CONNECTICUT LAND USE UPDATE 2025

For the Capitol Region Council of Governments, Regional Planning Commission

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MAJOR PUBLIC LAND USE ACTS IN 2025

Public Act No. 25-33

AN ACT CONCERNING THE ENVIRONMENT, CLIMATE AND SUSTAINABLE MUNICIPAL AND STATE PLANNING, AND THE USE OF NEONICOTINOIDS AND SECOND-GENERATION ANTICOAGULANT RODENTICIDES.

Public Act No. 25-49

AN ACT CONCERNING HOUSING AND THE NEEDS OF HOMELESS PERSONS

VETOED ON JUNE 23, 2025

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MAJOR PUBLIC LAND USE ACTS IN 2024

Public Act No. 24-143 .

AN ACT CONCERNING MUNICIPAL APPROVALS FOR HOUSING DEVELOPMENT, FINES FOR VIOLATIONS OF LOCAL ORDINANCES, REGULATION OF SHORT-TERM RENTALS, RENTAL ASSISTANCE PROGRAM ADMINISTRATION, NOTICES OF RENT INCREASES AND THE HOUSING ENVIRONMENTAL IMPROVEMENT REVOLVING LOAN AND GRANT FUND.

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Public Act 25-33: Key Provisions

- Secs. 5 and 6 both modify CGS § 22a-109, which deals with coastal site plan review.

- Section 5 removes the ability of coastal municipalities to exempt the construction of certain individual, single-family residential structures from coastal site plan review.

- Section 6 was revised as follows: “A copy of each coastal site plan submitted for any shoreline flood and erosion control structure, any activity proposed within a FEMA-designated V, VE, A, AE or Limit of Moderate Wave Action (LiMWA) area, or any site that contains tidal wetlands, beaches or dunes shall be referred to the Commissioner of Energy and Environmental Protection within fifteen days of its receipt by the zoning commission or zoning board of appeals.

Public Act No. 25-33: Key Provisions

- **Section 11 modifies CGS** § 8-23 to require municipal plans of conservation and development, on and after October 1, 2027, to consider the impacts of climate change, assessing vulnerabilities and recommending mitigative techniques

- Any such plan of conservation and development adopted on or after October 1, 2027, shall . . . (D) (i) include a climate change vulnerability assessment, based on information from considerations described in subsection (d) of this section, which shall consist of an assessment of existing and anticipated threats to and vulnerabilities of the municipality that are associated with natural disasters, hazards and climate change, including, but not limited to, increased temperatures, drought, flooding, wildfire, storm damage and sea level rise, saltwater intrusion and the impacts such disasters and hazards may have on individuals, communities, institutions, businesses, economic development, public infrastructure and facilities, public health, safety and welfare, (ii) identify goals, policies and techniques to avoid or reduce such threats, vulnerabilities and impacts, and (iii) include a statement describing any consistencies and inconsistencies identified between such assessment and any existing or proposed municipal natural hazard mitigation plan, floodplain management plan, comprehensive emergency operations plan, emergency response plan, post-disaster recovery plan, long-range transportation plan or capital improvement plan in the municipality, and identify and recommend, where necessary, the integration of data from such assessment into any such plans and any actions necessary to achieve consistency and coordination between such assessment and any such plans . . . .

Public Act No. 25-33: Key Provisions

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- Any such plan of conservation and development adopted on or after October 1, 2027, shall . . .
- (E) recommend the most desirable use of land within the municipality for residential, recreational, commercial, industrial, conservation, agricultural and other purposes and include a map showing such proposed land uses which considers the threats, vulnerabilities and impacts identified in the climate change vulnerability assessment conducted pursuant to subparagraph (D)(i) of this subdivision;
- . . .
- (G) note any inconsistencies with the following growth management principles: (i) Redevelopment and revitalization of commercial centers and areas of mixed land uses with existing or planned physical infrastructure; (ii) expansion of housing opportunities and design choices to accommodate a variety of household types and needs; (iii) concentration of development around transportation nodes and along major transportation corridors to support the viability of transportation options and land reuse and reduction of vehicle mileage;

