

In the Matter of:)	
)	
Town of New Canaan)	
Certificate of Affordable Housing)	
Completion/Moratorium Application)	February 27, 2023
Pursuant to C.G.S. § 8-30g)	
)	

PETITION FOR INTERVENOR STATUS

Pursuant to General Statutes § 4-176(d) and the Department of Housing’s January 31, 2023 Notice and Order, as revised February 24, 2023, 751 Weed Street, LLC; W.E. Partners, LLC; and 51 Main Street, LLC, hereby petition to intervene in the above-captioned Petition for Declaratory Ruling (the “Petition”).

I. Factual Background and Procedural History.

The moving parties are Connecticut limited liability corporations with offices in New Canaan. As of the date of this petition, each entity has a pending General Statutes § 8-30g affordable housing application in New Canaan, and has filed information with the Department of Housing (“Department”) in opposition to the Town of New Canaan’s April and July 2022 moratorium applications.

The Town of New Canaan has appealed the decision dated October 18, 2022 denying the issuance of a Certificate of Affordable Housing Project Completion to the Town.

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

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

On February 8, 2023, the same entities that have filed this petition, for intervenor status timely filed with the Department a Petition for Party Status. In its February 24, 2023 Notice and Order, the Department denied party status, but set a revised deadline, March 10, 2023, for petitions for intervenor status. These petitioners, therefore, reserving their right to be made parties to this proceeding, hereby file for intervention.¹

II. The Moving Parties Legal Rights, Duties or Privileges Will Be Specifically Affected By This Agency Proceeding.

All three entities must be permitted to intervene pursuant to General Statutes § 4-176(d).

Even though each petitioner's § 8-30g development proposal is presently "grandfathered" by General Statutes § 8-30g (1)(2)(c) from being impacted by a moratorium that would be granted through this agency proceeding, (1) a denial of any one of the petitioners' pending § 8-30g applications could proceed to Superior Court on appeal, and could result in a remand to the Commission for site plan changes, at which time the Planning and Zoning Commission could

¹ These petitioners attached to their February 8, 2023 party status petition a copy of the 2020 Superior Court decision (the Hon. Marshall Berger, J.), *Summit Saugatuck LLC v. Department of Housing*, Docket No. LND-CV-20-6127403-S (November 19, 2020). In that decision, Judge Berger expressly held that a developer with a pending § 8-30g application has standing and is aggrieved to pursue a declaratory action under General Statutes § 4-176, regarding a § 8-30g moratorium, *see* Memorandum at 17, 18. Thus, in denying party status to these petitioners, the Department has directly contradicted a recent, on-point court decision, to which it was a party.

raise a granted moratorium as a defense or obstacle; and (2) in a court appeal under § 8-30g, the Planning and Zoning Commission would undoubtedly raise a granted moratorium as a fact relevant to § 8-30g's requirement that the Commission balance its denial reasons against the town's need for affordable housing. Thus, there are at least two ways that this petition could specifically affect each petitioner's legal rights.

Moreover, as to the second issue submitted for a declaratory ruling, the petitioners submitted in April and August 2022 several other objections to New Canaan's moratorium application in addition to the so-called "carryover points" question raised in the first issue, which objections were not ruled upon by the Department in 2022, such that the petitioners here are necessary and proper intervenors to ensure that these additional objections are addressed.

III. CONCLUSION.

For the above reasons, this Petition for intervenor status should be granted.

751 WEED STREET, LLC; W.E. PARTNERS,
LLC; 51MAIN STREET, LLC

By: /s/ Timothy S. Hollister

Timothy S. Hollister, Esq.
thollister@hinckleyallen.com
HINCKLEY, ALLEN & SNYDER, LLP
20 Church Street, 18th Floor
Hartford, Connecticut 06103
Juris No. 428858
(860) 331-2600
(860) 278-3802 (Fax)
Their Attorneys

CERTIFICATION

This is to certify that a copy of the foregoing was mailed or electronically delivered on February 27, 2023 to all counsel and self-represented parties of record and that written consent for electronic delivery was received from all counsel and self-represented parties of record who were electronically served.

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

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

/s/ Timothy S. Hollister

Timothy Hollister