No. 25-965

In the Supreme Court of the United States

DANIEL GRAND,
PETITIONER,

v.

CITY OF UNIVERSITY HEIGHTS, OHIO, *et al.*,
RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF OF THE ISLAM & RELIGIOUS FREEDOM ACTION TEAM OF THE RELIGIOUS FREEDOM INSTITUTE AND THE JEWISH COALITION FOR RELIGIOUS LIBERTY AS *AMICI CURIAE* SUPPORTING PETITIONER

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INTEREST OF *AMICI CURIAE*[1]

The Religious Freedom Institute's Islam and Religious Freedom Action Team ("IRF") represents and amplifies Muslim voices on topics related to religious freedom, seeks a deeper understanding of the support for religious freedom from inside the teachings of Islam, and protects the religious freedom of Muslims across the country. IRF engages in research, education, and advocacy on core issues like freedom of religion, and the freedom to live out one's faith, particularly when, as here, those core natural rights are threatened by government officials. IRF explores and supports religious freedom by translating resources by Muslims about religious freedom, fostering inclusion of Muslims in religious freedom work both in places where Muslims are a majority and where they are a minority, and partnering with the Institute's other teams in advocacy.

The Jewish Coalition for Religious Liberty ("JCRL") is an association of American Jews concerned with the current state of religious-liberty jurisprudence. It aims to protect the ability of all Americans to freely practice their faith and foster

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[1] No counsel for any party authored this brief in whole or in part. No person or entity other than *Amici* and their counsel made a monetary contribution intended to fund the preparation or submission of this brief. Pursuant to Rule 37.2, *Amici* provided timely notice of this brief to all parties.

cooperation between Jews and other faith communities in pursuing that mission. Recognizing religious individuals' and organizations' ability to vindicate the right to religious autonomy serves to protect the religious liberty and freedoms of all Americans, including religious minorities.

Given these longstanding institutional interests, IRF and JCRL have a significant stake in the question presented here. *Amici* are concerned that, were this Court to permit the rule of the U.S. Court of Appeals for the Sixth Circuit below to stand, plaintiffs who allege violations of their constitutional rights to free exercise of religion will be blocked from vindicating those rights in federal court, as local government zoning officials can simply delay any consideration of a religiously based zoning request, depriving the religious adherent of its fundamental rights and statutory protections under the Religious Land Use and Institutionalized Persons Act ("RLUIPA").

INTRODUCTION & SUMMARY OF ARGUMENT

This Petition presents a simple but consequential question: may government officials circumvent RLUIPA by burdening religious exercise through denial by delay—via serial continuances, shifting demands, and procedural limbo—while insisting that nothing is ripe for judicial review because they have not yet said "no" in a final vote? The decision below effectively blesses that Kafkaesque regime, allowing officials to block religious use of property and then wield the absence of a formal denial to keep federal courts from hearing the merits at all. That rule is especially dangerous for Muslims, Jews, and other minority faith communities, which have long faced disproportionate resistance in zoning processes that appear neutral on paper but operate as instruments of exclusion in practice. In that setting, delay amounts to more than mere administrative inconvenience. It means missed worship, mounting costs, and the practical denial of the right to use one's own property for religious exercise.

This Court's review is warranted because the rule adopted by the Sixth Circuit below threatens religious exercise in one of the core contexts that prompted RLUIPA's enactment. Minority religious communities, including Muslims and Jews, disproportionately encounter implicit discrimination in land-use proceedings, and that discrimination often does not take the form of a clean denial. It

appears instead as repeated continuances, claims of incompleteness, shifting requirements, and other delay tactics that prevent religious use of property while preserving the government's argument that no final decision has yet been made. A ripeness rule that treats such burdens as unreviewable invites evasion and leaves serious interference with religious exercise without an effective remedy.

