

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

MUSLIMS ON LONG ISLAND, INC,
IMRAN MAKDA, and
MOEEN QURESHI,

Plaintiffs,

-against-

TOWN OF OYSTER BAY,

Defendants.

Civil Action No. 2:25-cv-00428 (SJB) (JMW)

**BRIEF *AMICI CURIAE* ON BEHALF OF MUSLIM ORGANIZATIONS SUBJECT TO
LAND USE DISCRIMINATION IN SUPPORT OF PLAINTIFFS**

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INTERESTS OF AMICI CURIAE

Amici curiae respectfully submit on behalf of Plaintiffs this brief on religious land use discrimination. The purpose of this brief is to highlight the discriminatory challenges Muslim congregations often face in building new mosques or expanding existing structures, and to demonstrate how facially neutral zoning criteria can be weaponized to mask religious discrimination. *Amici*, identified and detailed in Appendix A to this Memorandum, include the American Islamic Community Center (AICC), the Bensalem Majid, and the Islamic Society of Basking Ridge (ISBR), each of which has directly faced religious discrimination through the land use approval process, along with many other Muslim-affiliated institutions concerned and affected by similar discriminatory practices. Specifically, these congregations have been denied approval entirely or have faced significant difficulty in obtaining approval to build new mosques, under the pretext of alleged land use code violations. These rationales were not applied neutrally or in accordance with established zoning codes; rather, they were selectively invoked in response to community hostility toward Muslim institutions.

In several instances *amici* were compelled to seek relief under the Religious Land Use and Institutionalized Persons Act (RLUIPA), resulting in meaningful judicial and financial relief. Their perspective is crucial to the Court's understanding of how zoning codes can be misused to perpetuate religious discrimination, and how RLUIPA helps to prevent and remedy such misuse.

PRELIMINARY STATEMENT

Municipalities seeking to block the construction of religious institutions seldom invoke religion explicitly. Instead, they leverage seemingly neutral land use provisions such as parking requirements, traffic congestion, and perceived impacts on community character. While municipalities have broad discretion to regulate land use in the interest of public welfare, if a determination substantially burdens religious exercise without a compelling reason, it runs afoul

of federal law. Specifically, Congress enacted RLUIPA in 2000 to bar municipalities from implementing land use regulations in such a manner that imposes substantial burdens on the religious exercise of a person or institution, unless the government can demonstrate that the burden is the least restrictive means of furthering a compelling governmental interest. *See* 42 U.S.C.A. § 2000cc(a)(1). Courts have consistently upheld the law in this respect.

The experiences of *amici curiae* provide concrete examples of how facially neutral land use regulations have been wielded to obstruct the establishment of Muslim mosques. Beginning in April of 2012, the Islamic Society of Basking Ridge (ISBR) sought approval from the Planning Board of Bernards Township, New Jersey to construct a mosque. *Islamic Soc'y of Basking Ridge v. Twp. of Bernards*, 226 F. Supp. 3d 320, 327 (D.N.J. 2016). However, they were faced with unprecedented, heightened standards for approval. *See id.* at 329 (noting that the Planning Board held 39 hearings for the approval of the mosque over the course of three and a half years, more than previously held for any other applicant). In particular, for example, ISBR faced unusually stringent parking lot requirements not imposed on any other religious institution in the area. *Id.* at 330. The Court found that the Planning Board had applied Basking Ridge's Parking Ordinance in a discriminatory fashion and granted ISBR's motion for judgment on the pleadings on the claim of religious discrimination under the RLUIPA. *Id.* at 357.

A similar pattern emerged when Bayonne Muslims faced repeated procedural hurdles and permit denials to use an abandoned warehouse as a mosque, premised on alleged traffic and parking inadequacies. *See* Complaint, ECF No. 1 at ¶ 82, *Bayonne Muslims et al. v. City of Bayonne, et al.*, No. 2:17-cv-03731 (D.N.J. May 25, 2017) (quoting members of the Board expressing concern that the mosque would have insufficient parking, cause extra traffic, and "negative[ly] impact" the neighborhood). The congregation sued and soon after filing the suit, the

township granted approval of the mosque and provided a settlement of \$400,000. Order, ECF No. 31 at 7, *Bayonne Muslims*, No. 2:17-cv-03731 (D.N.J. Feb. 2, 2018). Other *amici*, including AICC and the Bensalem Masjid, have likewise encountered significant obstacles in the land use process, including denials or delays based on similar pretextual justifications. *See, e.g., Al Falah Ctr., et al. v. Twp. of Bridgewater, et al.*, No. 3:11-cv-02397, 2013 WL 12322637 (D.N.J. Sept. 30, 2013).

