

REQUIREMENT FOR NOTIFICATION OF EASEMENT HOLDER

For Conservation and Preservation Easements

From the Connecticut General Statutes Title 47 (Land and Land Titles), Chapter 822 (Easements):

Sec. 47-42a. Definitions. For the purposes of sections 47-42b, 47-42c and 47-42d, the following definitions shall apply:

(a) "Conservation restriction" means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including, but not limited to, the state or any political subdivision of the state, or in any order of taking such land whose purpose is to retain land or water areas predominantly in their natural, scenic or open condition or in agricultural, farming, forest or open space use.

(b) "Preservation restriction" means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land, including, but not limited to, the state or any political subdivision of the state, or in any order of taking of such land whose purpose is to preserve historically significant structures or sites.

Sec. 47-42b. Enforcement of conservation and preservation restrictions held by governmental body or charitable corporation. No conservation restriction held by any governmental body or by a charitable corporation or trust whose purposes include conservation of land or water areas and no preservation restriction held by any governmental body or by a charitable corporation or trust whose purposes include preservation of buildings or sites of historical significance shall be unenforceable on account of lack of privity of estate or contract or lack of benefit to particular land or on account of the benefit being assignable or being assigned to any other governmental body or to any charitable corporation or trust with like purposes.

Sec. 47-42c. Acquisition of restrictions. Enforcement by Attorney General. Such conservation and preservation restrictions are interests in land and may be acquired by any governmental body or any charitable corporation or trust which has the power to acquire interests in land in the same manner as it may acquire other interests in land. Such restrictions may be enforced by injunction or proceedings in equity. The Attorney General may bring an action in the Superior Court to enforce the public interest in such restrictions.

Sec. 47-42d. Permit applications filed with state, local land use agency, local building official or director of health. Appeals by party holding restriction. (a) For purposes of this section, "state or local land use agency" includes, but is not limited to, a municipal planning commission, municipal zoning commission, combined municipal planning and zoning commission, a municipal zoning board of appeals, municipal inland wetlands and watercourses agency, a municipal historic district commission and any state agency that issues permits for the construction or improvement of real property.

(b) No person shall file a permit application with a state or local land use agency or a local building official or director of health, other than for interior work in an existing building or for exterior work on an existing building that does not expand or alter the footprint of such existing building, relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction, including, but not limited to, any state agency that holds such restriction, not later than sixty days prior to the filing of the permit application. In lieu of such notice, the applicant may submit a letter from the holder of such restriction or from the holder's authorized agent, verifying that the application is in compliance with the terms of the restriction. If the applicant has provided written notice pursuant to this subsection, the holder of the restriction may provide proof to the state or local land use agency or local building official or director of health that granting of the permit application will violate the terms of the restriction and such agency, official or director shall not grant the permit. Nothing in this section shall be construed to prohibit the filing of a permit application or to require such written notice when the activity that is the subject of such permit

application will occur on a portion of property that is not restricted under the terms of such conservation or preservation restriction.

(c) If the applicant fails to comply with the provisions of subsection (b) of this section, (1) the party holding the conservation or preservation restriction may, not later than fifteen days after receipt of actual notice of permit approval, file an appeal with the state or local land use agency or local building official or director of health, subject to any rules of such agency, official or director relating to appeals. The agency, official or director shall reverse the permit approval upon a finding that the requested land use violates the terms of such restriction; or (2) the state agency that holds such restriction may, not later than thirty days after receipt of actual notice of permit approval, file an appeal with the state or local land use agency or local building official or director of health, subject to any rules of such state or local land use agency, official or director relating to appeals. Such state or local land use agency, official or director shall immediately reverse such permit approval if the commissioner of the state agency that holds such restriction certifies that the land use authorized in such permit violates the terms of such conservation or preservation restriction. The commissioner of the state agency that holds such restriction may impose a civil penalty of not more than: (A) Five thousand dollars for a violation of subsection (b) of this section; and (B) one thousand dollars for each day that such violation continues after the applicant receives an order from such commissioner assessing a civil penalty pursuant to subparagraph (A) of this subsection.