

FOR THE RECORD

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Planning and Development Committee Public Hearing
March 9, 2012

RE: Raised Bill No. 343, An Act Concerning Intervention in Permit Proceedings Pursuant to the Environmental Protection Act of 1971

Senator Cassano, Representative Gentile, and members of the committee, thank you for the opportunity to submit written testimony in opposition to Raised Bill No. 343, *An Act Concerning Intervention in Permit Proceedings Pursuant to the Environmental Protection Act of 1971*.

I apologize for not being able to attend the hearing. I am an attorney who has practiced land use and related environmental law in the state of Connecticut for almost 30 years. I have represented many individuals and groups concerned with protecting the well-being of the State of Connecticut through the use of the Connecticut Environmental Protection Act. I have also represented developers, have been involved in municipal government in various capacities, and I am a former member of the Connecticut Bar Association Environment Committee Executive Board. In all of these capacities I have developed a familiarity with the value of the Connecticut Environmental Protection Act (CEPA), a seminal piece of legislation Connecticut can be proud of, and without which the quality of life of our state and our local communities would have been unnecessarily degraded.

There are many reasons to reject this bill. As I believe we can all agree, regulation and land use policy is a balancing of private interests with the public good. Only through the use of CEPA can we be assured that the citizens of our state can have their voice heard in matters which significantly effect, not only their own quality of life, but the quality of the entire state now and for generations to come. Very often, the use of CEPA is the only way their voices can be heard. This bill before you will muzzle most if not all of those voices.

CEPA already has a reasonably high hurdle that must be cleared before those voices can be heard. The proposed amendments would effectively kill any proper implementation of the act by placing unreasonable burdens, both in procedure and in time constraints. The proposed amendments will place such an unreasonable burden on the public interest that no citizens group will likely be able to marshal the resources in a timely manner to assure a fair hearing on the merits of their concerns. I expect that is exactly what the proponents of this bill hope will happen. Please do not let it. The final new section proposed, section (a) (5), eliminates the right to appeal. That leaves me dumbfounded. In the unlikely chance that the wishful intervenor could get past the gate and meet the unreasonable time constraints, the intervenor is then cut off from access to the court or any other appeals board on the vital issue of their right to be heard.

CEPA is not simply a means for a private citizen or group of them to assist the State of Connecticut's Attorney's General office in ensuring that the public trust and interest in the environment is protected and that the rules and regulations of the state and municipalities affecting the environment are adhered to. Intervenors under CEPA also are a valuable resource for our municipal boards and commissions and are a source of information vital to their decision making, provided without burdening the taxpayers and municipal budget. Sorely needed expert testimony is often provided to balance that brought by those wishing to use the environment of the state or circumvent good regulation. Without the input allowed by CEPA as it now stands, the towns would have to hire more experts so the boards and commissions can make informed decisions. In today's world of tight municipal budgets, it is unlikely our towns, or state agencies for that matter, could afford to do that. Thus, without the input from the experts and citizens that CEPA makes possible, we will all lose.

CEPA in its current form works well. The adoption of this bill will reverse a 40 year history of this state's strong public policy to protect the public trust in the air, water, and other natural resources and to provide citizens with an adequate remedy and the ability to act in protecting their interest in that public trust. A review of Connecticut case law will show very few instances where, under our current law, the intervenors did not bring extremely valuable information and argument before the agency charged with making the hard decisions. As an attorney who has found CEPA a most effective tool in assuring that the environment of the state is reasonably protected in this difficult balancing act we ask our agencies and commissions to perform, I implore you not to eviscerate the act and deny our citizens the right to help protect the natural resources of our beautiful state.

I hope that these comments are useful. I thank you for your careful consideration of this important matter.

Thank you,
Richard D. Dixon, Esq.