Bensalem Masjid also encountered religious discrimination in the approvals process. After years searching for a suitable location to build a mosque, the Bensalem community found a location in a zoning district that required a variance to construct a building for religious use. Bensalem Township routinely granted similar variances for other religious and non-religious institutions. When the Bensalem Masjid went through the variance process, however, the town zoning board “raised concerns during [variance] hearings about the size of the proposed mosque, parking, traffic, the uses of the different areas of the mosque, and the possible growth of the mosque's membership.” Complaint ¶ 36, ECF No. 1, *United States of Am. v. Bensalem Twp. Pennsylvania*, No. 2:16-cv-03938, 2016 WL 3952226 (E.D. Pa. July 21, 2016). Despite Bensalem Masjid’s efforts to address these concerns—and evidence that they would not impose a significant impact on the community—the variance was denied, in the wake of comments from “members of the public who spoke in opposition to the Masjid” which were “unrelated to the zoning variance analysis.” (*Id.* ¶ 37.) Ultimately, after the Department of Justice brought suit under RLUIPA, the township settled and permitted the mosque to be built. *Justice Department and Bensalem Township Settle Lawsuit Over Alleged Religious Land Use and Institutionalized Persons Act Violations*, U.S. Dep’t of Just. (Sept. 5, 2017), <https://www.justice.gov/archives/opa/pr/justice-department-and-bensalem-township-settle-lawsuit-over-alleged-religious-land-use-and> (last visited Sept. 26, 2025).

The manipulation of zoning language serves a dual purpose: it provides a veneer of legitimacy to decisions that would otherwise be impermissible, and it insulates local officials from accusations of overt bias. Yet, as the *amici*'s cases demonstrate, such practices are incompatible with the requirements of RLUIPA and the fundamental guarantees of religious liberty. *See* 42 U.S.C.A. § 2000cc-1.

The facts of this case reflect a disturbing pattern all too familiar to Muslim communities across the country: when Muslims seek to build a house of worship, they are often met not with fair application of neutral zoning rules, but with obstruction, shifting standards, and hostility masquerading as planning. Here, the Town of Oyster Bay changed its zoning ordinance midstream to sabotage a mosque application that had already met the governing requirements; ignored the findings of its own experts that the project posed no traffic or safety concerns; treated a Muslim congregation less favorably than other religious groups offering similar accommodations; and, most egregiously, relied on fabricated testimony from a fictional “grandmother” to justify its denial. This is not how zoning is supposed to work. It is how discrimination operates when clothed in the language of land use.

ARGUMENT

I. Parking, Traffic, and Community Character are Frequently Used as Pretexts for Religious Discrimination.

When municipalities wish to deny a house of worship but avoid overt religious discrimination, they frequently reach for land use vernacular such as “insufficient parking”, “traffic congestion”, and “incompatible with neighborhood character”. *See e.g.*, Docket, *Bayonne Muslims*, No. 2:17-cv-03731 (D.N.J.), <https://pacer.uscourts.gov> (accessed Aug. 5, 2025). These rationales, while legitimate when applied uniformly, are often manipulated to mask bias, particularly in response to community pressure against Muslim congregations.

In *Islamic Soc'y of Basking Ridge*, the township imposed parking requirements far exceeding those applied to similarly situated churches and synagogues, and echoed complaints about neighborhood character despite the mosque's compliance with all objective standards. 226 F. Supp. 3d at 329-30. The Court found that the Planning Board "unambiguously" treated ISBR's application differently from other applications for religious institutions. *Id.* at 351. This finding underscores how neutral-sounding criteria can be weaponized to achieve discriminatory ends.

The Bayonne Muslims experienced a comparable sequence of events. Before they could even announce their plan use an abandoned warehouse as a mosque, they faced strong opposition from the community. Complaint, ECF No. 1 at ¶ 62. The City denied their conditional use variance, despite routinely issuing similar variances to other houses of worship. *Id.* at ¶ 85. The City's disparate treatment between the mosque and other houses of worship suggests that the true motive was not concern for traffic or parking, but resistance to the establishment of a mosque and capitulation to community hostility. *Id.* at ¶ 83. The rapid settlement following the commencement of the suit further supports the inference of pretextual justifications. Order, ECF No. 31.