The Sixth Circuit erred by importing this Court's finality requirement from *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City*, 473 U.S. 172 (1985), into RLUIPA. That requirement arose from the special logic of Fifth Amendment takings claims, where a court cannot assess the alleged injury without a final and definitive land-use position. RLUIPA is different by text, structure, and purpose. Congress created a cause of action focused on whether government has imposed a substantial burden on religious exercise and directed courts to construe the statute broadly in favor of protecting that exercise. Nothing in RLUIPA supports a rigid final-decision rule, much less one that allows officials to defeat judicial review by stalling. At minimum, where delay and procedural obstruction themselves impose the burden, those actions are sufficiently final to permit suit.

ARGUMENT

I. This Court's Review Is Necessary To Protect The Ability Of Citizens—Particularly Those Who Practice Minority Religions—To Engage In The Free Exercise Of Religion On Their Property.

Permitting the Sixth Circuit's application of the more-onerous test for ripeness this Court adopted in *Williamson County* to RLUIPA claims will have a significant adverse effect on *Amici*, their members, and their institutional interests. Beyond merely being, with respect, an incorrect application of the law, the decision below will effectively require untold numbers of Americans, like Petitioner, *Amici*, and *Amici*'s members, to sit and wait while their fundamental right to exercise their religion on their own property withers on the vine. As history has shown, these harms will fall excessively on practitioners of minority religions, who overwhelmingly face the biases of their neighbors for practicing different faiths. As a general rule, America has been a welcoming home to religious minorities, while establishing a model of religious pluralism that deserves celebration. However, there have been unfortunate exceptions, including in the land use context. And the government action that effectively discriminates against these minority religious practices can be done without overt determinations that would be necessary to provide the sort of administrative finality *Williamson County* requires.

In fact, in a country where religious pluralism is the dominant model, covert discrimination is a bigger threat than overt bigotry. "Indeed, few States would be so naive as to enact a law directly prohibiting or burdening a religious practice as such." *Emp. Div., Dep't of Hum. Res. of Oregon v. Smith*, 494 U.S. 872, 894 (1990) (O'Connor J., concurring in the judgment).

A. Government Entities Use Purportedly Neutral Zoning Laws Inordinately Against Minority Religious Groups, Like Muslims and Jews.

It has long been understood that the protection RLUIPA provides is inordinately necessary to protect minority religious adherents. As the Department of Justice explained when reviewing its RLUIPA enforcement data, its "experience in its investigations since 2010 has reinforced the conclusion that minority groups have faced a disproportionate level of discrimination in zoning matters." U.S. Dep't of Justice, *Update on the Justice Department's Enforcement of the Religious Land Use and Institutionalized Persons Act: 2010–2016*, 4 (July 2016).[2] Despite Muslims, Jews, Buddhists, and Hindus comprising only 4.2% of the U.S. population in 2015, they nevertheless represented over 55% of the DOJ's RLUIPA investigations between 2010 and 2016 under RLUIPA. *Id.* at 5–6. Indeed, "religious groups often encounter[ ] overt and subtle forms of

[2] Available at https://www.justice.gov/crt/file/877931/dl.

discrimination when seeking zoning approval for places of worship—most often impacting minority faiths and newer, smaller, or unfamiliar denominations." U.S. Dep't of Justice, *Report on the Twentieth Anniversary of the Religious Land Use and Institutionalized Persons Act* 4 (Sept. 22, 2020).[3]

The harms against practicers of minority religions are often coupled with other forms of bigotry, and likely underreported. As the DOJ has explained in analyzing data on RLUIPA enforcement actions, this outsized mistreatment of minority faiths is sometimes "coupled with racial and ethnic discrimination," all of which falls on top of the fact that religious institutions, in general, "were often treated worse in zoning decisions than comparable secular institutions," creating a snowball effect on these minority religions. *Id.* (quoting H.R. Rep. No. 106-219, at 24 (1999)). And these numbers likely do not even show the whole picture. Some analyses of RLUIPA's efficacy have concluded that this important statutory regime "has, if anything, been under enforced," Douglas Laycock & Luke W. Goodrich, *RLUIPA: Necessary, Modest and Under-Enforced*, 39 Fordham Urb. L.J. 1021, 1048 (2012), meaning it is likely that there are untold cases of religious zoning

[3] Available at https://www.justice.gov/d9/press-releases/attachments/2020/09/22/report_on_the_twentieth_anniversary_of_rluipa_-_september_22_2020_0.pdf.

discrimination against minority religions that are simply never brought to court.

