

March 6, 2026

Esteemed Chairs Rahman and Kavros Degraw,  
Members of the Planning and Development Committee:

The Western Connecticut Council of Governments (WestCOG) appreciates the opportunity to comment in **strong opposition** to Raised Bill 5507, *An Act Concerning Accessory Dwelling Units*.

## I. IMPACTS ON PRIVATE DEED RESTRICTIONS AND COVENANTS

Section 3 of the bill expands the definition of unlawful restrictive covenants in a manner that invalidates many recorded deed restrictions governing residential development. This section, which is extraordinarily broad, is not limited to covenants addressing accessory dwelling units. Instead, it applies to covenants that prohibit or place any restrictions on the residential use of real property or regulate the number, size, or location of residential structures. These categories encompass a very large share, potentially the majority, of the deed restrictions found in residential neighborhoods across Connecticut. As written, the provision may therefore affect a wide range of longstanding covenants that govern residential development patterns.

Private covenants recorded in land titles are a longstanding feature of property law and are widely used to regulate land use and development patterns. These covenants appear in subdivision deeds, common-interest communities, neighborhood associations, lake associations, and other planned developments. However, they are not limited to private communities. Many conventional neighborhoods that do not operate as private associations nevertheless contain recorded deed restrictions attached to individual properties.

When property owners purchase homes subject to these restrictions, they do so voluntarily with the understanding that the restrictions apply equally to neighboring properties. Each owner accepts limits on the use of their own property in exchange for the assurance that similar limits apply to surrounding properties. These arrangements function as mutual agreements among property owners and are often relied upon to establish predictable expectations about how land within a neighborhood may be used. Private covenants frequently regulate matters such as:

- the number of dwelling units permitted on a lot
- the construction of accessory apartments or secondary dwellings
- the number, size, and location of buildings
- building configuration and placement
- the use of outbuildings and accessory structures.

Covenants are also commonly used to enable development and resolve practical property constraints that would otherwise make residential use difficult or impossible. For example, recorded covenants may:

- allow access to parcels that would otherwise be landlocked
- allow driveways or access roads to cross neighboring property

- establish corridors for water, sewer, electric, or other utility lines
- protect shared infrastructure such as wells, septic systems, or stormwater facilities
- establish buffers that allow neighboring properties with different land uses to coexist without conflict.

In these situations, the covenant is not preventing development but rather providing the legal framework that allows residential use of the property to occur.

In many communities, covenants also play an important role in managing shared infrastructure and environmental resources. Covenants may govern matters such as private roads, shared wells, septic systems, stormwater systems, shared open space, waterfront access, or other features that require coordinated management among neighboring properties. These agreements often include restrictions on the number of dwelling units or the placement of structures to protect the capacity and functioning of those systems. Because such provisions necessarily regulate residential use and building configuration, the proposed statutory language may create uncertainty regarding whether these infrastructure-related restrictions remain enforceable.

Lake communities across Connecticut provide another example of how private covenants are used to manage environmental impacts. Many lake associations rely on recorded deed restrictions to regulate shoreline setbacks, septic system placement, fertilizer use, and other activities that can affect water quality. Because lakes are sensitive to nutrient loading and wastewater inputs, these covenants often play an important role in protecting water quality and preventing conditions that can lead to algae blooms or other ecological degradation. The proposed statutory language could create uncertainty regarding the continued enforceability of such provisions.

Section 3 also risks invalidating the continued enforceability of age-restricted housing covenants. Many senior housing communities rely on recorded deed restrictions limiting occupancy to residents above a specified age to maintain their status under federal housing law governing housing for older persons. Because these restrictions govern the residential use and occupancy of property, the proposed statutory language could create uncertainty regarding whether such provisions remain enforceable. Even if this outcome is not intended, the language as drafted may have implications for age-restricted housing communities.

This section may likewise raise questions regarding affordability restrictions attached to residential properties. Many affordable housing developments rely on recorded deed restrictions or covenants requiring that units be occupied by households below specified income levels or sold and rented at regulated prices. These restrictions are commonly required as conditions of development approvals or as part of state and federal housing programs, and they are intended to ensure that housing remains affordable for a defined period. Because these provisions regulate the residential use and occupancy of property and are typically recorded as covenants running with the land, the proposed statutory language could create uncertainty regarding whether such affordability restrictions remain enforceable.

