

Affordable Housing Appeals Procedure

In 1989, Connecticut enacted landmark legislation to open up suburban towns to affordable housing. For years, many Connecticut towns used their zoning powers to build walls of separation around themselves. The Affordable Housing Appeals Procedure, as the new law (Connecticut General Statutes, Section 8-30g) was called, made historic changes in the way courts review municipal zoning decisions concerning affordable housing.

A developer denied an opportunity to build affordable housing by local authorities may appeal the rejection in court. Under the appeals law, the judge must determine whether the town's reasons for its denial "clearly outweigh the need for affordable housing." In applying this standard, the court respects bona fide objections, such as genuine traffic safety or sewer problems, for turning down a housing proposal. But zoning decisions based on insubstantial or inappropriate reasons aimed at excluding affordable housing are overturned.

In 1999, the legislature created a new Blue Ribbon Commission to Study Affordable Housing in an attempt to resolve these differences. In 2000, the legislature adopted key recommendations offered by the bi-partisan Commission including an increase in the affordability of housing developed under the appeals law. With these changes, housing built through the appeals process must now set-aside at least 30% of the units as affordable. Half of these units must be affordable to households earning no more than 60% of the area median income, and half to those earning no more than 80%.

Conn. Gen. Stat. §8-30g(g) provides:

Upon an appeal taken under subsection (f) of this section, the burden shall be on the commission to prove, based upon the evidence in the record compiled before such commission, that the decision from which such appeal is taken and the reasons cited for such decision are supported by sufficient evidence in the record... If the commission does not satisfy its burden of proof under this subsection, the court shall wholly or partly revise, modify, remand or reverse the decision

This Connecticut statute allows affordable housing developers to appeal to the state for exemptions from local planning and zoning rules if the city does not have sufficient affordable housing. According to section 8-30g-2 of the regulation, the commissioner of housing distributes an annual list identifying which municipalities have less than ten percent of their housing that is either assisted housing, financed by Connecticut Housing Finance Authority mortgages, or subject to affordable housing income restrictions of less than eighty percent of AMI. Communities on this list are eligible to apply for a certificate of affordable housing to be exempt from some planning and zoning rules. Section 8-30g-6 of this ordinance contains details on qualification requirements and the process by which communities obtain the qualification certificate.

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