HOME BUILDERS ASSOCIATION OF CONNECTICUT, INC.
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Your Home Is Our Business

March 3, 2008

To: Senator Eric Coleman, Co-Chairman
Representative Art Feltman, Co-Chairman
Members of the Planning & Development Committee

From: Bill Ethier, Executive Vice President & General Counsel

Re: **Raised Bill 5640, AAC Zoning Enforcement**

The HBA of Connecticut has concerns about RB 5640. The HBACT is a professional trade association with over one thousand five hundred (1,500+) member firms statewide employing tens of thousands of Connecticut's citizens. Our members are residential and commercial builders, land developers, remodelers, subcontractors, suppliers and those businesses and professionals providing services to this diverse industry. We also created and administer the CT Developers Council, a professional forum for the land development industry in the state.

While we are not worried about the vast majority of zoning enforcement officials ("ZEOs") who conduct their jobs in a fair and reasonable manner, we are concerned about those officials who might abuse their authority. Litigation to overturn or undo unreasonable or excessive enforcement actions is often not a viable option for most property owners, including most builders. The enabling statutes should provide protection against these abuses.

Currently, the treble damages provision of C.G.S. sec. 12a(c) provides a deterrent to only frivolous actions by a ZEO or actions taken without probable cause. Unlike building officials, who must be licensed by the state, ZEOs have no licensing or registration requirement. Yet having the authority to charge someone with a violation of the law is a serious matter. The deterrent of the treble damages sanction in 12a(c) protects not only builders and land developers but all property owners. If there are only a few cases where ZEOs have abused their authority maybe it is because the treble damages sanction is in the law. Moreover, in order for the treble damages sanction to be invoked, the aggrieved recipient of an alleged unjustified fine has to bring a civil action against the ZEO. This is not going to be done except for the most outrageous abuses of authority. The majority of ZEOs who are professional and carry out their duties in a fair and reasonable manner do not have to be concerned with C.G.S § 12a(c). **Nonetheless, if the wording of section 1 is to go forward, we strongly urge you to not allow an amendment that would repeal all of 8-12a(c), which has been the position of ZEOs in the past.**

We are also concerned about section 2 of the bill, which increases from three to five years the period of time in which to take an enforcement action against a nonconforming use, after which if no action is taken the use becomes a legally protected nonconforming use. It should be made clear that this change is prospective only and does not catch property owners who enjoy the benefits of a legal nonconforming use on the effective date of this change.

Thank you for considering our views on this legislation.