



OPEN COMMUNITIES ALLIANCE

#OpenWoodbridge
OCT et al. v Woodbridge et al.

Frequently Asked Questions

- **Why has Woodbridge been sued?**

- ⇒ The plaintiffs are suing the Town of Woodbridge and its Town Plan and Zoning Commission (TPZ) because the Town's zoning unjustifiably restricts the development of multifamily housing and thus impedes the development of housing that is affordable to low and moderate income households. This has limited housing choices for families that have a disproportionate need for such housing, including Black and Latino households and households relying on government housing assistance like housing vouchers. It has also denied Woodbridge residents the opportunity to live in a diverse community. For all of the above reasons, the Town's zoning violates various state laws and provisions in the state's Constitution.
- ⇒ Exclusionary zoning like that seen in Woodbridge and in other resource-rich suburban communities throughout the state is one of the central reasons Connecticut is so racially and economically segregated and currently facing a housing affordability crisis.

- **Who are the plaintiffs?**

- ⇒ The plaintiffs include:
 - *Open Communities Trust, LLC (OCT)*, an entity affiliated with the statewide civil rights nonprofit Open Communities Alliance. OCT was established to promote the development of affordable housing in towns with a marked dearth of such units. OCT has a lease and option on 2 Orchard Road, a residential property in Woodbridge. OCT applied for zoning amendments in the fall of 2020 that would have allowed the development of lower-density mixed-income multifamily housing (including affordable housing) on 2 Orchard Road, but the TPZ failed to take any meaningful action in response to the application.
 - *Garden Homes Fund*, a Stamford, Connecticut-based private charitable foundation focused on expanding affordable housing opportunities in Connecticut and the sole member of 2 Orchard Road LLC. Garden Homes Fund purchased 2 Orchard Road, through 2 Orchard Road LLC, to enable the construction of lower-density mixed-income multifamily housing (including affordable housing) at 2 Orchard Road.

- *2 Orchard Road LLC*, an entity affiliated with Garden Homes Fund that was created in order to purchase and facilitate OCT's development of lower-density mixed-income multifamily housing (including affordable housing) on 2 Orchard Road.
- *Sally Connolly*, a long-time resident of Woodbridge who has been harmed by the lack of racial and economic diversity in town resulting from its exclusionary zoning. Ms. Connolly is challenging Woodbridge's zoning to enable the Town to become an inclusive and thriving community that reflects the socioeconomic and racial diversity of the region.
- *Cary Gross*, another long-time resident of Woodbridge who has been harmed by the lack of racial and economic diversity in town that results from its exclusionary zoning. Dr. Gross is challenging Woodbridge's zoning to enable the Town to become an inclusive and thriving community that reflects the socioeconomic and racial diversity of the region.

- **What are the claims?**

- ⇒ *Connecticut's Zoning Enabling Act*. The Town and TPZ violated several obligations, including requirements to provide for housing opportunities for low and moderate-income households and to provide for multifamily housing in a manner responsive to regional needs, which Connecticut's Zoning Enabling Act, C.G.S. § 8-2, places upon towns like Woodbridge that have adopted zoning regulations pursuant to the Act.
- ⇒ *Connecticut's Fair Housing Act*. Woodbridge's zoning violates the Connecticut Fair Housing Act, C.G.S. § 46a-64c. The plaintiffs allege disparate impact claims as to Black and Latino households. The plaintiffs also allege perpetuation of segregation claims as to Black, Latino, and housing assistance-recipient (e.g., voucher holders) households.
- ⇒ *The Connecticut Constitution*. Woodbridge's zoning regulations violate the requirement that zoning regulations promote the general welfare that is inherent to the due process and equal protection clauses of the Connecticut Constitution. Woodbridge's zoning regulations, by perpetuating the residential segregation of Black and Latino households, violate the Connecticut Constitution's unique and important anti-segregation clause.

- **Does this affect other towns?**

- ⇒ Yes. While Woodbridge is the only defendant in this litigation, and plaintiffs contend that the Town's violations of law are substantial, Woodbridge is sadly not the only Connecticut town with large lot sizes that largely or entirely limit the development of multifamily housing to areas with access to public water and sewer service; or that subjects all or virtually all multifamily housing to special exception or special permit procedures; or whose zoning regulations fall well short of the affirmative obligations placed upon towns to provide for economic diversity in housing, produce multifamily housing responsive to the regional need, and so forth.

