



# Connecticut

## *Connecticut Chapter of the American Planning Association*

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### **PLANNING AND DEVELOPMENT COMMITTEE**

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**RB 34: AN ACT REVISING THE PROCESS FOR THE TAKING OF REAL PROPERTY BY MUNICIPALITIES FOR REDEVELOPMENT AND ECONOMIC DEVELOPMENT**

**RB 5038: AN ACT RESTRICTING THE USE OF EMINENT DOMAIN AND AUTHORIZING MUNICIPALITIES TO ESTABLISH SEPARATE RATES OF TAXATION FOR REAL ESTATE**

#### **SUMMARY:**

These Raised Bills would revise the process for the exercise of eminent domain authority by municipalities for redevelopment and economic development. RB 5038 would also authorize split rate taxation for municipalities with population exceeding 80,000.

#### **ANALYSIS:**

Both bills emphasize the need for proper planning as the basis for any exercise of eminent domain and require authorization by a super majority of the municipal legislative body. Both also intend to ensure fair compensation beyond the “fair market value” standard that currently guides the payment for condemnations. RB 5038, in an indirectly related matter, allows property taxation at different rates for developed and undeveloped property.

**FISCAL IMPACT:** The fiscal impacts of these revisions cannot be determined at this time, although the additional procedural requirements would likely add costs to municipal redevelopment and economic development projects. RB 5038 would appear to incur additional costs to the State to reimburse property owners for the costs of appeals and for the creation of a Property Rights Ombudsman.

**CCAPA POSITION:**

The Connecticut Chapter of the American Planning Association is pleased to provide the Planning and Development Committee its perspective on the important issue of eminent domain. Although recently elevated in the public awareness, particularly here in Connecticut with the Supreme Court ruling in *Kelo v. New London*, the exercise of government authority to acquire private property by eminent domain has long been an important tool for meeting public needs.

We have followed the Committee's work on this matter over the past year and refer the Committee to our testimony of August 25, 2005 (attached) for an overview of our position on eminent domain and potential improvements to the process.

CCAPA believes that RB 34 provides appropriate and effective safeguards for private property interests, while retaining the ability of municipalities to implement important planning to revitalize and improve communities. CCAPA supports the procedural improvements and protections provided by RB 34.

Although RB 5038 contains many of the same safeguards and procedural guidelines in RB 34, this bill also provides for requiring additional detail to support planning for projects that will require the exercise of eminent domain authority. However, this proposal seems to include a provision prohibiting the use of eminent domain for economic development in the revised language of Section 128.

Several other provisions of this bill, such as the definition of economic development, the prohibitions on condemnation of property if a housing unit exists, and the prohibition on executive session discussions on potential eminent domain actions, should receive careful consideration before such significant constraints are imposed on the use of eminent domain. The creation of a Property Rights Ombudsman as proposed by RB 5038 may further ensure protections of property owners and municipalities when eminent domain is considered as a necessary planning and development tool, but the costs and benefits of such a new office need evaluation.

Further analysis of these and other provisions of RB 5038 is necessary to fully determine the effectiveness of the new procedures at guiding the exercise of eminent domain while properly protecting property owners. CCAPA cannot at this time support RB 5038.

As always, CCAPA is available to assist the Committee with this and other legislation concerning State, regional, and municipal planning; land use regulation; and municipal administration.