

**Testimony of Juan A. Figueroa of Meriden
In support of HB 7297**

Thank you to the members of the Planning and Development Committee for this opportunity to testify.

My name is Juan A. Figueroa and I had the honor and privilege to serve in this Legislature representing the Third Assembly District in Hartford from 1989 to 1993. During my second term in 1991-1992 I had the opportunity to co-chair the Select Committee on Housing. Since then, I have remained connected to housing issues in a variety of professional settings including as the President and General Counsel of the Puerto Rican Legal Defense and Education Fund (now Latino Justice, PRLDEF) in New York City and more recently as a board member of the Partnership for Strong Communities in Connecticut.

I am here today to testify in favor of HB 7297 – and, in particular, to speak to my intention, and that of the legislators I worked with to pass CGS Section 8-37cc(b) back in 1991. We absolutely intended to include a private right of action in CGS Sec. 8037cc(b)'s duty to affirmatively further fair housing.

Our intent to include a private right of action was influenced by a variety of factors. The late 1980s and early 1990 was an important era for the development of approaches to regional planning in housing and recognition of the connection between school segregation and housing segregation. In January 1988, the Connecticut Department of Education released a report, “A Report on Racial/Ethnic Equity and Desegregation in Connecticut’s Public Schools.” This report highlighted the critical connection between where people were able to live and where they sent their children to school. It recommended efforts to end racial isolation across district lines and inter-agency coordination to address school desegregation. It found that,

Since segregated housing is one of the primary causes of segregation in schools, Connecticut’s desegregation efforts must include coordination with government agencies that are responsible for housing and economic development.¹

In March 1988 the state’s Blue Ribbon Commission on Housing released its report finding that the state was facing an affordable housing crisis. The report stated,

The needs are enormous. While incomes grow, reflecting the state’s relative prosperity, sale prices of houses grow faster, rental rates grow faster still, and land costs skyrocket. The housing crisis has new victims. Moderate income and middle income households find that they must defer the dream of house ownership. For low-income households and individuals, the traditional victims of the housing crises, this decade’s housing problems are variations on an old theme. For them, the percentage of household income required for decent

¹ Committee on Racial Equity, A Report on Racial/Ethnic Equity and Desegregation in Connecticut’s Public Schools 2 (1988).

*rental housing continues to grow. For the dream for home ownership has long ago receded; the nightmare of homelessness intrudes.*²

Also in 1988, the Connecticut Supreme Court issued its first major ruling on exclusionary zoning in *Builders Service Corp., Inc. v. Planning & Zoning Com'n of Town of East Hampton*, 208 Conn. 267 (1988), which found unconstitutional a town's effort to impose an exclusionary zoning provision. In 1989, the Affordable Housing Appeals Act was passed and the *Sheff v. O'Neill* school desegregation litigation was filed.

As legislators, we recognized that in order to deal with the towering challenges in housing and education identified by the state reports, which by the way are still very present today, our efforts to promote balanced affordable housing could not function optimally in a vacuum – they needed to exist in an environment that provided the planning structures and tools necessary to ensure that there was affordable housing choice across a range of towns and geographies.

To provide for such a platform, we passed Public Act 91-362. P.A. 91-362 which required that we collect data on the need for affordable housing, record and publish basic information about our subsidized housing stock, ensure that marketing happens across racial lines, required that participants in tenant-based programs be guaranteed housing choices in towns throughout the state, and provided guidance for our housing agencies to help them proactively promote integration – also known as the civil rights obligation to “affirmatively furthering fair housing.”

We understood that without all of these mechanisms working together as a system, Connecticut would remain segregated. However, in various ways over the years the obligations of PA 91-362 have been ignored, eroded or misinterpreted and we have been left with an incomplete system. As a result, Connecticut is more segregated economically, racially and ethnically than it has ever been in its history.

The state affirmatively furthering fair housing law, CGS Sec. 8-37cc(b) was an important piece of this infrastructure. This law replicates an obligation in federal law, 42 U.S.C. Section 3608 (a section of the federal Fair Housing Act) that, in 1991 was deemed enforceable by our courts in cases like *Otero v. New York City Housing Auth.*, 484 F.2d 1122 (2nd Cir. 1973). The *Otero* case unequivocally found that the parallel federal law included private right of action. It was absolutely my understanding as a legislator, and as an attorney, that CGS Sec. 8-37cc(b) was enforceable.

It also makes sense that legislators more broadly would want a civil rights law they passed to be meaningful by being enforceable. Why would we, as legislators, pass a law that reflected a federal enforceable right and not have it be enforceable under state law?

The Connecticut Supreme Court found that CGS Sec. 8-37cc(b) needed to more clearly state an explicit intent to create a private right of action. That is something that we now have the

² Conn. Blue Ribbon Comm'n on Housing, Report and Recommendations to Governor and Gen. Assembly (Mar. 1, 1988).

chance to remedy in HB 7297. I encourage you, as legislators, to make real the promise of a state affirmatively furthering fair housing rule as we legislators of 1991 intended.

I believe carrying out the true vision for this state law will allow the state to better comply with new regulations on affirmatively furthering fair housing that were issued by the U.S. Department of Housing and Urban Development in 2015. Rather than leading to more litigation, the technical correction made by HB 7297 will protect the money the state of Connecticut receives from HUD and provide the type of legislative guidance that will limit exposure to litigation going forward.

This is an important time for Connecticut to demonstrate that it is above the political fray in Washington and has the wisdom to pass thoughtful legislation that will help all of its residents. Guidance such as this will also put Connecticut on a strong path to plan for a vibrant future. I urge you to pass HB 7297.