CONNECTICUT
Land Conservation Council

Testimony in Opposition to H.B. No. 5242
To the Committee on Planning and Development
Submitted by: Amy Blaymore Paterson, Esq., Executive Director
March 11, 2013

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Senator Cassano, Representative Rojas, and members of the Committee:

Please accept this testimony on behalf of the Connecticut Land Conservation Council (CLCC) in opposition to ***H.B. No. 5242: An Act Expanding Fee in Lieu of Open Space Programs***, which would authorize towns to use fee in lieu of open space payments to fund the construction and maintenance of sidewalks.

The Connecticut Land Conservation Council

The Connecticut Land Conservation Council (CLCC) works with land trusts, other conservation and advocacy organizations, government entities and landowners to increase the pace, quality and scale of land conservation in Connecticut while assuring the perpetual, high quality stewardship of conserved lands in the state. As Connecticut's umbrella organization for the land conservation community, CLCC focuses on building land trust capacity and sustainability, leading a unified land conservation voice for public policies that support land conservation, and engaging broad constituencies to foster a deep understanding of the benefits and need for land conservation. CLCC is guided by a Steering Committee with statewide representation.

CLCC is opposed to this bill as it would undermine the statutory intent to provide municipal planning commissions with a mechanism to offset development impacts on available open space in their communities and to otherwise acquire open space in accordance with state and local planning goals.

The State is lagging behind in its statutory commitment to land conservation in Connecticut

The state's goal to preserve 21-percent of Connecticut's land area or 633,210 acres by 2023 (the "21% goal") was created by the legislature in 1997 (Connecticut General Statutes Section 23-89(b)), with recommendations that 10-percent be acquired by the state and 11-percent by "others", including municipalities. However, based upon the state's estimate of the number of acres conserved to date, it is clear that the state will fall far short of the 21% goal unless it makes a commitment to provide consistent funding for open space acquisition.

In particular, to meet the goals set forth in the statute, the state must acquire an additional 65,903 acres of open space and encourage the acquisition of 113,856 acres by municipalities, nonprofit land conservation organizations and water companies. *(Commissioner of Energy and Environmental Protection 2011 Annual Report to the Environment Committee, May 2012)* These goals are reiterated in state planning documents, including the Open Space Plan (Green Plan) and the State's Plan of Conservation and Development Policies.

Towns are therefore a critical partner to the state if it is to meet the 21% goal -- but they need the funding to acquire open space to enable them to do their part.

Open space funding programs are a key component to achieving state conservation commitments

The Open Space and Watershed Land Acquisition (OSWLA) Program is the only state matching grant program for towns, land trusts and water companies seeking to protect open space, forestland and farmland. This program has supported the purchase of 380 properties totaling 24,352 acres in 120 communities since 1998 and continues to foster strong collaboration amongst state and local governments, land trusts and private landowners. The 2012 grants which were recently announced by Governor Malloy would permanently protect another 2,730 acres.

Funded through bonding and the Community Investment Act (CIA), the OSWLA program provides for a grant which typically covers 50 percent of the purchase price for a property. **A municipality's ability to provide the requisite matching funds is critical to the program's success.**

The municipal fee-in-lieu of open space program, enabled by C.G.S. Section 8-25b, allows municipal planning and combined planning and zoning commissions to require developers to set aside land in their project for open space, or in the alternative, to pay a fee to the town to be deposited in a dedicated open space fund to be used to acquire open space elsewhere in the community. **The intent of 8-25b is to provide the town with a mechanism to offset the impacts of a development on the town's available open space.**

H.B. No. 5242 undermines the statutory commitment to open space by diverting funds expressly intended for that purpose

By expanding the use of the fee in lieu of open space payments to fund the construction and maintenance of sidewalks, H.B. No. 5242 would dilute one of the few sources of funding dedicated to the purchase of municipal open space – thereby undermining not only the intent of the statute, but also the town's ability to match OSWLA funding and otherwise build a source of funding to purchase open space in furtherance of the 21% goal.

In conclusion, we respectfully contend that the state's commitment to land conservation and the 21% goal needs to be demonstrated not just by the words contained in state statutes and planning documents, but by its commitment to ensuring that towns have sufficient funding to do their part in meeting those goals. On behalf of the Connecticut Land Conservation Council and our conservation partners throughout the state, we respectfully urge the Committee to reject the amendments proposed by H.B. No. 5242, and thank you again for this opportunity to present our comments.