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RESIDENTIAL ASSOCIATIONS

IN THE COASTAL AREA

Prepared for the
STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION
COASTAL AREA MANAGEMENT PROGRAM
by
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PREFACE

This report was prepared by Linda Krause under the supervision of staff of the Connecticut Coastal Area Management Program. Mrs. Krause was an environmental intern with the CAM Program under the auspices of the Massachusett's Audubon Society's Environmental Intern Program. She is currently a candidate for a Masters degree in Community Planning at the University of Rhode Island, having received her B.A. in Economics from Simmons College. In addition, Mrs. Krause is chairman of the Groton Inland Wetlands Commission and a member of the Southeastern Connecticut Regional Planning Agency.

This report is meant to provide a view of the activities of residential associations in the coastal area and suggest considerations for the role of associations in a coastal management structure. Views or opinions herein expressed are those of the author and are offered to provide insight and stimulate discussion on these issues. The report does not necessarily reflect the policies, official or unofficial, of the Connecticut Coastal Area Management Program or Advisory Board.

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I N T R O D U C T I O N

Along Connecticut's Shoreline, as in other areas of the state, groups of residents have banded together in associations or in quasi-governmental special districts in order to provide such benefits as are better secured collectively than individually. Whether to provide garbage collection and road maintenance or to retain privacy in the use of recreational facilities, residents of relatively small circumscribed geographical areas have come together in order to better serve common needs. Smaller than towns, usually consisting of a single neighborhood, special residential districts and associations come in many forms. Some are established by special acts of the state legislature and have been given specific powers comparable or equal to those of the towns in which they are located. Other associations which have been formed by special acts are more restricted in their powers, their special acts having been less generous. There are also associations which were not established by special act, but rather, are incorporated as non-stock corporations within the state and subject to the powers and restrictions which the state has defined in the Non-Stock Corporation Act.

There are many kinds of special districts, formed to provide a variety of services. Some are single function districts, established to provide one service only, such as fire protection, sewers, or more recently, transportation. This report will not deal with these single function districts; its subject is those multi-function cooperative efforts which are, in some way, exerting control over the resources of the Connecticut coast. This report is concerned with those areas where the residents of small sub-town divisions have very significant control over the use and development of their particular area, in some instances independent, for all practical purposes, from the decisions made by the officials of the town in which they are located.

This report seeks to identify such areas and describe the origin and extent of their authority. The relationship of these areas to the towns in which they are located will be discussed. The degree of influence and impact of these associations on the resources of the state's coastline will be explored. Finally, the role that these associations can and should play in the future management of the state's coastal resources is examined.

This report begins with a look at the many kinds of associations and districts. It is a descriptive report, intented to show the great variety of collective efforts that have been undertaken by shore residents. (A more systematic inventorying of the existing associations is available in Appendix A of this report).

Part II discusses the relationship of the resident groups to the towns in which they are located, based on discussion with association members and town officials in several coastal towns. Financial arrangements, the kinds of services provided, and attitudes about the re-

lationships were the subject of numerous individual discussions in the past few months, and much of the information in this report resulted from these discussions.

The relationship of the residential associations and districts to the state is, foremost, a legal one. The powers of the associations are derived from the state, whether it be through special act or through the filing of a certificate of incorporation. The state legislature has created the associations, as well as general legislation that guides their behavior. Part III looks at the legal foundations for the associations and districts. (Appendix B examines some court cases which have a direct bearing on the extent of authority of the associations and their relationship to other governments). Part III also looks at the political relationship of the associations and districts to the state as a whole.

The final chapter is a discussion of aspects which should be considered concerning the role of coastal residential associations in a coastal management structure. The choice of a local implementation option as the focus of a Connecticut coastal management system requires a realistic assessment of the contributions and limitations that special residential associations pose for such an option. When control of the resources of a large portion of the state coastal area lies with the residential associations rather than with town governments, a management structure will not be effective unless it deals constructively with the associations.

Note on terminology: "Association" will be used to mean all chartered residential multi-functional groups in the coastal area.

PART I: KINDS OF ASSOCIATIONS IN THE COASTAL AREA*

Boarded and secured for the winter, summer cottages stand bleakly on their pilings and, shoulder-to-shoulder, stare out across the sandy beach to the windswept Sound. An occasional town police patrol car is the only sign of life. A short way down the coast, in another area, boarded cottages are interspersed with houses where cars are parked in driveways and laundry flaps on the clothesline. In yet another area, a uniformed guard turns back the casual sightseer who approaches the guardhouse next to the large stone columns. Beyond him, the observer can catch a glimpse of rooftops and chimmneys through the trees. Continuing the drive along the coast, the observer finds a wide range of scenery - unoccupied summer homes, small housing developments with toddlers playing on their backyard swings, and large grassy lawns sloping down to the rocky shore of Long Island Sound.

What these sights have in common is that in each instance the homeowners of the area are part of a residential association. Associations have many purposes. In summer neighborhoods, maintenance of the association beach and the provision of lifeguard service may be the most important function. Others provide garbage collection, or police protection, or operate a water system. Some associations own and maintain private roads within their boundaries. Building and lot lines, restrictions on construction and uses, or even full zoning power may be employed in order to retain the character most desired by the association residents. In numerous associations, one important way to maintain a desired character is to keep outsiders out, often for very practical reasons such as the avoidance of crowded beaches and traffic hazards. Safety, health, property values, and privacy are major reasons for the formation of associations.

In order to financially support collective efforts, some associations have been given, by special act, the power to tax. Others vote to levy annual assessments per member or per household, or collect dues.

Associations vary in terms of the powers and authority that they have or that they use. Some have powers equal to that of towns. Others may perform no municipal functions at all. Some are established by special act of the legislature, while others become incorporated through the filing of a certificate in the office of the Secretary of State. The source and extent of association powers is discussed in Part III.

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*For an inventory of coastal associations, listed according to the town in which they are located, see Appendix A.

Although actual powers vary widely, there is a great similarity among special acts which have established many of the associations. An examination of special acts establishing associations or amending association charters shows that similarities are grouped in several ways. Often, associations within the same town or in neighboring towns may have virtually identical charters (although this does not mean that the associations have evolved in similar fashion). Associations in different parts of the coast may have similar charters if they were established around the same time period. Many of the earliest special acts provide for the establishment of a sanitary board with responsibility for regulation and collecting garbage. 1/ The early intrusion of garbage problems as density increased in summer cottage areas can be imagined. Sanitary boards sometimes had the responsibility for providing sewers or a community water system. Turn-of-the-century health problems were obviously a stimulus for early associations. Later amendments and special acts provided for the establishment of a governing board , who, in addition to health responsibility, might be charged with creating, improving or maintaining highways, and controlling traffic and parking. 2/ The age of the automobile had arrived.

Although the character of year round residential associations may be very different from those active only in the summer, that difference is not always apparent in the charters of the associations. Persons who live near the shore all year have felt many of the same needs which caused summer residents to join efforts to provide common service. Year round associations usually own and operate an association beach or other recreational facilities, and may or may not own roads, sewers, or water systems. There is also very little in individual associations charters and amendments to indicate a shift from summer only occupancy to year round use. One indication is often a change in the date of the annual meeting, from the summer months, when summer residents would be able to attend, to a date in March, April, or another winter month.

It is a tribute to flexibility that similar charters can serve for such diverse associations as exist along the shore. Even with many similar powers, associations differ in their socio-economic characteristics, in their densities, and in their sense of group identity, and in their evolution.

Although virtually no shore residential area property can be considered inexpensive, the cost of homes varies greatly. In an area of smaller non-winterized cottages, the relatively low market price of $20,000 to $40,000 may not reflect the initial cost to long time owners,

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[1]See Short Beach Improvement Association (12 SL 93) March 28, 1895.

[2]See Grove Beach Improvement Association (18 SL 134) May 1, 1919.

some of whom could not afford to purchase their homes at today's market prices. Winterized former summer homes generally demand a higher price. In Groton Long Point, an area which is rapidly becoming year round, with the coming of sewers, current market prices range from $50,000 upward of $100,000. 3/ At the western end of the coast, property with acreage in Westport or Darien may sell from $250,000 up. 4/

The cost of residential property along the shore may be a function of density, as well as proximity to major employment centers. Densities range from multi-acre estates to individual lots barely larger than the summer cottages that occupy them. In Old Lyme, for example, cottages line the beach in one association with scarcely enough room to walk between them. 5/ Such high densities in sensitive ecological areas often create problems of sewage disposal. It is possible to find an illustration of almost any kind of density for detached single family residences. There are fewer areas which include multi-family dwellings or commercial activities such as hotels and motels. Commercial rental activity consists mainly of individual house rentals, either on a seasonal or weekly basis. Camps, boarding houses and hotels are specifically prohibited or regulated by many associations. 6/

The social aspects of associations are as variable from one to another as the variation in densities. Some associations are truly summer "colonies" which provide extensive opportunities for organized interaction through recreational programs, picnics, and the like. Often their children marry each other and their grandchildren play together. 7/ There appears to be an increasing trend toward year round occupancy by retired association members, a fact mentioned in interviews with individuals all along the shore. Smaller homes, near life-long friends, and in a pleasant setting, provide an attractive retirement choice for many. In other areas with more rapid turnover in property ownership, the social aspects of the association are minimal, definitely secondary to the functional aspects of the association. Privacy may be more valued than social interaction, and the maintenance of private roads and guards paramount.

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[3] The Day. New London, Conn. "Local Property Transactions".

[4] Connecticut. December 1976. pp. 23-25.

[5] Sound View.

[6] See the charter of Black Hall Association, Old Lyme. (25 SL 734).

[7] For the "flavor" of a summer colony, see The Day, New London, CT. August 10, 1976

One of the determinants of the character of an association is its historical background. Sachems Head in Guilford was once the site of a large summer hotel, to which a steamer from New York brought guests for summer outings. 8/ Although the hotel has long since been destroyed by fire, a sense of its historic past remains. The Borough of Stonington in the town of Stonington is more than a residential association. Like the area of Noank in Groton, "Stonington Village" was an early population center whose economic life was based on the sea. Very different in evolution from Sachems Head, such early economic centers may have similar powers and functions to the more-recently developed summer resort associations. Their existence poses similar problems and opportunities for coastal management.

Sachems Head is now approaching complete conversion to year round occupancy. 9/ There are, however, some associations which are still for summer-only residences. In Old Lyme, as in other areas, one of the factors restricting conversion to year round occupancy is the water supply. Sufficient for summer use only, some water supply systems are antiquated and inadequate for full time use by present standards. The expense of upgrading the system and the lack of readily available means of increasing capacities is a barrier to greater than seasonal use. 10/ Septic Systems, which may be barely adequate for seasonal use, may also cause increasing problems when year round occupancy occurs. Summer cottages in high density areas lack the space necessary to improve and enlarge septic systems.

Another type of association character is found in those areas which were, from the start, intended for year round residential use. Unlike the economic centers such as the Borough of Stonington, these associations are residential only. Sometimes the creation of a single developer, these associations are designed to protect the amenities of the development. They do not differ substantially in character from many non-coastal associations. They are not, like the summer resorts, products of an era, before air conditioners, when people sought the cooler climate of the shore during the hot summer months. They are an effort to restrict the rights of individual property owners, often in such matters as taste and aesthetics, in order to preserve property values. Mumford Cove Association in Groton and the Old Quarry Association in Guilford both originated as year round associations. First used by developers of areas with single family detached homes, such residents associations are now frequently

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[8]Town Planner, Town of Guilford.

[9]Data from SCCRPA shows 90% of the homes are year round.

[10]Director of Health, Town of Old Lyme.

established by owners of condominium property. 11/ An examination of residents' associations along the shore shows several condominium associations in the more urban areas.

To speak of residential districts and associations as a single group is deceiving. Despite the many similarities in their charters, those areas along the shore in which residents have organized are extremely diverse. The associations like Field Point Park in Greenwich and Tokeneke in Darien are some of the wealthiest areas of the state. 12/ At perhaps the other extreme, the high density mixed use area of Sound View in Old Lyme has been termed a "blight" by numerous sources. There are associations of all kinds, each holding some degree of control over the resources of the coastal area.

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[11] For discussion of the development and legal issues of home owners associations, see "Residential Private Governments: An Introductory Survey" in The University of Chicago Law Review, Volume 43, #2, Winter 1976, by Uriel Reichman.

[12] Connecticut. December 1976.

PART II: RELATIONSHIPS WITH THE TOWNS

Relationships between coastal towns and the residential associations located within them range from practically non-existent to intense, and from excellent to terrible. Relations are usually poor when overlapping functions and financial disagreements occur; they may be non-existent when the town and association each go their separate ways or when the association is very inactive.

Many associations which have historically been summer-only resorts were organized at the time that certain services were desired that were not then provided by the town. Many coastal towns were largely rural in nature, and provided a minimum of services through a part-time government. Times have changed, however, and increasingly, urbanization has brought increased activities and expenses for most coastal towns. Towns now provide many of the services that associations were formed to provide. In some instances, towns have taken over these functions from the associations. In others, associations have chosen to continue to provide such services for themselves. Garbage collection, an important early reason for creating some associations, is frequently performed by the town. Maintenance and improvement of roads within the associations is one function that still is performed primarily by the associations, although some contract with the town to provide that service. Separate police service is also still common, especially on a part time basis or a seasonal basis. There is, apparently, increasing cooperation between association and town police. In many areas, town police regularly patrol association streets in the winter.

One of the factors which has made it difficult for towns and associations to ignore each other has been the property tax. As the demand for services has grown in the coastal towns, the cost of those services has risen. Members of residential associations, whether they use or receive town services or not, are taxed by the town for the provision of those services. As taxes rise, association members increasingly resent paying for services they do not receive. In addition, commonly-owned association property has generally been considered taxable by the towns. 13/ High market prices for shore front land have been reflected in increased assessments, making the tax burden even more difficult for summer residents.

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[13] In Sachems Head Property Owners Association v. Guilford, 112 Conn. 515, 152 A. 877 (1931), property used for public purpose such as streets and sewers was tax exempt, but in Laurel Beach Association v. Milford, 148 Conn. 233, 169 A. 2d 748 (1961), the Court held that property used for recreational purposes, such as beaches, docks, and recreation halls, is not "used for a public purpose" and thus is not exempt from paying taxes.

On the other hand, the conversion to year round use of former summer housing has led to a greater use of town services by residents of the association areas. This has been especially true of the educational system, one of the largest expenses for coastal town governments. Realizing that they have been paying taxes at the same rate as year round residents, although receiving less service, summer residents have begun to demand more from the towns. Some towns have responded with increased service, such as police or garbage collection. In Guilford, the town plows many association roads during the winter. Others make annual allotments back to associations that provide their own services. In Old Lyme, the largest association, Point O'Woods, receives $3600 annually, while smaller associations including Old Lyme Shores, Old Colony Beach, Miami Beach and White Sand Beach, receive $1800 each. 14/ In Groton, the Groton Long Point Association receives $28,000 for police protection and $12,000 for road maintenance annually. 15/ Always a disputed figure annually, the payments for highways were the subject of a special act in 1973. The act makes provisions for state-assisted negotiations in the event that a figure cannot be agreed upon. 16/

Demands by association residents for increased service or for a return of some of their taxes through payments to the association have stirred resentments that non-association members may feel about the exclusive nature of many associations. The funds for the Groton Long Point police have been challenged by some town officials who resent allocating funds for police whose primary purpose, they claim, is to keep non-members out of the association area. Many towns with inadequate access to the water or to beaches are unhappy to see such resources maintained for the exclusive use of a small number of individuals in the associations.

Another area of friction between towns and associations may be that of land use controls. The power to zone and control undesired uses, independent of the town zoning officials, is held by eleven associations or districts along the coast. 17/ Each of these areas has been granted zoning power explicitly by a special act of the General Assembly. A very few other associations who have been authorized, by special act, to establish their own zoning have not chosen to do so. 18/ Many of the

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[14] Proposed Budget 1976-1977. Town of Old Lyme, Connecticut.

[15] Town of Groton Proposed Budget 1976-1977. March 15, 1976. Account number 240.6 and 240.5.

[16] S.A. 73-108, June 17, 1973.

[17] Areas with independent zoning are identified in Appendix A and are illustrated on a series of maps which follows the text of the report.

[18] The associations in East Lyme (see Appendix A) are one example. Although they have explicit power to zone, the town zoners exercise jurisdiction in the association areas. The associations do conduct additional regulatory activity, beyond that of the town zoners, however.

charters established or amended by special act contain provisions for regulating construction, establishing building lines, regulating the number and kind of structures on a lot, and prohibiting certain uses. Whether or not this constitutes "zoning power" is an issue for coastal management purposes. 19/ One reason for its importance as an issue is the degree of control exercised over coatal resources, but a potentially more important reason is whether association powers fit the definition of "local zoning ordinances, decisions or other actions" as used in the 1976 amendments to the Coastal Zone Management Act. Part IV of this report looks more closely at this question.

Some association charters contain a clause which states that "if any bylaws, ordinances or regulations adopted by the association shall conflict with any lawful ordinance of the town ... the ordinance of said town shall prevail and supercede the bylaw, ordinance or regulation of said association". 20/ In these instances, the land use power of the association is limited in relation to the town, although the clause does not prevent parallel regulatory authority from occurring.

Other association charters give their association "exclusive jurisdiction" over the zoning matters in their territory. 21/ This is a clear case, when exercised, where the zoning power of the association is stronger than the power of the town.

