

TESTIMONY IN SUPPORT OF **GENERAL ASSEMBLY BILL No. 6477 - AN ACT
CONCERNING THE STATUTORY LIEN FOR ASSESSMENTS ON A
CONDOMINIUM UNIT**

MARCH 5, 2013

I am Richard Mellin, Mellin & Associates LLC, a property management firm based in the Danbury area. My partner and I manage large condominiums with more than one thousand residents. We have been managing community association properties for over 25 years.

Mellin & Associates LLC is a proud member of the Connecticut Chapter of Community Associations Institute. I serve on the organization's Legislative Action Committee and chair the organization's Managers Council.

I wish to express my support of **HB 6477**, but wish to see additional language included to address other deficiencies in the current statute.

A key issue regarding this statute has the potential to negatively impact common interest communities in our state. Some banks are using a legal strategy during foreclosure action which severely affects community associations and will likely lead to increased financial stress for community associations if it continues.

It has been the practice that when banks/mortgage companies brought action in Connecticut to foreclose on a unit, Connecticut state law ensured that a portion of the association's lien is not foreclosed out by the mortgage foreclosure. This has given meaningful protection to associations because it ensured that if a bank obtained foreclosure judgment, the bank would become the new owner of the unit and still be responsible for the priority portion of the association's lien. This protection provided under a "priority lien" made certain that the bank, as the new owner, would be required to a minimum of six months worth of common fees plus reasonable court costs and attorney fees (as determined by the court) and then pay the monthly common charges to the association from the date it took title to the unit going forward.

In the recent past, the banks have been employing a legal strategy whereby the bank has paid the six-month priority lien without taking title to the unit and then sought the court's interpretation that it applies only once during the lawsuit or even the lifetime of the mortgage. The bank's further strategy is to allow the foreclosure to remain uncompleted, often for many years. Throughout this sometimes lengthy ordeal, the association still must meet its obligation to provide services to the bank's unit as it does to all other units. In addition to the snow removal and other maintenance services, some associations must include heat, water and other services to the unit if provided to other units as part of the services it offers to all units.

In the event the defaulting unit owner manages to work out a deal with the bank to reinstate the mortgage, some of these banks have asserted that the mortgage continues to

supercede a priority lien going forward if the owner becomes delinquent again with the payment of fees to the association. Associations have contemplated taking their own foreclosure, but banks would then require the association to take title to the unit and also repay the mortgage. In this current economic climate, the mortgage would likely cost more than the unit is worth.

It is imperative that the Connecticut General Assembly clearly state that the priority lien is intended to protect associations and their unit owners. Failing to take decisive action will have a devastating affect on community associations in our state.

Each time a unit owner abandons a unit, or just stops paying their mortgage and common charges, Connecticut associations and their homeowners will be obligated to carry the defaulting unit and will in effect be subsidizing the bank's asset. In this instance everyone else in the community is forced to make up the difference for the lost income resulting from the bank's delay in finalizing the foreclosure effort while subsidizing the bank by maintaining the bank's asset with no obligation of the bank to pay for the expense. The additional funds required to maintain the financial solvency of the association must come directly from the other homeowners. There are no other sources of income make up for such shortfalls for our common interest communities. It is patently unfair and unreasonable for associations to bear the burden of subsidizing big banks as they take advantage of associations. This could lead to the to the demise of associations – especially smaller ones - that simply cannot afford to bear the brunt of paying for the bank controlled units not willing to pay their fair share.

I urge you to support HB 6477.

If you have any questions, please do not hesitate to contact me. Thank you.

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