Because these covenants are embedded in recorded land titles and have accumulated over many decades, they may affect tens—potentially hundreds—of thousands, of residential properties across Connecticut. At present, however, the state does not maintain a comprehensive inventory

of private covenants attached to residential property. As a result, it is difficult to determine how many properties could be affected by the proposed changes or how widely such agreements are used across the state.

Section 3 would represent a significant change to the legal treatment of longstanding agreements embedded in property titles throughout Connecticut. Because these covenants govern the relationships among neighboring property owners and are often relied upon by purchasers when acquiring property, changes affecting their enforceability may create legal uncertainty regarding the continued validity and interpretation of existing agreements. Such uncertainty could lead to disputes among property owners, homeowner associations, and other parties regarding whether restrictions remain enforceable. In situations where covenants were originally created to resolve conflicts between neighboring landowners, changes to their enforceability may also reopen issues that had previously been settled through negotiated arrangements.

In many neighborhoods, private covenants serve as a mechanism through which property owners have settled disputes and established mutually agreed-upon rules. Because these agreements are recorded in property titles and run with the land, they are relied upon by successive purchasers when making decisions about where to live and how property may be used in the future. A statutory change that broadly alters the enforceability of these agreements would represent a significant shift in the legal framework governing residential land use. Property owners, associations, and neighboring landowners may find that longstanding expectations regarding development patterns and land use are suddenly unclear. In situations where covenants have historically been used to manage shared infrastructure, protect buffers between conflicting land uses, or resolve past disputes, changes to their enforceability could disrupt arrangements that communities have relied upon for many years.

In addition, because these covenants represent contractual arrangements recorded in property titles and relied upon by property owners over time, changes affecting their enforceability may raise broader legal and property rights considerations that could warrant careful review.

For these reasons, the provisions contained in Section 3 may have consequences that extend well beyond accessory dwelling units and could affect longstanding property arrangements across many communities in Connecticut. Given the potential breadth of these impacts—and the absence of a statewide understanding of how many properties may be affected—WestCOG urges your Committee not to advance this Section.

## II. ACCESSORY DWELLING UNITS AND INFRASTRUCTURE CAPACITY

In addition to the issues described above, several provisions of the bill raise important questions regarding infrastructure capacity and the physical systems that support residential development. Housing policy cannot be separated from infrastructure policy. Every dwelling unit ultimately depends on water supply, wastewater treatment, electric service, and other utility systems that have finite physical capacity. When housing policy becomes disconnected from those systems, the result can be infrastructure failures, unsafe conditions, environmental harm, and conflicts between neighboring property owners.

A central difficulty with the remainder of the bill beyond Section 3 is that it treats all accessory dwelling units (ADUs) as if they were identical. In practice, ADUs can take several different forms, each with different implications for infrastructure capacity, utilities, and environmental protection.

The bill also removes the existing statutory mechanism that allows municipalities to opt out of statewide accessory dwelling unit requirements. While accessory dwelling units may be appropriate in many circumstances, they will not be feasible in all neighborhoods. In some areas there may simply be insufficient infrastructure capacity—whether due to septic limitations, groundwater constraints, or public utility capacity—to support additional residential demand. In such locations, the reconfiguration of existing interior space may be workable, while additional dwelling units that increase infrastructure demand may not be.

### *Accessory Dwelling Units Are Not All the Same*

In practice, there are at least three fundamentally different scenarios, each with different impacts on infrastructure and utilities.

#### 1. Interior Reconfiguration of an Existing Home

Some accessory dwelling units are created through reconfiguration of existing interior space, such as dividing an existing home into two units within the same structure. In these cases:

- No additional building footprint is created
- No additional impervious surface or lot coverage is added
- Water and wastewater demand may not increase significantly if no additional bedrooms are added

These types of conversions generally have the lowest infrastructure and environmental impacts.

#### 2. Addition to an Existing Residential Property

Accessory dwelling units may also be created through an addition to an existing residential property, expanding the building to create additional living space. This type of development has greater impacts because it increases building area and may increase water and wastewater demand. However, the accessory unit may still be able to utilize the same utility connections serving the principal dwelling.

