

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 AMICUS CURIAE OF THE
AMERICAN ASSOCIATION OF JEWISH
LAWYERS AND JURISTS IN SUPPORT
OF PETITIONER**

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INTEREST OF AMICUS CURIAE

The American Association of Jewish Lawyers and Jurists (“AAJLJ”)¹ is an affiliate of the International Association of Jewish Lawyers and Jurists and is open to all members of the legal profession regardless of religion. The AAJLJ’s mission includes representing the human-rights interests of the American Jewish community. The AAJLJ seeks legal remedies to achieve justice for victims of oppression through its participation in legal cases in the United States and abroad. The AAJLJ’s mission statement, “Justice, Justice Shall You Pursue” (Deuteronomy 16:20), compels AAJLJ’s support for Petitioner.

The AAJLJ possesses a unique perspective on how governments have used legal processes both to protect and to target religious communities in the United States. AAJLJ members have devoted their careers to vindicating rights through the legal system. They carry both the professional commitment to the rule of law and the lived understanding of what happens to Jewish communities when the legal system fails to protect

¹ Pursuant to Supreme Court Rule 37, no counsel for any party authored this brief in whole or in part, and no entity or person, other than amicus curiae and its counsel, made a monetary contribution intended to fund the preparation or submission of this brief.

them—or worse, becomes a weapon used against them.

The AAJLJ has previously advocated on behalf of communities of other faiths that were denied the right to worship freely. For instance, it participated as an amicus curiae in *Barnett v. Short*, 129 F.4th 534 (8th Cir. 2025), in which it was one of twenty-six religious organizations representing a wide array of faiths that addressed the importance of money damages when governments substantially burden religious exercise rights in violation of RLUIPA. The AAJLJ also served as an amicus curiae in *Islamic Society of Basking Ridge v. Township of Bernards*, No. 3:16-cv-01369 (D.N.J. 2016), which addressed the land-use approval process targeting a Muslim mosque. It now files this brief in defense of a principle that protects every American: that government may not decide how, when, or with whom Americans worship in their own homes.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

The Bill of Rights begins by enshrining America’s first freedom: the right of each person to freely exercise their religion. “This freedom was first in the Bill of Rights because it was first in the forefathers’ minds.” *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 216 (1963) (quoting *Everson v. Bd. of Ed. of Ewing Twp.*, 330 U.S. 1, 26 (1947) (Jackson, J., dissenting)); *see also* Michael W. McConnell, *Why Is*

Religious Liberty the “First Freedom”?, 21 Cardozo L. Rev. 1243 (2000). Since the Founding, the Religion Clauses of the First Amendment have protected the rights of believers of all faiths to gather under their own vines and fig trees² and worship together. But any regime that requires a citizen to seek the government’s permission to invite his neighbors to his home to pray strikes at the heart of this first freedom. Home worship is essential to the Jewish faith, just as it is to many other faith traditions. The City of University Heights, by its actions and threats, prevented Daniel Grand from fulfilling his binding religious obligations to pray with a minyan on the Sabbath. Every Sabbath that passed without Grand gathering a minyan in his home for fear of punishment is irredeemably lost. No subsequent permit can restore those lost opportunities for worship. That is a justiciable injury. *Cf. Elrod v. Burns*, 427 U.S. 347, 373 (1976).

This constitutional injury triggers the constitutional role of courts to check government infringements on fundamental rights. But the Sixth Circuit’s misapplication of takings jurisprudence effectively neutralized this constitutional check. In the First Amendment context, an injury is complete

² See 1 Kings 4:25; Micah 4:4; Zechariah 3:10; Letter from George Washington to the Hebrew Congregation in Newport, Rhode Island (Aug. 21, 1790), reprinted by Nat’l Const. Center, <https://tinyurl.com/ycypudre> (“*Washington Letter to Hebrew Congregation*”).

the moment government coercion chills free exercise. *See Elrod*, 427 U.S. at 373. This Court’s precedent thus demands prompt judicial review of First Amendment injuries. Requiring an individual to navigate an expensive and unequal regulatory process to completion before a court will even hear his case turns the purpose of the process on its head. Far from protecting individual rights, the procedural-finality requirement blessed by the Sixth Circuit injures those rights and opens the door to invidious discrimination by barring prompt judicial review of constitutional injuries.

