

# Legal Obligations to Advance Housing Opportunity



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**JOINT INFORMATIONAL HEARING  
OF THE HOUSING COMMITTEE  
AND PLANNING & DEVELOPMENT COMMITTEE  
OF THE CONNECTICUT GENERAL ASSEMBLY**

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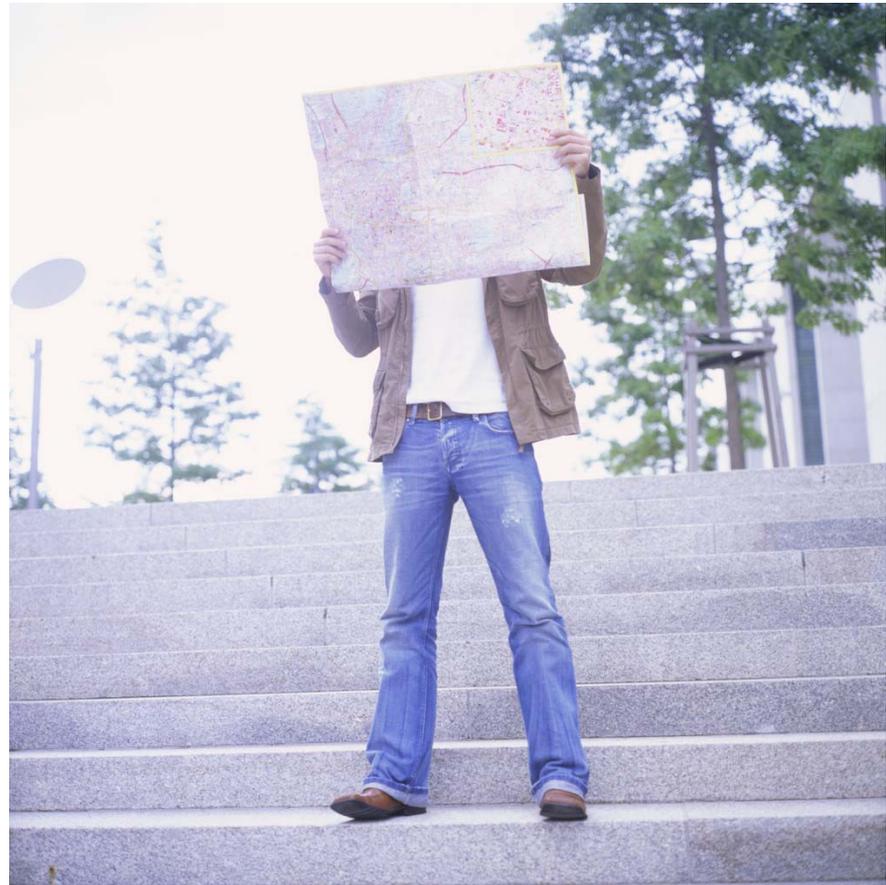
# Roadmap

## Federal Obligations

- Texas v. ICP
- 42 U.S.C. § 3608
- 24 C.F.R. §§ 5, 91, 92, 570, 574, 576, 903

## State Obligations

- C.G.S. § 8-2
- C.G.S. § 8-30g





Texas  
Department of  
Housing and  
Community  
Affairs

v.

Inclusive  
Communities  
Project, Inc.



“The Court holds that disparate-impact claims are cognizable under the Fair Housing Act.”

# Affirmatively Furthering Fair Housing



## 42 U.S.C. § 3608

All executive departments and agencies shall administer their programs and activities relating to housing and urban development . . . in a manner affirmatively to further the purposes of the Fair Housing Act.

## Grantees

HUD assigns its obligation to AFFH to its grantees.

- State of Connecticut
- 22 Towns and Cities
  - Bridgeport
  - Hartford
  - Milford
  - Fairfield



## Enforcement of AFFH Obligation

HUD issued new rules on July 16, 2015 to strengthen the AFFH obligation as it applies to states and towns.

