PA12-113

HB5536

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CONNECTICUT
GENERAL ASSEMBLY
HOUSE

PROCEEDINGS
2012

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PART 13
4109 – 4473

On page 27, Calendar Number 403, Substitute for House Bill Number 5536, AN ACT CONCERNING REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY ASSOCIATION MANAGER, LICENSURE AS A REAL ESTATE BROKER OR SALESPERSON, AND ORGANIZATION OF A UNITS OWNERS' ASSOCIATION, favorable report by the Committee on the Judiciary.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis of the 99th District, you have the floor, sir.

REP. ALBIS (99th):

Thank you, Mr. Speaker.

Mr. Speaker, I move for acceptance of the joint committees' favorable report and passage of the bill.

DEPUTY SPEAKER ARESIMOWICZ:

The question is on the acceptance of the joint committees' favorable report and passage of the bill.

Will you remark further, sir?

REP. ALBIS (99th):

Thank you, Mr. Speaker.

Mr. Speaker, this bill does several things. First of all, it allows for the commissioner of DCP to requests that an initial community association manager or person seeking their initial community association manager registration certificate file for a criminal

background check. In addition, this bill also requires community association managers who are filing for their initial certificate to within one year of obtaining such certificate, to get training via a nationally recognized course and also a nationally recognized exam relating to common interest ownership communities.

The bill does grandfather those who have been managers for under 10 years, allowing them two years to comply. And for those who have been managers for longer than 10 years, it allows for them to only have to take the exam and not the course.

In addition, the bill allows for realtors who are by law required to take continuing education courses every two years, it requires part of that continuing education to be on a Common Interest Ownership Act and related statutes.

Mr. Speaker, the Clerk also has an amendment LCO Number 4202. I asked the Clerk to please call the amendment and that I be granted leave of the chamber to summarize.

DEPUTY SPEAKER ARESIMOWICZ:

With the Clerk please call LCO Number 4202, which will be designated House Amendment Schedule "A."

THE CLERK:

LCO 4202, House "A," offered by Representative Albis, Representative Hetherington and Senator Looney.

DEPUTY SPEAKER ARESIMOWICZ:

Representative seeks leave the chamber to summarize the amendment.

Is there at objection to summarization? Is there an objection to summary -- summarization?

Hearing none, Representative Albis, you may proceed, sir.

REP. ALBIS (99th):

Thank you, Mr. Speaker.

Mr. Speaker, this amendment strike sections 6 and 7 of the substitute language of the original bill and inserts a new section 6 which says that no condominium unit dweller may be prohibited from attaching to an entry door or entry door frame an object that is -- the display of which is motivated by observance of religious practice or sincerely held religious belief.

It does put some conditions on there, notably the size of the object. And it, also, says that the object cannot threaten the public health or safety; cannot hinder the opening and closing of an entry door; cannot violate any federal state or local law;

and cannot contain graphics, language, or any display that is obscene or otherwise patently offensive.

Before moving adoption, I would like to thank Representative Hetherington for his hard work on this bill and this amendment.

And with that, Mr. Speaker, I move adoption.

DEPUTY SPEAKER ARESIMOWICZ:

The question before the chamber is on adoption of House Amendment Schedule "A." Will you remark further on the amendment? Will you remark further on amendment?

I will try your minds. All those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER ARESIMOWICZ:

Those opposed, nay.

The ayes have it. The amendment is adopted.

Would you remark further on the bill as amended? Would you remark further on the bill as amended?

Representative Smith of the 108th, you have the floor, sir.

REP. SMITH (108th):

Thank you, Mr. Speaker, and good evening. Just a few questions for the proponent. Thank you.

DEPUTY SPEAKER ARESIMOWICZ:

Please proceed, sir.

REP. SMITH (108th):

Just so I'm clear, then, section 7 of the underlying bill, it had a civil penalty of up to $5,000, has been eliminated in this amendment? Through you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Through you, Mr. Speaker, yes, that is correct.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Smith.

REP. SMITH (108th):

And having mentioned that you worked with Representative Hetherington, I'm sure that this language was needed in terms of making -- I guess, absolute certainty, we comply with federal law and the Constitution, but my question I guess is, I was just wondering whether we even need that language because I think under federal law, under state law, and under

our Constitutions, we do have the right to display these types of items that are mentioned in this bill.

So maybe, through you, Mr. Speaker, if the proponent could just address that and why he felt this language is needed.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Thank you, Mr. Speaker.

Through you, this language was actually -- or did come about after an incident in Stratford where a condominium unit owner was told to take down a mezuzah in her door frame, which is prescribed by Jewish commandment when you are moving into a new dwelling, you hanging a mezuzah up on your doorframe. And while other owners on this versus floor had crosses and other religious items hanging on their door, this person was told to take down the mezuzah. So we are just clarifying that no person may be hindered from putting up a religious object as long as it meets these prescriptions. Through you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Smith.

REP. SMITH (108th):

Thank you and I guess that's why we have language and it's certainly helpful here to make those out there in our state aware of the fact that, you know, these types of attempts to prohibit religious freedom certainly would be frowned upon, so I would applaud the language in this bill and -- and stand in support of it.

Thank you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you very much, sir.

Will you remark further?

Representative Green of the 105th, you have the floor, sir.

REP. GREEN (105th):

Thank you, Mr. Speaker.

Mr. Speaker, through you, I have a few questions the proponent of the bill.

DEPUTY SPEAKER ARESIMOWICZ:

Please proceed, sir.

REP. GREEN (105th):

Thank you very much.

In going through the summary of this bill and taking a look at, you know, the very aspects of it. I had a couple questions that popped up with regard to

the civil penalties up to $5,000 for violations of the Common Interest Ownership Act. Through you, Mr. Speaker, can you give us some examples of what that might actually entail. What a violation of that act actually would be and who might actually be making that violation? Through you.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Through you, Mr. Speaker, I thank the gentleman for his question.

That language has actually been removed by this amendment and there were several instances where it was determined that it might be problematic such as -- say, for example, a unit owner was behind one month on their HOH fees, they could be subject to a $5,000 civil penalty. Therefore, it was decided that it be best to take this language out. Through you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Green.

REP. GREEN (105th):

I thank you for the clarification I was not aware of that removal. I appreciate the answer on that one.

I have another question with regard to the educational requirements, specifically, for association managers who have been in the office, I guess or whatever you would call it, the job, for less than 10 years but have been successfully doing the job for a few years. As I understand under the bill, there is a testing requirement. If, for example, an individual has been working on the job for eight years and has been successful at it, but for some reason failed the test, could that person lose their job. Through you?

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Through you, Mr. Speaker, I thank the gentleman for his question, and yes, he is correct.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Green.

REP. GREEN (105th):

Thank you, Mr. Speaker, for that clarification.

Mr. Speaker, I rise in support of the bill. I've heard quite a bit from a number of my constituents in the district, particularly the Town of Beacon Falls. There have been a number of issues that have arisen

over the years with regard to violations of the Common Interest Ownership Act. And unfortunately, the difficulty in enforcing some of these issues, it's typically very expensive proposition to go to court system. I believe that this bill will assist with some those problems and -- and I urge support.

Thank you.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you very much, sir.

Representative Shaban of the 135th, you have the floor sir.

REP. SHABAN (135th):

Thank you, Mr. Speaker, through you a quick question to the proponent if I may.

DEPUTY SPEAKER ARESIMOWICZ:

Please proceed, sir.

REP. SHABAN (135th):

I think what Representative Green may have triggered it. The provision in the original bill where folks could sue to enforce the -- the strictures of the COIA, that has now gone? Is that my understanding for the amendment. Through you?

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Through you, Mr. Speaker, I thank the gentleman for his question. If someone is still able to sue under the statutes that make up CIOA, the Common Interest Ownership Act. It's just that with this section stricken from the bill, there is no longer a $5,000 -- civil penalty of up to $5,000 as a remedy. Through you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker.

I guess I'm just trying to -- I trust -- I trust the gentleman's representation is accurate because he's familiar with the bill. I'm just trying to make sure that still the case. I'm trying to connect the dots here because under the amendment, it strikes section 6 and section 7, we added a new section 6. I'm trying to figure out where in the amendment, because in the bill section 7 had the -- contained the ability to bring a lawsuit I think. Where is the provision to still bring a civil suit contained. Through you?

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Through you, Mr. Speaker. There was no specific provision that allowed for a suit to be brought in this bill. The original section 7 just talked about the civil penalties. It did not say one way or the other if you could bring a suit or not. It's my understanding that you can bring a suit regardless of what this bill says now and what it said in its original form. Through you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Shaban.

REP. SHABAN (135th):

All right. Thank you, Mr. Speaker, and I thank the gentleman. Well, I'm looking at line 173 of the original bill, section 7, a declarant, association, unit owner, or any other person subject to this chapter may bring an action to enforce a right granted or obligation imposed by this chapter, the declaration, or the bylaws. And again, not to be difficult, I am just trying to -- if -- if that provision still exists, I'm trying to figure out where -- or if it doesn't, maybe it's something we might

want to consider. So, through you, have I gone up awry? Through you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Thank you, Mr. Speaker.

Through you, looking at the language right now. The original bill added the -- the language from lines 176 to 179 regarding the civil penalties. The fact that section 7 is taken out of the bill does not take out the rest of subsection (a) of section 47-278 of the General Statutes. That is still there so a declarant, association, unit owner, or any other persons subject to -- to the provisions of CIOA, may bring an action to enforce a right granted, et cetera, et cetera. I hope that clarifies your question, through you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Mr. Speaker, and it does and I appreciate the response because I -- I support the bill. I think there is dire need to tie in up some of

the conduct a goes on what these associations, and I thank the gentleman for his responses.

DEPUTY SPEAKER ARESIMOWICZ:

And I thank you, sir, for your comments.

Representative Hetherington of the 125th, you have the floor, sir.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker.

I am happy to rise in support of this bill. Representative Albis and I worked on this for some time. We talk to people from condominiums. Several came to testify before the Judiciary Committee, and we tried to accomplish something which will assist them in these educational provisions. And as pointed out earlier we have illuminated sections 6 and 7 by the amendment, which as discussed earlier, deals with religious symbols displayed on the doors or on the frame of the door of the condominium.

This -- in responding to an earlier question, some condominium associations attempted to limit the ability to display these items and that would -- you know, I'm not sure constitutional objection would stand because these are not government action, they

are -- they're condominium -- they are a private organization by their actions.

In any event, this should accommodate the mezuzah, as well as Christmas wreath, and so hopefully that will make everybody happy in that regard. And I urge adoption.

Thank you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you very much, sir.

Representative Larry Miller 122nd, you have the floor, sir.

REP. MILLER (122nd):

Thank you, Mr. Speaker.

A couple of questions the proponent.

DEPUTY SPEAKER ARESIMOWICZ:

Please proceed, sir.

REP. MILLER (122nd):

Through you, Mr. Speaker, we have a lot of condominiums in my district and a lot of them are operated by, not a manager, but by a managing company. How does this affect them, through you, Mr. Speaker?

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Through you, Mr. Speaker, I thank the gentleman force question, and it is my understanding that this would still apply to the management companies, through you.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Miller.

REP. MILLER (122nd):

And through you, Mr. Speaker, we have also volunteer type of managers at the some complexes, who are elected for a two-year period or so. Will they be impacted by this thing, as well. Through you, Mr. Speaker?

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Through you, Mr. Speaker, is the gentleman referring to elected board members? Through you.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Miller.

REP. MILLER (122nd):

Through you, yes, I am. Thank you.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Through you, Mr. Speaker, know this bill would not affect elected board members.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Miller.

REP. MILLER (122nd):

Thank you for your answers. I have some problems with the bill because I think we're opening up a Pandora's box here. The incident in Stratford was resolved after a while. It took a little bit and a lot of publicity, but it was resolved. And in some instances some people put up things on their condominium walls outside if they have a house-type unit. They hang up all sorts of things that are against the condominium rules. So I guess there's a little restraint has to be held -- has to be -- by the homeowners of these condominiums before they put anything up.

Now, the religious thing is little the different because it wasn't they big thing, obviously, but just got blown out of proportion. So it's been resolved. But I just hope we're not opening up -- starting to open up something that's going to be even bigger later on down the road as far as more testing and further requirements.

Again, I have one manager who's been in -- it's a 1,000 unit condominium complex and he works for the association. I'm not sure he's went through a criminal background check when he got the job, and he's probably given them a resume of his abilities and they thought he was good enough, so they hired him. So I hope in the future he's not going to be put through the ringer for some reason or another with regard to testing or maybe a background check for criminal activities. So again, I have some problems with the bill. I think we're just going to be opening up something that's going to be expanding whether we like it or not because that's just the way we work up here. So I thank you.

Thank you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you very much, sir.

Representative O'Neill of the 69th District, you have the floor, sir.

REP. O'NEILL (69th):

Yes, thank you, Mr. Speaker. If I may just a few questions.

With respect to the original section6, which was the lead by the amendment that's now part of the bill,

it provided for a limitation on the way condominium associations could be organized. And I should have probably asked this at the time we were doing the amendment but what was the reason why the limitation to just a business corporations, I believe, was taken out so that, in effect, condominiums will continue to be allowed to be organized, new ones, I guess, as LLCs or perhaps partnerships and a variety of other types of organizations besides business corporations, through you, Mr. Speaker.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Through you, Mr. Speaker, I thank the gentleman for his question. The language was initially put in the bill to remedy the fact that we don't have a clear list of all condominium associations in the state Connecticut. So it was thought at the time that that might be sort of a solution to the problem; however, upon discussing that solution with the Secretary of State's Office, it was determined that there may need to be something more comprehensive done in the future. So that will be something that we look into as -- as we move forward, but it was taken out of this bill at

this time because it was determined that they would not be effective. Through you.

DEPUTY SPEAKER ARESIMOWICZ:

Representative O'Neill.

REP. O'NEILL (69th):

Okay. Thank you, Mr. Speaker, and I thank the gentleman for his answer.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Klarides of the 114th, you have the floor, madam.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

Mr. Speaker, I'd like to thank my colleagues that did the work on this bill. I know it was something that a lot of people were very concerned about in the state of Connecticut.

But, through you, just a few quick questions the proponent?

DEPUTY SPEAKER ARESIMOWICZ:

Please proceed, madam.

REP. KLARIDES (114th):

Thank you, Mr. Speaker. Just for clarification's sake, when the bill refers to community association managers, are those actually property managers from

outside of the units or part of maybe a unit owner? Through you.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Through you, Mr. Speaker, the definition of property manager and community association manager differ slightly. I believe that this refers to the community association manager within the community, that is my understanding. Through you.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

And so we are requiring in this bill background checks but people who already have been community association managers for at least 10 years as of October 1 of this year will not have to go through a background check; is that correct? Through you.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Through you, Mr. Speaker, the background would only be required upon initial application for

certifications. So if the manager has been a manager for any period of time, they would not have to be subject to a criminal background check. Through you.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

And I understand generally the idea behind that, but I would imagine that if we believe, as a state, that there should be background checks for these types of people, I would think that if even somebody has been for 10 years that maybe they should still get a background check? Through you.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Through you, Mr. Speaker, I understand those concerns. It was the concern of the Department of Consumer Protection that that may be too onerous and that they decided best going forward would be to just request criminal background checks for initial applicants. Through you.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker, and as far as the education and testing requirements go. I see that we're using nationally recognized course curriculum on that. Is that what most states use? Through you.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Albis.

REP. ALBIS (99th):

Through you, Mr. Speaker, yes, that is correct.

DEPUTY SPEAKER ARESIMOWICZ:

Representative Klarides.

REP. KLARIDES (114th):

Thank you, Mr. Speaker.

Mr. Speaker, I thank the proponent for his answers. As I mentioned earlier, I believe this is very important, and it's something that has clearly been widespread throughout the state. I know a lot of this have gotten contacted by e-mail and letters and phone calls and it's been, you know, it's interesting when certain issues come up, you don't think they're as big of a deal as they are until there inundated with information on them, and I think it's been in education for all of us, so I thank them all for their work, and I urge support.

DEPUTY SPEAKER ARESIMOWICZ:

Thank you very much, madam.

Will you remark further on the bill before us? Will you remark further on the bill before us?

The board being empty, nobody seen standing. Staff and guests please come to the well the House. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is taking a roll call vote. Members to the chamber please.

DEPUTY SPEAKER ARESIMOWICZ:

Have all the members voted? Have all the members voted?

If all members have voted, please check the board to ensure your vote has been properly cast.

If all members have voted, the machine will be locked -- oh --

All right. We're to try this again.

If all members have voted, please check the board to ensure that your vote has been properly cast. If all members of voted, the machine will be locked. The Clerk will take a tally.

The Clerk will announce the tally.

THE CLERK:

House Bill 5536, amended by House "A."

Total number voting	143
Necessary for passage	72
Those voting Yea	138
Those voting Nay	5
Those absent and not voting	8

DEPUTY SPEAKER ARESIMOWICZ:

The bill passes as amended.

Deputy Speaker Godfrey in the Chair.

DEPUTY SPEAKER GODFREY:

Are there any announcements?

Representative Berger.

REP. BERGER (73rd):

Yes, thank you, Mr. Speaker, for purpose of an announcement.

DEPUTY SPEAKER GODFREY:

Proceed, sir.

REP. BERGER (73rd):

Thank you, Mr. Speaker.

For the purpose of announcement for members in the chamber, tomorrow, Wednesday, May 2 at 10 a.m. in

JOINT
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HEARINGS

JUDICIARY
PART 15
4669- 5003

2012

REP. HOLDER-WINFIELD: Thank you, Representative Wadsworth.

Are there any questions?

Thank you.

Kim McClain.

KIM MCCLAIN: Good afternoon, honorable members of the Judiciary Committee. My name is Kim McClain, and I serve as the executive director of the Connecticut Chapter of the Committee Associations Institute, and I'm here to speak on Bills 5536 and 5511.

On 5536, I just wish to offer language for the definition of a manager at some point because I don't believe that that's clearly articulated in the bill as it sits right now.

We're one of 58 chapters of a national organization and our programs and events are developed by volunteers. And our -- and we're governed by a well-trained board of volunteers. CI supports the protection of homeowners and committee associations through increasing professionalism, the training of community association managers and appropriate insurance coverage. CICT also supports the national certification program sponsored by our national organization.

We have a catalog of courses that we offer through our national organization -- which I believe are referenced as part of one of the options in the bill that we have before us. These courses cover issues from basic operations to risk management and legal issues. Those who possess their credentials are also expected to

adhere to a formal code of ethics prescribed by the NBC-CAM.

We also support the training of realtors in the area of basic operations of condominiums and the rights and responsibilities of boards and unit owners. Although we believe that realtors have only the best intentions when they are selling a unit, it would appear that many purchasers of condominium units are often woefully unaware of the requirements of their community associations. We believe that realtors can be an integral part of the education process for new owners of condominium units.

We also wish to know that there are several excellent models for realtor training in the area of condominium sales. We're especially impressed with a program based out of Calgary, Alberta, in Canada, which offers a credentialling program for certified condominium specialists.

We believe that education should be an ongoing process for realtors, community association managers, board members and unit owners. Condominium ownership is a different lifestyle. The process of living in a community association is dynamic. It is important that all the key players involved are mindful of how their community functions. Communication and education are the best methods for insuring harmonious communities.

On Bill Number 5511, we wish to note that in its current form, we're opposed to the language. However, we've been working directly with Representative O'Neill to refine that bill so that we can continue to support greater transparency in the operations of common interest communities.

I also want to note that it was implied in the testimony of a proponent of 5511, that Connecticut lags behind other states in terms of regulation and protection for owners. It's important to note that the contrary is indeed true. Connecticut is well ahead -- we're well ahead of most states. And I just wanted to indicate that as a result of the work of the Judiciary Committee, we are way ahead, and we are proud to know that we are one -- the first state in the country to adopt the revisions to UCIOA.

I'd love to be able to answer some questions if you have any.

REP. HOLDER-WINFIELD: Thank you.

Representative Albis.

REP. ALBIS: Thank you, Mr. Chair.

And thank you, Kim, for your -- for your testimony today.

I just have a couple of questions for you. First of all, I haven't had a chance to look through this white paper. Do you delve into other opportunities for association managers to -- to get the type of training that is required in 5336, or do you just talk about CAI's opportunities.

KIM MCCLAIN: No. We -- there is an analysis of the varieties of programs that exist throughout the country, what other states have done in terms of regulation for managers, but it does go through some of the possibilities for education and clearly demonstrates that the program we offer is one of the most comprehensive.

REP. ALBIS: Great.

Thank you for that answer.

Also, I was just curious if you had a comment on Section 5 of -- of Bill 53 -- or 5536, which requires associations to incorporate and -- and be an LLC. Currently, the -- one of the problems that we find, here with the state, is that we don't have a comprehensive list of all condo associations in the state so it makes it difficult to disseminate information to those associations about new laws that may be passed. So I was just curious if you had a comment?

KIM MCCLAIN: We concur because, as we've articulated, we believe education communication is key to a successful community association and unless we can find those associations, it's harder to reach out to help educate them, and furthermore, we're pretty confident that a large majority of our associations are self-managed. Therefore, they don't have the professional guidance that a professional manager can offer so they really need that education exposure that much more.

REP. ALBIS: And one final question, you mentioned that you would like to see a manager defined a little better in the bill. Did -- I haven't had a chance to read through, but do you offer some sample language?

KIM MCCLAIN: There is a description in the written testimony from the white paper from National CAI, but it's rather long, and we can probably condensed that a bit so, again, we'd be happy to work with you on that.

REP. ALBIS: Great, thank you so much for those answers.

Thank you very much, Mr. Chair.

KIM MCCLAIN: Thank you.

REP. HOLDER-WINFIELD: Thank you.

Are there any other questions?

Representative Hovey.

REP. HOVEY: Thank you, Mr. Chairman.

Welcome.

Are you aware in the educational process for a manager whether or not there's anything that is specific to behavior for that individual in a case of an emergency. In it -- and basically I'm talking about not an individual emergency within the context of someone's home, but like major storm that we had earlier this year. Is there any kind of training for those facility managers on how to interface with the community and, you know, proceed in an appropriate manner during an emergency?

Thank you.

KIM MCCLAIN: It's fascinating that you should ask that very question because less than three weeks ago, we had a program at our annual conference and expo where 110 property managers sat in a room and listened to the retired fire marshal from the State of Connecticut amongst insurance professionals talk about managers as first responders.

And we will continue to offer programs about that topic because, especially after last year, we are very aware of this. We've offered programs about disaster management in the past on more than half a dozen occasions that I can think of in the last five or so years. Even

after Hurricane Katrina, very few people seem to be compelled to want to attend those things because we don't think it's going to happen to us. Well, since it did, that 110 people are now a little bit more, much more, I should say, aware of what their responsibilities are and the value and importance of communication and protocol in an emergency situation.

So thank you for wondering about that.

REP. HOVEY: May I continue?

Thank you.

Along that same vein, within the context of when you say people aren't particularly motivated to be participants or maybe even viewing that as part of their responsibility. From a legislative perspective, I'm wondering if we may need to move along the line of legislation that would require that they perceive themselves as being the first responders for that collective community in an emergency.

And part of the reason I'm bringing this up in the last storm, you know, I have several developments that are the 55 and older group, and it was very difficult to know who was and wasn't there. They had a community building that had actually a generator and that community building was not open.

And so it just seemed to me that that may be an area that needs to have further consideration from a legislative perspective in tightening up and what's your thought about that?

KIM MCCLAIN: You make a very good point, and I would suggest that, perhaps, that should be included as part of the curriculum. A few items are listed as what should be required for community

manager education but to include that on the list seems completely appropriate especially given our geographic location and our recent experience. So I think we would support that because we clearly have already demonstrated that we do.

Thank you.

REP. HOLDER-WINFEILD: Are there any other questions?

If not, thank you.

Representative Lavielle.

REP. LAVIELLE: Thank you and good morning to you all. It's nice to be back here, again, this week.

I'm here to testify in opposition to Senate Bill 445, which is the ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LAND.

My first selectman of my town of Wilton, Bill Brennan has submitted to you some written testimony that goes into great detail about Wilton's concerns, some of the concerns of our surrounding towns, like, Ridgefield and Redding and Bethel, and so on, and also about the Norwalk River Valley Trail, which is in development to go from Norwalk to Danbury.

So I will not dwell on that.

I'd like to go a little bit more into detail about the situation where we're facing with the bill now. As -- as we all know, many of our towns have made and are still making a significant effort to acquire open space specifically to ensure that their residents have ample access to outdoor recreation in a natural setting, and this legislation, we have before

CLAIRE CAIN: Absolutely. And that connectivity I was talking about, you know, linking all kinds of trails is, you know, really very important, and it links communities in a unique way.

REP. BARAM: And in your reading of the proposed legislation, did you see any definition of sidewalk as opposed to any other kind of paved area?

CLAIRE CAIN: No. I don't think it was very clear.

REP. BARAM: Thank you.

SENATOR COLEMAN: Are there others with questions?

If not, thank you again, Ms. Cain.

CLAIRE CAIN: Thank you.

SENATOR COLEMAN: Scott Sandler.

A VOICE: (Inaudible.)

SCOTT SANDLER: Mr. Chairman, members of the committee, thank you for your attention. I'm Scott Sandler, a member of the law office of Perlstein, Sandler & McCracken, located in Farmington. My office focuses on the representation of condominium and homeowner associations, and I personally have been involved in the representation of associations for well over a decade, and my office presently represents nearly 500 associations throughout the state of Connecticut.

HB 5511

I come to you this morning to speak in favor of Raised Bill Number 5536. From the perspective of an experienced technician, one who is very familiar with the workings of Connecticut law and its impact on the operations of

associations, as well as the practical aspects surrounding their operations.

Raised Bill Number 5536 proposes to implement educational requirements for those who hold themselves out as association managers. And this is a very important service provided to associations. Managers are expected to act as consultants to the boards, the membership of which is made up of volunteer members, often lacking in any specific knowledge concerning association operations and governance, and they rely on the advice given to them by the managers whom they have hired. Managers are also expected to act as a liaison between the association and the individual unit owners, and it requires a certain amount of interpersonal skills and sensitivity. And they are required to act as consultants in areas of finance, areas of contract negotiations, and I even heard the term batted about earlier this morning as first responders in cases of emergencies. So imposing certain minimal educational requirements on managers seems to be a necessity to my mind. These people are out there working with associations. They're expected to have a certain kind of knowledge, a certain amount of advice and guidance to offer, and many of the managers with whom I presently work, have already taken the kinds of courses contemplated by the proposed bill and are very much in favor of seeing these requirements imposed on the managers entering the industry.

It will raise the level of professionalism among the managers. It will hold them accountable to a higher standard to which many of them believe they should be held accountable. And they will enhance their ability to provide advice and services to the communities with which they work.

mentioned in my testimony, I wonder if, to a fault, because what they end up doing is creating a feeling that everything is fine, but five, ten, 15 years down the line, this big expense is going to come due and we're going to see more of that. We've already begun to see that with some of our communities.

REP. SMITH: Well, thanks for being here today and thanks for your testimony.

KARL KUEGLER: Thank you.

REP. SMITH: Thank you, Mr. Chairman.

KARL KUEGLER: Thank you for the opportunity.

SENATOR COLEMAN: Are there others with questions?

If not, thank you very much.

KARL KUEGLER: Thank you, Senator Coleman. Thank you for the opportunity.

SENATOR COLEMAN: Deron Drum. Darren, perhaps? Deron Drum?

David Kelman.

DAVID KELMAN: Good afternoon, Mr. Chairman, and members of the Judiciary Committee. My name is David Kelman. I'm a condo owner from West Hartford, and I'm in favor of HB 5536 and HB 5511, with changes. I'm a former condo association board member, as well as a present board candidate; a longtime volunteer for the state of Connecticut Attorney General's office in the Consumer Assistance Unit; and a member of the steering committee for the Connecticut Condo Owners Coalition, CCOC, an all-volunteer group consisting of hundreds of condo owners from over 100 cities and towns across our state.

In January this year, CCOC surveyed hundreds condo owners, both members and nonmembers, survey respondents confirmed that the problem still exist in many common interest communities despite the good intentions of recent law changes. I refer to CCOC's written testimony, for our survey results. The lack of enforcement of condo laws has negatively impacted the quality of condo owner living experiences for many condo -- unit owners. In a number of associations, the democratic process is broken. Owners describe, in some cases, the property managers and boards who they rely on to maintain their property values and share association records are not doing so even when requested in writing. Some frustrated owners are selling their condos and moving out of state because the situation is so unbearable for them.

Approximately one-quarter million Connecticut condo owners are not treated as equal citizens, do not receive the same assistance from state agencies as other consumers receive in our state -- and please refer to the annual reports of the Department of Consumer Protection and the Attorney General's Office among our 110 pages of testimony. It is perhaps shocking to note that renters in condos have more rights than condo owners themselves. While I favor HB 5536, the community association manager certification bill, I feel it needs more teeth. Given the extent of financial responsibility, a property manager has overseeing millions of dollars for various community associations and in light of recent news articles regarding property manager misconduct and fraud involving, in some cases, very experienced property managers who had stolen over $100,000 combined from associations in Meriden, New Haven, Branford and Fairfield -- and again, I refer to CCOC's written testimony to those news articles. I feel mandatory

background checks for all property managers must be part of this bill along with stiffer penalties for misconduct and noncompliance. The background checked records should be kept on file with the Department of Consumer Protection as per requirement of certification and be made available online to homeowners. I refer you to Public Act 11-50, Section 11, Subsection b2, in our State's banking laws as a precedent to establishing background checks. No property managers should be grandfathered in regardless of the years served as a property manager. I suggest all property managers who are paid regardless if they are outsourced managers or internal employees be subject to the same certification.

Additionally, I'd like to see all cases involving property management misconduct and fraud posted online on the DCP website for easy access to the public. Our written testimony refers to the province of Ontario Canada, Ministry of Consumer Services as a guide for fine website that can serve as a model for our state.

I believe to maintain certification, property managers should be mandated by law to provide owners, upon request, a certain amount of electronic information per year free of charge, by e-mail, when the records are maintained electronically. I'd like to see this bill mandated providing owners with a copy of the property managers contract, so owners who are paying the property manager's salary know what to expect from their property manager and can identify whether or not a property manager acting according to his or her contract. This connects to the education piece. I recently heard some state representatives, including Representative Albis, talk about in the past. Training certification without reporting

mechanism that is easily visible online and to the public is not sufficient. Transparency will help ensure compliance and should be added to this bill.

I'd like to see this bill also include a written grievance procedure when unit owners have complaints against property managers available on the DCP website and what types of complaints DCP will investigate and mediate. Sometimes I hear in conversation with owners statewide that they receive little assistance from DCP despite legitimate property manager complaints. Perhaps a mediation program run by volunteers, under the guidance of DCP attorneys, can be established with this.

I am also in favor of HB 5511, the budget and special assessments bill with changes. I asked the committee to leave the language in section 47 to 61e, subsection e, as is written in the current law without change. Budget approval and special assessments should be approved by a simple majority of votes cast. Changing the language, as proposed, takes the authority away from the unit owners, which would seriously endanger the well-being of our common interest communities.

Also I urge this committee to add a provision to this bill with an assessment -- that any assessment cannot be approved unless the monies generated by the assessment are maintained in a separate account. Identifying that those funds are to be used solely for the purpose intended. This fund accounting should be clearly itemized so unit owners can easily understand the cost for each item, the contractor selected to do the work based upon at least three competitive bids and eight expected completion date for each item so that owners are protected in the event of overcharges, faulty or incomplete workmanship.

In addition, I urge that some enforcement provisions be added to this bill. As Harvard University researchers and others have verified that for every one complaint a business receives, there are 25 others who would not write in to complain but feel the same way -- please refer to CCOC's written testimony. I believe we have just reached the tip of the iceberg and please vote in favor of HB 5536, 5511 and draft legislation that enforce existing and new condo laws. Thank you.

SENATOR COLEMAN: Thank you.

Are there questions or comments?

Seeing none, thank you for your testimony.

Ralph Monaco.

RALPH MONACO: Good afternoon, Senator Coleman, Representative Fox, and members of the Judiciary Committee. Thank you for the opportunity to appear before the committee. I'd like to comment on Bill 454, an act concerning the unauthorized practice of LAW. My name is Ralph Monaco, and I am the immediate past president of the Connecticut Bar Association. I'm also a private practitioner in New London, Connecticut, at the law firm of Conway, Londregan, Sheehan, and Monaco, where I practice in the area of civil litigation.

The Connecticut Bar Association is well aware of the increasing problem in our state of people masking around as lawyers and providing legal services to unsuspecting citizens. We support increased penalties against people who provide legal services, who are unlicensed, untrained and not regulated by our courts. However, we concerned the bill that is before

Thank you very much.

RALPH MONACO: Thank you.

REP. FOX: Thank you. I'm picking up here so not sure if I got it right. Is Deron Drum here?

A VOICE: (Inaudible.)

REP. FOX: He's already gone.

Kevin Shea is here. Okay. Followed by followed by Karen Kangas -- Kangas. Is she here? Okay. So she'll be next.

Good afternoon.

KEVIN SHEA: (Inaudible.)

Sorry -- I'm here in favor of Bill Number 5511 and 5536 for the property managers. I also would like to ask that the committee and the legislature consider adding additional strength to that in regards to property managers in regard to their education, their testing, and criminal background checks during the licensing and relicensing process of those individuals.

Property managers are very responsible people. There are, in fact, the bankers of every association in Connecticut. They handle, using industry figures, they handle over $1.3 billion a year. So they're in a very high fiduciary -- fiduciarily responsible position, and they operate almost unregulated.

In our association, I've been a proponent for the distribution of financial information, which is at a minimum in our association, especially when it comes to assessments. We're given a list of things that are intended to be used for

assessments, and we're not provided with any actual cost or vendors that are going to do the work, time frames, the beginning, the end, so forth and so on. So there's no accountability. There's no trackability. There's no way to see what's been, what hasn't been done, what people have actually gotten for their assessment dollar.

As an industry spokesman earlier said, our condominiums are our highest investment that we have. Accordingly, the fees that we pay every month, I see those as investment dollars that should end up back in our properties and in our landscape and in our building. Large amounts of those monies, significant amounts, of those monies don't. They end up -- nobody knows because there's no accountability. As a result of 828 that was passed last year, boards are no longer required to provide annual reports. How it reads now is boards are just required to give us some information. We do get some information, but it's not the right information and it's not appropriate information that is appropriate to be able to follow the finances accurately and accountability -- accountably, to see what's going on with the finances.

Many people do not participate at board meetings or annual meetings. There has been -- there is an environment within private communities that discourages people from doing that. They don't get an open free voice to say what they want to say. If they do, they do it with penalty. We are allowed to -- the remedy that they have is if you want to see the financial records, we have to go to the property manager's office and he has the records. I made a mistake of doing that. I was instantly blackballed from the moment I requested an inspection, board members, present and past, started running around telling people that I was causing trouble. When, in

fact, all I want to do is see the finances, see the books. So that's it on assessments.

Property managers handle virtually everything within the community. They handle the finances; they handle the schedule of the repairs; how the repairs are going to be distributed; who receives those repairs; they handle election proxies, all of the absentee ballots that are voted and a lot of people vote that way, because they really don't want to go to a meeting. They are privy to all that information and none of that information is shared internally with -- equally throughout the association. Much of that is kept private.

So, you know, as I look, you know, at a public citizen, somebody that lives -- that's a homeowner in Connecticut that is not in a private association, you know, the rights and protections that are afforded to both classes of people are very separate and very unequal. We don't receive the same -- you know, we've lobbied for -- we've asked for an ombudsman, and we've been opposed by the -- by the trade associations that -- that are associated with that. Their argument has been that, you know, there's just a few that complain. Well, I'm here to tell you that there aren't a few that complain. There are a few that step forward and take the time and make the effort to take the day off and tell you good people what's really going on. There are many that go virtually and literally unmentioned. They would rather just conform and keep quiet out of fear of not receiving repairs, or, you know, being barred from the community altogether.

There's no -- there's no place for anyone to go to get resolution to, you know, a common -- a common issue, so. Thank you very much. If

there's any questions, I'd be more than happy to answer them.

REP. FOX: Well, thank you. Thanks for being here all day. I know it's not always easy to be here to testify, but it does help a lot to hear your own direct experiences.

Are there any questions?

Senator Meyer.

SENATOR MEYER: Mr. Shea, I'm sorry. I missed some of your testimony. I caught you on television, actually, upstairs.

KEVIN SHEA: Thank you for showing up, Senator. I appreciate it.

SENATOR MEYER: You gave us new language, didn't you, to strengthen this bill. Did you give us --

KEVIN SHEA: I did -- I did not -- I did provide language in regard to the assessment bill. In other words, an assessment really shouldn't be put before membership for approval unless it provides the basic protections that are provided to other homeowners in the state of Connecticut. The cost -- the actual detailed list of things that are to be repaired or constructed or goods or services that are to be provided that are being assessed for, along with the costs associated with that and the vendors that are providing those services. Many property managers are also in the repair business, so there's -- sometimes there are unintended conflicts of interest between a good repair and a bad repair, and a good price and a bad price.

SENATOR MEYER: Okay. And I apologize if you'd covered this, why aren't the boards, the condo

board of directors, or trustees, more accountable?

KEVIN SHEA: In --

SENATOR MEYER: Is there something that we should be doing about that?

KEVIN SHEA: Thank you for asking that question. I don't know how it is another associations. In our guidelines and our bylaws, board members are automatically given -- they are not accountable for anything. They're given complete power of attorney by all of the association members and their held harmless for anything, unless you can -- unless they participate or engage in an activity that's called willful wrongdoing, which is -- who knows. Before you got here, you know, since I've been a condo owner, the only thing that I've really look for was financial accountability within the association of which I'm not provided. And when you do step up and demand financial records, you're ostracized. So board members are -- they get a free ride.

It's the perfect storm for vendors to come in and sit with the board and just say, Listen you're not accountable for anything so sign here. There are business arrangements that go on that are beneficial to the membership, not beneficial to the owners, but are beneficial to the businesses that contract and do business with associations. Not all of them, but it does happen.

SENATOR MEYER: Well, you know, it's interesting, because in most organizations, the board of directors, the board of trustees, has got legal responsibility, and if they break a fiduciary duty, they can be sued and they can be financially responsible. I think that's the kind of board we have to create by law here so

that there is some responsibility. How long is the term of a board member?

KEVIN SHEA: Two years. In our association, it's two years. There are no term limits. And again, property managers, along with board members, handle all of the votes. And at the end of elections, I've requested, you know, to see tally sheets and see what actually happened. There is no verification process so it's just, kind of, like you have to go along with who won or who lost and the right people always win.

SENATOR MEYER: It sounds like there should be removal process to remove a board member who is not acting in the best interest of condo owners.

KEVIN SHEA: There is a removal process, and then again, it's hard to get people to come forward to actually -- condo owners are passive people. They are homeowners. In many cases, they're not professional people. In my association, you know, a perfect example was when you're out of the room, one of the other spokesman on the other side of this conversation, said that you know, this lady came in and argued without looking at the budget. They don't understand -- you know, you put a budget in front of people. They really don't have the wherewithal and the background to really look at a budget and know what it means. Professional people that have been trained, you know, they can look at a financial statement and it does tell a story. We're provided with no financial statements at the end of the year. We have no idea where the money went specifically. So it's -- you know, that's the argument. You know, I have no problem with -- you know, board members are unpaid volunteers. It's a thankless job. I get it. But that doesn't give them or the vendors that they work with, or the attorneys that they work with, the opportunity to not be responsible

about the handling and the comingling of our funds.

REP. FOX: Are there other questions or comments?

KEVIN SHEA: Thank you very much, gentlemen.

REP. FOX: Thank you.

Karen Kangas -- Kangas -- Kangas, followed by Janet Brooks.

KAREN KANGAS: Good afternoon, members of the Judiciary Committee. My name is Dr. Karen Kangas. I am the executive director of Advocacy Unlimited in Wethersfield, a group that promotes peer support and recovery for people with mental illness within the community. SB 452

Over the years, I have had many positions as teacher, educational consultant, patient advocate, director of residential services at Wethersfield Mental Health Association, and director of community education and communications for the Department of Mental Health and Addiction Services in Connecticut. Also throughout my life, as many of the people in the room might know, I have battled with bipolar disorder, for which I take medication voluntarily. So I'm in the position of being both the provider and the consumer within the mental health system in Connecticut. And -- and it is in this combination of roles and my length and extent of experience within them that leads me to have very serious concerns about any bill that would introduce outpatient commitment to Connecticut.

I am totally opposed to this proposal. Much of the recovery movement, in the country, actually, in which I have played an active part, has centered on giving true voice to people in

SENATOR DOYLE: Thank you.

Any further questions?

Seeing none, thank you.

Next speaker is Hank Barkon. Is Hank here? Looks like he's coming up, and then Hank Barlion, then Kristie Barber, Doreen Camp, Karen VaKharia.

Mr. Barkon.

HANK BARKON: Hi.

SENATOR DOYLE: Hello.

HANK BARKON: My name is Hank Barkon and I -- I've been in the property management business 44 years, all of those years dealing with community associations and most of those years in my own business. I'm here in support of Bill Number 5536 and would like to -- to remark, basically, on one area why I think this bill is important, why it needs to be done.

I have seen, throughout those 44 years, I've seen extremely sophisticated ways of property managers doing everything possible in order to -- what I call to rape the condominium association people. One of the cases is in front of you in the written testimony by Kevin Shea, who submitted it to you, something that was done lately. I think it's way, way over due that they will be licensed. I also think that the people that (inaudible) you and the way that you write the bill need to distinguish between the owner of the property management company and the property manager. The property manager is not the guy that violates those people. It's the owner of the company, who happens to be also

property manager. What I'm suggesting is that, number one, there will be two licenses with two different requirement and a much, much stricter requirement if you want to own a property management company.

I also suggest that the penalties for violating that should be extremely severe. Those penalties right now, even if something goes to the Consumer Protection Agency, are nothing in comparison to what was done. Mr. Shea and myself just went through something that, basically, so you understand the number, the person was penalized, in our opinion, about 1 percent. But I'll tell you something, I'll invest 1 percent to make 99 any day of the week, and I think you will, too. And I think some while you're in sitting in a position now that you can stop those things.

Two more suggestions, I think that a property management company should be prohibited from owning or having any direct involvement in another business. Mostly, nowadays, property management companies involved in the maintenance of the association's property and that's a wide, wide door to do what they want to do.

The other thing that I am suggesting -- I'll make my remarks very short. We need a code of ethics that a violation of that code will call for very severe penalties. We do not have a code of ethics. The people that are in the property management business have built -- don't have a code of ethics. They can do whatever they want. And I think that the anger that you find in condominium people is -- and I'm only referring to one earlier of that, comes from the fact that there is really nothing for them to rely on. There is nothing that says that property managers should do such a thing and should be prohibited from doing another thing.

The license what does it mean? It's a license, you know. It's a license to be in the business. We need to have a much stronger rules, much stronger laws as to how to prevent those things from happening. Thank you very much.

SENATOR DOYLE: Thank you.

Any questions from the committee?

Representative Albis?

REP. ALBIS: Thank you, Mr. Chairman.

And thank you very much for coming to testify today.

I think your suggestions are -- are going in the right direction to -- to try to make this law more -- have more teeth and be more effective, so I appreciate those suggestions. And you did submit online or -- you did submit your testimony to the clerk. Correct? So we have --

HANK BARKON: I did not submit it in writing.

REP. ALBIS: Okay. Well, after -- after we leave here, I'll catch up with you, and I can give you my email address so we could have further communication, but I -- I appreciate you coming to testify today. Thank you.

HANK BARKON: Thank you so much.

SENATOR DOYLE: Thank you.

Any further questions?

Representative Hetherington.

REP. HETHERINGTON: Do you know of any code of ethics in this area that exists? Have you seen one?

HANK BARKON: Yes. I -- I -- my base -- my personal background, I became a CPM back in 1972. A CPM is a certified property manager, was given by IREM, which is the Institute of Real Estate Managers in Chicago. I had to pass a lot of exams, and so on. At that time, I had to sign a code of ethics. The lady that testifies before from CAI -- I don't remember her because she wasn't there at that time, -- I -- I am the one that started the Managers Council at CAI and this is back in -- around 1988, 1990, in that period of time. My intent was one and only -- I still have it, and I have written a code of ethics for property managers in the state of Connecticut. The people that served on the committee was more interested in how (inaudible) can get its CAI and how they could get more property to manage than signing a code of ethics that will allow everybody to -- to be ethical with this client. Never got to it. I since then did not want any involvement with CAI and I stopped.

REP. HETHERINGTON: You can --

HANK BARKON: I -- I still have it and if, by all means, I would be glad to submit it as an example of what I am talking about.

REP. HETHERINGTON: I -- I was going to say -- would be -- why don't you suggest, if you can, why don't you submit that if you would.

HANK BARKON: I will gladly submit it to the committee, yes.

REP. HETHERINGTON: It would be helpful to us. And the other --

HANK BARKON: I still have it, you know, the way it was written. I've taken a lot of it from the

IREM Code of Ethics and hope that you can do it in this state, you know, to protect the clients.

REP. HETHERINGTON: Okay. Thank you very much.

SENATOR DOYLE: Thank you.

Any further questions?

Seeing none, thank you.

Next speaker is Hank Barion. Is Hank here? Mr. Barion. I do not see him.

Is Kristie Barber here?

KRISTIE BARBER: Yes.

SENATOR DOYLE: Kristie, thank you.

Then Doreen Camp, Karen VaKharia, Gary Arel and Linda Lentini.

KRISTIE BARBER: Thank you, Senator Doyle and all the members of the Judiciary Committee.

My name is Kristie Barber. I am the director for the Region 2, Regional Mental Health Board that's located on campus of CVH in Middletown. We've been established since 1975. I'm also the vice chair of Keep the Promise. We have many members who are signed up until wee hours of the morning. We had to bring out many people for this bill. We feel like it's very important for Senate Bill 452. We've never heard quite the diversity of testimony, I must say, sitting in these seats as we have heard today, but I know there's a lot of bills present. This is Senate Bill 452, AN ACT CONCERNING THE CARE AND TREATMENT OF PEOPLE WITH -- PERSONS OF PSYCHIATRIC DISABILITY.

My basic -- I'm just going to read a couple quotes and then I'm going to end with what I'm going to say right now, kill this bill. Okay. Respect the side effects that are experienced with psychotropic medications and help people find medication treatment that works for them without these horrible side effects, respect the consumer's experience of the meds and interactions and impact on their overall health. Peer support works and outreach works, and that's from someone who has been there and done this. It's good -- it's good for peers to reach out to others. Coercion does not result in wellness. Taking responsible for your own health does. It's a process.

On Senate Bill 452 -- on the buzzer -- kill this bill.

SENATOR DOYLE: Any questions from the committee?

Seeing none, thank you very much. Thanks for being direct in your opinion.

The next speaker is Doreen Camp. Is Ms. Camp here? Yes, she is. Then Karen VaKharia, Gerry Arel, Linda Lentini, Kenton Robinson.

Ms. Camp.

DOREEN CAMP: Good afternoon, members of the Judiciary Committee. My name is Doreen Camp. I'm from Meriden. I am a condo owner, and I am a previous board member to a large association. I'm here to testify on two bills, HB 5536 and HB 5511, both of which I'm in favor with.

In regards to HB 5536, I am in favor with a few more provisions that need to be added for the unit owner protection, mandatory background and credit checks for the property managers,

security checks, and other managers who are paid to be subjected to the same certification and training and background checks.

I do have several concerns. I am one of the unit owners who was impacted last year by a property manager who had -- we actually terminated him for misappropriation of funds. I, currently, now live in a huge association, and we are now self-managed by a property manager who was our maintenance supervisor for 30 years. He has no education, no broker's license, no real estate license, and now he is responsible for 294 units, and we are all 294 homeowners dealing with this inappropriate skill set. So it's a huge concern because he's handling a huge financial obligations, so I wanted to enlighten you with that.

Being a board member and a previous board member, I do believe in favoring HB 5511, and I do feel that it is necessary to have a quorum. You know, the new state laws that went into effect a few years ago offer availability to a lot of the unit owners to be teleconferenced in to a lot of these meetings, making it a little bit more user friendly for the unit owners to be an impactful part of the decision-making process.

I have a few things to share with you that I've actually been impacted with as a board member. I'd like to share my experiences with you, and I bullet it -- I put it in a bullet formation. There's the -- a board of five, which frequently only one or two members were making any decisions. Within our bylaws, we need a quorum; decisions being made outside scheduled meetings and in closed session meetings; special meetings, added items not noted to the agenda; board refusing to conference board members and the residents into meetings; legal letters from

residents' attorneys -- own personal attorneys -- ignored by association members and association attorneys; board members denied copies of delinquency reports; amenities not maintained and neglected; president being the only one to handle minutes of meetings when it was the secretary's responsibility; totally elimination of all boardwalks; and special assessment delinquencies not named or assessed; late fee and finance charges.

It's critical for condo owners who have suffered from association mismanagement and irregularities and procedures to have the legislative support for resolution. There should be recourse and accountability.

In today's society, it's unacceptable for human beings to be bullied. It's unacceptable for condo owners here in the state of Connecticut to be bullied by their associations, property managers or legal attorneys. It is clearly evident this kind of behavior cannot be tolerated. We need reform, resolution and an ombudsman or a place where we can seek resolution. I thank you sincerely for your support and your attention.

SENATOR DOYLE: Thank you.

Any questions from the committee members?

Seeing none, thank you very much.

DOREEN CAMP: Thank you.

SENATOR DOYLE: The next speaker is Karen VaKharia. Is Karen here?

KAREN VAKHARIA: Yes.

SENATOR DOYLE: Hi, Karen, okay.

KAREN VAKHARIA: Good afternoon --

SENATOR DOYLE: Just one sec, then Gerry Arel, Linda Lentini, Kenton Robinson and Andrew Bloom.

Thank you, Karen.

HB5511
HB5536

KAREN VAKHARIA: Good afternoon, and I would like to thank you for the opportunity for me to speak up. I also live in the same condo complex that Doreen Camp, who spoke before me. And I support all the causes that she has put forward before your committee here, and, also, I have one question and comment, you know, that even in this country there is, like, a president or a leader who is in office for a term and then another term if elected again. How is this person who is a president of -- of condo association been in there for 20 years and, like, Doreen, before me, mentioned bullying the condo and unit owners into going along with the decisions solely made by her, at times. I'd like to thank you, again, and if there is any questions.

SENATOR DOYLE: Thank you much.

Any questions?

Seeing none, thank you.

The next speaker is Linda Lentini. Is Linda here? Yes, she is. Kenton Robinson, Andrew Bloom, Monica Fore, Linda McCarron.

Linda, thank you.

SB452

LINDA LENTINI: Good afternoon. My name is Linda Lentini, and I'm here to oppose involuntary

they should be the first partaker of what they pass out.

And that's all my testimony is, but I -- I am asking for you all to look into that because that is harassment. And if you're making a bill on harassment and talking about if we communicate this way, we do this in the public then what happens when it's pushed out to us? What happens when our government fails us? Thank you.

