

MINUTES OF PUBLIC HEARING ON AN ORDINANCE REPEALING MINIMUM FLOOR AREA REQUIREMENTS FOR DWELLING UNITS

September 27, 1994

Council Chambers

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President Sandy F. Klebanoff called the hearing to order at 7:19 p.m.

Present were Councilors Robert Bouvier, Owen Eagan, Sandy F. Klebanoff, Charles R. Matties, Patrick McCabe, Madeline S. McKernan, Larry Price, Andy Schatz and Alfred Turco.

President Klebanoff: Mr. Alair I assume you have the administrative presentation on this one also.

Patrick Alair, Assistant Corporation Counsel: I do Madam Mayor. This ordinance is also a response to a court decision, not one involving the Town of West Hartford but one which came up from the Connecticut Supreme Court also a couple of years ago, the Connecticut Builders Services Corporation case which invalidated a similar minimum floor area requirement ordinance in, I have forgotten the town now. When the last plan of development was being implemented and our ordinances were being reviewed, the existence of this ordinance came to our attention. We have actually not needed to enforce it I'm told for quite some time. There is a similar provision which is enforceable and as far as we can tell legal in the State Building Code as amended and supplemented by the Town's ordinances which is not affected by this amendment.

What we decided to do after reviewing the matter was simply to repeal the ordinance. The purpose of it is served by another ordinance elsewhere and it currently stands if challenged we believe it would probably be deemed unconstitutional as a violation of the Connecticut State Constitution.

President Klebanoff: Questions from the Council? Do we have a sign up sheet on this one?

Mr. Alair: We do not.

President Klebanoff: Anyone wish to address the Council on this public hearing? If not, last chance for questions.
Mr. Foster.

Donald R. Foster, Town Planner: Madam Mayor, just again for record purposes, in your record you have your recommendation from the Planning Commission in which they unanimously recommended in favor of this proposal and as Pat noted the Commission is aware that this regulation really had not been even close to being tested. It is a very permissive

provision way beyond what the typical dwelling unit square footage is for West Hartford but nonetheless the fact that we have that square footage criteria in our regulation opens us to challenge and it is clear that it is not a permissible kind of regulation so the Commission has recommended in favor.

President Klebanoff: Thank you very much. If there are no further questions I will close this public hearing.

The hearing adjourned at 7:21 p.m.

Norma W. Cronin
Recording Secretary