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* AMERICAN ATHEISTS, INC. IN SUPPORT OF RESPONDENTS

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INTEREST OF AMICUS CURIAE[1]

American Atheists, Inc., is a national 501(c)(3) civil rights organization that works to achieve religious equality for all Americans by protecting what Thomas Jefferson called the "wall of separation" between government and religion created by the First Amendment. American Atheists strives to promote understanding of atheists through education, advocacy, and community-building; works to end the stigma associated with atheism; and fosters an environment where bigotry against our community is rejected. As a membership organization representing the interests of atheists and nonreligious people across the country, American Atheists opposes any effort to create or expand religious exemptions to generally applicable laws or to grant religious claimants privileged access to the judicial system.

INTRODUCTION

This case is not about a man merely seeking to host a prayer or a study group around his dinner table. Far from simply hosting occasional religious get-togethers, Mr. Grand took steps to convert a room in his home to a house of worship, inviting dozens of people to gather multiple times every week on the sabbath. He did this despite his home being in an area zoned for residential use, where his neighbors rely on the other properties in the neighborhood being used for residential purposes, where the city planners have established

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[1] *Amicus* has no parent company nor have they issued stock. No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund its preparation or submission. No person other than *amicus* made a monetary contribution to the preparation or submission of this brief.

infrastructure and utilities designed to support typical residential use, where traffic controls are carefully calibrated for residential street and pedestrian traffic, and where property values are calculated with the natural assumption that other properties in the area will be used in accordance with zoning laws. For property owners seeking to use their property in ways that do not conform to those zoning laws, the city has created procedures and processes to request special use permits or changes to the zoning laws themselves.

Nevertheless, Mr. Grand insists that he is entitled to ignore zoning regulations because his reasons are religious. He refuses to follow the procedures and rules that apply to everyone else because he has religious motivations. He not only demands that the city allow him to proceed with his nonconforming use of his property while he seeks a permit for that use, but also that he is entitled to skip those procedures entirely because his nonconforming use is religious in nature.

This case is an attempt to push us further along the path Congress first started down with the passage of the Religious Freedom Restoration Act. Every step takes "us further down a perilous path in forcing States to entangle themselves with religion, with all of our rights hanging in the balance." *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 578 (2022), Sotomayor, J., dissenting. Every step down this path exacerbates an injustice: religious Americans have more rights than anyone else. If you are religious, you get special causes of action. 42 U.S.C. § 2000bb-1(c); 42 U.S.C. § 2000cc-2(a). If you are religious, you can exempt your child from any school assignment that runs afoul of your beliefs (especially if the lesson acknowledges the existence of the LGBTQ community). You can count your donations to opaque, unaccountable,

and largely unregulated religious entities as tax deductible. You can create "religious" for-profit corporations and ignore regulations you dislike (especially if your aim is to deny your employees access to reproductive health care). You can take taxpayer money and disregard nondiscrimination laws. You can deny your children access to medical care (especially if you deny them vaccines). And if this Court agrees with Mr. Grand, if you are religious, you will be allowed to ignore zoning procedures.

This abuse of the First Amendment must end. The Establishment Clause "means at least this: Neither a state nor the Federal Government can . . . pass laws which aid one religion, aid all religions, or prefer one religion over another." *Everson v. Bd. of Educ. of Twp. of Ewing*, 330 U.S. 1, 15 (1947). With this case, the Court is "yet again paying almost exclusive attention to the Free Exercise Clause's protection for individual religious exercise while giving short shrift to the Establishment Clause's prohibition on state establishment of religion." *Kennedy*, 597 U.S. at 546 (Sotomayor, J., dissenting).

Mr. Grand doesn't want the inconvenience of having to continue walking to the synagogue he previously attended. *Grand v. City of Univ. Heights*, 159 F.4th 507, 509 (2025). One sympathizes. But that minor inconvenience does not entitle him to an exemption from basic zoning regulations nor from procedural requirements this Court has established for land-use litigation. "To make an individual's obligation to obey such a law contingent upon the law's coincidence with his religious beliefs, except where the State's interest is 'compelling' -- permitting him, by virtue of his beliefs, 'to become a law unto himself,' -- contradicts both constitutional tradition and common sense." *Employment*

Div. v. Smith, 494 U.S. 872, 885 (1990) (quoting *Reynolds v. United States*, 98 U.S. 145, 167 (1878)).

