

751 WEED STREET, LLC,	:	CONNECTICUT DEPARTMENT
W.E. PARTNERS, LLC,	:	OF HOUSING
51 MAIN STREET, LLC AND	:	
HILL STREET-72 LLC	:	
	:	STATE OF CONNECTICUT
v.	:	
	:	
CONNECTICUT DEPARTMENT OF	:	
HOUSING AND THE HON. SEILA	:	
MOSQUERA-BRUNO, COMMISSIONER	:	SEPTEMBER 10, 2024

**PETITION TO CONNECTICUT DEPARTMENT OF HOUSING  
FOR DECLARATORY RULING, AND FOR  
REVOCATION OF § 8-30g  
MORATORIUM GRANTED TO NEW CANAAN  
EFFECTIVE AUGUST 27, 2024**

Pursuant to Conn. Gen. Stat. § 4-176, this is a petition to the Connecticut Department of Housing for a declaratory ruling as to the applicability of Conn. Gen. Stat. § 8-30g(l), part of the moratorium statute, and the corresponding regulation, Conn. State Agency Regulations § 8-30g-6, to the Department’s processing and approval of the Town of New Canaan’s June 2024 revised application for a moratorium from § 8-30g. The approval was granted by letter dated August 19, 2024, effective August 27, 2024 when published in the *Connecticut Law Journal*. In addition, if the declaratory ruling identifies illegality in the moratorium granted to New Canaan, pursuant to Conn. State Agency Regs. § 8-30g-6(l), this is also a petition to the Department of Housing to revoke the § 8-30g moratorium granted to the Town of New Canaan on August 19, 2024.

In summary, in an extensive comment letter about New Canaan’s application dated July 25, 2024, Exhibit 1 attached, the undersigned counsel on behalf of the four LLCs listed in the above caption, (1) explained that numerous § 8-30g moratorium rules require proof from the applicant town that all units claimed for moratorium points have been, in fact, continually

compliant after initial occupancy with the applicable maximum household income limit and maximum monthly and utility allowance rent limit for each affordable unit; (2) pointed out numerous deficiencies, omissions, and substantial unanswered questions regarding proof of continuing affordability compliance in New Canaan's application about which the Department was obligated to ask the Town and receive and evaluate its response *before* granting moratorium points; and (3) explained why General Statutes § 8-30g(1)(8) requires a deduction of points for the units that were demolished by the Town at Millport and Canaan Parish to make way for the current developments for which moratorium points have been claimed.

In its August 19, 2024 approval letter to New Canaan, Exhibit 2 attached, the Department completely ignored the statutory and regulatory requirement of proof of continuing affordability compliance; said nothing about whether it had asked for or received from New Canaan proof of such continuing compliance with affordability requirements; and determined, without any statutory analysis or interpretation, that no points deductions were required.

Conn. Gen. Stat. § 4-176 allows for a declaratory ruling petition to a state agency "as to the applicability to specified circumstances of a provision of the general statutes [or] a regulation..." In addition, Conn. State Agency Regs. § 8-30g-6(1) (Exhibit 3, attached) provides, in relevant part, that:

The Commissioner may revoke a state certificate of affordable housing completion at any time upon determining, after written notice to the municipality and a reasonable opportunity for response or explanation, that an application contained materially false, misleading, or inaccurate information or was otherwise approved without compliance with the criteria of Section 8-30g and sections 8-30g-1 to 8-30g-11, inclusive of the Regulations of Connecticut State Agencies.

The Department was not at liberty in its August 2024 ruling on the moratorium application to ignore the legal arguments made in our July 25 comment letter about required proof of affordability compliance. The Department was required to demand, receive, and evaluate such information to evaluate New Canaan's points claims. The Department also got the points deduction issue wrong. If any of the legal claims made in our July 25, 2024 letter is correct, then the Department's August 2024 grant of the moratorium was illegal and "otherwise

approved without compliance” with § 8-30g and its regulations. Accordingly, this document is a petition to the Commission of the Department of Housing to both issue a declaratory ruling on the legal issues it ignored in granting New Canaan’s application, and to revoke the August 2024 approval on the ground that it was issued illegally.

A copy of our July 25, 2024 comment letter is attached. The letter fully describes at pp. 8-10, the provisions of § 8-30g and its regulations that require proof of ongoing compliance with affordability requirements for any unit for which moratorium points are claimed. The letter at pp. 10-15 describes in detail the errors, omissions, and substantial compliance questions about Millport and Canaan Parish, about which the Department was obligated to obtain answers before granting moratorium points. In other words, the Conn. Gen. Stat. § 4-176(a) “specified circumstances” about which a declaratory ruling is requested are the applicability of statutory and regulatory obligations to prove continuing compliance with affordability rules as applied to the information provided and not provided to the Department regarding household income and affordable rents at Millport and Canaan Parish since initial rentals began (2017 for Millport, 2021 for Canaan Parish).

The July 2024 letter also, at pp. 15-18, explains why the statute and regulations clearly require deduction of points for the demolished units at Millport and Canaan Parish, and how the Department’s approval letter impermissibly inserts into the statute an interpretation that is does not contain (whether the demolished units, if newly built today, would meet *current* affordability standards).

These portions of the July 25 letter need not be repeated and are incorporated here by reference.

Wherefore this petition requests a declaratory ruling from the Department on these issues:

1. Do the provisions of § 8-30g and its regulations, cited on pp. 8-10 of the July 25, 2024 comment letter, require New Canaan, to claim and obtain Housing Unit Equivalent points for units at Millport and Canaan Parish, to provide the Department of Housing, for each year and for each claimed unit, from the date of initial unit occupancy to the date of the moratorium

application, with evidence of (a) the maximum household income for that unit; (b) the actual income of the tenant household; (c) the maximum monthly rent and utility allowance for each unit; and (d) the actual rent and utility allowance charged to and paid by the household?

2. In support of its moratorium application, did the Department demand and did New Canaan provide for each claimed unit the information listed in Question 1 above, and otherwise answer the substantial questions for each development set forth on pp.10-15 of the July 25 letter?

3. What is the Department's legal basis for exempting in its August 19, 2024 letter, New Canaan's application from Conn. Gen. Stat. § 8-30g(1)(8) based on a finding that "[If] the [demolished] units had been rebuilt subject to the original affordability restriction, 80% of Area Median Income, they would not have received any housing equivalent points," when neither the statute nor the regulations contains any such criterion, and § 8-30g is a remedial statute from which exemptions are to be strictly construed?

Again, the petitioners' answers to each of these questions are set forth in the July 25, 2024 letter.

The Department should not have granted New Canaan's application without answering questions 1 and 2 above. As to Question 3, the Department's position of an exception to the points deduction requirement violates fundamental principles of statutory interpretation, most notably adding a criterion to a statute that it does not contain, and one that contravenes its remedial purpose.


It is simply beyond belief that the Connecticut Department of Housing is willing to approve moratorium points without proof from the applicant town of annual ongoing compliance with respect to affordability requirements. Is there any more fundamental requirement for obtaining an exemption from a remedial statute about affordable housing than requiring proof of

the statutory obligation – that the units, since approval, have actually been rented in compliance with affordability plan and financing program rules?

For these reasons, the petitioners seek a declaratory ruling on the questions stated above, and if any question is answered in a manner that invalidates the approval issued to New Canaan in August 2024, revocation by the Department of that approval.

A copy of this petition is being served on the New Canaan First Selectman and Attorney Nicholas Bamonte, see attached Affidavit of Notice.

PETITIONERS,  
751 WEED STREET, LLC,  
W.E. PARTNERS, LLC, AND  
51 MAIN STREET, LLC

By   
Timothy S. Hollister  
[thollister@hinckleyallen.com](mailto:thollister@hinckleyallen.com)  
Hinckley, Allen & Snyder, LLP  
20 Church Street, 18<sup>th</sup> Floor  
Hartford, CT 06103  
Tel: (860) 331-2823  
Fax: (860) 278-3802  
Juris No. 428858

PETITIONER,  
HILL STREET-72 LLC

By



Christopher J. Smith  
csmith@alterpearson.com  
Alter & Pearson, LLC  
701 Hebron Avenue  
P.O. Box 1530  
Glastonbury, CT 06033  
Tel: (860) 652-4020  
Fax: (860) 652-4022  
Juris No. 403940

Please enter the appearance of  
Hinckley, Allen & Snyder LLP for  
Petitioners 751 Weed Street, LLC,  
W.E. Partners, LLC and 51 Main Street, LLC

  
Hinckley, Allen & Snyder LLP

Please enter the appearance of  
Alter & Pearson, LLC for Hill Street-72 LLC

  
Alter & Pearson, LLC

751 WEED STREET, LLC,	:	CONNECTICUT DEPARTMENT
W.E. PARTNERS, LLC,	:	OF HOUSING
51 MAIN STREET, LLC AND	:	
HILL STREET-72 LLC	:	
	:	
v.	:	STATE OF CONNECTICUT
	:	
CONNECTICUT DEPARTMENT OF	:	
HOUSING AND THE HON. SEILA	:	
MOSQUERA-BRUNO, COMMISSIONER	:	SEPTEMBER 10, 2024

**AFFIDAVIT OF NOTICE**

Timothy S. Hollister, being duly sworn, deposes and says:

1. I believe in the obligation of an oath.
  
2. As counsel for the petitioners 751 Weed Street LLC, W.E. Partners LLC, and 51 Main Street, LLC, I have directed that a copy of the foregoing/attached Petition to Connecticut Department of Housing for Declaratory Ruling And Revocation of § 8-30g Moratorium Granted August 27, 2025 to be hand-delivered and emailed to:

The Hon. Dionna Carlson  
 First Selectman  
 Town of New Canaan  
 77 Main Street  
 New Canaan CT 06840

Attorney Nicholas Bamonte  
 Berchem Moses  
 1221 Post Road East  
 Westport, CT 06880

Christopher J. Smith, Counsel for Petitioner Hill Street 72-LLC  
 Alter & Pearson, LLC  
 701 Hebron Avenue  
 P.O. Box 1530  
 Glastonbury, CT 06033

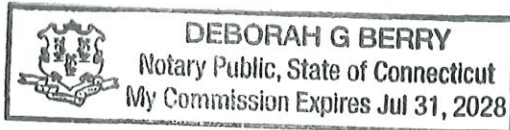
3. Notice is hereby given to the First Selectman and Attorney Bamonte of their rights to file comments on this petition and to request party or intervenor status. The petitioners have no objection to the Town of New Canaan being granted party status.

4. Further deponent sayeth not.

  
\_\_\_\_\_  
Timothy S. Hollister

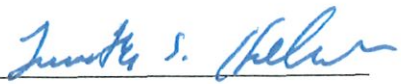
Subscribed to and sworn before me  
this 10<sup>th</sup> day of September 2024.

  
\_\_\_\_\_  
Notary Public / My Commission Expires





PETITIONERS,  
751 WEED STREET, LLC,  
W.E. PARTNERS, LLC AND 51 MAIN  
STREET, LLC

By 

Timothy S. Hollister  
[thollister@hinckleyallen.com](mailto:thollister@hinckleyallen.com)  
Hinckley, Allen & Snyder, LLP  
20 Church Street, 18<sup>th</sup> Floor  
Hartford, CT 06103  
Tel: (860) 331-2823  
Fax: (860) 278-3802  
Juris No. 428858

# EXHIBIT 1

Exhibit A



20 Church Street  
Hartford, CT 06103  
P: 860-725-6200 F: 860-278-3800  
hinckleyallen.com

Timothy S. Hollister  
(860) 331-2823 (Direct)  
(860) 558-1512 (Cell)  
[thollister@hinckleyallen.com](mailto:thollister@hinckleyallen.com)

July 25, 2024

**Via Email/PDF to Mr. Santoro and Ms. Watson,  
with two hard copies hand-delivered to Ms. Watson**

The Hon. Seila Mosquera-Bruno, Commissioner  
Connecticut Department of Housing  
505 Hudson Street  
Hartford, CT 06106-7106

Michael Santoro, Director  
Policy Research and Housing Support  
Department of Housing  
505 Hudson Street  
Hartford, CT 06106-7106

Laura Watson, Agent  
Department of Housing  
505 Hudson Street  
Hartford, CT 06106-7106

Re: **Comment On Town Of New Canaan's May 2024 Revised Application For  
Certificate Of Affordable Housing Completion and § 8-30g Moratorium**

Dear Commissioner Mosquera-Bruno, Mr. Santoro, and Ms. Watson:

We are writing to provide comments on the Town of New Canaan's revised application for a § 8-30g moratorium, based on the notice published in the *Connecticut Law Journal* on June 25, 2024. As you know, we represent several entities whose § 8-30g applications were denied by the New Canaan Planning and Zoning Commission in 2023, which denials have been appealed to and are pending in Superior Court. Though these applications and appeals are ostensibly grandfathered from any moratorium that might result from the Town's current application to the Department, the court process is not over, and thus our clients have a substantial interest in the Department's review of New Canaan's application.

In summary, the revised application is, again, riddled with factual errors, legal misstatements, inconsistencies, and unanswered essential questions; and the application is incomplete and unapprovable, as explained below.

July 25, 2024

Page 2

First, the application does not contain evidence of annual, ongoing compliance with maximum household income and rent requirements, as required by § 8-30g and its Regulations, and by General Statutes § 8-30h. In this comment, we have spelled out inconsistencies between the current application and the Affordability Plans, financing requirements, and website information about Millport and Canaan Parish as to what units are subject to what affordability rules, which the application does not explain. As we requested in an email to the Department on July 8, 2024 (see Exhibit D, attached), the Department must compel the Town, the New Canaan Housing Authority, and Westmount Management (the Town's affordability Administrator) to produce proof of past and current compliance with affordability rules at both redevelopments before the Department can consider moratorium points claims.

Second, as to the statutorily-required deduction of points for affordable units that were demolished to enable the redevelopment of Millport and Canaan Parish, the application asserts, *without any statutory or regulatory basis*, that New Canaan is exempt from the point deduction statute because the units demolished would not have qualified for moratorium points under current § 8-30g criteria if constructed today. But this is not what the statute provides, and the Town's position is indefensible.

Third, with respect to both Millport and Canaan Parish, the Town continues to assert a right to so-called "holdover" points. This claim violates the statute, as the Department has previously ruled. In addition, the so-called "O'Dea Amendment" to § 8-30g, adopted (with no hearing) on the last day of the 2024 legislative session and now codified as § 22 of Public Act 24-143, plainly has only prospective effect, and *does not apply to units completed in 2023 or earlier*. In addition, the 2024 amendment did not reverse the Department of Housing's May 2023 rejection of holdover points.

### **The § 8-30g Moratorium Process**

Section 8-30g was adopted in 1989, Public Act 89-311, effective July 1, 1990 (Exhibit G). In 2000, in Public Act 00-206, the General Assembly adopted the moratorium process, under which the Department grants a town "housing unit equivalent" ("HUE") points when it issues certificates of occupancy – not simply zoning approval – for units that either qualify as "assisted

housing" (built with financial help from a government housing program), or a "set aside development" in which at least 30 percent of the residential units will be preserved for 40 years or more for low and moderate income households. See General Statutes § 8-30g(1)(4)(A). It is important to note that both Millport and Canaan Parish are assisted housing, not set-aside developments.

The moratorium rules were the recommendation of the 1999-2000 Second Blue Ribbon Commission on Affordable Housing, of which the undersigned was a member. In addition, in 2002, under contract to the Department of Housing, the undersigned drafted what became the moratorium regulations, codified at Conn. State Agency Reg. § 8-30g-6.

Section 8-30g is a remedial statute, adopted to assist property owners and low and moderate income households in overcoming exclusionary zoning regulations and onerous application processing requirements that result in denials of affordable housing proposals based on insubstantial, unproven, and/or pretextual reasons. *As such, requirements for any exemption from § 8-30g, such as a moratorium, must be strictly construed against the applicant municipality.* See, e.g., *Kaufman v. Zoning Comm'n*, 232 Conn. 122, 139-40 (1995).

#### **A Review Of New Canaan's Pursuit Of A § 8-30g Moratorium, and Our Comments**

The chronology relevant to the Department's consideration of New Canaan's revised May 2024 application is as follows:

1. In May 2017, the Department granted New Canaan a four-year moratorium based on HUE points awarded for Avalon at New Canaan; the Schoolhouse Apartments; the New Canaan Group home; the Mill Apartments; and two of (then) 33 newly-constructed units at Millport Apartments, 33 and 35 Millport Avenue. That application was unopposed. That 2017 moratorium expired in May 2021.

2. In April 2022, New Canaan applied for a second moratorium. Our office provided extensive comments. The application was withdrawn and resubmitted in July 2022. Our office again submitted extensive comments, on August 30, 2022, pointing out that the revised application (1) was illegally based on a temporary certificate of occupancy for Canaan

Parish;<sup>1</sup> (2) the application did not contain evidence of ongoing annual affordability compliance; (3) the application asserted an illegal basis for not deducting points for the demolished units; (4) the application improperly relied on holdover points; and (5) the application was accompanied by an opinion letter from the Town Attorney<sup>2</sup> that claimed compliance with all legal requirements, but either did not address the issues listed above or analyze them incorrectly.

3. In October 2022,<sup>3</sup> the Department denied the July 2022 application, rejecting the use of holdover points from 31 units at Millport Phase I. This ruling also contained an incorrect conclusion regarding deduction of points for the units demolished at Millport and Canaan Parish; it stated that the demolished units “would not have qualified for any housing unit equivalent points” had they been built in 2022 – which is not the correct standard for demolished units (see pp. 15-18, below).

4. In response to the October 2022 denial, New Canaan filed a Uniform Administrative Appeals Act appeal in Superior Court, and a declaratory ruling petition with the Department. A Superior Court judge dismissed the UAPA appeal as procedurally improper in July 2023. In January 2023, the Department agreed to issue the requested declaratory ruling, to consider the holdover points.

5. In February and March 2023, on behalf of our New Canaan clients, our office petitioned for and was granted intervenor status in the declaratory ruling case.

6. On March 28, 2023, our office submitted extensive comments about the declaratory ruling petition, explaining why the Department was correct to deny the Town’s proposed use of holdover points.

---

<sup>1</sup> We note that the units at Canaan Parish were first occupied in October 2021 and claimed for moratorium points in April and July 2022 based on a 2021 *temporary* certificate of occupancy. The undersigned filed a comment on August 30, 2022 explaining why this was invalid. The Canaan Parish units did not receive permanent certificates of occupancy *until June 2023*. Occupancy under a temporary CO for almost two years was a violation of the Building Code, which limits temporary certificates to 30 days. See Connecticut 2018 State Building Code §R 110.4.

<sup>2</sup> In fact, New Canaan’s attorney has now opined four times, incorrectly, that a New Canaan moratorium application was complete and satisfied all statutory and regulatory requirements.

<sup>3</sup> In May 2022, the Town adopted an Affordable Housing Plan as required by General Statutes § 8-30j. That plan clearly states as the Town’s objective achieving a continuing § 8-30g moratorium, and avoiding municipal obligations and requirements of § 8-30g.

7. On May 19, 2023, the Department issued a Declaratory Ruling stating in part:

The inability to use holdover points does not create an absurd or unworkable result for municipalities; rather, it supports the policy rationale underlying section 8-30g that, in order to benefit those in need of affordable housing, a municipality should continually develop affordable housing over time and should not be permitted to use a single development to justify successive moratoria over the course of many years.

Department Declaratory Ruling, May 19, 2023, at 6.

8. In June 2023, New Canaan filed for a declaratory judgment in Superior Court, challenging the Department's holdover points ruling.

9. In August 2023, our office moved to allow our New Canaan clients to intervene as parties in the declaratory judgment case, which motion was granted in October 2023.

10. In December 2023, with its court appeal of the May 2023 declaratory judgment proceeding under a court-ordered schedule, the Town initiated a third revised moratorium application, which effectively superseded the July 2022 application.

11. In January 2024, our office, on behalf of the interveners, filed an Answer to the Town's appeal and stated Alternative Grounds (in addition to holdover points) to uphold the Department's May 2023 Declaratory Ruling. These alternative grounds included failure to prove ongoing compliance with affordability requirements, and failure to deduct points for demolished units. These claims remain pending.

12. In February 2024, the Town filed its third revised moratorium application with the Department.

13. Our office filed an extensive comment on April 3, 2024, addressing (1) continuing failure to provide proof of ongoing compliance with affordability requirements; (2) an illegal claim that no points need to be deducted for demolished units; and (3) improper claim of holdover points.

14. In April 2024, our office, on behalf of our § 8-30g clients, filed a Freedom of Information Act request with the Town and the Housing Authority seeking documents that would prove whether the Housing Authority and its affordability Administrator have been complying with affordability requirements at Millport and Canaan Parish. Over the following

July 25, 2024

Page 6

eight weeks, the Housing Authority provided no documents proving compliance, and in fact provided several contradictory responses, thereby raising a variety of substantial questions about whether the Town even has such information, and if so, why it has not provided it to the Department. The FOI request and the Town's evasive, confounding responses are reviewed at pp. 10-14 below.

15. In an April 26, 2024 e-mail provided in May 2024 as part of the Town's FOI response, Town Planner Sarah Carey confirmed that "[The New Canaan Planning and Zoning Commission] has never received annual compliance reports from the Housing Authority relating to Millport or Canaan Parish." Exhibit A, Tab A.

16. In early May 2024, Housing Authority Chair Scott Hobbs and Rick Ross of Westmount Management provided emails to the undersigned, asserting that Millport and Canaan Parish are compliant with all applicable affordability requirements. However, they declined to produce any evidence of compliance.

17. Also in early May, Mr. Ross provided what he claimed was a list of monthly rents currently being charged to affordable unit tenants at Canaan Parish.

18. In a May 17 letter to the Department, copied to Mr. Hobbs, Mr. Ross, and Attorney Bamonte, see Exhibit A, we pointed out that the rents provided by Mr. Ross in his e-mail did not include a utility allowance as required by § 8-30g; did not appear to be based on the 2024 Connecticut statewide median income; and exceeded what is shown on the Canaan Parish website as current rents. We explained that the Housing Authority's rents appeared to exceed §8-30g limits by \$243 to \$327 per unit, per month.

19. In a May 21, 2024 letter, the Department denied the Town's February 2024 application. In the first three pages, consistent with the rule that substantive changes in state law apply only prospectively absent clear legislative intent to be retroactive, the letter reviewed how § 8-30g has been amended since 1990 and how the Department has consistently "grandfathered" a development's original affordability standards when the legislature has altered the rules. (In



practice, the primary example of this is that affordable units continue to be counted on the Department's Ten Percent List as affordable dwelling units, even if they do not comply with amended standards.)

Regarding Millport, the Department's May 21, 2024 denial letter (p. 4) states that the 22 units at Millport demolished in the redevelopment, when first occupied in the 1980s, were restricted to 80 percent of *area* median income, and if built today "would not have received any housing equivalent points because today units must meet the lesser of statewide or area median." Thus, the letter states that Town does not need to deduct points for demolished units at Millport. The letter later states the same conclusion for the 60 units demolished at Canaan Parish.

Otherwise, the letter grants 67 points to Millport, based in part on seven units being claimed as rented at 40 percent of the statewide median income. At p. 6, the denial letter accepts a "Compliance Certificate Affidavit" dated 12/4/23 provided by Westmount Management as proof that the development "continues to be in compliance" with § 8-30g.

As to Canaan Parish, the letter grants 80.5 points for 60 units in Building 1, based on no deductions for 60 demolished units, and an award of points for 14 units at "60% of median income," leaving the application three points short of the statutory requirement.

20. On June 18, Mr. Ross replied to the Department about our May 17 e-mail, stating that "We do not agree with the calculations in [our May 17 e-mail]" about excessive rents at Canaan Parish, see Exh. B, pg.2, but providing no explanation as to why.

21. On June 18, we responded that, "It is time for Westmount and the Housing Authority to stop playing games." See Exh. B.

22. In an email on June 24, Mr. Ross replied to our June 18 e-mail, Exh. C. His email lists "2024 rents" at Canaan Parish that contradict the development's website and the moratorium application. Attached to his email are various regional HUD income limits for 2024, but again no proof of compliance at Canaan Parish, just an unsupported assertion that, "We believe we are in compliance with both the Affordability Plan and the LIHTC program...."

23. On July 8 (Exh. D), after an initial review of the Town's final (June 18) revised application to the Department, we made a final, formal request to the Department to demand from the Town, for each affordable unit at Millport (2017-present) and Canaan Parish (2022-

present), the calculation of qualifying income; the tenant household's actual qualifying income; the maximum monthly rent and utility calculations; and what each household actually paid monthly in rent and utilities. As of the date of this comment, we have received no response.

### **Errors in the Application**

The application contains a variety of overarching errors that undermine the Town's points claims:

1. The application refers to Millport and Canaan Parish as § 8-30g "set aside" developments, when they are clearly "assisted housing." This error raises a fundamental question about compliance reporting.

2. At Tab 1, p. 4, the Town states that the 2024 statewide median income "for a family of four is \$133,184." The correct amount is \$122,300. Also, the statewide median income is never reported based on the number in a household; it is the statewide, statistical median.

3. In Tab 2, pp. 6-7, the application contains a variety of "Income Limits," ranging from 50 to 80 percent of "median income," without any explanation of which amounts are being used currently at Millport or Canaan Parish, or any recognition that some of the limits shown on the application (Tab 2, pp. 6-7) are for federal programs that have nothing to do with § 8-30g or Low Income Housing Tax Credits.

### **The Town Has Not Submitted Evidence Of On-Going Affordability Compliance Required To Receive Moratorium Points**

Numerous statutory and regulatory provisions, and documents and agreements that govern Millport and Canaan Parish, require proof of *continuing compliance* with affordability plan oversight, administration, and enforcement obligations.

