

## Common Concerns Surrounding YIGBY

1. **Will there be a loss of local control?** Municipalities have risen and failed in various degrees to address the housing crisis across the state. What we need now are more options. The YIGBY initiative strikes a balance between opening of lands for development and limiting the free-for-all by limiting applicability of the measure to faith-based institutions and churches.
2. **What about an extension of property rights to an exclusive group? Why not all property owners? Why not stronger judicial enforcement of Takings Clause of Fifth Amendment to force zoning changes?** The limited exception to current zoning in HB2191 is legally defensible, notably on religious liberty grounds. Where sincerely held religious beliefs inspire faith communities' efforts to create housing, these communities can assert constitutional and statutory free exercise protections against land-use decisions that obstruct denser, less expensive, multifamily developments on church land. This exception is not a slippery slope. Between the Establishment and Free Exercise Clauses of the Constitution, the state may grant exemptions, but it is not obligated to. Analyzing HB2191 we believe 1) it has limited application – only to religious organizations – and courts have permitted such narrow grants; 2) it is lifting a state-imposed burden on the group being granted the exception, i.e., current zoning places an undue burden on religious organizations seeking to build housing as a part of their mission; 3) by granting this exception the burden placed on nonbeneficiaries, such as neighbors, is not sufficient to overturn the exception granted; 4) the exception does not support proselytization or for-profit activities. Note: HB2191 could be strengthened by extending exception to secular nonprofit organizations and prohibiting religious discrimination against tenants.
3. **By requiring the low-income set-aside, do the costs of compliance mean fewer units built than if there was no such requirement?** Compliance is burdensome, but market forces have not historically and are not likely in the future to produce new low-income units. Building and operating low- and middle-income housing in the current economic climate (high land and construction costs, housing cost escalation far exceeding wage growth) requires the very type of support YIGBY provides.
4. **Building high-income luxury units will free up existing units for low-income households.** Luxury units draw new residents into community. Down-sizing empty nesters are leaving large-scale single-family homes, not low- or middle-income apartments. We

aren't seeing upward relocation within municipalities, as owners are locked into existing housing by interest rates (lower rate mortgages they hold v. higher rates on new mortgages), and wage increases that have not kept up with housing cost increases. People are moving down, or out, but not up.

5. **“Most renters and owners we heard from expressed that they are wary of affordable housing solutions in their neighborhood, citing worries that it will result in crime, noise, litter, illegal dumping, and a general lack of property upkeep.”** ([The California Dream: A New Narrative to Engage Californians on Housing Affordability, Chan Zuckerberg Initiative](#)) But vacancy or severely underutilized religious properties can attract the same negative elements. Redevelopment reactivates these properties with full-time residents, resulting in lower rates of such nuisances. Development on faith-based lands avoids “fiscal intermingling” and may lead to increased property values and greater property and sales tax receipts.

Some opponents of YIGBY initiatives also cite fears of increased density, traffic congestion, and changes to neighborhood character. However, the nature of development on faith-based lands, coupled with the restrictions set out in HB2191, address these concerns:

- **Density and Infrastructure:** Development on faith-based lands is modest in density and in-fill in nature, making use of existing infrastructure within cities and towns. These developments are more likely to be located near shopping and needed services than new construction on urban/suburban edges. These developments often attract new or rehabilitated community amenities to ensure that neighborhoods can accommodate growth.
- **Traffic Congestion:** Development on faith-based land brings low- and medium-income workers closer to their places of employment and/or public transportation, reducing reliance on cars and mitigating traffic congestion.
- **Neighborhood Character:** HB2191 does not necessitate the wholesale transformation of existing neighborhoods. Rather, it allows for incremental increases in density and the development of diverse housing options while respecting the existing character of communities.