

CGS § 8-30g

The Affordable Housing Land Use Appeals Procedure

What is the affordable housing land use appeals procedure and what is its purpose?

The procedure requires municipal planning and zoning agencies (hereinafter “municipalities”) to defend their decisions to reject affordable housing development applications or approve them with costly conditions. In traditional land use appeals, the developer must convince the court that the municipality acted illegally, arbitrarily, or abused its discretion. The procedure instead places the burden of proof on municipalities.

What types of developments trigger the law’s protection?

The proposed development must be an “affordable housing development,” which the law defines to include “assisted housing” and “set-aside developments.”

Under what circumstances are municipalities subject to the law?

With one exception, developers can use the appeals procedure to contest a municipality’s decision on an affordable housing development application submitted to a municipality if (1) fewer than 10% of the municipality’s housing units are affordable, based on certain statutory criteria, and (2) the municipality has not qualified for a moratorium. Under the exception, a moratorium does not apply to appeals related to applications for certain small or low-income assisted housing developments.

What types of dwelling units count toward the 10%?

Affordable housing is defined to include (1) “assisted housing,” (2) housing currently financed by Connecticut Housing Finance Authority mortgages, (3) housing subject to deeds and conditions restricting its sale or rental to low- and moderate-income people, and (4) mobile homes or accessory apartments subject to certain deed restrictions.

Assisted Housing

Housing that receives government assistance to construct or rehabilitate low- and moderate-income housing, or housing occupied by individuals receiving rental assistance.

Set-Aside Development

A development in which, for at least 40 years after initial occupancy, at least 30% of the units are deed restricted. Specifically, at least:

- (1) 15% of the units must be deed restricted to households earning 60% or less of the area median income (AMI) or state median income (SMI), whichever is less, and
- (2) 15% of the units must be deed restricted to households earning 80% or less of the AMI or SMI, whichever is less.

When is a municipality eligible for a moratorium?

A municipality is eligible for a temporary suspension of procedure (i.e., moratorium) each time it shows it has added a certain amount of affordable housing units over the applicable time period. Newly built set-aside and assisted housing developments count toward the moratorium, as do units subject to certain deed restrictions. Generally, a moratorium lasts four years, except that municipalities with at least 20,000 dwelling units are eligible for moratoria lasting for five years if they are applying for a second or subsequent moratorium (i.e., they previously qualified for a moratorium).

With one exception, a municipality is eligible for a moratorium each time it shows it has added affordable housing units, measured in HUE (housing unit equivalent) points, equaling the greater of 2% of the housing stock, as of the last census, or 75 HUE points. Under the exception, the 2% threshold drops to 1.5% for municipalities that have at least 20,000 dwelling units, adopt an affordable housing plan, and apply for a second or subsequent moratorium. HUE points are calculated as shown in the adjacent table. (Bonus points are in addition to base points.) [PA 17-170](#) made temporary changes to the procedure, including (1) lowering the HUE points required for a moratorium from 75 to 50 and (2) making three additional categories of units eligible for bonus HUE points. These changes sunset on September 30, 2022.

Unit Type	Base HUE Value (per unit)	
Owned or rented market-rate unit in a “set-aside development”	0.25	
Owned or rented elderly unit restricted to households earning no more than 80% of the median income	0.50	
Owned family unit restricted to households earning no more than:	80% of median income	1.00
	60% of median income	1.50
	40% of median income	2.00
Rented family unit restricted to households earning no more than:	80% of median income	1.50
	60% of median income	2.00
	40% of median income	2.50
Owned or rented homes in resident-owned mobile manufactured home parks occupied by households earning 80% or less of the median income	1.50	
Owned or rented homes in resident-owned mobile manufactured home parks occupied by households earning 60% or less of the median income	2.00	
Owned or rented homes in resident-owned mobile manufactured home parks not otherwise eligible for points	0.25	

Unit Type	Bonus HUE Value (per unit)
Rental family units in a set-aside development, if the developer applied for local approval before July 6, 1995	Bonus equal to 22% of the total points awarded to the development
Additional Bonuses That Sunset on September 30, 2022	
Owned or rented restricted family units in an incentive housing development	0.25 bonus
Owned or rented restricted family units with at least 3 bedrooms	0.25 bonus
Owned or rented restricted elderly units, if at least 60% of restricted units used toward the moratorium are family units	0.50 bonus

How can municipalities defend an appeal brought under the procedure?

Municipalities cannot defend an appeal on the grounds that the application does not comply with land use regulations. Instead, to defend an appeal, a municipality must show either:

1. the decision was necessary to protect substantial public interests in health, safety, or other matters the municipal commission may legally consider, and that these interests clearly outweigh the need for affordable housing and cannot be protected by making reasonable changes to the proposed development or
2. the development is (a) receiving no government funds and (b) located in an industrial zone that does not permit residential uses.

Learn More

[Public Act 17-170](#) (vetoed; veto overridden)

[OLR’s Summary](#) of Public Act 17-170

[CGS § 8-30g](#), as amended by [PA 21-29](#), and the related [regulations](#)

Affordable Housing Under CGS § 8-30g ([2022-R-0116](#))

Moratoria Granted Under CGS § 8-30g ([2022-R-0147](#))

Annual [Lists](#) Showing Percentage of Affordable Housing in Each Municipality

