

In the Supreme Court of the United States

NATIONAL PARK SERVICE, ET AL., APPLICANTS

v.

NATIONAL TRUST FOR HISTORIC PRESERVATION
IN THE UNITED STATES

**APPLICATION FOR A STAY OF THE INJUNCTION
ISSUED BY THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
AND REQUEST FOR AN IMMEDIATE ADMINISTRATIVE STAY**

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II

PARTIES TO THE PROCEEDING

Applicants (defendants-appellants below) are the National Park Service; Jessica Bowron, Acting Director of the National Park Service; John Stanwich, Superintendent of President's Park; the U.S. Department of the Interior; Douglas Burgum, Secretary of the Interior; the General Services Administration; Edward C. Forst, Administrator of the General Services Administration; the Executive Office of the President; Susie Wiles, White House Chief of Staff; the Office of the Executive Residence; Robert Downing, White House Chief Usher; and Donald J. Trump, President of the United States.*

Respondent (plaintiff-appellee) is the National Trust for Historic Preservation.

* The Administrator of the General Services Administration is automatically substituted for his predecessor. See Sup. Ct. R. 35.3.

III

RELATED PROCEEDINGS

United States District Court (D.D.C.):

National Trust for Historic Preservation in the United States v. National Park Service, et al., No. 1:25-cv-4316 (December 17, 2025)

National Trust for Historic Preservation in the United States v. National Park Service, et al., No. 1:25-cv-4316 (February 26, 2026)

National Trust for Historic Preservation in the United States v. National Park Service, et al., No. 1:25-cv-4316 (March 31, 2026)

National Trust for Historic Preservation in the United States v. National Park Service, et al., No. 1:25-cv-4316 (April 16, 2026)

United States Court of Appeals (D.C. Cir.):

National Trust for Historic Preservation in the United States v. National Park Service, et al., No. 26-5101 (April 11, 2026)

National Trust for Historic Preservation in the United States v. National Park Service, et al., No. 26-5123 (April 17, 2026)

National Trust for Historic Preservation in the United States v. National Park Service, et al., No. 26-5123 (August 7, 2026)

In the Supreme Court of the United States

No. 26A_____

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Pursuant to Rule 23 of the Rules of this Court and the All Writs Act, 28 U.S.C. 1651, the Solicitor General, on behalf of the National Park Service, et al., respectfully files this application for a stay of the injunction issued by the United States District Court for the District of Columbia (App., *infra*, 231a-233a), pending the government’s forthcoming petition for a writ of certiorari and any further proceedings in this Court. Given the significant consequences of the order below, which would take effect on August 21, 2026, the Solicitor General respectfully requests an immediate administrative stay of the district court’s injunction pending resolution of this application.

This case involves an extraordinary and unlawful injunction that will halt the ongoing construction of the integrated military complex, including a totally secure ballroom space, at the East Wing of the White House, which is vitally required by national security. As Director of National Intelligence Jay Clayton states: “The Project is critical for ensuring that the White House can serve as a secure location for the gathering of the President, gathering of senior government officials, and gatherings

that further the interests of the United States.” App., *infra*, 437a. He adds: “The Project * * * also will improve the level of protection and ability to manage and mitigate threats to the President and senior government officials and will enhance the handling, management, and utilization of IC information, including the conduct of IC-directed support to the Complex.” *Ibid.* If allowed to go into effect, the injunction would wrongfully install a single district judge as sole arbiter of what further construction is “strictly necessary” to protect the safety of the President, his family, staff members, and visitors to the White House, including foreign dignitaries, and presidents and prime ministers of other countries. *Id.* at 397a-399a.

President Trump has been the target of a growing number of recent assassination attempts, including a heavily armed assassin who breached the security perimeter of the White House Correspondents’ Dinner; a gunman who opened fire at the west entrance of the White House complex; a conspiracy to deploy drones armed with explosives at the UFC Freedom 250 event; the threat of a missile attack against Air Force One on July 8; a sniper caught in the act by the Secret Service at Trump International Golf Club, Palm Beach County, Florida; and a sniper’s bullet that struck the President’s ear in Butler, Pennsylvania. App., *infra*, 398a-399a; see *id.* at 402a-407a, 412a-416a, 419a. The updated East Wing complex is absolutely required and should not be enjoined.

Such an injunction “threatens the security and safety of the President of the United States,” rests on glaring errors as to Article III standing, the merits, and the equities, and creates a needless interbranch collision. App., *infra*, 390a (Rao, J., dissenting). In upholding it, a D.C. Circuit majority wrongly viewed the President as a mere “tenant” of the White House, *id.* at 261a, with the district judge as his *de facto* landlord. The President of the United States of America is not a tenant, but rather

the sole, elected head of the Executive Branch, and Congress has authorized him to renovate, secure, and protect the White House and its grounds, as other Presidents have been allowed to do, without exception. The injunction is “judicial overreach * * * beyond the proper province of the federal courts.” *Id.* at 360a (Rao, J., dissenting).

* * *

On July 31, 2025, President Trump announced plans for a new East Wing project (the “Project”), which is a highly integrated military complex that incorporates a classical, but highly secured, ballroom and crucial national-security facilities. The structure extends five stories deep into the ground, and is built with hardened concrete, steel, and rebar; protective missile-resistant columns, roofs, and beams; drone-proof ceilings and roofs; and bullet, ballistic, and blast-proof glass. See, *e.g.*, App., *infra*, 420a-422a. The Project includes bomb shelters, state-of-the-art hospital and medical facilities, protective partitioning between all areas of the building, top secret military structures and equipment, military-grade venting, a single integrated air conditioning and heating system, sniper nests, and a drone port on top, elevated by the structure of the ballroom, to protect the White House and surrounding region from aerial attacks—“one of the nation’s largest emerging threats.” *Id.* at 426a; see *id.* at 409a-410a, 415a. The Project is on time and under budget, and the ballroom is funded with approximately \$400 million in private donations by President Donald J. Trump and “some of the most prominent and successful corporations and people in America”—zero taxpayer dollars are needed or required. *Id.* at 442a.

The Project will provide a “secure, state-of-the-art facility that provides for the physical protection of the President and the command, control, and communication capabilities necessary for the President to carry out” his constitutional duties when under conventional or even nuclear attack. App., *infra*, 400a. “The materials used,

both in concrete and steel (and even glass), are meant to stop bombs, rockets, missiles, and even nuclear blasts.” *Id.* at 443a. “Quite frankly, if the building were tragically ordered to be taken down, or even altered, by the court, there would be no way to do so.” *Id.* at 445a. That is the purpose of the highly secure military complex that the Executive is building. “It is, in a very large way, a ‘safe room’ for the Presidency and the continuity of government.” *Id.* at 443a. The concrete, for example, is “the hardest and strongest concrete there is, the type used in nuclear power plants—it is impermeable, and virtually impossible to deconstruct.” *Ibid.* In short, the knitted, unified, cohesive Project will address glaring security problems with the old East Wing and the White House grounds, as well as update them to serve the modern-day needs and security of all future Presidents. Indeed, “[t]he Project is being built not principally for President Trump, as construction will be completed only a short number of months before the end of his Term. Rather, the Project will primarily benefit future Presidents and world leaders who will enjoy its protection for generations.” *Id.* at 441a.

Rebuilt in 1942, the old East Wing had fallen into disrepair, resting atop a degraded foundation and contaminated by asbestos, mildew, and mold. App., *infra*, 119a-121a. Its facilities were incapable of holding large-scale events, forcing Presidents to host heads of state in undignified “plastic or canvas tents on the South Lawn with unsafe and unsanitary portable bathrooms,” *id.* at 397a-398a, that cannot protect guests against inclement weather, let alone high-powered weapons. It has been shown that the plastic or canvas used in tents has virtually no protective capability against even a small-caliber bullet. See *id.* at 116a; see also *id.* at 397a-398a. Worse, the East Wing’s security features had grown obsolete and vulnerable to modern-day threats including drones, missiles, biohazard attacks, and communications disruptions. *Id.* at 400a, 426a-427a. Neither respondent nor the lower courts now dispute

that the old East Wing had to be replaced, or that the President can build “layered, hardened, and tested protection” to provide a safe haven against attacks. *Id.* at 410a.

Construction on the Project began on October 20, 2025. The Project is designed and constructed to safeguard the entire White House, its inhabitants, and visitors. It will protect the current President and future Presidents, their families, their staffs, and foreign dignitaries. App., *infra*, 397a-399a. The ballroom will provide a maximally secure venue to host major events at the White House, like receiving heads of state and future inaugurations, consistent with our Nation’s “seriousness, respectfulness, and influence.” *Id.* at 397a. Its fully integrated design will provide essential fortification for national security purposes. *Id.* at 426a-429a.

Over four months ago (and some 160 days into construction), the district court issued a baseless injunction dictating that construction of the East Wing ballroom “has to stop!” App., *infra*, 60a. The court allowed only construction “strictly necessary” to secure national security facilities or protect the safety of the President and his staff. *Id.* at 63a, 232a. That injunction has never taken effect, having been administratively stayed by the D.C. Circuit for four months. Yet, last Friday, the D.C. Circuit—over Judge Rao’s vigorous dissent—affirmed it.

