February 18, 2014

Environment Committee
Room 3200, Legislative Office Building
Hartford, CT 06106

Re: Raised Bill No. 72,
"An Act Concerning Liability for the Growing of Running Bamboo"

Dear Environment Committee Members:

I am writing to relay my concern about the above-referenced bill because of the unintended consequences it has on municipalities.

I offer the following for your consideration:

Public Act 13-82 entitled, "An Act Regulating the Planting and Sale of Running Bamboo" was passed last legislative session. While it is recognized that running bamboo can cause damage to property if not properly controlled, the language of the Act placed the burden of enforcing the law on municipalities. In an informational session that was held in the Town of Milford in August of 2013 municipal officials were told that even though they would be responsible for enforcement, all fines collected would go to the state.

In addition, the law as written had no provision for appeal. Likewise, the proposed bill lacks an appeal process as well.

The law as originally written did however include a grandfathering provision in that it affected only the stands of running bamboo planted on or after October 1, 2013. The proposal before you eliminates this grandfathering provision. There are several concerns associated with the elimination of this provision:

1. Is it legal not to include a grandfathering provision?
2. Without an effective date, how should towns enforce the law? Would we actively survey every property in our community to see who has running bamboo and then issue a fine to every property regardless of whether neighbors are complaining about it or not?
3. What if a property owner cannot afford to remove the bamboo? Will the town be required to remove it and then put a lien on the person's property to eventually force repayment to the Town?
4. What if it is questionable as to whether it spread from one property to another? A survey would be required to make this determination.
5. As a conservation director, my main focus is the local administration of the Inland Wetland and Watercourses Act. I envision that taking on the role of bamboo

enforcer will take up an inordinate amount of time working through the issues noted above and thus, detract from the main function of our office. The same could be said for the Planning and Zoning Departments and Tree Wardens across the state that have also been charged with enforcement of this Act.

Moreover, the original law said "any duly authorized municipal constable, tree warden, zoning enforcement officer or inland wetland officer" may enforce the provisions of the law. What does "authorized" mean? Does the town have to pass an ordinance authorized each of those positions named in the law to be the authorized agent? Otherwise, in the case of wetlands, the Inland Wetlands and Watercourses Act only gives the authority over wetlands and watercourses. Bamboo would not fall under this.

6. I have also found in some cases, neighbors actually like the way the bamboo looks and the privacy it provides. However, when one of those neighbors moves, the next may not like it and then the other is left with a problem. This could arise after literally decades when the bamboo was not an issue.

In summary, Public Act 13-82 was passed with the best of intentions but with little regard to the actual implementation of the law. Passage of this bill would only complicate it further and make it harder for municipalities to enforce. As an alternative, I would suggest it remain a civil matter between property owners.

Thank you for your consideration.

Sincerely,

Alicia M. Mozian

Alicia M. Mozian
Conservation Director
Town of Westport