



Governor's Bill No. 5045: An Act Establishing Accountability for Fair and Affordable Housing Through Zoning Regulations

Summary

In order to unlock the state's full economic potential, all Connecticut towns need to play on "Team Connecticut" and welcome their appropriate share of the affordable housing needed in their region. To date, that has not happened and Connecticut has become the poster child for racial, ethnic and economic inequality and the economic stagnation that accompanies it. While other efforts to promote affordable housing rely on developer action, this bill recognizes that as part of executing the zoning authority delegated to them by the state, towns have a proactive role to play as well. This bill extends the state's duty under federal law to affirmatively further fair housing to towns and authorizes OPM to withhold discretionary state funding from towns that are not contributing to addressing the state's affordable housing needs.

Background

Connecticut is one of the most racially, ethnically, and economically segregated states in the nation. This segregation has been exacerbated by decades of exclusionary zoning policies at the state and local levels. The Governor's Bill provides important mechanisms to incentivize towns to become strong members of Team Connecticut, ensuring affordable housing and greater economic vitality for all.

The current Conn. Gen. Stat. 8-2 sets standards for municipalities to abide by as they use their state-delegated zoning powers. The statute provides, among other things, that,

In its current form, 8-2 does not make explicit that municipalities must affirmatively further state fair housing objectives, and leaves it unclear how state agencies can ensure that municipalities satisfy their obligations under the statute.

[zoning] regulations shall also encourage the development of housing opportunities, *including opportunities for multifamily dwellings*, consistent with soil types, terrain and infrastructure capacity, for all residents of the municipality and the planning region in which the municipality is located, as designated by the Secretary of the Office of Policy and Management under section 16a-4a.

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 prepared pursuant to section 8-37t and in the housing component and the other components of the state plan of conservation and development prepared pursuant to section 16a-26.

CONN. GEN. STAT. Section 8-2(a) (2017)(emphasis added)

Unquestionably, the current text of 8-2 obligates municipalities to promote construction of multifamily dwellings, encourage economic diversity, and develop housing for low- and moderate-income households. *However, in its current form, 8-2 does not make explicit that municipalities must affirmatively further state fair housing objectives, and leaves it unclear how state agencies can ensure that municipalities satisfy their obligations under the statute.*

Proposed Changes

The proposed Governor's Bill No. 5045 provides two major revisions to 8-2 which, taken together reinforce the state's commitment to enforce state and federal law and create incentives for towns to become stronger partners in fostering open and inclusive communities in Connecticut.

Component 1: Create an explicit "affirmatively further fair housing" requirement. While the current text of 8-2 directs municipal zoning commissions to promote certain practices that should help advance fair housing (e.g. "promote housing choice and economic diversity in housing . . ."), the revised bill includes explicit language that zoning regulations "shall . . . affirmatively further fair housing."

The duty to affirmatively further fair housing is a federal obligation stemming from the federal Fair Housing Act. At its essence, it means that towns have to take meaningful steps to counteract the forces that perpetuate segregation, including decades of intentionally segregating policies like redlining. Practically speaking, to comply with this obligation, towns would need to assess the local barriers to integration, set goals for reversing it, and measure progress on these goals. Towns are already obligated to undertake these types of analysis as part of their Plans of Conservation and Development. It is not possible for the state to comply with its federal obligation, upon which the receipt of millions of dollars from the U.S. Department of Housing and Urban Development depends, without each town in Connecticut playing its part.

Additionally, the new version of the bill changes the language in the section of 8-2 reproduced above, replacing "encourage" with "provide for." That is, zoning regulations must "**provide for** . . . multifamily dwellings" and "**provide for** the development of housing which will meet the housing needs identified." This creates a more affirmative obligation for municipalities than the requirement that they simply *encourage* these things.

Component 2: Make municipalities' fair housing obligations enforceable. The new bill does not simply require municipalities to "provide for" and "promote" these elements of fair housing, but it creates enforcement mechanisms to be used if they fail to do so. Governor's Bill No. 5045 requires municipalities to demonstrate their compliance with these requirements; a municipality that fails to do so "shall be ineligible for discretionary state funding."

The new bill therefore not only creates a more affirmative obligation for municipalities to promote fair housing through zoning regulations, but it adds clear incentives allowing the state as a whole to fulfill its federal obligation to affirmatively further fair housing and promote greater economic vitality across the state of Connecticut.