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 IN OPPOSITION

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QUESTION PRESENTED FOR REVIEW

This Petition raises the following issue that the lower courts unanimously decided in favor of the Respondents and in accord with the well-established law: Whether Grand demonstrated that there was a final decision implementing a local ordinance and whether any delayed adjudication would harm him. In the words of the Sixth Circuit, Grand could not establish the issue was ripe **and** that Grand was prejudiced by any delay. (Pet. at App. 8a.) Grand himself withdrew his application for a special use permit, stating "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." While Grand claims he subjectively felt he could not pray in his house the way he wanted, this record did not support that he was precluded from doing so, as there was no enforcement action against him, he used the house in the manner he wished, and Grand remains free to file a new action if the City applied the ordinance to him in a way that violates his statutory or constitutional rights. As the district court in this case held, "Simply put, the factual record before the Court is that the ordinance did not apply, Grand withdrew his application, and the City did nothing further." (Pet. at App. 49a.) This case presents no compelling issue before this Court.

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STATEMENT OF THE CASE

A. Introduction

This case arises out of Petitioner Daniel Grand's attempt to establish a place of religious assembly at his home in University Heights, Ohio. Grand applied for a special use permit to use his home as "a place of religious assembly" under the local zoning laws. Before City officials could finally resolve his petition, however, Grand withdrew the request, stating that he did not "wish to operate a house of worship as is defined under the zoning ordinance."

Approximately 18 months after withdrawing his application, Grand nonetheless filed a federal lawsuit against the City and several officials, raising an assortment of statutory and constitutional claims. The district court granted summary judgment for the City and its officials on the ground that some of Grand's challenges were unripe (which are the subject of this Petition) and the rest failed on the merits. A unanimous panel of the Sixth Circuit Court of Appeals affirmed that order. In sum, four decision-makers (the district court judge and a three-judge appellate panel) found no merit to Grand's claims under established ripeness law and these unique facts where he experienced no objective harm or hardship. Stripped to its essence, Grand merely wants to re-litigate issues he has previously conceded by withdrawing his special use permit, when he has continued to worship, and the city has taken no enforcement action (or has been any need to do so) against Grand. Further, the lower court's dismissal was without prejudice and Grand remains free to file a new action if the City applies the ordinance to him in a way that violates his statutory or constitutional rights, which has not occurred.

Candidly, Grand wants this Court to serve as a local planning commission and determine whether Local Ordinance UHCO § 1274.01 applies to the kinds of gatherings he ***now*** has in mind – whatever they may be and that is not clear. After appearing before the planning commission and by his own words being satisfied in that he no longer wanted to create "a place of religious assembly" under local ordinances, Grand seemingly wants this Court to serve as a local administrative body to evaluate whether under the City's Local Ordinance he can test how many people he can have at his house on a routine basis before it is prohibited as a "house of worship" under that ordinance.

The Sixth Circuit found that, "Grand does not point to a final decision implementing the challenged ordinance, and he does not show that delayed adjudication will harm him. As a result, his First Amendment, Fourteenth Amendment, Ohio Constitution, and RLUIPA claims are unripe, both because they are not fit for review **and** because Grand will not be prejudiced by any delay." (Pet. at App. 8a, emphasis added.) There is no objective harm or hardship. In sum, Grand does not demonstrate a "compelling" reason for review under Sup. Ct. R. 10. As an initial procedural matter, Grand did not make the specific arguments he now raises to the lower courts in any meaningful way, stripping the lower courts of an adversarial decision-making process and presenting issues of waiver/forfeiture before this Court. Further, in its decision, a unanimous Sixth Circuit panel affirmed the district court based on well-established law that overwhelmingly supported its decision. Despite Grand's newly found reliance on two federal circuit court decisions – both of which are distinguishable and do not establish

a substantial conflict – four decision makers applied well-established law that is routinely applied across the circuits. Grand does not establish a legitimate split based on the circumstances of this case. To the extent that there is a conflict at all, it is inconsequential and undermined by the unique facts of this case and well-established law. The lower courts properly granted/affirmed summary judgment in favor of these Respondents on the unique facts presented in this case. Those adjudications were "without prejudice" so Petitioner Grand could at any time seek relief should his rights be violated, which they have not.

This Court should deny this Petition.