SENATOR DOYLE: Thank you.
Any questions from the committee?

Seeing none, thank you very much.

Next speaker is Lynne McCarron. Is Lynn here? Doesn't look like it. Sandra Martinik? Sandra is here. And Carmelinda Tardif, Robert Davidson, Dr. William Begg.

SANDRA MARTINIK: Good afternoon. Thank you, Committee for allowing me to be here as well as other members. I -- first of all, I wasn't going to speak today. I was encouraged to write my name down, and then my name was crossed off so -- but you called my name anyway, so I'm here. I live at Glen Oaks Condominiums of 462 units. I've been living there since 2001 as a unit owner. HB 5536

Shortly after being a resident there, I became involved in Black Watch Committee for the safety of our community. And then shortly after, I continued on with becoming a board member and looking out for our community, not just for safety, but community involvement by starting a young people's committee to bring more social activities to our community. And as time went on, I did become a board member because of the concern of how going into a meeting and how

board members treated unit owners in a way that was degrading and actually shutting them down. So that was really something that concerns me being on the board and watching this. And, so as time went on, I became more active, became president and turned things around, changed in regards to really caring about unit owners. And -- I am losing my train of thought because I didn't write down this testimony -- anyway, really caring about unit owners. I had to leave the board because of -- it was just -- basically, I'm more of a grounds person, I'm not a leader I, you know, want to work for the unit owners, so I ended up leaving the board because of the personal issues with what was going on in the community.

Anyway, so now I am more involved with the Condo Coalition Committee. Also I am a member of CAI, as well. I do respect CAI in the regards of their courses they do offer and the workshops they offer to the property managers, and I think they need to focus more with unit owners to what can be offered there. I don't see a lot of encouragement to the unit owners. I see more of the encouragement to board members. I'm not objecting to having CAI offer the courses for certification or licensing. I do think we do need the Consumer Protection involved, an agency to stronghold their -- their accountability as property managers and as property management companies.

So, I don't really -- I don't really know more of what I want to say. I know I'm working on a case study within our community to bring forward what really is going on in the industry here statewide. I do appreciate, though, unit owners, the property managers, realtors, as well as CAI, and the committee here working together to try to compromise and have a level playing field, so I appreciate your time.

SENATOR DOYLE: Thank you.

Any questions?

Representative Albis.

REP. ALBIS: Thank you, Mr. Chairman.

And thank you so much for coming in to testify today even though you thought your name was crossed out. We do appreciate hearing from you.

So House Bill 5536 deals with a couple things. First of all, requiring association managers to have education requirements tied to their certification, and -- and as it stands now, they get their certification through the Department of Consumer Protection so there -- the DCP is involved a little bit, but I was just curious as to what exactly you thought they could have more involvement in -- in that process.

SANDRA MARTINIK: Well, I just think there's -- I think they have -- well, based on the law, I think there would be more accountability to how a property management company or property manager operates. I know there was talk about having them bonded at, you know, personally at their cost, also with the background checks, because, in 1997 at Glen Oaks, we did have embezzlement. A few years back, we did have another incident with embezzlement and that was an incident where board members -- two board members hired an individual, which wasn't even a board vote, and then what we found out a couple years later, this -- this individual embezzled us. However, unit owners didn't know about it until a year later when he was apprehended by the police department for writing checks. So, I think we -- I think somewhere there we have to be protected as a community and somehow

protected from the board members making decisions that, you know, 1997, we had embezzlement of, you know, thousands -- oh, I think 10,000 to 50,000 dollars, and now we had -- we just recently had another one where -- it's the same board members, that it occurred again. We just need some -- some kind of law to, you know, protect us, as unit owners, and make these people accountable and fined for what they've done or what they have done. And, you know, as unit owners, we don't have the money to go get a lawyer ourselves as the boards do. And so I don't know what more to say to that right now.

REP. ALBIS: Okay. Thank you very much for that answer.

Thank you, Mr. Chair.

SENATOR DOYLE: Thank you.

Next speaker is Carmelinda Tardif, then Robert Davidson, Dr. William Begg, Erin Oleynek, and Angel Rivera.

CARMELINDA TARDIF: Hi, good afternoon. I am Carmelinda Tardif. I'm a unit owner, and I approve the bill, HB 5536, with mandatory background checks, and I also approve HB 5511 with -- subsection e of this bill should remain unchanged from the existing law. Removing the existing language of the Section 47-261e would seriously endanger the well-being of our common interest community.
I have a story that I would like to share. I live in Wethersfield in a condominium complex where the president of the association -- not only is he the president. He is also the superintendent, and he also says if we have any complaints, and we -- we will take it up with the -- with the management company. He answers, I hire them and I can fire them. So we have no

recourse. We can't go anywhere with our complaints. He also appoints everybody that's on the board. He has hand-picked and he appoints them. I -- I ran for office. I wanted to be a board member. He did not include my name on the ballot. When I got there, he would just add my name that this person wants to run. After everybody already had submitted their -- their votes. And the proxy, I was not able to get a list of the -- of the investors so I could not contact anybody outside of -- of the people that I knew.

And I said, This is election fraud.

And he said, No, it is not. And he shut me up. And I wanted to take it over to Channel 3, one of the stations to complain of what's going on in my complex. Also -- what also what happened is back in June, they were replacing a roof, and four condo units were -- well, not destroyed, but they had to rebuild them. They're only, like, 625 square feet. And I moved out on August 16th, and I told them that I had $12,000 loss of use with my insurance policy. And they said to me, You will be backed by the end of October. Well, October came and left, and I did not move back until January 10, 2012.

I told them that I'm paying out-of-pocket, and they didn't care if I was paying out-of-pocket, which I end up paying $2800 out-of-pocket, and they said to put a complaint or put a -- try to get the money back from the roofers. And right now, they're under litigation, and nobody wants to claim fault what happened with -- with this leaky roof that was being replaced. And also -- they also -- when I went there to check my condo and I was about to get the CO, certification of occupancy, on that day when -- when I knew they were coming to do that, I called the Building Department in Wethersfield and I asked them

about the permit on the plumbing that was done across the hall. I -- I said to them, I would like you to find out if the bath -- if the bathtub was included in the permit.

And he said, no, it is not. He said, Are you sure that was a brand new tub?

I said, Yes. Would you please check into that, I think there's something going on they don't want you to see.

He went to check on it that day when he was supposed to issue me a certificate of occupancy and found out that they -- that I was right, that they did install this tub illegally because it should've been inspected by the build -- by the builder inspector which was not, and when I -- when I got to the -- my condo that day to open my door and see what was going on, they had changed my lock due to the fact that I squealed on them. So I called the police and I told the police what happened, and he says, Well, this is a civil matter, I can't do anything for you.

I went down to the Building Department, and I asked them what happened. I skipped where I had found that it said, Danger, do not -- do not enter. That's when I called the Building Department before I called the police to find out why they put that notice there, and they told me they did not put that notice there, that the person that's in charge of your construction put that notice there. That's when I called the police and he found out that they -- they said -- they told the police that I was interfering with the construction.

I said if that's the case that I was interfering with the construction, why wasn't I told this earlier. All of a sudden I'm interfering with the construction when they're giving me a

CO on my condo and they're changing my locks. Is it because I squealed on them?

And he says, Well, lady, I was very lenient with them. They are coming down to reword the permit.

Well, I didn't like that answer, because they shouldn't have been lenient with them. They should've either fined them or made them have that tub inspected. The things that are going on on my -- in my condo are unacceptable. And people there, basically, want to leave, want to run away because nothing -- nothing is being done. No money is being spent on elevators, the elevators -- the ropes are about to -- to break. They're all frail. There's leaks and they're blaming the -- the owners of the condo while it's an internal problem because these were apartment buildings. So we really don't have our own system. We just have the heaters in each -- heating system in each apartment which is -- in other words, we only take care of what's inside of our apartments so, but if the -- if the leaks are coming from the plumbing that -- that follows all the apartments, they should be the ones fixing it. They're asking us to fix our own. And that's not solving it because it's one after the other that eventually is rotting away, and they -- they don't want to take responsibility. It is a horror. And I can't even get on the board because I am too proactive. How do I stop this man?

SENATOR DOYLE: Okay.

Any questions from the committee?

Seeing none, thank you for taking the time to come and displaying your patience today.

CARMELINDA TARDIF: I appreciate it. And I hope something will get done as far as the legislation is concerned.

SENATOR DOYLE: Thank you.

CARMELINDA TARDIF: Thank you.

SENATOR DOYLE: Next speaker is Robert Davidson. Robert is here. Then Dr. William Begg, Erin Oleynek, Angel Rivera, Patrick Alair.

SB 452

ROBERT DAVIDSON: Good afternoon, Mr. Chairman and members of the committee. I am Dr. Robert Davidson. I'm the director of the Eastern Regional Mental Health Board and president of NAMI Connecticut, that is, the National Alliance on Mental Illness Connecticut.

Outpatient commitment is like prohibition. A well-intentioned, but ineffective solution to a problem we're lucky enough not to have much of in Connecticut. Many people don't want to take medication, some of whom have mental illnesses. But we have better ways than forced medication to persuade them to do it.

Outpatient commitment is popular in states with bad mental health services because it makes providers give the meds, as well as making the client take them. In some places, it's the only way to get off waiting lists and into programs. If you can't get services here, which is much less likely, we have an effective grievance procedure. We have regional mental health boards and a whole array of consumer advocates, many of whom are here today, to help. A judge cannot make you take meds. He can issue an order, but he will not track you down and then hold you down while you comply. That is up to a treater, most of whom are at least ambivalent about forced medication. Those who are not

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PART 16
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2012

WRITTEN TESTIMONY IN SUPPORT OF HB-5511, AN ACT CONCERNING THE BUDGET, SPECIAL ASSESSMENT AND ASSIGNMENT OF FUTURE INCOME APPROVAL PROCESS IN COMMON INTEREST OWNERSHIP COMMUNITIES.

Submitted by:
Brian N Harte
Address Legally Suppressed

To: Connecticut General Assembly
Judiciary Committee and Subsequent Committees re: HB-5511

My name is Brian Harte and I am writing this testimony to you both as an individual who owns a condominium unit, and also as a ranking member of the Connecticut Condo Owners Coalition.

The Common Interest Ownership Act, as a whole, is a general set of instructions that prods Common Interest Associations, as applicable, to follow the law. I look at laws and statutes on a daily basis and use it in much of my daily work, as well as in my involvement with the CCOC. I see the law as a bilateral system. The law is designed to serve the people, while the people have the obligation to adhere to the law.

As a condo owner in this state, and former member of the Board of Directors for my association, I can tell you without hesitation that the CGA's mere acknowledgement of the issues that condo and HOA owners face is a step in the right direction.

Raised Bill No. 5511 reinforces that step in several ways, which is why I am writing to you as an acknowledgement of my support of this bill.

While associations across the state, such as Heritage Village in Southbury or where I reside have seen considerable adverse effects related to CGS 47-261, it is comforting to know that our words are being heard.

I hereby fully support HB-5511, subsections (a) through (c) inclusive. But I believe that there is still more that can be done with this bill. What is troubling to me is that subsections (d) and (e) have basically become the beneficiaries of what has been removed from the earlier subsections of the bill / statute. We are now facing the same aspects of what needed to be removed from Budget and Special Assessment language by what was included in the association's right to assign its' future income through loans.

Ladies and gentlemen: Across the state, and even in this budget year session, the consensus has been cost reduction, cutbacks, and prioritization of legislation that will not incur a cost to the state. So, my comments here are necessary.

If the state itself is trying to get itself out of a deficit, is it not prudent to acknowledge that many residents of this state are in similar financial situations? People are losing jobs, homes are being foreclosed upon, and many are living at a poverty line threshold; paycheck-to-paycheck, hoping that their jobs will still be there tomorrow. But as everything in terms of cost in the State rises, including income and sales tax, food, gas, etc., our paychecks do not.

Some of this commentary will echo aspects of my testimony for HB-5536, but the bottom line is that the control of the condo industry is big business at its' best. Lawyers specialize in condo association defense, management companies are *not* in the business of *not* making a profit, and the law itself is placating the businesses and such that thrive on making money off of one's residence in a condo. These are our homes, they are not, nor should they be sources of *income* for anyone other than the holder of our mortgages and applicable municipal taxes.

The fact is that I know that barring any unforeseen circumstances; my mortgage will remain the same, each month, every month for the life of the mortgage. Now if I lived in a house on my own personal property, it would be my decision to hire someone to cut the grass, or do it myself. Same concept applies to snow plowing. Similarly, town/ city dependent, trash pick-up is incorporated into municipal services covered by taxes.

However, in the environment of a condominium complex such as ours, we still must pay for our municipal taxes in full. Yet we receive no services from them. Our HOA fees then cover the additional cost for snow removal from our streets within our complex, trash removal and the like. It boils down to double taxation.

We must pay also, through our HOA fees, for a property management company just to exist. We pay for legal services; meanwhile the only people who are able to use the association's attorney are those on the Board of Directors. Yet we have to pay to protect 'them' from 'us.' Moreover that same attorney will not protect us from them.

Pursuant to subsection (d) and (e) of the proposed bill, the unit owners are yet again faced with a 51% majority vote (of all unit owners) needed to disapprove loan agreements. As my examples explain, we face losing our homes if we cannot afford higher fees. One can be current with their mortgage and still be foreclosed upon for unpaid HOA fees.

And the most alarming aspect is that once again we are still faced with a law that is largely unenforceable; which can be adhered to, or ignored without repercussion. There needs to be teeth to not just this bill, but CIOA as a whole.

In testimony before the Judiciary Committee on March 25, 2011, regarding HB-6620, Attorney General George Jepson went on record stating, "My office has received hundreds of complaints from condominium unit owners regarding violations of state condominium laws or condominium bylaws by their association board of directors. Sadly, no state office exists to effectively assist these unit owners. The state agency established in House Bill 6620 would provide help to outmatched, overwhelmed unit owners who are fighting for their basic rights under our condominium laws."

As Attorney General Jepson pointed out, sadly, again there is no real means of enforcement even with current Bill submissions.

These are the aspects I request be taken into consideration in this bill. My support is unwavering for subsections (a) through (c), but I believe that more can be accomplished here. Please see attachments for supporting documentation.

I do applaud the efforts of Representatives Len Greene and Themis Klarides in co-sponsorship of this bill and thank the Judiciary Committee for their time.

Respectfully Submitted,
Brian N Harte

December 2, 2011 2011-R-0434

CONDOMINIUM LIST AND EDUCATION PROGRAMS

By: James Orlando, Associate Analyst

You asked if the Secretary of the State's Office or the Department of Consumer Protection (DCP) maintain a list of all condominium associations in the state. You also asked if any states have laws or programs to educate condominium owners or board members about the law and their rights.

SUMMARY

Neither the Secretary of the State's Office nor DCP maintain a list of all condominium associations in the state. Some condominium associations are limited liability companies (LLCs), and thus register with the secretary of the state, but the LLC registry does not necessarily identify them as such (unless condominium appears in the title, for example). DCP does have a list of community association managers, who are required by law to register with DCP (see Chapter 400b).

The Connecticut Housing Finance Authority (CHFA) maintains a list of condominium complexes that are approved for CHFA financing programs, provided they are eligible for Federal Housing Administration insurance. While the list is extensive, it does not include all condominiums in the state. The list is available at the following link: http://www.chfa.org/Homeownership/for%20Homebuyers/Tools%20Calculators%20and%20Look-ups/EligibleCondominiums.aspx.

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Connecticut law does not require education programs for condominium owners or board members, but does require condominium boards to encourage board members and specified others to attend training programs.

We found laws or programs in a small number of other states concerning education for condominium unit owners or board members. For example, Colorado requires condominium education for unit owners, which the associations must provide or cause to be provided free of charge. For another example, Florida requires new board members to meet educational requirements unless they, among other things, certify to having read the condominium documents. Florida law also requires the Division of Florida Condominiums, Timeshares, and Mobile Homes to provide condominium training programs to unit owners and board members.

Below, we describe Connecticut's law in more detail. We also summarize examples of condominium education programs or requirements in Colorado, Florida, Hawaii, and Nevada. Please note that these examples do not include required education or other qualifications for community association management companies or similar entities the associations hire. If you would like information on that topic, please let us know.

CONDOMINIUM EDUCATION

Connecticut

Connecticut law does not require education programs for condominium owners or board members. The Common Interest Ownership Act (CIOA) does require each common interest community association's executive board, or an officer the board designates, to encourage association and board members and officers and managing agents or people providing association management services, to attend, when available, a basic education program concerning the (1) purpose and operation of common interest communities and associations and (2) rights and responsibilities of unit owners, associations, and executive board officers and members.

The law authorizes the executive board, or an officer it designates, to arrange to have the program conducted by a private entity at a time and place convenient to a majority of association members. It allows all or part of any program fee to be designated as an association common expense and paid from association funds in whatever manner the

executive board determines and the association approves as long as the bylaws and CIOA do not prohibit it (CGS § 47-261a).

Colorado

Colorado law requires common interest community associations to provide, or cause to be provided, free education to unit owners as to the (1) association's general operations and (2) rights and responsibilities of owners, the association, and its board under Colorado law. The education must be provided at least annually.

Each association's executive board must determine criteria for compliance with this education requirement. The requirement does not apply to associations with time-share units (Col. Rev. Stat. Ann. § 38-33.3-209.7).

Colorado also allows a board to reimburse board members, as a common expense, for their actual and necessary expenses in attending educational meetings and seminars on responsible association governance. The course content must be specific to Colorado and refer to applicable Colorado statutes (Col. Rev. Stat. Ann. § 38-33.3-209.6).

Florida

Division of Condominiums and Condominium Ombudsman. In Florida, the Division of Florida Condominiums, Timeshares, and Mobile Homes enforces condominium laws. The law requires the division to provide training and educational programs for condominium association board members and unit owners. The training can include both online and live training. The division can review and approve education and training programs by private providers. The division must keep a current list of approved programs and providers and make the list available to board members and unit owners in a reasonable and cost-effective manner (Fl. Stat. Ann. § 718.501).

According to the division's most recent annual report, during the 2010-2011 fiscal year, the division provided courses in the following topics for unit owners and board members: board member responsibilities; budgets and reserves; elections; financial reporting; 2010 legislative updates; and the complaint process. The division conducted 42 training sessions during the year, reaching over 3,400 attendees. The division also produced and distributed over 2,300 copies of condominium educational CD-roms.

The annual report is available at the following link: http://www.myfloridalicense.com/dbpr/lsc/documents/FCTMHAnnualReportFinalFY2010-11.pdf.

The division maintains a page on its website with information related to condominium education, such as approved education providers, educational materials, and a link to request a CD (in either English or Spanish) as described above. The page is available here: http://www.myfloridalicense.com/dbpr/lsc/condominiums/CondoEducation.html.

Florida has an Office of the Condominium Ombudsman, located for administrative purposes within the division. The ombudsman serves as a resource for condominium matters. Among other duties, the ombudsman must develop policies and procedures to assist unit owners, boards of directors, board members, community association managers, and other affected parties to understand their rights and responsibilities under the law and the condominium documents governing their associations. The ombudsman must coordinate and assist in preparing and adopting educational and reference material. The ombudsman must also coordinate with private or volunteer providers of these services, so that the availability of these resources is made known to as many people as possible (Fl. Stat. Ann. § 718.5012). The ombudsman's web page is available here: http://bpr.state.fl.us/condos/.

Requirements for New Directors. In Florida, within 90 days after being elected or appointed to a condominium board, each newly elected or appointed director must do one of the following:

1. certify in writing to the association's secretary that he or she (a) has read the association's declaration, articles of incorporation, bylaws, and current written policies; (b) will work to uphold these documents and policies to the best of his or her ability; and (c) will faithfully discharge his or her fiduciary responsibility to the association's members or

2. submit a certificate of having satisfactorily completed the educational curriculum administered by a division-approved condominium education provider within 1 year before or 90 days after election or appointment.

A director who fails to timely file the written certification or educational certificate is suspended from serving on the board until complying with this requirement.

The written certification or educational certificate is valid as long as the director serves on the board without interruption. The association must keep a director's written certification or educational certificate for inspection by the members for five years after a director's election. Failure to have a written certification or educational certificate on file does not affect the validity of any board action (Fl. Stat. Ann. § 718.112(2)(d)).

Hawaii

Condominium Education Trust Fund. Hawaii law requires the state's Real Estate Commission to establish a condominium education trust fund (CETF) for educational purposes, including financing or promoting (1) education and research in the field of condominium management, condominium project registration, and real estate, to benefit the public and those required to be registered under applicable law; (2) the improvement and more efficient administration of associations; and (3) expeditious and inexpensive procedures for resolving association disputes (Haw. Rev. Stat. Ann. § 514B-71).

The Real Estate Commission's 2010 Annual Report contains information on the commission's condominium education efforts. For example, the commission administered CETF subsidies for several commission-approved seminars. Seminar topics included a legislative update; annual meetings; board meetings; dealing with aging buildings; and more. The commission published two new information booklets, on owners' rights and responsibilities and board member powers and duties, and sponsored a free seminar in connection with the booklets.

The commission's 2010 Annual Report is available here: http://hawaii.gov/dcca/real/reports/Annual%20Report_2010_final.pdf.

Board Education. Under Hawaii law, condominium boards can spend association funds to educate and train themselves in subject areas directly related to their duties and responsibilities as directors. The law specifies that such funds are not deemed to be compensation to directors. The annual budget must include these education and training expenses as separate line items. These expenses can include registration fees, books, videos, tapes, other educational materials, and economy travel expenses (Haw. Rev. Stat. Ann. § 514B-107).

Nevada

In Nevada, the Commission for Common-Interest Communities and Condominium Hotels, among other duties, must develop and promote educational guidelines for (1) conducting board elections, board meetings, and unit owner meetings and (2) enforcing an association's governing documents through liens, penalties, and fines. The commission must also recommend and approve for accreditation programs of education and research relating to common interest communities, including programs related to (1) managing common interest communities; (2) unit sale and resale; (3) alternative methods to resolve disputes; and (4) enforcing liens on units for failure to pay assessments or fines, including by foreclosure (Nev. Rev. Stat. Ann. § 116.665).

Nevada law allows the commission to promulgate regulations setting standards for subsidizing educational programs for the benefit of unit owners, board members, and officers (Nev. Rev. Stat. Ann. § 116.670). The commission's web page is available here: http://red.state.nv.us/cic/commission_info.htm.

Nevada also has an Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels. The ombudsman's office offers free seminars for people who live, work, or own property within homeowners associations. Recent seminar topics included maintenance, insurance, and risk management; fiscal matters; and reserve studies.

The ombudsman's office created a Nevada Common-Interest Community Manual. Among other things, the manual explains what associations are and how they are governed, summarizes applicable laws, and explains how to use ombudsman services. The ombudsman's office has also created video tutorials for certain topics. More information is available on the ombudsman's web page, available here: http://red.state.nv.us/cic/cic.htm.

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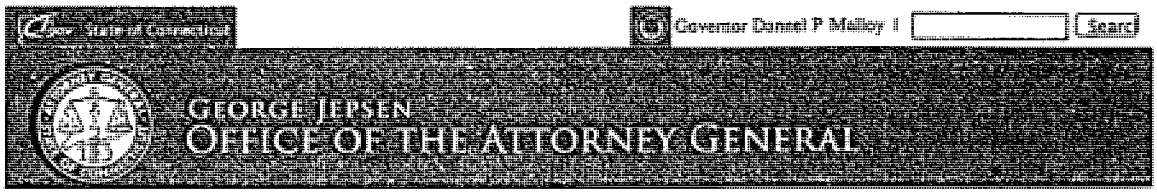

Connecticut Attorney General's Office

Press Release

Attorney General Urges Legislature To Establish Condominium Ombudsman To Protect Condo Owners

February 16, 2010

Attorney General Richard Blumenthal, in testimony submitted today to the state General Law Committee, urged creating a state Office of Condominium Ombudsman after his office received hundreds of complaints from condominium owners over the past year involving disputes with condominium associations

The legislation would create a self-funded state commission -- with no financial burden to state taxpayers -- to review condominium unit owner complaints concerning violations of state condominium laws by the association's board of directors, officers or professional managers.

The ombudsman would also review complaints about violations of condominium bylaws concerning finances, calling or conduct of association meetings or access to public records of the association The ombudsman would review any disputes and, if necessary, it would hold a hearing and issue orders to resolve problems and ensure that bylaws and state laws are respected

The proposal encourages that unit owners and associations first seek to resolve disputes through a dispute resolution procedure before relying on the state ombudsman

"A Condominium Ombudsman would provide help to outmatched, overwhelmed unit owners who are fighting for their basic rights under our condominium laws," Blumenthal said "Many of the complaints received by my office concern failures by association boards of directors to follow basic governance principles such as adopting an annual budget with notice to the unit owners, holding fair elections for the board of directors, providing key financial information about the association, and fairly imposing association fines.

"Some of these complaints are based on deliberate indifference by association boards to association bylaws or state condominium laws -- or a lack of full understanding of condominium association responsibilities

"The current law is unfair to unit owners. The law imposes certain responsibilities on condominium association boards of directors and establishes certain rights for unit owners. The unit owners must hire -- at their own expense -- a lawyer to enforce those rights and responsibilities while the association boards of directors can defend themselves using association funds, raised through assessments on the unit owners. Thus, unit owner funds are used to defend lawsuits brought by unit owners themselves

"A Condominium Ombudsman will provide much-needed assistance to unit owners and provide an important enforcement tool for our condominium laws "

Blumenthal proposes that the office be funded through a simple fee structure a small $4 per unit annual assessment on condominium associations in the state This charge is the same as assessed in Florida in order to pay for that state's ombudsman program There are approximately 240,000 condominium units in Connecticut so the $4 charge will yield $960,000.

In addition, the proposal requires a filing fee of $35 (the same as in small claims court prior to last session's increase) paid by the complainant and another $35 filing fee paid by the association The fee on the association also encourages the association to resolve the matter prior to intervention by the ombudsman If there are 1,000 complaints filed, this fee will yield $70,000.

Finally, the proposal increases the condominium manager's filing fee from $100 annually to $400 biennially There are 300 registered condominium managers so the fee will generate $120,000 in revenue every two years.

Blumenthal's office has received hundreds of complaints from condominium unit owners regarding violations of state condominium laws or condominium bylaws by their association board of directors

Under this proposal, the Attorney General, upon referral by the ombudsman, may bring a civil action to enforce the provisions of the condominium bylaws or state statutes regarding condominiums A provision of the legislation would allow the ombudsman to impose a civil penalty of not more than $200 for any knowing violation

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JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 17
5324 – 5635

2012

5511
HB 5511
HB 5536

March 28, 2012

To: CT General Assembly Judiciary Committee
From: Kathleen Benedetto
81 Blackbirch Court, Shelton, CT

RE: Written Testimony for Public Hearing March 29, 2012

I have resided at Sunwood Condominiums in Shelton, CT for 8 years and have witnessed abusive boards, "fixed" elections, property mismanagement and, most recently, inappropriate behavior on the part of the management company and it's affiliates. Due to a conflict in my work schedule, I am unable to attend the public hearing, but feel a moral and ethical obligation to speak up at this time with a written testimony.

On February 14th, a worker on a roof in our complex fell to his death. Most of the homeowners either read about this in the newspaper or learned about it on the news that evening. Our management company failed to notify us of this unfortunate accident and questions regarding insurance, contracts, permits, licenses, etc remain unanswered. According to an announcement made by one unit owner at a board meeting, both the board and the management company were notified that the workers were working without fall protection.

We recently held an election for two vacancies on our board and two of the candidates were "targeted" for asking for full disclosure of accounting and assessment records. Our management company attended the "meet the candidates" evening passing out letters criticizing certain individuals for asking inappropriate and unprofessional questions. Proxies were labeled "invalid" without explanation, friends of candidates watched as ballots were being counted, and other actions of various board members remain extremely questionable.

Our board President has taken advantage of his position and "bullies" other board members and many unit owners. Our management company only answers to the President....we are all at the mercy of these two individuals. We have witnessed their rudeness, hostility and anger when asking for information that we have the right to know and they have the obligation to provide.

As residents/owners, we need much more regulation, transparency and truth regarding the following:

- The process regarding the proper vetting of prospective management companies, their experience & track record, background checks of principles, etc. before contracting with them
- Board & management company decisions
- Detailed Board meeting minutes including *all* topics & items discussed & recorded on tape – not a combed version
- A limit on management company fees, power & authority
- How vendors/contractors are selected
    - How to better control, validate and oversee that proposed/hired contractors have proper licensing, insurance, etc. and that these important documents are current and in force throughout the project's life to completion

- **How our condo fees/budget monies are to be used, managed and accounted for according to *standard accounting principles* rather than hard to decipher reports using "creative accounting" – transparency & common sense explanations of line items & expenses**
- **More accountability by management companies as the fiduciary for the association**
- **Association check book records available for review by condo owners with the ability to question transactions**
- **Regular updates on outstanding work orders, especially when owners contact the Board and/or management company directly for these updates.**

I think it's important to have state statutes/laws and a state agency/organization/ombudsman that:

- **Supports and works on behalf of condo owners**
- **Gives owners more of a voice in affecting positive change in our condo communities**
- **Provides clear rules for transparency in budget reporting and more accountability to the owners by the management company and the Board**
- **Provides clear statutes with the support/council of an ombudsman to help owners ask the right questions in pursuit of the truth and help us get the truthful responses we deserve from the Board and property manager in a timely manner.**

RE: CONDO BILLS

HB5536 AN ACT CONCERNING REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY ASSOCIATION MANAGER, LICENSURE AS A REAL ESTATE BROKER OR SALESPERSON AND ORGANIZATION OF A UNIT OWNERS' ASSOCIATION.

I support HB5536, except that I would like to see more provisions in this bill to better protect unit owners. I would like to see mandatory background checks for all property managers as is the case in the new banking statute SB1109. Given the extent of financial responsibility a property manager has, there is a need for more teeth in this bill. In light of recent news of property manager misconduct involving, in some cases, very experienced property managers, who have effectively stolen money from associations, I believe it is important to support this bill and the additional security of background checks. Also, managers who are paid should be subject to the same certification, training and background checks.

HB5511 AN ACT CONCERNING THE BUDGET, SPECIAL ASSESSMENT AND ASSIGNMENT OF FUTURE INCOME APPROVAL PROCESS IN COMMON INTEREST OWNERSHIP COMMUNITIES.

I support HB5511, except for Section 47-261e, Subsection (e). Subsection (e) of this bill should remain unchanged from the existing law. Removing the existing language of Section 47-261e (e) would seriously endanger the well being of our common interest communities.

Testimony for 5511 and 5536
By Anonymous

I wish to give you my testimony as a condo unit owner in the Quiet Corner of CT who has lived here for almost eight years. The bill numbers from the CT Condo Coalition are **5511 and 5536**. As a senior woman living alone, I thought that condo living would be an ideal fit. Or so I thought. Once you find out the things that transpire at condo complexes, you soon learn you've been duped on many fronts, mainly financial. I quickly learned condo living is often a ripoff.
And so, I offer you my personal testimony of what one woman has endured in a complex that I thought would be a great place to live. Let me begin with what can only be titled MISAPPROPRIATION OF FUNDS.
Under this category I list several things I have endured/witnessed or been a victim of, starting with the inception of the new phase of this complex. The first phase was built 20-25 years ago and was poorly built, and sorely mismanaged and neglected for years. Fast forward to 2004 when the board then decided they could 'rescue' the old bldgs by bringing in a developer who would put up new units and we would be the pillars on which the old sick buildings could look to us to be their pillars holding them up financially. My first clue all was not well after I moved in. When this new development in 2004 began the developer gave the board $250,000 for the 'privilege' of building here. The then president of the board asked the (old bldgs) unit owners if they wished to put that money into their buildings as they were falling apart, or did they want money in hand...most vouched I was told, to take money for themselves, $3,000 each as explained to me. There were 60 owners at that time who supposedly each received 3,000 and the other $70,000 was for legal fees, as I was told by the president. Of course, none of us were ever given any proof of what actually transpired and some of the folks who lived in those old units told me they never got a dime which leaves one thinking where did all that money go and who got what?
Another huge misappropriation of funds lies with the fact that each of us new condo unit buyers had to pay 5% extra at closing to the developer who then kicked that money back to the association. We were told at that time that those monies would go into reserves, with 40% into permanent reserves and the other 60% into temp reserves.
With about 90 new units here that meant that each new buyer gave an average of $10,000 to the builder who then gave it to the association.
All in all the association would have gleaned about $1,000,000! This means that today we should have that original permanent reserves figure of $400,000 plus the interest it would have made in the last half dozen years, but it is now nonexistent and we have nowhere near that in any/all reserves. In fact, we never even see any accounting of investments made or the interest gleaned. Adding insult to injury, within a couple years the board deleted the word Permanent Reserves, meaning, it is no more. This to me is a criminal case that should be investigated and a huge red flag of mismanagement or possibly fraud. For sure, it falls under the Bait and Switch idea of telling you one thing, doing another, and leaving us without perm reserves. For our generosity in fixing up old buildings, we the new unit owners have no reserves if we should need issues dealt with in the future!.
We have $23,000 in condo arrears at a 160 unit complex. People who live in the old section have told me when they get fed up and don't get answers or things fixed they just don't pay condo fees. This means that not only are the new unit owners shafted via paying for years of neglect

and improvements needed by the old buildings, but we also fork out most the condo fees which pay for services, which have been not all that desirable or competent for 8 years.
With putting out 40,000 to $50,000 each year for both lawn care and snow plowing, services are woefully lacking. Further with many buildings here having postage size lots, we could get local guys to do this work for a fraction of the cost. A total of $80,000 or more a year for both those services is a big joke on all of us considering the kids they hire to do the work get $12 an hour, but the mgmt company charges us $75 an hour PER WORKER...THAT'S LOTS OF money wasted. And one wonders if when these contracts are written up, if there isn't a split going on between mgmt company or board and contractor, Again, how would unit owners know when transparency isn't order of the day!
We have no idea of how many units are being rented here. That should be required info available to anyone looking to sell to a prospective buyer who has every right to know how many units are being rented. As well, we don't have a tight figure on foreclosures. I recently asked how much our legal fees were when we had to defend ourselves against the developer who sued us a couple years ago...again, NO answers. I was put off as if that were a nuisance question and they had no way of obtaining such information. Sheer balderdash in my book!
The developer was told in 2008 to stop building as units were not selling, so he in turn sued the association. Strange thing is that for the first few years both he and the association shared the same lawyer...a HUGH RED FLAG AGAIN. I often feel like I'm in China...red flags galore! How many condo complexes have the association and the developer sharing the same lawyer? This is obviously a big no-no!
We receive no hard copy minutes or financial statements and at condo meetings often treated with contempt or mocked if we ask questions which they prefer not to deal with. I was asked a couple years ago if I would like to serve on a budget committee, as I often had questions about the finances here. I said, "Yes, I would love to", but then the President quickly countered with, "fine, you can be on that committee, but be forewarned, you can't ask ANY QUESTIONS ABOUT FINANCES!
Obviously, not being born yesterday, I knew the jig was up and if I couldn't' see numbers or ask questions this was a huge red flag as well. I refused to sit on a board and be silent or a stooge.
I attempted to make my unit warmer with external insulation to cut my heating bills by 1/3, but was told to remove said insulation as it was against condo docs. The president allowed the builder to give us these useless heat pumps not even meant for New England winters. I spoke with two manufacturers who told me that they are useless for our winters, but great in Santé Fe or Texas for a/c and hot weather. Needless to say, owners here pay astronomical electric bills in bad winters. Last winter for the worse month, my bill was over $1,000 for one month, and I thought that was bad until I spoke with neighbors that paid a couple hundred or three hundred more than myself. What is worse, we are not even warm! Clearly this is so outrageous, especially for senior woman living on social security.
When I was told to remove that insulation I contacted the AG at that time who answered that year that he wished to form a state condo commission for he got hundreds of similar complaints each year, but alas, the budget didn't allow for him to form that commission. His idea was that I should get a lawyer...something anyone on a fixed income is unable to do, especially when the choice is between heating or eating!
So in less than eight years, I have forked out over $24,000 for condo fees with that original 5% at closing. For this, I have received untold heartache, cold nights as these units don't stay warm with heat pumps, get lousy snow plowing and fair to middling lawn services. My blood pressure has gone through the roof since living here and the stress level of dealing with people whose

IQ's are smaller than their shoe size is frustrating at best. I have a good understanding for those small foreign store owners who must pay monies extorted from them!
I know local realtors who have told me they would never bring any buyers back here for the long history of mismanagement, either when it was a self managing HOA or now with mgmt companies. With the latter, we seem to play musical mgmt companies...a new one every couple of years, ditto with the insurance companies who find out the problems here and then drop us like a lead balloon.
Problems/issues are rarely addressed until they are so bad as one death almost ensued several years ago. A professional opera singer with the Rhode Island Philharmonic who lives here told me how she complained about her roof leaking for three years and got no responses ever. The upshot of that was mold within her unit that culminated in severe allergies, the loss of her voice and a massive heart attack from the mold. She spent months in a hospital clinging to life, and then only then, did they fix her roof. About three years ago they put new roofs on the old buildings and people living back there told me that they were leaking in less than a year. A realtor told me the next things needed are new frames/windows for the old buildings. So while those old unit owners feel free to skip out by not paying condo fees, we new people in new units are expected to be the welfare dept for the board that needs to pick pockets to pay for years of unrelenting incompetence.
The developer was a real piece of work on top of all the aforesaid, I have spoken to many women living alone here, either divorced, single or widowed and each one had a tale to tell of how he intimidated or got more money out of them. For myself he came to me about two weeks before my closing and demanded that I give him $50,000 as he needed that to complete my unit...being naive, I gave him that money as I had sold my house and needed to move so my buyer could move.
Lucky for me I did close, but a couple more would be unit owners were not so lucky. They had given the developer tens of thousands towards their to be built condos and then the developer told them months later that he would not be building anymore. Those folks then asked for their money back and were told by the builder the money was gone. I don't know the outcome of that, but needless to say this was criminal behavior. The developer was very intimidating with women.
I could write a few more pages easily on all the transgressions and the lack of transparency here, not to mention the meager reserves, the pet projects like prettifying the place when essentials are more necessary...and we all pay for it through the nose and have no say, like when they wanted to build a club house.

The president asked me if I would call all the neighbors around me/about 25 units to find out if they would vote to have a new club house. All responded 'no way, no interest'. I then wrote the board and told them their responses, and days later, got a letter in the mail telling me they didn't care what me or my neighbors wanted, they were going to build it anyway and we would finance the upkeep and astronomical heating bills...the place has got 22 windows...pretty dumb considering it's heated with a heat pump and only used a couple times a month!
Please consider us with these bills. Our rights as unit owners are long neglected. Much of what I explained above falls under criminal wrongs.

Testimony of Kathleen Benedetto

In FAVOR of HB5511

For Judiciary Committee Public Hearing

March 29, 2012

10:00AM

HB5536 AN ACT CONCERNING REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY ASSOCIATION MANAGER, LICENSURE AS A REAL ESTATE BROKER OR SALESPERSON AND ORGANIZATION OF A UNIT OWNERS' ASSOCIATION.

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Kathleen Benedetto
81 Black Birch Court
Shelton, CT 0648

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- Provides clear statutes with the support/council of an ombudsman to help owners ask the right questions in pursuit of the truth and help us get the truthful responses we deserve from the Board and property manager in a timely manner.

Judiciary Committee March 27, 2012

Raised Bill No. 5536 – An Act Concerning Requirements For Certification as a Community Association Manager

Common interest communities rely heavily on the services provided by community association managers. Tremendous financial harm can be inflicted upon unsuspecting unit owners due to the relaxed manner by which managers are presently awarded registration. Given the financial responsibilities placed on managers, it is only appropriate that they at least be required to complete a nationally recognized course on community association management and pass an examination accepted by the Commissioner of Consumer Protection. Passage of **Raised Bill No. 5536** would not only provide protection for consumers in these complexes, but would also benefit senior citizens who are particularly vulnerable to various forms of financial exploitation. The cost to the Department of Consumer Protection associated with this updated procedure for all individuals providing managerial services would be borne by the applicant. Therefore, this important legislation would not place any negative impact on departmental budgets.

For the foregoing reasons, I respectfully request that the members of the Judiciary Committee approve passage of **Raised Bill No. 5536.**

Thank you.

Sincerely,

Anthony Perrelli

Anthony Perrelli
Madison, CT

Testimony of Virginia Zakhour
in FAVOR of HB5536
for Judiciary Committee Public Hearing
March 29, 2012

My name is Virginia Zakhour. I have been an owner of Oakwood Condominiums for over 20 years. If it was not due to my employment situation, I would have given away my unit years ago.

I have written testimonies in the past, documented records, contacted state senators and lawyers, and yet with condo law it has been a fine line. Lawyers did not get involved when it came to helping the owner's receive justice. The way the law works it benefits' a few members. In my experience it is the Board president and the managing agent. We the owners' actually pay them to fine, sue us, and accuse us, of damages and such.

I know of the discouragement by legislative staff who have come across in dealing with condo law, and the managing agents that run them. I am writing in hope and yet highly discouraged by my experiences with them.

I believe that a property manager bill would benefit owners because if I read the proposed bill correctly the property manager would need to work with Department of Consumer's Protection as well as the unit owners.
See they do want a bill such as this because there are no consequences to the very few. This is why these bills do not get passed.

Unfortunately, my Condo Association is not FHA due to the lack of residing home owners. With all due respect for many reasons: (1) of them being the lack of respect by managing agent, and board president of the owners.

There was an incident when I was approved for an exhaust fan through the managing agent. I hired a qualified person and the board president trespassed into my home and made him call me at work to take it out. I paid for two men to install it and take it out. Yet, the managing agent who made the error by approving it didn't have the decency to value my time, the worker's time nor the respect for others.
I am paying him as an owner to manage my home, not to make him rich. He nor she even apologized to me.

There was another issue in which I kept questioning a plumbing bill that was repaired and caused to the unit below me. It did not make sense to me. It did not make sense because it defied logic. Yet, they the managing agent continued to fine me every week until I paid them $980 from something like a $180. Then I spent repairing something needless to repair by their plumbers. Years' later I found a plumber and the damage was actually coming from the unit above me (The board presidents) . The association had to pay that time. Though, it would have saved me thousands of dollars.

This was about the time the unit above me caused serious damage to my living room and bathroom ceiling.
This was due to her water heater. Yet, she only had to pay $200. I had paid 2 objective contractors assess the damage value. It was definitely in the thousands.

Thank you in advance for your consideration.

Sincerely,

Virginia Zakhour

Testimony of Kay Mondello
In favor of HB # 5536
For Judicial Committee Public Hearing
March 29, 2012

In support of any legislation that will enforce the Connecticut State laws and protect and defend the rights of Condo Home Owners.

Mandatory· Education, guidance, training, testing and licensing for Community Association Management is very important for their knowledge and continued understanding of the responsibilities and requirements that are necessary to govern Associations.

Having the Commissioner for The Department of Consumer Protection requiring classroom study, written examination and requiring knowledge of current real estate practices and licensing laws " is key" to protecting home owners and will insure the enforcement of the responsibilities involved in Community Association Management.

The Department of Consumer Protection functions in the State of Connecticut as a "protective agent" for consumers for products, services and a myriad of concerns.
The Department of Consumer Protection should also be protecting condo owners in the homes, which is a consumer's most important asset and should be a place of "peace and comfort."

Home Owners Need: a "go to" department to express the concerns, issues and complaints that they are unable to resolve with their Associations and The Department of Consumer Protection , should be the most likely; " Go To" department.

The Department of Consumer Protection should be listening to home owner complaints, concerns and should act as a mediator between condo owners and Associations.

Currently, Associations know that there is no compliance for the laws through The D of CP.
The D of P office and website would be a great communication tool for home owners to report these complaints electronically and also hand written letters for those without tech ability.
On many issues; people who RENT, have more protection through The Department of Consumer Protection, Department of Health and Human Services and Judicial Court Systems in Connecticut than home owners do..!

All Realtors: Should also be required to go through training, testing and certification with reference to selling Condos.
Many realtors do not educate the consumer on the State laws and the by-laws connected with condo living nor give them by law documents before the "the sale". Realtors many times will recommend their own home inspector or in the past have discouraged a home inspection...! and in many cases will "cover up" existing problems with the structure.
The homeowner is then left to deal with the Association correcting the problems. Realtors should also be fined for these practices.

This management licensing law is necessary to protect homeowners.

Condominium living is relatively a "new" form of housing...
All the nuances for management and cohesive living have not been fully defined yet.

By now; Legislators must recognize that Nevada and Florida have quickly adopted the Ombudsman legislation to protect home owner rights. The law works very well through The Department of Business and Professional Regulation and Maryland, New York, and other states are not far behind with adopting this legislation.
Where is Connecticut...?
In recognizing the urgency in protecting condo owners in their homes..?

Condo Board Members are supposed to "be there" for the home owners and partner with them in resolving issues...
But all too often Board members will hold themselves above home owners and dictate to them. .....
"That's the way that it is"; they interpret the State laws and their own By-laws their way....and do not follow "the letter of the law."

Many Condo Owners are not courageous enough to come forward and challenge their Board on unfair practices.
Many will never come forward or go through a laborious task of trying to settle a dispute with a stubborn and unresponsive Association/ Board of Directors. Many unit owners are elderly or alone and are in fear or intimidated by the management.

On very serious issues;
Owners do not have the financial means or know the proper plan of action to hire an attorney or even if they do..
don't get results even after spending thousands of dollars to defend their rights. Associations recognize how costly ligation is and they will use the "wear them down" tactic and use the Associations legal funds to fight the homeowner ..!

It is time for continued Condo Legislation to protect the citizens of Connecticut.

Testimony In FAVOR of HB5536
By Connecticut Condo Owners Coalition
For Judiciary Committee
March 29, 2012

NOTE (1) Over 30 condo owners offered to be interviewed for the following news story, but the Courant could not accommodate all the requests. (2) As a result of our January 2012 survey of several hundred condo owners, both CCOC members and non-members, there is data to substantiate the problems between owners and property managers and associations Harvard research indicates that for every one complaint a business hears, there are 25 others who feel the same, but did not complain

Hartford Courant.

State Condo Owners Seeking Stronger Voice

By ANNE M. HAMILTON, Special To The Courant The Hartford Courant

March 24, 2012

Some of the estimated 200,000 condominium owners in Connecticut say they are living under conditions that rival the legendary Biblical plagues — minus the frogs and the locusts

Ceiling leaks, indoor mold, icy walks that are never cleared, broken outside staircases, tyrannical board presidents and not enough heat are some of the complaints being voiced by members of the Connecticut Condominium Owners Coalition, or CCOC.

Doreen Camp, a Meriden condo owner, says owners have no place to turn for help.

"The state laws and the [condominium] bylaws aren't being adhered to," she said. "There's nobody that's enforcing."

She said her written complaints about the management of her condo to the association officers, the state Department of Consumer Protection and the attorney general's office have gotten no response The only alternative is be a costly lawsuit she can't afford..

Condominium association representatives say that while some problems may be serious, the overall situation is nowhere as dire as the coalition claims

"The percentage of individuals who do have serious issues is very low, compared to the units throughout the state," said Kim McClain, executive director of the state chapter of Community

Associations Institute, an organization that provides education and support to condominium associations.

Many complaints voiced by CCOC members involve the disregard of the various state laws that outline the rights and responsibilities of both unit owners and associations. Owners say some associations fail to hold meetings, refuse to distribute financial information, don't upgrade condominium bylaws to reflect revisions in the law, or fail to hold annual meetings

McClain said that many complaints are unsubstantiated, and just reflect a few unhappy unit owners. "There are always going to be problems that seem intractable," she said.

The problem, say CCOC members, is that there is no reliable, rapid, inexpensive way to resolve problems. Boards can be prejudiced and lawsuits are too expensive. For several years, CCOC has lobbied for the creation of an ombudsman, a state official who would listen to complaints and mediate between condominium owners and associations

"It would be a place to go," said Judith Rudikoff, a CCOC member who fought with her condo association for 10 months to get access to some financial information. "Someone who might have the ability to mediate and help resolve the problems It would be a statement to the board that it's accountable."

Her board agreed to transmit the financial reports by email — rather than have Rudikoff travel from Bridgeport to East Hartford, where the records are kept — only after a Courant reporter inquired about the problem.

Representatives of condominium associations say establishing an ombudsman's office would be a waste of time and money. Instead, McClain says every condominium should have an internal grievance procedure that would mediate problems, a position supported by David Kelman, a founding member of CCOC. Currently, some bylaws provide for mediation or arbitration of disputes, but most do not.

Kelman said that a $4 per owner assessment would pay for an ombudsman, but McClain said that would impose an unnecessary fee on the thousands of owners who have no issues with their boards

Although an ombudsman bill has been proposed yearly in the General Assembly since 2008, it is not under consideration this year Some states, like Nevada and Florida have ombudsmen.

"Last year, we didn't have support for the bill," said state Rep. James Albis (D-East Haven) a member of the Judiciary Committee.

Attorney General George Jepsen, who testified in favor of the bill last year, said he would not be supporting an ombudsman bill this year because of the cost. Instead, Albis will propose a mandatory licensing requirement for property managers who are currently required only to register and be bonded

"In some cases, the problems are serious, but generally, owners and property managers get along well, but there are some issues to be addressed," he said.

The Community Associations Institute lobbied hard against the ombudsman bill, saying it was not needed because there are so few complaints and because so many complaints are unfounded.

Karl Kuegler, director of property management with Imagineers, which manages 156 condominiums statewide, said many associations are still struggling to comply with changes in the Common Interest Ownership Act, which governs condominiums, that took effect in 2010.

Those changes were made to ensure more transparency in association business, and required meetings to be held in common areas, specified that unit owners can request a hearing if they are trying to enforce a rights under the condominium law, gave owners the right to attend and speak at meetings, and required records of minutes and votes to be available to owners.

"There have been such sweeping changes [in the law]" said Kuegler. "Have homeowners allowed [these changes] to take effect?"

Rudikoff said some residents, particularly elderly ones, feel intimidated by board members and are reluctant to voice disapproval of board actions. Personal feelings sometimes run high, and unit owners are made to "feel unwelcome or excluded "

Kuegler said the law allows owners to get rid of board members if they don't feel the board is doing its job. "If the board isn't representing the interests of the community, [20 percent of the owners] can call for a meeting There are provisions to remove them without any legal expense," he said

Representatives of management companies concede there may be problems in condominium governance, but see the issues differently than condo owners

"There's a staggering amount of responsibility, and some boards just aren't equipped to do it," said Reg Babcock, general counsel of Westford Real Estate Management, which manages 65 condominium complexes

"The problem we witness more often than not is five vacancies and only three candidates . That's a serious concern – getting serious committed owners to sign up and serve on the board."

One unknown is the number of condominiums statewide. Although each association is required to file with the town clerk and with the Secretary of the State, there is currently no enforcement mechanism, and no way to determine the exact number of condominiums or owners Many are small condominiums, with under ten units.

