

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 THE NATIONAL SPIRITUAL ASSEMBLY
OF THE BAHÁ'ÍS OF THE UNITED STATES
AS AMICUS CURIAE
IN SUPPORT OF PETITIONER

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INTERESTS OF *AMICUS CURIAE*¹

The [National Spiritual Assembly of the Bahá'ís of the United States](#) (“Assembly”) is the national governing body of the Bahá'í Faith in the contiguous United States. The Assembly serves a diverse religious community of approximately 175,000 adherents residing in communities throughout the Nation and is responsible for fostering and coordinating the spiritual and community life of American Bahá'ís.

One of the youngest independent world religions (originating 1844), the [Bahá'í Faith](#) comprises some eight million followers of Bahá'u'lláh spread across more than 200 countries. Central to Bahá'í belief are the oneness of humanity, the elimination of racial and religious prejudice, the equality of women and men, the harmony of science and religion, and justice and equity as foundations for world peace.

Bahá'ís take time every day to pray, read from Sacred Writings, meditate, and reflect on how to translate Bahá'í teachings into action. In place of clerical intermediaries, each person is responsible for his own spiritual development and relationship with God, through independent investigation of truth. Bahá'ís are guided by Local and National

¹ In accordance with Rule 37.6, no counsel for any party authored this brief in whole or in part. No person or entity other than *amicus* and its counsel made a monetary contribution intended to fund the preparation or submission of this brief.

Spiritual Assemblies, whose members are elected annually from the community itself, and who assist in organizing and administering the Faith's affairs, under the global governance of The Universal House of Justice. Within this Administrative Order, diverse membership and consultative decision-making are basic features of the Bahá'í model of leadership.

The Assembly has a particular interest in the question presented here because the religious life of many Bahá'í individuals and communities occurs in private home settings rather than in dedicated religious facilities. The great majority of local Bahá'í communities in the United States worship without physical houses of assembly or other permanent religious structures. Holy day commemorations, devotional gatherings, study groups, children's classes, youth activities, and other forms of religious practice and observance frequently take place in private homes. For most Bahá'í communities, such home gatherings are an ordinary and essential feature of religious life.

Certain features of the Bahá'í community provide a unique perspective that may assist the Court in considering this appeal. For example, Bahá'í teachings emphasize obedience to government and respect for lawful civil authority. And, consistent with their moral imperative to promote unity and avoid divisive conduct, Bahá'ís refrain from participation in partisan political activity. Moreover, Bahá'í institutions are administered primarily by volunteers rather than professional

clergy, and those institutions are funded solely through contributions from members of the Bahá'í community. These characteristics give the Bahá'í community a distinctive interest in the application of the First Amendment and the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), [42 U.S.C. § 2000cc](#) *et seq.*, to home-based religious gatherings.

In offering its perspectives, the Assembly does not seek special treatment for Bahá'ís or exemption from neutral zoning and land-use regulations. Rather, it respectfully submits this *amicus* brief to assist the Court in understanding how the rule adopted below could affect religious communities whose worship occurs primarily in homes, whose members seek to comply with governmental directives while avoiding political entanglement as a matter of religious conviction, and whose self-funded institutions are administered principally by volunteers.

SUMMARY OF THE ARGUMENT

Religious liberty is tested not only when government officials confront large, established religious institutions, but also when they burden the ordinary religious practices of minority faith communities. For many of the latter groups, worship does not primarily occur in dedicated structures set aside for religious use. It occurs in private living and dining rooms where believers gather for prayer, devotion, study, fellowship, and service.

The Bahá'í Faith is one such community. The overwhelming majority of Bahá'í devotional life in the United States occurs not in specially-constructed religious buildings or formal houses of worship, but in neighborhood home gatherings. For many local Bahá'í communities across the continent, particularly smaller ones, private homes are the principal venue in which communal religious life is daily experienced and sustained.

This appeal thus presents a question of profound importance to the Bahá'ís. The theory advanced by Respondent the City of University Heights and adopted by the courts below effectively permits suppression of free exercise through process. Under that approach, a municipality may issue a cease-and-desist order, induce immediate cessation of religious gatherings, require worshippers to navigate an uncertain and potentially lengthy administrative process, and then argue that no justiciable federal injury exists until that arduous process concludes.

The City's theory cannot be reconciled with this Court's repeated admonitions that a plaintiff need not "expose himself to liability before bringing suit to challenge the basis for the threat," *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 128–29 (2007), and that whenever a plaintiff intends to engage in conduct "arguably affected with a constitutional interest," pre-enforcement review is available as soon as that conduct becomes subject to a credible threat of proscriptive enforcement. *Susan B. Anthony List v. Driehaus*, 573

U.S. 149, 159 (2014). See also *First Choice Women's Res. Ctrs. v. Davenport*, 146 S. Ct. 1114, 1125 (2026) (victim of constitutional injury may sue in federal court “when a defendant burdens a plaintiff’s constitutional rights,” without awaiting completion of some other proceeding).

