



Connecticut

Connecticut Chapter of the American Planning Association

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PLANNING AND DEVELOPMENT COMMITTEE

SB-1086: AN ACT CONCERNING THE TIMELY DETERMINATION OF LOCAL LAND USE DECISIONS.

OVERVIEW: CCAPA strongly opposes this proposal to deprive regulatory boards of their ability to fulfill their review responsibilities.

SUMMARY: This bill would require that land use commissions, board, and agencies determine an application's completeness and so notify the applicant or require additional information within a specified time frame. It would also require fee refunding if a decision is not rendered within the statutory time limits.

ANALYSIS: The proposal would put regulatory agencies into an untenable situation regarding application processing. They would have to anticipate any and all information that may be required for a decision in advance of any hearing or other review and if missing or needed information were identified subsequently, but not provided by the applicant, that could not be grounds for denial.

Who determines what constitutes a "detailed, objective list"? When is "as soon as practicable"? If such a list includes, for example, a requirement that revised site development plans, including stormwater management designs, be filed to address a mistaken assumption by the applicant, commissions may not have adequate time for the necessary technical review before it must close a hearing. However, the commission would not be able to deny the application for lack of information and the applicant is not obliged to authorize an extension of the statutory time limits that would permit the necessary technical review.

Clearly, this bill does not reflect an understanding of the complexity of the land use regulatory process and the need for regulators to require adequate information throughout the review process. Determining that an application is complete, for the purposes of decision-making, before a public hearing (if one is held) effectively eliminates the value of the public hearing. If an application meets the minimum information requirements established by the commission, it is complete for the purposes of initiating the review process.

The simple resolution to the perceived problem, which is really the potential inability of applicants to understand the regulatory process, is to take advantage of the pre-application review process clearly and appropriately authorized by Section 7-159b.

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Additionally, requiring refund of fees for failing to render a timely decision would mean an applicant, having had the application determined complete, could refuse to authorize time extensions and thereby pressure a commission for a poorly crafted or incomplete decision under the fiscal threat of loss of application fees already expended by the town. Ample legal protections exist for applicants whose applications are not processed according to statutory provisions.

CCAPA POSITION: CCAPA strongly opposes this proposed bill and recommends no further consideration by the Committee. This bill would create a situation whereby an applicant can manipulate the process and circumvent the necessary and legitimate reviews that the statutes require.

Comprehensive, deliberate, and objective considerations of these and other concepts to improve the land use planning and regulatory processes should properly be an activity lead by the new Office of Responsible Growth, not by piecemeal amendments to long-established statutory standards.