

No. 25-965

In the Supreme Court of the United States

DANIEL GRAND,

Petitioner,

v.

CITY OF UNIVERSITY HEIGHTS, OHIO ET AL.,

Respondents.

**On Writ of Certiorari to the
United States Court of Appeals for the Sixth Circuit**

**BRIEF OF AMICUS CURIAE
GRACE NEW ENGLAND
IN SUPPORT OF PETITIONER**

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QUESTIONS PRESENTED

Whether the First Amendment's established chilling-effect doctrine, under which a credible government threat that deters the exercise of fundamental rights constitutes a complete and independently actionable constitutional injury, is displaced by the land-use finality requirement set forth in *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City*, 473 U.S. 172 (1985) when a plaintiff alleges that government threats both before and after a Planning Commission meeting chilled religious exercise, worship, and assembly.

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INTEREST OF AMICUS CURIAE¹

Amicus Curiae Grace New England is a small Christian church in Weare, New Hampshire who began meeting in the home of its pastor, Howard Kaloogian, in 2023. Much like the Petitioner, these in-home religious gatherings were subjected to scrutiny by the church's local municipality, which showed up unannounced to Pastor Kaloogian's home to investigate the church and demand the church obtain permission from the government before engaging in its religious exercise. After the church refused, the town responded by issuing a cease-and-desist letter and threatening to file a lawsuit against the church. But when the church filed suit in federal court to avoid these enforcement actions, the district court held its claims were unripe until it participated in the very process to which the church objected. Grace New England has an interest in protecting the right of its congregation—and other congregations around the country—to gather within homes for religious exercise.

¹ No counsel for a party authored this brief in whole or in part, and no person other than amicus curiae, its members, or its counsel made a monetary contribution to its preparation or submission.

SUMMARY OF ARGUMENT

The First Amendment protects the right of people to freely gather to engage in religious worship. And nowhere is the right more protected than within the confines of a person’s home. *See Tandon v. Newsom*, 593 U.S. 61 (2021); *see also Florida v. Jardines*, 569 U.S. 1, 6 (2013) (noting that a person’s home is “first among equals” in our constitutional order). In addition to the First Amendment’s protections, the Religious Land Use and Institutionalized Persons Act (RLUIPA) provides independent protection to in-home religious gatherings by prohibiting the government from unlawfully burdening or otherwise discriminating against such gatherings. 42 U.S.C. §§ 2000cc(a)–(b).

Despite the double protection afforded to in-home religious gatherings. Governments across the country have attempted to prohibit or unlawfully regulate in-home religious assemblies through the threat of fines or court action. These efforts reached their peak during the COVID-19 pandemic when such gatherings were outright prohibited despite favorable treatment for other comparable secular activities. *See, e.g., Tandon*, 593 U.S. at 62–63. But they continue to persist now, as demonstrated by the experiences of both Petitioner and Grace New England. Both had their in-home religious gatherings threatened by cease-and-desist letters and threats of additional legal action by their municipal governments. And both were incorrectly denied a federal forum to adjudicate their federal rights.

This Court’s precedents require a reversal of the Sixth Circuit’s erroneous decision. Just last term this Court reaffirmed that “a party need not always wait for the government to take coercive action against it before filing suit to challenge the government’s conduct” as long as there is “a credible threat of enforcement.” *First Choice Women’s Res. Ctrs., Inc. v. Davenport*, 146 S. Ct. 1114, 1122 (2026) (internal citation omitted). Once the government commits to a position through such a credible threat of enforcement, a dispute is ripe for judicial resolution. *See id.* at 1128; *see also Pakdel v. City & Cnty. of San Francisco*, 594 U.S. 474, 478–79 (2021). Just as the subpoena in *First Choice* was a sufficient government commitment to a position to make the dispute justiciable, so too were the actions of Respondents against Petitioner—and the town’s actions against Grace New England. This Court should reverse to ensure that religious adherents gathering in homes across the country have the right to file suit when the government infringes upon their religious liberties.

