



October 19, 2021

**By E-MAIL**

First Selectman Michael J. Freda, North Haven Board of Selectmen  
Chairman Vern E. Carlson, North Haven Planning and Zoning Commission

Town of North Haven  
Memorial Town Hall  
18 Church Street  
North Haven, CT 06473

Dear First Selectman Freda, Chairman Carlson, and Members of the North Haven Board of Selectmen and Planning and Zoning Commission:

Open Communities Alliance (OCA) is a Connecticut-based non-profit civil rights organization dedicated to eradicating racial segregation and opportunity isolation through a particular focus on housing policy. We write to notify you that earlier this year, OCA undertook an in-depth examination of planning and zoning policies and practices that impede or preclude the development of multifamily and affordable housing in Connecticut by directly or effectively limiting the quantity, location, occupancy, density, and forms of such housing (among other restrictions). The assessment centered on twelve illustrative high opportunity, predominantly white towns, including North Haven.

Our findings, conclusions, and analyses are detailed in our report *Zoning for Equity: Identifying Planning and Zoning Barriers to Affordable Housing, Volume I*, a copy of which is attached here. A summary of our key findings across the town analyses can be found at p. 5 of the report, with the specific discussion concerning North Haven available at pp. 106-116.

The summary of our findings concerning North Haven is as follows:

- North Haven has far fewer Black, Hispanic and low-income households than New Haven County or neighboring municipalities like Hamden and New Haven.
- North Haven lacks Connecticut General Statutes § 8-30g affordable housing, with only a maximum of 1.1% of the qualifying units in town being non-age-restricted rental housing.
- Single-family homes are allowed as-of-right in most of town, while multifamily housing of three or more units is not allowed "as-of-right" anywhere.

- Even in the small areas where multifamily is allowed by special permit, density limits, unit caps, and other requirements restrict the amount of housing that can be built.
- Overlay zones are restricted by minimum parcel sizes and site eligibility requirements.
- North Haven’s planning keeps single-family and multifamily separate, with multifamily largely relegated to industrial, commercial, or other non-residential zones.

The extensive analysis supporting these findings is detailed in the report.

The report also underscores several substantial harms associated with planning and zoning that contribute to the high degree of residential segregation that pervades Connecticut (at pp. 11-14), as well as discusses the importance of both federal and state fair housing and other laws that govern planning and zoning (at pp. 15-18).

Planning and zoning policies or practices that impede the creation of multifamily and affordable housing raise concerns under both the federal Fair Housing Act, 42 U.S.C. § 3604, and its state counterpart, Connecticut General Statutes § 46a-64c, because the low- and moderate-income households who need and would occupy such housing are disproportionately members of several protected classes (such as Black or Latino households; households headed by single-parents; households with members who have disabilities; or, under state fair housing law, households relying upon governmental rental assistance).<sup>1</sup> As the Supreme Court of the United States recognized in *Texas Dep’t of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc.*, 135 S. Ct. 2507 (2015), the “central purpose” of the Fair Housing Act includes eradicating “zoning laws and other housing restrictions that function to unfairly exclude minorities from certain neighborhoods without any sufficient justification.” *Id.* at 2522.<sup>2</sup>

North Haven also has specific planning and zoning duties under state law, including, notably, the duty to take into account the housing needs of low- and moderate-income housing in the surrounding region (as discussed below). In this regard, OCA has developed a “Fair Share” model for all Connecticut municipalities that allocates targets for affordable housing development to each town based on an assessment of both the regional need and the local capacity for such housing. This accounting demonstrates that North Haven should be planning to create at least 1,812 units of affordable housing over the next 10 years in order to do its part. While Fair Share establishes a unit production benchmark for North Haven,<sup>3</sup> it critically builds upon local control by putting North Haven in the driver’s seat for meeting this Fair Share goal. (Further information and materials regarding OCA’s Fair Share model can be found on our website at the following

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<sup>1</sup> Similarly, planning and zoning that implicate which households can occupy multifamily housing can raise concerns under these laws if members of protected classes – such as households with children or members of racial and ethnic groups who are underrepresented in a town – are unjustifiably inhibited from residing in any such housing.

