

PA12-157

HB5035

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
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The House of Representatives is voting by roll call. Members to the chamber. The House is taking a roll call vote, members to the chamber please.

DEPUTY SPEAKER KIRKLEY-BEY:

Have all members voted? Have all members voted?

Please check the board to see that your vote has been properly cast. The machine will be locked, and the Clerk will prepare the tally.

The Clerk will announce the tally.

THE CLERK:

House Bill 5476

Total number voting	149
Necessary for passage	75
Those voting Yea	149
Those voting Nay	0
Those absent and not voting	2

DEPUTY SPEAKER KIRKLEY-BEY:

The bill passes.

Will the Clerk please call Calendar Number 72.

THE CLERK:

On page 35, Calendar 72, Substitute for House Bill Number 5035, AN ACT CONCERNING PROPERTY TAX ASSESSMENTS BY MUNICIPALITIES, favorable report by the Committee on Finance.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile, you have the floor,
ma'am.

REP. GENTILE (104th):

Thank you, Madam Speaker.

Madam Speaker, I move for the acceptance of the
joint committees' favorable report and passage of the
bill.

DEPUTY SPEAKER KIRKLEY-BEY:

The motion before us is acceptance of the joint
committees' favorable report and passage of the bill.

Will you remark further, ma'am?

REP. GENTILE (104th):

Yes, thank you.

This bill explicitly authorizes municipalities to
impose property taxes on structures that are partially
completed or under construction. Under current law,
it is unclear whether a town's assessor may include
the value of partially completed structures and
improvements in a property's assessment. While tax
assessors have commonly assessed buildings that are
under construction, the question of whether state law
authorizes them to do so has been the subject of a

court case and that is relative to the Town of Columbia.

This particular legislation clarifies longstanding Connecticut law, that authorizes towns and cities to assess for tax purposes partially constructed buildings. While the Superior Court has decided currently, it is under appeal, and while the Superior Court decision has no precedential impact on any other communities, communities across the state are asking us to clarify our existing law and this legislation does do that.

Please note, that at stake here is up to \$30 million in property tax revenue statewide. This particular piece of legislation is a priority for the Planning and Development Committee. It is a priority for our towns and cities, and it is a priority for the Connecticut Association for Assessing Officers, and I urge passage of the bill.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative.

Will you remark further?

Representative Aman, you have the floor, sir.

REP. AMAN (14th):

Thank you very much, Madam Chair.

This is one of the more difficult bills for myself to look at and determine how to vote on and will be trying to make my decision after I listen to some of -- the rest of my colleagues' statements as we move forward.

What the bill does is, for partially completed buildings, traditionally, most towns have assessed them at the value they thought they had on October 1st. Other times -- other towns did not. Until the economy turned down, this was not a problem for either the towns or the building industry because projects were completed fast enough that the difference in the dates of the assessment and whether it was 100 percent on or 50 percent done was pretty much of an academic concern, that the amount of dollars was not significant in one direction or the other. And so the towns were flexible, as were the builders, on how to interpret the statute. With the turned down in the economy, we're seeing more and more structures sitting, not being 100 percent complete, waiting for a buyer to come forward and make the final changes that are necessary to issue a certificate of occupancy. Where the problem comes in is, in an incomplete structure, what its value is at that time and also the

problems with if you can't sell something anyhow to put on the market and then you get hit with a full tax bill. It can be very, very expensive and difficult for the builder. It also has a potential of putting them into default of his mortgage if he does not have the funds necessary to fund the higher property tax bill that was not put in.

With that, is an introduction, I do have some questions to the proponent of the bill, through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile, prepare yourself.

Representative Aman, please proceed.

REP. AMAN (14th):

Yes. It cost for the assessment to be done at the start of the assessment year and that I believe is October 1st each year. How are the assessors suppose to determine the value of a building that is under construction and is changing fairly rapidly on one day during the year, especially if they're from a fairly active community that may have numerous buildings under construction on that date? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, the property is taxed on its fair market value with all building lots, with any improvements, and improvements that are permanently affixed to the land so it is a fair market value.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Aman.

REP. AMAN (14th):

So that it is my interpretation than that on October 1st, the assessor is going to have to go out and look at each and every building that is under construction and determine how much work has been done to that point and what the value of that partially completed work is? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, that would be correct.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Aman.

REP. AMAN (14th):

Okay. Under this statute that says that the law will become effective October 1, 2012. And my question is will that bill affect the tax bills of individuals who will receive, or companies will receive, either this July or coming January, due to the effective date? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, again, I would just like to state that this language which is clarify existing law and it would not -- it's just a clarification.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Aman.

REP. AMAN (14th):

If I am an assessor looking at both this bill and what current law is in the case, how do I send out an assessment amount or how is it going to be calculated for this coming July 1st? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

I'm sorry, Madam Speaker. I didn't get the end of that. Could that be repeated please.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Aman, would you please repeat the question.

REP. AMAN (14th):

Yes. And I realize that this is fairly complicated and very difficult to follow because you're talking various dates and assessment years, et cetera. So that's why I'm trying to use, when people actually receive bills and you've got to back in to various assessment times. So someone receiving a bill this July 1st, will be based on the assessment of last October. We are now passing a clarification law, and so my question is what interpretation should assessor currently use prior to this bill becoming effective? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Thank you, Madam Speaker. Again, if we go back to the legislative history, it would be the assessment on October 1st so the gentleman is correct.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Aman.

REP. AMAN (14th):

So depending on how the assessor viewed the -- the court case without knowing this legislation is pending. Whatever he determined or she determines last October, will be what stands for this particular year? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, that is correct.

REP. AMAN (14th):

All right and so in that regard this bill will only affect how much people are actually paying next July -- or a year from this July or your friends January.

Again, the problem I think many in the building community have, the smaller builders of especially single-family homes, is that they've never had this problem before really because of the timing and the way the law was written. It was kind of incidental. The problem of they have now is the fact they're going to be -- could have been receiving very high tax bills

that they had not planned on because of the way things were budgeted.

I also am sympathetic to the towns and cities, especially on commercial projects where you have something like a strip shopping center that has a variety of units that are either never been occupied, therefore a CO hasn't been issued, or the tenant has moved out, utilities have been disconnected, so they do not currently have a certificate of occupancy, and those companies -- those towns being worried about them coming off the tax rolls for the entire cost of the building, which I think is where the major amount of money coming.

I would have been very happy to see this bill amended, eliminating the smaller structures, the smaller commercial properties, but that's not the way it came out. And so I'm kind of disappointed to see that. Again, I will be listening to my colleagues and making a decision on how to vote on this.

Thank you very much, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative.

Representative Smith, you have the floor.

REP. SMITH (108th):

Thank you, Madam Speaker, if I could have a few questions to the proponent of the bill?

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile, prepare yourself.

Representative Smith, please forward your question.

REP. SMITH (108th):

Thank you, Ma'am.

I just want to clarify a few points. I believe that the current practice right now is for the assessors to go out and tax partially constructed buildings, is that correct? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Thank you, Madam Speaker.

Through you, that is correct.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Smith.

REP. SMITH (108th):

And my understanding is that there was a recent Supreme Court ruling that determined that that practice was lawful and that the new law would be for

-- towns would no longer be able to actually go out and tax partially completed buildings, is that your understanding? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, that is the understanding.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Smith.

REP. SMITH (108th):

So this law, in effect, what it does is we are creating a new law by seeking to impose -- we're seeking to allow the municipalities to tax partially constructed buildings; is that correct? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, not necessarily new legislation but clarifying existing language that is currently in statute and the longstanding practice of doing so.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Smith.

REP. SMITH (108th):

Well, I would agree with you, Representative Gentile, that it's been a practice of the municipalities to go ahead and tax, but I don't believe it's been the existing law, because I think the Supreme Court has ruled that the law is what it is now and that is the municipalities cannot, in fact, tax partially completed buildings. And that's what the Supreme Court ruling stated. So I thought we just had the dialogue where you agree with me that the practice has been for them to tax as the building was going up and the Supreme Court has ruled that that's no longer proper. Is that still your understanding? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

I'm sorry, Madam Speaker. Somebody was talking to me and I did not hear that.

But if I could just state for the record, that it was one Supreme Court, and it is widely -- widely interpreted that they got it wrong so this is why it's on appeal.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Smith.

REP. SMITH (108th):

Well, Connecticut only has one Supreme Court and it's the law of the land for the state of Connecticut anyways so. Their decision is binding. We can certainly change the law here in the Legislature, that's what I believe what we're trying to do here today is change the law to conform to our practice, but it's not -- we're actually creating new law to if this bill were to pass. And I think the Chamber should be aware of that. And my question to the good representative is when does the town have the right to tax the partially constructed dwelling? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, the assessment is done on October 1st and then the tax would be due when the regular tax is due. And also, I might want to clarify that I believe I said "Supreme Court" earlier and I meant "Superior Court."

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Smith.

REP. SMITH (108th):

I thought it was a Supreme Court decision, not a Superior Court so -- in any event, just to follow up on my last questions, so if I'm a builder and I start a new home in January and it's -- you know, I get the foundation in. I put up the -- I guess, put the framing up and at that point it's now March. Is the tax assessor allowed to go out the site at that point and levying a new tax? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, again, the tax assessment is done on October 1st -- on or before October 1st, so --

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Smith.

REP. SMITH (108th):

So I'm assuming then that they could not impose a tax until October 1st, despite the fact that there was construction from January through September, just to be clear? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, that is my interpretation.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Smith.

REP. SMITH (108th):

And when they do the assessment come October of each year, it is based, I believe, on your -- on your comments to Representative Aman that it's based on the fair market value; is that accurate? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, that is absolutely accurate.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Smith.

REP. SMITH (108th):

Then I'm just wondering how is it that they determine the fair market value of a partially constructed building? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, that would be done based on all buildings and any improvements that are on the property, affixed to the property, at the time of the assessment.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Smith.

REP. SMITH (108th):

Thank you.

And is that done by the assessor or is an appraiser, independent appraiser, hired? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, I believe that it would be an appraiser.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Smith.

REP. SMITH (108th):

And typically when an appraiser is hired, they would compare the sale price and purchase price of buildings and comparable homes in the area, and if

there's no new construction or partially constructed dwelling within the immediate area, how then is a fair market value able to be derived at? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, I don't have the answers that.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Smith.

REP. SMITH (108th):

And I appreciate your honesty, and I think it's one of the troubling aspects of this bill is the fact that there really are no -- typically, no comparable for which an appraiser can determine what fair market value is and you have arbitrary taxing by the municipality of what they believe the fair market value of that building may or may not be. As you can imagine, you're going to run into a myriad of scenarios where you can have a -- a foundation solely or you have a foundation with the walls put up and the roof put on, with no shingles. You could have a fully enclosed house with windows with nothing inside. So

we can have all these different scenarios and it is very, very difficult to determine what the fair market value of that particular property, at that particular stage is. Nonetheless, the town -- we're giving the towns the ability to go ahead and tax that building or structure without a certificate of occupancy being issued, so that's one of the real issues I have with the bill.

Some of the questions I have are -- would this also apply to commercial construction, as well, or is it just residential? Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

The gentleman is correct, it would apply to commercial, as well.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Smith.

REP. SMITH (108th):

What I think we're doing here is -- it kind of reminds me of last year when I heard the Governor speak and say that Connecticut is now open for business. And a lot of us have been pounding our chests and saying that Connecticut is open for

business, especially after the last Jobs Session back in October. We've helped out the manufactures, we've helped out the insurance industry, we've helped out a lot of businesses, but today what we're trying to do is close the business for our contractors, because as Representative Aman said, it's not unusual in this day and age to construct a home or get it partially constructed and just wait for buyer to come along so the contractor can complete the building. And once that happens and, as you know, in today's market, it can take several years for property or building to be sold.

This contractor is being hit with a tax bill every single year on a partially constructed building that he or she cannot sell. So I think we're closing the doors to out contractors. I think we're closing business for contractors. We're giving them no inducement at all to go ahead, and take a chance, and put some sticks in the ground and see if they can sell. This is a -- in my opinion, a bad bill. A bill that hurts our businesses. It's a bill that hurts our economy, and it goes a long way to further in the downward spiral of this economy. I know the towns reap a benefit and some have argued that, listen, the

towns have to provide protection, fire services, police services, et cetera. I would submit to you that not one municipality has ever hired an additional personnel for a partially constructed building to provide the same services they're providing to the rest of the municipality. So I think that argument is flawed. I think this bill -- I think you should consider the effect of this bill, despite the fact that you may have received calls from your towns and the town doesn't lose here. Who loses is the contractors. And once our contractors are working, we all get back to work. So I would urge you to vote this bill down.

Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative.

Representative Hetherington, you have the floor, sir.

REP., HETHERINGTON (125th):

Thank you, Madam Speaker.

I rise to support this bill, actually. This bill would -- excuse me -- simply restore the ability of towns to tax incomplete property improvements, which

was the law prior to this case in Superior Court which has now caused confusion in the law.

I've heard from several selectmen on this -- first selectmen, and the towns feel very strongly that they need this ability to protect their revenue stream. Again, we're not creating a new revenue stream. What we simply are doing is restoring the ability of the towns to assess and collect on incomplete property, as it was before. And all of the challenges or all the questions that have been raised -- and they are good questions -- about how you tax a partially completed structure. They are good questions. But the fact is that they are questions that existed over the years before this court case called that into question, and I'm not aware of any challenge -- any legal challenge that was brought based upon an inability to assess.

Our towns, as we all know, are stressed. They probably will be stressed even more as additional demands are made upon them for educational services and they -- they really need to be able to preserve the revenue that they -- sources that they have had over the years and that they've relied on.

The alternative to not doing this is to allow increased property, perhaps a very substantial piece of property to be removed from the tax rolls for an indefinite period of time. And I think that's not something we want to do. We will simply be taking property away from towns, where the property is located, as a source of taxation.

In some cases -- in some cases, in this recent down time, these properties are actually foreclosed upon. So the only -- the only entity that we are accommodating is a mortgagee in possession, who has taken over the property, not completing it, and simply waiting until they get a better, a better opportunity to dispose of it. And in those most cases, there is no incentive. There's no incentive for mortgage you takes over and include property, whether it be commercial or residential to complete it. So I believe we should proceed to pass this.

In point of fact, these incomplete properties -- structures, are center for municipal services. If we talk to our local fire officials and police officials, vandalism, fires, unexplained fires, often take place just particularly in houses or structures that are incomplete. So they remain a source of need for

town's services and a town needs to be able to recover a reasonable return -- a tax to cover those services. So I would urge, again -- once again emphasizing this is simply making the law where it was -- and by the way, if a town chooses not to tax a structure that is not complete, they can do it. The language is the same as it exists for completed structures. It makes it subject to levy. It doesn't require the town to tax it. If the towns are persuaded that this is not in their interest, in the interest of their citizens to leave the property untaxed, they are free to do it. So it's a sound measure of local -- local autonomy and protecting the finances of our towns, so -- I would urge passage.

Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative.

Will Representative Williams please take the floor. You have the floor, sir.

REP. WILLIAMS (68th):

Thank you, Madam Speaker, and good afternoon.

DEPUTY SPEAKER KIRKLEY-BEY:

Good afternoon, sir.

REP. WILLIAMS (68th):

Madam Speaker, I've heard a number of different explanations as to what our current law is and what has been over the past, and I become more confused as the debate has gone and so if I may, through you, a few questions the proponent of the bill.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile, repair yourself.

Representative Williams, please frame your question.

REP. WILLIAMS (68th):

Thank you, Madam Speaker.

And through you to Representative Gentile, I've heard today that this is clarifying our existing law, that this is codifying the law that we have in the past. I've heard that the Superior Court ruled in favor of the community and not in favor of the landowner. Could you please for the benefit, for my clarification, explain what our law was prior to the Superior Court decision? Through you.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, it has always been practiced that the assessment is done on October 1st

of any partially completed improvements thereon a piece of property. And this, -- that has been practice up to this one case ruling. And our towns and cities -- it's under appeal and our towns and cities have asked, again, that we clarify this language so existing practice can continue going forward. Through you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Williams.

REP. WILLIAMS (68th):

I thank you, Madam Speaker.

And I understand that that was practice. I think what I'm trying to get at is, it has been represented here today that we are clarifying the law. It appears to me that what we are doing more of his clarifying a practice and what I'm trying to ascertain and wrap my mind around is what was the law prior to this lawsuit being filed? Through you.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, that exactly was the law. It was law and it was practice.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Madam Speaker.

Through you, so the law said partially constructed homes could be assessed and tax by community? Through you.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, that is correct.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Madam Speaker.

So us specifically what in the law is unclear then and if we can stand here in the State House of Representatives and say, well, this the law. I'm not really sure why we're standing here today debating this bill. Obviously, there was a case brought before the Superior Court. That case was acted upon and ruled in favor of the landowner so where's the conflict? I don't get it. Through you.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, it is one case that was decided at Superior Court and we believe that they got wrong because that one decision overturns 50 years of existing practice and law on its head.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Madam Speaker.

And through you, so if the practice -- is this the practice -- has this been the practice of -- of every community or of only some communities in the state of Connecticut for the last 50 years? Through you.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, it is every community.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Williams.

REP. WILLIAMS (68th):

Through you to Representative Gentile, every community in the state of Connecticut assesses

partially constructed homes and levies tax on
partially constructed homes; is that correct? Through
you.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, that is correct, and
once again, that is only on the fair market value of
those partially completed improvements.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Williams.

REP. WILLIAMS (68th):

Thank you, Madam Speaker.

I thank the gentlelady for her answers. I find
this, ladies and gentlemen, to be on the troubling.
To me it is, at best, unclear what the practices are.
I understand that Representative Gentile believes that
every community does this. I don't believe that to be
the case. I think that it is fairly obvious from the
court ruling that was handed down that the court has
ruled on a practice that was being done and not on a
law that we have had, and I would urge members not to
support the bill.

Thank you.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, sir.

Representative Cafero you have the floor, sir.

REP. CAFERO (142nd):

Thank you, Madam Speaker -- excuse me.

Ladies and gentlemen, the recession that we are currently experiencing, this long and unfortunate ugly recession, all started with the housing crisis, the housing industry collapsing. So when I see a bill, such as this, and I think most particularly of our residential builders and, hopefully, future customers -- if you will, of that market, I asked myself how would this apply to them? I do not, with all due respect to the chairperson, do not agree that every town taxes the way in which is going to be codified by this law. I think that's at the discretion of the town, because, let's face it folks, what is a lot of land that has a foundation on it worth? Yes, maybe when that house that's been -- the plans for which have been filed come to full -- is completed that that house might be worth 300,000. But if a house is only 10 percent complete, does that mean that we assess that 30,000? I would argue and I bet many of you are probably familiar with building projects that have

been abandoned, and sometimes the value of that land, because it has that partially built structure on it, that might have been unique to that builder is worth less than it would've been if it was barren land. And yet, under this bill, it sounds as if were allowing all municipalities to just take the eventual fair market value of a home and assess that portion of the home that's been done.

I said to one of my colleagues here, I said, you know, what's the value of a 2012 Mercedes with no engine in it? I would argue it is valueless. So, I believe there were some municipalities that did not do this. And now we're almost encouraging them to do it. And I think about the effect this is going to have on the single-family residence market and that is my biggest concern. Because all of a sudden, when we, as a nation and as a general assembly, are doing everything we can to try and boost up and encourage the housing market because of all the jobs that it brings, because of all the opportunities that it brings, and it's direct and incredibly important impact that it has on our entire economy. And yet it seems like we're dealing it another blow to that

industry yet again. And that's my concern about the bill that's before us.

Thank you.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, sir.

Representative Chapin, you have the floor, sir.

REP. CHAPIN (67th):

Thank you, Madam Speaker.

Madam Speaker, much of the discussion so far has been based on the housing market and how this relates to those houses that may be partially completed. I'd like to suggest that there are other scenarios where this bill is a tremendous asset. And those would be some of the commercial projects that are currently under construction. There are many times when some of us have discussed the problems associated with pertaining permits from certain state agencies -- and I don't intend to single any out, specifically, as good or bad -- but take for instance a shopping plaza project that maybe waiting to receive their CO, but first they must receive some conditional approval, for instance, the state traffic commission or perhaps a storm water discharge permit. So there are instances where those projects are substantially completed but

because they do not have a certificate of occupancy, they would be considered partially completed and in those instances I think it is fair game for the towns to assess those projects.

I did want to make sure that somebody spoke on behalf of the commercial side of the equation because, as I said, much of the discussion has been on the housing side. I do agree some issues have been raised that, perhaps, should still be addressed but as I stand here now with the bill before us, I stand here in support of it.

Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, Representative.

Representative Ackert, you have the floor, sir.

REP. ACKERT (8th):

Thank you, Madam Speaker.

Mine is mostly a comment. This bill was originated from a suit that happened in one of my communities that I serve. And the bill, actually, when it went through Superior Court upheld the current law, is actually what it did. 12-53 deals with the assessment and taxation of new real estate construction. And it says that that building, once

completed, NCO, and can be used for the intent that it was built for, is that when the taxation starts. And that's exactly how it reads so I don't want there to be any confusion on that part of it. We do understand that general practice has been that, and I understand the needs for the communities and I've been contacted by my first selectman and my town manager have said, this is been practice and it needs to be straightened out and that's what the bill does. It helps those communities. So I just wanted to state my concerns with this. I struggle with this because of the tax portion of it and maybe there should be some separation between large commercial projects compared to small, single-family or smaller projects from this, but the law does state now that you cannot tax these projects until they are CO'd and used for the intent.

So thank you, Madam Speaker, for your time.

DEPUTY SPEAKER KIRKLEY-BEY:

Thank you, sir.

Representative Miner you have the floor.

REP. MINER (66th):

Thank you, Madam Speaker.

Madam Speaker, in section (a)(1), I guess, it is.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile, prepare yourself.

Representative Miner, please proceed.

REP. MINER (66th):

In section (a) (1), my read of this new language doesn't really change the underlying statute. The additional language talk about the assessed value of such completed language, but it also talks about the date -- from the date of the certificate of occupancy or issued on the date on which the new construction is first used. So if I could, through you, under the questions that have been asked so far, if an individual took out a building permit and had a house half completed, for which there would be no certificate of occupancy and there would be no possible use, how could an assessor and levy an assessment under this new language? Through you.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Madam Speaker, again, my understanding of the bill states that it would just be on the building and the improvements that are affixed to the land at that point in time.

DEPUTY SPEAKER KIRKLEY-BEY:

Representative Miner.

REP. MINER (66th):

Thank you, Madam Speaker, and I think the gentlelady for her answer.

With all due respect, I don't changes -- I don't think that changes the language in the bill, however. If we're really trying to provide people the ability to make an assessment and a levy tax as of that assessment on October 1st, unless I'm reading this wrong, I don't think we can continue to tie it to its certificate of occupancy. I think -- I think the question was answered in the Superior Court would still exist under this language as its drafted.

We may have attempted to try and fix it, but I still think the question is still there and I'm not a builder or builder by trade, but if you don't meet the threshold of a certificate of occupancy, and you don't -- if you don't have an opportunity to occupy it, that would be use it for the purpose under which it was being constructed, I still don't see how the assessor gets there. So, I don't know if there is another way to take a look at this language and see if there's another way to draft it so that it actually does try and do what it is that I think the committee was

trying to accomplish. Whether or not that's a good policy or not is a completely separate issue. I'm just not sure, based on this, if I was in the court, I wouldn't interpret this as making a substantive enough change -- I think it actually confuses the issue. So I'm not an attorney -- maybe somebody else wants to look at this before we vote on it, but I think based on that new language added in that section, I still don't think they get where they want to go, if they are trying to provide a town the opportunity to tax.

Thank you, Madam Speaker.

DEPUTY SPEAKER KIRKLEY-BEY:

Think you, sir.

Will you remark? Will you remark further on the bill that is before us? Will you remark further on the bill that is before us? Will you remark further on bill that is before us?

If not, staff and guests please come to the well of the House. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call, members to the chamber. The House is taking a roll call vote, members to the chamber please.

DEPUTY SPEAKER KIRKLEY-BEY:

Have all members voted? Have all members
voted?

Please check the board to see if your vote has
been properly cast.

Please check the board to see that your vote has
been properly cast. The machine will be locked, and
the Clerk will prepare the tally.

The Clerk announce the tally.

THE CLERK:

House Bill 5035.

Total number voting	148
Necessary for passage	75
Those voting Yea	113
Those voting Nay	35
Those absent and not voting	3

DEPUTY SPEAKER KIRKLEY-BEY:

The bill passes.

Will the Clerk please call Calendar Number 344.

THE CLERK:

On page 20, Calendar Number 344, House Bill
Number 5443, AN ACT CONCERNING BENEFITS FOR SURVIVING
SPOUSES UNDER THE TEACHER'S RETIREMENT SYSTEM,
favorable report by the Committee on Appropriations.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**PLANNING AND
DEVELOPMENT
PART 1
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We feel that the law that we have in place does address that problem and helps us keep the chemicals away from the children. I realize there are some who say there are ways to do that, but every time you put the chemicals on the ground, some little six-year-old boy is going to come rolling in it. And even if you put the little flags up there which tell you that there is a danger to what's been put on the ground. I thank you this morning. I hope you will take my remarks into consideration as -- as you move forward. And I do hope that this bill fails. Thank you.

REP. GENTILE: Thank you, Representative Roy. As a celiac patient, I appreciate your plug for gluten-free.

REP. ROY: Thank you, and I appreciate the accommodation. I've got a hearing starting in about ten minutes.

REP. GENTILE: We understand. Any questions? Thank you.

REP. ROY: Thank you.

REP. GENTILE: Lisa Siegel.

A VOICE: (Inaudible.)

REP. GENTILE: Freedom of Information Commission. Thank you. Good morning.

LISA SIEGEL: Good morning, Senator Cassano, Representative Gentile, Co-Chairs, and members of the committee. My name is Lisa Siegel, I'm Commission Counsel to the Freedom of Information Commission, and I'm here to speak with you today about H.B. 5035.

The commission supports, in part, this bill entitled AN ACT REDUCING MANDATES FOR MUNICIPALITIES. Section 1 is the part that I'd like to address with you this morning. It provides in part that no public agency may disclose, under the Freedom of Information Act, the residential address of any of the following persons employed by such agency provided the employee has submitted a written request for non-disclosure to the department head or human resources of such agency.

The FOIC supports this change to Connecticut General Statute 1-217, but urges the Legislature to clarify its intent by inserting language specifying that 1-217 prohibits the disclosure of residential addresses from the personnel records only of certain groups of government employees. This would be, we suggest, an effective and workable solution to the problems that are currently caused by Section 1-217 as it now reads.

A broad-based coalition including the FOIC supports amending the law in this fashion. The coalition includes many -- many -- many groups. The Connecticut Bar Association, the Connecticut Bankers Association, the Connecticut Mortgage Bankers Association, the Attorney's Title Insurance Company, the Connecticut Conference on Municipalities, the Council of Small Towns, the Town Clerks Association, and the Tax Collector Association, the Association of Municipal Attorneys, and the Secretary of State among others.

Many of the representatives of these groups will speak to you today about the proposed change to Section 1-217. This coalition was formed in the aftermath of the Connecticut Supreme Court

decision last June that held that the address exemption in 1-217 applied to each and every public record in every government office, state and local, in the state of Connecticut without exception.

As interpreted by the Supreme Court, 1-217 now requires the redaction of thousands of addresses from thousands of public records in the state. It requires redaction from records where separate statutes even require that all the records be complete, accurate, and open to the republic -- to the public, in other words, where separate statutes prohibit any redaction. It applies to records such as land records, tax records, voter lists, commercial documents of all sorts.

The coalition -- coalition recognizes that compliance with the court's decision promises to create havoc by disrupting, just for example, title searches, service of process, collection of debts, notification of adjoining land owners in planning and zoning matters. All of these require addresses, property addresses, home addresses, to make the records meaningful in any way. Access to voter lists, as you may know, has already been compromised.

Redaction of thousands of addresses from the records of the municipal clerk, the tax assessor, or the Secretary of State, just for example, would obviously destroy the integrity and reliability of these very important public records. If 1-217 is not fixed, furthermore, it places the clerks, assessors, registrars, among others, in an -- in an untenable situation. While 1-217 prohibits the disclosure of residential addresses from these records, there are other laws, many of which have been in effect since colonial times, require these

public officials to certify the accuracy and the completeness of these records that must be open to the public and prohibits any alteration or any omission from these records.

These laws requiring the accuracy, completeness, and accessibility of certain records are there for a reason, to protect the integrity of some of our most important civic and commercial transactions. These records are indispensable tools, and I'm sure many of the members of the coalition will address that in more detail for you this morning.

Of course, the FOI Commission acknowledges the safety concerns voiced by many who are covered by Section 1-217 now, but those fears must be addressed in a realistic and workable manner. As it now stands, 1-217 imposes a truly impossible and unending burden on every public records custodian to redact every public record in its custody. It's impossible to do that. The protection that -- that 1-217 offers as it currently stands are an illusion.

An effective solution is to amend 1-217 to apply only to residential addresses contained in an employee's personnel records. This we suggest would accurately target the records that are most likely to be sought by a person intent on doing harm to a government employee. I might add that no other state has an address exemption as broad as Connecticut's. We are the broadest in the 50 states. Several states limit the exemption solely to personnel or employment-related records.

Amending 1-217 to exempt from disclosure the residential address of personnel records provides real protection to the government -- government employees now covered by the

statutes. It would relieve the clerks and other officials of an impossible burden of compliance and it would protect the integrity of fundamental commercial and civic records that people rely on to know that their government is functioning competently and fairly. Thank you.

REP. GENTILE: Thank you, Lisa, for your testimony. Just a couple of comments or for purposes of clarification, as I understand your suggestion, it would only be in the personnel record of the place where the individual works, correct?

LISA SIEGEL: Correct.

REP. GENTILE: So that means that if a person were looking to do harm to an individual, they can go to the assessor, they can go to the town clerk, they can go to a voter list and still get the home -- home address, is that correct?

LISA SIEGEL: Theoretically that would be possible, but as suggested, the likelihood of that is pretty slim for one thing. And second, these addresses really are available, practically speaking, home addresses are available, they're on the internet, and they're -- they're just part of everyday life. So on one hand they're available, and the second, someone intent on doing harm, I suggest would have much easier means at their disposal to find out where somebody -- where somebody is.

REP. GENTILE: Thank you. Are there any questions from committee members?

Representative Smith.

REP. SMITH: Good morning, Madame Chairman. Thank you. Just looking at the statute, Subsection A talks about no public agency, and I'm wondering,

I suspect it is, but I'm wondering if public agency is actually defined somewhere else in the statute, because I'm wondering what actually we're talking about? Are we talking about every agency in the state or -- or not?

LISA SIEGEL: Yes, it is defined in the -- in the Freedom of Information Act and it really means every government office -- it means as small as a committee to as large as -- as the state.

REP. SMITH: And you suggested earlier that there's already ways or means to get these addresses via the internet or if somebody really wanted an address, it's pretty much out there today. And I'm just wondering, this is a little off what you testified about, but these addresses and other confidential information are already clearly put throughout the land records right now.

Social Security numbers, addresses, you name it, it's pretty much on land records if you want to find it. And right now a lot of town clerks are going online with their records, do you have any thoughts on -- on whether that should be a situation where we should try to prevent or keep confidential that information in some other means by prohibiting from that going online or do you have any thoughts on that?

LISA SIEGEL: Well, I suggest that Social Security numbers are really different from what we're talking about here, than addresses on land records. The addresses on a land record are really integral to the land record. You can't have a land record without an address, but you can have a land record without the Social Security number. So there's really no harm in taking off someone's Social Security from a land record, if it's on there, or some sort of

commercial filing. But the address itself is -- is more integral to those records. So, no, I don't advocate -- and the commission does not advocate keeping this information off the internet.

REP. SMITH: One final question, if I may, your distinction between the personnel files versus the way the language is drafted currently, I'm just wondering, I didn't get the reason why you want to just limit it to the personnel files as opposed to whatever they may have on record.

LISA SIEGEL: Well, the -- the reason we limit it to personnel files, because addresses really are always in the personnel files. And there may be other -- other records that are relevant -- I guess I don't understand your question. Personnel files as opposed to -- to what?

REP. SMITH: To the way it's drafted currently.

LISA SIEGEL: To the way it's drafted currently. There may be situations where, for instance in a municipality, a police officer is employed by the whole -- the town, for instance, that the human resources department is in the town. So there are many records in the custody of the town clerk that are not personnel records. For instance, there may be land records, there may be tax records if the police officer happens to live in the town.

So that wouldn't solve the problem that we have requiring these addresses to be redacted. But if we say they're limited to the personnel records, then -- then even if it -- even if the -- the human resources sort of encompasses the whole town, then it just applies to the personnel records and any other records are not covered.

REP. SMITH: Thank you for your testimony. And I do agree, I'm 100 percent with you that something needs to be done. And it looks like this is a good start, because it is an impossible task for our town clerks and -- and personnel throughout the state to redact these records. It's just -- it's not going to happen. Thank you.

REP. GENTILE: Thank you. Any further questions?

Yes, Representative O'Brien.

REP. O'BRIEN: Thank you. I would suspect that the reason you're looking at the personnel records, the simplest reason is, that's the first place you would start. If someone was unhappy with a correction officer, for example, they wouldn't necessarily know what town they worked in -- I mean lived in -- depending on what town they lived in. So the first step would be to find out the names and addresses, correct?

LISA SIEGEL: Right, if someone were to use the FOI Act to -- to access a corrections employee's address, let's say, I would think the first place to look would be where that person works.

REP. O'BRIEN: Yeah. So if -- if they're prohibited from giving out that information, then they cannot then go to the next step which is to go to the town -- to the town hall and search those records?

LISA SIEGEL: Then they cannot, if they -- if they --

REP. O'BRIEN: If the -- if -- if the Department of Corrections is prohibited from giving out the names and addresses of its employees, then people wouldn't necessarily know where they lived --

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LISA SIEGEL: Exactly.

REP. O'BRIEN: -- so they couldn't then take the next step?

LISA SIEGEL: Exactly.

REP. O'BRIEN: Okay. Thank you.

REP. GENTILE: Thank you. Any further questions?
Thank you, Lisa.

LISA SIEGEL: Thank you very much.

REP. GENTILE: Jared Kupiec representing Mayor
Segarro. Welcome, Jared.

JARED KUPIEC: Good morning, Representative Gentile,
Senator Cassano, Senator Fasano, Representative
Aman, and I have to say that this is a somewhat
unique and special experience for me having been
on the opposite side, and I hope that the clerks
do ding me if I exceed my three minutes.

I'm here to testify, apologizes that the mayor
could not be here, he's actually testifying
before the Environment Committee this morning.
And -- and while we try to have in multiple
places at the same time, unfortunately that's
not always possible. I'm here to testify this
morning on behalf of House Bill 5160, AN ACT
ESTABLISHING A MUNICIPAL OPTION TO ABATE
PROPERTY TAXES FOR SMALL BUSINESSES. Written
testimony has been provided to you.

Right now Connecticut General Statutes 12-81(t)
provides for property tax abatement for
information technology purposes. What this bill
would do is to expand that, put another arrow in
the quiver, so to speak, and would allow

benefit. That's certainly something that I think we need to look at seriously.

REP. REED: So there's -- so you want to be able to have the maneuverability to customize it to whoever is requesting?

JARED KUPIEC: Yeah, I believe so.

REP. REED: Thank you. Thank you, Madame Chair.

REP. GENTILE: Thank you. Any further questions from committee members? Seeing none, Jared, it was good to see you. Thank you for taking the time.

JARED KUPIEC: My pleasure. Thank you. Appreciate it.

REP. GENTILE: Next speaker will be Art Ward on behalf of the City of Bristol. Welcome.

ARTHUR WARD: Good morning, Representative Gentile, members of the committee. As was stated, my name is Art Ward, I'm Mayor of the City of Bristol and also a member of the Board of Directors for Connecticut Conference of Municipalities. And I just want to emphasize that CCM strongly supports House Bill 5035, AN ACT REDUCING MANDATES FOR MUNICIPALITIES.

