No. 21-____

IN THE

# Supreme Court of the United States

TRUSTEES OF THE NEW LIFE IN CHRIST CHURCH,

*Petitioners*,

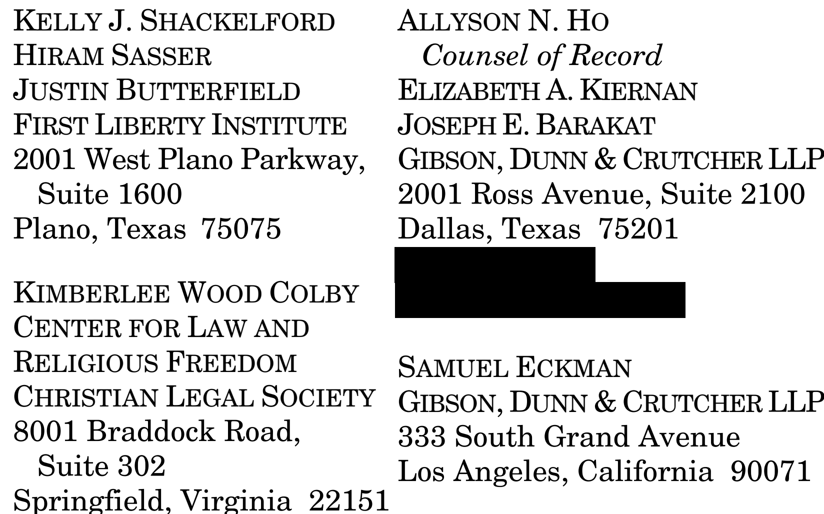
v.

CITY OF FREDERICKSBURG, VIRGINIA,

*Respondent.*

**On Petition for a Writ of Certiorari to the Circuit Court of the City of Fredericksburg, Virginia**

## PETITION FOR A WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

Virginia law provides an exemption from property taxes for "[r]eal property and personal property owned by churches * * * and exclusively occupied or used * * * for the residence of the minister of any church or religious body." Va. Code § 58.1-3606(A)(2). The statute does not define the term "minister."

New Life In Christ Church claimed the tax exemption for a property occupied by Josh and Anacari Storms. The Church explained that the Stormses are "ministers" under the Presbyterian Church in America's Book of Church Order because they were hired to teach and spread the faith to college students in the community. The City of Fredericksburg agreed that eligibility for the exemption turned on whether the Presbyterian Church in America considered the Stormses to be ministers, but it denied the exemption because, under its reading of the Book of Church Order, only ordained persons with specific duties are ministers of that church.

The questions presented are:

1. Whether civil authorities violate the First Amendment when they engage in their own interpretation of church doctrine to overrule a church's determination that a particular official is a minister and, if so, whether summary reversal is appropriate.

2. Whether, in the alternative, the Court should GVR in light of *Fulton* v. *City of Philadelphia*, 141 S. Ct. 1868 (2021), because Virginia has enacted a "system of individual exemptions" to its property tax law, and the City "'may not refuse to extend that [exemption] system to [the Church] without compelling reason.'" *Id.* at 1878 (first alteration in original).

## PARTIES TO THE PROCEEDING AND RULE 29.6 DISCLOSURE STATEMENT

The caption contains the names of all parties to the proceedings below.

New Life In Christ Church has no parent corporation and no publicly held corporation owns any portion of New Life In Christ Church.

## RELATED PROCEEDINGS

Pursuant to this Court's Rule 14.1(b)(iii), the following proceedings are related to this case:

*Trustees of the New Life In Christ Church* v. *City of Fredericksburg*, No. 19-395 (Va. Cir. Ct. Feb. 18, 2020) (judgment).

*Trustees of the New Life In Christ Church* v. *City of Fredericksburg*, No. 201156 (Va. Mar. 3, 2021) (refusing petition for review).

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## PETITION FOR A WRIT OF CERTIORARI

Petitioners Trustees of the New Life In Christ Church respectfully petition for a writ of certiorari to review the judgment of the Circuit Court for the City of Fredericksburg, Virginia.