General Statutes § 8-30h mandates that owners of affordable housing developments containing rental units must "provide *annual* certification [by January 31] to the commission that the development continues to be in compliance with the covenants and deed restrictions required under" § 8-30g (emphasis added). The requirement is mandatory, and failure to certify and file puts the development out of compliance with § 8-30g. Section 8-30h provides the municipality

with the right to “inspect the income statements of the tenants of the restricted units” so as to verify the development’s continuing compliance. (This statute also includes a mandatory, corrective requirement if a development is out of compliance – rental of the next available unit to an income-eligible household “until the development is in compliance.”) Section 8-30h thereby directs that the municipality, through its planning or zoning commission, has an *ongoing oversight* obligation.

As a result, *the failure of a development to comply with 8-30h should preclude the municipality from counting that development in an application for a moratorium.* Put another way, a municipality should not be awarded moratorium points if it has ignored its obligation to ensure that units approved as affordable have in fact been rented or sold to qualifying households, and that §8-30g compliant rents and utility allowances have been charged to those households.

Ongoing compliance is also required by other parts of the § 8-30g statute and state regulations. State Regulations § 8-30g-6(c)(2) requires a letter from the town attorney opining that the application complies with state law “as in effect on the day the application is submitted.” This provision clearly requires evidence that as of the application date, § 8-30h annual reports have been filed and verified. Second, Regulations § 8-30g-6(c)(6) requires certification that certificates of occupancy for claimed units are “currently in effect,” which also requires evidence of on-going compliance since the start of occupancy, not just at a recent or past point in time. Third, Regulations § 8-30g-6(c)(7) instructs that a municipality, when applying for a § 8-30g moratorium, must certify that it “has identified and deducted, or otherwise excluded from the total [HUE] points claimed, all units that as a result of action by the municipality, municipal housing authority, or municipal agency, no longer qualify, as of the date of submission of the application, as providing [HUE] points.” This too implies a look back as to affordability.

It is important to note that proof of ongoing compliance is a burden which can be easily met by assuring that annual § 8-30h certifications are filed, and their accuracy verified.

Section 8-30h reports are routinely filed by § 8-30g developers and administrators across the State. Two examples are at Exhs. E and F, attached.

The issue of evidence of annual, continuing compliance should not be a surprise to the

July 25, 2024

Page 10

Town of New Canaan, as its attorneys were directly involved in the litigation of this issue in the Town of Westport during 2019-2021, and the undersigned has commented on this obligation in April and August 2022, March 2023, and April 2024.

### **Substantial Questions About Affordability Compliance At Millport**

A review of the pending June 2024 application raises a host of substantial questions that the Department must answer about whether maximum income and maximum monthly payments are being properly administered at Millport:

1. As noted, neither the Administrator nor the Housing Authority has ever filed an annual compliance statement with the Planning and Zoning Commission as required by General Statutes § 8-30h, and the 2015 Affordability Plan (Tab 3, p 25).
2. The document at Tab 3, pg. 12, entitled "Compliance Certificate Affidavit Pursuant to Sec. 8-30h," which is dated May 23, 2024 and sworn to by Mr. Ross of Westmount as "Compliance Manager," does not remotely comply with § 8-30h because it was not filed in January as a report on the prior year; it says nothing about the time period or years that it supposedly covers; it incorrectly refers to Millport as a "set-aside" development; it directs the reader to "See detailed information on the attached sheet," but the following pages are only copies of zoning approvals and financing documents, not compliance documents; and it states that, "I have ascertained to the best of my knowledge that the required income limits for tenants have been met," *with no supporting documents*. In other words, "Trust us."
3. As noted earlier, at Tab, p.4, the Town cites an incorrect statewide median income, and inexplicably for a 2024 application, cites only a 2022 number.
4. At Tab 2, p.8, the application agrees that, "All units in [Millport and Canaan Parish] are rent-restricted "by deed, financing terms, stipulations in the lease agreement, and/or other recorded covenants, for terms that meet or exceed income limits of 80% State Median Income or less..." But then, on pp. 11-13, the application lists seven units claimed to be limited to 40 percent of the median income, and 14 units at 60 percent of "SMI Affordability," not 80 percent.

5. At Tab 3, p.4 is a chart that contradicts Tab 2, p.8, as quoted in paragraph 4 above. Tab 3, p.4 presents Millport as claiming 33 units at 80 percent of state median and seven units at 40 percent, with no mention of 60 percent units.

6. At Tab 3, p. 5, the application refers to affordable rents being established by financing documents at “*Area Median Gross Income* in the federal regulation,” (emphasis added), which is defined as “[income] determined under Section 8....” This page then refers to the requirement of the 2015 Affordability Plan that all apartments at Millport will “meet or exceed” the criteria for affordable housing as defined in...General Statutes § 8-30g(a).” Nowhere in the application, however, is it stated what “*Area Median Gross Income*” is, where it can be found, or how it compares to Connecticut’s statewide median income used in § 8-30g calculations – which are not adjusted to conform to Section 8 limits. Moreover, the income limit charts at Tab 2, p.6 do not contain any numbers labeled “*Area Median Gross Income*.”

7. Beginning at Tab 3, p.5, the application lists and attaches excerpts from various financing documents, affordability restrictions, financing agreements, and recorded covenants. *What the application does not explain is what income and rent limits are applicable to what units; how the limits in the documents compare to § 8-30g rules; and thus whether Millport has been and remains in compliance.*

8. At Tab 3, p. 52, is a Rental Assistance Demonstration Use Agreement, governing Section 8-assisted units at Millport. Paragraph 3 (at the bottom) specifies that “[rents] must not exceed 30 percent of 80 median income for an appropriately sized unit,” but the application contains no information about the qualifying incomes or maximum rents required by this agreement; how they compare to § 8-30g; or whether Millport is in compliance.

9. Tab 3, p. 62, appears to be a further Section 8 agreement, referring to a monthly rent subsidy of \$219 per unit for 18 units, but again, no answers to the question above.

10. Tab 3, p. 65, appears to be rules for Section 8 units at Millport. Paragraph 10 refers to “certifications” about compliance that must be provided to HUD. But no copies of any such certifications have been filed in support of this application.

11. At Tab 3, p. 75 states “Monthly HAP Contract Rents” for 18 units, ranging from \$614 to \$959 per month, but no information about compliance is provided.

12. At Tab 3, p. 82, part of the “Extended Low-Income Housing Commitment” by the Millport owner entity, 40 percent or more of the units are committed to “individuals [not households] whose income” is 60% or less of “area median gross income.” Again, the application does not explain “area median gross income” or provide any compliance information. This restriction also apparently contradicts the Millport points claim, which includes 33 units at 80 percent of the statewide median income (Tab 3, p.4).

13. At Tab 3, pp. 102-103, part of a Land Use Restriction Agreement, the “Borrower” agrees to submit monthly reports with, among other things, current monthly and gross rent; the “percentage of occupied Units occupied by each category...of Qualified Tenants,”; and “Area Gross Median Income.” But the application does not provide any information on this compliance, even though these records apparently exist. Tab 3, p. 114 is a reporting form for “Continuing Compliance,” but no copies are provided.

14. Tab 3, p. 122, is part of a Declaration of Land Use Restrictive Covenant that begins at p. 117. Page 122 is a long list of affordability requirements for the 40 units at Millport Phase II, *with specifications of maximum income levels and rents that do not remotely align with the Town’s points claims and, again, are not accompanied by compliance information.*

15. Tab 3, p. 123, is a list of reporting requirements, which again begs the questions of whether Millport is in compliance and if so why the application does not contain supporting documentation.

16. The last page of Tab 3 about Millport is the § 8-30h “Compliance Affidavit,” which as noted above is not compliant with § 8-30h and proves nothing about compliance with §8-30g.

The Town’s moratorium application, therefore, is incomplete as to Millport for failure to provide proof of ongoing compliance with income and rent limits.

### **Substantial Questions About Compliance at Canaan Parish**

1. Just as with Millport, the Canaan Parish financing documents, as described in the Town’s cover memo at Tab 4, p. 5, identify qualifying income as “area median gross income within the meaning of the [federal] Code...,” but with no citation to any federal statute or

regulation; no statement of what "area median gross income" is or where it is found in the application; and no comparison to the Connecticut Statewide median income, which the application expressly cites as the basis of its points claim at Tab 4, p. 4.

2. At Tab 4, p. 11, is another "Compliance Certificate Affidavit Pursuant to Sec.8-30h" of the General Statutes. It is dated 5/23/24, and signed by Mr. Ross of Westmount Management. On its face, it is not compliant with §8-30h, which requires filing in January, reporting on the prior year. There is no supporting documentation as to qualifying income, actual incomes, maximum rent or utilities, or actual charges. The affidavit incorrectly calls Canaan Parish a "set-aside" development, raising a major question about Westmount's certification. The affidavit is a one-day, point-in-time, not a look back at prior years, much less to the start of occupancy at Canaan Parish. The last sentence of the affidavit is Mr. Ross's claim that he "[ascertained] to the best of my knowledge that the required income limits for tenants have been met," but he provides no data or proof and he says nothing about rents.

3. At Tab 4, p. 15, the 2018 Affordability Plan (§5.9.H.3) says that the maximum monthly payment [which is rent plus utilities] shall not exceed "the amount that will preserve such units as defined in General Statutes §8-30g." The application contains no explanation as to the Town or Westmount's interpretation of what income limits this imposed, and is especially concerning due to the incorrect, prior reference to Canaan Parish being a set-aside development.

4. The Affordability Plan, Tab 4, p. 20, contains the §8-30h annual reporting requirement, which, as explained earlier, the Town Planner concedes has not occurred.

5. In the Affordability Plan, Tab 4, p. 20, § IV provides that the Administrator "shall not allow to be recorded ...any...restriction or covenant that will or may conflict with any obligation or procedure stated in this Plan." The application, however, contains a variety of apparent conflicts between the Plan and financing requirements.

6. Tab 4, pp. 62 and following are a Section 8 Use Agreement. At p. 64 it states that "new tenants must have income at or below 80 percent of the area median income (AMI)." In addition, on p. 65, the Owner confirms that it will not execute any agreement with "contradictory" provisions, yet the Affordability Plan and the Section 8 agreement are in conflict.

7. At Tab 4, pp. 71 and following, is a Regulatory Agreement regarding the Town's issuance of revenue bonds. At p. 75, the definition of "Low Income Unit" refers to "median gross income for the area" but the application contains no proof of compliance with this provision.

8. At p. 78, subsection (c) requires the Housing Authority, as borrower, to "obtain, complete and maintain on file Income Certifications for each Low Income Tenant," including an annual certification after occupancy starts. The borrower agrees to provide such information as may be required to "the State." Subsection (d) requires detailed income verification. Subsection (e) on p. 79 requires the Housing Authority to maintain (for six years) records of total affordable units, the rent charged, and annual income verifications. None of this appears in the application. (In fact, subsection (c) requires exactly the type of annual ongoing compliance information that every Town should file in support of a moratorium application.)

9. On Tab 4, pp. 95 and following, is the extended Low Income Housing Commitment. On p. 99, Section II(e) refers to "not less than 100% of the Units" being occupied by "Qualified Persons," which on p. 97 is defined as an individual or family with income "not exceeding 60 percent of area median gross income," provided that up to 20 units may have income not exceeding 50 percent, or up to 80 units at 80 percent. This schedule does not align with the Affordability Plan on the HUE points claim.

10. At Tab 4, p. 80 is a "Canaan Parish §8-30g Income Limits Commitment" by the Housing Authority, which "confirms the Affordability Plan," and commits to 15 percent of units [not "at least" – the exact percent] rented at "60 percent of median income" (stated in the next paragraph to be the statewide median), and the remaining 85 percent "at 80 percent of median." This Commitment also does not align with the HUE points claims at Tab 4, p. 4, which shows 25 percent of units at 60 percent and 75 percent of units at 80 percent.

11. As documented in our May 17, 2024 letter to the Department and Mr. Hobbs and Mr. Ross, the rents being charged at Canaan Parish exceed both what is shown on the website and correct 2024 §8-30g calculations. See Exh. A. Westmount and the Housing Authority have disputed this, but consistently refused to provide documentation.



### **In Summary as to Failure to Prove Affordability Compliance**

To summarize the violations and substantial, essential questions at Millport and Canaan Parish:

- No §8-30h annual reports;
- Not even a claim of compliance as to any year prior to 2023-24;
- So-called “Compliance Affidavits” that are incorrect, incomplete, and without any documentation;
- Refusal to provide actual calculations of maximum income and rent;
- Refusal to provide compliance reports that each development is required by financing document to prepare and maintain; and
- Affordability requirements in financing documents and covenants that do not align with HUE point claims.

There is no more important evidence that a town seeking a moratorium from §8-30g must file than evidence of annual, ongoing compliance with affordability requirements. Here, the Town and the Housing Authority have the information, but are refusing to disclose it. It is the Department’s responsibility to demand compliance information, and to declare the application incomplete until the Town provides it. And once the information is provided, the Department and commenters will be able to review it to determine if the Town’s sworn claims of compliance are true.

### **The Application Makes A Patently Incorrect Claim of Exemption From the Requirement of General Statute § 8-30g(l)(8) to Deduct Points For Demolished Units**

General Statutes § 8-30g(l)(B)(8) states that HUE points shall be “[subtracted] applying the formula in subdivision (6) of this subsection [the list of HUE points awarded for various unit types and maximum rent restrictions], for any affordable dwelling unit which, on or after July 1, 1990, was affected by any action taken by a municipality which caused such dwelling unit to cease being counted as an affordable dwelling unit.”

In his opinion letter at Tab 1, pp. 4-5, Attorney Bamonte argues that because the units that were demolished at Millport and Canaan Parish were restricted to 80 percent of area median income, instead of the lesser of area or statewide median, the demolished units do not qualify today as “affordable dwelling units” as that phrase is used in General Statutes § 8-30g(l)(8). In its May 21, 2024 rejection of New Canaan’s February 2024 application, the Department apparently agreed with this position.<sup>4</sup>

The fundamental flaws in Attorney Bamonte’s argument and the Department’s acceptance of it<sup>5</sup> are that (1) each demolished unit at Millport and Canaan Parish, before demolition, was classified by the Department of Housing as an affordable dwelling unit, because each was listed on the State’s Ten Percent List, compiled annually under General Statute § 8-30g(k); and (2) the Department has always “grandfathered” completed affordable units from later statutory amendments, counting them as affordable based on the rules in effect when the units were completed.

In May 2024, our office emailed Mr. Santoro and Ms. Watson, seeking confirmation that the units that were demolished in the redevelopment of Millport (22 units) and Canaan Parish (60 units) had been listed as “affordable dwelling units” on the Department’s § 8-30g Ten Percent List at least since the year 2000. In reply, Mr. Santoro provided Exhibit H, attached, confirming that each of the demolished units at Millport and Canaan Parish was listed on the Ten Percent List.

When § 8-30g was adopted by Public Act 89-311, effective July 1, 1990, one criteria for inclusion on the Ten Percent List was any unit rented at 80 percent of area median income. See Exh. G. On this basis, the Department listed the 22 units at Millport and 60 units at Canaan Parish, which necessarily means that the Department treated them as “affordable dwelling units.”

---

<sup>4</sup> Respectfully, we are obligated to point out that the issue of point deductions is a legal issue, one of statutory interpretation. The Department’s May 21 decision lists Ms. Watson as author. To our knowledge, Ms. Watson is not a lawyer, and thus not qualified to render a legal opinion; and in fact, the Department’s May 21 letter contains no legal explanation or justification for not requiring a points deduction for demolished units.

<sup>5</sup> The fact that the Department has addressed this issue incorrectly in past moratorium reviews does not establish a binding precedent or preclude a corrected ruling this time.

In addition, when the legislature, in 1995, redefined “median income” in §8-30g to mean the lesser of statewide or area median income, the Department *did not* remove the 80-percent-of-area-median units at Millport or Canaan Parish from the Ten Percent List as no longer compliant with affordability standards; the Department gave only prospective effect to amended standards compliant with affordability standards. See Exhs. I and J, the 1994 and 1998 Ten Percent Lists. The Department grandfathered these units. The Town, of course, also continued to claim them as affordable units. Indeed, if the Department’s practice during the past 34 years had been to retroactively apply amended statutory standards to previously completed units, then every post-1990 substantive amendment to § 8-30g affordability requirements would have prompted the Department to purge the Ten Percent List of all now-not-compliant units. It has never done so.

The deduction provision has only has two requirements: an affordable dwelling unit, and demolition due to action by the Town. *The statute makes no exception based on the level of affordability of the demolished units, and under no principle of statutory interpretation can such an exception be added or implied, especially to a remedial statute.*

The applicable upshot here is that since the Department has never evaluated or characterized affordable units by whether they meet current affordability standards, there is no justification for importing such a rule into the points deduction provision of the moratorium statute.<sup>6</sup>

The next issue is the meaning, in the deduction provision, of the reference to “applying the formula in subdivision (6) of this subsection,” which is the list of moratorium point values. Neither the deduction provision (§8) nor subdivision §6 [the points list] was enacted until the year 2000, but §8 clearly directs deduction for demolition of affordable units existing on or after July 1, 1990, and subdivision §6, subsection (B) contains an assignment of points for exactly what the units at Millport and Canaan Parish were before they were demolished: “Family units

---

<sup>6</sup> It is axiomatic in statutory interpretation that it is improper to “input language when it does not exist,” meaning we cannot add requirements that the legislature itself did not state. See, e.g., *Vessel RE Holdings, LLC v. Town Plan and Zoning Commission of Glastonbury*, 2024 WL 3424708 (Super. Ct., July 12, 2024). In *Vessel*, the court declined to accept the Commission’s argument about the industrial zone exemption from § 8-30g that a zoning regulation prohibited residential uses because it banned “new” residential uses, but allowed existing residential uses to continue. “The Commission’s finding misstates [§ 8-30g]...by adding the word “new....” Id.

restricted to persons and families whose income is equal to or less than 80 percent of the median income shall be awarded...one and one-half points if a rental unit.” Again, the fact that median income was redefined in 1995 to be the lesser of area or statewide median, years after the units at Millport and Canaan Parish were completed and counted by the Town and the Department as affordable dwelling units, did not disqualify them as affordable dwelling units. Thus when they were demolished by action of the Town in 2015-16 at Millport and 2018 at Canaan Parish, point deductions were required.

Thus, 22 units times 1.5 (33 points) should be deducted from Millport, and 60 units times 1.5 (90 points) from Canaan Parish.

Finally, it seems to not have occurred to Town officials that when the Town determined that Canaan Parish (and Millport previously) should be redeveloped at an existing location for affordable units, the Town had a choice as to whether to demolish units and rebuild on the same site, which would require deduction of the demolished units; or to rehabilitate and then (if it wanted moratorium points) create more affordable units on another site. The latter approach would have added points. The Town chose the former. The deduction requirement is and was clear. The Town never asked the Department for declaratory ruling before proceeding. Thus, the Town is required to deduct the demolished units from its point total.

#### **The Application Again Improperly Asserts “Holdover” Points**

Before June 2024, General Statutes § 8-30g(1)(3) stated that, “Eligible units completed after a moratorium has begun may be counted toward eligibility for a subsequent moratorium.” “Eligible units” refers to those that qualify to generate HUE points. *See* General Statutes § 8-30g(1)(6). “Completed” means issued a permanent certificate of occupancy. *See* General Statutes § 8-30g(1)(9).

The purposes of the statute’s pre-2024 prohibition on holdover points were (1) to require towns that want another moratorium to approve and assert the construction and occupancy one or more developments sufficient to generate sufficient HUE points during or after the four-year moratorium; (2) to avoid towns from using one or more developments to claim a moratorium that effectively exceeds the statutorily-specified four years; (3) to prohibit HUE points, if and when

created, from being used many years later for a moratorium, when conditions, markets, and a town's housing stock may have changed significantly; and (4) to prevent the moratorium provisions from being used to undermine the remedial purposes of § 8-30g.

The moratorium process was never intended to allow a non-exempt town to obtain a moratorium for the purpose of blocking future affordable housing development for many years. The prohibition on holdover points explained why § 8-30g(1)(7) allows towns to count only affordable units built after 1990 under the then-existing § 8-30g standard. This was certainly not so that non-exempt towns could use construction in the 1990s at the 80 percent of median/20 year restriction standard to obtain extended moratoria beyond an initial moratorium. To the contrary, the post-1990 rule was intended to enable a first moratorium only, so that towns that had development in the 1990s, when § 8-30g contained no moratorium provision, would not be left out. Once a town achieves a first moratorium, a new moratorium requires new affordable development.

It is not easy to determine what the current application asserts as to holdover points, but the three main points seem to be: (1) in this application, the Town has not claimed the 31 units at Millport Phase I that were proposed for holdover points in 2022; (2) the Town is claiming all 40 units in Millport Phase II and 60 units in Canaan Parish for points, not as holdover points but because they were granted a certificate of occupancy in 2018 and 2023, respectively, after the first moratorium started, and have not been granted points yet; and (3) the Town states intent to claim in the future, as holdover points, the 31 units at Millport Phase I and any units at Canaan Parish that are not necessary to achieve a second moratorium, based on the belief that P.A. 24-143 §22 is retroactive and will allow the Town in future years to claim points for units that received COs as far back as 2016.

We do not dispute that Millport Phase II and Canaan Parish Building 1 may be counted at this time based on COs being issued after June 2017. However, the 2024 amendment, on its face and according to well-established case law, does not authorize future counting of units that were completed prior to the June 6, 2024 effective date of the 2024 amendment.

Effective June 6, 2024, P.A. 24-143, § 22, added to General Statutes § 8-30g(1)(3) this text: "Eligible units completed before a moratorium began, but that were not counted toward

July 25, 2024

Page 20

establishing eligibility for such a moratorium, may be counted toward establishing eligibility for a subsequent moratorium.”

Simply put, *the only proper interpretation of this prospective amendment is that it applies to “units completed” after the date of the passage of P.A. 24-143, which was June 6, 2024.* To construe the amendment as allowing the counting of units completed long before June 2024 turns the law of prospective legislation on its head.

“[N]o provision of the general statutes, not previously contained in the statutes of the state, which imposes any new obligation on any person or corporation, shall be construed to have a retrospective effect....Courts have uniformly interpreted § 55-3 as a rule of presumed legislative intent that statutes affecting substantive rights shall apply prospectively only....This presumption is rebutted *only when the legislature clearly and unequivocally expresses its intent that the legislation shall apply retrospectively*” (emphasis added). *Miano v. Thorne*, 218 Conn. 170, 175 (1991). See *Town of Middlebury v. Dep’t of Env’t Prot.*, 283 Conn. 156, 186 (2007) (statutory amendment creating right of appeal was a substantive change, and presumed to operate prospectively since neither the text of the bill nor its legislative history expressed a clear and unequivocal intent for the amendment to apply retrospectively); *D’Eramo v. Smith*, 273 Conn. 610, 623 (2005) (amendment of a statutory limitation on a right to sue the state constituted a substantive change to the statute and therefore was presumptively prospective).

The 2024 amendment contains not one word indicating retroactive impact or intent. Moreover, the amendment reversed a determination of a state agency, the Department of Housing’s May 2023 ruling that holdover points are not permitted in § 8-30g moratorium applications. In addition, the amendment will not only affect New Canaan; it will impact the eligibility of units in an unknown number of towns statewide for a moratorium from § 8-30g. An example is the pending Town of Orange application, which collects 30+ years of affordable units and claims the Town (which is less than 2.0 percent on the Ten Percent List) is on the cusp of achieving moratoria that will last eight or twelve years.

The 2024 amendment changed what units may be counted toward a moratorium. The two substantive standards that were amended are (1) “eligible units completed”; and (2) “counted toward establishing eligibility.” The Town wants to give retroactive effect to both standards, but

nothing in the text of the amendment states such a legislative intent. To follow the well-established rule that substantive legislation operates prospectively only unless the legislature has clearly said otherwise, P.A. 24-143 must be construed as applicable only to “units completed” after the amendment’s effective date of June 6, 2024. Put another way, to focus on the date that DOH “counts” a unit, but ignore when the unit was completed, violates a fundamental tenet of statutory interpretation.

In addition, this issue has already been litigated with and decided by the Department. Our courts have held that where a substantive issue has been litigated and decided, the decision can only be reversed by a clear expression of legislative intent, because the legal decision alters rights. See, e.g., *Flanagan v. Blumenthal*, 100 Conn. App. 255 (2007) (former judge seeking indemnification for legal fees and expenses incurred while defending himself in his role as a state employee could not obtain retroactive application of a statutory amendment that would have provided indemnity, because the issue had been litigated and decided before the amendment).

Though its current application does not expressly rely on holdover points, the Town has teed up the issue in its application, claiming points not used in 2024 will be used in the future. The Attorney General’s office, in the Town’s pending appeal from the May 2023 denial, has agreed that P.A. 24-143, §22 is prospective only. The Department should tell New Canaan that, based on the 2024 amendment, it may claim holdover points only as to units issued a CO after June 2024.

#### **New Canaan’s Affordable Housing Track Record**

In her cover letter to the current application, First Selectman Carlson writes: “I am very proud of the accomplishments New Canaan has made toward the State’s goals of Affordable Housing.” This requires a response:

1. New Canaan has among the most exclusionary zoning regulations in Connecticut, as documented in a memo prepared in September 2022 by Dr. Donald Poland as part of the 751 Weed Street § 8-30g application. See Exh. L. Among other things, not one parcel in the entire town is zoned as-of-right for multi-family or affordable housing.

