

Testimony In Support of HB 5183: An Act Concerning
Attorney Fee Agreements in Municipal Tax Appeals

Senator Osten, Representative Miller and members of the Planning and Development Committee: thank you so much for taking the time to publicly hear HB 5183, "An Act Concerning Attorney Fee Agreements in Municipal Tax Appeals."

Due to a previously scheduled commitment I was unable to provide oral testimony at Friday's public hearing. I am committed to addressing inequities in Connecticut's local property tax system. In my opinion how property tax appeals are supported in our statutes creates inequities between our towns and hurts small businesses and residential property owners in our state.

I represent the 49th House District of Windham. My experience with municipal tax appeals includes the time I spent sitting on our local Board of Assessment Appeals. Later, as an attorney, I represented municipalities in tax appeals to the area Superior Court which were often transferred to the special Superior Court in New Britain that addresses municipal tax appeals.

Originally, the idea of a special court that addresses tax appeals seemed to be a good way to relieve busy local superior courts from responsibility for these often technically difficult and complex cases by transferring them to a court that specializes in tax appeals. The cases should require the plaintiffs to present a reasoned appraisal analysis of the property in question at pretrial. This process can become fairly complex when the properties are valued at more than \$500,000.00 dollars. So there is an automatic appeal in those cases from the local Board of Assessment Appeals to the Superior Court. Most of those appeals end up in the Municipal Tax Court in New Britain.

As former member of the Board of Assessment Appeals I recall seeing the highly valued properties being appealed to the Superior Court by attorneys who would seek clients on a contingency basis and have their cases moved to the special New Britain Tax Court. As a town attorney I would occasionally represent my municipal client in these cases. I have had a chance to see the difference in the town assessor's ability to negotiate a settlement in a case with a residential property and a highly valued property like a mall, big box store or large apartment complex. In cases in which the appeal was made by a residential property owner, the prospect of trial for both parties inspired cooperative negotiations that were resolved by using market analysis as would be expected in this sort of appeal.

In the appeals made by the larger corporations the dynamic changed. The fact that a plaintiff's attorney fee agreement is based on a contingency basis eliminated the risk in the appeals of the highly valued commercial properties because if the owners lose then they will not owe any fees to their lawyer. The risk is on the lawyer who has a duty to follow through on a case once an established attorney client relationship exists. To add a little more certainty to the appeals regarding large highly valued commercial properties, there is institutional knowledge that if an appeal is referred to the special "Tax Court," the avoidance of an appeal by the Assessor due to the legal costs will in most if not all instances cause a settlement where approximately half of the tax will be negotiated away without a trial. This is

costing our already cash strapped municipalities a substantial loss of revenue that increases the local property tax for small businesses and residential property owners.

I respectfully urge your support for HB No. 5183.