority to impose any changes. This is unfortunate and I hope the appropriate Department at the city is working with the group on the issues and concerns, but I am uncertain what we can do about it. Before the meeting, I drove by the house and I wondered if in this case there could be anything like a "clean hands" docket applied. The applicant could not apply for a special use permit while having outstanding code issues. Is this the case? Are the issues with the house open code violations? Ultimately, even if this was relevant, it seems like it would open the door to him applying again once issues were remedied.

The concerns about gathering growing to a disruptive size seem to be at the heart of this issue. I am uncertain what to do with these concerns given they are concerns about a future problem. I believe we were to take the applicant at his word as he was under oath, and he maintained a smaller group size. If the application is dismissed, and it is stated that reasonably sized gatherings can occur in private homes, what is the mechanism for enforcement if gatherings

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get out-of-hand in size or frequency? My guess is the cease and desist order and other nuisance property mechanisms. Given he is an owner-occupant, I think these could be reasonably effective if the situation worsened. But how can we tell when activity is truly a nuisance to neighbours from when neighbours are being unneighbourly because of their differences?

I am not certain whether dismissal for this reason (no need for special use permit) would ease community tensions or concerns, and I do recognize that it is important to do so. At this point, I think it's important to recognize the discord between the current state of the issue (the applicant maintains the space has not been used as a shul to-date, and we heard no testimony otherwise), the proposed use, and community concerns expressed in materials shared and during our meeting. It is also important to recognize and call-out anti-semetic rhetoric and sentiment that goes against fair housing laws. I feel like that's the first step in moving towards a more productive conversation and ultimately easing community concerns. I could be wrong about that, but in the least, it helped me separate the sets of concerns into useful categories.

Problematic community rhetoric:

“I am not Jewish and I do not want our neighborhood labelled as Jewish” – Letter from Maureen Lanza

Repeated stated concerns about property tax exemption, especially after it has been explained these concerns are irrelevant

Repeated concerns about the Shul being a profit-making commercial business

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Concerns about community “change”

Claims of long-standing community ownership

Statement that the applicant should “move somewhere else” if inconvenienced

Discordant community concerns:

Don’t want parking cluttering up neighborhood – applicant maintains parking isn’t an issue because of Jewish Practice

Concerns about increased foot traffic—honestly I just can’t imagine finding 10 more people walking through my neighbourhood to be disruptive to my life

It seemed to me that most of the legitimate concerns are only relevant to a scenario in the future where the Shul is closer to a house of assembly than a small private gathering. Again, I’m not sure how to rectify that community concerns are relevant only in a future scenario where the applicant is being intentionally misleading.

Here is additional information from the Department of Justice and HUD on how local land use and zoning code relate to fair Housing Laws. <https://www.justice.gov/opa/file/912366/download>

I hope this helpful to our discussion Does the city have other resources it can employ in bringing this conflict to an amicable resolution? A savvy council person willing to meet Mr. Grand and other noticeable leaders of the opposition?

April

On Fri, Mar 5, 2021 at 2:01 PM Michael Fine
<mfine@ohioconsumerlawyer.com> wrote:

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Mayor Brenan and Attorney McConville,

I respectfully disagree with colleague Mr. Siemborski, who I respect tremendously.

While I was not particularly happy with last night's format, and I felt that the matter could have been handled differently, I understand why the format was used. I think, however, that everyone should be clear that some matter, especially heated proposals, may take more than 3 hours to address, and it is not fair to the Commission or the Applicant to force a resolution more quickly. Some issues may need to be split over a number of days. For example, when we addressed the CH-UH high school temporary use of land in UH, we needed 3 (or 4) meetings to review the project.

I would say, however, that the applicant last night was not properly prepared to come before the board. His proposal was not clear, and he did not have the proper supporting materials. This happened with Denziger as well, and this situation should be avoided, if possible, in the future. Still, all citizens have the right to present their petitions, and we as Commissioners have an obligation to give each a proper hearing.