I think this is my fifth year of coming up to testify on this subject. It's a subject that mandate relief or suspension of mandates would, in effect, have a -- have a positive impact on 169 municipalities, and I think that's something in these economic times every municipality could use.

Presently there are over 1,200 state mandates imposed on hometown Connecticut and the residential and business property tax payers.

Relief from some of these mandates is important to the recovery of the municipalities during the biggest fiscal crisis in recent memory. At a time when towns and cities are struggling mightily to continue to provide needed services to residents and businesses, mandate relief should be a priority -- it should be a priority.

Unfunded and underfunded state mandates are corrosive elements that deteriorate critical municipal programs and services in the bottom line of municipal budgets. They are burdensome requirements and standards imposed by the state on towns and cities that affect residential and business property tax payers by imposing significant costs.

Make no mistake, local officials do not question the merit of many state mandates such as special education, public health, recycling of reusable waste, and clean water requirements. However, local officials object when the state does not provide commensurate funding to implement and delivery what these mandates require. And number two, it's just certain onerous state mandates to conform with the current economic climate.

Too often municipalities in Connecticut are forced to carry out state policies with little or no state funded. It's fundamentally inappropriate and inequitable to force towns and cities to assume all or most of the cost of policies the state has decided to implement and thus to pass these costs on to local property taxpayers. This buying something may be good, but with someone else's money. In addition, towns and cities lose staggering amounts of revenue as a result of about 65 state mandated property tax exemptions including exemptions from the real and personal property owned by the

state and by private colleges and hospitals. These state-imposed obligations and state-imposed revenue losses force all municipalities to increase -- increase their property tax rates.

State mandates come in all shapes and sizes, and sometimes although the state does not specifically direct a mandate to municipalities, it effectively imposes one. These mandates in effect occur when the state abandons necessary state-provided services that citizens rely on and need. This is a particular danger when state budgets are tight. In some cases, General Assembly passes Legislation and a municipality may adopt by local option, which as a practical political matter, the town or city cannot avoid.

For example, in recent years the Legislature has given municipalities the option of increasing property tax breaks to military veterans at local taxpayers' expense. A most worthy cause, but an option that many municipalities will feel compelled to enact, especially when the country is involved in two wars. In a situation such as this, the state has again brought goodwill from a segment of the public with local property tax dollars.

Mandates reform legislation was enacted in 1993 to establish the one-year delay in a municipality implementation of new and costly state mandates. The reporting of a newly enacted state mandates after each legislation session and periodic report detailing all constitutional, statutory, regulatory, state mandates on towns and cities. In the 2005-2006 Commission on Unfunded Mandates was charged with studying the actual need for numerous unfunded and partially-funded mandates, quantifying the actual cost to local governments for such

mandates, and analyzing the effects of eliminating or reducing such mandates.

The creation of the commission rightly acknowledged that the sooner we cut costs to cities and towns, the sooner cities and towns will be able to pass these savings to their residents. Unfortunately, the commission's draft proposals were never acted on. The M.O.R.E. Commission also made several meaningful mandate reform recommendations that were never implemented. Municipalities recognize it is neither practical nor desirable to eliminate all unfunded or inadequately funded state mandates, but relief is long overdue.

Reform to state mandates is a logical approach to offset depleting state revenues and a growing state deficit. Again we'd just like to reiterate CCM strongly supports the Governor's mandate reform package.

REP. GENTILE: Thank you, Mayor Ward, for your testimony. I do just have a question for you regarding under your testimony, Section A, for - - regarding the partial assessment, you estimate that the loss of revenues statewide is about \$30 million --

ARTHUR WARD: Okay.

REP. GENTILE: -- for the partial assessments, is that correct?

ARTHUR WARD: Yes.

REP. GENTILE: Okay. That's a significant amount of money.

ARTHUR WARD: Yes, absolutely.

REP. GENTILE: Any questions? Mayor Ward, thank you.

ARTHUR WARD: Thank you.

REP. GENTILE: Matt Galligan from South Windsor.

MATTHEW GALLIGAN: Thank you, Madame Chairman. Thank you all members of the committee here for allowing me to testify. I'm the Town Manager of South Windsor, Connecticut, and also sit on the Board of Directors of CCM. There are two bills today that I'm -- that we're looking to have sponsored by you and approved. One is House Bill 5158, AN ACT CONCERNING ASSESSMENT OF BUILDINGS UNDER CONSTRUCTION, and also the act - - let me put my glasses on -- 5155 which is the ACT CONCERNING INTEGRATED PEST MANAGEMENT PLANS.

I have submitted written testimony for you, but would like to go over some bullet points which is in the testimony. As far as anyone has been able to research, Connecticut has always taxed property under construction if partially completed. All 169 towns, if you did the research you'd find out that -- that has been the appropriate procedure. Connecticut's property taxes are ad valorem or according to value, and even something that is incomplete has value. If you took a vacant piece of property and a person started to put sewer lines in, water lines, it does increase the value of that -- of that property even though fully construction -- fully build-out is not done at that time.

Connecticut General Statutes 12-63 states that other than farmland, forests, and open spaces, all property is based on fair market value. The assessment of property that is partially completed or under construction is required to be assessed based upon its fair market value,

complicated. Thank you for your testimony.
Thank you, Madame Chair.

REP. GENTILE: Thank you. Any further questions from committee members? Seeing none, Matt, thank you.

MATTHEW GALLIGAN: Thank you very much for your time.

REP. GENTILE: Again as -- by means of an accommodation, we're going to go a little out of order.

Can I ask Mayor William Dickenson of Wallingford to please come forward. Good morning, sir.

WILLIAM DICKINSON: Good morning, Chair, members of the committee. My name is William Dickinson, I serve as Mayor of the Town of Wallingford. And I'm here to -- to support House Bill 5035 and 5158. There have been comments previously. I agree with those comments. I do think municipalities need clarification and the ability to tax improvements, assess and tax improvements on property.

We also support the reduction mitigation of mandates on municipalities. The -- there's a step with regard to the eviction costs. I guess my question would be why local government is involved in evictions at all. Perhaps that would be another avenue or approach that would be real relief, where we would not have to deal with storage or moving of personal belongings with regard to evictions.

I -- I would also suggest there are some other areas that could be added to this. And one is, I believe in July, there's a requirement regarding 17-year-olds being treated as juveniles. That will be a new cost for the

local police departments. In addition, the chief state's attorney is putting out -- establishing new standards for interrogation rooms with video equipment, particular types of microphones, certain appointments to the rooms. The video equipment alone costs in excess of \$30,000, and I believe those standards are coming out as a result of Legislation passed either last year or the year before, but again an unfunded mandate.

And finally I want to mention phosphorus -- phosphorus, the removal of phosphorus from wastewater treatment. That cost, and Wallingford right now is involved with three other communities, Cheshire, Southington, and Meriden, out of real concern over this -- this new mandate. It's a new initiative, it may be a great idea, but for Wallingford alone to meet the standards being discussed, our cost will range between 15 and over \$60 million, that's just for Wallingford. Is now the time to take on something like this?

Unless it is of absolutely the highest priority, which probably should mean life and safety is involved, I question whether this is the time to take this on because that cost will be visited upon either rate payers or tax payers, depending upon whether you have an enterprise fund or whether the general taxation funds the municipal utility improvements. So I would suggest adding these other subject matter -- this subject matter to the mitigation of mandates, and that would -- that would be real relief for municipalities. That's the extent of my comments. If there are any questions, I'd be happy to try to answer them.

REP. GENTILE: Thank you, Mayor.

Senator Fasano.

SENATOR FASANO: Thank you, Mayor. Mayor, thank you for coming up to testify. It's good to see you. I know that you and I have always had conversations about the mandates, and you've always had a position if it's mandated upon the municipality, it must be worth doing by this body, then this body should find a way to pay for it and not leave it on municipalities (inaudible). And that's always been your position. I think it's a worthwhile position. On the phosphorus, you said 15 to \$60 million, is that what you said?

WILLIAM DICKINSON: Yes, between -- depending upon the standard, and right now there's a lot of uncertainty about the science, but at a standard that is being discussed, it would range between 15 million to over 60 at a lower standard, that is parts per million trying to remove the phosphorus.

SENATOR FASANO: And do you know how many towns would be affected that would have to also expend that type of money where you have an idea?

WILLIAM DICKINSON: Well, I've been told and I -- I can't swear to the truth, but it's at least 40 municipalities that would, I believe it is not those whose -- whose wastewater discharge enters salt water, but any fresh water discharge would be impacted. Right now we're dealing with it, as I stated, and three other communities. And the cost for those three will -- will easily be in excess of \$100 million. There's no timeline on this. It's something that would have to be done immediately as a discharge permit is -- is issued by DEEP. So if you don't have 10, 15 years in order to accommodate this. Upon being ordered, you would have to immediately begin the

process of design and construction, a serious economic impact.

SENATOR FASANO: Thank you, Mayor. Thank you for coming up to testify.

REP. GENTILE: Any further questions from committee members?

Senator Cassano.

SENATOR CASSANO: Yes, Mr. Mayor, thank you for coming. I'm wondering, do you know of any plans, regional, local, that have gone through this process or completed this process? And can it be done as part of an upgrade of the facility itself?

WILLIAM DICKINSON: Well, I believe, and -- and I hesitate to speak for any other municipality, but I believe Meriden, right next door to -- to Wallingford, is one of those that did -- has -- has constructed an upgrade. There was a standard that was obeyed with regard to phosphorus, and that was -- that was included in that upgrade.

But now they are the subject also of now a change in the upgrade as the science changes, and would -- would have to initiate a new -- new project in order to meet the new standards. So there has been some effort, but it's -- it's -- at the lower cost level, anything beyond the low cost level, really that's when the millions start adding up

SENATOR CASSANO: Thank you.

REP. GENTILE: Thank you. Any further questions?
Thank you, Mayor.

WILLIAM DICKINSON: Thank you.

REP. GENTILE: And just as a point of reminder, we're approaching the one hour mark. Once we reach that, we'll be alternating between elected officials and the public.

Next speakers would be Joyce Mascena and Joe Camposeo. Good morning.

JOYCE MASCENA: Good morning, members of the Planning and Development Committee. My name is Joyce Mascena, and I'm testifying on behalf of the Connecticut Town Clerks Association. I am president of the association and town clerk of Glastonbury. Also joining me is Joseph Camposeo, he's our immediate past president of the Town Clerks Association and town clerk of Manchester. Joe has -- is very familiar with the subject as well and has testified numerous times in this regard.

We are here to testify today in support of the Governor's language in Bill 5035, Section 1, with additional wording to reflect no public agency may disclose from personnel and medical records. And we greatly appreciate the Governor raising awareness to this very important issue.

We are also aware of a potential E-cert -- E-cert amendment to the FOI Section 1-217 proposed by the House and Senate as set forth in memo from Christy Scott to the co-chairs of the GAE Committee. We would support several provisions in that memo. One being public agency employer is prohibited from releasing the residential address of its own protected employee from personnel and medical and similar files.

Also the suggestion that the Department of Labor explore ideas on how the protected employees can

proactively protect their address -- addresses from disclosure in that land records, grand lists, and voter registry lists will not be required to be redacted before disclosure.

As these lists are the main sources for obtaining address information in municipal records, exempting these three main public records renders it pointless to redact from any other public record. These public records are also online in many formats in many municipalities or available also now from some private vendors. There are other provisions in this E-cert amendment that would lead to further confusion, restricted access to public records, and most assuredly lawsuits from individuals seeking access to public records and from protected employees seeking to restrict access to their records.

These provisions are based sometimes on incorrect assumptions that would further complicate an already impossible and unworkable task. There are opt-in provisions which fail to consider how long someone is on this list and what process there is for removing an individual from the list. Who would be responsible for maintaining this list? Would the protected person need to identify him or herself to each public agency? Would this be a proactive provision requiring research in many prior years of public records?

There also is an assumption that FOI requests are always written requests, when in reality many town clerk's records are self-accessed by consumers in public vaults and computers. Some municipalities may get thousands of requests in a given week. There may be -- these may be through telephone, mail or over-the-counter requests. Municipalities do not have a central

database for all town clerk records much less all municipal records. Within town clerk records, different data -- databases exist for vital records, trade names, dogs, absentee ballots lists, and that's just to name a few.

Other public records may be indexed in card catalogs or held in paper format including minutes, notary registrations, campaign finance reports, and petition pages, again just to name a few. There is a more detailed list that's attached to a coalition position paper that is also attached to my testimony. It is unmanageable to check the opt-in list for thousands of requests a week and make redactions in databases.

Another provision in there would hold public agencies harmless for any civil liability if they made a good -- good faith effort. The term reasonable effort and good faith effort leave room for inevitable future court challenge that a public agency failed to make reasonable efforts.

As far as a task force being created that would consider the redaction of names from land records, grand lists, and voter files, that would not be productive. These public records must remain free from redaction. Let us not forget, you can search the internet to find out basic information on just about anyone. For free you can find out a person's residence history, family name -- members, sometimes phone number, and age.

For a small fee, a further in depth search can expose a person's employment history, Social Security number, lawsuits against them for, I guess maybe not just against them, but they're involved in, court documents and much more.

Those wishing to do harm are not using public records any longer to find this information. Municipal records are now considered an outdated source of information compared to what is readily available and easily available on the internet.

In actuality, they really don't need the internet, they don't need your name, they don't need your address, they simply follow you home from work.

REP. GENTILE: Excuse me, Joyce, can I ask you to please wrap up.

JOYCE MASCENA: Yes. Again we support the suggestions of the Department of Labor to explore ideas on how the protected class can proactively protect themselves. And if alternative language to what has already been proposed by the Governor and the House and Senate is not adopted, this will leave municipalities no other choice but to take the advice of their legal counsels and shut down access to public records because of these potential impacted records. Thank you for the opportunity to testify, and we'd be glad to answer any questions.

REP. GENTILE: Thank you so much, Joyce. Any questions from our members? Seeing none, thank you.

And this will be our -- oh, I'm sorry.

Representative Smith, I apologize.

REP. SMITH: it's no problem. Thank you, Madame Chair. Just in hearing your testimony, I had asked one of the previous speakers about their feelings upon land records going online. And I

-- I suspect from your testimony that you have no problem with that because, from what I'm hearing, this information is readily available whether it's a Social Security number, an address, veteran's information, whatever it may be is available somewhere else. Am I correct in that assumption?

JOYCE MASCENA: That is, yes. Also though in Connecticut with land records, there are now subscriptions too that are coming out with land records. So it isn't just up on the internet to log into to see for free. You would have to pay some type of subscriptions charge, meaning pretty much a business-based operation would be willing to pay the subscription fee to get in there. And they're probably not after that information for other purposes other than to transact business. So that is a layer of some protection in Connecticut that -- that may not be happening in other places.

REP. SMITH: All right. Thank you.

REP. GENTILE: Thank you. Any further questions?
Thank you, Joyce. Thank you, Joe.

JOYCE MASCENA: Thank you so much.

REP. GENTILE: Again as means of accommodation, I thank you for your indulgence here, but would Representative Phil Miller please come up and join us. I know you have to go to Environment, you're Vice-Chair there. And then after Representative Miller we'll be alternating with the public. Thank you for your patience.

REP. MILLER: Thank you, Senator Cassano, Representatives Gentile and Grogins, and members of the Planning and Development Committee. I appear before you today to humbly and

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which deals with the prohibition of municipal building standards in areas that are covered by the state building code.

I've been in touch with the sponsor of the bill and he's aware of my concerns which I think are -- are fully capable of being addressed with some minor changes in language. The -- the one thing I would ask the committee to do is to make certain that the bill does not unintentionally preempt some municipal codes that -- that it clearly is not intended to preempt.

The area where I have some concern is sort of two areas which I mention in my testimony. One is the kinds of codes like historical architectural preservation codes and issues like that where there may be some impact on the materials in a building. And the second is there's an exception near the end of the bill for housing codes, and it may be that you want to look at making that pick up commercial as well as residential. Again I've spoken to the sponsor of the bill about this and I hope that the committee will just make some very minor adjustments in the bill. Thank you.

REP. GENTILE: Thank you, Rafie, we appreciate your comments. Any questions from our committee members? Thank you.

We'll go back to our elected officials, Antoinette Spinelli, Town Clerks Association, is next. And she will be followed by Bill Ethier.

ANTOINETTE SPINELLI: Good morning. I'm Antoinette Spinelli, I'm Chair of the Legislative Committee for the Town Clerks and I'm the Town Clerk in Waterbury. I'm here today to testify in support of Governor's language Bill 5035 with additional working to reflect no public agency may disclose

from their personnel records, leaving no doubt that this would pertain to the agency's list of employees.

Clerks know firsthand how unworkable it is to expect redaction of addresses from public records. We know our records, how they are indexed, how often they are accessed by the public, how many different formats of the same record there could be, et cetera.

Unfortunately, individuals have the impression that we can simply enter a name into a database and the addresses will be gone from all town records. It doesn't work this way. And I stress this point because I don't want to give people a false impression that we can accomplish redacting addresses from all public documents.

The Town Clerks Association agrees with the statement made in Governor Malloy's budget adjustments that concluded that this situation is unworkable. I just want to -- I brought along with me just so that you can see, this is one candidate committee filing for the November election. And if you just want to just look, this is one filing for the November election. In here you have many names and addresses. This is a paper document we're required to keep this document for five years. Last week I had two different individuals in requesting to see this document, took notes, I don't -- I don't know what they were looking for, you know, it's not my right to ask what they're looking for. But I -- I'm certain there's individual's names and addresses in here as contributors that fall within the protected classes.

So this is one example of the many paper records that are held in our offices, and they're open to the public. As you can see, address redaction of potentially hundreds of individuals

in thousands of pages of documents in various formats is indeed unworkable. The Connecticut Town Clerks Association has always been thoughtful and cooperative to the needs of all of our constituents. We feel an obligation to tell you and the individuals of the protected classes that this is an ineffective, costly mandate and it only provides a false sense of security.

We recommend a task force to provide education to employees who fall within these classifications so that they can be proactive and prevent their home addresses from appearing on public documents before the document gets to the town hall. So we would be happy and honored to serve on such a task force. And I thank you for your time.

REP. GENTILE: Thank you, Antoinette, we appreciate your comments. Any questions?

Senator Fasano.

SENATOR FASANO: So where it was proposed on the personnel file, you believe we have to really look at it on all documents held by the clerk's office or by the town clerk's office?

ANTOINETTE SPINELLI: Yes, that's -- that's why we're -- we're recommending just a clarification to 5035 that just adds from personnel records, which we totally agree with. As Representative O'Brien brought out before, I think, you know, someone may request a list of employees with their names and addresses, and that would be a first step. So we can certainly support that list not being given out, the list of, you know, employees of a certain agency, corrections officers or police officers.

SENATOR FASANO: Okay. Thank you. Thank you, Madame Chair.

REP. GENTILE: Representative O'Brien.

REP. O'BRIEN: Thank you. I -- I think that the -- the intent of this proposal is to -- so that the residential addresses wouldn't be disclosed of the protected classes, not that the clerks or any other agency would be required to monitor all the records so they don't accidentally give it out. I think that that's what we're really talking about here.

You know, when you bring out those candidate registration forms and all the other records that are in the clerk's office, people's names and addresses may be in there, but I don't think that there's any intent that you be personally responsible -- or any clerk be personally responsible for monitoring all those that they don't accidentally give it out. Am I correct in that?

ANTOINETTE SPINELLI: I -- we're not seeing it that - - what we're seeing is that the way 1 -- 1-217 is written and since the court case decision, the recent court case decision pertained to the motor vehicle list, said that we cannot disclose, no public agency can disclose these addresses.

So if this is now part of the town clerk's public records, this is an example of a public document that I don't know how we would -- it's not entered into a -- all these names and addresses are not in a database in my office. So if there are members of the protected classes on these reports, are we required to redact those addresses before someone looks at the report or takes copies of it?

REP. O'BRIEN: I -- I hear what you're saying, but I -- I think though -- I think that the language, as it's written, okay, except I think that the word personnel should be inserted in there, is so that, you know, basically that you wouldn't give out, you know, someone's -- someone couldn't come to your office and request the address of a Department of Correction worker or a firefighter or --

ANTOINETTE SPINELLI: Right.

REP. O'BRIEN: Not -- not that you should be concerned that you would accidentally give that information when they requested another public record.

ANTOINETTE SPINELLI: Right. And that's why we're -- we're supported 5035, the Governor's Bill, we would just like clarification in there that it does pertain to personnel records.

REP. O'BRIEN: Thank you.

REP. GENTILE: Thank you. Any further questions?
Thank you.

Bill. Okay. Just another announcement for clarification purposes so you guys understand the rules here, I know there a number of you that have signed up for several different bills. As we alternate the testimony, I'm going to try and limit you to three minutes, in the interest of time. And if you could just give me -- give us summary of all the bills you're testifying to, that would be greatly appreciated, particularly if you've submitted written -- written testimony. Thank you.

WILLIAM ETHIER: Thank you, Representative Gentile,

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and Senator Cassano, members of the Planning and Development Committee. My name is Bill Ethier, I'm the CEO of the Home Builders Association of Connecticut. We represent about 1,000 businesses in the state, home building and remodeling throughout the state. Our members build between 70 and 80 percent of all the new construction -- new home construction in the state each year. I have submitted testimony to you on four bills. I'll try to summarize quickly all four in my three minutes.

First bill is on Senate Bill 102. Thank you for raising that bill. This is a -- a very important bill that actually did pass this committee unanimously last year. It also passed the Public Safety Committee 22 to nothing last year. It addresses a serious concern that -- that we're starting seeing in municipalities that some towns are adopting construction standards and methods that are contrary to our state building code. We have had a statewide building code since 1970. I think we were the first state in the nation to have a statewide code, without local option, and that's one of the few regulatory benefits that the state has. So we -- we urge you to preserve that. I have been talking with Rafie about his concerns with historic preservation commissions and I think we can accommodate that, keeping our statewide code, but addressing his concerns as well.

I've also submitted testimony on Senate Bill 107, again, thank you for raising that bill. That's also an important issue that, again, passed this -- this committee unanimously last year. It also passed the Senate on consent, but got held up on the House calendar, so it didn't pass. We're asking for that again. I would offer, as I did in my testimony, some amendments to last year's bill to actually strengthen that

bill a little bit more as a result of a conversation I had with Representative Aman about coordinating better the permit title lines for wetlands with planning site -- site plan and subdivision permits. So I'd offer that to you as well.

And then finally I offer testimony on two bills, the Governor's Mandate Relief Bill, 5035, specifically Section 2, which is also House Bill 5158, identical language. You know, we commend the Governor for offering the Municipal Mandates Relief Bill. And we don't do that because we're -- we're altruistic in nature. CCM stated in its testimony that state mandates impose costs on local taxpayers, both residents and businesses. I represent 1,000 of those businesses, so the less pressure on towns and cities from the state means less pressure to grab fees and charges off on us. So it's not an altruistic notion.

However, Section 2 of the bill which deals with the tax assessments on buildings under construction would do just the reverse. It would allow towns and cities to raise taxes on their own taxpayers. Quickly summarizing, we have offered through our testimony essentially a -- what we think is a de minimis carve-out to the bill's language which would overturn the *Kasica v. Columbia* case. I've provided in my writing a quick summary of that case, so you have that as background, provided language of -- of what we would propose as an addition to this section.

I've also provided to you a spreadsheet that I think was originally provided by the tax assessors showing the \$30 million in lost revenue. And I added to that the number of housing permits in each one of those towns. And

I think if you look through that, you'll see no correlation whatsoever with the amount of tax revenue loss they would experience and the number of housing permits that had been issued in those towns.

So that leads me to believe, and just common sense leads me to believe, that the vast bulk of the revenue loss would come from commercial construction and larger residential. So we think our carve-out would have minimal financial impact on towns, but would be huge to home builders, particularly we're suffering right now a housing depression. It's the -- it's the worst environment for home building that I have seen in 30 years doing this, representing the home builders. So we're -- we're really pleading for you for some relief on that and ask for that carve-out. Be happy to answer any questions on any of these bills.

REP. GENTILE: Bill, thank you for your testimony, and as always, thank you for written testimony which is always very helpful to committee members. Are there any questions from our committee members?

Representative Smith.

REP. SMITH: Thank you, Madame Chair. Just in terms of the taxation for the houses under construction, what is the -- what is the procedure right now as it stands? What is the law right now? Are they taxed while they're under construction or are they not?

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WILLIAM ETHIER: They generally are, although contrary to what I think I heard earlier testimony, there are some towns who do not tax, they -- they do wait for the CO. But I think the vast majority do tax during construction.

What they do is they -- they -- the assessor drives by, they'll -- they'll see a home or another building under construction, they make an estimate of the percentage of completion, and say it's 50 percent complete, and then they raise the -- the value up to the 50 percent of what the expected value is going to be, and then send you a tax bill for that higher assessment.

REP. SMITH: So if this is the standard practice for the most part throughout the state now, that's my understanding as well, then how does this bill change that because I don't see that it does?

WILLIAM ETHIER: Well, the -- the issue arose because of a court case. There was a gentleman, he may even be in the room, I was told he was going to be here, Gene Kasica, who filed a tax appeal in the Town of Columbia for his own home that he was building, and the town raised the taxes partially during construction. He challenged that and won at trial court. The trial court decision, which -- which I outline in my summary in my -- my written testimony, basically overturned the higher tax assessment, and said that towns do not have the authority under 12-53(a) I think it is, to raise taxes until you get a Certificate of Occupancy or if the home is used.

Oftentimes people do move into homes before a CO is issued. So whichever occurs first, that's the trigger point where towns can raise taxes. That case is on appeal. I'm not quite sure what the status is, I don't think it's even been briefed yet, but it is in the Appellate Court. And the bill has been put forward by CCM and the assessors to basically overturn the trial court decision. Because obviously if it's confirmed, it -- it's the law of the case only applies to

the Town of Columbia.

If it's confirmed by the trial -- by the Appellate Court or the State Supreme Court, then it becomes the law of the land, and then all towns would face that change. So this bill would -- would essentially, I guess, codify what the understanding was from towns that they've always done. We think the trial court decision was a sound decision -- sound interpretation of the statute, and also sound tax policy. You've got to remember, there's nobody living in these homes, there's no expenditure of services by towns prior to somebody living in the home. So we think that makes sense that you wait until a CO or first use.

In our proposal we also offered a -- an outside time limit of 18 months after the building permit. It really ideally should be a lot longer. This is no fault of builders that they lose buyers in today's market. They will build a custom home for somebody under contract, but the buyer can't close for a variety of reasons. And the builder is left with a completed home that they're getting a huge tax bill on and nobody is living there.

REP. SMITH: So I haven't had a chance to read your written submission yet. But I suspect the carve-out that is for the home builders association -- for those building residential homes as opposed to the commercial properties, is that correct?

WILLIAM ETHIER: Yeah, our carve-out would be just one- to four-family residential. And we chose one- to four-family because there are many other places in the law that -- that distinguish one- to four-family versus five units and more. Five residential units or more in a building is

considered commercial construction under many other laws. So one- to four-family is your typical one family home, duplex, and town homes often are built with four units in a building.

REP. SMITH: And your studies have shown -- I thought I heard you say that your studies have shown that the loss of revenue to the towns and the cities is de minimus, is that correct?

WILLIAM ETHIER: Well, that's -- that's our educated guess based on looking at the spreadsheet that I provided of the revenue lost as towns have claimed that would occur if that trial court decision is not overturned. We added the number of building permits for the same time frame. If you look -- housing permits, not others. And if you look at -- try to find a correlation there, I challenge anyone to do that.

In fact, there are about 15 towns where I've identified a tax loss where there have been zero, one, or two homes even permitted in that town, yet there are huge tax losses. So that tells me, common sense, that the tax revenue losses are coming from non-residential, from either larger residential or commercial. Evergreen Walk is an example that was mentioned earlier. I fully understand that -- that revenue loss that towns may experience.

So we're asking for a -- and the revenue -- the tax bill may not be an issue to a shopping center development, I don't know, they can speak for themselves. But for a residential developer who is struggling in this environment, they -- they have no income until the home closes and they get an \$8,000 bill for the taxes on a home when nobody is there, that's a huge hit. It's really putting financial pressures on guys that they don't need right now.

REP. SMITH: You know, I agree with you. I think that is a fair assessment. You know, if we're trying to say we're open for business and we're trying to help the small businessman and the contractors. We all know once construction gets off the ground, the economy seems to pick up. But if these contractors have to reach into their pockets to pay an \$8,000 tax bill or a \$10,000 tax bill or a \$20,000 tax bill depending on where you're building, obviously they're not going to build or they're going to -- or the house then goes under foreclosure or a tax foreclosure, so there's a lot of ramifications of -- of what this bill may do. And I'd like to see your carve-out, I'll take a look at it, but that's something that I think at least I could support. So I appreciate you being here today and -- to give us that input.

WILLIAM ETHIER: Thank you. And if I could just say, when times are good and home building is really robust, this is not an issue for anyone. Homes are built and sold and closed a lot more quickly. So a builder doesn't care, yup, you close, you get a CO right before closing, and tax bill is paid. Our proposal would also preserve a town's ability to essentially capture retroactively the higher value back to the point of the CO or first use. Or as I think Senator Fasano suggested they could do a supplemental assessment from the CO point on. So they -- they never lose anything in terms -- related to the services they're providing to that particular home. Nobody's, you know, no public school kids in school, nobody is going to the library, nobody is using any town services because nobody is living there.

REP. GENTILE: Thank you. Any further questions?
Thank you, Bill.

WILLIAM ETHIER: Thank you.

REP. GENTILE: Appreciate your testimony.

Joe Quartiero followed by Mike Sinsigalli.

JOSEPH QUARTIERO: Thank you, Madame Chairman, distinguished members of the panel, good morning. I am Joseph Quartiero, Town and City Clerk of Torrington. I am a retired state policeman, having spent 14 years on patrol and desk duty, two years as an inspector in the state's attorney's office, and nine years with the Western District Major Crime Squad. I'm here to testify in support of the Governor's Bill 5035 which would clarify that an agency's personnel records would be protected from disclosure in the Freedom of Information.

I'm here to give you my perspective as a town clerk and a policeman, a stark contrast in careers. During my career as a state policeman, my name and address and phone number along with many other state policemen who resided in my home town and many other towns was readily available in the -- in the phone directories as well as the city directory which were published years ago right up to the late '90s. It has their career and where they live in the book.

Now I can't say that I was never threatened. As a policeman, I was after affecting an arrest, but generally I had an apology after the person's mental capacity came back to them after a few hours. At no time either I or any policeman that I know of in the -- in the northwest corner of the state has anyone ever tried to find us by locating my home and harming us. Policemen are injured on duty, generally in traffic stops -- mostly in traffic stops and

sometimes in domestics.

My cruiser or assigned vehicle and all other state police vehicles are seen parked in our driveways in our off duty hours. Anyone looking for me or anybody else that was a policeman can find us very easily by going to the local coffee shop. Everybody knows where the policemen lives in their town. Local police officers are well know to everybody who live in their town and anybody could find where they want -- anybody could find them if they wanted to without accessing the city clerk or any town records.

Upon graduation from the academy, state policeman's names and addresses are -- residence and their assigned duty stations are listed in the newspapers. And generally local police officers are appointed by the board of safety of their towns, their names and addresses are listed in the newspapers. At no time during my 18 years as a city clerk has anyone come to me personally and asked for a policeman's address or a fireman's address or a judge's address or a lawyer's address. And if they did, I would question them but they could go to the records and find it.

All judges and lawyers have practices in their towns or nearby towns and generally they're in the Yellow Pages, their business address. It would be very easy for anyone to look up their address and follow the person home if they wanted to harm them. I see no need to redact any information concerning the address of anyone including policemen, firemen, lawyers, et cetera from any town records. It is very easy to determine where people live, and redacting them from the city clerk records or any city records would be pointless let alone time-consuming and would create a financial burden on all town

budgets.

The Governor's proposed changes in H.B. 5035 correct the situation for town clerks, assessors, tax collectors, and numerous municipal offices that is currently unworkable with the Supreme Court decision. Thank you.

REP. GENTILE: Thank you, Joe, appreciate the time coming up. Are there any questions from our committee members? Thank you.

JOSEPH QUARTIERO: Thank you.

REP. GENTILE: Mike followed by Gian-Carl Casa.

MICHAEL SINSIGALLI: Good morning, Madame Chairman, members of the committee. My name is Mike Sinsigalli, I'm an Assistant Fire Chief for the Town of West Hartford. And while I'm not here in this capacity, I would like to disclose to you that I am a member of the State Codes and Standards Committee. But my testimony in no way today represents that of the committee or any positions that the committee will take.

I have submitted written testimony to you, and I would just like to highlight one part of that testimony. We've heard a lot today about the financial -- the financial distress that many communities and throughout our state are in. West Hartford is by no means exempt from that. But this bill, Bill 102, which is the building construction code bill, in essence will take away the community's ability to shape its future by -- by considering its future fire protection needs.

You know, Section -- Section 8-2 of the General Statutes which this bill amends, gives a municipality the right to secure itself from

community's ability to shape its own future and to shape its community when you're deliberating on this bill. And I thank you very much for your -- opportunity to discuss this with you.

REP. GENTILE: Mike, thank you for your testimony. Are there any questions from our committee members? Seeing none --

MICHAEL SINSIGALLI: Thank you.

REP. GENTILE: Again by means of an accommodation, can I please have Gian-Carl Casa. Thank you for your patience. Good afternoon.

GIAN-CARL CASA: Good afternoon. Thank you, Madame Chairman, members of the committee. I appreciate the accommodation. My Name is Gian-Carl Casa, I'm Undersecretary for Legislative Affairs at the Office of Policy and Management. I'm here to speak in favor of the Governor's Bill 5035 which would reduce cost drivers for municipalities.

You've heard quite a bit on the FOI provision, I don't think I need to belabor that. I do want to touch on a couple of the others. I don't believe anybody has mentioned today the phase-out of health insurance premium tax on municipalities. This costs municipalities about \$9 million a year. It -- that is, of course, also the amount of state revenue from that tax. Because we are dependent on revenue and we're in another tight fiscal year, we propose to phase that tax out so that by year -- calendar year 2016, municipalities will no longer have that burden at all.

The -- another provision of the bill, Section 6, relieves from municipalities the cost of storing the possessions of evicted tenants. A couple of

years ago this committee took from municipalities -- relieved municipalities of the responsibility to collect and store those. That's been a help. Our understanding that it has been a significant help to many communities. But for larger municipalities, the storage cost still are in the hundreds of thousands of dollars, can be in the hundreds of thousands of dollars. And we believe that in this fiscal environment, this kind of relief is -- is well warranted.

I do want to touch for a second on the assessment of partially completed property, which is discussed in Section 2 of the bill. The -- just want to say for the committee's benefit, this is a clarification, it's not a change in law. In almost every community this is -- the assessment on partially-completed property has been -- has been practice for years and years.

Statutes are not clear in some places, but, in fact, just to give one example, there's a statute that exempts partially completed church property specifically from that kind of assessment. If -- if the ability to assess wasn't in there, there would not have been a need to create a special exception for church property. So the law clearly suggests or strongly implies in several sections that -- that municipalities do have this ability.

They also -- I also want to repeat what some people have said earlier. This is \$30 million in revenue to cities and towns. We know they need it. If they don't have this, it will come from elsewhere. It will come from other property tax payers and that indeed would be a change because current practice is to allow this kind of assessment. Thank you very much. I

appreciate the opportunity to once again come before this committee. I haven't done it in a year or two, and I do appreciate the efforts that -- that this group makes in trying to be attentive in getting local governments to work efficiently and effectively. Thank you.

REP. GENTILE: Gian-Carl, thank you for your testimony. Are there any questions from our committee members?

Representative Aman.

