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Re: H.R. 592

Dear Representative Smith,

We write on behalf of AJC (American Jewish Committee) to endorse the necessity and constitutionality of legislation to ensure that FEMA provides disaster-relief assistance to houses of worship and other facilities on an equal footing with analogous not-for-profit organizations.

We do not support such legislation lightly, since AJC usually opposes direct government aid to pervasively religious institutions, such as houses of worship. AJC has a long record of opposing aid to pervasively religious institutions as an ingredient of the separation of church and state that is an essential component in the protection of our religious liberties. Nevertheless, we believe disaster relief is constitutionally different.

First, disaster relief, such as the ongoing efforts following Hurricane Sandy, presents special circumstances that do not amount to a transfer of the costs of operating a place of worship from the collection plates to the taxpayer, a core concern of the Framers when they authored the First Amendment's prohibition on government establishment of religion. It is instead a form of social insurance in which society shares the burden of recovering from extraordinary disasters. There is a strong societal interest in aiding those who have suffered damage from such a broad-sweeping event, even institutions that for compelling constitutional and policy reasons would not otherwise be eligible for government assistance.

Second, houses of worship are not uniquely beneficiaries of the aid—a wide variety of not-for-profit institutions are eligible for aid under the existing statutory framework, including zoos and museums. These latter are undeniably important social institutions, but it is clearly the case that houses of worship play at least as important a role in providing essential response services to people in need. Disaster relief is thus available under religiously neutral criteria, which leave no room for discretionary or discriminatory judgments of the sort that generate Establishment Clause concerns.^[1]

For these reasons, we support in principle the goal to which H.R. 592 is directed.

We do wish to note how we read the proposed language in Section 3(b), lines 15-16, that makes eligible for aid a “house of worship and a private nonprofit facility operated by a religious organization . . . without regard to the religious character of the facility or the primary use of the facility.” (emphasis supplied) We read this section, as we believe it is intended; as meaning that an otherwise qualified institution is not disqualified from aid merely because it is religious, and that in its implementation, FEMA must apportion aid between secular and religious functions.

Thank you for your consideration of our views.

Respectfully,



Marc D. Stern
Director of Legal Advocacy



Richard T. Foltin
Director of National and Legislative Affairs

^[1] There are, of course, other Establishment Clause concerns, such as those noted in the third paragraph of this letter, that would lead us to oppose direct aid to houses of worship were it not for the extraordinary circumstances here involved.