PILICY & RYAN, P.C.
ATTORNEYS AT LAW

FRANKLIN G. PILICY
fpilicy@pilicy.com
Also Admitted in MA

DONALD J. RINALDI
drinaldi@pilicy.com
As of Counsel to the Firm

365 MAIN STREET
P.O. BOX 760
WATERTOWN, CONNECTICUT 06795-0760
PH: 860-274-0018
FAX 860-274-0061
www.pilicy.com

CHARLES A. RYAN
cryan@pilicy.com
Also Admitted in MA

JEFFREY M. GEORGE
jgeorge@pilicy.com
Also Admitted in RI

STEPHANIE ANN PALMER
spalmer@pilicy.com

March 6, 2019

TESTIMONY OF CHARLES A. RYAN, ESQ.

TESTIMONY IN OPPOSITION TO RAISED BILL No. 7276
AN ACT CONCERNING CERTAIN GROUP CHILD CARE AND FAMILY CHILD CARE HOMES
As it applies to Common Interest Communities

My name is Charles Ryan. I am an attorney with an office in Watertown, CT. I have been practicing law since 2010 and my practice focuses almost entirely on representing Common Interest Communities1 throughout the State of Connecticut.

I am a member of the Executive Board for the Connecticut Chapter of Community Association Institute ("CAI-CT"). I am a Member of CAI-CT's Education Program Committee, Conference Committee and a delegate of CAI's Legislative Action Committee. I am also a member of the CAI Lawyer's Council for CT.

My practice encompasses all aspects of Association representation and is not limited to debt collection. Accordingly, I spend many nights at Board Meetings and Unit Owner Meetings discussing and resolving many issues that affect Connecticut's Common Interest Communities. I also litigate issues involving Common Interest Communities.

Please accept this testimony in opposition to Sections 5 and 6 of Raised Bill No. 7276.

The Committee is urged to **reject** Sections 5 and 6 of Raised Bill 7276 "**AN ACT CONCERNING CERTAIN GROUP CHILD CARE AND FAMILY CHILD CARE HOMES.**"

Raised Bill 7276 would amend the Condominium Act and Common Interest Ownership Act as follows:

Sec. 5. Subsection (c) of section 47-70 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):

(c) The declaration may include such covenants and restrictions concerning the use, occupancy and transfer of units as are permitted by law with reference to real property, [; provided, however,

1 The terms Common Interest Community, Condominium, and Association are used interchangeably throughout this written testimony.

that] (1) provided the rule against perpetuities and the rule restricting unreasonable restraints on alienation shall not be applied to defeat any rights given by the condominium instruments or by this chapter, and (2) except that the declaration may not include any prohibition on the operation of a licensed family child care home or group child care home, as those terms are described in section 19a-77, or any restriction on any operation of such a home.

Sec. 6. Subsection (b) of section 47-224 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):
(b) The declaration may contain any other matters not inconsistent with this chapter that the declarant considers appropriate, including any restrictions on the uses of a unit or the number or other qualifications of persons who may occupy units, except that the declaration may not contain any prohibition on the operation of a licensed family child care home or group child care home, as those terms are described in section 19a-77, or any restriction on any operation of such a home.

OPPOSITION AS TO SECTIONS 5 & 6

It is not that I object to a Condominium or other Common Interest Community being able to allow family child care or group child care. It is that the decision should be left to the Board of Directors and the Unit Owners that live in the Community. Condominiums are often looked at as though they are subdivisions in a community. This is not so.

Condominiums are not designed for child care. To begin, there are long standing Declaration provisions that prohibit commercial uses in condominiums. The intent being that because people live so close to one another, most often sharing thin walls, the use should be residential. Furthermore, in a condominium, unlike in a subdivision, the actions of your neighbor can greatly affect you. For example, if child care was being provided in a condominium unit, if a child was injured, the Association could be liable. Those Communities with pools are at an even greater risk for a child to be injured. The reality is that the Association's Insurance Policy will likely have an exclusion for such uses. The result would be that the Unit Owners would have to pay for an attorney and pay any settlement or awards. This could drastically affect the financial stability of homeowners and their Associations. If the Insurance Policy did provide coverage, this would result in increased premiums as the risks associated with the condominiums would increase.

In addition to liability for personal injuries, if Sections 5 & 6 are enacted, condominiums will now face liability for interfering with a business. I receive noise complaints almost every month. A contiguous owner complains that a neighbor is too loud and interfering with their use and enjoyment. The Association investigates these claims but they are difficult to substantiate because noise is not constant. The Board must be present when the noise is occurring. Ultimately, if the noise does not stop the unit owner files a lawsuit against the Association. Often times the Association does not have insurance coverage for such claims and must pay privately for an attorney to defend the action. With the enactment of sections 5 & 6, condominiums would now be exposed to liability for noise that interferes with a business. For example, the operator providing child care may sue the Association because a neighbor's noise wakes up sleeping children more often then he or she deems acceptable.

Beyond liability for personal injuries and business interference, condominiums are simply not designed to handle the added pedestrian and vehicular traffic that accompany commercial use. Parking is a major concern in condominiums and the influx in visits from the public,

generally during busy drop-off and pick-up times, will negatively affect the use and enjoyment of the neighboring homeowners.

Finally, the Housing for Older Persons Act, specifically authorizes a condominium to prohibit children under age 18, if the Community qualifies as an over 55 Community or an over 62 Community. Congress created such Communities as it recognized some homeowners do not wish to live in Communities with children. This Bill would affect those Connecticut residents who reside in 55 + and 62+ Communities.

Conclusion

For the aforementioned reason I respectfully request that sections 5 and 6 of Raised Bill 7276 be removed.

Respectfully submitted,

_____

Charles A. Ryan, Esq.