For Bahá’ís, the danger is especially acute that, without meaningful judicial review, process itself can suppress religious exercise. A central tenet of the Bahá’í Faith is obedience to government and respect for lawful civil authority. Bahá’ís do not engage in civil disobedience; rather, they view it as a divine imperative to comply with lawful governmental directives and to contribute constructively to the communities in which they live. This imperative is but one manifestation of the defining fundament of Bahá’í spiritual life: promoting the unity of humankind and avoiding divisive and disunifying conduct.

A township’s cease-and-desist order directed at Bahá’í religious activity thus would not operate merely as an opening move in an administrative negotiation. Bahá’ís are unwilling to risk sanctions while challenging the cease-and-desist order and would thus be put in an untenable situation: they would have to choose between immediately halting activity core to their religious identity or engaging in conduct that defies authority. Either choice would force them to act contrary to their sincerely-held religious beliefs. The coercive effect on Bahá’ís is therefore not hypothetical and would arise the moment the order is issued.

This chill on worship is intensified by another defining feature of the Bahá'í Faith: Bahá'ís have no clergy. They have no ordained priesthood, rabbinates, or other professional religious class charged with shepherding the devotional life of the community. Instead, Bahá'í communities are ministered by annually-elected spiritual assemblies whose members are, in the ordinary course, volunteers drawn from the community itself. The persons responsible for responding to governmental demands concerning Bahá'í worship are therefore not clerics but ordinary believers whose service to the community is performed alongside their family, professional, and civic responsibilities. Prolonged zoning proceedings would impose burdens not merely on an abstract religious institution, but directly on worshippers themselves.

Those burdens are amplified still further by other characteristics of Bahá'í religious practice. Bahá'ís abstain from partisan political activity and do not seek to advance religious interests through political influence. Bahá'í institutions also do not accept financial contributions from outside the community. Consequently, when local officials subject religious activity to discretionary and protracted proceedings, Bahá'í communities could not rely on many of the practical mechanisms that other organizations use to navigate politically-responsive processes, finance extended disputes, or absorb administrative burdens.

The decisions below give insufficient weight to these realities. The Sixth Circuit treated Daniel

Grand's injury as incomplete and nonjusticiable because local officials had not yet rendered a final zoning determination. But for communities like the Bahá'ís, the burden on religious exercise would arise long before any final administrative decision is rendered.

When government officials order worshippers to cease home-based religious gatherings and threaten enforcement if they continue, the practical effect is immediate. Religious meetings are canceled. Community life is disrupted. Spiritual imperatives are compromised. Worship is chilled.

The chronology of this case illustrates how immediately the burden arose. The City informed Mr. Grand that religious use of his home was "prohibited," demanded that he "immediately cease and desist," and threatened enforcement. JA-199. The Mayor personally reinforced that message, declaring that Mr. Grand was "under no circumstances allowed to have any type of religious gathering in [his] home without first obtaining a special use permit." JA-10. A willful zoning violation would have been a first-degree misdemeanor carrying up to six months' jail or a fine of \$1,000 per offense. Pet. Br. 19, citing UHCO § 1242.99.

Mr. Grand responded exactly as a law-abiding believer would be expected to do: he advised the City that he was "totally willing to comply," JA-13, cancelled the planned prayer gathering, JA-190-91, and entered the mandated permitting process. Only later did City officials acknowledge

that the small prayer gatherings Mr. Grand sought to host may not have required a permit at all. JA-277. But the injury was not the eventual outcome of the process. It was the cessation of worship occasioned by the City's initial command.

This Court has long recognized that “the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Respectfully, this Court should reject the notion that religious believers must complete a discretionary municipal approval process before seeking protection for injuries already and irreparably inflicted upon their religious exercise.

ARGUMENT

I. AN OFFICIAL CEASE-AND-DESIST ORDER IMMEDIATELY BURDENS A FAITH THAT RELIGIOUSLY PRIZES OBEDIENCE TO GOVERNMENT.

The assumption that a zoning enforcement letter is merely preliminary unless issued by the final decisionmaker may have some force in disputes about the economic value of regulated property, such as the one at issue in *Williamson Cty. Reg'l Plan. Comm'n v. Hamilton Bank of Johnson City*, 473 U.S. 172, 186 (1985). It has little force when a directive would require and cause worshippers to cease religious exercise.