In the few instances where the question of the relationship between town zoning and the zoning authority of a subdivision has been legally contested, the power of the association has been upheld. In one case, the town of Watertown claimed the adoption of a new town charter under Home Rule overrode the powers of zoning which had been granted to the Watertown fire district under a special act. The Court ruled that the special act is not superceded by general legislation unless the intent to override is explicitly stated. 22/ In another case, the Court found that "with regard to such matters as to which the city is vested with exclusive powers within the city limits, under its charter, the town is precluded from exercising its authority except outside city

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[19]This question is discussed farther in Part IV of this report. See also Arthur L. Bouvier et al. v. Zoning Board of Appeals of Monroe. 28. Conn. Sup. 278, 258 A. 2d. 546, (1969).

[20]See Beach Park Point Association (25 SL 1307), July 26; 1949 or Clinton Beach Association (33 SL 259), June 20, 1967.

[21]See Old Quarry Association (35 SL 35), May 12, 1971.

[22]Watertown v. Watertown Fire District, 28 Conn. Sup. 413, 265 A. 2d 496 (1968) is discussed in Appendix B.

limits." 23/ Although not a zoning case, this rule has implications for those areas given explicit power to zone.

The state planning enabling act does not provide for the authority to plan in districts. None of the special acts mentions planning. To the planner, the ability to zone without the ability to plan is a "cart before the horse" situation. In coastal towns, planning is done by the town planning and zoning commission, or a separate planning commission, sometimes with the assistance of professional staff. The wishes of the associations are frequently included in planning efforts. The Sasquanaug Association for Southport Improvement, Inc., an association not established by special act, independently funded a consultant study of the Southport area, the concepts of which were incorporated into the town plan. 24/ Minutes of meetings of the Lordship Improvement Association indicate speakers on town planning and frequent visits to the town planning and zoning commission. 25/ A case involving the Lordship area indicates the difficulty with plans, however. The Court ruled that the Zoning Board of Stratford could not curtail the rights of private property nor limit a landowner in the use of his land based on a town plan. 26/

The question of just what constitutes the power to zone and to what extent the towns can override the power of the associations remains an unsolved question, depending very much on the charter of the individual association. The relationship of special acts to general legislation is the subject of a memorandum included as Appendix B of this report.

Another approach in town-assocation relations has been taken by the town of Old Lyme. Old Lyme has passed regulations which apply uniformly to several associations. These beach regulations deal with safety, health and nuisance factors. Rather than each association developing its own set of regulations, the passage of a single town ordinance retains a sense of uniformity as well as the feeling that the town is the effective government authority. 27/

A question asked during interviews with town and association officials was the political relationship of the associations to the town government, how associations are represented in government. Naturally,

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[23] Moore et al. v. Town of Stamford et al., 14 Conn Sup. 258 (1946) at 260.

[24] Master Plan for Southport 1967.

[25] See information provided by the Greater Bridgeport RPA.

[26] Lordship Park Association v. Board of zoning Appeals of Stratford, 137 Conn. 84, 1950.

[27] Beach Regulations. Old Lyme Town Meeting Book, Volume 4, Page 30. Adopted November 22, 1960.

the relationship varies from town to town. In those areas composed primarily of summer residents, there is little representation, although associations will come before town boards and commissions or legislative bodies when ther interests are involved, such as in a zoning case, or with a request for additional services or more funds at budget time. In those areas where associations have a greater percentage of year round residents, there is frequently an attempt to provide some geographical representation in town legislative bodies, such as representative town meetings or town councils. A large number of members of associations appear to be town officials in manyof the towns. 28/ Although associations have in most cases a degree of autonomy in many municipal matters, there is no lack of participation by year-round residents of associations in town activities.

Residential associations which were organized to provide special services have a lesser funtion to perform as the town or city in which they are located begins to perform some of the same functions. In many instances, the association has become less active as town activity increases. Many associations have ceased to function at all. Some have sought other functions such as political lobbying or member education. One function that keeps some associations active is the desire for privacy and the maintenance of a private association beach. Another factor may be the sense of neighborhood identity. There also may be a few association officials reluctant to lose the sense of importance they achieve through holding an association office. Although some associations have dissolved or justfaded away, there are others that command strong loyalty from their members, who still identify much more with the association than with the town. Perhaps as summer areas become year-round, and as more town services are provided, this identification will lessen, but such an attitude is not an occurrence of the forseeable future.

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[28] When asking for "contact" people in various associations, I was often referred to town officials who live in association areas.

PART III: RELATIONSHIPS WITH THE STATE

All residential associations and districts in the state derive their powers from the state. In some cases, the associations are chartered only as non-stock corporations and have only the powers given such corporations under Chapter 600 of the Connecticut General Statutes. For other associations, additional powers are granted by the legislature through the passage of special acts by the General Assembly. Special acts are numerous and one association has had many as nine special acts passed on its behalf. 29/ The last of the nine involved a complete re-writing of the charter, incorporating all the changes made in the preceding acts. Other associations have had up to six special acts passed, changing such things as meeting dates, method of voting, and boundaries. In response, the legislators eventually gave home rule powers to the districts.

This paper will not deal with some kinds of districts. As stated in the introduction, single purpose special districts created by the state, such as fire districts or transit districts, without significant land use powers or direct control over coastal resources are omitted. (It could be well argued that fire districts, sewer districts, and transit districts exert a significant influence in the coastal area. The decision to narrow the scope of this paper is based on practical considerations of time and space. Many of the legal questions raised in this paper are applicable to other kinds of districts as well).

Chapter 105 of the General Statutes provides a definition of districts. "District" means any fire district, sewer district, fire and sewer district, lighting district, village, beach or improvement association, wholly within a town and having the power to make appropriations or to levy taxes". 30/ Although the Chapter provides a form of organization and administration for districts, it also states that a district established prior to May 29, 1957 shall not be required to adopt the prescribed form of organization, but may continue in its present form. 31/

The general legislation in Chapter 105 applies to those associations which meet the definition of a district. Included in the chapter are provisions concerning organization, purposes, meetings and officers, taxation, home rule powers, and termination of the district. Some of these provisions will be discussed in context below.

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[29]Point O'Woods in Old Lyme.

[30]Connecticut General Statutes. Section 7-324.

[31]Connecticut General Statutes. Section 7-324.

Court decisions have further defined districts. A 1958 decision stated that a district organized for municipal purposes is a quasi-municipal corporation and has the right to levy and collect taxes to accomplish its objectives. As a body politic within the confines of a larger municipal corporation, it must be governed by laws pertaining to municipal corporations. 32/ A decision in 1967 distinguished geographical subdivisions from political subdivisions. "The attributes of a political subdivision are that it exists for the purpose of discharging some function of local government, that it has a prescribed area, and that it possesses authority for subordinate self-government through officers elected by it". 33/ In light of the definitions of districts, each of the associations established by special act, in which any powers to provide services or to tax are given, must be ruled by Chapter 105 of the General Statutes. 34/ Associations which have not been given powers under special acts are not "districts" and are controlled by other provisions elsewhere.

Most of the associations not created or given powers by special act are non-stock corporations chartered under the Non-Stock Corporation Act, Chapter 600 of the Connecticut General Statutes, Sections 33-419 to 33-526, effective on January 1, 1961. Corporate existence begins with the endorsement of a certificate of incorporation by the Office of the Secretary of State. 35/ Most certificates of incorporation are very general, stating the purpose of the association and defining membership and voting powers. A statutory agent for the association must be named. 36/ Failure to appoint an agent may mean forfeiture. Biennial reports are to be filed in October of even-numbered years. 37/ Failure to file two biennial reports in a row may result in forfeiture. The procedure for forfeiture is as follows: the Office of the Secretary of State shall prepare and sign a certificate of dissolution stating that the delinquent corporation has been dissolved by forefeiture and the reason for its default; a certified copy of the dissolution is sent to the corporation; corporations may be reinstated within three years

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[32] Larkin v. Bontatibus, 145 Conn. 570, 155 A. 2d 133 (1958).

[33] Dugas v. Bauregard, 155 Conn. 573, 236 A. 2d 87 (1967).

[34] For a discussion of districts, see J.D. Eaton, "Beach Associations in the Connecticut River Estuary Planning Region." Unpublished paper.

[35] Connecticut General Statutes, Section 33-426.

[36] Connecticut General Statutes, Section 33-433.

[37] C.G.S. Section 33-435.

after their dissolution through payment of a fee. 38/ All documents filed with the Secretary of State must also be filed in the office of the town clerk where the corporation is located.

The powers of non-stock corporations include the right to sue and be sued; acquire, hold, sell, convey and have and exercise property rights; borrow money and issue notes and bonds; make contracts; and exercise all legal powers necessary or convenient to effect any or all of the purposes stated in the certificate of incorporation, whether or not such powers are stated in the certificate. 39/

The provisions of Chapter 600 also apply to specially-chartered corporations (those associations established by special act) without the need for their acceptance. The special charters remain unchanged, except that the association must comply with the requirements for filing biennial reports and filing notice of charter amendments. Failure to comply makes the association subject to forefeiture. If after forfeiture, they desire re-incorporation, they may be reincorporated by surrendering their charter and filing a new certificate of incorporation. Reinstated certificates of incorporation need not recite the provisions of special act rights and priviledges in order to preserve them. 40/

In reality, things don't work quite as the law provides. Specially chartered corporations have not filed with the Secretary of State. Corporation records are not on file with the town clerk (or else the clerks' offices are not aware of such records). Although some associations have been dissolved by forfeit, they do not appear to have been specially chartered. In general, the provisions of the Non-Stock Corporation Act regarding record-keeping do not appear to be well-enforced. One factor contributing to the lack of enforcement may be the large number of non-stock corporations. Over 8,000 biennial reports have been filed in 1976, a number which represents the active corporations. 41/

Associations established or amended by special act have potentially more power than those not so established, depending on the provisions of

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[38] C.G.S. Section 33-496.

[39] C.G.S. Section 33-428.

[40] Connecticut General Statutes Section 33-499 - 35-593a.

[41] Office of the Secretary of State. Most associations, of course, are not residential, but rather social and civic organization.

the provisions of the special act. As discussed earlier, powers vary greatly. There are three boroughs and one unconsolidated city in the coastal area. One association has been given full powers of a borough. Other associations have been given the powers of towns for specified functional services such as health, sewers, fire protection, or zoning. More frequently-granted powers include the provision of police service, garbage collection, care and maintenance of beaches and roads, and sometimes, building and use regulations. Associations are usually given the power to tax at a fixed rate or levy an annual assessment. Special acts also include a description of association boundaries, the form of administration, the date of the annual meeting, and the eligibility of association voters.

Tracing through the series of special acts for a single association, the evolution of the association can be seen. Originally chartered with a sanitary board to deal with garbage and nuisances, subsequent special acts may provide for fire service or road construction and maintenance. Other special acts may change the form of administration to a governing board, change the method of voting, add more powers, or change the annual meeting date. Boundaries are also changed, usually increasing the territory of the association. Rarely, powers are removed or boundaries cut back. 42/

Until 1963, associations had to return to the General Assembly each time they wanted their charter changed. In 1963, the legislature passed P.A. 582, now Section 7-328a of the General Statutes, which gave home rule to districts. Districts now have the authority to change their charters without the need for special acts. Changes are, however, restricted to those powers given districts in Chapter 105 of the General Statutes. Under the provisions of Chapter 600 of the General Statutes, discussed above, such changes should be filed with the Secretary of State. This practice is not being followed.

That purpose behind giving districts home rule powers was to avoid occupying the time of the General Assembly with minor matters such as annual meeting dates. As Senator Pruyn of Colebrook stated during the hearings on the Home Rule Act, "the work of the Assembly can be devoted to statewide problems and not to problems that affect a particular local community." 43/ Passage of the home rule amendment for districts has not prevented districts and associations from returning to the legislature, however. There have been at least 24 special acts affecting individual

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[42]Appendix C includes testimony on behalf of a bill to remove some property from an association.

[43]Testimony before the Senate on H.B. 2404, May, 1957.

districts and associations. Six new associations have been chartered. Acts amending charters have given zoning power to one association, 44/ changed the purpose of another, 45/and removed much of the power from a third association. 46/

In 1973, the legislature passed P.A. 73-17, now Section 33-503a of the General Statutes, which states "except as other-wise provided by special act, any specially chartered beach association may be dissolved in the manner provided in part VIII of Chapter 600 of the General Statutes as amended". It is not known if beach associations have made use of this provision.

There are two areas in which the powers given associations by the state raise especially important questions for future coastal management. The first area is that of access to the water and to the state's beaches. The state is the owner of lands between the mean high and mean low tides. The enjoyment of these areas by residents of the state is prohibited by the pattern of private ownership of the lands inshore of the tidal area. Associations own beaches and rights of way and frequently restrict access to those lands of persons who are not members of the association. Access is also restricted through control of association roads, the private ownership of which enables the association to prohibit trespassing. The "no trespassing" sign at the entrance to association property is a common sight. In the summer, the association is often guarded and visitors without a legitimate reason for entering the association are turned away. In some associations, the roads are technically open but the power to control parking which is given in special acts is used to prevent non-members from parking their cars within the association. Some associations, while acknowledging in their charters that they have no power to control the state-owned land at the water's edge, nevertheless have been given the right by special act to abate nuisances and quell disturbances in the area. 47/

Little information is available on the rights of association members to bring their invited guests to use association beaches and rights of way. Some associations prohibit commercial bath houses or camps or other commercial use of the beach, although homes that are rented extend beach priviledges to their rentors. One member, in the midst of a dispute with his association, invited, through local newspapers, the public to come as his guests and use the association beach. He even provided off-street parking. The association has not yet found

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[44]Old Quarry Association (1973).

[45]Joshuatown Association (1965).

[46]Wildemere Beach Improvement Association (1963)

[47]See Grove Point Beach Association (25 SL 317) June 9, 1947.

a way to restrict his activities. The basic "problem" underlying the beach access issue is that association property is private property, although owned collectively, and like any other private property, is protected by the laws of the state.

A second area of major concern for coastal management is the diffusion of zoning power. As discussed in the previous sections, zoning power varies from association to association. Second only to finances, zoning activities are the source of friction between associations and towns. When an association has not been granted explicit zoning power, the town has assumed the authority to make decisions which affect the character of the association area. Town zoners are usually aware of the desires of the association members and base their decisions on association sentiment. Association areas are frequently zoned residential at the lot size most prevalent in the association territory. Cooperation and consultation on zone changes or variances is common.

Many associations, while not explicitly given the power to zone, have zoning-like powers. They are given permission in their special acts to control certain uses, establish building lines, regulate the number and kind of structures on lots, and perform other regulatory activities involving construction and usage of property within the association. Such regulation is accomplished through review officials or review boards, or through deed restrictions. In some areas, regulation is accomplished through a double permit system where approval is needed from both town and association officials before construction can occur. The question of whether the phrases pertaining to building lines and use restrictions constitutes "zoning power" has not been addressed by the courts. No court decisions were found that dealt directly with the question. One case was raised on the issue, but was decided on another point. 48/ A case involving somewhat similar language was decided in the negative: "to argue that this section encompasses zoning regulations is unconvincing." 49/

The same rationale behind the section of the General Statutes which prohibits a town from assuming zoning power over land within a city or borough might also logically prevent an association from assuming zoning power when it is already held by the town. 50/ The

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[48]Point O'Woods Association v. Busher, 117 Conn. 247 (1933).

[49]Bouvier v. Zoning Board of Appeals of Monroe, 28 Conn. Sup. 278, 258 A. 2d 546, (1969).

[50]Connecticut General Statutes. Section 8-1.

rationale involves the prevention of duplication of authority by two units of government. Such a rationale has not provided for zoning. Through special acts, the General Assembly has provided for zoning authority for associations that it has in other legislation given to towns. To compound the apparent contradiction, the Assembly has also included in its description of the powers and purposes of districts the provision that districts may adopt zoning authority through the creation of a zoning board and a zoning board of appeals (ZBA), but that such commissions shall be dissolved upon adoption of the town of subdivision or zoning regulations. 51/ In Watertown v. Watertown Fire District (discussed in Appendix B), the court held that the requirement that district zoning be dissolved upon the adoption of such powers at the town level does not apply to districts which were given zoning powers in special acts prior to May 29, 1957. 52/ Among other factors, the court was concerned with the relationship between general legislation and special acts. In Appendix B some cases involving that relationship are discussed.

The non-legal relationship between associations and the state is less easy to grasp than the legal basis for the associations' power. The relationship between the town and the associations is much more immediate, involving daily practical considerations. The associations' relationship with the state is more vague. Members of summer resort associations maintain their year round residences in other areas of Connecticut, in addition to those that come from other states. Although association members are concentrated in the coastal towns due to the increasing number of year round residences in association areas, those members that reside in other areas can express their opinions to non-coastal legislators from their home districts. In addition, there are other residential associations in other parts of the state which can sympathize with and are affected by any legislation which affects special districts or associations as a group. Although the legislature has indicated that it would prefer not to deal with matters involving individual associations, through both home rule legislation and other legislation which specifically gives the beach associations the power to dissolve without securing the consent of the Assembly, the legislature still patiently listens to association matters whenever they are brought before it. 53/ Associations, because they represent a substantial number of Connecticut residents distributed throughout the state, have a significant voice in the state government.

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[51] Connecticut General Statutes. Section 7-326.

[52] 28 Conn. Sup. 413 (1968).

[53] A sample of hearing testimony on beach association requests shows much patience on the part of legislators. Appendix C includes one such hearing.