B. Background Facts

The Sixth Circuit put forth the basic background facts that are devoid of advocacy and provide an adequate backdrop for adjudicating this case. (Pet. at App. 2a-5a.) For this Court's convenience, the Sixth Circuit's statement of facts is presented below:

> Daniel Grand lives in University Heights, Ohio. In 2021, he applied for a special use permit to use his home as "a place of religious assembly" under the local zoning laws. R.81-6 at 4. Before City officials could finally resolve his petition, however, Grand withdrew the request, stating that he did not "wish to operate a house of worship as is defined under the zoning ordinance." R.88-4 at 1. He nonetheless filed this federal lawsuit against the City and several officials, raising an assortment of statutory and constitutional claims. The district court

granted summary judgment for the City and its officials on the ground that some of Grand's challenges were unripe and the rest failed on the merits. We affirm.

I.

Daniel Grand and his family live in University Heights. Grand's Orthodox Jewish faith requires him to pray thrice daily with a group of ten men, what's known as a "minyan" in Hebrew. R.81 at 7. His faith also forbids him from driving on the Sabbath, which makes traveling to and from synagogues difficult. To more easily, and more "seriously," pray on the Sabbath, Grand began inviting friends to pray with him on the holy day. R.82-1 at 7; see R.81-1 at 3. To that end, he emailed around twelve of his neighbors, inviting them to three prayer sessions "for the inauguration of the Shomayah Tefilah Beis Hakeneset" at "[t]he Daniel J. Grand Residence." R.88-2. The invitation referred to the event as a "shul," which in Hebrew refers to a synagogue or a house where prayer groups are held. R.88. Grand introduced the Rabbi, Rabbi Rosskam, for the event and asked guests to "spread the word" and "consider bring[ing] someone with you." R.88-2.

A displeased neighbor forwarded Grand's email to University Heights Mayor Michael Brennan, who forwarded it to University Heights Law Director Luke McConville. On

January 21, 2021, McConville emailed Grand a cease-and-desist letter and told him to stop violating the City's zoning laws. The letter informed Grand that the City "has been made aware that [he] intend[s] to use" his house as "a place of religious assembly." R.81-6 at 4. Grand's house is zoned U-1, the letter continued, which prohibits the "use of the Premises as a place of religious assembly and/or in operation of a shul or synagogue." R.81-6 at 4. Violations of local ordinances, the letter added, could result in "building code citations against you." R.81-6 at 4.

After Grand received the letter, he told Brennan over the phone that he wanted to host only a small, informal prayer group. Brennan, who claimed to have observed at least 120 people in the basement of another residential shul, expressed skepticism.

Grand cancelled the next prayer meeting.

A day later, Grand applied to the City's Planning Commission for a Special Use Permit. In a U-1 zone, the Code of Ordinances permits only single-family dwellings, municipal or library buildings, and buildings owned by a board of education. UHCO § 1250.02. If a property owner obtains a Special Use Permit, however, he may operate a "[h]ouse[ ] of worship" within a U-1 zone. UHCO § 1274.01(b)(1); see UHCO § 1250.02(g). The City's Planning Commission issues the permits,

and unsuccessful applicants may appeal to the City Council. UHCO § 1274.01(d)(2). A separate body, the Board of Zoning Appeals, "decide[s] any question involving the interpretation of any provision" in the zoning code. UHCO § 1244.03. In his application, Grand indicated that he had "11 tables" and "21 chairs" in his recreation room, and that he wanted to use the room "for periodic religious gatherings." R.81-8 at 2.

On March 4, 2021, the Planning Commission held a public hearing on Grand's application. Through counsel, Grand described his plans for a men's only prayer group, to meet "once a week and on certain high holidays." R.82-1 at 140. Grand did "not disput[e]" that his proposed use would render his home "a place of religious assembly" within the meaning of UHCO § 1274.01(b)(1). R.82-1 at 140. But he distinguished his proposal from the "usual image[ ] of a formal synagogue." R.82-1 at 140.

Some of Grand's neighbors spoke against the proposal on the grounds that Grand understated the size of his proposed gatherings, that he had advertised the meetings on the internet, and that his proposed use would create traffic, fire, and parking issues in the area. Grand pointed out that the prayer group could not be the source of parking problems, as members of his religion "can't drive" on the "Sabbath and high holidays." R.81-11 at 9. The Planning Commission tabled the discussion, requesting more details from

Grand. It scheduled another hearing on Grand's application for a few days later.