2. New Canaan has approved Millport and Canaan Parish, but these redevelopments were on land already used for affordable units; both involved demolition of affordable units; and they are side-by-side on the eastern part of New Canaan, near the Town's landfill, and geographically removed from downtown and the west side of town, where the predominant land use is large homes on large lots, and where, in 2022, all members of the New Canaan Planning and Zoning Commission lived. See Exh. M.

3. In 2022, the median home price in New Canaan exceeded \$1.5 million, and *median* market-rate rents were \$4,128 for a two bedroom unit and \$5,194 for a three bedroom unit.

4. On the Department's § 8-30g Ten Percent List for 2023, 33 years after the adoption of § 8-30g, New Canaan had *zero* § 8-30g compliant units out of 7,500 total units. Exh. K.

5. In 2023, denying the 751 Weed Street § 8-30g zoning application, the Planning and Zoning Commission asserted that there is no need for affordable housing in New Canaan because Norwalk and Stamford meet the region's affordable housing need.

6. As noted above, the Housing Authority has never filed a § 8-30h report with the PZC for Millport or Canaan Parish. How the Town that supposedly is promoting affordability could violate the compliance reporting statute for eight straight years is baffling.

#### **What the Department Should Demand From the Town and Its Housing Authority and Compliance Administrator**

The Town should demand, for Millport 2018-present and Canaan Parish 2022-present; for each unit:

1. What the calculated, qualifying maximum household income was;
2. The tenant household's income;
3. What the calculated maximum monthly rent and utilities were; and
4. How much each household was charged.



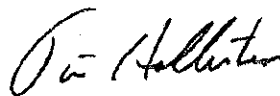
If these seem onerous, it is not, because the Town and Housing Authority already have all of this information; and they could have avoided the current task by filing it annually as required.

**Conclusion**

Every town that qualifies for a moratorium under the rules and regulations should be granted one, but this application, at this time, does not qualify, and in fact should be denied based on the § 8-30h violations above.

Finally, we are constrained to note that if this application is granted, our clients will likely seek an injunction in Superior Court.

Very truly yours,



Timothy S. Hollister

TSH:afz

cc: Attorney Nicholas Bamonte (via email)  
751 Weed Street, LLC  
51 Main Street, LLC

## EXHIBITS

- A. Letter, T. Hollister to DOH, May 17, 2024
- B. E-mail from T. Hollister to DOH, June 18, 2024
- C. E-mail from R. Ross to T. Hollister and DOH, June 24, 2024
- D. E-mail from T. Hollister to DOH and New Canaan officials, July 8, 2024
- E. Sample Section 8-30h compliance report
- F. Sample Section 8-30h compliance report
- G. Public Act 89-311, original Ten Percent List provision
- H. E-mail from Department of Housing, June 5, 2024, re: classification of units at Millport, Canaan Parish as affordable dwelling units before demolition
- I. Section 8-30g Ten Percent List, 1994
- J. Section 8-30g Ten Percent List, 1998
- K. 2023 Ten Percent List
- L. Memo to New Canaan PZC re: Town's exclusionary zoning regulations, September 2022
- M. Map of residences of New Canaan PZC members vs. location of Millport and Canaan Parish, 2022

# EXHIBIT A



20 Church Street  
Hartford, CT 06102  
p: 360-725-6200 f: 860-778-3802  
hinckleyallen.com

Timothy S. Hollister  
(860) 331-2823 (Direct)  
(860) 558-1512 (Cell)  
[thollister@hinckleyallen.com](mailto:thollister@hinckleyallen.com)

May 17, 2024

**VIA EMAIL AND U.S. MAIL**

The Hon. Seila Mosquera-Bruno  
Commissioner  
Connecticut Department of Housing  
505 Hudson Street  
Hartford, CT 06106-7106

Laura Watson, Agent  
Connecticut Department of Housing  
505 Hudson Street  
Hartford, CT 06106-7106

Re: **Canaan Parish, New Canaan; Compliance With § 8-30g and Affordability Plan**

Dear Commissioner Mosquera-Bruno and Ms. Watson:

As you know, we represent several entities that are pursuing approvals of § 8-30g developments in New Canaan, and we have been monitoring and commenting on the Town's applications to the Department of Housing for a second moratorium from § 8-30g applications.

We are writing you today, and copying the New Canaan Housing Authority and its affordable housing consultant Westmount Management, to present evidence that the Canaan Parish development, which is part of New Canaan's pending moratorium application, is not in compliance with its overall § 8-30g obligations and its 2018 Affordability Plan (which the undersigned assisted with drafting).

The information and questions presented here are directly relevant to New Canaan's claims of Housing Units Equivalent points for Canaan Parish in the pending moratorium application. We recognize that the public comment period for the 2024 moratorium application closed on April 4, 2024 (a day after we submitted detailed comments), but (1) as explained below, the information recounted here was obtained in the past 30 days through a Freedom of Information request to the Town, and follow-up email to Mr. Hobbs of the Housing Authority and Mr. Ross of Westmount; and (2) Connecticut State Agencies Regulations § 8-30g-6(1) provides for the submission to DOH evidence regarding "materially false, misleading, or inaccurate information" submitted to the Department to obtain a moratorium. Please understand that at this time we are presenting this information because we believe we have a good faith basis for presenting this information pursuant to this regulation, but we also invite the Housing Authority and Westmount to provide a "reasonable explanation," as also allowed by the above-cited state regulation.

### Background and Chronology

In August 2022, in response to New Canaan's initial application for a second moratorium, we submitted a detailed comment that that application did not include any information about ongoing, annual compliance with affordability requirements for Millport or Canaan Parish, and in particular with the requirement of General Statutes § 8-30h that the Administrator of each development file annually with the Planning and Zoning Commission by January 31 a report documenting compliance with § 8-30g requirements as to maximum household income and maximum rent.

In March 2024, we received a copy of New Canaan's revised moratorium application. We were surprised to see that that application, like its 2022 predecessor, contained no verification of household income and maximum rent limits, and no § 8-30h reports. On April 3, 2024, we filed a comment with the Department identifying this repeated omission and violation of § 8-30g obligations.

However, in conjunction with our April 3, 2024 comment to DOH, on April 4, we also sent a Freedom of Information Act request to the Town, its Planning and Zoning Commission, and its Housing Authority, requesting all affordability compliance reports for Millport from 2017 to 2024, and for Canaan Parish for 2021-2024.

In response, we received an email from Town Planner Sarah Carey, dated April 26, 2024, Exhibit A attached, confirming that *at no time has the New Canaan Planning and Zoning Commission received any annual § 8-30h reports for Millport or Canaan Parish*. We then, after clarifying emails with the Town and Housing Authority, received several documents from Mr. Hobbs, most of which were already part of the Town's 2024 moratorium application, but which still were not annual income and rent compliance reports, or § 8-30h reports disclosing and confirming household income and rent limit obligations.

In follow-up emails, we were informed by Mr. Ross on May 9 that 100 percent of the units at Canaan Parish are currently rented at 60 percent of the statewide median income, and the current "tenant rents" are:

One bedroom:	\$1,494
Two bedroom:	\$1,777
Three bedroom:	\$2,060

We then reviewed the Canaan Parish website, which lists the current affordable rents as:

One bedroom:	\$1,450
Two bedroom:	\$1,750
Three bedroom:	\$2,000

The website, however, then cautions that these published rents *do not include utilities* (which are required by 8-30g regulations to be part of the maximum monthly housing payment, and are defined in state law as heat, hot water, and utilities not including TV/entertainment). This apparently means that tenants at Canaan Parish are paying monthly the rents listed on the website *plus* about \$150 to \$200 more per month for utilities.

Next we reviewed the 2018 Affordability Plan for Canaan Parish, (excerpt, Exhibit B attached) which was included in the Town's February 2024 moratorium application (excerpt, Exhibit C attached). The 2024 moratorium application expressly represents that Canaan Parish is currently in compliance with that Affordability Plan. The Canaan Parish section of the 2024 moratorium application recites that 15 of 49 claimed units are rented at 60 percent of statewide median income (but no calculation of tenant payment is provided).<sup>1</sup>

Finally, we did our own calculations. Using 2024 HUD data and § 8-30g regulations for units rented at 60 percent of the statewide median income, our calculations are:

- One bedroom units, 60 percent SMI, rent should be \$1,251 per month, and with assumed utility allowance of \$125, total monthly payment should be \$1,376.
- Two bedroom units, at \$1,502 rent plus \$150 utility allowance, total payment \$1,652.
- Three bedroom units, rent \$1,733 plus \$175 utility allowance, total payment \$1,908.

Copies of these calculations are attached, Exhibit D.

This results in a side-by-side comparison:

Canaan Parish 2024 rents, with assumed utility allowance, per Westmount	8-30g compliant calculations, using 2024 data
One Bedroom: \$1,494 + 125 = \$1,619	One Bedroom: 1,251 + 125 = 1,376
Two Bedroom: \$1,777 + 150 = \$1,927	Two Bedroom: 1,502 + 150 = 1,652
Three Bedroom: \$2,060 + 175 = \$2,235	Three Bedroom: 1,733 + 175 = 1,908

<sup>1</sup> We recognize that HUD data changes every year, and the HUD data in the 2018 Affordability Plan have been superceded.

Commissioner Mosquera-Bruno  
Laura Watson  
May 17, 2024  
Page 4

*Thus, Canaan Parish is charging is \$243 per month higher than allowed by § 8-30g regulations and the Affordability Plan for one bedroom units, \$275 higher for two bedroom units, and \$327 higher for three bedroom units. The current rents being charged at Canaan Parish do not comply with the representations made in the pending moratorium application, which should result in moratorium points claimed for Canaan Parish being disallowed.*

It should be noted that all of this could have been avoided if the Town and Housing Authority had complied with General Statutes § 8-30h and their obligation to prove annual, ongoing affordability compliance.

We request that the Department require a prompt written response from the Housing Authority and Westmount Management.

Thank you for your attention.

Very truly yours,



Timothy S. Hollister

TSH:afz

cc: Scott Hobbs, Chair, New Canaan Housing Authority (via email)  
Frederick Ross, Westmount Management (via email)

## Exhibit A

**From:** Carey, Sarah <sarah.carey@newcanaanct.gov>  
**Sent:** Friday, April 26, 2024 11:48 AM  
**To:** Pitt, Mimi <mimi.pitt@newcanaanct.gov>; Hobbs, Scott <scott.hobbs@newcanaanct.gov>; Hobbs, Scott <Shobbs@hobbsinc.com>  
**Subject:** RE: Town of New Canaan FOIA Request

Mimi,

To reiterate, the P&Z Commission has never received annual compliance reports from the Housing Authority relating to Millport or Canaan Parish.

**Sarah Carey, CZEO | Town Planner | Senior Enforcement Officer | Town of New Canaan**  
77 Main Street, New Canaan, CT 06840 | phone: 203 594 3043  
**Office Hours:**  
Monday-Thursday 7:30 a.m. to 3:30 p.m. and Friday 7:30 a.m. to 1:30 p.m.  
All Planning & Zoning Applications must be submitted online at <https://newcanaanct.portal.opengov.com/>



**CANAAN PARISH  
LAKEVIEW AVENUE  
NEW CANAAN, CONNECTICUT**

**Affordability Plan for Canaan Parish Redevelopment**

**July 2018**

**Submitted by Canaan Parish Redevelopment, LLC  
to the New Canaan Planning and Zoning Commission**

PREPARED BY:

Scott Hobbs, Chair  
shobbs48@icloud.com  
Housing Authority of the Town of  
New Canaan  
57 Millport Avenue  
New Canaan, CT 06840  
(203) 966-6006

Timothy S. Hollister  
thollister@goodwin.com  
Mary Jo Blain Andrews  
mandrews@goodwin.com  
Shipman & Goodwin LLP  
One Constitution Plaza  
Hartford, CT 06103-1919  
(860) 251-5000

David R. McCarthy  
dmccarthy@heritagehousinginc.com  
Heritage Housing, Inc.  
18 Marshall Street  
Suite B-100  
South Norwalk, CT 06854  
(203) 838-3388

## INTRODUCTION

Canaan Parish Redevelopment, LLC ("CPR"), which is a joint venture of New Canaan Neighborhoods, LLC and the Housing Authority of the Town of New Canaan ("HANC"), submits this Affordability Plan (the "Plan") for the Canaan Parish Redevelopment ("Canaan Parish") at 186 Lakeview Avenue, in conjunction with its application to the Town of New Canaan for approval of a regulation amendment, rezoning, and site plan approval for Canaan Parish, a residential redevelopment of 5.02 acres.

Under this Plan, one hundred (100) newly-constructed apartment homes will meet or exceed the criteria for affordable housing as defined in Connecticut General Statutes ("General Statutes") § 8-30g(a). This Plan satisfies the requirements of § 8-30g and describes how affordability restrictions required by General Statutes § 8-30g will be administered. The Canaan Parish redevelopment, when completed in compliance with the land use approvals requested, will consist of one hundred (100) apartment homes in nine buildings.

This Plan complies with General Statutes § 8-30g as amended by Public Act 00-206, as well as the federal and state Fair Housing Acts.

The Town of New Canaan (the "Town"), acting by its Planning and Zoning Commission (the "Commission"), shall be a party to this Plan. As such, the Town shall have the right to monitor said Plan and to enforce the terms and conditions of this Plan.

## DEFINITIONS

"**Community**" or "**Lakeview Avenue**" – means Canaan Parish, a residential rental redevelopment, approved by the Commission, whose boundary is described in Schedule A.

"**Affordable Apartment Home**" – means an apartment home within the Canaan Parish redevelopment that is subject to long-term restrictions as set forth in this Plan.

"**Developer**" – means Canaan Parish Redevelopment, LLC, or its successors and assigns.

## AFFORDABILITY PLAN FOR CANAAN PARISH

### I. Homes Designated As Affordable Apartment Homes.

Within Canaan Parish, all apartment homes will qualify as "assisted housing" under General Statutes § 8-30g, and will be rented to a household or family whose annual income is equal to or less than eighty percent (80%) of the median income as defined in § 8-30g-1(10) of the Regulations of Connecticut State Agencies. Because Canaan Parish will be financed at least in part through the federal Low Income Housing Tax Credit ("LIHTC") program, the applicant reserves the right, subject to the Commission's approval, to conduct leasing at lower / more § 8-30g compliant levels. It is the intention of this Plan that all units within Canaan Parish redevelopment will qualify for "moratorium points" within the meaning of General Statutes § 8-30g( ).

### II. Forty Year Period.

The Affordable Apartment Homes shall comply with this Plan for a minimum of forty (40) years. The forty (40) year affordability period shall be calculated separately for each Affordable Apartment Home, which calculation shall begin on the first day of occupancy as provided for in the lease for that Affordable Apartment Home. The HANC reserves the right to extend this affordability period without further approvals.

### III. Nature Of Construction Of Affordable Apartment Homes.

Within Canaan Parish, Affordable Apartment Homes shall be no less than the square footage set forth in the approved site plan, as on file with the Commission, and shall be, at a minimum, constructed in conformance with the specifications referenced in Schedule B of this Plan.

### IV. Entity Responsible For Administration And Compliance.

This Plan will be administered by CPR or its designees, successors, and assigns ("Administrator"). CPR represents that its staff has the experience necessary to administer this Plan. The Administrator shall submit a written status report to the Commission on compliance with this Plan annually on or before January 31 as per General Statutes § 8-30h of the following year. The role of Administrator may be transferred or assigned to another entity, provided that such entity has the experience and qualifications to administer this Plan. In the event of any assignment of the role of Administrator, CPR as the case may be, or its successors will provide prior written notice to the Commission. The Administrator shall not allow to be recorded on the land records or otherwise imposed on an approved site plan any private restriction or covenant that will or may conflict with any obligation or procedure stated in this Plan. Such

**IX. Maximum Rental Price.**

As set forth above, it is expected that the Canaan Parish redevelopment will be financed in part through the LIHTC program. As such, the Administrator will administer the units in compliance with the maximum household income, maximum monthly rent, and other program limits and requirements. As to any units not covered by LIHTC rules, the following formula shall be applicable, the intent being that all units will be § 8-30g compliance and will qualify for moratorium points. Calculation of the maximum rental price for an Affordable Apartment Home, so as to satisfy General Statutes § 8-30g, shall utilize the lesser of the area median income data for the Town or the statewide median income as published by HUD as in effect on the day a lease is signed by the lessee of the Affordable Apartment Home. The maximum rental price shall be calculated as follows:

**ONE BEDROOM RENTAL UNIT FOR  
FAMILY EARNING LESS THAN 60 PERCENT  
OF STATEWIDE MEDIAN INCOME**

**SAMPLE  
COMPUTATIONS BASED  
ON FY 2018 DATA**

1. Determine lower of relevant year (2018) area median income for Stamford-Norwalk, CT HMFA (\$134,900) or statewide median income (\$96,300), adjusted for family size (family of 4), as published by HUD	\$96,300
2. Determine adjusted income for a household of 1.5 persons by calculating 75 percent of Item 1	\$72,225
3. Calculate 60 percent of Item 2	\$43,335
4. Calculate 30 percent of Item 3, representing maximum portion of a family's income that may be used for housing	\$13,001
5. Divide Item 4 by 12 to determine maximum monthly housing expense	\$1,083
6. Compare HUD 2018 Fair Market Rents for Stamford-Norwalk, CT HMFA	\$1,571
7. Use lesser of calculated maximum monthly expense (Item 5) and HUD fair market rent (Item 6)	\$1,083
8. Determine by reasonable estimate monthly expenses for heat and utility costs, excluding telephone and cable television but including any fee required for all tenants (tenant responsible for such expenses)	\$125
9. Subtract reasonable monthly expenses (Item 8) from maximum housing expense (Item 7) to determine maximum amount available for rent	\$958

**TWO BEDROOM RENTAL UNIT FOR  
FAMILY EARNING LESS THAN 60 PERCENT  
OF STATEWIDE MEDIAN INCOME**

**SAMPLE  
COMPUTATIONS BASED  
ON FY 2018 DATA**

1. Determine lower of relevant year (2018) area median income for Stamford-Norwalk, CT HMFA (\$134,900) or statewide median income (\$96,300), adjusted for family size (family of 4), as published by HUD	\$96,300
2. Determine adjusted income for a household of 3 persons by calculating 90 percent of Item 1	\$86,670
3. Calculate 60 percent of Item 2	\$52,002
4. Calculate 30 percent of Item 3, representing maximum portion of a family's income that may be used for housing	\$15,601
5. Divide Item 4 by 12 to determine maximum monthly housing expense	\$1,300
6. Compare HUD 2018 Fair Market Rents for Stamford-Norwalk, CT HMFA	\$1,986
7. Use lesser of calculated maximum monthly expense (Item 5) and HUD fair market rent (Item 6)	\$1,300
8. Determine by reasonable estimate monthly expenses for heat and utility costs, excluding telephone and cable television but including any fee required for all tenants (tenant responsible for such expenses)	\$150
9. Subtract reasonable monthly expenses (Item 8) from maximum housing expense (Item 7) to determine maximum amount available for rent	\$1,150

**THREE BEDROOM RENTAL UNIT FOR  
FAMILY EARNING LESS THAN 60 PERCENT  
OF STATEWIDE MEDIAN INCOME**

**SAMPLE  
COMPUTATIONS BASED  
ON FY 2018 DATA**

1. Determine lower of relevant year (2018) area median income for Stamford-Norwalk, CT HMFA (\$134,900) or statewide median income (\$96,300), adjusted for family size (family of 4), as published by HUD	\$96,300
2. Determine adjusted income for a household of 4.5 persons by calculating 104 percent of Item 1	\$100,152
3. Calculate 60 percent of Item 2	\$60,091
4. Calculate 30 percent of Item 3, representing maximum portion of a family's income that may be used for housing	\$18,027
5. Divide Item 4 by 12 to determine maximum monthly housing expense	\$1,502
6. Compare HUD 2018 Fair Market Rents for Stamford-Norwalk, CT HMFA	\$2,544
7. Use lesser of calculated maximum monthly expense (Item 5) and HUD fair market rent (Item 6)	\$1,502
8. Determine by reasonable estimate monthly expenses for heat and utility costs, excluding telephone and cable television but including any fee required for all tenants (tenant responsible for such expenses)	\$150
9. Subtract reasonable monthly expenses (Item 8) from maximum housing expense (Item 7) to determine maximum amount available for rent	\$1,352

**X. Principal Residence.**

Affordable Apartment Homes shall be occupied only as a tenant's principal residence. Sub-leasing by the tenant shall be prohibited.

## Exhibit C

**DOCUMENTATION OF ELIGIBILITY FOR CERTIFICATE OF  
AFFORDABLE HOUSING PROJECT COMPLETION**

- 1) PROJECT:** Canaan Parish
  
- 2) PROJECT TYPE:** 100 Family Rentals with Section 8 rental assistance, financing by ELIHC/CHFA
  
- 3) PROJECT ADDRESS:** 186 Lakeview Avenue  
New Canaan, CT 06840
  
- 4) PROPERTY OWNER AND ADDRESS:**  
Town of New Canaan  
77 Main Street  
New Canaan, CT 06840
  
- 5) DEVELOPER/OWNER:**  
Canaan Parish Redevelopment Ltd Partners\*  
c/o Canaan Parish Redevelopment Group LLC  
57 Millport Avenue  
New Canaan, CT 06840  
  
\*Canaan Parish Redevelopment Ltd Partners is a collaboration of the Housing Authority of New Canaan and New Canaan Neighborhoods, Inc.
  
- 6) PERSON OR ENTITY RESPONSIBLE FOR COMPLIANCE:**  
Westmount Management  
36 Park Place  
Branford, CT 06405

**7) PROJECT NARRATIVE AND DESCRIPTION:**

Canaan Parish is the redevelopment of a 60-unit Section 8 rental apartment complex on 5.02 acres at the intersection of Lakeview Avenue and State Route 123 in New Canaan that was originally built in 1978-1979. The land is owned by the Town of New Canaan and is under a long-term ground lease to New Canaan Neighborhoods, Inc., a local non-profit that originally developed the site. In 2018, Canaan Parish Redevelopment, LLC ("CPR"), which is a joint venture of New Canaan



Neighborhoods, LLC and the Housing Authority of the Town of New Canaan ("HANC"), submitted an application to the Planning & Zoning Commission for a zoning amendment, a rezoning of the property (Map Change) and a site plan approval for Canaan Parish – 100 affordable units in 2 buildings. Building 1, containing 60 Section 8 assisted rental units was completed in October 2021. Building 2, containing 40 additional affordable units was completed in June of 2023. The permanent Certificate of Occupancy was granted for both buildings on June 8, 2023.

Canaan Parish was originally developed in 1978-1979 and was a 60-unit complex of 10 two story structures. This 60-unit development was demolished in order to make room for the new 100-unit development.

In addition to the restrictions under the ELIHC program with the CHFA, the income limits for residents are restricted for 40 years under §8-30g income limits, pursuant to the Affordability Plan approved as part of the application to the P&Z Commission. At least 15% of the units will be restricted to households earning less than 60% State median income and the remaining units will be restricted to households earning less than 80% State median income.

