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 FREEDOM FROM RELIGION FOUNDATION IN SUPPORT OF RESPONDENTS

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INTEREST OF AMICUS[1]

The Freedom From Religion Foundation ("FFRF") is the largest national association of freethinkers, representing atheists, agnostics, and others who form their opinions about religion based on reason, rather than faith, tradition, or authority. Founded nationally in 1978 as a 501(c) (3) nonprofit, FFRF has more than 40,000 members, including members in every state and the District of Columbia. FFRF's primary purposes are to educate about nontheism and to preserve the cherished constitutional principle of separation between religion and government.

FFRF also seeks to protect equal access to the courts for civil rights litigants in this realm. Courts must not stray from longstanding jurisdictional principles to afford leniency to religiously-affiliated litigants while using the same principles to deny access to other civil rights litigants.

SUMMARY OF ARGUMENT

Article III of the Constitution limits federal courts' power to only adjudicate actual cases and controversies. In this pre-enforcement challenge, Grand asks the Court to disregard Article III limitations and issue an advisory opinion. The Court should decline to adjudicate this case

1. No party's counsel in this case authored this brief in whole or in part. No party or party's counsel contributed any money intended to fund preparing or submitting this brief. No person, other than amicus, its members, or its counsel contributed money that was intended to fund preparing or submitting this brief.

for two reasons: Grand lacks standing and his claims are moot.

First, Grand's claim for prospective relief from the zoning ordinance under the First Amendment is moot. Grand has moved out of the City and is no longer subject to the zoning ordinance. There is no reasonable threat that the zoning ordinance could ever be enforced against him.

Second, Grand lacks standing to challenge the zoning ordinance under a Free Exercise claim. In order to demonstrate standing in a pre-enforcement challenge, a Petitioner must establish that there is a substantial threat of future enforcement of the law they are challenging. Here, the zoning ordinance, by admission of both parties, has not ever and will not ever be enforced against Grand. Instead, Grand attempts to argue that he was chilled from exercising his rights. However, there is no evidence that the City ever intended to enforce the zoning ordinance against Grand or anyone else for small, informal prayer gatherings. The City was clear that it would enforce the ordinance against any use of Grand's home as a house of worship, but Grand has avowed that he never intended to use his home that way. He has demonstrated no intent to engage in any conduct that would arguably violate the ordinance. Therefore, he cannot establish standing to challenge the ordinance.

Finally, Grand belatedly attempts to challenge the zoning ordinance based on retrospective injuries. However, he did not pursue these claims in his motion for summary judgment or before the Sixth Circuit. The Court should not allow the reintroduction of these claims at this stage, which would require the Court to parse a very

muddled factual record, because Grand's alleged injuries are not fairly traceable to the zoning ordinance. Any past injuries are the result of a series of miscommunications.

The Court must not disregard Article III limitations and should dismiss this case or, alternatively, affirm the court of appeals.

ARGUMENT

Grand's petition for certiorari raised the spectre of a government using a zoning ordinance to restrict citizens from gathering in small groups to engage in religious activity on private property. *See* Pet. for Cert. While such action by the government would be constitutionally suspect, Grand's petition doesn't deliver. The City never intended to weaponize its ordinance in the way Grand describes and the ordinance was never enforced against Grand. His alleged injuries do not arise from the ordinance at all, but rather, from a messy series of miscommunications.

In order to have a justiciable case or controversy, the case cannot be moot and the plaintiff must have standing to sue. *See DeFunis v. Odegaard*, 416 U.S. 312, 316 (1974) ("The inability of the federal judiciary 'to review moot cases derives from the requirement of Art. III of the Constitution under which the exercise of judicial power depends upon the existence of a case or controversy.'") (quoting *Liner v. Jafco, Inc.*, 375 U.S. 301, 306 n.3 (1964)); *DaimlerChrysler Corp. v. Cuno*, 126 U.S. 1854, 1862 (2006) ("[A] core component of the case-or-controversy requirement is that a litigant has standing to invoke the authority of a federal court.").

Mootness is a question that federal courts must answer if they "are to function within their constitutional sphere of authority." *N.C. v. Rice*, 404 U.S. 244, 246 (1971). For federal courts to have authority, "parties must continue to have a 'personal stake in the outcome' of the lawsuit." *Lewis v. Cont. Bank Corp.*, 494 U.S. 472, 478 (1990). This requirement "subsists through all stages of federal judicial proceedings, trial and appellate." *Id.* at 477.

