

Day in Court Before the Permit

Home Minyan, RLUIPA, and the Courthouse Door

Aryeh Leib Thorne Toren · Jerusalem · Thursday 22 October 2026 (11 Cheshvan 5787) · Week of Parashat Lech Lecha

V2 expands and corrects the draft of 11 September 2026. Bracketed numbers point to the numbered bibliography at the end.

Where I come from, you don't get to argue with the referee until the whistle blows. Fair enough. But imagine a league where the referee decides when the whistle blows, keeps the clock running while you stand on the sideline in your pads, and tells you that you can appeal the call once he gets around to making it. Folks in Pittsburgh would have a word for that, and it is not "procedure."

That, stripped to the studs, is the question the Supreme Court of the United States will hear on Wednesday 9 December 2026 in *Grand v. City of University Heights*, No. 25-965 [1][2]. It is not a question about whether a Jew may pray in his own living room. Nobody has ruled on that. It is a question about when a man who says the government is burdening his prayer may walk into a federal courthouse and be heard.

For a covenantal republican, that "when" is not a technicality. A right you can only reach after the burden has done its work is a right on parchment. And parchment, as every sofer knows, is only holy when something true is written on it.

Where the case stands on 22 October 2026

The facts on the docket are these. The Sixth Circuit ruled against Daniel Grand on 13 November 2025 [4]. He filed for certiorari on 11 February 2026, and the Court granted review on 30 June 2026 [1]. On 4 September 2026 the case was set for argument on 9 December 2026, and the December calendar, amended on 1 October 2026, still lists it for that morning [1][2].

Grand's opening brief was filed on 31 August 2026 [5]. On 8 September 2026 a wall of friend-of-the-court briefs followed: the Becket Fund for Religious Liberty [7], fifty-two members of Congress (42 from the House and 10 from the Senate) [8], the United States through the Solicitor General [6], Kentucky and other states, the Orthodox Union, Agudath Israel with the Baptist Joint Committee and Ratio Christi, the Catholic bishops, the Bahá'ís of the United States, and more [1][15]. Two briefs, from the American Planning Association and from a coalition of local-government groups led by the Local Government Legal Center, back neither side [1]. That last fact matters. The people who write and run zoning codes for a living are in the room too, and they are not cheering for either team.

Then the docket turned. On 18 September 2026 Grand's lawyers told the Court he had moved out of University Heights [11]. On 29 September 2026 the Court gave the city until 23 October 2026 for its brief, set Grand's reply for 23 November 2026, and allowed the city a short sur-reply by 2 December 2026 "solely addressing the effect, if any, of petitioner's move" [1]. As I write, the city's merits brief has not yet been filed. It is due tomorrow.

What the record shows, and where the accounts part ways

Here is the story as Grand's own brief tells it, citing the joint appendix [5]. Grand is an Orthodox Jew who prays three times a day with a minyan and does not drive on Shabbat or Yom Tov. The city's zoning had placed its synagogues at the edge of town, so in January 2021 he invited friends to pray in a recreation room of a little over 700 square feet in his home [5][16]. A neighbor complained [15]. The city sent a cease-and-desist letter saying that a "place of religious assembly" in a residential zone needed a special-use permit. Grand cancelled, applied, and paid \$400 in fees [5][6].

The Planning Commission took up the application by Zoom on 4 March 2021. More than a hundred residents attended and the meeting ran about three hours, under a quasi-judicial format with sworn witnesses and cross-examination [5]. The comments are in the record. The United States' brief quotes several, including one written submission that said: "I am not Jewish and I do not want our neighborhood labeled as Jewish. This is not prejudice, it is simply common sense" [6]. The Commission tabled the application and asked for site plans, a fire-department review and an inspection [5]. Grand withdrew it before the second hearing, saying he did not "wish to operate a house of worship as is defined under the zoning ordinance" [4][6]. According to the United States' brief, the mayor then announced that the cease-and-desist order "remains in effect" and invited residents to report gatherings; later a neighbor set up cameras pointed at the house, and a police supervisor directed "frequent drive-bys" [6]. Grand sued in federal court in September 2022 under the First Amendment, the Fourteenth Amendment and RLUIPA [4][6].