B. Such Discrimination Routinely Occurs *Without* An Obvious Final Decision By Governmental Decisionmakers, Which Simply Delay Their Determinations Instead Of Issuing A Formal Denial.

As the Petition well explains, although there is a Circuit split regarding the application of *Williamson County* in the RLUIPA context, there is no dearth of caselaw showing how local government zoning officials can (and will likely continue to) delay and otherwise chill First-Amendment- and RLUIPA-protected activity through their regulatory oversight actions, without ever outright denying a land use request. Pet.14–16, 29.

Unfortunately, as shown in the facts of this very case, government officials can impose their unlawful religious-land-use discrimination without having to announce themselves in a clean, appealable denial vote that would provide the necessary finality *Williamson County* requires. Instead, governmental entities regularly burden religious minorities through delay-as-denial tactics such as repeated continuances, agenda pulls, "incomplete" loops, escalating review costs, midstream rule changes, and last-step obstruction that prevents worship or religious service while preserving a litigation posture that no final decision exists. The danger of rigid finality rules in

this context is obvious. If a local government can stall and then argue that the stalled matter is unripe, discrimination can become practically unreviewable.

Courts have recognized this concern in closely analogous settings. For example, in *Sherman v. Town of Chester*, 752 F.3d 554 (2d Cir. 2014), the Second Circuit confronted a decade-long campaign of land-use obstruction, and held it would be "perverse" to let the government use "extreme delay" to escape accountability, explaining that "a final decision is not necessary" where the obstruction itself is the challenged governmental action. *Id.* at 563–69.

And in the RLUIPA context, courts likewise have refused to treat continued processing as a talisman against review when the claim is that the process is being used pretextually to frustrate religious exercise. Unfortunately, as the following cases demonstrate, these situations have often involved the targeting of religious minorities. RLUIPA protected the religious minorities from discrimination in these cases, but it would not do so under the rule adopted in the decision below. For example, the Court in *Garden State Islamic Center v. City of Vineland*, 358 F. Supp. 3d 377 (D.N.J. 2018), held that where "the issuance of a final decision [is] held in abeyance," that is "the very essence of the claim" that the process was invoked to frustrate the congregation's existence and substantially burdened the Islamic Center's religious exercise. *Id.* at 385–87. And in *United States v. County of Culpeper, Virginia*, 245 F. Supp. 3d 758 (W.D. Va. 2017), although the

town board refused to issue a final decision on the Islamic Center of Culpeper's permit application because that application was allegedly "insufficient," as well as claiming the application's deficiencies rendered it necessary for the ICC "to resubmit an application (or explore some other method) rather than sue," the district court found that the issue was ripe for adjudication because these delay tactics "were pretexts for religious discrimination." *Id.* at 765.

Even beyond the caselaw, examples of delay-as-denial in these contexts abound. Following the successful litigation of a mosque expansion on Long Island—after seven years of litigation—a local news outlet researched the widespread difficulties Muslim communities faced in building mosques near their homes. In researching "national mosque disputes" from 2005–2025, the reporters uncovered more than 70 major disputes, 52 of which resulted in "municipal pushback through the usage of zoning laws" against these Muslim communities. Amen Galinato, *'We Never Gave Up Hope.' Bethpage Muslims Settle Mosque Expansion Lawsuit*, WSHU (Dec. 17, 2025).[4] As this article explained, "zoning laws have been increasingly employed to discriminate against religious groups, but especially toward Muslim Americans," routinely through imposition of "administrative roadblocks in

[4] Available at https://www.wshu.org/long-island-news/2025-12-17/bethpage-muslims-mosque-expansion-lawsuit.