This use of procedural requirements to target religious activity is particularly important to AAJLJ because it is part of a national pattern. Governments have disproportionately targeted Jews like Grand for the misuse of zoning laws. That pattern is evident here, where the City went beyond requiring a citizen to seek its permission to pray at home with his neighbors: it imposed heightened regulatory scrutiny on a member of a minority religion at a time of unprecedented anti-Semitism, hostility, and violence toward Jews, who are facing what the White House has called an “explosion” of discrimination throughout the United States. *Fact Sheet: President Donald J. Trump Takes Forceful and Unprecedented Steps to Combat Anti-Semitism*, The White House (Jan. 30, 2025), <https://tinyurl.com/mryct5b7> (last visited Sep. 3, 2026). Imposing conditions imported from the zoning context onto judicial review of the City’s religious-exercise-chilling actions here when

those conditions do not apply to judicial review of other First Amendment injuries shields the government's constitutional violations from legal accountability.

For these reasons, this Court should clarify that traditional First Amendment ripeness principles rather than takings-based finality rules govern free-exercise claims arising from credible government threats and reverse the Sixth Circuit's judgment.

ARGUMENT

I. Allowing The Government To Dictate Terms Of Private Religious Worship, Particularly Inside The Home, Is Contrary To Fundamental Principles Of American Liberty

A. Free Exercise And Freedom In The Home Are Core Constitutional Rights That Combine To Protect Grand's Conduct

The protection of home worship from government regulation is deeply ingrained in the Constitution's fabric.

The Religion Clauses were adopted "to get completely away from [England's] systematic religious persecution." *Engel v. Vitale*, 370 U.S. 421, 433 (1962). As this Court has recognized, the First Amendment "is a natural outgrowth of the framers'

distrust of government attempts to regulate religion and suppress dissent,” *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 524 (2022), given the Founders’ “[f]amiliar[ity] with life under the established Church of England,” *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.*, 565 U.S. 171, 183 (2012). In adopting the Religion Clauses, the Founders replaced the notion of religious “toleration” with the “full and free exercise of religion.” Michael W. McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*, 103 Harv. L. Rev. 1409, 1443, 1463 (1990); *see id.* at 1455, 1482–84, 1499. Free exercise protects “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*, 597 U.S. at 524 (2022) (quoting *Employment Div., Dep’t of Human Res. of Or. v. Smith*, 494 U.S. 872, 877 (1990)).

In a 1790 letter to the Hebrew Congregation in Newport, Rhode Island, George Washington emphasized that mere religious “toleration”—the notion that it was as if “by the indulgence of one class of people, that another enjoyed the exercise of their inherent natural rights”—has no place in the United States. *Washington Letter to Hebrew Congregation*, *supra* note 2. Instead, he explained that the American government “gives to bigotry no sanction, to persecution no assistance” and “requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support.” *Id.* Washington’s

words to this Jewish audience illustrate the basic American principle that the natural right of religious liberty depends in no way on government permission. The injury in this case is therefore not merely that Grand did not receive a permit—it is that he had to seek permission from the government to exercise a fundamental right in the first place.

Building on the Constitution’s protection for free exercise of religion and recognizing the need to combat religious discrimination in the land-use context, Congress enacted the Religious Land Use and Institutionalized Persons Act in part to respond to local governments’ hostility to religious exercise in zoning decisions—particularly targeting minority religions like Grand’s. See 42 U.S.C. §§ 2000cc–2000cc-5. As the legislation’s sponsors explained, “new, small, or unfamiliar churches in particular[] are frequently discriminated against on the face of zoning codes and also in the highly individualized and discretionary processes of land use regulation.” 146 Cong. Rec. S7774 (daily ed. July 27, 2000) (joint statement of Senators Hatch and Kennedy) (“*RLUIPA Statement*”). As happened here, see *infra* pp.19–21, the sponsors observed that “often, discrimination lurks behind such vague and universally applicable reasons as traffic, aesthetics, or ‘not consistent with the city’s land use plan,’” resulting in denials of “the right to meet . . . in all sorts of buildings that were permitted when they generated traffic for secular purposes.” *Id.* at S7774–75.

As this case demonstrates, the home is just such a space where government regulators often refuse to allow religious exercise while permitting other secular gatherings. See Pet'r.Br.54–55 (collecting cases). Nothing in the record suggests that the City would have required a permit if the same guests that Grand wanted to have over to pray were instead to gather on the same schedule in the same residence to discuss Greek philosophy, American politics, or the legal underpinnings of the Constitution's Religion Clauses. This singling out of religious gatherings for disfavored treatment violates both constitutional and RLUIPA principles. *E.g.*, *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 533–34 (1993); *Konikov v. Orange Cnty., Fla.*, 410 F.3d 1317, 1326 (11th Cir. 2005).

