

Legal Assistance Resource Center

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S.B. 1004 -- Senior housing

Committee on Aging public hearing -- March 3, 2015

Testimony of Raphael L. Podolsky

Recommended Committee action: DELETION OF SECTIONS 2, 3 & 4

Section 1 of this bill requires the Commissioner of Housing, in consultation with CHFA, to study a number of issues regarding State Elderly/Disabled Public Housing. The bill is similar, although not identical, to S.B. 888, which has already had a hearing in the Housing Committee. Testimony from that public hearing can be found at www.cga.ct.gov/asp/menu/CommDocTmyBillAllComm.asp?bill=SB-00888&doc_year=2015. We have taken no position on either S.B. 888 or Section 1 of this bill.

Sections 2 through 4, however, are unnecessary and undesirable and would do significant damage to both landlord-tenant procedure and the ability of tenants to be heard in an eviction proceeding. We urge you to remove those sections from the bill.

Sections 2 and 3 direct that evictions from State Elderly/Disabled Public Housing based on nuisance, serious nuisance, disturbing neighbors, selling or possessing drugs, or allowing a drug-seller to move back into the apartment after having been evicted – all of which are already grounds for eviction under current law – receive an “expedited” hearing and trial. As a practical matter, that would be impossible to do, because all eviction actions are already expedited. According to Judicial Branch data, the median eviction case goes to judgment just 19 days after the return day, i.e., the date the case begins in court. It is not realistic to “expedite” cases faster than that without seriously limiting the tenant’s right to defend the eviction and be heard. In addition, the practical effect would be to slow down the processing of other eviction cases, which would have undesirable consequences of its own.

Section 4 interferes with the right to appeal an eviction judgment and raises serious due process concerns. In the evictions described above, i.e., nuisance-related evictions against seniors and persons with disabilities, Section 4 prohibits staying the eviction order while the case is on appeal unless the court finds that “there is a reasonable likelihood that the tenant will prevail on appeal.” Since such a decision would be made by the trial court judge who has already ruled against the tenant, it would be highly unlikely that such a finding would be made. This means that the senior or disabled person would be evicted immediately after the five-day stay. The removal would moot the appeal and it would be dismissed. Even if the eviction were allowed to proceed after the tenant’s eviction and the tenant ultimately prevailed, Section 4 immunizes the housing authority from all liability for any harm suffered as the result of the tenant’s wrongful eviction.