Connecticut
Fair Housing Center

May 4, 2021

James Cosgrove
First Selectman
Town of Branford
Via email: jcosgrove@branford-ct.gov

Re: Parkside I Redevelopment Fair Housing Concerns

Dear First Selectman Cosgrove:

The Connecticut Fair Housing Center is a statewide organization with a mission to ensure all people in Connecticut have the opportunity to live in housing of their choice free from unlawful discrimination. For the past several years, the Center has monitored Branford Housing Authority's (BHA) efforts to redevelop Parkside I. It is apparent that the redevelopment will offer accessible, modern housing for current tenants and additional families to be served through the addition of units. The proposal both fulfills BHA's obligations to its existing tenants and contributes to addressing Connecticut's profound lack of affordable housing and entrenched racial and economic segregation.

There is a history of opposition to and obstruction of the redevelopment effort by the Town of Branford, raising serious concerns about its compliance with the Fair Housing Act. State and federal fair housing laws prohibit municipalities from taking adverse actions, like obstructing affordable housing development, based on protected class status including race and family status *See e.g.*, *Mhany Mgmt., Inc. v. Cty. of Nassau*, 819 F.3d 581 (2d Cir. 2016). This prohibition includes taking actions motivated by discriminatory community opposition. Id. Town officials may also be personally liable for their conduct. *Gilead Cmty. Servs., Inc. v. Town of Cromwell*, 432 F. Supp. 3d 46, 83 (D. Conn. 2019), *appeal withdrawn*, No. 20-232, 2020 WL 4197302 (2d Cir. May 28, 2020).

After years of discriminatory community opposition stoked by town zoning officials and two land use cases lost by the Town, BHA has secured funding to complete the redevelopment of Parkside I. The Center urges the Town to accept this result. Unfortunately, recent events suggest that the Town appears intent on catering to the discriminatory enmity expressed in the community. If the Town takes further actions motivated by misguided community opposition based on racist tropes and animus against families with children, that animus will be attributed to the Town. *See, e.g.*, *Mhany; LeBlanc-Sternberg v. Fletcher*, 67 F.3d 412, 425 (2d Cir. 1995); *United States v. Yonkers Bd. of Educ.*, 837 F.2d 1181, 1217, 1223, 1226 (2d Cir. 1987).

The multi-year history of this redevelopment effort is rife with opposition based not on what is being built, but on who will live there. This pattern is reflected in statements by the public, to whom elected Town officials are accountable, and statements by officials themselves. Courts

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have found that even "code words" commonly understood to refer to racial animus support a finding of discrimination; *Mhany*, 819 F.3d at 609; yet many statements in the record require little code breaking. The meaning is clear when members of an affluent and disproportionately white community adjacent to New Haven complain that Section 8 will "bring the ghetto" or lead to a "a different element" or "too much riff-raff." And there is no ambiguity in the plain statements in opposition to the presence of children that two-bedroom apartments would bring.

Violation of the Fair Housing Act by denying or otherwise making housing unavailable can be established through a pattern of harassment or obstruction. *See, e.g., Gilead Cmty. Servs., Inc.*, 432 F. Supp. 3d at 77–78. Violations that otherwise make housing unavailable include "delaying tactics" and "various forms of discouragement." *United States v. Youritan Const. Co.*, 370 F. Supp. 643, 648 (N.D. Cal. 1973). The record is already replete with such tactics and discouragement. Further obstruction and interference such as replacing existing board members with opponents of affordable housing development or otherwise giving voice to those attempting to derail this judicially sanctioned and contractually bound redevelopment only puts the Town in further legal jeopardy.

In addition to the race, national origin, and family status violations for which the Town may face liability, derailing this vital effort would be a tragedy for the current residents presently consigned to dilapidated, sub-standard apartments that are not fully accessible. Failure to remedy the lack of accessibility in these unit would violate the rights of tenants with disabilities under the state and Federal Fair Housing Act, in addition to the race, national origin, and family status violations that the Town may face as outlined above.

The Town has already borne the costs of failed land use litigation. It can choose to recognize and embrace the positive contribution the redevelopment of Parkside I has to offer, or it can risk the cost of civil rights enforcement actions.

Very truly yours,

Erin Kemple

Erin Kemple, Esq.
Executive Director

Cc: Greg Kirschner
Legal Director