SUMMARY OF THE ARGUMENT

By his own words, Mr. Grand sought to establish a house of worship in his home in a neighborhood not zoned for that use. He described his intended use as a *shul* and a *beis hakeneset*, both terms being synonyms for a synagogue. He invited a dozen families to attend and bring their friends. And he stated his intention to grow his new congregation.

Mr. Grand did all this without completing the process of applying for a special use permit. Those zoning laws exist to ensure that University Heights, like many municipalities, can adequately plan infrastructure projects and provide sufficient services to its residents. Zoning laws impact traffic flows, public safety, and the provisions of water, sewer, and waste management services to neighborhoods. Mr. Grand ignored all of that and did not bother to go through the process of obtaining a final decision on his application for a special use permit, preferring to go straight to court with an unripe claim and an incomplete factual record. He demands the right to do this because his intended nonconforming use was religious in nature.

Creating an exception to the established ripeness doctrine for land-use cases would impair the ability of the judiciary to review land-use decisions by necessarily limiting the information available to the courts. It would create significant risk of harm to municipalities and their residents. Finally, it would set a dangerous precedent, paving the way for religious litigants seeking redress for any number of claims to come straight to court while the rest of us deal with

Article III's standing, ripeness, and justiciability requirements.

For these reasons, the Court should affirm the decision below.

ARGUMENT

Mr. Grand claims that this case is about a "prayer meeting" but it is about far more than that. John Fritze, *The little-noticed Supreme Court case that could impact where people pray*, CNN (Aug. 11, 2026, 10:12 AM), https://www.cnn.com/2026/08/10/politics/prayer-supreme-court-religious-zoning. He asserts that special justiciability rules should apply to religious claimants. The ramifications of that assertion, should this Court side with him, could reach into virtually every aspect of the law. Ultimately, he is asking this Court to issue a rule that would effectively exempt houses of worship and other religious uses of land from any zoning regulations.

I. Grand expressly intended to establish a house of worship.

Contrary to much of the public discourse surrounding this case, *see id.*, Mr. Grand was not seeking to host an informal prayer group in his home. Nor do the actions of University Heights threaten the ability of anyone to have such get-togethers in their own homes. Rather, in the email he sent out announcing his endeavor, he made it very clear that he was creating a house of worship.

Religion is not a wand one can wave to absolve oneself of any and all legal obligations. Mr. Grand did not seek to merely hold a "prayer meeting" in his home. *Id.* He specifically invited roughly a dozen households, whom he encouraged to "spread the word to whomever

you feel might be interested in coming," to attend "the inauguration of the Shomayah Tefillah Beis Hakeneset," *Grand v. City of Univ. Heights*, No. 1:22-cv-1594, 2024 U.S. Dist. LEXIS 176340, at *4 (N.D. Ohio Sept. 30, 2024), for multiple meetings every sabbath, *id*. Mr. Grand stated specifically, "I know that the intended recipient of my email understood what I meant because they are my friends and they knew that I was converting my residential home into a formal synagogue that would be ready to be inaugurated a few days later." J.A. 187. He recruited a rabbi. *Grand*, 2024 U.S. Dist. LEXIS at *4. He referred to it as a "*shul*" intended to "expand the community" by reaching a new neighborhood and provide a "place where people come to seriously daven,... a powerful place to have your prayers heard and answered." *Id.* at 4-5.