## OPINIONS BELOW

The judgment of the Circuit Court for the City of Fredericksburg, Virginia is unpublished. App. 1a. The order of the Supreme Court of Virginia refusing the petition for appeal is also unpublished. *Id.* at 4a.

## JURISDICTION

The Supreme Court of Virginia refused the petition for appeal on March 3, 2021. App. 4a. On March 19, 2020, this Court issued an order extending the filing deadline for all petitions for certiorari to 150 days from the date of the lower court's order denying discretionary review. On July 19, 2021, this Court rescinded that order, but only for petitions for certiorari from judgments issued after that date. This Court has jurisdiction under 28 U.S.C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment to the U.S. Constitution provides:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

Virginia Code § 58.1-3606 provides:

"A. Pursuant to the authority granted in Article X, Section 6(a)(6) of the Constitution of Virginia to exempt property from taxation by classification, the following classes of real property shall be exempt from taxation:

* * *

2. Real property and personal property owned by churches or religious bodies, including (i) an incorporated church or religious body and (ii) a corporation mentioned in § 57-16.1, and exclusively occupied or used for religious worship or for the residence of the minister of any church or religious body, and such additional adjacent land reasonably necessary for the convenient use of any such property. Real property exclusively used for religious worship shall also include the following: (a) property used for outdoor worship activities; (b) property used for ancillary and accessory purposes as allowed under the local zoning ordinance, the dominant purpose of which is to support or augment the principal religious worship use; and (c) property used as required by federal, state, or local law."

## STATEMENT

The Court has long recognized that "the Religion Clauses protect the right of churches and other religious institutions to decide matters 'of faith and doctrine' without government intrusion." *Our Lady of Guadalupe Sch.* v. *Morrissey-Berru*, 140 S. Ct. 2049, 2060 (2020) (citing cases). This longstanding prohibition on civil authorities resolving religious questions is not limited to the context of internal ecclesiastical

affairs. On the contrary, "the First Amendment severely circumscribes the role that civil courts may play in resolving church [civil] disputes," as well. *Presbyterian Church in the U.S.* v. *Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 449 (1969). While "there are neutral principles of law, developed for use in all [civil] disputes, which can be applied without" running afoul of the Religion Clauses, "First Amendment values are plainly jeopardized when church [civil] litigation is made to turn on the resolution by civil courts of controversies over religious doctrine and practice." *Ibid.*

That is precisely what happened here. Virginia law provides an exemption from property taxes for "[r]eal property and personal property owned by churches or religious bodies * * * and exclusively occupied or used * * * for the residence of the minister of any church or religious body." Va. Code § 58.1-3606(A)(2). When the New Life In Christ Church claimed the property tax exemption for a residence occupied by two of its ministers, the City of Fredericksburg conducted an independent inquiry into the Presbyterian Church in America's Book of Church Order to determine whether the ministers actually are "ministers" under church doctrine. The City never challenged the sincerity of the Church's belief that the ministers are, in fact, ministers. Instead, the City denied the exemption because it read the Book of Church Order to confer that designation only on ordained church officials with specific leadership roles.

The Court should summarily reverse the decision below because it reflects a "demonstrably erroneous application of federal law." *Maryland* v. *Dyson*, 527 U.S. 465, 467 n.* (1999) (per curiam). For over 150

years, the Court has confirmed that civil authorities may not second-guess religious organizations on "questions of discipline, or of faith, or ecclesiastical rule, custom, or law." *Watson* v. *Jones*, 80 U.S. (13 Wall.) 679, 727 (1871); see also, *e.g.*, *Gonzalez* v. *Roman Catholic Archbishop of Manila*, 280 U.S. 1, 16 (1929) ("In the absence of fraud, collusion, or arbitrariness, the decisions of the proper church tribunals on matters purely ecclesiastical, although affecting civil rights, are accepted in litigation before the secular courts as conclusive[.]"); *Serbian E. Orthodox Diocese for the U.S. & Can.* v. *Milivojevich*, 426 U.S. 696, 713 (1976) ("[R]eligious controversies are not the proper subject of civil court inquiry, and * * * a civil court must accept the ecclesiastical decisions of church tribunals as it finds them."). At a minimum, the Court should grant certiorari and order merits briefing because civil authorities' power to resolve questions of religious doctrine is an exceedingly important question of federal law. See Sup. Ct. R. 10(c).

