

In the Supreme Court of the United States

NATIONAL PARK SERVICE, ET AL., APPLICANTS

v.

NATIONAL TRUST FOR HISTORIC PRESERVATION
IN THE UNITED STATES

REPLY IN SUPPORT OF APPLICATION FOR STAY

D. JOHN SAUER
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530
SupremeCtBriefs@usdoj.gov
(202) 514-2217

TABLE OF CONTENTS

I. The Government Is Likely To Succeed On The Merits	4
II. The Other Factors Overwhelmingly Support Relief.....	14

In the Supreme Court of the United States

No. 26A203

NATIONAL PARK SERVICE, ET AL., APPLICANTS

v.

NATIONAL TRUST FOR HISTORIC PRESERVATION
IN THE UNITED STATES

REPLY IN SUPPORT OF APPLICATION FOR STAY

The district court “transgressed the equitable authority of the federal courts.” Appl. App. 360a (Rao, J., dissenting). The Trust cannot cure that fatal error, and does not offer any convincing response to the government’s arguments. The Trust fails to rebut the urgent need for the military complex, including the ballroom, to be completed as soon as possible, as required by national security; and mounts a failed and weak attempt to establish standing, which the Trust does not have.

The Trust incorrectly contends that the government “will not be harmed in the absence of a stay.” Opp. 3. That error is egregious. Completing the Project without delay is a national security “imperative.” Appl. App. 398a. Secretary of State and National Security Advisor Marco Rubio attests that “[t]he Project is absolutely critical not only for the physical safety of guests, but also for advancing our diplomatic relations and the interests and standing of the United States.” *Id.* at 399a. Director of National Intelligence Jay Clayton—joined by the heads of the CIA, FBI, and DHS—warns that any “delay substantially increases the risk of foreign malign actors gathering intelligence on the Complex,” which could allow them to “more effectively de-

stroy the facility in the event of an armed conflict.” *Id.* at 437a, 439a. The Chairman of the Joint Chiefs of Staff, Secretary of the Army, Director of the Secret Service, Homeland Security Advisor, and Director of the White House Military Office state that delay poses “intolerable risks,” *id.* at 414a, and that continuing construction is “urgent” to protect the “continuity of the Presidency,” *id.* at 410a, 415a; see *id.* at 250a, 400a, 410a, 426a-429a. Further, the injunction would leave an unstable, unfinished 70-foot-tall structure on White House grounds, putting the complex at risk and thwarting Secret Service protection. *Id.* at 428a. A protracted delay would “jeopardize everything” built to date, which would be “extremely dangerous.” *Id.* at 446a.

Against these tremendous harms, the Trust asserts the most insignificant of injuries—the supposed “aesthetic” and “visual” interests of a single, occasional passerby. Opp. 17, 25. “This minimal harm cannot justify a preliminary injunction that threatens the security and safety of the President of the United States.” Appl. App. 390a (Rao, J., dissenting); see *Winter v. NRDC*, 555 U.S. 7, 26 (2008).

In fact, every aspect of the district court’s injunction is a “blatant abuse of discretion.” Appl. App. 360a (Rao, J., dissenting). The injunction relies on a “boundless theory of standing,” *Murthy v. Missouri*, 603 U.S. 43, 75 (2024), that would open the courthouse doors to any of the millions of people who visit government buildings, historic sites, or parks and happen to think that they dislike something they see. The injunction eviscerates associational standing doctrine by perversely allowing an association whose statutory mission *excludes* the White House to interfere with White House construction that is required to protect Presidents, their families, and staff, as well as visitors to the White House, including foreign dignitaries, presidents, prime ministers, and other senior officials. The injunction defies the strict limits on *ultra vires* actions, wrongly rejecting both the President’s power under 3 U.S.C. 105(d) to

make “alteration[s]” and “improvement[s]” to the White House, and the Executive’s broad power to construct buildings in national parks (including the President’s Park) under 54 U.S.C. 100101(a). Those statutes endorse the longstanding practice by which Presidents have not needed, sought, or obtained specific approval from Congress for construction projects on White House grounds. Appl. 8-9. Finally, the district court’s mis-weighting of equities compounds the flagrant “judicial overreach.” Appl. App. 360a (Rao, J., dissenting).

