

Planning and Development Committee

JOINT FAVORABLE REPORT

Bill No.: HB-5475

AN ACT CONCERNING THE DEVELOPMENT OF HOUSING AND

Title: CHALLENGES TO CERTAIN DECISIONS OF MUNICIPAL AGENCIES.

Vote Date: 3/22/2024

Vote Action: Joint Favorable Substitute

PH Date: 3/13/2024

File No.:

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SPONSORS OF BILL:

Planning and Development Committee

REASONS FOR BILL:

Currently people can file protests to property development that slows down the building of affordable housing in certain areas, with people filing lawsuits against the developers and municipalities. There is also currently a concern with affordable housing in general, and this bill seeks to address that issue by turning vacant buildings and state-owned lands into solutions for this crisis.

LCO 3071: Substitute language deleted Secs. 1, 2, and 3 from the raised bill, added a new Sec. 1 which limits persons who wish intervene in an appeal from a local administrative decision in order to raise environmental concerns pursuant to sec. 22a-19 to persons who own abutting property or property within a 100 foot radius of the property subject to the appeal, replaced the prior Sec. 5 with a substantially rewritten Sec. 3, which now requires a municipality to hold a public hearing before adopting an ordinance under said section and requires the municipality to review such ordinance at least once every seven years, former Sec. 7 was replaced with revisions to subsection (c) of sec. 4b-21, which requires that DOH make a determination if land to be conveyed by the state may be used for the development of affordable housing, and if so determined, DOH shall submit a plan for such development.

RESPONSE FROM ADMINISTRATION/AGENCY:

None expressed.

NATURE AND SOURCES OF SUPPORT:

PSC Policy Director, Sean Ghio; strongly supports sections 1-4. The Partnership for Strong Communities says that the current language of an “aggrieved person” is too broad, opening up too many avenues for projects to be slowed down.

CT Chapter of the American Planning Association, Government Regulations Officer, John Guskowski; supports. Strongly supports sections 1-4. Mr. Guskowski says that the “broad allowance (of aggrieved persons) has led to countless frivolous lawsuits that can generally be lumped into a “not in my backyard” response to undesired development.” His organization has concerns about section 5, they do not feel that municipalities should be able to bypass the environmental review process. They would also like further clarification for section 6, warning that nursing home rooms often do not include utilities that family dwellings require, and that the two are not interchangeable. They also strongly support section 7 to conduct a study of unused state land.

Connecticut General Assembly, House Majority Leader, Jason Rojas; In his submitted testimony in support of the bill, Representative Rojas, cites that Connecticut currently lacks over 200,000 housing units, 90,000 of those would need to be affordable to the families that fall into the lowest income brackets. According to Rep. Rojas, currently, onerous lawsuits are being filed against builders by people who will not be directly impacted by the building of affordable housing or multifamily housing. Mr. Rojas would like to make sure that only those people who are directly harmed by these building endeavors have the right to file a lawsuit against them; he states that doing so would speed up the building process and save money. He concludes that this bill will greatly improve opportunities for and the efficiency of housing development in the state.

Home Builders and Remodelers Association of Connecticut’s Governments Affairs Committee, Chairman, Robert Wiedenmann and **Jim Perras**; supports. Mr. Wiedenmann and Jim Perras state that the bill signifies a significant step towards creating a more conducive environment for housing development in Connecticut. Additionally, they say that by aligning regulations with the current need for more housing and more types of housing, these amendments pave the way for a more efficient, inclusive, and responsive planning and development process.

NATURE AND SOURCES OF OPPOSITION:

Fairfield Citizen, Anonymous; Anonymous has written testimony to oppose the bill. They point to the need for places for people to live, and then talk about the need for fresh air, clean water, and safe food. They are concerned about the strain that large new dwellings put on the environment, from fertilizers and pesticides to light pollution and traffic safety. They question why older homes aren't being given loans to renovate, and why \$1.5 million condos are being considered 'affordable'. They want the building to be slowed down and instead to be thoughtfully planned out.

Anonymous; opposes the bill. In section 3, they state that requiring hiring a hydrologist to prove impact may burden residents excessively and hinder their ability to oppose decisions. In section 4, they oppose the removal of protest rights against zoning changes for non-abutting neighbors. For section 5, they oppose allowing municipalities to exempt developments from inland wetlands agency review. Section 6, they oppose 'as of right' that allows vacant nursing homes to be converted into multifamily housing, as it could discriminate

against senior living. Finally in section 7, they support the study to develop affordable housing in urban areas and transit-oriented development zones for efficiency.