Some of the most frequent condominium problems — over pets and landscaping — create tension between owners and board members, and tend to get personal, Babcock said Turning those issues over to the management company for resolution would eliminate the rancor created by personality clashes, he said.

Although the ombudsman proposal is dead for this year, other measures are being proposed. Among them is a bill that would change the voting procedure on annual condo budgets that currently counts non-votes as a "yes" for the proposed budget. Under the bill, a simple majority of condo owners could defeat the budget

The state Department of Consumer Protection, which has jurisdiction over complaints that fall under the state Unfair Trade Practices Act, is planning to launch a website that will contain all laws pertinent to condominiums in June. Richard Maloney, the department's director of trade practices, said he is working with the University of Connecticut's Real Estate Center to create a course for real estate agents to learn more about condominium law. And McClain said the Community Associations Institute offers frequent courses on condominium rights and responsibilities

Kelman says all that may be a start, but is just not enough "Condo owners have no state agency where they can get resolution," he said " We're looking for transparency, democracy, fairness ... This is not happening "

HB 5536 BILL
MARTIN SHAPIRO

Dear

I and my family have been continuously harassed by a vengeful Board of Directors of the Strawberry Hill Association, and supported by an executive of the property management, Plaza Realty and Management Corp.

Since the beginning of this year, members of the board of directors assisted by the president of the property management have deliberately and with malicious intent embarked on acts of intimidation, and invasion of my privacy.

This unconscionable behavior resulted from having questioned the legality of recent elections; misappropriate owners' funds, lack of fiduciary responsibility to which the Board is legally bound.

As an owner of a condo at 1 Strawberry Hill Avenue I accuse and hold the board of director and the property management, guilty of overstepping their authority and accountability in using owners' funds in a wasteful and self subservient manner causing thousand of dollars wasted in litigation and attorney's fees, and possible other acts of mismanagement.

I will be pleased to support my position with proper documentation if required.

Thank you.

Sincerely,

Martin Shapiro

HB 5536 BILL
MARTIN SHAPIRO

April 5, 2011

Board of Directors
1 Strawberry Hill Association
c/o Plaza Realty and Management Corp.
65 Bedford Street
Stamford, CT 06905

Dear Board members:

RE: Special monthly Assessment of $122.01.

Referring to my previous correspondence, and in view of the fact that the Board had previously misused/ misallocated funds in the amount of approximately $65.000 in excess assessments for elevator work which should have been refunded to the condo owners, I am requesting a formal letter affirming that all current and future assessments shall be used solely for the work to be done on the building.

This same request was made by Mr. Z. Preminger in his letter to Plaza Realty on February 7th, and February 26, 2011, and supported by Ms. Boucher' letter of April 1st, 2011.

It is my understanding that as of this date, their request for such a letter was ignored.

Accordingly, I will deposit the special assessment amount in an escrow account which I opened with Chase and will continue to do so monthly, until I receive the aforementioned letter of commitment from the Board. Thank you.

Sincerely,

Martin Shapiro

August 22, 2011

Board of Directors
One Strawberry Hill Association
1 Strawberry Hill
Stamford, CT 06902

RE: FAILURE TO RESPOND TO DEMAND FOR DOCUMENTATION

Member of the Board:

The attached copy of a Certified Mail Return Receipt Request dated July 20, 2011was deliberately refused and returned to me unopened.

This is another instqcne in a series of previous letters requesting specific documentation which you have and continue to ignore, while pursuing with threats and intimidation against me and my family.

Sincerely,

Martin Shapiro

cc: David I. Cohen, State's Attorney

HB 5536 BILL
MARTIN SHAPIRO

August 17, 2011

Mr. David I. Cohen
State Attorney
Office of the State's Attorney
115 Hoyt Street
Stamford, CT 06905

Dear Mr. Cohen:

I am currently being harassed by a vengeful Board of Directors of the One Strawberry Hill Association with the assistance of Plaza Realty and Management Corp, their managing agent. It is their apparent intent to heap unlawful fines on me and should I not pay said fines they will move to foreclose on my property.

The causes for their vengeance are that I have questioned their claim of an existing emergency which they have used to force a $4.5 million dollar assessment on the property owners of one Strawberry Hill. I have questioned the integrity of the counting of ballots for the Board. I have questioned what I believe has been misappropriation of owners'' funds. And I took action when I believed that the Board had not been candid with a local bank from whom they were about to enter into a loan agreement.

The Board in the past twelve months has hired new counsel to defend the President in a criminal case, to provide opinions to the benefit of the Board but of detriment to the association and to be enforcer/heavy through threats of foreclosures while running up over $50,000 in unbudgeted bills.

The Board has already fined me without providing any evidence and refuses to accept certified letters requesting same. They have banned me from using amenities of the property unless I am a guest of another owner. Their next step is expected to be foreclosure.

Your assistance and guidance would be greatly appreciated. I, of course, can provide proper documentation regarding the above.

Respectfully,

Martin Shapiro

HB 5536 BILL
MARTIN SHAPIRO

March 2, 2011

51 Fieldstone Road
Stamford, CT 06902

Office of the Attorney General
Mr. George Jepsen
55 Elm Street
Hartford, CT 06106

Dear Honorable Mr. Jepsen:

We are asking you for your help in resolving some very serious problems we are faced with at our Condominium Association, 1 Strawberry Hill Avenue in Stamford.

We recently had elections to the Board of Directors, and we believe that this election was a questionable election. The ballots and proxies were turned over to Mr. William Ward, the self – appointed attorney by the President of the Board of Directors, instead of handing them over to Plaza Realty and management, the property management of the building.

As candidates in this election we requested to inspect the ballots. Mr. Ward, however, refused to make the ballots available for inspection and verification of results, in an apparent contradiction with Connecticut State Laws and the Association By-Laws. We strongly believe that we have the right to inspect the ballots of the recent election to ascertain any irregularities in the counting of the ballots and proxies

One of the homeowners, who collected the ballots during the election, was allowed to recount the votes several weeks thereafter. Yet, this process was conducted under the questionable supervision of the attorney, Mr. William Ward, who apparently behaves as the personal attorney to Mr. Larry Davidoff, the President of the Board of the 1 Strawberry Hill Associations.

Mr. Davidoff's reputation is questionable. He recently was arrested by the Health Department for violation in regard to improperly handling the request of one of our homeowners, which is now in criminal court. He also has a case in civil court regarding his activities. Both cases are pending litigation and, therefore, we feel that he should temporarily be removed from the Board until these cases are resolved.

Mr. Davidoff wasted tens of thousands of dollars from our reserve funds; and recently he took out approximately $50.000 from the same fund to defend his criminal and civil cases. Moreover, he is paying his appointed attorney substantial monies from our reserve funds.

Additionally, Mr. Davidoff has manipulated by means of intimidation and undue pressure an assessment for $4,500.000 for the repair of the building, with dubious substantiation of the actual cost of the project, and already he mailed out invoices for this assessment funds. In the process of firming up this assessment, Mr. Davidoff also threatened his Board that unless they vote his way, they will personally face serious consequences.

We also wish to add that an overpayment of $65.000 for a recent assessment to repair elevators in the building was never refunded to the homeowners.

We believe that Mr. Davidoff's conduct is legally questionable, and his position and actions as president are detrimental to the financial interests of the owners and their well being.

We would greatly appreciate your investigation and assistance in this matter and a quick position statement on ballot inspection prescribed by the Connecticut State Laws.

Thank you for your kind attention to this matter.

Most sincerely,

Zwi Preminger

Martin Shapiro

HB 5536 BILL
MARTIN SHAPIRO

July 18, 2011

Board of Directors
One Strawberry Hill Association
c/o Plaza Realty and Management Corp.
65 Bedford Street
Stamford, CT 06905

Via certified and regular mail:

RE: HEARING

Dear Board Members:

Your attorney's letter dated July 14th on the above matter is a continuance of your wasting large sum of monies with total lack of accountability and transparency.

Furthermore, please be advised that Mr. Michael Lombardo is a representative of the property management, Plaza Realty and Management, Corp, and is being paid by the condo owners, including myself. His involvement in the above is overreaching and outside his parameter of responsibilities for which he was hired. . I also consider his public outburst at the last owners' meeting an outright invasion of privacy. And in fact, I responded to him that as of that time, I still have not received the information I requested from the Board.

The Board has not responded to my letter of June 13th (copy enclosed), and until I receive the information requested in this letter, I consider any hearing invalid and arbitrary.

What governing documents or State status have conferred to you the power to impose an assessment on a single owner?

The action of the Board as stipulated in your attorney's letter of the above date is another in the series of harassment and intimidation which I demand that it is stopped herewith.

I demand an immediate response to my Letter of June 13th and your response to my specific enquiries.

Sincerely,

Martin Shapiro.

HB 5536 BILL
MARTIN SHAPIRO

July 20, 2011

Board of Directors
One Strawberry Hill Association
c/o Plaza Realty and Management Corp.
65 Bedford Street
Stamford, CT 06905

Via Certified and Regular mail:

Dear Board Members:

Pleased be advised that when Mr. Michael Lombardo, a representative of Plaza Realty and management Corp., confronted me on July 13th at an Association meeting, he did so in a loud and public manner witnessed by many owners. I informed him that I still had not received from the Board the information requested via my letter of June 13th (copy enclosed). I consider this pubic confrontation instigated by Mr., Lombardo to have been an unwarranted invasion of my privacy.

As you are aware, the Board has still not responded to my letter of June 13th and until I receive all the information I requested in this letter, I consider any hearing on this matter to be invalid and arbitrary.

I hereby additionally request the you provide the governing documents or State status, including the specific clauses, that you believe has conferred to you the power to impose an assessment targeting a single unit owner REGARDING THIS MATTER.

You surely must recognize that without all of the requested information, I cannot respond to your undocumented and vague allegations.

The action by the Board, as stipulated in your attorney's July 14th letter, must be seen as another in a continuing and escalating series of actions taken by the Board for the purpose of harassment and intimidation toward me directly and ultimately to the Association in general. This must stop.

I once again request a response to my letter of June 13th, and to all of my specific enquiries.

Sincerely,

Martin Shapiro

HB 5536 BILL
MARTIN SHAPIRO

July 25, 2011

Board of Directors
One Strawberry Hill Association
c/o Plaza Realty & Management Corp.
65 Bedford Street
Stamford, CT 06905

RE: HEARING

Dear Board Members:

As of this date, you have failed to respond to my demand for specific information re the above incorporated in my certified letters of June 13th and July 20th (copies attached))

Kindly comply with my request at your earliest convenience. Thanks you.

Sincerely,

Martin Shapiro

cc: Attorney

GAIL A EGAN
OLD TOWNE CONDOMINIUMS – CHESHIRE CT 06410

HB5536 AN ACT CONCERNING REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY ASSOCIATION MANAGER, LICENSURE AS A REAL ESTATE BROKER OR SALESPERSON AND ORGANIZATION OF A UNIT OWNERS' ASSOCIATION.

ELECTRONIC TESTIMONY IN FAVOR HB5536 BY GAIL A EGAN
[with exceptions as noted herein]

Gail A Egan

12 Old Towne Rd – Cheshire CT 06410

Cheshire Resident: 46 years

Old Towne Unit Owner: 26 Years

Board of Director Member: 20 years: serving as Vice President 15 years, President 1 year until my resignation 7/2012.

1. Property Managers must, at the very least, be required to obtain CMCA certification. Further, it should be expected that property managers be familiar **and held accountable to follow the condominium laws within the State of Connecticut.** Managing a condominium complex differs greatly than managing an apartment complex.
2. Further, PCAM is the highest designation available, awarded by the CAI, being the pinnacle of professionalism for community association managers. Professional Community Association Manager, awarded by CAI [Community Association Institute] is gained through advanced training, education and guidance, and can ensure that the designee has the knowledge, experience and integrity to provide the best service to represented associations.
3. AMS [Advanced Management Services] or CPM [Certified Property Manager®. awarded to those who meet the standards set by the Institute of Real Estate Management (IREM®) for real estate management professionals, including property managers, asset managers, and portfolio managers] **is inadequate for condominium communities** whose budget is funded solely by its residents for all operating expenses, capital expenditures, road maintenance and repair, landscaping and snow plowing to name a few.
4. Presently, **no agency in the State has regulatory authority over property managers or property companies.** There should be legislation that mandates the State or its designated agency can enforce the necessary action should property managers violate existing statutes.
    a. PA 07-243 amends the provisions of the Connecticut General Statutes that govern the registration of property managers, and broadens the range of people that must register with the Department of Consumer Protection ("Department"). Under Section 8 of Public Act No. 07-243, Section 20-450 of the Connecticut General Statutes is repealed and substituted by the new provisions (*effective October 1, 2007*).
5. **HOWEVER, someone must have the regulatory authority.**
6. Passing legislation ***without the required tooth*** to revoke, suspend, or refuse to issue or renew any certificate of registration as a community association manager or placing a

registrant on probation or issuing a letter of reprimand for statutory violations does not serve the more than 200,000 condominium owners in the State of Connecticut.

7. Condominium owners and boards should be able to review the standings of property managers. Currently the website: www.elicense.ct.gov/Lookup/LicenseLookup is not up-to-date.

While I believe that the legislature, in good faith, is attempting to ensure that individuals and/or companies who are contracted by condominium associations must carry proper credentials, the individuals and/or companies must also be mandated to follow the existing statutory law for condominiums.

Property Managers are accountable to and report to a Condominium Association's Board of Directors who, in turn, are accountable to and report to the unit owners. It is in the best interests of the Board Members to ensure that they receive accurate advice and guidance from a property manager and the management of the condominium complex is being done in the best interests of the entire community since they/Board members, in most case scenarios, are also unit owners whose common fee and/or assessment payments fund the Association budget.

This can only be done if property managers are held accountable by statute to follow the legislation governing condominiums, more so, when an Association's Board relinquishes all control to a management company.

Legislation was passed October 2009, effective July 2010. This was extensive legislation to protect unit owners and yet, today, managers violate the statutory law and although these actions have been reported to the Department of Consumer Protection; no agency has regulatory authority to enforce the statute to revoke, suspend or refuse to renew their license.

Recent Examples of flagrant violations of the condo statute:

Request To Property Manager [09/20/11] for a list of unit owner names, addresses, and number of votes each owner is entitled to cast [CGS 47-260].

Response From Property Manager
"I do not allow my staff to send out unit owners lists to residents of a community. It is private info and some may not want it shared..... I am very sorry but it has been my policy since inception of my business."

Request To Property Manager [11/7/11) a copy of signed contract between Association and Contractor, to send electronically, if possible and if there are costs association with converting document to a PDF [Portable Document Format] to advise.

11/9/11 Egan email Text: *"If you would, I would appreciate your itemizing what costs I am being charged for, actual printing, photocopying and/or other related costs in addition to the documents you are preparing and of course total pages, etc. – Upon receipt of charges, I will mail you a check. "*

Response From Property Manager 11/16/11

"this info will be forth coming"

That was 4 months ago – to date no further response!

I fully realize the statutes provide that "*Subject to the exceptions specified below, the act makes all records an association retains available for examination and copying by unit owners or their authorized agents (1) during reasonable business hours or at a mutually convenient time and location and (2) upon five days' notice in a record reasonably identifying the specific records requested.*"

These examples, plus many other violations of the condo statutes [4 letters] have been addressed to the Attorney General's Office and the Department of Consumer Protection. Unless there is proven criminal action, AG's Office can do nothing; The DCP did address our first two letters, however, we have seen no action on the last two. In fairness, we were advised by the DCP that it has no regulatory authority over these matters.

However, during my tenure as Vice President and President, and especially since 2010 in an effort to ensure Board's compliance with new condo laws, we were diligent in seeking advice from legal counsel to the corporate entity Old Towne Association [see excerpt below].

Email 8/16/2010:

> "*Gail. You are correct. You cannot deny a request for a list of Unit Owners' names and addresses. The statute is very specific on that. As for charging, you are also correct in that it is not very clear. If someone is simply asking for the list of Unit Owners I don't think I would charge for that. As a matter of fact I would not charge for the small requests. If they are looking to come in and copy 20 or more pages I would think about charging. Towns charge roughly between .25 and .50 cents a page. Either one seems reasonable*".

Prior to new legislation, We/Board honored owner requests, sent PDF documents to unit owners of owner lists and contracts electronically or in the event an owner did not have electronic/internet access, documents were sent via ground mail. During my tenure, these requests were minimal and owners were not charged.

Thank you for your courtesy in considering the comments within this document and for your dedicated service to the many residents of Connecticut.

Gail A. Egan
12 Old Towne Rd. Cheshire CT 06410

TESTIMONY IS IN FAVOR OF HB5536
By Stephanie Armshaw

I am in favor of this bill due to the financial involvement and responsibility given to paid managers. Their influence on Condo Boards of Directors is considerable and it is imperative that there is oversight by a governing body.
It is in the best interests of hundreds of unit owners that the Managers are subject to certification, intensive training and education, and most importantly, a thorough background check.
It is my opinion that this bill needs **more** provisions to protect unit owners.

As a Unit Owner in a Condominium Association for seventeen years, it has become abundantly clear that we are in desperate need of legislation to protect us from the very people we hire to assist in running our associations.

My association currently has a manager that we have had intermittently for eight years. Below is a list of problems I have personally witnessed:

Does not know or follow State Statutes, Bylaws or Declaration of the association
Pays $100 to an electrician to change a light bulb
31 roofs redone without specs, invalid contract, 21 roofs leaked and we had no recourse
No oversight of work being done, no follow up, uses questionable contractors
Multiple attempts to fix the same problem without success
Very shoddy repairs, paints over rot, replaces trim in pieces instead of full boards
Recommends that the association pay for repairs that are not their responsibility
DOES NOT PAY CONTRACTORS THAT DO NOT WORK FOR HIM!
Attempts to collect monies from owners that the association in not entitled to
Assists Board members in getting work done on their own units
Does not treat all owners respectfully or fairly
Ignores requests for work at certain units
Holds checks and charges late fees
Sends threatening letter to unit owners
Likes to bully people
Unable to work with unit owners or board members that he cannot control
Cannot be trusted!

Part of the problem certainly is the apathy of some owners and the ignorance of some board members. In the meantime, there needs to be oversight so that those of us who are knowledgeable and really care can be protected from this tyranny.
Managers need to be guided by a code of ethics; they cannot use their influence in a discriminatory or capricious manner. They need to be educated and fair, and unit owners need to have recourse other than the legal system which is too costly for most people.

To: The Members of the Judiciary Committee

Testimony of Michael Caravella
to the Judiciary Committee
March 29, 2012
in FAVOR of **HB5536**

I support HB5536, except that we would like to see more provisions in this bill to better protect unit owners. I would like to see mandatory background checks for all property managers as is the case in the new banking statute SB1109. Given the extent of financial responsibility a property manager has, there is a need for more teeth in this bill. Also, in light of recent news of property manager misconduct involving, in some cases, very experienced property managers, who have effectively stolen money from associations, it is important for you to support this bill and add to the bill the additional security of background checks. ***All managers who are paid*** should be subject to the same certification, training and background checks **no managers should be omitted under any grandfather clause.** ***Managers should also face jail time and fines that supercede any money that was stolen to repay the association for all it's losses including attorneys fees & any overage can go to the state.***

Thank you,

Michael Caravella

March 25, 2012

Dear Judiciary Committee,

I am writing concerning HB5536. I support this bill concerning property managers but feel strongly that background checks should be mandatory. Property managers have a huge financial responsibility and control over association's reserves and money. Managers who are paid should be required to have the same certification, training and background checks. Unit owners need more safeguards from possible misconduct from even experienced property management companies.

Thank you

Gwen Thiele

Hello,

I am writing in support of HB5536. Our association has, in the past (until 2011), hired unqualified individuals to serve as manager. Both of them served for many years despite many complaints which reportedly centered around their ability to meet the requirements of the job. I will not go into the details here but suffice it to say, their mistakes were very costly to the association.

I might add that we are self-managed. We were told by the DPC that since we are self-managed, our manager does not fall under the current requirements. I am still not sure that the law is clear on that matter.

Although we currently have a very competent individual in that position as of December, 2011, there is no assurance that will continue should the person resign or leave for any other reason. At least this bill will be in place when this matter is eventually cleared up or legislation has passed requiring an individual to be qualified and certified no matter the source of their salary.

I support this legislation because it sets minimal requirements for entry into the job of association management.

We are a medium-sized association with property on the shoreline worth about 25 million dollars. Surely a manager for this size of condominium should be required to have condo management qualifications despite the type of funds from which they are paid.

Thanks for your consideration,

John L. Smith

005425

CHARLES P. SWOFFORD

HB5536

BUILDING DEPARTMENT

ENTRY DECK

KEEP OUT

Uninhabitable

CONTACT BUILDING DEPARTMENT BEFORE ENTERING

Address or Lot No. _____ Code Official _____ (signature)

Date _____ Inspector _____ (signature)

MARCH 10, 2012

These pictures are of support posts on a two story set of wood stairs at the Meadows Condominium in Branford CT. These posts were about to collapse Friday March 2nd, when Anthony Cinicola the Branford Building Official declared these stairs unsafe. The Building Official then ordered emergency repairs to be done. This in itself is bad enough. The real problem is that two and half years before this present situation. A sixteen foot 6 in x 6 in wood post on another similar set of stairs broke loose and fell over. When this pole fell, it just missed a woman's head hit her car and totaled it out. Had this pole hit the woman's head she would have been dead. All the stairs on these units were built at the same time over thirty years ago. It would stand to reason to inspect all poles of the same type and construction. The Condo Board was told to inspect these poles. This set of stairs is in direct sight of and visible from where the sixteen foot 6 in x 6 in wood pole fell. It was never inspected.

This situation is part of a larger issue which is total lack of accountability of these Condo Boards. These Condo Boards ignore dangerous public safety issues on an everyday basis. They ignore severe public safety issues, create very dangerous conditions and will listen to no one, not even people who are qualified in these matters. The real problem is that the owners of these condos are powerless before these Condo Boards. You do not have to use a gun to injure or kill someone you can just do what these Condo Boards do. This whole situation would not have come to light had I not said anything. You can trust that this is not the first time a have spoken up. This is just the tip of the

Iceberg. This is a very important Public Safety issue that needs to be examined and action taken to correct the problem. These Condo Boards do whatever they want to and over and over again in complete disregard for Public Safety Statue.

Charles Swofford

147 Pheasant La

Branford, Ct 06405

203-481-4355

CSwofford147@comcast.net

THIS PROBLEM IS ALSO
WITH PROPERTY MANAGEMENT

Article published in CTWatchdog.com, January 2, 2012

ctwatchdog.com
we're watching out for you

Margolis Condo Management Fined For Padding Condo Association Bills

January 2, 2012

On November 9, 2011, following a two year investigation by the State of CT Department of Consumer Protection (Docket No. 11-818, Case No. 2009-5477), Commissioner William M. Rubenstein, imposed a penalty of $8,000 on Stephen Margolis, A/K/A Margolis Management & Realty of Hamden, CT, for failing to properly notify and disclose to The Meadow's Association the inflated prices he, Mr. Margolis, was charging for "additional services other than Association Services for compensation, to an Association, The Meadows of Branford, to which he was also providing Community Association Manager Services."

In 2009, Kevin Shea, an owner at The Meadows of Branford, became aware of inflated billing for contractors' services to the condominium. "It was obvious that something was wrong, [anyone] could see that money was going out the back door." Additional/multiple assessments had been levied for four years running for major maintenance items, some of which were never completed.

Prior to 2009, The Meadows Board and their property manager were confronted by Association members [the owners] who petitioned for and scheduled a special meeting. Members requested that the assessment funds be accounted for and segregated from the regular operating budget. The Board, property manager and their attorneys refused.

Following an inspection of the Association records, Mr. Shea filed a complaint with the CT Department of Consumer Protection, which investigated the issue over a two year period. In November 2011, a settlement was made in Shea's favor, with a penalty of $8,000 imposed on Stephen Margolis.

Margolis' Assurance of Voluntary Compliance, in which he agreed to the penalty without admitting any violation, was accepted by the Commissioner with Margolis further agreeing to refrain from any business practices that can be construed as a violation of the CT Fair Business Practices Act. The Board did not pursue Margolis.

The Connecticut Condo Owners Coalition (CCOC), a grassroots organization, became aware of this case, which again confirms the need for a mediator to resolve issues between condo owners and their boards or management companies. CCOC's membership is comprised of hundreds of condo owners from 112 cities and towns statewide; it seeks a level playing field between condo owners and condo boards, and it petitions state legislators to improve and enforce condo laws.

Visit us at :

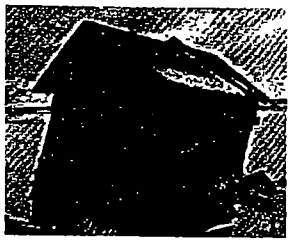
http://www.ctcondo.org/

NEWSLETTER FROM THE MEADOWS BY A OWNER NOT BOARD

THE MEADOWS MIRROR

March 2012

BOARD HOARDS RESERVES WHILE BUILDINGS DETERIORATE



After not providing owners a 2010 Annual Report of income and detailed expenditures which has been the practice at the Meadows forever, Treasurer Kate Galambos tried telling members at the January 2012 Budget Meeting that Meadows Reserves were **$212,000**. When reminded that at a recent Board Meeting she represented that reserves were in the **$350,000** range, Galambos immediately back peddled, admitting that Reserves are in the $340,000 range and the Board will be adding an additional $40,000 this year to the mysterious, overstuffed, reserve(s) account(s) which Members have and are being forced to invest in while being assessed an additional $40,000. Galambos refused to provide any investment/reserve information. When asked what the Board's plans are for all this money, they refused to answer. A sufficient reserve balance for 136 units is $136,000. This year there will be a $244,000 surplus that's $1,794 per unit that is being held with no explanation of how that money will be used.

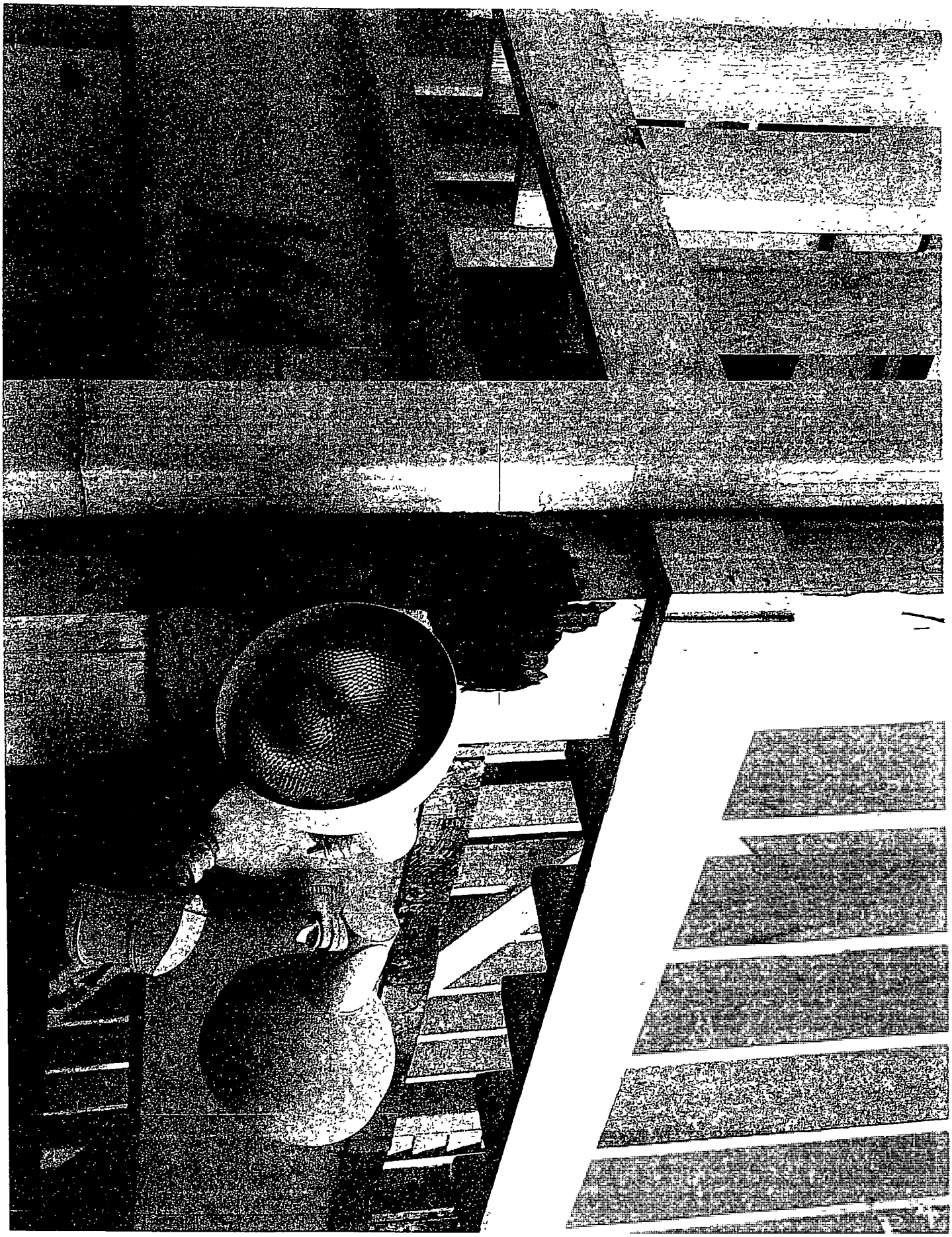
RE-OCCURING REVOLVING ROOF ASSESMENTS

This year's budget revealed that **Members are being re-assessed another $40,000** to pay for roofing of car garages. Members were assessed in 2004-2008 to have all roofs done, we all now know that large amounts of those monies under the watch of Board Members Cash, Galambos and Fitzgerald went missing, leaving the much touted roof project incomplete. Upset members protested that garage roofs and reserves should not take precedent over a growing number of neglected resident buildings that are now suffering from decaying, near blight-like conditions and have recently been mentioned by Real Estate Agents and Appraisers in Market Reports.

BOARD ATTEMPTS SILENCING THEIR PROPERTY MANAGER

In October 2011 stunned residents received an unprecedented email from the sitting Property Manager. The email contained disturbing information in regard to improper Board behavior, Board-Management Relationship and suspicious contractual activity. The Manager distributed the scathing email several days prior to a scheduled public Board meeting hoping to sound the alarm, raise meeting attendance and owner awareness of Board malfeasance and 'irregular business practices' stating that owners 'were being cheated'. The Manager fully intended to attend and provide details, however **the Board denied her access to the meeting and then ordered the Manager to 'NOT SPEAK TO ANY OWNER'.** When asked, the enraged Property Manager spoke of Board interference with the Manager's routine duties along with other items. The Manager described a bizarre scenario where the board put a $120,000 contractor's contract in front of the Manager and asked her to sign it on behalf of the Board. When the Manager refused to 'Play Ball" and tried to notify the community, she was barred from the property and told not to speak to anyone. Unbelievable. During a July 2010 walking inspection another former Manager, David Clark, was asked 'why our buildings were in such disrepair' he replied 'if the Board does not allow me to maintain the Meadows appropriately I will leave". Clark left that December. The Meadows is on its fourth Board selected Manager since 2009.

005430



Testimony of Mary Jane Paris

In FAVOR of HB5536

For Judiciary Committee Public Hearing

March 29, 2012

10:00AM

To: CT General Assembly Judiciary Committee
From: Mary Jane Paris
282 Pheasant Glen, Shelton, CT
March 28, 2012

RE: CONDO BILL HB5536 AN ACT CONCERNING REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY ASSOCIATION MANAGER, LICENSURE AS A REAL ESTATE BROKER OR SALESPERSON AND ORGANIZATION OF A UNIT OWNERS' ASSOCIATION.

I support HB5536, except that I would like to see more provisions in this bill to better protect unit owners. I would like to see mandatory background checks for all property managers as is the case in the new banking statute SB1109. Given the extent of financial responsibility a property manager has, there is a need for more teeth in this bill. In light of recent news of property manager misconduct involving, in some cases, very experienced property managers, who have effectively stolen money from associations, I believe it is important to support this bill and the additional security of background checks. Also, managers who are paid should be subject to the same certification, training and background checks.

Written Testimony:

For the past 16 years that I have lived at Sunwood Condos in Shelton, CT, there has been continuous drama, mismanagement, elections that are a joke and business practices that are questionable...to say the least.

Now more than ever, in light of a recent fatal roofing accident here at Sunwood, I am deeply concerned. Although I am unable to attend the public hearing due to business commitments, I am compelled to speak up at this time with a written testimony.

I try to attend as many open Board meetings as possible and it appears to me that the Boards (especially the presidents) have become political tyrants/bullies. Much of the behavior by the President is rude, condescending, hostile and very inappropriate in many cases, especially to those owners who question and/or ask for deeper explanation.

They seem to have taken advantage of their position and have given themselves way too much power & influence (by intimidation) over other Board members and those owners attending open board meetings. I am also concerned about the carte blanche power and authority (without proper accountability) given to the property management company and its agent by the Board.

As residents/owners, we need much more regulation, transparency and truth regarding the following:

- The process regarding the proper vetting of prospective management companies, their experience & track record, background checks of principles, etc. before contracting with them
- Board & management company decisions
- Detailed Board meeting minutes including *all* topics & items discussed & recorded on tape – not a combed version
- A limit on management company fees, power & authority
- How vendors/contractors are selected
    - How to better control, validate and oversee that proposed/hired contractors have proper licensing, insurance, etc. and that these important documents are current and in force throughout the project's life to completion
- How our condo fees/budget monies are to be used, managed and accounted for according to *standard accounting principles* rather than hard to decipher reports using "creative accounting" – transparency & common sense explanations of line items & expenses
- More accountability by management companies as the fiduciary for the association
- Association check book records available for review by condo owners with the ability to question transactions
- Regular updates on outstanding work orders, especially when owners contact the Board and/or management company directly for these updates.

I think it's important to have state statutes/laws and a state agency/organization/ombudsman that:

- Supports and works on behalf of condo owners
- Gives owners more of a voice in affecting positive change in our condo communities
- Provides clear rules for transparency in budget reporting and more accountability to the owners by the management company and the Board
- Provides clear statutes with the support/council of an ombudsman to help owners ask the right questions in pursuit of the truth and help us get the truthful responses we deserve from the Board and property manager in a timely manner.

Doreen Camp

HB5536

In regards to the above mentioned bill I am in favor with a few more provisions that need to be added for unit owner protection.

- Mandatory background and credit checks for all Property Managers.
- Mandatory Security Checks.
- Managers who are paid should be subjected to the same certification, training and background checks.
- **Currently we have a property manager (self managed) who is not licensed; no real-estate or brokers license and is financially responsible for 294 units with inappropriate skill set to manage effectively. Pretty scary that an individual with no experience can manage an association of this magnitude.**

Mellin & Associates, LLC
P. O. Box 1115
Redding, CT 06875
(203) 938-3172

TESTIMONY OF RICHARD E. MELLIN
REGARDING RAISED BILL NO. 5536
AN ACT CONCERNING REQUAIREMENTS FOR CERTIFICATION AS A COMMUNITY ASSOCIATION AMANGER, LICENSURE AS A REALE STATE BROKER OR SALESPERSON AND ORGANIZATION OF A UNIT OWNERS' ASSOCIATION

I SUMMARY OF TESTIMONY:

This bill focuses on the need for educational requirements to be a Community Association Manager The Connecticut General Assembly should adopt this bill.

Certification of Community Association Managers is an important component in assuring that the business affairs of community associations are being conducted by trained professionals. It is important that Community Association Managers are certified by the state because their job performance has a direct impact on the successful operation of a community association.

The designation of Certified Manager of Community Associations (CMCA) granted by the National Board of Certification for Community Association Managers (NBC-CAM) is the gold standard for community association management.

II. BACKGROUND OF RICHARD E. MELLIN:

I am a unit owner, community association manager, and a volunteer who supports the Connecticut Chapter of the Community Association Institute (CAI-CT), an organization made up of volunteers who want to make common interest home ownership a viable life style choice for Connecticut residents.

I own two homes located in home owners associations in Connecticut as well as a home in Florida also located in a home owners association. I am co-owner of a community association management (CAM) company established in 1985. Our firm manages five of the largest condominium associations in the greater Danbury, CT area with approximately one-thousand owners and residents. We also manage one of the home owner associations in which we live and are active with the business affairs of our Florida association.

I am Chairperson of the CAI-CT Manager's Council. This group is comprised of CAMs (Community Association Managers) and provides a forum to represent the professional interests of CAMs through services, information, and professional development opportunities. I am also a member of the CAI-CT Legislative Committee.

I am a graduate of Ocean County Community College (A.A. Accounting Major 1968), Lafayette College (B.A. Economics 1969), University of Pennsylvania (M.S. Education and completed Ed.D Program). I have worked for major corporations including Xerox Corporation, Remington Rand Corporation and Pitney Bowes/Dictaphone as a General Manager.

If I can be of any further assistance to the Committee, please contact me at Rich@Mellin.us.

Respectfully Submitted,

Richard E. Mellin

Mellin & Associates, LLC

TESTIMONY OF CONNIE ELLNER
REGARDING RAISED BILL NO. 5536
AN ACT CONCERNING REQUAIREMENTS FOR CERTIFICATION AS A COMMUNITY ASSOCIATION AMANGER, LICENSURE AS A REALE STATE BROKER OR SALESPERSON AND ORGANIZATION OF A UNIT OWNERS' ASSOCIATION

On behalf of the Lakeridge Tax District and Association, Inc. a condominium community of 474 units in Litchfield County, I totally support this legislation.

This bill, which requires property managers to take a basic course and pass an exam, will begin the process of making property management a profession by setting a minimum standard. The benefits are many, including protection of homeowner's properties, security and rights.

There are many important facets to managing a community which require knowledge and leadership. Many new regulations have come into existence in recent years, and it is essential that managers have the information and training to implement this issues. While a Board of Directors may opt to educate its members, having a profession manager who is qualified to do the job is critical to successful management. With CAI as an organization which provides courses and seminars on related subjects, new managers and seasoned managers can take courses and pass advanced exams to help them improve and expand their knowledge base.

Grandfathering managers with more than 10 years of experience is also important so that no one will be disenfranchised.

We are fortunate that our current manager has taken all the courses and passed all the exams available in property management. We totally supported his initiative to do this over the past several years, and it has more than paid off. Not only did our GM gain knowledge and certification, but also had the opportunity to network with others who belong to CAI and participate in continuing education. Our community and our GM look to CAI for guidance and leadership when needed.

This legislation will help to establish property management as a profession and might encourage other individuals to choose this as a viable career path.

Sincerely,

Cornelia J. Ellner, M.S.
President Lakeridge Tax District and Lakeridge Association, Inc.
811 Burr Mt. Road
Torrington,
CT 06790

cellner@optonline net

Testimony of
N. Lynne McCarron
Before the Judiciary Committee
Thursday, March 29, 2012

H.B. 5536
AN ACT CONCERNING REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY ASSOCIATION MANAGER, LICENSURE AS A REAL ESTATE BROKER OR SALESPERSON AND ORGANIZATION OF A UNIT OWNERS' ASSOCIATION.

Principle, Phoenix Property Management, LLC,
30 Connecticut Boulevard, East Hartford, CT
Credentialed Property Manager, State of Connecticut - Since 1997
Licensed Property Manager, State of Florida 1988-1991
Licensed Property and Casualty Sales Agent, State of Connecticut 1993-2009
Community Association Manager, Registration #000384, State of Connecticut 2002- present
President, Community Association Institute Connecticut Chapter 2012-2014

I am in favor of the provisions of HB 5536 regarding the certification and/or licensing process for community association managers. I was employed as a property manager in the State of Florida in the mid 1980's licensure was implemented. All staff, including the CEO of the largest company in the state, with responsibility for a budget in excess of $100,000 was required to obtain the State mandated license to conduct business on behalf of a Common Interest Community.

As a property manager in the State of Connecticut, and the Principle of a Property Management company, I would like to see businesses and their staff be required to carry a credential that would hold the individual and the company accountable for the business that is conducted and the money that is handled for those that live in a Common Interest Community.

As a licensed Real Estate Agent in the State of Connecticut I always found it odd that when attending the licensure classes and the CE classed that I have been required to attend to maintain my license that I have never see a class on the sale of a Condominium or Co-op included. Yet real estate agents sell condominiums with no real knowledge of what the asset is or means to a prospective buyer.

I urge you to implement the certification in the very near future.

N. Lynne McCarron, AMS
Phoenix Property Management, LLC
East Hartford, CT 06108

TESTIMONY OF Robert Gourley

Before the Judiciary Committee

Thursday, March 29, 2012

H.B. 5536 *AN ACT CONCERNING REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY ASSOCIATION MANAGER, LICENSURE AS A REAL ESTATE BROKER OR SALESPERSON AND ORGANIZATION OF A UNIT OWNERS' ASSOCIATION.*

My Name is Bob Gourley I served as President of the Board of Directors for the CT Chapter of the Community Associations Institute My term began on January 1, 2010 and ended December 31, 2011

I also serve as President of the Board of Directors of Captain's Walk, a 20-unit Planned Urban Development (PUD) in West Haven, CT. I have served on the Board as President since 2003. As a PUD, Captain's Walk is governed identically to most condominiums and HOAs in the state of CT. Residents hold common interest in the community, pay common fees, are bound to unit by-laws and regulations, and are subject to provisions outlined in the Common Interest Ownership Act (CIOA)

Prior to living at Captain's Walk, I was an individual unit owner at Pilgrim's Harbor in Wallingford from 1985 to 1993.

I am a principal partner in a business called, MyEZCondo. My business produces newsletters for condominium and community associations throughout the country, including Connecticut.

Testimony on the Bill

I am in favor of H.B. 5536.

Certification of Community Association Managers is a vital step in providing assurance to community association residents that the business of their association is being conducted by a trained professional. It is important that Community Association Managers are certified by the state as their job performance has a direct impact on residents of the state's community associations. The designation of Certified Manager of Community Associations (CMCA) granted by the National Board of Certification for Community Association Managers (NBC-CAM) is the gold standard for community association management. Since the authors of this bill have wisely included NBC-CAM as the standard for state certification, I am pleased to offer my full support for this bill.

Very Truly Yours

Bob Gourley

Past President (2010-11) of the Board of Directors, CT Chapter of the Community Associations Institute

President (2003-12) of the Board of Directors, Captain's Walk PUD

Founder, MyEZCondo

WRITTEN TESTIMONY IN SUPPORT OF HB-5536, AN ACT CONCERNING REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY ASSOCIATION MANAGER, LICENSURE AS A REAL ESTATE BROKER OR SALESPERSON AND ORGANIZATION OF A UNIT OWNERS' ASSOCIATION.

Submitted by:
Brian N Harte
Address Legally Suppressed

To: Connecticut General Assembly
Judiciary Committee and Subsequent Committees re. HB-5536

My name is Brian Harte and I am writing this testimony to you both as an individual who owns a condominium unit, and also as a ranking member of the Connecticut Condo Owners Coalition.

I am in support of HB-5536, except that I would like to see more provisions in this bill to better protect unit owners. I would like to see mandatory background checks for all property managers, as is the case in the new banking statute SB-1109.

Given the extent of financial responsibility a property manager has there is a need for more teeth in this bill.

Also, in light of recent news of property manager misconduct involving, in some cases, very experienced property managers, who have effectively stolen money from associations, it is important for the additional security of background checks. Managers who are paid should be subject to the same certification, training and background checks.

As a condo owner in this state, and former member of the Board of Directors for my association, I can tell you without hesitation that the CGA's mere acknowledgement of the issues that condo and HOA owners face is a step in the right direction.

Raised Bill No. 5536 reinforces that step in several ways, which is why I am writing to you as an acknowledgement of my support of this bill. However, there are aspects to the passage of this Bill as well as other CIOA laws that remain slanted towards the condo industry, specifically the money making end.

My family and I have lived now for the better part of a year, with over 600 square feet of unusable living space due to gross negligence on the part of the Management Company of my complex, inaction on the part of the Board of Directors, and in my opinion, less than ethical legal practices on the part of "Condominium Law" specialist attorneys. This is where my home and my right to possess property, pursuant to the Constitution of these United States, as well as being able to reside in my premises in peace comes into question.

Due to some of the aspects mentioned above, I once sought the advice of an attorney who specializes in condo law. Neither he nor his firm had any legally binding conflicts of interest that would have prohibited him from taking on my case. In fact, he agreed to take on my case during a phone conversation. In the following weeks, I could not get in touch with him. Approximately one month later, he did return my call and said that while there was no conflict of interest, his firm specializes in handling cases that are in defense of condo associations and the partners in the firm decided that it would create a bad precedent (basically being bad for business) to litigate my case, as they did not represent individual unit owners. This attorney is a top contributing attorney for CAI-CT.

As a matter of fact, through my research, I have found that *almost* every attorney who specializes in condo law that I have spoke with regarding my case is aligned with CAI-CT. One of the partners of my Property Management Company is a committee chairperson of CAI-CT. In essence, the money

making end of condo business is partnered against the very clients it should be working for: The unit owners.

These are our homes, they should not be sources of *income* for anyone other than the holder of our mortgages and applicable municipal taxes.

We must pay also, through our HOA fees, for a property management company just to exist. We pay for legal services; meanwhile the only people who are able to use the association's attorney are those on the Board of Directors. Yet we have to pay to protect 'them' from 'us.' Moreover that same attorney will not protect us from them as I have mentioned above.

And the most alarming aspect is that once again we are still faced with a law that is largely unenforceable; which can be adhered to, or ignored without repercussion. There needs to be teeth to not just this bill, but CIOA as a whole. While HB-5536 is a step in the right direction on this, there is still no state agency, entity, or otherwise that can or will enforce violations of the CIOA laws. The CAM laws, as proposed here, have some more stringent penalties, but not in regard to CIOA. In this case, the two aspects of the law should be combined, making a Community Association Manager bound not only by the CAM laws, but CIOA as well.

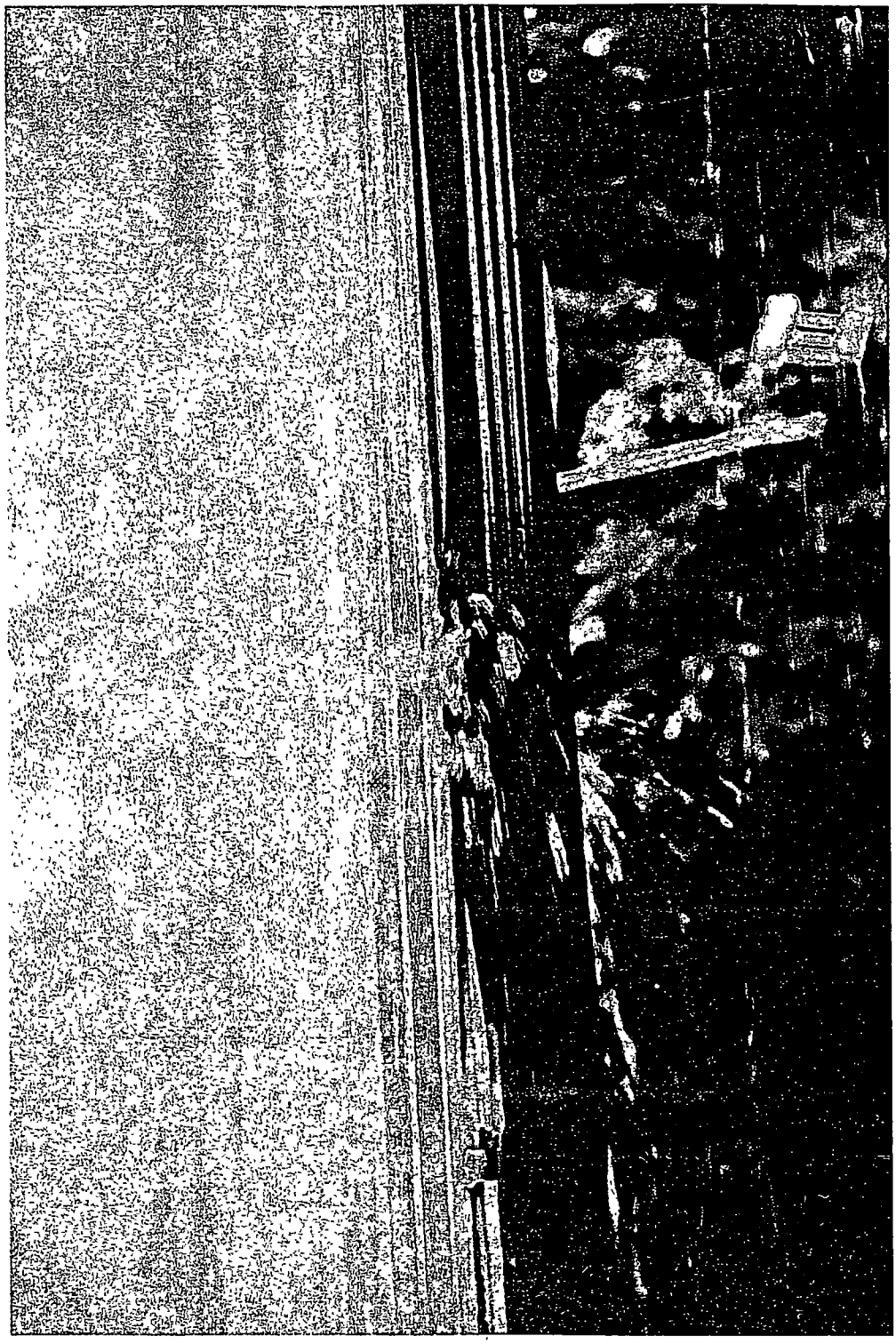
In testimony before the Judiciary Committee on March 25, 2011, regarding HB-6620, Attorney General George Jepson went on record stating, "My office has received hundreds of complaints from condominium unit owners regarding violations of state condominium laws or condominium bylaws by their association board of directors. Sadly, no state office exists to effectively assist these unit owners. The state agency established in House Bill 6620 would provide help to outmatched, overwhelmed unit owners who are fighting for their basic rights under our condominium laws."

