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December 8, 2022

The Hon. Daniel McKee
Governor
State House
Providence, RI 02903

VIA EMAIL

Dear Governor McKee:

In the past day and a half, our organization has been contacted by numerous individuals and advocacy groups regarding the State's "Notice," issued yesterday, that certain persons must vacate the State House grounds by 9:00 a.m. tomorrow and remove all personal possessions from the State House grounds by that time or face arrest for trespass. We understand that this Notice, which stated that "camping/sleeping overnight at the State House grounds is prohibited," was provided to persons currently camping on State House grounds. I am writing to ask that you suspend any such efforts in light of the serious legal and policy concerns raised by such an action on the state's part.

State House grounds are open to the public. While it may be the case that the State could limit access to a public forum like this, including prohibiting overnight use, it is our understanding that the State has not formally done so and, to the contrary, is singling out the most vulnerable of our citizens in engaging in this clampdown. The procedures being used by the state are completely inappropriate and appear to be without a legal basis. The purpose of this letter is to just briefly summarize some of the immediate concerns we have about the State's action against those camping at the State House.

- The notice advises individuals that they "are being provided with a bed in an emergency shelter." While we understand that a handful of people have in fact been provided such shelter since the notice was distributed yesterday, representatives from The Coalition to End Homelessness have been quoted in the press as saying there are not a sufficient number of beds available to shelter every person currently camped at the State House, and we have heard the same message from others involved in aiding unhoused individuals. Vague assurances that there are beds somewhere is misleading and disingenuous.
- In that regard, we note that it has also been brought to the attention of state officials that their actions are in violation of federal policies governing the Coordinated Entry System (CES). As you know, that system is designed to ensure that there is fair and equal access to shelter for those experiencing a housing crisis.

By ignoring the formal process set out by the CES and purporting to provide priority access to shelter to individuals camping at the State House over others already waiting for placement, the State is engaged in a clear violation of federal HUD regulations and the whole point of having CES protocols in the first place.

- Contrary to the assurance provided in the State’s notice, and in addition to the lack of sufficient beds generally, it is our understanding that, due to the shelter locations being relied upon, space is not available for all individuals at the encampment who require physical accommodations for disabilities, including those who rely on an opposite-sex spouse or partner to assist them. Nor is shelter necessarily available to people involved with alcohol or substance use. The State cannot claim to be offering a bed to the individuals they are planning to otherwise arrest when that offer is a phantom.
- The encampment at the State House has been present for a number of months, and there is no compelling reason for suddenly demanding that all persons there leave within 48 hours. We note that a similar encampment was in place at this location last year for a few weeks, so any attempt to impose such a rushed timeframe is without cause and, under the circumstances, quite heartless.
- We have been unable to find any formal rules or regulations promulgated by either the Division of Capital Asset Management & Maintenance (under the jurisdiction of the Department of Administration) or the RI Capitol Police (under the jurisdiction of the Department of Public Safety) that set standards or criteria for use of the State House grounds that would support the determination that overnight use of the State House grounds is prohibited. Such rules would be required to be promulgated pursuant to the Administrative Procedures Act. We are unaware of a posted curfew, closing or other basis to limit access. Without clear, preexisting standards, actions which single out some individuals from others where all have a right to be present, amounts to discriminatory and arbitrary treatment.
- In light of the absence of any formal rules or regulations, we also believe that the state’s reliance R.I.G.L. 11-44-26 is inapposite. The grounds in front of the State House are public, not private, property, and those present there are neither “willfully trespass[ing]” nor “having no legitimate purpose” for their presence.
- We note that some or all of the individuals targeted by the State’s planned removal are engaging in expressive activity protected by the First Amendment to the U.S. Constitution and Article 1, Section 21 of the Rhode Island Constitution. The selection of the State House grounds as a place to camp is itself a public indictment of the lack of adequate and safe housing for vulnerable populations. Indeed, some of the campers have also erected signs in addition to their tents to underscore their message. In the absence of pre-existing, narrowly drawn limitations, the State’s determination to involuntarily remove peaceful protesters is unlawful.

Similar efforts during the “Occupy” movement of the last decade were met with court injunctions throughout the country.

In light of all the serious questions raised by the State’s misleading notice, the questionable process being implemented to remove individuals, the unavailability of promised shelter space, the lack of any formal regulations prohibiting the campers’ presence, and the State’s non-compliance with essential CES standards, we ask that the 48-hour vacate notice issued yesterday be rescinded, and that no further action be taken against those peacefully camping at the State House until these various issues can be examined and addressed in conformance with due process and federal and state law. We trust that, under all these circumstances, the State is not so callous as to take the rushed action it has threatened when there is no urgency whatsoever in doing so.¹

Thank you in advance for your immediate attention to this critical matter, and I look forward to hearing back from you at the earliest opportunity.

Sincerely,

A handwritten signature in black ink that reads "Steven Brown". The signature is fluid and cursive, with the first name "Steven" and last name "Brown" clearly distinguishable.

Steven Brown
Executive Director

cc: Kim Ahern, Office of the Governor
Eva Mancuso, Office of the Governor
Josh Saal, Office of Housing & Community Development
James Thorsen, Department of Administration
David Patten, DCAMM, Department of Administration

¹ Any concerns about “hazardous” conditions on the State House grounds can easily be remedied by providing, or accepting offers of, trash and sanitary facilities.