The parties may quibble over the fuzzy outer boundaries of the term "house of worship" as used in University Heights' zoning regulations but that discussion is not relevant here. Mr. Grand was quite clear in his intention. His email announced the formation of a new synagogue. "*Beis hakeneset*" (or its alternative spellings, "*beit knesset*" and "*beit k'neset*") literally translates to "house of gathering" or "house of assembly" and denotes a synagogue. *Beit Knesset*, Jewish English Lexicon (accessed October 26, 2026), https://jel.jewish-languages.org/words/51; *Beit k'neset*, ReformJudaism.org (accessed October 26, 2026), https://reformjudaism.org/glossary/beit-kneset; *Synagogue: Beit Haknesset*, Chabad.org (accessed October 6, 2026), https://www.chabad.org/library/article_cdo/aid/5808405/jewish/Synagogue-Beit-Haknesset.htm. The term *shul* denotes a synagogue as well. *Shul*, Jewish English Lexicon (accessed October 26, 2026), https://jel.jewish-languages.org/words/543; *Shul*, ReformJudaism.org (accessed October 26, 2026), https://reformjudaism.

org/glossary/shul; *The Synagogue (Shul)*, Chabad.org (accessed October 26, 2026), https://www.chabad.org/library/article_cdo/aid/365929/jewish/The-Synagogue.htm. A synagogue is unequivocally a house of worship.

University Heights officials were justifiably concerned that Mr. Grand intended to use his property in a manner that did not conform to the local zoning regulations and, as a result, could put a significant strain on the infrastructure in his neighborhood. His attempt to use his home as a *shul* or *beis hakeneset* was not University Heights' first experience with a resident establishing their home as a "residential *shul*." Around the same time Mr. Grand sent his inaugural email to roughly a dozen families, University Heights had been forced to take another resident to court for operating one in an area not zoned for it. *Grand*, 2024 U.S. Dist. LEXIS at *7 n.2. That congregation was hosting roughly 120-130 individuals in the basement of a house. *Id*. Any building regularly hosting such a substantial number of people could put a significant strain on city infrastructure that roads and sidewalks, as well as water, power, and solid waste management systems, in an area zoned for purely residential use were never intended to support.

Although Mr. Grand sent his initial email to approximately 12 area households, he also encouraged them to bring anyone else who was interested and expressly stated that he intended to recruit additional attendees from nearby neighborhoods. *Id.* at 4-5. That he started by emailing a dozen families does not mean that only 12 individuals would attend. To the contrary, he seemed intent on growing his new congregation significantly. *Id*. City officials were rightly concerned.

II. Creating a religious exception to *Williamson County*'s final decision rule creates a two-tiered classification for property owners and would set a dangerous precedent.

This Court, in *Williamson County Regional Planning Commission v. Hamilton Bank*, determined that a plaintiff bringing a constitutional challenge against a land-use regulation must at least receive a final decision from the regulating governmental body in order for a claim to be ripe for judicial review. 473 U.S. 172, 187 (1985). *Williamson County*'s final-decision requirement is not an arbitrary imposition of red tape. This Court offered several significant justifications for the requirement, all of which hold regardless of whether the land owner's motivations are sectarian or secular.

First, *Williamson County*'s requirement addresses a fundamental issue of justiciability: a concrete injury. Absent a final decision, it is "not clear whether the [government] would deny approval" of the use in question. *Id.* at 187. Furthermore, requiring a claimant to receive a final decision from the applicable governing body before resorting to litigation provides an opportunity for the parties involved to reach "a mutually acceptable solution…, thereby obviating any need to address the constitutional questions." *Id.*

Second, the final-decision requirement protects the rights of others with an interest in how the land is used. It affords an opportunity for other parties to be heard through applicable notice-and-comment requirements. *Id.* at 189. It also allows for the consideration of "the economic impact of the challenged action and the extent to which it interferes with reasonable investment-backed expectations," factors "of particular significance in the [land-use] inquiry." *Id.* at 191.

"Those factors simply cannot be evaluated until the administrative agency has arrived at a final, definitive position regarding how it will apply the regulations at issue to the particular land in question."

Disregarding these important considerations simply because the land owner is motivated by religious considerations would set a precedent with far-reaching ramifications, both in the context of land use and in numerous other areas of law.

