

TESTIMONY OF ROBERT A. IZARD, PARTNER, IZARD NOBEL, LLP

I, Robert A. Izard, live at 15 Sunfield Lane, West Hartford, CT. I am a partner at Izard Nobel, LLP. We represent primarily plaintiffs in litigation matters. I submit this written testimony concerning SB No. 445.

In addition to the more general concern that it makes no sense to treat a municipality differently from either the state or a private landowner concerning recreational use and, therefore, the entire statutory structure is hard to make sense of from a policy perspective, I have two comments.

First, under the statute, "roads" are "land." Under the proposed amendment, "a paved sidewalk open to the public for pedestrian use" is not "land." Although "sidewalk" is not defined in the statute, according to thefreedictionary.com, "sidewalk" is defined as:

side·walk (sīd'wôk')

n.

A paved walkway along the side of a street.

Since under the proposed amendment, a municipality, et al, will have greater liability for an injury on a sidewalk than on a road, the effect of the proposed amendment would be to induce municipalities *NOT* to have sidewalks. Given that the safety of your constituents should be a primary concern, this provision makes no sense and should be deleted. Indeed, if anything, you want to create the opposite incentive.

If by "sidewalk" you intend to exclude any paved path such as an asphalt bicycle or walking path, then the language of the statute is misleading to say the least, and would in many respects be an attempt to "gut" the recreational use statute. I would vehemently oppose not only that modification, but the misleading and underhanded way it was being accomplished.

Second, you should not exclude "boardwalks" from the definition of "land." According to

thefreedictionary.com, “boardwalk” is defined as:

board·walk (bôrd wôk, bôrd -)

n.

1. A walk made of wooden planks.
2. A promenade, especially of planks, along a beach or waterfront.

Accordingly, “land” would exclude wooden paths (small and large) that have been built to enable the public to view and appreciate wetlands, rivers, and other wet areas. For example, the wooden walkways at Wolcott Park or Westmoor Park in West Hartford or many other wooden walkways in town parks could also fall under this definition. The whole purpose of the recreational use statute is to provide access to natural areas. This amendment directly undercuts that policy for no good reason.

It is important to keep in mind the larger point – the statute concerns voluntary, free, permissive recreational use. Those who want to take advantage of this use are more than willing to bear the risk of recreation in exchange for the opportunity to enjoy that recreation. Those who aren’t can stay home. They shouldn’t deny the rest of us the opportunity to enjoy the natural world.