**8) LIST OF ALL UNITS CONTRIBUTING TO HUE POINTS:**

186 Lakeview Avenue    Building 1    60 units, 49 Units Claimed

**9) TABLE OF POINTS:**

Type of Unit	# of Units	Housing Unit-Equivalency Point Value Per Unit	Total Housing Unit-Equivalency Points
Family units, rented, that are restricted to households with annual income no more than: <ul style="list-style-type: none"> <li>• 80% of (state) median income                             <ul style="list-style-type: none"> <li>◦ 1 and 2 BRs</li> </ul> </li> <li>• 60% of (State) median income                             <ul style="list-style-type: none"> <li>◦ 1 and 2 BRs</li> <li>◦ 3 BRs</li> </ul> </li> </ul>	34       7 8	1.5       2.00 2.25	51       14 18
<b>TOTAL</b>	<b>49</b>		<b>83 HUE Points</b>

Exhibit D

FOR NEW CANAAN, CONNECTICUT

ONE BEDROOM RENTAL UNIT FOR FAMILY EARNING LESS THAN 60 PERCENT OF STATEWIDE MEDIAN INCOME	SAMPLE COMPUTATIONS BASED ON FY 2024 DATA
1. Determine lower of relevant year (2024) area median income for Stamford-Norwalk, CT HUD Metro (\$180,500) or statewide median income (\$122,300), adjusted for family size (family of 4), as published by HUD	\$122,300
2. Determine adjusted income for household of 1.5 persons by calculating 75 percent of Item 1	\$91,725
3. Calculate 60 percent of Item 2	\$55,035
4. Calculate 30 percent of Item 3, representing maximum portion of a family's income that may be used for housing	\$16,511
5. Divide Item 4 by 12 to determine maximum monthly housing expense	\$1,376
6. Compare HUD 2024 Fair Market Rents for Stamford-Norwalk, CT HUD Metro	\$2,173
7. Use Lesser if calculated maximum monthly expense (Item 5) and HUD fair market rent (Item 6)	\$1,376
8. Determine by reasonable estimate monthly expenses for heat and utility costs, excluding telephone and cable television but including any fee required for all tenants (tenant responsible for such expenses)	\$125
9. Subtract reasonable monthly expenses (Items 8) from maximum housing expense (Item 7) to determine maximum amount available for rent	\$1,251

FOR NEW CANAAN, CONNECTICUT

TWO BEDROOM RENTAL UNIT FOR FAMILY EARNING LESS THAN 60 PERCENT OF STATEWIDE MEDIAN INCOME	SAMPLE COMPUTATIONS BASED ON FY 2024 DATA
1. Determine lower of relevant year (2024) area median income for Stamford-Norwalk, CT HUD Metro (\$180,500) or statewide median income (\$122,300), adjusted for family size (family of 4), as published by HUD	\$122,300
2. Determine adjusted income for household of 3 persons by calculating 90 percent of Item 1	\$110,070
3. Calculate 60 percent of Item 2	\$66,042
4. Calculate 30 percent of Item 3, representing maximum portion of a family's income that may be used for housing	\$19,813
5. Divide Item 4 by 12 to determine maximum monthly housing expense	\$1,652
6. Compare HUD 2024 Fair Market Rents for Stamford-Norwalk, CT HUD Metro	\$2,628
7. Use Lesser if calculated maximum monthly expense (Item 5) and HUD fair market rent (Item 6)	\$1,652
8. Determine by reasonable estimate monthly expenses for heat and utility costs, excluding telephone and cable television but including any fee required for all tenants (tenant responsible for such expenses)	\$150
9. Subtract reasonable monthly expenses (Items 8) from maximum housing expense (Item 7) to determine maximum amount available for rent	\$1,502

FOR NEW CANAAN, CONNECTICUT

THREE BEDROOM RENTAL UNIT FOR FAMILY EARNING LESS THAN 60 PERCENT OF STATEWIDE MEDIAN INCOME	SAMPLE COMPUTATIONS BASED ON FY 2024 DATA
1. Determine lower of relevant year (2024) area median income for Stamford-Norwalk, CT HUD Metro (\$180,500) or statewide median income (\$122,300), adjusted for family size (family of 4), as published by HUD	\$122,300
2. Determine adjusted income for household of 4.5 persons by calculating 104 percent of Item 1	\$127,192
3. Calculate 60 percent of Item 2	\$76,316
4. Calculate 30 percent of Item 3, representing maximum portion of a family's income that may be used for housing	\$22,895
5. Divide Item 4 by 12 to determine maximum monthly housing expense	\$1,908
6. Compare HUD 2024 Fair Market Rents for Stamford-Norwalk, CT HUD Metro	\$3,202
7. Use Lesser if calculated maximum monthly expense (Item 5) and HUD fair market rent (Item 6)	\$1,908
8. Determine by reasonable estimate monthly expenses for heat and utility costs, excluding telephone and cable television but including any fee required for all tenants (tenant responsible for such expenses)	\$175
9. Subtract reasonable monthly expenses (Items 8) from maximum housing expense (Item 7) to determine maximum amount available for rent	\$1,733

# EXHIBIT B

## Hollister, Timothy S.

---

**From:** Hollister, Timothy S.  
**Sent:** Tuesday, June 18, 2024 1:56 PM  
**To:** 'Rick Ross'; Watson, Laura  
**Cc:** shobbs@hobbsinc.com; Christopher Smith; 'Nicholas R. Bamonte'  
**Subject:** RE: Letter to Seila Mosquera-Bruno

Mr. Ross and Mr. Hobbs:

I have added Attorney Belmonte to this reply.

It is time for Westmount and the Housing Authority to stop playing games. If you disagree with our May 17 letter and its calculations – the source of which is the Town's 8-30g moratorium application. Emails from Mr. Ross, and the Canaan Parish website – then instead of an insulting "We do not agree," you need to provide proof to the Department of Housing of the actual rents and utility allowances being charged at Canaan Parish, and the actual qualifying incomes of the tenant households in the affordable units. We note that in the Town's most recent moratorium application, Westmount has again filed another so-called compliance statement, but with no supporting documents verifying ongoing compliance with the affordability requirements for the development. Please also bear in mind that the New Canaan Town Planner has recently verified that the Housing Authority *has never filed* a single Section 8-30h compliance statement with the New Canaan Planning and Zoning Commission, as required by state law, for either Millport or Canaan Parish.

The public comment period for New Canaan's new application is about to begin. I am, therefore, in this email, ask the Housing Authority and Westmount to confirm, **by the close of business this Friday June 21**, that the Housing Authority and Westmount will promptly supply the Department of Housing, with a copy to my office, as part of the Town's new moratorium application, with documentation proving the actual household incomes and actual rent and utility charges for all units at Canaan Parish since the facility opened. Since this is only two years, this is not a heavy lift. Failure to agree to this step will of course raise a critical question of what Westmount and the Housing Authority are hiding and why you are not cooperating. The Town is asking for an exemption from a remedial state statute, which only amplifies your duty to disclose this information.

If you do not agree to produce this information promptly and in a timely manner so it can be reviewed as part of the new moratorium application, then I will subpoena the information, and likely notice depositions so the information can be reviewed under oath, and I will formally ask the Department to declare the moratorium application incomplete until all of the information is produced and thoroughly reviewed. Please also understand that if this full disclosure and review are not undertaken, then my clients will be well positioned to ask a court to enjoin any moratorium on procedural grounds.

I looked forward to your response by this Friday. Thank you.

Tim Hollister

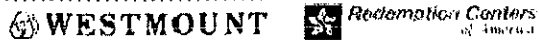
**From:** Rick Ross <rick@westmountmgmt.com>  
**Sent:** Tuesday, June 18, 2024 12:53 PM  
**To:** Hollister, Timothy S. <thollister@hinckleyallen.com>; Watson, Laura <Laura.Watson@ct.gov>  
**Cc:** shobbs@hobbsinc.com; Christopher Smith <csmith@alterpearson.com>  
**Subject:** RE: Letter to Seila Mosquera-Bruno

**EXTERNAL EMAIL**

Laura,

We do not agree with the calculations in the attached letter.

Rick Ross



Rick Ross  
36 Park Place  
Branford, CT 06405  
Ph: 203-483-4375 x10  
Cell: 203-687-2033  
Email: [rick@westmountmgmt.com](mailto:rick@westmountmgmt.com)  
[www.westmountinc.com](http://www.westmountinc.com)

**From:** Hollister, Timothy S. <[thollister@hinckleyallen.com](mailto:thollister@hinckleyallen.com)>  
**Sent:** Friday, May 17, 2024 11:44 AM  
**To:** Watson, Laura <[Laura.Watson@ct.gov](mailto:Laura.Watson@ct.gov)>  
**Cc:** [shobbs@hobbsinc.com](mailto:shobbs@hobbsinc.com); Rick Ross <[rick@westmountmgmt.com](mailto:rick@westmountmgmt.com)>; Christopher Smith <[csmith@alterpearson.com](mailto:csmith@alterpearson.com)>  
**Subject:** FW: Letter to Seila Mosquera-Bruno

To Laura Watson: Please find attached a letter to the Commissioner and your office, regarding New Canaan, thank you. Tim Hollister



# EXHIBIT C

From: Rick Ross <[rick@westmountmgmt.com](mailto:rick@westmountmgmt.com)>  
Sent: Monday, June 24, 2024 8:33 AM  
To: Hollister, Timothy S. <[thollister@hinckleyallen.com](mailto:thollister@hinckleyallen.com)>; Watson, Laura <[Laura.Watson@ct.gov](mailto:Laura.Watson@ct.gov)>  
Cc: [shobbs@hobbsinc.com](mailto:shobbs@hobbsinc.com); Christopher Smith <[csmith@alterpearson.com](mailto:csmith@alterpearson.com)>; Nicholas R. Bamonte <[nbamonte@berchemmoses.com](mailto:nbamonte@berchemmoses.com)>; Ann Werner <[ann@westmountmgmt.com](mailto:ann@westmountmgmt.com)>; Alec Cottiero <[alec@westmountmgmt.com](mailto:alec@westmountmgmt.com)>  
Subject: RE: Letter to Seila Mosquera-Bruno

## EXTERNAL EMAIL

---

Mr. Hollister,

As property managers, it is our responsibility to manage Canaan Parish according to its Affordability Plan. On pg. 8 of your PDF, which is pg 2 of the Affordability Plan, Section I, states:

### I. Homes Designated As Affordable Apartment Homes:

Within Canaan Parish, all apartment homes will qualify as "assisted housing" under General Statutes § 8-30g, and will be rented to a household or family whose annual income is equal to or less than eighty percent (80%) of the median income as defined in §8-30g-1(10) of the Regulations of Connecticut State Agencies. Because Canaan Parish will be financed at least in part through the federal Low Income Housing Tax Credit ("LIHTC") program, the applicant reserves the right, subject to the Commissioners approval, to conduct leasing at lower /more § 8-30g compliant levels. It is the intention of this Plan that all units within Canaan Parish redevelopment will qualify for "moratorium points" within the meaning of General Statutes § 8-30g.

On pg 9 of your PDF, pg 5 of the Affordability Plan, Section IX states:

### IX. Maximum Rental Price.

As set forth above, it is expected that the Canaan Parish redevelopment will be financed in part through the LIHTC program. As such, the Administrator will administer the units in compliance with the maximum household income, maximum monthly rent, and other program limits and requirements. As to any units not covered by LIHTC rules, the following formula shall be applicable, the intent being that all units will be § 8-30g compliant and will qualify for moratorium points. Calculation of the maximum rental price for an Affordable Apartment Home, so as to satisfy General Statutes § 8-30g, shall utilize the lesser of the area median income data for the Town or the statewide median income as published by HUD as in effect on the day a lease is signed by the lessee of the Affordable Apartment Home. The maximum rental price shall be calculated as follows:

All 100 units at Canaan Parish are covered under the LIHTC program. Therefore, per the Affordability Plan, and per LIHTC rules, we must comply with that program. We take the further step to comply with the Affordability Plan's statement regarding renting units at or below 80% of State Median Income, and rent units at rates in compliance with 80% of State Median which is significantly below the LIHTC allowed maximum.

2024 rent amounts are:

1BR \$1,494+\$125=\$1619 (max allowed per State Median \$1,710, max allowed per LIHTC \$2,031)  
2BR \$1,777+\$183=\$1,960 (max allowed per State Median \$2,018, max allowed per LIHTC \$2,437)  
3BR \$2,060+\$189+\$2,249 (max allowed per State Median \$2,355, max allowed per LIHTC \$2,816)

Please also keep in mind that 60 of the 100 units at Canaan Parish are covered by a HAP Contract with HUD. When layered in this fashion, it is our responsibility to ensure that all tenant portions of the rent do not exceed the above listed amounts. See attached documents for reference.

Based upon both items above, we believe we are in compliance with both the Affordability Plan and the LIHTC program as required.

Rick Ross

.....  
.....

2024 S-309 Rents - Canaan Parish

1 Bedroom 80%		2 Bedroom 80%		3 Bedroom 80%	
Statewide MFI	122,300	Statewide MFI	122,300	Statewide MFI	122,300
Stamford-Norwalk Metro HUD MFI	180,500	Stamford-Norwalk Metro HUD MFI	180,500	Stamford-Norwalk Metro HUD MFI	180,500
Stamford-Norwalk Metro HUD FMR	2,173	Stamford-Norwalk Metro HUD FMR	2,628	Stamford-Norwalk Metro HUD FMR	3,202
Utility Allowance	125	Utility Allowance	183	Utility Allowance	189
# Units		# Units		# units	
(1) Lesser of State and Area	122,300	(1) Lesser of State and Area	122,300	(1) Lesser of State and Area	122,300
(2) 75% of (1)	91,725	(2) 90% of (1)	110,070	(2) 104% of (1)	127,192
(3) 80% of (2)	73,380	(3) 80% of (2)	88,056	(3) 80% of (2)	101,754
(4) 30% of (3)	22,014	(4) 30% of (3)	26,417	(4) 30% of (3)	30,526
(5) (4) / 12	1,835	(5) (4) / 12	2,201	(5) (4) / 12	2,544
(6) 120% of Area FMR	2,608	(6) 120% of Area FMR	3,154	(6) 120% of Area FMR	3,842
(7) Lesser of (5) and (6)	1,835	(7) Lesser of (5) and (6)	2,201	(7) Lesser of (5) and (6)	2,544
(8) Utility Allowance	125	(8) Utility Allowance	183	(8) Utility Allowance	189
(9) (7) - (8)	1,710	(9) (7) - (8)	2,018	(9) (7) - (8)	2,355
Max Allowable	1,710	Max Allowable	2,018	Max Allowable	2,355
Tenant Rent	1,494	Tenant Rent	1,777	Tenant Rent	2,060
TTP + UA	1,619	TTP + UA	1,960	TTP + UA	2,249

2024 S-309 Rents - Canaan Parish

# **2024 Income Limit Area Definitions Connecticut Metropolitan & Non-Metropolitan Areas**

**(Effective 04/1/2024)**

**Must be put in use by 5/15/2024**

Source:

<https://www.huduser.gov/portal/datasets/mtsp/mtsp24/HERA-Income-Limits-Report-FY24.pdf>

### **Notes to Schedule of Maximum Affordable Rent and Gross Income Limits**

1. Maximum monthly rent is computed by multiplying the HUD maximum income adjusted for family size by 30% (maximum imputed housing expense allowance) then dividing by 12 (months). All decimal points round down.
2. Maximum monthly rent includes utilities except for household phone, internet and cable. Maximum rent must be reduced by an approved utility allowance for tenants that pay all or some utilities not provided by owner.
3. Maximum rents for LIHTC developments are determined by bedroom size for all developments after 1989 and pre-1990 developments receiving the irrevocable Rent Change Election of 1994. For developments before 1990, number of unit occupants must be used.
4. Per HUD methodology, the 4 person Low Income (80% of AMI) is limited to the U.S. median family income level unless justified by high housing costs.
5. Please be aware that all income limits used for the LIHTC program must be from the Multifamily Tax Subsidy Project (MTSP) Income Limits published by HUD. Section 8 properties will continue to use the Section 8 Income Limits.
6. For LIHTC properties – please note that HUD has added a Hold Harmless Policy which is impacting this year's income limits. Therefore, there are now areas that are impacted by the HUD Hold Harmless Policy in addition to areas that were previously impacted by the Housing & Economic Recovery Act of 2008 (HERA).
7. Applying the New Income Limits to LIHTC Properties:

### **HERA SPECIAL INCOME LIMITS AND HELD HARMLESS INCOME LIMITS:**

In addition to a 2024 Income Limit, some Connecticut Areas have been assigned HERA Special Income Limits or Held Harmless (HH) to FY2024. The HERA Special and HH Income Limits **MUST** be used by developments in those affected areas that were Placed In Service (PIS) prior to an applicable date or during a particular set of dates. The areas with HUD's special instructions are as follows:

- Southern Middlesex HMFA – PIS on or before 12/31/2008
- Bridgeport HMFA – PIS on or before 12/31/2008
- Norwich-New London HMFA – PIS on or before 12/31/2008
- Stamford-Norwalk HMFA – PIS on or before 12/31/2008
- Waterbury HMFA – PIS on or before 12/31/2008
- Litchfield County – PIS on or before 12/31/2008
- Milford-Ansonia-Seymour HMFA – PIS on or before 12/31/2008
- Windham County HMFA – PIS on or before 12/31/2008

#### **If the development was or will be placed in service on or after a date listed above:**

- Use the current MTSP limits
- The development may **NOT** use the HERA Special limits or the HH Income Limits
- If the income limits decreased from the limits in effect at the time of carryover allocation, the development must use the current income limits for determining tenant eligibility. However, rents can be calculated in accordance with the gross rent floor.

**NOTE:** The income limits are applied on a DEVELOPMENT-WIDE basis, depending on how the development is defined based on the multiple building election on the 8609s. If question 8b on the 8609s indicated that a building was part of a multiple-building development, all of the buildings in that multiple-building development will use the income limit based on the date the first building was placed in service. If question 8b on the 8609s indicated the building was NOT part of a multiple building development (in other words, it was set up as though each building is its own development), each building will use the income limit based on the date that particular building was placed in service.

## STATE: CONNECTICUT

-----I N C O M E L I M I T S-----

PROGRAM	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
Bridgport, CT HMEA FY 2024 MFI: \$117,100	41000 49200	46850 56220	52700 63240	58550 70260	63250 75900	67950 81540	72650 87180	77300 92760
HERA Special 50%*	41100	47000	52850	58700	63400	68100	72800	77500
HERA Special 60%*	49320	56400	63420	70440	76080	81720	87360	93000
Colchester-Lebanon, CT HMEA FY 2024 MFI: \$148,500	52000 62400	59400 71280	66850 80220	74250 89100	80200 96240	86150 103380	92100 110520	98050 117860
Danbury, CT HMEA FY 2024 MFI: \$147,700	51700 62040	59100 70920	66500 79800	73850 88620	79800 95760	85700 102840	91600 109920	97500 117000
Hartford-West Hartford-East Hartford, CT HM FY 2024 MFI: \$121,800	42650 51180	48750 58500	54850 65820	60900 73080	65800 78960	70650 84780	75550 90660	80400 96480
Millford-Ansonia-Seymour, CT HMEA FY 2024 MFI: \$130,300	45650 54780	52150 62580	58650 70380	65150 78180	70400 84480	75600 90720	80800 96960	86000 103200
New Haven-Meriden, CT HMEA FY 2024 MFI: \$116,100	40650 48780	46450 55740	52250 62700	58050 69660	62700 75240	67350 80820	72000 86400	76650 91980
Norwich-New London, CT HMEA FY 2024 MFI: \$107,000	40000 48000	45700 54840	51400 61680	57100 68520	61700 74040	66250 79500	70850 85020	75400 90480
Southern Middlesex County, CT HMEA FY 2024 MFI: \$148,900	40150 49180	45900 55080	51650 61980	57350 68820	61950 74340	66550 79860	71150 85380	75750 90900
Stamford-Norwalk, CT HMEA FY 2024 MFI: \$180,500	50900 61080	58150 69780	65450 78540	72700 87240	78500 94200	84350 101220	90150 108180	96000 115200
HERA Special 50%*	52150	59600	67050	74450	80450	86400	92350	98300
HERA Special 60%*	62580	71520	80460	89340	96540	103680	110820	117960
VERY LOW INCOME	63200	72200	81250	90250	97500	104700	111950	119150
60% INCOME LIMIT	75840	86640	97500	108300	117000	125640	134340	142980
HERA Special 50%*	63350	72400	81450	90450	97700	104950	112200	119400
HERA Special 60%*	76020	86880	97740	108540	117240	125940	134640	143280

\* Income Limit for a HUD hold harmless impacted project in a HUD impacted area whose current limit would be less than last year or less than its FY2008 limit times the Current Year Median (FY2024) over the FY2008 median. HUD impacted areas are areas with Section 8 Income Limits held harmless by HUD in FY2007 or FY2008.

STATE:CONNECTICUT

-----I N C O M E L I M I T S-----

PROGRAM	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
Waterbury, CT HMEA FY 2024 MFI: \$91,600	VERY LOW INCOME 40000	45700	51400	57100	61700	66250	70850	75400
	60% INCOME LIMIT 48000	54840	61680	68520	74040	79500	85020	90480
	HERA Special 50%* 42750	48850	54950	61050	65950	70850	75750	80600
	HERA Special 60%* 51300	58620	65940	73260	79140	85020	90900	96720
Windham County, CT HMEA FY 2024 MFI: \$90,300	VERY LOW INCOME 40000	45700	51400	57100	61700	66250	70850	75400
	60% INCOME LIMIT 48000	54840	61680	68520	74040	79500	85020	90480
	HERA Special 50%* 40600	46400	52200	57950	62600	67250	71900	76500
	HERA Special 60%* 48720	55680	62640	69540	75120	80700	86280	91800
Litchfield County, CT FY 2024 MFI: \$114,200	VERY LOW INCOME 40000	45700	51400	57100	61700	66250	70850	75400
	60% INCOME LIMIT 48000	54840	61680	68520	74040	79500	85020	90480
	HERA Special 50%* 40150	45900	51650	57350	61950	66550	71150	75750
	HERA Special 60%* 48180	55080	61980	68820	74340	79860	85380	90900

\* Income Limit for a HUD hold harmless impacted project in a HUD impacted area whose current limit would be less than last year or less than its FY2008 limit times the Current Year Median (FY2024) over the FY2008 median. HUD impacted areas are areas with Section 8 Income Limits held harmless by HUD in FY2007 or FY2008.



## Multifamily Tax Subsidy Project

### Income Limits

EFFECTIVE DATE: 4/1/2024 (Until Superseded)

This chart is provided as a guide only. You are responsible for ensuring the accuracy of the numbers.

#### MAXIMUM INCOME BY HOUSEHOLD/MAXIMUM RENTS LIMITS

BRIDGEPORT HMFA (HERA)								
For use by developments Placed in Service on or before 12/31/2008 (FY2024 HERA Special)								
INCOME LIMITS	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
20% of Median	16440	18800	21140	23480	25360	27240	29120	31000
25% of Median	20550	23500	26425	29350	31700	34050	36400	38750
30% of Median	24660	28200	31710	35220	38040	40860	43680	46500
40% of Median	32880	37600	42280	46960	50720	54480	58240	62000
50% of Median	41100	47000	52850	58700	63400	68100	72800	77500
60% of Median	49320	56400	63420	70440	76080	81720	87360	93000
70% of Median	57540	65800	73990	82180	88760	95340	101920	108500
80% of Median	65760	75200	84560	93920	101440	108960	116480	124000

RENT LIMITS	Studio	1 bedroom	2 bedroom	3 bedroom	4 bedroom
20% of Median	411	440	528	610	681
25% of Median	513	550	660	763	851
30% of Median	616	660	792	915	1021
40% of Median	822	881	1057	1221	1362
50% of Median	1027	1101	1321	1526	1702
60% of Median	1233	1321	1585	1831	2043
70% of Median	1438	1541	1849	2136	2383
80% of Median	1644	1762	2114	2442	2724

BRIDGEPORT HMFA								
For use by developments Placed in Service on 4/1/2024 or after (FY2024)								
INCOME LIMITS	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
20% of Median	16400	18740	21080	23420	25300	27180	29060	30920
25% of Median	20500	23425	26350	29275	31625	33975	36325	38650
30% of Median	24600	28110	31620	35130	37950	40770	43590	46380
40% of Median	32800	37480	42160	46840	50600	54360	58120	61840
50% of Median	41000	46850	52700	58550	63250	67950	72650	77300
60% of Median	49200	56220	63240	70260	75900	81540	87180	92760
70% of Median	57400	65590	73780	81970	88550	95130	101710	108220
80% of Median	65600	74960	84320	93680	101200	108720	116240	123680

RENT LIMITS	Studio	1 bedroom	2 bedroom	3 bedroom	4 bedroom
20% of Median	410	439	527	609	679
25% of Median	512	549	658	761	849
30% of Median	615	658	790	913	1019
40% of Median	820	878	1054	1218	1359
50% of Median	1025	1098	1317	1522	1698
60% of Median	1230	1317	1581	1827	2038
70% of Median	1435	1537	1844	2131	2378
80% of Median	1640	1757	2108	2436	2718

<b>BRIDGEPORT HMFA</b>									
For use by developments Placed in Service between 1/1/2009 and 3/31/2024 (FY2023)									
<b>INCOME LIMITS</b>	<b>1 person</b>	<b>2 person</b>	<b>3 person</b>	<b>4 person</b>	<b>5 person</b>	<b>6 person</b>	<b>7 person</b>	<b>8 person</b>	
20% of Median	16440	18800	21140	23480	25360	27240	29120	31000	
25% of Median	20550	23500	26425	29350	31700	34050	36400	38750	
30% of Median	24660	28200	31710	35220	38040	40860	43680	46500	
40% of Median	32880	37600	42280	46960	50720	54480	58240	62000	
50% of Median	41100	47000	52850	58700	63400	68100	72800	77500	
60% of Median	49320	56400	63420	70440	76080	81720	87360	93000	
70% of Median	57540	65800	73990	82180	88760	95340	101920	108500	
80% of Median	65760	75200	84560	93920	101440	108960	116480	124000	

<b>RENT LIMITS</b>	<b>Studio</b>	<b>1 bedroom</b>	<b>2 bedroom</b>	<b>3 bedroom</b>	<b>4 bedroom</b>
20% of Median	411	440	528	610	681
25% of Median	513	550	660	763	851
30% of Median	616	660	792	915	1021
40% of Median	822	881	1057	1221	1362
50% of Median	1027	1101	1321	1526	1702
60% of Median	1233	1321	1585	1831	2043
70% of Median	1438	1541	1849	2136	2383
80% of Median	1644	1762	2114	2442	2724

<b>NEW HAVEN-MERIDEN HMFA</b>									
For use by ALL developments in this Federal Statistical Area (FY2024)									
<b>INCOME LIMITS</b>	<b>1 person</b>	<b>2 person</b>	<b>3 person</b>	<b>4 person</b>	<b>5 person</b>	<b>6 person</b>	<b>7 person</b>	<b>8 person</b>	
20% of Median	16260	18580	20900	23220	25080	26940	28800	30660	
25% of Median	20325	23225	26125	29025	31350	33675	36000	38325	
30% of Median	24390	27870	31350	34830	37620	40410	43200	45990	
40% of Median	32520	37160	41800	46440	50160	53880	57600	61320	
50% of Median	40650	46450	52250	58050	62700	67350	72000	76650	
60% of Median	48780	55740	62700	69660	75240	80820	86400	91980	
70% of Median	56910	65030	73150	81270	87780	94290	100800	107310	
80% of Median	65040	74320	83600	92880	100320	107760	115200	122640	

<b>RENT LIMITS</b>	<b>Studio</b>	<b>1 bedroom</b>	<b>2 bedroom</b>	<b>3 bedroom</b>	<b>4 bedroom</b>
20% of Median	406	435	522	603	673
25% of Median	508	544	653	754	841
30% of Median	609	653	783	905	1010
40% of Median	813	871	1045	1207	1347
50% of Median	1016	1088	1306	1509	1683
60% of Median	1219	1306	1567	1811	2020
70% of Median	1422	1524	1828	2113	2357
80% of Median	1626	1742	2090	2415	2694