Janet P Brooks Atty at Law LLC, Janet Brooks; Ms. Brooks submitted testimony to oppose the bill, starting with changing the language throughout the bill from aggrieved persons to those "who have suffered actual damage to real property owned by such person;". She opposes §3 & §5 entirely. Ms. Brooks has 40 years of experience as an environmental attorney in Connecticut, working closely with DEP. Ms. Brooks points out that the only people who would be able to file an appeal would be the Commissioner of Energy and Environmental Protection and those whose properties about the land in question and those within 90 feet of the affected wetlands or watercourses. She goes on to say that the "General Statutes § 22a-36. The Act is to preserve and protect wetlands and watercourses "from random, unnecessary, undesirable and unregulated uses."" According to Ms. Brooks, the new bill also seeks to mandate a hydrologist for each new building, but she has only worked with one once in all her years in environmental law. She would like to know why only people and private property that are directly affected have the right to file suits under this bill, but those representing public land would not. In her words, "Section 5 eviscerates the inland Wetlands and Watercourses Act in "death by 1,000 cuts" or rather, death by 169 municipal ordinances."

CT League of Conservation Voters, Director, Lori Brown; strongly opposes section 5, which she says would allow a municipal legislative body to "exempt" certain properties from the Inland Wetlands & Watercourses Agency review. Ms. Brown is concerned that this would politicize the land use process. The CTLCV respectfully requests that the committee remove language from the bill that exempts any development from inland wetland review.

Rivers Alliance of Connecticut, Executive Director, Alicea Charamut; Ms. Charamut has submitted testimony that opposes the bill, she opens with the narrowing of "aggrieved person" in sections 1 and 3, that limit those that can be aggrieved to people, and take away language that gives land and waterways representatives. She states that in section 3 a "hydrologist" is too narrow of a term, and that they are not the only people who can accurately access the water-related impacts of a building site. She goes further to state that in section 5 municipalities should not be given the power to exclude the IWWA from the process, as they oversee erosion and sediment controls and stormwater in cases that aren't referred to Zoning, but that impact water quality. She states that this oversight by the IWWA is more important than ever as we're experiencing sort-duration events with very heavy rainfall.

Kathryn Chester; strongly opposes the bill. In section 3 she states that requiring a resident to hire a hydrologist to prove how they have been impacted is burdensome. In section 4, Ms. Chester contends that changing the previous language from "any neighbors within 500 ft of the proposed change" to "abutting neighbors" is problematic. Section 5, Ms. Chester states that Inland Wetlands Commissions do not get involved with wells and wastewater, which are at risk of impact with periods of high flow. Finally, she wraps with section 6 which she states essentially incentivizes developers/owners to evict the elderly in nursing homes.

Marguerite Christie; Ms. Christie submitted testimony in opposition of the bill, she says that this is top-down zoning that doesn't consider the needs of each town. Ms. Christie states that this shows a disregard for wetlands, and could lead to polluted area waterways, wetland, and wells. Additionally, she says the bill will prevent people and businesses from filing a grievance and disagreeing with zoning changes.

[Maureen Ciardiello](#); opposes. In section 3, Ms. Ciardiello strongly opposes the requirement for individuals claiming damages to hire a hydrologist to prove their impact. In section 4, she opposes the removal of protest rights against certain zoning changes for individuals who do not own abutting lots. For section 5, Ms. Ciardiello strongly opposes allowing municipalities to exempt developments from review by inland wetlands agencies. In section 6, she strongly opposes allowing the conversion of vacant nursing homes into multifamily houses "as of right". Finally in section 7, Ms. Ciardiello supports with conditions the requirement for the Commissioner of Housing to conduct a study of unused state-owned real property for affordable housing opportunities, but to focus on urban areas and transit-oriented development zones. See also: [Mary Connolly](#); [Candidate for State Rep, Tina Courpas](#); [Ann Katis](#); [Nora Maloney](#);

[Subha Clarke](#); Ms. Clarke has submitted testimony that opposes the bill, stating that it would eliminate Inland Wetland review processes and allow conversion of vacant nursing homes to residential "as a right" permitting, which could be a threat to senior living, and local property rights.

[CAZEO – President, Michael D Amato](#); Mr. D Amato submitted testimony in opposition of the bill, particularly sections 1, 3, 5, and 6. In section 1, Mr. D Amato opposes the definition of "aggrieved person" which sets an overly high bar for bringing appeals against land use decisions. Mr. D Amato questions how much damage could occur from the approval plans or zoning changes in section 3 and questions the exclusion of other inland wetland specialists who are not hydrologists. In section 5, he is concerned about the exemption of certain activities from regulatory review. Finally, in section 6, Mr. D Amato is worried about the as-of-right conversion of nursing home facilities into multifamily dwellings due to their impact on surrounding areas.

