Testimony
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Before the Housing Committee
March 3, 2021

The Connecticut Council of Small Towns (COST) appreciates the opportunity to comment on **HB-6521 - AN ACT CONCERNING CHANGES TO ZONING AND AFFORDABLE HOUSING REQUIREMENTS CONCERNING ACCESSORY DWELLING UNITS AND PROHIBITING LIST-BACK AGREEMENTS.**

ACCESSORY DWELLING UNITS – AS OF RIGHT

Section 3 of the bill requires municipalities to allow one accessory dwelling unit (ADU) as of right without additional requirements for lot size, lot coverage, frontage, space limitations or other controls beyond what is required for a single-family dwelling without an ADU. "As of right" means that no type of approval or hearing would be required to construct an ADU, whether attached or detached from the main home, other than a site plan review.

COST supports efforts to assist municipalities in guiding the development of more affordable, more attainable housing opportunities in their communities. ***However, COST opposes provisions in the bill which mandate that municipalities allow ADUs as of right.***

Recognizing that ADUs can provide people with more flexible, less expensive housing choices, 101 municipalities in Connecticut already allow ADUs as of right, requiring only a site plan review, and 55 municipalities allow ADUs as a special permit or exception. In addition, several other municipalities are actively considering zoning changes that will authorize ADUs.

If a municipality has determined that the best approach in meeting the housing needs of their community is allowing ADUs by special permit, there is no reason that the state should override this approach. By allowing ADUs by special permit or exception, municipalities preserve the right of the public to comment in support of or in opposition to the proposed ADU. It also preserves the authority of local officials to determine whether an ADU meets the requirements of the local zoning laws as well as public safety requirements, and state building and public health codes.

For example, in certain areas, a site plan review may not be sufficient to determine whether soil conditions are adequate to support waste removal if occupancy is increased. Other areas are increasingly prone to flooding and municipalities are pursuing climate resiliency measures to limit additional development in these areas.

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In addition, some municipalities may have decided that ADUs are not appropriate or needed to meet local housing needs or that ADUs should be otherwise regulated than provided for under the bill. The various ADU proposals introduced this session reference various lot sizes, unit sizes, different occupancy requirements, and other restrictions underscoring why a one-size-fits-all ADU mandate makes no sense.

In addition, allowing ADUs, particularly detached ADUs, as of right may overwhelm municipalities that are already struggling to address concerns with short-term rentals. If property owners are allowed to use the structures as short-term rentals, this will not contribute to the long-term housing needs of the community.

The state should refrain from overriding local zoning regulations which have been developed with notice and the opportunity for public comment and approved by local officials who are elected by the public to serve their communities.

For these reasons, COST opposes the mandated ADU provisions in the bill.

PARTIALLY CONSTRUCTED PROPERTY – MANDATED PROPERTY TAX EXEMPTION

COST ***opposes*** **Section 9 of the bill** which prohibits municipalities from collecting property taxes on partially constructed dwelling units until a Certificate of Occupancy is issued, the unit is occupied, or title is transferred.

Section 9 would eliminate a critical source of revenue that municipalities have collected – and relied upon – for years, resulting in a SIGNIFICANT grand list reduction for municipalities and shifting a greater burden to already overburdened property owners.

Municipalities have always assessed property taxes on partially-completed construction consistent with current law which requires all real estate assessments to be based on Fair Market Value. Assessors have determined the Fair Market Value of a lot by including the value of partially completed construction. This method has been upheld by the Connecticut Supreme Court in *Kasica v. Town of Columbia* (June 2013), which ruled that property under construction must be assessed based on its Fair Market Value.

Under Section 12-53a C.G.S., assessors are required to prorate any assessment increase due to new construction completed. The prorated assessment is calculated either from the date a Certificate of Occupancy is signed by the Building Inspector or from the date the property is first used for its intended purpose. This is certainly equitable since a lot with partially completed construction will generally have a greater fair market value than a vacant lot.

Section 9 of the bill, however, will allow developers to avoid paying any property taxes on partially constructed homes for what could be many years. This benefits developers to the detriment of towns and property taxpayers. A survey conducted by assessors several years ago concluded that if towns did not assess the Fair Market Value of partially completed

construction, municipalities stood to lose $35 million per year. This loss of revenue will place an untenable burden on small towns and shift a greater burden onto already overburdened homeowners, reducing home values in the process.

Zoning Protest Petitions

Pursuant to Section 8-3(b), CGS, under certain circumstances, landowners may file a protest petition against a proposed zoning change to ensure that the proposed change will require approval by a two-thirds vote of the zoning commission in order to become effective. The purpose of requiring a 2/3 vote is to protect landowners from zoning changes that may negatively impact the use or value of their property.

Section 4 of the bill essentially eliminates the function of zoning protest petitions entirely. The language is not limited to affordable housing applications but is much more expansive. For example, if a local planning commission is proposing to rezone a parcel of land as commercial, under existing law, affected landowners could use the protest petition to force a 2/3 vote to approve the change. As drafted, the petition process would be pointless, however, because the zoning commission would have already voted to approve the change by a simple majority.

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