



HOME BUILDERS ASSOCIATION OF CONNECTICUT, INC.

3 Regency Drive, Suite 204, Bloomfield, CT 06002
Tel: 860-216-5858 Fax: 860-206-8954 Web: www.hbaact.org

*Your Home
Is Our
Business*

February 18, 2011

To: Senator Steve Cassano, Co-Chairman
Representative Linda M. Gentile, Co-Chairman
Members of the Planning and Development Committee

From: Bill Ethier, Chief Executive Officer

Re: House Bill 6339, An Act Authorizing Municipalities to Publish Notices on the Internet

The HBA of Connecticut is a professional trade association with 1,100 member firms statewide, employing tens of thousands of Connecticut citizens. Our members, all small businesses, are residential and commercial builders, land developers, home improvement contractors, trade contractors, suppliers and those businesses and professionals that provide services to our diverse industry. Our members build 70% to 80% of all new homes and apartments in the state each year.

We urge caution if HB 6339 is to proceed and offer an amendment to address our concern. HB 6339 sounds like a simple enough fix to an expensive practice of publishing notices in a newspaper, assuming you can address the needs of people who cannot access the internet.

However, a serious procedural flaw in this proposal as written needs to be addressed. For local land use procedures, i.e., zoning, planning and inland wetlands applications, there are specific statutory time tables for noticing and conducting local commission public hearings and meetings. To ensure that all procedural due process requirements are met and, particularly to avoid a procedural due process challenge to the proceedings, a good legal practice is to submit at the initial public hearing a copy of the actual newspaper notice, showing the date when published, and making the statement on the record that the hearing notice meets the statutory notice requirement. This legal practice cannot be done with an internet published notice. This is also important because appeals from these land use decisions are "record appeals" – meaning generally courts do not accept additional evidence beyond the "record" put before the local commission. The language in the proposal, "provided all other requirements of law with respect to such publication are met" does not solve this concern since the law does not currently require, for example, the public hearing notice to contain a date. Even if it did, the only relevant date for procedural due process is the date of actual publication, not the date on the notice document. And, how does internet notice comply with the current requirement to provide two notices of a public hearing, between 10 days and 2 days prior to the hearing?

Therefore, to address this serious procedural issue, any internet published notice must be accompanied by a certification by the municipal clerk or appropriate commission official that the notice was published on a specific date. Thank you for considering our comments on this legislation.

"Leading Our Members to Professional Excellence."

Serving the Residential Development & Construction Industry Through Advocacy, Education & Networking