

**STATE OF CONNECTICUT
DEPARTMENT OF HOUSING**

In the Matter of:)	
)	
Town of New Canaan)	
Certificate of Affordable Housing)	
Completion/Moratorium Application)	March 3, 2023
Pursuant to C.G.S. § 8-30g)	
)	

PETITION FOR INTERVENOR STATUS

Pursuant to Section 4-176(d) of the Connecticut General Statutes, and the Department of Housing’s Notice and Order, dated January 31, 2023 and revised on February 24, 2023, Hill Street-72 LLC (“Petitioner”), hereby petitions to intervene in the above-captioned Petition for Declaratory Ruling filed by the Town of New Canaan, Connecticut (“Town’s request for declaratory ruling”).

I. Factual Background and Procedural History:

The petitioning party is a Delaware limited liability company with a business and mailing address of c/o Arnold M. Karp, Member, 16 Cross Street, New Canaan, Connecticut 06840-4831. Petitioner owns real properties located in New Canaan, Connecticut, for which a residential development application compliant with Section 8-30g of the Connecticut General Statutes (“Section 8-30g application”) is pending before the Planning and Zoning Commission of the Town of New Canaan. The Petitioner is the proposed developer / applicant concerning the Section 8-30g application. The Petitioner also has an application pending before the Inland Wetlands Commission of the Town of New Canaan concerning the residential development that is the subject of the Section 8-30g application.

The Town of New Canaan (“Town”) appealed the decision of the Department of Housing (“Department”), dated October 18, 2022, denying the issuance of a Certificate of Affordable Housing Project Completion to the Town.

By Notice and Order dated January 31, 2023, the Department notified potentially interested parties that on December 2, 2022, the Town filed a request for a declaratory ruling with the Department, citing Section 4-176 of the Connecticut General Statutes, and asking for a declaratory ruling limited to the following questions:

1. Does Section 8-30g(1)(3) of the Connecticut General Statutes preclude [the Department] from awarding housing unit-equivalent points for dwelling units that were completed before the effective date of a prior moratorium toward establishing eligibility for a subsequent moratorium?
2. Is the Town [of New Canaan] currently eligible for a Certificate of Affordable Housing Project Completion, aka Moratorium?

On February 17, 2023, the Petitioner filed a request with the Department seeking party status, as provided by Section 4-176(d). This request was denied by the Department in a Notice and Order, dated February 24, 2023. The Department also set a revised deadline of March 10, 2023 for a party to seek intervenor status. Therefore, the Petitioner respectfully requests intervenor status. The Petitioner also respectfully reserves its right to be made a party to this proceeding.

II. The Petitioner’s Legal Rights, Duties or Privileges Will Be Specifically Affected By The Department’s Proceeding:

The Petitioner has legal interests that will likely be impacted by the Department’s decision concerning the Town’s request for declaratory ruling. Specifically, the Petitioner is the owner and applicant concerning a Section 8-30g application involving two properties located in

New Canaan, Connecticut. Therefore, Petitioner respectfully submits that the Department should approve Petitioner's request for intervenor status.

Although Petitioner's pending Section 8-30g application is currently grandfathered from a moratorium, if the Department grants a moratorium with the Town's request for declaratory ruling, the Town could seek to impose this moratorium at a future proceeding concerning Petitioner's Section 8-30g application, such as during a judicial remand. There are two examples as to how the Department's decision on the Town's request for declaratory ruling will adversely impact the Petitioner's vested legal rights in its real properties and pending applications for a multi-family residential community with an affordable housing component.

First, a denial of the Petitioner's pending Section 8-30g application could proceed to Superior Court on appeal and result in a remand to the Town's Planning and Zoning Commission for site plan changes, at which time the Town's Planning and Zoning Commission could raise a granted moratorium as a defense or obstacle to the Petitioner's Section 8-30g application.

Second, in a court appeal under Section 8-30g, the Town's Planning and Zoning Commission would undoubtedly raise a granted moratorium as a fact relevant to Section 8-30g's requirement that the Commission balance its denial reasons against the Town's need for affordable housing. Therefore, the Petitioner has important legal rights subject to the Department's decision on the Town's request for declaratory ruling.

III. Conclusion:

For the aforementioned reasons, the Petitioner respectfully requests that it be granted intervenor status to enable the Petitioner to participate in this proceeding to protect its substantial legal interests that may be adversely impacted by the Department's decision on the Town's requested declaratory ruling.

PETITIONER, HILL STREET-72 LLC

By: /s/ Christopher J. Smith

Christopher J. Smith, Esq.
Alter & Pearson, LLC
701 Hebron Avenue
P.O. Box 1530
Glastonbury, Connecticut 06033
Tel: (860) 652-4020
Fax: (860) 652.4022
csmith@alterpearson.com
Juris No. 302064
Its Attorneys

CERTIFICATION

This is to certify that a copy of the foregoing was mailed or electronically delivered on March 3, 2023 to all counsel and self-represented parties of record and that written consent for electronic delivery was received from all counsel and self-represented parties of record who were electronically served.

Randi Pincus, Esq.
Randi.pincus@ct.gov
Staff Attorney
Department of Housing
505 Hudson Street
Hartford, CT 06106

Nicholas Bamonte, Esq.
nbamonte@berchemmoses.com
Berchem Moses
1221 Post Road East
Westport, CT 06880

Timothy S. Hollister, Esq.
thollister@hinckleyallen.com
Hinckley, Allen & Snyder, LLP
20 Church Street, 18th Floor
Hartford, CT 06103
Juris No. 428858
Tel: (860) 331-2600
Fax: (860) 278-3802

/s/ Christopher J. Smith
Christopher J. Smith
Commissioner of the Superior Court