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Testimony

February 17, 2009

HB 5004, "AN ACT CONCERNING LIABILITY FOR THEFT OR UNAUTHORIZED DESTRUCTION OF TREES, TIMBER OR SHRUBBERY"

Chairman Meyer, Chairman Roy, and other members of the Environment Committee, it is my desire to express my support for House Bill Number 5004, and I thank the Chairman and Committee Members for bringing this proposal forward to a Public Hearing.

My interest in supporting this Bill arose from my representation as an Attorney, for a client, who owns a small piece of commercial property along the Boston Post Road in Darien, CT, near the Norwalk border. Just behind my client's parcel is a lot zoned for a one family residential structure. Between the two parcels was a 25 foot buffer area, thick with trees, shrubbery, all natural vegetation. It was also a requirement by the Darien Zoning Board that this vegetated buffer area remain in its natural state for my client to open his commercial business on his lot. The owner of the residential lot behind him decided to build a one family residence, and the builder, for whatever reason, decided to clear cut the entire buffer area, and all of the trees and vegetation were lost. The case is pending in Stamford Superior Court, whereby my client sued his neighbor for this destructive activity.

In researching the amount of damages, and examining the statute regarding trespass and the cutting down of trees on property, I was amazed to learn that the recovery from the tortfeasor was limited by Case Law. The limitation allows recovery for the loss of a tree to the extent of the value of the tree for "firewood". I also learned that in order to replace a mature tree, the cost could be in the thousands of dollars.

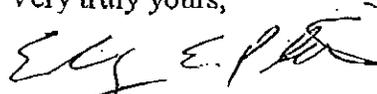
Trees of course play a significant role in our ecosystems, are treasured by property owners for their beauty and the shade that they provide. I would hope that the Committee would agree that a strong message should be sent to those who may seek to take down trees from neighboring properties, that they do so at their peril, and that the monetary

penalties be at least somewhat significant. The protection now given to the tortfeasor in this callous destruction is certainly unwarranted. A tortfeasor who knows that he would only have to pay a few hundred dollars if caught for the equivalent of a tree as merely "firewood" might pause if he knows that he might have to replace a mature tree at a cost of thousands of dollars.

I encourage the Committee to provide the protection necessary by passing a Bill which not only is designed to protect the property owner, but also to enhance the value that trees and natural vegetation provide to our environment, our wildlife and our ecosystems.

Further, I apologize for not appearing personally, as I have a Court commitment on the date and time of your hearing.

Very truly yours,



Elery E. Plotkin

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