ARGUMENT

I. The First Amendment and federal law protect in-home religious gatherings.

The First Amendment “embraces” both the “freedom to believe and freedom to act.” *Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940). Thus, the Free Exercise Clause “protects not only the right to harbor religious beliefs inwardly and secretly[,]” but also “does perhaps its most important work by protecting the ability of those who hold religious beliefs of all kinds

to live out their faiths in daily life through ‘the performance of (or abstention from) physical acts.’” *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 524 (2022) (quoting *Emp. Div., Dep’t of Hum. Res. of Ore. v. Smith*, 494 U.S. 872, 877 (1990)).

Among the protected actions that people of faith most commonly engage in is gathering to engage in religious exercise, be it prayer, worship, acts of charity, or fellowship. See *Roberts v. United States Jaycees*, 468 U.S. 609, 622 (1984) (stating this Court has “long understood as implicit in the right to engage in activities protected by the First Amendment a corresponding right to associate with others”); see also *Watson v. Jones*, 80 U.S. 679, 728 (1871) (stating the First Amendment guarantees the right of religious believers “to organize voluntary religious associations”). Indeed, this Court has emphasized that gathering to engage in such religious actions “strike at the very heart of the First Amendment’s guarantee of religious liberty.” *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19–20, (2020). This core right is implicated anytime the government seeks to limit or prohibit religious adherents from collectively engaging in religious exercise. See *id.* Whether the exercise involves “attend[ing] Mass on Sunday or services in a synagogue on Shabbat,” all Americans enjoy the same right to assemble for in-person religious gatherings. *Id.* at 19 (explaining “there are important religious traditions” in multiple faiths that “require personal attendance”).

This Court’s precedents make clear that these rights apply equally regardless of whether the gatherings are large or small. Thus, in *Roman Catholic Diocese*, this Court enjoined an executive order by the Governor of New York limiting the churches and synagogues capable of seating between 400 to 1,000 people to no more than 10 or 25 people from hosting religious gatherings during the COVID-19 pandemic. 592 U.S. at 15, 19. *Tandon v. Newsom* involved a case where pastors challenged a similar COVID-19 restriction in California that “prevent[ed] them from holding in-home Bible studies and communal worship with more than three households in attendance.” See *Tandon v. Newsom*, 992 F.3d 916, 919 (9th Cir. 2021) (discussing the factual background of the case).

Based on largely the same reasoning set forth in *Roman Catholic Diocese*, this Court granted an injunction to secure the petitioners’ right to in-home religious gatherings. *Tandon v. Newsom*, 593 U.S. 61, 62 (2021). The Court rejected the Ninth Circuit’s reasoning that religious exercise in the home was somehow different or entitled to different protection than those occurring in “public buildings.” *Id.* at 63–64. Indeed, the Court emphatically stated the government could not “assume the worst when people go to worship [in their homes] but assume the best when people go to work.” *Id.* at 64 (quoting *Roberts v. Neace*, 958 F.3d 409, 414 (6th Cir. 2020) (per curiam)). The Court has therefore taken special care to protect in-home religious gatherings from government intrusion.

This approach accords with the special protections afforded to homes by other constitutional rights. In

the Fourth Amendment context, “the home is first among equals.” *Florida v. Jardines*, 569 U.S. 1, 6 (2013). And this Court has taken great care to protect the “the sanctity of a person’s living space.” *Lange v. California*, 594 U.S. 295, 303 (2021). The Fourth Amendment’s “very core” stands for “the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.” *Silverman v. United States*, 365 U.S. 505, 511 (1961); *see also Lange*, 594 U.S. at 303 (“‘Freedom’ in one’s own ‘dwelling is the archetype of the privacy protection secured by the Fourth Amendment’”) (quoting *Payton v. New York*, 445 U.S. 573, 585, 587 (1980)). After all, a “man’s house is his castle,” and the common law has long recognized this status affords special rights to the home. *See Lange*, 594 U.S. at 310 (quoting *Payton*, 445 U.S. at 596).