the approval process," such as a "years-long regulatory review." *Id.*

In another example, the West Valley Muslim Association of Los Gatos, California, was forced to seek special permit changes just to hold pre-dawn, late-evening, and Ramadan prayers, with the City's administrative proceedings placing a significant burden on the local Muslim community, particularly because the hearing itself happened only after Ramadan had already ended. Drew Penner, *Jewish Residents Rally with Muslim Community for Los Gatos Mosque Permit Modification*, Los Gatan (Apr. 1, 2026).[5] Despite the fact that the WVMA received cross-denominational support from local Jewish leaders, the Los Gatos Planning Commission voted to end meeting and continue public comment on another date, further delaying the ability of the WVMA to hold its crucial religious services. *Id.*

Finally, a local New Jersey planning board recently delayed its decision to approve a site plan for a synagogue and Rabbi's residence for months. In Holmdel, New Jersey, the Chabad Jewish Center of BCC, Inc., sought a site plan approval to develop a single-story religious center with numerous amenities for the local Jewish community, including "a 300-seat sanctuary, a multipurpose room for celebrations and holiday events, a youth lounge, a Hebrew school, a

[5] Available at https://losgatan.com/jewish-residents-rally-with-muslim-community-for-los-gatos-mosque-permit/.

library and space for community outreach programs." Sunayana Prabhu, *Holmdel Synagogue Wins Planning Approval Amid Community Concerns*, The Two River Times (Sept. 26, 2025).[6] Although the Chabad Jewish Center first appeared for a hearing before the planning board in December 2024, the board permitted supposed concerns by residents to create "months of debate and pushback" requiring numerous meetings, delaying any decision by the board until September of 2025. *Id.* Here, too, local government officials were able to significantly delay the applicants' exercise of their religious liberty, without any formal administrative denial.

While each of these examples show significant occurrences of administrative delays and run-arounds that impose substantial hardships on religious exercise, RLUIPA and the Constitution do not require courts to delay protecting religious exercise due to a form-over-function analysis which ignores the very real burdens imposed by bad-faith delay. Absent the protection of RLUIPA, religious minorities have no guarantee that such delays will ever come to an end. They may give up and decide to move to a different community rather than engaging in a Sisyphean process that seems aimed at excluding them. Where delay or claims of administrative incompleteness are the mechanism of exclusion, those very contentions

[6] Available at https://tworivertimes.com/holmdel-synagogue-wins-planning-approval-amid-community-concerns/.

can be the actionable restraint under RLUIPA. *See infra* Part II.

II. The Sixth Circuit Erred In Concluding That Petitioner's RLUIPA Claim Was Unripe.

Given all of the above, as well as the split of authority amongst the Circuits on this issue, the Question Presented is well poised for this Court's consideration. *See* Sup. Ct. R. 10(a). But, moreover, the decision below amounts to an incorrect application of law that conflicts with this Court's precedent, further warranting certiorari. Sup. Ct. R. 10(c).

A.1. "Ripeness is a justiciability doctrine designed 'to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies.'" *Nat'l Park Hospitality Ass'n v. Dep't of Interior*, 538 U.S. 803, 807 (2003) (quoting *Abbott Labs. v. Gardner*, 387 U.S. 136, 148 (1967), *abrogated on other grounds by Califano v. Sanders*, 430 U.S. 99 (1977)). When considered in the context of government decisionmaking, ripeness aims "to protect the agencies from judicial interference until an administrative decision has been formalized and its effects felt in a concrete way by the challenging parties." *Abbott Labs.*, 387 U.S. at 148–49. In the mine run of cases, ripeness is determined by the resolution of two generally straightforward inquiries: (1) whether the dispute presents a claim that is fit to

be "resolved through the judicial process" and (2) whether the court's withholding of an adjudication of the issues would create a hardship or "concrete harm" to the parties. *Trump v. New York*, 592 U.S. 125, 131, 133–34 (2020).

And so long as a plaintiff has suffered an actual injury or harm, "Congress has the power to define injuries and articulate chains of causation that will give rise to a case or controversy where none existed before." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 341 (2016) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 580 (1992) (Kennedy, J., concurring)). As this Court has well-noted, "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020) (per curiam) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion)).