As state population continues to increase in the areas of urban concentration along the coast, the demand for access to the recreational opportunities of the Sound is also increasing. There is resentment of the exclusive use of resources owned by the associations, especially beaches. Some association members have argued that the limiting of use of areas along the water's edge helps to protect the unique natural resources from overuse, but no known information exists on use of association beaches and beach capacity. Obstacles to the increased use of association beaches by the general public include the strength of property rights as an institution and the strong voice that associations have in state government.

The leniency with which associations are treated by the Office of the Secretary of State and the patience of legislators in hearing associations requests indicates an attitude toward associations that is relatively common. Associations are often treated as little more than social clubs, as indeed many of them are. Little distinction is made between those which do and those which do not yield substantial powers. Perhaps such an attitude is the result of a lack of understanding of associations. It is an attitude which fades for some when the association members make financial demands at town meetings or when a person out for a "Sunday drive" is turned back at the entrance to an association.

Another factor in the relationship between the state and the associations is the very strong tradition of "local control" in Connecticut. Associations may be seen as the lowest level of local government and valued for the opportunity for democratic participation they appear to present. Whether associations are such examples of democracy in action is questionable. 54/

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[54] See "Residential Private Governments: An Introductory Survey". Chicago Law Review, Winter 1976.

PART IV: THE ROLE OF ASSOCIATIONS IN A COASTAL MANAGEMENT STRUCTURE

Efforts to structure a coastal management system reliant on the local level of government for implementation of state policies should consider the role which is presently occupied by the sub-town, multi-functional districts and associations. 55/ The associations control a large portion of the shoreline through collective private ownership of resources and through powers of regulation granted to them by special acts of the legislature. There are twelve associations or districts that exercise full zoning powers, independent of such powers held by the towns. Town zoners have no jurisdiction in those twelve areas. Town plans carry no weight in those territories. There are dozens of other associations that exercise overlapping control in varying degrees, sometimes through a duplicate permit system, and sometimes more subtly, through their influence on town planning and zoning decisions.

The 1976 amendments of the Coastal Zone Management Act of 1972 define "local government" as a "political subdivision of, or any special entity created by, any coastal state which (in whole or in part) is located in, or has authority over, such state's coastal zone and which (A) has authority to levy taxes, or to establish and collect user fees, or (B) provides any public facility or public service which is financed in whole or in part by taxes or user fees. The term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority". 56/ By the definition, "local government" includes, among others, many of the coastal residential associations. Most associations established by special act levy taxes and collect fees, and it has been established that their facilities, such as association roads or sewer lines, are serving a public function, thus meeting the definition of public facilities. 57/

The amendments to the Coastal Zone Management Act also require that "a management agency, before implementing any management decision which would conflict with any local zoning ordinance, decision, or other action...send a notice of such management program decision to any local government whose zoning authority is affected thereby". The amendments further describe the procedure for such notification 58 / Thus, the amendments require a mechanism to, at very least, consult district

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[55] A decision to pursue a local implementation option for Connecticut's Coastal Area Management Program was made by the Coastal Area Management Advisory Board in November, 1975.

[56] 1976 Amendments to the Coastal Zone Management Act, Section 304 (10). PL 94-370

[57] 1976 Amendments. Section 306 (2)(B)(i)

[58] 1976 Amendments. Section 306 (2)(B)(i)-(ii)

and association governments. In order to meet such requirements, a list of associations should be compiled and a determination made on the basis of considerations such as are discussed in this report which associations meet the definition of local governments, and which, in reality, do have zoning powers. Legal requirements for local involvement not withstanding, a program which uses town authorities to implement decisions about the coast will result in large sections of the coast not being included in the management system unless some way is found to involve those associations that control coastal resources.

One possible approach to securing control over such resources might be to shift control of the resources from the associations to the towns. The ability of coastal towns to assume zoning control over association property has been limited. Towns cannot take away zoning power that has been given by the state to the association in their special acts. Whether general legislation which establishes a coastal management system could give the towns control which they do not now possess is questionable. There are precedents in case law which could support either view. Perhaps the case most parallel is the case of DeLinks v. McGowan, 148 Conn. 614 (1961), where the implied welfare of the state as a whole superceded the provisions of a special act.[59] There is a line of precedent to the contrary, however, represented by the holding in Watertown v. Watertown Fire District, that general legislation does not affect a special act unless the intent that it do so is clearly manifest. [60]

To the question of whether such an override is legally possible must be added the question of whether such an action is desirable. Both sides of the question have supporters. One side believes that fragmentation and multi-layering of governments is undesirable and inefficient. A federal report puts it this way:

> *"...all levels of government must be responsive to the needs of the people; therefore, use of special districts is entirely justified as a means of meeting these needs of the units if general governments do not or cannot respond. Nevertheless, the establishment of special districts creates intergovernmental problems and is frequently an uneconomical means of providing services. Perhaps most important, their use has tended to distort the political processes through which the*

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[59] The intent of a general statute was such that it overrode a zoning provision in the special act of the Black Hall Association of Old Lyme.

[60] See a discussion of this case in Appendix B.

> *competing demands for the local revenue dollar are evaluated and balanced ... The multiplicity of special districts often prevents the citizen from knowing exactly what is going on in his community. Frequently, no unit of general government within the State or locality is fully aware of the various aspects of special district activity. The programs of many districts appear to be completely independent from, and uncoordinated with, similar programs of general government ... in many, if not most, instances, special districts increase the cost of government services ..."* 59/

In addition, scepticism exists as to the ability of the associations to overcome their narrow perspective and make decisions that will reflect a wider point of view, a wider field of interests.

On the other hand, there are those who believe that the best government is that which is closest to the people and to those resources being controlled. In strong support of this view is the tradition of local control in Connecticut, perhaps one of the strongest traditions in the New England area.

Practically, despite which may be the best course of action, it is likely that the associations cannot be required to surrender any powers which they do not wish to. Their economic strength and their organized status will probably carry sufficient weight, along with their numbers, to prevent such an effort. In sympathy with the coastal associations would be residential associations and special districts elsewhere in the state. It would be difficult to single out coastal associations without raising fears of other associations with similar powers.

If the land control powers cannot be shifted from the associations to the towns, perhaps implementation might be given to the associations. Those associations that have existing zoning powers might be given decision-making powers in coastal management equal to that of the towns. This would, however, have the effect of reinforcing the subdivisions, and thwart any hope of consolidation in the near future, no matter how desirable such a union would be for purposes of efficiency and economy. Because the parochialism and narrow interests of associations has been exhibited in the past, and because of the desire by associations for privacy resulting in exclusion, there are serious disadvantages with increasing the control of associations over coastal resources. This is also a possible conflict with the larger "public interest" of the state.

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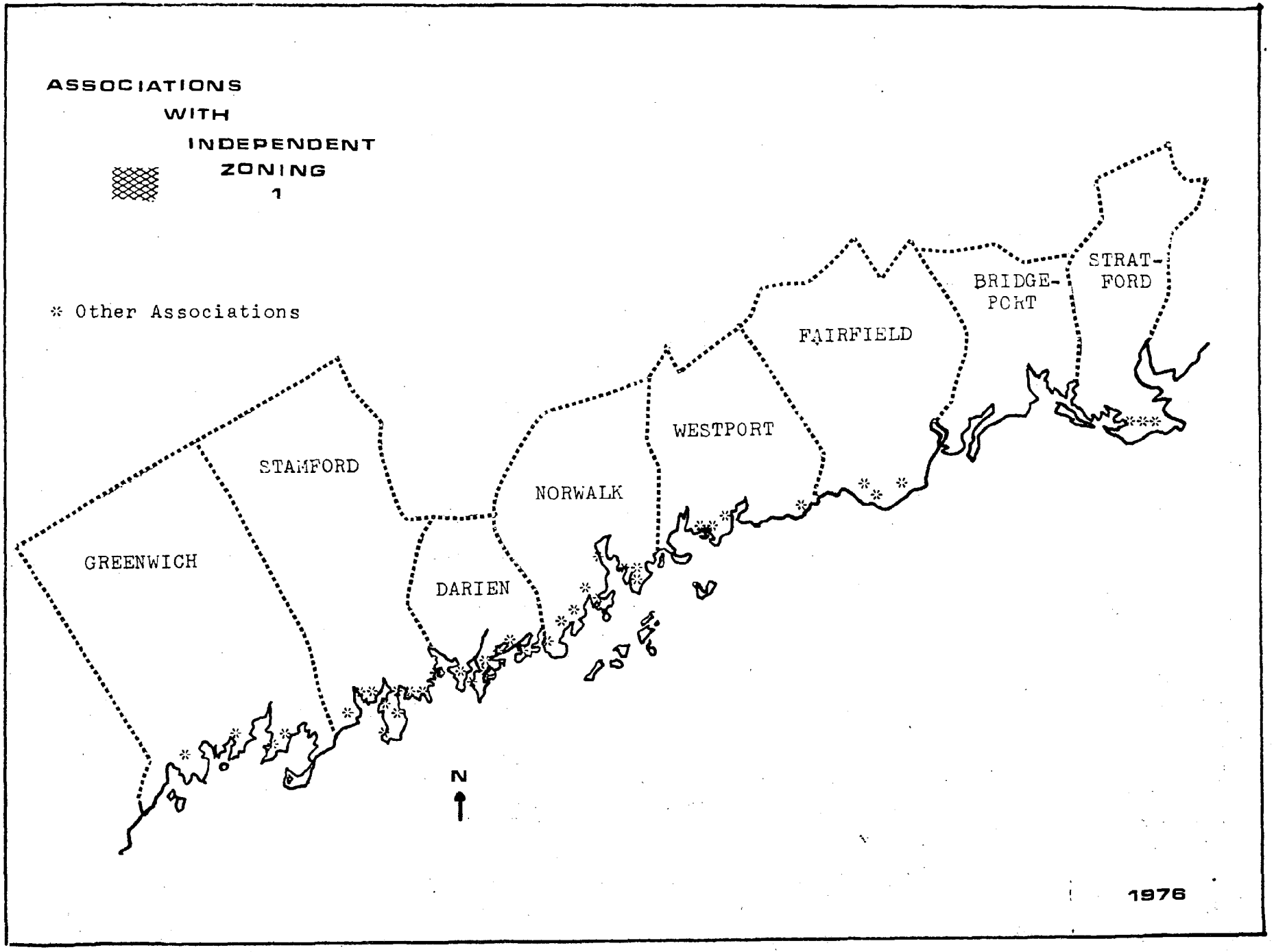
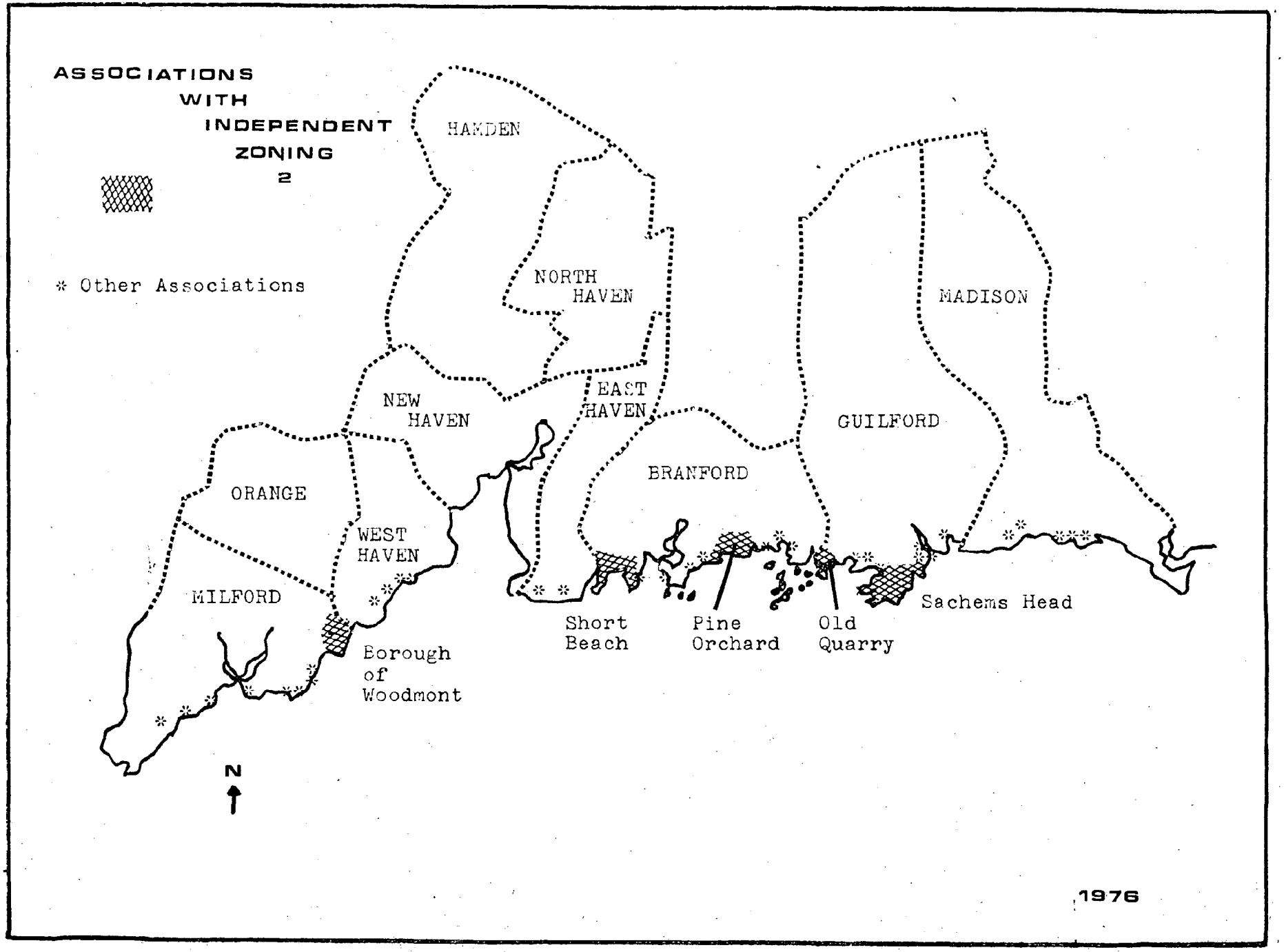
61 "The Problem of Special Districts in American Government", a report of the Advisory Committee on Intergovernmental Relations, May 1964.

Because of the resentment statewide of the exclusionary nature of association activities, the full incorporation of associations into a management structure in a partnership relationship might be difficult to achieve.

In light of the 1976 amendments which require "local" involvement, and the control over coastal resources which associations now yield, it would seem that associations must be included in some way in any coastal management system; unless legislation can be designed which would shift responsibility to the towns. Giving associations full partnership in a coastal management system is not desirable from a public interest perspective. A possible approach might provide for association review with final decisions resting with a town body designated to implement coastal management.

Coastal management responsibilities cannot legally be tied to zoning power without changes in state zoning enabling legislation and without consideration of the provisions of special acts which grant zoning powers, unless the associations are given authority equal to that of the towns. Efforts to give unequal authority must address those basic limitations. If a coastal management mechanism is lodged with a specific town body, it will be necessary to deal also with those other governments, the associations, which currently have powers of their own.