Even in situations where it did not target religious exercise for disfavor, a government that mandates licensure for prayer in a private residence has simultaneously invaded the most protected constitutional activity and done so in the most protected physical space. “A special respect for individual liberty in the home has long been part of our culture and our law.” *City of Ladue v. Gilleo*, 512 U.S. 43, 58 (1994). As such, it stands to reason that the constitutional protection for religious exercise is at its apex in the home. This Court has long recognized that “the home is entitled to special protection as the center of the private lives of our people.” *Minnesota v. Carter*, 525 U.S. 83, 99 (1998) (Kennedy, J., concurring). “The ancient concept that

‘a man’s home is his castle’ into which ‘not even the king may enter’ has lost none of its vitality.” *Rowan v. U.S. Post Off. Dep’t*, 397 U.S. 728, 737 (1970). Consistent with these principles applicable across constitutional contexts, “at-home religious exercise” is protected. *Tandon v. Newsom*, 593 U.S. 61, 63 (2021).

B. The Home Is A Vital Venue For Jewish Religious Observance As It Is For Many Faith Traditions In America

Constitutional protections for home worship are essential to Jews, just as they are to many American believers. Many of the ways Jews live out their faith in daily life take place in the home. For some, including Grand, the home is a necessary place to gather a minyan for communal worship.

In Judaism, a minyan is the quorum required for many of the most sacred acts of Jewish worship, including the recitation of specific prayers and reading from the Torah scroll during the Shabbat service. *Talmud Bavli, Tractate Megillah 23b*;³ Rabbi Moshe ben Maimon, *Mishneh Torah*, Prayer and the

³ Talmud Bavli (The Babylonian Talmud), compiled between the third and eighth centuries, is a multi-volume compendium of the oral Jewish traditions and laws. It includes not only the traditions and laws but also records of the discussions and debates among the Torah sages regarding them. Lauren Colgan, *A Way of Life. Why Is the Talmud Important to Jews?*, Jewish Hist. Inst., <https://tinyurl.com/2nncakx8> (last visited Sep. 3, 2026).

Priestly Blessing 12:3;⁴ Rabbi Shlomo Ganzfried, *Kitzur Shulchan Aruch* 12:7 (1864), online edition at Chabad.org, <https://tinyurl.com/yc5chkup> (last visited Sep. 3, 2026);⁵ Sefaria Library, *Minyan: Laws of Prayer*, <https://tinyurl.com/mpre2pwz> (last visited Sep. 3, 2026); Eliezer Posner, *Which Prayers Are Omitted When Praying Alone?*, Chabad.org, <https://tinyurl.com/c9sbwadw> (last visited Sep. 3, 2026); Aryeh Citron, *Minyan: The Prayer Quorum*, Chabad.org, <https://tinyurl.com/y4zvuxzm> (last visited Sep. 3, 2026); Tevi Troy, *A Minyan in the Time of Social Distancing*, Wall St. J. (Mar. 19, 2020), <https://tinyurl.com/mpnvnvt2>. Gathering a minyan is thus necessary for Jews to fully and freely exercise their religion.

Home worship is especially important to Orthodox Jews like Grand who cannot drive on the

⁴ “Rabbi Moses ben Maimon (also known as Maimonides or Rambam), Talmudist, halachist, physician, philosopher, and communal leader, is one of the most important figures in the history of Torah scholarship. Living in 12th-century Egypt, his writings (in Arabic and Hebrew) spread across the Jewish world and beyond, enriching the study of Judaism, philosophy, medicine, and more.” Chabad.org, *Maimonides: The Rambam*, <https://tinyurl.com/ycxzkt54> (last visited Sep. 3, 2026).

⁵ The *Kitzur Shulchan Aruch* was written as a simplified summary of the Jewish laws and traditions most relevant to ordinary daily life and became immensely popular after its publication for its simplicity and accessibility. Chabad.org, *About Kitzur Shulchan Aruch*, <https://tinyurl.com/54hsvab6> (last visited Sep. 3, 2026).

Sabbath or High Holidays. J.A.8–9 ¶¶ 34–35; J.A.185 ¶ 2. Gathering a minyan at home may be necessary in many circumstances: to accommodate someone who is sick, elderly, or otherwise unable to travel to synagogue; where there is no synagogue within easy walking distance even for those who are able-bodied; where available synagogues do not reflect believers' practice; or for major life events when particularly frequent minyans are required.