A. Ripeness requirements are necessary for the functioning of the judiciary.

Article III of the U.S. Constitution has no carve-out for questions involving religion. The mere fact that one seeking approval of a development plan, a variance or, in this instance, a "special use permit" is doing so for religious reasons does not make any of the considerations laid out in *Williamson County* less relevant to the question of ripeness.

Justiciability criteria like ripeness do not exist simply to provide judges with an opportunity to engage in thought exercises. These criteria exist to ensure the courts stay within the bounds imposed by Article III. U.S. Const. art. III, § 2. The "basic rationale" of ripeness doctrine:

> is to prevent the courts, through avoidance of *premature adjudication*, from entangling themselves in abstract disagreements over administrative policies, and also to protect the agencies from judicial interference until an administrative decision has been formalized and its effects felt in a concrete way by the challenging parties.

Abbott Lab'ys v. Gardner, 387 U.S. 136, 148-49 (1967) (emphasis added), *superseded by statute on other*

grounds, 42 U.S.C. § 7607(b)(1). Until "the initial decisionmaker has arrived at a definitive position on the issue," the factual record is incomplete and it is mere speculation whether the government's decision would "inflict[] an actual, concrete injury." *Williamson Cnty. Reg'l Plan. Comm'n*, 473 U.S. at 193-94.

The possibility of reaching a "mutually acceptable solution" can still obviate any need to resort to litigation to address a constitutional question. *Id.* at 187. Likewise, the fact that the owner's intended use is religious does not change the fact that, until a final decision is reached, the possibility remains that the land owner will be able to use their property exactly as they intend without need for judicial intervention. *Id.* Finally, the fact that an intended use is religiously motivated does not change the myriad ways granting a variance might impact neighbors and the municipality itself.

Mr. Grand sought to host worship services multiple times each sabbath. Because he abandoned his attempt to obtain a special use permit, the record is incomplete. The Court does not know how many people Mr. Grand intended to host. It does not know if he intended there to be a cap on the number of attendees. It does not know how a congregation of the size Mr. Grand intended would have impacted pedestrian traffic every Friday and Saturday or increased the needs of his neighborhood for water, waste management, and other utilities. In short, because Mr. Grand did not bother to obtain a final decision on his application for a special use permit, the Court only has one side of the equation: it knows the burden placed on Mr. Grand's religious exercise but cannot know the burden that an accommodation would impose on University Heights and its residents. It must perform

a balancing test where one side of the scale holds nothing but question marks.

B. Eliminating the *Williamson County* finality requirement for religious litigants will harm municipalities and their residents.

This Court has long recognized the important function that zoning laws and regulations serve:

> There is no serious difference of opinion in respect of the validity of laws and regulations fixing the height of buildings within reasonable limits, the character of materials and methods of construction, and the adjoining area which must be left open, in order to minimize the danger of fire or collapse, the evils of over-crowding, and the like, and excluding from residential sections offensive trades, industries and structures likely to create nuisances.

Euclid v. Ambler Realty Co., 272 U.S. 365 (1926).

University Heights established its zoning plan to address the public concerns acknowledged by the Court. The city adopted its plan "for the protection and promotion of the public health, safety, convenience, comfort, prosperity and the general welfare." University Heights, Ohio, Zoning Code § 1242.01(a). The city aimed to guide future development within its boundaries:

> …for the most beneficial land use and population density; . . . *to reduce or avoid the need for general traffic flow on local residential streets, especially truck traffic*; to insure adequate open space between buildings, especially for residential occupancy; to provide a guide for

> public policy and action in *the economical provision of public facilities and services and for related public needs*, and a guide for private enterprise in building development, investment and other economic activity relating to the uses of land and buildings.

University Heights, Ohio, Zoning Code § 1242.01(b) (emphasis added).

Public safety is a serious concern to all municipalities and zoning regulations play a significant role in preserving that safety. An obvious concern that arises when a building plays host to 100 people when it was designed to play host to a fraction of that is the risk of fire. Overcrowded buildings create a heightened risk of fires and the Ohio fire code and local fire departments place occupancy limits on buildings specifically to minimize that risk and exceeding those limits can create an actionable nuisance. *City of Cincinnati v. Risconi Bar & Kitchen, LLC*, 1st Dist. Hamilton, No. C-260057, 2026-Ohio-4130, ¶ 4.

