



House of Representatives

General Assembly

File No. 545

February Session, 2012

Substitute House Bill No. 5502

House of Representatives, April 19, 2012

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING STANDING TO APPEAL A ZONING DECISION AND ESTABLISHING CRIMINAL PENALTIES FOR VIOLATION OF MUNICIPAL BLIGHT ORDINANCES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 8-8 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2012*):

4 (a) As used in this section:

5 (1) "Aggrieved person" means [a] any person owning land in this
6 state who is aggrieved by a decision of a board and includes any
7 officer, department, board or bureau of the municipality charged with
8 enforcement of any order, requirement or decision of the board. In the
9 case of a decision by a zoning commission, planning commission,
10 combined planning and zoning commission or zoning board of
11 appeals, "aggrieved person" includes any person owning land in this
12 state that abuts or is within a radius of one hundred feet of any portion

13 of the land involved in the decision of the board.

14 (2) "Board" means a municipal zoning commission, planning
15 commission, combined planning and zoning commission, zoning
16 board of appeals or other board or commission the decision of which
17 may be appealed pursuant to this section, or the chief elected official of
18 a municipality, or such official's designee, in a hearing held pursuant
19 to section 22a-250, whose decision may be appealed.

20 Sec. 2. Subparagraph (H)(xv) of subdivision (7) of subsection (c) of
21 section 7-148 of the 2012 supplement to the general statutes is repealed
22 and the following is substituted in lieu thereof (*Effective October 1,*
23 *2012*):

24 (xv) Make and enforce regulations for the prevention and
25 remediation of housing blight, including regulations reducing
26 assessments and authorizing designated agents of the municipality to
27 enter property during reasonable hours for the purpose of remediating
28 blighted conditions, provided such regulations define housing blight
29 and provide written notice of any violation to the owner or occupant of
30 the property and a reasonable opportunity for the owner or occupant
31 to remediate the blighted conditions prior to any enforcement action
32 being taken, and further provided such regulations shall not authorize
33 such municipality or its designated agents to enter any dwelling house
34 or structure on such property, and including regulations establishing a
35 duty to maintain property and specifying standards to determine if
36 there is neglect; prescribe [fines] civil penalties for the violation of such
37 regulations of not less than ten or more than one hundred dollars for
38 each day that a violation continues and, if such [fines] civil penalties
39 are prescribed, such municipality shall adopt a citation hearing
40 procedure in accordance with section 7-152c.

41 Sec. 3. (NEW) (*Effective October 1, 2012*) Any person who, after
42 written notice and a reasonable opportunity to remediate blighted
43 conditions, wilfully violates a regulation adopted pursuant to
44 subparagraph (H)(xv) of subdivision (7) of subsection (c) of section 7-
45 148 of the general statutes, as amended by this act, concerning the

46 prevention and remediation of housing blight shall be fined not more
47 than two hundred fifty dollars for each day that such violation
48 continues.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	8-8(a)
Sec. 2	<i>October 1, 2012</i>	7-148(c)(7)(H)(xv)
Sec. 3	<i>October 1, 2012</i>	New section

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 13 \$	FY 14 \$
All Municipalities	Potential Revenue Gain	Minimal	Minimal
Various Municipalities	Potential Savings	Minimal	Minimal

Explanation

The bill changes the fine range of \$10 - \$100 per day to up to \$250 per day for certain violations of housing blight. The extent to which municipalities realize a revenue gain depends on the number of violations of housing blight and the number of violation days.

The bill also restricts zoning decision appeals to people who own land in Connecticut; this may result in savings to municipalities associated with reduced legal costs.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of violators of housing blight.

OLR Bill Analysis

sHB 5502

AN ACT CONCERNING STANDING TO APPEAL A ZONING DECISION AND ESTABLISHING CRIMINAL PENALTIES FOR VIOLATION OF MUNICIPAL BLIGHT ORDINANCES.

SUMMARY:

Under current law, a person can appeal a zoning decision if he or she (1) is aggrieved by the decision or (2) owns land that abuts or is within 100 feet of land involved in the decision, which under case law includes land that meets these qualifications but is on the other side of the state's border. This bill restricts those who can appeal zoning decisions to people who own land in Connecticut. Generally, the bill applies to zoning decisions related to enforcement actions, special exceptions and exemptions, and variances.

By law, unchanged by the bill, a municipal officer, department, board, or bureau charged with enforcing board orders, requirements, or decisions who is aggrieved can also appeal.

The bill also requires towns that have housing blight ordinances to include in their implementing regulations provisions mandating (1) written notice to the property's owner or occupant of a violation and (2) a reasonable opportunity to remediate the conditions before any enforcement action. Under current law, an ordinance can establish fines of between \$10 and \$100 for each day a violation continues and, if the town establishes fines, requires a citation hearing process for people to pay and appeal the fines. The bill renames these fines as civil penalties.

The bill also imposes new fines of up to \$250 per day for a willful violation of a blight regulation after a person receives written notice and has a reasonable opportunity to remediate the conditions. This

fine would not be subject to the citation hearing process and would require court proceedings.

EFFECTIVE DATE: October 1, 2012

BACKGROUND

Related Case—Zoning Appeals

The Connecticut Supreme Court ruled that the statute granting the right of appeal to someone who owns land that abuts or is within 100 feet of land involved in zoning decision applies to people who own land outside Connecticut.

The court found the statute unclear. It stated that planning and zoning advances certain public interests and authorizes landowners near the subject land use to enforce compliance with zoning regulations through an appeals process. The court found no reason that the statute would intend to exempt out-of-state properties that might feel the greatest and most immediate effect of a proposed development. The court found that allowing those out of state to challenge the legality of a proposed project protects the interests of a municipality and its citizens in uniform and harmonious development and in public health and safety (*Abel v. Planning and Zoning Commission of the Town of New Canaan*, 297 Conn. 414 (2010)).

Blight Ordinances

By law, any unpaid fine imposed under a blight ordinance is a lien on the real estate from the date of the fine (CGS § 7-148aa). A town can also choose to include in its blight ordinance provisions that impose special assessments on the property (CGS § 7-148ff).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 7 (04/02/2012)