The injunction is a “blatant abuse of discretion” and manifestly warrants a stay. App., *infra*, 360a (Rao, J., dissenting). *First*, the injunction rests on a limitless theory of Article III standing based on the claim of a strolling passerby (and repeat declarant) that she will walk by the White House once per month and somehow dislike the “symbol” or “statement” made by the new military complex that she has not yet seen. Her subjective preference does not create a concrete, particularized injury, no matter how strongly she feels about the White House’s appearance (or any other federal building’s). *FDA v. Alliance for Hippocratic Medicine*, 602 U.S. 367, 390 n.3

(2024). Her distaste, moreover, is subjective and personal, not universal—contrary to the lower courts’ presumption. See App., *infra*, 392a (Rao, J., dissenting). Many strongly disagree with her, as one official states: “This building is already being adjudged to be one of the most beautiful of its kind, anywhere in the country.” *Id.* at 446a. He continues: “To that end, the Supreme Court of the United States and, in particular, its magnificent Corinthian columns—considered the highest column order in architecture—have served as the inspiration for the monumental columns that front the military/ballroom complex.” *Ibid.* “These columns are made from the highest-grade Indiana limestone, which was shipped to Italy, and are being carved by some of the greatest artists anywhere in the world. Delivery and installation will begin shortly.” *Ibid.* To recognize standing based on a casual observer’s preferences invites serial litigation and abuse. She has no standing to be involved in this case.

Second, on the merits, the injunction wrongly validates respondent’s *ultra vires* challenge—something that should “rarely succeed” because it requires action “entirely in excess” of authority and in the teeth of a “specific prohibition in a statute.” *Nuclear Regulatory Commission v. Texas*, 605 U.S. 665, 681 (2025) (*NRC*). Here, Congress has authorized the Project twice over. Endorsing historical practice, Congress gave the President the power to make “alteration[s]” and “improvement[s]” to the White House “as the President may determine.” 3 U.S.C. 105(d). Congress also broadly authorized the Executive to construct buildings in national parks, including President’s Park and the White House. 54 U.S.C. 100101(a).

Third, the balance of the equities “overwhelmingly” favors the government. App., *infra*, 360a (Rao, J., dissenting). The injunction jeopardizes “the current safety of the President, as well as his family, staff, and guests,” *id.* at 390a, by halting a Project that is designed “to mitigate identified threat vulnerabilities,” *id.* at 430a, and

to proclaim that the United States respects, dignifies, and protects its institutions and officials, *id.* at 398a-399a. The D.C. Circuit erroneously viewed the district court’s safety-and-security carveout as adequate to address those harms. On the contrary, given the Project’s “inextricably intertwined” design, *id.* at 409a, isolating components that are “strictly necessary” to safety and security is impossible, *ibid.* Moreover, “[a] judges-know-best approach to presidential security cannot support the preliminary injunction,” *id.* at 389a (Rao, J., dissenting), which contradicts the judgment of Secretary of State and National Security Advisor Marco Rubio, Director of National Intelligence Jay Clayton, the Director of the Secret Service, Secretary of the Army, Chairman of the Joint Chiefs of Staff, Homeland Security Advisor, White House Military Office, CIA Director, and FBI Director, among others. See, *e.g.*, *id.* at 426a-429a, 430a, 400a, 397a-399a, 416a-417a, 437a-439a, 407a, 409a-410a.

Further, the “threat landscape” against the President has “evolved,” App., *infra*, 424a, and become “increasingly volatile and dangerous” since the case was submitted to the D.C. Circuit, *id.* at 431a; see *id.* at 412a-414a. A single judge cannot second-guess how much protection for the President is “strictly necessary,” when the Executive, military, intelligence services, and Secret Service all “recommend[] immediate and uninterrupted completion” of the *entire* Project. *Id.* at 430a; see *id.* at 392a (Rao, J., dissenting). On the other side of the ledger is the flimsiest of harms: one strolling passerby’s subjective displeasure. Equity does not place “the asserted aesthetic harm to a single passerby [over] the safety and security of the President as well as his family, staff, and guests.” *Id.* at 394a (Rao, J., dissenting).

Now, with the dangerous injunction poised to take effect for the first time on August 21, its stop-work mandate is even more flagrantly inequitable, if not impossible. The district court dismissed the harms to the government as “of the President’s

own making!” App., *infra*, 59a. But construction has since proceeded in accordance with four months of administrative stays, with a 250-person crew working 20 hours a day, 7 days a week to keep the Project ahead of schedule and under budget. *Id.* at 442a. Today, the Project is 65% complete in its entirety, and moving quickly toward total completion. *Ibid.* A concrete-and-steel superstructure stretches five stories deep and 70 feet high, and occupies nearly 50,000 square feet, with construction on and above the second-story level above ground. *Id.* at 442a-443a. That work has “follow[ed] a single coherent design.” *Id.* at 446a. By now, “it has passed the point where major changes to [that] design are feasible.” *Id.* at 442a.

The Director for White House Management and Administration states: “[I]f work is stopped in line with the district court’s injunction, it will be a disaster.” App., *infra*, 445a. Contractors will be left in limbo, and the existing building would risk dangerous instability. See *ibid.* This “unfinished structure * * * inherently present[s] safety and security risks at the White House Complex” and “operational challenges” to the Secret Service. *Id.* at 428a. No bystander could plausibly prefer to view an unfinished 70-foot-tall superstructure to the finished Project. See *id.* at 442a. Equity “overwhelmingly” favors a stay. *Id.* at 385a (Rao, J., dissenting).

STATEMENT

1. In 1942, President Franklin D. Roosevelt tore down and replaced much of the East Wing with a wholly remodeled building. 2 William Seale, *The President’s House: A History* 227-233 (2d ed. 2008) (Seale). Armed only with generally available appropriations and a plan to “enlarge the east wing,” he ordered “major construction” at the White House and “personal[ly]” supervised “every detail,” including its “air-raid shelter.” *Id.* at 227-230; see Pub. L. No. 77-528, 56 Stat. 236 (1942) (generally appropriating funds for “public buildings and grounds in the District of Columbia”).

Presidents have long directed major changes to the White House and its grounds. See App., *infra*, 196a-210a. President Roosevelt had previously overhauled the West Wing in 1934. Seale, *supra*, at 189-199 (“The President Likes to Build”). President Ford ordered that a pool be “dug” a “stone’s throw from the Oval Office,” over the objection of “[a]cademics and historians.” *Id.* at 432-433. In his first term, President Trump constructed a tennis pavilion by the White House tennis court. See App., *infra*, 210a. Congress has sometimes specifically appropriated for certain renovations, but Presidents have elsewhere relied on general funds. None of the above examples involved specific appropriations, and President Ford’s pool and President Trump’s tennis pavilion involved no public funding. See *id.* at 207a-208a, 210a.

Against this backdrop, Congress formally delegated to the President in 1978 broad authority to spend appropriated funds for “the care, maintenance, repair, *alteration*, refurnishing, *improvement*, air-conditioning, heating, and lighting (including electric power and fixtures) of the Executive Residence at the White House.” 3 U.S.C. 105(d)(1) (emphases added); see Pub. L. No. 95-570, 92 Stat. 2446 (1978). This statute complements the Executive Branch’s longstanding statutory authority to construct buildings in national parkland—which, since 1961, includes the President’s Park. 54 U.S.C. 100101(a); Pub. L. No. 87-286, § 1, 75 Stat. 586 (1961).

2. Following this tradition, President Trump determined that many factors urgently required modernizing the old East Wing—most critically, that it no longer performed vital security functions. App., *infra*, 116a, 119a. Compounding those problems were structural defects, such as a degraded foundation, crumbling roof, pervasive mold and mildew, water-related deterioration, obsolete electrical infrastructure, toxic asbestos, and lead paint. *Id.* at 119a-121a. All of this also made the East Wing unusable as a “secure event space to host large events.” *Id.* at 97a, 116a-117a.

3. President Trump announced in July 2025 that he would address these enduring problems by commencing significant construction at the old East Wing. The President tasked the Executive Residence of the President (EXR) with leading the Project. App., *infra*, 86a. EXR is an entity in the White House that “provides for the operation of the Executive Residence” and is “exclusively dedicated to assisting the President in maintaining his home and carrying out his various ceremonial duties.” *Sweetland v. Walters*, 60 F.3d 852, 854 (D.C. Cir. 1995). EXR has “unique expertise in fulfilling the operational needs of the President.” App., *infra*, 86a. EXR consulted with other “government agencies” and explored “all options” for implementing the above project objectives. *Id.* at 120a. In consultation with the Secret Service and NPS, EXR determined that “demolition of the existing East Wing structure and reconstruction of a new East Wing” would be most cost-effective, *id.* at 121a, and the best way “to maintain the visual primacy of the Executive Mansion and to ensure that the East Wing remains minimally visible from public spaces.” *Id.* at 122a.

Security needs pervaded every aspect of the Project. As declarations explain, the old East Wing’s structure could not bear the weight of necessary security materials—*e.g.*, bullet- and blast-proof windows, fortified walls and roofing, missile-resistant columns, and protective partitioning. *E.g.*, App., *infra*, 244a-251a; 430a-433a. The military installation underground also required massive changes—*e.g.*, a military-grade ventilation system, revamped hospital, and medical facilities—that could not be built with a fragile structure on top. Those security needs inform what any such above-ground structure must entail. *E.g.*, *id.* at 244a-251a; 423a-429a.

