

SENATOR GAYLE SLOSSBERG

Fourteenth District

Legislative Office Building

Room 2200

Hartford, CT 06106-1591

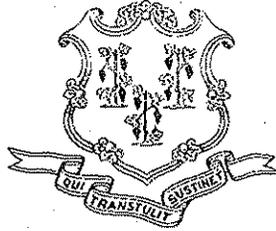
Toll-free 1-800-842-1420

Tel. (860) 240-0482

Home (203) 878-6412

Slossberg@senatedems.ct.gov

www.SenatorSlossberg.cga.ct.gov



State of Connecticut

SENATE

Chair
Government Administration
& Elections
Vice-Chair
Public Health; Veterans' Affairs
Member
Appropriations

**Testimony to the Housing Committee
Senate Bill 302 An Act Reforming the Affordable Housing Land Use Appeals Procedure**

February 8, 2011

Good afternoon Chairman Gomes, Chairman Butler and members of the Housing Committee. Thank you for the opportunity to testify on Senate Bill 302 An Act Reforming the Affordable Housing Land Use Appeals Procedure. As you know CGS 8-30(g), commonly referred to as the affordable housing appeals procedure, was enacted to encourage developers to build affordable housing. The law was enacted at a time when housing prices were at the height of the market and affordable housing was not available to young people of working families. While there is still a shortage of affordable housing in our state, the housing bubble has burst and there have been considerable affordable housing projects developed pursuant to this statute. Over the years, the statute has been used by many developers and challenged by many towns on many different grounds. As you know, the statute creates a presumption in favor of the developer so that the town has to prove why the developer should not be able to build the proposed project. Taking on this type of case can cost a town hundreds of thousands of dollars. Today, when local budgets are strained to provide just the basic services, towns are at the mercy of developers who would invoke this statute, knowing the town cannot afford to fight the proposal. The developers use the statute to blackmail the town into approving an otherwise ill conceived project for fear of the lawsuit the statute allows. There is one particular instance when the affordable housing appeals procedure is used that is particularly troublesome: when a developer seeks to develop land that has commonly been used as open space.

In the Town of Orange, which I represent, there is a pristine property which is the largest tract of undeveloped land in this very small town. The land is private property. One section of it was a corporate building, but the majority is open space bordered by sparse residential development. When the corporation decided to move, it filed an affordable housing application for the undeveloped land to build over 200 housing units. The town does not oppose affordable housing, but wants the land to remain open space. In order to do that, however, now the town must purchase the land AT A PREMIUM because everyone knows that the statute so favors the developer, the town will have to spend hundreds of thousands of dollars to fight the lawsuit only to lose or purchase the land. That is not what this statute is supposed to do- to give a property owner the ability to hold a town hostage or lose the largest remaining parcel of undeveloped land in the town.

While there is some assistance in the statute and the case law for open space, it is not clear or simple. Affordable housing is important, but so is open space. The policy in our state should be to favor affordable housing projects that redevelop sites, not destroy what little open space we have left. Let's make that clear in our statute. Affordable housing and open space are equally important goals for a community. In fact, our statute (Sec 23-8(b)) states that our state goal is to preserve 21% of total land area by 2023. 11% of this goal is supposed to be met by municipalities or private entities.

Thus, if a developer wants to develop undeveloped land, not necessarily designated open space, the affordable housing appeals procedure should not apply. The exemption would only apply to undeveloped land of a certain size (so that it is clear that it is not just a sliver of land on the side of a proposed site) when there is only a certain amount of open space remaining in a municipality. This narrow exemption should apply regardless of local zoning designation. I would be delighted to work with the committee to determine what those parameters should be.

However, if the committee should not choose to enact this simple exemption, I propose as an alternative, that there be a moratorium on the appeals procedure for at least one year and that a review be conducted concerning the impact of the statute on local communities. Affordable housing is needed in our state, but this process is so heavily weighted in favor of development that we have placed the proverbial sword of Damocles over every towns' head at a time when our towns are already barely managing to keep afloat. I would be willing to work with the committee on a reasonable solution to this problem.

I would also like to thank the Committee for hearing **House Bill 5781 An Act Concerning the Application of Smart Growth Principles to Affordable Housing**. I support this bill and will be happy to work with the Committee to understand its importance.