REP. AMAN: Yes, on the storage of the -- an evicted tenant's or a foreclosed tenant, this is something this committee has probably had a bill every year since I've been here regarding it. It's a basic problem of there's no winners in this whole thing, whether it's the landlord, the tenant or the town, everybody is losing by this.

By the municipality at this point being able to assess the landlord for the cost of storage and disposal of the goods, how would that be -- be set or negotiated between the municipality and the landlord? Once it goes into a storage facility, how is that fee going to be determined what that cost is? I know a lot of towns go way beyond the 15 days that's required in storing the material. But how are those costs going to be allocated back to the landlord?

GIAN-CARL CASA: Right now if you -- if you ask local governments what their costs are, they can tell you. They can tell you, for instance, what they pay in terms of rent, they can tell you what they pay in terms of staff time for -- for the storage. For instance, in the City of New Haven, I think, let me see where I got it written down here, I got a couple of numbers for you. City of New Haven, they're looking at

costs of at least \$250,000 a year for storage, Bridgeport about \$86,000, Waterbury a little less than that about \$76,000.

So they can calculate the cost of storage. Right now the statute says that the town can assess the property owner, the person whose been evicted because they don't have any money for the cost of storage. And I assume that in whatever manner municipalities do that calculation, they would do the same for landlords. It's -- it's our belief that this is a contractual relationship between landlords and tenants. And the involvement of municipalities really isn't appropriate in this situation, and, in fact, most states do not involve municipalities in this situation.

REP. AMAN: Can you -- it's my understanding from prior testimony at public hearings on this, that a -- either a majority or a large percentage of the storage cost evicted tenants possessions and problems are at housing authority projects mainly because they are dealing with the lower income individuals and -- who are not going after their possessions because they have limited if any value to them.

Is there any breakdown about those storage costs and how much of it is just going to be allocated back to the housing authority which means one part of government is billing another part of government and -- to accomplish it?

GIAN-CARL CASA: Yeah, I don't -- I don't know. Certainly the idea that one part of government taxes another part or charges another part is sort of a strange situation, which is why we proposed the elimination of the premium tax in this bill as well. I do -- I do think -- well, you will be hearing from people from cities,

some -- some large communities that do have housing authorities, and hopefully they'll be able to break that out better for you.

REP. AMAN: And it is something that, again as I said earlier, that there are no winners on it. The landlords are looking at it and going, I haven't been paid in a long period of time. No matter what they say, it takes a lot longer to get a tenant out than it should, I've already lost a lot of money as far as they're concerned, they should just throw the stuff in the dumpster and re-rent the unit.

Society has said, no, that's not a good idea. And then the landlord's argument back on that, of course, is, well, if society says it isn't a good idea to throw away the tenant's possessions, society should pay for it, I shouldn't. So that -- that's the argument that has been going around in circles on this. And unfortunately this law is only been in effect since October, and I don't know if it's really had a -- a chance to see what all the unintended consequences are over the last few months.

GIAN-CARL CASA: I know the costs, for instance, I believe Waterbury told me that they had been paying \$99,000 for -- a year for the whole kit-and-kaboodle, and for just the storage it's about \$76,000.

REP. AMAN: Thank you very much.

REP. GENTILE: Thank you. Any further questions?

Representative Reed.

REP. REED: Thank you, Madame Chair. Good afternoon.

GIAN-CARL CASA: Good afternoon.

REP. REED: I just wanted a point of clarification on the -- the savings on the health insurance tax on municipalities. The onus is now going to be on the municipalities to pass that through to the property taxpayers?

GIAN-CARL CASA: No, right now when municipalities are billed by the insurance companies, it's all one big bundle. So you can't say, oh, okay, this is what we're paying in terms of premium tax. It's -- what we're asking in this bill is that the insurance companies spell out when they give the bill to the municipalities what in the first year is 1.75 percent, what in the next year would be half of that, and then in the third year half of that again. So that municipalities would be assured that the savings from the -- from the payment of the -- the non-payment or the lower payment of the tax would be accruing to the municipality rather than to -- hidden in the bundle of the charge from the insurance company.

REP. REED: And then it's up to the municipal official structure to make sure that the -- the number that they're now realizing that they're seeing gets passed through to their own property tax payers?

GIAN-CARL CASA: Yes, absolutely. This year's estimate of \$9 million remember is a percentage on the -- that number is going to go up each year because health insurance costs rise each year for municipalities. What this -- what this also does is it puts smaller municipalities on an equal playing field with larger ones. The smaller ones can't afford to become self-insured, so they -- they buy -- they purchase policies. The self-insured municipalities don't pay the 1.75 percent tax.

REP. REED: Thank you. Thank you, Madame Chair.

REP. GENTILE: Thank you. Any additional questions?
Gian-Carl, thank you for your testimony.

GIAN-CARL CASA: Thank you very much.

REP. GENTILE: Ron Thomas, CCM. Once again I believe that we have your testimony before us. And you're here for several bills, so if you could summarize in the interest of time that would be great. And Ron will be followed by Essie Labrot just so you can get ready. Thank you.

RONALD THOMAS: Good afternoon. Again my name is Ron Thomas, Director of Public Policy and Advocacy for CCM. And in the interest of time, I'll just focus on one bill and make comments on a couple others, if you don't mind.

I'd like to start with Senate Bill 103, AN ACT CONCERNING CONSOLIDATION OF NON-EDUCATIONAL SERVICES. CCM strongly supports this bill. We think it's an inter-municipal cooperation initiative that challenges communities to seek greater efficiencies. We think it's -- it would be a -- a mechanism through which more municipal officials can think of ways to govern smarter. We think it's a good government proposal that everyone should support, and we strongly urge the committee to support this proposal. You did last year and it didn't quite make it through the whole legislative process. We hope that it will this time.

I've listed several other bills that CCM is commenting on, pro and con. But I'd just like to make, if I could, Madame Chair, a comment or two about some of the issues that were discussed during my remaining minutes. With regard to the

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tenant evictions issue, I definitely understand what you're saying in terms of there being no winners in that it's a very complicated issue. I would just urge you to think about the OLR report that was given out a couple years ago that looked into 37 states, and Connecticut is the only one of those states that has towns involved in what is essentially a landlord-tenant issue.

And again no one is more concerned about the rights of people who are evicted than CCM, it's -- and mayors and council members. The thing is again why should towns be forced to pay for something that -- for a process that they shouldn't involved in? And with regard to the partial construction issue, I would just urge you to again look at CCM's testimony not just focusing on the \$30 million, which is real. You're going to hear from some assessors a little bit later who are going to focus on it in detail, they did the survey.

But I urge you to look at the testimony that focuses on 12-88 is what Mr. Casa spoke about before, you wouldn't have an exemption for certain types of entities if -- they wouldn't exempt you from something that didn't exist. So I mean obviously this is really a clarification. So that's all I have to say. Thank you.

REP. GROGINS: Thank you so much. Are there any questions? Any questions from the committee? If not, we appreciate your testimony. Thank you.

RONALD THOMAS: Thank you.

REP. GROGINS: Next we have Essie Labrot.

ESSIE LABROT: Good morning, distinguished members of

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the Planning and Development Committee. My name is Essie Labrot, and I am testifying on behalf of the Connecticut Town Clerks Association. I'm the Vice Chair of the Legislative Committee for the Town Clerks Association and the Town and Council Clerk of West Hartford. And I'm here to testify in support of the Governor's language in Bill 5035 with the additional wording to reflect no public agency may disclose from their personnel records.

You have my testimony, but I would like to show you an example of a -- of a request that my office has received and other town clerks in the state. And it's a simple form letter and it says I am respectfully requesting that effective immediately my residential address be withheld on any and all documents maintained by the town.

Now aside from our 15 different databases that we have in my office, we also have a number of manual-type reports that previous clerks have testified on. So in order to comply with this request, I would have to think of has this individual spoken at a public meeting? Oh, yes, I have hard copy of those verbatim minutes, I have electric archives. If that person's name and address is somewhere there, how do I find this?

Did this individual ever donate to a campaign? I have thousands campaigns -- of campaign reports, and there is no database on that, and they are in a file, by date. Did the person ever serve on a board or commission? I have names and addresses of those and those are on index cards and there's thousands of those. Did this person ever sign a referendum petition? In West Hartford when we have referendums, there are 3,000 signatures with addresses, and they are hand written. They are not in alphabetical

order and they are in no particular order. So this is just an example of the type of documents that we would have to sift through to try to sort out these addresses. It's impossible to calculate the cost of this.

West Hartford typically receives over 50,000 requests for various records per year and they're by phone, email, in person. We don't even know what people are looking for when they're asking for records. So that's -- thank you for this opportunity to testify, and I'd be happy to answer any questions you may have.

REP. GENTILE: Essie, thank you. Questions? Okay.

Peter Sachs followed by Louisa Trakas.

PETER SACHS: Good morning, Madame Chair, members of the committee. My name is Peter Sachs, I'm from Branford, Connecticut, and I'm here to speak in support of 5035, and specifically its provisions with regard to redaction of records. You've heard from many people today all saying pretty much the same thing and all of which I agree with entirely. But since in 2008, I'm the one who started this whole thing, I figured it was only fitting that I be here at the end of it, which -- which I'm hoping that wasn't it.

There have been arguments before and decisions made by the Freedom of Information Commission, the Superior Court, and the Supreme Court. And as we know, the Supreme Court decided that 1-217 was not only a valid statute, that it was workable. So after they reached that decision, I decided to prove that it was, in fact, not workable and not possible to comply with the statute.

To that end, what I did was I sent what has been

dubbed the impossible request to several municipalities and state agencies around Connecticut asking for exact electronic copies of motor vehicle grand lists, real estate grand lists, personal property grand lists, trade name certificates, dog license lists, lists of appointed and elected officials, public meeting minutes, existing -- all existing petitions, all existing lists of registered voters, and all existing land record filings.

And specifically I asked that all of those documents be provided to me in a manner that complied with 1-217, as the Supreme Court said was required and possible. From each of the municipalities that I requested that information, I received the same response, they have no such information in a form that complies with the statute. From the Secretary of State's Office who I requested the master voter database, I was informed that there is no such document nor could there ever be such a document.

And from the Department of Public Safety who I requested a copy of the SPRC database, the criminal conviction database which is historically an open document, I was told that no such document exists in a form that is compliant with the statute. Interestingly, the Department of Public Safety was one of the several agencies that argued against the Freedom of Information Commission and me claiming that the redaction statute was valid and workable.

So it's abundantly clear from the uniform responses to my requests that public agencies cannot comply with 1-217. If this is not proof that the statute is unworkable, I don't know what is. Laws that are illogical, laws that are unworkable, laws that are impossible to comply

with, and laws that force public agencies to break laws, are nonsensical. And 1-217 is all of these. The statute in its current state is not only an unfunded mandate, any attempt to fund doing something that cannot be done, by definition is a complete and utter waste of taxpayer dollars.

The proposed changes to 1-217 found in Governor's Bill 5035 will eliminate this mandate and allow those wishing to be protected by the statute to do so without requiring public agencies to perform impossible tasks at their own expense. I urge the Legislature to adopt the proposed changes to 1-217 including the additional language proposed by several other speakers this morning, to preserve the traditional openness of public records in Connecticut. I thank you for your time, and I'll be happy to answer any questions.

REP. GENTILE: Thank you, Peter.

Representative Reed.

REP. REED: Thank you, Madame Chairman, and welcome Mr. Sachs. Thank you for your testimony. I think all of us are pretty curious, was this an intellectual exercise on your part or why did you do this?

PETER SACHS: Yes, I've been asked that many times. Back in 2008, I did it as an academic exercise. And the FOI rules had not been tested amongst all the municipalities in Connecticut for quite some time. So I sent the exact same request to all 169 municipalities to see how they would react. And I got a reaction which ultimately ended up being what the Supreme Court said it was back in June.

Because I felt that that decision was extremely ill-informed, I decided to once again prove that it was ill-informed to prove that it cannot be complied with. And I think I've done just that by showing that municipalities, state agencies, and even those who were arguing in favor of it cannot comply with it.

REP. REED: And I think I speak for all of us when I ask the next question, what is your next target so we can get out ahead of it?

PETER SACHS: I'm not going to reveal that.

REP. REED: But there is one?

PETER SACHS: There is.

REP. REED: Thank you for your testimony. Thank you, Madame Chair.

REP. GENTILE: Any further questions? Peter, thank you.

PETER SACHS: Thank you.

REP. GENTILE: Louisa Trakas.

LOUISA TRAKAS: Good afternoon. Thank you for the opportunity to testify. This is actually my first experience here and I'm finding it very interesting. And I found it very interesting to know why Peter Sachs requested what he requested. I'm Louisa Trakas, I'm testifying on behalf of the Connecticut Town Clerk Association. I'm the elected Town Clerk of the Town of Plainfield. I'm here to testify in support of the House Governor's Bill 5035 with the additional language no public agency may disclose from their personnel and medical records.

This would leave no doubt that this would pertain to an agency's list of employees and medical records which would be specific records that can be easily kept confidential. As you've heard in further testimony or previous testimony, there are many types of documents that are filed in -- in 169 town clerk's offices in Connecticut which it would be impossible to redact the information you're asking for.

1-217 must be amended as it would be impossible for a small town such as Plainfield to redact the information on these various documents. The cost of this endeavor would cripple small towns in Connecticut. Plainfield is a relatively small community. State and town police officers as well as corrections officers living and working in my town often park their cars in their driveways, play on local softball leagues, coach their children's athletic teams, and pose for annual calendars.

These highly respected men and women can easily be located with minimum effort. Though we agree that these people have serious concerns, unfortunately we are sure that redacting their addresses from the documents recorded in our offices would not give them the protection they seek. We encourage a task force to discuss more effective methods of protection -- protecting these groups. Thank you again.

REP. GENTILE: Thank you, Louisa. Any further questions? Okay.

Rafie Podolsky followed by Win Donlin.

RAPHAEL PODOLSKY: Madame Chairman, thank you very much. My name is Raphael Podolsky and I'm a Lawyer with the Legal Assistance Resource Center

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in Hartford. For members of the committee who may not know, the Legal Assistance Resource Center is part of the legal aid programs. A large part of what we do is we represent tenants often in evictions. And from that perspective I want to speak to you about House Bill No. 5035. In particular, we ask that you remove Sections 6 and 7 from the bill and by doing that leave the status quo in place.

Let me give you just a little bit of background. Some of you have heard this in previous years, but there's been a lot of -- two years ago the statute was changed as a result of a compromise, and I think it's a serious mistake to change that compromise at this time. Since the 1890s, Connecticut has required municipalities in evictions and foreclosures to pick up the property at the end -- at the end of an eviction or foreclosure and store it. This was not as a favor to anybody, this is part of the police powers of the municipality. It was designed to prevent conflict, to make sure there's some neutral entity always buffering between landlords and tenants in the process, and it also recognized the difficulty of getting property back for tenants from -- if they have to do it directly with landlords.

It -- it has been a solution that I think worked pretty well over the years. The towns did not like it and insisted on treated this as a private contractual matter rather than seeing it as part of their duties as -- as health and welfare for the -- for the community. Initially there was a compromise that allowed commercial properties to be treated differently, and at that time everyone said, okay, we understand. Commercial properties, residential properties raise different issues than commercial ones. We preserve those protections and that procedure

for residential.

Then two years ago I think everyone very reluctant, we allowed what was supposed to be a minor change which was -- that was supposed to give some significant relief to municipalities which was instead of picking up, storing, and if necessary, auctioning, the landlord through the marshal would be responsible for the pickup, the town would continue the rest of responsibilities. What this bill does is -- is it imposes the cost of those remaining responsibilities on the landlord.

Now I'm -- I'm a tenant representative, I'm not a landlord representative, but what this bill, I think in effect do is destabilize the situation and result in -- in much pressure to change it even further. The -- the -- by law, the tenants are liable for the cost of both of moving and of storage. The tenants typically don't have a deep pocket, and if they don't claim the property, then the town has a difficulty in collecting.

So what this bill does is it gives the town sort of a -- more of a pocket to go after. But it's not -- by law the proper pocket is the tenant, in all candor. And what it does is it makes people feel that they're being treated very unfairly. But the point of the compromise -- I'll close quickly -- the compromise was -- nobody liked the compromise.

But the compromise in that landlords and tenants and I guess to some extent municipalities, although they were the main beneficiaries, the making it -- unbalancing that now, I think just creates -- is going to create a lot of conflict. It's unnecessary and I'm extremely skeptical of the dollars that you are being told in terms of

savings, because two years ago, a large portion of the municipal cost was supposed to have been taken care of by transferring the moving.

And now all of a sudden it seems like, well, it was barely touched. So I would -- I would urge you to -- it would -- to take those two sections out of the bill. Thank you. I'd be very happy to answer questions.

REP. GENTILE: Great. Thank you. I do have a question for you -- considering -- with regard to the compromise that was reached in 2010. I'm assuming that you were part of those negotiations?

RAPHAEL PODOLSKY: I was.

REP. GENTILE: Have you reached out to any of those principals with regard to this bill, and is there any movement in any kind of compromise going forward?

RAPHAEL PODOLSKY: As far as I know, I mean you obviously have to ask others. Sort of the -- apart from -- from municipalities, the principals that were involved in discussions I was involved in were landlords, tenants and marshals. I don't know that the marshals have a position on this.

My belief is the landlords are very strongly against this and I'll leave it to them to present their own points of view. And -- and as far as I know, there's -- the sort of the tenant views are being challenged -- are being channeled through me. And we think this is simply not a good idea to -- to undo the compromise. I don't know if that answers your question?

REP. GENTILE: Thank you.

Representative Aman.

REP. AMAN: Yes, as a practical matter, have you represented any tenants against landlords for disposing of their possessions without following the law? Because I've heard from landlords who have said, I pull up a dumpster, load it up with all their garbage, and let them sue me if they want to.

RAPHAEL PODOLSKY: Well, I personally --

REP. AMAN: Because they don't want to get involved with the marshals and the town.

RAPHAEL PODOLSKY: I personally have not. I've heard stories. It -- it appears that the number of -- of times the marshals are called by landlords to -- to carry out the executions is down while the number of evictions is not down. So there's -- there's some cause for concern that people are now following the law or using self-help. We -- I -- I have talked with property owner organizations about ways to try and reduce the cost of the moving so that -- because there have been cases when the moving costs were a good deal more than anticipated.

I don't know if you recall, but two years ago it was approximated it would be in the hundreds -- the marginal increase would be in the \$150 - \$200 range. Sometimes it is, but also sometimes it's a good deal more, and we've tried to talk with people about that. In terms of whether there is, you know, simply violation of the law, I can't say with certainty.

I have not been involved with any client on that particular issue. But there are certainly some

cause for suspicion that -- that some of that may have happened. I'm not sure where you're going with the question, so I guess I should leave you to ask the follow up.

REP. AMAN: The, as you know, I was working on that compromise with you and things and it's not an easy thing to do. And I just was trying to figure out were there unintended consequences of it that you were aware of of now that the -- the landlord had to pay for the marshals cost were they saying I'm not going to do that, I would rather break the law than absorb the marshal's cost?

RAPHAEL PODOLSKY: I think there's -- I don't want to say things that I don't know for sure. I think there's reason to believe that there has been -- that the -- that the cost generates a negative reaction especially among non-institutional landlords. And that then it induces people to look for ways to avoid the cost. And so -- so I mean I think, yes, there has been some of that. This seems to me exacerbates -- the bill exacerbates that problem by adding to the cost.

And from the perspective of tenants who I represent, we -- it's really important to keep the role of a neutral third party and not create a situation in which there is no such third party. Whether that means the goods are just thrown out or whether they have to be reclaimed through the landlord, they may not even have an office, may not have business hours, that -- that we want to preserve those elements. And nothing in the change from two years ago was supposed to lose that aspect.

But I think Sections 6 and 7 have the capacity to generate things in that direction, and I think it is -- which is one reason why I think

that it is a mistake for everybody, both for landlords and for tenants, to put -- to undo that -- that compromise. And I mean, yeah, I think we're concerned about -- about self-help and non-compliance with the law.

And I suppose the more the costs are added on to the landlord, the greater the chance becomes that that's what will happen. And a lot of it, you know, to the extent -- the marshal is not a public process. Nobody knows for sure what's going on, and that can be very damaging in all sorts of ways.

REP. AMAN: I -- I thank you for coming forward, and I'm sure we're going to have other discussions out in the hallway on this and what type of changes, if any, this committee should make.

REP. GENTILE: Thank you. Any additional questions? Great. Thank you.

RAPHAEL PODOLSKY: Thank you very much.

REP. GENTILE: Win Donlin will be followed by Marshall Collins. Is Win here? All right. We'll move on to Marshall.

MARSHALL COLLINS: Yes, thank you. For the record, my name is Marshall Collins, I'm appearing in my capacity as the Counsel for the Connecticut Coalition of Property Owners, it's the largest landlord property owner organization in the state. We're here to talk about Sections 6 and 7 of House Bill 5035. And I welcome the opportunity -- the opportunity to speak after my good friend Rafie Podolsky.

And clearly what we've got is a problem. Yes, there was something two years ago. We had hoped this issue was not going to be brought up again.

This is a three-legged stool, and I'll cut through -- I filed testimony with you. This is a three-legged stool. You've got the municipalities, the landlords, and the tenants. And the problem with this is is that from day one the municipalities and the landlords say we didn't do anything, we shouldn't have to pay these costs. You've heard the tenant's position that this is part of the police power. And so how do you come up with a solution that keeps -- that protects the interest of all three parties?

This doesn't do it. Sections 6 and 7 basically, as Rafie quite properly noted, the municipalities and Rafie referred to the landlords as the deep pockets in this situation. Where's the fairness on that? What if you -- think about it. You've got an elderly couple with a three-family house. They're retired, they rely on this, this is their income. And all of a sudden, you know, after several months, they get stiffed. Somebody doesn't pay rent for several months, they have to go to court, it's expensive, they've lost several months rent. Now they go to court, legal expenses and so forth, and the court finally says, yes, Mr. Landlord, Mrs. Landlord, you are correct. You didn't do anything wrong and the tenant gets evicted.

Now what this bill proposes is that it's going to be even worse. It's going to be more expensive to get your property back. That's not fair. We have never agreed that the municipalities should have to pay for this. We think, as Rafie said, it is the responsibility of the tenant. Now how do you do this? You want to avoid confrontations, but I think if you -- we offered a solution a couple years ago, and I think I'll toss it out again.

If you had -- I think the landlords would be willing to consider let the tenant stay in the property for a week after judgment, right in the property -- in the apartment, rent free. At the end of the week, they'd have to get out when the marshal came to serve the papers, anything they left behind after a week, okay, would be abandoned property. This way they don't get separated from their property. The tenant doesn't have to go pay to get their stuff back. The landlord is going to get their property back sooner. The city gets out of storage. The landlord may lose a week's rent, but they're not going to have to pay, I mean to inventory the stuff, box it up, move it out, transport it to the city, you'd get out of that.

That balances all the interests. Okay. It's -- it's a difficult situation. I'll close partly by saying this thing is poorly drafted as well. Look at line 300 of the, you know, of the bill. And what it essentially says is that the tenant can have an additional, prior to the expiration of the 15-day period, they can request an additional 15 days to reclaim their possessions and effects and pay the expensive of the storage. Now does that mean that, okay, the city has got to store it for 15 days and they can bill the -- the innocent landlord for this when it doesn't -- the auction doesn't cover the stuff. But if the tenant wants an additional 15 days, does the landlord have to pay for that or does the tenant have to pay for it?

I've spoken to, you know, Gian-Carl Casa in the Governor's Office, we're certainly willing to work with you and anybody to try to resolve this issue. This is no compromise, this views landlords as deep pockets, it victimizes the wrong people. It's time to resolve this issue once and for all. You have the opportunity to

do it. We didn't bring it up. We weren't going to bring it -- CCM took it off their agenda, it wasn't even on their agenda this year. So this is -- has been dumped in all our laps and we weren't happy about this so-called compromise a few years ago, but we had to live with it. So anyway that concludes my testimony. I'll answer any questions you've got. It's a -- it's a bad situation and this makes it worse.

REP. GENTILE: Marshall, thank you for your testimony and thank you for your willingness to work with this going forward. Questions?

Senator Fasano.

SENATOR FASANO: I was sharing with the Chairman earlier when they asked Rafie how come -- how did the whole landlord thing paying for the storage of the equipment, I mean that came in because the Legislature was hot on municipal relief, and the argument that CCM put forward was if you're going to tackle the eviction process it would cost all this money for us and dah, dah, dah, dah, dah. So the bigger picture was being worked out, and then this got tagged on as, hey, here's some frosting on the cake to help get it through the Legislature. So I understand that when we do stuff like that, doesn't usually go well and here's an example.

Let me ask you a question, you're -- what you're saying is that if someone moves out of the apartment, the rental unit, the landlord would wait a specific period of time and then there's assumption that its abandoned. Is that correct?

MARSHALL COLLINS: Correct.

SENATOR FASANO: Now the only problem with that is, I'm sure Rafie would probably want to get back

up on the mike on this one, but the only problem with that is the abandonment of a property, from a guy who does evictions for landlords, the abandoned property is a very, very truck issue of when someone is deemed to abandon a residency? And it leads to a lot of complicated factors because if you're wrong, you know, they had a death in -- in the family and they went away for two weeks whatever that period is, you're subject to significant, significant penalties.

So it's a very touchy feely thing of when you can and when you cannot do it. I understand and there's going to be a lot more conversation, if a tenant moves out and is kind of enough to say I'm going, I'm out of here, you know, maybe that's abandonment. But I'd be kind of afraid to say a period of time because it just gets kind of tricky.

MARSHALL COLLINS: Senator, I'm a -- my suggestion as a concept is only after judgment is issued. And it usually takes a day or two for the writ of execution to be served anyway. So give the tenant some more time, and again you have -- I'm trying to come up with a way to balance the interests. It's going to save that tenant some money, they don't have to pay to get their stuff back, they still have it. And I think you pretty clearly defined it, I mean if the court has said you have after a date certain no right to be in there and anything becomes abandoned property, we clarified it pretty -- I think it could be written.

It's a concept that should be looked at. We're not in favor of self-help and if we want to try and avoid the confrontations. But this is -- this is quite frankly ridiculous the way it is today. And if you sit there and dump this

additional cost on landlords, who do you think is going to pay it? The poor tenant that pays his rent is going to see higher rents wherever possible.

SENATOR FASANO: I'm not disagreeing on the issue that --

MARSHALL COLLINS: Legally we can draft it to address your problem, I believe.

SENATOR FASANO: I'm not worried about -- or I'm not concerned about that issue with the landlord paying, because I think that is the wrong issue. And I think Rafie agrees with that being the wrong issue. The question is -- there is some validity because now things are starting to come back to me. I think Rafie made a point when we did this the last time that, you know, we were saying, gee, a lot of the stuff left over doesn't have a lot of value.

But it's still somebody's possession, and I think that's what Rafie had said the last time we went through it. I think that we need to discuss this portion and figure out a compromise, and, you know, maybe you guys can talk a little bit and share some ideas. I understand your point, but I understand possession is possession of property.

MARSHALL COLLINS: Senator, we didn't get into that -
- just to respond. You talked about, you know, the one man's junk, another man's treasures -- persons, and we didn't even get into that. And the fact is that this makes sure that that tenant doesn't have to pay -- I mean when the auction doesn't pay for the cost of the storage, you know, but that stuff has a -- may have sentimental value to the person, let them keep it. That's the idea. Let them control their

property.

Don't take it away and put it in a landfill waiting to go from one side to the other which some towns do. Let them keep their property, give them a week rent free. That -- we're trying to balance those interests, and it's the only -- the municipalities don't care, they just want out, you know, they don't care who pays whether its Rafie's people or my people. And it's -- and that's not right.

I mean we're trying to save the towns money, the landlords money, and the tenants, save them aggravation, you know, let them keep their stuff. Just as he says, that stuff that is so dear to them, let them keep it.

SENATOR FASANO: Thank you.

REP. GENTILE: Any additional questions?

Representative O'Brien.

REP. O'BRIEN: Thank you. I just have a couple of questions because this is a process I'm not really familiar with. How -- how long does it take to evict somebody? Doesn't it take a long time?

MARSHALL COLLINS: It can take -- if you do -- it can take months. Some people if you hit it, Senator Fasano knows, if you hit everything right on the money, six weeks roughly. Sometimes, you know, maybe a little more. Sixty days probably is the best you're pretty much going to do. But don't forget that's, let's assume two months for round purposes that you don't everything right on all the deadlines, the reason you're in court in the first place is you haven't been paid rent for a while. So it's at least a month leading up to

that. Now so you're out for at least three sometimes four months.

REP. O'BRIEN: So when you get it, you said a judgment against the person, and there must be a period of time between the time that is given and there must be some sort of a notice?

MARSHALL COLLINS: The tenant has been noticed every step along the way, has to be. Their due process rights which I reference in my written testimony, they've been, you know, they've been taken care of every step of the way through this process. And so the tenant is notified of what's going on. They get a notice to quit, you know, notice you haven't paid your rent, notice to quit, and the complaint is served, and they're served with all this. Every step of the way the court is sending them stuff, and, you know, so finally they get notice that if they haven't been participating for whatever reason, judgment issued. This is after months, months. And now we're saying, well, we'll give you another week after the judgment comes down.

REP. O'BRIEN: So when you get a date for the eviction, a person would have a week's notice, two week's notice, after -- knowingly that they haven't been paying their rent for a while?

MARSHALL COLLINS: Once the court issues judgment, once you hit the end of the proceeding, judgment is issued, you know, then a writ of execution is issued and the marshals serve them. It depends on how long it takes them to serve that writ. So that's a couple days. So that's why we're saying give them a little more time.

REP. O'BRIEN: So after -- but after they serve it, there must be a period of time, no, that day they have to move?

MARSHALL COLLINS: No, the writ of execution comes, they're supposed to remove them from the premises. You have appeal, yes, I mean once the judgment comes down, you can appeal. That's a different -- yeah --

REP. O'BRIEN: The reason I'm asking these questions is I'm trying to understand, you know, that people must have ample time to find a storage location for their items, correct?

MARSHALL COLLINS: Yeah, and so they've got 15 days under the current status. So what we're saying is give them 7 days but then they don't have to pay to get their stuff back, they get to keep it with them. They've got 15 days right now, but the town is supposed to collect from them the cost of the storage. Well, don't subject them to that.

REP. O'BRIEN: You mean they have 15 days if the town moves the stuff?

MARSHALL COLLINS: No, no, under the current law, they get evicted, the landlord has to inventory the stuff, box it up, put it on a truck, carry it to the town facility. Then the town has to store it for 15 days, publish legal notice, have an auction. And most of the time the auction doesn't result in sufficient income to cover the cost. So if the tenant wants to reclaim their property, they're supposed to go to the town and, you know, and they're supposed to pay to get their stuff back, the cost of the storage, but a lot of times they don't have any money.

So that's why we're saying why -- we'll save them that burden as a concept. Again something different than what you've got, you know. Again trying to find some balance as opposed to, oh,

the landlords are the deep pockets, stick it to them because they're not all institutional landlords. How many people in this Legislature or how many people do you know are landlords that have been burned by bad tenants? And, you know, they're relying -- that's their income for some of these retired people. Some of the younger people too. It's not fair, there's no fairness in the way this exists today or what's written in this bill.

REP. O'BRIEN: Thank you.

REP. GENTILE: Thank you. Anybody else? Marshall, thank you.

MARSHALL COLLINS: Thank you.

REP. GENTILE: LeAnn Power followed by John Chaponis. LeAnn? All right. John. Okay. Ray Connors. Oh, John is here. Thank you. Good morning.

JOHN CHAPONIS: Good morning, Representative, and members of the committee. My name is John Chaponis, and I'm here speaking on behalf of the Connecticut Assessors Association. I did submit written testimony, but I'd like to just hit a couple of points. A lot of questions have been asked here this morning and some of them haven't been answered completely accurately.

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The first place to start, I think, is the cornerstone of property taxes in the state of Connecticut is -- has been what's called ad valorem, according to value. And every assessor must assess the property based on whatever is there on October 1st. That's been the history forever, and this is not a new law, but it is clarification. 12-53(a) was the statute that was actually used by the -- the judge to decide that we could no longer tax it. That statute

actually came out in 1971, and if you pull the legislative history, which I attached to my testimony, it shows that in '71 assessors were taxing what was on the land at that time. And 12-53(a) was really a supplemental list to pick up what was constructed after that date.

Since the ruling in Columbia, the way it works right now is that if a property was CO'd in September of 2011, in July '12 it would get a full tax bill. But a property that was CO'd three weeks later would not get a full tax bill. I actually have, they say a picture is worth a thousand words, I have two identical houses on the same street and the people moved in within three weeks of each other. One will get a bill next July for \$8,000 and one will get a bill for \$900. Both are living in the house since September and October of 2011.

Basically, 12-53(a) only allows us to pick up what gets built after October 1st. So if it's 90 percent complete on October 1st and it's -- it's completed three weeks later, we can only pick up the extra 10 percent. We did put together the spreadsheet which currently shows it's \$32 million a year in revenue loss. Right now -- in the past, 169 towns all taxed property under construction. Someone testified earlier that not all towns do, that's not correct. For the 2011 grand list, 167 of 169 towns are still assessing property under construction.

If this bill is not passed, then those towns are already, you know, expecting that -- that taxation. But the biggest thing is it's the fairness and the equity. Everyone needs to be treated the same. In all my years of being in this business, people have been less concerned with how much tax they pay in comparison to what their neighbor pays. That's always, you know,

the second question out of their mouth, what's Mr. Jones paying across the street?

And this would create a protected class. It's already been pointed out by some of the prior speakers that there's an exemption for a church. If you're a church and you want to be exempt from taxation, you have to meet certain criteria. Part of that criteria is to be in exempt use. There's an exemption that says if the only reason you're not in exempt use is because you're under construction, well, then we can still exempt that church. You wouldn't have that exemption if the property was not supposed to be taxed.

Someone had mentioned, you know, what if we have a special exception for one- to four-family? I just gave you an example of a -- of a one-family and you'd have two very different tax bills come next July. I don't know how to look at those two people, you know, at the counter and explain why one is paying \$8,000 and one is paying \$900. If you really wanted to provide an exemption, it should be done through the exemption. You should go into -- to the -- to the 12-80s and provide some type of exemption there.

Someone also testified earlier that the economy is bad and in the high times the developer wouldn't really care. You know, I don't know that that's the reason to grab on to this. Prior to the court case, no one ever came forward asking for Legislation to exempt a one- to four-family or a property under construction. And there's -- there's five different spots in the statutes that talk about taxing property under construction. So I don't believe the decision that came out of the court was accurate, and really we're looking at tax bills that are coming -- coming out next July. And

without passing this legislation, it's a serious revenue loss to all 169 municipalities.

REP. GENTILE: Thank you, John. We appreciate your testimony, and thank you for submitting it in writing. Questions? Okay.

JOHN CHAPONIS: Thank you.

REP. GENTILE: Ray Connors followed by Matt Cholewa. Ray?

RAY CONNORS: Good afternoon, Madame Chair. Good afternoon Ranking Members, committee members. My name is Ray Connors, I am the Supervisor of the State Animal Control Division for the Connecticut Department of Agriculture. And I'm here this afternoon to testify on House Bill 5157, AN ACT CONCERNING THE QUARANTINE OF BITING DOGS IN PUBLIC POUNDS.

The current language of Connecticut General Statute Section 22-358 says that the animal control officer shall quarantine an animal in a public pound or -- or order the owner to keep the animal in a veterinary hospital, kennel, or other building or enclosure. What the bill does is it changes the word shall to may. And with that, may opens up a loophole within the law. It gives the ACO, the animal control officer, an option to quarantine such animal which would present a health risk for potential exposure to rabies to the victim.

