

Failure by Mandate

Connecticut and 8-30g

October
2023



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Meghan worked in the private sector for two decades in various roles in management, sales, and project management. She was an intern on a presidential campaign and field organizer in a governor's race. Meghan, a Connecticut native, joined Yankee Institute in 2019 as the Development Manager. After several years with YI, she has moved into the policy space as Yankee's Manager of Research and Analysis. When she isn't keeping up with local and current news, she enjoys running — having completed seven marathons — and reading her way through Modern Library's 100 Best Novels.

Failure by Mandate: Connecticut and 8-30g

America is in the grip of a national housing crisis.¹ Although low-income households have always struggled to find decent housing at prices they could afford, today, even middle-income Americans can find themselves priced out of the housing market.²

It's worth thinking about why. There's no similar crisis in the market for shoes, or oranges, or cars (except, of course, in socialist countries where such commodities are heavily regulated by government). Like bad fashion and disco music, the genesis of the current crisis was in the 1970s. In that era, a consensus emerged — especially in Manhattan and Los Angeles — that too much growth had occurred, and far too fast. Physical constraints (mountains in the west, commute time in the east) prevented further sprawl; and land use regulations prevented greater density, or infill growth.³ Combined, this drove housing prices up. A similar phenomenon occurred in other cities providing high paying jobs.

By January 2019, the median sale price of a home in Connecticut on Zillow was \$263,405, while the average median household income was \$87,291. Two years later, the median household income had fallen 7.2% to \$80,958, but the average sale price of a home was \$320,723, an increase of 21.8%. While the Census Bureau has not released Connecticut's median household income for 2022 or 2023, the median sale price for a Connecticut home reached \$379,836 in July 2023, an increase of 44.2% in just four and a half years.⁴

These price increases were at least in part driven by a shrinking supply of homes on the market.⁵ According to Connecticut Public Radio, "Realtor.com data showed that Hartford, New Haven and Bridgeport housing markets took three out of the top four spots in lost housing inventory 'for sale' in the entire U.S. since 2019."⁶

The cost has been substantial. Some have estimated that over the course of the twentieth century, U.S. incomes have grown as much as 30% more slowly than they would have had there been greater access to affordable housing in places with high-paying jobs like Silicon Valley and New York.⁷

Since 1980, Americans have found themselves increasingly moving where housing is affordable, rather than where wages are high — to places like the Sun Belt. But the growing popularity of remote work, coupled with the rapid rise in demand that couldn't be met during the pandemic, is bringing many of the same affordable housing issues to the fore in places that previously were affordable housing meccas.

Given its proximity to Manhattan, Connecticut has long been familiar with the difficult and often competing considerations that inform housing policy. Quite frequently, these considerations have placed state and local political interests directly in conflict.

For decades, state government has actively intervened in the work of local planning and zoning boards, implicitly asserting its perspective as more informed and less parochial in addressing matters related to housing stock and affordability than that of local communities. In turn, local communities have sought to hold the line on the local governance and decision-making rights that determine their towns' character — and preserve their municipalities' unique charm.

There is a better way forward — one that allows for less intervention, more freedom and, more importantly, more truly affordable housing for Connecticut's residents to build a good life here.

How the Crisis Emerged

In response to escalating costs and the need for additional housing in the state, Gov. William O'Neill established the "Blue Ribbon Commission on Housing" in conjunction with the General Assembly.

The Blue Ribbon Commission (BRC) was tasked with conducting an in-depth assessment of housing affordability and developing strategies to address it. In addition, the BRC's mandate included producing a comprehensive report containing its recommendations to be submitted to the Governor and legislature.

Completed in 1989, the final report included more than 50 recommendations. The BRC hoped to encourage the production and preservation of existing affordable housing, prevent homelessness and engage the public and private sectors in more comprehensive land-use planning and education efforts.

The most significant of these recommendations called for simplifying zoning regulations for affordable housing. This was deemed necessary to reduce the number of vague or ambiguous rationales that towns could provide for denying developers' proposals to build affordable housing. The most notable and controversial is the Connecticut Affordable Housing Appeals Act, commonly referred to as "Section 8-30g."