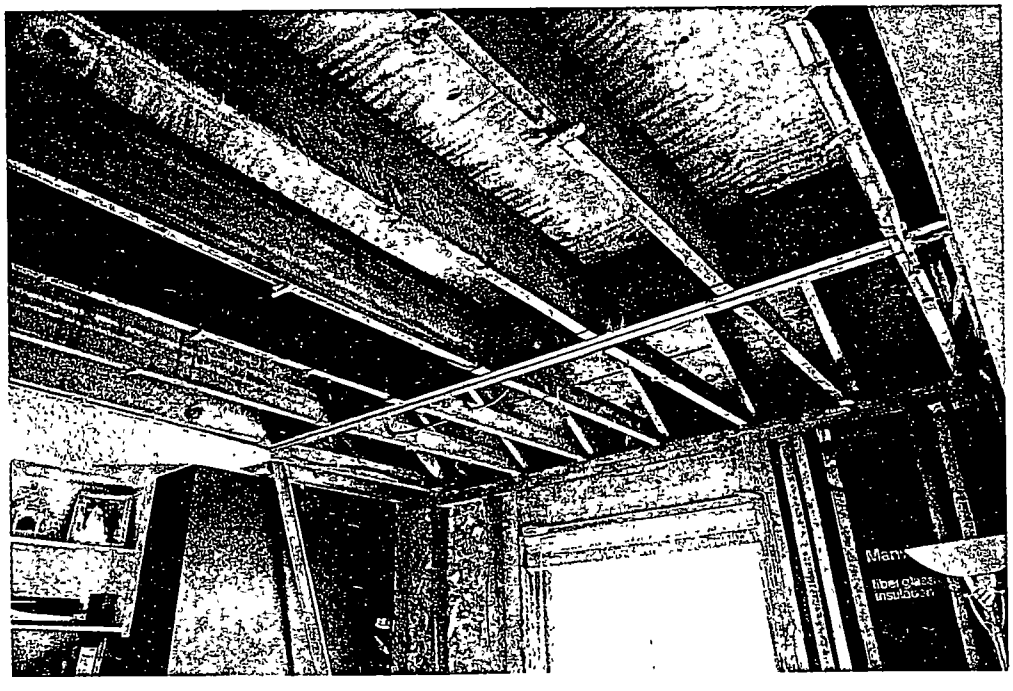
As Attorney General Jepson pointed out, sadly, again there is no real means of enforcement even with current Bill submissions. It is my understanding that there will continue to be no reasonable means of enforcing condo issues whether the violation is on the part of a Community Association Manager or the Board of Directors of an association.

These are the aspects I request be taken into consideration in this bill. I do support the educational standards that are being considered for Community Association Managers, but I believe that more can be accomplished here. Please see attachments for supporting documentation.

I thank the Judiciary Committee for their time.

Respectfully Submitted,
Brian N Harte





Although I have many more images that I could include, this all could have been prevented if the management company had replaced the burst downspout, as shown in photo#1, as I requested over a week earlier. This entire issue, including damage to my basement was due to gross negligence on the part of the Management Company and it's workers.

Testimony of David Kelman
In FAVOR of HB5536
For Judiciary Committee Public Hearing
March 29, 2010
10:00am

As **Harvard Business School** researcher Peter Blackshaw, MBA '95, who co-developed PlanetFeedback.com, a website where consumers can complain, compliment, question, suggest, and view ratings on different companies, stated, "**We know from research that only 1 consumer in 25 will take the time to write or call to complain or compliment a company.** Those other 24 opportunities are going to waste." (http://hbswk.hbs.edu/archive/2076.html).

Furthermore, according to studies done by the **TARP Worldwide**, one of the world's premier customer experience agencies, **for every irritated customer who complains, 26 do not, even though they have grievances.** That means that if a company receives 10 customer complaints, there are probably 260 customers out there who have complaints but don't voice them...at least not to the company. The reality is you probably don't know how many dissatisfied customers you have because many dissatisfied customers do not complain (http://www.rctaylor.com/Images/The_Price_of_a_Dissatisified_Customer.pdf).

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Testimony of Avion Real Estate and Janice Fiaschetti
in FAVOR of HB5536
for Judiciary Committee Public Hearing
March 29, 2012
10:00AM

I am in FAVOR of HB5536 as a unit owner, board member, and currently, due to no other safe options, a property manager of a condo complex located in Danbury. I am fortunate to have both accounting and audit experience, as well as an extensive Real Estate background being a licensed Real Estate Broker and owner of my own Real Estate company.

The condo complex where I have owned units since the mid 80's has hired and let go of 6 management companies in the last 10 or so years. Some of these management companies were among the largest in the area, some were among the smallest. Each was either audited by me or I was on the Board of Directors and directly involved with the discovery of one or more of the following with every one of these management companies:

- Falsified documents to make it appear that they were doing their job.
- $40K worth of Association funds were taken through charging over and above all bills relating to maintenance and improvements, without our knowledge.
- Consistently over paid vendors through duplicate payments, payments for services they requested that were included in a monthly maintenance contract, and payments for services not rendered.
- Bookkeeping/recordkeeping that, when audited, 65+% of the unit accounts had incorrect balances resulting in inappropriate or no collection actions.
- A unit forwarded to the Associations Attorney for collection and was 2 weeks away from foreclosure over a $25 fine.
- Multiple repairs identified and after multiple calls, letters and meetings with the management company were still not addressed after 6+ months. Some of these resulted in a significant increase in cost to the Association due to damages worsening over time.
- Incorrect information provided to insurance companies causing the Association to pay $13K more a year in premiums.
- No follow up, identification, or correction of violations, maintenance items, repairs, problem bills, and contract renewals.
- Approval for changes in a unit not allowed per the by-laws and without Board of Director Approval or notification.
- Incorrect notifications for violations, collections, and fines, in some cases causing the Association to hire their Attorney to correct.

Interestingly, 3 of the management companies, 2 of them large, when presented with these problems responded with their feeling that I was "micro managing" the complex. Their attitudes were that these were not unusual discoveries but things that were bound to happen in the industry.

These are only a sample of the problems identified. I cannot imagine how many more problems are not identified, and the number of Associations being taken advantage of because they do not have the knowledge and experience I have, or are not as involved.

The need for requirements on education, training, controls, as well as background checks is the minimum needed for these companies who are handling hundreds of thousands of dollars for Associations.

Sincerely,
Janice Fiaschetti

Avion Real Estate
10 Galloping Hill Road
Brookfield, CT 06804
and Janice Fiaschetti
Office 203-775-0733 Fax 203-775-8285 Cell 203-240-1807

Testimony in FAVOR of HB5536 with exception and ENFORCEABLE laws to protect the rights of property owners in Connecticut Condominiums by L. Davis

HB5536 - more provisions are needed to better protect unit owners including mandatory background checks for all property managers, as is the case in the new banking statute SB1109. In addition, the board hiring such property managers should be held legally responsible for promoting their own agenda. As is the case in my community, the apparently little-experienced property manager (formerly a "handyman" shop) is "afraid she will fire me" unless her decisions are followed – whether such decision agree or disagree with bylaws, state laws, etc. This firm was hired following the dismissal of the board by two prominent property management firms – one firm even notified owners by US Mail of such conduct as board's "self-dealing" and their "arrears".

Unit owners need ENFORCEABLE LAWS to protect them from the misconduct of its board officers as well as the hired property managers. Board members, who are so inclined, bully and defame vendors as well as individual unit owners to promote their own agendas. See CT case FST-CV10-6005949-S and interview the unit owners of my community to understand how being labeled "disgruntled" and bringing non-related matters into court, prevented justice. The secrecy here has now moved to a new level and unit owners' rights to entitled information are denied and board's slander and libel persist.

ENFORCEABLE LAWS – the aforementioned CT judicial case indicates that board deliberately failed to uphold the bylaws, state laws and court requirements. Why pass laws that only those with "deep pockets" can seek justice but may never get it since laws have no teeth?

There are no meeting minutes, no financials of any merit, no real budget or performance to budget provided, no specifics regarding major loan and previous assessment, On the other hand, there are now known to be four separate legal firms being paid from Association funds – specifically, $6,753.50 was paid to three of these firms with checks dated between Oct 21 2011 and Nov 18 2011. Curiously, the "budget" presented to owners dated Nov 24 2011 provided for only $2,400 in legal fees. (Our fiscal year runs from July 1 2011 thru June 30 2012 so not only is the budget late to owners but apparent "error" overlooked?) Reason enough to question but board will probably state that such documents are false – which was done in the past. There is so much more on the professional side but will not provide all here.

On the personal side: Association-responsible repairs to my condo unit (the exact same work provide to other units here) have been requested for years are ignored. Statement made some time ago by property manager was: "I do not have approval."

I am slandered and shouted down at meetings libeled in printed documents sent to owners using Association funds, received perceived threatening letters from now board and another from Association attorney, endured lie after lie, even cyber bullied. Such immature and unprofessional conduct is disregarded by the ever silent majority here as they are "too busy" to be involved, too afraid lest they too "become a target", have had "favors" done by board, or simply do not care as they think being regarded as "renters" is just a part of condo life. There is so much more but again, will not provide all of it here. Suffice it to say that I am continually urged to bring legal suit against the board.

Unless you have both owned and lived in a condo community such as this, you have little idea of what is endured by some unit owners. I would love to immediately sell my unit; even if there were a buyer,

management has put obstacles in the way of its completion – such as failure to provide meeting minutes, financials, etc. to perspective buyer which may result in "no sale."

It is overdue for the State of Connecticut to really listen to those condominium unit owners who dare to speak out – there are not many of us as indicated by my treatment described above – most owners fear board retaliation. Testimony of legal experts, association property managers, and those who profit from employment by such rogue boards and/or failures of law/legal system to protect owners should NOT override what is right and just for all citizens.

Thank you.

Testimony is in FAVOR of HB5536
By Beverly Pugliese

I support HB5536, except that I would like to see more provisions in this bill to better protect unit owners. I would like to see mandatory background checks for all property managers as is the case in the new banking statue SB1109. Given the extent of financial responsibility a property manager has, and in light of recent news of property manager misconduct involving, in some cases, very experienced property managers who have effectively stolen money from associations, I feel there is a need for more teeth in this bill. Managers who are paid should be subject to the same certification, training and background checks.

TESTIMONY IN FAVOR OF HB5536

By Stephanie Armshaw

Additional Horror Story

My association has a Board of Directors at this time that bullied their way into power and they have divided this community to the point of no return in the process. Much of their support comes from the very young and very elderly residents in this community that are uninterested and ignorant of the situation we are in. The board feeds these residents tea and cookies along with much misinformation and promises of "taking care of their needs first" to gain their signatures on proxies and petitions that gives the board more power and control.

In 2009, upon completion of a 5 year assessment, one half of the aging roadway was repaired. In September of 2011, the current board of directors decided that the second half of the roadway was in need of repair. I do not think there is any unit owner that would disagree that the roadway needed repair. However, it is the methodology and timing that many found unacceptable.

The board ignored the State Statutes regarding assessments even though they sought and paid for legal counsel prior to initiating the assessment. This Board did not vote on the assessment, they did not inform the owners of the scope or cost of the project. They held a meeting to ratify the assessment without proper notification. They went into executive session during the meeting and voted on the contractor during that session, and then they ratified the assessment without giving the owners a firm dollar amount or time frame for payment. The association attorney was present at the ratification meeting. When an objection was raised regarding the process during this meeting, the attorney negated our concerns.

Soon after the meeting, unit owners were sent an announcement that the total assessment would be $1725 due in three installments to be paid within three months time. This was definitely a hardship for many owners who were never given an opportunity to object, to make their needs known or to offer alternative solutions.

A letter was written to the board stating that this assessment was indeed illegal and uncollectible. There was no response.

A second letter was sent requesting mediation to avoid additional legal fees. There was no response.

Finally, five unit owners filed small claims actions against the association. This is the only dispute resolution open to owners who disagree with the board's decisions. Cost: $75 each x 5 - $375

The board, which has the benefit of association funds, gave the small claims actions to their attorney.

The attorney advised the board to redo the assessment process to satisfy the unit owners 'objections.

It should have stopped here but it does not.

In an effort to punish the disagreeing unit owners, the attorney moves the small claims actions to Superior court.

When the assessment is done properly and then appropriately ratified, the unit owners are given notice and a **demand for $1725 payment within 24 hours.**

The unit owners then receive notification that they are on the short list for the Superior Court within one week. They immediately withdraw their actions with the court and notify the attorney.

Within days, those unit owners received a bill from this attorney for $125 for his services. Total cost: $625. $625 + $375 +$1,000 – It cost $1,000 to protect rights that are ours according to the Statutes of the State of Connecticut.

Some of the needed legislation is in place but much more is necessary We **must** be able to enforce the law without involving the court system. The cost is prohibitive to most people and it gives the Board the edge because they have access to the association funds. In 2011, my association spent in excess of $14000 on attorney fees. The attorneys in the state are profiting from the misery of ordinary people who just want to protect themselves from these abusers. Do you know how difficult it is to get an

attorney to represent you as a unit owner against your board? If you can find one, he will expect thousands of dollars as a retainer.

What is most interesting about this entire scenario it that this particular attorney is very active in his participation with the state's branch of the Community Association Institute and writes a legal column for this magazine. He was involved in this assessment from the beginning and instead of guiding this board in the right direction and thus **protecting the rights of all** unit owners, he ignored the protests and letters until legal action was taken. Then, in an effort to subdue the dissention, he makes certain that it costs the dissenters as much as possible thereby punishing their efforts to get a fair shake.

The unit owners are being oppressed by the tyranny of this board in the absence of enforceable rules that protect our individual rights.

As owners of condominiums, we desperately need an Ombudsman and oversight by the State of Connecticut to protect our individual rights.

Testimony of Kerry Gray
to the Judiciary Committee
in FAVOR of HB5536
March 2012

My name is Kerry Gray and as a member of the Connecticut Condo Owners Coalition, a grassroots condo owner advocacy group founded in 2010, I once again come to the State of Connecticut, this time seeking your support of HB5536; I would, however, like to see more provisions included in this bill to better protect unit owners. Given the extent of financial responsibility a property manager has, and in light of recent news of property manager misconduct involving, in some cases, very experienced property managers who have effectively stolen money from associations, mandatory background checks for all property managers should be required (similar to the new banking Statute SB1109). Paid managers should be subject to the same certification, training and background checks.

I am also seeking your OVERALL support in making the **enforcement and accountability** of Connecticut condo laws the responsibility of the State and not unit owners. I am a relatively new elected board member of my own condo association and I too become frustrated (and vocal) when the current laws are not followed.

Many of the condo laws already on the books are excellent; however, with no enforceability, they might as well not exist. Boards and property managers know they will suffer no consequences if they do not comply with the current laws. They have nothing to lose for non-compliance ... so if they don't want to comply, they simply don't.

I believe that if the department of Consumer Protection had jurisdiction to address condo owner issues, it would certainly reduce the number of unresolved complaints. And, the Attorney General's Office should most definitely have jurisdiction to address condo owner issues, particularly those in which a complainant identifies alleged illegal activity.

In addition to supporting HB5536 (with the additional provisions noted above) please recognize that it is enforceability and accountability of existing condo laws that condo owners want and need most.

Thank you,

Kerry Gray, Stratford, CT, March 20, 2012

Raised H.B. No. 5536
Session Year 2012

Kevin Shea
141 Pheasant Lane
Branford, Ct 06405
March 22, 2012
Written Testimony for H.B. No. 5536 Property Manager Licensing

Dear Committee Members,
My name is Kevin Shea I am 62 years old and I have resided at 141 Pheasant Lane Branford, Ct 06405 a Condominiun at The Meadows of Branford Condominium Association which consists of 136 units. I am not a Board Member.
I thank you for the opportunity to address you today on the topic Property Manager Licensing and would like to take this opportunity to share with you recent experiences I and my Association had with Margolis Management from Hamden, CT. At this point I would ask you to please review and reference the below copied article and docket no. of a case that I was personally involved in with this Manager which was settled in Nov 2011 with the DCP:

Article published in CTWatchdog.com, January 2, 2012

Margolis Condo Management Fined For Padding Condo Association Bills

On November 9, 2011, following a two year investigation by the State of CT Department of Consumer Protection (Docket No. 11-818, Case No. 2009-5477), Commissioner William M. Rubenstein, imposed a penalty of $8,000 on Stephen Margolis, A/K/A Margolis Management & Realty of Hamden, CT, for failing to properly notify and disclose to The Meadow's Association the inflated prices he, Mr. Margolis, was charging for "additional services other than Association Services for compensation, to an Association, The Meadows of Branford, to which he was also providing Community Association Manager Services."
In 2009, Kevin Shea, an owner at The Meadows of Branford, became aware of inflated billing for contractors' services to the condominium. "It was obvious that something was wrong, [anyone] could see that money was going out the back door." Additional/multiple assessments had been levied for four years running for major maintenance items, some of which were never completed.
Prior to 2009, **The Meadows Board and their property manager were confronted by Association members [the owners] who petitioned for and scheduled a special meeting. Members requested that the assessment funds be accounted for and segregated from the regular operating budget. The Board, property manager and their attorneys refused.**
Following an inspection of the Association records, Mr. Shea filed a complaint with the CT Department of Consumer Protection, which investigated the issue over a two year period. In November 2011, a settlement was made in Shea's favor, with a penalty of $8,000 imposed on Stephen Margolis.
Margolis' Assurance of Voluntary Compliance, in which he agreed to the penalty without admitting any violation, was accepted by the Commissioner with Margolis further agreeing to refrain from any business practices that can be construed as a violation of the CT Fair Business Practices Act. The Board did not pursue Margolis.
The Connecticut Condo Owners Coalition (CCOC), a grassroots organization, became aware of this case, which again confirms the need for a mediator to resolve issues between condo owners and their boards or management companies. CCOC's membership is comprised of condo owners.

OUR BOARD REFUSED TO CONFRONT OR TAKE ACTION ON THIS MANAGER

It is important to understand the intricate and multiple positions that a property manager holds and rolls that the manager plays though out an entire Association.

Property managers handle virtually everything. Some of the areas that he controls are collecting all of our Association dues (approx 500k per year), planning the budget, coordinating all of the ongoing maintenance, capital repairs, bidding, contracting with contractors, etc. The property manager is also the agent of record and mailing center for the Association and handles all electronic and written communications from the Board or himself to the owners. The property manager also conducts monthly Board meetings and Annual Meeting and manages Annual meetings and elections. He also handles absentee voting proxies. Come election time he is exclusively privy to who has mailed in a proxy and who hasn't vs. who is actually attending the election and will be voting in person. The Manager by design literally controls every aspect of the internal workings of the Association including elections.

Many times owners who oppose sitting Boards who have deep relationships with a sitting property manager will try to run for a board position in order to introduce new more transparent policy. However it is the board and the property manager, who will conduct the election, handle and count the votes and they **always win while refusing to openly display the actual ballots, proxies and election count,** even when the vast majority of voting owners have cast opposing votes that have conflicting interests with the property manager and the sitting Boards. The only information offered is that the opposing candidate lost by a couple of votes. A property manager handles all of the association monies and makes or heavily influences every decision, election, budget, disbursement of funds and every other aspect of the Association ***virtually unregulated.***

Property managers and outside third parties IE, Attorneys who have finical interests in the election's outcome should not be allowed to participate or influence Association elections, and this practice is commonplace.

Boards aren't required to provide owners with accurate financial reports that contain who the manager or board is contracting with for goods, services, repairs, construction or who the actual contractor is and the prices owners are paying, which in many cases owners are unknowingly and unnecessarily overcharged. In my Association we were notified that if we even speak to a contractor or repairman we would fined by the board.

If an owner wants to see the Association's books he or she has to make an appointment with the property manager to look the books. I can tell you from personal experience getting an appointment to view or copy your records of any kind **IS A NIGHTMARE.** Once I made the request to see the records Board members immediately began telling residents that I was causing trouble, I was blacklisted. Great lengths were taken to discourage or prevent me from making the inspection and after three weeks of abuse I was granted and appointment. The records I was provided with were incomplete and I had return for two additional appointments, the whole inspection process took six weeks. I then pieced together enough information to file a complaint with the DCP which is covered in the above listed article.

THE PENALTIES FOR MANAGEMENT OVERBILLING / INVOICING OR CONTRACTOR/CONSTRUCTION SCHEMES ARE INADEQUETE. REGARDLESS OF THE AMOUNTS TAKEN, THESE CRIMES WHICH ARE PERPUTRATED ON ASSOCIATION OWNERS WHO HAVE NO KNOWLEDGE OF THEIR EXISTANCE AND NO WAY TO DEFEND THEMSELVES ARE TREATED AS MISDEMEANERS. OWNERS HAVE TO DEPEND ON VOLUNTEER MANAGER FRIENDLY BOARD MEMBERS WHO IN MANY CASES HAS BEEN LED ASTRAY FOR PROTECTION.

Accordingly any individual who is in a position with this large and unmonitored fiduciary responsibility must be properly screened during the licensing process and then be held responsible by regulation. I am strongly requesting and advocating for continuing education, testing, and criminal background checks to be done each time a manager applies for or renews a license. This is not as difficult as it appears; the ST Banking Dept requires it for all of their independent mortgage originators, Bankers and Brokers. It is all done at the applicant's expense and efforts and submitted with his license application. The Banking Department should be contacted for counseling in this area. I am more than confident that this process alone will eliminated undesirable applicants and active participants from the industry and will be very helpful in lowering the volume of complaints going to the DCP. As you can see from the article and docket No.11-818 I have posted with this testimony no property manager should be exempt from background checks, this manager has been in the business over 10 years.

I am also requesting and recommending a public website or area at the DCP for property managers to be publicly rated by their customers for both negative and positive performance. The Better Business Bureau does not rate or keep track of these companies and if a unit owner or Association has knowledge of abuse or infractions they can responsibly post, while notifying officials.

I am also forwarding the below listed observation of Act 828 based on my limited observation and knowledge of these laws, sighting inequalities for Private Association Home Owners which recently went into effect for CT Common Ownership Communities:

Public Citizens vs. Private Association Citizen's Rights and Protections

As a result of the new 828 act there are unequal and separate rights, protections and access to the law and enforcement as it pertains to ordinary CT citizens (OC) as opposed to CT citizens who live in private associations (PC) creating many obvious inequities for the unprotected private citizen.

Both classes of these home owner citizens pay equal State, Local and property taxes however receive separate and unequal services, legal protections and access to any law enforcement in the event of wrong doing, conflict or preditorial behavior within a private community.

Within a private association as a result of Act 828 there are also two distinctly unequal classes of citizens with the above mentioned inequities. That would be Board Members who have access to association funds and legal recourses vs. unit owners who have to use their own resources in time of conflict or obvious mismanagement.

There are aspects and features within Act828 that allow for & promote;

1) Unfair and Unethical Deceptive Business Practices, i.e.;
Prior to a contractor doing work on a public citizen's residence the contractor must provide the owner with the scope of work to be done, price of materials, labor, date of completion and include a 3 business day right of rescission./ Private owner's have no protections or recourse and have to depend on non experienced Boards who deal with seasoned professional property managers and contractors who are fully aware of the lack of enforcement in these areas and take full advantage this loophole and employ an array of deceptive business practices when charging for and delivering goods and services to private associations.

2) Absolute and Unfair Control of Elections, i.e;
If the sitting board feels as though it will be challenged they will attack their challenger's legitimacy, cancel/postpone meetings ...change the meeting venues etc, etc and will employ Property Managers and other professionals to deny access to their opponents to take part in the counting of votes. Official election results are rarely provided to voters or contestants.

3) Unchallengeable Association Board Powers/Access to Legal Resources:
Boards have access to and will use Association funds to challenge and litigate against unit owners for many unfounded issues or disagreements. This is done regularly and in the absence of common sense, unit owners are forced to use their personal funds to defend any actions. Property managers, Association and Condo industry Attorneys are proponents and the main beneficiaries of this activity.

An unbiased independent OMBUDSMAN is needed badly to settle owner-board disputes and keep property managers in compliance. The Ombudsman could be self funded by condo owners at a pittance of what is lost annually through a result of unnecessary litigation expenses incurred by owners and deceptive business practices.

4) No Understandable or Verifiable Association Financial
Under the constant threat of foreclosure private homeowners are forced to pay their monthly association fees regardless of the services or lack thereof that they receive or the building and property conditions that they live in and in many cases have little or no say in how their property is maintained and who selectively receives services. As a direct result of 828 Boards are no longer required to provide members with annual or any regularly scheduled reports making it impossible for owners to track anything. Owners have no knowledge or way to defend themselves against overbilling, fraud or any number of other consumer or criminal schemes that are regularly employed against associations that are run by held harmless volunteers.
828 has put in place new restrictions of what financial and association business records and documents owners are allowed to see or review leaving owners defenseless against fraud and schemes.

5) No Immediate Available Law Enforcement or Relief When Violations are Discovered and Weak Penalties for Violators.
There are many civil and criminal violations of private unit owner's rights in the State of CT. These are violations that if encountered by a public citizen that public citizen has law enforcement and other venues to seek out and rely on for relief and resolution.
These violations happen within both poorly and well managed associations alike. That is because the existing law allows for these conditions of inequality to exist while providing cover for less than legal and ethical industry vendors and providers of services to operate and prosper unchecked.
When a violation is discovered the local police and the Atty general's office are helpless and turn away thousands of complaints every year.

An understaffed overworked DCP is responsible for licensing and enforcement of very weak rules for Property Managers who handle all of an Associations records, dues, and election processes. These individuals have huge fiduciary duties and access to large amounts of funds; they are in effect the bankers for associations and yet aren't even screened with a criminal background check during the licensing process.
Run away vendor influenced Boards with their own self non-owner interests are now the norm rather than the exception.

I again would like to thank you for the opportunity to be heard on this important matter. There are over 250,000 Condominium Owners in CT and we have no voice, the fox has been in the hen house long enough.
There are Condo Industry Trade Groups consisting of industry vendors and Attorneys who have lobbied for the current business-friendly rules and laws who call themselves inappropriately our voice, which is incorrect.

Thank you for taking the time to listen, I hope you will take corrective and decisive action to amend the current laws that will provide improved transparency and protections for Private Association Home Owners in CT.

Respectfully submitted,

Kevin Shea
141 Pheasant Lane
Branford, CT 06405

GEORGE C. JEPSEN
ATTORNEY GENERAL

55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120

Office of The Attorney General
State of Connecticut

TESTIMONY OF
ATTORNEY GENERAL GEORGE JEPSEN
BEFORE THE JUDICIARY COMMITTEE
MARCH 29, 2012

I appreciate the opportunity to support House Bill 5536, *An Act Concerning Requirements for Certification as a Community Association Manager, Licensure as a Real Estate Broker or Salesperson and Organization of a Unit Owners' Association.* This proposal would require community association managers to complete certain educational requirements and pass an examination in order to receive, maintain or renew a certification as an association manager. It also would require real estate brokers and salespersons to complete coursework in the practices and laws concerning common interest communities. Finally, it would require newly created unit owners' associations to organize as a business or nonstock corporation.

My office has received hundreds of complaints from condominium unit owners regarding poor property conditions and violations of state condominium laws or condominium bylaws. Many of the complaints we receive concern failures to follow basic governance principles, such as adopting an annual budget with notice to the unit owners, holding fair elections for the board of directors, providing key financial information about the association, and fairly imposing association fines.

Association managers are responsible for the maintenance and upkeep of the common areas of community associations. They also oftentimes run community association elections and meetings and advise community associations about how to comply with state law and condominium bylaws. These community associations, which are comprised of unit owners who frequently have little or no experience or familiarity with condominium laws or managing properties, understandably rely heavily on the advice and assistance they receive from association managers. As a result, it is imperative that association managers be qualified, responsible and informed.

Many of the complaints my office receives also suggest that unit owners, themselves, are not fully educated and informed about their rights and responsibilities. Unit owners frequently do not understand the nature of their ownership interests and the types of restrictions that may apply to the use and enjoyment of their units and common areas. Requiring real estate brokers and salespersons to be educated in this area will help ensure that buyers are fully aware of their rights as unit owners. This, in turn, will help prevent situations in which buyers purchase condominiums and learn later that the decision did not match their financial expectations or lifestyles.

I urge the committee to report favorably upon these provisions of House Bill 5536.

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Written Testimony of David Kelman
In Favor of HB5536
Before the Judiciary Committee
March 29, 2012
10 00AM

Dear Members of the Judiciary Committee:

I reside in a condo in West Hartford, am a former condo association board member and a present condo association board candidate. I have served as a volunteer for the State of Connecticut Attorney General's Office in the Consumer Assistance Unit for five years, and am member of the Steering Committee for the Connecticut Condo Owners Coalition (CCOC), an all-volunteer group consisting of hundreds of condo owners from over 100 cities and towns across our state.

In January 2012, CCOC surveyed hundreds of condo owners, both members and non-members. The feedback from survey respondents documents the problems that exist in many common interest communities. The lack of enforcement of condo laws has negatively impacted the quality of condo owner living experiences. In a number of associations, the democratic process is broken. Owners describe, in some cases, that property managers and boards, who they rely on to maintain their property values and share association records, are not doing so even when requested in writing, despite recent laws with good intentions. Some frustrated owners are selling their condos and moving out of state because the situation is so unbearable for them. Approximately one quarter million Connecticut condo owners are not treated as equal citizens and do not receive the same assistance from state agencies as other consumers receive in our State. It is perhaps shocking to note that renters in condos have more rights than condo owners themselves.

I am in **FAVOR** HB5536, the Community Association Manager Certification bill, but **with changes**. The bill needs more teeth. Given the extent of financial responsibility a property manager has overseeing millions of dollars for various community associations, and in light of recent news articles in the North Haven Citizen, Fairfield Minuteman and CTWatchDog.com regarding property manager misconduct and fraud involving, in some cases, very experienced property managers, who have stolen over $100,000 combined from condo associations in Meriden, North Haven, Branford and Fairfield, I feel mandatory background checks for all property managers must be part of this bill, along with stiffer penalties for misconduct and non-compliance, should be a requirement of certification. Posting the background check records on the Department of Consumer Protection's website should also be mandated as part of this bill so unit owners can have visibility to property manager criminal

records. I refer you to Public Act #11-50, Section 11, Subsection (b) (2) in our state's banking laws as a precedent to establishing background checks I urge that all property managers who are paid regardless if they are outsourced managers or internal employees should be subject to the same background checks. Additionally, I would like to see all cases involving property manager misconduct, fraud and criminal history of property managers posted online on the Department of Consumer Protection's website for easy access by the public. Transparency is good for protecting condo owners and may lessen misconduct.

Recently, I asked my property manager to email me an electronic list of the names and addresses of all the members of my association. The property manager told me he does not have a list electronically, yet he carries a laptop computer with him to all board meetings. I cannot afford an attorney to chase basic information and records that should be readily available to me electronically I believe to maintain certification, property managers should be mandated by law to provide to owners upon request a certain amount of electronic information per year free of charge by email when the records are maintained electronically I would like to see this bill mandate providing owners with a copy of the property manager's contract so owners, who are paying the property manager's salary, can identify whether or not a property manager is breaking the law or not fulfilling his/her contract. It seems to me this would help owners in determining if their complaints to the Department of Consumer Protection abut property managers is indeed under the department's jurisdiction and thus subject to further investigation and mediation. This connects to the education piece I have heard some Judiciary Committee members talk about.

I was told by my property manager that I cannot file an insurance claim with our association's insurance carrier for a loss resulting from association negligence because of a failed drain system which had not been properly maintained for years, and has been documented in emails and photos I was told I would be fined $25 for contacting the agent. To me, this is an unreasonable rule, and the property manager condoned the rule.. When I asked for a written grievance procedure or how to make an insurance claim regardless whether the loss is covered by insurance or not, the property manager refused to provide me with the information, or even acknowledge no such written procedures exist.

When a condo board is acting unlawfully, unethically or unreasonably, I would expect the property manager to step in and inform the board and owners in attendance of applicable laws and best practices. I feel this should be a requirement of any training, in addition to sensitivity training and training in customer service. Training and certification without a reporting mechanism that is easily visible online to the public to ensure compliance should be added to this bill. I would like to see this bill also include a clear, written grievance procedure as to how condo owners are to file complaints to the Department of Consumer Protection about property managers, and what

types of situations DCP regulates posted online as well HB5536 should mandate that a property manager must report if an association is acting unlawfully.

There is additional written testimony online for your review. Some members of the Connecticut Condo Owners Coalition were not able to attend this public hearing and sent in written testimony I ask that you kindly read all the online testimony from condo owners and to fully to consider the testimony of all unit owners who have faced hardships in their communities, and to establish laws to better protect owners in common interest communities and increase the enforceability of existing and new condo laws.

I would like to point out in comparing the 2010-2011 Annual Report, the Attorney General's Office refers to its Volunteer Program. There is no reference to volunteers in the Department of Consumer Protection's 2010-2011 Annual Report. I am not sure if DCP has any volunteers. I would like to see the Dept of Consumer Protection establish a Volunteer Program to help more effectively process condo owner complaints it receives regarding property managers It can be done quite easily and at virtually no cost. My online testimony includes a list of condo owner complaints to DCP from September 2011 to January 2012. Many of the cases show they are closed the same day. I wonder if they were ever looked into. My feeling is that volunteers could serve as mediators as they do in the Attorney General's Consumer Assistance Unit reporting to attorneys to help facilitate a resolution. All mediation is done by phone and fax, no in person meetings.

I feel it would help to have one set of laws governing in plain English governing common interest communities regardless of when the association was built and tie Community Association Manager Statutes into the Common Interest Ownership Act.

Thank you for your consideration.

Sincerely,

David Kelman

Dear Legislator:

We understand that the Judiciary Committee is reviewing legislation to enable condo owners to have a more favorable position when attempting to resolve disputes with their condo boards and property managers.

To gather documentation of these disputes, the Connecticut Condo Owners Coalition recently undertook a survey of its members to identify their concerns and provide specific illustrations documenting the unresolved issues they are living with, daily, with little or no recourse to an equitable solution.

Often, their lives are embroiled in a morass of unsanitary and unsafe living conditions. Too often these people are the elderly, who are virtually helpless. What should be a haven for them, their home, has become a constant nightmare. The option of moving is not available given the lower valuation of housing, and that the value of their unit is less than their mortgage. And even if they could sell, where would they go?

Current laws are insufficient. We know from our survey, that the laws often are not followed and that many associations *are not even aware of them*. Right now, the Common Interest Ownership Act is little more than words on paper. Research done by others [http://hbswk.hbs.edu/archive/2076.htm] at Harvard, and confirmed by TARP Worldwide, an international marketing firm based in Alexandria, VA http://www.rctaylor.com/Images/The_Price_of_a_Dissatisified_Customer.pdf] tell us that for every documented complaint, there are at least 25 or 26 others. We are presenting the tip of the iceberg.

It is imperative that you enact laws to be followed and *the means to enforce them*. There is no protection for people who desperately need your help.
The following examples are only a few of those we received; many others would not agree to publication with their identities included because they fear retribution.

We urge you, on behalf of all Connecticut Condo and HOA Owners to take into account these examples and responsibly facilitate the creation of solid legislation and enforcement ability for the betterment of this population.

Sincerely yours,
Connecticut Condo Owners Coalition
Serving all of Connecticut
CTCondoOwners@yahoo.com

Dear Judiciary Committee Member,

The Connecticut Condo Owners Coalition (CCOC) is respectfully requesting that you enact enforceable legislation, with a dedicated department or departments to enforce such, in the 2012 Legislative Session.

As you will easily see, these experiences are from unit owners all across the state of Connecticut. These problems are not unique to our state, however, Connecticut lags far behind other states in addressing these issues and in providing a safety net for its residents.

It is imperative that you see the living conditions and the need for legislative intervention through the eyes of the Condo and HOA owners themselves.

Please see the multitude of CCOC Member comments below to give this legislation the proper foundation: (Spelling errors intentionally left in to show validity of quotes)

"Our condo association has issues. My complaint is that there are self serving behaviors that are problematic. Currently, our president is in Florida with a medical issue. This has caused the Treasurer to be placed in the position of President and Treasurer. While it is not a conflict of our bylaws, I do find it to be somewhat problematic. Approval of vendors and being able to also sign the checks seems to be a recipe for financial disaster. I would like to see the state mandate that a board member can only hold one position at a time. I know that someone managed to get an new FHA certification for our condo complex while the percentage of renters here is well over 50 percent. Someone lied to the feds. There are issues cited by the town fire marshal in 2008 about substandard fire barrier walls not being sealed that was ignored. This has not been fixed and some deal was reached was reached with the fire marshal. A recent fire in a unit resulted in smoke damage in adjoining units. The board has tried to keep this issue below the horizon with unit owners and renters. The stories go on and on. I do not see the current board to be schooled in the current condo laws. They have a condo lawyer on retention, but they themselves do not seem to be in compliance with current Common interest ownership act. But being a pre-1984 association, It is hard to reconcile the new post 1984 associations with the pre 1984 association such as mine" **Respondent# 9969780**

"My wife & I have literally been at war with this association & management company since we purchased this property (unfortunately). We as well as our adjoining unit owner have approximately $90,000 in damage to our units, all unrepaired since 12/30/2010. We contacted the Channel 3 I Team who investigated & televised the issues. WE had to hire legal counsel to try to resolve & are currently in the process of initiating suit. We have major damage issues, out right denied by Greater New York Mutual Insurance Company, insurer of the association. Your questionnaire should have requested information re the carrier involved in the association - management company claims process to track the loss handling activity. As a licensed independent adjuster & former home office claim manager with over 46 years in the industry, I know well the issues that plague the condo industry - border to border, coast to coast. Something major has got to be done in Connecticut to right the wrongs put in place by lobbied legislators & the legal cronyism that allows this to exist & self-perpetuate. Art & Fran Boyle" **Respondent# 9969879**

"Before the new board of directors was named in December of 2011, the same 2 people ran the board for the entire 16 yrs I have lived here. They choose their own rules, base the rules on personal feelings, and have literally driven people out of this complex. They were unfair, lied to unit owners, and cared only about the buildings they lived in, namely buildings 3 and 4. Building 1, where we live, is closest to the road and is the first thing the public sees, yet the side and back of the building that is closest to the road was totally neglected. It almost seemed like the lawn crew was told to skip that part of the maintenance. There are many huge, diseased pine trees lining the side and back. In the summer tree sap is splattered all over the vehicles parked out front. Branches have fallen. A special assessment was taken to cut down the trees. I personally stood up at the meeting and asked "Can you assure me that when spring comes those trees will be gone?" and I was told YES. Absolutely. Before spring arrived, the president of the board decided that maybe the driveway needed fixing, especially in the area of his and the vice presidents units, so they took the money we had paid to have the trees cut down, and without another vote or even telling the association, used it for the driveway. Needless to say, the trees are still there to this day, and one broke in half nearly killing my husband 2 yrs ago, they did not care. Now the new board of directors, that are able to vote, are from one building, and they have already stated that they intend to concentrate their efforts on Building 2, which is where they all live, due to a problem of rats in the attics and trees in the back yard. My husband is on this board of directors, however, he is in a non voting position, so he can say nothing. He intends to question the property manager, W M Hotchkiss, about why all voting board members are from the same building, if he cant vote, why be on the board at all? But we can't give up. We have been held hostage in this condo for 16 yrs, cannot afford to move, and I have recently become disabled. We need help here !!!!" **Respondent# 9971025**

"I have lived in my condo unit for 40 years. I have served on the board for 9 years. President for 3. Right now I feel I live in a very dysfunctional condo environment. One of the biggest issues is that the new condo laws are not being followed. The Board and it's President have to be told what the laws are so that they are followed. The other big issue is that our property manager has no experience and is not registered with the State of Ct. which I am going to address in writing to the Board. Since he has been hired, he has failed to include a proxy in a previous meeting being held to approve the annual budget which cost the Association $130 because it had to be mailed out separately. Monthly financials are not accurate. He failed to expense a $40,000 monthly reserve contribution being used for capital projects. After a year it has finally been resolved. His lack of computer and accounting skills contributed to this problem. The latest problem was sending out the annual budget for 2012 to the unit owners with the income portion approximately $40,000 underfunded. When you added up the line items in the income portion of the budget it was $40,000 less than the total reported. He never checked the addition of these line items prior to sending out the information. He does not walk the property. We have regulations regarding the installation of satelite dishes. There are some satelites that are attached to new vinyl siding which is not in compliance with the regulations. They need to be atached to the roof mansards. If the State of Ct. is going to pass legislation regarding the operation of a condominium, they need to have in place an enforcement policy that is not going to cost a unit owner a lot of money. Hiring a lawyer is not cheap. I am sure some complaints are frivilous but I also believe that many of them are not. An enforcement policy is probably the most important issue that needs to be addressed during this session of the legislature." **Respondent# 9971930**

"I got on the board of my association hoping I could make a difference. But that really hasn't happened helped. Since we don't have a real voting process, if I get someone mad by voicing my opinion, I won't be put on the slate when my term is up. Our property manager only listens to the President who doesn't want to deal with anyone's concerns. He refers everything back to the property manager (I have this in writing). We need help enforcing these condo laws. Property Managers know they can get away with not following the rules. There is no penalty. No lawyer would would represent an individual unit owner (or even several)." **Respondent# 9972036**

"I would like to see bylaws and rules and regulations applied to board members as well as unit owners. For instance our president refuses to put a leash on her dog and there is nothing anyone can do even though the dog has almost been hit a few times. It if was a unit owner, a fine would be applied. I know this is frivolous in comparison with my bigger complain but it is just one example of the board running amok. I would also like recourse when a unit owner is being discriminated against, i.e. all decks painted except for those the president doesn't like. What do you do? Most attorneys do not want to get involved because there is not much money in it for them." **Respondent# 9972216**

"Survey applies to our 1992-2011 experience at Thompson Hills West Condo's in North Grosvenordale, CT... Because I made such a 'stink' about the clique and spending and deception of both the Board and Property Management Company we were ostracized and we actually sold and moved out... The last few years in the condo association was stressful. Hiring of unlicensed CT contractors, who were friends of the Property Management Co in Webster, MA we ended up with thousands of dollars in snow/water damages. My continued calls for an audit was without success due to the fact the Board was not following any of the By-Laws concerning audits, notifications, spending, reserve accounts.... Those in the association are now facing big financial troubles in the future...w/o and reserves for roads/parking; siding and further roofing repairs. We had to pay the assessment when selling our condo for the 2011 Water damages to the condo's because of an unlicensed contractors work putting the new roof on a few years ago..." **Respondent# 9972358**

"Thanks for doing the survey ..." **Respondent# 9972632**

"The legislation recently enacted is fine, but there are no provisions to my knowledge for the enforcement of the law; therefore, of what use is the law. Even with D & O insurance, if it is determined that the law or the Declaration of the By-laws have been violated, the Directors should be personally liable and ignorance should not be an allowed defense. For the record, I was for several years the President of the Board and a victim of the old adage that states no good deed goes unpunished, but this experience is better or only to be discussed in a private and sealed meeting. I hope my comments will prove helpful." **Respondent# 9972932**

"I am in a community where there is no trust in the Board of Directors and the Management company. It is very hard to believe they are doing the best job they can when you have no trust in their agenda and/or their abilities. The majority of our Board of Directors has been in office for over 8 years. They say no one is interested in the community (as far as unit owners) however, anytime anyone shows interest or questions what they are doing, the board of directors get very aggressive. Our monthly meetings are heading down a steep slope and more and more arguments are being caused due to lack of communication and a disregard for anyone's opinion that differs from theirs. A

Board of Directors is suppose to represent the community in which they belong.....here it is representing the Management company and that is a problem. I was told last night at a monthly meeting that the state laws were put into effect to give the unit owners more of a say and more rights. However, in this community, they have used the loop holes in the law to slant any votes and/or decisions made to be passed as the Board of Directors deems, not the community. I look forward to things changing. If you live in a condo complex/community, the community itself makes you stronger.....if you don't listen to your community, the community breaks down." **Respondent# 9973047**

"The Board secretary should be required to maintain list of all committees and their members as well as serve as office of record for all committee minutes. These should be available upon unit owner request either on paper or electronically. All board and committee minutes should be posted in a prominent location as well as be made available electronically. All committees post their meetings and issue timely minutes following their meetings. All association meeting schedules should be posted in prominent locations as well as be made available electronically. Election results should be posted, stating the actual number of votes each candidate received, just like municipal elections. The structure of each new board should be posted and delivered electronically following each election and board organization meeting. Just as the state should be mandated to enforce condo laws, associations should be mandated to enforce Rules and Regulations on a fair and even basis. Also there should be an appeals hearing for unit owners who have been fined or cited for violations. There should be a schedule of fines and enforcement policies for violations of the Rules and Regs. In addition to a financial review, there should be an independent annual review of the exercise of fiduciary responsibility by the association. This should be required by the state and filed with a state agency. The report should be made available to all unit owners. Many associations did not engage in proper upkeep and as a result their property values have decreased in violation of fiduciary responsibility. All relevant municipal laws regarding pets and feral animals should be applied to associations. Any major changes in structures or their appearance should be presented to unit owners for their approval." **Respondent# 9973124**

"I am thrilled to know that this group has formed to address the many injustices that prevail at many condo complexes. It appears that this arena has been rife with wild west tactics...and worse, an attitude that bespeaks 'YOUR MONEY is OUR MONEY...Just fork it over and all will be well'. Fact is, from what I have been experiencing for years now, all is NOT well, and far too many matters are never addressed but asinine other novelties not necessary are given precedence over really important issues. For too long I have seen issues ignored which then led to extremely costly measures to rectify.... All to often, a total lack of common sense has prevailed which ends up costing unit owners in financial and emotional terms, and in one case, someone's health and potential death as happened here a few years back.... When a professional opera singer for the Rhode Island Philharmonic complains for 3 years about a leaking roof which causes water and mold to form on her walls...and then leads to an almost fatal health problem...first severe allergic reactions to mold followed by a heart attack which almost took her life, at which point they addressed the roof problem, YOU JUST KNOW that something is not right in Denmark and the powers that be have been more than neglectful and could've been said to cause said problems. In fact, one could say they were criminal in their lack of being responsible. That woman who almost died lives here at Heritage Pines, and unfortunately she never took them to court for ignoring her pleas...she should have for it demanded action and for sure, compensation for her severe sufferings and almost losing

her life. Coverups have abounded here for far too long...it's sickening. I have viewed the elderly treated with contempt here on more than one occasion. Right now I am trying to get answers as to who has keys to our units, to no avail..Also have told them that the nine story twin pines which blow northeasterly and could land on our building should be addressed...as usual am given the brush off. We also have no backup for our electric should we ever lose heat. We are not allowed to have other heat sources like propane tanks. If we ever lose heat here and an elderly person dies as a result, who pays for someone suing us for lack of backup heat? When I asked if we should ever lose heat what do we do, I was told we should go to a hotel at our own expense .. .along with buying our own meals...why did I buy a condo if it means I have to move out of it if there is an electrical emergency or outage as often happens in the quiet corner of CT???? This scene has me totally tired out. All I have experienced here is intimidation or mockery or put down for asking questions or bringing up matters. The rules are constantly changing and no means is provided for most unit owners/about 150 owners to have access to what is going on, let alone access to monthly minutes....most are in the dark here about what is or is not going on and I see that as more than problematic. Every thing I was told when buying my unit has totally changed. I feel like we are on shifting sands and no one means what they say or say what they mean!! It smells of a stench of wanting to keep things hidden...we need some light on this serious subject..and that is, one's home is for most folks the biggest investment they have....as we watch our investments here go down hill, it doesn't bode well for our future or even our quality of life. No real answers on how many foreclosures or rentals are going on here. Most of all, is that we as unit owners are never asked for input...or if we are then it is ignored as happened to me about 4-5 years ago. I was asked if I would poll my neighbors nearby as to if they would agree to us building a club house where we could have condo meetings. All SAID NO...I TOLD THAT TO THE BOARD AND WITHIN DAYS REC'D A LETTER SAYING THAT THEY DIDN'T CARE WHAT THE REST OF US THOUGHT, THAT THEY DIDN'T NEED OUR VOTES AND WOULD GO AHEAD ANYHOW AND BUILD THIS BLDG AT A COST OF OVER $250,000. It has 22 windows in it and is very costly to heat in the winter, sitting empty most the time except for a monthly meeting for 8-9 months of the year...a total waste and reason why most didn't want it. I could go on and on about other problems, but it is late and I am tired tonight. Sorry, all I will say for now, Jean VanBael 860-928-0747" **Respondent# 9973283**

"I believe the issues you raise are real and deserve serious considerations by the state reps. The option of electronic delivery of all meetings and financials for owners needs to be state mandated to keep owners fully informed. Expenditures need to be clearly disclosed to show a breakdown/line item for monies spent. These expenses should not be grouped together ie; maintainence." **Respondent# 9975037**

"There is so much it is too overwhelming to write. Hopefully, I can compile from 2005 to current and then I can pass it on!" **Respondent# 9981400**

"I think that the laws for condominium complexes should be just that a law that has to be followed by the board and the management company and if not followed there should be accountability and penalties. It should not matter on what year the condo was built or how many units. The laws should be the same for all condo's and just that a real law that is provided through the state. The laws they have now do not necessarily have to be followed by the Board or the management company because there is no accountability or fines. Our condo bylaws were written in 1989 and I read that a lot of the new laws do not affect us which is ridiculous if it is to protect condo owners it should apply to all

condo associations not just ones that where made after 1989! I was also told the laws do not really count it is not a legal law and condo do not really have to abide by them because there is no accountability if they are not followed. I would never buy another condo again because it is totally unfair what goes on in a condo. The board no matter how big or small gets away with whatever they want. The board members should be rotated and there should never be the same members for more than 4 years it should be a law that everyone who owns a condo should be a board member if it has to be a different times than it should be a 4 year rotation no less no more and every owner must participate and have their time as a board member and have it totally equal in responsibility when in that board member position. The way it is now where I live the two board members will be President and treasurer until they die and I have no say so or chance to be on the board. Even though our by laws basically state that everyone in the complex is on the board the board and management company state that we aren't. Owners should not have to higher an attorney to protect themselves from the board and corrupt management companies that work to please only the board." **Respondent# 9982025**

"Within the condo world the 55+ category needs special attention. Many people are between 70 and 80 years old an an easier target for unethical practices." **Respondent# 9984226**

"I would prefer to see less than a 6 year max term for board members. I think it should be mandatory that board members provide a newsletter bimonthly with updates on ongoing activity. For example, my condo is paying off a 10 year loan. The money has dedicate purposes. No information is being given to us as to how it's being spent, and how much has been borrowed thus far. There has been a lot of cosmetic work done on the public areas, again with no information available as to how it's being paid for. I've been asking to see financials for several months and get no answer. Major decisions have been made by the board about redecorating without giving all owners a chance to weigh in." **Respondent# 9990541**

"I am not pleased with the way that the meetings are handled and I know that the board is a volunteer board. I think that they try to run the meetings well, but the property manager, in his smug and condescending manner, makes the board look bad in my eyes. I am frustrated with the property manager because he is not honest and bullshits people. Things that should be a yes or no, very clear answer, turn out to be answered in circles. This is why I am not pleased." **Respondent# 9997824**

"Our association currently has no less than 6 lawsuits in progress. We are hopelessly divided. One suit is actually against a past board member and is ludicrous at best. The other five are unit owners against the current board due to an assessment that was not done according to the Statutes. Many of us are frustrated, some have moved out of this complex and others are planning to move. There needs to be some method of resolving these issues and perhaps having outside assistance to insure that things are done appropriately. One unit has had the interior of the unit dismantled due to a leak in the six year old roof. (Why is the roofing company not being held responsible?) The interior of her unit has been dismantled since the beginning of November and is not yet repaired. It seems that the most contentious, manipulative and incompetent individuals are in charge and we are all helpless. HELP US !!!! PS Part of the problem is the apathy of the unit owners. How can we wake them up?" **Respondent# 10000604**