In emails exchanged after the first meeting, some members of the five-member Commission doubted whether Grand's use would constitute a "[h]ouse of worship" and thus wondered whether he needed a permit at all. R.82-1 at 192–96. It is not clear, as one commissioner put it, when "a social gathering become[s] a house of worship." R.82-1 at 192.

Just before the Commission's second hearing, Grand withdrew his application. "I do not wish to operate a house of worship," he stated, as it is "defined under the zoning ordinance." R.88-4 at 1. The Commission still held the meeting as planned, and Mayor Brennan emphasized that Grand could not operate a "house of worship" without a permit. He also asked community members to report any violations to the City. The Commission never acted further on Grand's application.

The Planning Commission was not the only arm of City government that interacted with Grand during the spring of 2021. A Lieutenant in the University Heights Police Department directed patrol units to drive past Grand's house and check for code violations. A City prosecutor sought to investigate housing code violations inside the Grand residence. With the permission of Grand's wife, a housing inspector searched the house for violations. He apparently did not find any.

> Around 18 months after withdrawing his application for a zoning variance, Grand filed this lawsuit in federal court against the City and several of its officials.

(Pet. at App. 2a-5a.)

C. The district court grants summary judgment in favor of the City Defendants and dismisses Grand's First Amendment and RLUIPA claims without prejudice

At the district court level and after the parties filed cross motions for summary judgment, the district court dismissed Grand's RLUIPA, Ohio Constitution, First Amendment, and Fourteenth Amendment claims as unripe. It then rejected as a matter of law his FACE Act, Fourth Amendment, and several state law claims on the merits. The district court declined supplemental jurisdiction over Grand's Ohio Public Records Act claim.

The district court in relevant part properly held that the majority of Plaintiff's claims were not ripe. "Simply put, the factual record before the Court is that the ordinance did not apply, Grand withdrew his application, and the City did nothing further." (Pet. at App. 49a.) The district court reasoned that absent a showing the City expressed a final or definitive position, the issues and claims Grand presented were not ripe and the court did not have subject matter jurisdiction. The district court also held Grand failed to develop and thus forfeited a facial argument. Grand agreed that the City's ordinance did not apply to the circumstances of his intended use, otherwise rendering such claim moot.

D. The Sixth Circuit unanimously affirms

The Sixth Circuit unanimously held on these unique facts that, "Grand does not point to a final decision implementing the challenged ordinance, and he does not show that delayed adjudication will harm him. As a result, his First Amendment, Fourteenth Amendment, Ohio Constitution, and RLUIPA claims are unripe, both because they are not fit for review and because Grand will not be prejudiced by any delay." (Pet. at App. 8a.) To this day, no enforcement action has been pursued against Grand.

REASONS FOR DENYING THIS PETITION

A. Petitioner has not articulated a "compelling reason" for review.

"A petition for a writ of certiorari will be granted only for compelling reasons." Sup. Ct. R. 10. This case poses no "compelling reason" for review.

1. Grand's Petition suffers from serious forfeiture/waiver issues.

The argument that Grand makes to this Court was never articulated in any meaningful or developed way to the lower courts in this case. This is important in our adversarial system where arguments must be fully developed in the lower courts to be presented to higher courts for pointed review. Grand, who was represented by competent legal counsel, did not argue that the finality requirement does not apply to RLUIPA claims. This argument was forfeited by Grand in his opening circuit-

court brief, hence why the Sixth Circuit did not address the precise argument he now relies. Specifically Grand did not make the argument that the Sixth Circuit should follow *Roman Cath. Bishop of Springfield v. City of Springfield*, 724 F.3d 78 (1st Cir. 2013) and *Temple B'Nai Zion, Inc. v. City of Sunny Isles Beach*, 727 F.3d at 1357 (11th Cir.)[1] or articulate the questions he now presents in any developed way. The Sixth Circuit did not have a meaningful opportunity to consider and rule upon Grand's newly minted argument. Further, the argument that Grand makes is not supported by prevailing law under these factual circumstances and presented no real issue for the Sixth Circuit. This Court generally does not decide issues unaddressed on first appeal. See *Bank Markazi v. Peterson*, 578 U.S. 212, 225 (2016).

