



STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

TO: Legislative Regulation Review Committee
Capitol Building, Hartford, Connecticut

DATE: August 15, 2014

SUBJECT: Proposed Regulations Concerning the Property
Condition Disclosure Form

SUMMARY OF TESTIMONY

The Department held a properly noticed public hearing on **Wednesday, May 28, 2014**. The administrative record was held open for one week, through Wednesday, June 4, 2014 to allow additional written testimony to be submitted for consideration.

IN SUPPORT OF ADOPTION:

1. Richard Maloney, the Director of the Trade Practices Division of the Department of Consumer Protection (oral comments with written comments entered into the record as Exhibit "E").

OPPOSED TO ADOPTION:

No verbal or written comments opposed the adoption of the proposed regulations.

SUGGESTING MODIFICATIONS TO THE TEXT:

1. The Connecticut Association of Realtors provided oral comments through James Heckman and written comments (entered into the record as Exhibit "F") suggesting changes to the proposed regulations. The Association asked for the removal of the new requirement that a seller disclose the specific locations of carbon monoxide detectors, as this creates an unnecessary burden on sellers and is not a statutory mandate. The Association also requested the removal of part of Question 37 dealing with the disclosure of actual common interest fees, as the statute merely requires asking whether a property is subject to such fees.

A copy of the official transcript of the public hearing is also being provided with this summary, together with copies of any written testimony. If the members of the Committee should have any questions, they may contact Attorney Jerry P. Padula at 860-713-6087 or via e-mail at Jerry.Padula@CT.gov.

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CONNECTICUT DEPARTMENT OF CONSUMER PROTECTION
REAL ESTATE PROPERTY DISCLOSURE FORM
May 28, 2014

Jerry Padula: Good morning everyone. My name is Jerry Padula, and I am an attorney with the Connecticut Department of Consumer Protection. I've been designated by Commissioner William M. Rubenstein to be the Hearing Officer for this morning's Public Hearing on proposed regulations concerning the Real Estate Property Condition Disclosure Form. Today is Wednesday, May 28, 2014. The time is now 10:11 in the morning. We are here today in Room 119 of the State Office Building, which is located at 165 Capitol Avenue here in the Capital City of Hartford, Connecticut. On April 25, 2014, the Department of Consumer Protection published a Notice of Intent To Amend Regulations through the Secretary of State's Office. These regulations today are being proposed in accordance with the authority granted in Connecticut General Statutes, Sections 20-327b, 4-168, and also Public Act 2012-122. Now we also have the full text of the regulation, and I will be marking that as Exhibit A for the record. The Proof of Publication will be marked as Exhibit B for the record, and that's the document from the Secretary of State's Office. We also have a fiscal note prepared by the agency. That's gonna be marked Exhibit C, and the Department also did perform a Small Business Impact Analysis and notified the Department of Small Business Affairs at the Department of Economic Development of our intent to amend these regulations, and the Department considered methods that would accomplish the objectives of the applicable statutes while minimizing the adverse impact on small businesses. And the agency specifically considered the 5 methods listed in Subsection (b) of Connecticut General Statute Section 4-168a. And the Small Business Impact Statement will be marked as Exhibit D. And now we also did receive some submissions. We have comments from the Department of Consumer Protection through Richard Maloney, the Director of Trade Practices Division. That's gonna be marked Exhibit E for the record. And we did receive another submission from Connecticut Realtors through Attorney James Heckman, and that's gonna be marked Exhibit F for the record.

As the hearing proceeds, if there's any other additional documents that need to be submitted, please send them to me, and I'll mark them in as exhibits. Okay, at this point we do have a speaker sign-in sheet. We'll have the individuals who sign in up on the sheet give their comments. And again, if there's any other written documents you wanna leave with me, that's fine. The first person on the list is James Heckman with Connecticut Realtors.