Even under the old, less rigorous rules, HUD required grantees to take measurable steps to AFFH.



“The Department considers the achievement of measurable results as the basis of successful fair housing planning.”

- Data Analysis
  - Marin County: HUD required county to collect data on race, gender, ethnicity and disability status for public housing residents
- Accountability and Actions
  - Westchester County: HUD required promulgation of model zoning ordinance, legislation prohibiting discrimination on basis of income source
  - Texas: HUD required AFFH training



## Enforcement of AFFH Obligation

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Requires state to commit to review impact of local zoning, including limitations on multi-family housing, on housing choice and to determine what role State can play to address restrictive zoning actions

- Acknowledges role of LIHTC allocations in development of affordable housing; mandates through QAP that  $\geq 60\%$  awards be made in suburban areas
- Consider ability of towns to exercise implicit veto of LIHTC units via QAP point allocations
- Pilot project to provide mobility counseling to Housing Choice Voucher recipients
- Establish language access plan
- 300 additional project-based vouchers in municipalities with poverty rates  $< 10\%$

# Assessment of Fair Housing



THIS RULE IS INTENDED TO MAKE PROGRAM PARTICIPANTS BETTER ABLE TO EVALUATE THEIR PRESENT ENVIRONMENT TO ASSESS **FAIR HOUSING** ISSUES SUCH AS **SEGREGATION**, CONDITIONS THAT RESTRICT FAIR HOUSING CHOICE, AND DISPARITIES IN **ACCESS TO HOUSING AND OPPORTUNITY**, IDENTIFY THE FACTORS THAT PRIMARILY CONTRIBUTE TO THE **CREATION OR PERPETUATION** OF FAIR HOUSING ISSUES, AND ESTABLISH FAIR HOUSING PRIORITIES AND GOALS.



## Assessment of Fair Housing

- AFH is more robust than prior rule, which gave grantees discretion to determine the format and timing of fair housing planning.
  - Strengthens the process
  - Standardizes process through required use of a detailed Assessment Tool
  - Requires submission to and acceptance by HUD
  - Requires incorporation into plans to spend federal funds



## Assessment of Fair Housing

Standardization

- **AFH must identify the following:**
  - integration and segregation patterns
  - racially or ethnically concentrated areas of poverty
  - disparities in access to opportunity
  
- **AFH must include strategies and actions to affirmatively further fair housing**
  - May include mobility, encouraging development of new affordable housing in areas of opportunity, community revitalization



## Assessment of Fair Housing

### Submission

- In the previous process there was no submission to HUD
  - There was possibility of HUD audit
  - But only a small percentage of AI's were ever reviewed by HUD
  - Very little enforcement
- Now, HUD must review and accept AFH
  - At least every 5 years
  - HUD can reject AFH and require resubmission
  - Failure to submit AFH complying with regulations can result in loss of grant



## **Assessment of Fair Housing**

### Incorporation

- AFH action items must be incorporated in grantees' written plans for spending federal funds



## Assessment of Fair Housing

- AFH assessment tool specifically asks jurisdictions to address various fair housing issues that plague Connecticut
  - Jurisdictions must consider how the following impact segregation:
    - ✦ Lack of regional cooperation
    - ✦ Land use and zoning laws
    - ✦ Location and type of affordable housing
  - Jurisdictions must specifically analyze disparities in access to proficient schools



## Assessment of Fair Housing

Lack of Regional Cooperation

- Cooperation in regional planning can be a useful approach to coordinate responses to identified fair housing issues . . .
- Housing, education, transportation, and commercial and economic development . . . are often not constrained by political-geographic boundaries
- When there are regional patterns in segregation . . . there may be a lack of regional cooperation and fair housing choice may be restricted



## Assessment of Fair Housing

Land use and zoning  
laws

- Zoning and land use laws affect housing choice
  - Limits on multi-unit developments, including indirect limits such as height restrictions and minimum parking requirements
  - Minimum lot sizes
  - Occupancy restrictions
  - Requirements for special permits for all multifamily properties