#### 3. Detached Accessory Dwelling Units

A third scenario involves construction of a separate accessory dwelling unit as an outbuilding on the same lot. These detached units typically have the largest impacts because they increase building coverage, impervious surface, and infrastructure demand. In many cases, engineering constraints may make it impractical or impermissible to branch water or sewer service from the principal dwelling, and utilities may need the ability to require a separate connection.

Treating these fundamentally different forms of development as if they were identical removes the ability of municipalities and utilities to manage infrastructure responsibly.

It is also important to recognize that many infrastructure systems serving residential development are designed based on bedroom count or anticipated occupancy rather than the number of dwelling units. For example, subsurface sewage disposal systems are typically sized according to

the number of bedrooms in a dwelling, and water demand is similarly driven by household occupancy. As a result, the infrastructure implications of accessory dwelling units can vary significantly depending on how they are configured. An interior conversion that does not add bedrooms may have little impact on infrastructure demand, while an addition or detached accessory unit that increases bedroom count may substantially increase water and wastewater loads.

#### *Existing Residential Properties vs. New Construction*

These scenarios also differ significantly depending on whether they occur in existing residential properties or new construction. When a home is newly constructed with an accessory unit included in the design, infrastructure systems can be sized appropriately from the outset. Water service lines, septic systems, sewer laterals, electrical service, and other utilities can be designed to meet the anticipated demand. In contrast, when an accessory dwelling unit is added to an existing residential property, the infrastructure serving the property—whether public or private—was typically designed for the original level of demand.

In new construction, infrastructure can be designed to meet anticipated demand. In retrofits, infrastructure was typically designed for the original dwelling and may not have additional capacity. This distinction is particularly important in Connecticut, where many homes rely on private wells and subsurface sewage disposal systems. These systems were designed and permitted based on the number of bedrooms in the original dwelling.

#### *Building Code Considerations*

The State Building Code, which is based on the International Residential Code, generally regulates one- and two-family dwellings under the same framework. This provides a reasonable basis for allowing interior accessory dwelling units or additions in many circumstances. However, building code compliance also requires that critical infrastructure systems—including structural elements, fire safety systems, and utilities—be designed to support the expected level of occupancy and use. In new construction, these systems can be designed appropriately from the outset. In retrofits, however, they may need to be upgraded to meet building code and safety requirements.

In some cases, applicable state or national codes may require the installation of separate or upgraded utility connections, including electrical service, to ensure safe operation of the dwelling units. State zoning law should not override these safety requirements or prevent utilities and code officials from ensuring that building systems are safe and adequately sized.

#### *Infrastructure Capacity and Documentation*

Many communities in Connecticut, particularly rural and lower-density suburban areas, rely on infrastructure systems that were constructed decades ago and are only partially documented. Municipal records for water, sewer, and stormwater systems are often incomplete, and the capacity and condition of older infrastructure may not be fully known. Requiring municipalities to allow accessory dwelling units as of right on every lot containing a single-family home may therefore create situations where development occurs without a clear understanding of whether sufficient water supply or wastewater capacity exists. Even where some surplus capacity may exist in public systems, it may be limited. Allowing accessory dwelling units universally without capacity management could result in a de facto first-come, first-served allocation of infrastructure capacity,

where the earliest projects consume available capacity while later applicants are unable to proceed.

These provisions may also create administrative conflicts where zoning approvals are required by statute but projects cannot proceed due to public health, utility, or building code constraints.

#### *Septic Systems and Groundwater Protection*

In large portions of Connecticut, homes rely on subsurface sewage disposal systems rather than public sewer service. These systems are designed and permitted based on the number of bedrooms in a dwelling and the capacity of the soil to absorb wastewater. In many cases, the system serving a single-family home was sized precisely for that dwelling. Adding a second dwelling unit may require a larger septic system or additional leaching area. On many lots, however, there is simply not enough land area or suitable soil conditions to expand the system. Increasing wastewater flows beyond the capacity of the soil can lead to hydraulic failure, untreated effluent migration, and contamination of groundwater.

Because groundwater aquifers are shared resources, the consequences of increased residential intensity may extend beyond the property where the accessory dwelling unit is constructed and may affect neighboring wells or groundwater quality.