In the alternative, the Court should grant the petition, vacate the decision below, and remand for further proceedings in light of *Fulton* v. *City of Philadelphia*, 141 S. Ct. 1868 (2021). Because Virginia has enacted a "system of individual exemptions" to its property tax law, it "'may not refuse to extend that [exemption] system to [the Church] without compelling reason.'" *Id.* at 1878 (first alteration in original). The court below did not even consider whether a compelling reason existed for the City's refusal to extend Virginia's property tax exemption to the Church based on the City's determination that, under its own reading of church doctrine, the occupants of the property

are not ministers of the church requesting the exemption.

1. New Life In Christ Church is a Presbyterian church in Fredericksburg, Virginia. In 2017, the Church purchased property at 1708 Franklin Street in Fredericksburg ("the Franklin Street Property"), which it uses as a parsonage and venue for college ministry events and meetings. App. 7a, 11a, 58a. The same year, the Church hired Josh and Anacari Storms to serve as Directors of College Outreach and Youth Ministers. *Id.* at 93a.

The Church recognizes the Stormses as ministers. *Id.* at 94a, 104a. Both have extensive religious training: Anacari Storms earned a degree in theology before being hired by the Church, and Josh Storms has taken classes at New Geneva Seminary. *Id.* at 93a. Both continue to advance their religious training through seminary classes, mentorship under ordained clergy, supervision by the Church Session,[1] and annual training conferences. *Ibid.*

The Stormses' duties as Directors of College Outreach and Youth Ministers are focused on ministering to students at the nearby University of Mary Washington. *Id.* at 57a. Among other things, they "maintain a ministry catering to college-aged men and women which spreads the message of the [Church] to such young men and women," *id.* at 94a, offer "Bible Study, Discipleship, and Fellowship" through regular, weekly group meetings held "in the home provided by

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[1] A "Session" is "[t]he ruling body of a church in the Presbyterian faith." App. 81a. "The decision-making authority for a Presbyterian church (and, accordingly, for New Life in Christ Church) rests with the Session." App. 82a.

[the Church]," *id.* at 58a, and "provide leadership over the ministry to New Life in Christ College Students through godly example, prayer, [and] leadership development," *id.* at 57a. They are also responsible for maintaining and submitting budgets for their ministry to the Church Session and "[m]eet[ing] with the Associate Pastor of [the Church] monthly, or as scheduled, to review ministry status and for spiritual refreshment/guidance, coaching, and supervision." *Id.* at 58a.

In sum, the Stormses perform "essential religious functions" within the Church. *Id.* at 135a. Indeed, there is no dispute among the parties that they are "doing religious work." *Id.* at 115a.

2. The Church requested an exemption from property taxes for the Franklin Street Property under Virginia Code § 58.1-3606(A)(2), which applies to "[r]eal property and personal property owned by churches or religious bodies * * * and exclusively occupied or used * * * for the residence of the minister of any church or religious body." Although the Franklin Street Property is the only property for which the Church sought a tax exemption, App. 118a, respondent City of Fredericksburg denied the request in 2017 without explanation, *id.* at 32a, 28a. In November 2018, the Church sent a letter to the City again requesting that the Franklin Street Property be designated as tax-exempt and, should the request be denied, that the City provide an explanation for the denial. *Id.* at 28a. The request for tax-exempt status was denied the next month. *Id.* at 28a, 37a–38a. The City Attorney reasoned that, while she "ha[d] not found any post-1971 authoritative construction of" the term "[t]he residence of the minister of any church," it is self-evident

that the "classification requires more than a bare assertion that 'a paid minister' of a church resides in property owned by the church." *Id.* at 37a.