Moreover, the procedure for obtaining a special use permit from the University Heights Planning Commission provides an opportunity for neighbors to be heard, requiring at least seven days' notice to be "given to the record owners of parcels within 100 feet from the exterior boundaries of the area described in the application, and to the record owners of other parcels deemed by the Commission to be immediately affected by the case, and to members of Council." University Heights, Ohio, Zoning Code § 1220.09. Regardless of whether his reasons are religious, Grand's neighbors deserve an opportunity to be heard if he is going to host 20 or 50 or 120 people in his house multiple times per week. The issuance of a special use permit could impose burdens on neighbors that weigh

heavily against granting an accommodation. *Estate of Thornton v. Caldor, Inc.*, 472 U.S. 703, 708-10 (1985).

This Court has been particularly creative of late when interpreting the Establishment Clause but it still "means at least this: Neither a state nor the Federal Government can . . . pass laws which aid one religion, aid all religions, or prefer one religion over another." *Everson v. Bd. of Educ. of Twp. of Ewing*, 330 U.S. 1, 15 (1947). Without the complete record that would accompany a final decision, Mr. Grand's neighbors would be denied any opportunity to be heard in a matter that may directly affect their day-to-day lives and property interests purely because Mr. Grand's reasons were religious. With this case, the Court is poised to "yet again pay[] almost exclusive attention to the Free Exercise Clause's protection for individual religious exercise while giving short shrift to the Establishment Clause's prohibition on state establishment of religion." *Kennedy*, 597 U.S. at 546 (Sotomayor, J., dissenting).

Because Mr. Grand sought to skip the line and come straight to court before obtaining a final decision on his application for a special use permit, it is impossible to say whether University Heights would have considered any or all of these factors when assessing his application for a special use permit. Would the flow of pedestrian traffic have presented a risk of significant increases in vehicle-pedestrian collisions on Friday nights and Saturdays? Would increased waste disposal demands have required more frequent visits from sanitation trucks, or required the roads to accommodate larger sanitation trucks? Would the neighborhood's sewer system be overburdened on Fridays and Saturdays as a result of Mr. Grand's nonconforming use? Each of these questions have answers. The courts

need those answers to decide land-use cases. Yet none of those answers can be found in the record because Mr. Grand demands privileged access to the courts before his claim was ripe for judicial review. That his motivation was religious does not change this simple fact of how our judicial system functions under Article III.

C. Exempting religious claimants from *Williamson County*'s prudential requirements sets a dangerous precedent that would have ramifications in numerous other contexts.

We have been here before and we have seen where this leads. This Court issues a sound, reasonable decision that brings together a line of cases and discerns from those cases a rule that is both sound and reasonable. *See generally Lemon v. Kurtzman*, 403 U.S. 602 (1971). However, when that rule results in a decision that a majority of justices on this Court do not like, it carves out an exception. *See generally Marsh v. Chambers*, 463 U.S. 783 (1983). And another. *See generally Lynch v. Donnelly*, 465 U.S. 668 (1984). And another. *Van Orden v. Perry*, 545 U.S. 677, 685 (2005). And what you have left "invite[s] chaos in lower courts, [leads] to differing results in materially identical cases, and create[s] a minefield for legislators." *Kennedy*, 597 U.S. at 534. The Court has started down this path in the Free Exercise Clause context, except the situation is far more dire. Instead of carving out exceptions from a single test from a single case, this Court is carving exceptions out of *everything*.