I also disagree that the number of Petitions is any way dispositive of this or any other proposal. Petitions are simply one piece of evidence to consider and to be given due weight.

Re. last night, the more significant issue seems to be that Mr. Grand has created a tremendous amount Ill-Will in the community. As a result, I do not think that Community members believe that he is speaking truthfully, and they do not trust his intentions. For this reason, I believe that he would be better served

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by withdrawing his application and formulating a new strategy and with clearly articulated goals.

As an aside, I do not know why anyone would need a special use permit to invite 10 friends to pray with them Friday night and Saturday morning in their living room. I also do not see how this would be different than my having friends over regularly for parties. There is no restriction on how much I can entertain. However, if I reconfigure my house for 10 or more people to come over regularly, I give my group a name, and I hire a prayer leader, that may be qualitatively different. This also raises suspicions that I am not really intending to limit my parties/ meetings to Fri night and Sat day. However, there is a spectrum here, and I think that needs to be clarified.

Mr. Grand's problem is that he testified that all he wanted to accomplish was the former, but his actions speak to something further along the spectrum toward a real house of Prayer. A real house of prayer does have many of the Issues and concerns raised by the objectors last night, such as lighting, traffic, and parking, which Mr. Grand sought to avoid addressing. Hence, the tension leading to last night.

My thought and observations, ,

Respectfully,

Michael

From: Paul Siemborski <psiemboriski@dIrgroup.com,
Sent: Friday, March 5, 2021 7:33 AM
To: April Urban <april.h.urban@gmail.com>
Cc: Michael Brennen MDB@universityheights.com>;
Kelly Thomas <kthomas@universityheights.com>;
John Rach <jrech@universityheights.com>;

App.135a

Michael Fine <mfine@ohioconsumerlawyer.com>
Luke McConville Forward <mconville@nicole.com>
Subject: Re Planning Commission Meeting tonight
(March 4, 2021)

I felt we handled the meeting last night poorly. Never had we allowed such a format And I was appalled at the Grand standing and showmanship we allowed between the applicant and his attorney. I am Just an Architect. That we turned this into a court proceeding was wrong in my opinion. Luke, you should put time limits on presentations 195 petitions against this and we treated those against this request With lip service and we subjected them to cross examination. Unbelievable.

As I said, I am disappointed that this even came to us. In my opinion we need to cut back on all the legal wrangling citing code section by code section and simply say up front: this is not allowed on Miramar. If you want to consider such a place of assembly there are streets where you can petition for special use.

We must change the format of what happened last otherwise, otherwise I will not be involved.

Paul

Sent from my iphone

On Mar 5, 2021, at 7:10 AM,
April Urban <april.h.urban@gmail.com> wrote:

I would be happy to meet again as soon as possible to expedite resolution to this matter. Most of my questions are for Mr. McConville. If appropriate, I'm happy to email or call.

App.136a

On Fri, Mar 5, 2021, 12:21 AM Michael Brennan
<MDB@universityheights.com> wrote:

This message was sent from the City of University
Heights.

Regards,

Mayor Michael Dylan Brennan

sent from my mobile device

-----Forwarded message-----

From: Josiah Sell <josiahsell@gmail.com>

Date: Mar 4, 2021 11:30 PM

Subject: Planning Commission Meeting tonight
(March 4, 2021)

To: Michael Brennan

MDB@universityheights.com,

Michele Weiss

<mweiss@universityheights.com>,

Sandra Berry

<sberry@universityheights.com>,

Barbara Blankfeld

<bblankfeld@universityheights.com>,

Phillip Ertel <pertel@universityheights.com>,

Justin Gould <jgould@universityheights.com>,

Susan Pardee

<spardee@universityheights.com>,

John Rach <jrach@universityheights.com>,

Luke McConville

<mconville@universityheights.com>,

Brendan Zak <bzak@universityheights.com>,

Mike Cook <mcook@universityheights.com>,

Susan Drucker <sdrucker@universityheights.com>,

Dennis Kennedy <DKennedy@universityheights.com>,

Rita Drew <rdrew@universityheights.com>,

App.137a

Denise Balint <dbalint@universityheights.com>

Cc:

