

**Testimony of James LaPosta, Jr FAIA
Regarding Raised Bill 5570
March 17, 2014**

Senator Coleman, Representative Fox, and Distinguished Members of the Judiciary Committee: I am James LaPosta Jr, FAIA and appear here today to speak in support of *Raised Bill 5570, An Act Concerning the Applicability of Statutes of Limitations to Actions Brought by the State or a Political Subdivision of the State.*

I am a licensed Architect residing in the Town of Hamden and a Principal and President of JCJ Architecture PC. My entire 28 year professional career has been spent in the State of Connecticut. I speak today on behalf of our firm and the members of AIA CT, our professional organization. JCJ Architecture has been in continuous operation in the City of Hartford since 1936. We are an Employee-Owned Company with over 100 professionals providing architectural services to both private and government clients.

Simply put the decision in "State of Connecticut v Lombardo et. Al." is unfair to hard working professionals and bad for business. We are proud to have an over 75 year history of designing buildings for the State of Connecticut and its 169 cities and towns. Without the passage Raised Bill 5570 we will no longer be able to provide those services to our home state and the impact on jobs will be profound. The lack of a reasonable statute of limitations on our services places an undue burden of risk on our firm as well as our colleagues, a risk that may not be underwritten by our Professional Liability Insurance Carriers. For those firms that attempt to provide services with no Statute of Limitations there will be no choice but to raise fees and cut quality to cover the increased risk.

Our firm has been fortunate to have experienced growth in the last decade but it has of necessity been outside of Connecticut. We have opened offices in a number of states including Massachusetts, New York, and California, where the support of professional services through government policies is stronger. From the selection of design professionals to the setting of fees to providing a contract with a reasonable statute of limitations, these other states provide a fairer and more equitable climate for our business. Each month when we review the status of our firm we question the long-term viability of our Hartford location.

The design and construction of institutional and government buildings is not a manufacturing process where prototypes are tested, designs modified, and thousands of similar products rolled off an assembly line. Each building is the solution to a unique problem on a unique site. It is custom designed to meet our client's specific needs and involves literally tens of thousands of parts combined in a way that they have never been before and all by hundreds of workers. It is a human endeavor that will remain imperfect as long as human beings are imperfect. Knowing this, a well-tested system of checks and balances is in place in our industry to minimize imperfections and equitably distribute risk among the design professional, constructor, and owner. The system only will work when the terms of agreement have a level of certainty that all can rely on. A project is only deemed complete when all parties agree that it is; including the owner who agrees that they have received the product and services that were contracted. The doctrine of "nullum tempus" removes this certainty for the design and construction professionals and holds them liable for any alleged deficiency *forever*. Many factors come in to play when evaluating the performance of a building over time that are well

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beyond the control of our profession. Owners may make modifications in conflict with the original design; systems may not be operated properly or even maintained, building and fire codes regularly are changed and updated. As things currently stand, our firm is liable for work performed by our Architects in 1936; 3 years after my parents were born. A specific and recent example is a letter that we have received from the University of Connecticut regarding a project from 14 years ago. At the time of completion of that project it had been checked and approved by a wide variety of professionals and code officials including those at UConn. It was considered code compliant and finished to the satisfaction of the client. We are now forced to pull staff off of current fee-producing work to research an alleged code deficiency involving the heights of light switches, designed and approved to a previous version of the building code. Records are scarce and memories faded by all parties. We are unclear as to the required remedy; do we provide a solution that is considered compliant in 1998 or are we to upgrade all systems to current codes? In this case the alleged deficiency is small and isolated but the precedent is frightening. The unknowns are many and the risk too great for our firm as I believe it would be for any business in any industry.

Thank you for your time and attention today. I urge you to vote in favor of Raised Bill 5570. It is in the best interest of the taxpayers of the State of Connecticut and our business community to provide a reasonable and fair Statute of Limitations for design and construction professionals.