Public Act No. 25-33: Key Provisions

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- (K) identify infrastructure, including, but not limited to, facilities, public utilities and roadways, that is critical for evacuation purposes and sustaining quality of life during a natural disaster, and that shall be maintained at all times in an operational state; (L) identify strategies and design standards that may be implemented to avoid or reduce risks associated with natural disasters, hazards and climate change; and (M) include geospatial data utilized in preparing such plan or that is necessary to convey information in such plan.
- Any such plan may . . .
- (iv) identify one or more areas that are vulnerable to the impacts of climate change for the purpose of prioritizing funding for infrastructure needs and resiliency planning.

Public Act No. 25-33: Key Provisions

- **Section 11 modifies CGS** § 8-23 to require municipal plans of conservation and development, on and after October 1, 2027, to consider the impacts of climate change, assessing vulnerabilities and recommending mitigative techniques

- The commission or any special committee may utilize information and data from any natural hazard mitigation plan, floodplain management plan, comprehensive emergency operations plan, emergency response plan, post-disaster recovery plan, long-range transportation plan, climate vulnerability assessment or resilience plan in the preparation of such plan of conservation and development, including a document coordinated by the applicable regional council of governments, provided such information and data shall not be incorporated by reference, but summarized and applied in such plan to the specific policies, goals and standards of the subject municipality.
- (f) Such plan may show the commission's and any special committee's recommendation for . . . (8) a land use program that will promote the reduction and avoidance of risks associated with natural disasters, hazards and climate change, including, but not limited to, increased temperatures, drought, flooding, wildfire, hurricanes, saltwater intrusion and sea level rise, (9) a program for the transfer of development rights, which establishes criteria for sending and receiving sites and technical details for the program consistent with the provisions of section 8-2e, as amended by this act, (10) identification of resiliency improvement districts, as defined in section 23 of this act.

Public Act No. 25-33: Key Provisions

Section 16 modifies CGS § 8-2 to require zoning regulations to consider the potential impacts of sea level changes. It also allows such regulations to provide incentives for certain types of "green" developments.

- (b) Zoning regulations adopted pursuant to subsection (a) of this section shall: . . .
- (11) Provide that proper provisions be made to mitigate and avoid potential negative impacts to public health, public welfare and the environment, due to sea level change, in consideration of the most recent sea level change scenario updated pursuant to section 25-68o, as amended by this act. . .
- (c) Zoning regulations adopted pursuant to subsection (a) of this section may: . . .
- (4) Provide for incentives for developers who use (A) solar and other renewable forms of energy; (B) combined heat and power; (C) water conservation, including demand offsets; [and] (D) energy conservation techniques, including, but not limited to, cluster development, higher density development and performance standards for roads, sidewalks and underground facilities in the subdivision; and (E) flood-risk reduction building methods;
- (5) Provide for a municipal or regional system for the creation of development rights and the permanent transfer of such development rights, which may include a system for the variance of density limits in connection with any such transfer;

Public Act No. 25-33: Key Provisions

Section 16 modifies CGS § 8-2 to require zoning regulations to consider the potential impacts of sea level changes. It also allows such regulations to provide incentives for certain types of "green" developments.

Section 17 adds definitions of "sending sites" and "receiving sites" to CGS § 8-1a.

- (c) Zoning regulations adopted pursuant to subsection (a) of this section may: . . .
- (11) Provide for sending and receiving sites in conjunction with any transfer of development rights program established pursuant to section 8-2e, as amended by this act.
- (9) "Receiving site" means one or more designated sites or areas of land to which development rights generated from one or more sending sites may be transferred and in which increased development is permitted to occur by reason of such transfer; and
- (10) "Sending site" means one or more designated sites or areas of land in which development rights are designated for use in one or more receiving sites

Public Act No. 25-33: Key Provisions

- Section 18 modifies CGS § 8-2e to add provisions regarding transfers of development rights among municipalities.