The Trust’s attempts to salvage the injunction fail. The Trust falsely accuses the government of “try[ing] to outrun judicial review.” Opp. 2. On the contrary, consistent with months of administrative stays, the Executive has raced to “outrun” the extraordinary security threats facing this President. Appl. 2. Given the current “unprecedented levels of danger for the President,” Appl. App. 419a, every day the President does not have access to the vital security features of the military complex presents unacceptable risk, no matter how long the Project takes to complete. *Id.* at 407a, 416a. The Trust contends that President Trump faces minimal harm because the Project will not be complete until late in his Presidency. Opp. 3, 23. But the fact that “[t]he Project is being built not principally for President Trump” and “will primarily benefit future Presidents and world leaders who will enjoy its protection for generations,” Appl. App. 441a, heightens the urgency of completing the Project. Built with “integrated engineering,” *id.* at 420a, the Project will provide “in a very large way, a ‘safe room’ for the Presidency and the continuity of government.” *Id.* at 443a. The Trust wrongly contends that the injunction is “narrow,” and allows the government to seek permission for *some* construction. But, as our declarations uniformly explain, the district court’s carveout is illusory, because the Project is an integrated, unified national security complex. *Id.* at 446a. A stay is overwhelmingly warranted.

I. THE GOVERNMENT IS LIKELY TO SUCCEED ON THE MERITS

A. The Trust Lacks Article III Standing

1. Hoagland’s subjective displeasure about the visual message the finished Project will supposedly send is the opposite of a concrete, particularized injury. Appl. 15-20. The Trust responds that the “desire to use or observe something” can be a cognizable injury. Opp. 25. That is true only when government action impedes a plaintiff’s particular use or observation and thereby affects his conduct. Hoagland, by contrast, has no plans to stop walking by the White House or stop writing about D.C. architecture. She just expects to subjectively dislike the view. That is a generalized grievance that millions of tourists could assert, not an Article III injury.

Indeed, this Court has “long made clear” that mere “distress at or disagreement with the activities of others” is not a basis under Article III for standing. *FDA v. Alliance for Hippocratic Medicine*, 602 U.S. 367, 390 n.3 (2024). The Court thus rejected doctors’ assertion of standing based on an alleged visual injury from witnessing the destruction of unborn life. See *ibid.* Likewise, as Judge Grant convincingly reasoned in applying this line of cases, a descendant of slaves lacked standing to challenge Confederate memorials. *Johnson v. Mayor, City of Jacksonville*, 178 F.4th 1240, 1243 (11th Cir. 2026). The Trust tries to cabin *Johnson* as involving an atmospheric objection to “a place being named for someone [a person] does not like.” Opp. 28. But the plaintiff was not objecting from afar to how something was named; he “visited or traveled on most of the locations identified in the complaint,” and alleged the memorials left him feeling “deeply repulsed” and “disheartened” by their implicit message. 178 F.4th at 1244. The logic here is the same. The point of a memorial on public land is to “visit” and “view” the memorial; and Mr. Johnson doubtless “enjoy[ed]” the places that now had Confederate memorials less than before. See Opp.

27. But such “disgust, no matter how deep and how sincere, is not the kind of injury that can give rise to a lawsuit.” *Johnson*, 178 F.4th at 1244. All the more so here.

On the other hand, sensory injuries backed by concrete and particularized harm can suffice. That describes the Trust’s citations, but not its allegations. See Opp. 25-26. For instance, in *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, individuals were forced to abandon their recreational activities to avoid toxic pollutants. See 528 U.S. 167, 181-182 (2000). In *Summers v. Earth Island Institute*, the Court underscored that would-be plaintiffs’ “recreation” needed to be “burdened” or their use “significantly affected” by the Forest Service’s use of particular procedures to have standing. 555 U.S. 488, 498-499 (2009) (citation omitted). In *Center for Biological Diversity v. USFWS*, a plaintiff had standing when government action would preclude him from researching and photographing a species he had long researched and photographed. 146 F.4th 1144, 1157-1158 (D.C. Cir. 2025). Likewise, in *Center for Sustainable Economy v. Jewell*, the individuals used “specific marine and coastal ecosystems for commercial and recreational purposes,” and a planned project threatened to impair their “economic” interests, not merely offend them. 779 F.3d 588, 596 (D.C. Cir. 2015). All of those cases involve something more than mere offense at how something might appear. See also Appl. 16-17 & n.1.

That something more is missing here. To the extent Hoagland objects to the old East Wing being “damaged or destroyed,” Opp. 27, or disruption of “the innovative preservation project concerning the buildings surrounding Lafayette Square,” *ibid.*, she cannot obtain prospective relief; the old East Wing is gone. Going forward, completing the Project will not stop Hoagland from engaging in any activities in which she previously engaged. On Hoagland’s telling, she travels to the “White House neighborhood” to “attend meetings, view exhibits, and have medical appointments.”