<b>SOUTHERN MIDDLESEX HMFA (HERA)</b>									
<b>For use by developments Placed in Service on or before 12/31/2008 (FY2024 HERA Special)</b>									
<b>INCOME LIMITS</b>	<b>1 person</b>	<b>2 person</b>	<b>3 person</b>	<b>4 person</b>	<b>5 person</b>	<b>6 person</b>	<b>7 person</b>	<b>8 person</b>	
20% of Median	20860	23840	26820	29780	32180	34560	36940	39320	
25% of Median	26075	29800	33525	37225	40225	43200	46175	49150	
30% of Median	31290	35760	40230	44670	48270	51840	55410	58980	
40% of Median	41720	47680	53640	59560	64360	69120	73880	78640	
50% of Median	52150	59600	67050	74450	80450	86400	92350	98300	
60% of Median	62580	71520	80460	89340	96540	103680	110820	117960	
70% of Median	73010	83440	93870	104290	112630	120960	129290	137620	
80% of Median	83440	95360	107280	119120	128720	138240	147760	157280	

<b>RENT LIMITS</b>	<b>Studio</b>	<b>1 bedroom</b>	<b>2 bedroom</b>	<b>3 bedroom</b>	<b>4 bedroom</b>
20% of Median	521	558	670	774	864
25% of Median	651	698	838	968	1080
30% of Median	782	838	1005	1161	1296
40% of Median	1043	1117	1341	1549	1728
50% of Median	1303	1396	1676	1936	2160
60% of Median	1564	1676	2011	2323	2592
70% of Median	1825	1955	2346	2710	3024
80% of Median	2086	2235	2682	3098	3456

<b>STAMFORD-NORWALK HMFA</b>									
<b>For use by developments Placed in Service on 1/1/2009 or after (FY2024)</b>									
<b>INCOME LIMITS</b>	<b>1 person</b>	<b>2 person</b>	<b>3 person</b>	<b>4 person</b>	<b>5 person</b>	<b>6 person</b>	<b>7 person</b>	<b>8 person</b>	
20% of Median	25280	28880	32500	36100	39000	41880	44780	47660	
25% of Median	31600	36100	40625	45125	48750	52350	55975	59575	
30% of Median	37920	43320	48750	54150	58500	62820	67170	71490	
40% of Median	50560	57760	65000	72200	78000	83760	89560	95320	
50% of Median	63200	72200	81250	90250	97500	104700	111950	119150	
60% of Median	75840	86640	97500	108300	117000	125640	134340	142980	
70% of Median	88480	101080	113750	126350	136500	146580	156730	166810	
80% of Median	101120	115520	130000	144400	156000	167520	179120	190640	

<b>RENT LIMITS</b>	<b>Studio</b>	<b>1 bedroom</b>	<b>2 bedroom</b>	<b>3 bedroom</b>	<b>4 bedroom</b>
20% of Median	632	677	812	938	1047
25% of Median	790	846	1015	1173	1308
30% of Median	948	1015	1218	1408	1570
40% of Median	1264	1354	1625	1877	2094
50% of Median	1580	1692	2031	2346	2617
60% of Median	1896	2031	2437	2816	3141
70% of Median	2212	2369	2843	3285	3664
80% of Median	2528	2708	3250	3755	4188

**STAMFORD-NORWALK HMFA (HERA)**

**For use by developments Placed in Service ON OR BEFORE 12/31/2008 (FY2024 HERA Special)**

INCOME LIMITS	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
20% of Median	25340	28960	32580	36180	39080	41980	44880	47760
25% of Median	31675	36200	40725	45225	48850	52475	56100	59700
30% of Median	38010	43440	48870	54270	58620	62970	67320	71640
40% of Median	50680	57920	65160	72360	78160	83960	89760	95520
50% of Median	63350	72400	81450	90450	97700	104950	112200	119400
60% of Median	76020	86880	97740	108540	117240	125940	134640	143280
70% of Median	88690	101360	114030	126630	136780	146930	157080	167160
80% of Median	101360	115840	130320	144720	156320	167920	179520	191040

RENT LIMITS	Studio	1 bedroom	2 bedroom	3 bedroom	4 bedroom
20% of Median	633	678	814	940	1049
25% of Median	791	848	1018	1175	1311
30% of Median	950	1018	1221	1411	1574
40% of Median	1267	1357	1629	1881	2099
50% of Median	1583	1696	2036	2351	2623
60% of Median	1900	2036	2443	2822	3148
70% of Median	2217	2375	2850	3292	3673
80% of Median	2534	2715	3258	3763	4198

**DANBURY HMFA**

**For use by ALL developments in this Federal Statistical Area (FY2024)**

INCOME LIMITS	1 person	2 person	3 person	4 person	5 person	6 person	7 person	8 person
20% of Median	20680	23640	26600	29540	31920	34280	36640	39000
25% of Median	25850	29550	33250	36925	39900	42850	45800	48750
30% of Median	31020	35460	39900	44310	47880	51420	54960	58500
40% of Median	41360	47280	53200	59080	63840	68560	73280	78000
50% of Median	51700	59100	66500	73850	79800	85700	91600	97500
60% of Median	62040	70920	79800	88620	95760	102840	109920	117000
70% of Median	72380	82740	93100	103390	111720	119980	128240	136500
80% of Median	82720	94560	106400	118160	127680	137120	146560	156000

RENT LIMITS	Studio	1 bedroom	2 bedroom	3 bedroom	4 bedroom
20% of Median	517	554	665	768	857
25% of Median	646	692	831	960	1071
30% of Median	775	831	997	1152	1285
40% of Median	1034	1108	1330	1536	1714
50% of Median	1292	1385	1662	1920	2142
60% of Median	1551	1662	1995	2304	2571
70% of Median	1809	1939	2327	2688	2999
80% of Median	2068	2216	2660	3073	3428

# EXHIBIT D

## Hollister, Timothy S.

---

**From:** Hollister, Timothy S.  
**Sent:** Monday, July 8, 2024 11:17 AM  
**To:** 'Rick Ross'; shobbs@hobbsinc.com; 'Watson, Laura'; Santoro, Michael C; 'Nicholas R. Bamonte'  
**Cc:** 'Christopher Smith'; 'Paul Stone'; 'Arnold Karp'  
**Subject:** New Canaan pending moratorium application

To Rick Ross, Scott Hobbs, Attorney Bamonte, Michael Santoro, and Laura Watson:

We delayed our response to the June 24 email below to take the time to review New Canaan's most recent moratorium application, as posted by DOH on June 18, to see if any affordability compliance information was included. We have now finished an initial review, and as in the prior applications, no such information is included. We will be submitting to DOH by the July 25 deadline comments addressing the legal basis for requiring annual affordability compliance information (which we have addressed in detail in prior comments), along with demolition deductions, holdover points, and a variety of errors and omissions in the June 18 application. The purpose of this email, however, is to ask DOH, as part of its current review, to require from the Town specific affordability compliance information, without which New Canaan's application must be declared incomplete.

We would point out that New Canaan's Town Planner has conceded that no 8-30h annual report has ever been filed with the New Canaan PZC for Millport or Canaan Parish. In addition, the one page documents titled "8-30h compliance affidavits," filed for Millport and Canaan Parish by Mr. Ross, are not compliant with 8-30h, because they do not provide annual or ongoing compliance information. We also note that according to financing documents and affordability plans filed with the current moratorium application, there are varying requirements as to maximum household income and maximum rent and utility allowances, including specific requirements related to Section 8, and for the Low Income Housing Tax Credits, documents referring to 60 or 80 percent not of the Connecticut statewide median income, but "Area Median Gross Income" as stated in "the federal code," with no citation, no reference to a specific income limit, and no explanation as to how this income limit compares to the Connecticut state median income. Also, we have already pointed out in our May 17 letter to the Commissioner that at Canaan Parish, what is being charged exceeds what is advertised on the project website and exceeds 8-30g limits, which are established by the Affordability Plan for each development as a specific limit, regardless of federal or state financing program limits.

Therefore, we ask that DOH, as part of its current review of New Canaan's application, to demand from the Town information and supporting documentation for Millport from Jan 1 2017 to the present, and Canaan Parish January 1, 2022 to the present:

1. For each affordable unit, for each year, the calculation of the maximum qualifying annual household income and the maximum rent and utility allowance to be charged;
2. The tenant household's actual income; and
3. What the tenant household actually paid in rent and utility allowance.

We note that all of this information should be readily available because the financing documents require that it be compiled and reported at least annually. Also, with both developments being relatively new, the number of years to be documented is not large.

We are amenable to a discussion of how and in what format this information should be provided to DOH, but what the Town has filed with DOH so far is clearly insufficient. The Town and the Department should clearly understand that if the information outlined above is not filed, then a clear basis will have been established for a legal challenge to, and an

injunction against, any moratorium granted. The Town's continuing refusal to provide this information only undermines the integrity of the moratorium program and begs the question of why the Town is not being cooperative.

Everyone should bear in mind that 8-30g is a remedial statute, and New Canaan is applying for an exemption, so statutory requirements must be strictly construed, and a "trust us" approach cannot be the basis for obtaining a moratorium.

Thank you for your attention.

Tim Hollister

# EXHIBIT E



Whispering Pines

Unit	# Bed	R	Move-in Lease Date	Certification Date	Tenant Name	# Hsld	Cert Income	W/Sheet Income	Rent	U/A	Gross Rent	Elig yma?	Comp ym?	Comments
CT9801001	41	R	10/8/2021	10/1/2023	Hansen	1	\$43,588.80	\$43,588.80	\$1,110.00	\$145.00	\$1,255.00	Yes	Yes	No issues.
CT9801001	54		12/1/2023	12/1/2023	Hansen	1	\$37,963.43	\$37,963.43	\$1,146.00	\$145.00	\$1,291.00	Yes	Yes	No issues.
CT9801002	67	R	9/16/2022	9/1/2023	Zionts	1	\$34,707.49	\$34,707.68	\$1,280.00	\$148.00	\$1,428.00	Yes	Yes	No issues.
CT9801002	69		7/1/2023	7/1/2023	Johnson	1	\$47,559.96	\$47,559.96	\$1,359.00	\$148.00	\$1,507.00	Yes	Yes	PROCEDURAL ISSUE: 1. The third page of the TIC with the extra three assets was not provided. They were verified and recorded on the calculation sheet. Going forward, always provide this page.
CT9801002	73	R	5/1/2022	5/1/2024	Cataldi	1	\$24,000.00	\$24,000.00	\$1,330.00	\$148.00	\$1,478.00	Yes	Yes	No issues.
CT9801003	78	R	10/1/2020	10/1/2023	LaProvidenza	1	\$27,804.00	\$27,804.00	\$910.00	\$145.00	\$1,055.00	Yes	Yes	PROCEDURAL ISSUE: 1. There were blanks on the top of the Self-Cert. Do not leave any blanks on this form.
CT9801003	79	R	10/1/2021	10/1/2023	Eldaracher	2	\$50,376.72	\$50,376.72	\$1,260.00	\$148.00	\$1,428.00	Yes	Yes	PROCEDURAL ISSUE: 1. There were blanks on the top of the Self-Cert. Do not leave any blanks on this form.
CT9801003	80	R	4/1/2022	4/1/2024	Stuenkel	1	\$30,172.08	\$30,712.08	\$1,155.00	\$145.00	\$1,300.00	Yes	Yes	No issues.
CT9801003	81	R	3/20/2023	3/20/2024	Soulier	2	\$39,332.68	\$39,332.68	\$1,436.00	\$148.00	\$1,584.00	Yes	Yes	No issues.
CT9801003	87	R	4/1/2023	4/1/2024	Moss	1	\$28,583.04	\$28,583.04	\$1,436.00	\$148.00	\$1,584.00	Yes	Yes	PROCEDURAL ISSUE: 1. TIC signed late on 4/4/2024.
CT9801003	88	R	5/1/2023	5/1/2024	Carter	1	\$37,368.22	\$37,368.22	\$1,436.00	\$148.00	\$1,584.00	Yes	Yes	No issues.

# EXHIBIT F

Building #	Unit #	AMI (%)	# Beds	Unit Status	Total HH Count	Max Gross Income	Total HH Income	Moves In Date	Lease Start Date	Leave Bed Date	Months (Y/M)	Current Gross Rent	Utility Allowance (BLA)	Net Rent	Building #	Unit #	AMI (%)	# Beds	Unit Status	Total HH Count	Max Gross Income	Total HH Income	Moves In Date	Lease Start Date	Leave Bed Date	Months (Y/M)	Current Gross Rent	Utility Allowance (BLA)	Net Rent	Building #	Unit #	AMI (%)	# Beds	Unit Status	Total HH Count	Max Gross Income	Total HH Income	Moves In Date	Lease Start Date	Leave Bed Date	Months (Y/M)	Current Gross Rent	Utility Allowance (BLA)	Net Rent	Building #	Unit #	AMI (%)	# Beds	Unit Status	Total HH Count	Max Gross Income	Total HH Income	Moves In Date	Lease Start Date	Leave Bed Date	Months (Y/M)	Current Gross Rent	Utility Allowance (BLA)	Net Rent	Building #	Unit #	AMI (%)	# Beds	Unit Status	Total HH Count	Max Gross Income	Total HH Income	Moves In Date	Lease Start Date	Leave Bed Date	Months (Y/M)	Current Gross Rent	Utility Allowance (BLA)	Net Rent
------------	--------	---------	--------	-------------	----------------	------------------	-----------------	---------------	------------------	----------------	--------------	--------------------	-------------------------	----------	------------	--------	---------	--------	-------------	----------------	------------------	-----------------	---------------	------------------	----------------	--------------	--------------------	-------------------------	----------	------------	--------	---------	--------	-------------	----------------	------------------	-----------------	---------------	------------------	----------------	--------------	--------------------	-------------------------	----------	------------	--------	---------	--------	-------------	----------------	------------------	-----------------	---------------	------------------	----------------	--------------	--------------------	-------------------------	----------	------------	--------	---------	--------	-------------	----------------	------------------	-----------------	---------------	------------------	----------------	--------------	--------------------	-------------------------	----------

# EXHIBIT G

1989 Conn. Legis. Serv. P. A. 89-311

CONNECTICUT

Public Acts

1989 January Regular Session

Additions are indicated by <<+ UPPERCASE +>>

Deletions by <<- Lowercase ->>

P.A.NO. 89-311

S.H.B.NO. 7270

AFFORDABLE HOUSING DEVELOPMENTS—APPEALS—ZONING

AN ACT ESTABLISHING A STATE AFFORDABLE HOUSING LAND USE APPEALS PROCEDURE AND CONCERNING THE EFFECT OF CHANGES IN ZONING OR INLAND WETLANDS REGULATIONS ON PREVIOUSLY FILED APPLICATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (a) As used in this section: (1) "Affordable housing development" means a proposed housing development (A) which is assisted housing or (B) in which not less than twenty per cent of the dwelling units will be conveyed by deeds containing covenants or restrictions which shall require that such dwelling units be sold or rented at, or below, prices which will preserve the units as affordable housing, as defined in section 8-39a of the general statutes, for persons and families whose income is less than or equal to eighty per cent of the area median income, for at least twenty years after the initial occupation of the proposed development; (2) "affordable housing application" means any application made to a commission in connection with an affordable housing development by a person who proposes to develop such affordable housing; (3) "assisted housing" means housing which is receiving, or will receive, financial assistance under any governmental program for the construction or substantial rehabilitation of low and moderate income housing, and any housing occupied by persons receiving rental assistance under chapter 138a of the general statutes or section 1437f of title 42 of the United States Code; (4) "commission" means a zoning commission, planning commission, planning and zoning commission, zoning board of appeals or municipal agency exercising zoning or planning authority; and (5) "municipality" means any town, city or borough, whether consolidated or unconsolidated.

(b) Any person whose affordable housing application is denied or is approved with restrictions which have a substantial adverse impact on the viability of the affordable housing development or the degree of affordability of the affordable dwelling units, specified in subparagraph (B) of subdivision (1) of subsection (a) of this section, contained in the affordable housing development, may appeal such decision pursuant to the procedures of this section. Such appeal shall be filed within the time period for filing appeals as set forth in sections 8-8, 8-9, 8-28, 8-30, or 8-30a of the general statutes, as applicable, and shall be made returnable to the superior court for the judicial district of Hartford-New Britain. Affordable housing appeals shall be heard by a judge assigned by the chief court administrator to hear such appeals. To the extent practicable, efforts shall be made to assign such cases to a small number of judges so that a consistent body of expertise can be developed. Appeals taken pursuant to this subsection shall be privileged cases to be heard by the court as soon after the return day as is practicable. Except as otherwise provided in this section, appeals involving an affordable housing application shall proceed in conformance with the provisions of said sections 8-8, 8-9, 8-28, 8-30, or 8-30a, as applicable.

(c) Upon an appeal taken under subsection (b) of this section, the burden shall be on the commission to prove, based upon the evidence in the record compiled before such commission that (1) the decision from which such appeal is taken and the reasons cited for such decision are supported by sufficient evidence in the record; (2) the decision is necessary to protect substantial public interests in health, safety, or other matters which the commission may legally consider; (3) such public interests

clearly outweigh the need for affordable housing; and (4) such public interests cannot be protected by reasonable changes to the affordable housing development. 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 from which the appeal was taken in a manner consistent with the evidence in the record before it.

(d) Following a decision by a commission to reject an affordable housing application or to approve an application with restrictions which have a substantial adverse impact on the viability of the affordable housing development or the degree of affordability of the affordable dwelling units, the applicant may, within the period for filing an appeal of such decision, submit to the commission a proposed modification of its proposal responding to some or all of the objections or restrictions articulated by the commission, which shall be treated as an amendment to the original proposal. The filing of such a proposed modification shall stay the period for filing an appeal from the decision of the commission on the original application. The commission may hold a public hearing and shall render a decision on the proposed modification within forty-five days of the receipt of such proposed modification. The commission shall issue notice of its decision as provided by law. Failure of the commission to render a decision within said forty-five days shall constitute a rejection of the proposed modification. Within the time period for filing an appeal on the proposed modification as set forth in sections 8-8, 8-9, 8-28, 8-30, or 8-30a of the general statutes, as applicable, the applicant may appeal the commission's decision on the original application and the proposed modification in the manner set forth in this section. Nothing in this subsection shall be construed to limit the right of an applicant to appeal the original decision of the commission in the manner set forth in this section without submitting a proposed modification or to limit the issues which may be raised in any appeal under this section.

(e) Nothing in this section shall be deemed to preclude any right of appeal under the provisions of sections 8-8, 8-9, 8-28, 8-30, or 8-30a of the general statutes.

(f) Notwithstanding the provisions of subsections (a) to (e), inclusive, of this section, the affordable housing appeals procedure established under this section shall not be available if the real property which is the subject of the application is located in a municipality in which at least ten per cent of all dwelling units in the municipality are (1) assisted housing or (2) currently financed by Connecticut Housing Finance Authority mortgages or (3) subject to deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will preserve the units as affordable housing, as defined in section 8-39a of the general statutes, for persons and families whose income is less than or equal to eighty per cent of the area median income. The commissioner of housing shall, pursuant to regulations adopted under the provisions of chapter 54 of the general statutes, promulgate a list of municipalities which satisfy the criteria contained in this subsection and shall update such list not less than annually.

(g) Notwithstanding the provisions of subsections (a) to (e), inclusive, of this section, the affordable housing appeals procedure shall not be applicable to an affordable housing application filed with a commission during the one-year period after a certification of affordable housing project completion issued by the commissioner of housing is published in the Connecticut Law Journal. The commissioner of housing shall issue a certification of affordable housing project completion for the purposes of this subsection upon finding that (1) the municipality has completed an initial eligible housing development or developments pursuant to section 8-336f or sections 8-386 and 8-387 of the general statutes which create affordable dwelling units equal to at least one per cent of all dwelling units in the municipality and (2) the municipality is actively involved in the Connecticut housing partnership program or the regional fair housing compact pilot program under said sections. The affordable housing appeals procedure shall be applicable to affordable housing applications filed with a commission after such one-year period, except as otherwise provided in subsection (f) of this section.

Sec. 2. (NEW) (a) An application filed with a zoning commission, planning and zoning commission, zoning board of appeals or agency exercising zoning authority of a town, city or borough which is in conformance with the applicable zoning regulations as of the time of filing shall not be required to comply with, nor shall it be disapproved for the reason that it does not comply with, any change in the zoning regulations or the boundaries of zoning districts of such town, city or borough taking effect after the filing of such application.

(b) An application for a building permit or certificate of occupancy filed with the building official of a city, town or borough prior to the adoption of zoning regulations by such city, town or borough in accordance with chapter 124 of the general statutes shall not be required to comply with, nor shall it be disapproved for the reason that it does not comply with, such zoning regulations.

AFFORDABLE HOUSING..., 1989 Conn. Legis....

---

Sec. 3. (NEW) An application filed with an inland wetlands agency which is in conformance with the applicable inland wetlands regulations as of the date of the decision of such agency with respect to such application shall not be required thereafter to comply with any change in inland wetlands regulations or boundaries taking effect on or after the date of such decision and any appeal from the decision of such agency with respect to such application shall not be dismissed by the superior court on the grounds that such a change has taken effect on or after the date of such decision.

Sec. 4. This act shall take effect October 1, 1989, except that section 1 of this act shall take effect July 1, 1990.

Approved June 29, 1989.

CT LEGIS P. A. 89-311

---

End of Document

© 2024 Thomson Reuters. No claim to original U.S. Government Works.

# EXHIBIT H



**Zocco, Annamaria F.**

**From:** Hollister, Timothy S.  
**Sent:** Wednesday, June 5, 2024 3:43 PM  
**To:** Zocco, Annamaria F.  
**Subject:** FW: Orange - Letter of Completeness - New Canaan Request

Please print thanks

**From:** Santoro, Michael C <Michael.Santoro@ct.gov>  
**Sent:** Wednesday, June 5, 2024 12:27 PM  
**To:** Hollister, Timothy S. <thollister@hinckleyallen.com>; Watson, Laura <Laura.Watson@ct.gov>  
**Cc:** Howe, Carrie-Anne M. <chowe@hinckleyallen.com>  
**Subject:** Orange - Letter of Completeness - New Canaan Request

**EXTERNAL EMAIL**

Attorney Hollister:

Throughout that period, units at Millport and Canaan Parish were counted on the Affordable Appeals 10% Exempt List.

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Millport Apartments	18	18	18	18	18	18	18	18	18	18	18	18	18	40	40	40	40	40	
Canaan Parish	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60

Please continue to Social Distance and Wear a Mask when Indoors.

Michael C. Santoro  
Director, Office of Policy, Research and Housing Support  
Department of Housing  
505 Hudson Street  
Hartford, CT 06106-7106

# EXHIBIT I



STATE OF CONNECTICUT  
DEPARTMENT OF HOUSING

WELL P. WEICKER, JR.  
GOVERNOR

HENRY S. SCHERER, JR.  
COMMISSIONER

To: All Interested Parties  
From: Patricia Downs, Director of Policy and Planning  
Date: April 12, 1994  
Subject: Affordable Housing Appeals Procedure  
Percentages of Assisted Housing Units

The current list of percentages of assisted housing by municipalities is attached.

The units counted for this list are: (1) assisted housing units - housing which is receiving financial assistance under any governmental program for the construction or substantial rehabilitation of low and moderate income housing which was occupied by September 30, 1993, and any housing occupied by persons receiving rental assistance under Chapter 138a or Section 142f of Title 42 of the United States Code; (2) Ownership Housing - currently financed by Connecticut Housing Finance Authority mortgages or (3) Deed Restricted Property - deeds containing covenants or restrictions which require that such dwelling units be sold or rented at or below prices which will preserve the units as affordable housing, as defined in Section 8-39a, for persons and families whose incomes are less than or equal to eighty percent of the area median income.

Some municipalities may notice a change in the total number of family and elderly assisted housing rental units. These changes were caused by (1) towns indicating that projects were double counted, (2) a shift in the number of family/elderly Section 8 certificates/vouchers, and (3) shifts in the geographic location of Rental Assistance certificates. For future lists, DOH has requested from HUD clarification of the Section 8 family/elderly certificates and vouchers because of the difficulty in ensuring the consistency of data received from a variety of sources. Some towns provide a breakdown of the Section 8 family/elderly certificates and vouchers and the breakdowns do not remain the same from year to year. Other towns do not provide breakdowns. These inconsistencies do not affect the totals, but make it difficult to distinguish between the number of family and elderly units.

The 1993 Estimated Housing Units column has been updated by using the 1990 Census and adding the number of building permits issued since the Census was taken. It should be noted that because not all permits issued become units, some municipalities may notice decreases in the total number of units as permit figures are revised from one year to the next.

If you have any questions about this information, please call Gail Perotti at 566-4180.

Deaf and hearing impaired individuals may use a TDD by calling 566-4180. Questions, concerns, complaints, or requests for information in alternative formats must be directed to Marcia Bonitto, ADA (504) Coordinator at 566-5315. Department of Housing programs are administered in a nondiscriminatory manner, consistent with equal employment opportunities, affirmative action, and fair housing requirements.