Now the whole purpose of quarantining an animal is to observe the animal for rabies symptoms. When a person gets bit, the saliva from the animal, if the animal is shedding rabies virus, would be injected into the person's skin. During that quarantine period, that 14-day period, the animal is observed to see if it

the first case in the town of Richfield. I happened to be there, I happen to remember it very well. Every day in this state there's another rabies case that comes through our office with a contact with a domestic animal or with a human. And that's why it's important that we keep what we have existing in place. It mirrors the compendium from the CDC.

REP. AMAN: Okay. Thank you very much.

REP CONNOERS: You're welcome.

REP. GENTILE: Representative Kokoruda.

REP. KOKORUDA: Why would vaccinated dogs need to be quarantined?

RAY CONNORS: No vaccine is guaranteed. No vaccine is 100 percent.

REP. KOKORUDA: All right. Thank you.

REP. GENTILE: Thank you. Ray, thank you for your testimony.

RAY CONNORS: Thank you, Madame Chair.

REP. GENTILE: Matt Cholewa is next followed by Jonathan Luiz. Good afternoon, Matt.

MATTHEW CHOLEWA: Representative Gentile, committee members, I'm here on behalf of the Connecticut Bar Association to comment in support of Section 1 of House Bill 5035, AN ACT REDUCING MANDATES FOR MUNICIPALITIES. I'm sure you're familiar with the Commissioner of Public Safety case and its effect on the availability and openness of open records so I'll spare you -- spare you the detail on that.

Suffice it to say, we believe the decision would apply to all requests for all public records whether made in advance in writing or if someone just shows up at the town hall and says I'm here to do a title search, where's the vault? My own experience is in the area of real estate transactions. Attorneys in Connecticut spend every day helping people buy, sell, lease, and finance homes and business property. And in order for the system to work, public records need to be open, complete and readily accessible, including, but not limited to the following:

Land records to evidence good title to property, tax assessment, tax collection, water and sewer assessment and use records to establish that taxes and utilities are paid and not only on the land, building, zoning, fire marshal, health department, and other records to allow people to know that there are no outstanding violations against the property they wish to buy.

These records have been open and readily available for the public since probably before the founding of this country. There's a good reason for that. If we restrict access now or redact the information in those public records, the system could easily fall apart. We believe the -- we also believe that the laudable goals of the statute are illusory. In today's day and age, if I wanted to find someone, I don't -- probably won't trudge from town hall to town hall to do so. I don't even have to get up from chair. I Google them or I use a variety of other means available on the internet. We don't believe that Section 1-217 frankly does much to protect people.

But suppose we think it does. We spend millions of dollars necessary to delete all those

addresses in all those public records, if that's even possible. I can still go to a town hall, find that a person was deeded a home on a certain street, good chance that's where that person lives. So we would not only have to delete addresses, we'd have to delete all evidence of ownership. Thus, the only way -- real way for towns to comply with this court decision may be to lock the doors to the vault which obviously is not a workable solution and then lock the doors to the other public records.

Section 1 of House Bill 5035 will solve the vast majority of issues that have been raised and identified in the court's decision. Along with many other public agencies and organizations that have worked to craft the solution, the Connecticut Bar Association supports passage of Section 1 of the bill, urges this committee and Legislature to pass it with all deliberate speed. Thank you for the opportunity to appear before you. I'd be pleased to answer any questions you may have.

REP. GENTILE: Matt, thank you for your testimony. Any questions? Thank you.

Jonathan Luiz, is he here?

Brian Anderson.

BRIAN ANDERSON: Good afternoon.

REP. GENTILE: Thank you, Brian.

BRIAN ANDERSON: Representative Gentile, members of the Planning and Development Committee. I'm Brian Anderson, I'm a lobbyist for AFSCME Council 4 which is a union of 35,000 public and private employees. And in the case of this bill, we have several types of employees who we

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represent who are protected under a shielding law that the state passed. That includes all the correction employees, DCF employees, judicial employees. And we're here to speak against Section 1 -- 1 of House Bill 5035, AN ACT REDUCING MANDATES FOR MUNICIPALITIES.

This bill revokes much of the shielding protection, the home addresses of correction employees, state police officers, judicial employees, DCF employees, and others. We support leaving the current law as it is, however, we do recognize that a recent State Supreme Court decision and it's perceived economic impact have had the result of frightening the banking, real estate and mortgage industries, municipal government associations, and is seeking revocation or a severe weakening of this law. We also recognize that there are better and worse versions of a change that are floating around the General Assembly, and it's our duty to indicate to you that the two versions that we've been told about and which one we prefer.

The preferred language states that the public agency employer shall be prohibited from releasing home addresses of its employees or their personal medical or similar files. It also states that protected employees must opt-in, give written notice to public agencies their residential addresses shouldn't be disclosed. There's some other parts to this that we have been told -- or in the version that we'd like, that includes if someone makes a request of a government specifically identifying someone who happens to be a protected employee who has opted in and informed that government that they are one, then that governmental agency must redact the residential address before disclosing the requested document.

Another (inaudible) would be if an agency receives an FOI request to prepare a list and the agency chooses to compile that list, the agency should make a reasonable effort to redact residential addresses of opted-in employees before releasing such a list. Also if a request comes in for a database that is existing in database form where info can easily be redacted, it should be.

We also support the part of this bill that says the Department of Labor should create a guide for public employees who are shielded to give them education and advice on how to further protect their residences and -- and keep them out of the public eye as much as possible. And also we support the part that would create a Legislative task force to look at how to do a better job of redacted land records, grand lists, and voter registry lists. There's a correction officer union official who will speak two people after me who can talk about part of the need for this.

But one of the things that really sticks in our mind is the case of the federal judge who was murdered -- whose family was murdered out in Chicago in 2005. This woman was prosecuting a - - a Nazi organizational crime head. And this man who she was prosecuting threatened to kill her from prison, and was able, frankly, we believe, even though no one was been convicted, was able to kill her family. She came home one night and found her husband and mother dead. Our folks deal with criminal organizations all the time, and leaders and members of criminal organizations. There's a real threat there. We would appreciate you taking every step you can reasonably take to protect our members. And I'd be happy to answer any questions.

REP. GENTILE: Thank you, Brian.

Senator Fasano.

SENATOR FASANO: Brian, thanks for coming here and showing the other side of the coin on this issue. So you're saying if -- one of the versions is they opt-in, you know, Department of Labor does what they do, which I think is a great idea too. But then they opt-in to say we want to be -- we're one of those -- we're a correctional officer, we're a judge, whatever, we want to come off the list?

BRIAN ANDERSON: Well, we -- we like the law the way it is. We were a party to the Supreme Court case that prevailed and has prompted these changes. And we realize by reading the tea leaves things are going to change. So it behooves us to stand up for our members and protect them as much as possible to comment. We like the automatic protection of the employing agency. That's not in 5035. 5035 is a total opt-in. We think that's a bad idea. We think the employer can easily shield that information and should without an opt-in. Somebody at some point is going to forget to opt-in.

SENATOR FASANO: Okay.

BRIAN ANDERSON: Now having said that, the other part of the version I spoke about, though it says that the employing agency would automatically shield, they could then opt-in by sending a letter to other governmental agencies asking them to redact or hold back their home addresses. That, we think, it is preferable.

SENATOR FASANO: Okay. So to make sure I got it all, so the employer of an agency would automatically

redact or take out the home address?

BRIAN ANDERSON: Yes, that's not in 5035.

SENATOR FASANO: Right. That -- that -- you want something to be added like that, I think that's easy enough to control and do and have as a policy. Then you're saying for the municipal town clerk issue, they would write a letter to, we'll say the town clerk of a particular town to ask to be redacted. Now to the extent -- and we'll explore this more, but to the extent that that's possible and certain things, let's go to title searches.

Let's say I was a -- a correctional officer and, you know, I actually have a deed to my house which is on the land records. And let's say I bought the house and I became a correctional officer -- I still owned the house for five years thereafter. Perhaps my name came off the -- what would you like to have, the name off the assessor card or how would you propose that to work?

BRIAN ANDERSON: Well, we'd love to have that. We'd love to have all that stuff be computerized and be able to easily redact. But we're no fools, we -- we understand with the powerful banking and real estate forces pushing this thing the way they are, and this law is going to change. So the next best thing for us to do is protect our members as much as possible.

My understanding is both sets of language under debate for how this will wind up remove land records and voting records from redaction. We get that. That's why we suggest that at least there be a Legislative task force to look at a way to come up with this. Ideally what we'd like to see is a modern system for land records.

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SENATOR FASANO: Right.

BRIAN ANDERSON: I -- I -- I've seen title searches done. I know attorneys go in to catacombs of a town hall and pull out the big thick book and blow the dust off. But I -- I would think the way our society is modernized just about every record, that's probably the last set of records that -- that hasn't been computerized. And maybe it's well worth our -- our taking a look at it.

SENATOR FASANO: Thank you. Brian, thank you very much for that. I appreciate it.

SENATOR CASSANO: Representative Reed.

REP. REED: Thank you, Mr. Chairman. Just a quick, I know of at least one judge in this state who has been threatened. And the ordeal of trying to redact all of that stuff, and this individual had children who were in schools, I mean it went on and on and on. And in the final analysis, this individual had to have -- have armed protection. So I'm wondering if in the real world, given access to information, I kind of like your task force idea. I mean maybe the way it is now really, you know, it seems to have a lot of leaks in it.

BRIAN ANDERSON: I -- I think it's impossible in this day and age to close every window and door on the information. But the more we can close, the better. And this whole case started in Stonington because, to their credit, the town had redacted names on the DMV list. It is very easy for every town in this state to redact names on the DMV list. Those lists that are already on a database, we'd like to shut those windows. There are probably people with bad

intent who will think to check that list, and if they can't get to it that's fine. Maybe they'll stop there, maybe they'll go on. But the one thing our folks know is the more doors and windows they can shut, the safer their families are.

REP. REED: Thank you very much. I appreciate your testimony.

BRIAN ANDERSON: Thank you.

REP. REED: Thank you, Madame Chairman.

BRIAN ANDERSON: Thanks, Mr. Chairman.

HARRY SOUZI: Obviously I'm not Lisa, sir. My name is Harry Souzi, I am the Treasurer of our union along with the AFSCME Locals 387, 391, and 1565 Corrections Employees of Connecticut of nearly 5,000 frontline employees. I'm here to speak against Section 1 of the House Bill 5035. Our union has spoken out against changing the shielding law, but recognize the array of powerful economic interests, the bankers, the realtors, the mortgage brokers, and the like, who have demanded this law change.

We realize that the odds are it will change. So it is now our duty to get the language that best protects our members. The last speaker's testimony covered this. I would like to speak to you about why shielding is so important to corrections, public safety, judicial, and DCF employees. Our members have the difficult and trying duty of keeping some of society's most dangerous offenders in prison. We have to carry out -- we have carried out at least one execution. We readily oversee organized crime, gang leaders, and have -- have to oversee terrorism suspects and federal detainees.

There are plenty of examples of criminals trying to obtain the residential and personal information of corrections officers. Such information requests from the inmates about staff have been used to harass staff members. Information is traded in prison, it's a commodity. It's highly sought after. Two years ago a female corrections officer testified before this Legislature about an inmate who had tattooed the first and last name of this officer on his arm and finger. Inmates are aware that staff must follow a strict policy of no undue familiarity with inmates. There have been incidents where inmates have tried to get staff in trouble by pretending that a staff member gave personal information to the inmates.

Correction staff jobs are stressful. Two different actuary reports found the average mortality rate for corrections officers was 58. The high mortality rate is due to the effects of job stress. Inmates FOI'ing our personal information is one more stress factor that we don't need. When we became corrections officers, we knew that there would be a risk on the job. We accept that. But our families should not have to put up with that risk because an inmate could access information that will eventually lead to the discovery of their names and addresses.

You have the *Hartford Current's* article about the judge's family that Brian spoke about. There's so many different retaliations and things that go on inside the jail. Personal experiences with this, I had a convicted murderer who did -- spent hours and hours and untold money was spent by the state with Legislation and the Department of Corrections trying to stop this man from getting my

information. My daughter will not stay at my house, she moved out of state. She will not stay over when she comes here to visit because it affected her that much. If there's any other questions that you have, I'd be glad to answer them.

SENATOR CASSANO: Senator Fasano.

SENATOR FASANO: Thank you, sir. Thank you for your testimony. We appreciate it and we also appreciate the work that you do as a correctional officer and all the corrections, I mean that's tough work. So we appreciate that. Thank you.

HARRY SOUZI: Appreciate your support that you've always given us, Senator.

SENATOR FASANO: Thank you.

HARRY SOUZI: Thank you.

SENATOR CASSANO: David Dietsch. David?

Ross Gulino. Welcome.

ROSS GULINO: Good afternoon, Chairman, and committee members. My name is Ross Gulino, and I'm a landlord. I'm actually opposed to Sections 6 and 7 of Bill 5035. The point I want to make is basically that first and foremost, all landlords, I heard people earlier talking about small businesses and how we're trying to help small businesses and how small businesses will help fuel the economy, landlords are small business. What I understand this bill is actually doing is basically shifting the burden from the city to the landlord. It doesn't actually address the real problem that exists.

In my opinion, the real problem that exists is pretty simple. Basically we're paying money, in many cases, over 90 percent of the time we're actually paying money to discard of junk. There's no other way to put it. I'm sure if you ask around what you'll find out is that 90 percent of the items that we pay to move from the apartment -- what we used to pay to move from the apartment to the curb, now we have to pay for that as well. We move the junk from the apartment to the curb, from the curb to the truck, from the truck to the storage facility. Then we pay -- now they'd like us also to pay for the storage while it's there. I don't think the -- the city should pay for it as well.

What I think is we need to come up with a solution that stops the madness. It's common sense. They've had enough time to get anything that's of value out of that apartment. I don't believe that we have to call it abandonment. I think we can use a pretty simple word change and call it a forfeiture. Once they get -- once they leave the apartment, A, they can give you keys, they can sign something -- they can -- they being the tenants that are being evicted.

Once the execution is filed, I heard somebody bring up the point that if we can just give them an extra five days, seven days, whatever that time is to get their personal or valuable belongings out and anything they leave beyond that point in time can be considered garbage, junk, and the landlord can be responsible for moving it.

We do have other expenses. I can assure you that many times after we remove the personal property from the apartment, we also need to paint and repair. And there's a considerable amount of downtime. When I said earlier -- when

I heard six weeks, that's --that's the best possible scenario, that's hitting every deadline. That's nobody -- did you actually know that the tenant doesn't have to meet the same deadlines as the landlord? I don't know if anybody knows that, but the landlord, if he misses a deadline, do over, start over.

If a tenant misses a deadline, they can actually file a motion to reopen and they just reopen the case. How is that fair? So there's a lot of things that I think need to be changed with regards to the eviction process. I'm just asking that we use some common sense. And if you need me to answer questions about the real world implications of what really happens out there, I'd be more than happy to answer it. Thank you very much.

SENATOR CASSANO: Thank you very much. I am a landlord, so I certainly know what you're talking about. And there's a -- there's a very delicate balance. And Rafie always is very good to protect the interest of those who may not know what's going on relative to the landlord-tenant world up here. And, you know, he's a very fair guy and a very passionate guy on his issues.

So I think when he came and talked about the fact that as little as we may value some of the possessions that are left, and I agree with you, one would argue from objective fashion they're probably not that valuable and could be claimed junk. They are -- they're still people's possession that they don't are junk. And we have to give them the opportunity to get them out. How we solve the dilemma, I'm not exactly sure.

But you're right, I mean I think that there

comes a time that there has to be a cut-off. And you're absolutely right, I mean the real life issue is that the reason why it's not fair that tenants get more time on the default to get a motion reopened, no matter what you argue, and no matter -- almost no matter how many motions to reopen they get, they always are successful because it goes back to the common law that a house is a home and we shouldn't remove them out there.

And judges are going to side on the public side, if you would, for the tenant versus the landlord. That's just life and we got to suck it up, and it is what it is. That being said, we do have to figure this out. And for Rafie to open the door, because he realizes this is not the best thing to have, and we're going to struggle with the issue, and we get people together, and hopefully we can find a resolution. But I don't think someone has taken a position, obviously now that I can see, that's saying this is the right way of doing it, that's the way it's got to be.

So we just got to figure something that's better, but still gives some protection to those people who have these properties. We just got to figure it out. And we will, we'll do it this session. And I'll certainly give you my email and my cell phone, I'd be happy to hear anything you have to add to the equation because I think you do have a lot to add. And then maybe we can sit down and talk to Rafie and come up with something that makes more sense.

ROSS GULINO: I'd appreciate that. I'd just like to say this is my first time here, and it won't be my last. I'm actually sorry I didn't even come last time around when they passed the whole part about, you know, putting the move on -- I mean I

think this is -- it can be worked out, and it needs to be. And again, thank you very much.

SENATOR CASSANO: Anyone else?

SENATOR FASANO: I have a question for you before you go. What's the length of time that you need before you can even evict? Tell me a little bit about the process, time-wise and rent-wise.

ROSS GULINO: No problem. Well, if you do everything by the book or at least I try to do everything by the book. I -- I'm by no means an institutional landlord, but I try and be professional. By statute, the tenant, if his rent is due -- he or she, the rent is due on the first, they actually have a nine day grace period which pushes it to the 10th. If it's not paid by the 10th, by the 11th, then you can file what's called the first step, and that's called a notice to quit.

And that notice to quit generally the shortest amount of time you can give them which basically says, hey, you need to be out of this apartment within five days. If you're not out within five days, I'm going to go to the next step which is a summons and complaint. After the summons and complaint, there's a number of different steps where the tenant can actually respond, answer, not show up, and then petition the court for a motion to reopen because they couldn't get a ride or whatever reason that they couldn't get there.

That being all said and done, again, it's a minimum six weeks, quite often it's over two months. At the end of that two months, you get what's called the execution, and the marshal serves the execution. And when he serves that execution, he -- he actually has to give them 24

hours. So basically he says, I'll be back in 24 hours to move your stuff. At that point in time -- at that point in time when he comes back after 24 hours, generally what happens if there's people actually still there, those people have to leave the property.

If they are not there and it's just personal belongings behind, the marshal then has to make somewhat of a decision. And it's a very tough decision to make as to whether or not this is just plain old garbage or are there some personal belongings. I believe the way the law is right now, a lot of marshals are kind of afraid to make that decision because they're afraid they're going to get sued. That being said, I can tell you 90 percent of the stuff that gets moved into storage facilities, doesn't get claimed.

I also want to say that some of the stuff that gets brought to storage facilities, the storage facility won't even take, mattresses, old couches, those types of things. And I think the -- the moving companies end up getting stuck with that, or I'm not sure how they actually dispose of it. Again a simple solution, in my opinion, would be to just consider the stuff abandoned property, you know, whatever that time frame is, and allow the landlord to legally dispose of whatever the personal property is. Take the mattresses to the dump, recycling center, whatever needs to be done. I think that would be the easiest.

SENATOR FASANO: But it's -- it's pretty much assured that you're going to go 60 days without collecting rent before you get --

ROSS GULIMO: Oh, that's a guarantee.

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SENATOR FASANO: And these are all on top of lack of rent? Okay. (Inaudible.) All right. Thank you.

ROSS GULIMO: Thank you.

SENATOR CASSANO: Did David Dietsch come back?
David?

Bill Dickinson. Bill spoke earlier? Bill was the first.

Bob DeCosmo.

ROBERT DECOSMO: Good afternoon. I'm here to testify against Sections 6 and 7 of House Bill 5035. And I've submitted written testimony to the committee, so if I may I'd like to summarize some of the previous comments --

SENATOR CASSANO: Sure, that'd be great.

ROBERT DECOSMO: -- of the speakers. We're all agreed that there's a problem. The compromise that was brokered two years ago has -- has not worked. We're talking about a minimal increase in the transportation costs. It's been substantial. In some cases landlords are not able to proceed with the eviction because the moving company's require cash up front to pay for the trucks, \$1,500 for a deposit.

And as you can know, landlords would be losing at this point maybe \$4,000 or \$5,000 of rent in having previous expense legal costs. So to come up with another \$1,500 on top of what's already been spent, these are tenants that are being for evicted for non-payment of rent, still continues to reside in the apartment for free.

I'm -- I'm hearing let's create an absolute

deadline and anything that's left in the apartment after the deadline is considered to be abandoned. I'd like to make a suggestion. The problems that the cities are having is they are going to auction off items that they've taken to storage that there is no value for. And -- and here's the real -- that's really what the problem is is that we're holding these items. I went to the City of New Britain's auction with Rafie to see how their process worked two months ago. And -- and really there weren't any diamonds in the roughs to be found at the action. A friend of mine bought a -- a painting for \$5 that hopefully thought it was a Picasso.

There aren't the electronic components there, there's not the high-end clothing. Really we're transporting items that should be considered to be rubbish. What I'd like to add or introduce is the concept, let's create a little tenant responsibility in this process. Let the tenant come forward and say those are not items to be thrown out. I need some additional time to find another apartment. And those are the tenants that have been up to this point, redeeming their items and paying the city.

And I think the statistic that I know is in 80 percent of these cases, the tenants are not reclaiming the items. So let's -- let's help the 20 percent that want their items back. Let them notify the city official that these items are not to be considered abandoned, and let them make arrangements to get these items into the storage facility. I mean they can move the items a lot less expensively with a U-Haul truck than hiring a moving company that the landlord now is paying, and then having these items transported.

The second solution might be, and we've talked

about this issue, and I've -- my background is a property manager. I'm the President of the Connecticut Property Owner Alliance, I apologize for not saying that. When the marshal shows up at the time to move the items, there's a question. Are these good or are these abandoned? And I think we could develop a simple checklist to see if, number one, the electronics are gone, number two, the clothing is gone. What's left in the refrigerator, is the milk two days sold or two weeks old?

I mean there's no -- there's no standard procedure to determine what's abandoned. And -- and I think, in fact, we are -- we are moving junk because of the reason why we're here to testify. So again I would -- I would say that we should, you know, get some tenant notification involved. I don't like the compromise that -- that was done two years. I certainly don't think this does anything except creates a problem.

And I'll sum up my thoughts with this, while we see a decrease in -- in the amount of storage -- the items that are going to storage, and someone was talking about self-help evictions, the reality of the situation is landlords are now paying tenants cash for the keys to avoid going through the eviction process. So we are bribing tenants to move out to avoid the expense of the evictions. And what this does it creates a huge problem because there's no record of that tenant not paying rent.

And I'm offering bills in Housing to create an affordable home setting, and yet if we're trying to create home ownership under one committee and yet if one of those, you know, new homeowners comes -- a landlord has to go through this process, we're going to have a foreclosure.

Because, you know, we start to add up the cost, they are approaching \$7,000. So I would submit my testimony, and if there are any questions, I would address them.

SENATOR CASSANO: Thank you.

Marsha Standish.

MARSHA STANDISH: Thank you very much. My name is Marsha Standish, I'm the assessor in Stonington. And I just want to clarify, it was not Stonington that lost the appeal, it was North Stonington on the FOI. I am Past President of the Connecticut Assessors Association and also was a member of the team that got together to try to come to some resolve for the Freedom of Information -- Information issue.

I'm in favor of House Bill 5035. I'm extremely sympathetic to those individuals that protect us, those that are in corrections and our police officers. However, this bill presently does not solve the -- the issues that they're so concerned about. Our property location may be the same as their mailing address or it may not be the same as their mailing address. If we eliminate property locations, there's no linking of that together for emergency services, for connections to property land records.

The redaction also eliminates issues of abutters, if an individual lives in an area where it might affect them as a police officer, they would not be notified or there would be no address to notify these individuals of any zoning changes. All of these -- information is linked to our records. We're very tied together as municipalities with the town clerks, with the assessors records, and the tax collectors records. And now a redaction of mailing

addresses, that is done from our office on a manual basis. We now have 90 addresses that we manually give to the collector's office.

However, if you pull up the record in land records and you find that there's not a -- an address there, you can make an assumption that it's a protected -- protected individual. On our internet access, we're able to eliminate the account completely so that it cannot be seen from the outside. However, if you go down the street and you see a blank property and you know there's a house there, you'll know that that's someone that perhaps if you were looking to go after, that would be the one to go after. So I don't know that that totally solves the problem. The open records provides public accountability for everyone so that everyone is treated fairly according to law.

I also want to talk just briefly on the building new construction law. As indicated prior, new construction is added after its completion. Our laws have always been such that we value property as it stands on a land records as of October 1st, whatever part of completion it is. Sometimes it may take three or four years before a building is actually completed, so numbers vary from year to year from additions, new construction in that effect. So thank you.

SENATOR CASSANO: Representative Smith.

REP. SMITH: I just caught some of last part of your testimony. But one of the builders from the association spoke earlier about this proposal he has which would allow the town to recoup the money, you know, upon issuance of the CO or upon the sale of the property, I haven't exactly read the language. So do you see an issue with that concept? In other words, so the -- the town

ultimately is made whole, it's just made whole at a later date.

MARSHA STANDISH: I'm -- I'm not quite sure exactly what his proposal was. Normally if it was say two years later, I don't know that they would go back and recover the taxes for two years that the building was complete or it would be prorated on from the date that it was completed. One of the issues with this as I see, we have in Stonington, it's very diverse. We have people that are very wealthy, and we have very poor individuals.

We have some that are living in say a mobile home valued at maybe \$50,000 and then we have houses now that are 95 percent complete that are over \$2 million. That \$2 million home would not be subject to payment of taxes on the real estate until that CO was issued. So if it was two years later, you still may lose a year's property taxes. What -- what happens if the value isn't added, the mill rate adjusts so the mill rate would go up slightly if we could not add that value to the grand list for those particular years.

We try to be -- have vertical equity so that everyone pays their fair share. If they have a similar house, similar amount of construction completed, they would all be subject to the same value. When those are not done, it shifts to whoever else is not there, the values are reduced, the grand list is lower, the mill rate would go higher. So it -- it doesn't go away, it just shifts to other people.

REP. SMITH: You know, and that's an interesting response. I'm just wondering if -- if you're aware of any other or have any other ideas in terms of how we might have some type of

compromise between those builders who are out there trying to make a living yet having a difficult time paying the annual tax because of speculation when they built the house, and the needs of the town to collect the taxes and, you know, not spread that burden onto the rest of the taxpayers. So I'm just not sure if there is an area there that we could have compromise, but I'd like to hear your thoughts.

MARSHA STANDISH: Well, presently we have certain programs, fixed assessments, they were also talking about personal property and having an abatement for that. You could possibly make it a local ordinance if -- if a builder comes in and -- and indicates that he wants to build and the town is willing to allow to defer that assessment, that might be a way to justify that. During -- when the economy is bad, it's -- we always get I think many more people in our office discussing values because market conditions have changed.

We have a tourist industry, we have a lot of hotels, and hotels are not doing very well. I can see every indication -- also there are people unemployed. If they're unemployed does that mean they don't pay their property tax? There are a lot of -- a lot of different issues and we try to be as fair and uniform as possible.

But perhaps allowing a municipality, up front, before the building is even begun, as we do with a fixed assessment for new commercial buildings or large projects that come in, to maybe fix the assessment or graduate it along that line so everyone is treated fairly.

REP. SMITH: Thank you for your thoughts and thank you, Mr. Chairman.

SENATOR CASSANO: Anyone else? Marsha, a quick question, so this was yesterday some people were in and they talked about, you know, alternatives and so on and somebody pointed out that what about the person that's been -- it's not a new home, but it's sitting and being assessed every year even though they're out of work or whatever it might be, how do we -- how do we treat everybody the same?

And a bunch -- another one came up on eminent domain where the house, I think it was in Waterbury, the assessment they're paying taxes on is \$139,000, the city needs the house or they're going to take it for 89. But you're paying taxes on 139. When was the last time we really looked at the whole system? Was it when we went to the five-year reval or, I mean, does it even make sense to look at the system because of our reliance on property tax?

MARSHA STANDISH: Well, I think one thing that's very important about the property taxes is that real estate is fixed, it's not mobile. And I think the state has issues with sales tax and a lot of things are -- are cyclical. Personal property also moves in and out. Someone may not buy a car if they can't afford it, but real estate has always been solid and that has kept our municipalities running. It gives us fire and schools and that sort of thing.

So I think when we looked at the property tax, we did not look at whether -- at someone's wealth. Whether they were poor or wealthy, we looked at what is equal as far as property values go? If during this economy -- presently, for example, Stonington's revaluation, we had a revaluation in 2007 which was about the top of the market, so our values are rather high now.

But our mill rate is low.

So if our property values drop, the mill rate will go up. It's just an inverse relationship, it all depends upon what the budget and the needs are of the municipality. As long as we can be fair and equitable across lines, I think we as assessors have done our job and the rest of it is up to the administration as far as what the services are for the community.

SENATOR CASSANO: I'm -- I'm just concerned of the number of potential gray areas, you see them every day. The person yesterday, in fact a Representative, talking about the Waterbury situation, people have been paying taxes on 139 and the offer was 89. If it's good enough to collect it, I mean those inconsistencies just hurt the whole system.

MARSHA STANDISH: Well, that's -- that's because the mill rate would be less. If again you drop the value on that, the mill rate would go up. So it's -- it's uniform for that particular period of time. In a lot of states in a county basis, they value every single year. So if the values drop, they drop the values and the rate goes up.

In Connecticut we've gone to 5-year revaluations as opposed to -- we went from 4 to 5 to 10 to 12. So they've looked at -- at the schedule over, you know, over and over again. What also happens when -- when the grand list drops, the mill rate goes up. So then personal property and cars are going to be paying a higher value because the mill rate is higher. When the values are high, the mill rate drops then you're paying less on motor vehicles. But it's all -- it all equals out as far as the role of -- of the assessors. So I don't think --

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SENATOR CASSANO: It -- it does on paper, I agree with you. You know, the government standards say that's what it is. You're talking eminent domain here, so the city that assesses you is also offering the money on the eminent domain.

MARSHA STANDISH: Right.

SENATOR CASSANO: And -- and there -- there is a -- you know, that's the part of it that's missing, is that, you know, what's right here?

MARSHA STANDISH: Well, eminent domain in the court systems, they would have to offer whatever the fair market value is of that property, and sometimes slightly higher. So that would be current value. However, again we're back to when was the last time the City of Waterbury revaluated?

SENATOR CASSANO: 1870.

MARSHA STANDISH: So that makes a difference.

SENATOR CASSANO: Yeah, it's -- but it just -- it's part of this whole confusing atmosphere. I mean if I was this guy who paid taxes on 89,000 next year, that's what the city is saying it's worth, I mean and those are the kinds of issue that you get all the time, and, you know, just -- just thinking out loud.

MARSHA STANDISH: Well, we do -- we also wrote a paper in Stonington to try to explain that to the public. And it is very hard when you come in and you do pay 20 percent less than -- than what was there as of '07. However, when the market was going up, we did not increase the values, we kept them the same. And if they started to come down, then we would measure it at that time. And that's really all we do.

And in any of these laws, whether it's the FOI or new construction, we really try to do the best we can and we try to be as fair with everybody. It's just that we need guidance in some cases on some of these, that it makes it almost impossible to administer if you start changing the rules.

SENATOR CASSANO: And I agree with you. All right. Thank you, you've been very helpful.

REP. GENTILE: Pat Alair. Good afternoon, Pat.

PATRICK ALAIR: Good afternoon.

REP. GENTILE: Thank you for your patience.

PATRICK ALAIR: Quite welcome. Good afternoon.

Before I begin, I'd like to point out that I'm here representing actually two interests. I am the Deputy Corporation Counsel for the Town of West Hartford, but I am also a member of the board of Connecticut Association of Municipal Attorneys. And I've been involved with the coalition concerned about the -- the fallout from the chairman -- or the Commissioner of Public Safety case since that coalition was -- was born. And I'm here to speak today in support of Section 1 of Governor Bill -- Governor's Bill 5035.

Now I've provided the committee with copies of my written testimony, so I'm not going to repeat that verbatim. What I'd like to do and -- and sort of observe from the testimony that you've heard so far today, is that while the impacts of General Statutes 1-217 are certainly financial, and -- and substantially so, very significant potential expenses. What you've heard a lot of today is it is impossible to comply with this

law. It is not just an issue of finance. It is impossible to comply with the law.

How do you issue a building permit in a system which cannot be driven by the address that that building permit is associated with? How do you notice a zoning hearing without providing the address of the property that's the subject of the application? And how does a firefighter refinance their house, or, yes, how does the bank foreclose on that firefighter without putting the address on the land records or being able to search the title?

Those are in some ways though the easy cases. And my town clerk is over there having a heart attack as I call it the easy case. But they are the easy cases to the extent that we can identify the records that we're talking about. We at least know what those records are. Let me give you an example, an everyday example of one we don't know. A police officer responds to a minor fender-bender. And one of the cars is being driven by the son or the daughter or the spouse of a firefighter from a neighboring town. The police officer takes a Uniform Accident Investigation Report, writes down the owner information on the vehicle, and gives it to both parties. That police officer has just violated the law. That's an everyday example of how this simply does not work.

These are not records that are in massive databases where somebody can punch in a few numbers or letters and spit out a report and go, ah, we can take this one off. That's not the way it works. That's not the way this law works. The law is over-inclusive because so many people who are protected by it have no interest in being protected by it. I spent an hour with a phone book and found 15 people in

the book who are protected by this statute, off the top of my head. Those people are in the book and yet we are required by law to redact their names from every public in existence in the Town of West Hartford.

And perhaps most ironically, the great majority of the records, and you've heard testimony about so many of these examples today, again they're perhaps the easiest ones, but -- but they are the most common. A great majority of the records are driven by our land records. If you put a recorded deed on the land records and you are the grantee, that record now ties into the tax collection records, the tax assessor records, the building department records, the zoning records, all of those records are driven by who is the record owner of that property. They're not linked electronically or anything, but -- but they -- they follow each other.

So if somebody who is protected by the statute simply took the step themselves of having the deed recorded in their wife's name, their spouse's name, the name of the trust, the name of an LLC, all of the other major problems go away. You're left with the ones that we can't (inaudible), but the big ones simply go away. And that's within the control of the person who asking for the protection of the statute.

If I could briefly, we do support the bill that has been proposed by the Governor. You heard earlier a comment about an alternative bill out there. As we've been sitting here today, draft language has been floated by GAE on an alternative bill, and I have to say that quite bluntly it is tragically bad. It is to some extent worse than no bill at all because it would actually enshrine some of the impossibilities that I've just described for you

rather than eliminating them, ensure that they are perpetuated. So we would urge you to support this bill with the language proposed by the Freedom of Information Commission. And please do not support the alternative bill that's out there. Thank you.

REP. GENTILE: Thank you, Pat. So then just to -- just to sum up what you're saying, you're in favor of it being limited to just the personnel records only?

PATRICK ALAIR: Correct. The -- the alternative bill that -- that is out there and we've just seen it this morning, the draft language, so we really haven't had a chance to review it in detail, contains that provision that allows somebody to walk in off the street, presumably give the town clerk a letter saying take my name off all of your records. And now we're in that impossibility situation of we don't -- literally cannot identify what all of these records are. We can spot the biggies, but we can't tell if that person is in an accident investigation report or if they are out there as having signed a petition. And those are records that are requested by the public every day.

REP. GENTILE: Thank you and I appreciate your example of the car accident. That's something that I believe we did not give consideration to.

Senator Fasano.

SENATOR FASANO: You know, the purpose of these public hearings theoretically at least in this building is to allow people from all sides to state their claim of what's good or what's bad and then we as a committee are supposed to get together and decide what's good and what's bad from that and try to usher through it. The bad

part about this building is sometimes it goes on a path irrespective of what people say, think, and testify. You've been here since what, 10:00 this morning, right?

PATRICK ALAIR: Before that.

SENATOR FASANO: And we've been here since 10:00 this morning and many other people. And it's my understanding that the bill that you're talking about with language similar to what you're talking about is going to be raised tomorrow in -- in the House. We're always the last to know by the way. But it's going to get raised in the House, which is shameful. It's shameful because people sat here all day and testified, town clerks sat here all day and testified, there's other people probably still going to testify on this bill.