Alternatively, this Court has applied a more specific and strenuous ripeness test in cases involving a regulatory taking of property under the Fifth Amendment. In such cases, the Court has held that claims "regarding the application of [a] zoning ordinance . . . to [a plaintiff's] property" are "not ripe" until the plaintiff "obtain[s] a final decision" from the regulatory entity." *Williamson Cty.*, 473 U.S. at 186, *overruled in part on other grounds by Knick v. Twp. of Scott, Pa.*, 588 U.S. 180, 189 (2019). In such cases, ripeness occurs only once the government entity "charged with implementing the regulations," has

"reached a final decision regarding the application of the regulations to the property at issue." *Id.* at 186–87. This is because a Fifth Amendment takings claim requires proof "that the Government has both taken property *and* denied just compensation." *Horne v. Dep't of Agric.*, 569 U.S. 513, 525–26 (2013). As this Court has explained, requiring such finality "is compelled by the very nature of the inquiry required by the Just Compensation Clause," because the unique factors significant to that inquiry "cannot be evaluated until the administrative agency has arrived at a final, definitive position regarding how it will apply the regulations at issue to the particular land in question." *Williamson Cty.*, 473 U.S. at 190–91. And even when the *Williamson County* finality requirement applies, the "rationales for the finality requirement underscore that nothing more than *de facto* finality is necessary," a "relatively modest" showing that merely "ensures that a plaintiff has actually 'been injured by the Government's action' and is not prematurely suing over a hypothetical harm." *Pakdel v. City & Cnty. of San Francisco, California*, 594 U.S. 474, 478–79 (2021) (per curiam) (quoting *Horne*, 569 U.S. at 525).

2. Under RLUIPA, government entities are prohibited from "impos[ing] or implement[ing] a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

(A) is in furtherance of a compelling governmental interest; and **(B)** is the least restrictive means of furthering that compelling governmental interest." 42 U.S.C. § 2000cc(a)(1) (formatting altered). RLUIPA defines "religious exercise" as "any exercise of religion, whether or not compelled by, or central to, a system of religious belief." 42 U.S.C. § 2000cc-5(7)(A).

Congress has made clear its intent to open the courthouse doors for these sorts of claims. Congress explicitly intended RLUIPA to "be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this chapter and the Constitution." 42 U.S.C. § 2000cc-3(g); *see also Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 714 (2014). And RLUIPA further advised how courts should consider justiciability arguments regarding any claims or defenses raised under RLUIPA—"[s]tanding to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution," while also explaining that RLUIPA claims adjudicated in non-federal forums "shall not be entitled to full faith and credit in a Federal court unless the claimant had a full and fair adjudication of that claim in the non-Federal forum." 42 U.S.C. § 2000cc-2(a), (c). Thus, at every available turn, Congress spelled out its intent to make RLUIPA claims available to those whose religious exercise was substantially burdened by a government decision relating to land use.

B. Here, the Sixth Circuit and several of its sister Circuits have erred in applying *Williamson County*'s inapposite ripeness/finality requirement to claims brought under RLUIPA.

RLUIPA claims simply do not uniformly demand final administrative decisions before a judicial remedy may be sought. Instead, Congress chose a different path—an RLUIPA plaintiff must show "a substantial burden on the religious exercise of a person," that is not saved by the government's showing of a "compelling governmental interest" that "is the least restrictive means of furthering that compelling governmental interest." 42 U.S.C. § 2000cc(a)(1). Congress' specific choice to require only a substantial burden on religious exercise is simply not compatible with *Williamson County*'s significant administrative finality requirements. *Bartenwerfer v. Buckley*, 598 U.S. 69, 80 (2023) ("This Court generally assumes that, when Congress enacts statutes, it is aware of this Court's relevant precedents." (citation omitted)). Coupled with the fact that *Williamson County* only required administrative finality because of "the very nature of the inquiry required by the Just Compensation Clause," 473 U.S. at 190–91, the finality requirement is simply a bad fit for RLUIPA's protective regime.

By adding this atextual judicial gloss on RLUIPA, the lower courts have imposed unnecessary and legally unsupported hurdles to the vindication of Free Exercise rights that Congress intended when it

enacted this statutory regime. For these reasons, the Court should grant the petition to consider and reverse the Sixth Circuit's ripeness decision.

CONCLUSION

The Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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