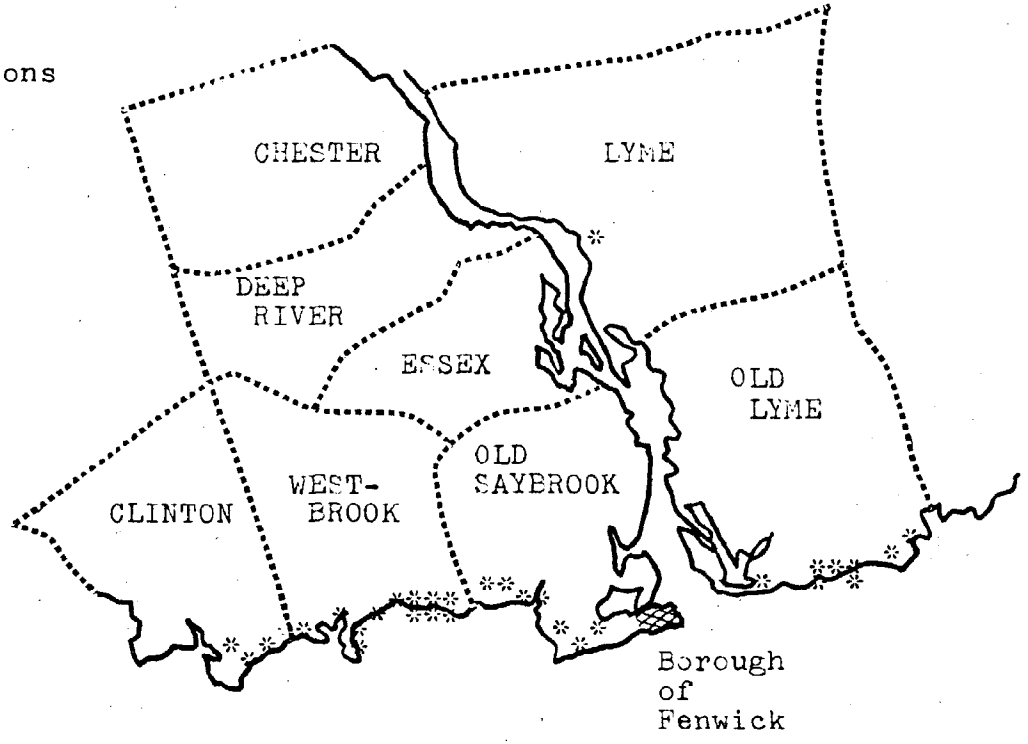

ASSOCIATIONS
WITH
INDEPENDENT
ZONING
1
* Other Associations
GREENWICH
STAMFORD
DARIEN
NORWALK
WESTPORT
FAIRFIELD
BRIDGE-
PORT
STRAT-
FORD
N
1976


ASSOCIATIONS WITH INDEPENDENT ZONING 2
* Other Associations
HAMDEN
NORTH HAVEN
MADISON
NEW HAVEN
EAST HAVEN
GUILFORD
BRANFORD
ORANGE
WEST HAVEN
MILFORD
Borough of Woodmont
Short Beach
Pine Orchard
Old Quarry
Sachems Head
N
1976

ASSOCIATIONS WITH INDEPENDENT ZONING

3

* Other Associations



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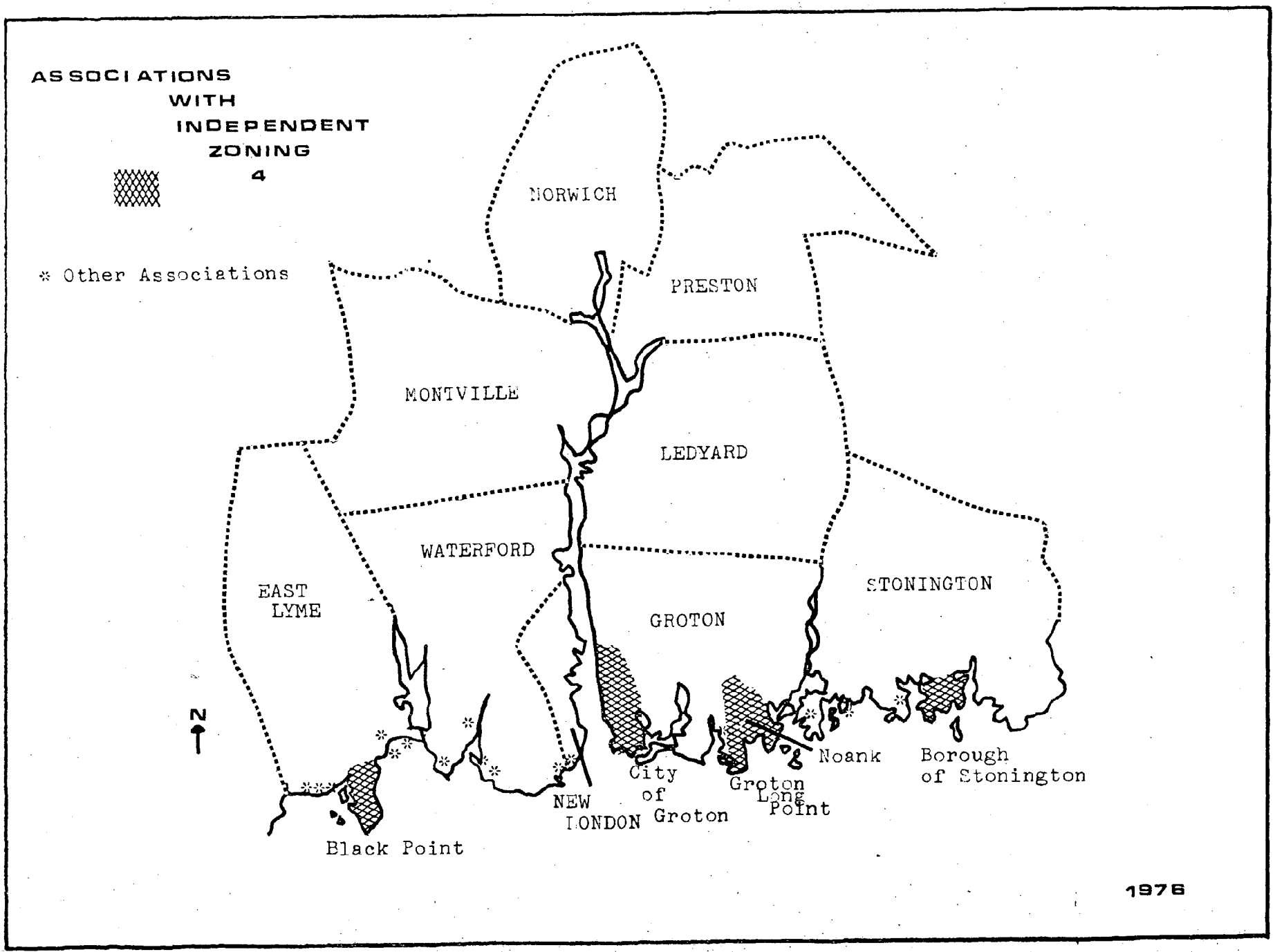
ASSOCIATIONS WITH INDEPENDENT ZONING 4
* Other Associations
NORWICH
PRESTON
MONTVILLE
LEDYARD
WATERFORD
EAST LYME
GROTON
STONINGTON
N
Black Point
NEW LONDON
City of Groton
Groton Long Point
Noank
Borough of Stonington
1976

APPENDIX A: RESIDENTIAL ASSOCIATIONS AND DISTRICTS

(Listed by town)

Sources:

Connecticut Special Acts

State of Connecticut. Public Document #48, Taxation Document #364. "Information Relative to the Assessment and Collection of Taxes - 1974". November 1975.

Files and logbooks of the Office of the Secretary of State, Non-Stock Corporations.

Data collected by the coastal regional planning agencies for the Coastal Area Management Program, Fall 1976.

Notations:

(12 SL 93) refers to the Connecticut Special Acts, Volume 12, page 93. The date which follows such entries is the date that the act was passed.

(37:461) refers to the file number of the certificate of incorporation of a non-stock corporation filed on the Office of the Secretary of State.

INCOMPLETE LISTING

Because of the great number of non-stock corporations on file (8,000!), the associations listed represent the results of only a partial sampling. In some instances, when the exact nature of an association was unknown, such as a yacht club, it has been included in the associations which follow.

Each of the associations listed with a file number and date of incorporation filed a biennial report in 1974. Most have filed a report in 1976, but due to the time lag required for processing 8,000 biennial reports, it was not possible to obtain a complete listing of those who have filed.

Branford

Established by Special Act:

*Civic Association of Short Beach
(12 SL 93) March 28, 1895
(18 SL 435) April 21, 1921
(22 SL 841) June 16, 1937
(23 SL 930) June 16, 1941

Incorporated in 1895 as the Short Beach Improvement Association and governed by a sanitary board responsible for controlling garbage disposal, nuisances and liquor sales, the association's charter and name were changed in 1921. The association's purpose is "to provide protection for property, health and morals of the inhabitants". Special acts since 1921 have changed the method of tax assessment and the method of electing officers. Short Beach's powers are those common to many associations, including fire protection, street lighting and traffic control. Although the power to zone is not given by special act, the association exercises independent zoning powers separate from the town planning and zoning commission. The association owns a small parcel of beach adjacent to the town beach and three rights-of-way to the water. It levies an annual assessment based on the number of units per dwelling. It is one of the strongest, most active associations in the town, with its own post office address.

Eastern Indian Neck Association
(19 SL 1076) June 19, 1925
(23 SL 181) May 16, 1939

This association was incorporated in 1925 to "provide for the health, convenience, comfort, safety and good morals" of residents. An executive board has the power to pass, amend and repeal bylaws, regulations and ordinances to accomplish (the purposes) of the association". The association has the power to tax at a rate no greater than five mills, but historically has taxed at a much lower rate. It does not have nor exercise zoning power. There are approximately 400 residences, with between 30 and 40 summer occupancy only.[1] A 1939 special act provides for a change in association boundaries.

Granite Bay Association
(20 SL 275) June 7, 1927

Granite Bay Association, incorporated in 1927 as an improvement association, has the power to provide garbage collection, fire

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*INDEPENDENT ZONING

1 South Central Connecticut Regional Planning Agency

protection and street lighting, and to regulate liquor sales and improve highways. Its territory includes approximately 90 year round residences. It does not own any waterfront property. The association levies an annual assessment of $8 per house.

*Pine Orchard Association
(14 SL 415) June 18, 1903
(19 SL 44) March 28, 1923
(19 SL 592) March 13, 1925
1973 S.A. 93 June 11, 1973

Pine Orchard Association was incorporated in 1903 as an improvement association to provide for the improvement of land, and for the health, comfort and convenience of its members. An executive board has the authority to pass bylaws, regulations and ordinances necessary to carry out the purposes of the association, "especially fire protection and waterworks". The 1903 special act gave the association the power to establish building lines and regulate building construction. Although the power to zone is not explicitly granted by special act, Pine Orchard has zoning powers which are independent of the town planning and zoning commission. The 1925 special act increased the association's taxing ability to seven mills. There are approximately 250 residences within the association, with about 25 for summer occupancy only. This association is one of the most active within the town.

Stony Creek Association
original charter NOT by special act
(20 SL 1089) June 18, 1929

In 1929, a revised charter described Stony Creek as an improvement association and gave the executive board power to prove services, especially fire protection. The association may regulate sidewalks, curbs, and building lines, but does not have nor exercise independent zoning power. There are approximately 500 residences within the association territory and Stony Creek has its own post office branch. The association maintains but does not own the town beach, which is open to all town residents. It has the power to levy not more than five mills, but currently levies a 1 mill tax rate. 2/

Hotchkiss Creek Association
(22 SL 275) This 1935 act did not receive the governor's signature, and therefore did not become effective.

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*INDEPENDENT ZONING

2/ South Central Planning Agency

(23 SL 306) June 9, 1939

Incorporated as an improvement association, Hotchkiss Grove provides police protection and lifeguards and maintenance of the association beach. It also has the authority to control parking and control liquor sales. It levies an annual assessment of $20 per family. It owns and maintains all streets within the territory. There are approximately 180 residences, with 30 for summer occupancy only. 3/

Associations not established by Special Act:

Linden Shores Erosion Control District

Organized under the provisions of the General Statutes on November 20, 1959.

Linden Shores levies taxes of 3.5 miles. It owns a beach open only to association members, and hires police to enforce this policy. There are approximately 148 homes, of which fifty are summer occupancy only. 4/

Lamphere Cove Association

Lamphere Cove is a summer "colony" with eighty-four seasonal residences. The association has long term leases on the land, but cottages are individually owned. The association regulates additions or alterations to existing structures.

Other Non-Stock Corporations giving a Branford Address:

Pine Orchard Yacht and Country Club, Inc. November 6, 1959 (48:51)
Pleasant Point Association, Inc. June 3, 1953 (37: 561)
Pot Rock Island Association, Inc. August 13, 1963 (54: 802)
Stony Creek Boating Association, Inc. May 9, 1955 (40: 482)
Sunset Manor Association, Inc. July 22, 1965 (59:456)
Valley Shores Association, Inc. August 25, 1970 (74:855)

INCOMPLETE LISTING

Bridgeport

Bridgeport has no residential associations established by special acts. There are no areas with independent zoning authority. There

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3/ Ibid.

4/ South Central Regional Planning Agency

are some non-stock corporations which own shorefront property, including several yacht clubs and condominium resident associations. A sample of non-stock corporations includes the following:

Miamogue Yacht Club July 1, 1907 (6:495)
Pequonnock Yacht Club February 7, 1906 (6:245)
Wepawaug Yacht Club, Inc. June 30, 1972 (80:1088)
Wepawaug Shores Association, Inc. February 8, 1967
Dissolved by forfeit on March 5, 1973
Reinstated on June 6, 1973 (8:256)
INCOMPLETE LISTING

Chester

Chester has no residential associations established by special act. There are no areas with independent zoning authority. There are no separate taxing districts. (The town clerk's office in Chester stated that there are some residential associations in the town, but no record of them was found).

Clinton

Clinton has no areas with independent zoning.

Established by Special Act:

Beach Park Point Association
(25 SL 1307) July 26, 1949
(29 SL 453) June 16, 1959

Beach Park Point was incorporated as an improvement association for the "health, comfort, protection and convenience" of its residents. The 1949 special act includes the power to regulate the kind and number of structures erected on individual lots, but the power to zone is not explicitly given. The association has the authority to collect taxes not exceeding ten mills and to issue bonds and notes. Section 15 of the 1949 act provides that if any bylaw, regulation, or ordinance of the association conflicts with any lawful town ordinance, the town shall prevail. The association includes sixty residences, forty-four of which are seasonal dwellings. 5/

Beach Park Road Association
(25 SL 1208) July 2, 1953

Beach Park Road Association was incorporated as an improvement association. The special act gives the power to regulate the number and kind of structures, but does not give explicit power to zone. The act contains a provision which states that in the event of a conflict between town laws and those of the association,

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5/ Connecticut River Estuary Regional Planning Agency

the town will prevail. There are 26 dwellings within the association. Eight are seasonal. 6/

Clinton Beach Association
(33 SL 259) June 20, 1967

Clinton Beach Association was incorporated "to provide for the improvement of land and adjacent waters ... as a residential and resort area ... for the health, safety, welfare, comfort, protection and convenience (of residents)". The act permitted the association to make rules, in conjunction with the Clinton police commissioner, for town roads within the district. It also provided for the control of private roads. The act permits Clinton Beach to regulate the kind and number of structures and to prohibit some types of businesses, but does not explicitly provide for zoning. As with other beach associations in Clinton, the special act includes a provision through which town law will prevail in the event of a conflict with association bylaws, regulations or ordinances. There are approximately 150 residences within the association. Of these, 135 are seasonal dwellings. 7/

Grove Beach Improvement Association (partially in Westbrook)
(12 SL 118) April 3, 1895
(14 SL 237) May 27, 1903
(18 SL 134) May 1, 1919
(20 SL 313) May 12, 1927

Grove Beach Improvement Association was incorporated in 1895 to deal with sanitary problems. The first act established a five member sanitary board and provided for street lighting and street improvements. The 1903 act gave the association the authority to construct and maintain a sewer, taking land through condemnation when necessary. The 1919 special act replaced the sanitary board with a governing board and added to its duties the responsibility for new roads. The 1927 act provided for the regulation of the number and kind of structures and prohibition of certain types of businesses. It limited the annual tax rate to no more than five mills. Grove Beach has 155 dwellings, of which 62 are seasonal. 8/

No non-stock corporations or other types of residential associations were found in Clinton.

6/ Ibid.

7/ Ibid.

8/ Connecticut River Estuary Regional Agency

Darien

Darien has no areas with independent zoning. There are no residential associations chartered by special act. There are several non-stock corporations and clubs. The Tokeneke Water Company was established by special act (15 SL 143) on May 14, 1907 for the purpose of supplying water to property owners or contiguous property owned by the Tokeneke Corporation. The following non-stock corporations are located in Darien:

Noroton Bay Property Owners, Inc. March 21, 1955 (40:232)
Sea Gate Association April 15, 1947 (30: 1001)
Spring Brook Terrace Association January 7, 1974 (86: 56)
Tokeneke Association, Inc. August 23, 1929 (17: 308)
Tokeneke Club, Inc. September 10, 1907 (7:23)
West Holly Association August 7, 1958 (45: 1006)
Woodland Manor Association April 15, 1974 (86: 1090)
INCOMPLETE LISTING

Deep River

Deep River has no areas with independent zoning. One association, created by special act (The Association of Winthrop Neighbors, (28 SL 552) is not located on the river. No non-stock corporations of residents have been found.

East Haven

East Haven has no areas with independent zoning.

Cosey Beach Improvement Association
(13 SL 1085) June 13, 1901
(15 SL 30) March 26, 1907
(22 SL 212) June 4, 1935

The 1901 special act incorporating the Cosey Beach Improvement Association provided for a three member sanitary board with authority to employ persons to remove garbage and assess for it. They were further empowered to prevent nuisances. The 1907 act expanded the boundaries of the association, increased the terms of the sanitary board, gave the power to employ constables and to provide fire hydrants, and raised the assessment limit. The 1935 act once again increased the association boundaries.

Branford Manor Civic Association
(20 SL 471) June 22, 1927

The incorporating act in 1927 established a board of managers whose duties included oversight of garbage collection, employing watchmen, levying an assessment up to ten dollars if necessary, limiting nuisances, maintaining roads, installing lights and

hydrants, and constructing and maintaining association buildings.

East Lyme

Established by Special Act:

Attawan Beach Association
(25 SL 1199) July 1, 1949
(33 SL 217) June 15, 1967

The 1949 act incorporated Attawan Beach Association as an improvement association with a list of powers including traffic control, lifeguards, police protection, regulation of the type and size of buildings and some uses, and establishment of building lines. The act also stated that the association could "enact and alter zoning ordinances in accordance with Chapters 43 and 44 of the General Statutes". The association is presently under the jurisdiction of the town zoning commission, but employs additional zoning restrictions within its territory. The association is empowered to levy taxes not to exceed a five mill rate.

*Black Point Beach Club Association
(21 SL 537) May 25, 1931
(22 SL 118) April 30, 1935
(23 SL 752, 813) April 10, 1941
(25 SL 30) April 23, 1947
(29 SL 144) June 8, 1961

The territory of the Black Point Beach Club Association is a separate taxing district with independent zoning with the town of East Lyme. An active association with a wide range of powers, Black Point was given zoning powers in the 1947 and 1961 special acts. The 1961 act gave the governing board authority to appoint a zoning commission with powers and duties under Chapter 124 of the General Statutes.