Now the other side, which a fair man owes the reader. The Sixth Circuit, in an opinion by Chief Judge Sutton, read the same record differently [4]. It noted that no city body had ever decided whether the ordinance even applied to a small home prayer group. It noted that commissioners' emails suggested some of them thought it did not. It found that the cease-and-desist letter "is not an enforcement action, and the City may not enforce it." It also noted that Grand admitted holding a Shabbat minyan at least once after the hearings. The United States reports that in discovery the mayor conceded the city's ordinances do not require a permit for "a small regular prayer gathering," a position the city endorsed in its briefing [6]. In its brief opposing review, the city quoted the district court: "the ordinance did not apply, Grand withdrew his application, and the City did nothing further" [10].

Sit with that for a moment, because it cuts both ways. The city's present position is, in effect, that Grand never needed the permit it told him to get. To the Sixth Circuit, that shows there was never a ripe dispute. To Grand, the United States and Becket, it shows the injury was the demand itself: the letter, the fee, the lawyer, the hearing, the cancelled minyan [5][6][7]. Both readings are on the record. The Court will choose between them, and I will not pretend it already has.

Finality is not exhaustion, and the word matters

My September draft called this an "exhaustion" case. That was loose, and I correct it here. The doctrine at issue is ripeness, and specifically the "finality" requirement of *Williamson County Regional Planning Commission v. Hamilton Bank*, 473 U.S. 172 (1985) [4][13]. Williamson County itself drew the line: finality asks "whether the initial decisionmaker has arrived at a definitive

position on the issue that inflicts an actual, concrete injury,” while exhaustion “generally refers to administrative and judicial procedures by which an injured party may seek review of an adverse decision” [13]. The Sixth Circuit held that because no local body ever issued a final decision on Grand’s use of his home, his as-applied claims were not ripe. It dismissed them without prejudice, adding that “any gate to relief is locked from within. Grand may open the door whenever he wishes” [4].

The precise question also reads differently depending on who frames it. The Court’s official question asks whether the First Amendment’s chilling-effect doctrine “is displaced by Williamson Cnty.’s land-use finality requirement” when government threats chilled religious exercise [3]. Grand’s merits brief puts it as whether a takings-based finality rule displaces the ordinary ripeness rules for First Amendment and religious-liberty claims “just because those claims arise in a land-use context” [5]. The United States frames it as whether ripeness principles “categorically foreclose all as-applied claims involving the use of land for religious purposes” until a final local decision [6]. The overlap is large and the differences are real. Watch which version the Justices adopt on 9 December.

The Sixth Circuit’s line about the locked gate is the best sentence in the case, and it is worth answering on its own terms. A gate locked from within is reassuring only if the man outside can trust the hand that holds the key. Grand’s side argues that the key came with a \$400 fee, a lawyer, sworn cross-examination and a standing order that he says chilled his prayer for years [5]. Becket’s brief warns that people stuck in this “purgatory” are often “just waiting around to receive a final no” [7]. The Sixth Circuit answers that the process “had not become an empty affair” and that the commissioners’ emails suggested they “found the issue complicated” [4]. Both can be partly true. That is exactly why who decides when the courthouse opens matters so much.

What the statute actually says

RLUIPA, the Religious Land Use and Institutionalized Persons Act, became law on 22 September 2000 [12][14]. Its land-use section, 42 U.S.C. § 2000cc, does four things [12]:

- It bars a land-use regulation that imposes a “substantial burden on the religious exercise of a person, including a religious assembly or institution,” unless the government shows a compelling interest pursued by the least restrictive means. My September draft said this protects “assemblies or institutions.” The text says “a person” first. For a man praying at home, that word carries weight.
- It bars treating a religious assembly “on less than equal terms with a nonreligious assembly or institution.”
- It bars discrimination “on the basis of religion or religious denomination.”
- It bars land-use rules that “totally exclude” religious assemblies from a jurisdiction or “unreasonably” limit them.

Two more provisions frame the fight over the courthouse door. Section 2000cc-2(a) says a person “may assert a violation of this chapter as a claim or defense in a judicial proceeding,” and that standing “shall be governed by the general rules of standing under article III” [12]. Section 2000cc-3(g) orders that the statute “be construed in favor of a broad protection of religious exercise” [12]. The members of Congress argue that a judge-made finality rule cannot

be read into a statute written that way [8]. The Sixth Circuit had already applied the finality rule to RLUIPA claims in an earlier case, *Miles Christi Religious Order v. Township of Northville* (2010), and followed it here [4].

On the vote count, the members' brief says Congress passed RLUIPA "without a single dissenting vote," and *Deseret News* reported the same [8][16]. My September draft relied on press reports for this. It now rests on the brief, which cites the Congressional Record [8].

