

CONNECTICUT GENERAL ASSEMBLY
Tuesday, March 5, 2013

TESTIMONY OF Kim K. V. McClain
TO THE INSURANCE AND REAL ESTATE COMMITTEE
ON PROPOSED HOUSE BILL 6477, "AN ACT CONCERNING THE STATUTORY
LIEN FOR ASSESSMENTS ON A CONDOMINIUM UNIT"

I currently serve as the Executive Director of the Connecticut Chapter of the Community Associations Institute (CAI-CT). The Community Associations Institute (CAI), is a national member supported, not-for-profit educational and resource organization dedicated to fostering vibrant, competent, harmonious community associations for the 1 in 6 Americans who live in common interest communities.

I am submitting testimony to present my insights about how the proposed bill will affect the more than 5,000 common interest communities in Connecticut, and the hundreds of thousands of people who live in them.

CAI-CT SUPPORTS HB 6477

Throughout the United States, community associations with statutory or covenanted rights to assess their members for the insurance, maintenance, management or upkeep of property operated for the common benefit and enjoyment of their members have been bearing an ever-increasing burden of expenses and obligations historically paid for and performed by units of local governments.

While liens for real estate taxes and other governmental charges against a unit have priority over a first mortgage or deed of trust, community housing association assessments in Connecticut currently have a six-month priority. Years ago, The Connecticut General Assembly took leadership on this important issue, recognizing that associations serve a quasi-governmental function and the association continues to preserve the value of the lender's mortgage security by maintaining and insuring the building(s), a six-month priority lien measure was enacted. Since then, many other states have followed suit. Now, at least one state is seeking to take protection of community associations even further by proposing a 36 month priority lien bill.

Given the recent court interpretation of the six-month priority lien, banks are now forcing non-defaulting unit owners to pay for the maintenance and upkeep of units being held by foreclosing lenders. Aside from the obvious unfairness of this situation, severe hardships are thereby imposed upon non-defaulting unit owners, many of whom are already budgeted at a high percentage of their take home pay toward the cost of shelter.

In areas of the economy where multiple defaults are not uncommon, the resulting budget increases and/or special assessments community associations are compelled to make upon their non-defaulting unit owners to cover the shortfall caused by the defaulting owners has, in turn, pushed a number of such unit owners into default.

Lenders holding mortgages on both defaulting and non-defaulting units have a vested interest in insuring that associations have the wherewithal to continue to maintain the common and shared areas of developments during foreclosure proceedings as the provision of insurance, maintenance and security services is essential to the preservation of the value of their mortgage security interests.

We strongly encourage the inclusion of language which would serve to protect associations and the investment of the mortgage holding institutions. We respectfully suggest CIOA be amended to state that priority liens shall not be limited to one six (twelve) month lien period, whether or not the lien periods are successive.

We would be happy to further discuss with you this issue, or any other issues affecting common interest communities in Connecticut. Please do not hesitate to contact us with any questions or concerns. I can be reached at 860-633-5692 or email: caictkmclain@sbcglobal.net.

Thank you for your consideration.

Respectfully submitted,

Kim McClain