James Heckman: Good morning. My name is Jim Heckman. I'm a attorney with the Connecticut Realtors Association, and I'd like to read a statement on behalf of the Association regarding these regulations. The Connecticut Realtors

would like to submit testimony related to the Department of Consumer Protection's proposed regs on Residential Property Condition Disclosure Requirements. The Association is generally in favor of the regulations modifying the form but wishes to recommend certain changes. Public Act 12-122, an act requiring the Commissioner of Consumer Protection to make changes to the Residential Property Condition Disclosure Report, was enacted to require the Commissioner to make specific adjustments to the regulations. In Section 1 of the act, the language amends Subsection (d) of Section 20-327b of the Connecticut General Statutes. Within that section, the addition of Subsection (d) 2M specifies changes to the disclosure of carbon monoxide detectors. In Question 14 of the form, the proposed form asks the seller to provide the exact location and type of carbon monoxide detector. Nowhere is it stated that the exact location and type of detector must be provided. The association objects to the inclusion of this language as it creates an unnecessary burden not mandated by the legislation. Connecticut Realtors would also request removal of part of Question 37. Again, in Section 20-327b of the Connecticut General Statutes, Subsection (d) 2A specifies changes to the disclosure of information related to a property that is a common interest community and fees associated with the community. The language in the statute states the form must contain information as to "whether the property is subject to any community or association dues or fees." The question provided in the regulation asks what are the monthly and yearly dues, common charge, or assessments. The Association believes this question does not coincide with the intent of the law and should be removed from the proposed regulations. Thank you for your attention to these matters.

Jerry Padula: Thank you, Mr. Heckman.

James Heckman: Thank you.

Jerry Padula: The next person on our list is Richard Maloney, the Director of the Trade Practices Division here at the Department of Consumer Protection.

Richard Maloney: Good morning, Attorney Padula. Thank you for having me this morning. I am the Director of Trade Practices with the Department of Consumer Protection. This [inaudible 05:47] is being held to modify the Real Estate Property Condition Disclosure Form found in the Regulation 30-327b-1.

Female Speaker: 20.

Richard Maloney: 20-327b-1. The regulation requires a modification of the actual form, and it must be amended by regulation each time there's a statutory change. These proposed regulations modify the form as required under the Public Act, which is 2012-122, by adding the following disclosures. First, whether a property located in a common interest community is subject to any

community or association dues or fees. Second, that the prospective purchaser should consult with the building official in the municipality where the property is located to confirm the applicable building permits and certificates of occupancy that have been issued for work on the property. Three, that the prospective purchaser should have the property inspected by a licensed home inspector. Four, whether the seller is aware of any prior or pending litigation or government agency or administrative action, order, lien on the premises related to the release of any hazardous substances. Five, whether there are smoke or carbon monoxide detectors located in the dwelling on the premises, and firstly, be the number of detectors; secondly, if there have been any problems with the detectors and explain the problem. And 6, whether during the seller's ownership there is or was an underground storage tank on the property and, if so, whether it was removed. If the tank was removed and within the seller's possession and control, he or she must provide any and all documentation of removal with information on when and who removed it. Seven, the proposed regulation also updates the credit from \$300 to \$500, which the seller must give to the purchaser at closing if he or she does not furnish the written residential property condition disclosure report. In addition, the Department asks that Section 20-327b-1 be amended to remove the actual form from regulation and allow the commissioner to change the form to comport with the statute eliminating the unnecessary work to amend the form in regulation and allowing the Department to react quickly to changes in residential property. Thank you.

Jerry Padula: Thank you, Director Maloney. We have Vicky Bullock, Staff Attorney, on the speaker list. Is there anything you would like to add, Ms. Bullock?

Vicky Bullock: No, thank you.

Jerry Padula: Okay. With that, there is one other document just for formality to put in the record. The Commissioner's designation letter, which provides for me to be the hearing officer for the hearing, and I'll just mark that in as an additional exhibit, and it'll be marked as Exhibit G.

And if there is no other comments, I will be holding the record open for 1 week from today through Wednesday, June 4, at the close of business to allow any interested parties an opportunity to present written comments to the Department and those written comments to be directed to the Commissioner, William Rubenstein.

Now the Agency will be reviewing all the testimony and documents received and will consider whether any revisions should be made to the regulations as they were published through the Secretary of State's Office. And Pursuant to the Uniform Administrative Procedures Act, we will then forward the proposed regulations to the Attorney General's Office to be reviewed for legal sufficiency. If approved, the regulations will then be

forwarded to the Regulation Review Committee of the General Assembly for consideration and approval. They will become effective upon filing with the Secretary of State's Office. Okay. With that, I thank you all for attending the hearing. I'll note that the time is now 10:21, and this hearing is now adjourned. Thank you.

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