Thus, in addition to the robust protections afforded by the Fourth Amendment, our constitutional scheme has recognized multiple additional prohibitions on government intrusion into the home. The Third Amendment prohibits “the unconsented peacetime quartering of soldiers” within a person’s home. *Katz v. United States*, 389 U.S. 347, 350 n.5 (1967). Further, central to “the inherent right of self-defense” guaranteed by the Second Amendment is the right to defend “the home, where the need for defense of self, family, and property is most acute.” *District of Columbia v. Heller*, 554 U.S. 570, 628 (2008). And as discussed above, the First Amendment clearly protects the right of people to engage in religious exercise within their home, regardless of whether such exercise is done alone or collectively. *See Tandon*, 593 U.S.

at 62; *see also Sause v. Bauer*, 585 U.S. 957, 959 (2018) (holding the First Amendment protected a woman’s right to pray in her home). Combining all these protections together leads to the inescapable conclusion that the home truly is a “first among equals” when it comes to constitutional protections, be it the right of self-defense or the right to gather with others to engage in religious exercise. *Cf. Jardines*, 569 U.S. at 6.

In addition to the robust protections offered to in-home religious gatherings provided by the First Amendment, federal law provides its own independent protections for such activities. Congress enacted RLUIPA in 2000 to protect religious institutions from discriminatory and unduly burdensome land use regulations. The statute’s definition of “land use regulation” encompasses any “zoning or landmarking law, or the application of such a law, that limits or restricts a claimant’s use or development of land (including a structure affixed to land)[.]” 42 U.S.C. § 2000cc-5(5). It protects “*any*” exercise of religion, even those that are not “compelled by, or central to, a system of religious belief.” 42 U.S.C. § 2000cc-5(7) (emphasis added). And importantly, “[t]he use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose.” *Id.* RLUIPA therefore contemplates protection the protections of a home used for religious exercise.

Among the protections RLUIPA offers to in-home religious exercise is a prohibition on the use of land use regulations that impose “a substantial burden on

the religious exercise of a person, including a religious assembly or institution,” unless the government demonstrates that the burden furthers “a compelling governmental interest” and is “the least restrictive means of furthering that compelling governmental interest[.]” 42 U.S.C. § 2000cc(a)(1). RLUIPA also prohibits the government from “impos[ing] or implement[ing] a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.” 42 U.S.C. § 2000cc(b)(1). Stated another way, RLUIPA bars the government from treating gatherings within a home for religious purposes less favorably than comparable secular gatherings. *See id.* Finally, RLUIPA prohibits the government from using a land use regulation to discriminate on the basis of religion or to exclude or unreasonably limit religious assemblies within a jurisdiction. *See id.* at § 2000cc(b)(2)–(3). Layering these protections with those discussed above, there is no doubt that the constitution and federal law “doubly protect[]” religious exercise within the home. *Kennedy*, 597 U.S. at 543.

II. State and local governments across the nation continue to chill and regulate in-home religious gatherings.

Unfortunately, these protections are often ignored by local officials enforcing land use regulations. There is a growing trend of officials attempting to prohibit or unlawfully regulate in-home religious assemblies through the threat of fines or court action. The enforcement mechanisms used by these officials mirror the actions taken by the government in this case.

This problem reached its peak during the COVID-19 pandemic when state and local governments across the country issued emergency orders barring or severely limiting people of faith from gathering either publicly or in homes for religious worship while allowing favored secular activities to operate freely. *See, e.g., Tandon v. Newsom*, 593 U.S. 61 (2021); *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14 (2020). But the problem has persisted even after the pandemic ended. Recognizing the gross abuse of government power during the COVID-19 pandemic and the ongoing threat of such abuses of power in the future, nine states—including Kentucky, Montana, South Carolina, Arizona, Oklahoma, Tennessee, Florida, New Hampshire, and North Dakota—have passed new laws to bolster protections for religious gatherings.² Texas likewise passed a constitutional amendment to prohibit the government from limiting or prohibiting religious gatherings. TEX. CONST. art. I, § 6-a.

