

Connecticut General Assembly

HOUSING COMMITTEE

February 8, 2013

REASONS TO PRESERVE GENERAL STATUTES § 8-30g, THE AFFORDABLE HOUSING LAND USE APPEALS ACT

This statement has been endorsed by the Connecticut Housing Coalition, the Partnership for Strong Communities, the Connecticut Fair Housing Center, the Home Builders and Remodelers Association of Connecticut, the Legal Assistance Resource Center of Connecticut, and the Connecticut Association of Realtors.

1. **Housing Production.** The Affordable Housing Land Use Appeals Act, General Statutes § 8-30g, was adopted in 1990 at the recommendation of a Blue Ribbon Commission that documented municipal land use commission resistance to lower cost housing proposals, despite rapidly escalating prices that were putting most of Connecticut's homes out of reach of moderate and low income families. During its 22 years as Connecticut law, § 8-30g has spurred the approval and construction or preservation of workforce housing that would not otherwise have occurred. Current counts, based on and backed by the DECD "Ten Percent List," show, in the towns currently not exempt from § 8-30g, 5,481 "Deed Restricted" housing units that are subject to maximum price or rent restrictions that satisfy § 8-30g standards. This total does not include 832 units in Danbury and Norwalk, which are now exempt from § 8-30g but have been subject to it in the past. Section 8-30g has also spurred creation of "assisted housing," meaning units built with some form of public subsidy. Although we have not, for this update, done an exact statewide calculation of what "governmentally assisted" units are attributable to § 8-30g, the current statewide (all 169 towns) stock of assisted units has increased by about 24,000 since 1992. In addition, since the predominant model under § 8-30g has been "set aside" development, in which 30 percent (originally 20 percent, moved to 25 percent in 1995 and 30 percent in 2000) of the total units are price-restricted and the rest are market-rate, the affordable units created due to § 8-30g have brought with them the construction of several thousand market-priced but less expensive homes.

2. **Success Stories.** Across the state, there are § 8-30g success stories – nicely-designed, well-constructed, appropriately-situated, mixed-income developments, such as: Olde Oak Village in Wallingford; Old Farms Crossing in Avon; Trumbull Townhomes; AvalonBay in Wilton (two developments), Darien, Orange, and Trumbull; and West Hartford Interfaith Housing / Flagg Road in West Hartford. In several towns, multi-family rental developments approved under § 8-30g are among the largest "tax positive" properties on municipal Grand Lists.

3. **Clear Standards.** After 22 years, the standards used for evaluation of § 8-30g proposals are well-established and clear to judges, municipalities, land use boards, applicants, and consultants.

4. **Documented Denial Reasons Upheld In Court.** *Whenever a municipal zoning commission has effectively documented a substantial health or safety reason to deny an affordable housing proposal, such as a lack of sewage disposal capacity, water supply, water quality impacts, or emergency vehicle access, the courts have upheld that denial.* The courts have also upheld denials when other grounds have been compelling, such as open space preservation in a Glastonbury case. In the most recent § 8-30g decisions, the courts have reduced development proposals due to water quality and environmental concerns and remanded the cases for further site planning.

5. **Protection Of Municipalities.** In 2000, the statute was amended to provide greater procedural protections for towns and to assure that § 8-30g developments provide a level of affordability not otherwise available in the communities covered by the statute. The amendments have worked as intended.

6. **Workforce Housing Need: Never Greater.** The need for housing that is affordable has never been greater. The declines in the cost of housing over the past four years have not come close to offsetting the 66 percent increase in prices from 2000-2007, and the cost of rental housing is rising while the supply is shrinking. Census figures show a sharp increase in demand for rental housing, while economic and demographic factors – the large increase in 65+ population, the need to attract young professionals and workers, the high education debt of Millennials, the lack of savings of retirees and older workers, the high costs of gasoline and heating oil – all point to an increasing demand for smaller, denser, more affordable, energy-efficient, walkable and, if possible, transit-proximate housing. Connecticut has lost more 25-34-year-old workforce than all but two states since 1990. We have lagged the nation in multi-family construction in recent years, and we are 50th in units built per capita in 2011 and the 2002-2011 decade. This lack of supply has kept our rental prices 6th highest in the nation and our home values 8th. Numerous, recent studies have documented that the need for lower-cost, multi-family rental, along with record foreclosures, have led to new pressures on family homelessness. The reasons for which § 8-30g was adopted in 1989-90 are as compelling today as they were then, and even more so.

7. **Approvals And Settlements.** In the past five years, a growing percentage of § 8-30g applications has been approved without a court appeal, or has been settled during an appeal process. Examples include Green Falls in North Stonington; Sussex Place West in Madison; Governor's House in Ridgefield; Garden Homes in Darien; Hillcrest Orchards in Southington; Meadowood in Simsbury; Metro Realty / Deming Road in Berlin; AvalonBay in Wilton; Pelletier in East Hampton; Westwoods LLC in Hamden; and Garden Homes / Fairchild Avenue in Fairfield.

8. **Smart Growth Track Record.** Section § 8-30g developments, because of their location, density, and use of existing infrastructure, provide good examples of consistency with smart growth principles.

9. **Municipal Services And Fiscal Impacts.** In many cases, objectors to § 8-30g applications have predicted increases in crime, taxes, traffic, pollution, etc. These dire predictions have *not* come to pass. In fact, municipal leaders – First Selectmen, Police Chiefs, School Superintendents, and Town Planners – often praise § 8-30g developments as a social and fiscal benefit.

10. **Moratorium Provisions.** Moratorium provisions are working as intended. The incentive point system, as well as the counting of accessory apartments and manufactured homes, have provided incentives that have been utilized. Trumbull, Berlin, and Darien have achieved multi-year moratoriums based on approving § 8-30g developments and several municipalities are within striking distance of doing so. Berlin is working to document its second moratorium.

11. **Wetlands Protection.** Some have contended that § 8-30g compromises wetlands protection. To the contrary, § 8-30g does not apply to wetlands agencies. In fact, in 2008, three § 8-30g proposals were denied due to wetlands encroachments and the denials were upheld by the courts, applying existing wetlands law.

12. **Reducing Economic And Racial Barriers.** One of § 8-30g's original purposes was to reduce economic and racial barriers. While these results are difficult to measure, there is no doubt that § 8-30g has resulted in greater housing opportunities for lower income households in suburban communities.

13. **A Boost For Incentive Housing Zones.** In the past year, the Incentive Housing Zone ("IHZ") program has turned a corner, with OPM finally dispensing incentive money. There is no doubt that municipalities are turning to IHZs in part due to the existence of § 8-30g. To gut or repeal § 8-30g now would undermine the IHZ program.

14. **Pending Applications.** Section 8-30g applications, most involving 50 or fewer units, are pending (at local zoning commission or on appeal) in: Easton, Lisbon, New Canaan, East Lyme, East Haven, Redding, Bethel, Sterling, Ledyard, and Oxford.