For Bahá'ís, that assumption is especially misplaced. The Bahá'í Faith teaches obedience to

government and respect for lawful authority. As Bahá'u'lláh, the Prophet-Founder of the Faith, revealed in His Most Holy Book, *The Kitáb-i-Aqdas*, “None must contend with those who wield authority over the people; leave unto them that which is theirs, and direct your attention to men’s hearts.”² His son and successor, ‘Abdu’l-Bahá, admonished Bahá’ís that “each and every one is required to show obedience, submission, and loyalty towards his own government.... [T]he Bahá’ís are the well-wishers of the government, obedient to its laws and bearing love towards all peoples.”³

‘Abdu’l-Bahá elsewhere elaborated that “not meddling in the affairs of government” meant that Bahá’ís “should not engage in any mischief or move or act in a manner that [runs] counter to the considered views of the government. It is, however, necessary to follow the laws and regulations of the nation.”⁴ More recently, the Faith’s world governing body emphasized how

² Bahá'u'lláh, *The Kitáb-i-Aqdas* ¶ 95 (Bahá'í World Centre 1992), available at <https://www.bahai.org/library/authoritative-texts/bahaullah/kitab-i-aqdas/6#443108496> (last visited Sep. 1, 2026).

³ ‘Abdu’l-Bahá, *Selections from the Writings of ‘Abdu’l-Bahá* ¶ 16.1 (Marzieh Gail trans., Bahá'í World Centre 1978), available at <https://www.bahai.org/library/authoritative-texts/abdul-baha/selections-writings-abdul-baha/10#013683150> (last visited Sep. 1, 2026).

⁴ Selections from the Writings of ‘Abdu’l-Bahá, *BAHÁ'Í SACRED WRITINGS* ¶ 17.1, available at <https://www.bahai.org/r/385711672> (last visited Sep. 1, 2026).

Bahá'u'lláh and ‘Abdu’l-Bahá enjoined Bahá’ís to be obedient to the government of their land.... Even civil disobedience, in the form of a conscious decision to violate the law to effect social change, is not acceptable for Bahá’ís—whatever merit it appears to have had in particular political settings. Ultimately, obedience to government has a bearing on the unity of the Bahá’í community itself.⁵

Thus, when a municipality issues a cease-and-desist order declaring that home-based religious gatherings must stop until discretionary permission is obtained, Bahá’ís experience that order differently from a believer for whom civil disobedience is an available response. Such an order would immediately place Bahá’ís in a religiously fraught position. They may cease the religious activity, thereby interrupting worship and community life. Or they may continue the gathering and contravene a government command, something their faith counsels them to avoid. Either way, the order has already imposed a burden on believers.

That is the exact point this case presents. The City’s message here was not tentative. Its order didn’t merely request clarification or invite dialogue. It informed Mr. Grand that religious use of

⁵ The Universal House of Justice, letter to an individual (27 April 2017), available at https://www.bahai.org/library/authoritative-texts/the-universal-house-of-justice/messages/20170427_001/1#103109420 (last visited Sep. 1, 2026).

his home “is prohibited,” demanded that he “immediately cease and desist,” and warned of misdemeanor citations and additional enforcement measures. JA-199.

For faith communities like the Bahá’ís whose religious teachings make resistance or disobedience to official directives morally objectionable, such a message is not experienced as merely the opening move in an administrative process. It is experienced as a command to stop worship.

Petitioner’s narrative illustrates the point. Mr. Grand did not defy the City’s directive. He complied with it. Within a day of receiving the cease-and-desist order, he informed municipal officials that he was “totally willing to comply” and immediately cancelled the planned Sabbath prayer gathering. JA-13; JA-190-91. His constitutional injury concretized, at the latest, at that moment, when worship ceased in response to an official governmental command.

Furthermore, while local zoning proceedings are nominally administrative in nature, and not strictly speaking partisan, they often function in an adversarial and politically-charged environment. Neighbors mobilize. Officials respond to public pressure. Elected municipal actors may be influenced or inflamed by local controversy, community discomfort, or the unfamiliarity of minority religious practices.

The record here demonstrates how quickly a dispute over religious land use can become a public controversy in which elected officials may be responsive to neighborhood political pressure. Following a neighbor's complaint, Mayor Brennan informed Mr. Grand that he was "under no circumstances allowed to have any type of religious gathering" in his home without a special-use permit. JA-10. The City then required Mr. Grand to submit to a prolonged public permitting process that culminated in a lengthy Planning Commission hearing chaired by the Mayor, during which citizens publicly opposed the proposed religious use. *See* JA-214-76. One neighbor even objected, "I am not Jewish and I do not want our neighborhood labeled as Jewish." JA-279-80.

