



# Connecticut

## *Connecticut Chapter of the American Planning Association*

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Government Relations Chairman: Christopher S. Wood, AICP  
Phone: 203 558-0654      [woodplanning@charter.net](mailto:woodplanning@charter.net)      [www.ccapa.org](http://www.ccapa.org)

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### **PLANNING AND DEVELOPMENT COMMITTEE**

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#### **PROPOSED BILL NO. 6424 – AN ACT AUTHORIZING PLANNING AND ZONING COMMISSIONS TO CONSIDER PAST PERFORMANCE OF A DEVELOPER IN APPROVING APPLICATIONS**

**SUMMARY:** This bill raises the concept of specifically authorizing consideration of past performance of “developer applicants” when a site plan, subdivision, or special exception application is being considered.

**ANALYSIS:** Statutory reference to “past performance” is clearly unnecessary to ensure that municipalities and the public are protected from unscrupulous developers. As in any hearing proceeding, credibility of witnesses or applicants is a legitimate consideration under the responsibility of, in this case, land use regulatory agencies. However, this concept raises the potential for prolonged regulatory proceedings, expensive litigation, and unnecessary uncertainty in the regulatory process.

Adequate protections are already available in the form of bonding authority, conditions of approval, and other legal protections. Enforcement procedures are also available, although these are currently less effective than they could be due to the unusual, and unnecessary, provisions in Connecticut statutes allowing a person fined for a zoning violation to sue the enforcement officer personally for treble damages. This threat has discouraged many, if not most, Connecticut municipalities from adopting the more effective enforcement procedure of direct municipal fines, as authorized by Connecticut General Statutes Section 8-12a.

**CCAPA POSITION:** CCAPA opposes the concept of authorizing denial of development proposals based on past performance by applicants.

If the Committee is to do anything to further protect municipalities and the public from violators of land use regulations, it should eliminate the treble damages provision of Section 8-12a, which is the subject of a separate bill, HB 7041, before the Committee.