Standing is a "bedrock constitutional requirement that applies to all manners of important disputes." *Food & Drug Admin. v. Alliance for Hippocratic Med.*, 602 U.S. 367, 378 (2024). As a bedrock principle, "Article III demands that an actual controversy persist throughout all stages of litigation." *Hollingsworth v. Perry*, 570 U.S. 693, 704 (2013); *see Nat'l Org. for Women, Inc. v. Scheidler*, 510 U.S. 249, 255 (1994) ("Standing remains open to review at all stages of litigation."). This remains true on appellate review, where appellants must establish all Article III standing requirements just like they had to in courts of first instance. *See Arizonans for Off. Eng. v. Arizona*, 520 U.S. 43, 64 (1997).

I. No prospective relief is available against the zoning ordinance because the claim is moot and Grand lacks standing.

Grand no longer lives in the City and thus the zoning ordinance cannot be enforced against him, making his claims for prospective relief against the ordinance moot. Additionally, "[d]efendants, in their summary judgment papers, have stipulated that Grand, and anyone else in the City, can hold small, informal religious (or non-religious) gatherings on a regular basis and such activity is not

subject to any of the City's ordinances or permitting requirements." Dist. Ct. Am. Mem. Op. Order 14, Oct. 1, 2024. Pet. App. 39a. The City agrees that Grand can hold the gatherings he asserts he wanted to host, or at least he could if he still lived in University Heights.

A. Grand mooted his own claims for prospective relief by moving out of the City.

To avoid being dismissed for mootness, "an actual controversy must be extant at all stages of review, not merely at the time the complaint is filed." *Alvarez v. Smith*, 558 U.S. 87, 92 (2009) (quoting *Preiser v. Newkirk*, 422 U.S. 395, 401 (1975). "[A] dispute solely about the meaning of a law, abstracted from any concrete actual or threatened harm, falls outside the scope of the constitutional words 'Cases' and 'Controversies.'" *Alvarez*, 558 U.S. at 93. For a court to speak on the constitutionality of a law when it has not established jurisdiction is "by very definition, for a court to act ultra vires." *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 101 (1998).

Claims for prospective relief are moot when a plaintiff's changed circumstances mean that the plaintiff is no longer subject to the government regulation at issue. *See Arizonans for Off. English*, 520 U.S. at 67–72. In *Arizonans for Official English*, the plaintiff was a state employee subject to a regulation that said English was the official language of all state government functions and actions. *Id.* at 48. During the litigation, the plaintiff voluntarily left state employment and did not allege she planned to return. *Id.* Because her changed circumstances meant that she was no longer subject to the regulation, the claim was moot. *Id.* at 72.

Here, Grand was living in University Heights and thus at least theoretically subject to its zoning ordinance at the time this suit was filed. Letter of Resp't Regarding Pet'r's Move Sept. 21, 2026. However, Grand moved out of University Heights in July 2026 and does not own property in the City. Letter Notifying Ct. of Pet'r's Move Sept. 18, 2026. He does not allege that he has any plans to ever move back to University Heights. *Id.* The zoning ordinance only applies to property within the City. Therefore, Grand is no longer subject to the zoning ordinance and his claims for prospective relief are moot.

Parties have an ongoing duty to timely notify the courts of changed circumstances that could affect ongoing litigation. In *Board of License Commissioners of Town of Tiverton v. Pastore*, this Court held that because the petitioner-business went out of business during the litigation, the case was moot. *See* 469 U.S. 238, 239–40 (1985). The Court learned of this after it issued a writ of certiorari, considered briefs on the merits, and commenced oral argument. *Id.* at 239. Nevertheless, this Court reminded counsel that there is a "continuing duty to inform the Court of any development which may conceivably affect the outcome of the litigation." *Id.* at 240. "When a development after this Court grants certiorari . . . could have the effect of depriving the Court of jurisdiction due to the absence of a continuing case . . . that development should be called to the attention of the Court *without delay*." *Id.*

In this case, the City alleges Grand listed his home in University Heights for sale four days after filing his reply brief in support of his petition for certiorari. The deed to the University Heights home was transferred

on July 9, 2026, seventy-one days before Grand filed the letter notifying the Court that he had moved out of the City. The City states it discovered these facts and contacted Grand and his counsel about his move just two days before Grand's counsel filed the Letter of Notification to this Court. Letter of Resp't's Regarding Pet'r's Move Sept. 21, 2026. This timing is, at the very least, suspicious. Arguably Grand's counsel failed in its duty to notify the Court of Grand's changed circumstances, which have obvious implications for his standing to sue.

