

WS

**Testimony before the  
Housing Committee**

**Regarding  
H.B. No. 5397 AAC Real Estate Licensing for Non-profit Housing Corporations**

**Presented by: Larry Kluetsch  
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March 3, 2010**

I am writing to request support of H.B. No. 5397. Our intent in requesting this legislative amendment was to clarify the licensing requirements for non-profit housing groups like Mutual Housing Association of SWCT which manage properties we have developed using Low Income Housing Tax Credits (LIHTC). The general exemption for an entity to manage its own properties, contained in Section 20-329 (1), is ambiguous when applied to LIHTC properties.

Over the past several years, several regulatory agencies have expressed concern that non-profit housing corporations which have developed and now manage rental housing properties financed with LIHTC financing may not fall within the non-profit exemption of Section 20-329 as it currently reads. The reason for this concern is that projects financed under the LIHTC program are not owned directly by the non-profit. Instead, the property must be owned by a for-profit limited partnership with a for-profit limited partner in order to maximize the tax credit proceeds under the program. The non-profit or its subsidiary is typically the general partner.

If the general exemption of Section 20-329 is not extended to groups like Mutual Housing, then we will be unable to manage properties in which we have significant control and financial risks since it is impractical, if not impossible, for us to comply with the licensing requirements of the Section 20-312(b). This section requires a nonstock corporation to have "one or more real estate brokers constitute at least fifty-one per cent of the members of the nonstock corporation." Housing nonprofits are typically neighborhood-based organizations whose boards are broadly representative of the local community, making the 51% standard unattainable. If the non-profit exemption does not extend to LIHTC properties, then most of us will not be able to sustain our management operations for our other properties. Put simply, we will be forced out of the business.

Last week several representatives of the non-profit community met with the Connecticut Association of Realtors (CAR) who expressed their belief that the non-profit exemption covered a non-profit's management of LIHTC projects but encouraged us to seek an administrative opinion from the Real Estate Commission on this issue in lieu of H.B. 5397. Specifically, they believe that a nonprofit does not require licensure to manage its own LIHTC property, because it does not meet the definition of real estate broker in C.G.S. Section 20-311: (1) "Real estate broker" or "broker" means (A) any person, partnership, association, limited liability company or corporation which acts for another person or entity..." We are very appreciative to the CAR in their willingness to assist us in finding a solution to this issue. However, until such a remedy is in place, each non-profit manager is at risk of being prevented from managing our LIHTC properties. Therefore, while we welcome the support of the CAR and will make this request to the Real Estate Commission, we must continue to request your attention to this matter.