Mr. Mayor, et al:

The adjournment of tonight's meeting is only causing more angst in the community. The applicant (Mr. Grand) clearly failed on all standards to justify the need for approval of the special use permit. The applicant his attorney, and everyone attending the meeting could easily understand the applicant failed and should be denied the special use permit. Mr. Cooney and Mr. Kluznik's arguments were spot on. Mr. Grand failed on all fronts.

In the interest of time, I didn't speak tonight. However, I am 100% opposed to granting the special use permit and I would have said: I to walk to church also, which is why my first house in University Heights was at 2466 Glendon Road (directly across from Gesu). My family outgrew that house, so I moved over to Carroll Boulevard. Now, I have a little bit of a longer walk. However, I'm not about to hire a priest and open a church in my house on Carroll Blvd., that would be ridiculous as it would anger my neighbors to the hilt. If Mr. Grand would like a shorter walk, then I advise him to buy a house closer to a shul or synagogue, not disrupt the fabric of the community. Please just deny this special use permit and he can continue to play his drums in his "sound proof" room. I have no sympathy for him putting the cart before the horse-building and planning for this before he received permission. Residents testified under oath tonight that Mr. Grand has been dishonest about his intentions for years. Those facts should not be overlooked.

App.138a

Please forward to all planning commission members since their emails are not readily available on the city's website.

Sincerely,

Josiah Sell
4148 Carroll Blvd
University Heights, OH 44118
216-632-0238
Josiahsell@gmail.com

**DEPOSITION OF MICHAEL DYLAN BRENNAN
RELEVANT EXCERPTS
(OCTOBER 31, 2023)**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DANIEL GRAND,

Plaintiff,

v.

CITY OF UNIVERSITY HEIGHTS, OHIO, ET AL.,

Defendants.

Case No. 1:22-cv-01594

[October 31, 2023 Transcript, p.243]

... meeting no 2506, no Bates stamps, was marked for the purposes of identification.)

Q. So PB22 is going to be a video that I would just like to play. Hopefully this will work. So I'm just going to put this on. It's a YouTube video—

(Cross-talking.)

(Discussion held off the record.)

MR. QUANTON: I think the way we do it, that's good. It's too difficult for you to try to write down.

Just say that the video was played or however you want to do that.

MR. CLIMER: I would request that you guys send me a copy of that video by Dropbox or however.

MR. QUAINTON: Okay. It should be. It's in the folder.

MR. CLIMER: Is it? Okay. I'm sorry.

MR. QUAINTON: I'll tell you where it is in the folder, so you can see.

This is the only Word document in the folder. It's a Word document, it says 21.03.23.

MR. CLIMER: I've got it here, it's a link?

MR. QUAINTON: It's a link, yeah. So I'm going to try to play this. This is a video of the March 28th meeting.

MR. GROSS: 23rd, March 23rd.

MR. QUAINTON: Okay. This should work.

THE WITNESS: Debi, can you hear me? I just want to test my speakers.

COURT REPORTER: Yes, I can hear you.

MR. QUAINTON: Can everybody on the call hear and see this video?

MR. CLIMER: Yes.

THE WITNESS: Yes.

MR. GROSS: Yes.

COURT REPORTER: I can see it.

(Following is the transcription of the
BP22 video link recording:)

“Yeah, I think that’s (inaudible) using that.”

“Oh, let’s see. Okay. Cool. Michael, John’s here. Yeah, there’s John’s, okay. Yeah, and Luke and you, me, yes, a few others, too. Okay. Sure. I think we can Go ahead.

“Okay. so Let me let everybody in and I’ll mute everybody.

“Thanks, Kelly.

“A lot of people waiting.

(Inaudible.)

“All the committee members should be able to unmute themselves.