AFFORDABLE HOUSING APPEALS PROCEDURE LIST

1993 Est.      Assisted Rental      C H F A      Deed  
 Housing Units Family      Elderly      Mortgages      Restricted Percentages

TOWNS WHICH ARE EXEMPT UNDER SECTION 1(f) OF P.A. 89-311

Ansonia	7,616	940	164	132		16.23%
Bloomfield	7,995	215	406	286		11.34%
Bridgeport	56,930	7,087	3,380	2,068	42	22.09%
Bristol	25,310	1,262	993	869	24	12.44%
Brooklyn	2,464	102	109	57		10.88%
East Hartford	21,357	1,665	872	653		14.94%
East Windsor	4,151	370	124	77		13.76%
Enfield	16,734	847	377	748	7	11.83%
Groton	16,784	2,745	489	312		21.13%
Hartford	56,081	13,044	3,257	1,733		32.16%
Manchester	22,006	1,555	393	596		11.56%
Meriden	24,888	2,069	838	869		15.17%
Middletown	18,424	2,130	796	393		18.01%
Naugatuck	12,158	500	326	391		10.01%
New Britain	32,315	3,135	1,201	1,001		16.52%
New Haven	54,228	7,993	4,179	1,715	60	25.72%
New London	11,962	1,188	577	369		17.84%
Norwich	16,508	1,307	835	494		15.97%
Plainfield	5,449	219	175	181		10.55%
Putnam	3,826	277	225	63		14.77%
Stamford	44,947	3,911	1,626	395		13.20%
Torrington	15,445	710	509	516		11.23%
Wernon	12,788	1,229	570	279		16.25%
Waterbury	47,548	4,875	2,027	1,921		18.56%
Winchester	5,129	336	166	101		11.76%
Windham	8,772	1,304	427	167	13	21.79%

TOWNS WHICH ARE NOT EXEMPT UNDER SECTION 1(F) OF P.A. 89-311

Andover	1,023	0	24	35		5.77%
Ashford	1,655	1	0	37		2.30%
Avon	5,841	2	39	17		0.99%
Barkhamsted	1,373	14	0	21		2.55%
Beacon Falls	2,063	4	0	25		1.41%
Berlin	6,481	7	70	81		2.44%
Bethany	1,645	1	0	5		0.36%
Bethel	6,512	36	124	92		3.87%
Bethlehem	1,304	0	24	4		2.15%
Bolton	1,741	2	0	27		1.67%
Bozrah	900	1	0	18		2.11%
Branford	13,336	157	172	102		3.23%
Bridgewater	755	0	0	1		0.13%
Brookfield	5,470	1	35	58		1.72%
Burlington	2,576	18	0	26		1.71%
Canaan	593	5	0	6		1.85%
Canterbury	1,607	53	24	37		7.09%
Canton	3,370	7	114	29		4.45%
Chaplin	813	3	0	9		1.48%
Cheshire	8,859	20	148	39		2.34%
Chester	1,442	1	23	11		2.43%
Clinton	5,489	18	78	58		2.81%
Colchester	4,557	40	88	102		5.05%

# EXHIBIT J



State of Connecticut  
Department of Economic  
and Community Development  
505 Hudson Street  
Hartford, CT 06106

TO: All Interested Parties

FROM: Patricia Downs, Executive Director *Patricia Downs*  
Program Planning and Evaluation

DATE: May 1, 1998

SUBJECT: Affordable Housing Appeals Procedure  
Percentages of Assisted Housing Units

The current list of percentages of assisted housing by municipalities is attached.

The units counted for this list are: (1) Assisted Housing Units-housing which is receiving financial assistance under any governmental program for the construction or substantial rehabilitation of low and moderate income housing which was occupied or under construction by September 30, 1997, and any housing occupied by persons receiving rental assistance under Chapter 138a of the Connecticut General Statutes (State Rental Assistance) or Section 142f of Title 42 of the United States Code (Section 8); (2) Ownership Housing - currently financed by Connecticut Housing Finance Authority and/or Farmer's Home Administration mortgages or (3) Deed Restricted Properties- deeds containing covenants or restrictions which require that such dwelling units be sold or rented at or below prices which will preserve the units as affordable housing as defined in C.G.S. 8-39a for persons and families whose incomes are less than or equal to eighty percent of area median income.

Changes in the number of units counted toward the ten percent are caused by several factors including the relocation of households using Section 8 or RAP certificates, the expiration of deed restrictions or refinancing of mortgages, demolition of buildings and the addition of units completed or under construction during the 1996-1997 program year.

These data come from different sources and programs, federal, state and local which make it difficult for the state to ensure complete accuracy. Of particular importance to data accuracy is local administrative review of and input on the street addresses of units and projects, and information on deed restricted units. The response to requests for this information varies widely from community to community.



An Affirmative Action/Equal Opportunity Employer



The 1997 Estimated Housing Units column has been updated by using the 1990 Census and adding the number of building permits issued since the Census was taken. It should be noted that, because not all permits issued become dwelling units, some municipalities may notice decreases in the total number of units as permit figures are revised from one year to the next. In 1996, the Census Bureau eliminated the demolition category on the reporting forms. However, this year, DECD requested that each municipality report demolitions for the time period in question and this information has been included in the total count.

If you have any questions or wish to discuss this information, please call Sandy Bergin at 860-270-8163.

Department of Economic and Community Development programs are administered in a nondiscriminatory manner, consistent with equal employment opportunities, affirmative action, and fair housing requirements. Questions, concerns, complaints, or requests for information in alternative formats must be directed to Marcia Bonnitto, ADA coordinator, at 860-270-8025.

AFFORDABLE HOUSING APPEALS PROCEDURE LIST

TOWN	1997 EST. HOUSING UNITS	GOVERNMENTALLY ASSISTED UNITS	CHFA/FmHA MORTGAGES	DEED RESTRICTED	TOTAL ASSISTED	PERCENT
Towns which are exempt under Section 8-30g CGS						
Ansonia	7,695	1,046	165		1,211	15.74%
Bloomfield	8,063	837	305		1,142	14.16%
Bridgeport	56,057	10,573	1,900	15	12,488	22.28%
Bristol	25,715	2,391	981		3,372	13.11%
Brooklyn	2,551	278	83		361	14.15%
Colchester	5,110	485	122		607	11.88%
Danbury	26,871	2,215	560	24	2,799	10.49%
East Hartford	21,363	2,690	883		3,573	16.76%
East Windsor	4,315	588	101	14	703	16.29%
Znfield	16,909	1,264	855		2,119	12.53%
Groton	16,995	3,265	383		3,648	21.47%
Hartford	55,871	18,190	1,683		19,873	35.57%
Killingly	6,823	640	240		880	12.90%
Manchester	22,531	1,814	842		2,656	11.79%
Meriden	24,805	3,606	1,096		4,702	18.96%
Middletown	18,875	3,010	509		3,519	18.64%
Naugatuck	12,373	861	376		1,237	10.00%
New Britain	32,175	4,662	1,123		5,785	17.98%
New Haven	54,290	14,328	1,517	142	16,087	29.63%
New London	11,942	1,811	413		2,224	18.62%
Norwalk	32,810	3,088	484	406	3,978	12.12%
Norwich	16,564	2,506	488		2,994	18.08%
Plainfield	5,600	468	282		750	13.39%
Putnam	3,874	743	106		849	21.92%
Stamford	45,828	6,329	404	104	6,837	14.92%
Torrington	15,709	1,382	563		1,945	12.38%
Vernon	12,842	2,248	396	96	2,740	21.34%
Waterbury	47,854	7,420	2,137		9,557	20.05%
West Haven	22,806	1,729	650		2,379	10.43%
Winchester	5,150	513	102		615	11.94%
Windsor	8,806	1,821	260		2,081	23.63%
Towns which are not exempt under Section 8-30g CGS						
Andover	1,104	26	36		62	5.62%
Ashford	1,706	39	52		90	5.28%
Avon	6,088	39	31		70	1.15%
Barkhamsted	1,424	5	21		26	1.83%
Beacon Falls	2,132	4	32		36	1.69%
Berlin	6,755	84	92		176	2.61%
Bethany	1,742	0	3		3	0.17%
Bethel	6,649	166	122		288	4.33%
Bethlehem	1,350	24	2		26	1.93%
Bolton	1,822	2	27		29	1.59%
Bozrah	933	2	22		24	2.57%
Branford	13,560	317	153		470	3.47%
Bridgewater	787	0	2		2	0.25%
Brookfield	5,643	39	79		118	2.09%
Burlington	2,778	18	40		58	2.09%
Canaan	604	6	8		14	2.32%
Canterbury	1,686	77	57		134	7.95%
Canton	3,465	133	38		171	4.94%
Chaplin	842	7	19		26	3.09%
Cheshire	9,328	166	73		239	2.56%
Chester	1,511	25	15		40	2.65%
Clinton	5,621	97	70		167	2.97%
Colebrook	655	1	7		8	1.22%
Columbia	1,926	24	43		67	3.48%
Cornwall	875	25	2		27	3.09%
Coventry	4,354	100	187	20	307	7.05%
Eastford	5,294	159	132		291	5.50%
Easton	6,806	83	4		87	1.28%
Deep River	1,895	40	24		64	3.38%
Derby	5,392	397	68		465	8.62%



AFFORDABLE HOUSING APPEALS PROCEDURE LIST

TOWN	1997 EST. HOUSING UNITS	GOVERNMENTALLY ASSISTED UNITS	CHFA/FmHA MORTGAGES	DEED RESTRICTED	TOTAL ASSISTED	PERCENT
Durham	2,198	25	21		46	2.09%
East Granby	1,850	74	20		94	5.08%
East Haddam	3,682	41	41		82	2.23%
East Hampton	4,489	76	75		151	3.36%
East Haven	11,265	480	416		896	7.95%
East Lyme	7,349	224	100		324	4.41%
Eastford	670	1	8		9	1.34%
Easton	2,387	0	0		0	0.00%
Ellington	4,872	254	141		395	8.11%
Essex	2,891	38	15		53	1.83%
Fairfield	20,862	364	70	55	489	2.34%
Farmington	9,428	368	123	6	497	5.27%
Franklin	691	1	16		17	2.46%
Glastonbury	12,036	612	118	128	858	7.13%
Goshen	1,383	0	4		4	0.29%
Granby	3,796	105	40	4	149	3.93%
Greenwich	24,008	1,205	6	12	1,223	5.09%
Griswold	4,511	163	186		349	7.74%
Guilford	8,363	124	33		157	1.86%
Haddam	2,785	25	14		39	1.40%
Hamden	23,025	1,237	446		1,683	7.31%
Hampton	654	1	14		15	2.29%
Hartland	764	12	7		19	2.49%
Harwinton	1,993	26	26		52	2.61%
Hebron	2,870	34	53		87	3.03%
Kent	1,513	31	9		40	2.64%
Killingworth	2,191	1	6		7	0.32%
Lebanon	2,667	38	61		99	3.71%
Ledyard	5,461	43	232		275	5.04%
Lisbon	1,520	5	77		82	5.39%
Litchfield	3,667	139	23	20	182	4.96%
Lyme	1,071	0	2	4	6	0.56%
Madison	7,175	91	19	18	128	1.78%
Mansfield	5,371	329	77		406	7.56%
Middletown	2,062	25	33		58	2.81%
Middlebury	2,485	152	18		170	6.84%
Middlefield	1,677	30	22		52	3.10%
Milford	21,383	710	320	7	1,037	4.85%
Monroe	6,256	30	17		47	0.75%
Montville	6,714	107	290		397	5.91%
Morris	1,143	20	6		26	2.27%
New Canaan	7,133	201	2		203	2.85%
New Fairfield	5,415	0	63		63	1.16%
New Hartford	2,496	8	27		35	1.40%
New Milford	10,169	161	188		349	3.43%
Newington	11,963	342	375		717	5.99%
Newtown	8,360	130	38		168	2.01%
Norfolk	920	33	1		34	3.70%
North Branford	4,985	63	65		128	2.57%
North Canaan	1,492	96	3		99	6.64%
North Haven	8,632	138	78		216	2.50%
North Stonington	1,989	0	27		27	1.36%
Old Lyme	4,636	29	20		49	1.06%
Old Saybrook	5,276	63	39		102	1.93%
Orange	4,710	87	11		98	2.08%
Oxford	3,269	37	10		47	1.44%
Plainville	7,650	359	354	32	745	9.74%
Plymouth	4,748	109	194		303	6.38%
Pomfret	1,427	33	17		50	3.50%
Portland	3,460	181	48		229	6.62%
Preston	1,812	40	40		80	4.42%
Prospect	2,890	0	25		25	0.87%
Redding	3,112	0	0		0	0.00%
Ridgefield	8,620	145	14		159	1.84%
Rocky Hill	7,631	239	123		362	4.74%
Salisbury	970	3	0		3	0.31%
Salem	1,392	0	24		24	1.72%
Salisbury	2,540	21	3		24	0.94%

# EXHIBIT K

2023 Affordable Housing Appeals List - Exempt Municipalities							
Town	2020 Census	2023 Gov Assisted	2023 Tenant Rental Assistance	2023 Single Family CHFA/USDA Mortgages	2023 Deed Restricted Units	2023 Total Assisted Units	2023 Percent Affordable
Ansonia	8104	232	818	137	0	1,187	14.65%
Bloomfield	9717	612	138	285	0	1,035	10.65%
Bridgeport	58874	7,027	4385	750	12	12,174	20.68%
Bristol	27251	2,006	966	1,004	0	3,976	14.59%
Danbury	33562	1,652	1297	368	210	3,527	10.51%
Derby	5759	275	323	101	0	699	12.14%
East Hartford	21361	1,593	788	973	0	3,354	15.70%
East Windsor	5348	559	40	102	0	701	13.11%
Enfield	17741	1,360	232	565	7	2,164	12.20%
Groton	18154	3,727	97	313	10	4,147	22.84%
Hartford	53259	10,755	8,991	1,419	0	21,165	39.74%
Manchester	26445	1,864	981	834	32	3,711	14.03%
Meriden	26177	2,057	1,466	932	11	4,466	17.06%
Middletown	21671	3,048	1,137	458	25	4,668	21.54%
New Britain	31510	3,041	1,689	1,106	89	5,925	18.80%
New Haven	57525	9,652	7,632	822	354	18,460	32.09%
New London	12119	1,648	491	470	175	2,784	22.97%
Norwalk	38152	2,434	1,578	346	732	5,090	13.34%
Norwich	18769	2,350	813	518	0	3,681	19.61%
Plainfield	6264	429	188	164	4	785	12.53%
Putnam	4292	536	71	59	0	666	15.52%
Stamford	56953	4,262	2,062	344	1268	7,936	13.93%
Torrington	17040	972	334	526	17	1,849	10.85%
Vernon	14761	1,509	482	326	12	2,329	15.78%
Waterbury	48392	5,385	3,326	1,542	39	10,292	21.27%
West Haven	22735	1,024	2,172	351	0	3,547	15.60%
Windham	9663	1,776	591	306	0	2,673	27.66%
Windsor Locks	5815	297	169	221	0	687	11.81%

**2023 Affordable Housing Appeals List - Non-Exempt Municipalities**

Town	2020 Census	2023 Gov Assisted	2023 Tenant Rental Assistance	2023 Single Family CHFA/USDA Mortgages	2023 Deed Restricted Units	2023 Total Assisted Units	2023 Percent Affordable
Andover	1324	24	1	26	0	51	3.85%
Ashford	1923	32	0	30	0	62	3.22%
Avon	7713	244	25	30	2	301	3.90%
Barkhamsted	1566	0	5	23	0	28	1.79%
Beacon Falls	2618	0	7	42	0	49	1.87%
Berlin	8571	556	46	118	4	724	8.45%
Bethany	2039	0	2	9	0	11	0.54%
Bethel	7980	192	26	117	83	418	5.24%
Bethlehem	1605	24	0	4	0	28	1.74%
Bolton	2045	0	1	34	0	35	1.71%
Bozrah	1131	0	2	24	0	26	2.30%
Branford	14180	243	64	124	9	440	3.10%
Bridgewater	863	0	0	1	0	1	0.12%
Brookfield	7116	155	26	78	112	371	5.21%
Brooklyn	3342	205	11	53	0	269	8.05%
Burlington	3628	27	0	46	0	73	2.01%
Canaan	639	1	2	4	3	10	1.56%
Canterbury	2044	76	1	50	0	127	6.21%
Canton	4383	251	32	45	32	360	8.21%
Chaplin	955	0	1	26	0	27	2.83%
Cheshire	10401	258	15	76	17	366	3.52%
Chester	1793	23	4	12	0	39	2.18%
Clinton	6283	105	8	58	0	171	2.72%
Colchester	6441	364	39	124	4	531	8.24%
Colebrook	694	0	0	6	1	7	1.01%
Columbia	2294	24	2	47	0	73	3.18%
Cornwall	1002	28	2	6	0	36	3.59%
Coventry	5273	103	3	115	20	241	4.57%
Cromwell	6162	212	11	154	0	377	6.12%
Darien	7265	161	18	1	117	297	4.09%
Deep River	2112	44	7	28	0	79	3.74%
Durham	2828	36	0	23	0	59	2.09%
East Granby	2183	72	2	37	0	111	5.08%
East Haddam	4477	73	2	51	0	126	2.81%
East Hampton	5637	70	5	81	25	181	3.21%
East Haven	12394	612	165	255	0	1,032	8.33%
East Lyme	9080	452	23	76	19	570	6.28%
Eastford	806	0	1	10	0	11	1.36%
Easton	2756	0	0	4	10	14	0.51%
Ellington	7054	260	6	98	0	364	5.16%
Essex	3329	75	1	15	16	107	3.21%

**2023 Affordable Housing Appeals List - Non-Exempt Municipalities**

Town	2020 Census	2023 Gov Assisted	2023 Tenant Rental Assistance	2023 Single Family CHFA/USDA Mortgages	2023 Deed Restricted Units	2023 Total Assisted Units	2023 Percent Affordable
Fairfield	21982	231	163	58	219	671	3.05%
Farmington	11667	538	129	115	155	937	8.03%
Franklin	790	27	1	19	0	47	5.95%
Glastonbury	14481	604	57	95	2	758	5.23%
Goshen	1708	1	1	4	0	6	0.35%
Granby	4448	85	2	43	3	133	2.99%
Greenwich	25677	940	475	10	47	1,472	5.73%
Griswold	5027	222	60	119	0	401	7.98%
Gullford	9693	177	10	27	1	215	2.22%
Haddam	3540	22	1	23	0	46	1.30%
Hamden	25984	1,048	838	439	117	2,442	9.40%
Hampton	790	0	1	10	0	11	1.39%
Hartland	843	2	0	3	0	5	0.59%
Harwinton	2313	22	6	35	5	68	2.94%
Hebron	3618	58	2	48	0	108	2.99%
Kent	1687	58	3	3	0	64	3.79%
Killingly	7884	467	145	134	0	746	9.46%
Killingworth	2601	0	1	18	1	20	0.77%
Lebanon	3147	26	6	75	0	107	3.40%
Ledyard	6150	32	8	189	6	235	3.82%
Lisbon	1728	2	0	52	0	54	3.13%
Litchfield	3966	140	4	26	19	189	4.77%
Lyme	1220	0	0	3	8	11	0.90%
Madison	8060	90	3	8	29	130	1.61%
Mansfield	6956	175	124	75	2	376	5.41%
Marlborough	2388	24	0	22	0	46	1.93%
Middlebury	3047	77	5	12	20	114	3.74%
Middlefield	1882	30	5	21	1	57	3.03%
Milford	23749	728	315	140	74	1,257	5.29%
Monroe	6918	35	3	38	8	84	1.21%
Montville	7402	81	49	243	0	373	5.04%
Morris	1253	20	0	5	0	25	2.00%
Naugatuck	13239	493	296	313	0	1,102	8.32%
New Canaan	7502	255	33	7	0	295	3.93%
New Fairfield	5635	0	7	49	16	72	1.28%
New Hartford	2968	12	6	38	9	65	2.19%
New Milford	11928	319	36	135	29	519	4.35%
Newington	13219	531	121	446	36	1,134	8.58%
Newtown	10322	134	7	77	65	283	2.74%
Norfolk	932	21	2	5	0	28	3.00%
North Branford	5633	62	12	45	0	119	2.11%

**2023 Affordable Housing Appeals List - Non-Exempt Municipalities**

Town	2020 Census	2023 Gov Assisted	2023 Tenant Rental Assistance	2023 Single Family CHFA/USDA Mortgages	2023 Deed Restricted Units	2023 Total Assisted Units	2023 Percent Affordable
North Canaan	1582	111	0	9	0	120	7.59%
North Haven	9981	393	50	81	23	547	5.48%
North Stonington	2226	0	2	18	8	28	1.26%
Old Lyme	4988	64	2	11	3	80	1.60%
Old Saybrook	5870	52	14	21	73	160	2.73%
Orange	5480	46	10	10	6	72	1.31%
Oxford	5022	36	4	25	0	65	1.29%
Plainville	8045	205	56	275	22	558	6.94%
Plymouth	5151	178	22	169	0	369	7.16%
Pomfret	1686	32	2	11	0	45	2.67%
Portland	4128	120	85	55	0	260	6.30%
Preston	2049	40	6	35	0	81	3.95%
Prospect	3762	0	4	43	55	102	2.71%
Redding	3664	0	3	13	0	16	0.44%
Ridgefield	9506	175	6	21	79	281	2.96%
Rocky Hill	9319	235	66	135	0	436	4.68%
Roxbury	1163	19	0	4	0	23	1.98%
Salem	1719	0	2	24	0	26	1.51%
Salisbury	2519	24	1	1	14	40	1.59%
Scotland	650	0	0	23	0	23	3.54%
Seymour	7112	262	33	98	0	393	5.53%
Sharon	1724	32	1	2	0	35	2.03%
Shelton	17174	322	61	110	82	575	3.35%
Sherman	1834	0	1	5	0	6	0.33%
Simsbury	10057	289	63	92	28	472	4.69%
Somers	3622	146	7	33	0	186	5.14%
South Windsor	10804	443	51	171	12	677	6.27%
Southbury	9270	90	7	27	0	124	1.34%
Southington	18145	499	67	312	56	934	5.15%
Sprague	1268	20	10	23	1	54	4.26%
Stafford	5237	257	22	105	0	384	7.33%
Sterling	1479	0	7	22	0	29	1.96%
Stonington	9447	484	21	66	14	585	6.19%
Stratford	21643	524	424	326	33	1,307	6.04%
Suffield	5879	296	5	52	4	357	6.07%
Thomaston	3340	104	7	96	0	207	6.20%
Thompson	4143	151	15	36	0	202	4.88%
Tolland	5630	127	9	97	3	236	4.19%
Trumbull	13159	315	15	71	284	685	5.21%
Union	377	0	0	5	0	5	1.33%
Voluntown	1135	20	2	21	0	43	3.79%

2023 Affordable Housing Appeals List - Non-Exempt Municipalities							
Town	2020 Census	2023 Gov Assisted	2023 Tenant Rental Assistance	2023 Single Family CHFA/USDA Mortgages	2023 Deed Restricted Units	2023 Total Assisted Units	2023 Percent Affordable
Wallingford	18938	354	150	261	35	800	4.22%
Warren	790	0	0	1	0	1	0.13%
Washington	2056	17	1	3	28	49	2.38%
Waterford	8873	213	39	220	0	472	5.32%
Watertown	9137	205	33	216	0	454	4.97%
West Hartford	27240	695	857	286	245	2,083	7.65%
Westbrook	3976	140	7	25	29	201	5.06%
Weston	3671	0	1	5	0	6	0.16%
Westport	10567	265	57	1	75	398	3.77%
Wethersfield	11809	705	110	251	0	1,066	9.03%
Willington	2685	184	7	33	0	224	8.34%
Wilton	6567	158	12	12	51	233	3.55%
Winchester	5405	269	147	96	0	512	9.47%
Windsor	12038	154	249	420	26	849	7.05%
Wolcott	6408	313	7	164	0	484	7.55%
Woodbridge	3476	30	6	4	0	40	1.15%
Woodbury	4584	60	4	30	0	94	2.05%
Woodstock	3669	24	1	23	0	48	1.31%
<b>Total</b>	<b>1,530,197</b>	<b>94,770</b>	<b>49,611</b>	<b>25,535</b>	<b>5,632</b>	<b>175,548</b>	

# EXHIBIT L





MEMORANDUM

TO: New Canaan Planning & Zoning Commission

FROM: Hinckley Allen and Dr. Donald Poland, Ph.D.

DATE: September 1, 2022

RE: Application of W.E. Partners, LLC and 751 Weed Street, LLC,  
Exclusionary Aspects of New Canaan's Existing Zoning Regulations

---

This memorandum explains why the New Canaan Zoning Regulations are exclusionary and not in compliance with the Connecticut Zoning Enabling Act, Conn. Gen. Stat. § 8-2, as well as the federal Fair Housing Act.

**Exclusionary Zoning**

“Exclusionary zoning,” in the affordable housing context, has been defined as “land use regulations that prevent certain kinds of development and raise housing costs above what low-income families can afford to pay.” John Mangin, *The New Exclusionary Zoning*, 25 *Stanford L. & Pol. Rev.* 91, 91 (2014); see also 1 Anderson, *N.Y. Zoning Law and Practice*, § 8:02 (3d ed.) (Exclusionary zoning has been defined as “land use control regulations which singly or in concert tend to exclude persons or low or moderate income from the zoning municipality”); Conn. Comms’n. on Human Rights and Opps., *Connecticut Zoning and Discrimination 2021*, p. 22 (2021) (“exclusionary zoning” defined as zoning regulations designed to “exclude residential housing that would be affordable to lower-income residents”).