In addition to the physical and environmental impacts described above, these situations may also create significant legal uncertainty. If increased residential intensity leads to septic system failures, groundwater contamination, sewer backups, or well interference affecting neighboring properties, questions may arise regarding responsibility and liability. In such cases, disputes may involve property owners, municipalities, utilities, or other parties, potentially leading to litigation. State policy should avoid creating regulatory frameworks that increase the likelihood of such conflicts.

#### *Private Wells and Water Supply*

In areas without public water systems, most homes rely on private wells drawing from shared groundwater aquifers. These wells were typically designed to serve a single household. Additional dwelling units may increase groundwater withdrawals to the point that wells experience interference or reduced yield. When multiple properties in the same area intensify groundwater withdrawals, wells can experience declining water levels, reduced flow rates, or seasonal failure. Because groundwater systems are interconnected and difficult to model precisely, it can be extremely challenging for affected homeowners to demonstrate legal responsibility when neighboring development causes their wells to run dry.

#### *Public Water and Sewer Systems*

Even in areas served by public utilities, infrastructure capacity is not unlimited. Water distribution systems must maintain adequate pressure and fire flow, and sewer systems must operate within the hydraulic limits of their pipes, pump stations, and treatment plants. The bill contains provisions that prohibit utilities from treating an accessory dwelling unit as a new residential use for purposes of calculating connection fees or capacity charges and prohibit requiring a new or separate utility connection. These provisions could significantly limit the ability of water and sewer utilities to manage demand, recover infrastructure costs, and monitor system loading.

Restricting the ability of utilities to apply connection fees or capacity charges may also shift the costs of infrastructure expansion from new development to existing ratepayers. Utilities rely on these tools to ensure that new development contributes appropriately to the cost of maintaining and expanding infrastructure systems. If wastewater flows exceed the capacity of sewer systems, the result can be surcharging of pipes, basement backups, and violations of wastewater treatment permits. Similarly, excessive demand on water systems can result in pressure loss that affects neighboring properties.

#### *Electrical Service and Utility Capacity*

Utility impacts are not limited to water and wastewater systems. Many homes have electrical services sized for a single household. Adding a second dwelling unit may significantly increase electrical demand due to additional appliances, heating or cooling systems, water heaters, and other loads. Applicable electrical and building codes may require upgrades to service capacity or the installation of separate service equipment in order to meet safety requirements. State law should not override these requirements or prevent utilities and code officials from ensuring that building systems are safe and adequately sized.

#### *Minimum Size Requirement*

The bill also establishes a minimum accessory dwelling unit size of at least thirty percent of the principal dwelling or one thousand square feet, whichever is greater. This requirement is unusual because accessory dwelling unit statutes typically establish maximum size limits, not minimums. In many Connecticut neighborhoods, older homes such as small capes and ranch houses are less than one thousand square feet in size. Under the bill, an accessory dwelling unit could therefore be larger than the principal dwelling, effectively creating two principal dwellings on a single lot.

#### *Alignment With Existing Connecticut Planning Law*

Connecticut planning statutes already recognize that residential development must be aligned with infrastructure capacity. State law requires municipal plans of conservation and development to consider development patterns that are consistent with soil conditions, terrain, and the availability of infrastructure. These provisions reflect a longstanding planning principle: residential density should be coordinated with the capacity of water, wastewater, transportation, and other infrastructure systems. Policies that expand housing opportunities should therefore remain aligned with these same considerations.

### **III. CONCLUSION**

WestCOG supports thoughtful strategies to expand housing opportunities across Connecticut. However, housing policy must remain aligned with infrastructure capacity, environmental protection, and the longstanding legal framework governing property rights and residential development. Raised Bill 5507 contains provisions that extend well beyond accessory dwelling units, including potentially far-reaching implications for private covenants governing residential property across the state. Legislation of this breadth should be adopted only with a clear understanding of its effects on existing property arrangements, infrastructure systems, and public health protections. For these reasons, WestCOG respectfully urges the Committee not to advance Raised Bill 5507 in its current form.

Thank you for the opportunity to provide testimony.

Sincerely,

A handwritten signature in black ink that reads "Francis R. Pickering". The signature is written in a cursive style with a prominent horizontal line underlining the name.

Francis R. Pickering  
Executive Director