

P.O. Box 71
Windsor, CT 06095
March 17, 2006

Chairman, Co-chairman and Members
Judiciary Committee
Legislative Office Building, Room 2100
Hartford, CT 06106

Re: **Raised Bill 5810. An Act Limiting The Use Of Eminent Domain By Municipalities And Municipal Development Agencies And Establishing An Office Of Property Rights Ombudsman.**

The Connecticut Constitution reads as follows:

ARTICLE TENTH
OF HOME RULE

SEC. 1. The general assembly shall by general law delegate such legislative authority as from time to time it deems appropriate to towns, cities and boroughs relative to the powers, organization, and form of government of such political subdivisions. The general assembly shall from time to time by general law determine the maximum terms of office of the various town, city and borough elective offices. After **July 1, 1969**, the general assembly shall enact no special legislation relative to the **powers**, organization, terms of elective offices or form of government of any single town, city or borough, except as to (a) borrowing power, (b) validating acts, and (c) formation, consolidation or dissolution of any town, city or borough, unless in the delegation of legislative authority by general law the general assembly shall have failed to prescribe the powers necessary to effect the purpose of such special legislation.

1. New London has a City Charter created by Special Act of the 1921 Legislature and so do other towns.
2. The General Statutes Chapter 98 provides Municipal Powers including the power of eminent domain adopted by the Legislature in 1949 as follows:

Sec. 7-148. Scope of municipal powers.

(c) **Powers.** Any municipality shall have the power to do any of the following, in addition to all powers granted to municipalities under the Constitution and general statutes:

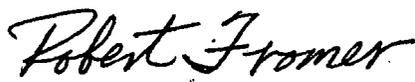
3. The Legislature adopted Chapter 130 in 1949 and Chapter 132 in 1967; however, it adopted Chapter 5881 in 1990. Therefore, based on Article Tenth of the State constitution Chapter 5881 cannot be used for eminent domain and neither can any revision to Chapters 130 and 132.
4. Normally, in Connecticut town Charters and Special Acts are superseded by the following words of a statute; "Notwithstanding any special act of any Charter or Special Act... **For example:**

(Over)

Sec. 8-2c. Payment of a fee in lieu of parking requirements. Notwithstanding the provisions of any special act, any town, city or borough having zoning authority pursuant to this chapter or any special act or planning authority pursuant to chapter 126 or any special act may, by regulation of the authority exercising zoning or planning power, provide that an applicant may be allowed to

5. Therefore, I submit that the proposed changes in laws on eminent domain identified in the raised bills may not supersede the pertinent town charters except by Constitutional amendment or, perhaps, by first using the words "Notwithstanding the provisions of any special act, any town, city or borough having"
6. There are provisions in the Regulations of Connecticut State Agencies for implementing Chapter 132 (Municipal Development); however, there are no regulations for Chapter 5881 (Economic Development and Manufacturing Assistance). Although the regulations for Chapter 132 have never been updated since merger of independent departments into the Department of Economic and Community Development.
7. Consider creation of a single "**Economic Development Act**" which would repeal the existing statutes to consolidate and integrate **Chapters 130, 132 and 5881 and Raised Bills 34, 5038 and 5810** for all economic development since municipal development and redevelopment and manufacturing assistance are different forms of economic development. Such Act would provide uniformity instead of the current piece meal approach.
12. Eliminate the new Section 5 creating the "Office of Property Rights Ombudman" as forming an unnecessary bureaucracy with attendant costs especially for towns with charters providing for Boards of Compensation. If such office is created, it should only apply to eminent domain takings by state agencies

Cordially,



Robert Fromer
Environmental Consultant