

COMMUNITY AND ECONOMIC DEVELOPMENT CLINIC
YALE LAW SCHOOL

TO: Senator Gary Winfield, Co-Chairman
Representative Larry Butler, Co-Chairman
Members of the Housing Committee

FROM: Noah Kazis, Community & Economic Development Clinic, Yale Law School

DATE: February 5, 2015

RE: Sec. 8-30g Moratorium Provisions

RECOMMENDATION: Reject all proposed changes to sec. 8-30g

Reject bills No. 123; No. 171; No. 172; No. 403; No. 2138; No. 5055; No. 5056; No. 5057; No. 5254; No. 5306; 5576; No. 5577; No. 5578; No. 5579; No. 5580; No. 5581; No. 5582; No. 5802; No. 5803; No. 5804; No. 5805; No. 6126; No. 6127; No. 6128; No. 6129; No. 6130; No. 6131; No. 6135; and No. 6139.

First, I would like to thank the chairmen, ranking members and members of the Housing Committee for this opportunity to testify before you. My name is Noah Kazis and I am a member of the Community and Economic Development Clinic at the Yale Law School.

Today I would like to discuss the moratorium provisions of 8-30g¹. Although the moratorium is not necessarily as well-understood as other elements of the statute, it is essential to the proper functioning of the overall statutory scheme. I urge you to reject any proposed changes to the moratorium, or to 8-30g generally.

In a nutshell, the moratorium is meant to *encourage* municipalities to build affordable housing. It rewards progress. The larger statute looks at how much affordable housing exists in a town, and exempts those where 10 percent of the housing stock is affordable. The moratorium plays a different role. Rather than look at how much housing is affordable, in total, it looks at how much affordable housing the town has built recently. Specifically, if a town receives points equivalent to two percent of the town's housing stock, it is granted a four-year moratorium from 8-30g. For some towns, the ten percent threshold is out of reach in the short term; this committee has heard towns complain about that fact. The moratorium recognizes this and rewards towns for making headway. For this reason, only units built since

¹ These provisions can be found at Conn. Gen. Stat. § 8-30g(l) and in the accompanying regulations at § 8-30g-6.

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1990 are counted towards a moratorium,² and only those units *should* be counted; it's not about how much affordable housing a town has, but how much progress a town has made.

The moratorium also rewards towns for building the types of affordable housing that are scarcest and hardest to build. Towns receive bonus points for rental units, or for homes that are affordable to those with very low incomes.³ And because Connecticut also desperately needs more affordable housing for families, but elderly units are sometimes easier to get built, towns get more points for building family units than for building elderly units.⁴ The point structure, which is summarized in a table attached to this testimony, encourages towns not just to build affordable housing, but rewards them for building the types of affordable housing that we need the most, recognizing that some of those projects are more difficult politically. Towns are rewarded in proportion to how difficult a project is. For these reasons, this differential point system must be retained.

Achieving a moratorium is feasible under current law. Trumbull, Ridgefield, Berlin, and Darien have all secured moratoriums,⁵ and Berlin and Darien are working to secure their second moratoriums. These towns' experience shows that aiming at a moratorium shifts towns from reacting to 8-30g proposals to proactively creating mixed-income housing. They've taken control of how and where to build affordable housing, and succeeded at getting to a moratorium. Moreover, there is a real opportunity for this valuable tool to be used more widely. My preliminary research, using Department of Housing data, suggests that many towns may be as close as a single development away from securing a moratorium.

I describe the moratorium provision to you for two reasons. First, I urge you to protect the current moratorium process, which encourages the production of new affordable housing and recognizes those towns that build it. But second, the existence of the moratorium blunts some of the criticisms of 8-30g you have heard. It provides an incremental path toward 8-30g compliance: one that recognizes the differences between certain types of affordable housing, and one where towns have room to chart their own course toward affordable housing construction. The moratorium is an integral part of 8-30g. It should be protected in its own right, but it also greatly strengthens the case that the larger statute as a whole is both reasonable and effective.

² Conn. Gen. Stat. § 8-30g(l)(7).

³ Conn Gen. Stat. § 8-30g(l)(6).

⁴ Conn. Gen. Stat. § 8-30g(l)(6)(E).

⁵ See Robert Miller, *Ridgefield to Seek Housing Moratorium*, THE NEWS-TIMES, May 31, 2014 (listing Berlin, Trumbull and Darien as current moratorium recipients); Jake Kara, *Moratorium: State Gives Town Four-Year Break From Affordable Housing Law*, RIDGEFIELD PRESS (Oct. 4, 2014).

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Municipalities Exempt from 8-30g (30)	Municipalities with an 8-30g Moratorium (4)
Ansonia Bloomfield Bridgeport Bristol Brooklyn Danbury Derby East Hartford East Windsor Enfield Groton Hartford Killingly Manchester Meriden Middletown New Britain New Haven New London Norwalk Norwich Plainfield Putnam Stamford Torrington Vernon Waterbury West Haven Winchester Windham	Berlin Darien Ridgefield Trumbull

Source: Connecticut Department of Housing, *available at*
http://www.ct.gov/doh/lib/doh/final_appeals_summary_2013.pdf.

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**Table: Housing Unit-Equivalent Points for
Moratorium Eligibility**

*Please note: These point values apply only when
calculating moratorium eligibility and not to the
calculation of the 10 percent threshold.*

Type of Unit	Point Value Per Unit
Market-rate units in a set-aside development	0.25
Elderly units, owned or rented, restricted to households at or below 80% of median income	0.50
Family units, owned, that are 80% of median income	1.00
restricted to households with 60% of median income	1.50
annual income no more than: 40% of median income	2.00
Family units, rented, that are 80% of median income	1.50
restricted to households with 60% of median income	2.00
annual income no more than: 40% of median income	2.50

Source: Conn. Regs. § 8-30g-6 (2005).