

February 27, 2026

Esteemed Chairs Rahman and Kavros Degraw,
Members of the Planning and Development Committee:

The Western Connecticut Council of Governments (WestCOG) appreciates the opportunity to provide comments on Raised Bill No. 5396, *An Act Concerning Affordable Housing Development on Certain Land Owned by a Religious Organizations*. This bill would allow certain “religious organization affordable housing developments” to proceed subject to summary review notwithstanding local zoning regulations, including density and height restrictions.

WestCOG does not take a position for or against the goal of facilitating affordable housing development on land owned by religious institutions. Many communities across Connecticut are struggling to diversify their housing stock, and faith-based institutions often possess underutilized land that could contribute meaningfully to meeting regional housing needs. The concept underlying the bill is therefore worthy of thoughtful consideration.

At the same time, the mechanism selected in this proposal represents a significant structural departure from Connecticut’s existing affordable housing framework. Because it alters the balance between state preemption and municipal land use authority in a targeted but sweeping manner, careful attention to statutory structure, public safety, fiscal implications, and long-term durability is warranted.

I. DEPARTURE FROM THE §8-30G FRAMEWORK

Religious organizations already have access to the Affordable Housing Appeals Act (CGS §8-30g). That statute permits qualifying affordable housing developments to override local zoning under a defined burden-shifting framework. Importantly, §8-30g does not eliminate municipal authority entirely; rather, it allows municipalities to deny an application where substantial public interests in health, safety, or other legally cognizable matters clearly outweigh the need for affordable housing and cannot be protected by reasonable conditions.

That balancing structure is central to the durability of §8-30g. It acknowledges the statewide importance of affordable housing production while preserving a mechanism to address demonstrable public risks. Courts interpreting §8-30g operate within that explicit statutory framework, which reduces uncertainty and guides both applicants and municipalities.

Raised Bill 5396 adopts a different approach. Section 1(b) provides that qualifying developments “shall be allowed subject only to summary review” and that such review “shall not consider any zoning regulations that impose restrictions on the density of development or the height of any structure.” Unlike §8-30g, the bill does not incorporate an express balancing test tied to substantial public health and safety interests. This structural difference is consequential.

II. INTERNAL TENSION IN THE SUMMARY REVIEW STANDARD

Under existing law, “summary review” means that a development may be approved without discretionary action, provided that the site plan conforms to applicable zoning regulations and that public health and safety will not be substantially impacted. Thus, even in a streamlined process, a safety determination is required. However, Bill 5396 simultaneously provides that summary review “shall not consider any zoning regulations that impose restrictions on the density of development or the height of any structure.” Height and density regulations are frequently among the primary mechanisms by which municipalities prevent substantial impacts to public health and safety in the first instance.

This creates an internal statutory tension. The bill requires a commission to determine that public health and safety will not be substantially impacted, while narrowing the regulatory tools that are often relied upon to make that determination. In effect, the statute mandates a safety finding while limiting two of the principal dimensional controls that shape development intensity.

Clarification may be advisable to ensure that commissions retain clear authority to address demonstrable aviation safety concerns, emergency response capability, infrastructure capacity, and related public risks when making the required safety determination.

III. HEIGHT, DENSITY, AND PRACTICAL SAFETY IMPLICATIONS

Height and density are not merely aesthetic preferences or tools of neighborhood character regulation. They are core planning instruments used to align development intensity with emergency response systems, aviation safety constraints, water and sewer infrastructure, stormwater management capacity, and transportation networks.

In municipalities that host or are proximate to airports, height limitations are often implemented through zoning overlay districts coordinated with FAA advisory surfaces and runway protection zones. While federal aviation regulations remain applicable, local zoning frequently operationalizes those constraints in the land use approval process. Removing consideration of height from zoning review may complicate that coordination.

Similarly, many suburban and rural fire departments do not possess high-rise ladder apparatus or staffing levels necessary to serve taller structures safely. Height review allows municipalities to calibrate development intensity with ladder reach capability, water pressure, emergency access geometry, and response times. Building and fire codes establish minimum standards; they do not replace local capacity planning. Ensuring that statutory language does not inadvertently constrain practical safety evaluation would strengthen the bill.

IV. INFRASTRUCTURE ADEQUACY AND CAPACITY DETERMINATIONS

The bill excludes properties “lacking adequate access to water or sewerage infrastructure.” This is an important limitation. However, the term “adequate” is not defined, nor does the bill specify whether municipalities may require demonstration of system capacity at projected build-out levels or condition approvals on necessary upgrades.