But some folks got together and decided we've got the answer, we didn't listen to what you had to say, we didn't listen to the testimony, we haven't read the testimony. In fact, we haven't -- we haven't even heard yet what you're about to say, but we've got the answer. Now I'm looking at it on my screen, the proposed language, it could change 100 times between now and tomorrow I can tell you that. But I'm looking at it, that's just shameful. It's shameful.

It is a process that is wrong and we shouldn't be doing it in this building. We call it the People's House, we call for people to come and testify, and we're sitting here and I'm looking at a proposed language which, I'm not going to ask the Chairs to comment, but I don't think the Chairs have seen it, and I have it on pretty good belief they have not. I can tell you the Ranking Members haven't seen it and I would bet

dollars to donuts members of this committee haven't seen it. Don't even know they're going to be voting on it tomorrow, tomorrow, right? Tomorrow, and yet it's going around this building, it's got a lot of language in here that I can't figure out in 30 seconds what it does and doesn't do.

And they knew we had a public hearing, no one comes to us and say, hey, just for the fun of it, this is what we're thinking about. That's wrong. You're supposed to have faith in the process. You guys can be doing a bazillion other things rather than sitting up here for four hours, five hours, waiting for your three minutes before the egg timer goes off and talk, thinking you're here for a reason. And this comes out and we say whatever your reasons are, don't worry about it, they don't need your input. I think that's shameful. I don't have any questions for you, but I think it is shameful.

PATRICK ALAIR: I -- I'd point out that it is a process which this esteemed body has not allowed municipalities to -- to use.

SENATOR FASANO: You know, because we -- we are the mothership. We get to tell you what to do and you don't get to tell us what to do, which is wrong. And we'll have rules for you, but we don't have to pay attention to those rules up here.

PATRICK ALAIR: Mel Brooks, one of the great philosophers of the 20th Century said it's good to be the king.

SENATOR FASANO: Yes, and I would say, well, okay, it's going to be -- I'll leave it there.

PATRICK ALAIR: Thank you.

SENATOR FASANO: (Inaudible) an editorial comment.

REP. GENTILE: Are there any questions from the committee? Pat, it's awful good to be a queen, sometimes, in fairness.

Christine Cappiello. Is Christine here? Okay.

Jeff Bridges. Good afternoon, Jeff.

JEFF BRIDGES: Good afternoon, Madame Chair and committee members. Thank you for this opportunity today. I'm here as the Town Manager of the Town of Wethersfield to speak in favor of House Bill 5035. You have my written testimony before you. Two sections I'd like to comment on specifically. The Section 2 that clarifies on the partial construction assessment, we believe that that's an appropriate way to tax property. Even a partially constructed home still requires services, water, sewer, police, fire, and other services that the town provides even before the home is lived in. So it's appropriate for those partially constructed properties to pay some taxes to help support the services provided to those properties, mostly public safety.

Then we'd also like to express our support for Section 6 and Section 7 of the bill. We've heard this morning that the towns and the local municipalities have been brought into this process as kind of a neutral third party, which you believe is appropriate. However, we believe that this section provides more avenues for the towns to recover their costs during that process.

And having as many available options to recover our costs and not have the taxpayers pick up the

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tab is appropriate. So we would be in support of Section 6 and Section 7 just from the simple fact that that does allow us to recover our costs in a greater opportunity. So having said that, I'll be happy to answer any questions.

REP. GENTILE: Jeff, thank you and thank you for your patience. The nice part about coming at the end is there's very little left to say. So any questions?

Claude Albert.

CLAUDE ALBERT: Good afternoon, Madame Chairman, members of the committee. My name is Claude Albert, I'm the Legislative Chair of the Connecticut Council on the Freedom of Information, which is a 55-year old organization committed to furthering government transparency and accountability. We want to add our voice to those that support allowing a public agency employer to redact residential addresses from material released from the personnel file of its own protected employees.

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We urge the committee to amend the language of Section 1 to make it clear that the exemption applies specifically to personnel records. And we strongly urge the committee to adopt this balanced, practical and prompt solution to what's presently an untenable situation. I'll save the committee time, I don't want to repeat all the arguments that other witnesses have --

REP. GENTILE: We appreciate that.

CLAUDE ALBERT: -- have laid out so forcefully and more forcefully than I could. But suffice it to say, I think that definitive action is needed immediately on this problem, that the universal redaction that's proposed undermines the

integrity and usefulness of records that are indispensable tools in every day political, commercial, and legal life. Of equal importance to CCFOI is that the public's ability to scrutinize these records is a guarantor of the competence and the integrity and the fairness of local government.

And for all these reasons, they've been maintained complete and open to the public since colonial times. I think we understand that government transparency must be balanced against serious concerns about security -- against serious security threats particularly to those who do dangerous work on behalf of the public. We support the redaction of the residential addresses from personnel files as part of that balance. Such records are perhaps are arguably more obvious targets for someone intent on doing harm.

And the argument that the public has an overriding interest in their disclosure is unpersuasive. But the case of government documents that are fundamental to our commercial and civic life or to government accountability, the argument for transparency is compelling and the impact of the redaction is severe.

So while it is impossible to guarantee that information from a public record will not be misused by someone intent on doing ill, we also question how effective the redactions at issue here would be in deterring such a committed criminal especially in this digital age when a person's address and other information is a mouse click away. We think that an amended Bill 5035 would strike a thoughtful balance, and we urge you to support it. And like Pat, I urge you not to support the kind of mish-mash bill that seems to be coming together in front of

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REP. GENTILE: Thank you.

CLAUDE ALBERT: Thank you.

REP. GENTILE: Any questions? Thank you.

Rebecca Bombaro. Is Rebecca here? Okay.

Phil Grande.

PHILIP GRANDE: Good afternoon, members of the committee. I'm going to take a little step back to something we talked about a couple hours ago. I have provided written testimony, so I will do my best not to read from it. I'm here in support of H.B. 5155. I own a landscaping company, I do chemical applications. I also own a facility that's registered with the DEEP to recycle yard waste. I'm a big proponent of organic waste being used to make lawns healthier. I have kids, I want my kids to play on the same lawns that I want everybody to play on.

I support IPM because I work with people like Candace who will speak in a little while, I work with professors from the University of Connecticut, and we take the best information that we have to responsibly make applications of the least amount of pesticides necessary. I have good news. The position of IPM doesn't discount the position of organic land care. We support all the things that were talked about. I think Representative Reed mentioned compost. I produce compost, I deliver compost, I use it every day.

We don't have an exclusivity on a -- on a process, we just want to rely on scientific-



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**Statement
Of
Anthem Blue Cross and Blue Shield
On
HB 5035 An Act Concerning Reducing Mandates For Municipalities**

Good Morning Senator Cassano, Representative Gentile and members of the Planning and Development Committee, my name is Christine Cappiello and I am the Director of Government Relations for Anthem Blue Cross and Blue Shield in Connecticut. I am here today to speak in strong support of **HB 5035 An Act Concerning Reducing Mandates For Municipalities**

Municipalities, like many other employers, are facing the increasing cost of healthcare. Coupled with the constant struggle that they face to keep property taxes down, this bill is one way where many municipalities can achieve both. Currently, if a municipality is fully insured, as most medium and small towns are, they are required under Connecticut law to pay the 1.75% premium tax to the state. Under this proposal, those towns will no longer have to pay the state this tax and relieve some of the burden that they face.

Again, Anthem Blue Cross and Blue Shield strongly supports this bill and we are available to assist legislators in your deliberation of this legislation and provide further information.

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John DeStefano, Jr.
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**Testimony of the City of New Haven
Before the Planning and Development Committee**

Regarding
HB 5035, AN ACT REDUCING MANDATES FOR MUNICIPALITIES

Submitted by
Rebecca Bombero, Legislative Director, City of New Haven
February 22, 2012

Senator Cassano, Representative Gentile, and members of the Committee,

The City of New Haven is pleased to have the opportunity to comment in support on HB 5035, An Act Reducing Mandates for Municipalities.

While the state has done its part to protect municipalities from the drastic cuts witnessed to cities and towns in New York, New Jersey and across America – we continue to struggle to balance the service needs of our residents against rising costs and a tax base that can not absorb tax increases. This bill reduces some of the costly burdens borne by the towns, thereby relieving some of that pressure.

Section 1 – Concerns “Record Redaction” and clarifies that the requirement extends to only the records of employees who request that their home addresses be redacted. This clarification is important as previous interpretations would have required the redaction of countless unknown individuals creating an unmanageable administrative burden.

Section 2 – Concerns “The Assessment of Partially Completed Structures” and clarifies that those buildings that are partially completed or under construction can be assessed. In each of the past five years taxes from the assessments on such structures in New Haven have averaged about \$370,000 each year.

Sections 6 & 7 - Concerns the storage of possessions of evicted tenants. PA 10-171 relieved the municipality of the burden of transporting these possessions from the residence to the storage facility enabling the redeployment of staff time to other critical public works functions. Despite these savings the storage of goods still costs the City between \$242,000 and \$376,000 annually. The new provision would enable the City to pass these costs along to all the “users” – both tenants and landlords. When possessions are not claimed and fees paid by the tenant, or the proceeds from auction do not cover these costs, the bill transfers these costs from the municipality to the landlord or bank. The bill, however, fails to include a collection method – like the ability to place a lien on the property – to ensure that the town can actually recover these costs.



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Testimony of Matthew Cholewa, Legislative Liaison and Executive Committee Member
of the Real Property Section of the Connecticut Bar Association
In support of Section 1 of House Bill 5035, An Act Reducing Mandates for Municipalities
Planning and Development Committee
February 22, 2012

Senator Cassano, Representative Gentile and members of Planning and Development Committee, thank you for the opportunity to appear and comment in **support of Section 1 of House Bill 5035, An Act Reducing Mandates for Municipalities**. The Connecticut Bar Association urges this committee and the General Assembly to pass the provisions contained in Section 1 of the bill with the greatest alacrity for the reasons set forth below.

In its recent decision in *Commissioner of Public Safety v. Freedom of Information Commission*, the State Supreme Court ruled that under section 1-217 of the General Statutes, a tax collector could not release the grand list of motor vehicles without first redacting the address of those persons protected by section 1-217. Section 1-217 states that "no public agency may disclose, under the Freedom of Information Act, the residential address" of certain protected classes of people, including all police officers, firefighters, and every employee of the Departments of Correction and Children and Families, the Commission on Human Rights and Opportunities, and the Judicial Department. While the court's decision directly applies to motor vehicle records, the CBA believes that it sets a precedent that will apply to all requests for to view any public records, whether made or not made in advance or in writing.

Without a legislative remedy to this decision, many public agencies will not be able to comply with Section 1-217 and many public records likely will be made unavailable to the public for viewing.

My own business is in the area of real estate transactions. Attorneys in Connecticut spend every day helping people buy, sell, lease and finance homes and business property. In order for our system of land transactions to work,

- Land Records need to be open and readily accessible to evidence good title to property;

it imposes.

As interpreted by the Connecticut Supreme Court, Section 1-217 will clearly harm our commercial and government institutions, which for centuries have relied on land records, tax rolls, voter lists, and other public records to be complete, accurate and open to the public.

Section 1 of House Bill 5035 will solve the vast majority of issues that have been raised and identified in the court's decision. Along with many other public agencies and organizations that have worked to craft this solution, **the Connecticut Bar Association supports passage of Section 1 of the bill and urges this committee and legislature to pass this legislation with all deliberate speed.**

Thank you for the opportunity to appear before you and to speak in support of Section 1 of HB 5035. I would be pleased to answer any questions you may have.



STATE OF CONNECTICUT
CONNECTICUT STATE LIBRARY
231 Capitol Avenue • Hartford, Connecticut 06106-1537



Testimony of LeAnn R. Power, CRM
Public Records Administrator
Connecticut State Library

Concerning House Bill No. 5035

"An Act Reducing Mandates for Municipalities"
Planning and Development Committee – Public Hearing
February 22, 2012

Good morning distinguished members of the Planning and Development Committee. My name is LeAnn Power and I am representing the Connecticut State Library, Office of the Public Records Administrator. I am here today to testify in support of section 1 of Governor's Bill 5035 which adds language to Section 1-217(a) of the Connecticut General Statutes.

I am also aware of the potential emergency-certified bill to amend section 1-217 of the Freedom of Information Act. It is important that any amendments conform to existing statutes that address the preservation, safekeeping, and alteration of all public records.

In accordance with CGS Sec. 11-8, the Office of the Public Records Administrator is responsible for the design and implementation of the Records Management Program for all state agencies within the executive department, and the towns, cities, boroughs, districts, quasi-public agencies, and other political subdivisions of the state. The office creates records retention schedules and authorizes the legal destruction of public records when they are no longer useful, provided they have no permanent or historical value. This ensures that both citizens and governmental agencies will be able to obtain information for the appropriate amount of time. It also provides for the timely disposal of records, to improve efficiencies and reduce costs.

CGS Sec. 7-24 addresses the recording of instruments and the safekeeping of public records. CGS Sec. 7-23 specifies that recording may be done either by micrographic, electronic imaging or other approved process. Whatever the method employed, the record copy must reproduce the original instrument exactly. No changes in its content, short cuts or abbreviations are permitted. Errors in spelling or punctuation, omissions, or inadvertent repetitions occurring in the original may not be corrected; they must be recorded as they stand in the original.

It is essential that the original public records of Connecticut be preserved and protected. In accordance with CGS Sec. 1-240 and Sec. 53-153, public records may not be altered or redacted. Not only is it illegal, but the integrity and reliability of public records would be compromised. In addition, redaction of public records would be an administrative burden for a public agency as records exist in many different formats, such as paper, electronic, and microfilm.

(over)

Connecticut Town Clerks Association, Inc.

Committee Members

Antoinette Chick Spinelli -
Waterbury, CH
Essie Labrot, West Hartford, V
CH
Jeff Barske, Thompson
George Buckbee, New Milford
Debra H. Denette, East Haddam
Michele Grande, Redding
Mary Stanton, Mansfield



Advisory Board Members

Joyce Mascena, CTCA-Pres.
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Kim Garvis, Technology Comm. CH
Lobbyist Michael Dugan

2012 Legislative Committee

Testimony Planning & Development Committee February 22, 2012

Good morning distinguished members of the Planning & Development Committee. My name is Antoinette Spinelli and I am testifying on behalf of the Connecticut Town Clerk's Association (CTCA). I am the legislative chair of the Town Clerk's Association and the Town Clerk of Waterbury. I am here today to testify in support of the Governor's Language in Bill 5035 with additional wording to reflect "No public agency may disclose, from their personnel and medical records,..." leaving no doubt that this would pertain to an agency's list of employees and medical records.

The Town Clerk's testified in January 2010 asking to exempt records including land records, trade names, dog licenses, vital records, lists of appointed and elected officials, meeting minutes, petitions and voter lists. This was not considered. Again, in April 2011, the Clerks testified in opposition of nondisclosure of residential addresses from public records. The bill 1234 did not pass but shortly after this a Supreme Court Decision came down that sent us all reeling to find a legislative fix to 1-217.

Clerks know first hand how unworkable it is to expect redaction of addresses from public records. We know our records, how they are indexed, how often they are accessed by the public, how many different formats of the same record there could be, etc. Unfortunately, many individuals have the impression that we can simply enter a name into a database and the address will be gone from all town records. It doesn't work this way. I am stressing this point because we do not want to give people a false impression that we can accomplish redacting their address from all public documents. The Town Clerks Association agrees with statement made in Governor Malloy's budget adjustments that concluded that this situation is "unworkable." The Governor's proposal "limits the scope of the requirement in a way that would protect both the publics' right-to-know and the privacy of the public employees."

Let's take a look at a filing of campaign finance from the last municipal election in November. This is one candidate committee. It was accessed twice in the last week. One person paid for copies, the other combed through and took notes. I have no way of knowing what or who they were looking for nor is it within my right to ask. I am certain there are individual's names and addresses within this candidate committee's filing that fall in the protected employee classifications. This is one example of many paper records that are held in our offices and are open to the public. As you can see, address

Government Finance Officers Association of Connecticut

Testimony in support of HB 5035 An Act Reducing Mandates for Municipalities.

Anthony Genovese
Director of Finance, Town of Woodbridge
Second Vice President GFOA-CT

Planning and Development Committee
February 22, 2012

Good morning Senator Cassano, Representative Gentile and members of the Planning and Development Committee. Thank you for giving me the opportunity to testify on behalf of the Government Finance Officers Association of Connecticut (GFOA) in support of HB 5035 AAC Reducing Mandates for Municipalities. I would strongly urge support of the following sections of HB 5035 which will provide significant cost savings to all of Connecticut's municipalities.

Section 1 of HB 5035 provides relief for municipalities from the recent State Supreme Court decision prohibiting the disclosure of residential addresses of certain Federal, State and Municipal employees per CGS 1-217. Though the court's decision narrowly applies to motor vehicle records, legal counsel for many municipalities are advising that the court's decision applies to all public records, including land records, voter lists, and tax rolls, and applies to all formats of records, both printed and electronic. The cost of complying with the court's decision is a significant burden that many of our cities and towns cannot bear. GFOA understands the need to offer privacy and protection to state and municipal employees that have jobs which may place them at risk, but the current statute is unworkable. GFOA supports the Committee's efforts to find a solution that maintains protections for these employees but in a manner that is cost effective and workable for the multiple departments within a municipality.

GFOA supports Section 2, which clarifies the ability of a municipality to assess property taxes to buildings that are under construction. This language is needed to address the ruling put forth by Kasica v. Columbia which ruled that towns may only assess properties that are completed and being used for their intended purposes. Section 2 of HB 5035 will confirm that towns have been and will continue to be within their rights to assess properties under construction. This is not a new law or a new tax only a clarification of existing practice. Failure to pass this language will have a devastating impact on Connecticut's cities and towns and could result in revenue losses in excess of \$30 million. GFOA would ask the committee members to change the effective date so that the bill covers any properties assessed in the October 2011 grand lists.

GFOA also supports the provisions of Section 6, which removes any responsibility for the storage of the possessions of evicted tenants. GFOA believes that the process of eviction is a

Connecticut Tax Collectors Association

Testimony in support of HB 5035 An Act Reducing Mandates for Municipalities.

Gisela Harma, CCMC
Stonington Tax Collector

February 22, 2012

Good morning Senator Cassano, Representative Gentile and members of the Planning and Development Committee. Thank you for giving me the opportunity to testify on behalf of my office and the Connecticut Tax Collectors Association in strong support of HB 5035 AAC Reducing Mandates for Municipalities. I would strongly urge support of Section 1. of which makes changes to CGS 1-217 and would clarify the existing law by reverting to the pre-1999 text of the statute requiring written requests for redaction of mailing addresses.

The recent State Supreme Court decision confirms the interpretation of a Freedom of Information Act provision which prohibits disclosure of residential addresses of certain Federal, State and Municipal employees (CGS 1-217). Though the court's decision narrowly applies to motor vehicle records, legal counsel for state and municipal agencies, as well as attorneys for the FOI Commission, are advising that the court's decision will apply to all public records, including land records, voter lists, and tax rolls, as well as all other records in every office of every public agency in the state; and it applies to all formats of records, both printed and electronic.

The impact of this decision has an immediate effect on the Tax Collector's office. Not only would this require the identification of those in the "protected class," but redaction of all mailing addresses from the bills for these taxpayers as well as erasing addresses from the hard copies of tax payment records which are kept by Collectors. It would require that one person physically pull all bills which have been redacted and hand address them to those identified as "protected." It also would require a staff member to erase or black out addresses from posted ratebooks and validated bills which are kept for audit. Since we keep 15 years of posted ratebooks this is no small undertaking! With recent staffing cutbacks in tax offices across the state the extra time required to handle bills becomes a burden to tax collectors who are attempting to operate their offices as efficiently and effectively as possible while complying with all state statutes and mandates.

One of the major problems with attempting to comply with this ruling is the actual identification of those who are "protected" in Connecticut. Many shoreline towns, for example, have residents who are in their homes in the summer only and do not have residency in the town. It would be virtually impossible to identify all of those who should be redacted. Even if staff time were available in an office to hand address bills and redact prior payment records, how does a

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**Testimony of Deborah J. Fuller
Planning and Development Committee
Public Hearing
February 22, 2012**

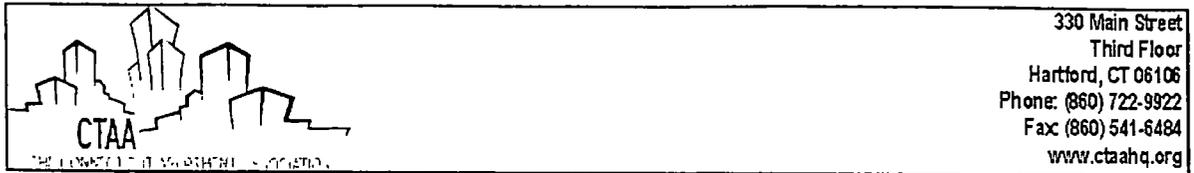
House Bill 5035, An Act Reducing Mandates for Municipalities

Thank you for the opportunity to submit written testimony on behalf of the Judicial Branch on House Bill 5035, An Act Reducing Mandates for Municipalities.

The Judicial Branch is strongly opposed to section 1 of this proposal, which would severely weaken the protection currently provided to persons whose position or employment subjects them to an elevated risk of harm. The prohibition against disclosure of their home addresses was provided to judges and Judicial Branch employees in recognition of the fact that the work they do can subject them to an increased threat of danger and violence. This conclusion is not based on speculation – there have been numerous instances where judges and Judicial Branch employees have been subjected to threats of violence and, in some instances, actual violence. We believe that there is a continuing need to protect our judges and employees from dangers arising out of their employment.

We understand that concerns have been raised by towns and cities, as well as a variety of other organizations, about the impact that the current statute has on their ability to conduct their business. However, we believe that language can be drafted to address these concerns while continuing to provide a measure of protection to judges, Judicial Branch employees and others listed in the statute. This language does not do that. We urge the Committee not to act favorably on this section as currently drafted.

Thank you for your consideration.



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Testimony for Raised Bills:
5035 AN ACT REDUCING MANDATES FOR MUNICIPALITIES

The Connecticut Apartment Association (CTAA) is the state chapter of the National Apartment Association and represents over 26,000 units, the largest number of apartments represented by any association in the state. CTAA members consist of the state's leading firms in the multifamily rental housing industry. The association's mission is to provide quality rental housing to residents of Connecticut. Our parent organization, the National Apartment Association, represents more than 6 million apartment homes throughout the United States and Canada. ***The Connecticut Apartment Association (CTAA) opposes Sections 6 and 7 of Raised Bill 5035 - An Act Reducing Mandates for Municipalities.*** These sections propose to allow municipalities to charge property management companies and apartment owners (plaintiffs) the difference between the cost of storing an evicted tenant's (defendants) possessions and any proceeds collected from the public sale of an evicted tenant's possessions, if the proceeds of the sale are insufficient to cover the expense of storage. CTAA asks that the State of Connecticut not add an additional layer of financial burden and uncertainty onto the already difficult and expensive eviction process. CTAA understands the difficult economic conditions that are affecting our country, the state of Connecticut and our State's municipalities, but we ask that our lawmakers also consider that our industry has similarly been heavily impacted by the economic downturn.

As it stands now property management companies and owners in Connecticut already suffer prohibitively high costs when forced into evicting tenants. We lose on average, three months of rent on each eviction. On top of this we bear the burden of attorney and court fees associated with each eviction. We also must cover the costs of repairing and cleaning an apartment often left in poor condition by evicted tenants. Property management companies and owners must also reimburse State Marshals for serving on average, three notices and inventorying any leftover property of evicted tenants. We then suffer the additional cost of hiring movers or maintenance crews to transfer evicted tenants' possessions to the curbside or municipal storage facilities. If this Bill were passed property management companies and apartment owners would suffer additional costs. We would be required to reimburse municipalities for any difference between the costs they incur in storing an evicted tenant's possessions and monies that they are able to recoup through the public sale of these possessions. Regrettably, the possessions left behind by evicted tenants are most often of inconsequential monetary value and the profit made from sale of these items would often be insufficient to cover the storage costs incurred by municipalities.

Property management companies and apartment owners need to make up the potential costs associated with this new mandate by increasing rents on paying tenants which would, in turn, drive up the cost of Connecticut rental rates. If the market could not bear these increased rates then managers and owners would be forced to make the difference up somewhere else for example by possibly deferring maintenance to buildings.



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Testimony of Matthew Cholewa, Legislative Liaison and Executive Committee Member
of the Real Property Section of the Connecticut Bar Association
In support of Section 1 of **House Bill 5035, An Act Reducing Mandates for Municipalities**
Planning and Development Committee
February 22, 2012

Senator Cassano, Representative Gentile and members of Planning and Development Committee, thank you for the opportunity to appear and comment in support of Section 1 of House Bill 5035, An Act Reducing Mandates for Municipalities. The Connecticut Bar Association urges this committee and the General Assembly to pass the provisions contained in Section 1 of the bill with the greatest alacrity for the reasons set forth below.

In its recent decision in *Commissioner of Public Safety v. Freedom of Information Commission*, the State Supreme Court ruled that under section 1-217 of the General Statutes, a tax collector could not release the grand list of motor vehicles without first redacting the address of those persons protected by section 1-217. Section 1-217 states that "no public agency may disclose, under the Freedom of Information Act, the residential address" of certain protected classes of people, including all police officers, firefighters, and every employee of the Departments of Correction and Children and Families, the Commission on Human Rights and Opportunities, and the Judicial Department. While the court's decision directly applies to motor vehicle records, the CBA believes that it sets a precedent that will apply to all requests for to view any public records, whether made or not made in advance or in writing.

Without a legislative remedy to this decision, many public agencies will not be able to comply with Section 1-217 and many public records likely will be made unavailable to the public for viewing.

My own business is in the area of real estate transactions. Attorneys in Connecticut spend every day helping people buy, sell, lease and finance homes and business property. In order for our system of land transactions to work,

- Land Records need to be open and readily accessible to evidence good title to property;

- Tax assessment and collection records, and water and sewer assessment and use records need to be open and readily accessible to establish that taxes and utilities are paid and not a lien on the land;
- Building, zoning, fire marshal, health department and other records need to be open and readily accessible to allow people to know that the property they want to buy does not have any outstanding violations against it.

There is a good reason all these records are open and readily available to the public. Restricting access to them or corrupting their integrity will result in significant foreseeable, and likely, unforeseeable consequences.

For example, suppose I was a volunteer firefighter, one of the classes of people listed in section 1-217. My wife and I have finally saved enough money for a down payment on our dream house. However, the town clerk will not record the deed, or will record a deed omitting my name or the description of the property. I cannot purchase the home because no one will lend me money on a title that will be uninsurable. Moreover, this would corrupt the title to all properties. When doing a title search, one has to have the ability to view all recorded instruments in order for a search to be thorough and complete.

A Town Clerk, who has no way of knowing whether the parties to a deed or mortgage might come within Section 1-217, would have to keep secure and secret all land records, lest the Town Clerk inadvertently and unknowingly disclose the residential address of a covered employee. That is, the only way to ensure compliance with the statute would be to prohibit all public access to the Land Records.

The problem is not just limited to Land Records. Other records affected by the Supreme Court's decision include other records in the office of the Town Clerk, Assessor, Tax Collector, Water and Sewer, Building, Planning, Zoning, Health, Fire Marshall, Registrar of Voters, State Library and other state and municipal agencies.

This decision has broad implications that affect every aspect of Government and commerce to the integrity of voting and town records. Redacting addresses that are integral to the purpose of the records that contain them irreparably damages the people's right to know that their government is functioning competently and fairly. While the purported goals of 1-217 are laudatory, the statute provides little actual safety benefit compared to the overwhelming burdens

it imposes.

As interpreted by the Connecticut Supreme Court, Section 1-217 will clearly harm our commercial and government institutions, which for centuries have relied on land records, tax rolls, voter lists, and other public records to be complete, accurate and open to the public.

Section 1 of House Bill 5035 will solve the vast majority of issues that have been raised and identified in the court's decision. Along with many other public agencies and organizations that have worked to craft this solution, the Connecticut Bar Association supports passage of **Section 1 of the bill and urges this committee and legislature to pass this legislation with all deliberate speed.**

Thank you for the opportunity to appear before you and to speak in support of Section 1 of HB 5035. I would be pleased to answer any questions you may have.

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line 7CT Property Owners Alliance Inc.

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February 22, 2012

My name is Robert DeCosmo; I am the president of the CT Property Owners Alliance with chapters in several of Connecticut's urban centers. One of our goals is to maintain and preserve affordable housing and we see a challenge to this goal on your agenda today.

We strongly oppose section #6 of agenda item #7, HB 5035 AN ACT REDUCING MANDATES FOR MUNICIPALITIES. Specifically, we strongly oppose the shift of the expense of storing evicted tenants possessions from the cities onto the property owner who brought about the eviction action.

Briefly, 2 years ago, the legislature shifted the transportation costs of evicted tenant's possessions from the cities to the landlord in an eviction. Testimony was given and assurances made that this expense was relatively minor...that did not turn out to be true. The expense is now a major cost increases with many Attorneys being told they need to retain \$1,500 to secure the moving truck for the execution.

I received an invoice from a distraught Waterbury condo owner for \$1,882 for moving costs, making her legal fees nearly \$3,000 for a one eviction. When combined with lost rent, repairs and re-leasing fees, losses to an owner now approach \$7,000; hardly a way to maintain and preserve affordable housing.

We request that section #6 of the HB 5035 be removed and language updating the entire post judgment process be substituted. The new process should require;

- 1 Tenants wishing to keep their possessions must notify the cities they need to store their possessions and to bring them to the city facility at their own expense and prior to the execution expiration.
- 2 Upon expiration of the execution, all items left behind shall be considered abandoned and the owner may dispose of these items in any legal fashion.

Eviction statistics suggest that only a minority number of cases require a moving truck and in 80% of these cases, tenants never reclaim the items the city stores. The cities have difficulty recovering their costs because in these unclaimed cases we are moving and storing junk.

Changing this proposal as suggested helps in a number of ways;

- 1 Provides mandate relief to the city as 80% of its burden is relieved, in the other 20%, the tenant redeems their possessions and the city's costs will be reimbursed.
- 2 Relieves the property owners of this staggering extra cost
- 3 Protects tenants who need time to locate a new apartment
- 4 Stops a growing trend of owners paying cash for keys as an alternative to a legal eviction

The CT Property Owners Alliance is willing to help shape this policy with any committee willing to work on solving this dilemma; I thank you for your time today.

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Statement of Patrick G. Alair
Deputy Corporation Counsel, Town of West Hartford
before the
Committee on Planning and Development
Connecticut General Assembly
February 22, 2012
in support of
Governor's Bill 5035
An Act Reducing Mandates for Municipalities

Chairman Cassano, Chairman Gentile and members of the Planning and Development Committee, thank you for the opportunity to address you this morning.

I appear before you today wearing two hats: First, I am here on behalf of the Town of West Hartford, for which I am Deputy Corporation Counsel. Second, I am here as a member of the board of the Connecticut Association of Municipal Attorneys. In both of those roles I have been participating in the broad coalition which formed in the wake of the Connecticut Supreme Court's decision in the *Commissioner of Public Safety* case last summer. In both capacities I strongly urge your support for Governor's Bill 5035 particularly section one of that bill.

There should be little doubt that General Statutes §1-217 requires reform. While its original purpose may have been laudable, it is simply not functional as it has been interpreted by our courts. The world has changed a great deal since this law was first introduced. The age of the internet has made it much harder for anyone to be as private as they once were. At the same time, Connecticut's municipalities have struggled to respond to taxpayer demands for maximum service at minimum cost by relying on technology to automate recordkeeping systems. Computerized databases of building permits, zoning applications, tax assessment and collection records are all driven by addresses and cannot function without them. How do you issue a building permit without identifying the address of the property? How do you publish notice of a zoning application as Connecticut law requires, when you cannot identify the address of the applicant? How does a firefighter refinance his or her house if a title searcher cannot review the land records relating to the house? But those are only the obvious records. There are many other types of records kept by municipal agencies for a variety of purposes.

To give you a simple, everyday example of how §1-217 affects local governmental operations in less obvious ways, let us assume that a local police officer responds to a minor traffic accident. The officer writes up a routine accident report and provides copies to both drivers. Now let us assume that one of the drivers is the son, daughter or spouse of a person protected by §1-217 and is driving that person's car. Simply by providing the other driver with a copy of the accident report – which would routinely contain the vehicle owner's address – the officer appears to have violated §1-217. The officer may have had no way to know that §1-217 was implicated and the person driving the car was probably thinking about other things at the time. Bluntly, we cannot even wrap our arms around the countless ways in which §1-217 affects our operations every day. Consequently, it is fundamentally impossible for municipalities to comply with §1-217 in its current form and it would be dishonest for us to pretend otherwise.

Equally frustrating is the fact that §1-217 protects individuals who simply have no interest in being protected. I personally sat down with a local telephone book and found the residential addresses of fifteen people who are protected by the law in roughly an hour's time. While it may be true that some individuals have gone to great lengths to preserve their addresses, these people clearly had not. Yet as §1-217 is currently written, the burden is on every public agency to know everyone covered by its scope and to redact their addresses from otherwise public records whether the subject cares or not.

Most ironically, many of the most commonly known municipal records at issue here - tax assessment and collection records, building permit records and zoning permit records - are driven by the local land records *and it is the protected individual himself or herself who creates that record trail*. The simplest way to avoid a large part of the problem is in the hands of the protected individuals themselves. They can put their property in the name of a spouse, a trust or an LLC. It is flatly irrational to put the burden on municipalities to spend untold hours and tens of thousands of dollars to redact public records when the person identified in those records could avoid the problem in the first place by taking relatively simple steps.

Governor's Bill 5035 resolves these concerns by narrowing the scope of §1-217 to a viable, functional level. If a public agency employs an individual who is protected by its terms and if the employee asks to invoke the protections afforded under the bill, that public agency can reasonably be expected not to disclose its own employees' residential addresses. Effectively, that is how §1-217 worked prior to a pair of unfortunately timed amendments in 1999. I urge you to support this bill.

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Memo

To: Senator Steve Cassano and Representative Linda Gentile, CO-Chairs and Members of the Planning and Development Committee

From: Jeff Bridges, Town Manager 

Date: 2/22/2012

Re: Testimony on HB 5035 – An Act Reducing Mandates for Municipalities

We would like to offer our support for House Bill 5035 – An Act Reducing Mandates for Municipalities. Mandate relief is a perennial issue for local governments in our legislative priorities. We are very much appreciative of the initiatives contained in this bill.

There are two elements to this bill that I would like to address specifically, those being the correction to the statutes on the ability to assess partially completed structures and the changes to the property storage mandates for evicted tenants.

Section 2 of the bill clarifies that partially completed construction is subject to property taxation. We believe that this is appropriate. The Connecticut Statutes on property taxation require that local assessors value property at their true and actual value. Any improvements, whether completed or not add value to a property. The owner would certainly include the value of the improvements in any arms length sale thus it is appropriate that the taxable value include any and all improvements on the property. In addition, even partially completed projects require additional police, fire, and other community services even if they are not occupied. Taxation relative the full value of the improvements is appropriate to cover the costs of these services.

Section 6 amends the evicted tenant's property storage mandate to authorize municipalities to charge and collect from landlords the difference between the proceeds from the sale of the possessions and the expense of such storage. Section 7 amends the foreclosed property storage mandate to authorize municipalities to charge and collect from mortgage holders the difference between the proceeds from the sale of the possessions and the expense of such storage. Both of these sections resolve an expense issue for Towns which in these circumstances are not party to the dispute between the property owner and the tenant. It is appropriate that the local taxpayers be made whole with the ability to charge back these expenses for what is for all intents and purposes a private matter between two parties.

