

March 2, 2026

Esteemed Chairs Felipe and Marx,
Members of the Housing Committee:

On behalf of the Western Connecticut Council of Governments (WestCOG), I appreciate the opportunity to submit comments in **opposition** to Raised Bill 338, *An Act Concerning Housing Unit-Equivalent Points for Developments Subject to Litigation*.

WestCOG understands concerns about the duration of litigation under CGS §8-30g. Ensuring that the statute functions efficiently and fairly is an important objective. However, this bill conditions a statutory consequence on something municipalities do not control: the pace of court proceedings.

I. UNDER §8-30G, MUNICIPALITIES MAY ONLY RAISE HEALTH AND SAFETY CONCERNS

It is important to recall the limited scope of municipal review under §8-30g. A zoning commission may not deny an affordable housing application based on generalized opposition, aesthetics, or policy disagreement. The statute permits denial only if the municipality can demonstrate that:

- The decision is necessary to protect substantial public interests in health, safety, or other legally cognizable matters,
- Those interests clearly outweigh the need for affordable housing, and
- The interests cannot be protected by reasonable modifications to the proposal.

In other words, commissions may defend only serious and legally recognized concerns. These often involve issues such as wetlands protection, stormwater management, drinking water supply, traffic safety, fire access, infrastructure capacity, or emergency response. When such issues are litigated, the cases are frequently complex and fact-intensive. They may require expert testimony, engineering analysis, and detailed judicial review. The time required for careful adjudication of those matters should not automatically result in the loss of moratorium credit.

II. MUNICIPALITIES DO NOT CONTROL COURT TIMELINES

§8-30g appeals proceed through the regular Superior Court docket. Municipalities do not control:

- When a case is scheduled,
- Whether a judicial district is experiencing backlog,
- How long deliberation and written decisions require,
- Or how quickly a ruling is issued.

Many civil cases in Connecticut exceed six months due to court congestion. Even straightforward probate matters may extend beyond that timeframe. It is unrealistic to expect that complex litigation involving expert evidence and public health and safety considerations will consistently be resolved within six months under current judicial conditions.

If the legislature wishes to impose consequences tied to a six-month litigation window, it would need to ensure six-month adjudication through guaranteed scheduling and sufficient judicial

resources. Absent that structural guarantee, municipalities may be penalized for court backlog rather than for their conduct.

III. DURATION ALONE IS NOT A RELIABLE INDICATOR OF IMPROPER DELAY

The length of a case does not necessarily reflect bad faith or obstruction. Appeals may extend beyond six months due to:

- The complexity of the record,
- Intervenor participation,
- Scheduling constraints,
- Judicial vacancies,
- The time required for thorough judicial analysis.

A rigid time threshold risks treating the careful adjudication of legitimate health and safety issues as though it were evidence of delay.

IV. IF TIME IS THE TRIGGER, PROCESS MUST BE GUARANTEED

If the General Assembly believes that affordable housing appeals should be resolved within six months, the appropriate solution is to reform the process to ensure that outcome. Conditioning moratorium eligibility on court timing without guaranteeing court capacity places municipalities in a position they cannot control.

WestCOG remains committed to advancing affordable housing production across our region. However, Bill 338 ties significant statutory consequences to judicial timing that municipalities do not control and that the current court system is not structured to guarantee. For these reasons, WestCOG respectfully urges the Committee not to advance Raised Bill 338 in its current form.

Thank you for your consideration.

Sincerely,

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

Francis R. Pickering
Executive Director