Grand now appears to argue that the local ordinance was vague. (See e.g. Pet. at 23, etc.) But that argument too is waived. Grand's case turns on whether his proposed gatherings would render his home a "house[ ] of worship"

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1. Although not an amicus party to this proceeding, the DOJ as amicus at the Sixth Circuit attempted to advance those arguments that Grand failed to make. The DOJ did not take a position on the merits of the case, only that it urged that the Sixth Circuit should remand to the district court to evaluate the various type of RLUIPA claims alleged to determine whether they relied upon the zoning to the specific property. (See generally Appellant's Br.; compare with the DOJ Amicus Party at 18 etc.,) The Party Presentation Rule prohibited the amicus party's tactic. The Sixth Circuit and this Court hold that when an amicus party raises issues that exceed those presented by the parties, that the Court "may not consider such issues." *In re Isaacs*, 895 F.3d 904, 917 (6th Cir. 2018); see also *United States v. Sineneng-Smith*, 140 S.Ct. 1575 (2020)(unanimously holding that the appellate panel abused its discretion and violated the party presentation rule).

under the ordinance UHCO § 1274.01(b)(1). City officials informed Grand that he could not establish a house of worship in violation of the local ordinances. Grand, even in the district court proceedings **never** argued that the ordinance was facially "vague." On appeal to the Sixth Circuit he belatedly attempted to do so, but Grand abandoned/forfeited any argument challenging that the ordinance was vague. (See Pet. at App. 15a, Sixth Circuit finding that the district court correctly held a party that does not adequately address an argument in response to summary judgment forfeits that argument and in this case there were cross-motions for summary judgment and holding that Grand's "conclusory references do not preserve his claims for appeal.").

Contrary to the Grand's representation that this is the "perfect vehicle," this case as a procedural matter is not a good platform to address any of the incorrect contentions that Grand makes because they were forfeited and not fully briefed in the lower courts.

2. The Petition does not state a "compelling reason" for review, rather his reason is largely factual as to whether he was harmed when he withdrew his special use petition and no enforcement action was made against him and the law is otherwise well established.

"A petition for a writ of certiorari will be granted only for compelling reasons." Sup. Ct. R. 10. This case poses no "compelling reason" for review.

Ripeness emerges from constitutional limitations on the authority of the federal judiciary and prudential

concerns about how and when courts exercise that power. *Nat'l Park Hospitality Ass'n v. Dep't of Interior*, 538 U.S. 803, 808 (2003). The doctrine disciplines the exercise of a court's jurisdiction, requiring it to stay its hand until a dispute comes into focus. *Warshak v. United States,* 532 F.3d 521, 525 (6th Cir. 2008) (en banc). To that end, courts consider (1) whether the claim is fit for judicial decision in that it arises out of a concrete factual context and an actual or likely dispute, *Trump v. New York*, 592 U.S. 125, 131 (2020) (per curiam), and (2) whether withholding adjudication would do hardship to the parties, *id.* at 134; accord *Abbott Lab'ys v. Gardner*, 387 U.S. 136, 149 (1967).

Grand focuses on the first prong to try to create a colorable legal issue – which there is none – but neglects the second prong, which is not only factual in nature and unsuitable for this Court's review but the lower courts easily found that he suffered no legitimate hardship. There is no evidence that Grand was denied the ability to engage in small religious gatherings in his home before or after withdrawing the SUP application. There is no evidence the City insisted he obtain a SUP for these small religious gatherings or that it interfered with Grand's religious gatherings after he withdrew the application. There is no legitimate actual or likely dispute by Grand's own words that he did not intend to operate a house of worship as is defined under the zoning ordinance and the fact that the City has never enforced its ordinance against him.

In the land-use context, one important factor in a dispute's fitness for judicial decision is a "finality" requirement—a concrete and final decision by the local authorities. *Williamson Cnty. Reg'l Plan. Comm'n v. Hamilton Bank of Johnson City*, 473 U.S. 172, 193

(1985), overruled in part on other grounds by *Knick v. Township of Scott*, 588 U.S. 180, 188 (2019). There is no final decision because Grand himself did not allow one and withdrew his application. Grand could not establish finality and certainly no distinct harm. Grand himself withdrew his application for a special use permit, stating "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." The Sixth Circuit easily found under established law that, "The University Heights Planning Commission never determined whether the ordinance applied to Grand's gatherings and never determined his eligibility for a special use permit. Nor was this the City's fault. Grand withdrew his application for a special use permit before anyone had a chance to adopt an interpretation of the ordinance or even to determine whether Grand needed a special use permit in the first place." (Pet. at App.9a.)