Claude Albert, Legislative Chair, Connecticut Council on Freedom of Information

Testimony in Support of Provisions of HB 5035, An Act Reducing Mandates for Municipalities

Wednesday, February 22, 2012

Sen. Steve Cassano and Rep. Linda Gentile, co-chairs, and members of the Planning and Development Committee:

My name is Claude Albert, and I am the legislative chair of the Connecticut Council on Freedom of Information (CCFOI), an organization committed to furthering government transparency and accountability. We support allowing a public agency employer to redact residential addresses from material released from the personnel files of its own protected employees. We urge the committee to amend the language of Section 1 of HB 5035 to make it clear that the exemption applies specifically to personnel records.

We also strongly urge the committee to adopt this balanced, practical and prompt solution to what is presently an untenable situation. Definitive action is needed immediately. A Connecticut Supreme Court decision last year resolved a conflict in state law by applying the address exemption in the Freedom of Information Act to every public record in all government agencies, including such critical municipal records as land transfers, voter rolls, tax lists, and commercial liens. The address is not an incidental piece of data on many of these records, but information that is integral to their very purpose and critical to their usefulness.

This universal redaction undermines the integrity and usefulness of records that are indispensable tools in political, commercial and legal life. A coalition of groups that has joined to oppose these redactions, including the Connecticut Bar Association, the Connecticut Bankers Association and a variety of municipal groups, is testimony to their potential for disruption.

Some impacts, such as impeding title searches, are obvious. Others are less so. How, for example, could a zoning or inland wetlands board conduct a public hearing on a land-use request by a member of the protected class without revealing the address of the property involved? How would they provide notice to abutting property owners? What kind of delays would the public experience in accessing public documents needed in the course of ordinary business?

Of equal importance to CCFOI is that the public's ability to scrutinize these records is a guarantor of the competence, integrity and fairness of local government. For all these reasons, they have been maintained complete and open to the public since Colonial times.

The present state of the law also places an unworkable burden on municipal clerks, assessors, building officials, zoning officials, registrars and other public officials. We defer to them to best explain the management and cost consequences they face. It is important to note, however, that the Connecticut Town Clerk's Association has found no other state that has adopted similar law.

CCFOI understands that government transparency must be balanced against serious security threats, particularly to those who do dangerous jobs on the public's behalf. We support the redaction of residential addresses from personnel files as part of that balance. Such records would perhaps be more obvious targets for someone intent on doing harm, and the argument that the public has an overriding interest in disclosure is unpersuasive.

But in the case of documents that are fundamental to our commercial and civic life or to government accountability, the argument for transparency is compelling, and the impact of redaction is severe. While it is impossible to guarantee that information from a public record will not be misused by someone intent on doing ill, we also question how effective the redactions at issue here would be in deterring such a committed criminal, especially in this digital age, when a person's address and other information about him or her is often a mouse-click away.

We believe that an amended bill HB 5035 would strike a thoughtful balance.

Harry Souza?

Council 4 AFSCME Testimony – February 22, 2012 – Planning and Development Committee

pg 12 line 19

HB 5035, AN ACT REDUCING MANDATES FOR MUNICIPALITIES.

Good morning Chairman Gentile, Chairman Cassano and members of the Planning and Development Committee. My name is Lisamare Fontano and I am president of AFSCME Local 387, representing the Cheshire Correctional Complex. Our union, along with AFSCME Locals 391 and 1565, represents nearly 5,000 front-line correctional employees in Connecticut. I am here to speak against section 1 of HB5035.

Our union has spoken out against changing the shielding law, but recognizing the array of powerful economic interests - bankers, realtors, mortgage brokers and the like - who have demanded that this law be changed, we realize that the odds are that it will change. So it is now our duty to get the language in that best protects our members. The last speaker's testimony covered this.

I would like to speak to you about why this shielding is so important to correction, public safety, judicial and DCF employees. Our members have the difficult and trying duty of keeping some of society's most dangerous offenders in prison. We have had to carry out at least one execution. We regularly lock up organized crime and gang leaders. We have locked up terrorism suspects and federal detainees. There are plenty of examples of criminals trying to obtain the residential and personal information of correction officers. Such inmate information requests about staff have been used to harass staff members. Information is traded in prison, almost as a commodity. Information on staff is sometimes highly sought after. Two years ago a female correction officer testified before the legislature about an inmate who tattooed the first and last name of this officer on his arm and finger.

Inmates are aware that staff must follow a strict policy of no "undue familiarity" with inmates. There have been incidents where inmates have tried to get staff in trouble with superiors by pretending that a staff member gave their personal information to an inmate.

Correction staff jobs are stressful. Two different actuarial reports found that the average mortality age for a correction officer is 58. This high mortality rate is due to the affects of job stress. Inmates FOI'ing our personal information is one more stress factor that we don't need.

We know when we become correction officers that we will be at risk on the job. We accept that. But, our families should not have to be put at risk because an inmate can access information that can eventually lead to the discovery of our families' names and addresses. I have attached a Hartford Courant article about the murder of a federal judge's family that has all the earmarks of a retaliatory killing, because the judge handled the case of a leader of a criminal enterprise. Our staff deals with members of criminal enterprises all the time.

This is why we oppose the fix in the Governor's bill. Under that fix, our records are available for anyone who wants to attack a correction officer in every town hall across the state. We need a fix that will redact our information as much as possible.

Please reject that language in section 1 of House Bill 5035. Please give us the strongest protection language possible. I would be happy to answer any questions.

www.chicagotribune.com/news/nationworld/chi-0503010123mar01,0,4913954.story

chicagotribune.com

Federal judge's family killed

Husband, mother found slain in basement

Jurist had been a target of white supremacist

By David Heinzmann and Jeff Coen

Tribune staff reporters

March 1, 2005

U.S. District Judge Joan H. Lefkow found her husband and mother shot dead in the basement of her home Monday night, less than a year after white supremacist Matthew Hale was convicted of trying to have her murdered for holding him in contempt of court.

Michael F. Lefkow, 64, an attorney, and Donna Grace Humphrey, 90, were lying in blood with gunshot wounds to the head when the judge arrived to a darkened house at 6 p.m., a source close to the investigation said.

Police said they were conducting "death investigations," and cautioned about drawing any connections to Hale, who is awaiting sentencing for trying to solicit the judge's murder. Sources said Michael Lefkow and Humphrey were found together, each was shot once in the head. No weapon was recovered, but police found two .22 caliber casings.

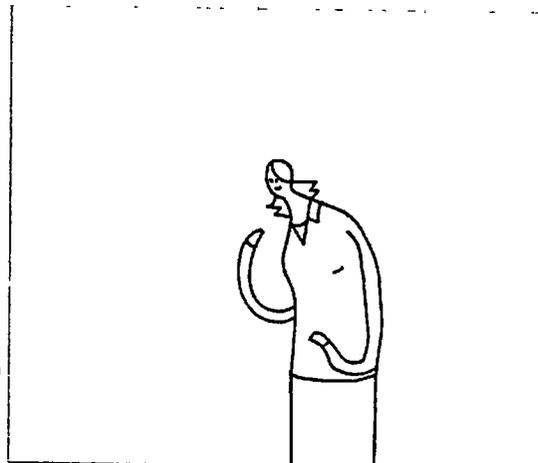
Security at the Lefkow home--including a camera mounted outside the home and guards posted on the block in unmarked cars--had been beefed up after the allegations against Hale emerged in January 2003. But neighbors said the extra measures tailed off about the time Hale was convicted in April 2004.

Investigators say there was a sign of forced entry, a broken window, at the family's three-story gray-sided home in the 5200 block of North Lakewood Avenue in the Edgewater neighborhood.

Neighbors on Monday night said the judge ran into the street screaming after discovering the bodies and was consoled by police officers who put a blanket over her. She was taken to the Belmont Area headquarters while detectives, evidence technicians and federal agents worked the scene in and around the home.

Michael Lefkow was an attorney in private practice, focusing in employment law. He was deeply involved in the Episcopal Church, including his parish, St. Luke's in Evanston. He ran unsuccessfully for

advertisement



Cook County judge in 2002. The couple married in 1975 and have four daughters; Michael Lefkow also had a daughter from a previous marriage. The couple's youngest daughter, who lived at home, was in the house in the middle of the afternoon to get some gym clothes, according to a federal law enforcement source. She did not see either her father or grandmother, the source said.

Thomas Robb, a close friend of the couple who runs a food pantry in Edgewater, said Michael Lefkow was recovering from surgery for an Achilles tendon injury suffered while playing tennis. He said Humphrey, who was visiting from Colorado, was frail and able to get around only with two canes.

"The thing that hurts us and hurts the family is, he wanted to walk each of his daughters down the aisle and there's a couple of them that are still unmarried," Robb said. "This is a very big loss."

Hale, the 33-year-old founder of the white supremacist World Church of the Creator, was arrested in January 2003 and charged with soliciting Lefkow's murder a month after she held him in contempt for continuing to call his church by that name after an appellate court ruled such a use was a trademark infringement.

Based largely on testimony from Hale's "security chief"--an FBI informant--a jury convicted Hale of soliciting the judge's murder last April. U.S. District Judge James Moody is scheduled to sentence Hale on April 6.

Hale is being held in the Metropolitan Correctional Center in the South Loop under special administrative measures taken against suspected terrorists since the Sept. 11, 2001, attacks. The restrictions prohibit him from communicating with others through the media, mail or telephone and from having visitors under the theory that he could incite violence among his followers.

The restrictions were ordered by then-U.S. Atty. Gen. John Ashcroft on March 3, 2003, less than two months after Hale's arrest.

Hale has been allowed to communicate with Moody, who was brought in from Hammond to preside over the trial.

Within the last two weeks, federal agents in Chicago received a bulletin saying the white supremacist Aryan Brotherhood was possibly planning to harm "law enforcement and their families," according to a source. Information on what security measures might have been put in place in the wake of that alert was not immediately available.

Federal investigators said a protective detail was organized to protect the judge Monday night.

Timothy Murphy, Hale's cousin and an attorney who briefly represented him, called the news of the slayings "horrifying."

But Murphy said he did not think Hale was capable of violence.

"I don't believe that Matt attempted to threaten Judge Lefkow in the first place," he said.

But Murphy added: "I would imagine that if what this is is a homicide that Matt's followers are going to be under closer scrutiny."

Hale first came to prominence in 1999 as a white supremacist and head of the World Church of the Creator. Over the Independence Day weekend that year, former church member Benjamin Smith went

on a shooting spree directed at racial minorities, killing two and wounding nine.

The FBI investigated Hale's role but he was never charged.

In 2000, the Oregon-based group TE-TA-MA Truth Foundation, more commonly called Church of the Creator, sued Hale for trademark infringement.

Lefkow ruled in Hale's favor, but a federal appeals court in 2002 ruled that Hale's group had violated the Oregon church's trademark. In October 2003, Lefkow imposed sanctions of \$200,000 against Hale when he continued to use the name despite the appellate court ruling. Federal prosecutors alleged that dispute led him to seek to have her killed.

Evidence presented at Hale's trial included an e-mail he sent his security chief, Tony Evola, asking for Lefkow's home address. A message, posted on the "White Aryan Resistance" Web site, gave the address and made derogatory comments about the Lefkows, presuming they were Jewish.

Tribune staff reporters Tom Rybarczyk, Carlos Sadovi, Oscar Avila, Matt O'Connor, Ana Beatriz Cholo and Todd Lighty contributed to this report

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Council 4 AFSCME Testimony – February 22, 2012 – Planning and Development Committee

HB 5035, AN ACT REDUCING MANDATES FOR MUNICIPALITIES.

Good morning Chairman Gentile, Chairman Cassano and members of the Planning and Development Committee. My name is Brian Anderson. I am a legislative representative of Council 4 AFSCME. Our union represents nearly 16,000 state employees. I am here to speak against section 1 of HB5035.

This bill revokes much of the shielding protection of the home addresses of correction employees, state police officers, judicial employees, DCF employees and others. We support leaving the current law as it is. However, we do recognize that a recent state supreme court decision and its perceived economic impact has had the result of frightening the banking, real estate and mortgage industries and municipal government associations into seeking revocation or a severe weakening of the shielding law. We also recognize that there are better and worse versions of a language change under consideration and that one offers more protection to our members than the other. It is our duty to indicate to you the preferred language.

The preferred language:

- 1) states that the public agency employer is prohibited from releasing home addresses of its employees or their personnel, medical or similar files
- 2) states that protected employee must “opt in,” i.e., give written notice to public agencies that residential address should not be disclosed.
 - a. If public agency receives FOI request that specifically identifies a protected employee who has opted in, then the agency must redact residential address before disclosing requested document.
 - b. If an agency receives an FOI request to prepare a list, and the agency chooses to compile that list, the agency will make a reasonable effort to redact residential addresses of opted in employees before releasing such a request.

- c. If an agency receives an FOI request for an existing list that is derived from a readily accessible electronic database, the agency will make a reasonable effort to redact residential addresses of opted in employees before releasing.
- 3) The Department of Labor will create a guide that informs protected employees how to exercise their rights under the law and otherwise protect their addresses from disclosure.
- 4) A legislative task force will consider whether and how to protect addresses from disclosure when they are part of land records, grand lists and voter registry lists.

Another of our speakers can tell in greater detail why such protection is vital to correction and other public employees. I would be happy to answer any questions.

pg 10.
line 3
Connecticut Association of Assessing Officers, Inc.

John Chaponis, CCMA II
Chairman, Legislative Committee
127 Norwich Avenue
Colchester, CT 06415
860.537.7205
February 22, 2012

Re: HB 5035

Members of the Planning and Development Committee:

I speak to you today representing the CAAO in regards to HB 5035. The CAAO recommends the passage of HB 5035 in regards to Sec. 1, addressing the FOIC non-disclosure of residential address issue and Sec. 2, addressing the assessment of property under construction.

CAAO hopes that Sec. 1 will be further amended to remove the Town Clerk, Collector, and Assessor. Since this country was founded, it was based on a stern principal of taxation open for inspection but moreover, our offices do not track a residential address in our files but carry a property location and mailing address.

In regards to Sec. 2, CAAO requests an effective date beginning with the October 1, 2011 Grand List in order to ensure that it covers the upcoming July 1, 2012 tax bills. Currently it is slated to be "effective from passage" however, July 1, 2012 tax bills are based on the assessment date of October 1, 2011 leaving room for argument that the July 1, 2012 bill would not be included when 99% of Connecticut municipalities are anticipating that revenue in July 2012 estimated to be approximately 35 million dollars.

The biggest misconception with this proposed legislation is that some believed this was a new tax. That is incorrect. For as far back as we have been able to research, CT has always assessed property based on its market value. Furthermore, I would point to four Connecticut Statutes compelling assessors to do exactly that.

1. The most important statute in all of municipal tax assessment is CGS 12-63 "Rule of Valuation" where assessors are required to value all property (other than farm, forest & open space) at its "fair market value". Certainly a property that is 90% completed has more value than a vacant lot and FMV is the backbone of the local property tax in CT (as well as many other states).
2. CGS 12-64 (Real Estate Liable for Taxation) requires assessing property which is under construction whereas it states: "all other buildings and structures, house lots, all other building lots and improvements thereon and thereto" are liable for taxation. The key word here is "improvements" which is a real estate appraisal term for anything added to the land and is defined in the dictionary of real estate appraisal as "buildings or any other relatively permanent structures or developments located on the land".
3. C G.S. 12-53a (Assessment and Taxation of New Real Estate Construction) states in the first sentence that "completed new construction completed after" October 1st is liable for taxation. Key terminology here is "completed after" the assessment date which indicates that you may only add on the portion

completed after October 1st. Why? Because the portion completed prior to October has already been assessed pursuant to CGS 12-63 & CGS 12-64.

4. C.G.S. 12-53a subsection (c) states: the assessor shall determine the increment by which assessment for completed construction exceeds the assessment on the taxable grand list for the immediately preceding assessment date and prorate that increment. If property partially completed or under construction on October 1st were not intended to be assessed, there would be no need to "determine the increment" and the assessor would merely take the "assessment for the completed construction and prorate it". This language further supports that the incomplete portion constructed prior to October 1st has been assessed.
5. C.G.S. 12-88 (When Property Otherwise Taxable May be Completely or Partially Exempted) provides an exemption for a church or non-profit who is not in "exempt use".... "if the construction of such buildings or improvements is in progress". There would be no need for an exemption for property under construction if it were not taxable in the first place.

Recently a superior court judge interpreted that CGS 12-53a prohibited the taxation of improvement which were not 100% complete on October 1st and provided the exemption stated in CGS 12-88 to every property. However, a review of the legislative history from the Finance Committee in regards to the creation of 12-53a (passed in 1971) proves otherwise. This history (copy attached) proves that assessors were taxing property that was under construction and also refers to the need for CGS 12-53a as a "supplemental list" for what was being omitted after October 1st.

Rep. Thorton asked "rather than creating CGS 12-53a, should we just change the assessment date to January 1st?"

Sen. Petroni replied "the date that the assessment is established is the date that we take what is on the land on a certain date. Whether the date is October 1st or January 1st, I think you have the same problem. Unless someone takes the time to make a supplemental list of new construction".

Connecticut has a supplemental list for Motor Vehicles in CGS 12-71b (taxation of motor vehicles not registered on the assessment date). The supplemental motor vehicle list was created to close the loophole on vehicles purchased after October 1st not being taxed for an entire year. CGS 12-53a closed the exact same loophole on real estate constructed after October 1st not being taxed for the remainder of the year.

If CGS 12-64 is not amended as stated in HB 5035 Connecticut municipalities stand to lose 35 million dollars annually, but more importantly, there will be a protected class in which will not be taxed based on its fair market value and two homes sitting side by side will have drastically different tax liabilities.

Please support HB 5035 to ensure a fair distribution of the local property tax with an effective date beginning with the October 1, 2011 Grand List.

Respectfully,

John Chaponis, CCMA II

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FINANCE COMMITTEE

MARCH 23, 1971

that a certificate of occupancy has been issued, or that the dwelling has been completed. The protection for the appeal periods are set for under E of the bill, D and E, and I think the safeguards are there from excessive assessment, but the important part of this bill is that the tax collector can bill the owner upon the certificate or the house being used for the purpose intended. I understand in the last session, it didn't get by the Senate, because they felt there were certain administrative problems to the bill. The Deputy Tax Commissioner Jack Tarrant, has discussed this with different members of the Legislature, including Rep. Camp, and myself who does feel that it can be administratively feasible, and certainly, this bill deserves serious consideration.

Rep. Spain: Could you tell us, again the Number of that?

Sen. Petroni: The number is 7475. AN ACT CONCERNING THE ASSESSMENT OF TAXATION OF NEW REAL ESTATE CONSTRUCTION.

Rep. Thornton: Have you considered changing your assessment dates from October to a more realistic date say, January 1st, for instance which makes it closer to your date of financial bills etc.

Sen. Petroni: The problem is I think, always the same, the statutes require a certain period for appeal from the assessment and then you have the weeks and months that will go by before a tax.... there is the mill rate to be established, by the Legislative body then there is the ...there are certain dates in the Statute that I don't think really will bring in the revenue. They are safeguards that I don't think will change that much, unless you use the certificate of occupancy or the use date at the criteria for delivering a tax held for the full assessment. Under this bill within 10 days after the certificate of occupancy is issued, or property is being used for the intended purpose the owner gets a tax bill. I don't think that if you analyze the dates that are in the statutes now, the List has to be completed by January 30th then the Board of Tax Revue meets in the month of February, then there can be appeals from that, then most towns that I am familiar with have a meeting to establish the tax rate in, say May then by some stretch of the imagination, the date that the assessment is established is the date that we take, not the date but what is assessed is what is on the land on the certain date. Whether the date is October 1st or January 1st, I think you have the same problem. Unless, somebody takes the time to make a supplemental list of new construction and hand the bill to the new owner.

Rep. Bigos: Senator, that sounds like a beautiful bill but, I wonder if it is not easy to circumvent the provisions of it. The property becomes taxable when there is a certificate of occupancy but, supposing they left out a toilet or something else, then the certificate of occupancy wouldn't be used, then later on when they want to sell it they just spend a little money for the lavatory or something else, and still not pay the tax that you are

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Connecticut Town Clerks Association, Inc.

Committee Members

Antoinette Chick Spinelli -
Waterbury, CH
Essie Labrot, West Hartford, V
CH
Jeff Barske, Thompson
George Buckbee, New Milford
Debra H. Denette, East Haddam
Michele Grande, Redding
Mary Stanton, Mansfield



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Joyce Mascena, CTCA-Pres.
Patty Strauss, 1st V-Pres.
Patty Spruance, 2nd V-Pres.
Joseph Composeo, Imd. Past Pres
Bernice Dixon, Vitals Comm. CH
Kim Garuis, TechnologyComm.CH
Lobbyist: Michael Dugan

2012 Legislative Committee

Testimony Planning & Development Committee February 22, 2012

Good morning distinguished members of the Planning & Development Committee. My name is Essie Labrot and I am testifying on behalf of the Connecticut Town Clerk's Association (CTCA). I am the Vice Chair of the Legislative Committee for the Town Clerk's Association and the Town Clerk of West Hartford. I am here today to testify in support of the Governor's Language in Bill 5035 with additional wording to reflect "No public agency may disclose, from their personnel and medical records,..."

As you are well aware, municipalities have a vast multitude of documents held in various offices and in various formats including paper, digital images and microfilm. Some are strictly paper format such as petition pages. There would be extreme costs to municipalities if every record had to be researched for names of individuals deemed to be eligible for address redaction. All requests for vital records, which are permanent and cannot be altered, would have to be checked for an individual of a protected class whose name and address may be listed on the vital record. For example, when a loved one passes away, the informant's name and address are on the death certificate. These names are not entered into a database but are part of the death record. Death records are public records and can be viewed by anyone. A hospital town, such as Waterbury, takes in over 1,500 death records per year for recording. They have over 6,600 requests annually for death certificates alone.

The town of West Hartford receives over 50,000 requests for various records per year. These requests come in the form of mail, telephone, e-mail and in person. An accurate cost analysis to research and redact records is not available because the records are kept in so many different formats. Is address redaction of town records really necessary when the internet is the most convenient and most commonly used source for obtaining information?

Thank you for this opportunity to testify. I would be happy to answer any questions you may have at

this time.

Respectfully submitted,
Essie Labrot, West Hartford Town Clerk
Vice Chair, CTCA Legislative Committee

PG 8

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**Public Comment of Peter Sachs
Before the Planning & Development Committee On
Governor's H.B. No. 5035, Session Year 2012**

AN ACT REDUCING MANDATES FOR MUNICIPALITIES

My name is Peter Sachs from Branford, CT, and I am here today to speak in support of Governor's Bill 5035, and specifically its proposed revisions to CGS Sec. 1-217.

In 2008, I started the whole controversy involving this statute, which resulted in arguments before and decisions by the Freedom of Information Commission, the Superior Court and ultimately the State Supreme Court.

Sec. 1-217 currently requires all public agencies to do the impossible— redact from all public records the residential addresses of any person, whether now living or long dead, who has ever been employed in any of twelve specific categories.

However well intentioned that statute might have been when enacted in 1995, it was not possible then, it is not possible now and it will never be possible for any public agency to comply with its provisions. There exists no method or mechanism for public agencies to use in determining which addresses should be redacted.

Currently those who enjoy the statute's protection need not inform any public agency of their special status. Rather, public agencies, using a method neither dictated nor described, must determine, in some arcane manner which persons are "protected."

Moreover, to ensure that public records are at all times accurate, (*as the law requires*), public agencies must make this onerous determination at their own expense, each and every moment of each and every day— forever. No public agency can "magically" know the occupations of each person whose residential address might exist within public records it maintains.

Since it is not possible to comply with the statute, public agencies remain in the absurd position of deciding which law to break— Sec. 1-217, which *requires* them to alter public records, or Sec. 1-240, which *forbids* such alterations. I cannot imagine that the Legislature intended these bizarre consequences when it enacted this statute.

While both common sense and logic dictate that it is impossible to abide by Sec. 1-217, the Connecticut Supreme Court, (*apparently invoking neither common sense nor logic*), found no problem with it. In its June 28, 2011 decision,¹ the Court found the statute to be entirely valid, and confirmed that public agencies must perform the impossible.

Given the unworkable nature of the statute and the ill-informed declaration by our State Supreme Court that it is nonetheless valid, I set out to prove that no public agency would be able to abide by either the statute or the decision of the Court. And I have proven it.

I submitted what has been dubbed, "the impossible request," to various large municipalities throughout the State. The impossible request sought exact electronic copies of several public records, including:

- All existing motor vehicle grand lists;
- All existing real estate grand lists;
- All existing personal property grand lists;
- All existing trade names certificates;
- All existing dog license lists;

¹ Commissioner of Public Safety v Freedom of Information Commission and Peter Sachs, Case No. SC 18617 (CT S.Ct., Jun. 28, 2011)

- *All existing lists of appointed and elected officials;*
- *All existing public meeting minutes;*
- *All existing petitions;*
- *All existing lists of registered voters; and*
- *All existing land record filings.*

I specifically requested copies of these records that had been properly redacted in accordance with Sec. 1-217.

In August 2011, I sent the "impossible request" to several major municipalities and each responded by stating they were unable to comply because that had no such redacted public records in their custody. Since it would have been unfair to demand that these municipalities incur any expenses in a vain attempt to do that which is impossible, in response to each municipality's declaration of impossibility, I retracted my request.

I next sent an FOI request to the Secretary of State, Division of Elections, requesting a copy of the Master Voter Database properly redacted in accordance with Sec. 1-217. On that same date, the Secretary of State responded that she was unable to comply because her office has no such redacted version of the database, and that no such version could ever exist because the law forbids any alterations. I then retracted that request.

I next sent an FOI request to the Department of Public Safety, requesting a copy of the SPRC Database properly redacted in accordance with Sec. 1-217. The Department responded that no such redacted version of the database existed. It should be noted that the Department of Public Safety had argued against the FOIC and me since 2008, that Sec. 1-217 was both valid and workable. Yet it has now admitted its own Department was not in compliance all the while.

It is abundantly clear from their uniform written responses to my requests, that public agencies simply cannot comply with Sec. 1-217. If this is not proof that the statute is unworkable, I don't know what is. Laws that are illogical; laws that are unworkable; laws that are impossible to comply with; and laws that force public agencies to break the law are nonsensical. Sec. 1-217 is all of these.

This statute in its current state is not only an unfunded mandate, any attempt to fund doing something that cannot be done is, by definition, a complete and utter waste of taxpayer dollars. The proposed changes to Sec. 1-217 found in Governor's Bill 5035 will eliminate this mandate and allow those wishing to be protected by the statute to do so without requiring public agencies to perform impossible tasks at their own expense.

I urge the Legislature to adopt the proposed changes to Sec. 1-217 and by doing so, preserve the traditional openness of public records in Connecticut.

Respectfully Submitted,

Peter Sachs, Esq.

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Written Testimony of
Louisa Trakas, Plainfield Town Clerk

HB 5035, An Act Reducing Mandates for Municipalities

February 22, 2012
Planning & Development Committee

Good Morning. My name is Louisa Trakas and I am testifying on behalf of the Connecticut Town Clerk Association. I have been the elected Town Clerk of The Town of Plainfield since November 2005.

I'm here to testify in support of the Governor's Bill 5035 with the additional language "No public agency may disclose, from their personnel and medical records..." This would leave no doubt that this would pertain to an agency's list of employees and medical records.

The Connecticut Town Clerks have testified against this legislation previously because we know that it will not be effective. There are many types of documents recorded by and housed in the Clerk's offices and they should be exempt from this legislation. Some of these documents include land records such as mortgages, probate certificates and variances, granted by the Planning & Zoning Commissions. Other documents include various election documents such as campaign finance forms and logs of absentee ballots issued.

Connecticut General Statute 1-217 must be amended as it would be impossible for a small town such as Plainfield to redact the information on these documents. This endeavor would cripple the small towns in Connecticut. It would take a lot of staff and a lot of money, neither of which is abundant in my town.

State and Town Police Officers as well as Corrections Officers living and working in my town often park their cars in their driveways, play on the local softball leagues, coach their children's athletic teams and pose for annual calendars. These highly respected men and women can easily be located with minimal effort. Though we agree that these people have serious concerns, unfortunately, we are sure that redacting their addresses from the documents recorded in the Town Clerk's office would not give them the protection they are seeking.

Thank you for this opportunity to testify. I would be pleased to take any questions that you may have.

Respectfully submitted,
Louisa R. Trakas, Plainfield Town Clerk

pg 8
June
17

Legal Assistance Resource Center of Connecticut, Inc.

44 Capitol Avenue, Suite 301 ♦ Hartford, Connecticut 06106
(860) 278-5688 x203 ♦ cell (860) 836-6355 ♦ fax (860) 278-2957 ♦ RPodolsky@LARCC.org

H.B. 5035 -- Protection of tenant possessions after eviction

Planning and Development Committee public hearing -- February 22, 2012

Testimony of Raphael L. Podolsky

Recommended Committee action: DELETION OF SECTIONS 6 AND 7

We urge the Committee to remove Sections 6 and 7 from the bill and thereby leave the status quo intact. Making the changes contained in those sections will create no more than minimal savings for municipalities but will undo compromise legislation from just two years ago that sought to balance the needs of landlords, tenants, and municipalities. It will destabilize that balance in an unfair way.

For over 100 years, municipalities have played a critical role, as part of their constitutional "police powers," in protecting tenant property after an eviction by picking up the property and storing it. This Connecticut policy recognized the unlikelihood that a tenant would be able to get property back unless it was controlled by a neutral entity and that direct contact between landlord and tenant invited violence and breaches of the peace. The cost of removal and storage was a liability of the tenant; and the municipality could, if it wished, require payment by the tenant before release of the property. In 2010, as an accommodation to municipalities, the General Assembly, reluctantly and with reluctant acceptance by landlord and tenant representatives, accepted a compromise by which the landlord, through a state marshal, would assume responsibility for moving the possessions to town-designated storage; the town would continue to be responsible for storage and disposition of goods; and the tenant would continue to reclaim his or her property through the town.

It turned out, however, that the "privatization" of this century-old municipal responsibility for moving the property has imposed more costs on landlords than anticipated. Sections 6 and 7 of H.B. 5035 would now allow the town to add further costs by billing the landlord for storage and auction. As tenant representatives, we think that this is not a good idea.

There is a delicate balance between landlord and tenant interests that the legal services programs, as representatives of tenants, have attempted to maintain. Sections 6 and 7 undermine that balance by imposing costs on landlords which, when considered in conjunction with the unexpected costs added two years ago, are not reasonable. Never in the 100-plus year history of this statute have towns been allowed to charge the landlord rather than the tenant.

There are times when it is best to leave things alone. We believe that this is one of them. We therefore urge you to remove Sections 6 and 7 from the bill.

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Marshall R. Collins & Associates

TESTIMONY OF
THE CONNECTICUT COALITION OF PROPERTY OWNERS
RE: HB 5035

AA REDUCING MANDATES FOR MUNICIPALITIES

Before the Legislature's Planning & Development Committee

Wednesday, February 22, 2012

10:00 AM, Room 1B, Legislative Office Building

Good morning. My name is Marshall Collins. I am here today in my capacity as Counsel for the Connecticut Coalition of Property Owners. CCOPO is the largest landlord property owner association in Connecticut. CCOPO has chapters in Hartford, Bridgeport, Stamford and also includes the Connecticut Association of Real Estate Investors. Collectively CCOPO members own more than 20,000 rental units throughout Connecticut.

CCOPO cannot support sections 6 and 7 of HB 5035 AA Reducing Municipal Mandates. Those sections shift the burden of storing the possessions of an evicted tenant from one blameless party, the municipalities, to another, the landlord property owner. Those sections undo a compromise that this committee worked hard to pass two years ago.

Consider the facts: after months of not being paid rent, a landlord is forced to go to court to regain possession of his or her property. After all the expense of going to court, if the property owner is successful the Court will issue a judgment evicting the tenant. The judgment recognizes that the tenant has breached the lease and that no further contract exists.

Then a Writ of Execution is issued and served on the former tenant that evicts them from the landlord's property. However, the landlord has to pay to inventory, box up and move any possessions that the former tenant has left behind. The landlord also has to pay to transport the property to a municipal facility where the city then has to store it for at least 15 days. After that the municipality then has to publish legal notice of an auction and then to auction those left over possessions. The cost of this social service is expensive to everyone but the guilty party who caused the problem: the evicted tenant.

Please remember that the landlord and municipality have to pay for moving, storage and auction, only after extensive legal proceedings, during which every opportunity is presented to the tenant, to protect their rights and interests.

In the past CCOPO and the municipalities have agreed that the responsibility for any property that is left behind should be the responsibility of the tenant who was evicted and left possessions behind. It is only after the Court has determined that the landlord did nothing wrong, does the present system force both the landlord and the municipality to pay.

Sections 6 and 7 of HB 5035 shift the burden of the cost of storing the evicted tenant's property to the landlord property owner, who had to go to court to get possession of their property back. Where is the fairness under the present law to the landlord, whether it is a retired couple who depends on the rental income from a two or three family house, or an investor trying to make a mortgage payment?

Furthermore, CCOPO would point out that HB 5035 would further increase the cost to the innocent property owner by giving the evicted tenant the right to double the time that the city has to store left behind property.

CCOPO has advocated assigning the responsibility for storing left behind property to the person who the court finds was responsible for breaching a contract: the evicted tenant. Nevertheless, CCOPO has offered a compromise to protect the evicted tenant and not separate them from their property.

CCOPO has suggested giving the evicted tenant the opportunity to stay an additional 5 days from service of the Writ of Execution, (usually this amounts to about 7 days from judgment) rent free, in the apartment. After the end of that period, any property left behind would be considered abandoned property.

This would save the landlord the cost of packing up the left behind property and transporting it to the municipal facility. The municipality would save the cost of storage, legal notice and auction. And after months of well noticed court proceedings that protect the rights of the tenants, the evicted tenant would have at least one rent free week to find another place for their possessions. If you believe that this social service is necessary to protect the evicted tenant, this accomplishes that objective and relieves both the innocent landlord and the municipality of the costly mandate. It balances all interests.

Unless Sections 6 and 7 of HB 5035 are deleted or amended to shift the burden of storage to the evicted tenant, who the court has determined is at fault, what options do landlords have? Along with higher utility bills, higher fuel costs, higher insurance costs, and higher property taxes, the increased cost of moving and storing the evicted tenants possessions will be passed through wherever possible in the form of higher rents.

In other words, if you pass sections 6 and 7 of HB 5035, instead of the present situation which penalizes the innocent landlord and the municipality, you will increase the rents of those tenants who pay their rent on time and don't end up evicted by the courts. Passage of sections 6 and 7 of HB 5035 will penalize innocent renters as well as landlords. **Please reject sections 6 and 7 of HB 5035.**

Passage of sections 6 and 7 of HB 5035 will only make a bad and unfair situation worse.

This completes my testimony. Thank you for your consideration.

February 22, 2012 – Planning and Development Committee – Public Hearing Testimony

Re: HB 5035 – Section 2 - “improvements that are partially completed or under construction”

By: Ravi Mohan

My perspective is that of a do-it-yourself builder of my own home. I realize that I am part of a small portion of the construction industry in our State. I leave it to the well-represented professional builders and municipalities to speak for themselves.

1. As a do-it-yourself builder (I hold a building permit), it will be years from start to finish by the time construction of my home is finished. Meanwhile, this Bill would make the new construction part of my property taxable for many years, even though there is no additional burden on municipal resources. I acknowledge burden on my Town for the permitting process through various departments – but, my Town collected fees of several thousand dollars up front for that, which is fine.
2. There is an implementation problem in this Bill. In-progress construction is valued based on a calculated value when complete, and then a percentage-complete of that. The problem is that assumed factors in that value-when-complete can swing the value up to 350%, and do not even exist well into the construction. So one would be asked to pay taxes on something that does not exist, and may never exist. Further, there is no provision for property tax refunds for those years for which assumptions were made that did not turn out to be true in the end-state.

I acknowledge that construction by commercial and professional entities that typically finish construction within a year much of the time, will not be impacted as much by the concern regarding assumptions in valuations.