- Section 8-2e of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2025):
- (a) Any two or more municipalities which have adopted the provisions of this chapter or chapter 125a or which are exercising zoning power pursuant to any special act may, with the approval of the legislative body of each municipality, execute an agreement providing for a system of development rights and the transfer of development rights across the boundaries of the municipalities which are parties to the agreement. Such system shall be implemented in a manner approved by the legislative body of each municipality and by the commission or other body which adopts zoning regulations of each municipality. Such agreement may provide that such system be administered by a regional council of governments or other agency.

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- . . .
- (b) Any two or more municipalities that have executed an agreement pursuant to subsection (a) of this section may, by interlocal agreement, establish a transfer of development rights bank. Each such interlocal agreement shall (1) identify potential sending and receiving sites, (2) include the local legislation governing development rights that has been adopted or is intended to be adopted by the municipality or municipalities in which the receiving site is located, (3) describe procedures for the termination of the transfer of development rights bank, and (4) describe the conversion ratio to be used in the receiving site, which may express the extent of additional development rights in any combination of units, floor area, height or other applicable development standards that may be modified by the municipality to provide incentives for the purchase of development rights.

Public Act No. 25-33: Key Provisions

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- Section 8-2e of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2025):
- . . .
- (c) Each receiving site identified pursuant to subsection (b) of this section shall (1) be eligible for connection with a public water system, (2) be located not more than one-half mile from public transportation facilities, as defined in section 13b-79kk, (3) not be located within the boundaries of core forest, as defined in section 16a-3k, (4) not be located within the boundaries of any area impacted by the most recent sea level change scenario updated pursuant to subsection (b) of section 25-68o, and (5) be located above the one-hundred-year flood elevation.
- Eligible sending sites may include, but need not be limited to, (1) core forest, as defined in section 16a-3k, (2) land classified as farm land in accordance with section 12-107c, (3) agricultural land, as defined in section 22-3, (4) areas identified as containing habitat for endangered or threatened species pursuant to (A) federal law, (B) section 26-306 or 26¬308, or (C) a written determination of the United States Fish and Wildlife Service or a state and federally recognized tribe that such area is appropriate for the preservation of endangered or threatened species habitat, and (5) areas within the boundaries of any area impacted by the most recent sea level change scenario updated pursuant to subsection (b) of section 25-68o, or a floodplain, as defined in section 25-68i.

PUBLIC ACT 25-49: WHAT WENT WRONG?

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Public Act 25-49 would have :

- Amended CGS § 8-2 to require zoning regulations to "Allow for the as-of-right development of a middle housing development, as defined in section 19 of this act, on any lot that is zoned for commercial use, except that such regulations may require a determination that a site plan for such middle housing development conforms with applicable zoning regulations and that public health and safety will not be substantially impacted by such middle housing development." Section 19 defined "middle housing development" as "a residential building containing not less than two dwelling units but not more than nine such units, including, but not limited to, townhomes, duplexes, triplexes, perfect sixes and cottage clusters."

- Prohibited any zoning or planning agency or official from rejecting an application for any development solely on the basis that such development fails to conform with any requirement for off-street parking unless such officer or commission finds that a lack of such parking will have a specific adverse impact on public health and safety

- Amended CGS § 8-3(b) regarding zoning amendment protests as follows: "If a protest against a proposed change is filed at or before a hearing with the zoning commission, signed by the owners of [twenty] (1) fifty per cent or more of the area of the lots included in such proposed change, (2) fifty per cent or more of the owners of the lots included in such area, or (3) fifty per cent or more of the lots within five hundred feet in all directions of the property included in the proposed change, such change shall not be adopted except by a majority vote [of two-thirds] of all the members of the commission."

PUBLIC ACT 25-49: WHAT WENT WRONG?