One honest note from the statute itself. RLUIPA defines a "land use regulation" as a zoning law that restricts a claimant's use of land in which the claimant has an ownership, leasehold or similar interest [12]. Grand no longer owns the house, so how that definition bears on forward-looking relief is something the parties are now briefing. I flag it as my own reading of the text, not as anyone's argument on the docket.

Domination by delay

Philip Pettit's republicanism gives us the grammar [17]. Freedom is not just the absence of a policeman at your door tonight. It is security against a power that could come to the door whenever it likes, with no one able to make it answer. A free man is one who does not have to read the moods of the powerful in order to live his life.

Measure the finality question against that. If a municipality can redefine a living-room minyan as a regulated "place of religious assembly," leave a standing order in place, and then tell federal court that nothing is ripe until its own boards finish, the householder lives at the board's pleasure for as long as the process runs. I do not say University Heights set out to do that. The Sixth Circuit found no sign of prejudgment, and I take that finding seriously [4]. I say that a rule letting any city do it is a rule of domination by delay, whatever the intentions of a particular city.

The Torah saw this long before Pettit. Devarim 17:14-20 gives Israel a king and then fences him in. He may not multiply horses, wives or silver. He must write a copy of the Torah, keep it beside him, and read it all the days of his life, "so that his heart not be lifted above his brothers" [18]. The point is not that power is evil. Power is necessary. The point is that power is answerable, and the Torah sets the terms of that answer, not the king. Answerability that comes only after years of permit theater is answerability in name only.

Covenantal republicanism does not ask courts to invent a right to inconvenience neighbors. Parking, noise, fire safety and traffic are real, and RLUIPA's own equal-terms test assumes religious and secular assemblies can both be regulated [12]. What it asks is narrower and older: may the polity treat Torah in a private dwelling as presumptively a land-use problem, and then make the Jew wait for the polity's own convenience before a court will ask whether it was?

The move: a new wrinkle

V2 has to say something the September draft could not. Grand no longer lives in University Heights. His lawyers' letter of 18 September 2026 says the move "has no bearing on his claims for retrospective relief" [11]. In a letter of 21 September 2026, the city says the house was listed in May 2026, under contract by mid-June and deeded to new owners on 9 July 2026, before Grand's opening brief, which did not mention the sale. It calls the development "significant" and points toward mootness of forward-looking relief [11]. The listing and contract dates come from that letter, which cites county records and a real-estate site (single source, not yet confirmed).

Grand's reply of 23 September 2026 says his complaint has always sought money damages, so the case stays alive, and describes the move as one "just across city lines" made "to spare his family from further retaliation" [11]. That last phrase is his lawyers' characterization and should be read as such.

The members of Congress had warned in their brief of 8 September 2026 that the city put Grand to "the choice of being punished for praying in his home without a permit or moving out of his home entirely to obtain the required permit" [8][16]. I will not turn that line into a prophecy fulfilled. The Court has set a short schedule for exactly this question, and the answer belongs to the briefs due on 23 October, 23 November and 2 December 2026 [1]. What the move does show is the cost of delay. The case began over a home minyan in 2021, and by the time the Justices hear it the family has left the home.

Torah in the dwelling: a Lech Lecha reading

This Shabbat we read Lech Lecha, and the parasha is full of land, tents and neighbors.

When Avram settles near Beit El, the verse says he pitched "his tent," spelled ohalah, with a final hei. Rashi, citing Bereishit Rabbah 39:15, reads it as "her tent": he pitched Sarai's tent first and only then his own. In the same verse Avram builds an altar and calls on the Name of ה' (Bereishit 12:8) [19]. The first Jewish home in the land was a tent and an altar side by side. The household was the sanctuary before there was any building to call a sanctuary.

A chapter later comes the first land-use dispute in the Torah. Avram's herders and Lot's herders quarrel because the land could not support them both staying together. Avram answers: "Let there be no strife between you and me, between my herders and yours, for we are, after all, kin" (Bereishit 13:6-8) [19]. He does not sue, and he does not deny that the friction is real. He opens the map and offers Lot first choice.

I don't offer that as a ruling on Ohio zoning. Halacha has its own disciplines about when a home becomes a shul, and this essay is not a psak. I offer it as the posture a covenantal citizen brings to the table: take the neighbors' concerns seriously, look for a peaceful division of space, and still insist that the tent and the altar may stand together. The republic's version of Avram's offer is a fair process with a court available at the end of it. The test of the process is whether the court is available when the burden falls, not only after the paperwork is finished.

Beyond one living room

Grand is one case. The pattern behind it is not.

