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Testimony of Richard J. Wechter before the Judiciary Committee on Friday, March 25, 2011 at 11:00 a.m. regarding:

RAISED BILL NO. 6620-AN ACT CONCERNING CONDOMINIUMS AND COMMON INTEREST OWNERSHIP COMMUNITIES; RAISED BILL NO. 1205-AN ACT CONCERNING FORECLOSURE ACTIONS AGAINST UNIT OWNERS IN CONDOMINIUMS OR COMMON INTEREST COMMUNITIES FOR OVERDUE ASSESSMENTS; AND RAISED BILL NO. 1208- AN ACT CONCERNING FINANCIAL REPORTING BY CONDOMINIUM AND COMMON INTEREST COMMUNUNITY ASSOCIATIONS

I. SUMMARY OF TESTIMONY:

Raised Bill No. 6620, proposes, in part, to establish an Office of Condominium Ombudsman and to reduce the percentage of unit owners required to reject an Association budget or special assessment.

Raised Bill No. 1205, proposes to prevent the commencement of a foreclosure action against a unit in arrears until said arrears are at least three months past due or total at least two thousand dollars.

Raised Bill No. 1208, proposes to require the repayment of reserve funds used to pay ongoing operating expenses within ninety days and also mandate that monthly financial reports, including bank account statements be furnished to all unit owners without any specific request for same by unit owners

For all of the reasons set forth below, The Connecticut General Assembly should reject Raised Bill No. 6620 in part, Raised Bill No. 1205 in its entirety and Raised Bill No. 1208 in part.

II. *BIOGRAPHY OF RICHARD J. WECHTER*

I am a graduate of the State University of New York at Albany (B.A., Social Studies Education, Dec. 1975) and Benjamin Cardozo School of Law (J.D., 1979). I am a member of the Bars of the States of New York (1980) and Florida (1995). I am a former Assistant District Attorney in Brooklyn, New York and a former litigation attorney, having represented condominium associations, boards of directors and unit owners in New York State. I served on the Board of Directors of Winnipauk Village Condominium, a 234 unit association in Norwalk, Ct from 1993 to 2009 as Treasurer, Vice President and for over 11 years, as President. In late 2009, I joined Westford Real Estate Management, LLC as a Vice President and Property Manager where I currently manage approximately 950 condominium units. I am a member of the Legislative Action Committee of the Connecticut Chapter of the Community Associations Institute. Finally, and most significantly, I have been a condominium unit owner in Connecticut since 1989.

III. ANALYSIS:

A. The General Assembly SHOULD NOT adopt Raised Bill No. 6620 with respect to the proposed creation of an Office of Ombudsman because its provisions are unfair, one sided, and will result in unnecessary costs to unit owners living in common interest communities; and the proposed imposition of a new threshold regarding the ratification of budgets and special assessments.

Raised Bill No. 6620 seeks to create a structure for resolving disputes between unit owners and their respective associations. Unfortunately, this proposes legislation 1) does not allow for associations to seek similar relief against unit owners who fail to abide by association rules and/or act in a harassing and disruptive manner toward associations and their representatives, including, but not limited to, managing agents; 2) imposes financial burdens upon unit owners who are satisfied with the management and governance of their respective associations that, in essence, fuels the "litigation" cots of those who seek to challenge their respective associations; and c) creates a structure in which legal disputes are being handled by non-lawyers.

Raised Bill No. 6620 also seeks to radically change the voting interest necessary to reject a budget or special assessment from the current standard of a majority of all unit owners to a majority of the unit owners voting. This proposal would effectively disrupt the ability of an elected board of directors to properly mange the association finances. There is an extraordinary amount of time put into the development, review, revision and adoption of association budgets by boards and their managing agents. The community elects a board to do such work. In my many years on my own Board and in my time as a property manger and attorney for associations, I have come to an undeniable conclusion about condominium associations: The vast majority of unit owners are quite satisfied with the operation of their respective condominium. They rely upon the elected boards and the managing agents who put such effort into these budgets. However, these vast majorities of unit owners do not generally show up at board or annual meetings or even vote by proxy. This overwhelming Silent Majority is actually, in fact, quite vocal in their support of their respective Association Boards by their silence. This proposed legislation would allow a small group of unit owners to derail the end result of months of blood, sweat and tears, simply because they can reach a majority with a bare quorum of unit owners present. The percentage of voting interest required to reject a budget or special assessment must remain at a majority voting interest in the association.

B. The General Assembly SHOULD NOT adopt Raised Bill No. 1205 because a delay of an additional month will further jeopardize the financial well being of associations.

I certainly recognize the plight of individual unit owners who are facing difficult economic times. The rosy picture of the robust 1990s has been diminished by a bleaker picture in the 21st century. However, the interconnection of neighbors in a common interest community mandates that the protection of the whole community outweigh the particular needs of the few unit owners who are in arrears. Contractors need their bills to be paid. Budgets no longer have any fat in them. The mandatory mediation conferences for bank foreclosures and the inevitable tie up of association foreclosure actions with said actions delays the ability of associations to collect their

six month super lien. Accordingly, this warrants the rejection of any proposed legislation that would delay, by even one day, the time before an association foreclosure action can commence.

C. The General Assembly SHOULD NOT adopt Raised Bill No. 1208 with respect to the provision for distribution of financial reports, as same is unnecessary and the time for the repayment of funds from a reserve account to an operating account, as same is arbitrary and impractical, as the events of this past winter most certainly reflect.

The recently adopted changes to CIOA provide a mechanism for unit owners to obtain records of the Association, including all of the records that are referenced in this proposed legislation. The burden is on the unit owner to make such request of their Board or managing agent. The proposed legislation would simply create another burden on boards and managing agents to provide material that is readily available on request. I am not aware of any obligation of any state or local municipality to do the same.

Associations need flexibility to draw on reserves in times of unexpected expenses. Snow needs to be plowed and treated; units need to be remediated in the event of losses not covered by insurance. The proposed legislation offers an artificial time deadline without any logical basis.

IV. SUMMARY

The recently adopted changes to CIOA were a dramatic shift in how common interest communities operate. I have seen first hand, day after day since July 1, 2010 how Boards and unit owners and managing agents have been dealing with these changes. The results have been excellent. It seems from my unique vantage point that the proposed legislation set forth above is an attempt to allow a few individuals who appear to have no faith in the governing bodies of their own respective associations to secure inappropriate, cumbersome, inadequate, and most importantly, undemocratic changes from another governing body. The irony of this would be laughable if it were not deadly serious.

I am available should the Committee wish to obtain any further information or testimony from me regarding these matters.

I thank the Committee for the opportunity to offer this testimony.

Respectfully Submitted,

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