Density is often directly correlated with infrastructure loading. Where density regulations may not be considered, commissions must rely on other mechanisms to assess whether systems can

support proposed development intensity. Without further clarification, disputes may arise regarding how adequacy is determined and what standards govern that determination.

Providing clearer statutory guidance on infrastructure capacity assessments would reduce uncertainty for applicants, municipalities, and utilities alike, and would help ensure that development proceeds in a coordinated and sustainable manner.

V. CONSTITUTIONALITY AND EQUAL TREATMENT

The bill applies exclusively to property owned by a “religious organization,” as defined in statute. While the policy objective is tied to leveraging land owned by faith-based institutions, the exclusive nature of the zoning benefit may invite questions regarding constitutional guarantees, including equal treatment.

Connecticut has traditionally advanced affordable housing policy through generally applicable frameworks, such as §8-30g and other reforms that apply to broad categories of development rather than to particular ownership classes. Targeted preemption tied to ownership status may be more susceptible to constitutional scrutiny or future litigation. Clarifying the public policy rationale and considering whether similar treatment should extend to nonprofit or charitable landowners more broadly may strengthen the statute’s long-term defensibility.

In addition, because the bill ties zoning preemption directly to religious ownership status, the Committee may wish to consider how this framework interacts with existing federal religious land use protections under the Religious Land Use and Institutionalized Persons Act (RLUIPA) and whether additional clarification is advisable to ensure statutory neutrality and avoid unintended litigation consequences.

VI. APPLICABILITY OF FAIR HOUSING REQUIREMENTS

The bill does not address whether housing developed pursuant to this proposal must be offered without regard to religious affiliation or belief. While state and federal fair housing statutes generally prohibit discrimination in housing on the basis of religion and other protected characteristics, the interaction between those statutes and religious organizational ownership can be complex and fact-specific.

Because the proposal ties zoning preemption to religious ownership status, the Committee may wish to clarify that housing developed under this provision remains fully subject to applicable state and federal fair housing requirements and must be offered on a nondiscriminatory basis. Expressly reaffirming nondiscrimination obligations would reinforce that the statute serves a secular housing purpose rather than conferring a faith-based occupancy privilege. Providing such clarification would reinforce the public purpose of the statute and avoid potential ambiguity regarding eligibility for occupancy.

VII. PROPERTY TAX IMPLICATIONS

The Committee may also wish to consider the property tax implications of the proposal. Under current law, property owned by religious organizations is exempt from taxation when used exclusively for religious, charitable, or educational purposes pursuant to CGS §12-81.

Affordable housing developed on such property, particularly where operated as rental housing, jointly developed with private entities, structured through limited liability companies, or producing income, may not qualify for continued tax-exempt treatment. Depending on ownership and operational structure, development authorized under this bill could result in religious property becoming partially or fully taxable.

This outcome may have significant fiscal implications for both municipalities and religious institutions. It may also invite assessment disputes regarding the extent of exempt versus taxable use. Clarifying legislative intent with respect to tax classification would provide greater certainty to all parties and ensure that fiscal consequences are understood alongside land use changes.

VIII. LONG-TERM AFFORDABILITY AND ENFORCEMENT

The requirement that not less than 30% of units remain affordable for at least forty years is a meaningful affordability threshold. Ensuring that this requirement is effectively monitored and enforced will be critical to achieving the bill's housing objectives.

The Committee may wish to clarify which entity is responsible for monitoring compliance with deed restrictions, how enforcement mechanisms will operate, and how affordability terms will be preserved in the event of refinancing, transfer of ownership, or redevelopment. Clear enforcement provisions will enhance both the credibility and the effectiveness of the proposal.

IX. CONCLUSION

Raised Bill 5396 represents a significant modification of the balance between state housing policy and municipal zoning authority. Unlike §8-30g, it does not incorporate an explicit balancing framework tied to substantial public health and safety interests. At the same time, it narrows consideration of density and height regulations while requiring a determination that public health and safety will not be substantially impacted.

This structural tension, along with the bill's potential fiscal implications and its ownership-specific application, warrants scrutiny and revision to ensure statutory coherence and constitutionality. Absent such amendment, the bill may generate avoidable litigation regarding the scope of permissible safety review, infrastructure adequacy determinations, and constitutional neutrality.

If the legislature chooses to create a streamlined pathway for affordable housing on religious land, incorporating clarifying language regarding health and safety determinations, infrastructure capacity, and fiscal implications would strengthen the statute and reduce uncertainty for municipalities, applicants, and residents alike.

Thank you for your consideration.

Sincerely,



Francis R. Pickering
Executive Director