While the New Hampshire bill was under consideration, its sponsor explained the threat many in-home religious gatherings have faced from local government officials. He introduced the bill because he knew people “who were having difficulty with their local land use people about the number of people they could have in their house for a prayer meeting”

² Ky. Rev. Stat. § 39A.100(1)(c)4.; Mont. Code Ann. § 27-33-105; S.C. Code Ann. § 1-33-20; Ariz. Rev. Stat. § 41-1495.01; Okla. Stat. tit. 51, § 253; Tenn. Code Ann. § 68-2-609(b); Fla. Stat. Ann. § 252.64; N.H. Rev. Stat. Ann. § 674:76; N.D. Cent. Code § 23-01-05(6)d(4)–(5).

and wanted to eliminate the situation where a “home church” is forced to go to court to be able to practice its religion. *See* New Hampshire Senate Livestream, Senate Election Law and Municipal Affairs Hearing at 4:58–8:31 (Mar. 21, 2022).³ These threats are not limited to any particular state either, as demonstrated by Petitioner’s case.

Indeed, a situation similar to Petitioner’s can be found in the Town of Weare, New Hampshire. Pastor Howard Kaloogian founded Grace New England Church in his home as a church plant in 2023. *See Grace New England v. Town of Weare*, No. 1:24-CV-41-PB-AJ, 2025 WL 3187102, at *2 (D.N.H. Nov. 10, 2025). Consistent with the origins of countless congregations across the country, Pastor Kaloogian opened his home to serve as the site for the congregation’s small religious gatherings, including a barn that Pastor Kaloogian had used previously to host a wide range of political and social events. *See id.* at *2. Despite never raising any objections to the secular events hosted on Pastor Kaloogian’s property, the Town officials showed up unannounced to his property to demand that the church obtain approval from the Town’s Planning Board to operate through its site plan process in August 2023. *See id.* at *5.

After the church declined to apply for a site plan, the Town sent a cease-and-desist letter in October 2023 demanding that the church immediately cease all religious gatherings at the property until the Town had approved a site plan. *See id.* It indicated that a

³ Available at <https://perma.cc/82P9-MF9C>.

failure to comply with the letter's demands would be subject to fines totaling hundreds of dollars per day. *See id.* The church retained legal counsel to respond to the Town's letter, which resulted in a temporary stay of enforcement threatened by the Town's letter, but it was not long until the Town again amped up its pressure. *See id.* at *5–6. In December 2023 the Town's attorney issued an ultimatum: the church must seek permission from the Town to hold religious gatherings on its property or the Town would file a lawsuit against the church to compel it to do so. *See id.* at *6.

Facing the threat of legal action, the church and Pastor Kaloogian filed its own federal lawsuit and sought a preliminary injunction to secure its right to engage in religious gatherings within a home. *See id.* It was only after the church took this preemptive action that the Town reneged on its threatened legal action, opting instead to shift to a tactic of moving the goalposts on what it required of the church. *See id.* It represented to the district court that the church could obtain its desired relief if it would only request a waiver from the Town. *See id.* at *4. When the church submitted a written waiver request, the Town responded by telling the church to submit the same site plan review form it had insisted on since the start of the dispute. *See id.* at *6.

While moving the goalposts, the Town simultaneously argued in court that the case was not ripe in its motion for summary judgment. *See id.* at *8–9. The Town stated in its briefing that all it required was for the church to attend a public hearing to engage in

what it called a conceptual review. *See id.* at *9. Relying on the Town’s representations that this conceptual hearing was “the earliest procedural juncture at which the [Town’s] Planning Board has authority to issue a waiver from further review[,]” the district court largely agreed with the Town’s arguments and dismissed the majority of the church’s claims as unripe because the church had not subjected itself to a public hearing. *Id.* at *4, *9. Regarding the sliver of claims left, the court ruled in favor of the Town, holding that the participation in the Town’s administrative process did not violate the church’s rights. *See id.* at *10–16.