The Cresent Beach Association
(22 SL 251) June 4, 1935
(22 SL 757) June 3, 1947
(25 SL 612) July 9, 1947
(25 SL 1095) July 1, 1949

The Cresent Beach Association was incorporated in 1935 as an improvement association. Subsequent acts shifted responsibilities from the annual association meeting to the governing board and expanded the limits of the association. The 1949 act limited the

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*INDEPENDENT ZONING

taxing power to a rate no greater than five mills. Section 8 of the 1935 act gives the association the authority to enact zoning ordinances, but the association territory is currently under the jurisdiction of town zoners. The association does impose some additional restrictions beyond town requirements: Many of the services formerly provded by the association have been assumed by the town gradually. The primary remaining function is the maintenance and regulation of the association beach. (On April 24, 1963, several residents of Cresent Beach presented testimony on a bill to remove some properties from the association. This testimony is included as Appendix C of this report).

The Giants Neck Beach Association
(23 SL 1006) June 18, 1941
(25 SL 369) June 30, 1947
(26 SL 333) January 1951
(28 SL 398) May 22, 1957
(29 SL 175) June 2, 1959

Giants Neck Beach Association is a separate taxing district with the authority to levy taxes not exceeding eight mills. The tax rate is set by the association's annual meeting. The 1951 act gave the association the power to provide water to its residents. The 1941 act explicitly states that the association may "zone the area within the limits of said association, thereby regulating and restricting (height, size, etc)". Despite this power, town zoning regulates the association area. There are some special regulations that apply only to the association territory, such as the right to build closer to property lines than is permitted elsewhere. 9/

The Giants Neck Heights Association
(23 SL 1006) June 18, 1941
(26 SL 1141) June 30, 1953
(28 SL 184) May 1, 1957
(31 SL 221) June 19, 1963

Organized as an improvement association, Giants Neck Heights is a separate taxing district with the Town of East Lyme. The tax rate is limited to ten mills on improved land only.

Although the 1953 act gives the association the right "to zone the area within the limits of said association", town zoners have jurisdiction over association territory. The association also has

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9/ Town of East Lyme, Building and Zoning office.

regulations which supplement the town zoning. Like most of the associations in the town of Clinton, Giants Neck Heights special act includes a provision that in the event that an association bylaw, ordinance or regulation conflicts with a provision of the town, the town law shall prevail.

Pine Grove Niantic Association
1975 S.A. 75-43

The Pine Grove Niantic Association was in 1975 for the "improvement, recreation, comfort and convenience" of its residents. Its taxing powers are limited to an annaul rate of five mills.

Oak Grove Beach Community Association, Inc.
(34 SL 169) May 21, 1969

This association was incorporated as the successor to the Oak Grove Beach Association, a previously established non-stock corporation. It is also the result of a merger of two associations in the area into a single unit. It has all the powers of a non-stock corporation plus some additional rights, including the authority to levy an assessment not in excess of $10 per person annually.

Associations not established by special act:**

The Old Black Point Association, Inc. May 24, 1941 (32:43)
Saunders Point Association, Inc. December 6, 1960 (49: 768)
Ridge Acres Association June 28, 1956 (42: 180)
Groton Lake Shores - taxing district
Pine Grove Association - taxing district
Niantic Bay Yacht Club, Inc. May 20, 1940 (24: 486)
Pettagansett Club, Inc. April 14, 1930 (17:550)
Smith Cove Yacht Club July 1, 1976 (93:819)

INCOMPLETE LISTING

Essex

Essex has no areas with independent zoning. There are no separate taxing districts. Only one water-related non-stock corporation was found:

Pettipaug Yacht Club, Inc. November 23, 1956 (42: 749)

**Not all corporations listed are coastal residential associations. The clubs listed own waterfront property.

Fairfield

Fairfield has no areas with independent zoning. There are three districts established by special act, but they are not located on the water.

Associations not established by special act:**

Fair Acres Association, Inc.

Fair Acres Association owns, maintains, and restricts a right of way to the beach. It charges a fee of its members, between 200 and 300 families, to maintain property, and pay association property taxes. 10/

Sasquanaug Association for Southport Improvement, Inc.
April 19, 1950 (33: 952) - name changed from Sasquanaug Society for Village Improvement

An old association thought to date from the early 1800's, the Sasquanaug Association is more like a club than a special service district. It owns and operates the Pequot Library and several other parcels of land which are undeveloped. The association also owns and operates a bath house on their beachfront property. The association has worked actively with the town planning and zoning commission, and in 1967, commissioned a study "Master Plan for Southport".

Rocky Beach Association, Inc. September 17, 1959 (47: 974)
Southport Area Association, Inc. September 25, 1942 (26: 466)
Amended September 8, 1961 (51: 141)
Pequot Yacht Club, Inc. April 25, 1925
North Pine Creek Property Owners Association
Lund Court, Inc.
W.O. Burr Corporation

INCOMPLETE LISTING

Greenwich

Greenwich has no areas which exercise independent zoning. There are, however, a number of distinct neighborhoods. Many neighborhood areas

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** List includes corporate landholders which are not residential associations.

10/ Greater Bridgeport Regional Planning Agency

are separate taxing districts which provide separate services for their residents, such as maintenance of private roads and guard service.

Taxing districts include the following areas:
Established by the Belle Haven Land Co. February 26, 1884 (9 SL 894)
Field Point Park District
Harbor Point District
Indian Harbor District
Mead Point District

Non-stock corporations are numerous in Greenwich. Some are residential associations; others are clubs which own and manage shorefront property. An incomplete listing of these non-stock corporations includes the following:

The Milbrook Club, Inc. December 31, 1940 (25:198)
Old Greenwich Yacht Club, Inc. July 20, 1967
Old Greenwich-Riverside Community Center January 20, 1958 (44:969)
Old Mill Property Owners Association. January 24, 1975 (89: 118)
Perkins Road Association July 30, 1959 (47:805)
Rowayton Beach Association August 17, 1928 (16:550)
Riverside Acres Association September 11, 1958 (45: 1155)
Riverside Yacht Club, Inc. December 19, 1927 (16: 372)
Rocky Point Club, Inc. December 17, 1953 (38:387)
Shoreham Association, Inc. July 9, 1964 (56: 372)
Amended (61: 656) (63: 487)
Shorelands Association, Inc. September 8, 1950 (34:208)
Sylvan Shore Park Association October 31, 1932 (19:237)
Weavers Hill Property Owners Association November 10, 1971 (78:994)
Willowmere Association, Inc. September 18, 1929 (17:327)
Lucas Point Association
Hawthorne Beach

INCOMPLETE LISTING

Groton

Groton has the only unconsolidated city remaining in the coastal towns. It has several taxing districts with very limited functions, primarily fire protection and garbage collection. There are three areas with independent zoning.

Established by Special Act:

*City of Groton
(14 SL 437) June 22, 1903
(21 SL 1056) June 1, 1933

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*INDEPENDENT ZONING

(22 SL 772) June 8, 1937
(31 SL 296) June 24, 1963

Although the City shares some municipal services such as education and tax collection with the town, the City has all the powers of the town. It maintains its own police force, public works department, fire department, and has its own independent zoning board. Although city residents serve as town officials, most politically active city residents oppose city-town consolidation. The City Utilities owns its own municipal water and electric companies. Approximately 10,000 persons live in the City, one third of the population of the town of Groton. Established a borough in 1903, a special act of 1963 gave the area the status of a city.

*Groton Long Point
(18 SL 647) May 19, 1921
(21 SL 436) May 21, 1931
(S.A. 73-108) June 17, 1973

Groton Long Point was incorporated with the powers of a city, town, or borough under Section 3421 of the General Statutes. Initially a summer resort, year round occupancy has been increasing rapidly in recent years and has accelerated with the coming of town sewers in 1976. The association has its own police and public works departments. Some of the taxes paid to the town by the association are returned annually for police and public works. The association exercises its independent zoning authority, with no contact with the town zoning commission. The association frequently refers to itself as the Borough of Groton Long Point. There are 536 residences in the area.**

*Noank Fire District
Organized under Section 519 of the General Statutes, Revision of 1918, by vote of the district on April 8, 1929
(25 SL 93, 150) April 27, 1947
(26 SL 210) July 10, 1951
(29 SL 433) June 16, 1959
(30 SL 270, 224) June 21, 1961

Noank is an historic fishing village. The Noank Fire Company was established as a non-stock corporation in 1905. Noank has a distinct identity apart from the town. It has its own post

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* INDEPENDENT ZONING

** Town of Groton Planning Office

office station. The Fire District, in addition to providing fire protection, owns the water distribution system for its area. In 1947, the special act gave Noank the power to zone. The 1951 act stated that the provisions of Chapter 43 of the General Statutes shall apply to Noank. The 1959 act amended the size of the zoning commission. The 1961 act increased the size of the fire district to include contiguous territory.

Association not established by special act:

Mumford Cove Association August 17, 1961 (51:24)

Mumford Cove is under the jurisdiction of the town zoners, but imposes additional restrictions on its residents. Roads within the association are private and maintained by the association. Town police do not patrol the area, but will answer calls.

Other non-stock corporations:

Ram Island Yacht Club, Inc. March 25, 1941 (25:321)
Shennecossett Yacht Club, Inc. September 1,1938 (23:199)

Guilford

Established by Special Act:

Indian Cove Association
(34 SL 122) May 21, 1969

Originally established as the Indian Cove Improvement Association, the Indian Cove Association was incorporated in 1969 as an improvement association. The special act gives the association the authority to regulate travel, improve streets, and maintain and operate the association beach. An annual assessment is proposed by an executive committee and approved by the association at their annual meeting. Indian Cove's roads are private. The association employs policemen on summer weekends. Originally a summer resort, the association has 115 dwellings, 55 of which remain summer occupancy only. The association owns a small beach. Indian Cove does not have independent zoning, nor is the power to zone given in the special act. A section of the act provides that if an association bylaw, regulation or ordinance conflicts with a provision of the town, the town law prevails.

*Old Quarry Association
(25 SL 395) July 9, 1947
(35 SL 35) May 12, 1971

Old Quarry Association includes 22 year round homes. It owns area roads, a beach, tennis courts and a dock. The 1947 act gave the

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* INDEPENDENT ZONING

association the authority to adopt a zoning ordinance in accordance with Chapter 29 of the General Statutes. The association did not exercise its authority initially. The 1971 special act stated "the provisions of Chapter 124 of the General Statutes, as amended, shall be applicable ...(and)...the zoning commission...shall have exclusive jurisdiction (over zoning in the territory)".

*Sachems Head Association
(18 SL 866) June 3, 1921
(21 SL 235) May 1, 1931

Originally incorporated as an improvement association, Sachems Head Association grew out of the former Sachems Head Property Owners Association. Sachems Head was once a resort area with a large hotel, but it is now exclusively residential. The 1921 act gave the association a variety of powers, including the power to regulate building lines and construction, prohibit certain uses, provide police services, and take necessary measures to protect the health of residents. The 1931 act added fire protection to the association's powers and raised the limit of the tax rate to not more than 10 mills. The 1935 act gave the association explicit zoning powers. Chapter 29 of the General Statutes was applicable to and within the Sachems Head Association. The association zoning authority was given exclusive jurisdiction within the area. The executive board is, by the 1935 act, the zoning authority, but may appoint a three member zoning board and a three member zoning board of appeals. With approximately eighty residences, only a few of Sachems Head's homes remain for summer residency only. The association owns a beach and tennis courts which are open to association residents only.

Associations not established by special act:

Mulberry Point Association, Inc. July 8, 1948 (31:1174)

Mulberry Point consists of 92 high density homes of pre-World War II vintage which have been converted to year round use. The association owns and maintains roads within the territory.

Tuttles Point Improvement Association September 3, 1947 (31:154)

Tuttles Point Improvement Association has 40 homes, now all year round. It owns and maintains area roads. Now primarily a social group, the association holds a picnic annually for its members.

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* INDEPENDENT ZONING

Tuttles Point Beach Association, Inc. July 15, 1971 (77:1161)

This association owns and maintains the beach at Tuttles Point. It collects dues separately from the Improvement Association.

Robinson's Woods, Inc. November 14, 1966 (63:114)

Inner Circle Association

Little Harbor Association

This association of 28 homes owns its roads and maintains two beach areas with annual dues collected from residents.

Vineyard Point Association

The Vineyard Point area consists of 30 year round homes.

INCOMPLETE LISTING

Hamden

Hamden has no areas of independent zoning, no separate taxing districts, and no residential districts established by special act. Only one possible non-stock corporation was found:

Money Island Association, Inc. August 28, 1970 (74:888)

Ledyard

Ledyard has no areas of independent zoning. The only special district along the river is the Gales Ferry Fire District, the sole function of which is fire protection. Several residential associations are located inland.

Lyme

Lyme has no areas of independent zoning. There are some inland associations. One association, established by special act, has separate taxing powers:

Joshuatown Association
(22 SL 794) May 28, 1937
(32 SL 74) May 25, 1965

The association's charter establishes it as an improvement association with limited authority to prohibit certain uses. All services are provided by the town. The 1965 special act amends the objective of the association to include "and especially for the preservation of natural conditions and the rural residential

character of the area".

Hadlyme-Ferry Association

Established June 19, 1939

Madison

Madison has no areas of independent zoning. Several associations are special taxing districts.

Established by Special Act:

Lee Manor Association
(27 SL 196) June 2, 1955

This association was incorporated as an improvement association with a Board of Governors responsible for streets, the association beach, and police protection. Lee Manor includes 65 residences, 40 of which are summer occupancy only. 11/ The association owns and maintains a beach open only to its members. Lee Manor has no zoning authority. It levies an annual assessment for dues.

Overshore Association
(27 SL 191) June 3, 1955

Incorporated as an improvement association, Overshore owns and maintains area roads and a 300 ft. beach open only to association members. The association includes 45 homes, 25 of which are summer occupancy only. 12/ Taxing power is limited to seven mills on the dollar of assessed valuation of taxable real estate.

Associations not established by Special Act:

Seaview Beach Association, Inc. August 6, 1946 (29:534)

A non-stock corporation, the Seaview Beach Association includes 47 homes, with 10 for summer occupancy only. The association owns a beach open only to members. It does not own or maintain roads or conduct any zoning functions. It levies an annual tax on each household. 13/

11/ South Central Regional Planning Agency

12/ Ibid.

13/ South Central Regional Planning Agency

Waterbury Avenue Association

This association includes 20 residences, 7 for summer occupancy only. It owns a beach open to members only and collects voluntary dues annually. 14/

Other Associations:

Twin Cove Crow Egg Beach Association
Stoneleigh Association, Inc. October 27, 1960 (49:796)
Madison Summer Resident Property Owners' Association, Inc.

INCOMPLETE LISTING

Milford

Established by Special Act:

*Borough of Woodmont
(11 SL 275) April 19, 1893
(14 SL 449) June 18, 1903
(28 SL 120) April 23, 1957
(28 SL 848) June 17, 1957

Incorporated as the Woodmont Improvement Association in 1893, the association was first governed by a sanitary board responsible for control of garbage and nuisances. In 1903, the name was changed to the Woodmont Association and an extensive list of powers was granted. The government structure was changed to a borough format. In 1957, the name was changed the Borough of Woodmont and Section 2 of the act states that "said borough shall have all powers and duties of boroughs under the General Statutes". Woodmont owns and maintains 5 3/4 miles of road. Parking is controlled by the Milford Police Department. The Borough provides its own public works department, garbage collection and some police service. It makes recommendations to the city zoning board, and exercises some of its own zoning authority. All borough property is open to residents of the city. There are 4,519 residences in the Woodmont area with about 2,400 for summer occupancy only. The Borough levies taxes on assessed real property. 15/

14/ Ibid.

15/ Ibid.

* INDEPENDENT ZONING

Bayview Improvement Association
(18 SL 450) April 20, 1921
(26 SL 188) June 29, 1951

The 1921 act gave the association the power to employ watchmen, collect garbage, and maintain the association beach and the access to it. Section 11 of the act gives the association the same powers as towns regarding fires, sewers, and health. The 1951 act changed the date of the annual meeting and the manner of assessing. Bayview includes 350 residences, with about 100 for summer use only. 16/ It owns Bayview Beach which is open only to association members. The association does not have or exercise independent zoning power.

Laurel Beach Association
(13 SL 129) April 18, 1899
(18 SL 144) May 14, 1919

The special act incorporating Laurel Beach gave it the power to lay out roads, docks and sewers with the consent of affected property owners, and to furnish residents with water, gas, and electricity Section 8 of the act states that the association shall have all powers and privileges granted to towns under sections 134, 135, and 136 of the General Statutes and amendments thereof. The 1919 act increased the association's taxing authority, changed the meeting date and manner of voting, and the method of selecting officers. The association owns all roads within its boundaries and regulates parking, although the city maintains the roads. The association owns Laurel Beach. There are approximately 200 residences, with 25 for summer occupancy only. 17/ Although under the jurisdiction of city zoners, the Laurel Beach Association imposes additional restrictions upon its residents.

Morningside Association
(18 SL 702) May 27, 1921

Established as an improvement association, Morningside has the power to tax, establish a board of health and provide police services, and to build and maintain roads and bridges. It was given authority to establish building lines and regulate construction. The association has the authority to tax at a rate limited to 15 mills on the dollar, but the current mill rate is 2.25 mills. There are 176 residences within the association. Under the jurisdiction of City zoning, the association imposes additional zoning requirements.