In August 2025, NPS reviewed the proposal, since the White House is in President’s Park. NPS concluded that the Project would have no significant environmental impact and would greatly “benefit” both park and public by “expanding the White

House’s ability to host large indoor events, celebrate America’s history * * * and create a symbolic space for events of national importance.” App., *infra*, 159a-163a.

Removal of the old East Wing structure started on October 20, 2025, and finished December 5. App., *infra*, 100a-101a. EXR has continued to manage the Project’s day-to-day progress, in close consultation with the President. *Id.* at 81a, 120a. On February 19, 2026, the Commission on Fine Arts—which advises on architectural development, 40 U.S.C. 9102—issued a non-binding vote to approve the Project’s design. *Id.* at 142a. On April 2, the National Capital Planning Commission—which aids preservation of the historic and natural features of the Nation’s Capital, 40 U.S.C. 8711—issued its non-binding approval of the Project’s final plans. See National Capital Planning Commission, Commission Action (Apr. 2, 2026).

To date, around \$200 million has been spent or committed on the Project. Those costs are being shouldered by private donations made to the NPS, and transferred to EXR under the Economy Act. See 31 U.S.C. 1531; App., *infra*, 442a. The “use of the Economy Act has long been standard operating procedure” for White House projects; agencies often contract with a component of the Executive Office of the President (or vice versa) to complete projects on White House grounds, and the “Economy Act agreement concerning the Project, in which EXR acts as the servicing agency for NPS, is consistent with this precedent.” App., *infra*, 146a-147a. Though NPS donations fund the Project, EXR is in charge. *Id.* at 79a, 81a, 84a, 86a, 97a, 120a.

4. On December 12, 2025—four months after the Project’s announcement, and after the old East Wing’s removal—respondent sued to enjoin the Project. It brought Administrative Procedure Act and constitutional claims, but no *ultra vires* claim. D. Ct. Doc. 1 (Dec. 12, 2025); D. Ct. Doc. 19 (Dec. 29, 2025). It also sought a TRO and preliminary injunction to forestall the Project. D. Ct. Doc. 2 (Dec. 12, 2025).

The district court initially denied relief. On December 17, it denied the TRO, citing a lack of imminent irreparable harm. App., *infra*, 1a-4a. On February 26, the court denied the Trust's first preliminary injunction request. *Id.* at 5a-26a. The court held that the Trust had established associational standing because one member, Alison K. Hoagland, claimed she would walk past the White House about once a month, and expected to dislike the new East Wing design. *Id.* at 11a-16a. The court ultimately denied relief, however, because the Trust failed to plead a viable cause of action under the APA (because EXR is not an APA agency) or the Constitution (because its claims were in fact statutory). *Id.* at 17a-26a. Nonetheless, the court invited the Trust to amend its complaint to raise an *ultra vires* cause of action. *Id.* at 26a.

5. The Trust amended its complaint and sought preliminary relief a third time. D. Ct. Doc. 50 (Mar. 1, 2026); D. Ct. Doc. 51 (Mar. 1, 2026). On March 31, the district court awarded relief. App., *infra*, 27a-61a. The court determined that the Trust was likely to succeed on its statutory *ultra vires* claim. *Id.* at 37a-51a. The court read Section 105(d) as authorizing only "ordinary maintenance and repair." *Id.* at 39a. The court also dismissed the NPS Organic Act, insisting that "nothing in the text of the statute grants NPS blanket authority to engage in construction" of this nature. *Id.* at 53a. Finally, because the court held that no statute authorized the Project, it found a violation of 40 U.S.C. 8106, which requires congressional authorization for construction within parks in the District of Columbia. *Id.* at 34a, 45a-51a. As to the equities, the court found they favored the Trust because construction would purportedly inflict visual displeasure on Hoagland. *Id.* at 54a-58a. It dismissed any "safety and security" concerns as "of the President's own making!" *Id.* at 59a.

The district court then enjoined the defendants "from taking any action in furtherance of the physical development of the proposed ballroom * * * including but

not limited to any further demolition, site preparation work, landscape alteration, excavation, foundation work, or other construction or related work, other than actions strictly necessary to ensure the safety and security of the White House and its grounds.” App., *infra*, 63a. The district court stayed its order until April 14. *Ibid.*

On April 10, the Trust filed a motion to “clarify” the scope of this national-security carveout and confirm that it does not “permit the Defendants to build the Ballroom” above the underground facility. D. Ct. Doc. 65, at 2 (Apr. 1, 2026).

6. On April 11, following the government’s emergency motion for a stay, the court of appeals issued a split decision. App., *infra*, 211a-227a. As relevant here, the court remanded the case to the district court for further factual development and clarification. *Id.* at 215a. The majority found that there were “unresolved factual questions [and] a legal dispute about the scope of the [national-security] exception” in the injunction, *id.* at 213a, and ordered the district court to “promptly address the pending motion to clarify,” *id.* at 214a-215a. Judge Rao dissented. *Id.* at 216a-227a.

7. On April 16, 2026, the district court vacated its prior injunction and issued a new one. App., *infra*, 231a-233a. The court reaffirmed its analysis and purported to clarify its “safety-and-security exception.” *Id.* at 236a. The revised order excludes “below-ground construction,” and allows other construction “strictly necessary” to protect the President and his staff, and also the safety and integrity of the White House and its grounds. *Id.* at 232a-233a. But “any such construction [cannot] lock in the above-ground size and scale of the ballroom,” *ibid.*, because the “purpose” of the order is to “stop construction of the above-ground ballroom.” *Id.* at 243a.

8. On April 17, 2026, the D.C. Circuit administratively stayed the modified preliminary injunction and put the case on an expedited schedule. On August 7, 2026, a divided panel affirmed, but stayed its ruling for two weeks. App., *infra*, 359a.

The majority first held that the Trust had standing, reasoning that Hoagland’s visual objections to the proposed ballroom amounted to “personal and professional injuries” to her “aesthetic, cultural, and historical interests,” App., *infra*, 292a (markings altered), and that those interests were germane to the Trust’s general “area of expertise and concern,” *id.* at 303a. On the merits, the court held that neither Section 105(d) nor the Organic Act authorized major construction projects. *Id.* at 311a-312a. On the equities, the court held that Hoagland’s dislike of the new East Wing justified the injunction, *id.* at 344a, while discounting harms to the Executive as self-inflicted and mitigated by the injunction’s safety-and-security carveout, *id.* at 349a-351a.

Judge Rao dissented. She viewed the injunction as “a blatant abuse of discretion.” App., *infra*, 360a. In her judgment, Hoagland lacked standing based on visual offense, *id.* at 375a; the Trust further lacked standing because White House construction is not germane to its interests, *id.* at 365a; and the Trust’s *ultra vires* claim must fail, because at minimum, the Project was an “improvement” authorized under Section 105(d), *id.* at 380a. Independently, she would have vacated the injunction because the “balance of equities overwhelmingly favors” the government. *Id.* at 363a.

ARGUMENT

To obtain a stay of an injunction, an applicant must show a likelihood of success on the merits, a reasonable probability of obtaining certiorari, and a likelihood of irreparable harm. See, e.g., *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010) (per curiam). All factors overwhelmingly support a stay here.

I. THE GOVERNMENT IS LIKELY TO SUCCEED ON THE MERITS

A. The Trust Lacks Article III Standing

Because federal courts “do not exercise general legal oversight of the Legislative and Executive Branches,” Article III demands that a plaintiff must “have a ‘per-

sonal stake’ in the case.” *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423-424 (2021). Where, as here, the plaintiff is an organization, it has standing to sue on behalf of its members only if (1) a member has standing in his own right, and (2) presses an interest germane to the organization’s purposes. *Hunt v. Washington State Apple Advertising Commission*, 432 U.S. 333, 343 (1977). Both conditions are lacking here.

1. The Trust concededly has “no personal or financial stake” of its own in this case. App., *infra*, 69a. Its sole identified member, Alison K. Hoagland, lacks a requisite injury in fact, too. *Id.* at 372a (Rao, J., dissenting). An injury in fact “must be ‘concrete’”—*i.e.*, “real and not abstract”—as well as “particularized”—*i.e.*, a harm that “affect[s] the plaintiff in a personal and individual way,” versus “a generalized grievance.” *Alliance*, 602 U.S. at 381. Here, Hoagland’s asserted injury is that she plans to walk near the White House about once a month and expects that “a ballroom of the form and scale proposed” would inflict “professional and personal injuries” on her by supposedly “diminish[ing] [the] primacy” of the White House and “disrupting the message that ‘our president lives in a *house*.’” App., *infra*, 13a; see *id.* at 74a-75a. The subjective displeasure of an offended observer does not amount to concrete injury.

a. Hoagland’s seeing-is-standing theory defies this Court’s repeated admonition that “Article III standing screens out plaintiffs who might have only a general legal, moral, ideological, or policy objection to a particular government action,” no matter how fervently held. *Alliance*, 602 U.S. at 381. The mere “psychological consequence presumably produced by observation of conduct with which one disagrees” is “not an injury sufficient to confer standing,” whether based on moral opprobrium, political discontent, or architectural taste. *Valley Forge Christian College v. Americans United for Separation of Church & State*, 454 U.S. 464, 485 (1982). Mere claims that an experience has been corrupted by visual displeasure involve “offense

alone” at how something looks, without a concrete follow-on harm to back it up—the sort of fleeting injury that this Court has consistently “rejected” as insufficiently “concrete and particularized” to “confer standing.” *American Legion v. American Humanist Association*, 588 U.S. 29, 80 (2019) (Gorsuch, J., concurring) (collecting cases).