- ⇒ Any decision in favor of plaintiffs would underscore the illegality of similar practices in affluent and exclusionary communities throughout Connecticut, and could be directly called upon in any future challenges to their zoning.

- **Does this case have national implications?**

- ⇒ Yes, for several reasons. First, the litigation against Woodbridge highlights zoning practices that are not unique to Connecticut, such as the prerequisite of the presence of water and sewer infrastructure for the development of multifamily housing, or the reflexive requirement of a special exception (or analogous) procedure for any and all multifamily housing. And while certain elements of Connecticut law are relatively unique, notably that the state constitution includes an anti-segregation provision, others will find analogues in states around the country. This case thus illustrates various legal pathways for wielding state law to counteract exclusionary zoning that advocates across the nation could seek to replicate.
- ⇒ Similarly, if successful, this case will demonstrate that arguments in favor of such zoning practices lack factual support, which could either lead municipalities to revisit their support for such measures, or furnish arguments for legal and policy advocacy against such provisions across the nation.
- ⇒ The litigation also seeks to underscore the feasibility of developing lower-density mixed-income multifamily housing even in areas that lack public water and sewer infrastructure – an infrastructural constraint that, again, is not solely found in Connecticut. This case is thus a powerful vehicle for demonstrating creative solutions to the affordability and segregation crises that are rampant throughout the nation, including those that have seen little development of multifamily and affordable housing due to lack of public water and sewer infrastructure.

- **Wasn't Woodbridge already sued by OCT for exclusionary zoning?**

- ⇒ No. In 2020, OCT obtained an option and lease on 2 Orchard Road, a residential property in Woodbridge owned by 2 Orchard Road LLC. Together, as a first step to needed reform, these entities submitted an administrative petition to the TPZ seeking zoning changes that would have allowed the property, and others in residential zones across the town, to be developed as a low-density multifamily community (the illustrative proposal OCT and 2 Orchard Road LLC presented was for four units), as long as the rules applying to single-family homes (including public health and environmental regulations) were followed and the mixed-income development included affordable housing. They also asked that Woodbridge's planning and zoning rules and practices be more completely overhauled to comply with state and federal laws.
- ⇒ The Town did not adopt OCT and 2 Orchard Road LLC's proposed zoning amendments, and the changes it did adopt did not remedy the Town's non-compliance with the provisions of Connecticut statutory and constitutional law invoked by the plaintiffs in this litigation. Plaintiffs initiated this litigation against the Town's current zoning to ensure that Woodbridge's zoning no longer violates Connecticut's Zoning Enabling Act, Fair Housing Act, and Constitution.

- **Didn't the TPZ make changes to Woodbridge's zoning regulations based on OCT and 2 Orchard Road LLC's application?**

- ⇒ After an extensive public hearing process on OCT and 2 Orchard Road LLC's application for zoning amendments that would have facilitated affordable housing development at 2 Orchard Road and other residential areas of town – during which the TPZ was presented with voluminous evidence of the Town's exclusionary history, the contours of its current legal obligations around zoning, and the feasibility of developing lower density, mixed-income multifamily housing (including affordable units) with onsite water and wastewater systems in a manner consistent with public health and environmental regulations – the TPZ declined to adopt OCT and 2 Orchard Road LLC's application.
- ⇒ In relevant part, the amendments to the zoning regulations that became effective on September 7, 2021 made the following changes:
 - Rather than allowing lower-density multifamily housing to be developed in areas without access to public water and sewer so long as such housing complied with public health and environmental regulations (as OCT and 2 Orchard Road LLC had proposed), the TPZ allowed for multifamily housing only in the 1.6% of the Town's residential land area served by public water and sewer infrastructure, and only after obtaining a special exception, which requires a public hearing and discretionary vote by the TPZ. This requirement continued the prohibition on multifamily housing (3+ units) in the 98.4% of the Town's residential land area that is not served by public water and sewer infrastructure, including on the 2 Orchard Road site for which OCT had developed a conceptual site plan for the creation of a mixed-income four-unit development that would include affordable housing.
 - The Town required a special exception for all multifamily housing in the 1.6% of the Town's residential land area with public water and sewer infrastructure, even for lower-density multifamily housing built to comply with the bulk and other requirements imposed on single-family homes, and even though the Town amended the regulations to permit two-family housing (along with single-family housing) in this area subject only to obtaining a zoning permit, which does not require a hearing or discretionary TPZ vote.
 - The TPZ permitted two-family housing subject to varying degrees of review in Woodbridge's residential areas. This housing, which is inherently less capable of generating affordable units than multifamily housing due to economies of scale, must also comply with the extensive bulk and lot requirements imposed on single-family homes throughout Woodbridge – further limiting its capacity to generate affordable units.
- ⇒ The zoning amendments that the TPZ adopted continued to fall well short of the Town's legal obligations under C.G.S § 8-2, the Connecticut Fair Housing Act, and the Connecticut Constitution.