Appl. App. 73a. She can keep doing all of those things after the Project is finished. Cf. *Center for Biological Diversity v. EPA*, 937 F.3d 533, 541 (5th Cir. 2019).

The Trust’s real argument is not that Hoagland will be impeded from doing anything she wishes, or even that she will be forced to look at something she does not want to see. It is that she disagrees with the “architectural statement” she thinks the ballroom will send, which will lessen her enjoyment of intermittently seeing the White House. Appl. App. 75a; see Opp. 26-27. Thus, Hoagland’s declaration describes the Project as inflicting a “unique and irreparable harm [on] the public”—and frames her own injury as one that she felt more “acutely as an architectural historian.” Appl. App. 76a. On Hoagland’s own account, she shares the same injury as the general public (visual displeasure), but feels more keenly about it given her professional and personal interests. It is a difference in degree, not kind. That injury, which exists entirely within Hoagland’s mind, is no more cognizable than doctors’ profound visual distress at witnessing abortions while at work, or a descendant of slaves feeling disgust from seeing Confederate memorials. No matter how fervently plaintiffs object or how strongly they feel that their enjoyment is lessened, this Court has classified claims of abhorrence or disgust from viewing something as quintessential generalized grievances. “[P]sychological injuries do not become more concrete as they get stronger.” *Johnson*, 178 F.4th at 1248. Nor is standing “measured by the intensity of the litigant’s interest or the fervor of his advocacy.” *Valley Forge Christian College v. Americans United for Separation of Church & State, Inc.*, 454 U.S. 464, 486 (1982).

The Trust’s response only confirms the generalized nature of Hoagland’s supposed harm. Tellingly, the Trust abandons the main basis for standing relied on by the panel majority below, which concocted a connection between the Project and Hoagland’s professional writing and research—a connection that had no bearing to “any-

thing” in her actual declaration. See Appl. App. 297a; but see *id.* at 374a (Rao, J., dissenting). The Trust even disclaims the Project would concretely impair that work, clarifying that Hoagland’s “experience” simply “informs her deep appreciation for President’s Park,” Opp. 29—that is, the “intensity” of her interest in it. *Alliance*, 602 U.S. at 394. At most, the Trust says, the “White House has informed [Hoagland’s] research and professional work.” Opp. 26. But that research concerned the development of D.C. centuries ago. Appl. 18-19. The Trust has never explained how Hoagland’s professional work would be impeded by the completion of the Project. Her visual injury is no different from any other tourist’s or visitor’s subjective dislikes.¹

To the extent the Trust posits any limit to this boundless theory, it is that Hoagland is purportedly “us[ing]” President’s Park “exactly as NPS *itself* tells the public President’s Park should be used: to visit, view, and experience” the White House grounds, and she now expects to enjoy it less. Opp. 27. But following an agency’s generic description of what people do in parks does not confer Article III standing. Another word for visiting, viewing, and experiencing a place is tourism, and millions of people visit thousands of governmental sites each year for that purpose. That is by definition an experience “common to all members of the public.” *Lance v. Coffman*, 549 U.S. 437, 440 (2007) (per curiam). On the Trust’s logic, anyone with plans to see the most famous building in the world—from a tourist in Alaska planning to visit D.C., to a consultant with regular flights into DCA, or even a virtual sightseer watching a video tour online—has a spectator’s veto to challenge the Project, as a “user” of President’s Park or the White House grounds.

¹ The Trust implies (Opp. 27-28) that NPS shares its views of the Project. That is wrong. P.14 & n.4, *infra*; see Appl. 37-38 (detailing support). The quotes pulled out of context by the Trust simply made clear the new East Wing will not be a copy of the old one. That says nothing about Hoagland’s ability to sue over the change.

That theory would open the floodgates to endless challenges to any putative visual message communicated by any governmental building anywhere. Far from disputing this, Opp. 28-29, the Trust even acknowledged below: “Our test is whether there’s an aesthetic injury to how you use or desire to use or observe something for aesthetic purposes.” D.C. Cir. Oral Arg. Tr. 85:1-3. Under that test, someone could sue the National Gallery for an exhibit she disliked, or the Postal Service for a stamp honoring a figure she opposed. After all, viewing an exhibit or placing a stamp is “exactly” how the government “tells the public” those things “should be used.” The same goes for someone who disapproves of a “Pride” flag on a government building. See also Appl. 18. The Trust’s theory “would permit adjudication of any government action that a plaintiff finds unsightly,” so long as the plaintiff can put eyes on it and claim that the experience has been diminished. Appl. App. 375a (Rao, J., dissenting). This Court has not accepted this “see something, sue someone” theory.

