

February 15, 2006

To: Senator Eric Coleman, Co-Chairman  
Representative Lewis J. Wallace, Co-Chairman  
Members of the Planning and Development Committee

From: Bill Ethier, Executive Vice President & General Counsel

Re: **Raised Bill 5038, An Act Restricting the Use of Eminent Domain and Authorizing Municipalities to Establish Separate Rates of Taxation for Real Estate**

The HBA of Connecticut is a professional trade association with almost one thousand three hundred (1,300) member firms statewide with tens of thousands of employees. Our members are residential and commercial builders, land developers, remodelers, general contractors, subcontractors, suppliers and those businesses and professionals that provide services to this diverse industry. We also created and administer the Connecticut Developers Council, a professional forum for the land development industry in the state.

**To the extent that language in RB 5038 is identical or similar to RB 34, we refer the committee to our testimony on RB 34 and our September 28, 2005, policy statement on eminent domain attached to that testimony.** Raised Bill 5038 in some respects goes further than, but in other respects does not go as far as, RB 34 in offering greater protection for property owners from economic development condemnations. **However, on the whole, RB 5038, like RB 34 does not go far enough to protect property owners in these situations.**

Specifically, lines 113 – 121 of RB 34 should be included in RB 5038 at line 160 in order to derive a better and more fair determination of fair market value. Also, payment for the loss of “good will” as defined in RB 34 is important when condemning a business entity and should be incorporated into RB 5038.

**To place property owners in the same financial footing absent a condemnation, the owner’s full legal expenses should be paid as part of any truly just compensation.** Accordingly, at section 9, we do not believe a new state grant program would provide adequate financial relief to property owners. We urge you to simply require the condemning authority to pay the property owner’s legal fees and costs. We also see no rationale for limiting legal fees and costs to two-thirds of the documented costs. After all, we are dealing with people who did not ask to be embroiled in a condemnation of their property. These people are innocent in every respect and need to suffer the consequences of having their property condemned through no fault of their own. It is not just to have them absorb any amount of legal fees or costs because the government decides it wants their property.

**We support Section 12 as an improvement to the planning process for municipal development projects but these additional planning requirements should be incorporated into all economic development condemnations regardless of who may be the condemning authority.**

**We strongly support sections 15 to 25, creating an Office of Property Rights Ombudsman and establishing procedures for arbitrating disputes over condemnations and the taking of private property as long as de novo review by a court of the dispute is maintained as outlined in section 18.**

**Further, we urge you to clarify that the term “agency” in sections 24 and 25 means any state or municipal government, quasi-governmental or other entity that has condemnation authority or otherwise could affect a taking of private property.** The Property Rights Ombudsman and processes outlined in these sections should be available to all private property owners to deal with the wrenching effects of facing the potential loss of their property.

Thank you for considering our views in this most important matter.

**Finally, regarding section 26, which is unrelated to the eminent domain issue, we have long supported the authorization of land-value or split-rate property taxation. However, as stated in previous years’ testimony on this issue, we urge you to not limit the authorization to just the largest of cities.** This property tax tool to encourage development where it is needed could be useful to all municipalities.