“I would like to call this special meeting of the planning commission to order.

“Mrs. Thomas, will you please call the roll?

“Mrs. Thomas, Mr. (Inaudible)?

“Here.

“Mrs. Urban?

“Here.

“Mr. Zimborski?

“Here.

“Mr. Fine?

“Here.

“Mr. Rach?

“Here.

“We have a quorum.

“The meeting of March 4, 2021, though a long meeting, it went well over three hours, ended in a tabling that might have been hasty, as there was no deliberation on the testimony we heard. Even though the applicant, Daniel Grand, had presented, offered rebuttal testimony in opposition and then rested.

“In the days following that meeting, individual commission members demonstrated their desire to discuss this matter, in essence to deliberate, in the form of e-mails sent in that regard.

“Our law director reminded all commission members of our obligations under the Sunshine Law to deliberate by way of a publically noticed meeting.

“Therefore, I called this special meeting of the University Heights Planning Commission to afford our commission members the opportunity to take this matter from the table and deliberate. At 5:50 this evening, I received the following e-mail from the applicant.

“Mayor Brennan and Planning Commission, please be advised that I’m withdrawing my application for a special-use permit. I do not wish to operate a house of worship as is defined under the zoning ordinance, in the privacy of my home.

“Mr. Daniel J. Grand.”

“I therefore note for the record that the application is withdrawn. There is no special-use permit for 2343 Miramar Boulevard.

“And I will remind the applicant that the cease-and-desist order of the City, dated January 21, 2021 remains in effect.

“Let there be no confusion, congregating at 2343 Miramar Boulevard or any other address located in a residence zoned U-1 without a special-use permit is a violation of city law.

“I’m hopeful that the wording of the withdrawal is not intended to suggest that congregating weekly at a residence to conduct activities consistent with those in a house of assembly does not require a special-use permit.

“As recently as two months ago, the city brought suit against the organizers of another residential shul, one on Churchill Boulevard, and ultimately obtained a permanent injunction in court.

“To the community members who are here, let there be no question, there is no permission granted here to operate—there is no permission granted here to operate a house of assembly or conduct activities consistent with one at 2343 Miramar Boulevard.

“If you observe such activities, and I hope you do not, but if you do, you may report them to the city, and the city will enforce its laws, which exist for the benefit of the entire community. And we will seek all appropriate remedies in court.

“With that I move to adjourn.

“Is there a second?

“Second.

“Second by Mr. Zimborski.

"Mrs. Thomas, will you call the roll?

"Mayor Brennan?

"Yes.

"Mrs. Urban?

"Yes.

"Mr. Zimborski?

"Yes.

"Mr. Fine?

"Yes.

"Mr. Rach?

"Yes.

"We are adjourned. Thank you.

(End of video link recording playback.)

BY MR. QUANTON:

Q. Mayor Brennan, we just heard your statement at the March 23rd hearing on Mr. Grand's special-use permit. Did we—

(Zoom interference.)

Q. Opps, get rid of that.

My first question, Mr. Mayor, is: Was that a prepared statement that you read to the community, that we just heard?

A. Yes, yes, I prepared my remarks shortly before the meeting, wrote them out so that I could just, you know, read them into the record.

Q. Did you share those written remarks with anybody on the commission before you read them into the record?

A. No, I don't believe I did.

Q. And I'm not asking you for any privileged communications, but did you show the remarks to Mr. McConville?

A. I don't recall now whether I did or not, I would have to go back.

(Court reporter clarification.)

Q. And in these prepared remarks, is it fair to say you had thought carefully about these remarks before you delivered them?

A. No, because there wasn't very much time. And, you know, Mr. Grand had only withdrawn his application just a little more than an hour before the meeting, and I wasn't—I don't think I even saw that he'd withdrew, except until a few minutes before the meeting.

I was looking over other materials preparing to deliberate, and then I realized he had withdrawn his application. So I quickly wrote down a few words to be ready to be prepared to say something. That's—I think that's how that went. I don't think I saw it as soon as he said it. Even if I did, that's only an hour.

