Testimony in FAVOR of HB5536
By Connecticut Condo Owners Coalition
For Judiciary Committee
March 29, 2012

NOTE: (1) Over 30 condo owners offered to be interviewed for the following news story, but the Courant could not accommodate all the requests. (2) As a result of our January 2012 survey of several hundred condo owners, both CCOC members and non-members, there is data to substantiate the problems between owners and property managers and associations. Harvard research indicates that for every one complaint a business hears, there are 25 others who feel the same, but did not complain.

Hartford Courant.

State Condo Owners Seeking Stronger Voice

By ANNE M. HAMILTON, Special To The Courant The Hartford Courant

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Some of the estimated 200,000 condominium owners in Connecticut say they are living under conditions that rival the legendary Biblical plagues — minus the frogs and the locusts.

Ceiling leaks, indoor mold, icy walks that are never cleared, broken outside staircases, tyrannical board presidents and not enough heat are some of the complaints being voiced by members of the Connecticut Condominium Owners Coalition, or CCOC.

Doreen Camp, a Meriden condo owner, says owners have no place to turn for help.

"The state laws and the [condominium] bylaws aren't being adhered to," she said. "There's nobody that's enforcing."

She said her written complaints about the management of her condo to the association officers, the state Department of Consumer Protection and the attorney general's office have gotten no response. The only alternative is be a costly lawsuit she can't afford..

Condominium association representatives say that while some problems may be serious, the overall situation is nowhere as dire as the coalition claims.

"The percentage of individuals who do have serious issues is very low, compared to the units throughout the state," said Kim McClain, executive director of the state chapter of Community

Associations Institute, an organization that provides education and support to condominium associations.

Many complaints voiced by CCOC members involve the disregard of the various state laws that outline the rights and responsibilities of both unit owners and associations. Owners say some associations fail to hold meetings, refuse to distribute financial information, don't upgrade condominium bylaws to reflect revisions in the law, or fail to hold annual meetings.

McClain said that many complaints are unsubstantiated, and just reflect a few unhappy unit owners. "There are always going to be problems that seem intractable," she said.

The problem, say CCOC members, is that there is no reliable, rapid, inexpensive way to resolve problems. Boards can be prejudiced and lawsuits are too expensive. For several years, CCOC has lobbied for the creation of an ombudsman, a state official who would listen to complaints and mediate between condominium owners and associations.

"It would be a place to go," said Judith Rudikoff, a CCOC member who fought with her condo association for 10 months to get access to some financial information. "Someone who might have the ability to mediate and help resolve the problems. It would be a statement to the board that it's accountable."

Her board agreed to transmit the financial reports by email — rather than have Rudikoff travel from Bridgeport to East Hartford, where the records are kept — only after a Courant reporter inquired about the problem.

Representatives of condominium associations say establishing an ombudsman's office would be a waste of time and money. Instead, McClain says every condominium should have an internal grievance procedure that would mediate problems, a position supported by David Kelman, a founding member of CCOC. Currently, some bylaws provide for mediation or arbitration of disputes, but most do not.

Kelman said that a $4 per owner assessment would pay for an ombudsman, but McClain said that would impose an unnecessary fee on the thousands of owners who have no issues with their boards.

Although an ombudsman bill has been proposed yearly in the General Assembly since 2008, it is not under consideration this year. Some states, like Nevada and Florida have ombudsmen.

"Last year, we didn't have support for the bill," said state Rep. James Albis (D-East Haven) a member of the Judiciary Committee.

Attorney General George Jepsen, who testified in favor of the bill last year, said he would not be supporting an ombudsman bill this year because of the cost. Instead, Albis will propose a mandatory licensing requirement for property managers who are currently required only to register and be bonded.

"In some cases, the problems are serious, but generally, owners and property managers get along well, but there are some issues to be addressed," he said.

The Community Associations Institute lobbied hard against the ombudsman bill, saying it was not needed because there are so few complaints and because so many complaints are unfounded.

Karl Kuegler, director of property management with Imagineers, which manages 156 condominiums statewide, said many associations are still struggling to comply with changes in the Common Interest Ownership Act, which governs condominiums, that took effect in 2010.

Those changes were made to ensure more transparency in association business, and required meetings to be held in common areas, specified that unit owners can request a hearing if they are trying to enforce a rights under the condominium law, gave owners the right to attend and speak at meetings, and required records of minutes and votes to be available to owners.

"There have been such sweeping changes [in the law]" said Kuegler. "Have homeowners allowed [these changes] to take effect?"

Rudikoff said some residents, particularly elderly ones, feel intimidated by board members and are reluctant to voice disapproval of board actions. Personal feelings sometimes run high, and unit owners are made to "feel unwelcome or excluded."

Kuegler said the law allows owners to get rid of board members if they don't feel the board is doing its job. "If the board isn't representing the interests of the community, [20 percent of the owners] can call for a meeting. There are provisions to remove them without any legal expense," he said.

Representatives of management companies concede there may be problems in condominium governance, but see the issues differently than condo owners.

"There's a staggering amount of responsibility, and some boards just aren't equipped to do it," said Reg Babcock, general counsel of Westford Real Estate Management, which manages 65 condominium complexes.

"The problem we witness more often than not is five vacancies and only three candidates.... That's a serious concern – getting serious committed owners to sign up and serve on the board."

One unknown is the number of condominiums statewide. Although each association is required to file with the town clerk and with the Secretary of the State, there is currently no enforcement mechanism, and no way to determine the exact number of condominiums or owners. Many are small condominiums, with under ten units.

Some of the most frequent condominium problems — over pets and landscaping — create tension between owners and board members, and tend to get personal, Babcock said. Turning those issues over to the management company for resolution would eliminate the rancor created by personality clashes, he said.

Although the ombudsman proposal is dead for this year, other measures are being proposed. Among them is a bill that would change the voting procedure on annual condo budgets that currently counts non-votes as a "yes" for the proposed budget. Under the bill, a simple majority of condo owners could defeat the budget.

The state Department of Consumer Protection, which has jurisdiction over complaints that fall under the state Unfair Trade Practices Act, is planning to launch a website that will contain all laws pertinent to condominiums in June. Richard Maloney, the department's director of trade practices, said he is working with the University of Connecticut's Real Estate Center to create a course for real estate agents to learn more about condominium law. And McClain said the Community Associations Institute offers frequent courses on condominium rights and responsibilities.

Kelman says all that may be a start, but is just not enough. "Condo owners have no state agency where they can get resolution," he said. " We're looking for transparency, democracy, fairness.... This is not happening."