For instance, Sheva Brachot, the seven special blessings that are recited during the week following a wedding, can only be recited with a minyan. Kitzur Shulchan Aruch, *supra* note 5, 149:1. Similarly, when a family member dies, close relatives of the deceased must recite the Mourners' Kaddish ten times per day over the course of the morning, afternoon, and evening minyans for eleven months after the deceased's burial. Zalman Goldstein, *The Recitation of Kaddish, Basic Rules and Guidelines*, Chabad.org, <https://tinyurl.com/bducts8a> (last visited Sep. 3, 2026). This practice is believed to add to the holiness of the soul of the deceased and ease its transition to and position in the next world. *Id.* But the Kaddish can only be recited with a minyan, which must often be gathered for this specific purpose. For the first seven days after a family member dies, Jewish families sit Shiva and consequently say Kaddish at home. Menachem Posner, *What to Expect at a Shiva Home*, Chabad.org, <https://tinyurl.com/2dphf73u> (last visited Sep. 3, 2026). Because those sitting Shiva cannot leave the home to attend daily services, the

services and the minyan must come to them. See Troy, *supra* p.10; see generally Eliezer Melamed, *Peninei Halakhah, Prayer*, ch. 2 (Elli Fischer ed.), <https://tinyurl.com/5ceh86s> (last visited Sep. 3, 2026).

In short, restrictions on gathering a minyan in the home particularly affect community members who are vulnerable due to illness or advanced age, isolated, or at sensitive moments in their lives.

Home gatherings are also crucial to other faiths practiced regularly in the United States. For example, Christianity originated in homes where early Christians gathered and worshipped. Alice Camille, *What is a 'House Church' in the Epistles?*, U.S. Catholic (Aug. 18, 2020), <https://tinyurl.com/2h3mzec5>. Home worship remains important for Christians today, providing a space for small-group discipleship, Michael White, *Why Small Groups?*, The Priest, <https://tinyurl.com/y6254dcs> (last visited Sep. 3, 2026), as well as serving as a place of worship for those facing persecution, Yuchen Li, *Why is China Again Targeting Underground 'House Churches'?*, Deutsche Welle (Oct. 22, 2025), <https://tinyurl.com/yf568ws6>. Home worship is likewise central to Hinduism, where practitioners maintain home shrines, Carolyn V. Prorok, *Sacralizing the Diasporic Hindu Home: Ritualized Spaces for Life*, Architecture, Culture and Spirituality Forum (Aug. 3, 2011), <https://tinyurl.com/y4cpkfva>, and gather in groups to worship at home, *What Is a*

Satsang? Meaning, Benefits, and How to Host One at Home, ISKCON Silicon Valley, <https://tinyurl.com/3y2fbpcv> (last visited Sep. 3, 2026).

The City's approach thus threatens the free exercise of members of all faiths. If a citizen can be required to obtain government permission before hosting a minyan, he can be required to get government permission before hosting a Christmas party, or an *iftar* dinner during Ramadan, or a *satsang*, or a celebration of that person's patron saint. If permission can be required, it can be denied. And a person who hosts such an event without permission can be punished, as the City threatened to do if Grand continued hosting minyans in his home.

II. Immediate Judicial Review Of First Amendment Injuries Is Appropriate

A. Judicial Review Is Designed To Protect Individual And Minority Rights From This Kind Of Government Overreach

By telling Grand that he may not gather with his neighbors for prayer in his own home without first obtaining official permission, the City at most permitted him to apply for the privilege of having his faith tolerated. This substantial burden on free exercise is precisely what the First Amendment and RLUIPA prohibit, *see supra* pp.5–9, and is precisely

the type of government overreach that the Constitution established the judiciary to check.

The genius of American constitutionalism is that rights are not merely enumerated, but judicially enforceable. Chief Justice Marshall declared that “[t]he very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury.” *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 163 (1803). The Sixth Circuit’s application of the *Williamson County* finality rule to Grand’s free-exercise claim betrays that fundamental principle.

The Constitution directs that “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof,” U.S. Const. amend. I. Our constitutional structure, in turn, vests in an independent judiciary the power and the duty to enforce that command. *Marbury*, 5 U.S. (1 Cranch) at 177 (“It is emphatically the province and duty of the judicial department to say what the law is.”). And in enacting RLUIPA, Congress expressly empowered the judiciary to adjudicate claims that the government has substantially burdened religious exercise. 42 U.S.C. §§ 2000cc, 2000cc-2.

The Founders established this power of judicial review in part to check abuses of power against individuals and minorities. Alexander Hamilton explained that the judiciary is the bulwark of individual rights against “the encroachments and

oppressions of the representative body.” The Federalist No. 78, at 465 (Alexander Hamilton) (Clinton Rossiter ed., 1961). And as this Court has recognized, “[t]he very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts.” *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 638 (1943). Absent timely availability of this judicial check, the constitutional and statutory rights to free exercise become subject to the whims of those majorities and government officials.