Even after Mr. Grand withdrew his application, the Mayor publicly declared that religious gatherings at the residence without a permit remained "a violation of city law" and encouraged residents to report any such activity to the City. JA-23. Had Mr. Grand pursued the application and received an adverse decision from the Planning Commission, his next avenue of relief would have been an appeal to the elected City Council, which "could deny his application for any reason." JA-22 ¶ 105. *See also* JA-89-90 (reproducing UHCO §1274.01(d)(2)); Pet. Br. 9.

The problem these dynamics create has special force for Bahá'ís. Bahá'í teachings counsel abstention from partisan political activity and avoidance of divisive political struggles. Bahá'ís

seek to contribute to public discourse and advocate for justice and equity within the wider community, but not by aligning themselves with partisan political factions or pursuing influence through political combat, at any level of the polity. (Bahá'ís will, however, avail themselves of appropriate judicial processes when necessary to vindicate their legal rights and interests.)

Shoghi Effendi, successor to 'Abdu'l-Bahá as leader of the Bahá'í Faith, repeatedly emphasized

the non-participation by the adherents of the Faith of Bahá'u'lláh, whether in their individual capacities or collectively as local or national Assemblies, in any form of activity that might be interpreted, either directly or indirectly, as an interference in the political affairs of any particular government.... I am firmly convinced [that] their first and sacred obligation [is] to abstain from any word or deed that might be construed as a violation of this vital principle. Theirs is the duty to demonstrate, on one hand, the nonpolitical character of their Faith, and to assert, on the other, their unqualified loyalty and obedience to whatever is the considered judgment of their respective governments.⁶

⁶ Shoghi Effendi, *The Golden Age of the Cause of Bahá'u'lláh*, in *THE WORLD ORDER OF BAHÁ'U'LLÁH* 64–65 (Bahá'í Pub. Tr. 1991), available at <https://www.bahai.org/r/956779613> (last visited Sep. 1, 2026). See also The

Politically-responsive land-use permit processes such as what Mr. Grand experienced can place Bahá'ís in precisely the position their Faith teaches them to avoid. A local group facing intense neighborhood opposition may be expected to lobby elected officials, mobilize supporters, cultivate political allies, leverage personal relationships with influential citizens, contribute to election campaigns, distribute propaganda, or otherwise politically compete for municipal favor. Other organizations may be willing and able to operate in that environment. Bahá'ís, as a matter of religious faith, are not.

The practical effect of the Sixth Circuit's finality rule is thus not neutral. The rule tells faith communities that, before they may obtain federal review of a coercive order chilling religious exercise, they must first participate in and complete a potentially contentious and politically-responsive local process. For Bahá'ís, that requirement can create yet another Hobson's choice: either abandon home-based worship in response to the government's order, or engage in a divisive and

Universal House of Justice, Letter to the Believers in the Cradle of the Faith (Oct. 31, 2008) ("You should take every opportunity to explain to your fellow citizens the fundamental principle of the Faith that strictly prohibits involvement in partisan political activity of any kind, whether local, national or international. Bahá'ís view government as a system for maintaining the welfare and orderly progress of human society, and obedience to the laws of the land is a distinguishing feature of their beliefs."), available at <https://www.bahai.org/r/496528885>.

potentially fraught municipal process that their religious principles dictate they eschew.

The First Amendment and RLUIPA should not be read to require that choice. *Steffel v. Thompson*, 415 U.S. 452, 459 (1974), held that a plaintiff need not first expose himself to arrest and prosecution before challenging a law that deters protected activity. *Susan B. Anthony List* reaffirmed that framework and held that petitioners had alleged a sufficiently imminent injury where their intended conduct was protected, arguably proscribed, and subject to a credible threat of enforcement. 573 U.S. at 159. See also *First Choice*, 146 S. Ct. at 1122, 1125; *MedImmune*, 549 U.S. at 128–29 (plaintiff need not “expose himself to liability before bringing suit to challenge the basis for the threat”). These precedents, rather than *Williamson County*’s prudential ripeness doctrine, provide the appropriate framework for assessing justiciability here.

Mr. Grand’s challenge to the City’s cease-and-desist order fits comfortably within that framework. The City informed him that the proposed religious use of his home was prohibited, demanded that he “immediately cease and desist,” and warned that continued gatherings could result in misdemeanor citations and additional enforcement measures. JA-199. Nor did the threat disappear when Mr. Grand withdrew his permit application. The Mayor announced at that time that “congregating” in the residence without a permit remained “a violation of city law,” invited

residents to report any such activity, and stated that the City would pursue “all appropriate remedies in court,” invoking a prior lawsuit in which the City had obtained a permanent injunction against another residential shul. JA-23.