HALLORAN SAGE

Public Act 25-49 would have :

- Required a "priority affordable housing plan" to be prepared by "any municipality identified by the secretary to be in the highest eighty per cent of the adjusted equalized net grand list per capita, as defined in section 10-261, as of the fiscal year prior to the date the municipality's affordable housing plan is due pursuant to subdivision (2) of subsection (b) of this section." The "priority affordable housing plan" would be subject to a number of new state requirements, including:
  - (2) Identify (A) specific zones or parcels within the municipality sufficient to build the municipality's affordable housing allocation as of right, and (B) the planned density for such zones or parcels;
  - (3) Detail how the municipality intends to change its zoning regulations and utilize compliance implementation mechanisms in order to allow for the development of the number of housing units allocated to such municipality pursuant to such municipality's affordable housing allocation or the alternative number of affordable housing units offered by the municipality pursuant to subsection (f) of this section; and
  - (4) Provide for the creation of a sufficient supply of the different types of affordable housing units required for meeting twenty-five per cent of the municipality's number of affordable housing units allocated to such municipality pursuant to such municipality's affordable housing allocation,
- Upon state approval of a municipality's priority affordable housing plan, the municipality would be required to amend its zoning regulation and implement compliance implementation mechanisms in accordance with such approved plan, and any subsequent priority affordable housing plan submitted by such municipality shall detail how the municipality has amended its zoning regulations and implemented compliance implementation mechanisms in accordance with the previously approved priority affordable housing plan.

PUBLIC ACT 25-49: WHAT WENT WRONG?

HALLORAN SAGE

Public Act 25-49 would have :

- Prohibited a municipality from installing or constructing “hostile architecture” in any publicly accessible building or on any publicly accessible real property owned by the municipality. “Hostile architecture” was defined as “any building or structure that is designed or intended primarily for the purpose of preventing a person experiencing homelessness from sitting or lying in the building or on the structure at street level, provided "hostile architecture" does not include design elements intended to prevent individuals from skateboarding or rollerblading or to prevent vehicles from entering certain areas.”
- Amended CGS § 8-30g to allow a court to award attorneys’ fees if a denial of an affordable housing plan was “made in bad faith or to cause undue delay” and “the total number of units in the affordable housing development or affordable dwelling units in the set-aside development ordered by the court to be built is at least ninety per cent of the units proposed in the original application.”
- Required municipalities having more than 15,000 residents to adopt an ordinance creating a fair-rent commission by January 1, 2028. The current threshold is 25,000 residents.
- Based priority for certain discretionary state funding to state certification that a municipality has adopted such measures as transit-oriented districts or priority housing development zones.

PUBLIC ACT 24-143: KEY PROVISIONS

- Section 3 (now incorporated into CGS § 8-2r) requires zoning regulations to allow certain conversions of nursing homes into multifamily residential structures subject only to "summary review" (i.e., site plan review at most; special permits or special exceptions cannot be required).
- The conditions to this special treatment are (1) the nursing home must be a freestanding structure, (2) the nursing home may not be a nonconforming use, (3) the conversion may not result in the substantial alteration of the footprint of such structure, (4) the conversion may not result in the total demolition of such structure, and (5) the owner of the nursing home must have declared, in writing to the municipality, that such nursing home has been vacant for a period of not less than ninety days immediately preceding the submission of the summary review application to the commission.
- If a conversion application is subject to "summary review," the act requires it to be decided within 65 days after "receipt," subject to a possible extension of up to another 65 days. It's not clear whether the legislature meant to say "date of receipt" – another potential trap for the unwary.

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PUBLIC ACT 24-143: KEY PROVISIONS

- 2. Section 21 added the following new subsections to C.G.S. § 8-26a regarding protection of previously approved lots:

- (B) Notwithstanding the provisions of subsection (a) of section 8-25 and subsection (a) of section 8-26, any vacant lot that is depicted on a subdivision or resubdivision plan that has been recorded on or before October 1, 2024, in the land records of the municipality in which such vacant lot is located, if the recorded chain of title for such vacant lot references such subdivision or resubdivision plan, shall not be required to conform to a change in the zoning regulations or the boundaries of zoning districts in such municipality that is adopted after the approval or recording of the subdivision or resubdivision plan.

