

Testimony of  
Kim McClain

Before the Judiciary Committee  
Wednesday, March 25, 2015  
1:00 p.m.

**R.B. 7031 AN ACT CONCERNING THE ESTABLISHMENT OF A PILOT PROGRAM  
FOR THE MEDIATION OF CONDOMINIUM-RELATED DISPUTES.**

Summary

R.B. 7031 proposes to create a pilot program in the Probate Court system for the purposes of hearing condominium-related disputes.

Kim McClain

I currently serve as the Executive Director of the Connecticut Chapter of the Community Associations Institute (CAI-CT). CAI-CT is the educational and technical assistance entity for community associations and their service providers in Connecticut. We are one of 60 chapters of a National organization. Through this alliance we are able to provide up-to-the-minute information on the issues and trends affecting associations, programs to enable community association managers to obtain professional credentials for licensure and access to hundreds of publications which provide tools to assist association members in their operations.

I am submitting comments, to present my insights into 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.

Background

CAI-CT works diligently to protect the rights and foster the responsibilities of all of our members. Through our programs, website and magazine, we foster *Best Practices* for associations throughout the State.

When Zogby International recently performed a survey on behalf of CAI, the results showed that overall unit owners are satisfied with their associations. Despite compelling stories, survey data does not support the assertion that homeowner problems with elected boards are widespread, in fact, more than 91% of residents surveyed report that their elected board represent the best interests of the community as a whole.

It is our experience that when issues causing conflict arise in common interest communities, in a majority of situations it is due to the lack of understanding about the rights and responsibilities of unit owners and their boards. For this reason, we have strongly supported a requirement for pre-sale disclosure statements which clearly articulate, in plain language, the requirements of living in a common interest community.

Unit owners have an obligation to read and understand the documents and rules that come with their purchase of a unit. We strongly believe that all potential purchasers should be able to know the answer to some very basic questions BEFORE they say yes to the community living lifestyle.

Our state now has a law, Public Act 06-23 AN ACT CONCERNING TRAINING FOR MEMBERS OF ASSOCIATIONS OF COMMON INTEREST COMMUNITIES. CAI-CT offers a solid day-long program which covers the basics of association operations. It is open to board members, managers and unit owners. Since this law does not include any enforcement provisions, only small percentage of board members,

managers and unit owners have availed themselves to this training. We are pleased to note that we have collaborated with staff from the Department of Consumer Protection to provide greater access to information that will serve to better inform unit owners and board members and encourage them to seek educational opportunities. There is now a “What to Know Before you Buy a Condo” on their website.

For the past three years, CAI-CT has been working with the leadership of the Connecticut Condo Owners Coalition (CCOC). We meet regularly to discuss how we can mutually benefit from various legislative proposals.

#### Analysis of Complaints Submitted to the Connecticut Attorney General

CAI-CT thoroughly reviewed the 206 written complaints received by former Attorney General Blumenthal between 2007 and 2010. **It is significant to note that the totality of these complaints represents approximately one tenth of one percent of all the units in the entire state.**

It took several weeks to pour through the 3,360 pages in the complaint files. We found the contents to be quite revealing. 105 of the complaints addressed financial concerns, e.g. accountability and access to financial records, disagreement with board financial decisions, and payment disputes. 63 complaints dealt with issues involving governance, and disagreements with board decisions. Thus, 168, or 81.5% concerned issues that are directly related to the transparency requirements of the revisions to CIOA. (Copies of our summary analysis are available.)

We believe that the recent revisions to CIOA have had a positive affect on the operations of community associations. Again, lack of education about the requirements provided for in the law seems to be the most dominant concern when problems do arise.

#### Statement

**CAI-CT opposes RB 7031.**

While the notion of providing a form of Alternate Dispute Resolution (ADR) has been supported by CAI-CT, we have some significant concerns with many of the components of RB 7031.

1. Training. All hearing officers, probate judges and staff involved in the processing of complaints for the Pilot Program **MUST** be trained about the many facets of common interest community law. As we all know, this area of the law has many intricate components. We believe that the program would run more efficiently if members of CAI-CT had the opportunity to provide training about CIOA and common interest communities in general. For example, in Montgomery County, Maryland, the panel which hears condo complaints is very experienced in condo law, etcetera, as they are condo board members, attorneys and property managers. It is also important to note that those who serve on the panel do so on a *pro bono* basis.
2. Fees. Requiring a \$250 fee to be paid to file a complaint makes sense. However, we feel strongly that unless the fee is **non-refundable** and **non-waiveable**, the State of Connecticut will bear the burden of funding a new program. If the party seeking to make the complaint has no financial investment in the complaint process, there would likely be no end to the number and types of complaints filed. The absolute requirement of the fee would provide a greater assurance that the complainant is serious about their dispute and it would help to support the costs to the State.

It is important to note that in order to provide reasonable due process for complaints, in most, if not all, situations the hearing officer or judge would need to have a clear understanding of the association's

documents. This is a very time consuming process, as most associations' documents are completely unique. Thus, the \$250 fee would represent a small portion of the State's costs in processing the claim.

At a time when the State of Connecticut is already facing a very serious budget crisis, it seems imprudent to create a program, even on a pilot basis, which will further burden the State's financial resources.

### **Conclusion**

To the extent that problems arise within community associations, CAI believes they can be best addressed through comprehensive board member education, and pre-sale disclosure requirements. We wish to remind the Connecticut General Assembly that we are here as a resource and look forward to continuing our efforts to work in concert with the Department of Consumer Protection to provide effective and meaningful methods for educating members of common interest communities before purchase and during their tenure as owners.

We would be happy to further discuss with you this issue, or any others 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](mailto:caictkmclain@sbcglobal.net).

Thank you for your consideration.

Respectfully submitted,

Kim McClain