A potential failure to properly notify the Court of circumstances that moot this case is especially problematic here, given how Alliance Defending Freedom, which serves as counsel to Grand, has litigated other free exercise challenges. Alliance Defending Freedom previously represented the plaintiffs in *Telescope Media Group v. Lucero,* 936 F.3d 740 (8th Cir. 2019). The plaintiffs in that case alleged that they intended to put a discriminatory statement on a film business website and that they wanted to expand their business to wedding videography. They sought to enter this market because they were "deeply troubled" by the United States Supreme Court's decision in *Obergefell v. Hodges*, 576 U.S. 644 (2015). After a favorable ruling before the Eighth Circuit and the subsequent issuance of a preliminary injunction by the district court, Telescope Media discontinued its pursuit of a wedding videography business. *See Telescope Media Grp. v. Lucero,* No. 16-cv-4094, 2021 WL 2525412, at *1 (available online at https://bit.ly/3dv7gUd).[2] After

2. The plaintiffs asserted, in part, that this was because of live-event restrictions associated with the coronavirus pandemic. 2021 WL 2525412, at *1 However, they acknowledged in the fall of 2020 that they had no intent to reenter the wedding business. *Id.*

receiving discovery requests from the state, Telescope Media sought to dismiss its case. 2021 WL 2525412, at *2. It appeared that Telescope Media had not seriously entered into the wedding videography business. The district court correctly identified that Telescope's case was likely a sham. The district court said it was "a smoke and mirrors case or controversy from the beginning, likely conjured up by Plaintiffs to establish binding First Amendment precedent rather than to allow them to craft wedding videos, of which they have made exactly two." *Id.* at *3.

This Court has not escaped from being drawn into jurisdictionally dubious cases in recent years, like in *Kennedy v. Bremerton*, where Joseph Kennedy moved 2,800 miles from the Washington school district at issue in his case to live in Florida, where he established himself as a resident. Br. for Freedom From Religion Foundation, et al. as Amici Curiae in Support of Resp't at 6–7, *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507 (2022) (No. 21-418). This Court chose to remain silent on Kenney's move and adjudicated his case as if there were still a live controversy. After Kennedy prevailed, he created a media spectacle by returning to Bremerton School District for only a single football game before resigning as coach and returning to Florida. *See* Paradise Afshar, *Football Coach who Won Supreme Court Case for Right to Pray on the Field Resigns After One Game*, CNN (Sept. 6, 2023) https://tinyurl.com/4j75kbuu. Kennedy's alleged injuries were not redressed by this Court's decision. His case was moot before it was decided.

Similar justiciability and redressability concerns arose in *303 Creative LLC v. Elenis*, where the plaintiff

website designer had never designed wedding websites in the first place. *See* 600 U.S. 570, 624 (2023). The designer merely claimed that she wanted to get into that business. *Id.* Likewise, in *Chiles v. Salazar*, this Court ruled that regulations preventing therapists from engaging in conversion therapy were restrictions on speech. *See* 607 U.S. 627 (2026). However, the plaintiff therapist, Chiles, stated that she never intended to violate the conversion therapy ban or practice conversion therapy. *See* Br. for Freedom From Religion Found. as Amicus Curiae in Support of Resp'ts, *Chiles v. Salazar*, 607 U.S. 627 (2026) (No. 24-539). Like in *Kennedy*, there was no injury in these cases that the Court's opinion could actually redress.