The 8-30g Mandate

Connecticut State Statute 8-30g, enacted in 1989, was the state's answer to the issue of creating — or mandating — sufficient lower-income housing.⁸

Under the 8-30g mandate, all 169 of Connecticut's municipalities are required to ensure that at least 10 percent of their housing stock is "affordable" (mandated).⁹ In the event the 10 percent threshold is not reached, developers gain the power to construct housing projects exempt from local zoning regulations.

Yet only a specific subset of units, however inexpensive, "count" for the purposes of reaching the 8-30g threshold. They must be built with financial assistance from the state or federal government or else be a housing development in which at least 30 percent of the new dwelling units are deed restricted. This means landlords may not charge rents above an amount set in accordance with an area's median income for these units for the first 40 years in the life of the housing project.

The 8-30g framework includes an appeals process designed to override local zoning rejections of proposals unless municipalities can prove the development would impose significant health and safety issues. The burden of proof rests solely on the municipality; the prospect of costly litigation is a significant deterrent to planning and zoning officials promiscuously rejecting developer proposals. When litigation does occur, municipalities lose about 70% of their cases.¹⁰

In the past two decades, the Connecticut Department of Housing has granted twelve municipalities a "Certificate of Affordable Housing Completion" (five of which certificates are current) as a reward for meeting mandated housing benchmarks. During this time frame, municipalities are exempt from developers' uninvited construction of 8-30g projects. The certificate lasts four years, at which point the municipality must re-apply based on its success at authorizing and building affordable housing.¹¹

In 2017, the General Assembly amended 8-30g,¹² overriding Gov. Dannel Malloy's veto by one vote each in the House and Senate. The 2017 amendments:

1. Made it slightly easier for municipalities to obtain a Certificate of Affordable Housing Completion through lower housing benchmarks;
2. Mandated that all 169 towns adopt an "affordable housing plan"; and

3. Defined “median income” in the state’s Incentive Housing Zone (IHZ) program in a manner consistent with 8-30g’s definition. An Incentive Housing Zone¹³ is an area where developers have permission to increase housing density in exchange for creating mixed-income housing.

Inclusionary Zoning — a Failed Model

Connecticut is not alone in incentivizing developers to build affordable housing distinct from market-rate housing, in what has come to be known as “inclusionary zoning.” While some of 8-30g’s defenders may claim it meets Connecticut’s unique housing needs, other states have tried and failed to implement inclusionary zoning effectively before Connecticut attempted it. New Jersey, one of the earliest adopters, forced municipalities to reformulate housing policies after the state’s Supreme Court’s Mount Laurel Decision in 1975. California is currently the most notorious example of failed inclusionary zoning with housing doubling and tripling in cost in just the past two decades.

Despite all the complications surrounding 8-30g, there is still an underlying housing market, distorted as it may be by subsidies and taxes pulling the market in opposite directions. Connecticut residents, taken together, express a certain aggregate demand for housing, in which the higher the price of housing, the lower the quantity they will demand. Developers have a certain aggregate supply for housing, in which the lower the housing price, the lower the quantity they will supply.

To understand how 8-30g distorts Connecticut’s housing market, it is helpful to think of the housing market as two interrelated markets: the first, for mandated “affordable” housing units and the second for market-rate housing units.

When developers are only allowed to build market rate housing units after committing to build a set percentage of mandated units (under 8-30g, this quota is 30%), they must raise the prices of market rate units while reducing the quantity of these units to turn even a modest profit. In economic terms, the supply of market rate homes decreases.

Households that have just started earning the median household income (true “middle-income” households) are, by definition, priced out of mandated housing. These households are then thrust into the market rate housing market — where costs have been artificially inflated by the 8-30g mandates. As a result, home ownership becomes inaccessible, and renting consumes an ever-growing portion of middle-income households’ budgets.