This pattern is also not unique to the *amici*. Across the country, minority religious groups—particularly Muslim congregations—have reported similar experiences, where zoning rationales are selectively invoked or inconsistently applied. See Tanvi Misra, *Mosque NIMBYism: The Neighborhood Muslim Ban*, Bloomberg (Apr. 5, 2017), <https://www.bloomberg.com/news/articles/2017-04-05/how-zoning-laws-are-used-to-block-mosque-construction> (last visited September 26, 2025). Studies and reports have documented the use of land use regulations as a tool for exclusion, with municipalities responding to vocal community opposition by erecting procedural and substantive barriers under the guise of neutral planning concerns. See e.g., U.S. Dep't of Just., *Update on the Justice Department's Enforcement*

of the Religious Land Use and Institutionalized Persons Act: 2010-2016 (July 2016), <https://www.justice.gov/crt/file/877931/dl?inline=> (last visited Sept. 26, 2025). In all cases, the technical objections raised served as a masked form of community resistance to religious institutions.

The experience of Muslims on Long Island, Inc. (MOLI) in the Town of Oyster Bay exemplifies this same pattern. After MOLI submitted a compliant site plan to build a permanent mosque, the Town changed its parking ordinance midstream to impose unattainable requirements tailored to disadvantage Muslim congregations. It then denied the application based on vague concerns about traffic and safety—despite expert findings from both the Town’s own consultants and the county’s public works department confirming that the project posed no such risks. The Town’s Planning Advisory Board went so far as to cite testimony from a nonexistent “grandmother” to support its denial, later admitting that the witness was fabricated. The Town also approved comparable accommodations for churches and temples, but denied MOLI the accommodations granted to others. The pretextual nature of the Town’s justifications, the procedural irregularities, and the shifting rationales mirror what other Muslim communities have endured across the country—zoning criteria deployed not as neutral tools of planning, but as proxies for religious exclusion.

II. RLUIPA was Passed to Guard Against This Exact Pattern of Discrimination.

RLUIPA was enacted to address precisely the kind of disguised discrimination that *amici* and similarly situated religious institutions have faced. Congressional hearings leading to RLUIPA’s passage revealed “massive evidence” of widespread discrimination against religious persons and organizations by state and local officials in land use decisions.¹ As the House report

¹ See 146 Cong. Rec. 16698 (2000) (Joint Statement of Senators Hatch and Kennedy); see also H.R. Rep. No. 106-219, 18-24 (1999).

found, “[t]he motive is not always easily discernible, but the result is a consistent, widespread pattern of political and governmental resistance to a core feature of religious exercise: the ability to assemble for worship.”²

RLUIPA’s statutory protections, as relevant here, are as follows. First, the statute prohibits local governments from imposing or implementing land use regulations in a manner that imposes a “substantial burden” on the religious exercise of a person or institution, unless the government demonstrates that the burden is the least restrictive means of furthering a compelling governmental interest. 42 U.S.C.A. § 2000cc(a)(1). Second, it bars municipalities from treating religious assemblies or institutions “on less than equal terms” with nonreligious assemblies or institutions. 42 U.S.C.A. § 2000cc(b)(1). Third, it bars municipalities from discriminating “on the basis of religion or religious denomination.” 42 U.S.C.A. § 2000cc(b)(2).

These provisions are substantive safeguards against the use of facially neutral land use criteria as proxies for religious bias. RLUIPA recognizes that municipalities may rarely admit to religious animus but may instead invoke planning concepts—such as parking, traffic, or neighborhood character—to justify exclusionary decisions. *See, e.g., Islamic Soc’y of Basking Ridge*, 226 F. Supp. 3d at 327. The statute’s legislative history is replete with examples of such subterfuge, and courts have repeatedly found that the selective or inconsistent application of zoning standards can constitute evidence of discriminatory intent. 146 Cong. Rec. S7774-01 at S7775 (daily ed. July 27, 2000).