- (C) Notwithstanding the provisions of subsection (a) of section 8-25 and subsection (a) of section 8-26, any vacant lot that is depicted on a subdivision or resubdivision plan that, prior to the adoption of zoning regulations, has been recorded on or before October 1, 2024, in the land records of the municipality in which such vacant lot is located, shall not be required to conform to a change in the zoning regulations or the boundaries of zoning districts in such municipality that is adopted after the approval or recording of the subdivision or resubdivision plan if such vacant lot conformed at any time with any zoning regulations that would have applied to such vacant lot if such vacant lot was depicted on a subdivision or resubdivision plan recorded after the adoption of zoning regulations.

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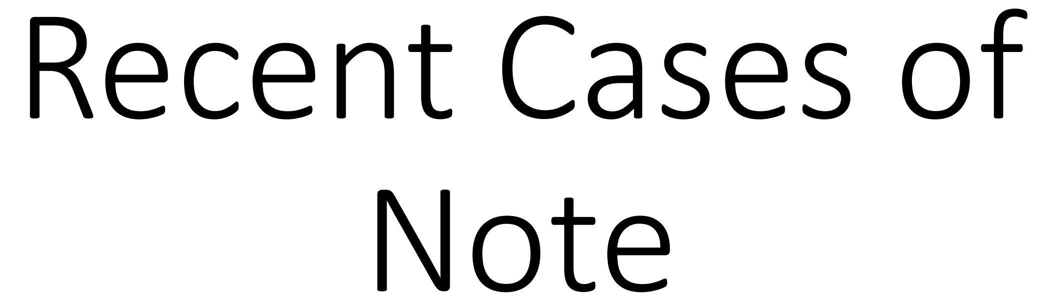

Connecticut Court Decisions in 2024 and 2025

9 Pettipaug, LLC v. Planning & Zoning Commission

349 Conn. 268 (2024)

Facts:

- Commission adopted zoning regulations addressing short-term rentals
- Neighbor appealed – too late for a typical zoning appeal but within the one-year statutory allowance for appeals based on an alleged failure of notice
- Neighbor alleged that newspaper used by municipality was not one of "substantial circulation," as required by statute, because newspaper had no subscribers
- Commission argued that neighbor had burden of proof and that evidence of lack of subscribers was insufficient to demonstrate lack of substantial circulation where (1) newspaper had been used for more than 20 years for all of the municipality's public notices; (2) use of that newspaper for public notices was generally known in municipality; (3) newspaper notices were readily available on line at no cost

9 Pettipaug, LLC v. Planning & Zoning Commission

349 Conn. 268 (2024)

Result

- Question of whether a newspaper has "substantial circulation" is no longer necessarily based on the number of subscribers
- Although actual sales and subscribership may be considered in determining availability, other relevant factors include
  - (1) where and how the newspaper is distributed;
  - (2) the frequency of distribution;
  - (3) the existence of "any cost barriers to access;"
  - (4) whether the newspaper has been consistently used for such notices and for how long; and
  - (5) whether residents are aware of its use for the publication of legal notices.

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131 Beach Road, LLC v. Town Plan & Zoning Commission

349 Conn. 647 (2024)

Facts:

- Plaintiff applied under CGS § 8-30g for a change in zoning regulations to allow development of affordable multifamily homes in a zoning district and to approve a specific affordable housing development proposal. Commission denied change in regulations based on its proposed application beyond the parcel at issue, but approved development plan with condition reducing proposed height of building (sixty feet) based on Commission's concern with building's visibility from a nearby historic district.
- Plaintiff appealed, claiming zone change proposal was entirely governed by CGS § 8-30g rules and that impact of building's height on the historic district did not outweigh the need for affordable housing. Reducing the height of the building would reduce the number of affordable units in the development.
- The Commission argued that the zone change proposal was not needed and was not covered by CGS § 8-30g because it was not limited to the parcel at issue. The Commission also pointed to expert testimony that the building would detrimentally affect the setting and, therefore, the character of the historic district.