Without any limit on its own theory, the Trust attacks a strawman version of the government’s position, claiming that no one would have standing to stop the government from “raz[ing] the Statue of Liberty.” Opp. 30 (quotation marks omitted). That is wrong. Plenty of Americans—say, someone who ran a boat service to Ellis Island—would have standing. Those Americans, however, would have a particularized interest in the governmental action that is distinct from everyone else; it would not be a generalized interest, however passionate, about how a public building looks.

2. Independently, the Trust lacks associational standing because Hoagland’s visual offense against White House improvements is not germane to the Trust’s purposes. As explained, Congress decided to give the Trust “no statutory authority related to the White House.” Appl. App. 367a. However much the Trust generally cares about historic preservation of other sites, what happens at the White

House is not within the statutory ambit of the Trust. *Ibid.*; see Appl. 20-22.

The Trust relies on prefatory language in 54 U.S.C. 312102(a) explaining why Congress chose to create the Trust, Opp. 30, but ignores the structure of the statute, which delineates between the general reasons why Congress established the Trust (subsection (a)), and the much narrower list of the Trust’s actual responsibilities (subsection (b)). Tellingly, the Trust never explains how this suit is germane to the specific purposes enumerated in subsection (b). See Opp. 30-31. At bottom, the Trust’s argument collapses to its assertion it has an “obvious interest” in the appearance of the White House, because it cares about historic preservation in general. Opp. 30 (citation omitted). But the Trust’s feelings cannot change the fact Congress “carved the White House out” of the Trust’s duties. Appl. App. 221a (Rao, J., dissenting).²

B. The Trust’s Statutory Claims Are Meritless

1. The Project falls within two independent sources of statutory authority—one for the White House in particular (Section 105(d)), and the other for construction on national parkland in general (Organic Act). In response, the Trust relies heavily on red herrings. It claims the Project violates the Property Clause, which gives Congress power over real property that belongs to the United States, U.S. Const. Art. IV, § 3, cl. 2, and 40 U.S.C. 8106, which provides a “building or structure” shall not be erected on federal public land in D.C. “without express authority of Congress.” Opp. 4-5. Both of these points just reduce to whether the Project has been statutorily authorized; they are purely derivative of the Trust’s Section 105(d) and Organic Act arguments. Further, to the extent the Trust argues Section 8106 imposes

² The Trust briefly points to the effects of the Project on the Decatur House, Opp. 31, but never explains how that was not “forfeited.” Appl. App. 368a (Rao, J., dissenting); see Appl. 21. Nor does it explain how the Decatur House gives the Trust an interest in the design of the White House. Appl. App. 369a (Rao, J., dissenting).

a clear-statement rule, decades of history belie that contention. Appl. 26-27, 31.³

2. Picking up on the panel below, the Trust resists its burden, and argues that given the Project’s funding, it only needs to show the Project is *either* in excess of Section 105(d) *or* the Organic Act to succeed. Opp. 32; see Appl. App. 311a, 319a.

Of course, this makes no difference: The Project is independently authorized twice over. But it bears emphasis that any issues with the Project’s funding or the Economy Act mechanism could not justify the extraordinary injunction issued below, because the Trust “never directly challenged” the Project’s funding structure. Appl. App. 383a (Rao, J., dissenting). As the district court put it: The “funding mechanism” for the Project “is not squarely at issue here.” *Id.* at 44a. That was because the Trust’s complaint challenged the authority of the Executive to build something like the renovated East Wing, but never squarely challenged how the Executive moved money around internally to pay for those actions—including its use of the Economy Act. D. Ct. Doc. 50, at 35-56 (Mar. 1, 2026). The Trust disagrees, pointing to one cryptic paragraph in its complaint. Opp. 38. That paragraph (§ 213) says that the Project’s funding “is *ultra vires* of any authority [Defendants] may have under 54 U.S.C. § 100101(b)(2)” —*i.e.*, the Redwood Amendment (discussed below). D. Ct. Doc. 50, at 54. It never makes the claim that EXR has some basic Economy Act deficiency. See Appl. App. 382a-383a (Rao, J., dissenting). Nor does the Trust contest the district court’s bottom-line conclusion that the “funding mechanism” for the Project was not “squarely at issue” in any of the proceedings below. *Id.* at 44a. Regardless, the Trust’s Economy Act arguments are wrong, as the government has already explained

³ More fundamentally, Section 8106 does not even apply here. Contra Opp. 34-35 & n.9. Had Congress wanted private citizens to enforce Section 8106, it could have provided a private cause of action. Instead, it left any inter-branch dispute to the political process, like prior disputes over White House renovations.

as to each point, and the Trust leaves unrebutted. Appl. 30 & n.4.