A central tenet of RLUIPA is that land use criteria must be applied evenhandedly and with genuine regard for objective standards. *Id.* (“[W]ith respect to land use regulation, [this] bill specifically prohibits various forms of religious discrimination and exclusion.”). Vague, shifting,

² H.R. Rep. No. 106-219, at 24; *see also* 146 Cong. Rec. S7774-01 (daily ed. July 27, 2000).

or inconsistently enforced requirements—particularly when directed at minority religious institutions—cannot serve as a compelling governmental interest. *See generally, id.* at S7774. Nor can they justify the imposition of substantial burdens on religious exercise. *Id.* When municipalities apply heightened scrutiny or unique requirements to one religious group, while affording more lenient treatment to others, they run afoul of RLUIPA’s equal terms and nondiscrimination provisions. *Id.*

These provisions exist to prevent what happened in Basking Ridge and Bayonne: local governments stretching their zoning codes under pressure from residents who oppose a mosque, with the *sub silentio* objective of defeating the mosque’s construction in its entirety. In each instance, the stated rationales for denial—whether parking, traffic, or community character—were not applied neutrally or consistently, but were instead invoked in response to community opposition to a Muslim institution. *See e.g.,* Complaint, ECF No. 1 at ¶ 83. The courts’ findings in *ISBR* and the experience in Bayonne confirm that such practices are incompatible with RLUIPA’s mandate. *See id.; Islamic Soc’y of Basking Ridge*, 226 F. Supp. 3d 320 (holding that the Board violated RLUIPA). The statute thus serves as a critical check on the ability of local governments to mask religious discrimination in the language of urban planning, ensuring that religious liberty is not subject to the approval of hostile neighbors.

The facts of the present case align closely with the pattern of discrimination documented in *amici*’s experiences. As detailed in the proposed amended complaint, the Town of Oyster Bay initially calculated that MOLI’s proposed mosque met the existing parking requirements. Nevertheless, after community opposition intensified, the Town enacted a new parking ordinance—Local Law No. 6—that dramatically increased the required number of parking spaces in a manner specifically designed to disadvantage religious groups like MOLI that pray without

fixed seating. (*See* Am. Compl. ¶¶ 103–104, 160–170.) When MOLI still sought to proceed and offered to cap occupancy, the Planning Advisory Board rejected the accommodation and issued a denial that cited vague concerns about traffic, parking, and neighborhood character. (*Id.* ¶¶ 253–259.) To support those concerns, the PAB relied on testimony from an alleged “grandmother” who had difficulty navigating the area near the mosque—only to later admit under oath that the woman did not exist. (*Id.* ¶¶ 253–259.) Meanwhile, the Town had accepted nearly identical occupancy-based accommodations from Christian and Sikh houses of worship facing similar circumstances. (*Id.* ¶¶ 210–216, 263–268.) Taken together, these facts paint a clear picture of discrimination cloaked in planning terminology—exactly the kind of pretextual pattern that amici have encountered in jurisdictions across the country.

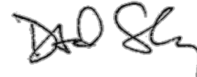
Under RLUIPA, such conduct cannot withstand scrutiny. The statute requires that land use regulations be applied in a manner that is both neutral and consistent, and that any substantial burden on religious exercise be justified by a compelling governmental interest. 146 Cong. Rec. S7774-01 (“[I]f government substantially burdens the exercise of religion, it must demonstrate that imposed that burden on the claimant serves a compelling interest by the least restrictive means.”). The Town of Oyster Bay’s reliance on pretextual justifications, unsupported by objective evidence or evenhanded application, falls squarely within the category of conduct that RLUIPA was designed to prevent. The parallels between this case and the amici’s experiences further reinforce the conclusion that the Town’s actions were discriminatory and unlawful.

CONCLUSION

For these reasons, *amici* respectfully urge this Court to enter judgment in favor of Plaintiffs.

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APPENDIX A

1. American Islamic Community Center (AICC)

The American Islamic Community Center (AICC) was established in 2004 in Madison Heights, Michigan by a small community of family and friends. AICC provides a variety of program and services to the local Muslim community in Sterling Heights, including youth programs, Sunday breakfast, and community retreats. In 2016, AICC sued the City of Sterling Heights, Michigan alleging violations under the Religious Land Use and Institutionalized Persons Act, when the City denied approval of AICC's site plan to build a new mosque. The parties ultimately settled, with AICC being granted special land use approval to develop the mosque.

2. The Bayonne Muslims

The *Bayonne Muslims* are a community group in Bayonne, New Jersey, that sought to establish a permanent mosque and community center for local worshippers. Their efforts to build the mosque faced significant opposition from some residents, including during zoning board hearings where objections were raised about traffic, parking, and neighborhood impact. After the city zoning board denied the application in 2017, the group filed a federal lawsuit alleging religious discrimination under the Religious Land Use and Institutionalized Persons Act (RLUIPA). The case settled in 2018, with Bayonne agreeing to a financial payment and allowing the project to proceed.

