

## **“Approval of the Location” Certificates for Auto Dealerships and Repair Businesses**

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### **Issue**

Provide information regarding “approval of the location” certificates and the criteria municipalities must apply when considering applications, in light of recent court decisions.

### **Summary**

Car dealerships and motor vehicle repair businesses must have an automobile dealer’s or repairer’s license (i.e., a K-7) from the Department of Motor Vehicles (DMV) to operate in this state ([CGS § 14-52](#), as amended by [PA 22-44](#)). As part of the licensing process, applicants must submit an approval of the location certificate (also referred to as a “certificate of approval” or “certificate of location”) to DMV. This certificate must be completed by an authorized official of the municipality in which the dealership or repair business intends to locate ([CGS § 14-54](#)). It indicates that the official has determined the business or dealership’s location within the municipality is suitable and has also been approved by the local building official and local fire marshal.

The municipal official authorized to issue a certificate of approval is generally the zoning board of appeals (ZBA). (In municipalities that lack a ZBA, it is whatever entity local law authorizes to do so (CGS § 14-54).) When a ZBA or designated entity (collectively referred to herein as “zoning boards”) considers a certificate of location application, it acts as a “special agent of the state” and must follow statutory criteria (rather than local zoning regulations or variance standards) in determining whether to issue one. However, in a recent decision, the state Supreme Court held that these statutory criteria (originally found in CGS § 14-55) were repealed by a 2003 public act and no

subsequent legislation reestablished the criteria (*One Elmcroft Stamford, LLC v. ZBA*, [337 Conn. 806](#) (2021)).

Following the Supreme Court's determination in *One Elmcroft* that the criteria were repealed, the appellate court, on remand, stated that zoning boards are left in "a precarious predicament;" they remain obligated to act on location approval applications as administrative agencies of the state, but, with the repeal of CGS § 14-55, legislative guidance is no longer provided to them. It further stated that, in the absence of statutory criteria it is left to zoning boards to determine, in their discretion, the factors relevant to their decision on whether to grant a location approval (*One Elmcroft Stamford, LLC v. Zoning Bd. of Appeals of the City of Stamford*, [213 Conn. App. 200](#), 221-23 (2022)).

In a footnote, the appellate court suggested that, although zoning boards are no longer obligated to conduct the suitability analysis by applying the factors that were previously in CGS § 14-55 (see below), nothing precludes the boards from considering them. It added that the boards are also free to consider whether the use of the proposed location will imperil the safety of the public (*Id* at fn. 23, citing *Atlantic Refining Co. v. Zoning Board of Appeals*, 150 Conn. 558, 561 (1963)).

In recent years, the legislature has proposed several bills regarding the issuance of certificates of location, as described below.

## **Repealed Suitability Factors**

CGS § 14-55 previously provided the factors that zoning boards were required to consider when determining whether the proposed location of a car dealership or motor vehicle repair business was suitable, and a certificate of location should be granted. In 2003, two public acts were passed within days of each other that each changed this statute in different ways; one act ([PA 03-184](#), § 10) repealed it, but a subsequent act ([PA 03-265](#), § 9) amended it. In 2021, the state Supreme Court held that the subsequent amending act did not resurrect the statute and it remained repealed.

Prior to its repeal, CGS § 14-55 required the zoning boards to issue a certificate of location only if it determined the location was suitable for the business, considering its proposed location in reference to (1) schools, (2) churches, (3) theaters, (4) traffic conditions, (5) width of highway, and (6) its effect on public travel.

The full text of the now-repealed CGS § 14-55 is provided below, in the form it appeared prior to the 2003 legislative session:

**Sec. 14-55. Hearing.** In any town, city or borough the local authorities referred to in section 14-54 shall, upon receipt of an application for a certificate of approval referred to in said section, assign the same for hearing within sixty-five days of the receipt of such application. Notice of the time and place of such hearing shall be published in a newspaper having a general circulation in such town, city or borough at least twice, at intervals of not less than two days, the first not more than fifteen, nor less than ten days, and the last not less than two days before the date of such hearing and sent by certified mail to the applicant not less than fifteen days before the date of such hearing. All decisions on such certificate of approval shall be rendered within sixty-five days of such hearing. The applicant may consent to one or more extensions of any period specified in this section, provided the total extension of any such period shall not be longer than the original period as specified in this section. The reasons for granting or denying such application shall be stated by the board or official. Notice of the decision shall be published in a newspaper having a general circulation in such town, city or borough and sent by certified mail to the applicant within fifteen days after such decision has been rendered. Such applicant shall pay a fee of ten dollars, together with the costs of publication and expenses of such hearing, to the treasurer of such town, city or borough. No such certificate shall be issued until the application has been approved and such location has been found suitable for the business intended, with due consideration to its location in reference to schools, churches, theaters, traffic conditions, width of highway and effect on public travel.

(1949 Rev., S. 2395; 1961, P.A. 384; 1967, P.A. 866, S. 2; P.A. 80-206; P.A. 02-70, S. 25.)

History: 1961 act added provision allowing waiver of hearing on subsequent application if approval previously granted; 1967 act allowed waiver of hearing on application to enlarge previously approved location by including adjoining or adjacent property; P.A. 80-206 included reference to boroughs and revised and expanded provisions re hearing notice, place, extensions and decisions; P.A. 02-70 eliminated the authority of a municipality to waive the requirement of a hearing on a subsequent application and on an application for expansion to include adjoining or adjacent property.

Cited. 138 C. 612; 154 C. 540. Cited. 218 C. 265, 267.

Cited. 21 CA 347, 349, 350. Cited. 24 CA 369—372. Cited. 28 CA 500, 501, 504—506, 508.

Cited. 12 CS 70; 14 CS 339.

## Proposed Legislation

### **[SB 258 \(2020\)](#)**

This bill would have transferred authority to issue certificates of location to municipalities' zoning commissions or combined planning and zoning commissions. The bill received a public hearing but was not voted out of the Planning and Zoning Committee. (The public hearing [testimony](#) supported the bill, but some recommended also allowing the municipal zoning enforcement officer to review and approve the applications.)

### **[SB 963 \(2021\)](#)**

This bill would have transferred authority to issue certificates of location to municipal zoning enforcement officials and required them to assess applications based on their compliance with the municipality's zoning regulations. It received a public hearing and was voted out of the Planning and Development Committee, but the Senate took no vote on it.

### **[HB 5358 \(2022\)](#)**

This bill was identical to the 2021 bill. It received a public hearing but was not voted out of the Planning and Development Committee. The public hearing [testimony](#) supported transferring this authority away from zoning boards, but one testifier recommended making the planning and zoning commission the issuing entity and another suggested incorporating additional assessment criteria.

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