So, you know, there wasn't a lot of careful deliberation here over exactly what my statement would be. I just prepared a few words that I thought would be, you know, appropriate and prepared to read them on the record.

Q. But I think the message came through loud and clear, you said let there be no mistake congregating at a residence violates the Ohio law. Do you recall that?

A. That's not what I said. I believe you played twice what I said.

Q. You did say that. Let's go back.

A. And I made, I think, a rather complete statement, that together states accurately what I was intending to say.

Q. So is it your testimony today that you were not saying that congregating in a home violates Ohio law?

A. I think the statement I made, rather than you cherry-picking one line and then changing city law to Ohio law—I think you're mischaracterizing what I said.

Q. Okay.

MR. QUANTON: Can we do this, Debi? Can you go back to what you wrote down, because it's quite short? And I believe what Mr. Brennan said was that—if you could find this—let there be no mistake, congregating or conducting activities consistent with those of a house of assembly are not permitted.

Could you just find that phase, so we read it back for the Mayor?

(Record read.)

Q. There are three prohibitions that you've announced, that were just read back.

The first is there is no permission to congregate.

Do you stand by that today as your—as a message to the citizens of University Heights, that there is no permission to congregate in residential homes?

A. I stand by that no permission had been granted as a result of the application that had since been withdrawn. You know, we granted nothing here.

Q. But you are making a forward-looking statement. You're warning the citizens that there is no permission to congregate.

I guess the question I've got, and maybe it goes without saying: What did you mean by "congregate"? What were you—

(Cross-talking.)

A. I meant operating a shul or a house of worship or house of assembly, which, you know, that had never really been determined. We never got to that point.

I just know that from the beginning Mr. Grand had announced that he was opening the shul, and then he changed that. That got modulated in a couple different ways. And we didn't have any, you know, final determination here. I was not afforded the opportunity to—to congregate, ask further questions of the applicant or anything of the sort. And, you know, so we were back to the status quo and the status quo was what was in the cease-and-desist letter, and the cease-and-desist letter was based upon his announcement to the community that he was opening a shul, a house of worship, with davening times and with an invitation that had been spread far and wide.

And that since this time, hundreds of people had signed petitions pro and con. So lots of people knew about it.

Q. Okay. We're not going back to the—that.

But I'm talking right now about your announcement, official announcement as the mayor of the City of University Heights, telling the community, you know, three things: Number one, there's no permission to congregate; number two, no permission to operate a house of assembly or a house of worship; and number three, no permission to conduct activities consistent with those of a house of assembly.

And I think, just to put the cards on the table, I think it's number one and number three that really pose the problem.

I guess, let's go back to my -- the example that we had at the very beginning, when my father had a priest come and some friends came to celebrate a service, so he could take communion.

That taking communion with a priest would be an activity consistent with activities in a house of assembly, would it not?

A. It may.

Q. If my mother had heard that, she would have reasonably thought that's not permitted because that is conduct consistent with that in a house of assembly, right?

A. Only if your mother had filed an application and then withdrawn it after a cease-and-desist letter had gone out.

Your example is not on all fours of what happened here, sir.

Q. I guess the issue here is: This prohibition is forward-looking.

And then I think you say, towards the end, if you see anybody conducting activities, you know, consistent with—that are a violation of the prohibitions I just layed out, you should report that.

MR. CLIMER: I'm going to object to the form of that one.

MR. QUAINTON: Okay. Can we -- let's go back to, if you could, Debi, if you could find where the mayor mentions reporting of conduct. It's towards the end.

(Record read.)

Q. So let's bring it back to Mr. Grand and what he has said his intent is.

He has said, in no uncertain terms, his intent is to have a group of people pray at his home on shabbos. Praying is an activity in a group setting—is an activity consistent with that you would find in a house of assembly, is it not, Mr. Mayor.

