

MAYOR
DANNEL P. MALLOY

CITY OF STAMFORD
URBAN REDEVELOPMENT COMMISSION
888 WASHINGTON BOULEVARD • STAMFORD, CT 06904 -2152
TELEPHONE: (203) 327-9180 • FAX: (203) 975-1552



COMMISSION
STEPHEN C. OSMAN
CHAIRMAN
JAMES I. NIXON
VICE CHAIRMAN
JOEL P. MELLIS
SECRETARY-TREASURER
EDWARD J. FUHRMAN
ROBERT S. ROBINS
CONSTANCE (GERRIE) POST, AICP
EXECUTIVE DIRECTOR

TESTIMONY

Planning and Development Committee Public Hearing
March 3, 2008

**H.B. No. 5636 (RAISED) AN ACT CONCERNING RELOCATION ASSISTANCE
FOR DISPLACED RETAIL BUSINESSES AND COMPENSATION FOR
OUTDOOR ADVERTISING STRUCTURES**

Good afternoon Senator Coleman, Representative Feltman and distinguished members of the Planning and Development Committee. My name is Rachel Goldberg. I am General Counsel of the City of Stamford Urban Redevelopment Commission. Thank you for the opportunity to appear before you today to speak in opposition to House Bill 5636. I have represented the Commission for more than twenty-five (25) years. This past summer and fall I participated with the Ombudsman for Property Rights and other professionals on a goodwill study committee examining the efficacy of implementing a statutory requirement for the payment of loss of goodwill.

With respect, H.B. (Raised) 5636 is flawed in a number of very significant ways.

There are a very few states which require payment for loss of goodwill in their relocation regulations. California, I believe, has the only long term experience with this type of payment. Unfortunately that experience is one of frequent and often protracted litigation. During my tenure with the Stamford Urban Redevelopment Commission, no one has ever appealed a relocation determination to the courts and only one business ever even commenced an internal appeal procedure; and that was over my determination that they were not, in fact, a displaced business. I believe that the reason such appeals are not taken is because the benefits in the Uniform Act are very clear and precise. H.B. 5636 is not at all clear and is without precision.

This lack of specificity makes it very difficult for a redevelopment agency to appropriately plan a project. How do we establish an appropriate and responsible budget? Just as importantly, a redevelopment agency complying with the requirements of the Uniform Act provides relocation assistance (including planning) to all eligible displacees. How are we to adequately advise displaced businesses of their benefits so it can adequately plan and prepare for a move? How are they to establish a reasonable and appropriate budget?

Section 1(d)(1) of this bill requires that a redevelopment agency make relocation payments pursuant to the provisions of the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4601, *et seq.*) (the "Uniform Act"). Section 1(d)(2) of the bill requires that such relocation payments "...be adjusted to reflect any increase or decrease in goodwill." There is a fundamental conflict between the requirements of 1(d)(2) and the requirements of the Uniform Act. Payments for loss of goodwill (as well as loss of profits and loss of trained employees) are specifically prohibited. See 49 CFR 24.305. Any redevelopment agency which is receiving any federal assistance for the project it is undertaking must strictly comply with the requirements of the Uniform Act and its regulations. Such compliance would also prohibit adjustment of relocation payments required by an increase in good will. See the regulations found at 49 CFR 24.4 and Section 210 of the Uniform Act.

The raised bill does not establish any basis upon which to compute an increase or decrease in goodwill. How is a redevelopment agency to assign a value to goodwill? Why would moving a business cause a change in the "...reputation for dependability, skill or quality..." which a business enjoys? Any increase or decrease in goodwill is affected by the existence (or non-existence) of a good advertising and promotion campaign which is entirely within the control of the displaced business. The cost of such an advertising and promotional campaign would be considered a re-establishment expense which is eligible for reimbursement under the Uniform Act.

The definition of location includes proximity to "...available surface parking." Surface parking in the downtown areas of cities, such as Stamford, has become more and more rare as the value of real estate escalates. Structured parking is an absolute necessity in such areas.

H.B. 5636 does not establish a time frame within which a redevelopment agency must make a determination regarding any increase or decrease in goodwill. Clearly any business which moves requires a period of time to reestablish itself. Time during which the business can advertise its new location and its customer base can become aware of and accustomed to the new location; and the business can begin to acquire new customers. This period of time can be as long as six (6) months to a year, or more, depending on the nature of the business. It is also significantly affected by the existence (or non-existence) of a good advertising promotion campaign.

A logical reading of the raised bill suggests compliance with the provision that any increase in goodwill be reflected in an adjustment of benefits will require a redevelopment agency to reduce some other relocation benefit. If the adjustment is made after relocation payments are made a redevelopment agency would have to invoice the displaced business in order to comply. In addition, any such adjustment of relocation benefits is in direct conflict with the requirements of the Uniform Act and regulations.

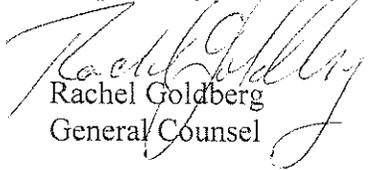
It is important to understand that the owner of any business (retail or otherwise) which relocates selects the new location. Every new business must decide where to set up shop. Some make good decisions and other do not. As you know many new business operations

fail. Any business which moves its operation, perhaps necessitated by an expired lease or higher rents, may make either good or bad decisions regarding a location. So too, businesses which must relocate because of governmental action may make good or poor decisions. Relocation specialists and redevelopment agencies may recommend specific locations to a business, but it need not heed our advice. Is it appropriate to require Connecticut taxpayers to pay for bad decisions of private businesses?

How is a redevelopment agency to pay for this new benefit? Nearly every project we undertake at the Stamford Urban Redevelopment Commission is subject to the requirements of the Uniform Act. We cannot use federal monies to pay for a loss of goodwill. Nor may the City's local share be used to make this payment. The current redevelopment projects in Stamford are focused on the creation of affordable housing and major downtown park. If we were to proceed with these projects and the acquisition of property necessary for the park and affordable housing projects without the planning and public process inherent in a redevelopment plan, the conflicts created by H.B. 5636 would be avoided. That would, I believe, be counterproductive and contrary to the dictates of good planning, smart growth and public policy.

I urge you to oppose House Bill (Raised) 5636.

Respectfully submitted,


Rachel Goldberg
General Counsel