When Congress passed the Religious Land Use and Institutionalized Persons Act in 2000, it was aware of *Williamson County*'s requirement of a final decision in land-use cases. The judiciary had been imposing that

requirement on land-use cases regularly for 15 years. *City of Monterey v. Del Monte Dunes*, 526 U.S. 687 (1999); *Suitum v. Tahoe Reg'l Planning Agency*, 520 U.S. 725, 737 (1997); *Macdonald v. County of Yolo*, 477 U.S. 340, 349 (1986). Thus, when Congress declared that "[n]o government shall *impose* or implement a *land use regulation* in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution" unless it can survive strict scrutiny, 42 U.S.C. § 2000cc(a)(1) (emphasis added), it was well aware that this Court does not consider a land use regulation to be imposed "until a final decision is made as to how the regulations will be applied to respondent's property." *Williamson County*, 473 U.S. at 200. A holding from this Court that anyone seeking to use their land a particular way for *religious* reasons need not wait for a final decision from the regulating body would both directly conflict with RLUIPA, which does not provide a cause of action until the land use regulation has been "imposed," 42 U.S.C. § 2000cc(a)(1), and invites all the issues that the *Williamson County* finality requirement is meant to avoid.

Moreover, it would set a precedent that is deeply disturbing in its implications: Article III's universal, well-understood, concrete injury requirement suddenly *would not apply* to religious claims. If a litigant's motivations are religious, they need not wait for the government to actually *do* anything. The established rules do not apply. Such a decision could have immediate consequences far beyond the land-use context.

1. Prisons

Just as *Williamson County* established one of the criteria of ripeness for land-use claims in general, the Prison Litigation Reform Act imposes distinct ripeness

requirements on causes of action brought by institutionalized persons in general, including the requirement that the prospective litigant exhaust their existing administrative remedies before seeking redress in court. 42 U.S.C. § 1997e. However, a decision from this Court declaring even a procedural delay to be too high a burden on religious exercise in land-use cases could readily be applied to religious claims brought by prisoners. Just as a decision in favor of Mr. Grand in this case would create a two-tiered classification of land owners (i.e., on the one hand, those putting their land to religious uses who face far fewer barriers to litigation and, on the other hand, those who are putting their land to whatever legal use they see fit and therefore must clear all regulatory hurdles before being granted access to the courts) that incentivizes religious land use over any other use, so too would a two-tiered classification of institutionalized persons be created, further incentivizing religiosity in a setting where individuals already feel immense pressure to conform to religious demands. *See generally Miller v. Marshall*, 682 F. Supp. 3d 559 (S.D. W. Va. 2023).

2. Tax lawsuits

Challenges to the collection of federal income taxes predate the Sixteenth Amendment. *See generally Pollock v. Farmers' Loan & Trust Co.*, 157 U.S. 429 (1895). Those challenging the federal income tax or some aspect of it frequently point to religious beliefs as the justification. *See generally Hernandez v. Comm'r*, 490 U.S. 680 (1989); *United States v. Lee*, 455 U.S. 252 (1982); *United States v. Am. Friends Serv. Comm*, 419 U.S. 7 (1974). Those who seek to challenge the government's collection of tax revenue frequently run up against the "pay-now-sue-later" procedures imposed by the Anti-Injunction Act, 26 U.S.C.

§ 7421(a), which requires those wishing to challenge a tax levied upon them to first pay the tax and then sue for a refund. *CIC Servs., LLC v. IRS*, 593 U.S. 209, 222 (2021).

Similarly, the Tax Injunction Act requires would-be litigants seeking to challenge "the assessment, levy or collection of any tax under State law" to take advantage of state regimes for challenging taxes. 28 U.S.C. § 1341. The federal judiciary only has jurisdiction where state law fails to provide "a plain, speedy and efficient remedy" for a tax dispute. *Id.*

However, should this Court holds that the delay resulting from applying for and receiving a special use permit, variance, or other authorization to use land for a religious purpose is too great a burden on religious exercise, it would hardly be a leap for the courts to say that handing over one's hard-earned money imposes an even greater burden and that to require taxpayers who object to a tax on religious grounds to nonetheless pay the tax before seeking a remedy in court violates their free exercise rights. And now we have a two-tiered classification system for taxpayers as well, one in which some who object to a tax get to keep their funds while pursuing their challenge while the rest must fork over their money and only then may they ask nicely to please have it back.

CONCLUSION

For the foregoing reasons, *amicus* urges this Court to AFFIRM the Sixth Circuit's decision.

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