"These condo laws and rights have been the guiding light in a time period of despair. When I had a condo board that tried to keep so many things secrective I was able to point out parts of the state laws that required them to disclose. Please please keep going....transparency is the best way to run an association. And if the board doesn't realize it, it is great that the state can make laws to force it to disclose. Please allow an ombudsman to have the bite to the bark so that fines may be enforced for those board members not following the law. Not on the association per se, but on individuals that are on the board." **Respondent# 10004669**

"I find it makes me sick to have a small group goes around like Dictators telling everyone what to do all the time. Anyone friendly with the board or the current and past property manager can gets away with any thing. I now have the one goal and that is to fix up my condo and be moved out of here within the next 16 months. I moved in here paying around $77 a month in condo fees 10 years ago and now almost at $300 with No Pool/Club House nothing extra at all !!! I have watched work projects done with half the work not being preformed and most likely the monies going in someone's pocket. The stone look wall cost I believe around $200,000. The manufacturer calls for a cement foundation/ drain ports/ grids to hold higher areas to the bank. And to be cemented together. All this in the contract and non of it was preformed. Now black top for our long driveway called in the contract for crushed stone and curving so water would not run off hill and into condo owners basements. Non of this was done and we had to pay extra to have this done. The town/ State ordered a baffle system be placed along the driveway drainage system and the old management company just had these large cement block baffles systems placed in the ground and never being hooked to the system. The system backed up and causing around 16 condo basements to be flooded. And the cost of repair to bring in heavy equipment to dig up the driveway and hook everything up was around $35,000 to condo owners. And the New Board and Management company keeps sending out Special Assessments without ever allowing Condo owners to vote on the work projects in the first place !! There have been 3 over the last year or so and have been told another will soon be coming!! I want to know when will we as condo owners get Help ? The current board keeps fiding ways to bring up the monthly cost to condo owners with out a voice to ues and or a vote on these projects. PLEASe : Someone Help us ....." **Respondent# 10015623**

"I think the idea of condominiums is foolish. It's silly to think that that out of 10-200 households, there will be 5-9 or more people capable of effectively serving on a board to manage a property. It's really a social experiment in a kind of small-local democracy, and it's a failed experiment. People in general are too apathetic. They don't take part in the condo legislative process, let alone the state and federal electoral processes. I wish that every owner in my condo association were mandated to serve on the board or a committee each 5-10 years; either as a board member or on a committee. However, I know this is impractical. However, it was foolish for the state and local government to allow developers to build condominiums 30 years ago without thinking this stuff through. As such, the state and local governments should bear more responsibility for their negligence in allowing the creation of condominiums. My condo board are good intentioned people, but they lack the knowledge needed to run our 221 unit association. As such, our property is falling in to disrepair. I'm losing money on my investment." **Respondent# 10016054**

"I believe having an Ombudsman is an absolute necessity as long as funds do NOT come from the General Fund. There have been many issues over the years which have

been swept under the rug...and no resident has the time or money to proceed. Surely an Ombudsman could facilitate lesser matters than embezzlement, however the Ombudsman could be a source to suggest State Agencies/Task Forces to try to rectify issues when there seems no place else to turn. The Board has been asked numerous times...verbally, written etc., about concerns often times with no answer or the statement "our attorney says" with no documentation proving the attorney ever was contacted, much less had even given the answer being 'quoted'. For instance, our by laws state no resident may receive Association funds for working for the Association, yet we have a PAID HR person under the guise of being a 'consultant' who has lived here for years and is a past president of the board??? I do not believe this HR person has even written job descriptions or much of anything one would expect of someone with this title. Recently it was stated in our newsletter that the only people who can ask a question at a Board meeting is a Board member...violating several areas of Roberts Rules...such as a resident being allowed to make a "Point of Order" on a substantive issue. It is my understanding that by state law, residents may make absentee votes when issues come up before the Tax District. Our bylaws state that one must be physically present to vote on tax issues...a clear violation of my understanding of State law, and yet no one has replied to my query on any level, in regards to our bylaws needing to be subject to state law. The financial statements are convoluted. It is next to impossible to figure out the cost of personnel as the costs are embedded under various headings...one has to know where to look and what to look for??? The 'bar' has been losing money for over a year, yet when 2 Board members (one of whom has been in the liquor business for 25 yrs and the other is the VP)offered to do an audit, it was flatly refused by the Condo President?????" **Respondent# 10016325**

"After being a home owner for over 30 years, I bought a condo to have carefree easy living, since I was a New York commuter. It has been the most stressful experience and bad investment!I hope that we can make a positive difference for all Condo owners in the near future! No unit owner should endure what I did and be forced into hiring an attorney to protect their investment. It was costly and I had to take out an equity loan! There is favoritism and not all unit owners are being treated fairly!" **Respondent# 10020701**

"We are allowed 5 minits to speak at the monthly regular meeting and at the Membershp Annual meeting. Many concerns never get answered. We do not have a property manager, instead we have an office manager acing like a property mannager. He speaks on certain issues in executive session, however the members do not know what the issues are. Recently our board voted on non-binding arbitration if there is a dispute between members. The members have to split the cost such as filing the complaint and hearing cost. This can run as high as 1,500.00 each party. If it's a dispute with the Board member, the Cooperative pays the cost. This is not a fair and equitable process for the member. We receive the minutes of the meeting aproximagtely two days after the following meeting next. This gives them time to correct the minutes. If a member speaks and what they said is written in error by he secretary, the member has to get permission from the Board to correct what the MEMBER SAID. We need HELP!!" **Respondent# 10020866**

"The present board has violated so many state statutes and continues to discrimate against unit owners who do not vote with them on any issue. They intimidate older members of the community until they get their proxies. They passed an assessment violating so many rules that 6 units filed small claims actions against the illegal

assessment. A group of unit owners made multiple attempts in person and in writing to advised the board to correct the situation before it went to far and it fell on deaf ears. The boards attorney was present and allowed them to go forward. One unit owner asked for mediation regarding the assessment and still no response. The board put the unit owners in collection, held a board meeting announcing to in the open board meeting which units they would discuss in an executive session. Why did they have the executive session? The acutally put 6 units in collection with and charged legal fees to the units. The road reconstruction which is what the assessment was for was completed in November. Most unit owners paid the assessment. After the small claims actions were filed, the attorney withdrew the charges, took us out of collection and they are replace the assessment going through the process correctly. As it stands now, although we got a letter from the attorney that the assessment has been recinded, the board never head such a vote at a meeting. Our small claims actions still stand. Their attorney asked to have the case dismissed and a motion to transfer to superior court. How wasteful and irresponsible are they. This should been settled easily." **Respondent# 10027369**

"I think it is essential that the state of CT establish rules and regulations for property managers and board members to prevent or eliminate abuses such as withholding communication to all units that pertain to all unit owners. There is presently water damaged/mold issues regarding hiring an individual who was improper in gutter cleaning, outside down sprouts clogged, blocked and backup into basements. Our condo insurance and present board president Claire Perkins is discounting the neglect/over looked issue which puts the total cost on an unit owner. Outside issues are addressed by the association. It is felt, Claire Perkins does not want to recognize this negligence for fear of insurance premiums rising. In several years past with her in control, this same water damaging issue has been brought up and ignored with another building. The present unit owner is going to hire a lawyer to remedy his situation which will be costly for all unit owners for remedial clean up of mold, repair to his unit. I strongly feel a board members tenure needs to be mandated maximum 4 yrs only. Full transparency and disclosure of all documents and totally open communication by email on all matters. There have been ongoing issues at Chatham Walk in New Canaan which need to be addressed, as the existing by laws are not enforced even though I have repeated spoken up at annual meetings. Thank you." **Respondent# 10031016**

"I would love it if you would call me I have a great deal of information stories and emails from the board of directors (sterling village) a board of 5 who operate as a board of one and two. 1. Will not teleconference an other board member into a meeting since last year 2. Holds special meetings and changes at the special meeting. 3. Refuse to honor proxy votes- actually disposed of votes. 4. Call unit owners after votes received prior to authenticating the final vote tally and intimidate owners to change their vote. Attorney send letters June 2011 and September 2011 with no response to letters. Please call me asap Thanks, Doreen P.S. This is for the sterling village association Meriden ct. Help!" **Respondent# 100032512**

"Thank you for pursuing a collective action on complaints by condo owners." **Respondent# 10037770**

"Emergency generators and common inteest rules in the declaration- I am fast becoming a reluctant legal researcher regarding this subject. The by-laws are apparently lower in the chain of authority than the declaration which I recently dusted off and have begun to review. (it's that phone book looking thing we all have) If my guess is right you will get a

response that your letter regarding by-laws that by-laws become irrelevant if the declaration which is filed with the town is in conflict with the by-laws. What I am seeing is the only thing that is in higher authority than the declaration which is filed with the town- is state and local law. I am researching law a bit now but it's harder. Nowhere in the discussion from those against stationary generators are references to reasonable interpretation of the declaration. It appears to boil down to they are afraid of noise and possibly some sort of noxious fumes. Since we all have natural gas exhaust pipes on our houses and the town is involved to ensure compliance with safety and proximity to openings such as windows, doors... - it seems we are dealing with fear versus fact there. The second issue of noise is even a bit more silly since if you utilize a stationary generator it will routinely only run about 10 minutes every 10 days or so. Far less intrusive and noisy than the lawn mowers, weed whackers and blowers we welcome as well as the refuse trucks that grace the neighborhood every week at 7:00 am. Ironically the suggestion is that we use portable generators in case of an emergency. Portable generators are very noisy and most folks who complain about generator installations incorrectly assume that the noise that comes out of the lawn mower type engines on portables is what stationary generators will sound like. As someone who owns one I will also tell you that finding gas in a power outage is no easy task nor one many residents will physically be able to do since they burn about 8 -10 gallons every 12 hours. We currently have in the neighborhood many items that run afoul of the provision being used: flag pole, dog fences, bushes, trees, driveways (mine)... if we apply enforcement of the declaration in this case – it will be inconsistent with many other violations that seem frivolous in the face of frozen pipes or worse- frozen neighbors. Unfortunately – many residents have become used to being dictated to by folks who interpret rules the way they see. I am beginning to see folks give up in the face of stubborn insistence of a very few that we stop looking at stationary generators at all. I took the matter up as a cause after I walked through the neighborhood with my wife and witnessed folks shivering in their drives trying to stay warm- one in a wheelchair. We had one resident almost burn his house down trying to make a kerosene heater work and many were forced to eat and shower at shelters. To my knowledge none of the folks who have the most vocal objections were here during the storms aftermath. They lived somewhere with power for a week. I own a portable generator and I am quite sure if there was another power outage like the last one that I would run it regardless of any Abbott Place documents since I believe no court would uphold a action of some sort against me to keep my family warm and safe during a stated emergency. I take up the cause for two reasons. It's what the majority of folks wanted at the meeting we had and it's a reasonable and humane interpretation of a declaration that was never intended to prevent folks from feeling safe about their own homes. Let me know if you remain interested in the subject. I am using a lot of energy and "political capital" in my effort here. If start pulling requests and giving in – I have no reason to continue. There are other issues I have plans to take on." **Respondent# 10045386**

"One of the big problems I have had with our board is that they have engage in what I call the "shake-down". We are 32 stand alone residences on a 36 acre plot with significant common element areas. For trees in the common element near residences, out board has repeatedly made requests of individual owners for contributions for removal and trimming even when those trees are in danger of falling on a resident's property. At the same time, the property around board member's properties is carefully tended at full association expense. Historically, this "shake down" process was always defended on a "cost" basis but that totally ignores the association's responsibility for managing the common element area with duties to all owners rather than some owners.

The shake downs have been successful because many resident are either elderly or do not want to make trouble. This sort of repeated behavior violates the basic rules of our association and I have considered filing suit to challenge the actions of our board, have current board members replaced, have the accounts audited and have all of the past shake downs exposed. I am still considering such an audit, suit or ADR. During the recent storm, our board was completely unable to respond and did not have adequate reserves to fund a clean up. One board member even claimed that "if a tree falls, the homeowner's insurance carrier will make the homeowner whole. We do not need to take care of that problem when the home owner has insurance coverage." Somehow, that gives me little comfort. We ended up voting for a special assessment to handle clean up costs. Our experience with the storm has certainly made us more active members in our association." **Respondent# 10050287**

"I am in the middle of a small claims suit with my association, there was no other way for me to resolve an issue with them. This is unacceptable, no state agency that I am aware of could help me resolve it." **Respondent# 10051930**

"There is not enough time or space in this section to express my dissatisfaction for the association and managment company of my condo complex. It is frustrationg and exausting and basicallt become a part time job in itself to be dealing with matters that they think are not pertinent in there minds. i would also like to see that towns and cities be help accountable for the destruction of property and property values due to commercial / industrial overdevelopment in zones that contain housing. id be happy to expalin in detail to someone who will listen." **Respondent# 10053385**

"My Condo Association with the exception of myself and one other unit owner are afraid to speak to the board of directors which consist oftwo other unit owners one who was on the board previously and voted off for the same thing that the Association forgave her for embezzeling the Associations funds (the amount was small so when the Association spoke to an attorney when the issue of stealing was going on felt we were all new to each other and to give her two years off and educate by showing her how to be a treasurer without stealing by example of the person who was doing the job at the time) Also the way she is embezzeling is by kickbacks from family /friend vendors that she has hired for the association for maintenance issues, snow removal etc. for example in our current bank statement there was a cancelled check paid ot to a vendor for December 2010 snow removal for over $700. If this is true that we are still in debt to this vendor for snow removal from 2010 when there is a significant amount of money within the Association account at all times why wasn't the bill paid off by now? There are more questionable checks throughout our bank statements but who has the lawyer fees to fight alone." **Respondent# 10053525**

"The new CIOA laws, effective 7/1/2010, are more expansive and simpler, than the current Declaration and By-Laws of our complex. However, they are not beneficial to condo Owners. Condo renter's have many more rights than an Owner of a condo. ACT 09-225 has created several acceptable ammendments to the CIOA laws, but not to the benefit of the Owner of a condo. If the CIOA laws, after numerous ammendments toward an Owners' benefit, were applied to all Condo complexs in the State – in other words, a general standard of laws, this would eliminate much confusion of individual Declaration and By-Laws of an individual complex. Over the last year and a half, our Board of Directors (BoD) has been flipping between the two (2) sets of laws to suit their needs, regarding matters that require a vote. Our BoD has implemented, at the last minute, one

of the two (2) laws which will give them the result they want in a vote. More over, they are picking and choosing specific sections of either CIOA or our By-Laws, (a specific context of an individual section), to suit their desired outcome, with complete disregard to the entire context of the law. We have a small group (20 or so), who, for the last 5 months, have been studing the laws, attending monthly meetings, asking the same questions, of our BoD, at every meeting, trying to get answers, to the same financial questions -- to no avail -- we have become the "watch dogs". Something has to be done! In these economic times, Owners' have to regain some sort of control, we have to have some sort of recourse over our BoD, without paying for lawyers -- at our own expense. We, the Owners, need help. If an Office of an Ombudsman were created, this would be a great start and most importantly could be the "negotiator" we desperately need. If I can be of any help to the CCOC, please feel free to contact me. -- Jan Morgan"
Respondent# 10054908

"All information concerning the association should be provided to the homeowners, not just made available. Board members should not be allowed to spend any money on behalf of the association, especially without knowledge of the full board. Three bids should be mandatory for any project. Homeowners need to be able to discuss their personal issues during the meeting (i.e., problems with service or no service; problems with the way they are treated). The President should not be in receipt of all proxies - the votes should be counted by independent homeowners. Association records should be stored at the management company not the home of the President. The Board, not the president, should make all decisions. Service contracts should always got out for bid (maintenance, snow removal). I pay association dues - I expect to know how that money is being spent. I want to see copies of bills paid. I would like to see confirmation from the property manager that the jobs were inspected and completed before payment is made to a contractor. The whole property should be provided consistent care and maintenance, not just the front of the complex where the President lives. Homeowners should not be belittled and frightened into voting a certain way because the president is overbearing. All homeowners should be treated equally and all bylaws should be enforced equally. I'm very unhappy with the way the Oak Grove Farms Board of Directors behave."
Respondent# 10071913

"Owners at Water's Edge rights are being violated and they are in breach of our agreement. They have implemented an illegal process and banned CT owners from using the beach and pool area every summer unless you call days ahead and are accepted on a list to have access. When we purchased and entered into a contract with Water's Edge it was clearly stated that we would have use of the entire facility all year long. Water's Edge keeps expanding and cannot keep up and have oversold. There greed for financial gain has caused them to breach their agreement. We have been denied our rights and the only recourse we have is if the legistlature does something or we file a class action lawsuit which is against our own interests due to the cost. We are very discontented. We need the Attorney Generals office to have some jurisdiction in this area and have rights and an Ombudsman. ISSUES: BY LAWS This was not followed because in the by-laws Vol. 123, Page 584 TB-4 in Membership Rights and Privileges Section 3.2 It states that Time Share Rules. The Board may establish Time Share Rules governing the use of the Units, their Allocated Interest in the Time Share Facilities, and other elements on the Time Share Regime as it, in its sole discretion, deems appropriate so long only as such Time Share Rules do not materially abridge the rights of members set forth in the Time Share Declaration. Our right to the Common Elements is state law and also in our deeds. This is what DCP is also saying. DECLARATIONS This was not

followed because in the Declarations Vol. 106 Page 578 A-1, A-29, A-30 in Section 18.4 Consent Required. (By us voting) A material provision includes but is not limited to, any provision affecting: (vi). Rights to use Common elements and Limited Common Elements. It says rights to use not privilege to use as Claudio stated. Chapter 828 Common Interest Community State Law WE ARE THE OWNERS OF THE Common Interest Community called Waters Edge Resort and because of this we have an undivided interest in the Common Elements it is on our deeds as well. (8) "Condominium" means a common interest community in which portions of the real property are designated for separate ownership and the remainder of the real property is designated for common ownership solely by the owners of those portions. A common interest community is not a condominium unless the undivided interests in the common elements are vested in the unit owners. We are a Common Interest Community under Condominium Law." **Respondent# 10073323**

"#1. thank you for your time and concern doing this survey, and any other work you are doing.it is truly needed. #2. from my survey, you may ask the question, how do you operate otis ? well we do get along from fuss/verbal fighting, anger, dislike, BUT most of all PRAYER. #3.the wrong things done with condominium, is what being allowed. those of us involved especially as owners had nothing to do with what is organized for this type of home living. we simply wanted something nice, not the problem. problem would not be so bad if we could change for the good and use our problem as HELP to make things better for the future and the Love for each other. this way others would want to run to the beauty we have. instead we want to run from the problem. well i have been blessed to live at westgreen condo since 1984 and i have no desire to move. i accept what is available and ask: LET ME HELP MAKE IT ALL BETTER.. from otis cox, again thank you" **Respondent# 10076874**

"OUR CONDO LAWYER HAS RUNG UP OVER $40,000 in LEGAL FEES for consulting !!!!! or as I put it our President wants him at meetings to act as his consilegere Our condo association has a file in with the AG office but at this time there is no jurisdiction or $$ allocted for this . . so we at this time continue to have a cherry picking of rules and regulations I am going on 3 years and 3 months for a repair matter" **Respondent# 10114182**

"Board Members must be reminded that they represent the wants and needs of the condominium owners, and that they are not elected to that position to do what they think the unit owners should or should not have. There should be more communication between the Board and the unit owners. The Board Members need to stop treating the unit owners as the serfs and they need to stop acting as the nobels. The Boards Members seem to feel they have unlimited power, and forget that they were voted into their positions to represent the unit owners. David R. Lamp Sr." **Respondent# 10122204**

"I think this coalition is a great idea and want to see more transparency in condo laws to prevent abuse by association board members and management companies." **Respondent# 10139852**

Additional Comments Re: Condo / HOA Living Experiences:

Question: What is the worst experience you have had with your board of directors, management company, or self-managed community?

"The Board of Directors has One individual serving as Treasurer and Vice President, and Sometimes a President. While it is not a conflict with the Bylaws (pre 1984) I view it as a conflict of interest. Some of the Board memebers have their own agenda and use their power to impose penalties on certain owneres they do not like. Some residents have retained lawyers to counter the action of the board at their own expense. The current president spends most of his time in Florida. He is effective, but when he is away, the other board members run loose with their agenda. It is like high school. There are fire saftey issues that were cited by the local fire marshal after a fire, and ignored even though they posed a physical risk to owners and residents here." **Respondent# 9969780**

"We have been fighting with them over a water damage issue for over 6.5 years! We are now in suit over ice & snow damages & rot caused by thier gross ineptitude. AS a result, I was I Channel 3 I Team Investigation." **Respondent# 9969879**

"Bullying and harassment by board members at meetings, in newsletters and in testimony to the CGA Judiciary Committee. Lack of feedback on service requests. Many outstanding for years." **Respondent# 9970784**

"We had gross mismanagement a few years ago and when the Board refused to resign, a lawsuit was initiated. The Board then resigned and a new Board was elected." **Respondent# 0970966**

"I have had a number of terrible incidences dealing with the "Board" here. The worst I would say started when my concrete staircases were damaged by the cold weather last year (Jan.)and they cracked and later both handrails broke off from the cement. I called our City Building Dept. and they said they were considered unsafe. Well prior to our annual meeting, on the suggestion of an atty., I suggested they put repair of staircases on the agenda -- other units had similar breakage. Annual meeting came -- I was called a bully and many other nasty things to the point of harrassment. A couple of the women have physcological issues and this whole thing got blown out of proportion with me being the bad guy and I never was rude. I called an atty./AG's office and they said they could not help me. I dealt with not only having very unstable front stairs when no one visiting could use them (disabled friends of course could not visit) and the whole community turned against me as I spoke up and a few bad apples have slandered me that it is such a hositle environment for me here. Nearly 10 months later they asked for $1,000 from all units for some repairs and as it turned out the stairs were finally repaired. I have to deal with the Board getting work completed on their own units at their every whim while mine and another that are in the worst shape get neglected. It is if they are crooked and should be held accountable for repairs to their own units while other units need upkeep to. No one speaks to me on the Board and they are mean and nasty so I am left without being able to have a dialog with them." **Respondent# 9971522**

"As a member of the board five years ago, there were three of the five B/D members voting in a block acording to a singel members direction. Both the unit owners and the management company allowed this to continue for up to six years. The problem was that the three would not listed to a few unit owners on the need for an adaquate 'Reserve' fund to be maintained. The B/D had their fingers in reserve funds for operational uses.

Communications were few and far between between the mgt. co./ B/D and unit owners." **Respondent# 9971905**

"No response from Management Company on issues. Property Manager not responding to requests to review financials. Board Members (I am one) don't know the laws that must be complied with. President of the Board seems to be the only one Management Company listens to. There is no TRUE election. President of Board submits a list of Board Members saying the board recommends the slate when in fact no discussion was ever had. This year (2011), no Association Meeting or 2nd Board Meeting was held even after numerous requests to Property Manager to set them up. President of Board refers ALL matters to property manager." **Respondent# 9972036**

"They board president blocked and boarded up my basement dehumidifier drainage hole without my knowledge while I was out of town, then collected $4,200 in insurance money without my knowledge and kept it while doing absolutely nothing to repair the damage from the flooding they casued to my basement. It has been a year and a half and I'm on my third attorney trying to get help and the get the insurance money." **Respondent# 9972216**

"Never getting answers....Have been trying to find out who has copies of our keys here and get four diff answers. I am not the only one here who has had items stolen from their unit. I have complained that we could all get sued if a kid drowns in the nearby pond....assoc president denied that 3 yrs ago, but then a new insurance company told me I was right. I tried to make my place warmer as we are all electric (have these dumb heatpumps useless in new england winters) and so I attempted to put external insulation on my outer foundation as I should have had the right to save on electric bills. I asked if I had to choose between hearing or eating, but they weren't going to allow me to cut electric by 1/3 with insulation. I contacted the AG 3 years ago about this and he said he was sorry he couldn't help out and that he had planned on forming a new condo/govt commission, but state funds didn't allow it at that time. He also told me that CT was rife with condo problems galore, but couldn't help. A hugh red flag for me was being asked 3 years ago by previous assoc prez if I wanted to be on the budget committee, as I asked many questions about OUR MONIES...her reply to me was thus...'OKAY YOU CAN BE ON THE BUDGET COMMITTEE BUT YOU CAN'T ASK ANY QUESTIONS ABOUT THE MONIES"!!!!! LIKE WTH!...I feel like I'm living in china with so many red flags blowing in the breezes here...talk about what appears to be corruption and lack of transparency or accountability!! There are far too many things I can list as my worst experiences here and time does not allow...using us/the new condo owners as the pillars to pay for the old crappy bldgs so that we have no permanent reserves anymore gets my goat! The older bldgs were ignored/mismanaged for 25 years and we are taking the hit!! A local realtor told me she would never bring clients here for all the problems, so trying to sell a unit is not the easiest thing to do.-list goes on." **Respondent# 9973283**

"It took almost 10 months to resolve an issue related to a previous leak which occurred before I purchased. The management company and BOD engaged a contractor without the proper permits in place. Work was NOT completed in a timely manner, and neither the management company or BOD were sensitive to the fact that I had not been able to reside in my unit for those 10 months since the shower could not be used. There were multiple fire code violations in the boiler room which is under my unit that are still in some state of correction. I've been threatened by the chairman of the BOD since with no

permits properly on file, the building inspector became involved." **Respondent# 9975491**

"As I noted before we do not have a board of directors. Missing gutters, rotten soffits, pot holes in parking lot, defective outdoor lighting,rusted leaking cellar bulkheads, water in basements, Squrrils and birds living in at least one attic. Association president (self appointed) owns 14 units and "runs" the property as he wishes.He owns (and rents out) the majority {51%} of condo units here and DOES NOT PAY ANY CONDO FEES on any of his 14 condos. The list goes on. The FIRE MARSHALL and BUILDING INSPECTOR have made inspections here and ordered repairs be made. Our "president" has not made good on his written agreement with those authorities." **Respondent# 9976642**

"The first few months after I purchased my Townhouse, I found out I was lied to on "Disclosures." There was no packet of future projects, maintenance, financial records or that a major septic project was going in. I was given an estimate for $30,000. on the septic and the total was over $110,000. When I confronted the President about this, she told me she was fully aware the seller (Condo Board Member)had lied. "How else do you think we could we sell these units?" It turned out there were about 6 new owners that were lied to. Two other new owners and I documented everything and sent it to then AG Blumenthal. Unfortunately, as much as lying on "disclosures' is illegal, there is nothing within the system to catch and punish the seller." **Respondent# 9976684**

"They have accused my husband and I of things that they do not have any proof of just because the treasurer keeps calling them telling them lies. They will never ask us the manager of the company was calling constantly and emailing constantly with accusations and threats. We stopped any communication with her because of the hostility. The treasurer has yelled outside our door on numerous occasions saying that the condo association which is her and the president are going to be making a lot of money off of us. The management company basically works for he two of them. They are horrible and do not follow the bylaws. We are the only ones that actually gave the a copy of the bylaws and declaration to the bylaws no one else did not even the President. They basically follow what the treasurer and President want them to out of the bylaws the rest does not matter." **Respondent# 9982025**

"Other than at the annual meeting, the board has been uncooperative when asked to provide specifics concerning expenses like copies of paid invoices. We have never been allowed access to records we are legally entitled to see. You are labeled as a troublemaker if you seriously question anything that the board does. Most of the owners are afraid to confront matters because we are a small community and people are afraid of the backlash. I would also like to add that this is a 55 and over community. A lot of owners are elderly and/or have serious health issues and do not have the energy to take this on themselves." **Respondent# 9990680**

"The residents, including myself, called the Management Group (CMG)when we began to have ice damming issues last winter and were told that there was nothing that could be done until the ice melted. People had begun to have major leaks in their homes and by the time it was wide-spread and too late, the management co then brought repair folks in to start taking ice off the roofs. They sent someone to give estimates on individual's damage and he got paid $75 per unit that he assessed. He had an affiliation with CMG. His estiamtes were off and nobody wanted to use him. The story goes on but suffice it to say this was not handled well by the board or CMG and we now have to

replace our reserve and had to pay an assessment with not even one month's notice. We complained to the board and told them that we need to fire CMG and that we feel their negligence caused some of the extreme damage and maybe we should hold them partially finacially responsible and that they can put a claim in through their own insurance company for that, but it fell on deaf ears. It's a big mess and now that we have to replenish our reserve, it is really affecting resale ability for unit owners who want to get out." **Respondent# 10015909**

"As a board member, I saw my board neglect to take on its responsibilities outlined in the by-laws frequently. Specifically, the board fails to make maintenance repairs to common areas. For example, one owner had a leaking basement due to a crack and the board spent over a year fighting the owner over who was responsible for the repairs. In another example, the board only agreed to fix damage due to my appartment caused by a leaking gutter (i.e. board neglegance) when I paid a house inspector to put in writing that the leaky gutter caused the damage. Also, the board took three years to get a reserve study and make a long term projects plan. Finally, to my knowledge, the board has no regular maintenance schedule. We have no property manager to take care of this. Basically, repairs come only when owners request them (in writing no less)." **Respondent# 10016054**

"During 2007 and 2008 our Association had a board of directors that closed meetings to owners, banned owners from speaking at the annual meeting, overspent the ratified budget by $45,000 in 20 months without owner input, did not produce accurate financial reports, created multiple versions of meeting minutes, allowed the President to record the meeting minutes, destroyed Association records, do I need to continue??" **Respondent# 10017193**

"1) Not getting enough heat in my Condo 2) Ignoring complaints with regard to repairs that the Association is responsible for.. 3) Being lied to. 4) Association not following up on responsibilities that are supposed to be handled by the Association. 5) Not being fair with home owners. 6) Giving preference to Board Memebers who are on the Board for selffish reasons to get their own condos repaired. 7) Abusing Executive Session. 8) Not holding fair elections and writing phony ballots. 9) Not being friendly or Welcoming to homeowners at Meetings 10) Making financial decisions without homeowners present. 11) Making the wrong decisions with contractors. and wasting money. 12) FOR YEARS...Lying about problems in the complex. 13) Making people suffer with problems in their units for years. 14) Electing the same board members for over 20 + years. 15) Blantant DISRESPECT for homeowners rights and presence." **Respondent# 10018573**

"Last Jan. 28 emergency calls were made about water pouring down my walls my concerns and desperate PLEAS were either ignored or dismissed for 5 weeks I had to get the Town Officials involved to get action taken.I had no way out or in my home for a full week due to frozen sheets of ice on the outside and inside of the door. My hell went on for 9 months and now a full year later I still have problems.These poor decisions caused over $30,000.00 in damage and $16,000.00 came out of my pocket. TOTALLY UNACCEPTABLE.I was treated and spoken to abusively and sexual harrassement by words or actions took place" **Respindent# 10018599**

"The worst experience withing the last six months was a vote to increase fees. The greatest number of votes cast by the unit owners did not want an increase at this time. However, the board stated that 51% of the unit owners had to vote not to increase fees

in order for the increase not to become effective. Our fees were increased in the fall and again January 1, 2012." **Respondent# 10019369**

"Basement Flooding for over 20 years due to leak in water-sewer pipe and foundation erosion. The problem was ignored even when an architect report,engineer report recommended digging up the foundation. The mold grew into my basement ceiling that I had to hire an attorney to protect my investment! I won, but at what cost! I even spoke to Senator Duff at his Real Estate Office.He was sorry that The Ombudsman was not passed." **Respondent#10020701**

"They don't respond to written communication regarding repairs, and requests They mailed letters to the unit disclosing that they did a forensic audit and investiaged discrepancies. They (the acutal letter came from the associations attorney) demanded reimbursement of thousands of dollars. Their claims were undocumented and the facts were incorrect. Currently this issue has landed in court, claiming I owe the association 3,450.00. Since I was a board memeber while the alleged discrepencies occured, the D & O insurance company is defending me in the case. In addition, they sued themselves for a second time, placing a claim with the fidelity insurance policy claiming dishonest or fraudulent acts. This claim is being investigated by the insurance company's CPA firm. This board is spiteful, unfair and is playing out a vendetta against me as a unit owner. My unit leaks has not been repaired, letter have been ignored. They are irresponsible spending thousand of dollars in legal fees in this claim, which I contend is not due to them. The attorney and the board has used terms embezzelment, insurance fraud and theft when calling a notice and hearing of the board in an open meeting, not executive session. I am a accountant, business owner and have a reputation as stake. There have been many more incidents." **Respondent# 10027369**

"We have had essentially the same group reunning our board for many years. Oners have little to say. Board menberts collect proxioes and manage elections. Opposition by tenants and owners is met with personal abuse and disfavor. They claim that they are the only ones knowledgeable enough to run things. They hire lattorneys who act as advocates to discourage property owners who differ from them. In my opinion they waste money. A CPA has stated that their accounting is inadequate. Things are so confused that property owners do not know where to start." **Respondent# 10031717**

"1. The Board of Directors persuaded a board member who had announced he was leaving the Board since he had moved to NYC (but still had rental property here) to remain on the Board so they could later appoint someone -- rather than my being elected. 2. A member of the Board tossed my pair of teak Adirondack chairs and ottomans into the recycle heap because the garage attendant had left them near his parking spot. My name was on them, along with a request to "Please do not remove." The next day, the super unknowingly threw one set into the garbage and the City of Hartford carted away my chair and ottoman, at a $500 replacement cost to me." **Respondent# 10052033**

"Being placed into foreclosure while out of state tending to my elderly mother who had suffered a stroke. Ultimately -- it cost me $40,000.00+ to retain my mortgage-free property which I have owned for 35 yrs." **Respondent# 10068975**

"4 MONTHS TO ADEQUATELY REPLACE ROTTEN CLAPBOARDS,SEVERAL MONTHS FOR LEAKING ROOF TO BE PROPERLY REPAIRED.PROPERTY

MANAGEMENT CO. SENT OUT INEXPERIENCED WORKERS UNTIL WE COMPLAINED ENOUGH TO GET A MORE EXPERIENCED CREW TO FIX PROBLEMS.NOBODY TAKING RESPONSIBILITY TO CHECK QUALITY OF WORK DONE.ASSOCIATION TELLS US THIS MANAGEMENT CO. HAS "SERVED US WELL OVER THE YEARS" WE BOUGHT THIS CONDO 20 MONTHS AGO,AND THIS IS NOT OUR EXPERIENCE." **Respondent# 10090051**

In January 2012, the Connecticut Condo Owners Coalition (CCOC) conducted an online survey of hundreds of Connecticut condo owners to obtain their views on the state of condo governance in their community associations and the effectiveness of existing condo laws. There were multiple choice questions, as well as areas for respondents to further explain their views.

Over 300 condo owners statewide, both CCOC members and non-members, responded to the survey. The CCOC members who responded reside in 170 homeowner associations in 78 towns and cities across our state. When the respondents' data is extrapolated, this sampling of condo owners represents the view of thousands of unit owners who are either afraid to speak up or in many cases, have given up voicing their concerns because they get little assistance from state agencies. CCOC heard from hundreds who want to see improvement in condo governance and enforcement of state laws.

Harvard Business School researcher Peter Blackshaw, MBA '95, who co-developed PlanetFeedback.com, a website where consumers can complain, compliment, question, suggest, and view ratings on different companies, stated, "We know from research that only 1 consumer in 25 will take the time to write or call to complain or compliment a company. Those other 24 opportunities are going to waste." (http://hbswk.hbs.edu/archive/2076.html).

Furthermore, according to studies done by the TARP Worldwide, one of the world's premier customer experience agencies, for every irritated customer who complains, 26 do not, even though they have grievances. That means that if a company receives 10 customer complaints, there are probably 260 customers out there who have complaints but don't voice them...at least not to the company. The reality is you probably don't know how many dissatisfied customers you have because many dissatisfied customers do not complain
(http://www.rctaylor.com/Images/The_Price_of_a_Dissatisified_Customer.pdf).

Therefore, CCOC concludes that it is likely that approximately 7,700 unit owners or more in Connecticut feel the same as the few hundred survey respondents, but did not speak up. This is likely the tip of the Iceberg.

"The Connecticut legislature needs to recognize that community association boards are volunteers, that they are elected from among unit owners, so it is imperative to set up an enforcement regimen that recognizes you're dealing with novices, not MBA"s. I feel Connecticut can make education the basis of a three-strikes-and-you're-out policy. First, it sends letters to boards advising them of their errors. If boards commit the same violations twice within one year, they get warning letters from DCP. The third strike is a fine from DCP. We need to first close the loopholes in existing condo laws and make laws enforceable," stated Linda Palermo, a concerned condo owner from Stratford.

The following represents a qualitative portion of the survey as indicated by the survey respondents:

97% of owners responded that they would you like to see the Department of Consumer Protection publish a Rights and Responsibilities pamphlet with regard to condo living and have it published on the DCP website. This could address new condo owners, existing condo owners, as well as board member and property manager responsibilities.

94% of respondents would like governing documents, including the association's declaration, bylaws, rules, third-party contracts in effect, and last annual report filed with the Secretary of State, provided to unit owners.

94% of owners responded that associations do no presently distribute list of service requests made by owners to owners at meetings, by mail, or online.

93% of owners would like records of the minutes and votes at all board, committee, and owner meetings, decisions on unit owners' architectural and design applications, and all ballots and proxies going back one year to unit owners made available to them online.

93% of home owner associations do not have an internal audit committee.

92% of unit owners feel the Department of Consumer Protection be given some jurisdiction to address condo owner issues, besides property manager issues.

92% of respondents feel property managers should be state licensed with ongoing continuing education, and fines and penalties for those found guilty of misconduct.

91% of respondents feel condo owner complaints to the state agencies be logged and published on their websites for greater transparency and awareness of issues

90% of homeowners feel a state agency should distribute a condo owner bill of rights to all associations, who shall present it to their unit owners

90% of respondents favor the establishment of an Office of Condominium Ombudsman

89% of homeowners who responded feel Associations should segregate funds so there is visibility to funds available for special projects (called fund accounting). This goes along with 88% of respondents feeling they would you like to see the operating fund, reserve fund, and any special projects be kept segregated and each reported separately monthly.

88% feel the State of Connecticut be required to enforce existing condo laws.

88% feel more detailed financial records, including all expenditures and receipts, budget and reserve funds, assessment delinquencies and collection actions, the last three years of financial statements, tax returns, and the checkbook register should be available upon request of unit owners.

86% reported that their associations do not annually provide unit owners with a copy of the association's master insurance policy and a statement of homeowner liability.

86% of owners indicated board does not solicit feedback from owners on matters affecting them.

85% would like contact information such as the names and addresses of all unit owners, board members, and property managers, as well as ownership interest be provided to owners annually, semi-annually or as needed due to turnover.

85% of associations conduct boards conduct meetings without using Robert's Rules of Order."

85% of homeowners feel when a vote is to be called the association should be mandated to mail absentee ballots, along with meeting notices, to all unit owners.

84% of respondents would like to see good communications within their associations.

84% reported that their associations do not give unit owners the opportunity to meet with the master policy insurance agent at least once per year.

84% of owners feel their board of directors treat owners unfairly and unequally.

84% of associations have not shared with its members a list of Board member rights and responsibilities.

84% feel there should be state condo law establishing mandatory competitive bidding procedures, requiring a minimum of three qualified bids, as well as owner approval, for all projects $5,000 or higher.

84% feel the Attorney General's Office should investigate allegations of illegal association activity, authorizing the Secretary of State to withhold association incorporation until such investigation is complete.

84% feel owners should be given some copies of documents and some inspection time free of charge.

84% of associations do not notify unit owners that by state law it may conduct meetings by teleconferencing or video conferencing.

83% of homeowners feel the legislature should mandate that all home owner associations hold at least one condo law education session per year, which shall be open to all unit owners.

81% of respondents feel property managers treat owners unfairly and unequally.

80% of homeowners report that the process of making an insurance claim against the association is not communicated to owners.

80% of homeowner associations hold annual elections.

80% of unit owners feel their association leadership does not promptly reply to owner inquiries

80% of respondents are either very dissatisfied or somewhat dissatisfied with the performance of their board of directors, while 17% are very satisfied or somewhat satisfied with the performance of their board of directors.

79% of respondents report that all unit owners do not have the right to attend and speak freely at all association meetings.

79% of respondents presently do not see their current financial statements each month.

79% of unit owners feel there should be a state mandated election procedure for all condo associations to follow.

79% of respondents feel the Connecticut Commission on Human Rights and Opportunities be given jurisdiction over matters involving elderly and disabled citizens who report matters involving condo or property manager misconduct.

79% feel owners be permitted by state law to speak at the beginning of board meetings for up 10 minutes each.

78% would like to see the board encourage owner participation on committees.

78% support mandatory Alternative Dispute Resolution and a standard set of rules established by the legislature.

78% of associations do not use an independent auditor once per year.

77% of those who filed complaints with state agencies or legislators were not happy with the outcome; 66% were not resolved.

75% of those with a property manager indicate that their associations do not share with its members a list of property manager responsibilities (such as what he/she can and cannot do for owners) and would like provided to owners a copy of the property manager's contract.

75% of respondents feel their property managers do not promptly reply to owner inquiries.

75% of respondents feel all meeting minutes should be given to owners in a timely manner, but are not receiving them.

73% of homeowners feel the legislature should grant Municipal Housing Authorities, local health inspectors and local building departments jurisdiction to rule on unresolved condo matters without owners having to go to court.

70% of owners feel the elections process is not handled fairly.

68% of owners feel they are not given adequate time to speak uninterrupted at meetings.

68% of home owners know the difference between the Declaration, Bylaws, and Rules and Regulations.

67% of the time association election or vote ballots and/or proxies are counted by non-neutral parties, such as board members and/or property managers not independent/neutral parties.

64% of respondents indicated they would like to see a state mandated six-year term limit for all association board members.

64% of associations are managed by a property manager and 25% are self-managed.

64% of unit owners feel the financial reports received from their association is not easy to understand.

63% of associations do not send owners notices and keep files in an electronic format for easy owner access.

63% of unit owners feel there should be a mandated municipal condo refuse rebate given to associations who are not eligible to receive municipal refuse collection services.

63% of homeowners are either very dissatisfied or somewhat dissatisfied with the performance of their outside management company, while 16% are very satisfied or somewhat satisfied with the performance of their outside management company.

61% of respondents would like owners to be provided with financial statements at board / annual meetings.

61% of respondents feel that all homeowners associations should operate under the same state laws, eliminating the need for bylaws.

60% of homeowners feel the Secretary of State's Office should mandate town tax assessors to would provide a list of state condo owners to its office annually.

57% of unit owners feel there is unclear language in the law that results in costly lawsuits for unit owners that should be changed.

56% of respondents indicated that their boards do not give unit owners board, annual, or unit owner special meeting notices and agendas at least 10 days in advance, and make extra copies of all materials to be considered by the Board available to owners at meetings.

53% of associations hold regular open board meetings.

51% of associations have not shared with its members a list of owner rights and responsibilities.

49% of respondents reported that the nature of their complaint to state agencies consisted of Association/Board member versus owner disputes, 25% property manager versus owner disputes, 4% owner versus owner disputes, and 21% concerns illegal activity.

44% of owners would like the previous year's minutes presented at annual meetings for owner review/questions.

42% of associations hold regular open meetings to conduct routine business.

Of those who contacted state agencies for assistance, 27% contacted the Attorney General's Office and 18% contacted the Dept of Consumer Protection, while 9% contacted their legislators, 7% contacted their municipal health department, sand 6% contacted their local municipal building department

Of those who contacted state agencies for assistance, 32% made contact by phone, 28% by email and 25% by letter.

31% of homeowners feel their Board of Directors does not follow their declarations, bylaws, and state laws established to resolve problems when issues are covered by these documents.

29% of respondents initiated a lawsuit or hiring an attorney to attempt to resolve condo disputes. 24% attempted administrative remedies.

28% of unit owners would like the opportunity to vote on new association rules, or changes to existing rules proposed by board members.

13% of unit owners would like to see voting on issues by referendum – that is, without having to have a meeting

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MINUTEMAN NEWS CENTER

Police Log (Fairfield, CT)

Published: Wednesday, December 28, 2011

Condo insurance fraud

Kerry O'Sulllivan, 52, of Burr Street in Fairfield, has been charged with larceny in the second degree after he failed to maintain condominium insurance on two units that he managed on Brentwood Avenue. One unit became uninhabitable after a fire in May. Despite repeated requests from the owner and his insurance company, Metropolitan Life, O'Sullivan could not come up with the master insurance policy for all the units. The Fairfield Detective bureau found that the unit owners had paid all their common charges including amounts that should have gone for the insurance policy, but O'Sullivan had let the policies lapse, despite notices from the insurance company. O'Sullivan also failed to hold meetings of the condominium owners, despite requests. O'Sullivan told police that he didn't charge unit owners for the lapsed policy, but they had receipts, showing that they did pay and they said they had no idea that the policy had lapsed. O'Sullivan was released on a promise to appear in court on Jan. 3.

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Feb 9, 2012

Dear State Legislators:

Re: Connecticut Condo Ownership

When we learned that you were looking into the pitfalls of CT condo ownership, I decided to submit herewith, for your consideration, information regarding some of the issues we experienced owning a condo in Thompson Hills West Condominiums, N. Grosvenordale, CT. with our condo association. Enumerated below are some of these issues:

1. Jeopardy of Home Owners Property

   a. OSHA Safety issues with power washing crews walking on sloped roofs without any safety equipment and when BOD was notified they dismissed the issue and told us to mind our own business, "We have insurance."
   b. OSHA executive contacted and was very concerned with violations. Submitted report to BOD without any action taken.

2. By-Laws Infractions

   a. No audits although required and requested
   b. Hiring of unlicensed CT contactors (Friends of BOD and Management Co)
   c. No bidding for services (Friends of BOD and Management Co hired) 3 bids were required
   d. Preferential treatment for BOD and Friends for services at cost to other homeowners.
   e. No reserve accounts for maintenance; siding, roofing and roads... resulted in an assessment of $1700 after the snow damages in Jan-Feb of 2011
   f. Association expenditures not approved by home owners as a whole.

3. Accounting Irregularities

   a. Interest for Assessments being carried as a budgeted expense included in the monthly dues. (many of the home owners paid these assessments off, so in effect, they were being charged an additional fee.)
   b. Refused to have an audit done (See 2.a)
   c. No 'open' bidding for services; snow removal, landscaping, property management, although bids obtained by a home owner could have saved the association $14,000. Presented at Annual Meeting BOD refused to engage or review offer. Contracts were awarded to friends of BOD and property management company (See 2.c)
   d. Presented a balanced budget using all 42 units as basis, although some units were in foreclosure and delinquent in paying their monthly dues.

4. Misconduct of BOD

   a. Falsifying BOD applicant applications
   b. Not conducting meetings according to Roberts Rules of Order
   c. Inaccurate reporting via minutes of meetings
   d. Refusing to 'open' the floor for nominations to committee's or BOD (See 4.b) BOD selected friends to serve.
   e. Refusing to allow homeowner(s) to bring in professional testimony (re: 1.a, 1.b, 2.c, 3.a)

5 Remedies Taken

   a. CT Consumer Protection Agency contacted without any success for assistance.
   b. AG's offices in MA and CT contacted. CT office unresponsive to look into complaints. Considered condo associations to be 'mini-governments' exempt from any CT law.
      b1. MA AG contacted, as our property management company was from Webster, MA

Note: After BOD and management company got wind of AG's offices being contacted, the

management company promptly resigned and some board members resigned.

Summation:

Unfortunately, due to my endeavors to make the BOD accountable the the homeowners and in compliance with the associations By-Laws, we were ostracized, which finally necessitated the selling of our condo of 18yrs, for *peace of mind,* and moved out of the state. The total lack of interest by Connecticut's department of Consumer Protection and the AG's office, were disheartening. The resolve exhibited by Connecticut regarding the issues presented, convinced us to just move-on. Although we left a number of good friends behind, who were unable to move, we were compelled to move, even though we were both life long residents of CT. The move was trying and exhausting at 68 and 70 yrs of age. At that age, we are suppose to be comfortable in our home enjoying and fruits of our labors, not trying to save our home from the 'clique' of an association. And the most demoralizing fact was there was absolutely no place to turn for assistance.

Thank you for the opportunity to submit my experience. I have full documentation with pictures, e-mails, and various other documentation supporting these issues. I am currently putting these documents into a pamphlet of exhibits for Senate Pro Tem Don Williams and Representative Danny Rovero. Hopefully with forceful legislation, some type of authority, via a condo ombudsman, for governing of condo associations can be established. Too often these associations become cliques' for personal gratification. Once that happens, the integrity of the By-Laws and Covenants become moot, leaving the homeowners without representation.