A religious adherent faced with such a directive does not suffer a merely speculative or contingent harm but would reasonably read such orders and warnings as a credible enforcement threat—the crux of the pre-enforcement doctrine elucidated in this Court’s precedents. *See First Choice*, 146 S. Ct. at 1122, 1125; *Susan B. Anthony List*, 573 U.S. at 161. His harm occurs the moment the government issues the threat, and certainly no later than when the threat causes religious exercise to stop.

The Sixth Circuit’s rule would allow municipalities and their officials to exploit this dynamic, in which a town or its political leaders issue a coercive directive, induce compliance, and then argue that the resulting injury is not ripe for challenge because no final zoning decision has been made. Under that approach, the more law-abiding and deferential the religious community, the greater the suppression of worship and the less available the judicial review.

That cannot be the law. The Constitution does not protect only those religious adherents willing to risk sanctions while an administrative process unfolds, while failing to protect adherents whose

religious convictions counsel them to avoid conflict, dissension, and political entanglement.

Nor does RLUIPA tolerate such a result. By its plain terms, RLUIPA reaches not only final denials of land-use applications, but also the *way* governments “impose or implement” land-use regulations. [42 U.S.C. § 2000cc\(a\)\(1\)](#). The statute explicitly applies whenever a substantial burden is inflicted through *systems* permitting individualized assessments of proposed property uses, whether through formal or informal procedures. [42 U.S.C. § 2000cc\(a\)\(2\)\(C\)](#).

To be clear, the Assembly does not contend that religious communities should be exempt from neutral rules governing fire safety, occupancy, traffic, parking, noise, or nuisance simply because those rules are set by politically-elected leaders. Municipalities may of course regulate real land-use effects using neutral and generally-applicable standards, and the Bahá’ís comply with those regulations and follow appropriate zoning codes and procedures when building or acquiring properties devoted to community worship gatherings.

But as soon as officials issue a credible threat that specifically targets religious worship, federal courts should be available to assess the legality of that burden. A cease-and-desist order threatening home worship should not be treated as merely procedural or interlocutory when it causes religious exercise to stop. In that circumstance, the order itself operates as a present implementation

of governmental authority immediately burdening religious exercise.

II. A PROTRACTED MUNICIPAL PROCESS FALLS ESPECIALLY HEAVILY ON A VOLUNTEER-LED COMMUNITY WITHOUT CLERGY.

The Sixth Circuit's finality rule rests on a questionable institutional assumption. It assumes a religious community confronted with an order to cease and desist home worship is ready, willing, and able to apply for and pursue administrative remedies, attend quasi-judicial public hearings, respond to neighborhood opposition, and go to court later, if necessary. For some large religious organizations, that course of action may be burdensome but not impossible. For many Bahá'í communities, especially those outside large cities, it bears no resemblance to reality.

Bahá'ís have no priesthood, rabbinate, imamate, or other professional religious class. While much of their religious and community life is organized and effectuated through individual grassroots initiatives, Bahá'ís have an established administrative order comprised of assemblies at the local, regional, and national levels elected annually from among enrolled members. But those who serve on such institutions are, in the ordinary course, volunteers. They are not professional clergy whose full-time occupation is to administer congregational affairs, respond to municipal enforcement endeavors, or manage land-use disputes. Accordingly, a prolonged municipal dispute

would divert the time and energy of ordinary worshippers from their employment, families, and service to the community.

This feature of the Bahá'í Faith has legal significance here. Land use permit processes demand time, sophistication, persistence, and administrative capacity. They may require site plans, technical submissions, public hearings, responses to opposition, legal advocacy, and multilevel appeals. When larger Bahá'í communities do build or acquire structures devoted to community worship, they of course comply with all zoning regulations and requirements, and, with the assistance of the Bahá'í Faith's administrative institutions, muster the capacity to navigate these processes. But when such demands are imposed on smaller communities simply seeking to convene in private homes, the burden falls directly on ordinary worshippers.

A legal rule requiring such a community to complete a discretionary and lengthy municipal process before seeking judicial relief imposes a burden qualitatively different from one imposed on a large religious organization with professional clergy. Whereas such an organization may have the wherewithal to stay the course, an individual seeking relief from City Hall on behalf of his religious community, on a volunteer basis, will likely run out of steam long before getting to any final determination.

The burdens described above are compounded by how Bahá'í institutions are funded. Bahá'í administrative bodies such as Local Spiritual Assemblies do not accept financial contributions from outside the Bahá'í community.

This matters because municipal land-use proceedings can be expensive. For a local group of Bahá'ís seeking to worship in private homes, these costs are not abstract. They would be paid, if at all, from limited finances contributed by the believers themselves, diverting precious resources away from the core devotional and service priorities of the community.