3. The Bensalem Masjid

The Bensalem Masjid located in Pennsylvania is a Muslim religious organization, serving over 200 congregation families. In December 2014, the Bensalem Masjid sued Bensalem Township, Pennsylvania and the Bensalem Township Zoning Hearing Board, alleging that the Town violated the U.S. Constitution, the Religious Land Use and Institutionalized Persons Act, and state law when it denied Bensalem Masjid's application to build a new mosque. In 2017, the parties reached a settlement in which Bensalem Masjid was granted a use variance for the mosque.

4. Elmont Islamic Center

The Elmont Islamic Center located in Elmont, NY was established in 2018 and is a nonprofit, religious organization, that transformed from a 2 family house in Elmont, New York to serving thousands of individuals every month through a wide array of services, programs and daily Salahs. Additionally, the Elmont Islamic Center includes a religious-parochial school that enrolls 20-30 students in grades pre-K through sixth.

5. The Islamic Center of Culpeper

The Islamic Center of Culpeper (ICC) was established on June 17, 2011, with members initially praying at the local train station. In 2016, the community purchased land in Culpeper, VA. Because the county's sewage system did not reach the property, a pump-and-haul permit was required for mosque construction. The Culpeper County Board initially denied the request, claiming the permit was only for emergencies. This raised concerns since ICC's was the only denial among 20 requests, while 19, including four churches, were approved. With the support of Muslim Advocates and the Justice Department, ICC eventually secured the permit, and construction began on September 20, 2019. Today, the Masjid is complete and serves the community with five daily prayers, Jumah, Quran classes, and other activities.

6. Islamic Center of Five Towns

The Islamic Center of Five Towns is a Muslim religious organization located in Hewlett, NY that services all of five towns (Hewlett, Woodmere, Cedarhurst, Lawrence, Inwood), Lynbrook and other neighborhoods for five time prayers and other programs.

7. Islamic Center of Nassau (ICON)

The Islamic Center of Nassau (ICON) located in Wantagh, NY is a vibrant and welcoming community dedicated to faith, education, and service. As a hub for spiritual growth and social support, ICON strives to provide a nurturing environment where individuals and families can come together in worship, learning, and mutual care.

8. Islamic Society of Basking Ridge (ISBR)

The Islamic Society of Basking Ridge (ISBR) is dedicated to providing Islamic religious, educational, cultural and social services to Muslims living or working in Somerset Hills and the surrounding areas; providing these services in an open, diverse, inclusive and moderate environment, consistent with the Qur'an and Sunnah; and promoting interfaith and intra-faith dialogue in order to improve relations between Muslims and people of other faiths. In 2016, ISBR sued the Township of Bernards, New Jersey for declining to approve their site plan for a mosque. The parties reached a settlement in 2017, in which Bensalem Masjid was granted approval of a revised site plan for the mosque and was paid a settlement of \$3.25 million.

9. Jaam'e Masjid Bellmore

Jaam'e Masjid Bellmore is a nonprofit, non-political, religious organization located in North Bellmore, New York. The Masjid was established in the summer of 2001 at an old restaurant, and the same building structure currently houses its congregation. Jaam'e Masjid Bellmore serves the community through various services, programs and daily Salahs.

10. Masjid Al-Haram

Masjid Al-Haram is a Muslim religious, non-profit organization located in The Bronx, NY.

11. MAS New York (Brooklyn Youth Center)

MAS New York (Brooklyn Youth Center) located in Brooklyn, NY was established in 2001 with the aim of creating spaces, programs, and resources that allow the Muslim youth community in our city to thrive in every aspect of their lives. Their services include sports programs, trips, camps, mental health counseling, marriage services, academic classes, and various other activities that foster spiritual growth, vital life skills, mentorship, and social connections to last a lifetime.

12. Muslim Community Network

The Muslim Community Network located in New York City was founded in 2003 and is dedicated to redefining and shaping the Muslim experience in the United States through community education, leadership development and advocacy. The Muslim Community Network envisions a future where the Muslim community, rich in its diverse and intersecting identities, stands united in championing peace, justice, and inclusivity.

13. Muslims for Just Futures

Muslims For Just Futures (MJF) is a grassroots organization that builds power in Muslim communities through collective care, organizing, advocacy, and movement-building.

14. Tamkeen

Tamkeen is a community organization that believes that raising a healthy family is a community responsibility, which starts with our children. Tamkeen focuses its efforts on building strong young Muslims boys and girls through mentorship, educational courses, and social programs.