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131 Beach Road, LLC v. Town Plan & Zoning Commission

349 Conn. 647 (2024)

Result:

- "It is not obvious to us that any substantial interests in historic preservation are implicated in this case, and, even if they are, the commission has not met its burden of demonstrating that its imposition of the height restriction as a condition of approval was necessary to protect a public interest that clearly outweighed the need for affordable housing in Fairfield."
- Court notes that the property is within 500 feet of 80+ commercial businesses including a gas station and a 3-story medical office building, which "undermine the defendants' assertion that the height restriction is necessary to protect a substantial public interest in the historic preservation of buildings located in a different district."
- Court also notes "The statutory scheme created to safeguard the public interest in historic preservation contains no indication that this interest includes consideration of the potential visibility from the historic district of a building or structure that would be located in another zoning district entirely."
- "We conclude that the plaintiff's application falls within the scope of § 8-30g to the extent that it sought a zone text amendment that will govern the affordable housing development on the subject property, but not to the extent that it sought to modify the zoning regulations governing the rest of the residence A zone district. Because the parties have no objection to limiting the proposed zone text amendment to the subject property, we remand with direction to grant the plaintiff's application for a zone text amendment limited solely to the subject property."

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Wihbey v. Zoning Board of Appeals

350 Conn. 87 (2024)

Facts

- Plaintiff was ordered by ZEO to cease and desist from renting his property to guests on a short-term basis. His appeal to the ZBA was denied.
- In 2018, the zoning commission had amended its regulations to prohibit the rental of a single-family dwelling for less than thirty days.
- The plaintiff claimed that his use of the property for short-term rentals was permitted under the 1994 regulations, which were in place when he purchased the property and was a protected nonconforming use.
- The plaintiff argued that, because nothing in the1994 regulations clearly differentiated between long-term rentals, which the defendants acknowledged were permitted, and short-term rentals, both were permitted. The defendants contended that the language defining ``single-family dwelling" as a dwelling ``occupied exclusively as a home or residence for not more than one family" unambiguously excluded the use of the property for ``short-term rentals for profit . . . ."

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Wihbey v. Zoning Board of Appeals

350 Conn. 87 (2024)

Result

- Court agrees with plaintiff. Nothing in the term "dwelling" or "residence" necessitates a finding that a house be used as such for any particular length of time.
- "[T]he language allowing the erection of ``[a] building designed for and occupied exclusively as a home or residence for not more than one family''… is ambiguous and reasonably can be interpreted as permitting the erection of houses or dwellings that are designed for occupation and used by only one family at any given time, without any temporal occupation requirement."
- The Court noted the Appellate Court's observation that "the ability to rent property is `one third of [an owner's] bundle of economically productive rights constituting ownership' and the intent to deprive landowners of that right cannot be assumed in the absence of clear language evincing such an intent.
- The Court held that "zoning regulations 'must be strictly construed and not extended by implication,' and a zoning regulation that is susceptible to multiple, reasonable interpretations will be construed in favor of the landowner."
- The Court added, however, that "zoning authorities are free to adopt regulations that permit only long-term rentals in an effort to promote stability and a sense of community within a single-family residential zone."

