MEMORANDUM

DATE: March 2, 2022

TO: Interested Parties

FROM: Tim Hollister and Andrea Gomes at Hinckley Allen, Hartford Office

RE: Approximately how many housing units has General Statutes § 8-30g produced since its enactment in 1990?

This week, the General Assembly will consider a bill to direct a study of § 8-30g. Meanwhile, towns are drafting affordable housing plans, due in June 2022, as directed by Public Act 21-29, and the Commission on Connecticut’s Future and Development will be assessing those municipal plans and preparing guidance on how to draft them. In addition, the Department of Housing has issued a new § 8-30g Ten Percent List. Amid this confluence of events, a question has arisen on the Connecticut Chapter of the American Planning Association listerv about an updated count of housing production attributable to § 8-30g. We decided to take a stab at an updated count.

The caveat is that, 32 years after § 8-30g’s enactment, it is only possible to estimate how many housing units are “attributable” to § 8-30g. Residential developments are approved and built for a multiplicity of reasons. Also, in 32 years, there have been § 8-30g developments from the 1990’s, when the affordability time period for “set aside” units was 20 or 25 years, whose restrictions have now expired, as well as building demolitions, and a few instances where unit count reporting to DOH by town was discovered to need an adjustment. Noting these obstacles, however, we offer the following analysis:

Our primary method has been to compare the 1992 Ten Percent List to the new 2021 List (both attached). The 1992 List was the second one issued, and was more complete and accurate than the first 1991 List. From these two Lists, we can glean the following:

The 2021 List shows, statewide, 5,406 “Deed Restricted Units,” which means units with income and rent or sale price restrictions that comply with § 8-30g. It is reasonable to attribute almost all of these units to § 8-30g, because as a legal matter, § 8-30g units did not exist before the statute was enacted in 1990.

It should be noted that about 55 percent of these units are located in municipalities that are currently exempt from § 8-30g, but comparing the 1992 and 2022 Lists, it is evident that
many of the units created in these now-exempt towns are units that helped move previously non-exempt towns (Norwalk, Danbury, and West Haven, for example) to exempt status (and to make sure they preserve their exempt status). Put another way, in 1992, only 26 towns were exempt, while 31 are today, and 19 of the 31 now-exempt towns are between 10.0 and 15.9 percent, providing an incentive to maintain and improve current affordable unit levels. (Note: § 8-30g requires the denominator of the Ten Percent List to be based on the most recent federal census, so the next Ten Percent List will have a new set of denominators.)

If we add in the approximately 150-200 units in § 8-30g developments whose affordability restrictions have expired, then 5,550-5,600 is a reasonable estimate of “deed restricted” units since 1990.

The next observation is that most of these 5,550-5,600 affordable units are in 30 percent set-aside developments, because the other § 8-30g category, “assisted housing,” is reported separately. If we consider 5,500 units as 30 percent of the total, that equates to more than 18,000 market rate units (and though not deed restricted, generally less expensive) approved as part of the § 8-30g process.

As noted, the other § 8-30g category is “assisted housing,” meaning units built with some form of governmental assistance. Thus, this category includes units financed with federal Low Income Housing Tax Credits; state rental assistance programs; some form of financial help from DOH or CHFA; other federal programs; and municipal housing trust funds. The Ten Percent List counts “Government Assisted” and “Tenant Rental Assistance” as “assisted housing.”

Noting that government housing programs have evolved over 32 years, the 1992 Ten Percent List shows 112,276 government assisted units, and the 2021 list shows 141,942 units, an increase of just under 30,000 units. It is not possible to calculate with precision how many of these 30,000 units were constructed due to § 8-30g, but based on our knowledge of § 8-30g approvals that have been government-assisted, ten percent is a conservative estimate. That would add 3,000 affordable units to the overall count.

(Note: We have omitted consideration of the Ten Percent List category of “single family” CHFA/USDA mortgages, because although these are counted on the Ten Percent List, the income and sale price qualification of these programs generally exceed § 8-30g limits. Also, these are merely financing programs.)

Therefore, in total, conservative and reasonable estimates are that § 8-30g has spurred the creation of about 8,500 units that are affordable in compliance with § 8-30g or an applicable government assistance program; and about 18,000 market-rate units in set aside developments constructed pursuant to § 8-30g. Again, these numbers are proposed as orders of magnitude, not exact counts.

We welcome comments and observations as to how the accuracy of these estimates might be improved. Meanwhile, we hope this analysis will help clarify this quantitative question about § 8-30g and assist in the discussions presently underway.