

**TESTIMONY OF ELLIOTT B. POLLACK TO THE PLANNING
AND DEVELOPMENT COMMITTEE IN OPPOSITION TO
PROPOSED HOUSE BILL NO. 6945, "AN ACT CONCERNING
ATTORNEY FEE AGREEMENTS IN MUNICIPAL TAX APPEALS"**

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My name is Elliott B. Pollack and I am a partner in the law firm of Pullman & Comley, LLC. I have had the privilege of representing many taxpayers in municipal property tax appeals over my fifty-year legal career, some on a contingent fee basis. I have also represented municipalities in defending property tax appeals.

I submit this testimony in opposition to House Bill No. 6945, "An Act Concerning Attorney Fee Agreements in Municipal Tax Appeals," which seeks to limit the contingent fees paid by taxpayers to their attorneys in municipal property tax appeals. It should be remembered that in Connecticut, real property, whether commercial or residential, is revalued every five years on a mass appraisal basis. While the majority of assessments are accurate, this is not always the case, particularly when the property at issue is an unusual residential property or a complex commercial property. In my experience, my clients and I attempt to resolve these disagreements without the necessity of going to court. Informal meetings are held with assessors and their revaluation companies in an effort to resolve differences. If that proves unsuccessful, appeals are typically made to the local Boards of Assessment Appeals for relief. If the Boards do not grant relief, then taxpayers have no further recourse but to challenge their assessments in court.

Some clients do not have the financial means to pursue redress through the courts except on a contingent fee basis. Other clients prefer to engage their attorneys on a contingent fee basis which has the effect of limiting their legal fee exposure based on the outcome of the appeal effort. Under either scenario, lawyer and client currently have the flexibility to structure the contingent fee arrangement in a way that is fair to both. House Bill No. 6945 will have the detrimental effect of making it more difficult for homeowners and the owners of smaller commercial properties to engage an experienced attorney of their choice on a contingent fee basis and structure that arrangement in a way that serves their interests.

It is unclear what concern the proposed legislation is intended to address. If the goal is to help ensure that taxpayers pay reasonable attorney's fees, the reasonableness of those fees is already governed by the Rules of Professional Conduct governing lawyers thus making the proposed legislation unnecessary. If the bill is an effort to try to limit tax appeals that may be viewed by some as frivolous, it is difficult to see how it will have that effect since attorneys are not typically inclined to undertake marginal appeals that will not generate fees commensurate with their efforts. By the same token, taxpayers are not typically inclined to pursue marginal appeals that will ultimately produce little or no tax savings. Finally, it goes without saying that the bill should not be adopted if its intention is to reduce the number of meritorious tax appeals, particularly as we strive to make Connecticut a State that is more friendly to taxpayers.

With regard to the specific wording of the proposed bill, there is no legitimate reason why the specified percentage should be lower than the amount of a contingent fee that attorneys and clients can agree to in connection with other types of litigation. Furthermore, the proposed bill contains no flexibility around the structuring of contingent legal fees. For example, a sophisticated property owner that may be willing to pay a higher contingent fee based on the unique facts of his or her matter does not have the ability to do so under the legislation as currently drafted.

In conclusion, I urge the Committee to not approve House Bill No. 6945. It will have the unintended effect of making it more difficult for homeowners and the owners of smaller commercial properties to challenge inequitable property tax assessments. The bill does not appear to have a strong consumer protection rationale and should be rejected if its goal is an attempt to limit the ability of taxpayers to obtain redress through the courts.

Thank you for your consideration of my remarks.