Thus, this Court has rejected standing for doctors distraught by having to witness abortions, lest Article III invite myriad suits alleging “distress at or disagreement with the activities of others.” *Alliance*, 602 U.S. at 390 n.3. Likewise, secular groups could not bring an Establishment Clause challenge to the government’s conveyance of land to a Christian college solely based on the “observation of conduct with which [they] disagree[d].” *Valley Forge*, 454 U.S. at 485. The D.C. Circuit similarly has held that the “incidental viewership” of “something” a passerby deems “unappealing”—there, a professed “eyesore” injury from someone “driving past” a metering station “several times per week”—is insufficient. *Environmental Defense Fund v. FERC*, 2 F.4th 953, 970 (D.C. Cir. 2021). As these cases hold, Article III does not elevate every casual observer’s subjective disapproval to an injury in fact. The boundless alternative would eviscerate standing doctrine and invite “a system where 330 million citizens can come to federal court whenever they believe that the government is acting contrary to the Constitution or other federal law.” *Alliance*, 602 U.S. at 382.

By contrast, for an injury to be concrete and particularized in this context, a person must use or enjoy public land in a particularized manner, and lose that use or enjoyment, thereby suffering a concrete, non-self-inflicted follow-on harm. App., *infra*, 371a-372a (Rao, J., dissenting). Thus, someone who had settled plans to “observe an animal species” may have standing if that species was made extinct and their trip was sapped of its purpose. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 562-563, 566-567 (1992). Similarly, plaintiffs may have standing when they allege not only that

pollution would harm the environment, but that it would also stop them from fishing, swimming, and camping in the area at issue. *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167, 181-183 (2000). Alleged sensory injuries must be backed by real downstream effects to be concrete and particularized.¹

These principles foreclose Hoagland’s claims of standing. She does not allege that she uses or enjoys the White House in any way distinct from the general public. She has suffered no financial harm. She suffers no ongoing discomfort from the Project, unlike a public-nuisance plaintiff harmed by proximity to an offensive odor. Instead, she lives two miles from the White House and says she will “be in the area about once a month” to “attend meetings, view exhibits, and have medical appointments.” App., *infra*, 73a-74a. She fears vague “professional and personal injuries” from occasionally being near a federal building that she expects to find displeasing, as she otherwise continues with her life unaltered. *Id.* at 73a, 75a. “Since Hoagland’s objection to the appearance of the ballroom could be made by anyone planning to travel by the White House, it constitutes nothing more than a generalized grievance insufficient for Article III standing.” *Id.* at 373a (Rao, J., dissenting).

The Trust’s contrary view of standing is “startlingly broad,” *Murthy v. Missouri*, 603 U.S. 43, 75 (2024), and would allow virtually anyone who views any federal project to force “adjudication of any government action that a plaintiff finds unsightly.” App., *infra*, 375a (Rao, J., dissenting). Indeed, Hoagland herself recently challenged

¹ Other cases emphasized below fit the same mold, demanding something more than visual displeasure. *E.g.*, *Sierra Club v. Department of Transportation*, 125 F.4th 1170, 1180 (D.C. Cir 2025) (environmental nonprofits had standing to challenge a new rail route whose train traffic would “disrupt[]” the “peace and quiet members enjoy in their homes and in nearby scenic areas.”). That includes cases where a visual objection is paired with a free-exercise claim that the challenged action burdens a particular faith practice in a concrete manner. App., *infra*, 299a-300a (citing, *e.g.*, *Lyng v. Northwest Indian Cemetery Protective Association*, 485 U.S. 439, 442 (1988)).

the renovations at the Kennedy Center, claiming an injury-in-fact based on her plans to attend “one or two performances a year” and to “driv[e] by it several times a month,” whereupon she expects to (again) suffer injuries to her “aesthetic, cultural, and historical interests” because she will find the new design distasteful. Hoagland Decl. ¶¶ 12, 15, *D.C. Preservation League v. Board of Trustees of the John F. Kennedy Center for the Performing Arts*, No. 26-cv-981 (D.D.C. Mar. 31, 2026), Dkt. No. 24-49.

Article III requires more than a car and a fill-in-the-object declaration. Otherwise, someone could object to the “statement” made by the Thomas Jefferson Memorial; that Teddy Roosevelt “overshadow[s]” the scenery at Mount Rushmore; or that Andrew Jackson’s visage ruins the \$20 bill. App., *infra*, 75a. That is not how Article III works. The separation of powers forbids the federal courts from being “continuing monitors of the wisdom and soundness” of daily life, *id.* at 372a (Rao, J., dissenting), and Article III’s standing requirement ensures courts do not “operate as an open forum for citizens to press general complaints about the way in which government goes about its business,” *Alliance*, 602 U.S. at 379 (quotation marks omitted).

b. In holding that Hoagland has standing, the courts below badly erred.

To start, they tried to differentiate Hoagland from the average citizen based on her work as an architectural historian and as a Trustee of the Trust, emphasizing her “professional and personal injuries to her aesthetic, cultural, and historic interests.” App., *infra*, 291a (markings omitted). It is unclear what that means. Insofar as the lower courts believed the Project might impair Hoagland’s “research and writing” in some concrete way, *id.* at 297a, that belief has no basis in “anything” Hoagland alleged. *Id.* at 374a (Rao, J., dissenting). Hoagland’s declaration asserts the White House “affects [her] own research” in two ways: it “drove development” of the rest of D.C., and it was on the “leading edge of all improvements.” *Id.* at 74a. Those histor-

ical facts involve the White House’s influence on D.C.’s development generations ago, not its current design. Nor is it apparent how Hoagland’s ability to research or write about the White House would be affected by whether she approves of how it looks.

The court of appeals also suggested that the Project would “impair” Hoagland’s “work as a Trustee,” because the “Trust focuses on ‘preserving and protecting historic and cultural resources in Washington, D.C.,’” including the nearby “Decatur House.” App., *infra*, 292a. But that is not a theory of standing any more than a nonprofit based on “preserving and protecting the separation of powers” could sue over every constitutional excess. As with her research, the Project does not “impair” Hoagland’s work as a Trustee in any concrete and particularized way. Even less clear is how Hoagland has suffered any harm connected to the “Trust-owned” Decatur House. *Ibid.* The Trust has never alleged any pocketbook or property injury (let alone one affecting Hoagland). The fact that the Decatur House may be one stop on Hoagland’s intermittent trips to the “area around the White House,” *id.* at 74a, adds nothing.

More fundamentally, an intensity of interest does not convert a generalized grievance into a particularized one. *Alliance*, 602 U.S. at 394. As Judge Grant recently explained in holding that a descendant of slaves lacked standing to challenge Confederate memorials, it is not enough to be “deeply repulsed” or “disheartened” by a given structure. *Johnson v. Mayor, City of Jacksonville*, 178 F.4th 1240, 1246 (11th Cir. 2026); contra App., *infra*, 299a. A “concerned bystander [cannot] seek[] to vindicate his ‘value interests’—again, no matter how deeply held.” *Johnson*, 178 F.4th at 1247. Every American has the right to “enjoy” and “derive benefit” from the White House, and likewise to object to how it or any other federal building looks. App., *infra*, 292a (alterations omitted); see *id.* at 373a-375a (Rao, J., dissenting). But they do not have the right to sue in federal court to vindicate that generalized grievance.

So-called experts are no exception: If an average American cannot claim architectural offense, Article III does not suddenly yield to a grad student wielding supposedly elevated tastes. Hoagland's CV cannot transform a generalized grievance into more.

Hoagland's objection to how the Project might change the "architectural statement" of the White House cannot bridge the gap. Contra App., *infra*, 14a. She complains that the Project will visit "permanent and irreparable harm to the [design of the] White House and President's Park." *Id.* at 75a. But Hoagland's asserted harms to *the White House* are not harms to some specific interest of *Hoagland*; she is pursuing an "undifferentiated public interest" in preserving what she views as the White House's correct message. *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 106 (1998). Any "psychic satisfaction," *id.* at 107, from aligning the East Wing's design with her personal tastes does not create a justiciable case or controversy. *Alliance*, 602 U.S. at 394. On that score, given that the old East Wing is gone, her claimed injuries are all about the contours of any new build. But that would allow Hoagland to sue seriatim if she disagreed with the design of a single window or column.

Finally, the courts below emphasized that plaintiffs often rely on some form of a visual injury. App., *infra*, 293a-294a. But as explained, all of these cases have involved something more than just the sort of "distress" or "disagreement" that "this Court has long made clear" is not enough for Article III standing. *Alliance*, 602 U.S. at 390 n.3; see App., *infra*, 372a (Rao, J., dissenting). No such additional factor is present here. Hoagland has not made the sort of "clear showing" of a substantial likelihood of standing that this Court's cases require to obtain extraordinary preliminary relief. App., *infra*, 374a (Rao, J., dissenting) (quoting *Murthy*, 603 U.S. at 58).