Grand's reliance on the cease-and-desist letter is equally untenable as a source of finality. Grand relies on the cease-and-desist letter to be a final decision. But, as the Sixth Circuit easily determined: "To ripen his claims, Grand needed a final decision from the agency with authority over the challenged regulations. That final decision would come from the Board of Zoning Appeals. McConville, the University Heights Law Director who sent the zoning-violation letter, has no role in the relevant agencies. And Mayor Brennan neither controls the Planning Commission nor sits on the Board of Zoning Appeals." (Pet. at 9a.) Grand also claims that the trying to obtain a final decision would be futile because the Planning Commission hearing would be meaningless. But, that is not the case. Even the emails from the "Commissioners

suggest that they found the issue complicated, and some viewed his use of his house for small prayer meetings as consistent with the ordinance." (Pet. at App. 11a.)

The Sixth Circuit also held that the case is not ripe because Grand has not shown that he has been harmed. (Pet. at App. 8a, Grand's claims are "unripe, both because they are not fit for review **and** because Grand will not be prejudiced by any delay.") Grand's claim is ultimately factual and emphasizes the limited nature of this dispute among these parties, not an issue of nationwide importance. It is unsuitable for this Court's review. To avoid this insurmountable obstacle to his claim, Grand argues that his rights were "chilled," but this is of his own subjective decision. Again, there has never been an enforcement action against Grand regarding the use of his residence as a house of worship. Grand claims that his ability to assemble in his house for religious worship has been "chilled," but it is specific objective harm, not "subjective 'chill,' " that counts. *Laird v. Tatum*, 408 U.S. 1, 14-15 (1972). And to that, there is at least some evidence that Grand has gathered convened a minyan on the Sabbath at least once that we know. Despite Grand's claim that the circuit appellate court did not address his "chilling effect" claim (Pet. at 12, 27 etc.), the Sixth Circuit expressly held, "Having chosen not to obtain a final decision, indeed any enforceable decision, about the application of the zoning rules to his home, [Grand] is the author of any chilling effect on his First Amendment interests, not the City." (Pet. at App. 14a.) There is no evidence of any enforcement action against Grand. And Grand's withdrawal of his application indicated he believed his conduct was not subject to the prohibitions in the letter Grand received stating that "to the extent" he was

or intended to do so, the use of his residence could not violate the local ordinance.

Further, Grand's dismissal was "without prejudice" and Grand remains free to file a new action if the City applies the ordinance to him in a way that violates his statutory or constitutional rights, which it has not.

Hardship from the denial of pre-enforcement review ordinarily emerges from a forced choice. Unable to assert his rights judicially, the plaintiff is left to pick between (1) compliance with a burdensome and potentially unlawful policy or (2) refusal to comply and the risk of sanctions that comes with it. (Pet. at App.12a, citing *Abbott Lab'ys v. Gardner*, 387 U.S. 136, 153 (1967); *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 168 (2014).) Some challenged policies do not "force" the plaintiff "to modify [his] behavior in order to avoid future adverse consequences." *Ohio Forestry Ass'n, Inc. v. Sierra Club*, 523 U.S. 726, 734 (1998). Without doubt, and as the Sixth Circuit expressly held, "the ordinance is such a policy and Grand is such a plaintiff." (*Id.*) To the extent Grand wants clarity of the ordinance, Grand has the ability to get that clarity through the local planning commission. The Supreme Court is not the proper forum for this clarity and does not serve as a de facto planning commission. The Sixth Circuit candidly observed, "Any gate to relief is locked from within. Grand may open the door whenever he wishes." (*Id.*)

Despite Grand's argument (Pet. at 13, etc.), there was no "immediate harm" by the cease-and-desist letter. As an initial matter, the letter is not an enforcement action and the City would have to take additional actions to impose any "harm." The letter did not impose a fine on him or any

kind of restriction other than what was in the ordinance itself. The fact that Grand maintained an application after the letter informing him of the ordinance would seem to indicate Grand wanted to go beyond the limitations of the local ordinance. The argument Grand makes is fatally undermined because he acknowledged that he withdrew his application because the local ordinance did not apply. In other words, Grand asserted that his conduct was not subject to the prohibitions outlined in the letter. Further, Grand's claim (or in his words, the "Mayor's March 23 pronouncement") that the Mayor caused "immediate" harm is also meritless. (Pet. at 12.) The Mayor simply stating that Grand, like everyone else in the community, must abide by the local law is not surprising or improper.