[Jack de Graffenried](#); submitted testimony strongly opposing section 5 of the bill. He claims that Connecticut's wetlands regulations are lax compared to other states, and that section 5 would further degrade them. He states that proper commissions should continue to review the developments that impact the inland wetlands.

[Judith de Graffenried](#); Strongly opposes section 5 of the bill. She claims that Connecticut's wetlands regulations are lax compared to other states, and that section 5 would further degrade them. She states that proper commissions should continue to review the developments that impact the inland wetlands.

[CT Council of Small Towns, Executive Director, Betsy Gara](#); opposes; Ms. Gara worries that the changes to local planning and zoning will trigger litigation, increasing costs for municipalities. She also worries that the opportunities for local residents to protest proposed projects will be limited. Ms. Gara warns that giving municipalities the ability to streamline the approval process, it is at the expense of the protected wetlands and they're inhabitants.

[CT Water Works Association, Executive Director, Elizabeth Gara](#); opposes the bill, that they say would harm the protection and quality of drinking water sources. CWWA works to safeguard and protect about 4,000 surface and groundwater drinking water supply sources. Ms. Gara points out that protecting watershed lands to maintain water purity and ecological habitats, raising concerns for section 5, which would allow municipalities to circumvent

regulatory bodies and undermine their wetland and watercourses protection efforts. Additionally, Ms. Gara is worried about the definition of "aggrieved person" in sections 1 and 3.

RiverCOG, Executive Director, Samuel Gold; opposes. Mr. Gold states that changing the language of "aggrieved parties" and narrowing the scope of who can protest the development of a property will limit protest too narrowly. He goes further to say that allowing municipalities to exempt developments from state inland wetlands laws is concerning, as it could lead to the development of wetlands without mitigation. Finally, Mr. Gold says that Connecticut will need more nursing homes, not fewer, as the state has an aging population and the Governor has proposed limiting the number of people in each room of a nursing home.

John Hair; opposes. He states that this act proposes several changes, including the elimination of the Inland Wetlands review process, allowing vacant nursing homes to be converted into residential properties without additional approval, and requiring aggrieved parties to demonstrate actual damage and hire a hydrologist for certain claims. Mr. Hair goes on to say that it also removes the right of protest on zoning changes for those not owning abutting lots and permits municipalities to exempt certain developments from inland wetlands review. Additionally, he states that it allows conversion of vacant nursing homes into multifamily housing without additional approvals. Mr. Hair believes that critics argue that these changes could lead to a loss of local property rights, potentially discriminate against seniors, and weaken environmental protections. However, he gives conditional support for a study by the Commissioner of Housing to assess the suitability of state-owned properties for improving affordable housing opportunities, with a focus on urban areas and transit-oriented development zones.

Wetland and Soil Scientist, Michael Klein; opposes. Specifically, Mr. Klein criticizes section 3 (b), which seemingly eliminates the right to appeal decisions of Inland Wetland Agencies by imposing impossible burdens, such as requiring appellants to demonstrate actual damage prior to permit issuance and mandating statements from qualified hydrologists. He argues that this section overlooks the multi-disciplinary nature of wetland impact assessment and unfairly limits who can provide expert opinions. Additionally, Mr. Klein finds section 5 problematic as it allows municipalities to exempt proposed developments from wetland regulation based on existing or planned commercial and retail uses, potentially undermining wetland protections. He highlights the importance of wetlands beyond areas of development and asserts that Connecticut should not regress in its wetland management and protection efforts, given its historical leadership in this regard.

Save the Sound, Peter B Cooper-Legal Fellow, Chase Lindemann; opposes. Save the Sound strongly opposes the bill, arguing that its passage would significantly curtail the ability to appeal wetlands decisions and create exemptions for projects with potentially disastrous consequences. They view the proposed changes as a blatant attempt to weaken environmental protections for the benefit of developers and builders. Additionally, Mr. Lindemann states that recent federal rulings reducing wetland protections, Save the Sound believes it's crucial for states like Connecticut to strengthen, not weaken, safeguards for these vital resources. Save the Sound also opposes the bill's requirement for appeals to be accompanied by a qualified hydrologist's opinion, deeming it unnecessary and unfairly burdensome for challengers. They argue that existing laws already address frivolous appeals, and the proposed requirement would give developers an unfair advantage.