After spending 18 months fruitlessly seeking the property tax exemption, *id.* at 28a, the Church filed suit in the Circuit Court for the City of Fredericksburg. *id.* at 6a. Early in discovery, the City explained that it denied the exemption because the Stormses were not "'the minister' of the congregation as defined by Virginia law." *Id.* at 17a. The City acknowledged that whether a particular church official qualifies as a minister under Virginia law turns on whether the church *itself* considers that official to be a minister—at least so long as the official is also in "strict adherence" to the church's internal doctrine, as determined by the relevant civil authorities. *Id.* at 18a–22a; see 168a. For this reason, the City conceded that "whether a non-ordained person can be 'the minister' for legal purposes in the context of different religious denominations or traditions" can vary. *Id.* at 20a. Nevertheless, the City maintained that the Stormses did not qualify as "ministers" under the statute because, for "a congregation affiliated with the Presbyterian Church," a minster is "an ordained person." *Ibid.* And even if ordination were not strictly necessary to be a minister of the Presbyterian Church in America, the City asserted that the individual still must be "'set apart as the leader' of a local PCA congregation." *Id.* at 20a–21a.

The City filed a motion for summary judgment. *Id.* at 39a. In support, it relied on the Presbyterian Church in America's Book of Church Order, which governs the Church, to argue that the Stormses are not ministers as understood by the Church. The City

began by noting that "Section 22:1 in Chapter 22 of the Book of Church Order states that 'the various pastoral relations are pastor, associate pastor, and assistant pastor.'" *Id.* at 70a. It then proceeded to argue that "[t]he Book of Church Order utilizes the term 'minister' in contexts that make it clear that the term refers to a duly ordained person with specific leadership duties." *Id.* at 70a–71a. Among other things, "Chapter 21 of the Book of Church Order is entitled 'The Ordination and Installation of Ministers' and Chapter 34 of the Book of Church Order is entitled 'Special Rules Pertaining to Process Against a Minister.'" *Id.* at 71a. And "Chapter 58 of said book regarding 'the administration of the Lord's Supper' and Chapter 56 of said book regarding 'the administration of baptism' also use the term 'minister' in contexts that make it clear that the word refers to properly ordained individuals." *Ibid.* As a result, the City asserted that the Church should be denied the property tax exemption because "by its own definitions the Church has limited its pastoral leadership to specific individuals, none of which occupy the Property which the Church seeks to have exempted from taxation." *Ibid.*

In response, the Church argued that the City had misinterpreted the Book of Church Order. In particular, the Church explained that "[w]hile it is true that in order to deliver sermons to the congregation a person doing so must be an 'ordained' minister, there is nothing in the Book of Church Order that prohibits a particular church from hiring ministers to serve as messengers and teachers of the faith." *Id.* at 95a. On the contrary, "Section 12 of the Book of Church Order provides each church rather broad authority to govern

its own affairs, which would include the ability to hire ministers to cater to specialized groups, such as youth." *Ibid.*

The Circuit Court agreed with the City and granted its motion for summary judgment in an unreasoned order stating only that "it has read [the] briefs of both parties" and concluded that "the residents of the real estate known as 1708 Franklin Street, Fredericksburg, are not 'the minister' as required under Virginia Code § 58.1-3606(A)(2)." *Id.* at 2a & n.*.

3. The Church filed a petition for appeal in the Virginia Supreme Court. *Id.* at 124a. In its opposition, the City again argued that the Church did not qualify for the property tax exemption because, according to the City, the Stormses are not ministers of the Presbyterian Church in America. *Id.* at 163a. The City conceded that "the statute providing a limited exemption from taxation of real estate says to churches or religious bodies, 'you tell us who your leader is, and if they reside in church-owned property, [and] we will exempt that specific property from taxation.'" *Id.* at 168a. But the City maintained that the Church "cannot in good faith say that either of the Storms are its leader." *Ibid.* According to the City, "there w[as] no error" in the Circuit Court's consideration of the Book of Church Order because "[t]he Church cannot set its rules in the [Book of Church Order] and expect for a court to ignore their plain language when the Church tells the court, in an action that its Trustees filed, that the Church is governed by the rules therein." *Id.* at 169a–170a.

