

January 30, 2023

Esteemed Chairs Luxenberg and Moore,
Members of the Housing Committee:

The Western Connecticut Council of Governments (WestCOG) appreciates the opportunity to comment on Committee Bill 5326, *An Act Concerning the Affordable Housing Appeals Process and Removing the Municipal Opt-Out Deadline for Accessory Apartments*. WestCOG's comments limit themselves to section 2 of the bill. Section 2 would eliminate the now-past deadline for opting out of the accessory apartment provisions of Public Act 21-29. **WestCOG supports this section.**

As your Committee may be aware, many if not most municipalities in Connecticut opted out of the accessory apartment provisions in PA 21-29. This is not because these communities are opposed to accessory apartments. Indeed, over 80% of municipalities – of all colors and stripes – allowed accessory units prior to the enactment of PA 21-29.

Municipalities opted out for two reasons:

1. They did not find the standards in PA 21-29 to be the best fit for their municipality, and they preferred standards adapted to local conditions (some of which were more stringent than PA 21-29, while others were less so), and/or
2. They realized that if they did not opt out before January 1, 2023, they would lose the ability forever to set local standards on the subject of accessory apartments.

Based on extensive dialogue with municipalities regarding the opt-out process, it appears that the primary driver of opting out was not to prohibit accessory apartments but to protect local control. Indeed, some municipalities took no issue with the accessory apartment standards in PA 21-29 but opted out to preserve the ability to set their own standards in the future should circumstances necessitate; some municipalities even adopted the PA 21-29 standards before opting out.

The inclusion of a deadline in Public Act 21-29 by which municipalities had to opt out, lest they forfeit local control, turned what could have been a discussion about the best standards for accessory apartments into an argument about local control. This conflict was unnecessary and could have been avoided had PA 21-29 been framed thus: as of January 1, 2023, the standards in PA 21-29 would supersede relevant local zoning unless a municipality followed the opt-out procedure, if and until such time a municipality opted out. Such a framing would have allowed municipalities to see how the PA 21-29 standards worked in practice and to opt out, in a reflected manner, if they saw a need based on their experience. That is, it would have produced a discussion based on the merits of the standards rather than a rush to preserve autonomy.

The deadline in PA 21-29 may have been well-intended, but it was a failure. Section 2 of HB 5326 will remove this unnecessary conflict and allow conversations about accessory apartments to be on the merits of various standards, without the distractions and counterproductive tension over a loss of local control.

WestCOG urges you to advance legislation eliminating the accessory apartment opt-out deadline.

Thank you for your consideration.

A handwritten signature in black ink that reads "Francis Pickering". The signature is written in a cursive, flowing style with a long horizontal stroke at the bottom.

Francis R. Pickering
Executive Director