**B. A First Amendment Claim Is Justiciable
As Soon As The Government Coerces A
Person Into Refraining From Exercising
First Amendment Rights**

This Court has consistently held that credible threats of government enforcement that deter exercise of a constitutionally protected right are independently actionable constitutional injuries because the First Amendment does not condone forcing individuals to suffer punishment for protected conduct before judicial review becomes available. See *First Choice Women’s Res. Ctrs. v. Davenport*, 146 S. Ct. 1114, 1127–28 (2026); *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158–59 (2014). Judicial review must be available when rights are under threat: a person need not “first expose himself to actual arrest or prosecution to be entitled to

challenge” in federal court a government action “that he claims deters the exercise of his constitutional rights.” *Steffel v. Thompson*, 415 U.S. 452, 459 (1974).

Grand’s injury is particularly clear. The City ordered him to “immediately cease and desist any and all” religious gatherings in his home, and it threatened punishment if he continued them. J.A.199; *see* J.A.338–39. Each Sabbath that he did not gather a minyan represented governmental interference with his fulfillment of a religious obligation. And because the cease-and-desist order impeded Grand in fulfilling a binding religious obligation, it constituted a concrete, immediate harm to him. *See Elrod*, 427 U.S. at 373; *see also Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 67 (1963) (explaining that “the threat of invoking legal sanctions” constitutes a sufficient First Amendment injury sufficient to warrant relief). Grand has suffered immediate and irreparable harm from the loss of Sabbath prayer sessions that he forwent to comply with the cease-and-desist order. Pet’r.Br.16. Such harm warrants prompt judicial review.

C. *Williamson County*’s Logic Does Not Apply To First Amendment Cases

Under the Sixth Circuit’s holding, however, Grand is not entitled to prompt judicial review of his constitutional injury. The *Williamson County* finality rule that it imported into the religious-exercise context requires a “final decision” before federal

courts will entertain regulatory takings claims arising from land-use regulation. *Williamson Cnty. Reg'l Plan. Comm'n v. Hamilton Bank of Johnson City*, 473 U.S. 172, 200 (1985). This requirement reflects the nature of a takings claim in which a court may not know whether, or to what extent, the government has taken property until the government reaches a final decision on the land-use issue. *Id.* at 190 (“Our reluctance to examine taking claims until such a final decision has been made is compelled by the very nature of the inquiry required by the Just Compensation Clause.”). *See, e.g., Knick v. Twp. of Scott*, 588 U.S. 180, 206 (2019).⁶

That rationale does not translate to the First Amendment context. Although the finality rule makes sense for takings, it was not designed for circumstances in which the injury to a fundamental right is complete as soon as the government coerces someone to refrain from exercising such a right. The “chilling effect upon the exercise of First Amendment rights” constitutes a distinct, actionable constitutional harm. *Dombrowski v. Pfister*, 380 U.S. 479, 487 (1965). By the time a permitting authority renders a final land-use decision in a case like this,

⁶ Indeed, even in the takings context, only “*de facto* finality” is required—meaning that the government’s position is clear, definitive, and has injured the plaintiff. *Pakdel v. City & Cnty. of San Francisco*, 594 U.S. 474, 479 (2021). Finality does not require a plaintiff to exhaust potential administrative remedies. *Id.* at 478–80.

the free-exercise injury is not just complete but has been repeated many times over because the credible threat from the government has caused a believer to repeatedly refrain from constitutionally protected religious exercise.

III. Judicial Review Of Claims Like Grand's Is Particularly Important

A. American Jews Are Facing Unprecedented Hostility, Violence, And Discrimination

The City's actions chilling Grand's religious exercise come at a time when American Jews like Grand are experiencing bigotry at the highest recorded levels in the Nation's history. Often called the "oldest hatred," anti-Jewish bigotry has a long and brutal history. As the White House recently explained, "Jews have been targeted for persecution and violence for their practices, their beliefs, their identity—even their very existence"—"[f]or over 2,000 years." *The U.S. National Strategy to Counter Antisemitism*, The White House 8 (May 25, 2023), <https://tinyurl.com/mry9a8fw> ("*Strategy to Counter Antisemitism*"). As a result of this discrimination, Jews have been "driven from their homes," "barred from certain jobs," "denied citizenship," "forced into ghettos," "scapegoated en masse," and "systematically killed." *Id.*

Since Washington's promise that the United States would "give[] to bigotry no sanction,"

Washington Letter to Hebrew Congregation, *supra* note 2, “the United States has been a refuge for Jews fleeing” persecution, *Strategy to Counter Antisemitism*, *supra* p.18, at 8. But Jews are increasingly targeted for discrimination and violence in the United States. “Antisemitism in the U.S. is now on the rise again[,] . . . [v]iolent attacks against Jews are increasing[,] [and] . . . antisemitism has become a widespread, consistent threat.” *Id.* at 8–9.