The Justice Department's twentieth-anniversary report on RLUIPA, dated 22 September 2020, says the Department opened 485 land-use matters in the statute's first two decades, including 148 formal civil-rights reviews of local zoning practices (the report's term is "formal investigations"). Jewish groups made up 10 percent of those reviews and Muslim groups 23 percent, far above their share of the population. More than two-thirds ended with local governments changing their ordinances or taking other corrective action [14]. The same report notes that the Department's briefs have dealt with "prayer meetings and similar activities in private homes" [14].

Just yesterday, on 21 October 2026, the Department announced a settlement with the Village of Atlantic Beach, New York. According to the Department, a village ordinance required religious and educational places of assembly, but not secular ones, to get a special-exception permit. The village agreed to permit religious uses as of right in its Residential (A) district, train its officials, and set up a procedure for RLUIPA complaints. The matter followed a private suit by Chabad of the Beaches [20]. That is a settlement, not a court ruling, and the Department's description is its own. Still, it shows the statute doing ordinary work: cities fixing their codes once someone with standing can make them answer.

What this case is, and what it is not

It is a test of when federal courts will hear RLUIPA and First Amendment claims that arise in a land-use setting: whether Williamson County's finality rule, born in takings law, reaches religious-liberty claims, and whether a credible threat that chills religious exercise is an injury a court can hear now [3][5][6].

It is argued for Grand by his counsel and, if the Court grants the Solicitor General's motion of 8 September 2026, by the United States with ten minutes of its own [9]. As of today the docket does not show a ruling on that motion [1].

It is not a merits ruling that home minyanim are protected nationwide. It is not a finding that the city or its residents acted with animus; that question has not been decided. It is not a license to ignore nuisance, parking or safety rules applied evenly to secular gatherings. And it is not over: the city's brief is due 23 October 2026, the reply 23 November, the sur-reply on the move 2 December, and argument is 9 December [1].

Close

Limited government is not allergic to neighbors, parking rules or genuine assemblies that need permits. It is allergic to a system in which the state can redefine a dwelling's Torah as a special-use problem, leave the order standing, and keep the courthouse closed until the person it burdened finishes the process that burdens him.

Becket's line still names the hinge: "Religious freedom is an empty promise when Americans can't get their day in court" [15]. The Sixth Circuit's line names the counterargument: the gate is "locked from within," and the claimant holds the key [4]. On 9 December 2026 the Court will decide whose image fits the facts. If it opens the door, the merits fight begins. If it does not, the parchment problem stands diagnosed, and Congress will know what RLUIPA needs.

Either way, the question is older than the docket and older than the republic. Avram pitched the tent and built the altar beside it, and nobody had to issue a permit. May a free people pray at home without first becoming a permitted institution?

Prepared in deep partnership and cooperation with Grok and xAI

Bibliography

1. Supreme Court of the United States, Docket No. 25-965, Daniel Grand v. City of University Heights, Ohio, et al. (docketed 17 February 2026; read 22 October 2026). <https://www.supremecourt.gov/docket/docketfiles/html/public/25-965.html>

