COMMENTS CONCERNING RAISED BILL NO. 6429
AN ACT CONCERNING THE FREEDOM TO DRY
By Kim McClain

Summary

This bill proposes to impose restrictions on how common interest communities govern themselves. This bill requires that community associations limit their abilities to self-govern with respect to the issue of energy conservation.

Kim McClain

I currently serve as the Executive of the Connecticut Chapter of the Community Associations Institute (CAI-CT). CAI-CT is the educational and technical assistance entity for community associations and their service providers in Connecticut.

I am submitting comments, to present my insights into how the proposed bill will affect the more than 4,000 common interest communities in Connecticut, and the hundreds of thousands of people who live in them.

Statement

This "Freedom to Dry" bill, if adopted, would prevent certain organizations, such as municipalities and associations of common interest communities, from prohibiting residents from erecting clotheslines.

While the proposed bill is driven by laudable goals, its application would raise several issues. In order to assist the General Assembly in producing a more workable bill, we wish to bring the following issues to your attention:

- Some communities would be unable to comply with the bill. The proposed bill was drafted to apply uniformly to all types of communities. However, communities in Connecticut are far from uniform. While the application of the bill will work well for some communities, there are many that will not be able to comply.

There are some Connecticut communities that do not have any open space in which residents may erect clotheslines. For example, RiverPoint on the Connecticut is a high-rise condominium located on the Connecticut River in East Hartford. The building, with its green copper roof, is a prominent feature in the Hartford skyline. The condominium has no open space, nor even a flat rooftop. Where could residents place their clotheslines?

Another example of a community that could not comply is Bushnell Towers in Hartford, for the same reasons.

- Even if the community can comply physically, the associated administration renders compliance a practical impossibility. There are some communities in Connecticut that have open space. However, very few, if any communities have enough space to permit all owners to simultaneously use clotheslines. This will then require the association to create and enforce some kind of schedule giving each owner an opportunity to use the clotheslines.

Furthermore, the open space is usually maintained by the association. This will require the association to incorporate into the schedule its need to access the space so that it can fulfill its maintenance obligations. Creating and enforcing these schedules will require a substantial amount of time, effort and financial resources.

(OVER PLEASE)

- Compliance will result in costs that must be shared by all homeowners, including those that do not use the clotheslines. The cost of the administration discussed above, plus the cost of maintaining the clotheslines themselves, are additional expenses that must be shared by all of the homeowners in the community, including those who do not use the clotheslines.

- The bill must acknowledge that not all communities can comply, and create a mechanism for the homeowners in the community to decide whether to permit clotheslines. Rather then leave some communities with no option but noncompliance with the law, or to incur substantial costs at the expense of the owners, the bill should either recognize existing mechanisms, or create a new one, by which the homeowners can decide whether the community will permit or prohibit clotheslines.

- The board of the association serves at the pleasure of the owners. Under current Connecticut law, the homeowners in a common interest community elect those who will serve on the board of the association. With some exceptions, the board members, as a group, act for the association. If the board members are not meeting the expectation of the owners, the owners may remove them from their positions. Through this process, the homeowners control the board.

If enough homeowners want to use clotheslines, the board members will either permit it or else find themselves voted out of office.

- Some actions by the board may require ratification by the unit owners. Under Subsection 47-245(c) of the Connecticut Common Interest Ownership Act, which applies to all common interest communities created since 1984, a budget for an association, which has been approved by the board, must be ratified by the owners. This Subsection requires the association to call a meeting of the owners to ratify the budget. At the meeting, the owners may reject the budget. Rejection requires the vote of owners having a majority of the total voting power in the association. The owners are deemed to have ratified the budget if it is not rejected at the meeting. The associations of many pre-existing communities have amended their documents to subject themselves to the requirements of this Subsection.

The Freedom to Dry bill could be revised to empower the homeowners to reject a prohibition on clotheslines in the same manner as a budget.

- Some actions cannot be taken without the vote or agreement of the unit owners. Under Connecticut law, there are some actions that require the vote or agreement of the homeowners. For example, amending the declaration of the community generally requires the vote or agreement of owners having 67% of the total voting power in the association.

The Freedom to Dry bill could be revised to empower homeowners to permit clotheslines, if approved by the vote or agreement of owners having 67% of the total voting power in the association.

We would be happy to further discuss with you this issue, or any other affecting common interest communities in Connecticut. Please do not hesitate to contact us with any questions or concerns. I can be reached at 860-633-5692 or email: caictkmcclain@sbcglobal.net.