If the Court does not adhere to its precedent on mootness, this case is likely to yield a similar result: a ruling that will not truly redress any alleged injuries. Grand himself may not have been aware that his move to a new town would create a jurisdictional problem for this Court. His attorneys, however, should have known of the mootness issue and of their duty to notify the Court of Grand's move as soon as it arose. They failed to do so. In fact, Grand's opening brief, filed after his move out of University Heights, alleges that he lost "292 weeks' worth" of his small prayer gatherings—the number of weeks between January 2021 and its filing—despite Grand having ceased being a resident of University Heights for at least ten of those weeks. Pet. Br. 16. It is apparent that the ultimate prize in this case is not to ensure that Grand can host small, informal prayer gatherings at a home in University Heights. Instead, it appears this case is now a "smoke and mirrors" challenge meant to advance a policy agenda, but afford no actual relief to the petitioner. This Court's jurisdictional requirements are in place in part

to ensure that the Court cannot be manipulated in this manner.

B. Grand lacks Article III standing to seek prospective relief against the zoning ordinance under the Free Exercise Clause because both parties agree that the permit requirement does not apply to Grand's intended gatherings.

To establish standing, a plaintiff must demonstrate: (i) that she has suffered or will likely suffer an injury in fact, (ii) that the injury likely was caused or will be caused by the defendant, and (iii) that the injury likely would be redressed by the requested judicial relief. *Alliance for Hippocratic Med.*, 602 U.S. at 380. For pre-enforcement cases, a plaintiff satisfies the injury-in-fact requirement when he (1) alleges he intends to engage in conduct that arguably has a constitutional interest, (2) that the intended future conduct is arguably proscribed by the challenged statute, and (3) that the threat of future enforcement is substantial. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 159 (2014).

In his complaint, Grand sought orders and injunctions proscribing future action by the City to enforce the zoning ordinance. JA 94–96. Though his complaint did mention damages for retrospective relief, his motion for summary judgement argued only the prospective claims and made no mention of damages at all. *See* D. Ct. Dkt. 81. At the Sixth Circuit, Grand also focused entirely on his prospective challenge to the zoning ordinance. C.A. Reply Br. 1. The zoning ordinance has not been enforced against Grand. He failed to pursue his damages claims at summary judgement and before the Sixth Circuit. Thus,

Grand must meet the pre-enforcement injury-in-fact standard to establish standing. He has failed to do so.

Despite Grand's insistence that he was subject to a "credible threat of enforcement," he does not establish that his proposed informal prayer gatherings arguably violate the ordinance. In fact, he and the City agree that this kind of small, informal gathering would not require a permit. Pet. Opening Br. 31.

This Court has found that when the statute at issue would no longer be applicable to the intended conduct asserted by petitioners, there is not a justiciable controversy. *See, e.g.*, *Golden v. Zwickler*, 394 U.S. 103, 109 (1969). In *Golden*, the plaintiff challenged a leafleting ordinance because he wanted to leaflet against a specific candidate. *Id.* at 104–05. That candidate was no longer running for office and was unlikely to run in the immediate future. *Id.* at 106. Since the statute only applied to leaflets in election campaigns and there was no real or immediate prospect of a campaign by the candidate, this Court said it was "wholly conjectural that another occasion might arise when [the plaintiff] might be prosecuted." *Id.* at 109.

Here, the City believed that Grand wanted to have huge gatherings of people at his home, on a weekly basis. The City has maintained that large gatherings of that kind would need a special use permit. However, as it became clear that Grand had intended only to host a small gathering of people, the City acquiesced that such a small gathering was "not [its] business." JA 325. The ordinance is not applicable to the conduct Grand asserts he wanted to engage in, hosting small prayer gatherings. Thus, like *Golden*, this "injury" is "wholly conjectural."

Grand alleges that *First Choice Women's Resource Centers, Inc. v. Davenport*, 608 U.S. 174 (2026), establishes that an injury in fact arises and remains as long as "a demand" is made and remains outstanding. Pet. Opening Br. 30. That may be true when, unlike here, certain conditions are met. In contrast to the present case, in *First Choice* the Attorney General issued a subpoena to First Choice for their donor records. *See id.* at 178–80. There was no question that the subpoena, whether valid or not, was being applied against the organization.