The Virginia Supreme Court "refuse[d] the petition for appeal," reasoning that there was "no reversible error in the judgment" of the Circuit Court. *Id.* at 4a.

## REASONS FOR GRANTING THE PETITION

### I. THE DECISION BELOW FLAGRANTLY VIOLATES THE COURT'S LONGSTANDING PROHIBITION ON CIVIL AUTHORITIES RESOLVING RELIGIOUS QUESTIONS.

It is a foundational premise of our constitutional system that religious organizations enjoy "power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." *Kedroff* v. *St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952). For this reason, the Court has long recognized that civil authorities may not inquire into "questions of discipline, or of faith, or ecclesiastical rule, custom, or law" in the course of resolving civil disputes. *Watson* v. *Jones*, 80 U.S. (13 Wall.) 679, 727 (1871). As the Court held over 50 years ago, "it [i]s wholly inconsistent with the American concept of the relationship between church and state to permit civil courts to determine ecclesiastical questions." *Presbyterian Church in the U.S.* v. *Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 445–46 (1969). The decision below flagrantly violates this clearly established constitutional principle.

The Church credibly and sincerely determined that Josh and Anacari Storms are "ministers" within the meaning of the Presbyterian Church in America's Book of Church Order. As the Church explained, "[w]hile it is true that in order to deliver sermons to

the congregation a person doing so must be an 'ordained' minister, there is nothing in the Book of Church Order that prohibits a particular church from hiring ministers to serve as messengers and teachers of the faith." App. 95a. On the contrary, "Section 12 of the Book of Church Order provides each church rather broad authority to govern its own affairs which would include the ability to hire ministers to cater to specialized groups, such as youth." *Ibid.*; see also *id.* at 87a ("[E]ach individual church has the autonomy to engage an individual as a 'minister.'").

The court below was required to defer to that interpretation of church doctrine absent evidence of fraud or collusion—which the City did not allege and the court did not find. See *Gonzalez* v. *Roman Catholic Archbishop of Manila*, 280 U.S. 1, 16 (1929) ("In the absence of fraud, collusion, or arbitrariness, the decisions of the proper church tribunals on matters purely ecclesiastical, although affecting civil rights, are accepted in litigation before the secular courts as conclusive[.]"); *Serbian E. Orthodox Diocese for the U.S. & Can.* v. *Milivojevich*, 426 U.S. 696, 713 (1976) (rejecting civil courts' authority "to analyze whether the ecclesiastical actions of a church judicatory are * * * 'arbitrary'").

But rather than defer to the Church's interpretation of its own doctrine, the court below concluded that the Franklin Street Property is not "exclusively occupied or used * * * for the residence of the minister of" the Church, Va. Code § 58.1-3606(A)(2)(ii), based on the City's independent reading of the Book of Church Order. As the City explained:

> The Book of Church Order utilizes the term 'minister' in contexts that make it clear that the term refers to duly ordained persons with specific leadership duties. For example, Chapter 21 of the Book of Church Order is entitled "The Ordination and Installation of Ministers" and Chapter 34 of the Book of Church Order is entitled "Special Rules Pertaining to Process Against a Minister." Both of these chapters speak only of ordained ministers of the denomination. Chapter 58 of said book regarding "the administration of the Lord's Supper" and Chapter 56 of said book regarding "the administration of baptism" also use the term "minister" in contexts that make it clear that the word refers to properly ordained individuals.

App. 70a–71a.