3. Accordingly, the Trust must complete both of its Hail Mary passes and show that the government acted so far outside its statutory authority under Section 105(d) and the NPS Organic Act to sustain *ultra vires* claims. It does not come close.

a. Section 105(d) authorizes the President to make “alteration[s]” or “improvement[s]” to the White House “as the President may determine.” 3 U.S.C. 105(d). As Judge Rao explained, the Project clearly fits within the “best reading” of the statute. Appl. App. 382a; see Appl. 22-26. The Trust’s assertion that the Project is actually “entirely in excess” of Section 105(d) is baseless. Opp. 36 (citation omitted).

First, the Trust claims that Section 105(d) gives the President no authority and instead merely authorizes Congress to appropriate funds that the President may then expend consistent with appropriations legislation. Opp. 36. That is wrong. By authorizing future appropriations to the President for the “alteration” and “improvement” of the White House—and further directing that the President may “expend[]” those funds “as the President may determine”—Section 105(d) confirms that the President has authority to engage in those activities. Appropriations “have the limited and specific purpose of providing funds for *authorized programs*.” *Tennessee Valley Authority v. Hill*, 437 U.S. 153, 190 (1978) (emphasis added). Section 105(d)’s framework of appropriations for White House improvements means the President is authorized to undertake them. See Appl. App. 378a, 381a (Rao, J., dissenting).

Second, the Trust objects that, regardless of what the President may do under Section 105(d), he may only spend what is specifically appropriated under Section 105(d) toward those ends—here, around \$2.5 million for (among other things) “safety” “issues” at the White House. Opp. 37 (citation omitted). That too is wrong. Nothing in Section 105(d) states that its appropriations are exclusive and cannot be supple-

mented by other means of funding that Congress has otherwise made available. Rather, Section 105(d) broadly states that any Section 105(d) funds “may be expended as the President may determine, notwithstanding the provisions of any other law.” As Judge Rao explained, that “*expands* the President’s discretion,” and does not limit his ability to draw from other “available appropriations.” Appl. App. 381a.

To that end, the longstanding view of the Executive Branch is that Section 105(d) recognizes the President’s authority over the White House, while enabling one source of funding for him, but not precluding others—including NPS donations. *The White House—The Vice President—Gifts*. 2 Op. O.L.C. 349, 350 (Apr. 27, 1977); see Appl. 28. Indeed, President Ford’s swimming pool and President Trump’s tennis pavilion were both funded using NPS donations. Appl. 9. More broadly, President Roosevelt drew from only generally available appropriations to fund his East and West Wing projects. *Id.* at 8-9. The Trust ignores all these examples, instead misleadingly asserting that the history is “nearly” all on its side. Opp. 40.

Third, the Trust argues that, even if Section 105(d) does authorize the President to “alter” and “improve” the White House, those terms do not reach the Project. Opp. 39-40. The Trust does not dispute dictionary definitions that equate those terms with construction projects, especially in the “real property” context. Appl. App. 378a (Rao, J., dissenting). The Trust instead contends that context and canons favor a narrower reading—one where the President could apparently completely renovate the White House and add a “patio,” but where substituting a dilapidated wing for an improved one is forbidden. Opp. 40. That is wrong as a matter of statutory interpretation, as Judge Rao explained. Appl. App. 376a-380a. More fundamentally, “[t]he canons invoked by the [Trust] can resolve statutory ambiguity in close cases, but they do not allow us to discern any clear and mandatory prohibition” for an *ultra vires*

claim. *Changji Esquel Textile Co. v. Raimondo*, 40 F.4th 716, 725 (D.C. Cir. 2022).

b. The Project is independently authorized by the NPS Organic Act, which authorizes NPS to “promote and regulate the use of the National Park System,” and thus engage in construction on national parkland—including President’s Park. 54 U.S.C. 100101(a); see Appl. 26-30. The Trust’s contrary contentions are wrong.