3. Some might say, if you have a problem with your assessment, go to the Board of Assessment Appeals (BAA). I have done that and discovered the following regarding our laws on property taxation:
 - A. Our statutes grant the Town Assessor the exclusive authority to assess property. By virtue of assessment authority, this individual can effectively tax whom they want, whatever they want, and when they want (on an annual assessment cycle). All they have to do is formally notify the property owner that their assessment has increased, and state the prior and new assessment. No reason or explanation is required, nor volunteered. The burden of contesting and disproving that action, is on the target of that action. Such absolute power has no place in our modern democracy.

A rational person's reaction might well be, “There must be guidelines that Assessors have to follow and the person providing the testimony must be ignorant of them”.

Indeed, Town's usually have a methodology, typically supplied by the Town's revaluation company, but there is an enormous amount of subjectivity in the application of that methodology, and there is no statutory obligation for the Assessor to follow it.

B. Our Statutes give statutory authority to a BAA to hear appeals, but say nothing about the rules or process it must follow. It does not even have to document its deliberations or rationale, nor does it have any accountability. In most Towns, the appeals intake process is in fact handled by the very individual whose actions are being contested.

C. Going to Court over a property tax assessment is an expensive and stressful process. The odds are stacked against the individual tax payer, who must typically be prepared to expend \$20,000 and up in pursuing the matter, as must the municipality in defending the assessor's actions. For a municipality this is no problem, because it can just replenish its war chest – for example, last week my Town announced it was increasing its litigation budget from \$150,000 to \$215,000.

According to the Judicial Branch, 550,000 cases come to our Courts every year. The population of our State is approximately 3,580,000. Surely we do not need more cases in our Courts.

For most individuals, acquiescence is a less expensive and less stressful path to take. Do we really want to be an unjust society based on, "Don't fight Town Hall, you'll lose".

4. Based on our current law, on the day that a home (new construction or addition) is put to use or issued a certificate of occupancy, it becomes taxable. Sound public policy would be for Towns to say to home owners, "What can we do to help you complete your home, so that we can tax it in perpetuity!".

If a Bill along the lines of what you are contemplating becomes law, it would have a chilling effect on individuals building their own homes. For those of us doing so, the rational thing to do in order to avoid the cumulative impact of tax for many years while construction is in progress, would be to not even start construction. This would be contrary to the American dream regarding one's own home. It would also stifle the spirit of building one's own home, literally. Nor would such a situation serve the long-term interests of our Towns.

Thank you.

Ravi Mohan

Ravi Mohan
3 Deepwood Road
Weston, CT 06883

STATE OF CONNECTICUT
OFFICE OF POLICY AND MANAGEMENT

TESTIMONY
TO THE
PLANNING AND DEVELOPMENT COMMITTEE
FEBRUARY 22, 2010

IN SUPPORT OF

HOUSE BILL NO. 5035 – AN ACT REDUCING MANDATES FOR MUNICIPALITIES

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HB 5158

Good morning, I am Gian-Carl Casa, Undersecretary for Legislative Affairs for the Office of Policy and Management. I thank you for the opportunity to comment on the bill before you today and for this committee's dedication to helping local governments provide effective and efficient services to the people and businesses in their communities.

Governor's Bill 5035 would:

- Prohibit the disclosure of the residential address of employees as defined in CGS 1-217 if the employee has submitted a written request for nondisclosure.
- Clarify that municipalities can assess for partially completed improvements.
- Phase out the insurance premium tax on health insurance policies for municipalities. The current tax rate is 1.75%. The tax rate on health insurance policies for municipalities will be reduced to 0.88% effective 1/1/2014, reduced to 0.44% effective 1/1/2015 and will be eliminated effective 1/1/2016. This will result in a general fund revenue loss/municipal revenue gain of \$2.3 million in FY 2014, \$5.7 million in FY 2015, \$7.9 million in FY 2016, and at least \$9.0 million annually, thereafter.
- Allow municipalities to store the belongings of evicted tenants at the cost of the plaintiff for fifteen days with a possible extension of an additional fifteen days. If the belongings are not claimed in this time, the municipality may sell them to recover the cost of the storage fee.
- Allow municipalities to store the possessions from foreclosed properties at the cost of the plaintiff of the foreclosure procedure for fifteen days with a possible extension of an additional fifteen days. If the belongings are not claimed in this time, the municipality may sell them to recover the cost of the storage fee.

Contact Person: Gian-Carl Casa
OPM Capitol Office Hartford, Connecticut 06106
Telephone: (860) 478-1756

Protection of Certain Residential Addresses (Sec. 1)

A recent court ruling has interpreted statutes to require that all public agencies redact the names of certain public employees. This is unworkable in that it would require public agencies to redact names they don't necessarily know on every document they have. It could cripple the ability of officials to meet their duties under the law and puts them in conflict with other statutes prohibit the alteration of public records.

The Governor is proposing to limit the scope of the requirement in a way that would protect both the public's right-to-know and the privacy of public employees. HB 5035 would protect from disclosure the residential addresses of certain employees of the agencies if the employees have submitted written requests for nondisclosure to the department head or human resources department of the agencies.

Assessment of Partially Completed Property (Sec. 2)

A court ruling in *Kasica v. Columbia* overturned long-time practice by prohibiting the ability of local governments to assess partially completed property. *Municipal assessors believe this could cost towns and cities at least \$30 million this year.* In order to protect that revenue and avoid increasing the property tax burden on all other residents and businesses, the Governor is proposing legislation to clarify that municipal assessors may value property "including improvements that are partially completed or under construction".

We thank the Committee for also raising HB 5158, which also provides this clarification.

Phase Out Health-Insurance Tax On Municipalities (Secs. 3-5)

The cost of providing health insurance puts a strain on local budgets. Municipalities that purchase health insurance policies must pay a 1.75% tax to the State. This year the insurance premium tax is estimated to cost those municipalities almost \$9 million that could be used to provide other public services or reduce property taxes.

The health insurance premium tax is paid on a calendar-year basis. So the state will not lose revenue next fiscal year, this bill proposes to maintain the present 1.75% rate through calendar year 2013, cut the rate paid by municipalities for calendar year 2014 to .88% and to .44% for 2015. It would eliminate the tax on municipalities altogether for 2016.

To ensure that the reduction in cost is passed on to property taxpayers, the bill also requires that bills to municipalities clearly state the amount of the tax each year.

Responsibility for Evicted Tenant Possessions (Sec 6)

State law inserts municipal governments into the contractual relationship between landlords and tenants by requiring towns and cities to store the possessions of evicted residential tenants. The Governor is proposing to relieve property taxpayers of this burden by allowing municipalities to assess landlords for the cost of storing these items.

Also, at present, municipalities can auction the items after 15 days, which in some cases may be too short a time period for then tenants to come up with the money to retrieve the items. The Governor proposes to allow municipalities to be sensitive to this need and provide longer storage times.

Summary

Many of the costs of municipal budgets are driven by things out of their control. The proposals in HB 5035 offer tangible ways to provide relief from those cost drivers, in ways that respond to requests from local officials across Connecticut.

Thank you for your consideration.

Written Testimony of
Joseph Quartiero, Town & City Clerk of Torrington

HB 5035, An Act Reducing Mandates for Municipalities

February 22, 2012
Planning & Development Committee

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Good Morning, I am Joseph Quartiero, Town & City Clerk of Torrington. I am a retired State Policeman, having spent 14 years on patrol and desk duty, two years as an inspector in the State's Attorneys' Office, and nine years with the Western District Major Crime Squad.

I'm here to testify in support of the Governor's Bill 5035 which would clarify that an agency's personal records would be protect from disclosure under the Freedom of Information. Connecticut General Statutes 1-217 should not apply to the hundreds of documents within the office of the town clerks. The Governor's proposal returns 1-217 to its original intent before the Court's ruling last summer.

I am here to give you my perspective both as a clerk and a policeman. During my career as a State Policeman, my name and phone number along with many other State Policemen who resided in Torrington and many other towns was readily available in the Torrington phone directory as well as the city directory, which was published each year and is now part of the city of Torrington's records archive and available to anyone wishing to search our public records.

At no time during my entire career, either I or any other policeman that I know, has ever had any issue with people trying to locate and harm us. My cruiser and all other state policemen's vehicles were seen parked in drive ways of our homes throughout the state during our off duty hours and anyone driving by knew a policeman lived there. It would be very easy for anyone to ascertain which policeman lived there just by asking neighbors. Local police officers are well known to everyone who lives in their town, and if anyone wanted to find out where they lived, they would not need to access the city clerk records to determine an address. Many local police officers are appointed by the Boards of Safety of their towns, and their names and address are listed in the newspapers upon their appointment. Upon graduation, State Policemen are listed in the paper regarding which Troops they are assigned to along with their town of residence.

At no time during my eighteen years as a City Clerk has anyone ever come to my office and asked for an address of any policeman, fireman, etc. I cannot testify that no one has ever searched our records for any policeman's address as we cannot police our vault or our public terminals eight hours a day.

All judges had practices as attorneys in their hometowns or nearby towns and anyone could easily locate them with minimal effort. I see no need to redact any information concerning the address of anyone including policemen, firemen, lawyers, judges, etc. from any town records. It is very easy to determine where people live and redacting them from city clerk records would be pointless, let alone time consuming and would create a financial burden on town budgets. It is physically impossible to search our vast amount of records to determine who should be redacted.

The Governor's proposed changes in HB 5035, corrects a situation for town clerks, assessors, tax collectors and numerous municipal offices that is currently unworkable with the recent Supreme Court decision.

Thank you for this opportunity to testify. I would be pleased to take any questions that you may have.

Respectfully submitted,
Joseph L. Quartiero, City and Town Clerk



PLANNING & DEVELOPMENT COMMITTEE

February 22, 2012

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Good Morning.

My name is Art Ward. I am Mayor of Bristol, as well as a member of the Connecticut Conference of Municipalities' Board of Directors.

CCM is Connecticut's statewide association of towns and cities and the voice of local government - your partners in governing Connecticut. Our members represent over 90% of Connecticut's population. We appreciate this opportunity to testify before this joint committee on the issue of mandates reform, a top priority of CCM's.

CCM strongly supports H.B. 5035, "An Act Reducing Mandates for Municipalities"

There are over 1,200 state mandates imposed on Hometown Connecticut and their residential and business property taxpayers. Relief from some of these mandates is important to the recovery of municipalities during the biggest fiscal crisis in recent memory.

At a time when towns and cities are struggling mightily to continue to provide needed services to residents and businesses, mandates relief should be a priority.

State Mandates

Unfunded and under-funded state mandates are corrosive elements that deteriorate critical municipal programs and services -- and the bottom-line of municipal budgets. They are burdensome requirements and standards imposed by the State on towns and cities that affect residential and business property taxpayers by imposing significant costs.

Make no mistake -- local officials do not question the merit of many state mandates, such as special education, public health, recycling of reusable wastes, and clean water requirements. However, local officials object when the State does not (1) provide commensurate funding to implement and deliver what these mandates require, and (2) adjust certain onerous state mandates to conform with the current economic climate.

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Too often municipalities in Connecticut are forced to carry out state policies with little or no state funding. It is fundamentally inappropriate and inequitable to force towns and cities to assume all or most of the costs of policies the State has decided to implement – and thus to pass these costs on to local property taxpayers. It's buying something that may be good – but with someone else's money.

In addition, towns and cities lose staggering amounts of revenue as the result of about 65 state-mandated property tax exemptions including exemptions from the real and personal property owned by the State and by private colleges and hospitals. These state-imposed obligations and state-imposed revenue losses force all municipalities to increase their property tax rates.

The Many Faces of Mandates

~ Not all state mandates are obvious.

State mandates come in all shapes and sizes. Sometimes, although the State does not specifically direct a mandate to municipalities, it effectively imposes one. These "mandates in effect" occur when the State abandons necessary state-provided services that citizens rely on and need. This is a particular danger when state budgets are tight.

Municipalities must then continue to provide these services at local expense. For example, deinstitutionalization or cuts in funds for mental health institutions and for juvenile homes shifts the service burden to local health personnel, social workers, police officers, and others. Similar shifts occur when the state inadequately prepares people for reentry into communities from prison or jail. The effect of state mandates compromises the goal of reentry strategies and subsequently releases prisoners disproportionately into major metropolitan areas without providing needed resources.

In some cases, the General Assembly passes legislation that a municipality may adopt by local option which, as a practical political matter, the town or city cannot avoid. For example, in recent years the legislature has given municipalities the option of increasing property tax breaks to military veterans at local taxpayers' expense – a worthy cause, but an option that many municipalities will feel compelled to enact, especially when the country is involved in two wars. In a situation such as this, the State has again bought good will from a segment of the public – with local property tax dollars.

The State's Response to Date

Some positive first steps have been made in the fight against state mandates, such as establishing legislative procedures to (a) indicate the fiscal impact on municipalities of proposed legislation, and (b) labeling some legislative proposals as potential state mandates. Other noteworthy progress includes:

Mandates reform legislation was enacted in 1993 that established (a) a one-year delay in the municipal implementation of new and costly state mandates, (b) reporting of newly enacted state mandates after each legislative session, and (c) periodic report detailing all constitutional, statutory and regulatory state mandates on towns and cities, and,

The 2005-2006 Commission on Unfunded Mandates was charged with (a) studying the actual need for numerous unfunded and partially funded mandates, (b) quantifying the actual costs to local governments for such mandates, and (3) analyzing the effects of eliminating or reducing such mandates. The creation of the

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Commission rightfully acknowledged that “the sooner we cut costs to cities and towns...the sooner cities and towns will be able to pass those savings to their residents.” Unfortunately, the Commission’s draft proposals were never acted on.

The M.O.R.E. Commission also made several meaningful mandates reform recommendations that were never implemented.

Municipalities recognize that it is neither practical nor desirable to eliminate all unfunded or inadequately funded state mandates, but relief is long overdue. Reform to state mandates is a logical approach to offset depleting state revenues and a growing state deficit.

Governor’s Mandate Reform Package

H.B. 5035, the Governor’s mandates reform package, contains several proposals that make plain common sense – and would save property taxpayers millions of dollars. CCM urges the General Assembly to support this important bill – and make it a priority.

H.B. 5035 would:

A. Clarify municipal authority to assess partially constructed structures

Kasica v. Columbia, a Superior Court decision dated October 6, 2011, decreed that municipalities are not permitted to assess partially constructed structures until completion and the issuance of a certificate of occupancy.

According to results of a survey conducted by the Connecticut Association of Assessing Officers (CAAO), *not enacting this proposal could cost municipalities approximately \$30 million statewide in lost property tax revenue.*

Although there are several statutory references to municipal authority to assess properties (CGS 12-63; 12-55; 12-53), this proposal would specifically identify “improvements that are partially completed or under construction” as properties that are assessable – and would therefore, conform state law to generations of public policy standards.

Simply put, even partially constructed properties have some level of fair market value within their communities. In fact, Connecticut’s property tax system functions on the core principle known as “ad valorem” (Latin for “according to value”) – which ensures local taxing authorities (towns and cities) perform appraisals of the monetary values of local properties, which are then assessed in proportion to that value.

Improvements to properties that are partially complete or under construction, that would ordinarily be assessed, have never been exempt from these local taxing policies. Evidence of this fact is implicit in GCS 12-88, which stipulates that those properties ordinarily exempt from local property taxes (i.e. churches, hospitals, etc.), are also exempt from partial assessments while under construction. This stipulation therefore, acknowledges the fact that other “taxable” properties shall be assessed while partially complete or under construction.

This is a simple legislative solution and a logical means of protecting your hometowns' scarce yet, much-needed property tax revenues.

B. Phase out the health-insurance premium tax on municipalities

The proposal would (a) cut the tax rate by 50% beginning 2014, (b) by another 25% for 2015, and (c) eliminate the premium tax on municipalities altogether for 2016.

CCM has long advocated for protecting municipalities from the premium tax as a tangible step that the State can take to help cut costs for property taxpayers. The premium tax *costs municipalities up to \$9 million* each year. The tax is 1.75% on fully insured municipal premiums. Municipalities that are self-insured do not pay the premium tax. But some municipalities, particularly small towns, cannot reasonably consider self-insurance as an option, because just one catastrophic illness could have a severe negative impact on a local budget.

C. Provide relief to local governments from the requirement to redact certain personal information for certain individuals from public documents requested via FOIA

In June 2011, the Connecticut Supreme Court decided *Commissioner of Public Safety, et al v. Freedom of Information Commission* (2011). The court held that General Statutes §1-217 requires local assessors to redact the addresses of certain classes of "safety-sensitive" individuals (judges, police officers, Department of Correction personnel and other similar) from motor vehicle grand lists.

While the decision specifically addresses motor vehicle grand lists, it is impossible to conclude that it does not at the same time impact all other documents maintained as public records: voter lists, land records, tax assessments, tax bills, any zoning application or permit, testimony before a public agency, legal notices published in newspapers, meeting minutes, etc.

The intent of the initial legislation was to provide protection to certain individuals from retaliation for actions they took in the course of doing their jobs. However, due to modern technology, names and addresses for any one of these "protected" individuals can be found simply by doing a quick Internet search.

The law places an impossible burden on local government agencies to modify governmental records in an attempt to comply. One of the greatest flaws of this law is that it does not take into account how a public agency is supposed to identify all of the individuals within their jurisdiction whose information should be redacted.

CCM, the Connecticut Association of Municipal Attorneys (CAMA), the Connecticut Town Clerks Association, the Connecticut Association of Assessing Officers (CAAO), the Connecticut Tax Collectors Association, the Registrars of Voters Association of Connecticut, the Secretary of the State of Connecticut, the Connecticut Freedom of Information Commission, the Connecticut BAR Association, and numerous other groups representing realtors, title companies, newspapers, and others are united in

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their position that legislative change is necessary to make it possible to meet the intent of the law – providing protection for certain individuals, while not hampering the integrity of important governmental documents and imposing a huge and costly mandate on local governments.

CCM urges the Committee to make reform of this onerous decision a priority.

D. Establish a minimum threshold of at least 600 work-hours of service for part-time, temporary, or seasonal municipal employees' eligibility for unemployment benefits.

This threshold would protect existing, limited funds and protect against abuse of benefits – while also offering towns and cities some financial and administrative relief.

E. Allow municipalities to assess landlords for the cost of storing evicted tenants' possessions, and would then, stipulate towns and cities store such items for an additional 15 days.

Although some relief was provided in 2010 by eliminating the mandate that requires towns and cities transport the possessions of evicted tenants – the existing mandate to store items continues to drain local finances and resources. While municipalities are allowed to try to recoup some of the costs by auctioning off the items, municipalities must incur costs associated with conducting an auction (including publicizing the auction, etc.). And, usually the possessions are not sellable – ultimately, the municipality receives little or no reimbursement.

According to OLA Research Report #2006-R-0164 "*State Laws on Landlord's Treatment of Abandoned Property*", of the 37 states researched, Connecticut is the only state that mandates that municipalities remove and store the possessions of evicted tenants. In other states, landlords or sheriffs have the responsibility.

The tenant evictions mandate is still costly to municipalities. It is estimated that there are about 2,500 residential evictions per year - this is a conservative estimate.

While H.B. 5035 provides serious mandates reform, it must be noted that it does not provide relief from the most onerous unfunded state mandates – the prevailing wage rate and binding arbitration. Comprehensive mandates reform cannot occur without significant change to these very costly mandates.

CCM strongly urges the Committee to support the Governor's mandates reform package. It would provide serious relief to Connecticut's hard-pressed property taxpayers

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If you have any questions, please contact Ron Thomas, Public Policy & Advocacy Director, at rthomas@ccm-ct.org or (203) 498-3000.

Public
Elected

**FREEDOM OF INFORMATION COMMISSION STATEMENT ON
HB 5035, AN ACT REDUCING MANDATES FOR MUNICIPALITIES.**

February 22, 2012

The Freedom of Information Commission (FOIC) supports, in part, Section 1 of HB 5035, An Act Reducing Mandates for Municipalities.

Section 1 provides, in relevant part, that: "No public agency may disclose, under the Freedom of Information Act, the residential address of any of the following persons employed by such agency, provided the employee has submitted a written request for nondisclosure to the department head or human resources department of such public agency...."

The FOIC supports an amendment to Conn. Gen. Stat. §1-217 that would prohibit the disclosure of residential addresses *from the personnel records* of certain groups of government employees. It is an effective and workable solution to the problems caused by §1-217 as it currently reads.

A broad-based coalition, including the FOIC, supports amending §1-217 to limit the FOI Act's "address exemption," as it is known, to personnel records, only. The coalition also includes the Connecticut Bar Association, the Connecticut Bankers Association, the Connecticut Mortgage Bankers Association, the Attorneys Title Insurance Company, the Connecticut Conference of Municipalities, the Council of Small Towns, the Town Clerks Association, and the Tax Collectors Association, the Association of Municipal Attorneys, and the Secretary of State, among others.

The coalition was formed in the immediate aftermath of the Connecticut Supreme Court decision¹ last year that held that the address exemption in §1-217 applies to every public record in every government office – without exception. It requires the redaction of thousands of addresses from all public records, including those that separate statutes require be open to the public in their complete and accurate form; that is, without any omissions or redactions. For example, land records, voter rolls, tax lists, commercial documents, just to name a few.

The coalition recognizes that compliance with the court's decision promises to create havoc by disrupting, for example, title searches, service of process, collection of debts, and notification of adjoining landowners in planning and zoning matters. Access to voter lists will be compromised, as will the records of tax assessors, municipal clerks, the Secretary of the State, and the State Elections Enforcement Commission.

Clerks, assessors, and registrars will not be able to meet their duties under the law to certify the accuracy and completeness of their records that must be open to the public. In addition, they will no longer be able to comply with other statutes that prohibit the alteration of certain public records. These laws are there for a reason – to protect the integrity of our most important civic and commercial transactions. As others have pointed out, these records are indispensable tools.

¹ See Commissioner of Public Safety et al. v. Freedom of Information Commission and Peter Sachs, 301 Conn. 323 (June 28, 2011).

Of course, the FOIC acknowledges the safety concerns voiced by many who are covered by §1-217's protections. But those fears must be addressed in a realistic and workable manner. As it now stands §1-217 imposes a truly impossible and unending burden on every public records custodian to redact every public record in its custody. An effective solution is to amend §1-217 to apply only to residential addresses contained in an employee's personnel records. This accurately targets the records most likely to be sought by a person intent on doing harm to a government employee. For instance, a miscreant who thinks to use the FOI Act to learn the residential address of a police officer would more likely seek such information from the police department where the officer works than from the grand list in the town where the miscreant believes the officer lives.

Amending §1-217 to exempt from disclosure the residential address from personnel records provides real protection to the government employees now covered by the statute. It would relieve clerks and other officials of an impossible burden of compliance. It would protect the integrity of fundamental commercial and civic records that people rely on to know that their government is functioning competently and fairly.

For further information contact: Colleen M. Murphy, Executive Director and General Counsel at (860) 566-5682.



Testimony of
Bart Russell, Executive Director
Connecticut Council of Small Towns
Before the Planning & Development Committee
February 21, 2012

HB 5158

The Connecticut Council of Small Towns (COST) strongly supports HB-5035 AN ACT REDUCING MANDATES FOR MUNICIPALITIES, which was proposed by Governor Dannel P. Malloy to address concerns facing municipalities and includes several of COST's top mandate relief priorities.

COST therefore submits the following comments in support of the bill:

Section 1 – Freedom of Information Act – COST strongly supports Section 1 of the bill which addresses a concern raised by numerous small towns throughout Connecticut regarding the enormous compliance difficulties associated with a recent Connecticut Supreme Court decision which interprets a provision of the Freedom of Information Act (FOIA) to prohibit the disclosure of residential addresses of certain public employees in public records, such as corrections officers, lawyers and judges.

Although the decision involved motor vehicle records, the reasoning applied by the Court extends to all public records, including voter registration lists, land records, and tax rolls, whether in paper or electronic format. As such, the decision imposes an impossible compliance burden on towns and cities, who must redact from each and every public record requested under FOI the residential addresses of various state, federal and local employees, whether or not they know which individuals currently hold a position protected under the statute.

In addition to straining the time and resources of already overburdened municipalities, the law creates considerable delays in providing the public with access to public records because the town will have to take steps to ensure that all of the residential addresses of individuals protected under the statute are redacted. There is no requirement that such individuals self-identify or otherwise verify that they fall under the protection of the statute, leaving towns in the impossible position of trying to verify the occupational status of hundreds of individuals to determine whether their addresses should be redacted under

the law. Failure to redact such residential addresses may expose municipalities to complaints and liability.

The bill narrows the law by providing that the residential addresses of individuals *employed by the agency or town* may not be disclosed *if the employee has submitted a written request for nondisclosure to the department head or human resources department of such agency or town*. **COST urges your support for this provision.**

Section 2 - PARTIALLY COMPLETED CONSTRUCTION – COST strongly supports Section 2 of the bill which clarifies that partially completed construction continues to be subject to property taxation, plugging a potential \$30 million loss of revenue for towns.

Historically, municipalities have assessed property taxes on partially-completed construction consistent with current law which requires all real estate assessments to be based on “fair market value”. As such, assessors have determined the fair market value of a lot by including the value of partially completed construction. This is certainly equitable inasmuch as a lot with partially completed construction will generally have a greater fair market value than a vacant lot. However, a property owner has challenged this practice in the courts in a case currently pending on appeal, *Kasica v. Town of Columbia*. We therefore urge your support for this much-needed clarification.

Sections 3-5 - INSURANCE PREMIUM TAX – COST strongly supports Sections 3 – 5 of the bill which phases out the 1.75% premium loading tax on municipal health insurance policies. The skyrocketing costs for local employee and retiree health insurance represent one of the most serious fiscal challenges facing small towns. Double digit increases in health insurance costs have begun to dominate budget growth in many communities resulting in fewer resources available for other critical services, including education. In fact, between 8% – 15% of a town’s budget is attributable to municipal employee health care costs.

Moreover, towns are restricted in their ability to manage these health care costs by state laws and practices. The need to negotiate employee health coverage makes it difficult for municipalities to respond to changing budgetary constraints or new plan offerings in a timely manner. The insurance premium tax, which is a 1.75% tax on fully insured municipal premiums, is particularly onerous for Connecticut’s small towns because they cannot afford to self-insure to avoid the premium tax and other mandated health insurance costs. We therefore urge your support for the phase-out of this tax.

Sections 6-7 - PROPERTY STORAGE MANDATE – COST strongly supports Sections 6 and 7 of the bill which alleviates municipalities of the burden of paying for the storage of the personal possessions of municipalities who have been evicted or foreclosed upon by private entities. The municipality is not a party to these private transactions and it is therefore unfair to impose these costs on property taxpayers.

A 2006 report prepared by the Office of Legislative Research (OLR) indicates that “In the overwhelming majority of the 37 states that we researched, a landlord may dispose of personal property that a tenant leaves in dwelling units by selling it after first notifying the tenant of his intent and storing the property for a period prior to the sale.” Under Connecticut law, however, the responsibility for storing the property is shifted to the municipality, which places a heavy financial burden on our towns and cities. The requirement that towns store an evicted tenant’s possessions is extremely costly and burdensome, particularly at a time when towns are struggling to provide residents with services without raising property taxes. There are an estimated 2,500 residential evictions per year. Storage costs average between \$10 and \$15 per day, per eviction, for an average of 15 days. This can range from approximately \$12,000 to \$165,000 per municipality.

Section 9 - **UNEMPLOYMENT COMPENSATION TAX** – COST supports Section 8 of the bill which establishes a minimum threshold of at least 600 hours before a part-time, temporary or seasonal municipal employee is eligible for unemployment compensation benefits. Many small towns need and want to continue to hire part-time, seasonal and temporary works to assist the town in providing needed services to the community. However, unemployment compensation costs continue to climb making it increasingly difficult to afford to hire needed staff.

COST also supports **HB-5158 AN ACT CONCERNING THE ASSESSMENT OF BUILDINGS UNDER CONSTRUCTION**. By clarifying that partially completed construction continues to be subject to the property tax, this bill will close a potential funding gap facing towns of approximately \$30 million.


HOME BUILDERS ASSOCIATION OF CONNECTICUT, INC.

 3 Regency Drive, Suite 204, Bloomfield, CT 06002
 Tel: 860-216-5858 Fax: 860-206-8954 Web: www.hbact.org
pg 6 line 23
**Your Home
Is Our
Business**

February 22, 2012

To: Senator Steve Cassano, Co-Chairman
 Representative Linda M. Gentile, Co-Chairman
 Members of the Planning and Development Committee

From: Bill Ethier, Chief Executive Officer

Re: House Bill 5035, An Act Reducing Mandates for Municipalities
House Bill 5158, AAC the Assessment of Buildings under Construction

The HBA of Connecticut is a professional trade association with almost 1,000 member firms statewide, employing tens of thousands of Connecticut citizens. Our members, all small businesses, are residential and commercial builders, land developers, home improvement contractors, trade contractors, suppliers and those businesses and professionals that provide services to our diverse industry. Our members build 70% to 80% of all new homes and apartments in the state each year.

Section 2 of HB 5035, and HB 5158, would overturn the trial court decision in Kasica v. Columbia (attached is a summary of the court decision). We believe the decision is a correct interpretation of the law and is sound tax policy. **Therefore, we oppose section 2 of HB 5035, and HB 5158, because they would result in an enormous financial burden on certain home builders at a time when the industry is suffering its worst housing depression in memory.**

Alternatively, we seek a carve out for distinct and reasonable tax assessment treatment of smaller housing construction projects that will have miniscule financial impact on municipalities, yet be financially significant to certain individual home builders.

The proposed legislation arises out of a tax appeal case, Kasica v. Columbia, in which the trial court ruled tax assessors cannot raise the valuation of homes or buildings under construction until a Certificate of Occupancy (C.O.) is issued. However, it's only a trial court decision and many towns are ignoring the court ruling, saying it's applicable to only Columbia, which is legally correct.

Housing developers have been experiencing severe financial pressures as they face substantially decreased absorption rates for selling homes and must carry completed yet unsold homes for extended periods in this economic downturn. Almost all market-rate housing today is built after a home buyer is found. However, through no fault of their own, builders experience lost buyers because of the buyer's loss of a job, difficulty in obtaining financing, or the inability of the buyer to sell their existing home. Thus, when tax assessors raise the valuation of homes under construction – or even completed yet unsold homes – builders face greatly higher tax bills for unoccupied homes. These unnecessary higher tax burdens create huge disincentives to pursue housing development.

"Leading Our Members to Professional Excellence."

Serving the Residential Development & Construction Industry Through Advocacy, Education & Networking

Testimony, Home Builders Association of Connecticut, Inc.
 HB 5035, Section 2, and HB 5158, Assessment of Buildings under Construction
 February 22, 2012, page 2

Higher tax assessments on homes under construction (or even completed homes) prior to issuance of a C.O. or the home's use is a big financial hit to a small business that has no income until a home sale closes and transfers to a buyer. And, higher assessments are unnecessary because municipalities do not have any expenses for these homes under construction or waiting to be sold because they are not providing any municipal services (because there are no people in these homes to serve).

We understand the financial hit to municipalities if the trial court decision in Kasica v. Columbia is codified in statute. But the financial hit to municipalities comes from commercial construction projects. See the spreadsheet of claimed lost tax assessments provided by the tax assessors (attached), to which we added the total number of new housing permits. There is no correlation between the revenue loss estimates and the # of housing permits issued. For 15 municipalities where 0 to only 2 housing permits were issued, a total of 17 homes were permitted in 2011, yet revenue loss is reported to be \$641,280 for these 15 towns. Clearly, the vast bulk of revenue loss is derived from non-residential construction. Therefore, we respectfully request that a carve-out for different treatment be provided to home builders most vulnerable to and adversely impacted by higher assessments while building or holding onto homes.

Our limited 1-4 family residential carve-out to the more broadly applicable Kasica v. Columbia tax appeal decision (see attached substitute language) would:

1. **have minimal revenue impact on municipalities** because most of the "under-construction" assessment dollars they receive is from commercial construction;
2. **reduce uncertainty** over real estate tax burdens faced by home builders;
3. **clarify existing law and make it uniform** across all municipalities;
4. **tie the collection of higher taxes to the provision of municipal services** to people living in homes;
5. **remove a punishing tax on home builders** that occurs in a down housing market, yet does not arise for builders or municipalities in a strong housing market (because homes are built and sold more quickly);
6. **remove a strong disincentive to undertake new home projects** in a down housing market, exacerbating the down market (just what we should not want to do); and
7. **continue a town's ability to capture retroactively the increased value of a home back to the date of a certificate of occupancy (C.O.)** or when it's used for its intended purpose, whichever occurs first. Our proposal also places an outside time limit of 18 months after issuance of a building permit so homes under construction do not linger too long without having the assessment raised. Ideally, this time frame should be longer than 18 months to provide relief to builders who most need it and to property owners building their own home.

We respectfully request the Planning & Development Committee, Finance Committee and the Governor to substitute for, or add the language of our proposal to, section 2 of RB 5035, and HB 5158. Thank you for considering our plea for relief on this important issue.

Kasica v. Town of Columbia and Need for Legislation

Issue: When can municipalities raise the valuation of property for tax assessment purposes while a home (or any other building) is being constructed?

Summary: In Kasica v. Columbia, the town assessor increased the tax assessment during construction of a 9,620 sq. ft home on a 3.44 ac. lot (part of a larger 186 acre parcel owned by Gene Kasica). When fully completed, the value is estimated to be \$1.6 to 1.7 million. Mr. Kasica appealed the assessment. He won in trial court, with the court finding, based on its interpretation of state statutes, that “the assessor should not have placed an assessment on the partially constructed house until its completion and the issuance of a certificate of occupancy.” The town is appealing the decision.

State Statutes & Court’s Interpretation: Two state property tax statutes are at issue, as follows: **Section 12-53a(a)** states, “Completed new construction of real estate completed after any assessment date shall be liable for the payment of municipal taxes from the date the certificate of occupancy is issued or the date on which such new construction is first used for the purpose for which same was constructed, whichever is earlier,” **Section 12-55(b)** states, “The assessor or board of assessors may increase or decrease the valuation of any property as reflected in the last-preceding grand list,”

The town in the Kasica v. Columbia tax appeal claims it has the authority under 12-55(b) to raise the valuation of a home under construction at the time of tax revaluation. Mr. Kasica claims the town is bound by the limitations in 12-53a(a) and must wait for the home to obtain a C.O.

The trial court held for the property owner, adopting the reasoning in a 2009 tax appeal case (Evans v. Guilford) regarding an assessor’s authority to make interim assessments. The judge in Kasica explained: “In Evans, the court discussed how ‘[t]he assessor could not legally increase the assessed value of the property based solely on the new construction because interim assessments for new construction are governed by [sec.] 12-53a(a). It is a well-settled principle of [statutory] construction that specific terms governing [a] given subject matter will prevail over general language of ... another statute which might otherwise prove controlling. Here, the specific terms of [sec.] 12-53a(a), governing new construction, prevail over the broad terms of [sec.] 12-55. Because an interim assessment under [sec.] 12-53a(a) cannot commence until after new construction is completed, the assessor acted outside of his statutory mandate by performing an interim assessment when the property was 69 percent completed.’”

The trial court further explained, “If, as the town argues, the assessor is required to include ‘any property’ within the town on the date of revaluation, pursuant to [sec.] 12-55(b), without qualification, the language in [sec.] 12-53a(a), providing for interim assessment on new construction, would be superfluous.”

Legislation: Many towns are ignoring the trial court decision, saying it applies to only the town of Columbia. Rather than wait for the outcome of an uncertain appeal, the statutes should be clarified to codify the trial court decision, so that towns do not confuse their different tax authorities. Given the new economic realities, where builders must hold homes for a lengthy period before closing a sale, adopting the trial court’s rationale is now more critically important. And, towns provide very limited services to such properties before a C.O. is issued or people move into the home.

