Understanding Section 8-30g
Common Myths

PARTNERSHIP FOR STRONG COMMUNITIES
A Safe, Affordable Home: The Foundation of Opportunity

Myth: The act is unchanged since its original adoption in 1989.
Fact: In 2000 the General Assembly adopted changes to Section 8-30g that significantly increased the affordability requirements of housing built under the act, expanded the information available to towns, clarified the mechanisms to enforce affordability, and authorized moratoriums from the act for towns in which substantial affordable housing qualifying under the act had been built.

Myth: The act requires towns to have 10% of their housing units affordable.
Fact: There is no such requirement. The 10% exemption from the act is a way to exempt towns which already have a large amount of government-assisted or deed-restricted housing. There is no obligation of any town to reach the 10% level and no state goal expecting towns to do so.

Myth: Towns that are well below the 10% exemption are locked into the act forever.
Fact: Towns with a high level of affordable housing construction can obtain a 4-year moratorium from 8-30g applications. The moratorium is based on "housing unit-equivalent points" (HUE) which give bonuses for rental housing and for housing targeted to households below 60% of median income. A town can get a moratorium by earning HUE equal to 2% of its housing stock. Brookfield, Farmington, Milford, New Canaan, Ridgefield, Suffield, Westport and Wilton have gotten a moratorium. Berlin, Darien, and Trumbull have had two moratoriums.

Myth: 8-30g doesn't count any affordable housing built before 1990.
Fact: That is wrong. The 10% exemption is based on how much subsidized housing the town has at the time of each year's report. Housing built before 1990 that continues to be subsidized counts toward the 10%. Pre-1990 housing does not count to the moratorium, because the moratorium is to acknowledge new construction in the town since 8-30g went into effect (which was in 1990).

Myth: The units built under the act are not affordable.
Fact: In an 8-30g set-aside development, at least 30% of the units must be deed-restricted for at least 40 years. Half of those units must be for households below 60% of the lower of state or area median income. Rents cannot exceed an annually set fair market rent. For example, 15% of the units in an 8-30g development in lower Fairfield County, if they are two-bedroom, must rent for less than $1,235 per month including heat and utilities.

Myth: Hardly any affordable housing units have been built under the act.
Fact: At least 5,000 income-restricted units have been built directly under the act, many of them in developments that also contain low-cost market rate units. Many more affordable units have been approved by towns because of the existence of the act. In recent years, approvals and settlements have taken place in Avon, Bethany, New Canaan, and Simsbury, to name a few.

Myth: Towns can defend an affordable housing appeal only if the town can prove that the proposal will have an adverse impact on health or safety.
Fact: The act requires the court to balance housing need against "any substantial public interests in health, safety, or other matters which the commission may legally consider." Commissions can defend a decision on any ground that is a proper basis for a zoning or planning commission decision. The courts have sustained commission decisions on such grounds as open space and architectural characteristics of the area.

Myth: Developers who take appeals under the act always win.
Fact: Taking an appeal is far from an automatic win for an applicant. Towns have won almost one-third of appeals. When a town shows strong reasons for a denial, it usually wins the appeal.

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Myth: The act prevents consideration of environmental concerns.
Fact: Even if a developer can successfully challenge a zoning or planning denial through 8-30g, it cannot build anything without other necessary approvals. The act requires applicants for 8-30g developments to obtain any other approvals required for any other development. It does not apply to or affect the standards of the decisions of wetlands or conservation commissions, Department of Public Health or similar entities.

Myth: The act is an inadequate affordable housing policy for the Connecticut.
Fact: 8-30g was never intended as a substitute for a state housing policy. It is one very essential piece of housing policy. At the time it was adopted, the state did create two new municipal incentive programs – the Connecticut Housing Partnership and the Region Fair Housing Compact program – both of which came with financial incentives to participating towns. Both programs have been dormant for years.

Myth: The act unfairly counts only government-assisted and deed-restricted units as affordable.
Fact: The 10% count of units to determine exemption from the act is not intended to be a count of all housing units in the town that are "affordable." It is a count of government-assisted and deed-restricted units. The 10% exemption reasonably identifies those towns in which application of the act is unnecessary. There are now 31 towns which are exempt from the act. If unrestricted units were to be counted, a percentage far higher than 10% would have to be used.

Myth: Towns can never reach the 10% threshold because 8-30g developments only require 30% affordable units ultimately making the goal harder to reach.
Fact: For purposes of the Affordable Housing Appeals List, all government-assisted and deed-restricted housing units are counted under 8-30g. This includes housing receiving financial assistance under a governmental program for the construction of low- or moderate-income housing, housing units with tenants who have rental vouchers, housing with government subsidized single family mortgages, and housing subject to deeds restricting its sale or rental to low- and moderate-income people at prices that keep housing costs no more than 30% of income.

Myth: The act does not count accessory apartments.
Fact: The act recognizes all government-assisted and deed-restricted units. Accessory apartments subject to ten-year deed restrictions are counted toward the 10% exemption.

Myth: Developers use the threat of the act to get other concessions from zoning commissions.
Fact: The act's affordability requirements have the practical effect of limiting the profitability of an 8-30g development. Developers who are not serious about producing affordable housing are not likely to find its development sufficiently attractive financially. Affordable housing is not a negative. If this claim is true, towns should call the developer's bluff and approve the housing application.

Myth: Zoning is a local power, and 8-30g unfairly interferes in local authority.
Fact: Zoning is delegated to towns by the state through the Zoning Enabling Act (Section 8-2). The Zoning Act imposes numerous conditions on the towns' power to zone. For example, Zoning ordinances are required to promote economic diversity in housing, including housing for both low- and moderate-income households, are required to encourage opportunities for multi-family dwellings, and are required to encourage such opportunities for residents of the region in which the town is located, not merely for residents of the town. If there were no state Zoning Act, towns would have no power at all to regulate zoning.

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