Respectfully submitted,

Don & Kathy Yost
9 Gorski Avenue
Webster, MA 01570
508-943-3019
e-mail. donwhy@dialup4less.com

Former Address:
Thompson Hills West Condominiums
1 Westside Drive #5
N. Grosvenordale, CT 06255

Dept of Consumer Protection Complaints by Type

List Issue, Case Number, Business Name, Credential Number, Division, Department, City, State, Date Reviewed, Date Closed, and Resolution for Cases by Board with both Alleged and Found Issues by date received

Filtered By

Board = REAL ESTATE

09/05/2011 to 03/05/2012

3/5/2012 at 11.02·22 AM

Case Number	Alleged Issues	Respondent	Credential Number	status	case nature	City	State	Date Received	Date Closed	Resolution	Owner
2011-382	Dispute between resident and MHP, Condo Assoc, or landlord)	ADVANCE PROPERTY MANAGEMENT INC	CAM 0000 168	CLOSED	Community Association Manger	GLASTONBURY	CT	9/23/2011	9/23/2011	Lack of Jurisdiction	Terence Zehnder
2011-383	Dispute between resident and MHP, Condo Assoc, or landlord)	IMAGINEERS LLC	CAM 0000 001	CLOSED	Community Association Manger	HARTFORD	CT	9/23/2011	9/23/2011	Lack of Jurisdiction	Terence Zehnder
2011-386	Dispute between resident and MHP, Condo Assoc, or landlord)	PINC MANAGEMENT LLC		CLOSED	Community Association Manger	WATERTOWN	CT	9/29/2011	9/29/2011	Lack of Jurisdiction	Terence Zehnder
2011-390	Dispute between resident and MHP, Condo Assoc, or landlord)	NUTMEG MANAGEMENT SERVICES	CAM 0000 258	CLOSED	Community Association Manger	CHESHIRE	CT	10/7/2011	10/7/2011	Lack of Jurisdiction	Terence Zehnder
2011-409	Dispute between resident and MHP, Condo Assoc, or landlord)	G & W MANAGEMENT INC	CAM 0000 023	CLOSED	Community Association Manger	WATERTOWN	CT	10/21/2011	10/21/2011	Lack of Jurisdiction	Terence Zehnder
2011-411	Dispute between resident and MHP, Condo Assoc, or landlord)	DEBORAH J FULLER	CAM 0000 662	CLOSED	Community Association Manger	OLD LYME	CT	10/24/2011	10/24/2011	Lack of Jurisdiction	Terence Zehnder
2011-440	Dispute between resident and MHP, Condo Assoc, or landlord)	GREENBRIAR ESTATES CONDOMINIUMS LLC		CLOSED	Community Association Manger	WATERBURY	CT	12/5/2011	12/5/2011	Lack of Jurisdiction	Terence Zehnder
2011-441	Dispute between resident and MHP, Condo Assoc, or landlord)	IDEAL CONCEPTS PROPERTY MANAGEMENT LLC	CAM 0000 756	CLOSED	Community Association Manger	WATERTOWN	CT	12/5/2011	12/5/2011	Lack of Jurisdiction	Terence Zehnder
2011-442	Dispute between resident and MHP, Condo Assoc, or landlord)	PHOENIX PROPERTY MANAGEMENT LLC	CAM 0000 384	CLOSED	Community Association Manger	EAST HARTFORD	CT	12/5/2011	12/5/2011	Lack of Jurisdiction	Terence Zehnder
2011-443	Dispute between resident and MHP, Condo Assoc, or landlord)	BEDFORD TOWERS CONDO ASSOCIATION		CLOSED	Community Association Manger	STAMFORD	CT	12/5/2011	12/5/2011	Lack of Jurisdiction	Terence Zehnder

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2011-444	Dispute between resident and MHP, Condo Assoc, or landlord)	PHOENIX PROPERTY MANAGEMENT LLC	CAM 0000 384	CLOSED	Community Association Manger	EAST HARTFORD	CT	12/5/2011	12/5/2011	Lack of Jurisdiction	Terence Zehnder
2011-445	Dispute between resident and MHP, Condo Assoc, or landlord)	PRIME PROPERTY MANAGEMENT INC	CAM 0000 381	CLOSED	Community Association Manger	HAMDEN	CT	12/5/2011	12/5/2011	Lack of Jurisdiction	Terence Zehnder
2011-450	Dispute between resident and MHP, Condo Assoc, or landlord)	ATRIUM PROPERTY SERVICES INC	CAM 0000 305	CLOSED	Community Association Manger	SOUTHWICK	MA	12/21/2011	12/21/2011	Lack of Jurisdiction	Terence Zehnder
2011-451	Dispute between resident and MHP, Condo Assoc, or landlord)	CHESHIRE COUNTRY VILLAGE CONDOMINIUM		CLOSED	Community Association Manger	CHESHIRE	CT	12/21/2011	12/21/2011	Unknown	Terence Zehnder
2012-4	Dispute between resident and MHP, Condo Assoc, or landlord)	ENNIS PROPERTY MANAGEMENT INC	CAM 0000 372	CLOSED	Community Association Manger	MERIDEN	CT	1/6/2012	1/6/2012	Lack of Jurisdiction	Terence Zehnder
2012-13	Dispute between resident and MHP, Condo Assoc, or landlord)	IMAGINEERS LLC	CAM 0000 001	CLOSED	Community Association Manger	HARTFORD	CT	1/23/2012	2/6/2012	Lack of Jurisdiction	Terence Zehnder
2012-26	Dispute between resident and MHP, Condo Assoc, or landlord)	MBS PROPERTY MANAGEMENT LLC	CAM 0000 491	CLOSED	Community Association Manger	NEW HAVEN	CT	1/31/2012	2/1/2012	Insufficient Evidence	Terence Zehnder
2012-32	Fraud	STEPHEN A CACIOLI	CAM 0000 505	CLOSED	Community Association Manger	NORTH HAVEN	CT	2/8/2012	2/8/2012	Other Law Enforcement Action	Terence Zehnder
2012-36	Dispute between resident and MHP, Condo Assoc, or landlord)	STEVEN G BERG		CLOSED	Community Association Manger	SANDY HOOK	CT	2/10/2012	2/10/2012	Civil Matter	Terence Zehnder
2012-41	Failure to Maintain Proper Records	KERRY L O'SULLIVAN	NHC 0005S 71	CLOSED	Community Association Manger	FAIRFIELD	CT	2/16/2012	2/28/2012	No Action	Terence Zehnder
2011-376	Dispute between resident and MHP, Condo Assoc, or landlord)	GREENS CONDO ASSOCIATION		CLOSED	Condominium	BRANFORD	CT	9/12/2011	9/12/2011	Lack of Jurisdiction	Terence Zehnder
2011-437	Contract	M & S PAVING AND SEALING INC	HIC.057129 8	CLOSED	Condominium	SOUTH WINDSOR	CT	11/29/2011	11/29/2011	Civil Matter	Terence Zehnder

Patch

Advocates Say Condo Boards are 'Little Kingdoms' (POLL)

- By Christine Rose
- January 24, 2012

Condominium owners are mad as heck and not going to take it anymore, or so said Brian Harte, 37, of New Haven County, of the Connecticut Condominium Owners Coalition.

"There is no remedy for people who spend thousands and thousands of dollars defending situations where the property is not being maintained," Harte said, emphasizing the fact that condo owners have no recourse to take action against unscrupulous Condo Boards.

"There is a layer of politics that unit owners within these complexes face, but the boards play by whatever rules they choose to live by," Harte said. "A lot of animosities arise when people find they have no where to turn for help."

Some condo owners complain that their boards of directors and management companies ignore their complaints and CCOC is working to see that state laws that have been created to protect condo owners work as intended.

Over 250,000 people in CT live in condominium type housing and the CCOC has issued a survey which they distributed through word of mouth, telephone, mail and email, canvassing over 800 condo owners in the state of CT. The result of the survey shows that almost half of the respondents had a lot of concerns about the way their condominiums have been operated.

The survey has closed, however, the group plans to issue more surveys in the future. "We are dealing with a tight timeframe to get everything set for the legislative session and we need to keep moving forward," Harte wrote in an email after the survey had ended.

The survey closed on January 16 with a final count of 301 responses, and all counties in CT were represented. The survey included 38 questions about the way the boards are required to operate. Questions like:

- Does your board: Provide adequate meeting notices with place, time, and agenda?
- Provide previous year's minutes for owner review/questions?
- Provide owners with financial statements at board / annual meetings?

Conversations with condo owners show that in many cases, even the most basic level of expectations are not met by the board to the satisfaction of the owners.

One of the questions is, "If you are run by an outside management company how satisfied are you?" Responses showed that only 3.11 percent were very satisfied, 12.9 percent satisfied, 20.21

percent somewhat dissatisfied, and 43.5 percent very disappointed, the lowest on the scale. 22 percent answered not applicable because their condo is self managed.

The question, "How satisfied are you with the performance of your Board of Directors?" was answered, 6.1 percent, Very satisfied, 10.33 percent Satisfied, 19.72 percent were Somewhat Dissatisfied, and 61.5 percent, Very Disappointed.

"Our questions have legislative intent, taking aspects of the law, and finding if the associations are following these laws," Harte said.

"I think these condo complexes are little kingdoms that make decisions about how they feel that day," Janet Grey, condo owner in Woodbury, said. "There are rules that apply and don't on other days."

Grey said that having an ombudsman who could direct people to another agency to pursue their cause or interest would be very helpful.

Marshall Johnson owns a condo in Naugatuck and said that he has suffered retaliation through his board's actions. However, he said the board has become more responsive in the last year and a half since new legislation as passed. His concern is that many of the owners are seniors and would not feel comfortable taking a strong stand for themselves. He also complained that it was difficult to find out who did certain work.

"Some contractors did shabby work. The gutters were never hooked up they were just put into the ground. They were supposed to run out to the river," Johnson reports. "They keep coming up with assessments, but we can't vote on assessments. They just took down a tree and assessed everyone, but when we wanted to take a tree down, they wouldn't let us do it. You got no rights."

The CCOC has compiled the survey data into a proposal that has been submitted to numerous representatives, senators, and specific legislative committees that have expressed support for condo law.

The basis of the proposal calls for the Department of Consumer Protection to be responsive to complaints of condo owners whose grievances have otherwise been ignored.

"We are looking at this in different perspective. We are largely looking at property management companies that are businesses like any business. In those terms, we are paying for the services of these management companies and they are not being held responsible," Harte said. "We understand that the state is not in a position to create a whole lot of new departments or agencies, so this is the most cost efficient remedy for the state and for the owners."

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Margolis Condo Management Fined For Padding Condo Association Bills

January 2, 2012
By Ct CondoOwnersCoalition

On November 9, 2011, following a two year investigation by the State of CT Department of Consumer Protection (Docket No. 11-818, Case No. 2009-5477), Commissioner William M. Rubenstein, imposed a penalty of $8,000 on Stephen Margolis, A/K/A Margolis Management & Realty of Hamden, CT, for failing to properly notify and disclose to The Meadow's Association the inflated prices he, Mr. Margolis, was charging for "additional services other than Association Services for compensation, to an Association, The Meadows of Branford, to which he was also providing Community Association Manager Services."

In 2009, Kevin Shea, an owner at The Meadows of Branford, became aware of inflated billing for contractors' services to the condominium. "It was obvious that something was wrong, [anyone] could see that money was going out the back door." Additional/multiple assessments had been levied for four years running for major maintenance items, some of which were never completed.

Prior to 2009, The Meadows Board and their property manager were confronted by Association members [the owners] who petitioned for and scheduled a special meeting. Members requested that the assessment funds be accounted for and segregated from the regular operating budget. The Board, property manager and their attorneys refused.

Following an inspection of the Association records, Mr. Shea filed a complaint with the CT Department of Consumer Protection, which investigated the issue over a two year period. In November 2011, a settlement was made in Shea's favor, with a penalty of $8,000 imposed on Stephen Margolis.

Margolis' Assurance of Voluntary Compliance, in which he agreed to the penalty without admitting any violation, was accepted by the Commissioner with Margolis further agreeing to refrain from any business practices that can be construed as a violation of the CT Fair Business Practices Act. The Board did not pursue Margolis.

The Connecticut Condo Owners Coalition (CCOC), a grassroots organization, became aware of this case, which again confirms the need for a mediator to resolve issues between condo owners and their boards or management companies. CCOC's membership is comprised of hundreds of condo owners from 112 cities and towns statewide; it seeks a level playing field between condo owners and condo boards, and it petitions state legislators to improve and enforce existing condo laws. To join CCOC, or for more information, please email ctcondoowners@yahoo.com

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Ct Condo Fees Adopted Despite Majority Opposition

February 4, 2012

By George Gombossy

At two Connecticut condominium complexes last year the vast majority of the owners participating in the budget meetings opposed maintenance fee increases.

The increases were enacted anyway. Why?

Because a state law that requires condo associations to get approval from unit owners for annual budgets made it nearly impossible to defeat a budget at large complexes.

The state law – enacted 2009 – finally requires condo associations to permit all unit owners – not just board members – to have all necessary budget documents and then to be able to vote on annual budgets. But, the law requires that 51 percent of ALL unit owners vote against the budget to be able to reject it.

What it did in effect was to mandate that all NON-votes be automatically counted as YES votes. While that might be ok for a small complex with few units, it doesn't work well with large complexes, especially those filled with seniors. Keep in mind, senior condo complex are very popular in Connecticut and about 250,000 condo units are located in this state.

Could you imagine if a town required that more than half of ALL registered voters had to vote against the budget to be able to reject it?

Maintenance fees – just like town budgets – are a huge bone of contention in all condo complexes. There are those who believe that constantly improving their complex will raise the value of their homes, while others, especially those living on fixed incomes demand the fees be limited.

Southbury's Heritage Village

Let's look at what happened last October at Heritage Village in Southbury, the largest age-restricted condo complex in the state. The complex – for those 55 and older – has 2,580 units with an annual budget of $15 million, only slightly less than the town's $18 million budget.

The board of directors voted for a more than three percent fee increase. There was a huge turnout with 1,746 owners participating either in person or through valid proxies. Of that number 1,191 voted against the budget and 595 voted for it. But there were no votes cast from 754 units.

So under the state law, even though twice as many voted against the budget as those who voted in favor, the budget was adopted because the 754 non-votes were counted as YES votes.

"It is grotesque," Dr. Salvatore Pace, a retired physician, said of the statute. "It is counterintuitive that a failure to vote should be anything but no vote ... especially when it comes to this complex. It's not at all democratic. I know of no other instance where this occurs."

"The average age here is 75," he said in a telephone interview, explaining that many of the owners have dementia, are in hospitals, nursing homes, or living part of the year in Florida. Other units are in limbo because their owners have died while many others are owned by investors who aren't interested in voting.

"My next door neighbor will be 100" this year, Dr. Pace said. "He doesn't care what the maintenance fee is and isn't voting."

Fed Up With Fee Increases

Dr. Pace and many others living on fixed incomes do care. "I have been here for four years and the fees have increased by 16 percent," he said.

As a self-described "young dude at 69," Dr. Pace is now president of the Concerned Residents Club Of Heritage Village, which was formed in the late 1990s when a group tried to pass a 15 percent fee increase.

Last month he invited two members of the General Assembly to hear complaints from condo owners who asked that the law be changed to permit budgets to be defeated in a more democratic manner.

The size of the maintenance fee is just one of many hot button issues where many condo owners feel they have less rights than association board of directors, who sometimes run complexes to benefit themselves and their friends.

A state-wide group of volunteers called Connecticut Condo Owners Coalition is asking the General Assembly to pass legislation this year to even the playing field so that condo owners could have more rights and more voice at how their complexes are managed.

While many condo owners may not be happy with the way their board of directors run their complexes, there are few proposals that would benefit all. The needs of owners of small, medium and large complexes are sometimes different. Those in large association with professional management, and active members, have less of a need for state protection.

But many in smaller condo complexes want the state to create a condo ombudsman who could mediate disputes between boards and unit owners. Without that, a condo owner who feels victimized has to hire an attorney to fight the board and may end up paying not only for his lawyer but the condo complex's lawyer.

Dr. Pace said he is against the creation of another bureaucracy like an ombudsman because in all likelihood it would have to be funded by increasing all owners' condo fees. He is more interested in getting the condo budget law changed.

Brian Harte, a leader of the state-wide group, gives an example of why state protection and oversight is necessary.

At his complex in Beacon Falls, the board of directors pushed through a seven percent fee increase in last December, even though Harte had warned them at the budget meeting that the vote was illegal.

Having heard what had taken place at Heritage Village, Harte had done his research prior the meeting. He studied the new state law and the bylaws of his association, with 207 units. Proxy votes had been gathered from 70 unit owners opposed to the increase.

There was widespread opposition to the increase, in part because in July they had approved a $125,000 special assessment which many unit owners believed would blunt any increase in the annual budget. But when they got a peek at the proposed budget, Harte said, he was unable to make sense of the operating budget spreadsheet and items appears to be missing. The $125,000 did not appear to be fully accounted for.

At the start of the meeting the board was asked whether the budget vote would be taken under the association fuzzy by-laws or under the state statute with the requirement of a majority of no votes to defeat a budget. The 30 or so unit owners were told that state rules would govern the meeting.

In that case, Harte told the board that the meeting was illegal because not all the required financial documents had been presented to unit owners under the time frame the state law required.

The board turned to its professional manager, Tim Barth from Imagineers, one of the largest condo and apartment management companies in the state.

Harte said Barth conceded that the law wasn't followed to the letter, but told the board and the unit owners that it would be a waste to have another meeting during the holidays. The board agreed and because less than half of the unit owners voted to reject the budget it was approved.

Harte contacted me and I contacted Imagineers telling them that I was planning to write about this issue. Imagineers officials declined to respond directly to my question about why their representative encouraged an illegal vote. But the firm got a legal opinion which supported Harte's contention and a new budget meeting was conducted last month.

This time the budget had Harte's support. He said that the second time the budget had been fully explained and he was satisfied that the increase was necessary.

That incident highlights how even with a state law requiring full and timely disclosure, and a professional management service working for the board, some will skirt the rules for efficiency.

Then of course there is the issue of the required majority no vote.

"It doesn't make any sense," Harte said. "The people who show up at the meetings are the ones who care about their condo complex." They are the ones who should made decisions, not the ones who don't vote, he said.

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Ct Condo Owners Coalition Proposes Ambitious Legislative Agenda

January 24, 2012
By George Gombossy

The Connecticut Condo Owners Coalition (CCOC) is proposing major changes this year for the General Assembly, that even if partially successful could have dramatic impact for condo owners and for condo associations.

Some of the proposals have been around for years and have been defeated by legislators under pressure from representatives of condo management companies and condo associations.

The proposals include:

Department of Consumer Protection:

(1) Shall have jurisdiction to address condo owner issues;

(2) Shall mediate condo owner complaints by trying to resolve matters between owners and property managers without the parties having to go to court. Such mediation may involve volunteers to assist. Letters shall be mailed to all parties, identifying any laws which may be relevant to the complaint at hand;

(3) Shall publish a section on its website for condo owners, which shall contain: A log of condo complaints on its DCP website, including case number, date, complainant and respondent names; A Condominium-Living Rights and Responsibilities Pamphlet to include matters concerning: Prospective and existing unit owners, Homeowner associations, Property managers, Unit owner Bill of Rights, and a list of resources and contacts with descriptions of 100 words or less provided by condo-related organizations;

(4) Shall publish an online survey of condo owners similar to Ministry of Consumer Affairs, Province of Ontario, Canada model, http://www.montekwinter.com/pdf/7.pdf and http://condobusiness.ca/OntarioGovernmentCondoOwnersSurvey.aspx;

(5) Shall publish '10 Things to Know about Condo Living,' using the Chicago Condo Resource model, http://www.chicagocondoresource.com/condo-living/before-you-buy/110-10-things-to-know-about-condo-living. [Perhaps the State of Connecticut can obtain permission to pick up some of the material existing on these websites at little to no cost],

(6) Shall post cases involving community association manager misconduct, including case number, date, nature of misconduct and disposition, including fines or other decisions;

(7) Shall be mandated to take proper action to address any illegal activity identified by a complainant within 10 business days of receipt of complaint and shall keep all parties apprised of action taken every three months;

(8) Shall establish a first level, informal dispute resolution process to help parties in conflict avoid legal battles, and/or an Alternative Dispute Resolution process, the options of which shall be published on the DCP website.

Attorney General's Office:

(1) Shall have jurisdiction to address condo owner issues, particularly those in which a complainant identifies alleged illegal activity;

(2) Shall mediate condo owner complaints by trying to resolve matters between owners and property managers without the parties having to go to court. Such mediation may involve impartial volunteers to assist. Letters shall be mailed to all parties, identifying any laws which may be relevant to the complaint at hand;

(3) Shall publish a link on its website directing those interested in condo matters to a section of the DCP website which shall contain information on condo ownership;

(4) Shall log and publish condo owner complaints on its website, including case number, date, complainant and respondent names, nature of illegal activity if found, and disposition, including fines and other decisions;

(5) Shall define which information and documentation, if applicable, is required from complainants to review a case;

(6) Shall provide on its website an online complaint form for association homeowners to identify items needed for full investigation.

Secretary of State:

(1) Shall establish and publish online homeowner association election procedures for all matters involving voting;

(2) Shall log and publish on its website all homeowner association documentation submitted for registration, as well as all homeowner complaints for non-compliance, including case number, date, complainant and respondent names.

Connecticut Commission on Human Rights and Opportunities:

Shall be given jurisdiction over matters involving elderly and disabled citizens who report matters involving condo or property manager misconduct.

Municipal Housing Authorities, health inspectors and building departments:

Shall have jurisdiction to rule on unresolved condo matters without owners having to go to court.

Community Association Manager:

(1) Community Association Manager statutes shall be tied into the Common Interest Ownership Act;

(2) All community association managers must be licensed and registered, participate in ongoing continuing education, and be subject to fines or other penalties when found guilty of misconduct by DCP, regardless of how they are hired and paid, or even if an association hires its own independent manager, and shall be responsible for reporting to the Dept of Consumer Protection;

(3) Managers shall not be a property owner in the association;

(4) Managers must respond in writing to all condo owner correspondence with disposition of any concerns within 10 business days;

(5) Managers shall be able to recommend and communicate proposed solutions in writing to unit owners or make routine decisions in the interest of unit owners without the need for full board approval or waiting for the next board meeting.

Homeowner Associations:

(1) When the association calls a vote of any kind, it shall mail absentee ballots to all owners. A signed and dated copy of the ballot may be delivered in person, by fax, by email, if scanned, or U.S. mail. If a meeting notice is sent to owner, the absentee ballot shall be mailed along with the notice;

(2) Owners should be given copies of documents and reasonable inspection time quarterly free of charge;

(3) Association shall post online all governing documents and financial records, including the association's declaration, bylaws, rules, third-party contracts in force, and last annual report filed with the Secretary of State, auditor's report, checkbook register, budget, reserve funds, receipts, assessment delinquencies and collections actions, legal actions, tax returns, and all contracts (including property manager's contract) and shall make available to owners free of charge; [Shall improve transparency and communication, reducing conflict]

(4) Post all association annual meeting, board meeting and committee meeting minutes, results of all votes of association, as well as service requests made to property manager online within 7 days of the activity; these shall remain online for one year; unresolved service requests shall remain online until completed. Board meetings to be held monthly to allow owners an opportunity to raise issues with board members;

(5) All ballots and elections results shall be kept on community premises and be available for review free of charge with elections committee chair or board president;

(6) Associations shall segregate funds so there is visibility of funds available for special projects (called fund accounting);

(7) Association shall provide a written statement to owners annually indicating what items are not covered by the association's insurance policy that may affect unit owners, and what insurance coverages unit owners are responsible for themselves;

(8) The association shall schedule one community meeting per year with the insurance agent to give owners an opportunity to discuss any insurance issues; association shall provide written documentation outlining how unit owners may file an insurance claim against the association;

(9) Establish mandatory competitive bidding procedures, requiring a minimum of three qualified bids, as well as owner approval, for all projects $2,500 or higher;

(10) Mandate that all homeowner associations hold at least one condo law education session per year, which shall be open to all unit owners;

(11) Annual board election results with all candidate vote counts shall be reported to the Secretary of State along with certificate renewal application and name and contact information of person(s) who verified the results;

(12) Unit owners shall have the right to address the board for up to 10 minutes both before and after any board meeting. Association shall provide a notice in writing to all owners about how to add agenda items to meeting agendas. Meeting agendas shall be published online and emailed to unit owners, as well as posted in common areas, such as the association office, clubhouse, bulletin board, and/or other common areas. Agenda for each meeting shall be published at least 7 days in advance of the meeting identifying topics to be discussed, including date, time and place of meeting. Unit owners shall be sent reminders and cancellation of board meetings as board members are notified;

(13) Mandate that associations use an independent auditor once per year; the audit shall be available online for owner review;

(14) Mandate a six-year term limit for all association board members. If seat is not contested, board member may continue for another term without limit;

(15) If a single proposed special assessment or the total of several proposed special assessments during a fiscal year will exceed 15% of the yearly budget, a unit owner meeting must be held to discuss the assessment(s) and the special assessment(s) shall be approved by 51% of the unit owners who vote in order to take effect. Notice to owners regarding such meeting along with ballot shall be mailed to all unit owners no less than 14 days in advance of meeting when special assessment will be discussed. Owners shall be allowed to review the vote count following the vote. Legislation should include that ALL special assessments and emergency assessments funds may only be spent for the purpose(s) for which they were approved by unit owners or the association board, as application; [Similar to language already in the emergency assessment aspect of the statute; just copy it to apply to all special assessments].

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Ethics and Integrity in Property Management

By Olof Nelson

As defined, among its many types of members, CAI is an Association of Professional Community Managers which inspires excellence in community management. I think all understand what a Professional Association is, but what does inspiring excellence in community management mean? To me, "excellence in community management" is a very powerful phrase only if it is backed up by ethics and integrity.

When soliciting new accounts I am sure most Community Association Managers mention the professionalism of their managers and their firm, yet the Property Management industry fights an image that is something less than professional; why is that? Ethics, integrity and duty of care are the building blocks to all that we do as Community Managers and must be incorporated into every action we perform on behalf of our clients.

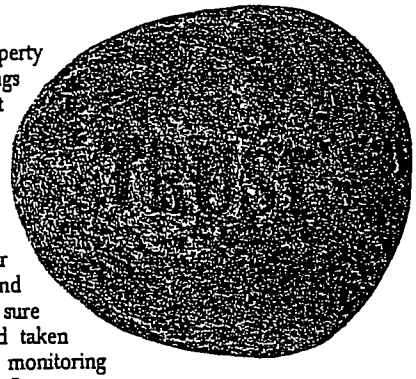
We think it is important to regularly discuss these issues. It is also advisable to include a clause in management agreements that specifically prohibit any type of payment or commission from a service provider/vendor without full disclosure and acknowledgement. Management companies have the responsibility and obligation to provide requested services at an optimum cost – that means the best service at the best price; always.

A good property management firm will care for a complex as if it is their own property and its management team will consist of proactive, enthusiastic and knowledgeable professionals. As part of the ongoing service, management companies should always evaluate ways to optimize vendor costs and services, improve cash flow, and enhance the value of the properties.

Association boards and owners rightfully expect to maximize the bang for their management buck. To that end, if a property manager was able to reduce operating costs and import the level of services, but in doing so charged a slightly higher management fee, wouldn't that additional fee be well justified? In other words, when evaluating a property management company look at the total costs for what a complex can be operated for versus looking at just the management fee line-item. Providing high-level services at the most reasonable cost will require additional management time and dedication to the property. The increase in time will cost the management company more which usually translates to a higher management fee, but if the service provided is superior and costs are optimized, the higher management fee more than pays for itself.

Editor's Note: CAI offers a vast array of educational courses for Community Association Managers leading to professional credentials. All those who obtain Community Association Manager credentials are expected to adhere to a Code of Ethics. You can find more information Professional Manager Development Program (PMDP) and the Code of Ethics by going to www.nbccam.org

Boards and Owners need to be careful of low management fees as "you usually get what you pay for." A low-ball figure may mean that the company has to take on too many properties or units per manager to cover its overhead. The result can mean that communities end up being short serviced as staff is stretched too thin. In situations like this you may see the property manager at board meetings and the holiday party, but rarely at any other time. All associations and building owners should expect their property manager to regularly inspect the property for potential safety hazards and repair issues, to make sure it is well presented and taken care of, in addition to monitoring any work in progress. Since management companies need to earn enough to cover overhead plus earn a profit, if the management fee is too low the money has to come from either too many clients or it will often and unfortunately, come from vendor relationships.



Management company alliances with service providers can prove to be valuable and highly cost-effective if ethics, integrity and duty of care to the client are upheld as the basis for those alliances and are never jeopardized.

Do situations exist where reputable vendors with lower bids are kicked out by the management company in favor of higher bids claiming that the low bidder did not return phone calls or that the language in the bid was not exactly 100% of what it should have been, or the client is told they don't do as good of a job? Do vendors who are under the umbrella of the management company seem to always win larger contract bids? Is there an opportunity for bids to be manipulated for the benefit of the management company? Transparency in the bidding process is a must and the Board or Owner should not only expect it, but they are entitled to it. If procedures and protocols are in place that ensure transparency and uphold the duty of care, then you are dealing with a property management firm of high ethics and integrity who is inspiring excellence.

When a management firm exhibits good ethics, financial issues should not be a worry. It is of utmost importance to boards and owners that they regularly receive monthly financial reports. Property managers should be eager to provide detailed monthly financial reports and if not, it should be cause for concern.

The property management company should focus on protecting and enhancing a property; smooth running operations and accountability with the highest ethics and integrity.

The question is how an association goes about finding a property management that can be trusted to do the right thing for the Association. Clearly this is easier said than done. References are given by the management companies but usually those that have only good things to say. Some associations also ask for former clients but again it is a selective process controlled by the management company. It is interesting that industry peers have a much better idea who the reliable management companies are and who to stay away from. Such information would probably be hard to get but would give you the best details. The industry also has reputable association attorneys and accountants that are well aware of what companies to stay away

from. It is probably best to rely on your own research than getting the referrals from the prospective management company. Will the management company resist strong financial controls like having a board signature on the check and contracts as well as only board signature on reserve accounts? The association should go to the office of the company and meet with all the people that will have anything to do with the financial and property management aspects of the account. This would provide a very good indication about the level of professionalism of the company. What controls are in place? Does the property manager also sign checks? That is obviously a breech in controls.

Take your time to investigate the management company to make sure it is one that you can trust. Greater focus on selecting an ethical and trustworthy company will ensure long term cost effective benefits. Basing a decision on saving a few dollars per door can turn out to be a costly mistake and has been for too many associations. ■

Olaf S Nelson is CEO of Consolidated Management Group, Inc., a property management firm specializing in condominium and commercial properties with offices in Greenwich, Westport, Orange, North Haven and South Windsor.

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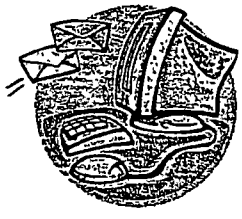

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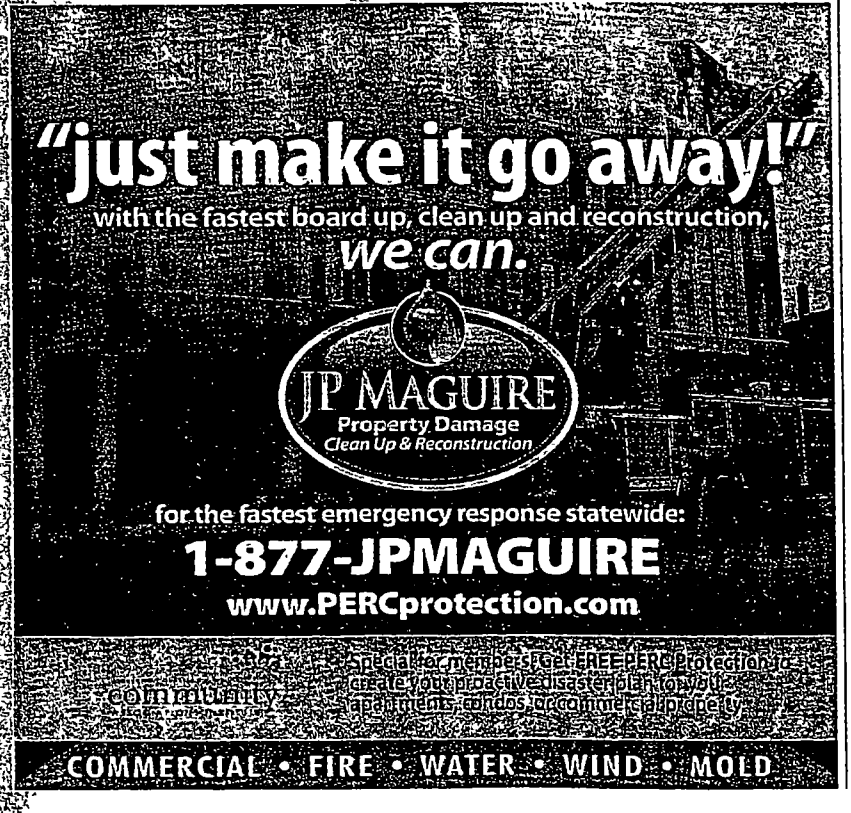

CAI MEMBERSHIP APPLICATION

CAI • Department 793 • Alexandria, VA 22334-0793
Phone: (888) 224-4321 • Fax (240) 524-2424

MEMBERSHIP CONTACT:
(Where membership materials will be sent)

Name: _____
Title: _____
Association/Co.: _____
Address: _____
City/State/Zip: _____
Phone (W) _____ (H) _____
Fax: _____
E-Mail: _____
Select your Chapter: CONNECTICUT
Recruiter Name/Co. Name: _____

TOTAL MEMBERSHIP DUES*

Community Association Leaders & Homeowners

☐ Individual Board Member or Homeowner	$114
☐ 2 Member Board	$189
☐ 3 Member Board	$264
☐ 4 Member Board	$324
☐ 5 Member Board	$374
☐ 6 Member Board	$424
☐ 7 Member Board	$474

For 2-3 Member Board application please indicate below who should also receive membership materials. Please contact customer care at (888) 224-4321 for Board memberships exceeding 3.

Name: _____
Address: _____
City/State/Zip: _____
Phone (W): _____ (H): _____
E-Mail: _____

Name: _____
Address: _____
City/State/Zip: _____
Phone (W): _____ (H): _____
E-Mail: _____

Managers	**$120**
Management Companies	**$390**
Business Partners	**$535**

☐ Accountant ☐ Attorney
☐ Builder/Developer ☐ Insurance Provider
☐ Lender ☐ Real Estate Agent
☐ Supplier (landscaping, etc.)
Please specify _____
☐ Technology Partner
Please specify _____
☐ Other - Please specify _____

Total Membership Dues above include $15 Advocacy Support Fee

PAYMENT METHOD

☐ Check Enclosed ☐ VISA ☐ MasterCard ☐ AMEX

Account #: _____ Exp. Date _____
Name on Card: _____
Signature: _____

Important Tax Information: Under the provisions of section 1070(a) of the Revenue Act passed by Congress in 1987, please note the following. Contributions or gifts to CAI are not tax-deductible as charitable contributions for federal income tax purposes. However, they may be deductible as ordinary and necessary business expenses subject to restrictions imposed as a result of association lobbying activities. CAI estimates that the non-deductible portion of your dues is 2%. For specific guidelines concerning your particular tax situation, consult a tax professional. CAI's Federal ID number is 23-7332584. $33 of annual membership dues is for your non-refundable subscription to Common Ground.

OFFICE OF THE ATTORNEY GENERAL
ANNUAL REPORT
FISCAL YEAR 2010-2011

At a Glance

GEORGE JEPSEN,
Attorney General
NORA DANNEHY,
Deputy Attorney General
Established – 1897
Statutory authority: Conn. Gen. Stat. §§3-124 to 3-131
Central Office: 55 Elm Street, Hartford, CT 06106
Average number of full-time employees: 310
Recurring General Fund operating expenses: $27,779,000
Revenues Generated: $476,913,475

Mission

Among the critical missions of this office are to represent and vigorously advocate for the interests of the state and its citizens, to ensure that state government acts within the letter and spirit of the law, to protect public resources for present and future generations, to preserve and enhance the quality of life of all our citizens, and to ensure that the rights of our most vulnerable citizens are safeguarded.

Statutory Responsibility

The Attorney General is the chief civil legal officer of the state. The Attorney General's Office serves as legal counsel to all state agencies. The Connecticut Constitution, statutes and common law authorize the Attorney General to represent the people of the State of Connecticut to protect the public interest.

REVENUE ACHIEVED BY THE OFFICE OF THE ATTORNEY GENERAL

During the 2010-2011 fiscal year, **$476,913,475** was generated by the Attorney General's Office, as described below:

A. Revenue Generated for the General Fund

Tobacco Settlement Fund Collections	$121,421,995
State Child Support Collections	38,969,358
Tax Collection	4,978,547
Health Care Fraud Recovery	70,937
Recovery for Environmental Violations	1,715,594
Consumer Protection Penalties, Costs and Forfeitures	2,567,948

Antitrust Restitution	6,377,857
Charitable Trusts/Solicitations—Civil Penalties	355,666
Department of Social Services Collections	4,540,021
Global Civil Settlements	46,262,332
Department of Insurance Collections	95,833
Department of Banking Penalties	254
Tobacco Assurance Voluntary Compliance	2,440
Department of Administrative Services Collections	5,991,000
Antitrust Fees, Costs & Civil Penalties	16,618
Miscellaneous Collections	1,528,047
Total Revenue Generated for General Fund	**$237,828,510**

B. Revenue Generated for Special Funds

John Dempsey Hospital	$211,317
Second Injury Fund	275,460
Department of Consumer Protection (Educ. Fund)	5,500
Workers' Comp re State Employees	882,855
Unpaid Wage and Unemployment Tax	567,360
Department of Social Services IV-D Liens	212,474
SEP's	81,250
Financial Assurance Account	720,852
CT Environmental Benefit Project	360,000
Restitution to Other State Agencies	3,962
Total Revenue Generated for Special Funds	**$3,321,031**

C. Revenue Awarded or Paid to Consumers and Businesses

Consumer Protection Restitution AVC & Litigation	$273,700
Consumer Protection Mortgage mediation/modification	2,500,924
State Child Support Collections for Connecticut Families	226,872,738
Charitable Funds Recovered or Preserved for Charitable Purposes	3,663,008
Consumer Restitution from Home Improvement Contractors	529,620
Antitrust Restitution	600,000
Recoveries for Environmental Projects	210,283
Rental Security Deposits Returned	28,958
Consumer Health Insurance Restitution	1,084,704
Total Revenue Generated for Consumers and Businesses	**$235,763,935**

TOTAL REVENUE ACHIEVED **$476,913,475**

PUBLIC SERVICE PROVIDED BY THE OFFICE OF THE ATTORNEY GENERAL

The Office of the Attorney General is divided into 15 departments, each designated to represent agencies which provide particular categories of service to State residents. The Attorney General also participates in the legislative process, maintains an active communication with citizens and investigates, in conjunction with the State Auditors, whistleblower complaints. The overall work completed by this office in fiscal year 2010-2011 is summarized as follows:

Court cases completed	15,946
Court cases pending	35,652
Legal documents examined	7,632
Administrative proceedings	2,467
Appeals completed	143
Appeals pending	210
Formal opinions issued	5

LEGISLATION

During the 2011 legislative session, the Attorney General proposed and supported legislation to protect consumers, homeowners, and children. Among other things, the Attorney General obtained legislative authority to enforce consumer protection provisions of the recently enacted Dodd Frank Wall Street Reform and Consumer Protection Act. As a result of this legislation, the Attorney General will now have clear authority to enforce new federal laws and regulations designed to protect consumers from unfair, deceptive or abusive mortgage or mortgage broker practices, check cashing and payday lending practices, debt collection practices, and prepaid debit card practices.

The Attorney General also supported legislation extending greater protections to condominium owners. Among other things, that legislation prohibits: (1) executive board members from accepting things of value in exchange for votes; (2) management companies or their representatives from campaigning for any person seeking election to an executive board; and (3) clauses in management service agreements that require condominium associations to indemnify for losses arising out of a management company's negligence or willful misconduct. The legislation also requires condominium associations to afford notice and hearings to unit owners prior to commencing legal action and permits unit owners to insist on such hearings as an alternative to going to court to prosecute claims against an association or board.

The Attorney General also supported and helped craft legislation strengthening school bullying laws. That legislation promotes awareness, education, and training in order to prevent bullying and its tragic consequences. It also expands the scope of schools' jurisdiction to address bullying outside of schools and makes it clear that activity conducted over the internet or cell phones, oftentimes referred to as "cyber-bullying," constitutes bullying for purposes of the state's anti-bullying laws.

The Attorney General, along with the State Auditors, also supported legislation reforming and streamlining the state's whistleblower statutes. That legislation: (1) requires state agencies to post notice of the provisions of the state's whistleblower laws in a conspicuous place that is

easily accessible to employees; (2) extends the time for whistleblowers to file complaints concerning retaliatory action as well as the period during which alleged misconduct against a whistleblower is deemed presumptively retaliatory; (3) eliminates the Attorney General's power to investigate claims of retaliation and, instead, makes clear that such claims should be filed with the CHRO and/or pursuant to the provisions of applicable collective bargaining agreements; and (4) gives the State Auditors the power to reject complaints on a number of grounds, thereby freeing them to focus their valuable resources on those claims that fall clearly within their jurisdiction and warrant further investigation.

Finally, the Attorney General, along with Office of the Child Advocate, supported and helped craft legislation that aims to prevent instances of child abuse and neglect perpetrated by public school employees. Among other things, the new law: (1) expands the categories of individuals who must report known or suspected cases of child abuse or neglect; (2) requires the Department of Children and Families ("DCF"), in consultation with the State Department of Education ("SDE"), to craft a model mandated reporter policy for local and regional school boards to use for training school personnel; (3) establishes additional steps to be followed when an alleged perpetrator is a school employee, including notification of certain school personnel and SDE; and (4) requires school boards to require applicants for positions in public schools to submit to a check of the DCF child abuse registry. This law was passed in direct response to a 2010 joint report issued by the Office of the Attorney General and the Office of Child Advocate calling for improved protections for children when allegations are made that school system personnel have abused or neglected children.

ANTITRUST AND COMPETITION ADVOCACY DEPARTMENT

The Antitrust Department's primary responsibility is to administer and enforce the Connecticut Antitrust Act. The Department has the authority to enforce major provisions of the federal antitrust laws as well. The Department also relies on other state laws, including the Connecticut Unfair Trade Practices Act, to ensure the Attorney General's overall responsibility to maintain open and competitive markets in Connecticut. Utilizing these statutes, the Department investigates and prosecutes antitrust and other competition-related actions on behalf of consumers, businesses and governmental entities. In addition, this Department provides advice and counsel on proposed legislation and various issues regarding competition policy. The Attorney General currently serves as the Chair of the Antitrust Committee of the National Association of Attorneys General and remains active within that organization.

During the past year the Department continued to build on the successes it has achieved over the last few years in industries that are vitally important to consumers. In that regard the Department has conducted investigations, commenced legal action and obtained settlements in the insurance, reinsurance, municipal bond derivatives and trash industries, among others. All told, the Department's initiatives are focused on securing restitution for injured consumers, including state agencies and programs, small businesses and individuals, and deterring anticompetitive conduct.

In this fiscal year, the Department continued its emphasis on investigating and prosecuting anticompetitive and illegal practices engaged in by insurance and reinsurance carriers and brokers. The practices at issue include bid rigging, price-fixing, steering of business

to preferred insurers in return for lucrative undisclosed compensation, and other anticompetitive and illegal behavior. Such practices have cost Connecticut citizens - - both individuals and corporations, as well as Connecticut municipalities and state agencies - - in the form of higher premiums for their insurance. The work of the Attorney General's Antitrust Department in the past year resulted in restitution to the State of Connecticut and its consumers for violations of Connecticut law.

On December 30, 2010, the Attorney General entered into a $2 million settlement with Liberty Mutual Insurance Company ("Liberty"), resolving claims that it conspired with brokers to rig bids for insurance contracts and paid secret kickbacks to brokers for preferential treatment. The restitution from the settlement will go to the state's general fund.

Coming shortly on the heels of the settlement with Liberty, the Attorney General announced on January 31, 2011 a $4.25 million settlement with reinsurance broker Guy Carpenter & Company, LLC ("Guy Carpenter") and Excess Reinsurance Company ("Excess Re"), ending a landmark antitrust case that began in October 2007. Reinsurance is purchased by insurance companies to cover exposure to claims on the policies they write. Because the cost of reinsurance is typically passed on to consumers, anti-competitive practices by reinsurers drive up prices to individuals and businesses purchasing the coverage. Anti-competitive practices can also hurt other reinsurance companies seeking to compete for the business in an open market. The settlement resolves claims that Guy Carpenter orchestrated a series of conspiracies in the reinsurance industry that illegally inflated insurance and reinsurance costs nationwide. Under terms of the agreement, Guy Carpenter and Excess will pay the state $4.25 million to settle the lawsuit. In addition, Guy Carpenter will undertake significant nationwide business reforms, including enhanced disclosure and a formalized system for obtaining competitive quotes to ensure its clients receive the best rates and terms for insurance.

In the Spring of 2008, the Attorney General, along with a number of other state Attorneys General, formed a task force to investigate allegations that certain large financial institutions, including national banks and insurance companies, and certain brokers and swap advisors, engaged in various schemes to rig bids and commit other deceptive, unfair and fraudulent conduct in the municipal bond derivatives market. Municipal bond derivatives are contracts that tax-exempt issuers use to reinvest proceeds of bond sales until the funds are needed, or to hedge interest-rate risk. Connecticut leads the task force.

The first settlement in the ongoing municipal bond derivatives investigation occurred on December 7, 2010, when the Attorney General and nineteen other states entered a $67 million agreement with the Bank of America. Under the agreement, Bank of America will pay restitution to state agencies, municipalities and nonprofits throughout Connecticut and nationwide who were harmed by this scheme and cooperate in the ongoing investigation. Building on Bank of America's cooperation, on May 4, 2011, the Attorney General and the state task force entered into its second settlement in the ongoing investigation; a $90.8 million agreement with multinational Swiss bank, UBS AG ("UBS"). Under the settlement, led by the Connecticut Attorney General and joined by 23 other states and the District of Columbia, UBS agreed to pay $63.3 million in restitution to state agencies, municipalities, school districts and not-for-profit entities nationwide that entered into municipal derivative contracts with UBS, or used UBS as its broker for such transactions, between 2001 and 2004. In addition, UBS agreed to pay a $2.5 million civil penalty and $5 million in fees and costs of the investigation to the settling states.

The market for trash removal services in Connecticut has long been dominated by a handful of powerful companies. Throughout the 1990s and first half of this decade, the market in Southwestern Connecticut was controlled by James Galante through his web of interconnected businesses. In 2006, the federal government indicted Galante on various criminal charges alleging that he masterminded a criminal enterprise bent on stifling competition for trash hauling that resulted in higher prices for trash removal for his commercial and municipal customers. Following Galante's conviction in 2008, the Attorney General filed a lawsuit against him in October 2009 in an effort to recover the illegal profits Galante obtained through the inflated prices he charged his small business customers.

On April 14, 2011, the Attorney General settled his unfair trade practices and antitrust lawsuit against Galante. The lawsuit alleged that in 2002 and 2004, Galante ordered his employees at AWD and Thomas to raise prices by 10 percent for certain commercial customers under the false representation that they were mandatory increases for disposal-site costs. The lawsuit also alleged two incidents of bid-rigging by American Disposal Services of Connecticut, another Galante-owned company, in attempts to secure waste-hauling contracts. Under terms of the settlement, Galante will pay the state $600,000 to be distributed to an estimated 500 commercial customers of Galante's former companies: Automated Waste Disposal, Inc. and Thomas Refuse Services Inc.

Merger enforcement has long-been a high priority within the Attorney General's antitrust enforcement regime and this year was no exception. In March 2011, the Attorney General, working with the U.S. Department of Justice and other state Attorneys General, initiated an investigation of AT&T's proposed $39 billion merger with T-Mobile USA. If consummated, the merger will create the biggest wireless carrier in the United States. The federal/state investigation will focus on whether the merger of two of the nation's four largest wireless carriers will substantially lessen competition by increasing prices and reducing choices for cell phone users. The investigation is expected to last several months. One of the primary goals of the Antitrust Department is ensuring that innovative products have the ability effectively compete in what are often fast-paced and burgeoning markets. Electronic books ("eBooks") and electronic book readers ("eReaders") are two such areas of growth. In a relatively short period of time, the sales of eBooks have outpaced the sales of physical or hardcopy books. One reason for this growth was the introduction in January 2010 of Apple Corp's iPad, one of the most popular consumer electronic products - - computer tablets - - which support the use of eBooks.

In January 2010, right before the launch of the iPad, five of the country's largest eBook publishers announced that they were switching from the traditional wholesale model of selling books - - where books are sold to retailers who set the price for consumers - - to an "agency model", where the publishers use the retailer as their agent but retain control of pricing. Virtually overnight, sales of New York Times bestseller eBooks jumped by $3 to $5 dollars per book. In August 2010, the Attorney General announced an investigation into the agency model to determine whether it violated antitrust laws by inhibiting competition in eBooks. The investigation is continuing.

CHILD PROTECTION DEPARTMENT

The Child Protection Department of the Attorney General's Office is responsible for representing the Connecticut Department of Children and Families (DCF) in state and federal court proceedings brought in the interest of abused and neglected children. DCF's most prominent mandate is to investigate reports of child abuse or neglect and, based on the outcome of the investigation, to provide the proper protection for the children and to assist the families in retaining or regaining the care and custody of their children by enhancing safety and adequate parenting skills. DCF's interventions in serious cases of abuse or neglect are always the subject of judicial scrutiny. The vast majority of civil child protection cases before the Superior Court for Juvenile Matters are initiated by DCF through neglect petitions, application for orders of temporary custody, review of permanency plans, petitions for termination of parental rights, and other proceedings. The Child Protection Department handles the largest caseload in the office and appears regularly in all sixteen juvenile courts statewide, as well as in federal court and before the state appellate and supreme courts. In addition, this department defends DCF in all administrative appeals to the Superior Court.

The appellate caseload handled by this department is vast. In the year 2011, the Appellate Court implemented administrative measures to expedite the appellate process of child protection appeals. As a result, many appeals were disposed of much more expeditiously than in past years. This department was successful in representing DCF in numerous appeals before the Connecticut Appellate and Supreme Courts. Of particular note are several positive outcomes in the following appeals concerning abused and neglected children:

In *In re Matthew F.*, 297 Conn. 673 (2010); the Supreme Court held that the Superior Court for Juvenile Matters is not divested of jurisdiction over an individual committed to DCF merely because he had turned eighteen. However, the Court held that the lower court can exercise its jurisdiction over such young individual only if he complies with the statutory requisites namely, being a committed child before his or her eighteenth birthday and being enrolled in a full time education program. *Mathew F.*'s appeal was dismissed because he failed to meet the second predicate. The holding in *Matthew F.*, led to the affirmation of the trial court's ruling that it is without jurisdiction when asked to commit an individual as a neglected child after his or her eighteenth birthday. These cases will be revisited by the Supreme Court who certified the jurisdictional question for further review. *In re Jose B.*, 125 Conn. App. 572 (2010), *cert. granted*, 300 Conn. 916 (2011); *In re Jessica M.*, 125 Conn. App. 584 (2010, *cert. granted*, 300 Conn. 917 (2011).

We successfully challenged a trial court's denial of a neglect petition and a petition for termination of parental rights in *In re Zamora S.*, 123 Conn. App. 103 (2010). In that case the trial court denied the neglect petition after finding that only the father neglected the child. The Appellate Court reversed explaining that neglect adjudication is not a judgment that runs against a person named as a respondent (usually a parent). Rather, it is a finding concerning the status or condition of the child even if only one parent created the condition. The Appellate Court also reversed the trial court's conclusion that we had failed to prove by clear and convincing evidence

that the parents were living together. The Appellate Court held that the Petitioner is not required to prove each and every subordinate fact by the clear and convincing standard. The Court reasoned that just as in criminal cases, only a fact essential to the applicable statutory element must be proven by the elevated standard of proof.

The office successfully defended a trial court's decision to sustain an order of temporary custody. In *In re: Paul O.*, 125 Conn. 212 (2010); the Appellate Court rejected the challenge to the trial court's ruling concluding that the combination of evidence as to the woeful state of her residence and the mother's history of mental health were sufficient basis for the conclusion that the child was in immediate physical danger. The Court rejected the claim that the mother's history of mental illness was irrelevant stating that it impacted on her ability to function as a parent.

The Appellate Court upheld numerous decisions to terminate parental rights. Noteworthy are the decisions that properly consider the child's age and needs both in the adjudicatory and dispositional phases. The Court held that an adjudication that a parent had failed to rehabilitate is appropriate even in cases where the parent made progress in addressing issues of concern. The Court explained that the linchpin to a determination that rehabilitation has occurred necessarily includes a finding that the parent can begin or resume parenting within a reasonable time. What constitutes a reasonable time depends on the child's age and needs for permanency as well as the need to avoid prolonged foster care. Thus, as commendable as her progress may have been, the Court found that the parent's efforts had come too late under the circumstances of that case. *In re Dylan C.*, 126 Conn. App. 71 (2011); *In re Gianni C.*, 129 Conn. 227 (2011). In several other cases, the Appellate Court upheld judgments terminating parental rights finding it to be in the best interest of the child even though the child may have had a loving bond with the parent. The Court explained that when only termination of parental rights can put the child on the road to stability he craves and deserves, termination of parental rights will be in the child's best interest notwithstanding the loving bond with the parent. *In re Rafael S.*, 125 Conn. App. 605 (2010); *In re Allison M.*, 127 Conn. App. 197 (2011); *In re Mia M.*, 127 Conn. App. 363 (2011).