- **What are the plaintiffs asking for?**

⇒ Plaintiffs seek:

- Declaratory relief under § 8-2 and the state Constitution that would establish that various aspects of Woodbridge's zoning violate provisions of these laws;
- Injunctive relief under these sources of law and the Connecticut Fair Housing Act barring various elements of Woodbridge's zoning regulations and requiring the Town to undertake several proactive planning and zoning measures to ensure that it begins to redress its longstanding failure to address regional affordable housing needs and patterns of racial and economic segregation; and
- Compensatory relief for damages incurred by OCT, 2 Orchard Road LLC, and Garden Homes Fund over the past few years of trying to facilitate affordable housing development at 2 Orchard Road and other residential areas of Woodbridge.

- **I'd like to know more about the legal claims and the relief plaintiffs are seeking – what are the details?**

⇒ The claims under the Zoning Enabling Act, C.G.S. § 8-2, are as follows:

- Plaintiffs allege that Woodbridge's zoning violates § 8-2 by failing to (1) promote housing choice and economic diversity in housing, including housing for both low and moderate income households; (2) provide for the development of multifamily housing in a manner responsive to regional, not just local, housing needs; (3) promote the general welfare; (4) address significant disparities in housing needs and in access to educational, occupational and other opportunities; and (5) allow for development that will meet the housing needs identified in the state's Consolidated Plan for Housing and Community Development.
- The lawsuit claims that the Town is failing to meet these affirmative obligations due to various aspects of its zoning, namely (1) the town's unnecessary and unjustifiable prohibition on the development of multifamily housing (3+ units) in the 98.4% of the Town's residential land area that is not served by both public water and public sewer infrastructure; (2) the unnecessary and unjustifiable requirement that all multifamily housing obtain a special exception (and therefore undergo the mandatory public hearing process that accompanies a special exception) in the remaining 1.6%, even if such housing is designed to comply with the bulk and other requirements imposed on single-family housing; and (3) in general, failing to create meaningful opportunities for the development of multifamily and affordable housing necessary to meet regional needs.

⇒ The claims under the Connecticut Fair Housing Act, C.G.S. § 46a-64c, are as follows:

- Plaintiffs allege that Woodbridge's prohibition on the development of multifamily housing (3+ units) in the 98.4% of its residential land served by both public water and public sewer infrastructure unjustifiably impedes the development of lower-density multifamily housing that could include units affordable to low and moderate income households. Given that Black, Latino, and housing assistance-recipient households disproportionately need such housing, plaintiffs allege that the public water and sewer prerequisite has a disparate impact on Black and Latino households and perpetuates the segregation of such households as well as households receiving housing assistance such as housing vouchers. The public water and sewer requirement for multifamily housing is unnecessary because modern on-site water (including well) and wastewater (including septic) systems enable the development of multifamily housing in compliance with public health and environmental regulations.
- Plaintiffs further allege that the requirement of a special exception procedure for any and all multifamily development in the remaining 1.6% of the Town's residential land area, which involves a mandatory public hearing, similarly impedes, without justification, the development of lower-density multifamily housing that could include units affordable to low and moderate income households. Given that Black, Latino, and housing assistance-recipient households disproportionately need such housing, plaintiffs allege that the special exception requirement has a disparate impact on Black and Latino households and perpetuates the segregation of such households as well as households receiving housing assistance such as housing vouchers. The special exception unjustifiably applies to all multifamily housing, even if such housing is designed to fit within the bulk and other requirements imposed upon single-family housing, while permitting all single-family and two-family housing – no matter how large or the specific characteristics of the development – to be built in the 1.6% of residential land with public utility access upon receipt of a zoning permit, without any requirement of a public hearing.

