



STATE OF CONNECTIUT GENERAL ASSEMBLY
COMMERCE COMMITTEE

IN RE: HB5589 -- Raised
AN ACT CONCERNING BROWNFIELDS

February 28 , 2008

CTLA ENVIRONMENTAL LEGISLATIVE COMMITTEE TESTIMONY IN
OPPOSITION TO PORTIONS OF HB 5589

My name is Keith R. Ainsworth, Esq. I am a resident of 31 Green Springs Drive, Madison, Connecticut and am a practicing Connecticut environmental attorney. I have been in private practice for 18 years and am a member of the CTLA Environmental Legislative Committee (ELC) and have been a member of the Executive Committee of the Environmental Law section of the CT Bar Association since 1994. I also serve as co-chair of the New Haven County Bar Association's Environment and Land Use Committee. I represent a mixed clientele, but often represent individuals and businesses and organizations asserting claims to protect and conserve natural resources.

I review legislation and support legislation that provides access to the courts and remedies for harms done or which otherwise protects the public trust in the Connecticut's natural resources.

The CTLA ELC OPPOSES that portion of HB5589 (subsection g) which gives legal immunity entities receiving Brownfields grant monies. I oppose this bill to the point of urging it's denial if the objectionable portions are not excised.

In support of this testimony, I offer the following:

1. Brownfields legislation is something Connecticut needs to help reduce unnecessary sprawl development of Greenfield sites and to become competitive with other similarly situated states. The vast majority of the proposed language in the bill constitute perfectly reasonable incentives to brownfield redevelopment and should be adopted.
2. Subsection (g) stating "Recipients of grants awarded pursuant to this section shall be immune from liability to the extent provided in public act 06-184." IS OPPOSED.

THIS SUBSECTION CREATES A LEGAL IMMUNITY WHERE NONE NOW EXISTS. This represents a disturbing trend in new legislation to resolve difficult problems by using an immunity provision to shift the burdens of environmental legacy from those persons responsible onto the backs of truly innocent individual taxpayers and property owners who may injured or harmed.

3. The public act referenced provides the specific qualifications for the immunity and is quoted below:

"as long as the municipality or economic development agency [or recipient of grant funding] did not cause or contribute to the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material, waste or pollution that is subject to remediation under this pilot program; does not exacerbate the conditions; and complies with reporting of significant environmental hazard requirements in section 22a-6u of the general statutes"