This type of zoning has its roots in the earliest forms of comprehensive zoning regulation. While land use regulations started in urban areas in the nineteenth century primarily to regulate light-and-air access, modern, suburban zoning didn’t begin until the early twentieth century. See William A. Fischel, *An Economic History of Zoning and a Cure for Its Exclusionary Effects*, § 1 *Urb. Studies J. Lim.* 41(2) (2004). Beginning after 1910, zoning became comprehensive and “[e]very inch of the city ... was made subject to zoning, not just certain sections, as was the case in earlier land-use regulations.” *Id.*

Further, municipalities used these early zoning regulations to enforce the *status quo* by including the racial and economic disparities that already existed. For example, in 1911, the City of Baltimore, Maryland enacted zoning regulations which prohibited, among other things, African-American residents from residing in a house in neighborhoods that were majority white. Garrett Power, *Apartheid Baltimore Style: The Residential Ordinances of 1910-1913*, 42 *Maryland L.R.* 289, 300 (1983). Other cities, such as Atlanta, Louisville, and Winston-Salem followed suit. *Id.*, at 289, fn. 2. In 1917, the United States Supreme Court ruled that such

Town of New Canaan Office of Town Attorney  
 New Canaan Zoning Regulations and Affordable Housing  
 September 1, 2022

discussing how the same neighborhoods are largely still structured around the same racial demographics). Indeed, “[w]ealth and poverty are highly concentrated in Connecticut – more so than in many other large metropolitan areas.” Mark Abraham & Mary Buchanan, *Concentrated Wealth and Poverty in Connecticut’s Neighborhoods*, DataHaven (Aug. 8, 2015).

For example, twenty-seven percent of top-earning households “live in neighborhoods that are predominantly white and wealthy. In other large metropolitan areas, its just 10 percent.” Abraham, *Concentrated Wealth*, *supra*. Further, there are “twice as many affluent – and segregated – neighborhoods in Connecticut as there are poor, segregated ones. *Id.* In Fairfield County, with many New York suburbs, “there are nearly seven times more concentrated wealthy neighborhoods than poor ones.” *Id.* Statewide, ten percent “of all Connecticut residents live in racially concentrated, affluent areas,” compared to five percent or less in areas such as Detroit, Philadelphia, and Phoenix. *Id.* This number is even higher in Fairfield County, reaching as high as seventeen percent in the suburbs around Bridgeport. *Id.*

New Canaan’s failure to *practically* allow affordable housing is evident in various studies showing the inequity that exists in New Canaan and surrounding towns. For example, a study from 2017 showed that income inequality in Fairfield County was the worst of the largest 100 U.S. metro areas. Kaitlyn Krasselt, *Fairfield County’s Income Inequality Worst in Nation*, CT Post (Jan. 29, 2017). As an example, the study states that “[t]he number of people living in middle-income neighborhoods [in Fairfield County] has declined 16 percent, while the number of people living in poor neighborhoods has grown 3.5 times since 1980.” More recent studies have only shown the inequality in the area getting worse. See, e.g., Kelly Davilla, et al., *Toward Health Equity in Connecticut: The Role of Social Inequality and the Impact of Covid-19*, p. 2 (2020) (“Disasters like the COVID-19 pandemic expose and exacerbate existing social inequities”). A recent study released by WalletHub showed that, among 166 school districts in the state, New Canaan ranked 161<sup>st</sup> in terms of student equity (comparing average household income to expenditures per student). Adam McCann, *2022’s Most & Least Equitable School Districts in Connecticut*, WalletHub (Aug. 23, 2022); see also Brandon Corrales, *Fairfield County needs to acknowledge school segregation and educational inequity*, CT Post (Mar. 20, 2022) (noting that “Fairfield County ... remains one of the most segregated areas in the country”). In addition to the educational disparities, health disparities also abound. See Kelly Kultys, *Report: Socioeconomic Disparities Widening in Fairfield County*, The Hour (Sept. 29, 2019) (noting life expectancy in Bridgeport, for example, is 19 years lower than the life expectancy in nearby Westport).

### Connecticut Law

Connecticut, seeing the historical effects of exclusionary zoning practices, has attempted to reverse those long-standing effects. First, Connecticut passed the Affordable Housing Land Use Appeals Act, or § 8-30g, in 1989. Section 8-30g sets up an appeals procedure whereby denial of applications for affordable housing in towns not meeting the ten percent threshold of § 8-30g(k) shifts the burden to the town to show that denial was necessary to protect substantial

Town of New Canaan Office of Town Attorney  
 New Canaan Zoning Regulations and Affordable Housing  
 September 1, 2022

Indeed, many towns fail to recognize how maintaining the *status quo* can perpetuate exclusionary practices. Exclusionary zoning regulations are often “facially neutral” with regards\ to racial discrimination and are primarily based on wealth. Zoning and Discrimination 2021, *supra*, at 20. However, “[d]espite the regulations’ facially neutral language, exclusionary zoning has a disparate impact on [residents of color].” *Id.*

Single-family housing zones often exclude multi-family dwellings, such as apartment buildings, which are often more affordable. Zoning and Discrimination 2021, *supra*, at 21. Therefore, excluding multi-family dwellings generally blocks low and moderate-income households, which has a disparate impact on “Black and Latinx and female-led households.” *Id.* See also Zasloff, *supra*, at 111-12 (“land use regulations that allow for multi-family and affordable housing increase the numbers and percentage of black and Latino residents ... [therefore], more restrictive land use designations will prevent blacks and Latinos from living in an areas.”).

However, Connecticut courts, as well as both state and federal courts outside of Connecticut, have examined these obstacles and have ruled in favor of affordable housing, even when such affordable housing violates existing single-family zoning. In *Griswold Hills Newington Ltd. P’ship v. Newington Town Plan. & Zoning Comm’n*, the plaintiff applied to construct 128 units of affordable housing in a town that had not met the ten percent affordable housing threshold required under § 8-30g. Superior Court, Docket No. CV940540954S (Jan. 9, 1996) (16 Conn. L. Rptr. 45). The Commission approved the application, but limited the number of affordable units to no more than fifty percent of the total units, and plaintiff appealed this restriction. *Id.* The court held that while “diversity of economic class within a community is a substantial public interest ... which [the town] is entitled to protect,” § 8-30g set up a threshold whereby towns are determined to be in need of affordable housing – the ten percent threshold. *Id.* Therefore, the town was considered a “municipality in need of affordable housing,” and the court held that the *status quo* economic diversity is not a substantial public interest which the municipality may consider when the municipality is determined to be one in need of affordable housing under the statute. *Id.*

In *West Hartford Interfaith Coalition, Inc. v. Town Council of Town of West Hartford*, the applicant applied to construct 10 units of affordable housing. 228 Conn. 498, 500 (1994). On appeal from a denial, the court analyzed the history of § 8-30g and the legislative debate surrounding it. *Id.*, 510-512. The court noted that denial of an affordable housing application because the application does not comply with an existing, underlying zone, cannot be a proper reason to deny an affordable housing application. *Id.*, 511. According to the court, to allow such an interpretation would allow a town to “remove itself entirely from § 8-30g by eliminating any zones appropriate for the development of affordable housing. Conceivably, towns in which no land is zoned for multifamily housing would be wholly exempt from the statute.” *Id.* The court, noting the absurdity of this position, held that “to construe § 8-30g to include [such] an implied limitation would be ... antithetical to the intent of the legislature.” *Id.*; see also *Rinaldi v. Zoning & Plan/ Comm’n of Town of Suffield*, District Court, Docket No.

Town of New Canaan Office of Town Attorney  
 New Canaan Zoning Regulations and Affordable Housing  
 September 1, 2022

through a showing of “disparate impact,” which are actions by private or governmental bodies that create a discriminatory effect upon a protected class or perpetuate housing segregation without any concomitant legitimate reason.” *Ave. 6E Invs., LLC v. City of Yuma, Ariz.*, 818 F.3d 493, 503 (9th Cir. 2016). Under a disparate impact claim, plaintiffs need not show “a complete absence of desired housing”; “discriminatory zoning practices violate the FHA even if they only contribute to making unavailable or denying housing to protected individuals. *Id.*, 509.

Federal courts have upheld disparate impact claims under the FHA for the denial of affordable housing proposals in majority upper-income areas. See, e.g., *Metro. Hous. Dev. Corp. v. Vill. of Arlington Heights*, 558 F.2d 1283, 1291 (7th Cir. 1977) (upholding claim of disparate impact for failure to approve construction of affordable housing project, noting that “a greater number of black people than white people in the Chicago metropolitan area satisfy the income requirements for federally subsidized housing, [the refusal to permit] had a greater impact on black people than on white people.”); *United States v. City of Black Jack, Missouri*, 4508 F.2d 1179, 1186 (8th Cir. 1974) (upholding claim of disparate impact where ordinance prohibited construction of affordable housing project in majority white neighborhood, holding that “ultimate effect of the ordinance was to foreclose 85 percent of the blacks living in the metropolitan area from obtaining a house in Black Jack.”); *Huntington Beach NAACP v. Town of Huntington*, 844 F. 2d 926, 928 (2nd Cir. 1988) (refusal to rezone a majority white neighborhood designated single family to allow multifamily housing was a violation of FHA).

The FHA has been held to apply to zoning decisions by local commissions within Connecticut. *AvalonBay Communities, Inc. v. Town of Orange*, 256 Conn. 557, 592-93 (2001) (applying FHA to zoning decision blocking affordable housing development). In 2021, the Connecticut Legislature amended § 8-2 to require that zoning regulations adopted thereto “affirmatively further the purposes of the federal Fair Housing Act.” Conn. Gen. Stat. § 8-2(b)(2)(J).

Connecticut has adopted a state version of the FHA, the Connecticut Fair Housing Act. The Connecticut Fair Housing Act prohibits zoning regulations that either disproportionately burden protected groups, such as racial groups or recipients of housing assistance, or perpetuate the segregation of any protected groups without a legally cognizable justification. Conn. Gen. Stat. § 346a-64c.

### **New Canaan’s Zoning Regulations**

During the presentation of the 751 Weed Street development proposal in front of the New Canaan Planning and Zoning Commission on June 22, 2022, multiple members of the Commission made statements regarding what a “good job” New Canaan has done in implementing and allowing affordable housing in town. For example, Commissioner Kriz cited a fee required under the Regulations to be paid to the town for the use of affordable housing. At the same meeting, Chairman Goodwin stated that the town has passed regulations that encourage affordable housing, and Commissioner Basch stated that the only exclusionary barrier in New Canaan was income, not race. At a prior meeting on June 16, 2022, before the Planning and

Town of New Canaan Office of Town Attorney  
New Canaan Zoning Regulations and Affordable Housing  
September 1, 2022

At least three of the zones explicitly permitting multi-family housing cover only lots which have already been developed (or are in the process of being developed), and have significant minimum lot size requirements that would drastically limit their applicability elsewhere. For instance, the POMZ requires a minimum 3.25 acre lot, requires that the lot have previously been zoned Apartment Zone for at least ten years, and requires that the lot be within walking distance (1,000 feet) of the train station. See New Canaan Zoning Regs., §§ 5.8.B.1; 5.8.C.3. This significantly limits the number of lots that can potentially be zoned POMZ. The Millport Zone requires a minimum four acre lot and that the lot have frontage on Millport Road. *Id.*, § 5.7.B. The Canaan Parish Zone requires a minimum four acre lot (or combination of lots) and requires frontage on Lakeview Avenue. *Id.*, § 5.9.B. Within New Canaan, most of the land has been developed. Approximately “97 percent of the land in the community has been developed or committed to different land uses.” POCD, p. 19.

Other zones permit very limited multi-family housing. For instance, the Retail A Zone permits apartments, but of no greater than 750 square feet and containing no more than one bedroom, severely limiting the use of such housing by families. See New Canaan Zoning Regs., § 4.2.C.10. The Retail B Zone permits multi-family housing, but only by special permit, and only in a mixed-use development where the housing may not be on the first floor. See *id.*, § 4.3.D. Other zones, including the Business C and Business D zones, permit housing under the same conditions as Retail B. See *id.*, §§ 4.6.D; 4.7.D.

Combined with the above limitations, the zones that allow multi-family housing are very limited in size, as shown on Exhibits B-1 and B-2, showing the full extent of the zones discussed above as allowing multi-family housing. Approximately two-thirds of New Canaan is zoned for 2- and 4-acre single-family, detached housing; while over eighty percent of New Canaan is zoned for at least 1-acre, single-family, detached housing. The 1/2 acre, 1/3 acre, A Residence and B Residence zones account for approximately five percent of New Canaan’s total land area. The Apartment Zone and Multi-Family Zone, the only non-site specific zones that permit multi-family housing, account for less than two percent of New Canaan’s total land area. Further, an overlay of the zoning map with an aerial view of New Canaan shows that every single area zoned for potential multi-family use is already developed. See Exhibits B-1, B-2.

While New Canaan has therefore provided for areas in town where affordable, multi-family housing theoretically may be built, it has not *practically* provided any lots for such development. This is the kind of obstacle to affordable housing that § 8-30g intended to prohibit. Additionally, by not practically providing for any affordable housing development in a town that has less than three percent affordable housing, New Canaan’s zoning regulations violate the requirements under § 8-2 that zoning regulations encourage the development of affordable housing for all citizens of the municipality. Conn. Gen. Stat. §§ 8-2(b); see *Builders Service, supra*, 208 Conn. at 305.

New Canaan’s Zoning Regulations violate the federal Fair Housing Act. As noted, the Act prevents disparate impact when such an impact makes housing unavailable to protected individuals. See *Ave. 6E Invs., supra*, 818 F.3d at 509. As noted in *Ave 6E Investments*, facially-

# EXHIBIT M

Locations of Planning and Zoning Commission Homes  
and Existing and Proposed Affordable Housing Locations



Silver Hill  
Hospital



123



Irvin Park

New Canaan

751 WEED ST

41 & 65  
MILLPORT AVE  
MAIN ST

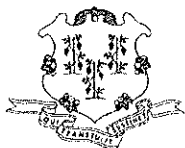
CANAAN PARISH

106

WHITE OAK SHADE RD

# EXHIBIT 2





Ned Lamont  
Governor

STATE OF CONNECTICUT  
DEPARTMENT OF HOUSING



Seila Mosquera-Bruno  
Commissioner

August 19, 2024

Dionna Carlson  
First Selectman  
Town of New Canaan  
77 Main Street  
New Canaan, CT 06840

RE: Certificate of Affordable Housing  
Moratorium Application under Section 8-30g CGS (New Canaan #2 2024)

Dear First Selectman Carlson:

In accordance with Section 8-30g of the Connecticut General Statutes and the applicable Regulations of Connecticut State Agencies under Sections 8-30g-1 through 8-30g-11, inclusive, the Department of Housing ("DOH") has reviewed the June 20, 2024, request for issuance of a Certificate of Affordable Housing, pursuant to receipt of a Moratorium of Applicability.

In accordance with those regulations, a notice of receipt of a Completed Application was published in the Connecticut Law Journal initiating a 30-day period whereby DOH sought public review and input into this application (June 25, 2024-July 25, 2024). Comments were received during this time period from Connecticut Legal Services and Hinkley Allen and were taken into consideration.

DOH staff has reviewed the materials provided and has determined that the Town of New Canaan does meet the requirements for receipt of a Certificate of Affordable Housing Project Completion as submitted. A copy of the DOH HUE review is attached for your reference.

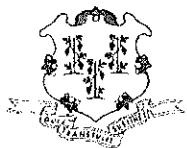
As a result of these findings, I have ordered the publication of a Notice of Issuance of a State Certificate of Affordable Housing on the next publication date of the Connecticut Law Journal. This entitles the Town of New Canaan to a Moratorium of Applicability commencing on the date of publication. Under the law, this Moratorium of Applicability shall remain in force and effect for a four-year period unless earlier revoked in accordance with the law.

I would like to take this opportunity to thank you and the Town of New Canaan for continuing to address the affordable housing needs in your community. Should you or your staff have any questions with regard to this notification, please do not hesitate to contact Michael Santoro by email at [Michael.Santoro@ct.gov](mailto:Michael.Santoro@ct.gov) or Laura Watson at [Laura.Watson@ct.gov](mailto:Laura.Watson@ct.gov).

Sincerely,

Digitally signed by Seila  
Mosquera-Bruno  
Date: 2024.08.19 11:03:40 -04'00'

Seila Mosquera-Bruno  
Commissioner



**Ned Lamont**  
Governor

**STATE OF CONNECTICUT  
DEPARTMENT OF HOUSING**



**Seila Mosquera-Bruno**  
Commissioner

To: The File  
From: Laura Watson  
Date: August 14, 2024  
RE: New Canaan Moratorium Application: Calculation of housing unit-equivalent points ("HUE" or "HUEs" or "Points") for the June 20,2024 Application (September 18, 2024 – 90 days)

**Calculation of HUE Points**

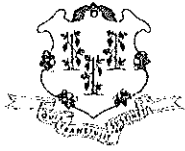
Restriction:	80% AMI	\$180,500 AMI <u>X 0.80</u> \$144,400
	60% AMI	\$180,500 AMI <u>X 0.60</u> \$108,300
	50% AMI=	\$180,500 AMI <u>X 0.50</u> \$90,250
	25% AMI=	\$180,500 AMI <u>X 0.25</u> \$45,125

<b>HUEs</b>	80% of SMI	80% of \$122,300 = \$97,840
	60% of SMI	60% of \$122,300 = \$73,380
	40% of SMI	40% of \$122,300 = \$48,920

Under Connecticut General Statutes ("CGS") Section 8-30g(l)(7), "Points shall be awarded only for dwelling units which (A) were newly-constructed units in an affordable housing development, as that term was defined at the time of the affordable housing application, for which a certificate of occupancy was issued after July 1, 1990, (B) newly subjected after July 1, 1990, to deeds containing covenants or restrictions which require that, for at least the duration required by subsection (a) of this section for set-aside developments on the date when such covenants or restrictions took effect, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as affordable housing for persons or families whose income does not exceed eighty percent of median income. . ."

Prior to Public Act ("PA") 95-280, 20% of the dwelling units in an Affordable Housing Development had to be deed restricted and remain affordable for at least 20 years.

The definition of a set-aside development did not exist prior to June 1, 2000, but the interpretation is that any project which would have been eligible to use CGS 8-30g under the definition at the time it was



Ned Lamont  
Governor

## STATE OF CONNECTICUT DEPARTMENT OF HOUSING



Seila Mosquera-Bruno  
Commissioner

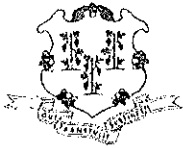
originally proposed should be considered a set-aside development, and treated as such. For projects where the application for such development was filed after July 6, 1995, the set-aside development (which adheres to PA 95-280) shall be awarded .25 points per each market rate unit (as indicated in PA 00-206). For projects where the application was filed before July 6, 1995 (and after July 1, 1990), a set-aside development containing family units which are rental units shall be awarded additional points equal to twenty-two percent of the total points awarded to such development.

PA 95-280 (for applications received on or after July 6, 1995) defines "Affordable Housing Development" as a proposed housing development (A) which is assisted housing or (B) in which not less than 25% of the dwelling units will be conveyed by deeds containing covenants or restrictions which shall require that such dwelling units be sold or rented at, or below, prices which will preserve the units as affordable housing, as defined in CGS 8-39a, for persons and families whose income is less than or equal to 80% of the area median income or 80% of the state median income, whichever is less, for at least thirty years after the initial occupation of the proposed development.

PA 99-261 (which took effect on June 29, 1999) states "Affordable Housing Development" means a proposed housing development (A) which is assisted housing or (B) in which not less than 25% of the dwelling units will be conveyed by deeds containing covenants or restrictions which shall require that, for at least thirty years after the initial occupation of the proposed development, such dwelling units shall be sold or rented at or below, prices which will preserve the units as affordable housing. Of the dwelling units conveyed by deeds containing covenants or restrictions, a number of dwelling units equal to not less than ten percent of all dwelling units in the development shall be sold or rented to persons and families whose income is less than or equal to sixty percent of the area median income or sixty percent of the state median income, whichever is less, and the remainder of the dwelling units conveyed by deeds containing covenants or restrictions shall be sold or rented to persons and families whose income is less than or equal to eighty percent of the area median income or eighty percent of the state median income, whichever is less."

PA 00-206 (As of June 1, 2000) "Set-aside Development" means a development in which not less than thirty percent of the dwelling units will be conveyed by deeds containing covenants or restrictions which shall require that, for at least forty years after the initial occupation of the proposed development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty percent or less of their annual income, where such income is less than or equal to eighty percent of the median income. In a set-aside development, of the dwelling units conveyed by deeds containing covenants or restrictions, a number of dwelling units equal to not less than 15% of all dwelling units in the development shall be sold or rented to persons and families whose income is less than or equal to 60% of the median income and the remainder of the dwelling units conveyed by deeds containing covenants or restrictions shall be sold or rented to persons/families whose income is less than or equal to 80% median income.

PA 17-170, Section 1 (Effective July 24, 2017) (6) For the purposes of this subsection, housing unit-equivalent points shall be determined by the commissioner as follows: (A) No points shall be awarded



Ned Lamont  
Governor

## STATE OF CONNECTICUT DEPARTMENT OF HOUSING



Seila Mosquera-Bruno  
Commissioner

for a unit unless its occupancy is restricted to persons and families whose income is equal to or less than eighty per cent of the median income, except that unrestricted units in a set-aside development shall be awarded one-fourth point each. (B) Family units restricted to persons and families whose income is equal to or less than eighty per cent of the median income shall be awarded one point if an ownership unit and one and one-half points if a rental unit. (C) Family units restricted to persons and families whose income is equal to or less than sixty per cent of the median income shall be awarded one and one-half points if an ownership unit and two points if a rental unit. (D) Family units restricted to persons and families whose income is equal to or less than forty per cent of the median income shall be awarded two points if an ownership unit and two and one-half points if a rental unit. (E) Restricted family units containing at least three bedrooms shall be awarded an additional one-fourth point. (F) Elderly units restricted to persons and families whose income is equal to or less than eighty per cent of the median income shall be awarded one-half point. (F) (G) If at least sixty per cent of the total restricted units submitted by a municipality as part of an application for a certificate of affordable housing project completion are family units, any elderly units submitted within such application shall be awarded an additional one-half point. (H) Restricted family units located within an approved incentive housing development, as defined in section 8-13m, as amended by this act, shall be awarded an additional one-fourth point. (I) A set-aside development containing family units which are rental units shall be awarded additional points equal to twenty-two per cent of the total points awarded to such development, provided the application for such development was filed with the commission prior to July 6, 1995. (J) A mobile manufactured home in a resident-owned mobile manufactured home park shall be awarded points as follows: One and one-half points when occupied by persons and families with an income equal to or less than eighty per cent of the median income; two points when occupied by persons and families with an income equal to or less than sixty per cent of the median income; and one-fourth point for the remaining units.

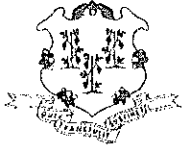
PA 17-170, Section 4 (Effective October 1, 2022) the following sections within subsection (6) were **repealed**: (E) Restricted family units containing at least three bedrooms shall be awarded an additional one-fourth point.

(G) If at least sixty per cent of the total restricted units submitted by a municipality as part of an application for a certificate of affordable housing project completion are family units, any elderly units submitted within such application shall be awarded an additional one-half point. (H) Restricted family units located within an approved incentive housing development, as defined in section 8-13m, as amended by this act, shall be awarded an additional one-fourth point.

In accordance with Public Act 24-143, Section 22, effective June 6, 2024, CGS Section 8-30g (I)(3) has been repealed and replaced with the following "(3) Eligible units completed before a moratorium has begun, but that were not counted toward establishing eligibility for such moratorium, may be counted toward establishing eligibility for a subsequent moratorium. Eligible units completed after a moratorium has begun may be counted toward establishing eligibility for a subsequent moratorium."

### **HUE Points are calculated as follows:**

Market-rate unit in set-aside development = .25 pts



**Ned Lamont**  
Governor

**STATE OF CONNECTICUT  
DEPARTMENT OF HOUSING**



**Seila Mosquera-Bruno**  
Commissioner

- Elderly unit @ 80% SMI or less = .50 pts
- Owned family unit @ 80% SMI or less = 1.0 pts
- Owned family unit @ 60% SMI or less = 1.5 pts
- Owned family unit @ 40% SMI or less = 2.0 pts
- Rented family unit @ 80% SMI or less = 1.5 pts
- Rented family unit @ 60% SMI or less = 2.0 pts
- Rented family unit @ 40% SMI or less = 2.5 pts
- Mobile Manufactured Home in a resident-owned park @ 80% SMI or less = 1.5 pts
- Mobile Manufactured Home in a resident-owned park @ 60% SMI or less = 2.0 pts
- Market-rate within the Mobile Manufactured Home resident-owned park = 0.25

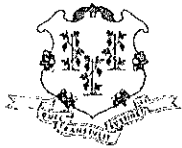
**Bonus Housing Unit – Equivalent Points**

Additional points equal to twenty-two percent of the total points awarded to such development, provided the application for such development was filed with the commission prior to July 6, 1995

**A. Millport Apartments – 59 Millport Avenue (Bldg. 3 – 20 units) and 61 Millport Avenue (Bldg. 4- 20 units)**

In 2015, the New Canaan Planning & Zoning Commission approved the tear-down of the 22 Millport apartments, in six buildings that dated from the 1980s and the construction of 73 new affordable dwellings units in four buildings. This property is owned by the Housing Authority of New Canaan (HANC) and includes an additional parcel at 33 Millport Avenue that contained a two-family house that was purchased by HANC and merged with the adjoining land. This 73- unit 8-30g development was originally approved by the Planning and Zoning Commission in 2015 (Deed Restriction/Affordability Plan filing info: Phase 1: Notice of Ground Lease – Vol 950 / Pgs 297-303; Open-end Leasehold Mortgage Deed – Vol 950 / Pgs 503-525; Phase 2: Open-End Leasehold Mortgage Deed – Vol 973 / Pgs 951- 967; Recorded Covenant: Phase 1: Land Use Restriction Agreement – Vol 950 Pgs 312-335; Phase 2: Land Use Restriction Agreement - Vol 973/ Pgs 694-716; Financing/ Assistance Agreement: Phase 1: ELIHC with CHFA – Vol 950 / Pgs 304-311; Phase 2: ELIHC with CHFA – Vol / Pgs) and is comprised of 100% affordable units for at least 40 years (Millport Avenue New Canaan, Connecticut Affordability Plan Phase II/73 Apartment Homes Revised Submission, Draft January 2015, Page 2, references the income limits under 8-30g and the 40-year affordability period).

