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TESTIMONY OF WILLIAM W. WARD, ESQ. BEFORE THE JUDICIARY COMMITTEE MARCH 24, 2014

REGARDING RAISED BILL NO. 5590 PROPOSED CONDOMINIUM MEDIATION PROGRAM

I. BIOGRAPHY OF WILLIAM W. WARD:

William W. Ward is a graduate of Fairfield University (B.A. 1978 – magna cum laude) and the Columbus School of Law at The Catholic University (J.D. 1981), where he was a member of the Law Review. He clerked for the Honorable C. Murray Bernhardt in the United States Court of Claims (1981 – 1983). He was admitted to the bars of the State of Connecticut, State of Maryland, and District of Columbia and currently practices solely in Connecticut. He is a member of the Connecticut Bar Association, Fairfield County Bar Association, and the Federal Bar for the District Court for the State of Connecticut. He serves as a Special Master for the Connecticut Superior Court. He is currently a member of the Board of Directors for the Connecticut Chapter of the Community Association Institute and a member of its Legislative Action Committee. His practice concentrates on common interest communities, common interest community developments, and civil litigation.

Mr. Ward has represented community associations since 1984 and lectured on legal issues involving community associations for the Connecticut Bar Association, Fairfield County Bar Association, Community Association's Institute, Connecticut Housing Finance Authority, and community associations. He has also published multiple articles concerning community association's legal issues for local and state publications.

Mr. Ward lived in a condominium for 10 years, served on its Board of Directors for 6 years, and has represented condominium associations, individual unit owners, and developers for twenty-nine years. Mr. Ward is a principal in Ackerly & Ward in Stamford, Ct, which provides legal services to over 175 community associations.

II. BACKGROUND AND PERSPECTIVE

I am testifying today from a unique viewpoint. I lived in a 200-unit condominium for 10 years and was on the Board of Directors for 6 years. I represent individual Unit Owners in disputes with Associations, over

175 Community Associations, and developers in developing a 53 Unit project in Stamford and up to 600 Units in Moodus. Therefore, my opinion on the proposed legislation is based upon viewing the issues from all perspectives.

III. SUMMARY OF TESTIMONY

THE GENERAL ASSEMBLY SHOULD ADOPT RAISE BILL NO. 5590 TO ESTABLISH A PILOT MEDIATION PROGRAM TO RESOLVE DISPUTES

The General Assembly has considered establishing an alternative dispute resolution program for common interest community disputes for many years. The purpose of such a program would be to provide a forum, which would allow quicker and more economical resolution of disputes. This program achieves both goals. Though C.G.S. Section 47-278 requires a hearing between the Association and a unit owner prior to commencement of litigation, since a neutral third party is not involved those hearings rarely resolve the issue. The owner leaves believing the Association is acting inappropriately and the Association remains steadfast in its course of action.

This program, utilizing experienced community association attorneys (acting pro bono) as neutral third-party mediators, is designed to resolve:

- a. Disputes between one or more owners.
- b. Disputes between an owner and the Association involving interpretation and/or implementation of provisions of the Association's documents and/or federal, state, or local laws.
- c. Disputes concerning enforcement, or lack of enforcement, of Association rights or duties.
- d. An Association's alleged failure to comply with an owner's requests, which may or may not be legal, reasonable, or authorized by law.

The need for such a program is apparent. Because court proceedings can last 3 – 7 years and involve significant legal fees, relatively minor disputes can create tensions and divisions within the common interest communities, which last for years. It is becoming increasingly difficult to encourage qualified members to serve on the Board of Directors because they do not want to become entangled in these types of disputes. Currently, these disputes either are resolved through litigation or remain unresolved creating conflict in the community. Neither option benefits the associations or its members.

I strongly encourage you to pass Raised Bill No. 5590 for the following reasons:

- a. The program provides the potential for economical and speedy resolution to community association disputes.
- b. The program is voluntary; therefore, owners or associations cannot be compelled to participate if one of them decides to pursue resolution through the courts.
- c. Since mediation is non-binding, owners or associations are still able to pursue remedies through litigation.
- d. Both parties share the application costs (\$500), which monies are paid to the State for administration of the program.
- e. The application fee (\$500) paid to the Judicial Department is more than the filing fee (\$350) to commence a lawsuit.
- f. Mediation does not require assistance of legal counsel.
- g. No one will be more than an hour's drive from one of the three judicial districts involved in the program so it will be accessible to every association and unit owner throughout the state.