<sup>2</sup> This principle also holds for the state fair housing act, since interpretation of that law is “properly guided” by caselaw governing the federal act. *Zlokower v. Comm’n on Hum. Rts & Opportunities*, 200 Conn. 261, 264 (1986).

<sup>3</sup> OCA’s Fair Share strategy also recommends guidelines to avoid overconcentration of housing and ensure diverse housing needs are addressed.

link: <https://www.ctoca.org/fairshare.>)

North Haven's robust Fair Share goal also is in keeping with the above-referenced state laws that require planning and zoning to take adequate account of regional housing needs. For example, Connecticut General Statutes § 8-2(b)(4), as recently amended by Public Act No. 21-29, has long required that any zoning regulations adopted pursuant to that section must provide for the development of housing opportunities, including multifamily housing, "for all residents of the municipality *and the planning region* in which the municipality is located" (emphasis added). Similarly, § 8-2(b)(5) requires town zoning regulations to promote "housing choice and economic diversity in housing, including housing for both low- and moderate-income households." (Equivalent language can be found in Connecticut General Statutes § 8-23, which governs POCDs.)

The legislature recently reinforced these obligations by highlighting in § 8-2(b)(2)(J) that zoning codes must be designed to "affirmatively further the purposes of the federal Fair Housing Act."

Implementing Fair Share in North Haven is all the more critical in light of the town's profound racial and economic segregation, as summarized in our report at pp. 106-107. North Haven is over 83 percent white,<sup>4</sup> while being 4.3 percent Black and 5.1 percent Hispanic. By contrast, New Haven County as a whole is less than 63 percent white, while being 12.5 percent Black and over 18 percent Hispanic. Lower income families are also disproportionately absent from North Haven, whose 5.0 percent poverty rate falls far below the 11.7 percent rate throughout New Haven County.

In light of all of the foregoing, OCA respectfully urges the Planning and Zoning Commission and the Board of Selectmen to take the following steps:

- (1) consider and discuss the report's findings, conclusions, and recommendations, both with regard to North Haven in particular, and with regard to the broader themes and issues discussed in the summary sections at the beginning and conclusion of the report (pp. 4-10 and 183-185, respectively); and
- (2) engage in a process to develop and adopt changes to the zoning code and POCD that are responsive to the concerns noted in our report.

In considering these recommendations, we respectfully remind you that North Haven *always* has an obligation to comply with the federal and state fair housing and other laws discussed above. This necessarily requires careful examination of whether planning and zoning policies or practices, including those identified in our report, comply with the requirements of the applicable laws. As such, the Town should be taking these steps regardless of whether it is already in the process of updating its planning and zoning regulations. And if North Haven already has engaged, or plans to engage, a planning consultant for residential planning work

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<sup>4</sup> All references to racial groups in this letter and the report are shorthand for "non-Hispanic" members of that group. Conversely, all references to "Hispanic" are meant to capture Hispanics of any race.

relating, for example, to preparing an affordable housing plan pursuant to Connecticut General Statutes § 8-30j or to updating the town's POCD, or to making changes to its zoning regulations in light of recent changes to Connecticut General Statutes § 8-2 (as amended by Public Act 21-29), we urge you to provide your consultant with our report and to request that your consultant prepare recommendations on zoning and in accordance with and responsive to the issues identified and recommendations contained therein. We would also be happy to recommend highly qualified consultants who can provide this service for the Town.

Thank you for considering our report and recommendations. Please let us know if you have any questions or wish to discuss these issues.

Sincerely,

A handwritten signature in black ink that reads "Erin Boggs". The signature is written in a cursive, flowing style.

Erin Boggs, Esq., Executive Director  
Peter M. Haberlandt, Senior Legal Counsel  
Roger D. Maldonado, Staff Attorney

cc Alan Fredricksen, Land Use Administrator, North Haven Land Use and Zoning Office

Attachment