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**Testimony of Keith Ainsworth
Chair, Environmental Law Section**

In SUPPORT of

SB1033, An Act Concerning Court Operations (sections 2 & 3)

**Judiciary Committee
April 1, 2015**

Senator Coleman, Representative Tong and honorable members of the Judiciary Committee

My name is Keith Ainsworth, Esq., a Connecticut environmental and land use attorney and current chair of the Connecticut Bar Association Environmental Law Section. Our CBA section consists of 200 lawyers who practice in land use and environmental in Connecticut, and support this testimony.

The section voices its support for sections two and three of SB 1033, An Act Concerning Court Operations, which proposes to give express authority to the Superior Court to remand land use appeals back to the local agency from which an appeal is taken and where the agency may not have considered all legally required standards.

Senate Bill 1033 is offered by the Judicial Branch, specifically we support authorizing judges of the Superior Court considering land use appeals under Conn. Gen. Stat. §8-8(1) to remand cases back to the agency where the agency has failed to consider an issue. It is the section's position that the authority to remand is a tool necessary to the efficient administration of justice as well as public and private resources. Under current law, the Superior Court does not have the express statutory authority to remand a case back to an agency to consider issues that it may have neglected to consider in its deliberations.

As a result, the courts are left with the option of overturning the decision requiring a re-start of the local agency proceeding from the beginning which results in unnecessary costs and time for applicants, agencies and the public.

SB 1033 will resolve this problem. Therefore the CBA's Environmental Law Section urges your support for SB1033 which implements this change.

Sec. 2. Subsection (l) of section 8-8 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2015):

(l) *The court, after a hearing thereon, may reverse or affirm, wholly or partly, or may [modify or revise the decision appealed from. If a particular board action is required by law, the court, on sustaining the appeal, may render a judgment that modifies the board decision or orders the particular board action] revise, modify or remand the decision from which the appeal was taken in a manner consistent with the evidence in the record before it. In an appeal from an action of a planning commission taken under section 8-29, the court may also reassess any damages or benefits awarded by the commission. Costs shall be allowed against the board if the decision appealed from is reversed, affirmed in part, modified or revised.*

Sec. 3. Subsection (a) of section 22-43a of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2015):

(a) *The court, after a hearing, may reverse or affirm, wholly or partly, or may revise, modify or remand the decision from which the appeal was taken in a manner consistent with the evidence in the record before it. If upon appeal pursuant to section 22a-43, the court finds that the action appealed from constitutes the equivalent of a taking without compensation, [it] the court shall (1) set aside the action or [it] may modify the action so that it does not constitute a taking, [*In both instances the court shall*] and (2) remand the order to the inland wetland agency for action not inconsistent with its decision.*