



Connecticut

Connecticut Chapter of the American Planning Association

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PLANNING AND DEVELOPMENT COMMITTEE

HB – 5640: AN ACT CONCERNING ZONING ENFORCEMENT

SUMMARY: HB-5640 would amend Connecticut General Statutes Section 8-12a to remove the treble damages liability of zoning enforcement officers for issuance of a citation found by the court to be frivolous or without probable cause.

ANALYSIS: Section 8-12a authorizes municipalities to adopt an ordinance establishing penalties for zoning violations. This revision of that statute would remove the liability clause that exposes enforcement officers to treble damages if the court finds that a citation under such an ordinance was issued frivolously or without probable cause.

Currently, the General Statutes provide a comprehensive procedure intended to ensure effective enforcement of regulations while protecting the rights of property owners. Any decision of an enforcement officer may be appealed to a Zoning Board of Appeals, under Section 8-7. The decision of that board may be appealed to court in accordance with Section 8-8, which may result in a mediation process defined in Section 8-8a. Where an ordinance is adopted to establish a violation penalty procedure, the imposition of any fine is in accordance with the hearing procedures established by Section 7-152c, which such action can be appealed to court. Ample safeguards are in place to prevent abuse of the process by enforcement officers.

Because of the risk and uncertainty to municipal staff, many municipalities are unwilling to adopt an ordinance to establish a citation procedure and, even if adopted, enforcement officers may be unwilling to exercise such citation authority. The result is less effective and more costly regulation enforcement, largely due to legal costs of pursuing court imposition of fines. CCAPA is not aware of any similar provision applying to a public employee, such as a building inspector, fire marshal, or sanitarian, fulfilling his or her code enforcement responsibility.

FISCAL IMPACT: This bill could reduce municipal costs for the enforcement of zoning regulations. The bill would have no State fiscal impacts.

CCAPA POSITION: CCAPA strongly supports RB – 5640 to revise Section 8-12a. However, the revision should remove the reference to damages entirely, as there is no similar provision anywhere in the land use statutes. CCAPA believes the treble damages clause is unnecessary and counterproductive to efficient and effective zoning regulations enforcement.