2. Regardless, Hoagland's so-called injury cannot support *the Trust's* associational standing. When chartering the Trust in 1949 to "preserve and administer"

historically significant donated sites, buildings, and objects, 54 U.S.C. 312102(b)(2), Congress excepted “property within the exterior boundaries of national parks” from the Trust’s mandate. Act of Oct. 26, 1949, Pub. L. No. 81-408, ch. 755, § 4(f), 63 Stat. 929; see 54 U.S.C. 312105(g). That exclusion covers the White House, which is in President’s Park. Pub. L. No. 87-286, § 1, 75 Stat. 586 (1961). Thus, as Judge Rao explained: “The Trust’s lawsuit is not germane to its statutory purposes and powers,” because those authorities specifically *exclude* the White House. App., *infra*, 366a (Rao, J., dissenting); see *id.* at 367a-370a; see also *Hunt*, 432 U.S. at 342-343.

The district court disagreed, viewing the Trust as “established by Congress ‘to facilitate public participation in the preservation of sites, buildings, and objects of national significance or interest.’” App., *infra*, 16a (quoting 54 U.S.C. 312102(a)). But the White House is expressly withheld from the Trust’s ambit. Plus, Subsection (a) of the statute (“Establishment”) addresses why *Congress* created the Trust, not the Trust’s statutory mission. The latter is covered by Subsection (b) (“Purposes”), which states the Trust’s modest, specific purposes: as relevant, to “receive donation of sites, buildings, and objects significant in American history and culture,” and to “preserve and administer” those donated sites “for public benefit.” 54 U.S.C. 312102(b). The White House obviously has not been donated to the Trust.

For its part, the panel majority offered novel views of germaneness that the Trust “forfeited” below. App., *infra*, 368a (Rao, J., dissenting). They are also wrong. It is irrelevant whether the Trust has the power to enter into “contract[s]” or “cooperative agreements” with other parties as to historical sites. 54 U.S.C. 312105(h); see App., *infra*, 306a. This case involves the Trust trying to superintend the White House, not work with it. App., *infra*, 367a n.2 (Rao, J., dissenting). Equally irrelevant is the Trust’s ownership of the nearby Decatur House, which has no bearing on

“construction projects in President’s Park.” *Id.* at 369a (Rao, J., dissenting). Nor should the panel have credited the Trust’s amorphous “delineated functions.” *Id.* at 305a. The Trust is a creature of statute, “limited by [its] statutory grant[],” which again specifically excludes the White House. *Id.* at 366a-368a (Rao, J., dissenting).

B. The Trust’s *Ultra Vires* Claims Lack Merit

Even if the Trust had standing, it raises only an *ultra vires* challenge—“a Hail Mary Pass” that “rarely succeeds.” *NRC*, 605 U.S. at 681. The Trust must show an act is “entirely in excess of [an entity’s] delegated powers and contrary to a *specific prohibition* in a statute”—so “typical statutory-authority argument[s]” cannot suffice. *Id.* at 681-682. But garden-variety statutory-interpretation disputes are all the Trust has; besides, Congress doubly authorized the Project. Section 105(d) authorizes the President to make “alteration[s]” or “improvement[s]” to the White House “as the President may determine,” and the NPS Organic Act grants the Executive broad power to construct buildings on national parkland, as it has done thousands of times over a century. 3 U.S.C. 105(d); 54 U.S.C. 100101(a). The panel’s contrary reading of these statutes effectively declared countless federal construction projects unlawful.

1. The Project Is Statutorily Authorized Twice Over

a. Section 105(d). Presidents have long directed major renovations to the White House. *E.g.*, Seale, *supra*, at 191 (describing how FDR “wanted his new building” and personally remodeled West Wing); see pp.8-9, *supra*. Against that backdrop, Congress in 1978 formally delegated to the President broad authority to spend appropriated funds for “the care, maintenance, repair, *alteration*, refurnishing, *improvement*, air-conditioning, heating, and lighting (including electric power and fixtures) of the Executive Residence at the White House.” 3 U.S.C. 105(d)(1) (emphases added); Pub. L. No. 95-570, 92 Stat. 2446 (1978). Congress added that such sums

“may be expended as the President may determine, notwithstanding the provisions of any other law.” 3 U.S.C. 105(d). Section 105(d) thus confirms that the President possesses operational control over the White House and vests in him, notwithstanding other statutes, the discretion to decide necessary alterations and improvements. Here, Congress intentionally limited its role to “avoid an overly broad intrusion into this area of Executive discretion.” H.R. Rep. No. 979, 95th Cong., 2d Sess., at 8 (1978).

The Project fits easily within this text. To “alter” means to “make (a thing) otherwise or different in some respect.” *Alter*, Oxford English Dictionary (2d ed. 1989). To “improve” means to “advance or raise to a better quality or condition; to bring into a more profitable or desirable state; to increase the value or excellence of; to make better; to better, ameliorate.” *Improve*, Oxford English Dictionary (2d ed. 1989). Most relevant, in the “real property” context, “‘improvement’ means a ‘valuable addition made to property (usually real estate)’ that ‘amount[s] to more than mere repairs or replacement.’” App., *infra*, 378a (Rao, J., dissenting) (quoting *Improvement*, Black’s Law Dictionary (5th ed. 1979)); see, e.g., *id.* at 378a-379a & n.6.²

Modernizing the East Wing to address security requirements, update its infrastructure, and better allow the President to carry out his Article II duties (like receiving foreign dignitaries) falls well within the statutory text. Measures to make a building safer—from fixing its foundation to fortifying its structure—are prime examples

² All three branches have understood the word “improvement” to include buildings or structures. The term “public improvement” in 41 U.S.C. 12, for instance, has been interpreted to mean “major alterations or renovations to a public building.” 3 Office of Gen. Counsel, U.S. Gen. Accounting Office, GAO-08-978SP, *Principles of Federal Appropriations Law* 13-170 (3d ed. 2008) (Red Book). Regularly, Congress uses “improvement” in that way. 25 U.S.C. 293b (discussing “any parcel or tract of land and improvements thereon”); see App., *infra*, 378a-379a (Rao, J., dissenting). So too this Court. E.g., *Washington State Department of Licensing v. Cougar Den, Inc.*, 586 U.S. 347, 351-352 (2019) (plurality) (describing “improvements to the remaining Yakama land, such as building a hospital and schools for the Yakamas to use”).

of “improvements.” Replacing a wing of the White House that has grown dilapidated and vulnerable to threats is by definition changing property to bring it into a “more profitable or desirable state.” “The planned ballroom is a lawful improvement of the Executive Residence at the White House because it is a building or structure extending from and supporting the Residence.” App., *infra*, 380a (Rao, J., dissenting).

ii. The panel majority held otherwise, despite agreeing that the Trust’s Section 105(d) *ultra vires* claim requires a “patent misconstruction of the law.” App., *infra*, 312a. The district court and panel’s contrary interpretation, however, would be unreasonable even without the stringent *ultra vires* standard. Those courts read Section 105(d) as authorizing only minor changes and ordinary maintenance, not new construction. *Id.* at 336a-341a; see *id.* at 39a. But this interpretation would transform the law’s other terms—*e.g.*, “care,” “maintenance,” and “repair”—into mere surplusage. *Id.* at 340a-341a. By contrast, if one gives each word in Section 105(d) its natural meaning, each retains independent significance. *Id.* at 377a-379a & n.6 (Rao, J., dissenting). Indeed, Section 105(d)’s broad list underscores that it covers projects large and small, giving Presidents flexibility to adapt the White House to evolving needs. That may involve basic wear-and-tear “repair.” 3 U.S.C. 105(d)(1). Other times—say, if the White House roof collapsed—more major construction is involved.

Giving Section 105(d)’s separate words independent content hardly involves “hid[ing] elephants in mouseholes” or violating the *noscitur* canon. Contra App., *infra*, 342a. Those canons help resolve ambiguities; they do not license blue-penciling statutes. *E.g.*, *United States v. Stevens*, 559 U.S. 460, 474 (2010). That Section 105(d) also includes smaller tasks that would not fit within “alter” or “improve” is no basis for artificially limiting those words’ ordinary reach. Nor is the government’s reading some late-breaking claim to “unheralded power.” *Utility Air Regulatory Group v.*

EPA, 573 U.S. 302, 324 (2014); contra App., *infra*, 44a-45a. Presidents have directed major changes to the White House based on similarly general authorities. See pp.8-9, *supra*. As the Trust admits, that includes the East Wing itself. App., *infra*, 205a.

The panel majority conceded that “improvement” can “carry a broader meaning in the context of changes to land,” but insisted that a narrower meaning governs here, because the Project deals with an “existing structure.” App., *infra*, 338a. That sweeping legal premise is misplaced. The old East Wing is gone, this forward-looking challenge does not address that completed action, and the dispute now is about what should be built on the open site presently adjoining the Executive Mansion. Everyone agrees that “new construction” is appropriate, even if there is disagreement about what that new structure should look like. *Id.* at 338a-339a.