16/ South Central Regional Planning Agency

17/ Ibid

The association owns seawall and shorefront to which access is unrestricted. 18/

Myrtle Beach Improvement Association
(17 SL 907) April 24, 1917
(19 SL 113) April 19, 1923
(21 SL 196) April 23, 1931
(24 SL 589) May 28, 1945

Myrtle Beach was incorporated to provide for garbage collection and regulate nuisances. Later special acts dealt with assessment powers and a change in the boundaries of the association. Myrtle Beach is now "defunct". 19/

Point Beach Improvement Association
(20 SL 1030) June 18, 1929

The special act incorporating Point Beach Improvement Association gave it the power to collect garbage, provide beach care, and levy an annual assessment. It also gave the association the same privileges and powers regulating fire, sewers, and health as towns. The association owns five fifty-foot rights of way and a 300 ft. beach, access to which is limited to association members. There are 150 residences, with 50 for summer occupancy only. The association does not exercise zoning powers. 20/

Wildemere Beach Improvement Association
(12 SL 231) May 3, 1895
(19 SL 626) April 2, 1925
(23 SL 242) May 29, 1939
(25 SL 548) July 8, 1947
(25 SL 936) June 22, 1949
(31 SL 225) June 19, 1963

Wildemere Beach Improvement Association was originally incorporated in 1895 as the Walnut Beach Improvement Association. The 1925 act extended the boundaries and changed the method of assessment. The boundaries were changed again in 1939. A board of governors was established by the 1947 act, and the name changed in 1949. The act of 1963 repealed Section 6 of the 1949 act, thereby removing most of the powers of the association.

18/ South Central Regional Planning Agency

19/ City of Milford planning staff

20/ South Central Connecticut Regional Planning Agency

Associations not established by Special Act:

Milford Yacht Club July 4, 1903 (5:356)
Oak Point Club, Inc. August 19, 1965 (59:611)
Point Lookout Association June 19, 1950 (33:1255)
Pond Point Beach Association August 21, 1974 (88:4)

INCOMPLETE LISTING

Montville

Montville has no areas or independent zoning or special residential taxing districts. No associations were found.

New Haven

The City of New Haven has no areas of independent zoning or special taxing districts. Several waterfront condomininum associations were located. The following non-stock corporations were found:

Morris Cove Community Club January 14, 1955 (39:985)
Ocean View Condomininum Association July 16, 1973 (84:747)
Pleasant View Association June 14, 1966 (61:823)
Shoreham Park Association September 3, 1946 (30:60)
Waucoma Yacht Club January 1910 (7:512)

INCOMPLETE LISTING

New London

There are no areas of independent zoning in New London.

Established by Sepcial Act:

Neptune Park Association
(21 SL 978) May 24, 1933
(28 SL 581) June 4, 1957

The incorporating act gave Neptune Park Association the power to collect garbage, employ watchmen, provide beach care, and levy assessments. An unusual provision authorized the hiring of a zoning enforcement officer to enforce City of New London regulations within the territory of the association. The act stated that in the event of a conflict between association bylaws, regulations or ordinances and those of the city, the city would prevail. Despite the unique zoning authorization, the association does not have its own officer and is controlled by city zoning.

Other associations:

Gutherie Beach Association
Pequot Point Beach Association
Bellard Beach Association (recently sold - name changed) 21/

INCOMPLETE LISTING

North Haven

North Haven has no areas of independent zoning. No separate taxing districts exist. No additional associations were located.

Norwalk

Norwalk has no areas of independent zoning authority, although there are several areas which have no zoning. No associations established by special act were located.

Associations not established by Special Act:

Village Creek Association
Ascension Beach Club
Bell Island Improvement Association
Marvin Beach
Harborview Association
Rex Yacht Club July 17, 1961 (50:933)
Shorefront Park Improvement Association May 24, 1946 (29:375)
Shorefront Yacht Club and Marina March 4, 1965 (58:60)
Neptune Boat Club June 17, 1960 (48:1052)
Norwalk Shorehaven Association August 19, 1952 (36:435)
Norwalk Yacht Club October 1, 1984 (3:21)
Oakwood Avenue Association February 17, 1969 (69:1020)
Roton Point Sailing Association September 13, 1976 (94:188)
Roton Point Beach Club
Silvermine Manor Association February 25, 1974 (86:497)
Snug Harbor Association May 14, 1965 (58:1126)
South Norwalk Boat Club May 21, 1931 (18:338)
Viking Yacht Club March 8, 1957 (43:345)
Westview Lane Association August 22, 1967
Wilson Point Beach, Inc. May 16, 1924 (14:459)
Wilson Point Property Owners Association December 3, 1929 (17:390)

INCOMPLETE LISTING

21/ Zoning Officer, City of New London

Norwich

Norwich has no areas of independent zoning. Special taxing districts are for fire service only. Three neighborhood associations with covenants are located inland. One possible shore association was located:

Trading Cove Association, Inc. August 31, 1962 (52:785)

Old Lyme

Old Lyme has no areas with independent zoning powers.

Established by Special Act:

Miami Beach Association
(26 SL 1130) July 1, 1949
(26 SL 238) June 12, 1951
(37 SA 38) April 10, 1973

The Miami Beach Association was incorporated for the improvement of its territory and its "maintenance as a summer resort". Among other powers, it was given the authority to regulate the construction of buildings and prohibit certain business uses. A provision in the charter states that if any ordinance, regulation, or bylaw of the association conflicts with one of the town,the town will prevail. There are approximately 210 dwellings units, 200 of which are seasonal.

Old Colony Beach Club Associaiton
(22 SL 160) May 10, 1935
(25 SL 385) June 27, 1947

This association was incorporated as an improvement association. Among its powers, the charter gives it the right to regulate the number of cottages and structures on a single building lot. Old Colony area was the site of a redevelopment project by the town of Old Lyme. There are 250 units, about 225 of which are seasonal. 22/

22/ Connecticut River Estuary Regional Planning Agency

Old Lyme Shores Beach Association
(25 SL 530) June 19, 1947
(27 SL 740) December 20, 1955
(28 SL 350) May 13, 1957

Established to provide for the improvement of land and maintenance as a residential summer resort, the association is empowered to tax at a rate not exceeding ten mills. There are approximately 200 hundred dwellings, 142 of which are summer occupancy only. 23/ The association has the authority to regulate the number and kind of buildings. The charter contains a provision by which town laws prevail in the event of a conflict with those of the association.

Point O'Woods Association
(19 SL 1031) June 12, 1925
(20 SL 447) June 22, 1927
(20 SL 767) May 8, 1929
(21 SL 1053) June 1, 1933
(24 SL 586) May 28, 1945
(25 SL 846) May 10, 1949
(27 SL 213) June 3, 1955
(31 SL 127) June 1, 1963
(33 SL 512) July 6, 1967

The 1967 special act repealed the previous acts and reorganized the association charter in a more coherent form. Section 1.5 of the 1967 act includes an extensive list of powers involving streets, water supply, sewers, lighting, garbage, police, traffic control, health and other areas of concern. Point O'Woods does not, however, have independent zoning authority. Although estimates vary, there are about 420 dwellings, close to 400 of which are seasonal. 24/ The association may tax at a rate not to exceed 15 mills, and has the authority to levy a special tax not exceeding five mills to meet any special emergency appropriation.

White Sand Beach Association
(20 SL 489) June 22, 1927
(21 SL 48) March 24, 1931
(26 SL 930) June 12, 1953
(26 SL 933) June 12, 1953
(28 SL 386) May 20, 1957

Among the powers granted the White Sand Beach Association are the powers to provide fire service, to regulate construction, and the powers of towns in matters of health, police service and water supply. Amendments to the original act have changed the date

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23/ Connecticut River Estuary Regional Planning Agency

24/ Ibid.

of the annual meeting and the manner of voting, and have increased the taxing authority to the present rate not in excess of ten mills per year. There are approximately 130 homes in the White Sand area, all but a few of which are sasonal. 25/

Black Hall Association
(25 SL 734) July 9, 1947
(31 SL 214) June 9, 1963

The Black Hall Association is inactive. Oddly, the description of its boundaries in the 1947 special act encompass the White Sand Beach Association. The association has the explicit power to enact, amend and enforce zoning ordinances, but it has not done so. The charter and 1963 charter amendment contain a list of prohibited land uses. Much of the Black Hall area is under single ownership and is undeveloped.

Associations not established by Special Act:

Hatchetts Point Improvement Company stock company, incorporated on October 21, 1899
Hawks Nest Beach Club Association September 4, 1958 (45:1135)
Sound View Association
Mile Creek Club
Old Lyme Beach Club
Old Lyme Country Club

INCOMPLETE LISTING

Old Saybrook

Established by Special Act:

*Borough of Fenwick
(13 SL 231) May 15, 1899
(24 SL 185) May 19, 1943
(26 SL 223) June 13, 1951
(28 SL 23) April 3, 1957

Fenwick was incorporated in 1899 as a borough. It has full powers, including independent zoning. Amendments since 1899 have eliminated the office of sheriff, changed the annual meeting date and the method of tax collection, and provided for biennial election of officers.

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* INDEPENDENT ZONING

25/ Connecticut River Estuary Planning Region

There are 65 residents in Fenwick, with approximately 40 for seasonal occupancy. 26/ Fenwick's roads are private and access is controlled.

Chalker Beach Improvement Association
(21 SL 378) May 19, 1931
(21 SL 697) May 28, 1931
(21 SL 974) March 22, 1933

Chalker Beach was incorporated with powers to collect garbage, employ watchmen, maintain and operate the beach, and levy assessments. Subsequent amendments have dealt with annual meeting dates and a change in boundaries. Chalker Beach has no authority to zone. There are approximately 260 residences in the association, of which 180 are seasonal. 27/

Cornfield Point Association
(24 SL 308) July 13, 1943
(24 SL 733) June 25, 1945
(25 SL 855) May 10, 1949
(28 SL 129) April 23, 1957
(34 SL 26) April 21, 1969
S.A. 74-29 May 6, 1974

An act of May 10, 1935 (22 SL 15), was never accepted by the town.

Cornfield Point Association includes approximately 340 residences, about 135 of which are still seasonal. 28/ Although the association has the authority to regulate the number and kind of structures constructed, it does not have explicit zoning power. It is under the jurisdiction of the town zoners. Most amendments have dealt with the assessment powers of the association. The 1969 act provided for a special assessment to construct a jetty. The present assessment may not exceed $100 on each developed lot or $20 on each vacant lot.

Indian Town Association
(23 SL 369) June 19, 1939
(32 SL 187) June 25, 1965

Organized as an improvement association in 1939, the association does not have independent zoning power. Its charter provides for the prevention and regulation of certain business uses, however. There are approximately 155 homes in the Indian Town area, about half of which are seasonal. 29/

26/ Connecticut River Estuary Regional Planning Agency

27/ Ibid.

28/ Ibid.

29/ Ibid.

Knollwood Beach Association
(20 SL 1974) June 18, 1929
(21 SL 125) April 8, 1931
(25 AL 593) July 10, 1947
(26 SL 162) June 29, 1951

The Knollwood Association has the authority to provide fire protection, maintain streets and beaches, provide street lighting, collect garbage, abate nuisances, regulate sewage disposal, and regulate parking within the territory. The 1951 act provided that the executive board could appoint a five member zoning commission with powers and duties given zoning commissions under Chapter 43 of the General Statutes. If further provided that if any bylaw or regulation conflicts with a town ordinance, the stricter one will prevail. At present, the association must comply with the town's zoning regulations, but also have their own zoning in addition. There are approximately 260 residences, only 27 of which are seasonal. 30/

Saybrook Manor Association
(21 SL 973) May 24, 1933

A non-stock corporation established on July 7, 1931 (18:378) was dissolved on February 14, 1975 (89:334)

Established as an improvement association, the charter provided for employment of watchmen, collection of garbage and care of the beach. There are 165 residences in the area, about 100 of which are summer occupancy only. 31/

Associations not established by Special Act:

Great Hammock Association (80 homes)
The Forest Glen Association October 24, 1960 (49:569)
Otter Cove Association April 7, 1965 (58:824)
The Saybrook Manor Cove Association August 22, 1957 (42:378)
Old Saybrook Yacht Club April 8, 1960 (48:746)
Reservoir Beach Improvement Association June 2, 1969 (71:388)
Saybrook Point Yacht Club August 28, 1951 (35:250)

INCOMPLETE LISTING

Orange

There are no areas of independent zoning nor special taxing districts. Only one possible association was located:

Valley Yacht Club June 14, 1967 (65:317)

30/ Connecticut River Estuary Regional Planning Agency

31/ Ibid.

Preston

Preston has no independent zoning and no separate taxing districts. No associations were located.

Shelton

Shelton has no independent zoning and no separate taxing districts. No associations were located.

Stamford

Stamford has no areas of independent zoning. The three separate taxing districts are not based on residential association areas. No associations established by special act were found.

Associations not established by Special Act:

Stamford Yacht Club
Woodway Beach Club
Oceanview Beach Club
Sea Beach Association
Dolphin Cove Association
Overbrook Drive Association April 11, 1946 (29:285)
Ponus Yacht Club March 30, 1911 (8:223)
Revonah Woods Property Owners Association April 8, 1958 (45:254)
Amended May 8, 1967 (65:56)
River Bend Association May 23, 1966 (61:618)
Shippan Point Association August 22, 1908
Name changed to present name November 22, 1915 (19:419)
Sound View Manor Property Owners Association August 2, 1956 (42:325)
Cove Island Boating and Sportsmens Association May 15, 1963 (54:391)
Stillwater Association June 22, 1966 (61:927)
Sunrise Hill Association May 25, 1976 (93:367)
Tapping Reeve Village Association March 9, 1976 (92:827)
Name changed from Pine Grove Association
Southfield Point Association April 9, 1928 (16:457)
Wallacks Point Park Association January 28, 1953 (36:1053)
Wardell Manor Association June 27, 1953 (80:1014)
Westover Park December 10, 1952 (36:860)
Willowbrook Lane Association May 15, 1961 (50:651)

INCOMPLETE LISITNG

Stratford

Stratford has no areas of independent zoning.

Established by Special Act:

Lordship Park Association
(18 SL 46) (These two acts provide for an extension in the time
(18 SL 653) allotted the association to construct a street railway).

Apparently the Lordship Park Association was a development corporation for the land in the area known as Lordship Manor. The fate of the street railway is unknown.

Associations not established by Special Act:

Lordship Improvement Association

This association has no taxing or zoning powers.

There are approximately 50 dwellings in the Lordship area, only five of which are seasonal. The association seeks to preserve the Lordship area as a residential development. It maintains a beach and collects voluntary dues to pay taxes on it. 32/

West Lordship Beach Corporation
July 9, 1974 (87:853)

The West Lordship Beach area includes 30 homes, 4 of which are seasonal. The corporation owns the land and cottages which are leased by members. 33/

Mill River Association
Orono Village Association
Pootatuck Yacht Club February 18, 1903 (5:259)

INCOMPLETE LISTING

Stonington

Established by Special Act:

*Borough of Stonington
(1 SL 216) May 1801
(3 SL 261) 1851
(7 SL 697) 1874
(14 SL 640) May 5, 1905
(22 SL 603) April 14, 1937

32/ Greater Bridgeport Regional Planning Agency

33/ Ibid.

With the full powers of a borough under the General Statutes, "Stonington Village" instituted its own zoning in August 1976. Taxing at a rate of 2.9 mills, the Borough has its own highway department, but uses the services of the town police, fire inspector, and building inspector.

Lords Point Association
(19 SL 992) July 6, 1925

Organized as an improvement association, Lords Point has the authority to prevent fires, own and maintain roads, maintain and operate a beach, and employ its own police officers. It may tax at a rate not greater than 7 mills.

Associations not established by Special Act:

Latimer Point Fire District
Masons Island Property Owners Association
Orchard Hill Beach Drive Association September 19, 1961 (52:859)
Wadawanuck Club December 6, 1946 (30:474)
Wamphassuc Point Association

INCOMPLETE LISTING

Waterford

Waterford has no areas of independent zoning. No associations established by special act were located.

Associations not established by Special Act:

Governors Landing Home Owners Association May 22, 1969 (34 SL 127)
Millstone Point Association August 17, 1961 (51:19)
Waterford Association
Bayside Beach Association
Pleasure Beach Association
Perry Beach Association

INCOMPLETE LISTING

West Haven

West Haven has no areas of independent zoning. There are two separate taxing districts - the former borough area, consolidated in 1931, and the West Shore Fire District, established by special act in 1935.

Associations not established by Special Act:

Minor Park Improvement Association 1932 (19:155)
Shore Haven Civic Association January 29, 1968 (66:964)
West Haven Yacht Club August 8, 1952 (36:385)

Stevens Heights Community Club May 4, 1932 (19:78)
Prospect Beach Civic Association November 27, 1967 (66:444)

INCOMPLETE LISTING

Westbrook

Westbrook has no areas of independent zoning.

Established by Special Act:

Island View Beach Association
(26 SL 904) May 10, 1953
(31 SL 120) June 11, 1963

The 1953 act was voted down in August 31, 1953, and the association was not incorporated until 1963. It was finally incorporated as an improvement association. The charter contains a provision by which town laws prevail over association regulations and bylaws. There are about 60 homes in the Island View Beach area, most of them year round.

Pilots Point Association
(35 SL 116) June 23, 1971

Pilots Point Association was incorporated for the improvement of the area as a residential and resort area. It has the power to regulate specific uses. The charter contains a provision by which town laws prevail over association regulations and bylaws. A non-stock corporation by the same name was established July 21, 1967 (65:642) and dissolved by forfeiture on March 15, 1973.