While the parties’ summary judgment briefing was still pending, the church submitted a conceptual form and agreed to attend a public hearing on the requested waiver from further site plan review. *See* November 7, 2025 Letter to Judge Barbadoro, *Grace New England v. Town of Weare*, No. 1:24-CV-41-PB-AJ (D.N.H. Nov. 10, 2025), ECF No. 51. However, the district court did not wait for the public hearing to occur before issuing its ruling in the Town’s favor. Emboldened by the district court’s summary judgment ruling, the Town again moved the goalposts at the hearing. Refusing to even consider the church waiver request, the Town now insisted that the church must submit a full site plan application to obtain such a waiver—a position that directly contradicted sworn testimony offered by the town in the federal litigation. *See Grace New England v. Town of Weare*, No. 1:24-CV-41-PB-AJ, 2026 WL 2085368, at *2 (D.N.H. July 20, 2026). The filing of such an application would require the church to incur additional costs and provide

notice to all abutting property owners of its religious gatherings. *See id.*

Shortly thereafter, the church requested that the district court amend its judgment based upon the Town’s latest conduct. *See id.* In July, the district court denied the motion to amend. *See id.* at *5. Thus, even though the Town engaged in conduct that chilled and otherwise attempted to regulate the church’s religious gatherings, the church was left with no federal judicial forum in which to assert its rights under the First Amendment or RLUIPA—much like the Petitioner in this case. Such an outcome in either case contravenes this Court’s precedent.

III. This Court’s precedents permit religious claimants to challenge unconstitutional government action before the government takes coercive action.

Last term, this Court unanimously decided the case of *First Choice Women’s Res. Ctrs., Inc. v. Davenport*, 146 S. Ct. 1114 (2026), in which it held that a religious non-profit organization had standing to challenge a subpoena it received from the New Jersey Attorney General in federal court. In its opinion, the Court reaffirmed that “a party need not always wait for the government to take coercive action against it before filing suit to challenge the government’s conduct.” *Id.* at 1122. Instead, it “may bring a pre-enforcement suit seeking prospective relief against government officials so long as it faces ‘a credible threat of enforcement.’” *Id.* (quoting *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 161, 164–67 (2014)). When

such a credible threat of enforcement is made, it “inevitably deters the exercise of First Amendment rights . . . as effectively as other forms of governmental action” for “as long as [the threat] remains outstanding.” *Id.* at 1125 (cleaned up). After all, “[t]he value of a sword of Damocles is that it hangs—not that it drops.” *Id.* at 1127 (quoting *Arnett v. Kennedy*, 416 U.S. 134, 231 (1974) (Marshall, J., dissenting)).

This Court’s holding in *First Choice* compels a ruling that a credible threat of enforcing a land use regulation against in-home religious gatherings creates a justiciable dispute. Like many municipalities across the country, the City of University Heights began enforcing its zoning laws with the issuance of a cease-and-desist letter threatening future legal action if the religious gatherings continued in Petitioner’s home. *See Grand v. City of Univ. Heights*, 159 F.4th 507, 510 (6th Cir. 2025); *cf. Grace New England*, 2025 WL 3187102, at *5 (discussing the town’s issuance of a cease-and-desist letter). Like the subpoena in *First Choice*, the cease-and-desist letter committed Respondents to a position by demanding that Petitioner cease hosting religious gatherings. *See First Choice*, 146 S. Ct. at 1128. It matters not that Respondents remained free to alter their initial demand or that they might ultimately be unsuccessful in obtaining judicial relief to enforce the relevant zoning laws. *See id.* None of these potential future events undo the “inevitable injury” Petitioner—or any other recipient of such a cease-and-desist letter—experienced to his religious liberties when Respondent issued the letter—an injury Petitioner continued to experience so long as

the letter remained outstanding. *Id.* (quoting *Buckley v. Valeo*, 424 U.S. 1, 65 (1976)).