2. Supreme Court of the United States, Monthly Argument Calendar, Session Beginning 30 November 2026 (amended 1 October 2026). https://www.supremecourt.gov/oral_arguments/argument_calendars/MonthlyArgumentCalDecember2026.pdf
3. Supreme Court of the United States, Question Presented, No. 25-965 (certiorari granted 30 June 2026). <https://www.supremecourt.gov/docket/docketfiles/html/qp/25-00965qp.pdf>
4. Grand v. City of University Heights, No. 24-3876, 159 F.4th 507 (6th Cir. 13 November 2025) (Sutton, C.J.). <https://www.opn.ca6.uscourts.gov/opinions.pdf/25a0310p-06.pdf> (also on Justia: <https://law.justia.com/cases/federal/appellate-courts/ca6/24-3876/24-3876-2025-11-13.html>)
5. Brief for Petitioner Daniel Grand, No. 25-965 (filed 31 August 2026). https://www.supremecourt.gov/DocketPDF/25/25-965/422565/20260831153238712_Grand%20Merits%20Opening%20Brief.pdf
6. Brief for the United States as Amicus Curiae Supporting Petitioner, No. 25-965 (filed 8 September 2026). https://www.supremecourt.gov/DocketPDF/25/25-965/423471/20260908183459349_25-965tsacUnitedStates.pdf
7. Brief Amicus Curiae of the Becket Fund for Religious Liberty in Support of Petitioner, No. 25-965 (filed 8 September 2026). https://www.supremecourt.gov/DocketPDF/25/25-965/423435/20260908163602391_Grand%20v.%20City%20of%20Univ%20Heights%20SCOTUS%20Amicus%20Br%20FINAL.pdf
8. Brief of Members of Congress as Amici Curiae in Support of Petitioner, No. 25-965 (filed 8 September 2026). https://www.supremecourt.gov/DocketPDF/25/25-965/423361/20260908142848748_2026.09.08%20-%20Grand%20-%20Members%20of%20Congress%20Amici%20Brief.pdf
9. Motion of the United States for Leave to Participate in Oral Argument as Amicus Curiae and for Divided Argument, No. 25-965 (filed 8 September 2026). https://www.supremecourt.gov/DocketPDF/25/25-965/423474/20260908184033470_Grand%20Divided%20Argument%20Motion.pdf
10. Brief of Respondents City of University Heights et al. in Opposition, No. 25-965 (filed 11 May 2026). https://www.supremecourt.gov/DocketPDF/25/25-965/408582/20260511162721122_25-965%20Brief%20in%20Opposition.pdf
11. Letters to the Clerk regarding petitioner's move, No. 25-965: petitioner, 18 September 2026, https://www.supremecourt.gov/DocketPDF/25/25-965/424822/20260918122736344_Grand%20Letter_9.18.26.pdf; respondents, 21 September 2026, https://www.supremecourt.gov/DocketPDF/25/25-965/425008/20260921123747682_Grand%20v.%20City%20of%20University%20Heights%20-%20Respondents%20Ltr%209.21.26.pdf; petitioner, 23 September 2026, https://www.supremecourt.gov/DocketPDF/25/25-965/425390/20260923142809031_Grand%20Letter%20September%202023.pdf
12. Religious Land Use and Institutionalized Persons Act of 2000, Pub. L. 106-274 (22 September 2000), 42 U.S.C. §§ 2000cc, 2000cc-2, 2000cc-3, 2000cc-5 (Cornell LII text, read 22 October 2026). <https://www.law.cornell.edu/uscode/text/42/2000cc>; <https://www.law.cornell.edu/uscode/text/42/2000cc-2>; <https://www.law.cornell.edu/uscode/text/42/2000cc-3>; <https://www.law.cornell.edu/uscode/text/42/2000cc-5>
13. Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City, 473 U.S. 172 (decided 28 June 1985). <https://www.law.cornell.edu/supremecourt/text/473/172>
14. U.S. Department of Justice, Civil Rights Division, Report on the Twentieth Anniversary of the Religious Land Use and Institutionalized Persons Act (22 September 2020). <https://www.justice.gov/crt/case-document/file/1319186/dl?inline=>
15. Becket, case page, "Grand v. City of University Heights" (read 22 October 2026), <https://becketfund.org/case/grand-v-city-of-university-heights/>; Becket press release, "Becket to Supreme Court: Religious freedom shouldn't get stuck in bureaucratic purgatory" (9 September 2026), <https://becketfund.org/media/becket-to-supreme-court-religious-freedom-shouldnt-get-stuck-in-bureaucratic-purgatory/>; Jessica Russak-Hoffman, JNS, "Religious liberty group pens brief to Supreme Court backing Orthodox Jew suing for right to host prayer in his home" (10 September 2026), <https://www.jns.org/news/u-s-news/religious-liberty-group-pens-brief-to-supreme-court-backing-orthodox-jew-suing-for-right-to-host-prayer-in-his-home>
16. Cami Mondeaux, Deseret News, report on the members-of-Congress amicus brief (8 September 2026). <https://www.deseret.com/politics/2026/09/08/congress-members-submit-brief-supporting-prayer/>
17. Philip Pettit, Republicanism: A Theory of Freedom and Government (Oxford: Oxford University Press, 1997).
18. Devarim (Deuteronomy) 17:14-20. <https://www.sefaria.org/Deuteronomy.17.14-20>

19. Bereishit (Genesis) 12:8 with Rashi (citing Bereishit Rabbah 39:15), and 13:6-9. https://www.sefaria.org/Rashi_on_Genesis.12.8 ; <https://www.sefaria.org/Genesis.13.6-9>
20. U.S. Department of Justice, Office of Public Affairs, “Justice Department Resolves Claims that Atlantic Beach, New York’s Zoning Code Violated Religious Land Use Provisions” (21 October 2026). <https://www.justice.gov/opa/pr/justice-department-resolves-claims-atlantic-beach-new-yorks-zoning-code-violated-religious>