



Connecticut

Connecticut Chapter of the American Planning Association

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PLANNING AND DEVELOPMENT COMMITTEE

RHB – 5290: AN ACT CONCERNING NOTICE REQUIREMENTS FOR LAND USE APPLICATIONS

SUMMARY: RHB-5290 proposes to make uniform public notice requirements on applications to land use boards and to require notice to owners of land immediately adjacent to property that is the subject of land use applications.

ANALYSIS: This bill would authorize regulations for “additional” notice of a hearing on a land use application. While the proposed language specifies that a commission, board, or agency “may” provide for additional notice, it goes on to say that such regulations “shall” include mailing or posting provisions. It is not clear whether such notice is intended to be required by the statutes, or remains discretionary. The draft language does make clear that proof of any such notice is by certificate of mailing, which is more economical and as effective as certified mail, return receipt requested.

Additionally, the new notice procedures for zoning regulation, zone boundary changes, and subdivision regulation changes do not define what constitutes a “significant” change or “potentially significantly impacted” property owners. Similarly, a change to a zoning regulation, zoning map, or a subdivision regulation could be reasonably determined to affect every property owner in the town, requiring excessively expensive and administratively unrealistic notice requirements. Notwithstanding the later clause in the proposed bill barring legal challenge of a decision regarding required notice, land use agencies will be placed in a difficult position when challenged on notice requirements, leading them to err on the side of caution.

FISCAL IMPACT: This bill could have a significant fiscal impact on municipalities in the form of additional mailing and staff costs to issue notices of land use regulations and map changes.

CCAPA POSITION: CCAPA strongly opposes RHB 5290 as currently drafted. Although we concur with the intent regarding uniform notice of land use applications, the provisions regarding notice of changes to zoning regulations, zoning maps, and subdivision regulations raise several concerns including the appropriate criteria to be applied by commissions and the likelihood of significant costs to municipalities.

Two modifications would make the bill more acceptable:

1. Provide that creation of the notice registry would remove the mailed notice requirement for regulation changes.
2. Specify that any change that may have a potential fiscal impact take effect after the next municipal budget cycle to permit incorporation of incremental costs.

CCAPA supports proper and effective notice of all public actions and will be pleased to work with the Committee and its staff to identify possible improvements to notice requirements for land use actions without creating expenses that cannot be recovered.