

Benjamin Trachten
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November 9, 2021

Honorable Board of Alders – Legislation Committee
Alder Charles Decker, Chair
New Haven City Hall
165 Church Street
New Haven, CT 06511

RE; **Testimony in opposition to Inclusionary Housing Zoning Ordinance**

Honorable Charles Decker and Committee members:

My name is Benjamin Trachten and I am a New Haven resident and local attorney with an office at 679 State Street. I live in Westville where I have lived for 38 years. I have spent the last 15 years participating in different ways in zoning and planning in the City both as a BZA member and Chair and as a private attorney presenting applications to BZA and other commissions. In addition, for nearly ten years I served as counsel for a local affordable housing developer with hundreds of scattered site and clustered units throughout the region. I am not fundamentally opposed to affordable housing and just want to offer a few objections that prevent this plan from being workable.

- 1) Nature of the problem – to begin with, New Haven provides an enormous amount of affordable housing as compared to every other town and city within 30 miles of the Green. Over 30 percent of our housing stock is considered “affordable”. This does not include units that have rents low enough to be considered “affordable” but without formal restriction. A significant number of such units exist. The real issue is poverty but no one wants to talk about that. Instead, we just keep trying to dump the responsibility of housing deeply poor people on market participants that have no expertise and no possibility of producing a successful outcome, private developers. To date, I can’t think of a single successful project where a private developer chose to build affordable units without getting tax credits or a loan that closes the income gap that providing affordable housing will invariably create. While time and again, our economic development staff tries to encourage developers to offer up a few affordable units to insure that projects pass through the labyrinth of an approval process that we already have, its just not right to bow to “feelings” that people currently have that rents are unaffordable and that private developers should bear the cost of providing such housing.
- 2) Timing – we are in an unprecedented building boom and a plan like the one in front of you tonight would have a chilling effect on private development. There is no money available to fill the acknowledged “funding gap” which will total millions of dollars for projects under this proposal. Specifically, the calculations of fiscal impact are based on a 30 year cost to the

developer but the restriction period is 99 years. How does that make any sense? The time to enact inclusionary zoning (if ever) is when we are in a recession and private development slows and government steps in to make gap-funding available. Not now.

- 3) Missing items of this program – if you look to other municipalities like Minneapolis Minnesota, you'll see an ordinance with some thought and resources behind it that actually works. There is a municipal loan program that closes the gap. There is a rational time frame for affordability, of 10 or 15 years. There is support. There is a rational approach, not some slapped together plan by a bunch of Interns and consultants. That is not how you get good legislation.
- 4) Duration – A 99 year restriction is, essentially, permanent. No other municipality that I found imposes such a long duration restriction.
- 5) Targeted subsidy group- By targeting 50 and 30 percent AMI tenants you mix deeply poor occupants into a building with market rate tenants. But most market rate tenants paying 2-3000 per month for a 2 bedroom apartment simply don't want to brush elbows with deeply poor residents. Its not a feeling that comes from a place of racism or bigotry, its just a fact of life that many very low-income tenants at those low AMI numbers will be living very different lives than the market rate tenants. And given the choice, the market rate tenants will simply rent in buildings with no restricted units which will force the price of market rate units in Inclusionary buildings to drop which will decrease the likelihood of success of such developments. Its basic human nature and basic math.
- 6) Administrative burden – No one has quantified the cost of hiring staff and training them in compliance with such regulations. At every stage of an affordable housing development there will be required scrutiny that didn't previously exist. A fair estimate for staffing levels to manage initial review for zoning compliance, legal review of project documents to ensure compliance, operational review, and overall post construction review could be as high as 10 staffers or more. And this is not considering the added time for figuring out the FAR bonus, benefits for unit size, and the proposed tax benefits. All of these require specialized knowledge and can't be easily integrated into work that current staff already does. Certainly, dumping the burden of these tasks on existing staff (who are already at an historic low at City Hall) is not feasible. It typically takes me 2-3 months to get an answer to basic zoning questions, can you imagine the wait for answers to questions of first impression under a new ordinance with new staff with no experience? Because to bring in experienced staff you will have to spend hundreds of thousands of dollars per year on staffing alone. We can't afford that now.
- 7) Compliance by private developers - Private developers are simply not equipped to manage tenants earning 50 percent AMI or below no matter how much of an FAR bonus or tax relief you provide. In my time as counsel to a local non-profit low income housing developer, I recall the shocking amount of compliance documentation that each unit and each tenant required. I really can't recall a single tenant file that wasn't 5 inches thick with every "income qualifying" document needing to be reviewed, scrutinized, corrected, packaged for review by project managers, and so on. And, at 30-50 percent AMI tenants need support by way of dedicated services. This is an additional cost that developers will have to bear. Dumping that responsibility on private developers will lead to one of two results: higher staffing costs passed on to all tenants, or non-compliance. And the tenants that lose out will be the exact tenants meant to benefit from inclusionary zoning. I know the City will never have the resources to police what it

enacts. We don't have enforcement for basic zoning violations now; how can we expect to police enforcement of a massive change like the ordinance as proposed?

I am a lifelong democrat, a liberal, and I think deeply about housing issues. I love good design, and smart density, and well thought out plans that offer simple solutions to complex problems. This proposed Ordinance amendment is a social experiment brought on by good intentions but horribly misguided and ultimately will hurt the average resident of New Haven; your constituents. The more market rate units that are created, the more downward pressure on rents beyond downtown and Wooster square.

The time for experimentation is not now; it's when the housing market crashes or slows and developers slow down construction of market rate housing. Its when the State makes money available to close the funding gap that half-baked ideas like this ordinance will create.

As many commentators noted in recent articles on this proposal, the impact of this ordinance will be modest at best. At worst, it will chase off developers interested in doing solid market rate developments in New Haven to towns and cities that don't have punitive inclusionary and affordable regulations. This is very simple.

I encourage you to ask the hard questions, make the proponents respond to the issues that me and many other interested parties bring up, and ultimately find that this plan is not right for New Haven now.

I ask that these comments be read into the record in full.

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