Ironically, in the “affordable” mandated housing market, the households earning below 80% of Connecticut’s median household income (area or state median, whichever is less) are not necessarily in much better shape. There is no guarantee that households making 80% below the median income will receive instantaneous housing. In fact, most municipality 8-30g websites inform the visitor that no “affordable housing units are available at this time.”¹⁴

This should come as no surprise; whenever there is a gap between the government’s artificially low price and the actual market rate for a product, the quantity demanded of it will always exceed the quantity that is supplied. Thus, there will always be a line to receive a product whose price is being artificially reduced by government mandate — whether it’s bread, or toilet paper...or housing.

There is no question that 8-30g makes housing accessible to a small group lucky enough to win the “affordable home” lottery. However, for those on long waiting lists or the households just entering the middle-class and hoping to purchase their first home, 8-30g is a major hindrance, rather than a help.

In short, 8-30g is a convoluted and counterproductive policy that imposes an all-or-nothing scenario on towns and cities and has made housing less affordable — not more. The legislation should either be reformed to address its inadequacies and the legitimate issues municipalities confront — or else repealed entirely.

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Moving Forward

Allow Four-plex Units

Allowing the construction of up to four-plex units on lots currently zoned for single-family homes equipped with sufficient municipal sewer and water services not only increases housing inventory, but also has the potential to boost local businesses and services, fostering economic growth and job opportunities.

To maintain the integrity of neighborhoods, units can be subject to the same height, footprint and setback restrictions as current single-family homes. Using existing water and sewer infrastructure and road networks is a more cost-effective approach as it reduces construction expenses and minimizes disruption to the community and environment.

Accessory Dwelling Units

In 2021, Connecticut began allowing the construction of accessory dwelling units (ADUs). However, municipalities were granted the option to choose whether to permit such construction.

ADUs are either attached or detached on single-family lots. Due to their compact size, ADUs easily blend into single-family housing zones and will not alter the appearance or atmosphere of the neighborhood. Meanwhile, tenants and property owners mutually benefit from ADUs as they create an affordable rental option while allowing homeowners the opportunity to generate additional income.

ADUs are considered as part of 8-30g calculations only when they are subjected to deed restrictions, which requires property owners to assume additional responsibilities.^{15, 16}

Lawmakers should consider revising the legislation to include all ADUs in 8-30g calculations, allowing municipalities to streamline the process for constructing these units. Cities and towns should also consider removing unnecessary barriers like requiring ADUs to be owner-occupied from their zoning regulations.

Mixed-Use Development

Under 8-30g, Connecticut developers are allowed to build only single-use residential homes, despite developers often preferring to build mixed-use properties.¹⁷

Replacing sites that have unused or underutilized retail space with developments that mix residential housing with stores, restaurants, hotels and/or office and commercial space can have several potential benefits and outcomes.

Towns and cities short on housing supply — but with an abundance of vacant retail and commercial space — can benefit from rezoning these areas as mixed-use. Transforming underutilized spaces into vibrant mixed-use developments can revitalize neighborhoods and commercial districts. This can make the area more attractive to residents and visitors, ultimately increasing property values.

People don’t use as much physical retail space as they once did; given that retail establishments are commonly situated in densely populated areas, this presents an opportunity to introduce housing options precisely where there is a demand.¹⁸

Conduct an Audit of State Practices

Burdensome and costly regulations are a contributing factor to constrained housing supply, especially within the entry-level market where there is a pressing need for more inventory. According to a 2021 National Association of Home Builders study,¹⁹ costs from fees, standards and other requirements imposed at various stages of the development and construction process account for an average of \$93,870 — or 23.8% — of the purchase price of a single-family home.²⁰

The state needs to conduct a comprehensive third-party audit of all legislation, rules, practices and regulations that impact and constrain housing development at the state and local levels. The audit should assess the financial implications of these constraints on housing construction and the costs they add to housing prices or rents.

“...costs from fees, standards and other requirements imposed at various stages of the development and construction process account for an average of \$93,870 — or 23.8%— of the purchase price of a single-family home.”