Finally, in *In re Joshua S.*, 127 Conn. App. 723 (2011); the Court dismissed an appeal from the trial court's ruling denying foster parents' challenge to the trial court's earlier decision to transfer the guardianship of their former foster child to his maternal great grandmother. The Court held that foster parents' do not have a party status to invoke appellate jurisdiction because they lack a colorable claim to intervene in the proceeding as a matter of right. The Court reasoned that unlike biological or adoptive parents, foster parents do not enjoy a liberty interest in the integrity of the family unit as to a foster child.

Over the last fiscal year, 4606 child protection cases were filed within the Superior Courts for Juvenile Matters state wide. The trial court sustained 1498 emergency custody orders (OTCs) and vacated 95 OTCs. 1308 children were committed; 1336 children remained with their families under the court's protective supervision and 387 children had parental rights terminated. The department fully tried 540 court cases and settled 5725, out of which 990 cases were settled during trial. Most of these cases remain open however, within the continuing court jurisdiction, until the child achieves permanency through adoption or transfer of guardianship or until the child is safely returned home or ages out of DCF care.

During this fiscal year, 3439 cases were closed, with 583 cases withdrawn, 32 cases dismissed, 368 children adopted, 408 children placed with their parents or relatives as guardians and 519 children who turned 18. Currently pending in court are cases involving 7322 children, with 1503 termination cases filed, 95 coterminous petitions, 2690 neglect petitions and 3712 neglect petitions with Orders of temporary custody.

COLLECTIONS AND CHILD SUPPORT DEPARTMENT

The Collections/Child Support Department is dedicated to the expeditious recovery of monies due to the State and the establishment of orders for the support of children. Its major client agencies are the Department of Administrative Services/Collection Services in matters involving the recovery of reimbursable public assistance benefits, other state aid and care, and costs of incarceration, and the Bureau of Child Support Enforcement within the Department of Social Services in matters for the establishment of child support orders. Additionally, the Department provides legal services in connection with the enforcement of child support orders at the request of the Support Enforcement Services division of the Judicial Branch. Department staff also provide a full range of litigation services for the collection of debts, other than child support, owed to the Departments of Social Services, Revenue Services, Correction and Higher Education, as well as the Unemployment Division of the Labor Department, John Dempsey Hospital, the Second Injury Fund, the Connecticut State University System, the Office of the Secretary of the State, the State Elections Enforcement Commission and various other state agencies, boards and commissions on a case-by-case basis.

In fiscal year 2010-2011 Department attorneys recovered more than fourteen million ($14,000,000.00) dollars in cash payments on debts owed to the state.

The Department's activities in the establishment of child support orders traditionally produce large caseloads. In fiscal year 2010-2011 just under 11,000 cases were opened in all child support categories and slightly more than 8,500 files were closed during the period. These cases occurred in both the Superior Court and the Family Support Magistrate division and involved the establishment of orders for support of children wherever they or the custodial parent may be. Department attorneys actively argued cases on behalf of children who resided not only in the State of Connecticut, but also on behalf of children who resided in other states and countries, pursuant to the Uniform Interstate Family Support Act. In addition to their functions establishing paternity and support orders for children, the Department's attorneys participated in probate and superior court matters in order to protect the support rights of children involved in proceedings brought by parents seeking to terminate their parental rights.

Coincident with their child support responsibilities, the Department attorneys were also engaged in a wide variety of other litigation activities during the fiscal year in addition to those that resulted in the recovery of significant sums on behalf of state agencies. Accordingly, a Department attorney prevailed in a case decided by the Connecticut Appellate Court. And in a case of first impression having precedential effect upon the recovery of public assistance benefits, one of the Department attorneys successfully argued and obtained an administrative ruling establishing that a father's statutory obligation to reimburse the state for the public assistance received by his child is not dependent upon a prior legal determination of paternity if there is substantial evidence clearly establishing the parent/child relationship. See Thomas v.

State of Connecticut, Superior Court, Judicial District of New Britain, Docket No. CV-10-6005570-S.

The litigation activities of the Department's attorneys include protecting the creditor rights of various state agencies in federal bankruptcy court proceedings. During this fiscal year the Department's attorneys managed over 600 active cases that included bankruptcy proceedings not only in Connecticut, but throughout the country. The Department's bankruptcy litigation resulted in over five million ($5,000,000.00) dollars in recoveries, including $1,850,000.00 recovered from an on-going case successfully litigated by a Department attorney last year resulting in additional corporate tax liabilities of $11,000,000.00. Journal Register East, Inc., Chapter 11, Case No. 09-10794, S.D.N.Y. And in Affinity Health Care Management, Inc., Chapter 7, Case No. 06-30034, D.Conn. a Department attorney prevailed in upholding the full amount of the Department of Revenue Services' creditor claims for pre-petition provider taxes owed by four nursing homes resulting in the collection of over $460,000.00 in delinquent taxes.

Continuing with an initiative commenced four years ago, a Department attorney worked in conjunction with members of the Office of the Secretary of the State to recover payment of fees, penalties and interest due from foreign corporations and other foreign business entities doing business in Connecticut without first having complied with the statutory registration requirements for legally conducting business in Connecticut. This initiative resulted in the collection of $1,169,133.33 in fees, penalties and interest during the 2010-2011 fiscal year.

The Department concluded 1,987 litigation matters involving the recovery of debts owed to the numerous state agencies, boards and commissions for which collection services were provided during this fiscal year. In addition to the more routine debt collection cases, Department attorneys litigated numerous cases involving significant payments on debts owed to the state. In United States vs. Jaeger, et al a Department attorney successfully argued the legal enforceability of the state agency's statutory real property liens and recovered $207,415.40 in delinquent tax obligations. And in Estate of Canady the Department recovered $200,000.00 in accident-related medical and other public assistance benefits. In Estate of Faier a member of the Department successfully established the enforceability of the state's statutory claim and, as a consequence, recovered $250,000.00 for reimbursement of care and support provided by the Department of Children and Families. In Special Needs Trust f/b/o Santiago a Department attorney recovered $577,238.55 for the reimbursement of public assistance benefits and in Special Needs Trust f/b/o Martinez, reimbursement of public assistance benefits totaling $449,101.52 was successfully recovered by a member of the Department. In addition, there were numerous other cases litigated by Department attorneys, each resulting in recoveries in excess of $100,000.00 on behalf of state agencies.

CONSUMER PROTECTION DEPARTMENT

The focus of this Department is consumer protection through counsel and representation of the Department of Consumer Protection, consumer education and complaint mediation, consumer protection investigations, appearances before state and federal agencies on consumer matters, and litigation under various state and federal laws with a major reliance on the Connecticut Unfair Trade Practices Act (CUTPA).

Consumer Education & Mediation

We continue to further our core mission by opening the lines of communication with the community and consumers that we serve in order to educate consumers, reduce victimization and mediate disputes. This year we attended senior and safety fairs, throughout the state in order to raise awareness within the community about consumer issues, including how to avoid cutting edge scams, and what resources are available for consumers that have been victimized and how consumers can avoid being victimized again in the future.

We remain involved in Triad, a group comprised of representatives from law enforcement, government agencies, the business community and seniors. Triad works to reduce criminal victimization of seniors, raise awareness with seniors and those working directly with seniors on community specific crimes and crime prevention, and provide information to help educate law enforcement on how to work more effectively with seniors. The 9th Annual Triad Conference featured as its guest speaker, Manhattan District Attorney Elizabeth Loewy. As the attorney in charge of the New York County Elder Abuse Unit, she brought global attention to the sensitive issue of financial exploitation of seniors in the trial involving the late Brooke Russell Astor. The number of towns participating in Triad continues to expand.

Attorney General George Jepsen has invited state residents to participate in a free, four-part lecture series called "Consumer University," which offers useful information about how to avoid becoming a victim of scam artists and financial fraud.

In addition, as part of the Attorney General's focus on consumer mediation, our Department, which consists of attorneys, volunteer advocates and other staff, responded to 5,276 consumer complaints during this fiscal year. Over $2,500,000 was refunded or credited to Connecticut consumers due to the mediation efforts of the Department.

Multi-States

Our office along with forty-nine Attorneys General reached a settlement with DIRECTV, resolving allegations that it engaged in deceptive and unfair sales practices by: not clearly disclosing pricing limitations on DIRECTV; enrolling consumers in additional contracts or contract terms without clearly disclosing the terms; enrolling consumers in additional contracts, without their permission when replacing defective equipment; not clearly disclosing to consumers that they would automatically renew a seasonal sports package; and offering cash back to consumers when the company provided bill credits instead.

Connecticut and 39 other states reached a $21 million settlement with Dannon, resolving allegations that it exaggerated, in television, Internet, and print ads, as well as on product packaging, the health benefits of its Activia yogurt and DanActive dairy drink. Dannon claimed that Activia promoted digestive health because it includes a bacterial strain with "probiotic benefits" that Dannon trademarked under the name "*Bifidus Regularis*." The states claimed that, in fact, the name "*Bifidus Regularis*" was entirely concocted by Dannon. The company allegedly made other unsubstantiated claims about Activia, as well as unlawful and unsubstantiated claims about "immunity" and cold and flu prevention benefits associated with DanActive dairy drinks. The settlement prohibits Dannon from making unsubstantiated claims about Activia and DanActive preventing, treating, curing or mitigating disease. Dannon must also provide

competent and reliable scientific evidence to support claims about health benefits, performance, efficacy or safety of its probiotic food products. Connecticut's share of the settlement was $425,000.

Connecticut and 36 other Attorneys General reached a $68.5 million settlement with AstraZeneca Pharmaceuticals LP, of Delaware, arising from alleged improper marketing of the anti-psychotic drug Seroquel. It represents the largest, multistate, consumer-protection based settlement with a pharmaceutical company. The Attorney Generals alleged that AstraZeneca engaged in unfair and deceptive practices when it marketed Seroquel for unapproved or off-label uses, failed to adequately disclose the drug's potential side effects to health care providers, and withheld negative information contained in scientific studies concerning the safety and efficacy of Seroquel. AstraZeneca agreed not to promote Seroquel in a false, misleading or deceptive manner, including for "off-label" uses, which are not approved by the U.S. Food and Drug Administration. Along with other prohibitions and requirements, the agreement specifically requires AstraZeneca to: publicly post its payments to physicians on a website; have policies in place to ensure that financial incentives are not given to marketing and sales personnel for off-label marketing; have policies in place to ensure that AstraZeneca sales personnel do not promote to health care providers who are unlikely to prescribe Seroquel for an FDA-approved use; and cite to Seroquel's FDA-approved indications when referencing selected symptoms, rather than promoting Seroquel by highlighting symptoms only. Connecticut's share of the settlement was $1,234,106.

In addition, Connecticut and 37 other states reached a $40.75 million settlement with pharmaceutical companies GlaxoSmithKline, LLC of Philadelphia and SB Pharmco Puerto Rico, Inc., an indirect subsidiary of GlaxoSmithKline plc, over alleged substandard manufacturing processes. The Attorneys General alleged the companies engaged in unfair and deceptive practices when they manufactured and distributed certain lots of four drugs because substandard manufacturing processes were used to produce these lots between 2001 and 2004. The adulterated drugs were produced at the companies' production facility in Cidra, Puerto Rico, which has been closed since 2009. The lots in question do not involve drugs that are currently available for sale on the market. The settlement covers all drugs that were once made at the Cidra facility, regardless of where these drugs are now produced. Specifically, the companies may not make claims about the drugs that are false, misleading or deceptive as a result of how the drugs are made. In addition, the companies agree not to represent that the drugs have characteristics, benefits, uses, qualities or ingredients they do not have, because of the way the drugs are manufactured. Nor may the companies make representations about the drugs that are likely to cause confusion or misunderstanding related to the source, sponsorship, approval or certification of the drugs, because of how the drugs are made. Connecticut's share of the settlement was $756,280.

Financial, Real Estate & Investment

Our Department obtained two default judgments, one against FHA All Day.Com and the other against Lucius Couloute, foreclosure rescue operations that took upfront fees but provided no services in exchange.

The Department has brought a predatory lending complaint against VRM Mortgage Co., Inc. and others, including a real estate business, mortgage broker and tax preparer. The complaint alleges that defendant Roman Realty, owned by defendant Victor Roman, referred prospective homeowners to VRM Mortgage Co., also owned by Mr. Roman, for mortgage brokering services. The complaint further alleges that VRM's loan originators fabricated information it submitted on loan documents, often identifying borrowers as "self-employed" when they actually were not and inflating their incomes on stated-income loan applications so the borrowers would qualify for mortgages. The defendants were allegedly assisted in the scheme by defendant Jose Flores, a tax preparer who submitted so-called 'accountant's letters' to VRM purportedly verifying the borrowers' self-employed status. These letters, many of which were fraudulent, allegedly were transmitted to lenders in support of the loan applications. The defendants' victims were predominantly Hispanic, and representatives of Roman Realty and VRM would often translate documents for consumers who did not understand English. Flores was paid a fee by VRM for each letter he submitted. Roman Realty received commissions for sales to consumers who would not have otherwise qualified for a mortgage and VRM received substantial origination fees. This case is currently in the discovery phase.

Other Unfair & Deceptive Trade Practices Cases

Our office sued Best Buy Co., Inc. et al. arising out of allegations about its use of in-store kiosks that purportedly displayed Best Buy's internet website. The State claimed that from Nov. 2001 to March 2007, Best Buy maintained kiosks in its CT stores that displayed a website that looked exactly like its Internet website, BestBuy.com. The kiosk website could be accessed by consumers by clicking an icon labeled "BestBuy.com," and some of the kiosks had signs over them reading "Our Biggest Store/BestBuy.com" and "Research and Buy Online." The kiosk website was different from the internet website, however, in one significant way: the kiosk website displayed in-store, rather than internet, prices. To the extent that Best Buy's internet price for a product might be lower than the store price—which was sometimes the case—consumers would not be able to view the true internet price on the kiosks. The State alleged that Best Buy's conduct was deceptive inasmuch as it expressly represented to consumers that they could access BestBuy.com in its stores and failed to disclose that the prices displayed on the kiosks were not the actual BestBuy.com prices (and could be higher). This case was resolved by Stipulated Judgment entered by the Court on December 14, 2010. Best Buy made a payment to the State in the amount of $399,000 and paid restitution to eligible consumers. The Judgment also includes injunctive provisions prohibiting Best Buy from representing that its in-store kiosks display internet prices, if that is not the case.

Our office filed suit against Monica, LLC d/b/a Omegastores.com, et al, an internet retail business located in CT engaged in the sale of electric bicycles, scooters and log-splitters. The defendants sell their products through an internet website, omegastores.com. From 2002 to

2007, the CT Department of Consumer Protection, the Office of the Attorney General and the CT Better Business Bureau received about 70 complaints from consumers all over the country about Omegastores' business practices. The bulk of the complaints were from consumers who claim they were shipped damaged or defective products and were not issued refunds when they tried to avail themselves of Omegastores' warranty and return policy. The State alleged that Omegastores failed to adequately package its products (which are heavy and prone to damage if not properly packaged), thereby increasing the likelihood of damage during shipping. The State also alleged that Omegastores failed to honor a 30-day 'risk free try-out' period that it offered for some models of log splitters. This matter was settled by Stipulated Judgment entered on November 10, 2010. The defendants agreed to pay $15,000 in restitution, and further agreed to numerous injunctive provisions. The injunctive provisions require the defendants to package their products in a manner that will allow consumers to return them in the same packaging without the need to provide extra padding. The Stipulation also requires clear and conspicuous disclosures reasonably adjacent to any offers—including the 'risk free try-out' offer—that contain limitations or
exceptions.

We brought an action against JJD, Inc. d/b/a Gregorio Pool and Spas, et al. ("Gregorio"), a pool construction and maintenance company, based on complaints we received regarding shoddy construction and installation, poor maintenance and sundry other contract disputes. The complaint alleges that Gregorio misrepresented to consumers that it performed pool installation work in a workmanlike and timely manner, when it did not, and that Gregorio often assigned work that requires a license to unlicensed workers. The State settled this matter by a Stipulated Judgment which requires Gregorio to pay a sum of $20,000 to the State to resolve consumer claims, and further prohibits Gregorio and its owner, Jonathon DeMichiel, from engaging in the pool installation and construction business in CT. The settlement further requires the defendants to release several consumer complainants from any claims they may have against the complainants.

We reached a settlement with Health Net, resolving allegations that it did not promptly notify consumers after it allegedly failed to secure private patient medical records and financial information. Connecticut received $250,000.

We entered into an agreement with Google, Inc. over the company's objection to a Civil Investigative Demand requiring it to produce data it collected from unsecured wireless networks while using their "Street View" cars. The agreement will allow Google and Connecticut, and the 40-state coalition it is leading, to begin negotiations to resolve the data collection issue without going to court to enforce the Civil Investigative Demand.

We obtained a judgment for $105,000 against CVS Pharmacy LLC, resolving allegations that they sold or offered to sell products after their expiration or "sell by" date. For at least three years, CVS will offer consumers a $2 discount coupon toward any purchase, for each expired over-the-counter drug, baby food or formula, egg or dairy product a consumer finds on store shelves and turns in to cashiers.

It's Just Lunch was a dating service that allegedly entered into contracts that failed to comport with Conn. Gen. Stat. § 42-321 in that they failed to include the required statutory notice of cancellation; required a doctor's note in order to terminate and contained a notice of cancelation without an address for It's Just Lunch, as mandated by the statute. Working with our office and the Department of Consumer Protection the company agreed to enter an agreement

that requires It's Just Lunch to utilize a standard contract in Connecticut; comply with Conn. Gen. Stat. § 42-321 and pay $20,000 to the State of Connecticut.

We settled an action against Gabriel Medical, a health care clinic that had overcharged consumers for influenza vaccine. Consumers received refunds for overpayment in a total amount of $1,166.

Our office has appeared in the Ch. 7 bankruptcy cases filed by Bernie's Fuel Oil ("Bernie's Fuel"), and its owner Daniel Groben ("Groben"), filed in April of 2010. Bernie's Fuel was a licensed home heating oil dealer that served Southeast Connecticut. It defaulted on hundreds of prepaid and fixed price home heating oil contracts for both the 2009-2010 and 2010-2011 home heating oil seasons. We are investigating possible violations of the Connecticut Unfair Trade Practices Act by Groben, specifically whether he sold prepaid contracts when knew or reasonably should have known that the company was not going to be able to perform.

The Rugged Bear Company was a retailer of children's clothing with outlets in multiple states. After it filed for bankruptcy protection, we worked with the debtor to ensure, among other things, that store closing sales were conducted in an appropriate manner and that consumers were able to use gift cards and merchandise credits. We further played an active role in ensuring that consumers' personal information was protected from improper disclosure.

Our office conducted an investigation into the business practices of the Water's Edge Resort, a timeshare complex located in Westbrook, Connecticut. Concerns were raised when Water's Edge allegedly attempted to unilaterally prohibit timeshare owners from transferring certain of their common area rights to third party purchasers, unless the purchase was brokered by Water's Edge. Water's Edge entered into an agreement whereby it agreed to cease such practices and comply with the law on a going-forward basis and whereby two consumers obtained restitution in the amount of $1,000.00 each.

We also reached a settlement with Stephen Pawlak, Jr. and Stephen Pawlak III d/b/a Bond Dinettes, Inc., resolving allegations that they failed to deliver purchased furniture in a timely manner and charged for fuel after guaranteeing free delivery.

Utility Cases

In DPUC Docket No. 09-12-05, Application of the Connecticut Light and Power Company to Amend its Rate Schedules, the Connecticut Light and Power Company ("CL&P") sought a total rate increase of $177.6 million that would be collected over two years commencing July 1, 2010. The Attorney General strongly opposed this request, asking the Department of Public Utility Control ("DPUC") to instead reduce CL&P's rates, which the DPUC could do without affecting necessary increases in reliability project spending. The DPUC granted CL&P a rate increase of $101.9 million, or $75.7 million below the amount that the Company had sought. Among the major adjustments that contributed to the reduction was an allowed return on equity of 9.4% rather than the 10.5% sought by CL&P.

In DPUC Docket No. 10-12-02, Application of Yankee Gas Services to Amend its Rate Schedules, the Yankee Gas Services Company ("Yankee") initially proposed a rate increase of $78.5 million (8.5%). During the course of this proceeding, however, Yankee reduced the size of its proposed rate hike to roughly $68 million. The Attorney General argued that the DPUC

should reject this Application and instead reduce rates by at least $5 million per year. The major elements of this proposed reduction were reducing the authorized ROE from Yankee's proposed 10.1% to 8.5% as well as reducing spending on pipe replacements that the Company had failed to justify and making other necessary expense reductions. The DPUC in fact rejected the Company's request and imposed a rate reduction in the amount of $5 million, as the Attorney General suggested.

In DPUC Docket No. 09-12-11, Application of the Connecticut Water Company for Amended Rates, the Connecticut Water Company ("CWC") sought a rate increase of $19 million, or roughly 30%, with a proposed ROE of 11.3%. The Attorney General argued that the DPUC should reject this application. The Department allowed a rate increase of $6.4 million and an authorized ROE of 9.75%.

EMPLOYMENT RIGHTS DEPARTMENT

This department defends state agencies and state officials in employment related litigation and administrative complaints and provides legal advice and guidance to state agencies on employment issues. We are currently defending the state in approximately 118 employment cases in the state and federal courts, as well as more than 140 complaints before the Connecticut Commission on Human Rights and Opportunities and the Equal Employment Opportunities Commission.

During the past year, the department successfully defended state agencies in several significant cases. In addition, we prevailed in numerous other cases in the state and federal courts. Significantly, we were able to obtain favorable rulings on 6 summary judgment motions that were filed, eliminating the need for trials in those cases. We also filed an additional 19 such motions, which are pending rulings by the courts. We also are awaiting rulings on 5 additional motions which were filed in the prior fiscal year. We obtained verdicts in favor of state agencies in 4 cases that were tried in the courts and are awaiting rulings in 3 other such cases. In addition we prevailed in 2 cases that were tried in the Office of Public Hearings at the Commission on Human Rights and Opportunities. In several other cases, we were able to achieve settlements on terms that were favorable to the state, saving the state millions of dollars. We routinely appear on behalf of state agencies before the Commission on Human Rights and Opportunities at fact-finding sessions and public hearings.

During the past year, we have also defended approximately 10 appeals in the Court of Appeals for the Second Circuit and in the Connecticut Appellate Court. In addition, we are working on approximately 8 pending appeals in the state and federal appellate courts, and awaiting 1 decision in the State Supreme Court.

The department regularly provides legal advice and counsel, both orally and in writing, to state agencies on a variety of employment matters, as employment law is continuing to evolve. During the past year we participated in several training sessions and seminars for state employees on employment related issues. We continue to assist the Permanent Commission on the Status of Women in training employees who have been designated to represent their agencies in discrimination complaints filed with the Commission on Human Rights and Opportunities and the Equal Employment Opportunities Commission, pursuant to a 2003 statute. In addition, we

continue to provide training to new state managers through a program provided by the Department of Administrative Services.

ENERGY DEPARTMENT

In fiscal year 2010-2011, the Energy Department represented the Department of Public Utility Control (DPUC) (now the Public Utilities Regulatory Authority) and the Connecticut Siting Council in several legal matters at the state and federal level. The Department defends challenges to the Siting Council's decisions on placement of facilities, and to rulings by the DPUC on issues regarding electric, gas, and water rates, transfer of assets, acquisition of control, safety, service and consumer billing issues.

Over the past year, the Energy Department successfully defended Siting Council decisions regarding the placement of cell towers, and presented cases that further developed principles of administrative law. With respect to the DPUC, the Department prevailed in various state and federal challenges to the agency's statutory interpretations, as well as the scope of its jurisdiction over telecommunications matters. Finally, the Department participated in and monitored various proceedings pending before the Federal Energy Regulatory Commission and the Federal Communications Commission that impact ratepayers in Connecticut.

ENVIRONMENT DEPARTMENT

During the past fiscal year, the Environment Department had several significant victories in anti-pollution cases and obtained civil penalties for environmental violations. In *McCarthy v. Pilot Travel Centers*, we sued Pilot Travel Centers for numerous violations of the Underground Storage Tank regulations, which had caused water pollution at Pilot's travel center in Milford. We obtained a judgment of $850,000 in penalties and a withdrawal of Pilot's reimbursement claims from the Underground Storage Tank Petroleum Clean-Up Fund. In addition, Pilot must remediate the pollution it caused, upgrade its tank system, and install continuous monitoring equipment at its facility.

We also brought an action against Phoenix Soil, LLC for violations of its air permit at its soil treatment facility in Waterbury. This year we obtained a judgment requiring Phoenix Soil to abide by the terms of its permit, and to pay $50,000 in penalties for its air permit violations.

Ending our long and persistent battle to have a dam repaired by an individual hiding behind corporate shields, we obtained a judgment in the case of *Marrella v. Vincent Celentano and Cel-Mor Investments, Inc.* In 1983 Mr. Celentano had constructed a dam and detention basin in Naugatuck to control runoff from one of his housing developments. The dam and detention basin were ineffective. DEP issued an emergency order to repair the dam; however, Mr. Celentano failed to stabilize the dam. Instead, Mr. Celentano began a series of corporate transfers designed to shield himself from personal liability. This office worked with DEP to enforce the orders, first obtaining a judgment against the corporation to which Mr. Celentano transferred the dam, and later, when that assetless corporation did not comply with the judgment,

issuing an order to Mr. Celentano individually under the responsible corporate officer doctrine. This latter order was ultimately upheld by the Supreme Court in a landmark decision extending the responsible corporate officer doctrine to all environmental enforcement cases. When Mr. Celentano did not comply with the order upheld by the Supreme Court, we filed suit in Superior Court in 2009 against him individually. Following more efforts by Mr. Celentano to shield himself from liability, we finally obtained judgment in June 2011 against him personally. This judgment requires Mr. Celentano to repair the dam and detention basin and to post a $300,000 performance bond to cover the work. The judgment also assesses a $45,000 civil penalty.

In *McCarthy v M & J Developers*, we succeeded in protecting an endangered plant species from destruction. We sued M & J Developers for violating the stormwater general permit and the Connecticut Environmental Protection Act by failing to adhere to a plan to transplant the species to prevent its destruction during construction. We obtained a judgment requiring the defendant to transplant the species and to pay a $15,000 penalty.

In *Cadlerock Properties Joint Venture, L.P. v. McCarthy*, we successfully defended an inverse condemnation action brought against the DEP by the recipient of a pollution abatement order who contended that the issuance of the order and the recording of it on the land records as required by law amounted to a taking of the polluted property without compensation. The trial court ruled for the DEP, finding no taking. The plaintiff has appealed, and the case is now pending in the Appellate Court.

We brought several actions this past year to enforce environmental laws. One such case is *Marrella v. Covanta Projects of Wallingford Limited Partnership*. Covanta operates a waste-to-energy plant in Wallingford. We alleged that Covanta violated its permit by emitting dioxin, a hazardous air pollutant and probable carcinogen. Covanta has voluntarily shut down the unit that is the subject of our lawsuit until DEP approves its restart.

This year we had a significant victory in our battle against climate change. We, along with a coalition of states, had sued the Environmental Protection Agency ("EPA"), seeking to have greenhouse gases from the electricity generating industry regulated. The EPA settled the case, agreeing to propose regulations that are expected by the fall of 2011. Because the EPA is now committed to regulating greenhouse gases from electricity generating facilities, the United States Supreme Court recently ruled in *Connecticut v. AEP* that our public nuisance action against the largest domestic power producers has been displaced by federal action. The Supreme Court left undecided our state common law claims, making it possible for us to pursue those claims if the EPA fails to take effective action.

Also in the arena of air pollution enforcement, we carried on our litigation against the Midwest power plants that violated the Clean Air Act by making major modifications at their aging facilities without installing pollution controls. Prevailing winds blow much of this pollution into Connecticut. We completed the liability trial against Allegheny Energy in the fall of 2010, and are awaiting the court's decision.

In 2005, Allegheny Energy sought to preemptively enjoin the Attorneys General of Connecticut, New York and New Jersey from enforcing the Clean Air Act against Allegheny

Energy and its subsidiaries. Along with our co-defendant states, we moved to dismiss the action. In August of 2010, the court granted our motion and dismissed the case.

We also continued our litigation involving the issues of piercing the corporate veil and the applicability of an injunction to a non-party to an environmental case. Both of these actions have arisen in the context of enforcement of a 2001 judgment we had obtained in the Hamden/North Haven "Tire Pond" enforcement action. We obtained judgments piercing the corporate veil to pursue collection of the 2001 judgment from a shell corporation run by the defendant and from the defendant's wife. We obtained another judgment against a tenant who is blocking the DEP's closure of the Tire Pond and refuses to move. Both cases are pending in the Supreme Court, awaiting assignment for oral argument.

We continued to assist the DEP as it works with the Olin Corporation to remediate the Newhall neighborhood in Hamden under a Consent Order. With our legal assistance, the neighborhood is being cleaned-up and the contamination is being removed.

Our representation of the DEP in bankruptcy proceedings continues to prevent polluters from avoiding their environmental liability by filing bankruptcy. The most significant case this past year was *In re: Chemtura Corp.*, involving the giant chemical company, which attempted to use the bankruptcy process to shed its environmental clean-up obligations nationwide. Working with sister states, the EPA, and the United States Attorney's Office for the Southern District of New York, we obtained a resolution that included the uninterrupted and continued clean-up of the two Connecticut Superfund sites where Chemtura was a contributing responsible party.

In our representation of the Department of Agriculture ("DOA"), we successfully protected several animals, rescuing them from abuse and neglect. Through court actions in which we sought to remove ownership and control of neglected animals from their abusers, the state took ownership of horses, goats, dogs, cats and rabbits for placement in appropriate situations.

We carried on our protection of the development rights acquired by the DOA through its Farmland Preservation Program. This past year, we assisted the DOA in preserving 1,486 acres of farmland by acquiring the development rights to the land.

In addition to all of the above, we continue to provide a full range of legal services to both DEP and DOA, including contract review, opinions, defense of Claims Commissioner matters, legal advice, and counsel.

FINANCE DEPARTMENT

The Finance Department provides legal services to state agencies that regulate insurance, banking, and securities, as well as the Department of Economic and Community Development, the Department of Revenue Services, the Division of Special Revenue and the Office of Policy and Management. Legal issues involving state regulation of the financial services and insurance industries form a major part of this department's work. The complexity and new challenges in these two specific areas have increased markedly with enactment of two landmark federal laws:

the Dodd-Frank Act, regulating financial services, and the Patient Protection and Affordable Care Act, regulating the health care industry.

With the difficult economic climate and the continuing severe decline in the national housing market, many Connecticut homeowners continue to have difficulty paying their mortgages and are facing the threat of foreclosure. As a result, the Finance Department has continued to devote significant resources to assisting individual consumers with complaints against banks and mortgage companies or who may be facing foreclosure. Together with the Department of Banking's Foreclosure Assistance Hotline, Finance Department attorneys attempt to mediate informally a resolution of payment disputes, to assist in obtaining loan modifications, including facilitating application and acceptance to the federal Making Home Affordable Modification Program (HAMP), and offer other help to distressed homeowners. This work has become particularly pressing as the downturn in the economy has caused many Connecticut homeowners to lose jobs and income. The Finance Department attempts to assist these Connecticut citizens at a time when they are under serious stress and lack the ability to obtain private legal assistance. Over the past year, the Finance Department has offered assistance to several hundred Connecticut citizens who have contacted the office in these difficult circumstances.

Additionally, in October of 2010, it became clear that many national loan servicing companies had filed in courts across the country, including in Connecticut, thousands of foreclosure affidavits that were illegally signed outside the presence of a notary and by persons with no knowledge of the facts stated in the affidavits. In order to combat this nationwide problem, the Attorneys General of every state in the nation came together to form a multi-state task force to investigate these so-called "robo-signing" practices, as well as other potentially illegal practices by some loan servicers. The Connecticut Attorney General is a member of the Executive Committee of this multi-state task force and is represented on a day-to-day basis by attorneys from the Finance Department. The multi-state Foreclosure Executive Committee has met on a daily basis for much of the last year and is coordinating its investigation and enforcement efforts with the U.S. Department of Justice, U.S. Department of Housing and Urban Development, and other federal authorities. The multi-state task force's investigation and enforcement efforts in this area are continuing.

The Finance Department works closely with the state agencies it represents. The Department successfully defended the Department of Insurance's administrative decision approving the merger of two large health insurers in Connecticut. The Department also worked closely with the Department of Banking, providing legal advice and analysis regarding the Department of Banking's approval of the merger of First Niagara Bank and NewAlliance Bank of New Haven. Department attorneys successfully defended the Department of Revenue Services in two important cases before the Connecticut Supreme Court which upheld the Department of Revenue Service's assessment of a taxpayer who failed to retain proper tax records and limited the ability to appeal imposition of Connecticut's petroleum tax to only the person actually paying the tax. The Finance Department continues to be involved in providing legal advice and defending in court its client agencies' decisions regarding licensees under their respective jurisdictions.

When requested, the Department provides legal advice and opinions to its client agencies on the meaning and application of Connecticut law. For example, Department attorneys drafted a legal opinion for the Department of Banking concluding that recent amendments to

Connecticut's out-of-state small lender law did not violate the Commerce Clause of the U.S. Constitution so long as some part of the loan transaction occurred within Connecticut. The Finance Department has also advised the Department of Banking on new legal requirements stemming from the federal SAFE Act regulating licensure of mortgage brokers and new state laws regulating the conduct of debt negotiators or adjusters. Department attorneys provide frequent assistance and advice to the Department of Economic and Community Development (DECD) regarding the grant and aid programs administered by DECD, and to the Division of Special Revenue regarding its regulation of lotteries and gaming in Connecticut.

The Finance Department is responsible for enforcement of the Master Settlement Agreement (MSA) between the states, including Connecticut, and various participating tobacco product manufacturers, as well as related tobacco issues. The Department works to ensure that Connecticut receives the monetary payments it is owed by tobacco manufacturers. Department attorneys are currently representing Connecticut in the nationwide arbitration of a dispute over approximately $1.1 billion in MSA payments that tobacco manufacturers claim they do not owe the states. Connecticut has approximately $117 million at stake in the proceeding.

HEALTH AND EDUCATION DEPARTMENT

The Health and Education Department provides legal services and representation to a broad spectrum of state agencies, which include the University of Connecticut, the Connecticut State University System, the Connecticut Community College System, the State Department of Education and all other state agencies that have an educational purpose. This Department also represents the Department of Public Health, the Department of Social Services, the Department of Mental Health and Addiction Services, the Office of Health Care Access, the Psychiatric Security Review Board, the Department of Developmental Services, the Department of Veterans' Affairs, the Commission on Medical and Legal Investigations overseeing the Office of the Chief Medical Examiner and the sixteen health licensing boards and commissions.

The Department's workload addresses the entire spectrum of litigation in federal and state courts for these clients including but not limited to class action lawsuits, administrative appeals, regulatory enforcement actions, non-employee discrimination claims, civil rights actions, probate proceedings, bankruptcy and receivership actions. The Department also is involved in a variety of administrative proceedings representing the adjudicating agency (e.g. licensing boards), the prosecuting agency (e.g. day care and health care facility prosecutions) and defending agencies in proceedings before the Office of the Claims Commissioner, the Freedom of Information Commission and the Commission on Human Rights and Opportunities,. The Department advises and counsels client agencies on wide spectrum of issues. These include, *for example*, regulatory issues for health care facilities and professions, emergency medical services, child day care services and environmental health such as public water supply, lead paint, and asbestos; Medicaid and other welfare programs such as Food Stamps, SAGA, WIC, HUSKY, Charter Oak Healthcare; nursing home rates; health care facility certificates of need; HIPAA, FERPA and confidentiality of medical records; gestational carrier agreements; stem cell and human subjects research, scientific misconduct, civil commitment law, medical/psychiatric treatment at state facilities, NCAA requirements, property acquisitions, state contract law, ADA accommodations for students and faculty, college tenure, federal higher education law, and

oversight of public and private educational entities. The Department also reviews and approves for legal sufficiency regulations and contracts for its client agencies. Last fiscal year the Department reviewed approximately 3100 contracts and 18 sets of regulations.

As in past years, the Department was very busy with nursing home issues. In addition to substantial involvement in financially stabilizing a nursing home that had filed for bankruptcy under chapter 11, the Department was instrumental in securing receivers to operate the five nursing homes. In addition, the Department worked extensively with the four nursing homes operated by Affinity Healthcare to reorganize with the necessary assurances and changes in operations to make the facility financially sound and be discharged from bankruptcy. During the past year, the Department assisted the Department of Social Services to secure recovery of approximately $3 million in Medicaid advances to distressed nursing homes.

In Connecticut Association of Health Care Facilities v. Rell, the for-profit nursing home association claimed that the state method for setting rates for nursing homes violated federal law. The Department secured a ruling from the Court of Appeals affirming the order of the federal district court dismissing all but one claim and denying a request for preliminary relief on the basis that the complaint lacked a likelihood of success. The plaintiffs had sought a seven percent increase in the Medicaid rate paid to nursing homes. The successful defense of the trial court decision allows Connecticut to save approximately $100 million in yearly increased expenditures that would otherwise have been required if the nursing home industry had prevailed.

In Pham v. Starkowski, the Connecticut Supreme Court overturned a trial court ruling regarding the legislature's repeal of a special medical assistance program that aided lawfully-admitted aliens who were ineligible for Medicaid benefits. The Connecticut Supreme Court found that the state did not "discriminate" by elimination of the alien-only benefit program, and further finding that the state was not responsible for the federal statutory bar that prevents these aliens from participating in the federal program. Approximately $10 million in annual cost savings were achieved as a result of the decision.

In P.J. v. Connecticut State Department of Education, the plaintiffs alleged that the State had violated a 2002 settlement agreement that addressed improvement in opportunities for intellectually disabled children to be educated in regular classrooms with their non-disabled peers. After a two week trial, the federal district court ruled for the State and denied all relief to the plaintiffs. While the matter is on appeal, the successful defense of the State avoided potentially millions of dollars in additional expenditures sought by the plaintiffs.

The Department worked with the Department of Public Health to further its role as a health regulatory and enforcement agency. These activities included, among others, securing a cease and desist order and a civil penalty against an unlicensed clinical laboratory and obtaining a one month suspension, a two year probationary period and civil penalty against an ambulatory surgery center. We were also successful in defending a number of challenges on appeal to the regulatory authority of DPH and decisions of the licensing boards for health care professionals. For example, in Spitz v. Board of Examiners of Psychologist, the Department successfully defended before the Appellate Court the Board's decision imposing disciplinary action on the licensee for an improper relationship with a patient. In Jones v. Connecticut Medical Examining Board, the Appellate Court also upheld the Board's decision to impose disciplinary action on the

licensee for failure to comply with the standards of practice in the diagnosis and treatment of two children.

In Giammatteo v. Newton et al, the Department secured a complete dismissal of a federal civil rights complaint against the Board of Examiners for Physical Therapy, former board members, the Department of Public Health and its Commissioner and its in-house prosecutors related to proceedings against a licensed physical therapist. The complaint sought both injunctive relief and damages.

The Department continued to provide legal services on a broad array of issues to the Connecticut State University System during this past year. Some of these issues included challenges to bid issuance and contract awards, real property matters, requests for access to student information and records, admissions and financial aid issues, acquisition, maintenance and disclosure of student records, due process rights, campus security, student misconduct, issues arising under the Freedom of Information Act, and the applicability of newly-enacted legislation. In addition to providing advice and guidance to the Chancellor, System Office senior staff and university presidents on a wide variety of issues, noteworthy was significant drafting and revision of contracts including contracts related to student affiliations, international programs, use of facilities and other revenue-generating activities.

The Department also provides services in a wide variety of legal matters involving the University of Connecticut. This responsibility continues to increase as the University grows and higher education matters become more complex. Counsel is provided on issues including public safety, security, liability, data transfer, risk management, Title IX and VI compliance, FOIA and trade secrets, and intellectual property rights. The Department attorneys expend substantial time on legal review, negotiation and approval of highly complex transactions and contracts. These range from negotiation and execution of multi-million dollar sponsorship-rights agreement for the university's athletics department to separation of an outpatient physical therapy services clinic from a local hospital to become an independent teaching and treatment facility at the university. Of particular note was the extensive legal work on the Storrs Center Development Project that will result in a mixed-use, pedestrian-oriented, sustainable college town center, providing the University community with new retail, restaurant, office, residential and green public spaces and conservation areas to include a 135-acre wildlife sanctuary. The Department provides representation on behalf of the University before administrative agencies such as the Office of the Claims Commissioner, the Freedom of Information Commission and the Commission on Human Rights and Opportunities, as well as in state and federal court.

The University of Connecticut Health Center continues to present a broad array of challenging legal issues that arise from the operation of an academic health center with a budget approaching $800 million. Significant legal advice was given in the areas of human resources, human subjects research, scientific misconduct, medical treatment, HIPAA compliance including the HITECH amendments, the hospital's medical staff, medical and dental student and residency programs, and the Health Center's Correctional Managed Care program. In addition, our office appeared regularly at probate hearings relative to the John Dempsey Hospital's two locked psychiatric wards, engaged in a broad range of lease and contract negotiations, reviewed over 400 contracts, and appeared before multiple administrative agencies including the Claims Commissioner, the Freedom of Information Commission and the Commission on Human Rights and Opportunities, where we are currently defending fifteen (15) cases. In addition, we continue

to be active in advising the Health Center's rapidly growing Office of Audit, Compliance and Ethics to ensure full compliance with all federal and state laws and regulations. This includes ongoing advice related to both the Stark physician self referral law and the federal anti-kickback statute. We continued to be successful in litigation avoidance relative to the hospital, the medical school, the dental school and the research enterprise. We are also assisting the Health Care Fraud Department in representing the John Dempsey Hospital in both negotiations and a lawsuit against managed care companies that have failed to timely and adequately reimburse the hospital for services rendered to covered patients. Finally, we have spent considerable time providing advice to the Health Center relative to the legislation creating the Connecticut Bioscience initiative which includes authorizing the construction of a new hospital bed tower, collaborative ventures with area hospitals and the transfer of the John Dempsey Hospital's Neonatal Intensive Care Unit to the Connecticut Children's Medical Center.

The members of the Health and Education Department within the Office of the Attorney General work diligently to provide the legal services required by the many agencies we represent and advise. At the end of the 2011 fiscal year, this Department had 133 state and federal court cases pending at the trial or appellate level, as well as 147 administrative proceedings pending before various state agencies.

HEALTH CARE FRAUD/WHISTLEBLOWER/HEALTH CARE ADVOCACY DEPARTMENT

The Health Care Fraud/Whistleblower/Health Care Advocacy Department had another busy, important and successful year.

The Health Care Fraud Unit achieved an outstanding result in its case against McKesson Corporation. McKesson paid $24 million to settle a case in which it was alleged that McKesson had conspired to inflate the reported average wholesale price of numerous pharmaceutical products creating a larger "spread" between the costs to the Department of Social Services administered Connecticut Medical Assistance Plan (including Medicaid) and the actual charges to health care providers, resulting in artificially inflated drug costs.

The McKesson case contributed to recoveries of approximately $30 million during this fiscal year, bringing the Unit's total recoveries to $150 million in fourteen years. The majority of the dollars recovered continue to be in settlements involving the pharmaceutical industry.

The Health Care Fraud Unit also prosecuted administrative cases on behalf of the Department of Social Services resulting in providers being suspended from participation in the Medicaid program. During this fiscal year this included the following suspensions: (1) Douglas Macko, DMD agreeing to be suspended from participation in Medicaid for ten years on the eve of an administrative hearing on charges that Macko engaged in billing fraud, and (2) Earle Lerner and several Marathon Healthcare companies being suspended from Medicaid for ten years following a contested administrative hearing on charges including the allegation that Lerner had submitted false and misleading information to DSS in seeking Medicaid payments.

During fiscal year 7/1/10 to 6/30/11, our department conducted on-going constituent services regarding HIPAA inquiries and complaints, and undertook certain significant enforcement efforts.

Among the notable enforcement actions entailing significant litigation, investigations and negotiated Assurance of Voluntary Compliance ("AVC") agreements are the following:

- The federal court stipulated judgment in Attorney General et al. v. HealthNet of the Northeast et al., which was filed in federal court on July 6, 2010, was the landmark settlement of the first civil lawsuit brought by a state Attorney General under HIPAA. The case entailed a significant data breach of protected health information of thousands of Connecticut residents resulting in a stipulated judgment that included a detailed corrective action plan, protections against identity theft, and a civil monetary payment of $250,000. This case was also utilized as the centerpiece in national training of Attorneys General conducted by the U.S. Department of Health and Human Services/Office of Civil Rights.

- The Griffin Hospital AVC reached on March 15, 2011 which involved a significant data breach of protected health information triggered by a former physician who illegally accessed the hospital's computer health information system. The AVC provided for a detailed corrective action plan and monetary payment ($10,000).

- The Yale University AVC reached on February 14, 2011 also involving a significant data breach of unencrypted protected health information which occurred with a stolen lap top. This matter entailed a significant investigation and negotiations of a corrective action plan and monetary payment ($10,000).

The Whistleblower Unit reported on several major investigations. We investigated allegations the Secretary of the State improperly used office resources to compile a database for use in her political campaigns. We determined the Secretary used this database for legitimate office related purposes, including tracking and performing constituent services. We further determined this database could be useful to the Secretary in political campaigns, and further observed that the state law prohibiting state employees from using office resources for political purposes does not apply to employees not in the classified service, including the Secretary and her Executive Assistants. We repeated our recommendation that the General Assembly apply this statutory prohibition to all state employees, including elected officials and their executive staffs. We also concluded the Secretary's compilation of certain information in this public database such as information about an individual's religion and ethnicity was improper.

The Whistleblower Unit also investigated and reported on allegations that the DMV failed to properly act on violations of law by a driving school known as the Academy of Driving. The investigation detailed how in the past DMV took minimal action on some alleged violations by the Academy, but since 2008 DMV did investigate and permanently revoked the Academy's license to operate as a driving school, permanently revoked the Academy owners' school instructor licenses, and permanently barred the owners from participating in the driving school

business. The report concluded by offering recommendations for corrective actions by DMV to insure thorough, consistent, and timely investigation and disposition of complaints against driving schools.

During this fiscal year the Attorney General and Child Advocate issued a joint report following an investigation concerning the manner in which the child protection system addresses allegations that school system personnel have abused and neglected children. The report identified a number of areas where systemic changes should be made to better protect children. The General Assembly passed Public Act 11-93 to implement the legislative recommendations of the report. All of the legislative recommendations of the report were accepted by the General Assembly.

The Whistleblower Unit also investigated and reported on allegations that the Office of Governor M. Jodi Rell misused state funding to obtain advice and focus groups for political election campaign purposes by arranging a "no bid" contract with a UConn professor to conduct a government efficiency study. The investigation found that competitive bidding was not required by state law for the work on this study, laws prohibiting certain political activity on state time were not implicated because they did not apply to the state employees involved, and that UConn and the professor had in fact worked on the government efficiency study and delivered reports to the Governor's Office and the Office of Policy and Management. UConn and the State Elections Enforcement Commission investigated and addressed related allegations that UConn employee policies were violated and state election laws broken, respectively. The whistleblower investigation report concluded that the Office of Policy and Management should give UConn direction concerning an unobligated balance of $69,865.12 that remained in UConn's accounts from the funds for the government efficiency study.

The Health Care Advocacy Unit ("HCAU") has continued to assist patients and their doctors by resolving disputes with managed care in fiscal year 2011. In addition to a number of successes obtaining coverage for treatments for conditions such as cancer, pulmonary diseases, gastrointestinal disorder, and infectious diseases, the HCAU has also helped citizens resolve disputes with health care providers, including disagreements involving alleged balance billing. During fiscal year 2011, HCAU has continued to be instrumental in compelling the withdrawal of a number of private collections suits in which it determined that illegal balance billing was occurring. In fact, due to its positive interaction with collection attorneys, the HCAU now routinely receives referrals in cases where health insurance may have been improperly withheld. The HCAU also had great success in thwarting, through formal interventions in rate hearings, two separate substantial rate increases proposed by Anthem Blue Cross and Blue Shield - the first which was prohibited by the Insurance Commissioner from occurring during a policy period and resulted in the halving of the requested increase, and the second which resulted in complete denial by the Commissioner of the request. Assistance for senior citizens who are having trouble with their Medicare benefits continues to be an area of focus for the HCAU, as well. The HCAU continues to work with the Child Advocate to ensure that children in this state receive the healthcare they require. It has also helped consumers during fiscal year 2010 recover approximately 1.1 million dollars, derived primarily from illegally billed services and improperly denied claims.

PUBLIC SAFETY DEPARTMENT

During the last fiscal year, this department represented the Department of Public Safety, including the Division of State Police, the Division of Fire, Emergency and Building Services; the Military Department; the Department of Correction; the Department Emergency Management and Homeland Security, The State Marshal's Commission and the Department of Consumer Protection Liquor Control Division. It also provides legal services and representation to a number of associated boards, commissions and agencies, including the Division of Criminal Justice, the Division of Public Defender Services, the Office of Adult Probation, the Governor's Office (Interstate Extradition), the Statewide Emergency 9-1-1 Commission, the State Codes and Standards Committee, the Crane Operator's Examining Board, the Board of Firearms Permit Examiners, the Commission on Fire Prevention and Control, the Board of Pardons and Paroles, Police Officer Standards and Training Council, and the Office of Victim Services. Within the last year, the department has also been assigned litigation matters involving the Department of Consumer Protection, the Department of Mental Health and Addiction Services, the Department of Environmental Protection and the Department of Children and Families.

With the recent reorganization of state agencies, this department will represent the entities consolidated into the newly formed Department of Emergency Services and Public Protection, which will include the State Police and the former Department of Homeland Security, as well as the regulatory and litigation work generated by the building and fire code entities that have been transferred to the Department of Construction Services.

Department of Correction Although we provide legal services to and represent a variety of state entities in the areas of public safety and criminal justice, a substantial portion of our work involves representing the many interests and obligations of the Department of Correction. Much of this work is done in defense of the state in lawsuits brought by and on behalf of prisoners. We continue to defend a large number of lawsuits challenging conditions of confinement in state correctional facilities and the administration of community programs, and our pending corrections cases in the district court alone continue to represent more than 10% of the federal court docket. These lawsuits collectively seek millions of dollars in money damages and seek to challenge and restrict the statutory authority and discretion of the Department of Correction. Our efforts in defense of these cases save the State of Connecticut millions of dollars in damages claims, and preserve the state's authority in administering an extremely difficult prison population free of costly and onerous court oversight as has been the experience in other states. In addition, this department has assisted in the recoupment of thousands of dollars in costs of incarceration.

