



CONNECTICUT ASSOCIATION OF
REALTORS[®]
INC.

Statement on

**H. B. 5479: An Act Concerning Considerations in Affordable
Housing Appeals**

Oppose

Submitted to the Planning and Development Committee
March 3, 2011

by

Michael Barbaro

Vice-Chair Legislative/Political Affairs Committee

Good day. My name is Michael Barbaro and I'm speaking on behalf of the Connecticut Association of REALTORS[®]. I serve as Vice Chair of the Association's Legislative Committee. I'm also a broker with the New Haven firm Huntsman, Meade, and Partners and am a professional real estate developer.

The Connecticut Association of REALTORS[®] wishes to express strong objections to Proposed Bill 5479: Concerning Considerations in Affordable Housing Appeals. The Affordable Housing Appeals Act, codified in section 8-30g of our statutes, has been one of the best remedies Connecticut legislators ever created to deal with unreasonably restrictive land use practices. It was approved in 1989 with the backing of major business, real estate, and housing advocacy groups, including REALTORS[®].

To combat the shortage of affordable housing, this state has for decades poured millions of dollars of "incentives" into communities to provide the needed dwellings. From long experience, REALTORS[®] have seen that incentives alone are not enough. Some form of redress was needed when municipal land use decisions unfairly denied or adversely



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hampered the building of needed units. That remedy was the special procedure given under the Affordable Housing Appeals Act to eligible developers.

A conscious decision was made by lawmakers in 1989 that workforce housing was so critical that local denials must be based on evidence in the record that “clearly outweigh” the need for affordable housing, and that the local agency had the burden of proof of showing that upon appeal. The appeals were classified a “privileged” cases.

House Bill 5479 adds new requirements for judges hearing these appeals. We feel they undermine the clear and well-established standards familiar not only to the courts, but also to land use boards, applicants and the Department of Economic and Community Development. For example, the first requirement - - that the judge consider whether the town’s claim that the particular land is unsuitable for the proposed development - - would seem to already be part of the process. The third requirement - - forcing the judge to factor-in “grading, height and setbacks” are “plan specific” issues and may not be asserted to deny affordable housing outright. That’s because zoning authorities still have powers to impose site plan conditions at a later time (see the 1992 court ruling, TCR New Canaan, Inc v Trumbull Planning and Zoning Commission).

Municipalities which now provide reasonable amounts of affordable housing have nothing to fear from this Act. It does not apply to them. The Act is only available in towns where the State determines there is a relative scarcity of work force housing based on a 10% formula.

REALTORS® favor requiring towns to have provisions in their master plans and zoning regulations for low and moderate income housing and housing for the elderly. Generally, we favor action at the local level in all matters that can be delegated by the State. *Such local decision-making should not, however, adversely affect the best interests of all the people of our State.* That is why the well-established (20 year) standards of the Affordable Housing Land Use Appeals Act should remain as they are.

Thank you. May I answer any questions?



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