

GEORGE C. JEPSEN  
ATTORNEY GENERAL



55 Elm Street  
P.O. Box 120  
Hartford, CT 06141-0120

Office of The Attorney General  
**State of Connecticut**

*TESTIMONY OF  
ATTORNEY GENERAL GEORGE JEPSEN  
BEFORE THE JUDICIARY COMMITTEE  
MARCH 25, 2011*

I appreciate the opportunity to support House Bill 6620, An Act Concerning Condominiums and Common Interest Ownership Communities.

This proposal creates a state office within the Department of Consumer Protection to review condominium unit owner complaints concerning violations of state condominium laws by the association's board of directors, officers or professional managers. The ombudsman would also review complaints about violations of condominium bylaws concerning finances, calling or conduct of association meetings or access to public records of the association. The ombudsman would review any disputes and, if necessary, it would hold a hearing and issue orders to resolve problems and ensure that bylaws and state laws are respected.

The proposal encourages settlement of unit owner-association disputes by requiring that the association establish a dispute resolution procedure. A unit owner complaint must proceed initially through this procedure unless the association has failed to establish such a process.

The intent of the proposal is to ensure that the costs of the ombudsman will not be borne by Connecticut's taxpayers. Instead, the ombudsman would be funded through a small \$4 per unit annual assessment on condominium associations in the state. This charge is the same amount as has been assessed in Florida in order to pay for that state's ombudsman program. There are approximately 240,000 condominium units in Connecticut so the \$4 charge will yield \$960,000.

The proposal also requires a filing fee of \$35 (the same as in small claims court prior to the recent increase adopted in 2009) paid by the complainant and an additional \$35 fee on associations to appear and defend against a complaint. I respectfully recommend that the fee on associations be eliminated. Charging an association a fee to simply appear and defend against a complaint raises fairness and potential due process concerns. Even absent a fee on associations, the filing fee will raise additional revenues. If there are 1,000 complaints filed, this fee will yield \$35,000.

Finally, the proposal increases the condominium manager's filing fee from \$100 annually to \$400 biennially. There are 258 registered condominium managers in Connecticut, so this fee will generate approximately \$103,200 in revenue every two years.

My office has received hundreds of complaints from condominium unit owners regarding violations of state condominium laws or condominium bylaws by their association board of directors. Sadly, no state office exists to effectively assist these unit owners. The state agency established in House Bill 6620 would provide help to outmatched, overwhelmed unit owners who are fighting for their basic rights under our condominium laws.

Under this proposal, the Attorney General, upon referral by the ombudsman, may bring a civil action to enforce the provisions of the condominium bylaws or state statutes regarding condominiums. House Bill 6620 contains an important provision allowing for the ombudsman to impose a civil penalty of not more than \$200 for any knowing violation.

Many of the complaints received by my office concern failures by association boards of directors to follow basic governance principles such as adopting an annual budget with notice to the unit owners, holding fair elections for the board of directors, providing key financial information about the association, and fairly imposing association fines.

Some of these complaints are based on deliberate indifference by association boards to association bylaws or state condominium laws. Others are probably due to a lack of full understanding of condominium association responsibilities.

The current law is unfair to unit owners. The law imposes certain responsibilities on condominium association boards of directors and establishes certain rights for unit owners. The unit owners must hire -- at their own expense -- a lawyer to enforce those rights and responsibilities while the association boards of directors can defend themselves using association funds, raised through assessments on the unit owners. Thus, unit owner funds are used to defend lawsuits brought by unit owners themselves.

A Condominium Ombudsman will provide much-needed assistance to unit owners and provide an important enforcement tool for our condominium laws.

I urge the committee's favorable consideration of the provisions establishing this critical state agency contained in House Bill 6620.