National Kitchen & Bath Association

February 15, 2010

The Honorable Thomas A. Colapietro
Co-Chair, General Law Committee
Legislative Office Building
Room 3500
Hartford, CT 06106-1591

The Honorable Jim Shapiro
Co-Chair, General Law Committee
Legislative Office Building
Room 3504
Hartford, CT 06106-1591

Re: Opposition to HB 5138, Amendment to Reestablish Interior Design Regulation

Dear Senator Colapietro and Representative Shapiro:

On behalf of the National Kitchen & Bath Association (NKBA), an international trade association representing all facets of the Kitchen & Bath Industry and its 813 Members in the State of Connecticut who employ designers, manufacturers, salespersons, installers, distributors and numerous other related trades, please accept this letter expressing our opposition to the amendment contained in HB 5138 which would reestablish a title act for a small number of interior designers in the state. This amendment would attempt to correct the constitutional infirmity of the prior law, as declared by federal judge Mark Kravitz in Roberts et al. v. Farrell, by establishing the title "Registered Interior Designer". There is no compelling justification to maintain in the State's regulatory scheme a state-sanctioned title for interior designers beyond what they already have through the many private organizations and professional associations that test and certify these individuals. We would ask that you and your Committee reconsider the necessity for this legislation and strike out the amendment in the bill to create the title "Registered Interior Designer".

These types of regulations place a government sanctioned distinction between the many thousands of decorators and designers in Connecticut who will be demoted to second class status by a select few individuals who, by their own reckoning, have achieved an elevated position with the State's assistance. The proposed legislation does nothing more than make the State a party to the marketing efforts of a portion of the design community who seek to promote

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themselves at the expense of others. The design organizations, such as the National Kitchen & Bath Association, the American Society of Interior Designers, the Interior Design Society and the International Interior Design Association, spend hundreds of thousands of dollars promoting the qualifications of their membership to the public and educating the consumer on the value of utilizing one of their members to perform design services. While there is certainly nothing wrong with seeking to distinguish yourself from your competitors, these avenues already exist and it should not be the role of the state government to aid in that marketing campaign by unfairly sanctioning one group of competitors over another.

A title recognition does nothing to further the protection of public health, safety, and welfare. The citizens of Connecticut are appropriately protected in the built environment by the State's architectural and engineering practice acts and existing building codes. The sole purpose of this change is to protect the interests of a select few within the interior design industry and it in no way promotes or advances any rational, justifiable or necessary public policy. If anything, this legislation presents a threat to the public health, safety and welfare in that it misleads the public into believing that the person registered thereunder has certain qualifications which, as Judge Kravitz found, is manifestly not the case. Of the approximately 600 interior designers who were registered under the prior law, only about one-quarter, (or 154 individuals) actually possess the qualifications that the law requires and represents to the public. At best this is misleading and at worst, perpetrates a fraud on the public who understandably will rely on state registration as attesting to certain qualifications.

Enacting a title act such as this is anti-competitive in that it favors one small faction of the interior design community over other members of the profession and again, does so without serving any identifiable, valid public policy. This bill seeks to bestow upon one segment of the interior design industry a potential commercial benefit that is attendant with state regulation. It is reasonable to presume that consumers may attach value to the state certification, thus placing non-certified interior design professionals at an unfair competitive disadvantage.

Virtually every study on interior design legislation has concluded that there is no compelling need for regulation and in fact, such laws harm the public by artificially inflating consumer prices, erecting unnecessary barriers to entry into the profession, giving government-imposed advantages to those already practicing and failing to demonstrate any social benefit. In fact, since 1988, twelve state agencies have examined the need for titling and/or licensing laws for interior designers and all five found no benefit to the public, concluding that consumers already possessed the means to make informed decisions about

interior designers. Most recently, the Governors of Colorado and Indiana, citing a lack of public need, vetoed legislation that was similar to the interior decorators title act being proposed here. As Indiana Governor Daniels stated in his veto message:

> Government has a legitimate role to play in the regulation of certain business occupations and professions. To protect public health and safety, for example, it makes sense for the state to require individuals seeking to practice certain occupations to be certified or licensed, in order to ensure that they meet minimum qualifications or skill levels. However, government must be careful to exercise such powers in a restrained and limited way, in order to avoid limiting competition in occupations where no significant public health or safety concerns are involved. Licensing, certification, and registration standards necessarily restrict entry to and participation in the occupation or profession being regulated, so the burden of proof must fall on those who seek to create or extend such barriers to entry.
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> In the case of [the proposed title act], I find that this burden of proof has not been met. I can find no compelling public interest that is served by the establishment of new registration requirements for interior designers as contained in [the bill]... Indeed, it seems to me that the principal effect of [the bill] will be to restrain competition and limit new entrants into the occupation by requiring that they meet new educational and experience qualifications previously not necessary to practice their trade.