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High Watch Recovery Center, Inc. v. Planning And Zoning Commission

352 Conn. 1 (2025)

Facts

- Commission approved special permit for plaintiff to conduct therapeutic uses, including "therapeutic agriculture" on site
- Zoning regulations subsequently amended to disallow clinical uses in the zone
- Site had been an active farm prior to plaintiff's purchase
- Plaintiff later sought a special permit to establish a new greenhouse to allow it to conduct agricultural uses throughout the year. The new use was not specifically designed for therapy but to increase plaintiff's food production to service its main clinical facility on a nearby parcel.
- Plaintiff claimed that proposed new use was merely an intensification of its existing nonconforming use.
- Commission denied application as improper expansion of nonconforming use

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High Watch Recovery Center, Inc. v. Planning And Zoning Commission

352 Conn. 1 (2025)

Result

- Proposed greenhouse held to be improper expansion because it would extend the nonconforming agricultural use from seasonal to year-round. In past cases, the Court had consistently held that changes of nonconforming uses from seasonal to year-round were significant changes of the character of the use and therefore impermissible in the absence of more permissive regulations
- Court held that, where a property has several nonconforming uses, changes to each must be examined and analyzed separately. Therefore, existence of some year-round uses did not confer authority on plaintiff to expand its agricultural therapy program into the winter
- Court noted that the special permit the Commission had granted limited the plaintiff's use of the property to what the plaintiff had requested at that time, and that request had not included anything other than an outdoor agricultural therapy program.

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Town of Greenwich v. Freedom of Information Commission

226 Conn. App. 40 (2024)

Facts

- Request made for documents showing changes in certain police files over time. Town claims that whatever documents were modified were preliminary drafts and, therefore, exempt from disclosure. Town also claimed that such documents were exempt from disclosure as records of standards, procedures, processes, software and codes under CGS § 1-210(b)(20). FOIC ordered release of the documents and Town appealed.

Result

- Town could not assert exemption without actually examining the records at issue and showing that the public interest in withholding such documents clearly outweighs the public interest in disclosure. “The statute . . . does not provide a categorical exemption for all preliminary drafts or notes, as the public agency claiming the exemption must determine ``that the public interest in withholding such documents clearly outweighs the public interest in disclosure . . . ." General Statutes § 1-210 (b) (1). ``Although the statute places the responsibility for making that determination on the public agency involved, the statute's language strongly suggests that the agency may not abuse its discretion in making the decision to withhold disclosure. The agency must, therefore, indicate the reasons for its determination to withhold disclosure and those reasons must not be frivolous or patently unfounded.‘’
- “ . . . the plaintiffs assert a vague safety concern based on revealing information about the way that the NexGen database operates, but they failed to present any evidence as to specific software or codes that would be revealed by disclosure of the requested records. Consequently, we cannot conclude that the plaintiffs satisfied their burden of proving that the requested records are exempt from disclosure under § 1-210 (b) (20).”

The Inevitable Caveats

- These slides are intended for educational and informational purposes only. Readers are advised to seek appropriate professional consultation before acting on any matters discussed in this presentation. These slides may be considered attorney advertising.

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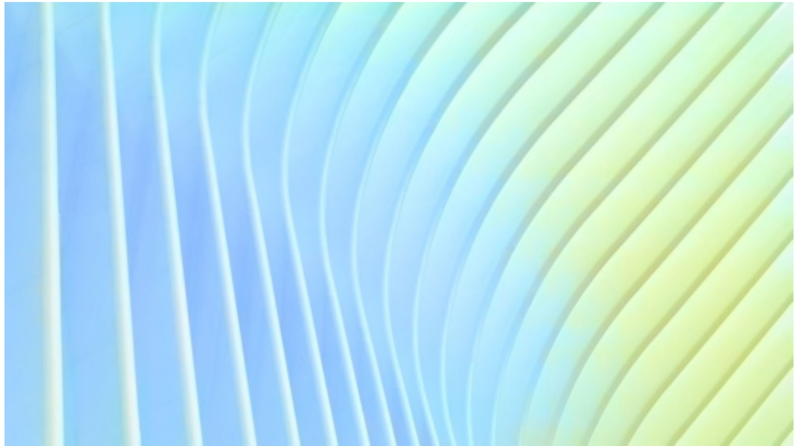

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