

TESTIMONY OF DAVID KOZAK IN SUPPORT OF H.B. 6557

April 2, 2011

Dear Members of the Connecticut General Assembly Judiciary Committee:

I write in support of H.B. 6557 as private citizen of the State of Connecticut and not staff to the Connecticut Department of Environmental Protection (DEP) where I have worked for the past 19 years within its Coastal Management Program assisting the State's 36 coastal municipalities acquire public access to Connecticut's coastal waters held in public trust by the State of Connecticut for the benefit of its citizens.

The majority of public access sites along Long Island Sound and its tidal rivers is gained through municipal acquisition or approval of land use permit applications to develop waterfront sites, consistent with the policies of Connecticut's Coastal Management Act (CCMA at CGS Sec. 22a-92 et seq.). My experience working with developers of waterfront sites, and municipal agencies charged with reviewing these applications for consistency with the requirements of the CCMA, is that they are reluctant to either provide or require such access if they believe that injury to the public on those lands could subject them to liability claims. Prior to the Connecticut courts' 1996 decision (in re *Conway v. Town of Wilton*) that Connecticut's Recreational Land Use Act liability limitations do not apply to municipalities, I referred both municipal land use commissions and coastal waterfront developers to the liability immunity offered through this Act. Often, this provided sufficient assurance to both the municipality (when they took title to the public access site) and the developer, (when they retained title to the site), that Connecticut law defended them against liability claims resulting from public recreational use of coastal public access sites gained through municipal coastal site plan review decisions.

However, post *Conway v. Town of Wilton*, with municipalities no longer interpreted as being covered by the Act, cities and towns along Connecticut's coastal waterways they find themselves in the precarious position of requiring shoreline public access pursuant to the policies of the CCMA but no longer being protected by State statute from potential liability claims resulting from injury at waterfront sites secured through municipal permit decisions. Please help correct this situation by supporting H.B. 6557 so that Connecticut's citizens may continue to benefit from the creation of new coastal public access sites gained through municipal implementation of the CCMA so that they may access the State's coastal waters held in public trust by the State of Connecticut.

Respectfully,
David Kozak
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West Hartford, CT