

**STATEMENT OF MARK K. BRANSE
IN SUPPORT OF HOUSE BILL 5502**

I represent numerous municipal agencies, including enforcement agents for inland wetlands, zoning, housing code, fire code, building code, and health code. The recent Supreme Court decision in *Town of Bozrah v. Chmurynski*, 303 Conn. 676 (February 12, 2012) holds that a municipality cannot bring an action for injunction in order to obtain a court order for inspection of a site where a zoning violation is suspected. The Court has created an unworkable "Catch 22:" There must be evidence of a violation before a civil action can be brought, and that evidence must be established by an inspection, and there can be no inspection until there is probable cause to believe that a violation exists, and there can be no hearing on the issue of probable cause until there is a pending civil action.

In the area of *criminal* prosecutions, this Catch 22 is avoided because there is a procedure by which the State's Attorney can apply to the Superior Court for a search warrant, without a pending action, where there is probable cause to believe that a violation exists. However, there is no comparable procedure for *civil* prosecutions. Most local health and safety enforcement is brought by municipalities as civil enforcement actions, not by the State's Attorney as criminal enforcement actions. If every inspection required the initiation of a search warrant and criminal action by the State's Attorney, that office would be overwhelmed.

This Bill merely establishes the same procedure for civil enforcement actions as the one now existing for criminal actions. As is the case today for criminal actions, the municipal enforcement officer would have to satisfy a Superior Court judge that there was probable cause to believe that a violation existed before a search warrant could be issued. *But at least a procedure for that would exist.*

Housing code, fire code, wetlands, and other similar local code violations pose very real and serious threats to the safety of our residents and the protection of our natural resources. I only ask that the procedure be established for obtaining the right of inspection to enforce such codes. Thank you.

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