Stannard Beach Association
(25 SL 695) June 20, 1947
(37 SL 54) May 2, 1967

This association's charter provides for a building commission with the power to prohibit or regulate use of any structure or part thereof. It does not provide the power to zone. Construction activities are restricted to certain months of the year and a dual permit, from the town and the association both, must be obtained.

Grove Beach Point Association
(24 SL 582) May 11, 1945
(25 SL 317) June 9, 1947

Grove Beach Point's charter specifically states that the association has "no jurisdiction of the limits between high and low water except to abate nuisances and quell disturbances". Section 20 of the amended charter in 1947 gives the authority to regulate construction and repair of buildings. Grove Beach point's tax rate is limited to five mills.

Associations not established by Special Act

The Chapman Beach Association June 30, 1953
The Coral Sands Beach Association
The Old Kelsey Point Association September 2, 1930 (18:60)
Old Kelsey Point Hill and Beach Association August 7, 1946 (29:536)
Pointina Association, Inc. of Westbrook, Connecticut July 6, 1960 (49:64)
Sagamore Terrace Association July 26, 1951 (35:173)
Seaside Beach Association of Westbrook, Inc. July 27, 1965 (59:483)
Stannard Beach Improvement Association September 9, 1913 (9:345)
The West Beach Improvement Association
Middle Beach Association
Old Salt Works Road Association
Westbrook Council of Beach Associations June 28, 1972 (80:1016)

INCOMPLETE LISTING

Westport

Westport has no areas of independent zoning. There are no separate taxing districts or districts or associations established by special act.

Associations not established by Special Act:

Cedar Point Yacht Club
Sagatuck Yacht Club
Sprite Island Yacht Club
Minuteman Yacht Club October 31, 1967 (66:208)
Oak Ridge Park Association February 8, 1957 (43:215)
Oenoke Association April 3, 1972 (80:78)
Owenoke Association August 17, 1928 (16:551)
Dissolved by forfeiture, March 19, 1969 (70:544)
Reinstated October 14, 1970 (75:208)
Saugatuck Harbor Yacht Club December 30, 1958 (46:411)
Saugatuck Shores Club June 23, 1948 (31:1118)
Saugatuck Shores Owners Association July 18, 1955 (40:809)
Renzulli Road Association July 28, 1958 (45:943)
Soundview Mens Association December 4, 1972 (82:149)
Twin Circle Drive Association July 9, 1957 (44:14)
Web Road Association June 4, 1975 (39:926)
Westport Improvement Association August 16, 1974 (87:1191)
Westport Yacht Club March 5, 1959 (47:33)

INCOMPLETE LISTING

APPENDIX B: MEMORANDUM ON THE RELATIONSHIP OF GENERAL LEGISLATION AND SPECIAL ACTS

In a coastal management system, it may be desirable to consider parts of the coastline as an integrated whole. To the extent that the power held by associations interferes with a comprehensive management program, a management system may fail to achieve certain of its goals. In addition, implementation of such a program at the town level may be inhibited by the inability of the town to control certain areas within it, particularly the areas which are under control of the towns' political subdivisions.

Many of the associations in the coastal area have been given their charters through special acts of the General Assembly. Some have been given explicit powers to provide sewers, water, roads, police, garbage collection, and in some cases, zoning. The question which is raised, then, is whether general legislation can be developed which will overcome problems stemming from special acts which result in fragmented control of the coast. Can general legislation prevail over the specific provisions of special acts?

Two lines of precedent have evolved through the decisions of Connecticut courts. The first line is illustrated by a 1968 decision of the Superior Court of Litchfield County in which the court ruled that a special act is not affected by a general statute unless the intent to repeal or alter is clearly manifest (Watertown v. Watertown Fire District). The Watertown decision cites an earlier case as precedent. A later case with a similar holding is Waterbury Teachers Association v. Furlong. These cases are discussed below.

The other line of precedent is illustrated by the case of Delinks v. McGowan, in which the court stated, "In the conflict between the exercise of legislative power in the general public interest of the state by statute and its exercise in the interest of a local community by a special act, the former must prevail unless the intent that it shall not be is clearly expressed in the legislation". Delinks makes reference to several earlier cases which will be mentioned below.

A central issue contained in both lines of precedent is the degree of explicitness with which the legislature has expressed its intent. It is interesting to note that many of the cases contain a residential association as one of the parties involved.

A. "A special act is not affected by a general statute unless the intent to repeal or alter is clearly mainfest".

Town of Watertown v. Watertown Fire District et al.
28 Conn. Sup. 413, 265 A. 2d 496 (1968

In this case, the plaintiff, the Town of Watertown, sought a declaratory judgement determining the extent to which powers conferred on the defendants Watertown Fire District and Oakville Fire Districts and survived the adoption of a Home Rule charter by the town. Of special interest was the extent to which the zoning power of the Watertown Fire District, granted by special act, had survived the implementation of zoning by the town.

The court acknowledged that the defendants are both quasi-municipal corporations deriving their existence and powers from a series of special acts of the General Assembly. The Watertown Fire District had been granted zoning powers in a 1941 special act and had adopted a zoning ordinance in 1947, which it had since enforced within the district. The town adopted its own zoning ordinance in 1955 and in 1961, adopted a municipal charter pursuant to the Home Rule Act. The new town charter provided that "all inhabitants dwelling within the territorial limits of the Town of Watertown...may hold and exercise all powers and privileges heretofore exercised by said Town and not inconsistent with the provisions of the Charter...".

The court responded to several questions raised jointly by the plaintiff and defendants concerning the relationships between the parties. One question concerned whether, since the adoption of zoning by the town, the Watertown Fire District had had the authority to zone. The town contended that it did not. The court cited Section 8-1 of the General Statutes which gives cities and boroughs the right to have their regulations continue in effect even though the town later adopted zoning. Since the Fire District had been explicitly given the rights of cities and towns with respect to zoning, the Court held that the Fire District had the right to have its zoning remain in effect. The plaintiff also claimed that Section 7-326 of the General Statutes provided for the adoption of zoning and building regulations by districts, providing that such regulations would be superceded upon adoption of zoning and building regulations by the town. It was here that the Court gave its opinion that a special act is not affected by a general statute unless the intent to repeal or alter was clearly manifest, citing Wallen v. Hatch (below). The court stated that there is "no clear manifestation that the legislature intended the enactment of 7-326 to repeal the special act in question. They held that Section 7-237 referred to districts established under the provisions of chapter 105 of the General Statutes, whereas the Watertown Fire district came into being by prior special act."

The court also held that the provision in the new Home Rule charter that all special acts inconsistent with the charter would be repealed referred only to special acts governing the town and not those of another municipality, the Fire Districts. The court said, "The Home Rule act is a general statute ... it does not contain any language showing intent to give the plaintiff the power, by adopting a charter or any other act, to repeal the special acts containing the charter of the Fire District. The court repeated its position that such an intent must appear clearly in a general statute if a special act is to be repealed by the general statute.

The State Ex Rel. August E. Wallen v. William L. Hatch
82 Conn. 122 (1909)

Action brought in the Superior Court in Hartford County to determine the title to a position on the New Britain school committee rendered a judgement of ouster to the respondent, who appealed to the state Supreme Court. In a holding of no error, the Supreme Court stated, "A special and local statute, providing for a particular case or class of cases, in not affected by a statute general in its terms, broad enough to include cases embraced in the special law, unless the intent to repeal or alter is manifest. The decision, written by J. Roraback, cited two earlier New York cases as precedent.

The charter of the city of New Britain, effective subsequent to the general act in question, provided for a different method of filling school board vacancies than did the general state act. The court decided that the two acts, while inconsistent, could both stand and full effect be given to each. The New Britain act pertained exclusively to New Britain, while the state act dealt with school boards as a whole; therefore the acts did not cover the same subject matter. The court said that "so far as the provisions of the charter are necessarily inconsistent with the general and earlier statute, the provisions of the former are controlling ... it is said that the later statute is regarded as modifying the earlier in some particular respect".

In the Hatch case, the general legislation came first and was "modified" by the special act. Since the general legislation did not prohibit the type of action proscribed in the special act, the special act provisions controlled. In the Watertown cases, general legislation (Section 7-326) was passed subsequent to the special act. However, since the general legislation did not state that it was meant to deal specifically with prior special acts, the earlier special act controlled.

Waterbury Teachers Association v. Arnold Furlong et al.
162 Conn. 390 (1972)

Three cases brought before the state Supreme Court on appeal from the Superior Court of New Haven were included in one decision written by Chief Justice House. The point which involves special legislation and general legislation concerned a dispute over whether the board of finance or the board of education of the town of Waterbury had the authority to approve teacher contracts. A 1965 act of the state legislature provided for the board of education of towns to approve teacher contracts. In contrast, a portion of the Waterbury charter provided that the teacher salaries must be approved by the board of finance. The teachers association contended that the general state legislation held over the provisions of the town charter. Those provisions had their origin in an 1899 special act of the legislature.

The court held that the Waterbury town charter was a special act which was not controlled by the state general legislation. Citing Wallen v. Hatch, Justice House quoted, "a special and local statute,

providing for a particular case or class of cases, is not affected by a statute general in its terms, broad enough to include cases embraced in the special law, unless the intent to repeal or alter is manifest..." The Justice also stated, "And, if courts can by any fair interpretation find a reasonable field of operation for both statutes without destroying or perverting their evident meaning and intent, it is the duty of the courts to do so, thus reconciling them and according them concurrent effect" (citing Leete v. Griswold Post, 114 Conn. 400, 405, 158 A. 919).

The court made special note of a 1969 general act of the legislature dealing with approval of teacher contracts. The 1969 act contained the phrase, "not withstanding the provisions of any special act, municipal charter or local ordinance, the provisions ... shall apply to negotiations concerning salaries ...". The court stated that the enactment of the 1969 statute has "materially changed the law of the state as it would now apply to the issues raised in the present appeals" but that since the 1969 act was not retroactive, it had no bearing on the case under question.

By implication, it would seem that the inclusion of a provision controlling special acts, charters and ordinances might be sufficient to have changed the rule of the case.

Gennero Pizzola et al. v. Planning and Zoning Commission of the Town of Plainville, et al.
167 Conn. 202 (1974)

Although the Pizzola case is not based on the precedents of Hatch, it is a case in which a special act prevailed over general legislation. On appeal from Common Pleas Court, the case involved a decision by the Common Pleas Court that an action of the Planning and Zoning Commission was improper, illegal and an abuse of discretion. The appeal was sustained and the Supreme Court ruled no error. In their ruling, they stated "It is well settled that a special act or specific law repeals an earlier general or broad law to the extent of any irreconcilable conflict between their provisions". The court cited Moran v. Bens (144 Conn. 27, 30, 127 A. 2d 42 in support of their position. "If expressions of the legislature are irreconcilable, the latest prevails, even though it is contained in a special act".

The Pizzola case may be considered as either a supplement or a contradiction to the Hatch cases. It is concerned with another criterion for deciding between conflicting acts. In Pizzola, the later case prevails, in contrast to Watertown, Hatch and Waterbury, where the criterion is explicitness of the general legislation.

B. "In the conflict between the exercise of le gislative power in the general public interest of the state by a general statute and its exercise in the interest of a local community by a special act, the former must prevail unless the intent that it shall not is clearly expressed in the legislation".

C. Edwin Delinks et al. v. William McGowen et al.
148 Conn. 614 (1961)

The plaintiffs in Delinks were taxpayers and landowners on or in the vicinity of the Blackhall River in Old Lyme. The defendants included the governor of the state, the state fish and game board, and William and Mildred M. McGowen. The plaintiffs sought an inunction to prevent the McGowens from selling a three acre tract of land they owned on the Blackhall River to the state. A judgement for the defendants and subsequent appeal by the plaintiffs from the Court of Common Pleas of New London County resulted in a decision of no error.

The state wished to acquire the land to provide access to land on Great Island, which the state had acquired for duck hunting. Three acres were needed in order to provide parking for persons using the access. In resolving a dispute over the intent of the state statute enabling the fish and game board to purchase property for access to hunting and fishing rights, the court stated "When the language of a statute appears to be ambiguous, the court looks beyond the literal meaning of the words and considers the history of the legislation, the circumstances surrounding its adoption, and its apparent policy and purpose". This phrase is the one that has been most quoted in subsequent references to Delinks.

The portion of the decision which deals with the relationship between general legislation and special acts concerns certain provisions of the special act chartering the Black Hall Association (see Appendix A). The plaintiffs, some of whom lived within the territorial limits of the Black Hall Association, claimed that the use of the McGowen property for the purpose proposed was prohibited by Section 9 of the special act incorporating the association. Section 9 was, in effect, a zoning regulation concerning the use of property within the territorial limits of the association. It forebade the erection or use of a building or premises for, among other uses, "places of amusement". In response, the court answered "*In this (underlining is mine) conflict between the* exercise of legislative power in the general public interest of the state by a general statute and its exercise in the interest of a local community by a special act, the former must prevail unless the intent that it shall not is clearly expressed in the legislation". Chief Justice Baldwin, in his decision stated simply that the court concluded that the charter of the Black Hall Association "does not prohibit the purchase of the McGowen property by the board for the uses proposed".

In making their decision, the court cited Jennings (below), State v. Hartford (below and State v. Shelton (below).

Herbert Jennings et al. v. Connecticut Light and Power et al.
140 Conn. 650, 655 (1954)

The Jennings case involved a request by the plaintiffs, individual residents and property owners of Norwalk, and co-plaintiffs, the Wilson's Point Property Owners Association and the Village Creek Property Owners

Association, for declaratory judgement against the Connecticut Light and Power Company, the Norwalk Zoning Commission and Harbor View Company, a non-profit corporation of property owners. Connecticut Light and Power had purchased land on Mauresa Island in Norwalk which was zoned Residence B under Norwalk's zoning regulations. The property was located near property owned by Jennings which was also zoned residence B, and across the water from the Wilson's Point area and a public park owned by the City of Norwalk.

The company had purchased the property for the erection of a steam plant and applied to the Norwalk Zoning Commission for permission to do so. The Norwalk zoning regulations included no mention of steam plants or other public utilities. The company asked that the commission enter an order regulating and restricting the location of the plant, and the commission did so, issuing an order with 23 separate conditions on construction and operation. The plaintiffs then charged that the plant would be a danger and a nuisance and have a negative effect on property valued, and further charged the zoning commission with a violation of their regulations which did not given them the power to issue such an order.

The decision, written by Justice Baldwin, later the author of Delinks, carefully stated that it was necessary to look at the legislative history of the statute under which the zoning commission claimed authority. The statute was general state legislation involving the Public Utilities Commission. The court indicated that the statute specifically stated that "one of its purposes is to promote local control of public service corporations as well as assure the state full powers to regulate such corporations. It has never been the policy of this state to place in the hands of its local government a large authority in regulation of their local affairs". The court continued, indicating that as public service corporations grew, the P.U.C. was created to "regulate them uniformly and in recognition of a public interest above and beyond the boundary of a single town. In light of the history and evolution (of the statute) ... it is apparent that local authority must give way to statewide authority when the matter involved is one of more than purely local concern". (p.664) The court acknowledged that the legislative problem was how to accomodate the local power of zoning, administered through local agencies of government, to the statewide power of public utilities regulation. The court found that "the plain intent of the legislature is that a public utility company, ... if it desires to erect a steam plant in a city or town where there is a zoning commission and zoning regulations, shall apply to the zoning commission, if that is the local agency which has authority to adopt zoning regulations ... The zoning commission acts as a special agency of the state. In that capacity, it exercises its zoning powers in a manner prescribed (by the statute) and subject to appeal to the P.U.C. The zoning commission is thereby in a position to appraise not only the welfare of its own community but also the larger welfare of the state as a whole. "The designation of a local zoning agency to perform a joint function with the state is not new in our state statutes".

The court also addressed several other points raised by the plaintiffs including delegation of legislative powers, for which it decided there was no violation; and violation of due process, which the court decided had not occurred because the commission, acting as the agent of the state, had special police powers as a result.

Justices Quinlan and O'Sullivan dissented, stating in their dissent that the majority opinion "so far as it recognizes that the zoning commission ... was acting as a special agency of the state and thus exercising powers subject to an appeal to the P.U.C. is erroneous".

At first glance, there appears to be little similarity between Delinks and the Jennings case. The Jennings case did not deal with general and special legislation. The common point is the contention in Jennings that local authority must give way to statewide authority when the matter involved is one of more than purely local concern. Perhaps, since Justice Baldwin was the author of both decisions, he saw a very distinct common thread.

State v. City of Hartford
50 Conn. 89, 90 (1882)

In City of Hartford, as cited in Delinks, the court refers to the earlier decision of State v. Shelton. "In the case of State v. Shelton 47 Conn. 400, we said "It may be stated, we think, as a universal rule in the construction of statutes limiting rights, that they are not to be construed to embrace the government or sovereignity, unless by express terms or necessary implication such as appears to have been the clear intention of the legislature, and the rights of the government are not to be impaired by a statute unless its terms are clear and explicit, and admit no other construction".

This early position that the rights of government were not to be restricted unless the intent to do so was explicit was expanded in Delinks to include general legislation which could not be controlled by another act (in Delinks, a special act) unless the intent to control was expressly stated.

The facts of the case in both Hartford and Shelton are not very similar to those of Delinks. In the Shelton case, the court was concerned with a debt which had been discharged in bankruptcy. The question of whether the discharge affected the claim of the state was resolved to indicate that it did not. In Hartford, the court ruled that the state could not be sued, and therefore, could not be compelled to pay a sewer assessment. "Hence the local city charter not only does not expressly or by necessary implication include the state, but by necessary implication excludes it". The local charter did not control the general government of the state.