In holding otherwise, the Sixth Circuit incorrectly applied this Court’s precedent regarding ripeness. The Sixth Circuit found that Petitioner was required to obtain a ruling from the City’s zoning board before his claim became ripe. But forcing Petitioner to endure such a process runs headlong against “the settled rule . . . that exhaustion of state remedies ‘is *not* a prerequisite” to filing an action to enforce constitutional rights. *Knick v. Twp. of Scott*, 588 U.S. 180, 185 (2019) (emphasis in original) (quoting *Heck v. Humphrey*, 512 U.S. 477, 480 (1994)). Instead, federal courts are uniquely responsible for vindicating constitutional rights where “there is no question that the government’s definitive position on the issue has inflicted an actual, concrete injury of requiring [Petitioner] to choose between surrendering [use] of [his] property or facing the wrath of the government.” *Pakdel v. City & Cnty. of San Francisco*, 594 U.S. 474, 478–79 (2021) (cleaned up). In such circumstances, federal courts “have a ‘virtually unflagging’ obligation to exercise the jurisdiction given them.” *First Choice*, 146 S. Ct. at 1127 (quoting *Sprint Communications, Inc. v. Jacobs*, 571 U.S. 69, 77 (2013)).

In *Pakdel*, this Court explained that the “relatively modest” “finality requirement” for constitutional claims to be ripe: a plaintiff need only show “there is no question about how the regulations at issue apply to the particular land in question.” 594 U.S. at 478 (cleaned up). “Once the government is committed to a position . . . potential ambiguities evaporate

and the dispute is ripe for judicial resolution.” *Id.* at 479.

Applying this rule in *First Choice*, the Court found the Attorney General’s subpoena cleared this modest finality requirement by committing the government to a position that created a sword of Damocles to hang over protected First Amendment activity. *See First Choice*, 146 S. Ct. at 1128. So too here. Reaching any other conclusion threatens to “hollow out” the promised protections of federal statutes like Section 1983 and RLUIPA, provisions Congress enacted “with the express goal of ensuring a federal forum to citizens who claim that state actors have violated their constitutional rights.” *Id.* at 1126, 1129. This Court should not allow municipal state actors like Respondents to avoid judicial review by making religious adherents navigate a labyrinth of administrative proceedings, particularly since these municipal actors often “mov[e] the goalposts” regarding what those proceedings require. *See Tandon*, 593 U.S. at 64 (quoting *S. Bay United Pentecostal Church v. Newsom*, 592 U.S. 1243, 1249 (2021) (Statement of Gorsuch, J.)). Instead, it should establish a simple rule: once a government commits to a position through a credible threat of enforcement like a cease-and-desist letter, a religious adherent experiencing a chilling effect on protected First Amendment activity may file suit in federal court. Such a rule accords with this Court’s justiciability requirements.

Such a standard would also be in accordance with the well-established is the notion that “[t]he loss of First Amendment freedoms, for even minimal periods

of time, unquestionably constitutes” a cognizable injury. *Roman Cath. Diocese of Brooklyn*, 592 U.S. at 19 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion)). This steadfast protection of the First Amendment’s guarantees has long applied to all aspects of religious exercise. Thus, whether a case involves the protection of parents’ right to direct the religious upbringing of their children, *see, e.g., Mirabelli v. Bonta*, 607 U.S. 492, 497 (2026); *Mahmoud v. Taylor*, 606 U.S. 522, 569 (2025), or the right to freely gather for religious worship, *see, e.g., Tandon*, 593 U.S. at 64 (2021); *Harvest Rock Church, Inc. v. Newsom*, 592 U.S. 1120 (2020); *S. Bay United Pentecostal Church v. Newsom*, 592 U.S. 1243 (2021); *Gish v. Newsom*, 592 U.S. 1255 (2021); *Gateway City Church v. Newsom*, 592 U.S. 1301 (2021), this Court has repeatedly emphasized there is no acceptable period of time during which the government may deprive its citizens of their fundamental religious liberties. The same is true when the government takes action to deter protected First Amendment activity. *See First Choice*, 146 S. Ct. at 1125.

This Court should reverse the Sixth Circuit’s erroneous holding and reaffirm that governments who seek to unlawfully regulate and prohibit religious gatherings—particularly those held within a person’s home—may be held accountable in the federal forum Congress intended.

CONCLUSION

The Court should reverse the judgment below.

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