First, the Trust asserts that the APA governs here, citing nothing but the fact it filed an APA claim. Opp. 33. But an APA claim against NPS gets the Trust nowhere, because EXR is executing the Project, and again, the Trust never challenged the Economy Act transaction NPS executed with EXR. Appl. 30; p. 10, *supra*. The Trust needs to rely either on its *ultra vires* claim against EXR, or show why the APA applies to EXR here, where it would not otherwise. The Trust cannot do the latter, Appl. 28-29, and it does not even attempt to engage with this point.

Second, the Trust suggests that the Organic Act does not confer *any* construction authority on NPS. Opp. 33. But the Act’s conferral of the authority to “promote” the national parks has long included the power to build—including in D.C.—because creating new structures that improve a park (*e.g.*, visitor centers) obviously “promote[s]” the park. That is confirmed by a century of practice, Appl. 26-27, which the Trust is forced to concede, see Opp. 34. It is further confirmed by the fact Congress has specifically appropriated for NPS general construction, which would make no sense if NPS lacked the general power to construct. Appl. 29. The Trust ignores this too. Put together, the Trust’s position conflicts with plain text, the apparent views of both the Executive and Congress, and would doom thousands of structures across national parkland. Those shortcomings are fatal—especially for an *ultra vires* claim.

Third, the Trust claims that the Project exceeds NPS’s authority, because it fails to “conserve” “historic objects” in President’s Park, and also violates the “so-

called Redwood Amendment,” which reaffirms that NPS cannot exercise its Organic Act powers “in derogation of [national parks’] established purposes,” “except as directly and specifically provided by Congress.” Opp. 33-34 (quoting 54 U.S.C. 100101(b)(2)). That is mistaken. Contrary to the Trust’s misleading citations (Opp. 34), NPS demonstrated compliance with both the Organic Act and the Redwood Amendment in a non-impairment determination that thoroughly explained the purposes of this park unit and why the Project would advance its purposes.⁴ The Trust makes no attempt to engage with NPS’s determination. Regardless, there is no basis to second-guess NPS’s judgment as to whether the Project is sufficiently aligned with the “established purposes” of President’s Park. “[T]he Organic Act is silent as to the specifics of park management,” so “the Secretary has especially broad discretion on how to implement his statutory mandate.” *Davis v. Latschar*, 202 F.3d 359, 365 (D.C. Cir. 2000). The Project fits comfortably within that “broad” band of “discretion.”

II. THE OTHER FACTORS OVERWHELMINGLY SUPPORT RELIEF

1. ***Certworthiness.*** The issues presented manifestly warrant this Court’s review. The district court issued an unprecedented injunction that contradicts this Court’s standing precedents (and the Eleventh Circuit’s decision in *Johnson*); misapprehends the *ultra vires* standard this Court just interpreted; egregiously misapplies the balance of the equities; and enjoins completion of a Project that many Cabinet Members have attested is imperative to protect this President, his successors, the whole White House complex, and the continuity of government. Contra Opp. 15-16.

2. ***Irreparable Harm.*** The injunction will inflict intolerable irreparable

⁴ See Appl. App. 163a (concluding Project “will not cause impairment of, or unacceptable impacts to,” President’s Park, and further touting long-term benefits of “modernized East Wing and new State Ballroom” for “American people,” and explaining that the proposed “changes are consistent with the ongoing historical significance of the White House and its grounds.”); see also, *e.g.*, *id.* at 153a-156a, 158a, 183a.

harm on the government: (1) in blocking the ballroom, the injunction will “threaten the security and safety of the President,” Appl. App. 390a (Rao, J., dissenting), by preventing the Project from functioning as an integrated whole that addresses critical national security vulnerabilities; (2) halting ongoing ballroom construction creates huge problems for Secret Service protection, *id.* at 228a-229a; and (3) stopping construction now and leaving an unfinished 70-foot structure would leave an unstable structure to rapidly degrade and potentially compromise the whole Project, Appl. 34.

The Trust offers virtually no response to the challenges for the Secret Service and “massive construction-related problems” the injunction would inflict. Appl. App. 443a; Appl. 34. Either entails far greater irreparable harm than anything the Trust can muster. The Trust (Opp. 23-24) says the injunction lets the Secret Service “remov[e] construction debris,” but “construction debris” does not even begin to describe the issue for the Secret Service: that leaving the site in an “unfinished” state makes it extremely difficult to secure the unfinished building, to protect the surrounding area, or to prevent malign actors from gathering intelligence about the new capabilities. Appl. 34, 37. As for the “disaster” of leaving an unfinished, 70-foot superstructure to degrade and possibly collapse in high winds, the Trust (Opp. 24) blames the government for “illegally” embarking on the Project. But four months of administrative stays allowing this construction have brought the Project to this point. Ignoring the enormous dangers of halting construction is an enormous problem on the equities.