That is the fundamental flaw in Grand's injury-in-fact argument. *First Choice*'s facts would only be analogous here if the Planning Commission had determined that Grand needed a permit to invite a small group of people to his home to pray and had then filed an enforcement action against him. Only then would the facts have been clear that the zoning ordinance was being applied against Grand like the subpoena was against First Choice. A subpoena is a legally enforceable document. There is no such analogous legal document here. In fact, at this point, the City's clear stance is that Grand did not need to apply for a permit to host these gatherings. Def.'s Br. in Opp'n to Pl.'s Mot. for Summ. J. at 2419–20. Further, the ordinance cannot be applied against Grand's prayer gatherings in the future as he no longer lives in University Heights.

The agreement by both parties that Grand would not need a permit to host the gatherings he intended to host is destructive to all of his arguments that the Court has jurisdiction. In all cases cited by Grand regarding injury in fact where the plaintiff had standing, the plaintiff expressly stated an intent to engage in, or had engaged in, conduct that was arguably proscribed by the

statute. *See, e.g.*, *Va. v. Am. Booksellers Ass'n, Inc.*, 484 U.S. 383, 390–91 (1988) ("The booksellers introduced as exhibits a total of 16 books that they believed were examples of books the amended statute covered, and testified that the law might apply to as much as one half of their inventory."); *Steffel v. Thompson*, 415 U.S. 452, 456 (1974) ("Petitioner alleged in his complaint that . . . he desired to return to the shopping center to distribute handbills. . . ."); *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 63 (1963) ("Silverstein had received at least 35 such notices [that his book was subject to an obscenity law]"); *City of Lakewood v. Plain Dealer Publ'g Co.*, 486 U.S. 750, 753 (1988) ("the city denied the Plain Dealer Publishing Company (Newspaper) permission to place its coin-operated newspaper dispensing devices on city sidewalks."); *Watchtower Bible & Tract Society of N.Y., Inc. v. Vill. of Stratton*, 536 U.S. 150, 153–54, 161 (2002) ("[Jehovah's Witnesses] brought this action . . . seeking an injunction against the enforcement of . . . Ordinance No. 1998–5 regulating uninvited peddling and solicitation on private property in the Village."); *Freedman v. Md.*, 380 U.S. 51, 52 (1965) (Appellant sought to challenge the constitutionality of the Maryland . . . statute . . . and exhibited the film . . . without first submitting the picture to the State Board of Censors as required by s 2 thereof."); *Shuttlesworth v. City of Birmingham*, 394 U.S. 147, 148 (1969) (The petitioner stands convicted for violating an ordinance of Birmingham, Alabama, making it an offense to participate in any 'parade or procession or other public demonstration' without first obtaining a permit from the City Commission."); *SBA List*, 573 U.S. at 162 ("Both SBA and COAST have alleged an intent to '[m]ake' statements 'concerning the voting record of a candidate or public official,' § 3517.21(B)(9). . . .").

Grand claims that he never intended to host the type of large, weekly gatherings that would have arguably qualified as a house of worship under the zoning ordinance. All parties agree Grand would not need a permit for his intended gatherings. Pet'r's Opening Br. 31; Pet. App. 38a–39a. The City did not enforce the zoning ordinance against him and Grand withdrew his application for a permit. The zoning ordinance does not arguably proscribe his intended gatherings and therefore there is no threat that the ordinance would be enforced against him, even if he still resided in the City. Thus, Grand does not have standing to challenge the ordinance.

II. None of the retrospective claims that Grand now raises give him standing to challenge the zoning ordinance under the Free Exercise Clause.

This case is a prime example of the classic maxim "bad facts make bad law." In his opening brief Grand points to alleged injuries that he hopes will breathe life into a previously unpursued claim for retrospective relief. Pet'r's Opening Br. 30–33. For example, he now points to the $400 in fees he paid for his permit application, the three-hour "public spectacle of hostility and antisemitism" of the Planning Commission meeting, alleged "City-directed surveillance," and alleged retaliation. Pet. Opening Br. 31–33. But those claims do not run against the zoning ordinance, and they do not arise from the Free Exercise Clause. Rather than attempting to untangle one of the messiest factual records this Court has been handed in recent memory, the Court should simply decline to expand Grand's claims to include retrospective relief, and chalk up his alleged past harms to what they are: the unfortunate results of a series of misunderstandings.