[CT Republican Assembly, President, Anne Manuskay](#); opposes; she says “These bills have not been reviewed for Constitutionality; they each would usurp the civil liberties of the People of Connecticut. Regional Plan Association and Desegregate CT are not the People of Connecticut. “

[CCM, Advocacy Manager, Zachery McKeown](#); opposes. Mr. McKeown contends that vacant nursing homes may be suitable for conversion into multi-unit dwelling units, it is important to maintain the integrity of the local land use and public health processes and not make these conversions “as of right” since some of these buildings may not be suitable for that type of conversion or modifications may need additional input from local building and land use officials. CCM wants to partner with the state in finding affordable housing solutions and supports the provision that requires the Department of Housing Commissioner to study the suitability of unused real property for affordable housing opportunities.

[CT Land Conservation Council, Executive Director, Amy Blaymore Paterson](#); opposes. In sections 1 and 3, Ms. Paterson says that “aggrieved” fails to recognize that agency actions are prospective; the purpose of the commission’s review is to prevent any actual damages from occurring, and it narrows the scope too much. She also states that the requirement for a hydrologist places too high a burden on potential impacted citizens. In section 5, Ms. Paterson worries that the proposed change broadly assumes that further changes to that area will not impact the wetlands, thereby circumventing the local process for a case-by-case review.

[West COG, Executive Director, Francis Pickering](#); opposes. Mr. Pickering points out that under sections 1 and 2, renters would not have the ability to appeal land use and inland wetlands decisions. Section 3, he cautions that property owners who cannot afford a hydrologist would also be eliminated from such recourse. Mr. Pickering contends that section 4 removes the ability of those most likely to be adversely impacted by a zone change to be heard. Additionally, he says that section 5 would set back environmental progress by decades. Section 6 worries Mr. Pickering suggests that nursing homeowners might be incentivized to displace current residents to make the property vacant so that more money can be made from the conversion to multifamily housing.

[EH Planning and Zoning, Mrs. Debbie Riek](#); opposes. Mrs. Riek points out that in section 4, more than just immediate neighbors would be affected by the placement of incinerators on a property, and that the local towns should be able to decide what is allowed to be built. She further points out that in section 5, Inland Wetlands Commission does not get involved in wells and wastewater. See also: [Andrea Sandor](#); [Warren Serenbetz](#); [Dorothy Stasney](#);

[Joann Romano](#); strongly opposes this bill. She says that this bill would allow for predatory building, possible anti-senior policy by potentially shutting down nursing homes, and that the study could eliminate Municipal Design Review in designated Historic Districts.

[Denise Sageau](#); opposes. Ms. Sageau states that dismantling land use regulations is not the answer to affordable housing. Sections 1 and 3 are concerning to her because appeals take place before construction, making proving damage or impairment is impossible. She says that a hydrologist will not be able to access other impacts of water displacement of a given property. Further, Ms. Sageau states that bypassing the local land use process will eliminate

DEEP's Stormwater General Permit exemptions for development proposals between 1-5 acres that have an erosion and sediment control plan approved by a local commission.

[Connecticut Association of Conservation and Inland Wetlands Commissions, President, Alan Siniscalchi](#); opposes. The CACIWC opposes Section 5, which allows municipalities to exempt certain development projects from review by inland wetlands agencies. CACIWC argues that even areas with existing infrastructure and commercial use should still undergo review due to their importance in protecting water supplies and managing stormwater. Mr. Siniscalchi also objected to changes in Sections 1 and 2 that limit who can appeal decisions, arguing that affected parties should have a voice before damage occurs. Additionally, they oppose Section 3's restriction on who can appeal decisions and the requirement for a qualified hydrologist's opinion to prove damage. The CACIWC further opposes Section 4, which removes the ability of nearby property owners to protest proposed changes. CACIWC emphasizes the importance of maintaining an open democratic discourse and urges against passing the bill, which they believe would undermine decades of environmental protection efforts as the state works to address climate change.

[Amy Souchuns](#); opposes. Ms. Souchuns has been a land use attorney in Connecticut for 25 years, and a member of the Connecticut Bar Association's Planning and Zoning Section. She cites legal issues with specific terms: "aggrieved person", "right, title or interest in real property", "impairment", and "who *claims* to have suffered" due to the terms either being undefined, or simply too onerous. Ms. Souchuns goes on to say that if the words are to be redefined, then they need to be redefined throughout all of the state statutes.

[Gary Connolly](#)

[Linda Dalessio](#)

[Arthur Delmhorst](#)

[Eddie Imp](#)

[Laine Johnson](#)

[David Landau](#)

[Katie Montgomery](#)

[Brian Rathbun](#)

[CT169Strong, Co-Founder, Maria Weingarten](#)

[Dori Wollen](#)

Reported by: Danielle Landes

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