Elsewhere, the court of appeals reasoned that because Section 105(d) says that “[s]ums appropriated under this subsection * * * may be expended as the President may determine,” then the “President is authorized to act under Section 105(d) *only* with [those] funds” (some \$2.5 million). App., *infra*, 325a. But Section 105(d) does not prohibit the use of private donations to supplement authorized appropriations. Nowhere does it state that appropriations bar using otherwise available funds, *id.* at 381a-382a (Rao, J., dissenting), and Congress has created other mechanisms by which the Executive can supplement existing funds for White House improvements. See pp.27-28, *infra*. Nor does the scope of the statutory authorization expand or contract based on the size of any appropriation. Whether Congress specifically funded the Project is distinct from whether Congress authorized construction, cf. *Tennessee Valley Authority v. Hill*, 437 U.S. 153, 190 (1978) (the “purpose” of appropriations is to provide “funds” for “authorized programs”)—which is perhaps why the Trust did

not challenge the Project’s funding structure below. App., *infra*, 44a; see p.30, *infra*.³

b. Section 100101(a). Beyond Section 105(d), Congress independently authorized construction in national parks to advance the purposes of those parks. The Executive Branch has relied on that authority for over a century to build significant structures across national parkland, which encompasses the White House itself. The Project is just the latest example: It is a renovated structure built in President’s Park to advance the purposes of that park by overhauling the security infrastructure for the White House while also finally providing a secure space for hosting large events.

i. Congress has specifically empowered the Secretary of Interior, through NPS, to “promote and regulate the use of the National Park System by means and measures that conform to the fundamental purpose of the System units, which purpose is to conserve the scenery, natural and historic objects, and wild life in the System units and to provide for the enjoyment of the scenery, natural and historic objects, and wild life in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.” 54 U.S.C. 100101(a). This power dates back to the initial NPS Organic Act. Act of Aug. 25, 1916, ch. 408, 39 Stat. 535. NPS has used this statute for decades to engage in major construction on parkland. *Program Comment on Stewardship and Management of National Park Service Mission 66-Era Facilities (1945-1972)*, 89 Fed. Reg. 97631, 97631 (Dec. 9, 2024); see App., *infra*, 107a.

Especially relevant here, NPS has exercised its Organic Act authority to build numerous structures across national parks within the District of Columbia, ever since those parks were transferred to its jurisdiction in 1933. See Exec. Order 6,166 (June

³ The court of appeals also considered Section 105(d) inapplicable because the East Wing is not part of the “Executive Residence at the White House.” App., *infra*, 333a-335a. Not even the Trust made this (thus forfeited) argument, for good reason. *Id.* at 380a (Rao, J., dissenting) (explaining Project is “improvement” in all events).

10, 1933); Exec. Order 6,228 (July 28, 1933). For example, in the 1960s, NPS constructed the National Capital Region Headquarters, the U.S. Park Police Headquarters, and some 74,000 square feet of facilities in East Potomac Park. *Executive Director's Recommendation, National Capital Region Campus Renovation Project and Park Police District 1 Substation, Commission Meeting*, National Capital Planning Commission at 1 (Jan. 7, 2016). More recently, NPS built new U.S. Park Police Stables on the National Mall; erected a 7,500-seat tennis stadium in Rock Creek Park; and conducted major renovations to the golf courses at Langston, Rock Creek, and East Potomac. D. Ct. Doc. 52, at 14-15 (Mar. 12, 2026). None of those projects was specifically authorized by an act of Congress. All were done pursuant to the NPS Organic Act and its general authorization to operate the Park System. App., *infra*, 107a-110a.

The NPS Organic Act equally authorizes the Project. Congress designated the White House and President's Park as a unit of the National Park System in 1961. Pub. L. No. 87-286, § 1, 75 Stat. 586. NPS "determined that the Project was consistent with the [White House and President's Park's] enabling legislation." App., *infra*, 85a; see *id.* at 148a-164a. It found the Project addresses a longstanding need for a permanent secure space at the White House for large events like state dinners and would replace large temporary tents that damage the White House grounds and NPS infrastructure. *Id.* at 167a-168a; see *id.* at 119a-120a. In line with its enabling legislation, NPS concluded that the Project "will continue to preserve and interpret the museum corridor and principal public rooms of the White House, ensuring that visitor access and the park's core interpretive mission are maintained." *Id.* at 157a; see *id.* at 85a.

Moreover, as previewed above, because the Project is located on national parkland, it can permissibly be funded under 54 U.S.C. 101101(2), which allows donations "for the purposes of the [National Park] System." App., *infra*, 381a-382a (Rao, J.,

dissenting). Since the Carter Administration, it has been understood that, because Congress designated the White House to be within a national park, NPS has “authority for the acceptance of gifts in connection with the Department of Interior’s general statutory responsibility * * * for maintenance of the White House and its grounds.” *The White House—The Vice President—Gifts*, 2 Op. O.L.C. 349, 350 (Apr. 27, 1977); see Hearing Before the Subcomm. on Emp. Ethics & Utilization of the Comm. on Post Office & Civil Service, *Authorization for the White House Staff*, Serial No. 95-10, at 21 (Apr. 26, 1977) (citing “two ways” the “Executive Residence is taken care of”: the appropriated “account” under Section 105(d), and also “Interior’s own account”).

That donation authority is available even where, as here, NPS is not itself running the project that is funded. The Economy Act authorizes one agency to transfer authority and funding to another, where the latter can more efficiently accomplish the project. 31 U.S.C. 1535; see Red Book, *supra*, at 12-64. Here, NPS “determined that it was in the best interests of the United States for EXR to contract for and directly manage the Project,” App., *infra*, 86a, as is “consistent” with longstanding Executive “precedent,” *id.* at 147a; see *id.* at 89a-94a, 146a-147a (cataloging practice).

ii. The courts below found a lack of Organic Act authority, but they evaluated that question under the wrong standard. Both courts bypassed the strictures of *ultra vires* review and applied ordinary APA review on the ground that EXR is using NPS’s delegated authority. That is wrong. As even the district court initially recognized, App., *infra*, 18a, EXR is not an “agency” for APA purposes. Neither the President nor the entities immediately around him are “agencies” under the APA, *Soucie v. David*, 448 F.2d 1067, 1073 (D.C. Cir. 1971), because none exercises “substantial independent authority” from the President himself, *Armstrong v. Executive Office of the President*, 90 F.3d 553, 557-558 (D.C. Cir. 1996). The courts below assumed NPS’s

delegated authority changed the analysis. But whatever EXR is tasked to do, it is acting under the President’s superintendence, App., *infra*, 120a, and that presidential control is dispositive for APA purposes, *Armstrong*, 90 F.3d at 565. Regardless, the Project does not involve “administrative power.” *Dong v. Smithsonian Institution*, 125 F.3d 877, 881-882 (D.C. Cir. 1997). EXR is not altering citizens’ rights or obligations; it is “constructing a building,” which any private party could do. *Village of Bald Head Island v. U.S. Army Corps of Engineers*, 714 F.3d 186, 193 (4th Cir. 2013).

Even under APA review, the Organic Act authorizes the Project. The court of appeals maintained the Act does not “specifically” authorize the “construction” of anything. App., *infra*, 314a. But the mandate to “promote and regulate the use of the National Park System” has always included the power to broadly run national parkland, including major construction projects. Even the court of appeals conceded the Act could be reasonably construed to “authorize[] certain construction in national parks generally.” *Ibid*. The court accepted that scores of buildings have been constructed for decades under the Organic Act, including across the District of Columbia. *Id.* at 317a. Yet the court acknowledged that its position may well deem those structures unlawful. *Ibid*. Rather than work a revolution in federal land management, the panel should have relied on that longstanding practice to inform its reading of the Act. Congress has also long appropriated funds to NPS to build structures on national parkland, see *id.* at 107a, and Congress does not fund what an agency cannot do. Just this year Congress appropriated \$88 million to NPS for general construction and confirmed those funds could be supplemented by “National Park Service Donations.” Pub. L. No. 119-74, § 5, 140 Stat. 100-101 (2026).

The court of appeals also found an Organic Act violation because the Project purportedly is “in derogation of the values and purposes” of President’s Park. App.,

infra, 314a-315a (quoting 54 U.S.C. 100101(b)(2)). But Congress vested the Executive—not the Judiciary—with “broad discretion” in deciding how best to serve the animating purposes of a national park. *Bicycle Trails Council of Marin v. Babbitt*, 82 F.3d 1445, 1454 (9th Cir. 1996). Here, NPS reasonably concluded the Project would do just that. See, *e.g.*, App., *infra*, 148a-164a. The Organic Act requires nothing more.

iii. The court of appeals further objected to the Project’s funding structure. App., *infra*, 329a-331a. But the Trust “never directly challenged the government’s reliance on the Economy Act” below. *Id.* at 383a (Rao, J., dissenting); see *id.* at 44a (district court recognizing “legality” of “this funding mechanism” “not squarely at issue”). The Trust cannot get an extraordinary remedy on an argument it did not raise.

