HOME BUILDERS & REMODELERS ASSOCIATION OF CONNECTICUT, INC.
3 Regency Drive, Suite 204, Bloomfield, CT 06002
Tel: 860-216-5858 Fax: 860-206-8954 Web: www.hbact.org

Your Home Is Our Business

February 24, 2016

To: Senator Ted Kennedy and Representative James Albis, Co-Chairs
Members of the Environment Committee

From: Bill Ethier, CAE, Chief Executive Officer

Re: **SB 141, AAC Revision of Definitional, Timing and Procedural Provisions of the Inland Wetlands and Watercourses Act**

The HBRA of Connecticut is a professional trade association with about eight hundred (800) member firms statewide employing tens of thousands of CT's citizens. Our members are residential and commercial builders, land developers, remodelers, general contractors, subcontractors, suppliers and those businesses and professionals that provide services to our diverse industry and to consumers. We build between 70% to 80% of all new homes and apartments in the state each year and engage in countless home remodeling projects.

The HBRA of CT opposes in part and supports in part SB 141, and suggests an additional change to improve the administration of the inland wetlands and watercourses act.

We oppose section 1 of the bill that adds "hydric" to the soil types that make up our state definition of wetlands. The extent of regulated land area of the state that would be added by this term is unknown at this time, and just as importantly, it is a term that is typically used in the delineation of the federal definition of wetlands. Thus, its use in the state statute could cause confusion among soil scientists, property owners, developers and others. Unless a credible reason is revealed by the agency and the change does not expand the jurisdictional area that could be regulated by local commissions, we urge you to delete section 1.

Regarding section 3 of the bill, we do not know the rationale for removing boundary delineations from the requirement to be submitted to public hearings. This change, however, could be dangerous to property owners if a change is made administratively that, for example, adds regulated area to one's property. If it is to proceed, at the very least affected property owners should receive notice of and an opportunity to present before the commission and appeal its delineation decision. We wait to hear the rationale for this change from the agency and reserve further comment on it.

We support sections 4 through 6 of the bill as it removes the appeal to DEEP from local commission inaction on an application. This existing "remedy" is actually worse than the cure as an appeal to DEEP to take action on an application could be tied up for years. The adoption of these sections would treat inaction by a local inland wetland and watercourse commission in the same way inaction by local zoning or planning commissions are treated. That is, the applicant can appeal directly to court to bring a mandamus action to force the local commission to do what the statutes require it to do. This is preferable to appealing to DEEP.

continued

We urge the addition to the bill of the following changes to the act that would greatly expedite the handling of insignificant applications, as determined by the local commission. The way the public hearing process is laid out in subsection 22a-42a(c)(1) (i.e., section 4 of the bill), the act forces all applications to wait a minimum of 15 days before the local commission can take action (i.e., wait 14 days for a possible petition and take action the next day, assuming a meeting is properly noticed).

This period of waiting has proven to disrupt the provision (by the commission) and receipt (by the applicant) of a timely decision on insignificant applications. It forces land owners to appear twice before local commissions, i.e., at the meeting when applications are received and again later when a decision is made. This is also an annoyance for local commissions and municipal planners.

Other commissions can do this for certain applications. For example, for applications before zoning commissions that do not involve a zone change or regulation change, a zoning commission can officially receive zoning permit applications and act on it in the same evening meeting if they wish to. However, local inland wetland and watercourse commissions cannot do this because of the requirement to wait to see if a petition signed by 25 people is submitted within 14 days of the date of receipt of the application.

Therefore, to fix this problem and help improve the efficiency and timelines to receive decisions on at least insignificant applications, we propose below the changes to lines 93 – 105 of SB 141:

Thank you for this opportunity to testify on this legislation.

Add to section 4 of SB 141 at lines 93 - 105:

". . . . The inland wetlands agency shall not hold a public hearing on such application unless the inland wetlands agency determines that (i) the proposed activity may have a significant impact on wetlands or watercourses, (ii) a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the agency not later than fourteen days after the date of receipt of such application, unless the inland wetlands agency determines that the proposed activity will have an insignificant impact on wetlands or watercourses, in which case a public hearing shall not be held, or (iii) the agency finds that a public hearing regarding such application would be in the public interest. An inland wetlands agency may issue a permit without a public hearing provided no [petition provided for in this subsection is filed with the agency on or before the fourteenth day after the date of receipt of the application] public hearing is required by this section. Such hearing . . . ."