

Connecticut General Assembly

HOUSING COMMITTEE

March 14, 2014

Opposition to Raised Bill No. 5511

BENEFITS AND TRACK RECORD OF GENERAL STATUTES § 8-30g, THE AFFORDABLE HOUSING LAND USE APPEALS ACT; RELATIONSHIP TO INCENTIVE HOUSING ZONES

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, and the Legal Assistance Resource Center of Connecticut.

1. **Housing Production.** The Affordable Housing Land Use Appeals Act, General Statutes § 8-30g, was adopted in 1989 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 23 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 all towns, 5,692 "Deed Restricted" housing units that are subject to maximum price or rent restrictions that satisfy § 8-30g standards. Deed-Restricted Units is a category that is § 8-30g specific and did not exist prior to 1990. Among non-exempt towns plus Norwalk and Danbury, which have been non-exempt at times, there are almost 3,000 deed-restricted units. Section 8-30g has also spurred creation of "assisted housing," meaning units built with some amount of public funds (not necessarily subsidies). 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 25,000 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. Overall, § 8-30g has spurred the construction of thousands of lower cost homes as well as thousands more moderately-priced market-rate 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. After a lengthy dispute, 100 well-designed apartment homes with an affordable set aside are now under construction in Stratford. 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 23 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 the size of 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 and leveling in the cost of housing in recent 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 (see attached article). Census figures show a sharp increase in demand for rental housing, while economic and demographic factors – the need to attract young professionals and workers, the high education debt of Millennials, 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 lost a higher percentage of 25-34-year-old workforce than all but two states from 1990-2010. 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 six 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; Jelliff Mill in New Canaan; 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 – praise § 8-30g developments as a social and fiscal benefit.

10. **Moratorium Provisions.** Moratorium provisions are working as intended. The incentive point system, which rewards towns for housing development that meets § 8-30g standards, with bonus points for family and rental housing, has in fact been utilized by towns that are unlikely to reach 10 percent affordability. 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 currently in 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 and DOH finally dispensing incentive money. There is no doubt that municipalities are turning to IHZs in part due to the existence of § 8-30g. To weaken or repeal § 8-30g now would undermine the IHZ program. Conversely, to allow moratoria from § 8-30g based on minimal IHZ housing production will undermine both programs, because of their interdependence.

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

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Harvard: Number Of Renter Households On The Rise, While Affordability Shrinking

By Colleen M. Sullivan

The Commercial Record Staff Writer

The number of Americans who rent rather than own their home has risen to its highest-ever level in the past decade, according to a new study from the Joint Center for Housing Studies (JCHS) at Harvard University.

While the number of renters is up, so are rental costs, and with the impact of the recession and financial crisis lowering income for many Americans, more families are facing the threat of homelessness, the study says.

Adjusted for inflation, between 2000 and 2012 median rents increased by 6 percent, while over the same period the median income of renters dropped by 13 percent, according to the study. More than half of U.S. renters pay 30 percent or more of their income on rent, up 12 percent from a decade ago. Over a quarter of renters, 27 percent, pay more than half their income on rent. The number of renters facing such "severe cost burdens" was "unimaginable just a decade ago, when the share of American renters paying half their income on housing, at 19 percent, was already a cause for serious concern," the study authors wrote.

"The gravity of the situation for the large proportion of renters spending so much of their incomes on housing is plain," Eric Belsky, managing director of the JCHS said in a statement. "We are losing ground rapidly against a chronic problem that forces households to cut essential spending. With little else to cut in their already tight budgets, America's lowest-income renters with severe cost burdens spend about \$130 less on food each month, and make similar reductions in healthcare, clothing and savings. And while many choose longer commutes to lower their housing costs, the combined cost of housing and transportation means even less remains for other expenses."

The decrease in affordability is especially worrisome because the percentage of renters among American households is higher than ever, and set to increase over the next several years, the study suggests. From 31 percent in 2004, the renter share of all US households climbed to 35 percent in 2012, bringing the total number of renter households to 43 million by early 2013. Approximately 3 million existing homes switched from owner to rental occupancy from 2007-2011 alone.

"The shortfall in the number of units affordable to extremely low-income renters in the U.S. more than doubled from 1.9 million in 2001 to 4.9 million in 2011. The situation just keeps getting worse," Chris Herbert, research director at the JCHS said in a statement. "Assistance efforts have failed to keep pace with escalating need, undermining the nation's longstanding goal of ensuring decent and affordable housing for all."