Regardless, “consistent with longstanding principles of appropriations law,” Congress authorized NPS to receive donations on behalf of the National Park System—which includes President’s Park and the White House—and put them to those ends. App., *infra*, 382a-383a (Rao, J., dissenting); see p.28, *supra*. As for effectuating any transfer of those donations, the Economy Act supplies authority. NPS “is authorized to do” the Project and has funds “available” under its donation authority; at the same time, EXR has “experience [and] expertise” working with the President to manage the Executive Mansion, and faces no “statutory prohibitions or restrictions which would obstruct performance.” Red Book, *supra*, 12-26, 12-27, 12-28. Such transactions are routine for both NPS and the White House, as uncontested below.⁴

⁴ The court of appeals’ other (unraised) arguments do not move the needle. It insisted both NPS and EXR must have independent authority to perform the Project to enter into an Economy Act arrangement, App., *infra*, 329a-330a, but it misread its sole source. While the Act does not itself vest an agency with general authority it would “not otherwise have,” executing a project at the behest of another is distinct from independently wielding its authority. The “legal part of the formula” for the former is whether there are any “statutory prohibitions or restrictions which would obstruct performance.” Red Book 12-28. Anyway, EXR does have its own authority.

2. *The Project Does Not Violate 40 U.S.C. 8106*

Bootstrapping the above, the courts below found the Project violates 40 U.S.C. 8106, which provides a “building or structure shall not be erected on any reservation, park, or public grounds of the Federal Government in the District of Columbia without express authority of Congress.” See App., *infra*, 314a, 321a. That argument fails.

First, Section 8106 is inapplicable because, as detailed, Congress *has* expressly authorized the government to erect structures on the White House grounds. The court of appeals conflated “express authority” under Section 8106 with a magic-words requirement requiring explicit authorization for “construction” “specifically in the District of Columbia.” App., *infra*, 314a (emphasis removed). The Act has never been read that way. P.26, *supra*. Even the district court viewed Section 8106 as requiring only “*some form* of authorization.” App., *infra*, 47a. Thus, if either Section 105(d) or the Organic Act authorized construction *in general* (as both do), even the district court agreed Section 8106 would have no role. *Ibid.*; see *id.* at 223a (Rao, J., dissenting).

Second, Section 8106 does not apply to the White House at all. A generally applicable statute should not be construed as restricting the President absent a clear statement to that effect. See *Franklin v. Massachusetts*, 505 U.S. 788, 801 (1992). That canon applies in full to the President’s “official residence.” *Ateba v. Levitt*, 133 F.4th 114, 117 (D.C. Cir. 2025). The panel majority disagreed, insisting “limit[s] to any presidential statutory authority concerning construction” would not raise separation-of-powers issues. App., *infra*, 321a. Not so. Suppose the President discovered the White House was collapsing or dangerously vulnerable. Forcing the President to come hat-in-hand to Congress so the People’s House is safe gives the Legislature dan-

Further, the court’s surmise that EXR might not be an “agency” for Economy Act purposes, App., *infra*, 331a, defies the plain text, 31 U.S.C. 101, and years of practice.

gerous leverage. Section 8106 has never been read to invite that conflict.

Third, the Trust’s challenge also fails because the Trust falls outside Section 8106’s zone of interests. The zone-of-interests requirement is a fundamental limit on causes of action, see *Lexmark International, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 129-130 (2014), and applies to judicially fashioned causes of action like *ultra vires* relief as much as APA claims, see, e.g., *Boston Stock Exchange v. State Tax Commission*, 429 U.S. 318, 320 n.3 (1977) (applying test to equitable constitutional claim). Here, Section 8106 protects Congress’s institutional interests, not private citizens’ visual tastes. There is a striking mismatch between the Trust’s injury-in-fact (alleged visual harms to a member) and the legal wrong it asserts (construction without express congressional sign-off). The Trust is simply outside Section 8106’s zone.

II. THE OTHER FACTORS OVERWHELMINGLY SUPPORT RELIEF

This Court also considers whether the underlying issues warrant its review; whether the applicant likely faces irreparable harm; and in close cases, the balance of equities. *Hollingsworth*, 558 U.S. at 190. Each consideration strongly supports relief. The extraordinary irreparable injuries to the government dwarf the subjective visual interests of the Trust’s single observer. The mismatch in that balance of harms is so acute that the injunction was an abuse of discretion on that basis alone.

1. The issues raised by this case merit this Court’s review. The district court’s injunction radically expands standing doctrine and waters down the requirements for *ultra vires* relief. This Court often reviews such cases. See, e.g., *Alliance*, 602 U.S. at 374 (standing); *NRC*, 605 U.S. at 681-682 (*ultra vires*). Further, the district court’s order transgresses basic limits on judicial power to superintend a critical national-security project that is being built at the White House and is personally directed by the President. That too warrants this Court’s intervention.

2. a. The government will suffer extreme irreparable harm because this injunction “threatens the security and safety of the President.” App., *infra*, 390a (Rao, J., dissenting). Courts defer to military authorities’ assessments of national-security interests and to the Secret Service’s views of how best to protect the President. See *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 26 (2008). Here, “[c]redible and detailed evidence—from the Secret Service, the Secretary of the Army, and the Army Corps of Engineers” substantiates “that halting construction of the ballroom impairs” those very interests. App., *infra*, at 385a (Rao, J., dissenting); *e.g.*, *id.* at 229a-230a, 248a-251a, 255a, 420a-421a, 430a-431a.

First, every part of the Project is an integrated whole geared toward remedying security deficiencies and bringing critical improvements to the White House. App., *infra*, 387a-389a (Rao, J., dissenting). The entire ballroom structure is designed to shield the military installation beneath it. App., *infra*, 247a (Secretary of the Army: “The height and mass of the completed East Wing are crucial.”). It must support the massive, heavy building materials necessary to secure the facility—*e.g.*, bullet- and blast-proof windows, drone-proof roofing, and missile-resistant steel columns. See *id.* at 247a-251a. Halting the Project will stall this vital construction, making this President—the subject of recurrent assassination attempts—much less safe, and risking future Presidents’ safety. *Id.* at 385a-388a (Rao, J., dissenting); see *id.* at 116a, 229a-230a. Nor is there any way to separate work for “safety” or “security” from other construction. See App., *infra*, 409a. “The Project follows a single coherent design” whose “core pieces cannot be disentangled now.” *Id.* at 446a. Once one part is stopped, another is impaired; the district court’s security exception is illusory, because it is practically impossible to stop any major feature of the Project without triggering a domino effect. *Ibid.* For example: Unless the full structure is constructed

as designed, it is impossible to do the “electrical work necessary to install heating and air-conditioning systems,” which then would cause its own problems (*e.g.*, “contaminating mold, freezing lines, or degradation within the building”). See *ibid.*

Second, freezing the construction site would create a veritable obstacle course for the Secret Service, further imperiling safety. App., *infra*, 386a-389a (Rao, J., dissenting); see, *e.g.*, *id.* at 228a (U.S. Secret Service Deputy Director: “[T]he current unfinished construction site compromises the ability of Secret Service personnel * * * to readily traverse the White House Complex for evacuation or other protective security operations.”); *id.* at 428a-429a (U.S. Secret Service Director: Leaving the Project in “unfinished” state will “present[] enhanced risks” to Secret Service operations). A delay in construction also creates intelligence-gathering opportunities against the White House Complex by malign foreign actors. See *id.* at 437a-439a.

Third, the injunction will inflict “massive construction-related problems for the Project.” App., *infra*, 443a. Now ten months into construction, “if work is stopped in line with the district court’s injunction, it will be a disaster,” and “beyond impractical.” *Id.* at 445a. The partially finished, 70-foot concrete-and-steel superstructure “cannot be largely left alone at this point” without “tremendous setbacks that will fundamentally compromise the integrity of everything currently built there,” not to mention the “major safety risk” from leaving it with inadequate “stability or strength to handle wind and heavy loads on [its] own.” *Id.* at 445a, 442a. Letting the structure degrade “might force us to tear down everything we have done as a degraded mass,” which “would be disruptive and extremely dangerous.” *Id.* at 446a.

b. The court of appeals dismissed these concerns, pointing to the injunction’s carveout for “actions strictly necessary to ensure the safety and security of the White House and its grounds, including the ballroom construction site, and provide

for the personal safety of the President and his staff.” App., *infra*, 284a; see *id.* at 286a-287a, 349a. In its view, that carveout would adequately authorize construction on underground security features, above-ground protection for the exposed side of the Executive Mansion, and some sort of “fully protective covering.” *Id.* at 349a.

But as explained, that fundamentally misunderstands the record and the unified nature of the Project. It also does nothing to remedy the biggest problem: That the order would still block construction of the ballroom, App., *infra*, 243a, notwithstanding the Executive’s unrebutted declarations detailing its essential, integrated national-security features. *E.g.*, *id.* at 245a-246a, 426a-429a, 430a-433a.

Even taking the safety-and-security carveout on its own terms, it is anyone’s guess what the district court might approve as “strictly necessary.” The Executive should not be forced, on pain of contempt, to guess what kind of structure besides the current ballroom would satisfy the district court, yet still satisfy national-security needs, especially because it is highly doubtful that even exists (and certainly not at this point). Leaving the Executive at the mercy of one district judge’s views of how to guard against threats to the President inflicts inherent irreparable harm. “The government should not be forced to rely on the district court’s architectural approval to secure the President’s home and office.” App., *infra*, 392a (Rao, J., dissenting).