A finality rule such as the one adopted below therefore gives municipalities a troubling incentive. Officials may impose prohibitive process costs, such as by demanding additional application materials, requiring a series of discretionary approvals, or prolonging decision-making, knowing that many small religious communities will simply lack the resources or institutional capacity to persist. If the community abandons the process or ceases the targeted religious activity, the municipality will then argue, as the City does here, that no final decision ever occurred, and that no federal challenge is ripe.

RLUIPA's plain text and legislative purpose foreclose that incentive structure. The statute explicitly prohibits governments from imposing land-use regulations in a manner that substantially burdens religious exercise absent strict

scrutiny. 42 U.S.C. § 2000cc(a)(1). It also directs that its protections be construed broadly in favor of religious exercise, 42 U.S.C. § 2000cc-3(g), and stipulates that standing to assert a RLUIPA claim shall be governed by the general rules under Article III without interpolating judicial doctrines of prudential standing. 42 U.S.C. § 2000cc-2(a). Courts should therefore not graft onto RLUIPA a finality rule that allows municipalities to burden religious exercise through cost-prohibitive processes and denial by decisional delay.

Moreover, Congress enacted RLUIPA specifically in response to the vulnerability of religious assemblies, “especially smaller or unfamiliar ones,” to discrimination not only “on the face of zoning codes” but also in the “highly individualized and discretionary processes of land use regulation.” U.S. Dep’t of Justice, Civil Rights Div., *Religious Land Use and Institutionalized Persons Act*.⁷ See also *Fortress Bible Church v. Feiner*, 694 F.3d 208, 219–24 (2d Cir. 2012); *Westchester Day Sch. v. Village of Mamaroneck*, 504 F.3d 338, 349–53 (2d Cir. 2007); *Guru Nanak Sikh Soc’y of Yuba*

⁷ Available at <https://www.justice.gov/crt/religious-land-use-and-institutionalized-persons-act> (last visited Sep. 1, 2026). See also U.S. Dep’t of Justice, Civil Rights Div., *Statement of the Department of Justice on the Land Use Provisions of RLUIPA*, at 1 (June 13, 2018), available at <https://www.justice.gov/crt/page/file/1071246/dl> (last visited Sep. 1, 2026).

City v. County of Sutter, 456 F.3d 978, 989–92 (9th Cir. 2006).

A finality rule that may appear modest on paper can operate as a substantial burden when the affected faith community has no professional religious class to navigate the process and no ability to rely on outsiders to help finance or absorb the cost. For Bahá'ís, the process is not merely a pathway to a burden-avoiding permit. The process *is* the burden that itself would cause home devotional life to stop.

The proper rule is narrower and more faithful to both Article III and RLUIPA: when government officials issue a credible enforcement threat that causes, or would reasonably cause, religious adherents to cease home-based worship, Free Exercise and RLUIPA claims challenging that threat are immediately justiciable.

Such a rule would not federalize every zoning disagreement. Nor would it prevent municipalities from enforcing neutral land-use rules. It would simply recognize that when worship stops because the government has told worshippers to stop, the injury is instantly real.

III. RLUIPA PROTECTS AGAINST BURDENS IMPOSED THROUGH DISCRETIONARY PROCESS, NOT MERELY FORMAL DENIALS.

Congress enacted RLUIPA to prevent discretionary land-use systems from burdening

religious expression not just through formal prohibition but also through coercive pressure and procedural attrition. Cf. *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449, 463 (2017) (“The Free Exercise Clause protects against indirect coercion or penalties on the free exercise of religion, not just outright prohibitions.”) (quoting *Lyng v. Nw. Indian Cemetery Protective Ass’n*, 485 U.S. 439, 450 (1988)).

RLUIPA’s protection expressly applies when a burden is imposed through a land-use system involving “formal or informal procedures or practices” that permit individualized assessments of property uses. 42 U.S.C. § 2000cc(a)(2)(A). History shows that local zoning systems can suppress religious exercise not only through outright bans, but also through discretionary processes that allow local hostility, unfamiliarity, or favoritism to influence decisions. Congress thus focused not only on final *denials*, but also on the *mechanisms* by which governments inflict burdens.

That statutory design is essential for minority faith communities like the Bahá’ís. Discrimination in land-use proceedings often does not appear as an explicit statement that a religion is unwelcome. It appears as selective enforcement, moving goalposts, intense responsiveness to neighbor complaints, repeated requests for more information, and coercive pressure to abandon the proposed use before any formal denial is issued. This dynamic frequently confronts minority religious communities facing recurrent continuances,

shifting demands, incompleteness loops, and administrative limbo rather than clean denials.