As for national security, the Trust (Opp. 20) deems the injunction’s safety-and-security carve-out a “carefully circumscribed” solution based on the district court’s “thorough[] consider[ation]” of the evidence. But deference runs the other way here. Courts do not defer to judicial assessments of national security interests. They defer to the military, National Security Advisor, and the Secret Service on the President’s

protection. Appl. App. 386a (Rao., J., dissenting) (citing cases). On that score, multiple declarations are unanimous: the Project—all of it—is imperative.

More broadly, the Trust does not even address, let alone dispute, the irreparable harm to the government from having to guess on pain of contempt what other structure would satisfy the district court. Appl. 35. The Trust volunteers no ideas, instead suggesting (Opp. 24) that “wind[ing] the project down” would be required. That augurs poorly for allowing future district-court proceedings and underscores why Presidents cannot be at the mercy of a district judge for their safety.⁵

Whatever the scope of the district court’s opaque exception, the one thing that is clear is that it blocks the “ballroom” or anything like it, Appl. App. 243a, to preserve the Trust’s objection to a building of that “height and massing,” *id.* at 75a. But as the Secretary of the Army has stated, the “height and mass” of the ballroom, as presently designed, is “crucial” to the entire Project. *Id.* at 247a; see *id.* at 431a-433a. Nothing less would support the above-ground security infrastructure, or adequately shield what is below. *E.g.*, *id.* at 245a-250a; 409a; 415a-417a; 431a-433a. The district court’s “carveout” is thus illusory. You can either have a ballroom of the “height and mass” necessary to secure the President and White House, or a structure that satisfies the “height and massing” that Hoagland would prefer to see on her walks. You cannot have both, and the district court egregiously sided with the latter.

On this score, the Trust (Opp. 21-23) disputes the ballroom operates as part of an integrated whole for national security purposes. Multiple declarations from senior

⁵ Far from “admit[ting]” that the Project can be wound down “in an orderly fashion,” Opp. 24, the government’s cited declaration states that stopping work would be a “disaster,” Appl. App. 445a; is “beyond impractical,” *ibid.*; “will degrade and compromise what has already been done,” *ibid.*; “will jeopardize everything we have done so far,” *id.* at 446a; and “may force us to tear down everything * * * as a degraded mass,” which would be “disruptive and extremely dangerous,” *ibid.*

national security officials attest the opposite. *E.g.*, Appl. App. 229a, 245a-246a, 255a, 409a, 432a-433a, 446a. The Trust myopically focuses on the integrated electrical systems (Opp. 22), but ignores that the ballroom’s size is necessary to “shield the complex from kinetic impacts” and “neutralize aerial systems,” Appl. App. 247a; see *id.* at 432a-433a; that its walls and size are necessary to bear the weight of missile-resistant steel and blast-proof windows, *id.* at 247a-251a; that atop the ballroom is “an automated counter-UAS installation,” *id.* at 415a; and the whole “above-ground ballroom [is] designed to protect and shield the below-ground infrastructure from aerial or other attacks,” *id.* at 409a. Because this is all part of a “single coherent design,” stopping work on the ballroom now risks systems failures elsewhere. *Id.* at 446a.

The Trust’s real objection is with the timing and level of detail of the government’s declarations. Again, the government submitted declarations in response to the district court’s unworkable line-drawing, and the President opted to disclose hitherto secret details once courts’ concerns arose. Appl. 35-36. The government has never suggested the below-ground bunker and above-ground ballroom were independent. To the contrary, as construction and plans proceeded, the government explained the interconnectedness and diminishing flexibility for changes. Even in January 2026, a declaration flagged that while “the primary foundation system for the structure can accommodate potential design changes to the configuration of the above-grade structure,” “[t]hose design changes could include things such as modifying the location of windows, doors, and stairs, as well as *modest changes* in the overall above grade massing (height and width) of the structure.” D. Ct. Doc. No. 30-4, at 2 (emphasis added). Ten months in, the Project is 65% done, work has “follow[ed] a single coherent design,” no “major changes” are “feasible,” and delay risks disaster.