Veto Message of Indiana Governor Mitchell E. Daniels, Jr. on Senate Enrolled Act 490, May 2, 2007.

Similarly, there is no evidence that the public desires or needs additional regulation. Connecticut consumers already have the means to verify the credentials of interior designers through verification of membership in existing private sector interior design professional associations. These organizations already provide the means for designers to achieve special recognition for their areas of expertise and training, making state recognition unnecessary and duplicative. For example, the American Society of Interior Designers has "Professional Members" who are required to meet the same qualifications that the Connecticut law would impose (passage of the NCIDQ exam, continuing education), the National Kitchen and Bath Association has the Certified Kitchen Designer and Certified Bath Designer exams, the Interior Design Society has the Certified Qualification for Residential Interior Designers exam, the National Association for the Remodeling Industry offers the Certified Remodeler

Specialist, Certified Kitchen and Bath Remodeler, and Green Certified Professional exams, and the National Association of Home Builders' has the Certified Aging In Place Specialist, Certified Graduate Builder, Certified Active Adult Specialist In Housing certifications. Probably most recognized today is the Green Building Certification Institute's Leed accreditation which is available to anyone who is able to pass the credentialing exam. Each of these private tests and certifications evaluate and ensure the minimum competencies of design professionals, and none are state recognized for state certification, with the attendant Board costs and expenses.

State registration merely duplicates what is already available to the public to help them distinguish between the credentials of different designers. If the purpose of the bill is to enable the public to locate a "qualified" designer, the means are already available for them to do so. Each of the organizations mentioned above have websites which allow the public to locate a member of that organization. For example, ASID on its website, www.asid.org, has a section entitled "Find A Designer" which allows the public to search for a Professional Member of ASID who has passed the NCIDQ exam. The search may be conducted by city, distance, and type of project contemplated. Likewise, the Connecticut Chapter of ASID also has a locate a designer page on its website http://www.asidct.org/, that assists the public in finding an interior designer that meets the standards that this law would impose. Similarly, the National Kitchen and Bath Association on its website, www.nkba.org, allows the public to search for a kitchen and bath designer by zip code and distance. This site also indicates if they are a member of ASID as well (many of our members are). The Interior Design Society and the National Association of the Remodeling Industry also have a means available of locating a designer by city and state. The NCIDQ itself has on it's website a section that enables the public to find an NCIDQ Certified designer known as a Q Search. A state list would only duplicate those lists for no reason other than to benefit a small faction of designer and grant them a competitive marketing edge over their competitors through "state recognition". The public has neither requested or needs this legislation.

The National Kitchen & Bath Association would urge you to seriously consider all the ramifications of such sweeping legislation and its potential impact on the many thousands of employers and employees in Connecticut. In this difficult economic climate, introducing any legislation which would make it even potentially more difficult for the vast majority of the design community to remain in business and compete for a shrinking number of jobs would have a disastrous impact on the many employers and small businesses which are struggling to survive. Again, there has been presented absolutely no evidence of harm to the public which would warrant the need to regulate the profession at all, let alone

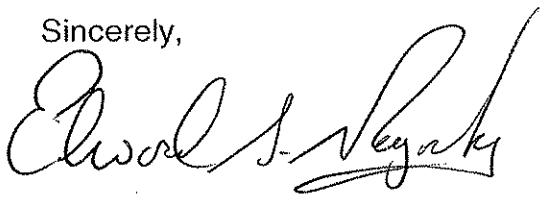
single out one small faction for special state recognition to allow them to market their services over that of their competitors; let the designers compete on the merits of their skill and expertise.

It should also be remembered that neither the public nor consumer advocacy groups have sought this legislation; rather, it has been initiated by a small group of interior designers in an effort to protect their economic self-interest and erect a barrier to entry into a profession which, for decades, has not required any governmental oversight.

While interior designers are deserving of respect for their role in the design process, special legislative consideration is not warranted based on an objective review of the facts. As such, we urge you to reject this unwarranted attempt to segregate the design community and not advance Senate Bill 2369.

On behalf of the National Kitchen & Bath Association and its members, we would like to thank you for your consideration of our position and the concerns that have been raised. Of course, if we can provide any additional information or testimony, we would be more than pleased to do so.

Sincerely,



Edward S. Nagorsky
General Counsel
National Kitchen & Bath Association

Cc: Members of the General Law Committee
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