RLUIPA plays a special role in protecting minority and unfamiliar faith communities from such “denial by delay” mechanisms. In *Guru Nanak*, the Ninth Circuit held that repeated denial of permits for a Sikh gurdwara could impose a substantial burden under RLUIPA. The cumulative effect of the government’s actions imposed a substantial burden, the Circuit held, because the process conveyed that approval would likely never come and left the religious community without a realistic path forward. The court emphasized that recurring discretionary denials created uncertainty and effectively prevented the congregation from carrying out its religious mission. The burden came not merely from a final denial, but from the way the *process* operated. 456 F.3d at 989–92.

Similarly, in *Westchester Day School*, the Second Circuit held substantial burden existed because governmental action prevented the school from carrying out important aspects of its religious mission. 504 F.3d at 349–53. In *Fortress Bible Church*, that court found RLUIPA violations where a municipality manipulated environmental and land-use review to obstruct a church project. There, the government’s misuse of procedural mechanisms itself became the vehicle of religious discrimination. 694 F.3d at 219–24.

While these precedents relate to RLUIPA merits rather than justiciability, they support the

proposition that the burden on religious exercise can be complete long before any final decision. They show that RLUIPA protects against burdens inflicted through process itself, not just through a final decision.

That conclusion—that a burden on religious land use can be substantial even if government never formally says “no”—dovetails with this Court’s individual-exercise cases, which often describe substantial burdens in terms of coercive pressure forcing a believer to choose between religious obligations and governmental consequences. *See, e.g., Holt v. Hobbs*, 574 U.S. 352, 361-62 (2015); *Thomas v. Review Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 717-18 (1981); *Sherbert v. Verner*, 374 U.S. 398, 404 (1963).

The record here exemplifies that conclusion. For Mr. Grand, the burden on religious exercise occurred well before any authoritative determination to deny a permit. Indeed, City officials later acknowledged that a gathering of ten to fifteen people for prayer in a private home would not ordinarily even require a special-use permit. JA-277, JA-323-24. By then, however, the cease-and-desist order had already accomplished its work, interrupting not just one individual’s home-based worship, but an entire community’s.⁸

⁸ The rabbi who was to lead the group attested that a “considerable number” of Jewish residents “would not attend a minyan of any size” at Mr. Grand’s home “for fear that they would be pursued or prosecuted,” and that hopes

The Bahá'í perspective brings these concerns into sharper focus. As discussed, Bahá'í communities are generally small, home-based, and volunteer-led, and they are often unfamiliar to local officials. They teach obedience to government and the avoidance of divisive conflict, abstaining from politically-charged entanglements. They rely exclusively on contributions from within to fund the affairs of the Faith. As elaborated above, each of those characteristics makes the Bahá'í community more susceptible to suppression through process. A cease-and-desist order directed to Bahá'ís would end a devotional gathering before any permit application even begins.

RLUIPA should not be interpreted to permit that result. The statute is designed to ensure that religious exercise is not relegated to the sufferance of local discretion. That assurance is especially important where, as here, home-based worship is treated as an unlawful land use *because* it is religious. In such cases, the burden arises as soon as the government imposes the restriction, not when the last administrative actor issues the final formal decision.

of gathering even ten people “were killed by the City’s cease-and-desist letter and the subsequent hearings because enough people were afraid of the City and of the hostile neighborhood opposition.” JA-367.

**IV. HOME-BASED WORSHIP IS
FUNDAMENTAL TO BAHÁ'Í PRACTICE
AND IS ENTITLED TO THE SAME
PROTECTIONS AS OTHER FORMS OF
RELIGIOUS WORSHIP.**

While Bahá'ís maintain a House of Worship in Wilmette, Illinois, which has served the entire North American continent since 1953, and while some larger communities maintain local Bahá'í Centers, the great majority of Bahá'í communities in the United States worship without physical houses of assembly or other permanent religious structures. Devotional gatherings, study sessions, children's classes, youth activities, and other religious observances such as Holy Day commemorations and the Nineteen-Day Feast (the principal recurring gathering of a local Bahá'í community, combining prayer, consultation, and fellowship) frequently take place in private residences.

Importantly, Bahá'ís do not worship at home merely during a transitional stage pending acquisition of physical structures; rather, home worship is fundamental to the Bahá'ís' way of practice, even for larger and more established local communities. The importance of home-based worship in the Bahá'í Faith does not arise solely from the absence of dedicated facilities. Rather, the Faith's model of community spiritual life intentionally centers devotional, educational, and community-building activities within neighborhoods and private homes. As the world governing body of the Faith has explained,

Responding to the inmost longing of every heart to commune with its Maker, [Bahá'ís] carry out acts of collective worship in diverse settings, uniting with others in prayer, awakening spiritual susceptibilities, and shaping a pattern of life distinguished for its devotional character. As they call on one another in their homes and pay visits to families, friends, and acquaintances, they enter into purposeful discussion on themes of spiritual import....⁹

For Bahá'ís, devotional gatherings in neighborhood homes are thus not temporary accommodations or incidental substitutes for “real” worship normally conducted elsewhere. They are among the ordinary and essential forms through which the community prays, celebrates, consults, studies Sacred Writings, nurtures children and youth, and serves the surrounding society. These local gatherings in private homes are not anomalous or “special” land uses but intrinsic and enduring aspects of Bahá'í belief and devotional life.