Appl. App. 442a, 445a-446a. That is a function of construction, not a bait-and-switch.⁶

The Trust (Opp. 23) next tries to dismiss irreparable harm from White House vulnerabilities because the ballroom and its security features will not be finished for years. But “[e]very day added to the Project is another day impairing full security.” Appl. App. 229a. Thus, it is hardly “difficult to discern” (Opp. 23) why multiple recent threats on the President’s life are relevant: They vividly illustrate the perils of delay and the very real threats to the modern Presidency. The Trust’s criticisms of the speed of construction (Opp. 16-17) as an attempt to “outrun judicial review” equally miss the point. The Executive has moved fast because the White House desperately needs a facility that can adequately secure its grounds, and the dangers of an incomplete construction site make it vital to shorten the interim transition period as much as possible. When the President, his staff, his family, and the White House complex are not fully secure, time is of the essence. Appl. 37.

Finally, the Trust (Opp. 15, 19-20) reverts to the merits, contending that the government cannot “suffer any injury” when purportedly acting unlawfully to usurp Congress’s power. But the equities are distinct from the merits; this Court has thus repeatedly denied injunctions regardless of merits arguments when movants lack irreparable harm or fail the balance of equities. Appl. 39. The Trust (Opp. 19-20) would confine *Winter* to cases where the merits involve “procedural obligation[s].” That ignores *Winter*’s grounding in the longstanding equitable principle that “a federal judge

⁶ The Trust (Opp. 21, 23) complains that the government supplemented its declarations, including in this Court. Litigants have cited new declarations on multiple occasions in this Court, see, e.g., *In re United States*, No. 17A570, 583 U.S. 1029 (2017); *ZF Automotive US, Inc. v. Luxshare, Ltd.* No. 21A80, 142 S. Ct. 416 (2021), which is “helpful if the application rests in whole or in part upon facts * * * that are not in the record or opinions below.” Stephen M. Shapiro et al., *Supreme Court Practice* § 17.9, at 890 (10th ed. 2013). The declarations here reflect updates regarding the threat environment and current status of construction, among other things.

sitting as chancellor is not mechanically obligated to grant an injunction for every violation of law,” *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 313 (1982), and other instances (like *Benisek*) where this Court has denied injunctions based on the equities, regardless of the merits.⁷ More broadly, the notion that the Executive can just “ask Congress,” Opp. 20, overlooks the countervailing separation-of-powers problems from giving Congress dangerous leverage over the President whenever the White House has unforeseen structural problems or vulnerabilities. Appl. 31-32.

3. ***Balance of Equities.*** The lopsidedness of the balance of equities alone warrants a stay. On the one hand, the injunction endangers this and every future President; impedes the Secret Service; and risks ruining and degrading the whole construction effort. On the other hand, one passerby may dislike the putative architectural message the finished Project will send. The Trust tries to bolster these make-weight harms by pointing to supposed injuries to the White House and Congress, see Opp. 18; but those, of course, are not harms to *the Trust*. This imbalance is particularly absurd because the Trust is mum about Hoagland’s feelings on the current view of a 70-foot unfinished concrete-and-steel superstructure. See Appl. 38-40.

Instead, the Trust (Opp. 15) grounds its supposed irreparable harm in the permanency of construction at this juncture: if the Project cannot be unwound, it says, the harm is forever. But the fact Hoagland’s harm may be permanent does not make it any less *de minimis*, or the imbalance of the overall equities any less acute. The effects of naval exercises in *Winter* were, after all, quite permanent for the whales.

⁷ *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), is not to the contrary. The Court rejected the government’s plea to reach “nonconstitutional grounds upon which the District Court could have denied the preliminary injunction” by concluding that the seized companies would suffer irreparable harm. *Id.* at 584-585. *Youngstown* thus involved the lawfulness of the President’s seizure order, not an analysis of the relative weight afforded to the preliminary-injunction factors.

Further, even if permanent, visual displeasure—for Hoagland, the public, or anyone—involves subjective value judgments that pale compared to the Project’s more concrete public benefits, like the East Wing’s greater capacity to receive guests and foreign dignitaries in a safe structure befitting the country’s dignity. Appl. 38-39.

Finally, though the Trust now calls the progress of construction an attempted *fait accompli*, the Trust itself rightly recognized below that at some point, construction might progress to a point where its asserted harm is “beyond remediation” and the costs of unwinding the Project foreclose relief. Trust C.A. Br. 47-48. The Trust complains about this result, but the government has been candid all along about the pace of construction, as well as the imperative for such expedition, and the lower courts have allowed that construction to proceed for months. This Court should stay this destabilizing injunction, which risks immeasurable harm to the Presidency and the separation of powers for no valid reason at all.

* * * * *

This Court should stay the district court’s preliminary injunction and issue an immediate administrative stay as it considers this application.

Respectfully submitted.

D. JOHN SAUER
Solicitor General

AUGUST 2026