In response, the panel emphasized that the government’s early district-court filings described above- and below-ground components as “independent.” App., *infra*, 349a. The panel misread that out-of-context quote. When the Trust worried that the below-ground work being done in late 2025 and early 2026 would immediately “lock in” the design and render futile any feedback from regulatory bodies, the government explained that “potential modifications” to the design, *id.* at 126a, such as relocating doors and stairs, D. Ct. Doc. 30-4, ¶¶ 9-11, could still be accommodated. The point

was that the minor design decisions were not driving the below-ground construction then in progress; national security needs “independent” of those choices were. D. Ct. Doc. 30, at 39 (Jan. 15, 2026). But while some parts of the above-ground structure are not “locked in” by below-ground work, overall security needs still dictate the above-ground structural features. See D. Ct. Doc. 69, at 3 (Apr. 13, 2026). For instance, the ballroom’s size is informed by the need for adequate load-bearing walls and proportions to support features like drone-proofing and bullet-proofing. App., *infra*, 253a-255a. “There is nothing contradictory about stating the ballroom is designed to serve critical security functions while also recognizing that some design changes may be feasible.” *Id.* at 389a n.11 (Rao, J., dissenting).

To be sure, as this litigation has proceeded through three complaints, three requests for preliminary relief, and a dozen claims, the government has responded to that ever-moving target with greater detail about the Project’s integrated nature. At the outset, classified declarations made the point in general terms. When the district court expressed doubt, the government offered further substantiation. When the court’s amended order bifurcated underground work from the ballroom, the government submitted further declarations to explain why that specific approach is untenable. Those are not “brand-new security justifications.” Contra App., *infra*, 350a n.15. Those declarations appropriately and “specifically address the security deficiencies of the alternatives to the ballroom (such as a concrete slab) allowed by the district court’s modified injunction.” *Id.* at 388a n.10 (Rao, J., dissenting). So too the declarations now filed in this Court, which offer updates from the last four months.

The panel majority further emphasized that the ballroom will not be completed for two years; that the interim security risks and costs of delay are “overwhelmingly a problem of the Defendants’ own creation”; and that a “comprehensive and fully pro-

tective security plan for the President and the White House * * * necessarily would have been put in place *before* destroying the East Wing.” App., *infra*, 351a. That the Project cannot happen overnight does not excuse indefinite delay. As many declarations underscore, current security risks must be mitigated as soon as possible.⁵ The “armchair judicial assumption” that an existing plan will offer adequate protection during construction “directly contradicts the Secret Service’s assessment.” *Id.* at 389a (Rao, J., dissenting). Further, the court of appeals’ stays have allowed construction to proceed “beyond the point of return,” making the costs of stopping now—with a not-yet-stabilized superstructure vulnerable to weather—very much not a problem of the government’s sole creation.

3. By contrast, the Trust faces no irreparable harm. It concededly lacks a “personal or financial stake” in this suit. App., *infra*, 69a. As for Hoagland, her core objection is that “the ballroom would ‘overshadow[] the White House’” and “diminish” its “architectural statement.” *Id.* at 75a. That is not irreparable harm to *Hoagland*.

The panel majority held otherwise by doubling down on its same flawed standing analysis, treating “hav[ing] to face whatever is erected in place of the old East Wing” as irreparable harm. App., *infra*, 344a. But even if abstract “historical-preservation, architectural, and visual” interests, *ibid.*, establish standing, they do not satisfy respondent’s heavy burden of justifying the extraordinary relief of a preliminary injunction. *Winter*, 555 U.S. at 24. That burden is especially onerous when the asserted injuries are a matter of opinion, with Hoagland on one side, and the judgment of the Commission on Fine Arts, the National Capital Planning Commission, the Na-

⁵ App., *infra*, 246a (Secretary of the Army “recommends immediate completion of the White House East Wing construction as designed to mitigate identified threat vulnerabilities and resolve what is fundamentally a defensive posture emergency.”); see *id.* at 116a, 229a-230a, 248a-251a, 253a-255a. “Every day added to the Project is another day impairing full security.” *Id.* at 229a (Secret Service).

tional Park Service, and the President on the other. See pp.10-11, *supra*.

Further, the “party requesting a preliminary injunction must generally show reasonable diligence,” and respondent’s “unnecessary * * * delay in asking for preliminary injunctive relief” should foreclose that relief “[e]ven if” its claims are “likely to succeed on the merits.” *Benisek v. Lamone*, 585 U.S. 155, 158-160 (2018) (per curiam). The Trust waited four-and-a-half months after the Project was announced on July 31, 2025 to sue on December 12, 2025—by which point the old East Wing was removed. Even then, the Trust failed to bring *ultra vires* claims for yet more months, even though the facts underpinning those claims have long been apparent. That improper wait-and-see approach at minimum undercuts any asserted irreparable harm.

4. Regardless, “the balance of equities overwhelmingly favors the government.” App., *infra*, 360a (Rao, J., dissenting). The injunction below—which jeopardizes the safety of this President and all future Presidents, their families, their staffs, foreign visitors, and guests, to appease the subjective dislikes of a single observer—reflects perhaps the most lopsided balance of equities in the annals of the federal judiciary. That complete imbalance alone makes this injunction a clear abuse of discretion. *Id.* at 385a (Rao, J., dissenting); see *Winter*, 555 U.S. at 32-33.

A stay of the district court’s injunction is also firmly in the public interest, which “merge[s]” with the balance of the equities in cases involving the government. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Just as the *Winter* plaintiffs’ “ecological, scientific, and recreational interests in marine mammals” were “plainly outweigh[ed]” by the Navy’s operational needs, 555 U.S. at 25-26, “[t]he current safety of the President, as well as his family, staff, and guests, clearly outweighs future aesthetic harm to Hoagland,” App., *infra*, 390a (Rao, J., dissenting). Further, the East Wing’s expanded capacity for receiving guests will substantially benefit the

President, every agency with a White House presence, and the Nation. Having a secure and usable East Wing will obviate the costly, dangerous, and undignified practice of using temporary tents to host major events. See *id.* at 97a, 116a-117a.

The courts below tried to sidestep the lopsided equities by dismissing the injunction’s consequences as the result of unlawful action and thus problems of the government’s “own making.” App., *infra*, 59a, 351a-352a. The panel likewise insisted that the public interest favors the injunction because the Project purportedly short-circuits “Congress’s job” in favor of unlawful executive action. *Id.* at 358a. That “collapse[s]” “the merits and the equities.” *Id.* at 391a (Rao, J., dissenting). Inquiries into “irreparable injury” and the “public interest” are distinct from “the merits.” *Winter*, 555 U.S. at 23-24, 32. This Court thus vacated the preliminary injunction in *Winter* without assessing the merits, because the injunction was nonetheless “outweighed by the public interest and the Navy’s interest in effective, realistic training of its sailors.” *Id.* at 23-24. The panel majority would create a carveout to *Winter* for “substantive” objections to purportedly “unprecedented” executive actions. App., *infra*, 355a. But *Winter* reflects the broad, longstanding equitable principle that a “preliminary injunction does not follow as a matter of course from a plaintiff’s showing of a likelihood of success on the merits.” *Benisek*, 585 U.S. at 158.

The panel caricatured that rule as a “bold assertion that the Executive can act with utter lawlessness.” App., *infra*, 354a. But the panel itself authorized construction that would be unlawful under its view of the merits. More broadly, “[w]hen a court concludes that the Executive Branch has acted unlawfully, the answer is not for the court to exceed its power, too.” *Trump v. CASA, Inc.*, 606 U.S. 831, 861 (2025). Federal courts cannot entertain suits when, as here, the plaintiffs lack Article III standing. Nor can federal courts seize the power to issue injunctions that exceed

traditional equitable constraints. This Project, like its predecessors, should be a matter for the President and the political process, not construction-by-injunction.

Respondent below conceded that at some point, construction will have gone beyond the point of judicial intervention. See Trust C.A. Br. 47-48. That line has long since been crossed. Construction has been underway for ten months, including the four-plus months during which lower courts continuously stayed the injunction. Consistent with those stays, construction has proceeded with 250 people working “20 hours a day, 7 days a week.” App., *infra*, 442a. The concrete-and-steel superstructure rises to “70 feet above ground in places, with a footprint of nearly 50,000 square feet and extensive above-ground works throughout.” *Ibid.* Today, work is “65% finished”—with millions of pounds of steel procured, tens of thousands of cubic yards of concrete poured, and miles of conduit laid—and the Project is “beyond the point of return,” “where major changes * * * are feasible.” *Ibid.*; see *id.* at 443a-444a.

Given those developments, the injunction promises chaos in service of nothing. A stop-work order now will leave an incomplete superstructure “susceptib[le] to strong winds during extreme weather,” and vulnerable to erosion, water, foundation damage, and other “setbacks that will fundamentally compromise the integrity of everything currently built.” App., *infra*, 445a-446a. No reasonable passerby would prefer the view of *that* as compared to the finished Project. Even measured by the sole criterion of passing optics, the injunction welcomes “disaster” without benefit. *Ibid.* This Court should stay the injunction, which illustrates why district judges should not try to “seiz[e] control of construction at the President’s home and office,” *id.* at 394a (Rao, J., dissenting), and allow this vital Project to continue—for the sake of the President’s safety, the continuity of government, and the separation of powers.

CONCLUSION

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

Respectfully submitted.

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