The Stormses, however, were not ordained and did not perform particular duties (*e.g.*, delivering sermons during regular worship hours, administering the Lord's Supper, and performing baptisms) that the City took to be essential functions of a minister of the Presbyterian Church in America. See *id.* at 71a. As a result, the City concluded that the Church was not eligible for the exemption because "Josh Storms is not a minister *in accordance with the rules and regulations of his chosen denomination*." *Id.* at 73a (emphasis added). And "[b]ecause Anacari Storms is not allowed *by the rules of her denomination* to become a minister, she also cannot be 'the minister' for the

Church." *Ibid.* (emphasis added). This is precisely what the First Amendment prohibits.

But that is not all. The City took the position below that a church cannot claim a property tax exemption unless the person designated as its "minister" is in "strict adherence" to the church's internal doctrine. *Id.* at 18a. As this Court explained in invalidating a state law that made "the right to * * * property previously used by the local churches * * * turn on a civil court jury decision as to whether the general church abandoned or departed from the tenets of faith and practice it held at the time the local churches affiliated with it," *Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. at 441, any inquiry into a party's adherence to church doctrine "requires the civil court to determine matters at the very core of a religion—the interpretation of particular church doctrines and the importance of those doctrines to the religion," *id.* at 450. "Plainly, the First Amendment forbids civil courts from playing such a role." *Ibid.*

But that is exactly what happened here. To quote the City's briefing below, "the statute providing a limited exemption from taxation of real estate says to churches or religious bodies, '*you tell us who your leader is*, and if they reside in church-owned property, [and] we will exempt that specific property from taxation.'" App. 168a (emphasis added). Having authorized religious organizations to "tell us who [their] leader is" under internal church doctrine, the government cannot then turn around and tell *them* whether they are correct—especially not by the light of its own independent interpretation of that doctrine.

Because the decision below so clearly violates this Court's well-established First Amendment jurisprudence, this case presents a prime candidate for summary reversal. At a minimum, however, the Court should grant certiorari and order merits briefing on this exceedingly important question of federal law.

## II. IN THE ALTERNATIVE, THE COURT SHOULD GRANT CERTIORARI, VACATE THE DECISION BELOW, AND REMAND FOR RECONSIDERATION IN LIGHT OF *FULTON*.

Even if the Court is not inclined to summarily reverse, it should still grant certiorari and vacate the judgment below so that the Virginia courts can reexamine the parties' dispute in light of *Fulton* v. *City of Philadelphia*. That decision, which issued three months after the Virginia Supreme Court denied review in this case, raises serious doubts as to whether Virginia's property tax law is "neutral and generally applicable" notwithstanding the sweeping and undefined exemptions it contains. And if it is not, *Fulton* demands that the City present a "compelling reason" for its refusal to extend such an exemption to the Church, which it has not yet even attempted to do.

This Court has held that religious organizations are not entitled to an exemption from a law that burdens their religious exercise so long as the law is "neutral" and "generally applicable." *Emp. Div., Dep't of Human Res. of Or.* v. *Smith*, 494 U.S. 872, 878–82 (1990). It specifically applied this principle in the tax context in *Jimmy Swaggart Ministries* v. *Bd. of Equalization of Cal.*, 493 U.S. 378 (1990), holding that "[t]he Free Exercise Clause * * * does not require the

State to grant [the church] an exemption from its generally applicable sales and use tax." *Id.* at 392 (emphasis omitted).

In *Fulton*, however, the Court confirmed that a law is not "neutral" and "generally applicable" when it vests broad discretion in government authorities to provide exemptions. There, the Court held that a Philadelphia regulation denying city contracts to organizations that discriminate on the basis of sexual orientation was not generally applicable because it allowed for "exemptions * * * at the 'sole discretion'" of a designated official. 141 S. Ct. at 1878. And because the city's regulation was not generally applicable, the Court held that Philadelphia's denial of an exemption to a Catholic organization that sought a contract to provide foster-placement services could be upheld only if it satisfied strict scrutiny—that is, if it "advances 'interests of the highest order' and is narrowly tailored to achieve those interests." *Id.* at 1881 (citation omitted).