That reality matters for the question before this Court. The Court has repeatedly recognized that religious exercise does not lose constitutional protection simply because it occurs outside a formal house of worship. In *Tandon v. Newsom*, 593

⁹ The Universal House of Justice, *Ridván 2008 Message to the Bahá'ís of the World*, ¶12 (Apr. 21, 2008), available at <https://www.bahai.org/r/421159402> (last visited Sep. 1, 2026).

U.S. 61, 62 (2021), for example, the Court enjoined State restrictions that treated comparable secular gatherings more favorably than at-home religious exercise. That precedent is relevant here because it confirms that prayer and worship in private homes are not second-class religious activity.

Watchtower Bible & Tract Society of New York, Inc. v. Village of Stratton, 536 U.S. 150, 165–66 (2002), further supports the point. There, the Court invalidated a permit requirement for door-to-door religious advocacy and stated that it is “offensive” to the First Amendment and to “the very notion of a free society” to require a citizen to inform the government in advance of her desire to speak to neighbors and to then obtain permission to do so. *Id.* That principle applies with special force where the religious activity occurs in the home, a place this Court has long recognized as possessing unique constitutional significance.¹⁰ If the government may not require prior permission to engage neighbors in religious speech at their

¹⁰ See, e.g., *Florida v. Jardines*, 569 U.S. 1, 6 (2013) (“when it comes to the Fourth Amendment, the home is first among equals.... [A]t the Amendment’s very core stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.”); *City of Ladue v. Gilleo*, 512 U.S. 43, 58 (1994) (“A special respect for individual liberty in the home has long been part of our culture and our law”); *Payton v. New York*, 445 U.S. 573, 587 (1980) (“Freedom in one’s own dwelling is the archetype of the privacy protection secured by the Fourth Amendment.”); *Silverman v. United States*, 365 U.S. 505, 511–12 (1961) (grounding the home’s special status in centuries of jurisprudence).

doorsteps, it should not be permitted to halt religious gatherings inside the home and postpone judicial review until after a discretionary municipal process has run its full course.

Respondents and the courts below characterize a rule that postpones judicial review until a religious adherent completes a discretionary zoning process as a neutral “timing rule.” But for minority faiths like the Bahá’ís whose devotional life occurs *primarily* in private homes, such a “timing rule” can determine whether the religious activity occurs at all. When a municipality issues a desist order against home-based worship, a community that lacks a dedicated religious structure may have no alternative place to go. Such an order would not merely channel worship into a different locus. It would interrupt or suppress the very form of communal worship through which many Bahá’í communities ordinarily practice their faith.

The First Amendment and RLUIPA do not require believers to endure the interruption of religious life while waiting for a municipality to decide whether the interruption was permissible. See *Mahmoud v. Taylor*, 606 U.S. 522, 559-60 (2025) (“when a deprivation of First Amendment rights is at stake, a plaintiff need not wait for the damage to occur before filing suit”).

Rather, as soon as the government issues a credible enforcement threat that causes religious worship in the home to stop, the resulting RLUIPA injury is immediately justiciable. See

City of Lakewood v. Plain Dealer Pub. Co., 486 U.S. 750, 755-57 (1988) (where permit requirement chills protected liberties, challenges to the “mere existence” of a licensing scheme, or the discretion it vests, are available “without the necessity of first applying for, and being denied, a license”); *Freedman v. Maryland*, 380 U.S. 51, 56 (1965) (citing “well established” principle that plaintiff has standing “whether or not [he] applied for a license”).

That holding does not prevent municipalities from enforcing neutral rules concerning fire safety, traffic, parking, or nuisance. It simply prevents municipalities from using discretionary permission systems to halt home-based worship while delaying or preventing federal review.

CONCLUSION

Although this appeal arises in the context of justiciability and land-use doctrine, at bottom it concerns whether religious communities may obtain timely protection when government action causes worship to stop. It is about the promise of religious freedom guaranteed by our Constitution, and whether that guarantee can be relied upon by those who need it most.

If a municipality were to issue a cease-and-desist order directed at home-based worship by Bahá’ís, the burden on their free exercise would be immediate and profound. Such an order would force Bahá’ís to make an untenable choice between abandoning activities core to their religious

experience or acting contrary to their sincerely-held religious beliefs.

Because RLUIPA and the First Amendment do not tolerate such a forced choice, the judgment below should be reversed.

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