



30 Bank Street
PO Box 350
New Britain
CT 06050-0350
06051 for 30 Bank Street
(860)223-4400
fax (860)223-4488

Testimony of Eric Knapp
Planning & Zoning Section of the Connecticut Bar Association
House Bill 5504, An Act Concerning Municipal Lobbying
Government Administration & Elections Committee
February 25, 2008

Senator Slossberg, Representative Caruso, members of the Government Administration & Elections Committee, thank you for the opportunity to appear before your Committee to comment on House Bill 5504, An Act Concerning Municipal Lobbying.

My name is Eric Knapp. I am a partner in the law firm of Branse Willis and Knapp and I am also a member of the Executive Committee of the Connecticut Bar Association Planning & Zoning Section. The CBA Planning & Zoning Section consists of over 350 members who have a great interest in laws that affect the practice of land use law in this state. The Section recognizes that House Bill 5504 goes a long a way to address the concerns that the Section has raised in past legislative sessions concerning municipal lobbying bills. Unfortunately, the Section respectfully must oppose House Bill 5504 as it is presently drafted.

Our principal concern is that the bill's broad definition of "lobbying" could be construed to cover many aspects of standard land use practice. Such a broad definition could require both land use lawyers and other professionals who appear before local boards (such as surveyors, engineers, and soil scientists) to register as "lobbyists" simply by virtue of their representation of a land use applicant before local authorities.

Another primary concern of the Section is that the bill, as drafted, may have the unintended consequence of driving smaller, local firms out of land use practice due to the

administrative burdens that the bill, if enacted, will place on all who are subject to its provisions. For example, if an attorney bills his client for time spent lobbying as that term is currently defined in House Bill 5504, that billing information – which is protected by the attorney-client privilege and which attorneys are bound by the code of professional conduct to keep confidential - would be subject to audit. Such a result would potentially put attorneys at risk of violating their professional duty to their clients to maintain the confidentiality of such records. Attorneys would also have to separate their billing between lobbying and legal services and charge sales tax on that portion that constitutes lobbying, which would create additional administrative costs and would likely lead to confusion and frustration for their clients. An unfortunate result of the enactment of the bill as drafted might very well be a consolidation of land use practice into larger law firms that (a) charge more; and (b) have the staff on hand to process the multiple obligations that registered lobbyists must satisfy.

Although House Bill 5504 contains exemptions that the Section believes were designed to exclude standard land use practice from the definition of “lobbying,” these exemptions are not inclusive of all the chapters relevant to the areas in which land use professionals practice. For instance, legal services provided pursuant to Chapters 124 and 440 are specifically exempted in the bill. However, the Section respectfully believes that additional land use chapters should be similarly included and urges this committee to consider amending the bill to add other important and necessary land use chapters, such as Chapter 125, the subdivision chapter, or Chapter 97a, which concerns historic districts.

In addition to including a comprehensive list of chapters to fully exempt standard land use practice from the definition of “lobbying” in the bill, the Section urges the Committee to

amend House Bill 5504 to include provisions to cover those municipalities which derive their powers from special act of the legislature. Such a provision would cover such cities as New Haven, West Hartford, Hartford and other special act municipalities. The Section, therefore, suggests that the bill be amended as follows:

Strike lines 44 through 53 of the bill and insert the following in lieu thereof:

(4) notwithstanding the provisions of subdivision (3) of this subsection, communications by an attorney engaged in the practice of law, made with any official or staff of any board, agency, commission, authority, council, legislative body or other municipal, regional or state entity having the responsibility for making decisions on land use matters, including but not limited to, zoning and planning decisions as provided by chapters 124, 124a, 125, 125a, 126, 126a, and 127 of the general statutes, or by special act, inland wetlands and watercourses decisions as provided by chapter 440 of the general statutes, historic district decisions as provided by chapter 97a of the general statutes, water pollution control authority decisions as provided by chapter 446k of the general statutes, motor vehicle repair/gasoline location decision as provided by chapter 246 of the general statutes, aquifer protection decisions as provided by chapter 446i of the general statutes, conservation decisions as provided by chapter 97 of the general statutes, municipal health code decisions and municipal ordinance decisions, concerning administrative, legislative, or quasi-judicial action, or the proposal, drafting, development, consideration, amendment, adoption or repeal of any rule, regulation, ordinance, referendum or budget, with regard to a land use matter before such municipal or regional agency or municipal or regional legislative body, (5)

The CBA Planning & Zoning Section appreciates that the opportunity afforded it to play a constructive role in the development of this legislation. We have met with key lawmakers on this committee and many of the Section's concerns have been addressed in House Bill 5504. While the Section recognizes that the bill is an improvement over legislation considered in prior years, it believes that the definition of "lobbying" must be amended as set forth above in order to achieve the goals of both the proponents and the Section.

Thank you, again, the opportunity to speak on House Bill 5504. I would be happy to answer any questions that you may have.