A. I don't. There was so much said here, I don't know what your question is now. What is your question?

Q. Okay. I'll try again.

Mr. Grand has said that his intent was to have a group of men form a minyan and pray in his house. You remember that, right, that he said that that was his intent?

- A. He has said a lot of things, that was a variation of it.
- Q. Okay. And you are aware that at a synagogue—
(Zoom interference.)
- Q. —congregate in a minyan and pray. That is something that happens in a synagogue, right?
- A. Your words got garbled there. I heard something that sounded like addison and gog.
- Q. That's correct or in a synagogue, in other words—
- A. In a synagogue, okay.
- Q. It's correct that a minyan would be present in a synagogue and that I would pray in a synagogue, right?
- A. I don't know that a minyan of men praying is necessarily—has to happen in a synagogue. I don't believe that's the case.
- Q. Well, that's exactly the point.
But in a synagogue, is it not the case that a minyan of men do gather and pray? That's something that happens in a synagogue, right?
- A. I think that is one of the things that can happen in a synagogue.
- Q. So if that same minyan of men, as you said, doesn't have to happen in a synagogue, happens in a private home, that's activity consistent with activity in a house of assembly, right?
- A. It may.
- Q. It would be prohibitive by your order of March 23rd?

A. If it violates the law. I mean, I did put a qualifier.

Q. Well, what you said was conduct consistent with that in a house of assembly is prohibited, right?

And so a minyan of men praying is activity that happens in a synagogue. It's one of the main things that happens in a synagogue. In fact, it doesn't have to happen in a synagogue. It can happen at Yankee Stadium, it can happen in JFK, it can happen anywhere.

What you're saying is, if you do that; that is, gathering as a minyan to pray in a home, that's prohibited, right?

A. No. I think it's exactly as you just said. Because a minyan could pray in any number of places, that that doesn't, by itself, determine what a synagogue is.

You brought up Yankee Stadium earlier, and Yankee Stadium is not a synagogue, although there are, you know, apparently some organized events that happen.

And, in fact, we would have later discussion, you know, after this hearing, where the city was prepared to—you know, once Mr. Grand made clear that all he was talking was doing that, and no longer talking about trying to get a special-use permit to open a shul, we were prepared to stipulate that he could do exactly that.

Q. I'm not talking about what happened afterwards. I'm really just talking about the prohibitions that you announced and the effects that they would reasonably have on a reasonable person.

Again, going back, just the language that you said is, let there be no mistake that it is not permitted to conduct activities consistent with those of a house of assembly in a residential setting, a residential home, and that—I'm not talking about what happened afterwards.

You talked about Mr. Grand being all over the place. I think the same thing could be said of the city.

That particular prohibition, would that not stop Mr. Grand from gathering a minyan of people in his home and doing what Jews do in synagogue, which is to gather in a minyan and pray—

MR. CLIMER: Objection.

Q. Prohibited under your order.

A. Well, no, I don't think it does, because, you know—and you've been back and forth on this, too—you don't need to be in a synagogue to gather a minyan of Jewish men to pray.

But what I spoke about at that evening, in that meeting, was performing activities consistent with operating a house of assembly. And praying is only one of several things that occurs in order to make a building a house of assembly.

Q. Well, it may be that your words, as you said, were prepared in haste. But the words you chose were that it was prohibited to conduct activities consistent with those in a house of assembly. Those were the words you used.

And, I guess, maybe looking back on it now, do you wish you had been more—that you would have used different words?

MR. CLIMER: Objection.

THE WITNESS: I stand by the words that I used.

It wasn't intended to be a treatise on religious use of properties. It was intending to inform the public that the city did not grant anything here, because the application had been withdrawn and that we were back to the status quo, which was the cease-and-desist letter. That didn't preclude future discussion. In fact, future discussion was had, which you know.

