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This page identifies specific court cases pertaining to wetland law. Thank you to Janet Brooks for providing these cases. This page will be updated periodically as new cases are identified. Ed Pawlak has prepared a brief synopsis for some of the cases. If you would like to provide a synopsis for one of the others, please email it to Tom Ryder at wetlands@ctwetlands.org and we will post it.

➤ [**George L. Finley et al. v. Inland Wetlands Commission of the Town of Orange et al. \(SC 18131\)**](#)

This case, decided by the State Supreme Court in 2008, involved an appeal brought by interveners of a wetland permit issued by the Town of Orange. The plaintiffs' appeal centered on five conditions imposed by the Orange Inland Wetlands Commission ("IWWC") that required the applicant to submit additional plans and information regarding erosion control, phasing, winter sanding and drainage.

The plaintiffs claimed that the IWWC needed this additional information before it could determine whether the proposed development complied with its regulations. The State Supreme Court agreed, and overturned the IWWC decision.

This case has important implications for IWWCs that issue permits with conditions of approval.

➤ [**Unistar Properties, LLC v. Conservation and Inland Wetlands Commission of the Town of Putnam et al. \(SC 18321\)**](#)

This case, decided by the State Supreme Court (SC) in 2009, involved an appeal of a denial of a proposed subdivision of property in Putnam. As the SC decision states in its introduction, "The principal issue in this ... appeal is whether the commission properly denied the plaintiff's application for a wetlands permit as incomplete because it was missing ... a sufficiently detailed wildlife inventory and an analysis of alternatives ...".

The plaintiffs argued that "the commission must establish that the physical characteristics of the wetlands will be impacted before it can request information on wildlife." The SC disagreed, writing that nothing in the IWWC Act "prohibits a commission from requesting information on wildlife in order to determine whether the proposed activity ... will 'affect the physical characteristics of such wetlands ...'.

This case affirms the right of IWWCs to request wildlife inventories as part of their review of wetland permit applications.

➤ [**River Bend Associates, Inc. at al. v. Conservation and Inland Wetlands Commission of the Town of Simsbury et al. \(SC 16867\)**](#)

This case, decided by the State Supreme Court (SC) in 2004, involves an appeal of a denial of a proposed residential subdivision (which included an affordable housing component). The concept of "substantial evidence" plays a major role in this SC decision. The decision reviews the definition of "substantial evidence", and finds that a trial court improperly applied this test when it upheld the IWWC denial.

A dissenting opinion included in the decision contains an interesting discussion of "burden of proof". It maintains that the applicant "had not carried their burden of establishing that they were entitled to the permit they sought."

This case is a must read for consultants and land-use commissioners alike.

➤ [**Prestige Builders, LLC v. Inland Wetlands Commission of the City of Ansonia et al. \(AC 22718\)**](#)

This case, decided by the State Appellate Court (AC) in 2000, involved an appeal of a denial of a proposed subdivision of property by the Ansonia Inland Wetland Commission (the commission). As the AC decision states in its introduction, "The dispositive issue in this appeal is whether the commission can exercise jurisdiction over activities that do not occur within or make use of an inland wetland or watercourse and where the commission has not promulgated regulations granting it authority to regulate upland review areas."

The commission claimed that the plaintiff's proposal involved a regulated activity. However, as the plaintiff claimed, the proposed activity did not occur within or make use of an inland wetland and or watercourse, and the commission had not enacted a regulation defining an upland review area as regulated area until after the plaintiff's application was denied.

The AC found in favor of the plaintiff stating that a municipal inland wetland commission may not "exercise its authority over activities in upland review areas without having first enacted a regulation governing such areas."

➤ [**AvalonBay Communities, Inc. v. Inland Wetlands Commission of the Town of Wilton \(SC16807\)**](#)

This case, decided by the State Supreme Court (SC) in 2003, involved an appeal by AvalonBay Communities, Inc. (the plaintiff) of a denial of a proposed affordable housing development by the Wilton Inland Wetland Commission (the commission). The principal issue in this appeal was whether "[a] commission's jurisdiction extends so far as to deny an inland wetlands permit because development activity occurring outside the wetlands and upland review area could adversely affect [wetland dependent wildlife], resulting in the reduction of the biodiversity in the on-site and off-site wetlands." The Commission had specifically denied the permit based upon an impact to spotted salamanders.

The SC found in favor of the plaintiff concluding that "... the act protects the physical characteristics of wetlands and watercourses and not the wildlife, including wetland obligate species, or biodiversity. This narrow interpretation of the Wetlands Act surprised many legal and environmental professionals and resulted in revisions to the Wetlands Act the following year, specifically to the addition of CGS §22a-41(c) and (d). Be sure to read Footnote 19 in the court decision, which played a key role in the 2010 Appellate Court River Sound decision.

The following case do not yet have summaries. If you would like to prepare one, please send it to wetlands@ctwetlands.org

- [**Thomas W. Cornacchia et al. v. Environmental Protection Commission Of the Town of Darien \(2008\)**](#)
- [**Branhaven Plaza, LLC, Et. Al. v. Inland Wetlands Commission of the Town of Branford, Et. Al. \(1999\)**](#)
- [**Karen A. Grimes v. Conservation Commission of the Town of Litchfield \(1997\)**](#)
- [**Robert Cioffoletti Et Al. v. Planning and Zoning Commission of the Town of Ridgefield \(1989\)**](#)
- [**Seaborne Herbert Tanner, Jr., Et Al. v. Conservation Commission of the City of Norwalk \(1988\)**](#)
- [**Morris J. Feinson v. Conservation Commission of the Town of Newtown \(1980\)**](#)