Hartford Electric Light Company v. Water Resources Commission
162 Conn. 89, 96 (1971)

The cases subsequent to Delinks in which that case is cited deal mostly with the statement in that case concerning the importance of legislative hsitory in determining legislative intent. Only one case was found which uses the rule concerning the relationship between special and general legislation.

In this case, the Hartford Electric Light Company (HELCO) contended that its franchise from the state legislature which gave it the power to erect and maintain facilities on or over highways also gave it the power to place transmission lines over navigable rivers, such rivers being equivalent to highways. The Water Resources Commmission claimed it had the power, rather than the PUC which controlled the utility franchise, to regulate the location of transmission lines over a river. An action for a declaratory judgement brought to Superior Court in Hartford County by the Water Resources Commission was appealed upward by both parties. The Supreme Court, citing Delinks, ruled that "Franchises are subject to the interests of the general public as expressed in general regulatory statutes". The Water Resources Commission has the jurisdiction. From an examiniation of the preceding cases, it appears that the relationship of general legislation to special acts is not a well-defined legal issue. Factors which have been considered important are the explicitness of a statute which is claimed to control another; the time sequence of the passage of two acts, whether special or general in nature; and, in Delinks, the relative importance of the general state welfare as opposed to a more narrow interest on the local level.

It would appear that a general state statute, if written so as to explicitly control provisions of prior special acts, would control.

APPENDIX C: TESTIMONY BEFORE THE COMMITTEE ON CITIES AND BOROUGHS, APRIL 24, 1963

Appendix C is a copy of the testimony presented at the hearing on HB 3617, a bill amending the charter of the Crescent Beach Association, concerning its territorial limits. Appendix C is included with this report, not because it is an important bill, but because it is just the opposite.

The testimony on HB 3617 graphically illustrates a number of points made in the text. First, it shows the nature of matters which may be dealt with by special acts. Second, it illustrates the flavor of a summer resort area. Third, it tells of the evolution of an association as the town has grown around it. Fourth, it shows the power of an association over its members. Also well illustrated are some of the fears of association members, in terms of a diminished qulaity of life-style, which have prompted residents to seek the protection of an association. Lastly, the financial costs of association membership are apparent.

NOTE:

For a good view of the "flavor" and evolution of an Association, see Major John Mason's Great Island, by James H. Allyn, published by Roy N. Bohlander, Mystic, Conn. 1976.

April 24, 1963

SENATOR PICKETT: We will open the hearing on HB 3617, AMENDING THE CHARTER OF THE CRESCENT BEACH ASSOCIATION, CONCERNING ITS TERRITORIAL LIMITS.

CHARLES T. PHELPS: I'm Charles T. Phelps, resident of Black Point Road, and I'd like to speak in favor of this bill. At this time I'd like to present a map we brought along that shows the affected area. (pointed out places on the map) Ialso like to present this petition which contains signatures of all the members Here is a letter of one of the residents who couldn't come today. One reason we'd like to get out of this association we're all year around residents who receive no benefits from this organization. We are all at least one mile from the beach and it's too far to walk and if we drive down there is no place to park. All the facilities are taken over by the town of East Lyme. The town gives fire protection, police protection, garbage, maintenance of roads, lights, etc. The Crescent Beach Association furnishes us with nothing for our tax money. The year around home being a more substantial home, we are paying a higher assessment to the association than the summer people. Not only that the 27 years the organization has been in operation, the residents of this vicinity have had no representation on the Board of Governors at all. The town has the responsibility of all the building there, too.

Just for the record, you want the area in red excluded, taken out? Thank you.

FRED OSTLUND: I'm Fred Ostlund and I've lived there permanently for ten years. I'm a mile away from this beach and I see no reason why I should belong to the association. We pay $3.00 for a permit and use the town beach. When they put this bill through, they left this out because it belonged to Elmer Russell who was a member of the Legislature and he told them if they put it in he would kill the bill. They left Anson McCook's property too for he was a member of the Legislature and he would fight it. That's why things are that way. We got a letter this week saying we wanted to get out because we wanted to use it for commercial purposes. There's only about 4 lots left, and I own two of them and I'm certainly now putting any commercial property there. Now on this budget that they have, they have a balance of about $5,000. I questioned their attorney

Edmund O'Brien, if it wasn't illegal to carry money like that in the bank. He said, yes, it was. That money should be returned and the tax rate reduced. Now they have an item on this budget every year, it's just like a carbon copy, permanent improvements $1,000. They don't even own one square inch of land down there, they also have beach repairs requiring heavy machinery, $700.00. For a piece of land two or three hundred feet long, it seems like an awful lot of money. Now we find out that they have never paid any taxes on that property and the town is going to take it over.

GEORGE F. NICHOLAS: I'm George F. Nichols, Black Point Road. We have no benefit whatever from the association and just pay the tax. We would like to get out of it, have this bill supported.

MRS. ANY HILLYER: I am Mrs. Amy Hillyer, of Black Point Road, a year round resident of Crescent Beach for 32 years. My husband has been a year-round resident since 1912. I am speaking in support of HB#3617. In regard to expenditures of collecting tax money I'd like to say that no association funds have been used for any water company or are being used for water system within the association. Water system is now being paid for by individual property owners and the town of East Lyme. As year-round residents and in agreement with statements made by my neighbors, we'd appreciate favorable vote on this bill.

LEONARD RUSSELL: Leonard Russell, property owner on Black Point Road. I would like to bring up a few items on a letter which a former secretary of the Association wrote, and was mailed to all the members of the association. He said, this area would be used for commercial purposes. Under the charter of East Lyme, that land comes under our rule and doesn't allow anything but single houses. Last time about two years ago when they had a bill, it took out the VFW Hall, I don't know if you remember it or not; at that time they brought up the big issue that they were there for a liquer license and consequently we took the hall out then, it isn't in it now. This bill here calls for simply something like 37 families, a block by itself, who want to get out.

MRS. ROY MOREJON: Mrs. Roy Morejon, 20 year resident of Black Point Road, Crescent Beach Association. At Crescent Beach, there is a beach to use one mile walking distance and no parking facilities provided. The beach is now in the land records in the Town of East Lyme. By advice of town council, Edmund O'Brien, this was brought to light when revaluation was done in 1962. We find years of unpaid taxes. Furthermore, this beach is a public beach and has been used as such for over 100 years. As it is in East Lyme and taxes haven't been paid on it, it will automatically belong to East Lyme. Therefore cleaning and upkeep will done by the town.

Roughly, how many would be involved.

37 families.

Would there be any crippling effect on the association by the lack of revenue if this particular area was taken out.

I don't know why it would. As one lady said, there is a surplus of $4,000 at the present time. Also now that the town is taking over the maintenance and lifeguarding of the beach, they wouldn't have that. This would more than compensate the loss of this area. I don't see where there would be any financial loss to the association.

What is the point of the association?

It is a summer association, like all beach associations. I should point out originally when this association first started the town did not supply anything, have building codes, and this was a function that the association performed. Now the town provides everything they don't perform these duties any longer.

Further proponents? Opponents.

DONALD R. DOWD: My name is Donald R. Dowd, West Hartford. I'm president of the Board of Governors, Crescent Beach Association. In view of a referendum held on August 26, 1961 in the name of the large group of the Crescent Beach Association, we are against this bill. It would take away an interval area of our association and open up the establishment possibly of commercial enterprise. Someone mentioned here, liquor or no liquor, the problem in our beach they do not sell liquor and in East Lyme they do. We just don't want liquor at the beach, this is the reason this question comes up constantly. All of this section is part of a total geography of the association bounded by the New Haven Railroad and if any of the area is opened up for business it will make our zoning useless. We would have the street on one side for the beach, and across the street have a business. We voluntarily accepted the town building code as soon as they adopted this uniform state code. As far as taxes are concerned, last year I tried to get Mr. Manwarring to get us a letter that the town of East Lyme would take care of our beach and we could reduce our taxes and budget; but he could not do it. I don't know if it is correct that he will now take care of the beach for us or not. The thing we are most interested in maintaining is our zoning. We are a section of many big old houses, and if we can't control the establishments around us we will be another Sound View and this is the thing they are trying hard to avoid. We still maintain our own zoning, the town zoning does not supercede.

Has this thought ever been explored? The owners of land within that area who want to be excluded submit their land to a

declaration of restrictions and covenants.

I don't think the idea has ever been explored.

They would subject their land not to be zoned commercially. That is your objection isn't it, commercial zoning?

I think that in itself would be worth exploring. I must say that some of the people who say they get nothing from the association are incorrect. One gentlemen here was wrong. If the town of East Lyme will take over for us that will be fine, we would like to reduce our taxes as well as the next one.

HARRIET BARRET DOWER: I'm Harriet Barrett Dower, a former secretary to the Beach association. I sat originally as a clerk when the organization was formed when Mr. Edwin May was the moderator, and have served with the Board all of these years. My sister and I are one of the largest property owners at Crescent Beach. Both of my grandfathers owned property at Crescent Beach long before the turn of the century and our boys still own property at Crescent Beach. We are very much in favor of the organization we are very happy at this time to oppose HB #3617 with the hope that it will not only be for the good of the beach but the good of our state and to keep that area simple and the way we would like it for the summer. We pay taxes and of course the town of East Lyme gets the benefit for their schools and we are only there a very short time. We are very happy and try hard to keep it simple and nice and I should like to oppose this bill.

Is the basis of your opposition the fact that you fear a commercial trend?

We have thought of that but of course at the same time SB#983 came up at the last legislature and then a vote was taken. We feel we should honor the vote that was taken at our Annual Meeting of the Association and all people have an opportunity as these people do too, to put their proposition before our board and not bother the state. We are a municipality and we are able to have power to run our little section and there's no reason why they couldn't put in a petition to us.

What is the voting ratio between the summer residents and the year around residents?

We have about 331 property owners, 81 of those a year round residents, so that every August when our annual meeting is held everyone has an opportunity to come and make their feelings known. There is a trend toward people retiring and living there year around, but right now we have more summer residents. We are happy there and want to keep it nice.

MRS. LENORE M. OSTLUND: Mrs. Lenore M. Ostlund, a 10 year resident of the Black Point Road. In the first place, this Crescent Beach Association is a summer project. It functions not more than three months a year. If after Labor Day we need any service, we call the town of East Lyme. It is forgotten until the next June. Now, in the budget for 1963, we received item 3. is permanent improvement, $1,000. Each year that has been listed and as my husband said, carbon copied. This year we have been earmarked for possible land acquisition, parking, and a jette. Now this balance $4,000 was discussed and questioned, there was remark made at the association meeting to the effect that they possibly had something in mind for the people in this area. At the present time, we pay 3½ mills in taxes to the association. They have the powers to increase it to 5. With further legislation, it could go on and on. The people in this area are given everything they need by the town of East Lyme. The town provides them with a lovely beach, ample parking, playground, and a picnic area. For the privilege of using this, they pay the town $3.00 a year and they are very happy with things as they are. Now, all these people ask is to be excluded from this association. They are all-year around residents; the other group are summer people, their homes are assessed accordingly. We have higher taxes also because we have bigger homes. We feel that we are double taxed. For this reason, I would ask you to consider this bill in a favorable manner.

REP. WILLIAM MORRIN: Rep. William Morrin, town of East Lyme. I would like to appear in favor of this bill. I think the people who have spoken before me have pointed out all of the reasons they would like to get out of this association. As they have said, they have nothing in common with the people who are in the association. They have all year around homes, the town provides them with fire and police protection, street lights, etc. They get absolutely nothing from the association. Heretofore, the association took care of a beach that was not actually theirs but was used by the public in general. There was no parking there. There was a revaluation a year ago and it was found that noone owned this beach and that no taxes had been paid on it, so the Town Council ruled that the Town would take it over. The Town from now on will take care of cleaning, lifeguards, etc. The association will not have any duties to perform there. Basically, if the town takes care of everything and they don't own the beach, I can't see why they need the association. At least, if these people who aren't summer residents and aren't in the group, they should be allowed to get out of the association if they so feel. I am not a member of this association, but live further on, but I go through it all of the time. Every person in that area is desirous of getting out. I am very strongly in favor of this bill and hope this committee will give it a favorable report.

CARL GINOTTI: My name is Carl Ginotti and I've been down to Crescent Beach for about fifteen years as a tenant. I have four children we move there because it is a nice quiet beach and there is no rowdyism. Anything that is going to be done to change that, I am against. We pay taxes not only to our association but also to the town, so if we get any benefit from the town we are paying for it. The town doesn't give any resident of Crescent Beach anything for nothing. We pay on the same assessments as anybody in town. If someone thinks that the summer property isn't assessed at its full value they can come down to my house and they will find that it is assessed the same as anyone else, because we had a revaluation a couple of years ago. Anything that is going to start to squeeze our association and make it smaller and there is nothing to prevent it and at some other time from somebody right in the middle of the association saying I don't want pay this, I want to get out; now, if this is going to set s precident it's going to be bad. Now they want to take out an area that they claim is too far from the beach it's a pretty slim excuse. There are probably some people right in the middle of the beach who don't even use the beach and they could follow and do the same thing. I have four children and there is no establishment there that sells liquor and I'd like to keep it that way. Here's an excerpt from the Niantic News what might happen and what did happen at other beaches. The Old Lyme First Selectman, Mr. Bugbee, called Sound View a blight on the town at a town meeting this week, 75 persons attending burst into applause. The article also stated how run down the buildings were and how they were becoming a menace to good health. I would like to see nothing like that happen to Crescent Beach. So far it has been kept very nice. The people of the town should be glad we pay taxes and only come down in the summer. A flimsy excuse as they are providing us with services that we are not paying for is very untrue, because we pay for everything that we get from the town. It was primarily done to keep that area from being run down. We don't want to see anything like this start where anyone who wants to get out of the association on a flimsy excuse of not paying $15 or $20 to the association will have a chance at some further time to say I just want to get out. I'm just one block from this area that is being discussed and I don't want to see anything happen for it will be right in my back yard.

SAMUEL STEINBERG: My name is Samuel Steinberg. My family has been vacationing at the beach for the last 29 years. We have owned a home there for 13 years, now my grandchildren will be using it and I don't want to see any changes made in that beach. All the reasons for not changing it have been presented.

SARAH N. GRAHAM: I'm Sarah N.Graham. I just want to say that my family, my father and my grandfather built there in 1884 and we have since lived there and still own property there. We lived

in that horrible period when there was no association which almost wrecked all of us. Since I would hate to see the association and its habit or sort of regulating and making the place a decent place for children to live, I would hate to see it broken up in any way.

JOHN MCCLOUD: My name is John McCloud, and I'm a member of the Board of Governors of the Crescent Beach Association. I have been a property owner there for about twenty years and have gone there every summer since I can remember. The gentleman, Mr. Ginotti, has hit at the core of the argument here. The question was raised would this cripple the association financially - no it would not. However, the association has been inexistence for many years. The impression has been given here that all of the year round residents want to secede from the association, this is not true. There is a growing number in other sections of the beach who are putting up year round cottages and the reason they are doing this, is that they know they are protected and they will not have an undesirable location. They do not want business or a saloon next to them as there are in other areas. It is common knowledge that if this petition is granted that there is already in the making another petition that would chop off another corner away from the beach with the specific idea of putting in a motel and a nightclub,etc. It is this that we are strongly opposed to. We don't wish to see the association whittled away until the thing that we have all loved for years does not exist.

Would the town zoning allow that?

Right now it isn't zoned for anything.

ALEXANDER J. ALANTHAL: My name is Alexander J.Alanthal, and I am opposed strongly to this bill. We have owned property at Crescent Beach since 1938 and to correct an impression about taxes and this is getting down to a personal situation, we are taxed by the town of East Lyme $450. by the Crescent Beach Assn. about $50.00. We pay our East Lyme tax without protest and we pay our Crescent Beach tax with pleasure because we have found it to be one of the influences Crescent Beach a working and worthwhile place to live during the summer. Had there been no Crescent Beach Association, we never would have bought the property there. The proponents of this bill seem to point out what they consider a bad point of the Crescent Beach Association; the main feature being that they have to pay a tax. I don't think any of them pay a greater tax than I do to the town of East Lyme. Despite the fact that the residents of the town enjoy the town the whole year, the summer residents enjoy it for only three months. We save the town nine month's expenses. This looks to me like a chance

to me to place the existence of these like associations in jeapordy, once you have an entering wedge, you don't know where it will stop. We don't know just what the intent is. As far as town expenditures, I know a group attended the meeting when the town was to make an appropriation for the McCook park and beach, we favored it for we thought it was good for the town. We have never contested any of their appropriations at any of their meetings whether it was for Flanders, Giants Neck, or what have you. We've always been happy to go along with the town. I think this group should be happy to go along with us. If they were taxed on the basis of no summer property owners down there, they would not only want to leave the association they never would have built in Niantic because they wouldn't be able to take care of the expense of the schools and services that they enjoy for twelve months and we enjoy for three months. I hope you will oppose this bill.

Lest we leave an unfavorable opinion, I think Mrs. Ostlund didn't mean it, but she said the winter residents live apart. We have a great many friends amond the winter residents and as someone pointed out, many people who retire are down there. Carl Ostlund, Ray's brother, I regard as a very good friend, so there is no ill will.

LEON RIS CASSI: Leon RisCassi, Hartford. I am here in opposition. There is no dispute here between town and association. This is just a minority group and it should be accorded a full hearing, and I'm a member of the Board of Governors and against this bill.

Hearing no further speakers on this bill, I declare the hearing closed on HB# 3617.

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