⇒ The claims under the Connecticut Constitution are as follows:

- Plaintiffs allege that the same elements of the Town's zoning that violate the Zoning Enabling Act also violate the implicit requirements of the due process and equal protection clauses of Article First, §§ 8, 10, and 20 of the Connecticut Constitution that all exercises of the state's police powers – including municipal enactments of zoning regulations – promote the general welfare. Woodbridge's zoning fails to promote the general welfare because it unduly restricts the development of affordable and multifamily housing, exacerbates the regional and statewide shortages of such housing, perpetuates racial and socioeconomic segregation in housing and disparities between socioeconomic groups in access to opportunity, and disproportionately harms Black and Latino households.
- Plaintiffs further allege the same elements of the Town's zoning that violate the Zoning Enabling Act also violate the anti-segregation provisions of Article First, § 20 of the Connecticut Constitution by significantly restricting and failing to adequately provide for the development of housing affordable to low and

moderate income households. Since Black and Latino households are disproportionately represented among such households throughout the region, substantially blocking housing affordable to low and moderate income households perpetuates racial segregation.

- **Who else is involved in this effort?**

- ⇒ **Open Communities Alliance (OCA)** is a Connecticut-based civil rights nonprofit organization that promotes access to opportunity for all people through education, organizing, advocacy, research, and partnerships. OCA's ambitious mission of unwinding Connecticut's history of government-perpetuated segregation focuses on reducing social, economic, and health disparities experienced by low-income families of color and generating access to "opportunity" by establishing pathways to affordable housing in thriving communities. For more information, please visit ctoca.org.
- ⇒ **WilmerHale**, an international law firm of nearly 1,000 lawyers, represents clients ranging from some of the world's most successful companies to individuals and organizations of limited means who receive free legal help as part of the firm's enduring commitment to its pro bono work. For more information, please visit <https://www.wilmerhale.com/en>.
- ⇒ Attorney **Timothy Hollister**, a land use attorney with Hinckley Allen & Snyder, in its Hartford office, acts as advisor to the legal team. For more information, please visit <https://www.hinckleyallen.com/people/timothy-s-hollister/>.
- ⇒ **The Garden Homes Fund** is a Stamford, Connecticut-based private charitable foundation focused on expanding affordable housing opportunities in Connecticut and the owner of 2 Orchard Road LLC. For more information, please visit <https://www.gardenhomesmanagement.com>.
- ⇒ **The Lawyers' Committee for Civil Rights Under Law** (Lawyers' Committee), a nonpartisan, nonprofit organization, was formed in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to address racial discrimination. The principal mission of the Lawyers' Committee for Civil Rights Under Law is to secure, through the rule of law, equal justice for all, particularly in the areas of voting rights, criminal justice, fair housing and community development, economic justice, educational opportunities, and hate crimes. For more information, please visit <https://lawyerscommittee.org>.
- ⇒ **The Jerome N. Frank Legal Services Organization** (LSO) provides legal representation to individuals and organizations in need of legal services but unable to afford private attorneys. Students, supervised by Law School faculty members and participating attorneys, interview clients, write briefs, prepare witnesses, try cases, negotiate settlements, draft documents, participate in commercial transactions, draft legislation and regulatory proposals, and argue appeals in state and federal courts, including the U.S. Court of Appeals for the Second Circuit and the Connecticut Supreme Court. For more information, please visit <https://law.yale.edu/studying-law-yale/clinical-and-experiential-learning/jerome-n-frank-legal-services-organization-lso>.