# Connecticut Zoning Requirements

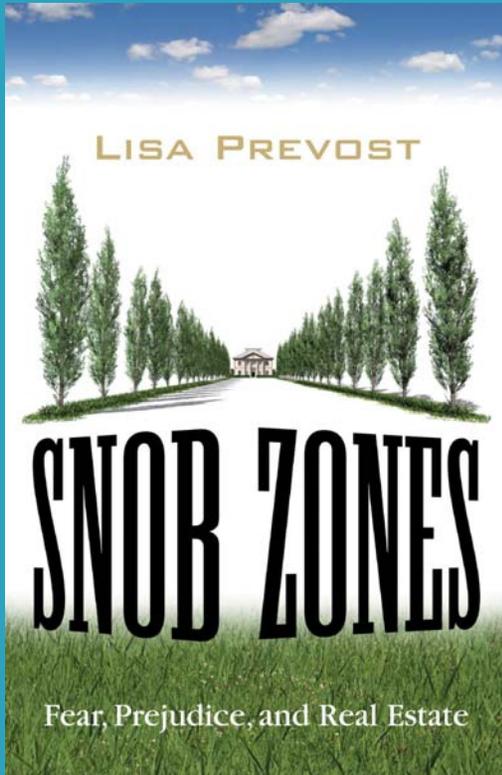


## Connecticut General Statutes § 8-2

- Such regulations shall also encourage the development of housing opportunities, including opportunities for multifamily dwellings
- Such regulations shall also promote housing choice and economic diversity in housing, including housing for both low and moderate income households, and shall encourage the development of housing which will meet the housing needs identified in the state's consolidated plan for housing and community development

## Connecticut General Statutes § 8-30g

- Shifts burden for affordable housing developments in towns that have not historically permitted affordable housing development
- It is supposed to be hard.
- It is supposed to supplant local control.
- Unfortunately, it does not require affordable housing to advance opportunity for children; a large percentage of units constructed are restricted to the elderly or are 1 bedroom or smaller.



Of all Connecticut towns:

- 23 prohibit multifamily housing
- 122 require special permit
- 29 have a bedroom cap
- 13 require minimum lot area of  $\geq 2$  acres for single-family homes
- 18 require minimum lot area of  $\geq 5$  acres for multi-family homes
- 11 have affordable housing preferences

Connecticut Zoning Initiative, collaborative effort between the  
Connecticut Fair Housing Center  
and the Cities Suburbs & Schools Project at Trinity College



# Exclusionary Zoning and Schools

“Limiting the development of inexpensive housing in affluent neighborhoods and jurisdictions fuels economic and racial segregation and contributes to significant differences in school performance across the metropolitan landscape.”

# Housing Costs, Zoning, and Access to High-Scoring Schools

Jonathan Rothwell

## Findings

An analysis of national and metropolitan data on public school populations and state standardized test scores for 84,077 schools in 2010 and 2011 reveals that:

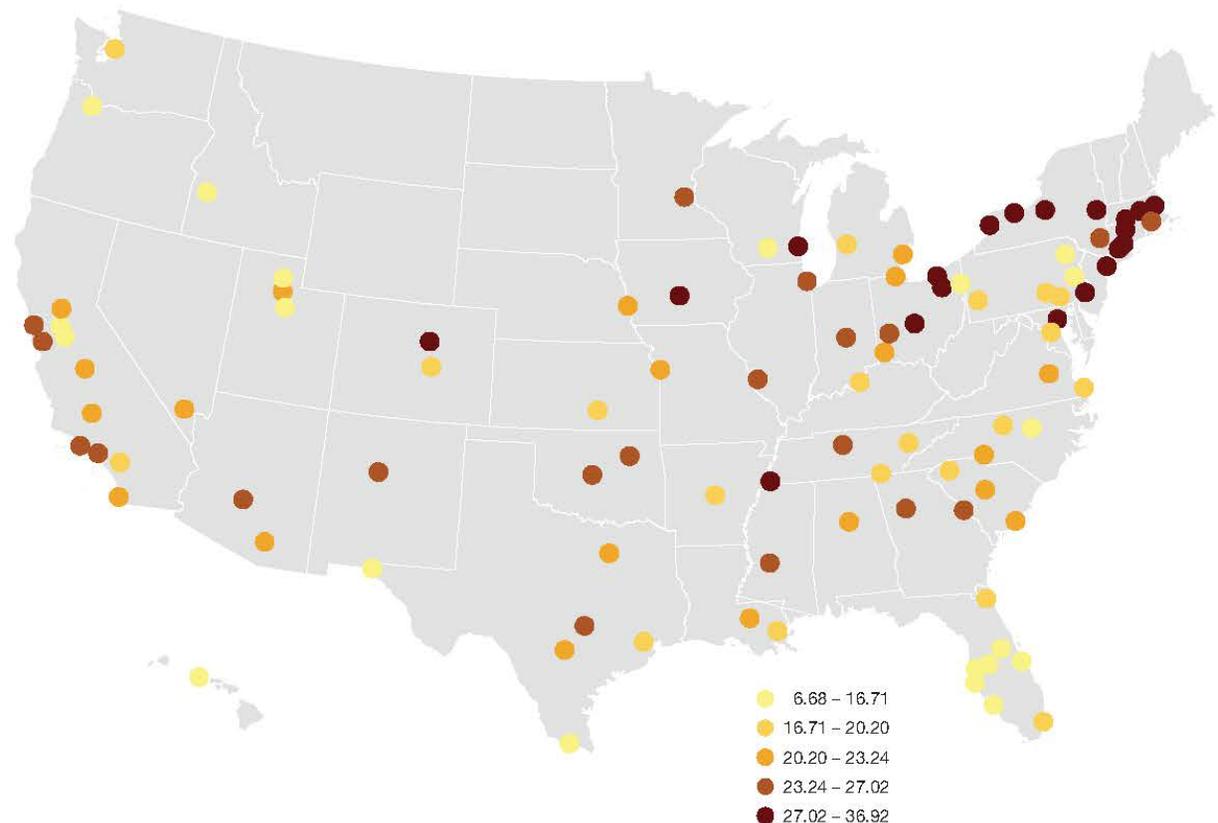
- **Nationwide, the average low-income student attends a school that scores at the 42nd percentile on state exams, while the average middle/high-income student attends a school that scores at the 61st percentile on state exams.** This school test-score gap is even wider between black and Latino students and white students. There is increasingly strong evidence—from this report and other studies—that low-income students benefit from attending higher-scoring schools.
- **Northeastern metro areas with relatively high levels of economic segregation exhibit the highest school test-score gaps between low-income students and other students.** Controlling for regional factors such as size, income inequality, and racial/ethnic diversity associated with school test-score gaps, Southern metro areas such as Washington and Raleigh, and Western metros like Portland and Seattle, stand out for having smaller-than-expected test-score gaps between schools attended by low-income and middle/high-income students.
- **Across the 100 largest metropolitan areas, housing costs an average of 2.4 times as much, or nearly \$11,000 more per year, near a high-scoring public school than near a low-scoring public school.** This housing cost gap reflects that home values are \$205,000 higher on average in the neighborhoods of high-scoring versus low-scoring schools. Near high-scoring schools, typical homes have 1.5 additional rooms and the share of housing units that are rented is roughly 30 percentage points lower than in neighborhoods near low-scoring schools.
- **Large metro areas with the least restrictive zoning have housing cost gaps that are 40 to 63 percentage points lower than metro areas with the most exclusionary zoning.** Eliminating exclusionary zoning in a metro area would, by reducing its housing cost gap, lower its school test-score gap by an estimated 4 to 7 percentiles—a significant share of the observed gap between schools serving the average low-income versus middle/higher-income student.