The law is well established that, "[A] church has no constitutional right to be free from reasonable zoning regulations nor does a church have a constitutional right to build its house of worship where it pleases." *Grace United Methodist Church v. City of Cheyenne*, 451 F.3d 643, 652 (10th Cir. 2006).

Grand argus that in the First Amendment context, "the law is settled that a plaintiff need not wait to be prosecuted if a coercive law chills the exercise the plaintiff's rights." (Pet. at 17[2].) But, there is no "coercive law" at issue here.

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2. Grand's caselaw in support is distinguishable and not at all like the facts of the present case. In *Steffel*, the police expressly stated the exact act (distributing anti-Vietnam War handbills) was forbidden and the defendant would unequivocally be arrested and prosecuted under criminal trespass law. *Steffel v. Thompson*, 415 U.S. 452, 459 (1974). But, here, the Local Ordinance did not apply by Grand's own words. In *Susan B. Anthony List,* there was sufficient imminent harm of prosecution. Here, Grand candidly stated he was

In the present case, the Local Ordinance did not apply by Grand's own words. There is a cease-and-desist letter that is neither an enforcement action nor coercive. In fact, a critical reading of the letter merely states that to the extent that Grand intends to go beyond what the local ordinance allows he may be subject to a violation. Further, there is no substantial threat of enforcement, as before and over the several years since Grand withdrew his application no enforcement has taken place.

3. No substantial conflict exists.

Grand and his amicus party's basis for a conflict is not substantial or even colorable under these circumstances. Grand argues that the Sixth Circuit's decision in this case purportedly conflicts with *Roman Cath. Bishop of Springfield v. City of Springfield*, 724 F.3d 78, 90–91 (1st Cir. 2013) and *Temple B'Nai Zion, Inc. v. City of Sunny Isles Beach*, 727 F.3d 1349, 1357 (11th Cir. 2013), cases that are more than a decade old generating no significant conflict and have no applicability in cases like the present one.

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not engaging in conduct that would implicate the local ordinance and no longer wanted a special use permit. There is no threat of prosecution. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 164 (2014) (reversing Sixth Circuit where threat of future enforcement was "substantial"). In *City of Lakewood*, a newspaper made a facial challenge to an ordinance granting a mayor authority to grant or deny applications for annual permits to place newsracks on public property. *City of Lakewood v. Plain Dealer Publ'g Co.*, 486 U.S. 750 (1988). Here, Grand forfeited any facial challenge to the ordinance and the present ordinance did not give the mayor authority to grant or deny a special use permit, which Grand by his own admission did not need.

When courts have chosen not to apply *Williamson* County's finality requirement, they have done so when the land-use regulation was changed to impose additional burdens after a plaintiff acquired the land, or when the regulation was targeted towards a specific plaintiff. Here, Local Ordinance UHCO § 1274.01 applies neutrally and generally to all citizens.

In *Roman Catholic Bishop of Springfield*, the First Circuit declined to apply the finality requirement where "the Ordinance [was] designed to apply only to the Church, unlike the neutral and generally applicable zoning" laws often at issue in these cases exactly like the one here. *Roman Catholic Bishop of Springfield*, supra at 91–92. In *Temple B'Nai Zion, Inc.*, the Eleventh Circuit reached the same conclusion with respect to a city's designation of a church as a historic landmark. *Temple B'Nai Zion, Inc.*, supra at 1356–57. For general land-use claims, *Temple B'Nai Zion* notwithstanding, the Eleventh Circuit nonetheless applies the finality requirement. See *Strickland v. Alderman*, 74 F.3d 260, 265 (11th Cir. 1996) see also *Eide v. Sarasota Cty.*, 908 F.2d 716, 726 (11th Cir. 1990); see *Chabad Lubavitch of the Quad Cities, Inc. v. City of Bettendorf, Iowa*, 389 F. Supp. 3d 590, 599–600 (S.D. Iowa 2019).

In the absence of some distinct harm, which also does not exist here, no court has found this type of claim ripe in circumstances similar to the ones presented here. The challenged ordinance existed before Grand acquired his property and is not specifically targeted or focused on Grand. Grand's claimed basis for a conflict is not meritorious under these circumstances. To the extent that there is a conflict at all between the circuits, it is inconsequential to the unique facts of the present case.

CONCLUSION

This Court should deny the Petition for a Writ of Certiorari.

Respectfully submitted,

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