1. Anti-Semitism Infected This Case

The events in this case reflect that bigotry. For example, Grand heard one neighbor state, “Grand is trying to create a Jewish synagogue on our block, and we don’t want that type of thing around here,” J.A.28 ¶ 137, while others yelled “we don’t want your kind here,” J.A.32 ¶ 154. Another neighbor openly stated during a public meeting that Grand’s “Orthodox Jewish character made her ‘suspicious.’” J.A.31 ¶ 151. During the quasi-judicial hearing on Grand’s permit application, a neighbor stated, “I am not Jewish and I do not want our neighborhood labeled as Jewish.” J.A.29 ¶ 138.

The government amplified anti-Jewish feeling in the community, chilling Grand’s freedom to pray in his own home. Grand alleged that the City has only required special-use permits for home worship by Orthodox Jews—not members of any other faith. J.A.24 ¶¶ 112–14; J.A.30 ¶ 144. And at a public meeting on March 23, 2021, the Mayor emphasized

that “[t]here is no permission granted here to operate . . . a house of assembly at [Grand’s home]” and encouraged community members who observed “such activities” to “report them to the city.” J.A.23 ¶ 111; J.A.338–39. In addition, the City organized regular patrols of Grand’s home after the Mayor requested “frequent drive-bys” based on a “great deal of contention between this address and the surrounding neighbors.” J.A.32–33 ¶¶ 158–59; J.A.303. Grand’s experience, compounded by the Mayor’s call for surveillance and the government’s encouragement of such hostility, does not reflect the environment of free religious exercise that the Constitution protects for all Americans. Indeed, the Mayor’s “official expressions of hostility to religion . . . were inconsistent with what the Free Exercise Clause requires.” *Masterpiece Cakeshop v. Colorado C.R. Comm’n*, 584 U.S. 617, 639 (2018); *see also Church of Lukumi Babalu Aye, Inc.*, 508 U.S. at 534 (“The Free Exercise Clause protects against governmental hostility which is masked, as well as overt”).

Years later, the City belatedly acknowledged that, “in our immediate area, the Jewish community has been maligned, and individual members of the Jewish community have been singled out” and “these actions have led to a rise in fear and concern for safety within our Jewish community.” Res. 2025-31, City of University Heights City Council (adopted June 16, 2025), <https://tinyurl.com/2kthxsc7>; City of University Heights City Council, City Council Meeting Minutes 13–14 (June 16, 2025),

<https://tinyurl.com/4m3ynhth> (reflecting unanimous adoption of Resolution 2025-31). This resolution acknowledges the conditions within the City, but it does not return to Grand his lost Sabbath minyans or undo how he was maligned for his beliefs.

2. The Disturbing Prevalence Of Anti-Semitism Leaves Jews Particularly Vulnerable To Attacks On Their Home Worship

The City is part of a deeply troubling national wave of rising anti-Semitism. According to the Federal Bureau of Investigation, although Jews only constitute around two percent of the U.S. population, anti-Jewish hate crimes annually comprise a majority of all religion-based hate crimes. *See* FBI Crime Data Explorer, *Hate Crime in the United States Incident Analysis*, <https://tinyurl.com/4tj6pasp> (last visited Sep. 3, 2026) (“*FBI Crime Data Explorer*”). In 2021, when Grand was seeking to pray at home with his neighbors, the Anti-Defamation League recorded the highest number of anti-Semitic incidents in U.S. history. Anti-Defamation League, *Audit of Antisemitic Incidents 2021* 5 (Apr. 2022), <https://tinyurl.com/y2m2t9bk>. Anti-Jewish hatred progressively increased in each of the next three years, setting new records each year. *See FBI Crime Data Explorer* (depicting total hate crimes reported in the United States between August 2021 and August 2026). The same pattern was visible in Ohio, where the City is located. *See generally* Ohio Advisory

Committee to the U.S. Commission on Civil Rights, Antisemitism in Ohio 18 (Apr. 2026), <https://tinyurl.com/47mecbmu>.