As the nation grapples with the growing gap between rich and poor and an economy increasingly reliant on formal education, public policies should address housing market regulations that prohibit all but the very affluent from enrolling their children in high-scoring public schools in order to promote individual social mobility and broader economic security.



## Exclusionary Zoning and Schools

Figure 2. The School Test Score Gap in the 100 Largest Metropolitan Areas



1. Bridgeport-Stamford-Norwalk
2. Hartford-West Hartford-East Hartford
4. New Haven-Milford



# Exclusionary Zoning and Schools

## Housing Costs, Zoning and Access to High-Scoring Schools

### New Haven-Milford, CT metro area

#### Why school access matters

This report finds that anti-density zoning laws – local regulations that discourage inexpensive housing – lead to inflated housing costs near high-scoring schools, relative to housing costs near low-scoring schools. This housing costs gap drives economic segregation across schools and a higher test score gap between the schools attended by low-income and middle/high income students. Research shows that low-income students are more likely to succeed in higher-scoring schools, so reducing the financial and regulatory barriers to residential and school integration should be a priority.

#### New Haven's school access rankings

##### ZONING RESTRICTIONS

**1** *out of*  
*100*

The metro area has the 1st most restrictive zoning, based on the prevalence of land-use law firms in the state. Restrictive zoning discourages inexpensive housing, driving economic segregation.

##### ECONOMIC SEGREGATION

**7** *out of*  
*100*

53% of low-income students would have to change ZIP codes to achieve an equal distribution across schools, ranking the metro area the 7th most economically segregated.

##### HOUSING COST GAP

**15** *out of*  
*100*

Housing costs near high-scoring elementary schools are 2.6 times higher than housing costs near low-scoring schools, ranking the metro area the 15th highest on this measure.

##### TEST SCORE GAP

**4** *out of*  
*100*

The average middle/high-income student attends a school that ranks 33 percentage points higher on state exams than the school an average low-income student attends, ranking the metro area the 4th highest on this measure.



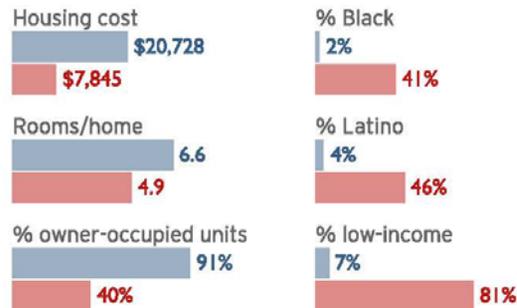
# Exclusionary Zoning and Schools

## Housing Costs, Zoning and Access to High-Scoring Schools

### New Haven-Milford, CT metro area

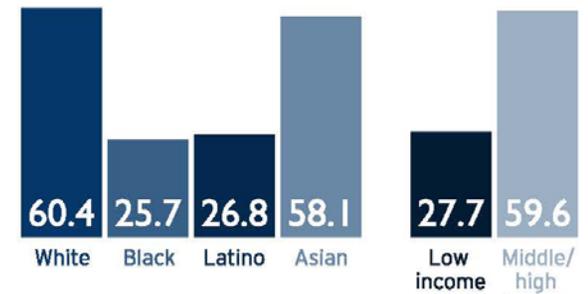
#### New Haven school comparisons

These charts compare the average top quintile school (blue) and the average bottom-quintile school (red) in New Haven across six categories. Quintiles are based on scores of standardized tests taken between 2010 and 2011.



#### New Haven test scores by group

School percentile rankings in New Haven for the average student, broken down by race and income. School test scores are adjusted by state average and ranked nationally.





## The Big Picture

- Federal law regarding the dismantling of segregation is clearer than ever.
  - The social science is also clearer than ever: segregation matters.
- Connecticut has a problem.
  - We have the most exclusionary zoning in the country.
- There are solutions and we need to embrace them.
  - HUD will seek to enforce the new regulatory framework.
  - Increasing opportunity for low-income children is the right thing to do.
    - ✦ And good for workforce development.
  - Starter and rental housing are good for economic development.