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Your Home Is Our Business

March 7, 2011

To: Senator Ed Meyer and Representative Richard Roy, Co-Chairs, and members of the Environment Committee

From: Bill Ethier, Chief Executive Officer

Re: SB 1114, An Act Revising the Definition of Tidal Wetlands and the High Tide Line

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.

Without a better explanation of the intent of this bill, we urge opposition to SB 1114 because, read literally, this bill could create a significant increased reach of tidal wetland regulatory authority, adversely impacting many property owners.

By repealing one of the key definitional requirements of tidal wetlands at lines 11-12 and 80-81, the statute would state that a tidal wetland "means those areas which border on … meadows, flats, or other low lands subject to tidal action, including those areas … formerly connected to tidal waters, and … upon which may grow or be capable of growing … common alder … poison ivy … poison sumac … red maple …high-bush blueberry …" or any number of other plants (emphasis added). The plants noted, and perhaps others listed in the statute, can grow in wet soils but also can grow in upland areas. All the plants listed in this statutory section are not wetland obligate species (meaning they require water or wet soils to live). The requirement for tidal wetlands to be "at or below an elevation of one foot above local extreme high water" is removed. So, the bill effectively says no elevation above local extreme high water would be excluded from the definition of "tidal wetland" as long as it "borders" lands subject to tidal action and any one of the listed plants can grow on it. How far up hill on a bordering parcel would the "tidal wetland" stop? This change seems to result in a nonsensical definition of a tidal wetland. Without knowing the motivation and intent behind this bill, on its face this bill creates a significant expansion of tidal wetlands regulatory authority.

We also urge you to inquire whether the change in section 3 for the definition of "high tide line" means shoreline property owners would be subjected to greater or lesser regulatory authority or whether their property rights would be diminished or enhanced.

Thank you for the opportunity to comment on this legislation.