HBA of Connecticut's Proposed Substitute (or addition) to Section 2, HB 5035, and HB 5158

**An Act Clarifying the Real Estate Tax on
One to Four Family Homes Under Construction**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 12-53a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective upon passage*):

3 (a) Completed new construction of real estate completed after any assessment date shall
4 be liable for the payment of municipal taxes from the date the certificate of occupancy is
5 issued or the date on which such new construction is first used for the purpose for
6 which same was constructed, whichever is the earlier, prorated for the assessment year
7 in which the new construction is completed. Said prorated tax shall be computed on the
8 basis of the rate of tax applicable with respect to such property, including the applicable
9 rate of tax in any tax district in which such property is subject to tax following
10 completion of such new construction, on the date such property becomes liable for such
11 prorated tax in accordance with this section. Notwithstanding any provision of the
12 general statutes or any special act, municipal charter or home rule ordinance, land,
13 including individual parcels, lots in any approved subdivision, or land that is the
14 subject of any approved site plan, on which one to four family residential buildings are
15 intended to be constructed, under construction or completed, shall be assessed
16 exclusive of such residential buildings prior to (1) the date a certificate of occupancy is
17 issued for such building, (2) the date on which such new construction is first used for
18 the purpose it was constructed, or (3) eighteen months after a building permit is issued
19 for the construction of such building, whichever is the earlier.

Housing permits as reported by DECD. 128 municipalities report housing permits on a monthly basis – numbers shown are the 2011 annual totals for these 128 municipalities. 41 municipalities report housing permits on an annual basis and these (shown blank in the right column) are reported by DECD in April or May of each year.

Total New
Housing
Permits
2011

2011

TOWN	Incomplete Assessment	Revenue Loss	
Andover		\$16,325.00	0
Ansonia			1
Ashford	1,327,800	\$33,991.68	4
Avon	5,000,000	\$125,200.00	27
Barkhamsted	356,700	\$8,567.93	
Beacon Falls	411,335	\$11,517.38	
Berlin	13,405,035	\$328,423.36	78
Bethany			
Bethel	5,720,240	\$132,938.38	54
Bethlehem	9,844,700	\$248,283.33	
Bloomfield	4,838,540	\$163,058.80	
Bolton	1,550,000	\$45,229.00	5
Bozrah			3
Branford			
Bridgeport			126
Bridgewater	750,000	\$12,187.50	
Bristol	131,024,220	\$3,569,099.75	21
Brookfield	8,440,750	\$168,308.56	
Brooklyn	563,300	\$12,606.65	18
Burlington	3,973,060	\$106,279.36	11
Canaan			1
Canterbury	7,897,500	\$167,427.00	5
Canton	2,000,000	\$52,160.00	10
Chaplin	3,260,700	\$98,310.11	0
Cheshire	4,400,000	\$118,102.00	58
Chester			
Clinton	3,379,370	\$84,281.49	7
Colchester		\$90,475.00	18
Colebrook	754,800	\$19,625.00	0
Columbia	1,441,200	\$33,940.26	6
Cornwall	402,750	\$5,034.00	1
Coventry	2,100,000	\$56,700.00	18
Cromwell	4,110,420	\$118,000.00	27
Danbury		\$900,000.00	103
Darien		\$150,000.00	
Deep River	4,997,650	\$121,342.94	2
Derby			
Durham			4
East Granby	168,627	\$4,552.93	9
East Haddam	2,614,010	\$55,155.61	15
East Hampton	9,517,207	\$244,401.88	11
East Hartford	118,650	\$4,083.93	
East Haven	18,800	\$499.89	16
East Lyme	5,276,110	\$102,736.41	28
Eastford	1,214,770	\$25,813.86	2
Easton	761,108	\$17,467.43	2
East Windsor	3,842,670	\$93,667.39	33
Ellington		\$113,186.98	108
Enfield	415,230	\$9,915.69	
Essex	5,376,700	\$96,673.07	0

Total New
Housing
Permits
2011

Fairfield	56,783,860	\$1,275,933.33		48
Farmington	7,415,050	\$157,718.11		22
Franklin	516,410	\$10,607.06	18.73	17
Glastonbury	15,747,100	\$473,200.36		36
Goshen	3,931,270	\$58,969.05		1
Granby	5,979,750	\$179,990.48		4
Greenwich	311,000,000	\$3,144,521.00		59
Griswold	2,824,500	\$52,902.89		
Groton		\$3,042,300.00		14
Guilford				20
Haddam	2,727,150	\$76,987.44		9
Hamden	963,350	\$33,492.89		11
Hampton	0	\$0.00		7
Hartford	118,650	\$4,083.93		45
Hartland				
Harwinton	1,776,072	\$42,448.00		6
Hebron	220,290	\$6,665.98		
Kent	2,313,300	\$33,010.79		3
Killingly	850,000	\$16,320.00		17
Killingworth				
Lebanon	15,000	\$342.00		6
Ledyard	1,062,671	\$29,680.40		10
Lisbon				6
Litchfield		\$495,378.57		
Lyme	497,731	\$67,193.62		0
Madison				15
Manchester	2,529,300	\$71,275.67		13
Mansfield		\$55,135.00		11
Marlborough	202,248	\$5,501.15		2
Meriden				12
Middlebury	8,697,900	\$243,541.20		
Middlefield	339,400	\$9,557.50		4
Middletown				26
Milford	6,700,000	\$174,200.00		96
Monroe				6
Montville				7
Morris	1,535,690	\$31,988.00		1
Naugatuck				7
New Britain	22,463,700	\$822,845.33		
New Canaan	10,000,000	\$138,530.00		25
New Fairfield				
New Hartford	561,149	\$13,579.81		7
New Haven				320
Newington	425,030	\$12,759.40		5
New London				28
New Milford			26.54 check revenue loss	15
Newtown	4,400,000	\$107,228.00		22
Norfolk				1
North Branford	800,000	\$22,200.00		
North Canaan				2
North Haven	8,584,380	\$227,829.45		11
North Stonington			30.2	3

Total New
Housing
Permits
2011

Norwalk	11,500,000	\$276,000.00		67
Norwich	38,805,000	\$1,118,748.15		8
Old Lyme				
Old Saybrook	9,857,400	\$138,595.04		25
Orange	24,496,500	\$739,794.30		
Oxford	8,046,900	\$186,768.55		15
Plainfield	3,504,780	\$72,864.38		14
Plainville				16
Plymouth	3,590,860	\$113,112.09	13.94	6
Pomfret	1,044,720	\$24,091.24		3
Portland	925,000	\$27,000.00		9
Preston				6
Prospect				
Putnam	12,000,000	\$167,280.00		8
Redding	564,620	\$12,822.00		
Ridgefield	450,000	\$150,000.00		12
Rocky Hill	8,024,450	\$196,599.03		17
Roxbury	5,285,440	\$62,896.74		
Salem				4
Salisbury		\$1,588,470.00		
Scotland	5,000	\$150.35		0
Seymour	2,128,200	\$58,780.00		17
Sharon	2,189,200	\$248,474.20		4
Shelton				35
Sherman	2,025,000	\$32,000.00		
Simsbury				13
Somers	1,312,200	\$29,025.86		13
Southbury			(4 mill rates)	7
Southington	10,332,070	\$250,862.66		69
South Windsor	5,346,000	\$153,857.88		12
Sprague				1
Stafford	2,121,650	\$61,442.98		
Stamford	75,575,790	\$1,301,545.42		207
Sterling	1,243,670	\$26,253.87		
Stonington	27,194,000	\$425,042.22		21
Stratford	25,160,310	\$859,224.59		11
Suffield	7,460,530	\$180,321.01		24
Thomaston	734,650	\$22,400.00		
Thompson				
Tolland	1,715,400	\$50,998.84		5
Torrington	876,911	\$28,499.61		7
Trumbull	17,197,600	\$429,940.00		9
Union	241,820	\$5,573.95		2
Vernon	10,811,090			40
Voluntown				3
Wallingford				47
Warren	3,510,710	\$43,006.20		2
Washington	2,322,710	\$25,549.81		
Waterbury	129,400	\$54,113.01		19
Waterford				14
Watertown	3,321,100	\$77,448.05		17
Westbrook	4,000,000	\$67,840.00		7

Total New
Housing
Permits
2011

West Hartford	2,196,553	\$33,455.90		43
West Haven				
Weston	11,500,000	\$276,000.00	no cip reportable	
Westport		\$80,000.00	combined two districts	72
Wethersfield	12,100,100	\$380,185.14		
Willington	1,200,460	\$28,306.85		2
Wilton	7,372,820	\$153,723.30		
Winchester	12,500,000	\$318,000.00		7
Windham	2,698,640	\$84,923.36		18
Windsor	7,177,240	\$201,178.00	18.42 dbl ck revenue loss	
Windsor Locks				
Wolcott	4,579,520	\$103,909.31		13
Woodbridge	2,000,000	\$67,000.00		
Woodbury	7,785,940	\$167,000		6
Woodstock	1,680,900	\$30,962.18		7
TOTAL:	1,141,097,757	\$30,135,522.02		2,337

Testimony for
"Property Under Construction or Partially Completed"
Planning and Development Committee
Kasica v. Columbia

February 22, 2012

Submitted by: Matthew B. Galligan
Town Manager
Town of South Windsor, CT

HB 5158
HB 5035

An assessor's primary function is to discover, list, and value land and their related improvements. A law change is desperately needed based upon the above-referenced court case to clarify the issue and resolve inequities that would develop between properties. We serve the communities by placing fair and reasonable assessments in an equitable manner as statutes and courts guide us.

Grand lists are created each year and updated for change in status, ownership, and discovered changes in composition. Placing assessments reflect the fact that a property status has changed, and property under construction is amended to reflect that status. A town should not ignore a change in status, change in value, or placing valuations each October on the then-current status of individual properties. Towns should not ignore any inequities that result from differences between applied and non-applied new construction valuations. Towns should not ignore the collection of taxes on properties that are under construction and whose value has changed.

What incentive would anyone have to complete a project if the Town does not recognize the change in asset valuation until such a time as the property is sold or C.O. is issued? Does a financial institute base its actions on changes in status (value measures)? Ask any developer wanting installments on construction financing if the bank gives out payments based upon completion. Isn't this a measure of the overall market value at the time of installment payment?

What happens to properties that receive C.O. on portions of the finished product as the product is being completed? Commercial developments that take "years" to fully develop would become a town's nightmare. In 2011, 130 towns would have had over a \$30.5 million tax receipts reduction if CIP valuations were not recognized for assessment purposes. Wouldn't this be a major budgetary impact that would have to be made up elsewhere? In a recession driven market, South Windsor would have had to increase their mill rate by over half a mill this year should CIP have to be removed.

The statutes need to be clarified if Kasica v. Columbia were to stand. It would violate fair and equitable taxation, for no longer would everyone be assessed based on fair market value. It also breaks a long standing historical practice resulting in a significant revenue loss felt by all 169 municipalities.

- As far as anyone has been able to research, Connecticut has always taxed property under construction or partially completed.
- Connecticut's property tax is ad valorem or according to value, and even something that is incomplete has value.
- CGS 12-63(a) states that, other than farm land, forest land, and open space, ALL property is based on the fair market value.
- The assessment of property that is partially completed or under construction is required to be assessed based on its FMV according to CGS 12-63(a), and CGS 12-55 requires the assessor equalize the assessments and add anything omitted (i.e. new partially completed construction).
- CGS 12-64 (Real Estate Liable for Taxation) supports assessing property which is under construction whereas it states: "all other buildings, structures, house lots, all other building lots and improvements thereon and thereto" are liable for taxation. The key work here is "improvements", which is a real estate term for anything added to the land and is defined in the dictionary of real estate appraisal as "buildings or any other relatively permanent structures or developments located on the land".
- CGS 12-53(a) (Assessment and Taxation of New Real Estate Construction) states in the first sentence that "completed new construction completed after" October 1st is liable for taxation. Key terminology here is "completed after" the assessment date which indicates that you may only add on the portion completed after October 1st. Why? Because the other portion has already been assessed pursuant to CGS 12-64 and CGS 12-63.
- Requesting an effective date of October 1, 2011 would release towns from reactions to the 2011 Grand List.

Connecticut Town Clerks Association, Inc.

Committee Members

Antoinette Chuck Spinelli –
Waterbury, CH
Essie Labrot, West Hartford,
V. CH
Jeff Barske, Thompson
George Buckbee, New Milford
Debra H. Denette, East Haddam
Michele Grande, Redding
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Joyce Mascena, CTCA-Pres.
Patty Strauss, 1st V-Pres.
Patty Spruance, 2nd V-Pres.
Joseph Camposeo, Imd. Past Pres.
Bernice Dixon, Vitals Comm. CH
Kim Garvis, Technology Comm. CH
Lobbyist: Michael Dugan

2012 Legislative Committee

Testimony Planning & Development Committee February 22, 2012

Good morning distinguished members of the Planning & Development Committee. My name is Joyce Mascena and I am testifying on behalf of the Connecticut Town Clerk's Association (CTCA). I am the President of the Association and the Town Clerk of Glastonbury. Also joining me is Joseph Camposeo, the immediate past President of the Town Clerks Association and Town Clerk of Manchester. He as well is very familiar with this subject and has testified numerous times in his tenure as President. I am here today to testify in support of the Governor's Language in Bill 5035 with additional wording to reflect "No public agency may disclose, from their personnel and medical records,..." We greatly appreciate the Governor raising awareness to this very important issue.

We are also aware of the potential E-Cert amendment to FOIA Section 1-217 proposed by the House and Senate as set forth in a Memorandum from Christy Scott to the co-chairs of the GAE Committee. We would support the provision in the memo which states, the "Public agency employer is prohibited from releasing the residential address of its own protected employee from personnel, medical and similar files." We also would support the suggestion that the Department of Labor explore ideas on how the protected employees can proactively protect their addresses from disclosure as well as the provision that states, "Land Records, grand lists and voter registry lists will not be required to be redacted before disclosure."

However, land records, grand lists and voter registry lists are the main sources for obtaining address information in municipal public records. Exempting these three main public records renders it pointless to redact from any other public records. These three public records are also online in many municipalities or available from private vendors.

There are other provisions in the potential E-Cert amendment that will lead to further confusion, restricted access to public records and most assuredly lawsuits from individuals seeking access to public records and from protected employees seeking to restrict access to their records. These provisions are based upon incorrect assumptions that would further complicate an already impossible and unworkable task.

There is an "opt-in" provision, which fails to consider how long someone is on this list and what the process is for removing an individual from the list. Who would be responsible for maintaining this list? Would the protected person need to identify himself or herself to each public agency? Would this be a retroactive provision requiring research in many prior years worth of public records?

There is an assumption that FOI requests are always written requests when in reality many town clerk records are self-accessed by the consumers in public vaults and computers. Some municipalities may get thousands of requests in any given week. This may be through telephone, mail and over the counter requests.

Municipalities do not have a centralized database for all town clerk records, much less all municipal public records. Within town clerk records, different databases exist for vital records, trade names, dog & absentee ballot lists, just to name a few. Other public records may be indexed in card catalogues or held in paper format including minutes, notary registrations, campaign finance reports and petition pages, again just to name a few. For a more detailed list of effected public records, please see the list contained in the Coalition Position Paper that is attached hereto. It is unmanageable to check the "opt in list" for thousands of requests a week and make redactions in databases that may not permit such an action.

Another provision would hold the public agencies harmless for any civil liability if they made a reasonable good, faith, effort. The terms "reasonable effort" and "good faith effort" leave room for an inevitable future court challenge that a public agency failed to make reasonable efforts.

As far as a task force being created that would consider the redaction of names from land records, grand lists and voter files, that would not be productive. These are public records that must remain free from redaction.

Let us also not forget, you can search the Internet to find out basic information on just about anyone. For free, you can find out a person's residence history, family members, phone number & age. For a small fee, a further in-depth search can expose a person's employment history, social security number, lawsuits, court documents and much more. Those wishing to do harm are not using municipal public records to find this information. Municipal public records are now considered an outdated source of information compared to the information that is readily available on the Internet. In actuality, they don't even need the Internet or your name or address. They can simply follow you home from work.

If acceptable alternative language to what has already been proposed by the Governor and the House and Senate is not adopted, then this will leave municipal governments with no other choice but to take the advice of their legal counsels and shutdown all access to public records because of these potential impacted records.

Thank you for this opportunity to testify. We would be happy to answer any questions you may have at this time.

Respectfully submitted,
Joyce Mascena, Glastonbury Town Clerk
President, CT Town Clerks Association

State Statute Imposes Onerous Burden on Public Agencies

Coalition Urges General Assembly to Introduce a Legislative Remedy

Coalition Members:

*CT Association of Assessor Officers
CT Association of Municipal Attorneys
CT Association of Realtors
CT Attorneys Title Insurance Company
CT Bankers Association
CT Bar Association
CT Conference of Municipalities
CT Council of Small Towns
CT Council on Freedom of Information
CT Daily Newspaper Association*

*CT Mortgage Bankers Association
CT State Library
CT Tax Collectors Association
CT Title Association
CT Town Clerks Association
CT Freedom of Information Commission
Registrar of Voters Association of CT
Secretary of the State of CT
State Elections Enforcement Commission*

State Supreme Court Rules on FOI Case

A recent State Supreme Court decision confirms the interpretation of a Freedom of Information Act provision which prohibits disclosure of residential addresses of certain Federal, State and Municipal employees. The impact of this decision could be crippling to state and local agencies and could undermine public confidence in the integrity of many government records.

Though the court's decision narrowly applies to motor vehicle records, legal counsel for state and municipal agencies, as well as attorneys for the FOI Commission, are advising that the court's decision will apply to all public records, including land records, voter lists, and tax rolls, as well as all other records in every office of every public agency in the state, and it applies to all formats of records, both printed and electronic.

The impact of this decision has an immediate effect on state agencies and municipalities and a legislative remedy is urgently needed and should be acted upon without delay.

Agencies Will Not be Able to Comply with the Court's Decision

Compliance with the court's decision promises to create immediate havoc by disrupting, for example, title searches, service of process, collection of debts, and notification of adjoining landowners in planning and zoning matters. Access to voter lists will be compromised, as will the records of tax assessors, municipal clerks, the Secretary of the State, and the State Elections Enforcement Commission. If a legislative remedy is not acted upon clerks, assessors, and registrars will not be able to meet their duties under the law to certify the accuracy and completeness of their records that must be open to the public. In addition they will no longer be able to comply with other Statutes that prohibit the alteration of certain public records.

Long Standing Access to Public Records in Jeopardy

Public agencies will not be able to ensure that all their records comply with the Supreme Court's decision; therefore many of these records will not be available to the public for viewing which is a concern to the users of these public records.

This decision has broad implications from the affect on government and commerce to the integrity of voting and town records. Redacting addresses that are integral to the purpose of the records that contain them irreparably damages the people's right to know that their government is functioning competently and fairly

The coalition is in agreement that:

- With the Supreme Court's interpretation of CGS § 1-217 it places an unrealistic burden of identifying and redacting all public documents where protected individuals may appear.
- The costs associated with this unfunded mandate are extreme due to the scope and volume of public records that are in print, electronic and microfilm formats.
- It is impossible for any agency to ensure ongoing compliance, causing potential liability for municipal and state agencies.
- CGS § 1-217 conflict with other State Statutes (§ 1-240 and § 53-153) which prohibit the redaction or alteration of original public records
- The Court's decision grievously harms our commercial and government institutions, which for centuries have relied on land records, tax rolls, voter lists, and other public records to be complete, accurate and open to the public.

Proposed Language:**§ 1-217. Nondisclosure of residential addresses of certain individuals**

(a) No [public agency] state department, agency, board, council, commission or institution may disclose from its personnel records, under the Freedom of Information Act, the residential address of any of the following persons employed thereby, if such person submits a written request for such nondisclosure and furnishes his business address to the executive head of such department, agency, board, council, commission or institution.

This revision reverts to the pre-1999 text of the statute, but also clarifies the statute only applies to an agency's own employees and explicitly limits its scope to the personnel records of the state agency in question. There is also the requirement of a written request.

PUBLIC RECORDS WITH ADDRESSES HELD BY OFFICE**TOWN CLERK**

Land Records
Maps
Voter Lists
Dog License Owner Listings
Petitions
Campaign Finance Reports
Absentee Ballot Applications
Notary Filings
Elected and Appointed Listing
Sporting Licenses
General Correspondence
Trade Name Certificates
Meeting Minutes – Public Hearings
Vital Records
Dial-A-Ride applications
Landfill Pass Applications
Conveyance Forms
Grand Lists
Daybooks
Indexes
Annual Disclosure Statements

REVENUE DEPT.

Rate Books
Suspense Listings
Bank Code Book
Sewer use and assessment lists
Sewer connections
Sewer cards
Tax warrants
Lien lists
Paid tax receipts
Certificate of corrections and refunds

POLICE DEPT.

Case Reports
Investigations on vendors
Pistol Permits

ENGINEERING DEPT.

Street Files and Subdivision files
Excavation and sewer permits
FEMA LOMA applications
GIS – maps
Sewer and road project with addresses

REGISTRARS OF VOTERS

Voter Cards
Canvass Lists (NOCA)
Check off Voter Lists
Monthly Detail Reports with new voters, removals and changes
Official Voter Lists
Alpha Lists
DMV Lists
Daily Log

RECREATION DEPT.

Recreation registration forms
Town pool membership applications
Permit applications for facility use
Garden Plot applications
Instructor proposals
Employment applications

BUILDING DEPT.

Building permits
Certificates of Occupancy
Construction drawings and site plans that contain addresses of owners.

ASSESSING

Grand Lists
Property Cards

HUMAN RESOURCES

Employment applications
I-9, W-4, CT W-4
Employee Information Updates
Health Insurance Enrollment
Dental Insurance Enrollment
Term life Insurance
ICMA (401a and 457)
ROTH

PLANNING AND COMMUNITY DEVELOPMENT

Applications for variances and special exceptions
Zoning meeting minutes
Inland Wetland Applications
Zoning Applications
Site and subdivision plans

* *Section 1-217, G.S. provides:* No public agency may disclose, under the Freedom of Information Act, the residential address of any of the following persons:

(1) A federal court judge, federal court magistrate, judge of the Superior Court, Appellate Court or Supreme Court of the state, or family support magistrate;

(2) A sworn member of a municipal police department, a sworn member of the Division of State Police within the Department of Public Safety or a sworn law enforcement officer within the Department of Environmental Protection;

(3) An employee of the Department of Correction;

(4) An attorney-at-law who represents or has represented the state in a criminal prosecution;

(5) An attorney-at-law who is or has been employed by the Public Defender Services Division or a social worker who is employed by the Public Defender Services Division;

(6) An inspector employed by the Division of Criminal Justice;

(7) A firefighter;

(8) An employee of the Department of Children and Families;

(9) A member or employee of the Board of Pardons and Paroles;

(10) An employee of the judicial branch;

(11) An employee of the department of Mental Health and Addiction Services who provides direct care to patients; or

(12) A member or employee of the Commission on Human Rights and Opportunities.

Freedom of Information Commission

§1-217, G.S., ADDRESS EXEMPTION

CASE SUMMARY:

Commissioner of Public Safety et al v.
Freedom of Information Commission and Peter Sachs
301 Conn. 323 (June 28, 2011)

The Connecticut Supreme Court has settled the question of whether §1-217, G.S., which prohibits the disclosure of the residential addresses of 11 categories of public employees, applies to records such as grand lists, voter rolls, and other records that are required by law to be complete, accurate, and open to public inspection.

The answer is yes. In Commissioner of Public Safety et al v. Freedom of Information Commission and Peter Sachs, the Supreme Court held that §1-217, G.S., *requires* the redaction of residential addresses from the copy of the motor vehicle grand list that is open to the public.

The case arose in the town of North Stonington, when the assessor in 2007 refused to give a private investigator an unredacted copy of the motor vehicle grand list. Although state statute (§12-55, G.S.) requires the assessor to lodge a complete and accurate list for public inspection, a separate statute (§1-217, G.S.) prohibits disclosure of the residential addresses of eleven categories of government employees.

The FOI Commission, faced with resolving two apparently conflicting statutory mandates, reasoned that the legislature did not intend to repeal §12-55, G.S., by enacting §1-217, G.S., and concluded that the address exemption provision applied to all public records *except* those that the legislature determined, by enacting separate statutes, are to remain complete, accurate, and open. The Superior Court affirmed (Comm'r v. FOI Commission, 2009 Conn. Super. LEXIS 2872 (Conn. Super. Ct., Nov. 2, 2009)).

The Supreme Court overturned the Superior Court, and held that the address exemption supersedes §12-55, G.S. Specifically, the Supreme Court ruled that that the FOIA requires disclosure of all public records except as otherwise provided by state law, and §1-217 is one such state law that requires non-disclosure.

Although the Supreme Court case pertained only to the motor vehicle grand list of North Stonington, we assume that the decision will apply to ALL public records, including the real estate grand list, all land records, voter enrollment lists, voter registries, dog licenses – in short, even including records that by law must be complete, accurate, and open to public inspection.



TOWN OF STONINGTON

ASSESSOR'S OFFICE

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pg 13
line 9

February 22, 2012

HB5035

Planning & Development Committee

Re: Identification of major impacts regarding the redaction of records in accordance with section §12-217 of the Connecticut General Statutes

Municipal employees have always strived to administer the laws of the State of Connecticut with the utmost diligence and professionalism. We realize in a changing world that we presently reside in, certain classes of individuals are concerned about the welfare of their families, as a result of the duties and responsibilities that they perform in order to protect the public at large. Occasionally there are laws passed that have significant impacts on municipal agencies that need to be readdressed, §12-217 is one such provision.

- The property location and the mailing address may be one in the same; however only the mailing address is redacted. If the location was redacted it would create disconnects among municipal departments as the major link for land records, assessor records, tax records, building records, and emergency records.
- The law provides for redaction of the mailing address; however correspondence is required to be mailed for billing, notification of abutters regarding zoning issues and many other reasons.
- There is a false sense of security for an individual as records, other than municipal, are easily available through the internet.
- Open records provides public accountability.

Respectfully submitted,

Marsha L. Standish

Marsha L. Standish, CCMA II, CCMC, Assessor Town of Stonington 860-535-5005

Walter, Judith

From: Blancato, Allison
Sent: Tuesday, February 21, 2012 3:35 PM
To: Walter, Judith
Subject: FW: P&D Feb 22, 2012 hearing
Attachments: 20120222_Mohan_Testimony_P&D_Hearing_HB_5035.pdf

From: 3deepwood [mailto:3deepwood@ct.gov]
Sent: Tuesday, February 21, 2012 3:25 PM
To: Blancato, Allison
Subject: RE: P&D Feb 22, 2012 hearing

Dear Allison,

I am attaching my Testimony for the P&D hearing on HB 5035 on Feb 22, 2012.
 If I show up to testify, and I still hope to do so, I will be sure to bring 40 hard copies with me as you indicated.
 I would be grateful if you would please confirm that you received my email, by simply replying.

Thanks,

Ravi

Ravi Mohan
 (203) 227-5600

From: Blancato, Allison [mailto:Allison.Blancato@cga.ct.gov]
Sent: Tuesday, February 21, 2012 12:09 PM
To: 3deepwood
Subject: RE: P&D Feb 22, 2012 hearing

Ravi,

Any testimony sent to the committee in any form will become a part of the record. If you are testifying, 40 hard copies must be submitted at the time of sign up. ~Allison

From: 3deepwood [mailto:3deepwood@ct.gov]
Sent: Monday, February 20, 2012 8:55 AM
To: Blancato, Allison
Subject: P&D Feb 22, 2012 hearing

Dear Allison,

I would like to submit my testimony on HB 5035 for the P&D Public Hearing on February 22, 2012.

1. Can I email you a PDF with my testimony?
2. If yes, by when do you need to receive it?

2/21/2012

3. If I submit written testimony, does it become part of the record even if I do not show up for the hearing?

Thanks,

Ravi

Ravi Mohan
(203) 227-5600

2/21/2012

**JOINT
STANDING
COMMITTEE
HEARINGS**

**PLANNING AND
DEVELOPMENT
PART 2
342 -679**

2012

Walter, Judith

From: Blancato, Allison
Sent: Tuesday, February 21, 2012 11:36 AM
To: Walter, Judith
Subject: FW: COST Testimony Feb 22 Public Hearing
Attachments: TESTIMONY IPM 2012 doc, Testimony MANDATE RELIEF 2012 doc

From: g [On Behalf Of Elizabeth Gara]
Sent: Monday, February 20, 2012 5:02 PM
To: Blancato, Allison
Cc: Bart Russell
Subject: COST Testimony Feb 22 Public Hearing

Attached is COST's testimony for the February 22 public hearing on HB-5035 and HB-5155. Thank you.

Elizabeth (Betsy) Gara
COST
1245 Farmington Ave., Suite 101
West Hartford, CT 06107
Tel: (860) 841-7350

2/21/2012

S - 649

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2012**

**VOL. 55
PART 14
4223 - 4505**

rgd/tmj/gdm/gbr
SENATE

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May 9, 2012

Senator. Senator Prague. Thank you.

If all members have voted -- if all members voted, the machine will be closed.

Mr. Clerk, will you call the tally, please.

THE CLERK:

House Bill 5063.

Total Number Voting	36
Necessary for Adoption	19
Those Voting Yea	36
Those Voting Nay	0
Those Absent and Not Voting	0

THE CHAIR:

The bill passes.

Mr. Clerk -- I'm sorry, Mr. Clerk.

Go ahead, sir.

THE CLERK:

On page 11, Calendar 428, Substitute for House Bill Number 5035, AN ACT CONCERNING PROPERTY TAX ASSESSMENTS BY MUNICIPALITIES, favorable report of the Committees on Public -- on Planning and Development and Finance, Revenue and Bonding.

THE CHAIR:

Senator Cassano.

SENATOR CASSANO:

Thank you, Madam Chair.

I'd like to move acceptance of the joint committee's favorable report and passage of the bill, waive it's reading, and I'd like to summarize.

THE CHAIR:

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The motion is on acceptance and passage.

Will you remark, sir?

SENATOR CASSANO:

Yes. This looks it could be a very simple bill, and yet, it's a very significant bill. This is a bill that is before us because of a court case, (inaudible) versus the Town of Columbia.

Traditionally -- or currently, I should say, 167 of the 169 towns now, through the evaluation process, assess and will put property taxes on homes under construction. It's called partial -- partial valuation. It has been challenged in court. So what we would like to do -- this bill would very simply corroborate the existing practice of using partial assessments.

The fiscal impact is not on the state but it is on municipalities. And the newest numbers from CCM representing the large majority of municipalities indicates that the loss to municipal government would be almost \$30 million. So I would urge passage of the bill.

THE CHAIR:

Will you remark further? Will you remark further?

If not --

Senator Boucher.

SENATOR BOUCHER:

Yes, Madam President. A question, through you, because, in fact, this did get some conversation and there was some controversy around this.

Through you, do I understand that, at this point, the bill would allow the assess of taxes on property that has not yet been occupied, not yet completed, but is in the construction.

Through you, Madam President.

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THE CHAIR:

Senator Cassano.

SENATOR CASSANO:

Yes, that is correct. That is current practice in 167 towns.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you for that answer. Was my understanding that it may not be current practice? Is it just that towns have very differing policies from town to town on this issue? That they all don't assess it in quite the same way.

Through you, Madam President.

THE CHAIR:

Senator Cassano.

SENATOR CASSANO:

According to the records we have, there are two towns that do not do this.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Thank you for that information. I'm glad he had that ready at hand. Does he know the names of those particular communities?

Through you, Madam President.

THE CHAIR:

Senator Cassano.

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SENATOR CASSANO:

Sorry. With the noise --

THE CHAIR:

Okay. Ladies and gentlemen, I ask you again. I know that there's a lot of conversations and everybody is happy close to the end of the evening.

Can you please take all your conversations outside the Chamber so that the two great -- good Senators can hear each other?

Senator Boucher, could you repeat yourself, please.

SENATOR CASSANO:

I'm sorry. I couldn't hear you.

SENATOR BOUCHER:

Yes. Through you, Madam President.

The good introducer of this just mentioned that there were only two towns in Connecticut that do not currently assess partial tax on property mid-construction that are not occupied. The question would be which two towns are those.

Through you, Madam President.

THE CHAIR:

Senator Cassano, do you happen to know those offhand, sir?

SENATOR CASSANO:

I'm sorry. I do not. I know that it was brought before us by the assessors in the Planning and Development Committee. I don't recall if the names are even provided.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

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SENATE

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So, obviously, through you, Madam President, the court case involved one of those two towns.

Through you, Madam President.

THE CHAIR:

Senator Cassano.

SENATOR CASSANO:

It could be, but it might have been a town that, in fact, was assessing and somebody fought the process of doing the assessing because it wasn't in the statutes.

THE CHAIR:

Senator Boucher.

SENATOR BOUCHER:

Again, thank you very much for the answers on this.

It is not -- for some, it may be a very easy vote, but for many of us, it is not. The issue of the taxpayer and whether this is, in fact, a fair and equitable assessment, given that oftentimes some property may take awhile for it to be in construction, that during that time the individual is not getting use of that property, and therefore, there could be questions as to the rationale for assessing any taxes yet.

Particularly, as I said, they're not enjoying the use of the property as yet. They're investing in it. They are constructing in it. So I -- I feel somewhat better by your comments saying that it is current practice. But I've built a house in Connecticut and I don't remember being assessed that tax during construction, but it may have changed. That was quite some time ago, luckily, quite some time ago.

So I'm going to have to rely on your testimony and information. And hope that we're not further burdening the housing industry, the incentive to build homes in Connecticut. And placing additional taxes on property is when, maybe, one would question whether that is the fair

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thing to do.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

If not --

SENATOR CASSANO:

Yes.

THE CHAIR:

Oh, sorry, Senator.

SENATOR CASSANO:

I would like to assure Senator Boucher that one of the reasons this basically is done is that while that House sits empty and being built, the fire department still watches it and the police department takes care of it, and all the other -- the roads are plowed and -- if it's public streets. And those are all some of the base reasons that were brought forward in P and D because we had the same concerns.

THE CHAIR:

Will you remark?

Senator McKinney.

Oh, sorry.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, if we might pass this bill temporarily. We expect to return to it shortly and take what we expect

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will be a brief recess.

THE CHAIR:

Thank you.

Senator Looney, will you pick that up before you call for a recess, please.

Thank you.

SENATOR LOONEY:

Madam President, yes. Thank you.

Madam President, yes, if we might vote on -- I believe we're ready to move to a vote on this bill. And we'll call for a recess immediately after this -- this bill is voted on.

THE CHAIR:

I will after Senator McKinney says something.

Senator McKinney, will you address the Chamber?

SENATOR MCKINNEY:

Yeah. Thank you, Madam President.

Just take me about two minutes. I had filed some amendments on this. They have all been withdrawn. Several constituents had concerns over the fact that they were building single-family homes and the assessments were going up even though a foundation and some of the house was in and they weren't living in it. That's one issue. This deals with a much broader range of issues from multiunit dwellings to commercial properties and the like.

I think -- I think this is probably not necessary to do because we had one superior court case in one town. But I understand that towns may be concerned that other taxpayers would file similar lawsuits.

And I did have a good conversation with officials from CCM about seeing what we could do about -- my concern is impact for, you know, businesses, and for that family that's

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building their own home and an increased property tax on them while they are paying for another dwelling because their home is not being built, and the impact that has on them.

So, thank the good senator for not passing the bill temporarily, and I will sit down.

THE CHAIR:

Thank you, sir.

Will you remark? Will you remark?

If not, Mr. Clerk, will you call a roll call vote, and the machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators please return to the Chamber. Immediate roll call has been ordered in the Senate.

THE CHAIR:

All members have voted. If all members have voted, the machine will be closed.

Mr. Clerk, will you call the tally, please.

THE CLERK:

House Bill 5035.

Total Number Voting	36
Necessary for Adoption	19
Those Voting Yea	36
Those Voting Nay	0
Those Absent and Not Voting	0

THE CHAIR:

The bill passes.

Senator Looney.

SENATOR LOONEY: