

# Legal Assistance Resource Center of Connecticut, Inc.

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## H.B. 6673 -- Intervention in CHRO cases

Judiciary Committee public hearing -- March 19, 2009  
Testimony of Raphael L. Podolsky

**Recommended Committee action: APPROVAL OF THE BILL**

We support all aspects of this bill, but I want particularly to address Section 2, because it involves a case in which a legal services program was involved. The bill is necessary to overturn a court decision that denied a tenant who filed a housing discrimination complaint the right to intervene in the civil action involving the complaint.

Under the existing housing discrimination statute, a person claiming discrimination files a complaint with the Commission on Human Rights and Opportunities (CHRO). If conciliation fails, the investigator determines whether there is "reasonable cause to believe" that discrimination has occurred. This is not a finding of discrimination but a probable cause finding. The complaint will then be scheduled for an administrative hearing before a human rights referee. C.G.S. 46a-83(d)(2), however, allows either the complainant (the tenant) or the respondent (the landlord) to request that the matter be decided by the Superior Court rather than by a human rights referee. If such a request is made, then CHRO is required to initiate a civil action in Superior Court.

In CHRO ex rel. Kilby v. Litchfield Housing Authority, CV07-4006-132-S (J.D. Litchfield, June 10, 2008), the tenant complained of discrimination based on disability. The landlord requested that CHRO initiate the case in Superior Court, which it did. The tenant then moved to intervene, a motion that CHRO supported and that had been routinely granted in other cases. The court denied the motion on the ground that CHRO could adequately represent the complainant (another Superior Court judge has now made the same decision in Bowen v. Brookside Associates). CHRO cannot adequately represent the complainant, however, because CHRO had not made any finding beyond reasonable cause. In other words, because the Superior Court case was in place of a hearing, there had been no finding of discrimination. Moreover, it does not follow that any settlement negotiated by CHRO would fully protect the complainant's interests, since CHRO might settle for less relief than the complainant wanted or that might have been obtained had the case gone to a CHRO hearing. Kilby, if not reversed, deprives the victim of discrimination of the ability to present his own case to the Superior Court. In addition, it may make Connecticut's Fair Housing Act not "substantially equivalent" to the federal Fair Housing Act and could therefore place significant federal funding at risk.

Section 2 of the bill provides that, in the circumstances described above, the person who filed a complaint with CHRO may intervene as a matter of right in the civil action brought by CHRO under 46a-83(d)(2). We urge passage of the bill.