In 2026 alone, synagogues, Jewish schools, and other community institutions have suffered violent attacks in Mississippi, Michigan, New York, the United Kingdom, Canada, Belgium, and elsewhere around the world. *See* Anti-Defamation League, *Jewish Community Faces Unprecedentedly High Threat Environment* (July 27, 2026), <https://tinyurl.com/mrxzx6n5>; Community Security Trust, *Antisemitic Incidents January–June 2026*, <https://tinyurl.com/awb9kxu3> (last visited Sep. 3, 2026); Arrthy Thayarapan, ‘*Shaken to Our Core*’: *Jewish Community Urges Action against Antisemitism after GTA Synagogue Shootings*, CBC News (Mar. 8, 2026), <https://tinyurl.com/fh2fm6ah>; Megan Specia & Koba Ryckewaert, *Attacks on Jewish Targets in Europe Suggest Hybrid Warfare*, N.Y. Times (Apr. 30, 2026), <https://tinyurl.com/9myaswep>.

Jews are also disproportionately targeted for the anti-religious misuse of zoning laws. Congress enacted RLUIPA after compiling a record showing that individualized land-use decisions “readily lend themselves to discrimination” and that in fact there was “a widespread pattern of discrimination” against religious assemblies, particularly small and unfamiliar denominations. *RLUIPA Statement*,

supra p.7, at S7774–75.⁷ In practice, more than ten percent of the Justice Department’s RLUIPA investigations and more than twenty percent of its lawsuits and amicus briefs have been in cases involving Jewish groups. Department of Justice, Report on the Twentieth Anniversary of the Religious Land Use and Institutionalized Persons Act 11–15 (Sep. 22, 2020), <https://tinyurl.com/4j24u28u>. The Justice Department has observed that RLUIPA investigations involving Jewish and Muslim groups have required litigation to vindicate believers’ rights more often than investigations involving other religions because governments have more often been unwilling to take voluntary corrective action when targeting Jewish and Muslim groups. These cases have also often involved allegations that zoning decisions were motivated by discriminatory animus. *Id.* at 15. Consider just a few examples of governments weaponizing land-use regulations to discriminate against religion, and particularly against Jews:

- Prior to RLUIPA’s enactment, a village in New York was incorporated out of the Town of

⁷ Indeed, what is believed to be the first case involving discriminatory restrictions on religious land use was brought by a Jewish orphanage against the same City. The court held that the City’s attempt to bar a Jewish orphanage because the children there would all be Jewish was unlawful. *See Vill. of Univ. Heights v. Cleveland Jewish Orphans’ Home*, 20 F.2d 743, 746 (6th Cir. 1927).

Ramapo with the specific intention to exclude Orthodox Jews from the new village. *LeBlanc-Sternberg v. Fletcher*, 67 F.3d 412 (2d Cir. 1995). The village adopted zoning restrictions targeting the religious practices of Orthodox Jews, including policies that limited the use of Orthodox rabbis' homes for prayer services. *Id.* at 416. The Second Circuit reinstated the jury's verdict finding Fair Housing Act and First Amendment violations based on municipal zoning decisions that amounted to religious discrimination. *Id.* at 417.

- A New Jersey township paid a six-figure settlement over zoning restrictions that allegedly discriminated against Orthodox Jews. Kathryn Post, *NJ Town Accused of Discriminating Against Orthodox Jews Will Pay \$575k Settlement*, Religion News Service (Aug. 29, 2023), <https://tinyurl.com/5n6tb6jp>. The zoning restrictions at issue allegedly resulted in “a surveillance plan to monitor homes where Orthodox Jewish residents were allegedly gathering for Shabbat,” and the town allegedly had “devoted significant resources toward surveillance of these lawful prayer meetings.” *Id.* The consent judgment resolving the lawsuit prohibited further discriminatory zoning and other discrimination against religious assemblies. *Id.*

- A municipality in Pennsylvania entered into a consent order with the Department of Justice requiring revision of its zoning ordinance, which had effectively prevented the Chabad Orthodox Jewish community from securing viable worship space within the municipality. Consent Order, *United States v. Borough of Kingston*, No. 3:26-cv-00269 (M.D. Pa. Feb. 6, 2026). Subsequently, the Third Circuit granted preliminary injunctive relief restoring the Yeshiva's access to its properties and halting enforcement of the municipality's zoning ordinance against the organization during the pendency of litigation. *Anash Inc. v. Borough of Kingston*, 184 F.4th 214, 249 (3d Cir. 2026).
- A village in New York entered into a consent decree enjoining the village from enforcing, implementing, or otherwise giving force to 2018 amendments to its zoning code, resolving a RLUIPA lawsuit brought by the United States alleging that the amendments imposed a substantial burden on religious exercise and treated religious assemblies on less than equal terms with nonreligious assemblies. Consent Decree, *United States v. Village of Airmont*, No. 7:20-cv-10121 (S.D.N.Y. Oct. 19, 2023).