Reform State Housing Spending to Empower Families, Not Developers

It seems increasingly clear that Irwin Silver, a member of the 1989 Blue Ribbon Housing Commission, was on to something when he said, “The only significant tool for increasing housing production and addressing the state’s affordable housing crisis is money.” He insisted there is no “magic cure” and that the “focus should be money. More specifically, cheap money and lots of it. ... If the state really wants to solve the problem, then the state’s got to ante up. ...I don’t like saying this any more than you like hearing it, but more money is the essential part of any solution.”²¹

One way state money could make a meaningful difference is through expanding its rental-assistance program. Rather than spending funds on subsidized housing developments, the state would do better to expand its rental-assistance program, which grants vouchers to low-income families. This approach would empower housing consumers — rather than enriching well-connected developers. It would also help avoid some of the market distortions created by mandated low-rent housing, as noted earlier.

Conclusion: Keep Housing Local

The tug-of-war between state and local governments when it comes to housing has escalated over the past few years. The General Assembly has considered bills like Qualifying Transit-Oriented Communities and Fair-Share Housing which, if passed, would have significantly undermined local control of planning and development.

It makes far more sense for local communities to take the lead in addressing housing issues, rather than permitting a distant Capitol to impose “solutions” that may be out of touch with municipal needs and concerns. Local governments are better suited to formulating solutions that address their communities’ unique needs, and are far more accountable and responsive to housing problems and taxpayer concerns. As a result, housing policies will reflect what the community both wants and needs.

In general, the state can best serve its people — not by micromanaging the composition and character of Connecticut’s 169 distinct towns — but by providing technical and financial assistance, planning and code implementation, and infrastructure. The state has significant planning expertise to offer municipalities and, if sought, assistance in crafting housing solutions. Set free from a mandate that was designed to micromanage, Connecticut’s towns can focus on finding housing solutions for Connecticut residents of all income levels.

There are other important ways state government can increase opportunity that will reduce the strain on Connecticut’s housing market. Creating affordable housing depends on job growth,²² so improving the business climate is essential. Without decent employment opportunities, even “affordable” housing will always remain out of reach for too many Connecticut residents.

Likewise, the state could invest its energies in reforms that would make urban living safe and feasible for families. Connecticut’s cities are already some of its most densely zoned areas, but many feel forced to flee them. Although Hartford, Bridgeport, New Haven and Waterbury account for only 14 percent of the state’s population, they account for over half its murders and robberies each year and the educational performance of students in those localities lags state averages.²³

Rather than seeking to micromanage the racial and socio-economic composition of each of Connecticut’s 169 towns based on vague but ugly murmurs about racism and classism from special interest groups, the state should do precisely what it was created to do: vindicate the rights of each of Connecticut’s residents. Discrimination based on membership in any protected class by any town is un-American and wrong; the state should prosecute it to the fullest extent of the law.

It’s time for the state to stop interfering in matters of local governance and take productive steps to address the housing crisis: reducing unproductive regulations that increase costs; addressing underlying issues that are making densely-populated areas uninhabitable; and incentivizing creative local solutions. Then, Connecticut might finally make strides in finding each of its residents a home.

Endnotes

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2. <https://www.nar.realtor/magazine/real-estate-news/study-middle-income-buyers-suffer-most-in-housing-shortage>
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8. https://portal.ct.gov/-/media/SOTS/regulations/Title_08/030gpdf.pdf
9. A real issue — albeit one beyond the scope of this paper— concerns the state’s approach in dictating a one-size-fits-all 10% quota for each Connecticut town. If the objective is solely to ensure an adequate supply of affordable housing, another approach would be to allow smaller towns that border cities with more lenient zoning standards to contract with those larger towns or cities to provide affordable housing units. In some cases, these may be closer to transit hubs or the smaller towns’ business districts than the land otherwise set aside for affordable housing developments. If there are other underlying objectives informing the 10% mandate, those should be raised and discussed explicitly.
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