



*Making Great Communities Happen*

**Connecticut Chapter of the  
American Planning Association  
Government Relation Committee**

---

Chair: Christopher S. Wood, AICP Phone: 203 558-0654 [woodplanning@charter.net](mailto:woodplanning@charter.net) [www.ccapa.org](http://www.ccapa.org)

---

**POSITION STATEMENT**

**JUDICIARY COMMITTEE – MARCH 25, 2011**

---

**BILL: SB 1030 An Act Concerning an Appeal of a Decision of a Zoning Board of Appeals**

CCAPA appreciates the opportunity to comment on SB 1030. The Connecticut Chapter of the American Planning Association has over 550 members who are governmental and consulting planners, land use attorneys, citizen planners, and other professionals engaged in planning and managing land use, economic development, housing, transportation, and conservation for local, regional, and State governments and for private businesses and other entities. The Chapter has long been committed to assisting the legislature and State agencies in the consideration of issues pertaining to municipal and land use planning and regulation. The American Planning Association is an independent, not-for-profit, national educational organization that provides leadership in the development of vital communities.

**OVERVIEW:** This bill would provide for court ordered treble damages by the party responsible for taking an appeal to a zoning board of appeals, pursuant to CGS §8-8, where such appeal was taken without just cause or solely for the purposes of delay.

**ANALYSIS:** SB 1030 is an unfortunate and unrealistic legislative proposal that has not been fully researched or evaluated. Although the title refers to decisions of Zoning Boards of Appeal, as drafted to amend CGS §8-8, the new language would apply to any decision of a zoning commission, planning commission, combined planning and zoning commission, zoning board of appeals or other board or commission (although it is unclear if this would apply to an appeal of an inland wetlands agency decision).

The proposal provides no guidance for a court to determine "just cause" or "purpose of delay". The proposal fails to recognize the expenses that would be incurred by the Superior Court to determine such criteria and assess damages. Additional municipal expenses for such legal proceedings, while unpredictable, would be likely. Attorneys will likely experience increases in malpractice insurance as insurance companies react to the increase risk of such treble damages awards.

Additionally, this proposal fails to recognize that the ZBA itself could constitute the “party injured” by an action taken without “just cause”, which might create a fiscal incentive for towns to initiate action to seek treble damages, particularly where the appeal involves a denial whereby the only “injured party” would be the ZBA itself.

Clearly, this proposal represents an attempt to restrict by intimidation legitimate and long established appeal procedures. We note that a similar provision applying to the implementation of a municipal zoning violation fine ordinance, whereby a zoning enforcement officer may be held liable for treble damages for issuing a fine found to be frivolous or without just cause, has discouraged municipalities from adopting this cost effective zoning tool. See our testimony regarding SB 862, attached.

**CCAPA POSITION:** CCAPA strongly opposes SB 1030 as a threat to the established and functionally effective procedures for ensuring fair and reasonable administration of land use regulations in Connecticut municipalities. Additionally, we recommend that before proceeding with such an ill-considered proposal, further research be conducted on the actual extent of such appeals without “just cause”, and that the concept be referred to the Planning and Development Committee and the Insurance Committee for their reviews.