*Fulton* calls into question whether Virginia's property tax regime is sufficiently "neutral" and "generally applicable" to evade scrutiny under the Free Exercise Clause. Although the general rule in Virginia is that "[a]ll property" "shall be taxed," Va. Const. Art. X, § 1, Virginia law contains a laundry list of exemptions—for property owned by a local bar association that is used or available for use by state-court judges, Va. Code § 58.1-3606(A)(4), for property owned and exclusively used by the YMCA, *id.* § 58.1-3606(A)(5), and for property owned by a church and "exclusively * * * used * * * for the residence of the minister" of that church, *id.* § 58.1-3606(A)(2).

Of course, these exemptions, unlike the exemption in *Fulton*, purport to place some constraints on government discretion. But these constraints are often illusory. For example, because the exemption for church property occupied by a minister does not define the term "minister," each taxing authority has virtually unfettered discretion to determine who is eligible for an exemption. See *Opinions of the Attorney General and Report to the Governor of Virginia* 276 (Aug. 23, 1976) ("The meaning of the term 'minister' * * * has not been clearly established."). Indeed, the City's Attorney all but admitted as much when, pressed by the Church to provide an explanation for the denial of an exemption, she conceded that she "ha[d] not found any post-1971 authoritative construction of this phrase." App. 35a. The Virginia Attorney General has exercised this discretion to grant an exemption to a "full-time minister of music and education" who, although "not an ordained minister, * * * assists the pastor in answering to the needs of church members" and "conducts a program with the youth of the church," such that his "duties relate to the religious work of the church, as opposed to duties which merely facilitate the operation of the church." *Id.* at 276–77. And the City here has exercised this discretion to grant an exemption to *other* religious organizations that have requested one. App. 22a.

Even if these purported constraints on the government's discretion to grant exemptions were not illusory, that would not necessarily save them from scrutiny under the Free Exercise Clause—as this Court's recent decisions respecting state lockdown orders during the coronavirus pandemic make clear. See, *e.g.*, *Tandon* v. *Newsom*, 141 S. Ct. 1294, 1296–97 (2021)

(per curiam) (concluding that a state lockdown order that exempted "hair salons, retail stores, personal care services, movie theaters, private suites at sporting events and concerts, and indoor restaurants" was not "generally applicable"); *S. Bay United Pentecostal Church* v. *Newsom*, 141 S. Ct. 716 (2021); *Roman Catholic Diocese of Brooklyn* v. *Cuomo*, 141 S. Ct. 63, 66 (2021) (per curiam); see also *Calvary Chapel Dayton Valley* v. *Sisolak*, 140 S. Ct. 2603, 2610–13 (2020) (Kavanaugh, J., dissenting from denial of injunctive relief). True, these cases deal with state laws that privileged secular entities over religious entities, but the same principle applies to state laws that privilege some religious entities over others. See *Larson* v. *Valente*, 456 U.S. 228, 246 (1982) ("[N]o State can 'pass laws' * * * that 'prefer one religion over another.'").

Of course, the Court need not decide these issues now. Because the Circuit Court granted summary judgment more than a year before *Fulton* was decided, it had no occasion to consider whether Virginia's property tax law is neutral and generally applicable, nor did the City have the opportunity to proffer a compelling reason for denying an exemption to the Church. In light of this Court's intervening decisions, however, these questions can no longer be avoided. As a result, the Court should grant certiorari, vacate the decision below, and remand for reconsideration in light of *Fulton* if it does not summarily reverse.

## CONCLUSION

The Court should summarily reverse the decision below or, at a minimum, order full merits briefing on the question whether civil authorities may engage in their own interpretation of church doctrine to overrule a church's determination that a particular individual is a minister. In the alternative, the Court should grant the petition, vacate the lower court's decision, and remand for the state court to consider whether Virginia's property tax law is "neutral" and "generally applicable" under *Fulton* and, if it is not, to determine whether a compelling reason exists for the City's decision not to grant an exemption to the Church.

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