The construction took place in two phases. Phase I, completed in 2016, involved the construction of thirty-three units spread between two buildings at 33 and 35 Millport Avenue. ***This application only refers to Phase II which involves two buildings, 59 Millport Avenue (Building 3) and 61 Millport Avenue***



Ned Lamont  
Governor

## STATE OF CONNECTICUT DEPARTMENT OF HOUSING



Seila Mosquera-Bruno  
Commissioner

**(Building 4).** The financing for the second phase at 59 and 61 Millport Avenue (40 new units) is referred to as “Phase II.” Each building respectively contains 20 units and both buildings were completed in 2018. In the approval and financing documents, the addresses of this development vary. The documents refer to 57 and 65 Millport as well as the addresses listed above. Due to numerous lot mergers required for this project, there have been address changes as the project reached completion. The two buildings are currently identified by the US Postal Service as 59 and 61 Millport, respectively. Certificate of Occupancy for 59 Millport Avenue (Building 3) was issued on 2/14/2018 and the Certificate of Occupancy for 61 Millport Avenue (Building 4) was issued on 3/28/2018. Person or entity responsible for compliance: Westmount Management, 36 Park Place, Branford, CT 06405.

According to the materials provided, the twenty units at 59 Millport Avenue and the twenty units at 61 Millport Avenue were constructed after New Canaan’s initial Certificate of Affordable Housing Completion was issued on June 6, 2017 and are therefore eligible for consideration.

This development falls under PA 00-206 (As of June 1, 2000) - “Set-aside Development” means a development in which not less than thirty percent of the dwelling units will be conveyed by deeds containing covenants or restrictions which shall require that, for at least forty years after the initial occupation of the proposed development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty percent or less of their annual income, where such income is less than or equal to eighty percent of the median income. In a Set-aside Development, of the dwelling units conveyed by deeds containing covenants or restrictions, a number of dwelling units equal to not less than 15% of all dwelling units in the development shall be sold or rented to persons and families whose income is less than or equal to 60% of the median income and the remainder of the dwelling units conveyed by deeds containing covenants or restrictions shall be sold or rented to persons/families whose income is less than or equal to 80% median income.

“The lesser of test” as per PA 95-280 (effective July 6, 1995) did exist when the project was first proposed and should be applied relative to consideration for calculating HUE points. The CHFA Low Income Housing Tax Credit (LIHTC) recorded documents reference all units being at 60% AMI. However, the recorded deed restrictions (Open-End leasehold Mortgage Deed Vol 950/Pgs 503—525) and Open End Leasehold Mortgage Deed Vol 950/Pgs 951-967) reference the Millport Avenue New Canaan, Connecticut Affordability Plan Phase II/73 Apartment Homes Revised Submission Draft January 2015, Page 2, under which 15% of the 73 units are to be rented to households who are equal to or less than 60% of the median income as defined in 8-30g-1(10) of the Regulations of Connecticut State Agencies. All other units will be rented to households who are equal to or less than 80% of the median income as defined in 8-30g-1(10) of the Regulations of Connecticut State Agencies, thereby requiring utilization of the “lesser of state or median income” test which requires utilizing state median income in this case.

Income eligibility for the 40 units being claimed is as follows, in accordance with the ELIHC recorded in Volume 973 Page 722 of the Land Records of the Town of New Canaan and in documentation provided by the town:



**Ned Lamont**  
Governor

**STATE OF CONNECTICUT  
DEPARTMENT OF HOUSING**



**Seila Mosquera-Bruno**  
Commissioner

# of Units	# of Bedrooms	SMI Affordability	HUE's Per Unit	Total HUE's
17	1	80% of SMI	1.5	25.5
12	2	80% of SMI	1.5	18.0
4	3	80% of SMI	1.5	6.0
1	1	40% of SMI	2.5	2.5
4	2	40% of SMI	2.5	10.0
2	3	40% of SMI	2.5	5.0
<b>40 total units</b>			<b>TOTAL</b>	<b>67</b>

**Total HUE points = 67 pts**

**CGS 8-30g(l)(8)** states that "Points shall be subtracted, applying the formula in subdivision (6) of this subsection, for any affordable dwelling unit which, on or after July 1, 1990, was affected by any action taken by a municipality which caused such dwelling unit to cease being counted as an affordable dwelling unit." In 2015, the New Canaan Planning and Zoning Commission approved the tear-down of 22 of the Millport apartments, in six buildings that dated from the 1980s and construction of 73 new affordable dwelling units in four buildings. This property is owned by the HANC and includes an additional parcel at 33 Millport Avenue that contained a two-family house that was purchased by HANC and merged with the adjoining land.

The construction took place in two phases. Phase 1 in 2016 included the first two structures at 33 Millport Avenue (18 units) and 35 Millport Avenue (15 units) and was included in their first application for a Certificate of Affordable Housing Project Completion. Phase II involved the second two buildings, 59 Millport Avenue, and 61 Millport Avenue each contain 20 units and were completed in 2018.

Thirty-three (33) new units were constructed as part of Phase 1, which again was used in the initial application for a Certificate of Affordable Housing Project Completion. Twenty-two (22) units were demolished as part of that initial Phase 1.

**CGS 8-30g(l)(8)** states that that "Points shall be subtracted, applying the formula in subdivision (6) of this subsection, for any affordable dwelling unit which, on or after July 1, 1990, was affected by any action taken by a municipality which caused such dwelling unit to cease being counted as an affordable dwelling unit."

The units that were demolished were restricted to households at or below 80% of Area Median Income. According to the formula in subdivision (6) of **CGS 8-30g(l)**, the demolished units would not have qualified for any housing unit equivalent points because the definition of 'median income' set forth in **CGS 8-30g(a)(7)** states, in relevant part, that median income is "the lesser of the state median income or the area median income for the area in which the municipality containing the affordable housing development is located. . .". In this community, the definition of 'median income' requires the use of the state median income. Consequently, if the units had been rebuilt subject to the original affordability



**Ned Lamont**  
Governor

**STATE OF CONNECTICUT  
DEPARTMENT OF HOUSING**



**Seila Mosquera-Bruno**  
Commissioner

restriction, 80% of Area Median Income, they would not have received any housing equivalent points under the formula.

Units Demolished:

# of Units	AMI Affordability	SMI Equivalent	HUE's Per Unit	Total HUE's Deducted
22	80% of AMI	Not Equivalent	0.0	0.0
			TOTAL	0.0

**Total HUEs for units claimed at Millport Apartments less HUEs to be subtracted under the formula: 67 HUEs minus 0.0 HUEs = Total HUEs for claimed units at Millport Apartments = 67 HUEs**

**Compliance Certification Affidavit signed 5/23/2024 for Millport Apartments Phase II – 59 & 61 Millport Avenue in regard to Connecticut General statutes Sec 8-30h. Annual certification of continuing compliance with affordability requirements.** Certification was made that the forty (40) units in the 100% “set -aside” development are restricted under an Affordability Plan filed in the Office of the Planning and Zoning Department, that the units are restricted in compliance with that Plan for a period of 40 years from the date of the issuance of the Certificate of Occupancy for each of the units, and that, therefore, the development continues to be in compliance with the restrictions required under Connecticut General Statutes Section 8-30g. Compliance certification letter dated June 20, 2024 signed by Nicholas R. Bamonte received.

**B. Canaan Parish – 186 Lakeview Avenue**

This 100-unit 8-30g development was originally approved by a special permit on September 17, 2018 by the New Canaan Planning and Zoning Commission for the demolition of 60 existing units and construction of 100 new units of multi-family housing at 186 Lakeview Ave., New Canaan, CT, which approval is filed in the New Canaan Land Records in Volume 992, Page 481. This approval ties the development to Canaan Parish Lakeview Avenue, New Canaan, Connecticut Affordability Plan for Canaan Parish Redevelopment, July 2018, Submitted by Canaan Parish Redevelopment, LLC to the New Canaan Planning and Zoning Commission, (Deed Restriction/Affordability Plan filing info: Affordability Plan – Vol 1052 / Pgs 176-200). The HANC Resolution 21-01 Canaan Parish 8-30g Income Limits Commitment (Book 1052 page176) further clarifies the median income intention in the Canaan Parish Lakeview Avenue, New Canaan, Connecticut Affordability Plan for Canaan Parish Redevelopment, July 2018, Submitted by Canaan Parish Redevelopment, LLC to the New Canaan Planning and Zoning Commission, Page 2.

Building 1, containing 60 Section 8 project-based assisted rental units was completed in October 2021. Building 2, containing 40 additional affordable units was completed in June of 2023. The permanent





**Ned Lamont**  
Governor

**STATE OF CONNECTICUT  
DEPARTMENT OF HOUSING**



**Seila Mosquera-Bruno**  
Commissioner

Certificate of Occupancy was granted for both buildings on June 8, 2023. ***This 2024 application claims only those units in Building 1, 60 units.***

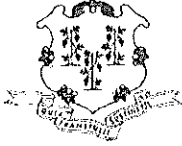
This development falls under PA 00-206 (As of June 1, 2000) - "Set-aside Development" means a development in which not less than thirty percent of the dwelling units will be conveyed by deeds containing covenants or restrictions which shall require that, for at least forty years after the initial occupation of the proposed development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty percent or less of their annual income, where such income is less than or equal to eighty percent of the median income. In a Set-aside Development, of the dwelling units conveyed by deeds containing covenants or restrictions, a number of dwelling units equal to not less than 15% of all dwelling units in the development shall be sold or rented to persons and families whose income is less than or equal to 60% of the median income and the remainder of the dwelling units conveyed by deeds containing covenants or restrictions shall be sold or rented to persons/families whose income is less than or equal to 80% median income.

"The lesser of test" as per PA 95-280 (effective July 6, 1995) did exist when the project was first proposed and should be applied relative to consideration for calculating HUE points. The *Housing Authority of the Town of New Canaan Resolution 21-01 Canaan Parish 8-30g Income limits Commitment* was filed in Book 1052 Page 176 on 10/12/2021 reiterating conformance of the Affordability Plan with CGS 8-30g with 15% (15 out of 100 units) being rented to persons and families whose income is less than or equal to 60% of the median income, and the remainder of the units being rented to persons and families whose income is less than or equal to 80% of the median income and that the restriction is for no less than 40 years. It also acknowledges that "median income" pursuant to CGS 8-30g(a)(7) is defined as "the lesser of the state median income or the area median income for the areas in which the municipality containing the affordable housing development is located, as determined by the United States Department of Housing and Urban Development."

The chart below details income eligibility for the 60 units in Building #1, in accordance with documentation provided by the town.

# of Units	# of Bedrooms	SMI Affordability	HUE's Per Unit	Total HUE's
16	1	80% of SMI	1.5	24
28	2	80% of SMI	1.5	42
1	3	80% of SMI	1.5	1.5
4	1	60% of SMI	2.0	8
4	2	60% of SMI	2.0	8
7	3	60% of SMI	2.0	14
<b>60 total units</b>			<b>TOTAL</b>	<b>97.5</b>

**Total HUE points = 97.5**



Ned Lamont  
Governor

STATE OF CONNECTICUT  
DEPARTMENT OF HOUSING



Seila Mosquera-Bruno  
Commissioner

**CGS 8-30g(l)(8) does apply** and states "Points shall be subtracted, applying the formula in subdivision (6) of this subsection, for any affordable dwelling unit which on or after July 1, 1990, was affected by any action taken by a municipality which caused such dwelling unit to cease being counted as an affordable dwelling unit."

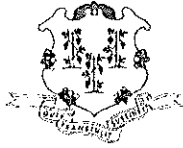
The units that were demolished were restricted to households at or below 80% of Area Median Income. According to the formula in subdivision (6) of C. G. S. 8-30g(l), these units would not have qualified for any housing unit equivalent points because the definition of 'median income' requires the use of the State Median Income in this community. So, if the units had been rebuilt to the same affordability, 80% of Area Median Income, they would not have received any housing equivalent points under the formula.

Units Demolished:

# of Units	AMI Affordability	SMI Equivalent	HUE's Per Unit	Total HUE's Deducted
60	80% of AMI	Not Equivalent	0.0	0.0
			TOTAL	0.0

**Total HUE pts for units claimed at Canaan Parish less HUEs to be subtracted under the formula.  
80.5 HUEs minus 0.0 HUEs = Total HUE's for claimed units at Canaan Parish = 80.5 HUE Points**

**Compliance Certification Affidavit signed 5/23/2024 for Canaan Parish – 186 Lakeview Avenue Buildings 1 & 2 in regard to Connecticut General statutes Sec 8-30h. Annual certification of continuing compliance with affordability requirements.** Certification was made that one hundred (100) units in the 100% affordable "set-aside" development are restricted under an Affordability Plan filed in the office of the Planning & Zoning Department, that the unit are restricted in compliance with the Plan for a period 40 years from the date of the issuance of the Certificate of Occupancy for each of the units, and that, therefore, the development continues to be in compliance with the restrictions required under Connecticut General Statutes Section 8-30g. Compliance certification letter dated June 20, 2024 signed by Nicholas R. Bamonte received.



**Ned Lamont**  
Governor

**STATE OF CONNECTICUT  
DEPARTMENT OF HOUSING**



**Seila Mosquera-Bruno**  
Commissioner

PROJECT NAME	HUE POINTS
Millport Apartments	67.0
Canaan Parish	97.5
<b>Total</b>	<b>164.5</b>

New Canaan needs a minimum of 150.04 HUEs (per the latest census numbers 2020: 7,502 dwelling units x 2% = 150 points for New Canaan). Documentation was provided for HUE points totaling 164.5 total HUE points. The Town on New Canaan requested that DOH only consider the minimum number of its and associated HUE points necessary to award the Certificate as required by law; as a result, 150 housing unit equivalent points will be used for this application. That leaves 14.5 housing unit equivalent points which may be used toward a future application.

# EXHIBIT 3

## Exhibit C

Regulations of Connecticut State Agencies

Title 8. Zoning, Planning, Housing, Economic and Community Development and Human Resources

Department of Economic and Community Development

Affordable Housing Land Use Appeals Procedures (Refs & Annos)

Regs. Conn. State Agencies § 8-30g-6

Sec. 8-30g-6. State certificate of affordable housing completion; moratorium on applicability of section 8-30g of the Connecticut General Statutes to certain affordable housing applications

### Currentness

- (a) As provided in [section 8-30g\(l\) of the Connecticut General Statutes](#), certain applications for affordable housing development shall be subject to a moratorium for a period of three years from the publication by the Department of notice of issuance of a state certificate of affordable housing completion, or during a period of qualification for provisional approval of a state certificate of affordable housing completion.
- (b) The chief elected official of any municipality may apply to the commissioner for a state certificate of affordable housing completion.
- (c) An application for a state certificate of affordable housing completion shall include at least the following:
- (1) A letter to the commissioner signed by the chief elected official of the municipality;
  - (2) A letter from an attorney representing the municipality, stating an opinion that the application complies with [section 8-30g of the Connecticut General Statutes](#) and this section as in effect on the day the application is submitted;
  - (3) On a form provided by the Department, a summary calculation of the housing unit-equivalent points required of the applicant municipality in order to qualify for a state certificate;
  - (4) Documentation of the existence of the required housing unit-equivalent points, in accordance with the specifications of subsection (e) of this section;
  - (5) The justification for claiming such points, with reference to the descriptions and point schedule set forth in [section 8-30g of the Connecticut General Statutes](#) and subsection (i) of this section;
  - (6) Certification by the applicant municipality that for each unit for which housing unit-equivalent points are claimed, a valid certificate of occupancy has been issued by the building official of such municipality and is currently in effect, provided that copies of such certificates of occupancy need not be submitted;

(7) Certification that the municipality has identified and deducted, or otherwise excluded from the total housing unit-equivalent points claimed, all units that as a result of action by the municipality, municipal housing authority, or municipal agency, no longer qualify, as of the date of submission of the application, as providing housing unit-equivalent points, without regard to whether the units were originally constructed before or after July 1, 1990;

(8) All documentation reflecting compliance with the notice, publication, and other procedural requirements set forth in subsection (j) of this section;

(9) A fee sufficient to reimburse the department for its costs of publication of notices as set forth in [sections 8-30g-1 to 8-30g-11, inclusive, of the Regulations of Connecticut State Agencies](#).

(d) The applicant municipality shall bear the costs of application notice, publication, and procedural compliance with respect to an application for a state certificate of affordable housing compliance.

(e) Documentation of the existence of the housing unit-equivalent points necessary to qualify for a state certificate of affordable housing completion shall include the following:

(1) A numbered list of all dwelling units that furnish the basis of housing unit-equivalent points being counted toward the qualifying minimum;

(2) The address of each such unit; and

(3) The housing unit-equivalent points and classification claimed for each such unit.

(f) Each dwelling unit claimed to provide housing unit-equivalent points toward a state certificate of affordable housing completion by virtue of a deed restriction, recorded covenant, zoning regulation, zoning approval condition, financing agreement, affordability plan or similar mechanism shall be documented as an enforceable obligation with respect to both income qualifications and maximum housing payments, that is binding at the time of application for at least the duration required by [section 8-30g of the Connecticut General Statutes](#) at the time of the development's submission to a commission, by the submission of a copy of one or more of the following:

(1) Deed restriction or covenant;

(2) Zoning, subdivision or other municipal land use approval or permit containing an applicable condition or requirement;

(3) Report, if less than one (1) year old, submitted to the municipality pursuant to [section 8-30h of the Connecticut General Statutes](#);

(4) Local, state or federal financing, subsidy, or assistance agreement; or

(5) Affordability plan, if adopted by the municipality and made binding.

(g) The commissioner may, in the commissioner's sole discretion, request any additional information deemed necessary to determine the housing unit-equivalent point value of any dwelling unit claimed by the municipality or the applicant municipality's overall calculation of housing unit-equivalent points. The commissioner may also, in the commissioner's sole discretion, accept alternative documentation.

(h) As provided in [section 8-30g\(l\) of the Connecticut General Statutes](#), the housing unit-equivalent points required for a certificate shall be equal to two percent (2%) of all dwelling units in the municipality, but no less than seventy-five (75) housing unit-equivalent points. Units and housing unit-equivalent points that serve as the basis of approval of a state certificate, whether a provisional approval or issuance by the commissioner, shall not be the basis of a subsequent application. The housing unit-equivalent points necessary for a state certificate shall be calculated using as the denominator the total estimated dwelling units in the municipality as reported in the most recent United States decennial census.

(i) As provided in [section 8-30g\(l\) of the Connecticut General Statutes](#), dwelling units whose occupancy is restricted to maximum household income limits that comply with [section 8-30g of the Connecticut General Statutes](#) and that qualify, based on binding restrictions on maximum sale or resale price or rent, as price-restricted dwelling units in compliance with [section 8-30g of the Connecticut General Statutes](#), shall be awarded unit-equivalent points toward a state certificate as follows:

Type of Unit		Housing Unit-Equivalent 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

(j) Applications for a state certificate of affordable housing completion shall be submitted and processed as follows:

(1) A municipality intending to submit to the department an application for a state certificate of affordable housing completion shall publish in the Connecticut Law Journal and in a newspaper of general circulation in the municipality a notice of its intent to apply and the availability of its proposed application for public inspection and comment. Such notice shall state the location where the proposed application, including all supporting documentation, shall be available for inspection and comment, and to whom written comments may be submitted. Such application and documentation shall be made available in the office of the municipal clerk for no less than twenty (20) calendar days after publication of notice. If, within the comment period, a petition signed by at least twenty-five (25) residents of the municipality is filed with the municipal clerk requesting a public hearing with respect to the proposed application, either the municipality's legislative body or its zoning or planning commission shall hold such a hearing. A copy of all written comments received, responses by the municipality to comments received, and a description of any modifications made or not made to the application or supporting documentation as a result of such comments, shall be attached to the application when submitted to the commissioner.

(2) As soon as practicable after submission of an application, the department shall notify the applicant in writing whether the application is complete with respect to the information required. If the application is deemed complete, it shall be considered received on the date of original submission. If the application is not complete, the department shall identify in writing the additional information necessary, and the application shall be considered received on the date the department receives the additional information requested. If the applicant fails or refuses to correct any deficiencies within a reasonable time, the department shall deny or reject the application.

(3) If the department requests additional information, the time limits for publishing notice of receipt of the application as specified in subsection (6) of subsection (j) of this section and issuing a decision as specified in [section 8-30g of the Connecticut General Statutes](#) shall commence when the department receives the requested information and the application is complete.

(4) After determining that it has received a complete application, the Department shall promptly publish in the Connecticut Law Journal a notice of receipt of such application. Such application, including all supporting documentation, shall be made available to the public. Written public comment shall be accepted by the department for a period of thirty (30) days after such publication.

(5) The department shall evaluate the application, including all documentation submitted and public comments received, to accurately determine the number, classification and housing unit-equivalent points, if any, of all dwelling units claimed. The department shall calculate the total housing unit-equivalent points based on the values assigned in [section 8-30g of the Connecticut General Statutes](#). The department may, as necessary, verify or modify the housing unit-equivalent point total claimed by the municipality. The department shall determine whether the municipality has satisfied the minimum criteria for a state certificate of affordable housing completion. The department shall also determine whether all units which must be deducted or otherwise excluded from total housing unit-equivalent points pursuant to subsection (c)(7) of this section have been properly counted and whether proper adjustment has been made.

(6) The department shall provide the municipality, within ninety (90) days of receipt of a complete application as specified in [sections 8-30g-1 to 8-30g-11, inclusive, of the Regulations of Connecticut State Agencies](#), with a written decision stating the reasons for approval or rejection, and shall make such decision available to the public. If the department approves the application, it shall publish in the Connecticut Law Journal a notice of its issuance of a state certificate of affordable housing completion.



(k) If the department fails to act within the time set by [section 8-30g\(1\) of the Connecticut General Statutes](#), the application shall be deemed as having been granted provisional approval. A moratorium shall then take effect upon the date of completion of publication by the municipality of a notice of the provisional approval in both the Connecticut Law Journal and a newspaper with general circulation in the municipality. The latter notice shall be at least one-eighth page, shall be published in a conspicuous manner, and shall clearly use the words "provisional approval." The municipality shall promptly provide the department with a certified copy of the published notice. The department shall act on a provisionally-approved application as soon as practicable. Upon issuing its decision, the department shall issue a written notice to the municipality and shall publish a notice of its decision in the Connecticut Law Journal and a newspaper with general circulation in the municipality. The provisionally- approved moratorium shall terminate upon issuance of written notice of disapproval to the municipality. Dwelling units claimed toward a state certificate of affordable housing completion that is provisionally approved, or provisionally approved and later denied by the department, may be claimed again on a subsequent application, so long as the moratorium resulting from provisional approval was in effect for less than one hundred eighty (180) days.

(l) The commissioner may revoke a state certificate of affordable housing completion at any time upon determining, after written notice to the municipality and a reasonable opportunity for response or explanation, that an application contained materially false, misleading, or inaccurate information or was otherwise approved without compliance with the criteria of [Section 8-30g and sections 8-30g-1 to 8-30g-11, inclusive, of the Regulations of Connecticut State Agencies](#). The commissioner shall issue written notice of a decision to revoke a certificate of affordable housing completion and shall publish a notice of revocation in the Connecticut Law Journal. Such revocation shall be effective upon issuance of written notice to the municipality. Use of dwelling units and housing unit-equivalent points claimed toward a certificate of affordable housing that is approved and later revoked pursuant to this subsection shall be at the sole discretion of the commissioner. If a municipality, in the judgment of the commissioner, knowingly or intentionally misrepresented any portion of an application for a state certificate, the commissioner may, in addition to revocation, refuse to approve a re-application for a state certificate for up to three (3) years from revocation.

(m) The department shall prepare and update periodically a list of all municipalities that have been issued a state certificate of affordable housing completion or have obtained provisional approval by publication of valid notices. Such list shall identify the expiration date of each state certificate or provisional approval. The department shall make such list available to the public. Such list shall be updated each time a municipality is issued a certificate or obtains provisional approval.

(n) A municipality that has been issued a state certificate of affordable housing completion may, at any time, submit an application for another moratorium, provided that such application shall be considered a new application, shall comply in full with these regulations, and may not utilize any dwelling unit that provided housing unit-equivalent points for any previous state certificate. Any application intended to maintain a moratorium without interruption at the expiration of a previously-approved state certificate shall be submitted so as to allow the department sufficient time to process the application in accordance with these regulations.

#### Credits

(Added effective April 29, 2002; Amended effective May 3, 2005.)

<Statutory Authority: [C.G.S.A. § 8-30g](#)>

Current with material published on the CT eRegulations System through 8/6/2024. Some sections may be more current, see credits for details.

Regs. Conn. State Agencies § 8-30g-6, CT ADC § 8-30g-6

End of Document

© 2024 Thomson Reuters. No claim to original U.S. Government Works.