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**TESTIMONY ON 26-H 7445,
AN ACT RELATING TO PROPERTY -- FAITH-BASED AFFORDABLE HOUSING
DEVELOPMENT ACT
March 31, 2026**

This bill would allow, as the explanation notes, “faith-based organizations to develop affordable and mixed-use housing on land they own as a by-right use, set statewide development standards, limit local barriers, and streamline approvals to expand housing supply.”

At present, the ACLU of Rhode Island has no position on the bill, as we are still trying to evaluate its impact and, more particularly, its constitutional validity under the First Amendment. That in turn depends on what special benefits this legislation is bestowing on these faith-based organizations, whether those benefits are related to the organization’s mission, and their impact on the secular use of the property at issue. Answers to those questions remain unclear to us.

The First Amendment prohibits the government from either promoting religion or inhibiting its free exercise. These two commands can sometimes be in tension with each other, and so which one prevails can often be determined only from a clear understanding of the activity involved, its religious and secular impact, and the government’s role in the practice at issue.

Thus, at first glance, legislation like this seems problematic in that it appears explicitly designed to give faith-based organizations special privileges not available to others. On the other hand, there are situations where, in the promotion of the free exercise of religion, sectarian institutions are entitled to special protections. Thus, for example, a federal law known as the Religious Land Use and Institutionalized Persons Act (RLUIPA) gives houses of worship special protections in the context of zoning that aren’t available to others. It does so in the recognition that restrictive zoning laws can unduly interfere with a religious institution’s presence and mission in a community.

We note that the bill appropriately appears to expressly apply many existing restrictions and legal protections to these projects (such as the Fair Housing Act; applicable fire, health, and safety codes; and generally applicable affordability ordinances), that could potentially mitigate any potential harms from the religious favoritism. However, it remains unclear to us whether any benefits being offered to faith-based institutions are designed to limit government interference with the exercise of their religion, or instead are merely providing them special treatment that allows them to benefit financially for the *secular* use of their property in ways that are not available to similarly situated property owners.

Because of this uncertainty as to exactly what religious organizations would be able to do under this bill that non-religious property owners could not, we await more information about the goals behind the legislation before we are in a position to opine on its constitutional ramifications. We will therefore be happy to supplement our testimony at a later date, while we urge the committee to keep these constitutional concerns in mind in considering the bill’s intent and effect.

Thank you for your consideration of our views.