

Testimony of
William Kerens
Before the Judiciary Committee
Thursday, March 29, 2012

Subject: Raised Bill #5511 – A proposed Act concerning the budget and any special assessment

Under existing law a proposed budget and certain special assessments are deemed approved unless rejected by unit owners having a majority of the total voting power in the association. Raised Bill #5511 proposes to reduce the vote needed to reject the budget or special assessment from a majority of the total voting power to a majority of the total votes cast, unless the Declaration of the Association specifies a higher number.

This does not appear to be well thought out legislation because it gives a minority the power to prevail over the majority, especially since there is no minimum quorum required. If, at a meeting held for this purpose, only one owner showed up or, in the event of a mail ballot, only one ballot was received, the budget or assessment covering the entire community could be rejected by one person.

The assessment portion of the proposed bill is of lesser concern than the budget portion because special assessments that do not exceed the budget by 15% cumulatively during a calendar year do not require owner approval. However, any assessment over this amount could be subject to rejection by the same minority vote as described in the preceding paragraph. (Note: It would also appear to be more sensible to replace the wording "calendar year" with the wording "fiscal year" because the budget of an association does not necessarily cover a calendar year.)

This proposed legislation, if adopted, will have no affect upon the Legend Hill Condominium Association because it only applies to those Associations whose Declaration does not specify a higher numerical voting requirement. The Declaration of Legend Hill does specify the higher requirement contained in the current existing law.

The main purpose of this letter is to stop the proliferation of less than satisfactory legislation relative to condominiums which started with various amendments to the Uniform Common Interest Ownership Act contained in Public Act #09-225 effective July 1, 2010. I urge you to vote against Raised Bill #5511 if it prevails in its present form.

Sincerely,

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