Q. I'm not talking about the future discussion. I want to focus on this, you may report this to the city.

So if somebody had seen activity consistent with that in a house of assembly, i.e. if somebody had seen men, Jewish men in traditional orthodox clothing, going into Mr. Grand's house, let's say four or five men going into the house, that somebody might think, wow, they are going in to conduct activities consistent with those in a house of worship, and I can report them.

Do you see how somebody could think that, listening to your words?

A. Somebody could.

Q. And do you regret that, that somebody could take your words and think they should be reporting on Jews who are seeking to pray in a private home?

- A. I wouldn't put it the way you did, but I don't regret letting our citizenry know that if they see something that they don't—that may be inappropriate, that they go ahead and report that.

There seems to be a lot of confusion among members of our community on an array of things that they happen to observe, that the city also observes.

You know, they are welcome to report something that they think may be out of order. And we're happy to look into it. And, you know, if there is something that is, in fact, out of order, we can address it, and if not, we can let the resident know there's nothing here.

- Q. Wouldn't this have been a perfect opportunity to call out the antisemitism that Ms. Urban had brought to your attention and was on display, in part, at the hearing of March 4th?
- A. It could have been. But at the same time there was really no business before the committee at this point, okay? So I would have been more likely to have brought it up if we had actually been able to deliberate.
- Q. So let's stop really quickly right now. I'm sorry, I didn't mean to cut you off. Did you have anything more to—
- A. What I'm saying is there's a lot more I would have said on the record if Mr. Grand hadn't withdrawn his application, including the fact that there were a lot of comments that were made, that have been, as you rightly, I think, observed, are or sounded antisemitism.

And had we had an opportunity to deliberate, I think we would have addressed that.

But that's a hypothetical at this point. Mr. Grand withdrew his application. We didn't get an opportunity to deliberate. There were a lot of things I was going to say on the record about his application, but I didn't.

Q. But you didn't use that opportunity to call out antisemitism, right?

A. I didn't use that opportunity to talk about the merits of his application either.

MR. QUAINTON: We're going to stop right now for one sec. I want to confer with Jonathan, see if there are any last few questions.

(Discussion held off the record.)

(Recess taken from 6:25 p.m. to 6:33 p.m.)

THE VIDEOGRAPHER: Back on the record, 6:33 p.m.
Go ahead.

(Exhibit 23 PB, Community News article,
updated 9-16-21, no Bates stamps, was marked
for the purposes of identification.)

Q. Let's go off. I'm having the same problem.

THE VIDEOGRAPHER: Going off the record at 6:33
p.m.)

(Recess taken from 6:33 p.m. to 6:39 p.m.)

THE VIDEOGRAPHER: Back on the record 6:36 p.m.
Go ahead.

BY MR. QUAINTON:

- Q. Mayor Brennan, this will be real quick. I'm just going to briefly show you an article that was published in—I think this is a Cleveland times, and the title here is “Jewish community decries presence of private investigator outside University Heights shul on a holy day,” dated September 16th 2021. There's a whole article about this.

Jonathan just briefly scroll through. You don't have to actually read it. It goes on for several pages.

There was, apparently, an investigator hired on Rosh Hashanah.

[. . .]

[October 31, 2023 Transcript, p.55]

. . . discovery.

- Q. I want to ask you a question, though, what—do you know what—what is a shul to you?
- A. Well, a—it's any number of things. You know, it can be a small gathering place, yes, you know. But it can also be, you know, in the case of like Aleksander Shul, they've called it a shul, but they've also called it the great shtetl. And, you know, it's much larger than a shul or a shtetl.

You know, in the case of Aleksander Shul, I was in the basement of that building at one time with at least hundred 120 or 130 other people.

And, you know, so—so in my experience, a shul has come to mean, you know, that which is a small gathering for a small group of folks or it can be a very large group. And a shul is interchange-

App.157a

able with a school and/or a synagogue, depending on context.

- Q. So if a shul can be a small gathering, what was it that made you think that Mr. Grand's use of the word shul was anything other than a small gathering?
- A. Well, because he built out his home on a . . .

[. . .]



SUPREME COURT
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