These documented statistics and illustrations of antisemitic sentiment likely understate the problem. The American Jewish Committee has found that antisemitic incidents are widely underreported and

that many major cities have not reported any hate crimes to the FBI. Am. Jewish Comm., *Anti-Jewish Hate Crimes Decline, But Remain the Most Reported Religion-Based Crimes* (Aug. 17, 2026), <https://tinyurl.com/ycysvtru>. A majority of American Jews report changing their behavior out of fear of antisemitism; seventy-three percent have experienced antisemitism online; and more than thirty percent of American Jews have been personally targeted, including forty-seven percent of those under thirty years old. Am. Jewish Comm., *The State of Antisemitism in America 2025*, <https://tinyurl.com/485d7j3v>, (last visited Sep. 3, 2026).

In this environment of pervasive anti-Jewish sentiment, judicial review is the only meaningful check against institutional discrimination.

B. Misapplying The Finality Rule To Free Exercise Will Insulate Government Actors Who Infringe Protected First Amendment Rights From Judicial Oversight

Misapplying the finality rule to claims like Grand's imposes an entry fee before victims injured by violations of their free-exercise rights can vindicate those rights in court. Under the Sixth Circuit's ruling, when local governments order believers not to exercise their faith in their homes, those believers must first complete the zoning process—however

hostile, expensive, and protracted—before a federal court can hear their claims. In this way, a doctrine designed to prevent premature adjudication has become a doctrine that insulates administrative abuse (and prolongs rights violations) by postponing judicial review until long after the constitutional injury is complete.

Moreover, extending the *Williamson County* finality rule from its zoning roots into the free-exercise context imposes particular burdens on religious minorities like Grand. When courts apply the finality rule to free-exercise claims, they do so in an environment where antisemitic hostility is increasingly common, where governments have a documented history of using facially neutral processes to suppress religious minorities, and where the communities most in need of judicial protection are precisely those least able to endure protracted administrative proceedings. *See RLUIPA Statement, supra* p.7, at S7774–75.

In this context, applying the finality rule establishes a shield for government actors perpetrating discrimination under cover of “process.” A municipality that wishes to suppress minority religious worship without judicial accountability need only create a permitting process that is hostile to religion and stop just short of a formal denial to be immune from judicial oversight. So long as the locality has not rendered a final decision, a court applying the Sixth Circuit’s rule will hold that the

constitutional claims are unripe—no matter how egregious the government’s conduct, no matter how complete the chilling effect, and no matter how clear the discriminatory motive. If the process is sufficiently burdensome, the individual seeking free exercise may abandon that process before the government body reaches a final decision. In this way, complex regulatory procedures create ample opportunities for delay and obstruction that can ultimately disguise discrimination.

That is precisely what happened here. The City issued an order demanding that Grand “immediately cease and desist any and all” religious assembly. J.A.199. The Mayor told Grand that “under no circumstances” was he “allowed to have any type of religious gathering” without a permit. J.A.10 ¶ 45. When Grand sought a permit, the City converted the process into an unprecedented “quasi-judicial format,” closed the record, and engaged in open hostility. J.A.17–19 ¶¶ 78–87; J.A.292–93. After Grand withdrew his application in the face of this hostility, the Mayor publicly declared that the City had not granted any “permission” and encouraged Grand’s neighbors to report any religious gatherings. J.A.338–39. Police surveillance followed. J.A.32–33 ¶¶ 158–59; J.A.303. Through it all, the courthouse doors remained closed to Grand because he had not obtained a “final decision.” *Williamson Cnty.*, 473 U.S. at 186.

The Sixth Circuit's misapplication of the finality rule tells members of every religious minority that the constitutional injuries they suffer today cannot be addressed until tomorrow, and tomorrow may never come. The First Amendment promises more: full and free religious exercise. Opening the courthouse door to Grand and other similarly situated plaintiffs is the only way to ensure that promise is kept.

* * *

The Framers designed the American legal system with judicial review as the mechanism for individuals to vindicate their inalienable rights in the face of government overreach. For the constitutional design to work, that mechanism must be available when the violation occurs, not after the violator has completed a process designed to exhaust the victim's resources and resolve. This Court should therefore hold that traditional First Amendment ripeness principles, not the takings-based finality rule in *Williamson County*, govern free exercise claims arising from credible government threats that deter the exercise of fundamental rights.

CONCLUSION

For these reasons, the Court should reverse the judgment below.

Respectfully submitted,

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