The factual record in this case is a quagmire. In 2021, Grand emailed an invitation to around twelve of his neighbors. His intentions with this communication are disputed. Grand claims he was inviting a small group to what he called a "shul" to pray together on a weekly basis. Pet. App. 2a. But his invitation also described the event as "the inauguration of the Shomayah Tefillah Beis Hakeneset," meaning "House of Assembly," and he encouraged his neighbors to "spread the word to whomever you feel might be interested in coming" and "bring someone with you." J.A.344–45. One of his neighbors then shared Grand's invitation in a much larger "Groveland Chat" WhatsApp group. J.A. 290.

A member of the "Groveland Chat" group then sent Grand's email to the Mayor, stating that someone was "opening a synagogue in their house." J.A. 193. The Mayor, having recently witnessed 120–130 people meeting in the basement of a house for another event referred to as a "shul,"[3] forwarded Grand's email to the City's Law Director who sent a cease-and-desist letter to Grand. Pet. App. 25a. The cease-and-desist letter was directed toward the use of Grand's home as a place of religious assembly. J.A. 198–200. Grand and the Mayor also spoke on the phone where the Mayor told Grand he could not use his home as a house of worship without a special-use permit. Pet. App. 27a. Grand told the Mayor he only wanted to host a small, informal prayer group, Pet. App. 3a. The Mayor interpreted Grand's email as an invitation to the community to have a large group event, equivalent to a

3. Pet. App. 26a; Brennan Dep. 55:11–14; *Compl. City of Univ. Heights v. Univ. Realty USA, LLC, et al.*, CV 21 948437, Cuyahoga Cnty. Ct., Filed June 7, 2021, https://tinyurl.com/5n8mre5x.

house of worship, and felt that Grand's characterizations to the contrary on the phone were not credible, given the content of the invitation. J.A. 320–325. Grand claims that he did not know that his email had been sent in the large WhatsApp chat, and it is unclear whether the Mayor was under the impression that Grand himself had sent the invitation to that chat. Pet. Opening Br. 7.

After the cease-and-desist letter and his subsequent miscommunications with the Mayor over the phone, Grand believed he needed to, and did, file a special use permit application to host his small group prayer. Pet. App. 28a. He also reached out to his neighbors to cancel his original invitation. *Id.* At the Planning Commission meeting for Grand's application, Grand stated his intention to host a small, informal prayer group. Pet. App. 29a. The meeting ended without resolution on his application in order to get more information about his plans. *Id.* at 30a. After the meeting, many Planning Commission members expressed to each other their doubts that Grand needed a special use permit to host 10 or so friends. *Id.* at 30a–32a. Ultimately, hours before the second meeting, Grand withdrew his application, stating, "I do not wish to operate a house of worship as is defined under the zoning ordinance." *Id.* at 33a. The meeting was held anyway, during which the Mayor stated that he hoped the withdrawal was not due to Grand now believing that meeting to "conduct activities consistent with those in a house of assembly does not require a special-use permit" and "there is no permission granted here to operate . . . a house of assembly." *Id.* at 33a–34a. No decision was made about Grand's stated intent to host only a small, informal group prayer.

To establish standing, an injury must be "fairly traceable" to the challenged action. *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409 (2013). None of Grand's alleged retrospective injuries are fairly traceable to enforcement of the zoning ordinance such that Grand would have standing to challenge the ordinance under the Free Exercise Clause. The zoning ordinance was not enforced against Grand and facially does not apply to the type of meeting that Grand now claims he hoped to have. Grand's own actions and statements make it clear that he eventually realized that the ordinance did not apply to small private gatherings. When he withdrew his permit application he stated that he "did not need to seek a permit for a small prayer group," Pet. Br. 15, because he "d[id] not wish to operate a house of worship as is defined under the zoning ordinance. . . ." J.A.138. Any injuries suffered by Grand cannot be fairly traced to the zoning ordinance itself.

In sum, Grand has mooted his own claims for prospective relief by moving out of University Heights. He does not have standing to assert claims against the zoning ordinance because all parties agree that he would not need a permit to host these small gatherings, even if he still lived in the City. He did not pursue any claim for damages or other retrospective relief at summary judgement or before the Sixth Circuit and any such injuries are not "fairly traceable" to the City's zoning ordinance.

CONCLUSION

This Court should dismiss this case for lack of jurisdiction. Alternatively, the Court should affirm the court of appeals.

Respectfully submitted,

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