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Testimony of Matthew J. Cholewa,  
Member of the Executive Committee of  
the Real Property Section of the Connecticut Bar Association  
**Senate Bill 1025 *An Act Concerning Real Estate Records Accuracy***  
Insurance and Real Estate Committee  
March 3, 2009

Senator Crisco, Representative Fontana and members of the Insurance and Real Estate Committee, thank you for the opportunity to appear before the committee to comment in opposition to Senate Bill 1025, *An Act Concerning Real Estate Records Accuracy*.

My name is Matthew J. Cholewa and I am speaking this afternoon on behalf of the Real Property Law Section of the Connecticut Bar Association. I am a practicing attorney and a member of the Executive Committee of the Connecticut Bar Association's Real Property Law Section as well as a member of its legislative subcommittee. The more than 1000 section members have a great interest in legislation affecting the practice of conveying and financing real property in Connecticut. **The CBA Real Property Law Section opposes Senate Bill 1025.**

Senate Bill 1025 would sweep away several hundred years of settled Connecticut law by creating a rule that in the event of a conflict in any records or documents concerning real property, including the property's description, a municipality's building department records would control.

This bill creates several problems and burdens municipal building department records with a weight of responsibility they were never intended to possess. Settled law in Connecticut since Colonial times has been that the land records control legal descriptions and boundaries. Since Colonial times, town clerks have maintained land records with appropriate safeguards to ensure against forgery and destruction. In the event of a conflict between documents in the land

records, the courts have jurisdiction to hear the parties and settle title questions or appoint committees to determine lost or uncertain boundaries. Title insurance companies have undertaken risks and written policies predicated on the long-settled law concerning the land records maintained by the town clerks.

Senate Bill 1025 would sweep this all away and expose property owners and title companies to uncertain risks by resorting to building department records. The history of building department records is of relatively recent vintage and is fraught with missing and incomplete records often maintained by part-time officials who, in some of the smaller towns, worked out of their houses. These officials and these records were never burdened with the weighty responsibility of determining titles and descriptions and therefore, were never subject to the safeguards that have been employed by town clerks.

If there is a particular problem that is of concern to members of the Committee, there may be a less drastic alternative than overturning hundreds of years of settled law and relying on records that were never meant or kept to be used for the purpose expressed in this bill.

Accordingly, on behalf of the Real Property Section of the Connecticut Bar Association, I respectfully request that the Insurance and Real Estate Committee reject Senate Bill 1025, *An Act Concerning Real Estate Records Accuracy*.

Thank you for giving me the opportunity to appear before the Committee. At this time, I would be pleased to answer any questions you may have.