In the last fiscal year, our department has spent considerable time and effort defending increasingly complicated medical malpractice claims. The inmate population is an exceptionally difficult one to care for, and inmates often come into custody with a myriad of complex medical and mental health needs. As a result, we increasingly find ourselves defending cases ranging from misdiagnosis of cancer (Escalera v. State of Connecticut) or viral infection resulting in blindness and loss of organ function (Byrd v. Gilbert) to methadone overdose while in custody (Charette v. State). In addition, we continue to defend a number of medical malpractice and civil rights cases arising from suicides committed by persons in custody. We continue to work with the Department of Correction, the University of Connecticut Health Center and outside medical

and mental health experts to defend litigation and identify systemic deficiencies in an effort to improve medical care and reduce the state's exposure to substantial damages awards.

A great number of inmate claims addressing conditions of confinement continue to be brought as habeas corpus cases, and in that forum we continue to defend inmate challenges to prison conditions and the application of the "good time" statutes to multiple sentences. With the recent passage of a "Risk Reduction Earned Credit" program, designed to further reduce the inmate population, we anticipate a significant increase in habeas litigation challenging the grant, denial and taking away of prison credits. Since this is an entirely new means of earning early release from prison, there will be a need to define the parameters of that discretion in the appellate courts, as was our experience with similar such programs in the past. Just a week into the fiscal year, we are already receiving complaints about the administration of the program.

During this past fiscal year, we continued to experience an increase in proceedings related to Freedom of Information requests from inmates for such materials as sewer plans for prisons, personnel files of DOC employees, photos and police reports listing the victims of several inmates' crimes, and other documents that the Commissioner of Correction has determined to present a risk of harm in the prison environment and/or prison employees. Several statutory changes over the last three legislative sessions have given the DOC several exemptions to disclosure, but to defend the applicability of these exemptions requires us to present expert testimony at many of these administrative proceedings. This continues to be a fertile area for litigation, and requires a substantial commitment from our department.

In addition to our litigation commitments, we continue to advise the Commissioner of Correction on a myriad of legal issues, including: implementation of the new Risk Reduction Earned Credit program, the opening of a statutorily required, residential treatment program for sex offenders, preparation for possible executions of death sentences and the management of death row and other high profile inmates, maintaining appropriate services for mentally ill offenders, developing and maintaining appropriate administrative directives, working with federal authorities to effectuate the deportation of offenders who have been ordered to leave the United States, and implementing safety and security procedures that protect staff and the public while also accommodating evolving constitutional standards as articulated in developing case law. Our attorneys also provide instruction at the DOC training academy on legal issues arising in corrections. These issues will continue to challenge us as budget constraints take a toll on the correctional system.

Board of Pardons and Paroles We continue to defend a number of cases involving the Board of Pardons and Paroles. These cases involve challenges to the Board's authority relative to the granting, rescission and revocation of paroles. With the pressure on DOC and BOPP to reduce the inmate population, we will continue to work on protocols designed to safeguard against release of offenders who are likely to reoffend. In addition, we will begin working on expanding compassionate parole release for offenders with serious medical needs that can be more appropriately managed in the community. Our department continues to provide the Board with training on legal issues involving its hearing procedures and developing legal trends.

Department of Public Safety (Now The Department of Emergency Services and Public Protection – DESPP) We have the responsibility for the defense and representation of almost all the lawsuits involving the State Police seeking money damages, the exception being those lawsuits involving cruiser accidents that are covered by the state's fleet insurance policy. Our caseload of police litigation continues grow in both number and complexity, and include false arrest and excessive force cases, wrongful death claims arising from police shootings and contract claims arising from the agency's relationships with outside service providers. In the past year, we successfully litigated a number of cases in federal court and received favorable decisions in many of those cases. In addition to our litigation efforts, we meet regularly with State Police command staff and counsel to review the agency's policies and procedures and to address legal issues relating to release of confidential information, compliance with subpoenas and relations with other agencies.

We continue to represent the Department of Public Safety and its successor agencies in administrative appeals involving the State Building Code and Fire Safety Code, and to review regulations implementing the various building codes. We also routinely appear on behalf of the department in state and federal court and before the Freedom of Information Commission to address the many different statutory provisions that mandate confidentiality, and even erasure, of police records. Lastly, we continue to review and provide advice to the department on a number of contracts and memoranda of understanding for the department, in particular, resident trooper agreements between the department and more than forty municipalities around the state. As budget constraints impact upon state and municipal law enforcement agencies, the resident trooper program will continue to be a critical component of community law enforcement, making legal issues arising from the program all the more important to the participating towns and DESPP.

Board of Firearms Permit Examiners During the past year, we provided legal advice and representation to Board of Firearms Permit Examiners on a number of issues. We have handled several appeals to the Superior Court from the Board's decisions, including mandamus actions compelling towns to issue permits in accordance with the orders of the Board. Our department also continues to field many public inquiries related to the concealed and open carrying of firearms under Connecticut law. We continue to work with the Board and the Department of Public Safety to enforce the firearms laws of the State of Connecticut.

Liquor Control Division During the past year, we have handled a number of administrative appeals involving the Liquor Control Division. In addition, we provided the Division with advice on a number of legal issues concerning enforcement of the liquor law.

State Marshal Commission We provided legal advice to the State Marshal Commission on several matters during the past year. This work has continued even though the responsibilities of the Commission were consolidated with the Department of Administrative services at the end of the legislative session. Our efforts on behalf of the marshals has included assisting the Commission in responding to complaints regarding state marshals, developing protocols and appropriate training for marshals who have authority to serve criminal process, and guidelines

for serving process on behalf of pro se litigants. Lastly, we have collaborated with the Commission in developing legislation to improve the state marshal system.

Division of Criminal Justice and Division of Public Defender Services We have appeared and defended numerous cases involving the Division of Criminal Justice and the Division of Public Defender Services. These cases often raise constitutional questions and governmental immunity, and relate to the core duties of prosecutors throughout the criminal justice process. In addition, we work closely with the Office of the Chief State's Attorney and the several State's Attorneys in areas of overlapping jurisdiction, such as complex habeas corpus matters in state and federal courts and issues arising from death penalty cases.

Military Department Our department continues to work closely with the Military Department on a variety of issues, including: litigation arising from construction projects in and around Camp Hartell and claims from one of the ceremonial military units that wishes to operate independent of the authority of the Military Department. We also review a number of military department contracts.

Prosecution of Home Contractors During the past fiscal year, the office was actively involved in proceedings against unlicensed home improvement contractors for a multitude of crimes including failure to obtain proper licensing, refusing to refund deposits, and with the consent of local prosecuting authorities, felonies such as larceny and related crimes against the elderly. The State of Connecticut, between 7/1/10 – 6/30/11, convicted or placed in pretrial diversion programs 89 contractors, resulting in nearly $527,000 in restitution to consumers. Two contractors are now serving jail time. Several of the office's attorneys are designated as special assistant state's attorneys in these cases.

SPECIAL LITIGATION AND CHARITIES DEPARTMENT

This Department represents the Governor, the Judicial Branch, the General Assembly, the Secretary of the State, the Treasurer, the Comptroller, the Auditors of Public Accounts, the State Elections Enforcement Commission, the Office of State Ethics, the State Properties Review Board, the Judicial Review Council, the Judicial Selection Commission, the Office of Protection and Advocacy for Handicapped and Developmentally Disabled Persons, the Accountancy Board, the Office of the Child Advocate, the Office of the Victims Advocate, the Commission on Children, the Latino and Puerto Rican Affairs Commission, and the Office of the Chief Child Protection Attorney. In addition, through its Public Charities Unit, the Department protects the public interest in gifts, bequests and devises for charitable purposes, and in cooperation with the Department of Consumer Protection, enforces state laws regulating charities and professional fundraisers who solicit from the public.

In the past year, the Department represented the State's interests in a number of important cases, including: defended the constitutionality of the State campaign finance laws in the federal courts; defended several elections cases litigated on an expedited basis, including a challenge to the constitutionality of the statutory requirements for Attorney General and claims regarding disbursements made to candidates under State campaign financing laws; continued the defense of the changes to the State's bottle deposit law from claims of unconstitutional takings;

litigated claims against the U.S. Secretary of Education to enforce express mandates of the No Child Left Behind Act prohibiting her from imposing education requirements on the State without providing adequate funding to pay for them; and defended the Governor and the legislature in constitutional challenges to the enactment of the state budget.

In the area of charitable trusts and gifts, the Department conducted investigations and brought actions against several individuals and entities to ensure that charitable gifts are used for the purposes for which they were given. Those actions included a lawsuit against a former investment officer for Wesleyan University for unlawful diversion of endowment assets; an action against a fundraising professional who unduly influenced an elderly donor suffering from dementia to change the beneficiaries of her retirement account from charities to her; the recovery of title to a church that had been fraudulently altered and pledged as collateral for a loan; and an action against a New York charity for its attempt to claim title to land in Litchfield on which the Connecticut Junior Republic has offered services to Connecticut youth for nearly 100 years. The Department also took measures with a variety of entities to ensure that charitable funds are protected from misuse. The Department continues to facilitate modifications regarding management or use of charitable assets in *cy pres* or equitable deviation proceedings where it becomes impossible to carry out the specific intent of the donor, and works with municipalities and charities to ensure the protection of hundreds of acres of parks, open space, and ecosystems dedicated to conservation and wildlife refuge purposes.

The Department represents the interests of the State in matters related to federal tribal recognition and in litigation involving land claims brought by groups claiming Indian ancestry. The Department succeeded in defending the decision of the U.S. Department of Interior to deny federal tribal recognition to the Schaghticoke Tribal Nation in appeals through the federal courts. The Department also provides advice to numerous state agencies regarding issues of Indian law and issues connected to the two federally recognized Indian tribes in Connecticut and the operation of their casinos.

The Department plays a leading role in the preparation of appeals throughout the Office. This year, the Department's attorneys briefed and argued a number of cases involving constitutional and other issues involving important state policy in the State Supreme Court, the United States Supreme Court, the Second Circuit Court of Appeals, and other courts. The Department plays an important role in the Office's participation as amicus curiae in cases before the federal and state courts.

TORTS/CIVIL RIGHTS DEPARTMENT

The Torts/Civil Rights Department defends state agencies and employees in tort and tort-like civil rights actions, including high exposure personal injury and wrongful death actions. A substantial number of cases arise from alleged injuries at the state educational facilities, such as the vocational high schools and state colleges, and allegations involving children in the care of the Department of Children and Families ("DCF"). The origin of the remainder of cases is spread among many agencies and reflect the varied activities and services in which the state is involved - from providing direct treatment to those with mental illness or mental retardation, to operating schools and colleges, having recreational parks and swimming areas, being a landowner and controlling many buildings and other premises, obtaining custody of

abused/neglected children, or holding those arrested by police in Judicial cells. Many of these cases seek large sums in damages from state taxpayers' funds. Department attorneys have saved the State millions of dollars by obtaining favorable judgments and settlements for the State in the courts and at the Claims Commission.

We have aggressively pursued indemnification and hold harmless provisions in contracts between the state agencies and contractors providing services who under their contracts were responsible for the activities resulting in the personal injury actions. Where state contractors and/or their insurers have not quickly stepped up to defend and indemnify the State in these actions, we have sought and obtained compensation for our attorneys' time and for expenses. In several cases we have collected many thousands of dollars in attorney's fees from contractors which delayed for a considerable time in representing and indemnifying the State.

In the past year, we obtained some notable legal decisions:

- In Hernandez v. State of Connecticut, the trial court dismissed a facial constitutional challenge to the bail bond system on the basis that the plaintiff's claims were moot.
- The Claims Commissioner denied the claim of a student who was assaulted by a guest of another student at a campus party. After hearing, the Claims Commissioner found that UCONN did not have any reason to believe that the student would be attacked.
- The Claims Commissioner, after hearing, denied a claim by a vocational high school student who violated safety instructions by placing his body weight on a pane of glass which broke causing him injuries.
- The Claims Commissioner denied a claim by a UCONN Health Center patient who slipped and fell in a patient bathroom because the facility had no notice of the presence of water and it appeared that the patient was responsible for the spilled water.
- The claims of two passengers in a motor boat operated by someone who was intoxicated and speeding and who crashed into another boat were denied. It was alleged that DEP was negligent in its oversight of the lake and the fishing tournament there. The State's motion to dismiss was granted on the basis of the lack of private duty involved in DEP's regulatory function.
- The Claims Commissioner granted the State's motion for summary judgment denying a claim by the estate of a pedestrian in a parking lot who was run over by a driver backing up.

The Department was successful in the vast majority of the many slip and fall actions filed. In addition, favorable settlements were reached in various personal injury cases. Further, when any dangerous condition or practice is revealed during our representation, the Department advises agencies regarding the need for physical or policy changes to increase safety.

TRANSPORTATION DEPARTMENT

The Transportation Department ("Department") of the Office of the Attorney General provides representation for the following state agencies: Department of Transportation ("DOT");

Department of Public Works ("DPW")[1]; Department of Administrative Services ("DAS"); Department of Motor Vehicles ("DMV"); Department of Information Technology ("DOIT"); Department of Economic and Community Development, Housing Matters ("DECD"); the Department of Environmental Protection ("DEP") real property matters, and the Connecticut Historical Commission. In addition, the Transportation Department provides representation for various occupational licensing boards within the Department of Consumer Protection ("DCP"). The representation of the foregoing state agencies/boards includes, but is not limited to, counseling and advice on legal issues, the prosecution or defense of lawsuits or claims in both federal and Connecticut courts, and before various administrative entities, including the defense of claims filed with the Office of the Claims Commissioner pursuant to Chapter 53 of the Connecticut General Statutes.

As a result of the large number of public works projects undertaken by the State during any given year, and the broad scope and complexity of many of these projects, there is a continuing need for the attorneys in the Transportation Department to provide legal assistance to the DOT, DPW, DAS and all other state agencies including the Joint Committee on Legislative Management ("JCLM"), the administrative arm of the General Assembly, and the State Contracting Standards Board on public contracting issues; this Department also provides counsel on and drafting of many of the state's transactional matters. Other legal assistance is provided in the resolution of bid protests, the interpretation of contract language, and other problems that eventually arise during the course of large construction and statewide procurement projects.

This past year's activities have been concerned with the prosecution and defense of several major lawsuits and appeals. Of note is the state's recent settlement of the matter State of Connecticut v. Lamar Central Outdoor, LLC et al, involving the unauthorized clear cutting of at least 84 mature trees on DOT property. An arborist expert retained by the State estimated that the cost to replace the trees and other plantings was in the range of $180,000 dollars. The in-kind settlement reached with Lamar calls for Lamar to replant the area using the State's arborist's detailed replanting plan and with continuing oversight by DOT landscape staff.

Another settlement of significance and approved by the Governor is that which was reached by DOT and Exxon/Mobil regarding Exxon/Mobil's environmental responsibilities at the various service plaza locations along the I-95 corridor, I-395 and the Merritt Parkway as its contract expires with the DOT and it s replaced by Project Service LLC. In late 2009, Project Service LLC, a partnership between Subway sandwich shops and the Carlyle Group, signed a 35-year deal to revamp and operate the service plaza facilities and, through subcontractors, provide food and fuel. Exxon/Mobil has agreed to pay DOT $18 million of the cost to clean up fuel and other contamination on the properties it has operated since 1982. Project Service LLC, the new rest stop vendor will handle cleanup of the sites as part of a five and a half year process of redeveloping and upgrading the sites.

The Transportation Department is pursuing damages in the following ongoing cases: State of Connecticut v. Lombardo Bros. et al., involving the construction failures of the façade

[1] At the urging and recommendation of Governor Malloy, the Legislature in its last session has consolidated several of the agencies represented by the Transportation Department. DPW will be merged into DAS except for its construction responsibilities which will be handled by a new state agency, the Department of Construction Services. DOIT in its entirety will also be merged into DAS. The Historic Commission will become part of DECD. The Transportation Department will continue its representation of these new entities as well as its current client agencies.

and massive leaks at the UCONN Law Library. State of Connecticut v. Bacon Construction et al, involving the construction failures resulting in the massive leaks at many of the prison's buildings at York Women's Prison in Niantic. These cases are currently on appeal which could significantly impact their prosecution as well as other construction cases since the issues involve the applicability of statutes of limitation and repose in construction cases, as well as the interpretation of a key term in Connecticut General Statute § 4-61, all matters of first impression for the Court. Also on appeal is the matter of State of Connecticut v. CPC, in which the Department of Information Technology accused CPC of fraudulently concealing CPC's omission of a part required by contract to be included in the purchase of nearly 10,000 computers for use by State agencies. Finding the jury award to be excessive the trial court set aside the jury's damages award of $18 million and reduced it to $1.5 million.

Procurement issues, bid protests and responsibility determinations of apparent low bidders on DOT and DPW construction projects and DAS procurement awards continue Currently outstanding is the court side challenge by the apparent second low bidder, SDE Interchange Joint Venture to DOT's award to the low bidder, O&G Joint Venture for the contract award on the next phase of construction of the Q Bridge.

Despite the best efforts of all involved, some construction problems simply cannot be resolved to the satisfaction of the parties and thus claims for money damages are made against the State. The attorneys in the Transportation Department assist agency personnel with early analysis and settlement negotiations in an attempt to quickly resolve outstanding disputes and minimize the potential adverse financial impact of such claims on the public treasury. Nevertheless, a certain number of claims, both legal and monetary end up in court or arbitration as was the case in the matter of White Oak v. DOT, a Bridgeport bridge repair project which was one of several large construction projects improving and widening the I-95 corridor. The arbitration panel awarded White Oak $8.4 million in damages. An appeal has been taken and this will likely be decided by the Connecticut Supreme Court since it involves jurisdictional interpretation issues pursuant to Conn. Gen. Stat. §4-61.

During this past year, ten construction-related claims filed with DOT were resolved. Of the ten, DOT recouped $800,000 on one; and three were defeated in the Claims Commissioner's Office, in the amounts of $21,397.25, $35,616.43, and $1,226,355.48. Settlements of the claims filed with DOT were reached as follows:

(1) Claim of $2,371,984 settled for $800,000;

(2) Claim of $917,634 settled for $127,000;

(3) Claim of $715,250 settled for $294,631.12;

(4) Claim of $1,141,541.74 settled for $350,280;

(5) Claim of $298,127 settled for $85,185.46; and

(6) Claim of $864,521.74 settled for $740,000.

The total money recouped or saved during this past year for these construction-related claims is $5,782,384.52. There were others filed during and before that time that are still ongoing.

Among many of the cases this Department handles are all matters involving the Department of Motor Vehicles including all drunk driver cases and cases involving complaints

regarding dealers and repairers, the emissions program as well as safety inspections. The successful defense of these cases results in keeping the roads safe from drunk drivers.

The Department is also responsible for handling Historic Commission matters and now and then is called upon to seek the court's protection of historic properties which face destruction by owners or developers. See C.G.C. §22a-19a. The case of CT Historic Commission v. Town of Wallingford established an historic preservation precedent. The Court made it easier to save historic buildings listed on the National Register of Historic Places from unreasonable demolition. The case represents the first permanent injunction issued by a Connecticut court to prevent the destruction of an historic structure. Quite significantly, the Court ruled that selling a historic building (instead of demolishing) is a prudent and feasible alternative to its destruction. This ruling should have a profound effect on any future historic preservation cases. As a follow up to our handling of the preservation of the Grumman St. John House, part of the Norwalk Inn in Norwalk in which this Department succeeded in getting the court to order the Inn to fix the damages resulting from its purposeful neglect of the house, settlement has resulted in the owners agreeing by court stipulated judgment to permanently preserve the historic structure at 93 East Ave.

The Transportation Department is also responsible for handling housing matters for the DECD as well as all employee housing matters throughout the state and the many foreclosures in which the state has an interest in the property. We have issued Notices to Quit to state employees as well as non employees in order to transition non rent paying employees to rent payers and to evict non employees. Most of these matters have resulted in amicable settlements.

Our DOT representation also covers all matters relating to eminent domain and rights-of-way issues and surplus property divestitures (also including DPW surplus property); any issues as to properties and facilities including all I-95 and the Merritt Parkway service plaza facilities; aviation and ports; public transit; rails; the State Traffic Commission; Siting Council issues relating to the use of DOT's rights of way by transmission facilities, and telecommunication facilities; and all environmental matters including permitting, salt shed and maintenance facilities located throughout the State. We disposed of 5 eminent domain appeals by trial, 16 eminent domain appeals by stipulated judgment, 2 withdrawn appeals, 3 voucher approvals, and received 22 new appeals during the last fiscal year. There are currently 61 eminent domain appeals in litigation. The litigation outcomes of the concluded appeals resulted in savings to the State of $1,986,210.00. We also counseled the DOT regarding the divestiture of 79 surplus properties.

During the preceding year we have been advising DOT extensively on the extension and renewal of the air carrier agreements in place at Bradley Airport.

Finally, in conjunction with agency staff, we have been assisting with the development of various master contracts for use in all areas of contracting at both the DOT and DPW with the goal of streamlining the approval processes.

The Transportation Department also represents DEP in property matters. Of particular significance are the provision of legal services to DEP in connection with the procurement of conservation easements, resulting in the dedication of thousands of acres to public recreation; and the provision of legal advice on complex property law issues. These conservation easements equal the value of the grants that DEP gave out for land purchases by other entities, specifically

municipalities and land trusts. The easements and purchase prices of all land that DEP bought directly for the State total $13,318,460. These services included 91 conveyances of real property, 1 lease, 24 open space grant agreements, 34 conservation easements, and a total of 11 easements and other agreements.

Our representation of DPW also consists of construction matters as well as handling a large amount of leasing, property management, and environmental challenges on citing issues. As previously stated, some construction problems simply cannot be resolved to the satisfaction of the parties and thus claims for money damages are made against the State. During the last fiscal year DPW had several open claims involving millions of dollars; most of those claims are still outstanding. A construction claim by general contractor Angeliades in the amount of $3,125,000 was settled in June for $1,280,000 saving the state $1,845,000; the Conn. Gen. Stat. §3-7 approval process is underway. Also, we defeated a construction claim against the state in the Superior Court in the amount of $25,000. In addition, we have regularly provided advice and assistance to DPW in negotiating away potential claims before specific amounts are calculated and submitted; these discussions usually ended in no claim being advanced.

In the areas of leasing, property management and environmental challenges during the past year we provided DPW with legal counsel and review of 11 leases, 27 license agreements, and 75 contracts. This is exclusive of DPW real estate transactions in the form of deeds (7); easements (2); agreements (30); and "other" (4).

In addition to the noted construction, contracting, and real property matters, the Transportation Department is deeply involved in various environmental matters associated with public works projects, roads and bridges projects, and other activities of our client agencies. A major continuing responsibility is to provide appropriate legal assistance and guidance to these agencies to ensure that there is compliance with applicable federal and state environmental laws in the planning of projects and the operation of state facilities. In particular, to assist these agencies in their efforts to comply with the requirements of the National Environmental Policy Act ("NEPA"), the Connecticut Environmental Policy Act ("CEPA") and other federal and Connecticut regulations that have been enacted to balance the need to develop our state economy and governmental services with the need to protect the air, water and other natural resources of the state. In this regard, the Department assists the agencies in preparing and obtaining required environmental permits (e.g., wetland permits) from both Connecticut and federal regulatory agencies – e.g., the Connecticut Department of Environmental Protection and the United States Army Corps of Engineers and defends our client agencies in court when environmental challenges are brought.

WORKERS COMPENSATION/LABOR DEPARTMENT

A significant accomplishment of attorneys and staff in the Workers Compensation/Labor Department for the fiscal year ending June 30, 2011, was in the area of revenue generated for special funds with state employee third party recovery collection increasing 83% over the prior fiscal year, unpaid wage and unemployment tax collection increasing 178% and Second Injury Fund collection increasing 480%. Given the budget difficulties currently facing state government, the importance of these considerable increases in revenue by the department cannot be overstated.

In District Lodge 26 of the Int'l Ass'n of Machinists and Aerospace Workers v. United Technologies Corporation, Pratt & Whitney, 610 F.3d 44; 2010 U.S. App. LEXIS 13919 (July 8, 2010), the United States Court of Appeals for the Second Circuit affirmed the judgment of the U.S. District Court for the District of Connecticut which held that Pratt & Whitney violated its collective bargaining agreement with the union by transferring jobs outside the State of Connecticut without making every reasonable effort to preserve the work in the bargaining unit, as required by the contract. The district court issued an injunction prohibiting the employer from transferring the jobs until the expiration of the contract in December, 2010. The State of Connecticut filed two amicus briefs in support of the union in the District Court, and the Attorney General participated in oral argument before the court. The District Court's holding was based on the employer's not acting in good faith with regard to its substantive obligation to make every reasonable effort to preserve the work but regarding its obligations as procedural only, requiring notice and meeting with the union over its planned transfer of work. The State of Connecticut directly participated in the discussions between the employer and union in that process, and the employer's lack of good faith in responding to the State's offer of financial concessions was a distinct basis of the District Court's decision. Pratt & Whitney appealed that decision to the U.S. Court of Appeals for the Second Circuit. We filed an amicus brief on behalf of the state and the Attorney General participated in the oral argument. The grounds of the Second Circuit's decision were the employer's analyzing its options in terms of its own business judgment rather than alternative evaluations that might preserve the work and its failure to assign extra value to preserving the work in its analysis prior to meeting with the union. On July 8, 2010, the Second Circuit issued an opinion affirming the judgment of the District Court.

In Jason Roberts, Inc. v. Administrator, Unemployment Compensation Act, 127 Conn. App. 780 (April 12, 2011), the Appellate Court held that a franchise agreement was not exempt from the Unemployment Compensation Act. Accordingly, the definition of employment in Conn. Gen. Stat. Sec. 31-222(a)(1)(B)(ii) of the Unemployment Compensation Act, the so-called ABC test, applied exclusively to determine employee status for purposes of the Act, notwithstanding the additional existence of a franchise agreement.

In Rodriguez v. E.D. Construction, Inc., 126 Conn. App. 717 (February 22, 2011), cert. denied, 301 Conn. 904 (2011), the Appellate Court affirmed the judgment of the Compensation Review Board which affirmed the trial commissioner's dismissal of the plaintiff's workers' compensation claim on grounds that he was an independent contractor rather than an employee of the defendant roofing contractor, thereby depriving the commissioner of subject matter jurisdiction over the claim. In its opinion, the Appellate Court reaffirmed its holding in Chute v. Mobil Shipping & Transportation Co., 32 Conn. App. 16, cert. denied, 227 Conn. 919 (1993), that the fundamental distinction between an employee and an independent contractor depends upon the existence or nonexistence of the right to control the means and methods of work. Chute, 32 Conn. App. at 19-20. The case is noteworthy in that a) the plaintiff sustained catastrophic injuries that left him in a coma for more than 2 months and resulted in serious burns over 90% of his body which necessitated the amputation of an arm and left his other arm with significant permanent impairment; b) the medical bills alone exceeded $1.2 million; and c) the defendant did not have workers' compensation insurance coverage, thereby exposing the Second Injury Fund to potential liability of more than $2 million had the commissioner found that the plaintiff was an employee of the defendant . Given what was at stake, our participation in the proceedings began with the plaintiff's deposition in 2005, followed by 9 formal hearing held over years and appellate proceedings lasting more than 4 years.

AFFIRMATIVE ACTION

The Office of the Attorney General is firmly committed to equal employment opportunity. Nearly 56% of the full-time attorney workforce consisted of women and minorities. Women and minorities comprised 62% of entry level attorneys and 48.3% of middle and high level attorneys.

VOLUNTEER PROGRAMS

The Office of the Attorney General welcomes volunteers who desire to help and assist the people of Connecticut. People are invited to participate either through our Volunteer Advocate Program or through our Volunteer Internship Program. In this past fiscal year, volunteers have played a key role in achieving the public service goals of the Attorney General.

During this fiscal year, 14 volunteer consumer advocates helped this office assist consumers in resolving problems they encountered when purchasing goods and services and helped them obtain the refunds or bill credits to which they were entitled.

In addition, interns played a valuable role in serving the state and its people. While most of the interns are law school students, high school, college and graduate school students also participate in the internship program. Interns are given an inside view of the state's largest public interest law firm, learn valuable skills and assist in critical investigations and legal actions undertaken by the Attorney General.

During this past fiscal year, 105 students took part in our internship program, each working approximately 8 weeks. The total cost to this office for those two programs was approximately $500.00 for incidental expenses.

S336

AARP Public Policy Institute

IN BRIEF

In Brief
A BILL of RIGHTS for HOMEOWNERS in ASSOCIATIONS: Basic Principles of Consumer Protection and Sample Model Statute

Associations in common-interest communities (such as homeowners associations or condominium associations) play a valuable role in modern America, and generally operate amicably to the mutual benefit of residents. For instance, they may:

- Provide a number of amenities (such as parks, pools, and club houses) that would be difficult to procure from many cash-strapped local governments.
- Set architectural standards and maintenance requirements that help reassure residents that their investment in the community is well protected.
- Provide opportunities for neighbors to meet and socialize, helping foster a sense of community.
- Maintain private streets, remove snow, and even collect garbage, thereaby relieving local governments from those burdens.

AARP Public Policy analysis indicates that in 2003, 46 percent of owners in single-family homeowner associations were over the age of 50, as were 56 percent of owners in condominium/coop communities.

Along with the advantages of association life, there may also arise disputes between homeowners and their association. Association rules regarding participation in the association elections process, levying of fines, and procedures for resolving disputes through an objective third party can have a profound impact on the quality and enjoyment of community life. Many disagreements and disputes can be settled rather easily, but some can escalate even to the point where ownership of the home is at risk. The use of foreclosure as an enforcement tool is controversial (especially in states that permit foreclosure without a court hearing) and can be devastating to a household. The consequences of disputes can be particularly severe for older homeowners, whose homes typically represent their single largest asset.

The Bill of Rights for Homeowners in Associations outlines a set of ten principles (or "rights") and model statutory language that states can follow when developing laws and regulatory procedures for common-interest communities. Additionally, associations themselves can use these principles and the concepts in the model statute explanatory discussions when developing or modifying their own governing documents. The issues addressed are applicable to all forms of common-interest communities.

For full report, see AARP Public Policy Institute Paper #2006-15
In Brief prepared by Andrew Kochera, July 2006
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BILL OF RIGHTS FOR HOMEOWNERS

I: *The Right to Security against Foreclosure*
An association shall not foreclose against a homeowner except for significant unpaid assessments, and any such foreclosure shall require judicial review to ensure fairness.

II: *The Right to Resolve Disputes without Litigation*
Homeowners and associations will have available alternative dispute resolution (ADR), although both parties preserve the right to litigate.

III: *The Right to Fairness in Litigation*
Where there is litigation between an association and a homeowner, and the homeowner prevails, the association shall pay attorney fees to a reasonable level.

IV: *The Right to Be Told of All Rules and Charges*
Homeowners shall be told--before buying--of the association's broad powers, and the association may not exercise any power not clearly disclosed to the homeowner if the power unreasonably interferes with homeownership.

V: *The Right to Stability in Rules and Charges*
Homeowners shall have rights to vote to create, amend, or terminate deed restrictions and other important documents. Where an association's directors have power to change operating rules, the homeowners shall have notice and an opportunity, by majority vote, to override new rules and charges.

VI: *The Right to Individual Autonomy*
Homeowners shall not surrender any essential rights of individual autonomy because they live in a common-interest community. Homeowners shall have the right to peaceful advocacy during elections and other votes as well as use of common areas.

VII: *The Right to Oversight of Associations and Directors*
Homeowners shall have reasonable access to records and meetings, as well as specified abilities to call special meetings, to obtain oversight of elections and other votes, and to recall directors.

VIII: *The Right to Vote and Run for Office*
Homeowners shall have well-defined voting rights, including secret ballots, and no director shall have a conflict of interest.

IX: *The Right to Reasonable Associations and Directors*
Associations, their directors and other agents, shall act reasonably in exercising their power over homeowners.

X: *The Right to an Ombudsperson for Homeowners*
Homeowners shall have fair interpretation of their rights through the state Office of Ombudsperson for Homeowners. The ombudsperson will enable state oversight where needed, and increases available information for all concerned.

HB 5536

CONNECTICUT CONDO OWNERS COALITION
2012 Condo Legislation Concepts
November 18, 2011

"Vague language has to be repaired in the community association statutes, vague language creates nothing but expensive lawsuits with no winners but the attorneys." – *Source: Unknown*

Possible 2012 Condo Law Concepts:bil

- **OFFICE OF ATTORNEY GENERAL** shall:
  - track the number of calls and letters it receives regarding possible violations of the Common Interest Ownership Act and forward its list to the Department of Consumer Protection which will keep the total count.
  - maintain an online listing of condo owner complaints including name of complainant and respondent, which shall be easily accessible to the general public.
  - have jurisdiction to investigate any illegal activity by a condo association or property management company brought to its attention by any party as long as the party provides substantiating documentation in the initial claim verifying the illegal activity.
  - shall review and approve all condo association bylaws, articles and revisions for all associations (some of which should become standard for all associations) at least every 15 years (7 years) to make sure the bylaws comply with state law. (see existing New York State law). Interests in a cooperative, condominium or homeowners' association may not be sold, or even offered for sale, until an offering plan -- disclosing all the material facts and complying with all of the laws -- has been submitted to, and accepted for filing by the Attorney General. Before accepting a plan for filing, the Attorney General's office reviews the offering plan and supporting documents submitted by the sponsor to determine whether the sponsor has complied with tenant protection laws and whether the plan appears to disclose all of the information required by the laws and regulations issued by the Attorney General. By accepting a plan for filing, the Attorney General is indicating only that the sponsor appears to have complied with the law. Responsibility for full compliance lies with the sponsor. Acceptance does not constitute a value judgment on the plan. It does not mean the Attorney General has approved the financial terms, the price, the description of the building's condition or any other aspect of the plan. When the Attorney General's office determines that all of the material facts concerning the building appear to have been adequately disclosed, and makes all the findings required by law, the offering plan is accepted for filing. In the case of buildings occupied entirely or partly for residential purposes, the Attorney General may not accept the plan in less than four months after its submission. In no more than six months, the sponsor must by law be informed that the plan is either accepted for filing or is deficient and must be modified.

- **DEPARTMENT OF CONSUMER PROTECTION** shall:
  - maintain an online record of condo owner complaints including name of complainant and respondent, which shall be easily accessible to the general public.
  - have jurisdiction to investigate any illegal activity by a condo association or property management company brought to its attention by any party as long as the party provides substantiating documentation in the initial claim verifying the illegal activity.
  - track the number of calls and letters it receives regarding possible violations of the Common Interest Ownership Act.

- provide complainant with a written notice of rights upon commencement of an investigation of an abuse or neglect brought to its attention by the complainant.
- post on its website number of complaints filed against a property manager and by whom with online look-up capability similar to Judicial branch case lookup. Will not include details of complaint, but may be categorized by type
- provide owner a copy of the letter sent to the property manager and the board of directors of the complainant's association managed by the property manager with a request to response with a proposed disposition within 10 business days and to copy the complainant on the response.
- notify association board of directors and property manager of any notice of harassment made by a unit owner. Laws shall prohibit association from interrupting, discontinuing or interfering with any essential service which substantially disturbs the comfort or peace and quiet of any unit owner tenant who uses or occupies his/her unit. The tenant, or the Attorney General, may take legal action to stop harassment.
- establish an easy to find and navigate online consumer resource center regarding condominium purchase and ownership on the DCP website (use New York State as a model)
- create an Advisory Council on Condominiums. The council shall consist of seven appointed members. Two members shall be appointed by the President of the Senate, two members shall be appointed by the Speaker of the House of Representatives, and three members shall be appointed by the Governor. At least one member that is appointed by the Governor shall represent timeshare condominiums. Members shall be appointed to 2-year terms; however, one of the persons initially appointed by the Governor, by the President of the Senate, and by the Speaker of the House of Representatives shall be appointed to a 1-year term. The director of the division shall serve as an ex officio nonvoting member. The Legislature intends that the persons appointed represent a cross-section of persons interested in condominium issues. The council shall be located within the division for administrative purposes. Members of the council shall serve without compensation but are entitled to receive per diem and travel expenses while on official business.
- Publish a "Rights and Responsibilities pamphlet" that is mailed to each condo association president. Each association shall be mandated to review the Rights and Responsibilities information with unit owners in Q&A discussion meeting annually (see Florida model) and published online on the DCP website

- **SECRETARY OF STATE** shall:
  - Exercise jurisdiction to mandate town tax assessors to provide condo owner lists to Secretary of State's office (capture unit # and address)
  - code condo association records when associations apply for or renew its incorporation so agency may easily identify condo associations for future statewide homeowner association surveys, so unit owners can soliciting unit owners in database to sign petitions, survey associations to see if state laws are working; or what do owners want from state government
  - investigate all cases involving alleged illegal association activity and may withhold association incorporation until investigation is complete and it is certain there is no illegal activity taking place.

- **MUNICIPAL HOUSING AUTHORITY** (or Health inspectors or building dept if no housing authority) shall

- Have jurisdiction to hear unresolved condo owner matters; provide specified services to condominiums and cooperatives or reimburse them for the cost
- have jurisdiction to hear specific condo cases with the power to enforce existing condo laws; cases may include, but not be limited to, failure to hold proper elections, failure to disclose or provide information to owners, failure to hold annual meetings, and failure to obtain owner approval.
- Where there is no municipal housing authority, small claims court shall have jurisdiction to handle condo disputes. [Needs rewording to conform to the paragraph header language or perhaps be a separate paragraph].

- **COMMISSION ON HUMAN RIGHTS & OPPORTUNITIES** shall
  - have jurisdiction over elderly abuse in condos
  - act to protect senior citizens and disabled tenants.

- **ALTERNATIVE DISPUTE RESOLUTION** - Mandatory Non-binding Arbitration will apply if parties are unable to come to terms after three constructive mediation sessions. The winning party shall pay all punitive damages and attorneys fees. (Needs elaboration)

- **BOARD MEMBER EDUCATION** shall be mandatory, open to all unit owners, to be held on-site within the community if possible at least three hours per calendar year. New board members shall complete the course within six months of election to the board except under extenuating circumstances such as illness.

- **MANAGER LICENSURE** with continuing education, fines and/or jail time for any corruption.
  - Should include all managers of condominiums regardless of whether they are privately employed by the association, hired as an independent contractor, or are hired as staff by the association. Need clear manager definition in order that persons cannot act as managers and have a title which could exclude them from this provision. Any person or group acting as manager must be licensed and attend training course relative to licensure

    Definitions. As used in this Section, unless context otherwise requires:

    "License" means the license issued to a manager of community associations for the State.

    "License holder" means a person to whom a license has been issued.

    "Association" means (a) an association, as defined in section 47-202, and an association of unit owners, as defined in section 47-68a and in section 47-68 of the general statues, revision 1958, revised to January 1, 1975, and (b) the mandatory owners organization of any common interest community, as defined in section 47-202, which community was not created under chapter 825 or 828 or under chapter 825 of the general statues, revision of 1958, revised to January 1, 1975. "Association" does not include an association of a common interest community which contains only units restricted to nonresidential use.

    "Community Association Manager" means an individual who administers for compensation the coordination of financial, administrative, maintenance, or other duties called for in the management contract, including individuals who are direct employees of a community association. A manager does not include support staff, such as bookkeepers, administrative

assistants, secretaries, property inspectors, customer serve representatives, or managers in training.

"Manager in Training" means any individual who is training to become a manager and is under the supervision of a license holder. During the training period, a manager in training may not be licensed. A manager in training shall not have signatory authority on any community association bank account. Further, after a period of one year, a manager in training is required to be licensed by the State.

"Association Management services" means services provided to an association for remuneration, including one or more of the following: (A) acting with the authority of an association in its business, legal, financial, or other transactions with association members and nonmembers; (B) executing the resolutions and decisions of an association or, with the authority of the association, enforcing the rights of the association and unit owners secured by statute, contract, covenant, rule or bylaw; (C) ~~(A)~~ Collecting, controlling or otherwise exercising dominion or control over money or other property belonging to an association ~~disbursing funds of the association or having the authority to do so;~~ (D) ~~(B)~~ preparing budgets, financial statements or other financial documents for the association; (E) ~~(C)~~ assisting in the conduct of or conducting association meetings; (F) ~~(D)~~ advising or assisting the association in obtaining insurance; (G) ~~(E)~~ Negotiating contracts or otherwise coordinating or arranging for services or the purchase of property and goods for or on behalf of an association; (H) coordinating or supervising the overall operations of the association; and (I) ~~(F)~~ advising the association in overall operations of the association. Any person licensed in this state under any provision of the general statues or rules of court who provides the services for [he] such person is licensed to an association for remuneration [,] shall not be deemed to be providing association management services. Any director, officer or other member of an association who provides services specified in this subdivision to the association of which he or she is a member shall not be deemed to be providing association management services unless such director, officer or other member owners or controls more than two-thirds but less than all of the votes in such association.

"Department" means the Department of Consumer Protection

"Person" means an individual, partnership, corporation, limited liability company or other legal entity.

License required. Beginning 12 months after the adoption of rules providing for the licensure of a community association manager in Connecticut under this Act, it shall be unlawful for any person, entity, or other business to provide community association management services or provide services as community association manager to any community association in this State, unless he or she holds a current and valid license issued licensed by the Department or is otherwise exempt from licensure under this Act.

A license will be issued to an individual. A license will not be issued to a partnership, association, corporation, limited liability company, or other business entity. However, a licensed community association manager may perform community association management for or on behalf of a partnership, association, corporation, limited liability company, or other business entity, conduct business as a business entity, or enter into and enforce contracts as a business entity.

A community manager is subject to disciplinary action if the community manager commits any of the following:

- Obtained a license by means of fraud, deceit, or misrepresentation.

- Engaged in negligence or incompetence as a community association manager. Engaged in any act or service for which a license is required with a lapsed or inactive license.

- Made a willful misrepresentation of material fact.

- Failed within a reasonable time to account for or remit money belonging to a community association or another person coming into the community association manager's possession in his or her capacity as a community association manager. Commingled money belonging to a community association with the community association manager's own or other money or failed to deposit, maintain, or safeguard the money of a community association.

- Been adjudged legally incompetent.

- A felony or offense involving moral turpitude or unprofessional conduct. "Unprofessional conduct" means violating the provisions of an order of the DCP, an agreement with the Department, or this Act.

- Fails to cooperate with the Department in the investigation of a complaint, including without limitation, failure to produce any document, book, or record in the possession or control of the community manager after the Department requests production of that document, book, or record in the course of an investigation of a complaint.

Disciplinary action taken by the Department may consist of one or more of the following:

- Revocation or suspension of license;
- Refusal to renew or reinstate license;
- Placement of the community manager on probation for a reasonable period of time;
- Issuance of reprimand or censure to the community managers; and
- Impose a reasonable fine not to exceed $10,000 per violation.

Fees.

The Department may impose the following fees that do not exceed the amounts set forth in this section:

1.	Application for community association manager license	$75.00
2.	Issuance of License	$200.00
3.	License renewal	$200.00
4.	Reactivation of License	$200.00
5.	Reinstatement of License	$200.00
6.	Late renewal	$75.00

The application and license fee will be paid to the Department of Consumer Protection.

245
246 Disposition of fees. All fees shall be deposited into the Community Manager License Fund,
247 a fund established to support the license program.
248
249 **Applicant's Requirements.**
250
251 Any person seeking a license as a community association manager, the individual must meet
252 these requirements:
253
254 Applicants shall apply to the department, in writing, on a form provided by the department
255 seeking a license as a community association manager. Such application shall include the
256 applicant's name, residence address, business address, business telephone number and such
257 other information as the department may require.
258
259 **Qualifications for licensure as a community association manager.**
260
261 (a) No person shall be qualified for licensure under this Act, unless he or she has applied
262 in writing on the prescribed forms and has paid the required, nonrefundable fees and
263 meets all of the following qualifications:
264 (1) He or she is at least 21 years of age.
265 (2) He or she provides satisfactory evidence of having completed at least 20 classroom
266 hours in community association management courses approved by the Department.
267 (3) He or she has passed an examination authorized by the Department.
268 (4) He or she has not committed an act or acts, in this or any other jurisdiction, that
269 would be a violation of this Act.
270 (5) He or she is of good moral character. ~~In determining moral character under this~~
271 ~~section, the Department may take into consideration whether the applicant has engaged~~
272 ~~in conduct or activities that would constitute grounds for discipline under this Act.~~
273 Good moral character is a continuing requirement of licensure.
274 Conviction of crimes other than felonies may be used in determining moral character, but
275 shall not constitute an absolute bar to licensure.
276 (6) He or she has not been declared by any court of competent jurisdiction to be
277 incompetent by reason of mental or physical defect or disease, unless a court has
278 subsequently declared him or her to be competent.
279 (7) He or she complies with any additional qualifications for licensure as determined by
280 rule of the Department.
281
282 (b) The examination and initial education requirement of items (2) and (3) of subsection
283 (a) of this Section shall not apply to any person who within 6 months from the effective
284 date of the requirement for licensure, as set forth in Section _____ of this Act, applies
285 for a license by providing satisfactory evidence to the Department of qualifying
286 experience or education, as may be set forth by rule, including without limitation
287 evidence that he or she has ~~(i) practiced community association management for a~~
288 ~~period of 5 years~~ or ~~(ii)~~(i) achieved a designation awarded by recognized community
289 association management organizations in the State ~~(ii) has successfully completed a~~
290 ~~training program and certifying examination in another state with substantially similar~~
291 ~~requirements as mandated by this Act and the rules and procedures to be established by~~
292 ~~the Department.~~
293 (c) Applicants have 3 years from the date of application to complete the application
294 process. If the process has not been completed within the 3 years, the application shall

be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of re-application.

Examinations.

(a) The Department shall authorize examinations of applicants for licensure as a community association manager at such times and places as it may determine. The examination of applicants shall be of a character to give a fair test of the qualifications of the applicant to practice as a community association manager.
(b) Applicants for examination shall be required to pay, either to the Department or the designated testing service, a fee covering the cost of providing the examination.
(c) The Department may employ consultants for the purpose of preparing and conducting examinations.
(d) An applicant shall be eligible to take the examination only after successfully completing the education requirements set forth in this Act and attaining the minimum age required under this Act.
(e) The examination approved by the Department should utilize the basic principles of professional testing standards utilizing psychometric measurement.

Community Association Management Company

(a) No firm, corporation, limited liability company, or other legal entity shall provide or offer to provide community association management services, unless such services are provided through:
(1) an employee or independent contractor who is licensed under this Act;
(2) a natural person who is acting under the direct supervision of an employee of such firm, corporation, limited liability company, or other legal entity that is licensed under this Act; or
(3) a natural person who is legally authorized to provide such services.
(b) Any firm, corporation, limited liability company, or other legal entity that is providing, or offering to provide, community association management services and is not in compliance with Section ___ and the provisions of this Act shall be subject to the fines, injunctions, cease and desist provisions, and penalties provided for in Sections _____, and ___ of this Act.
(c) No community association manager may be the licensee-in-charge for more than one firm, corporation, limited liability company, or other legal entity.

Section ___. Exemptions.

(a) This Act does not apply to any of the following:
(1) Any director, officer, or member of a community association providing one or more of the services of a community association manager without compensation for such services to the association.
(2) Any person providing one or more of the services of a community association manager to a community association of 10 units or less.
(3) A licensed attorney acting solely as an incident to the practice of law.
(4) A person acting as a receiver, trustee in bankruptcy, administrator, executor, or guardian acting under a court order or under the authority of a will or of a trust instrument.

344 (5) A person licensed in this State under any other Act from engaging the practice for
345 which he or she is licensed.
346
347 **Section ___. Fidelity insurance; segregation of accounts.**
348
349 (a) A community association manager or the Community Association Management
350 Agency with which he or she is employed shall not have access to and disburse funds
351 of a community association unless each of the following conditions occur:
352 (1) There is fidelity insurance in place to insure against loss for theft of community
353 association funds.
354 (2) The fidelity insurance is not less than all monies under the control of the community
355 association manager or the employing Community Association Management Agency
356 for the association.
357 (3) The fidelity insurance covers the community association manager and all partners,
358 officers, and employees of the Community Association Management Agency
359 with whom he or she is employed during the term of the insurance coverage, as well as
360 the association officers, directors, and employees.
361 (4) The insurance company issuing the fidelity insurance may not cancel or refuse to
362 renew the bond without giving at least 10 days' prior written notice.
363 (5) Unless an agreement between the community association and the community
364 association manager or the Community Association Management Agency provides to
365 the contrary, the Association secures and pays for the fidelity insurance. The
366 community association manager and the Community Association Management Agency
367 must be named as additional insured parties on the association policy.
368 (b) A community association manager or Community Association Management Agency
369 that provides community association management services for more than one
370 community association shall maintain separate, segregated accounts for each
371 community association. The funds shall not, in any event, be commingled with the
372 community association manager's or Community Association Management Agency's
373 funds. The maintenance of such accounts shall be custodial, and such accounts shall be
374 in the name of the respective community association or community association
375 manager or Community Association Management Agency as the agent for the
376 association.
377 (c) The community association manager or Community Association Management Agency
378 shall obtain the appropriate general liability and errors and omissions insurance, as
379 determined by the Department, to cover any losses or claims against community
380 association clients.
381 (d) The Department shall have authority to promulgate additional rules regarding
382 insurance, fidelity insurance and all accounts maintained and to be maintained by a
383 community association manager or Community Association Management Agency.
384
385 **Section ___. Licenses; renewals; restoration; person in military service.**
386
387 (a) The expiration date and renewal period for each license issued under this Act shall be
388 set by rule. The Department may promulgate rules requiring continuing education and
389 set all necessary requirements for such, including but not limited to fees, approved
390 coursework, number of hours, and waivers of continuing education.
391 (b) Any licensee who has permitted his or her license to expire may have the license
392 restored by making application to the Department and filing proof acceptable to the
393 Department of fitness to have his or her license restored, by which may include sworn

evidence certifying to active practice in another jurisdiction satisfactory to the Department, complying with any continuing education requirements, and paying the required restoration fee.

(c) If the person has not maintained an active practice in another jurisdiction satisfactory to the Department, the Department shall determine, by an evaluation program established by rule, the person's fitness to resume active status and may require the person to complete a period of evaluated clinical experience and successful completion of a practical examination. However, any person whose license expired while (i) in federal service on active duty with the Armed Forces of the United States or called into service or training with the State Militia or (ii) in training or education under the supervision of the United States preliminary to induction into the military service may have his or her license renewed or restored without paying any lapsed renewal fees if, within 2 years after honorable termination of the service, training or education, except under condition other than honorable, he or she furnishes the Department with satisfactory evidence to the effect that he or she has been so engaged and that the service, training, or education has been so terminated.

(d) A community association manager who notifies the Department, in writing on forms prescribed by the Department, may place his or her license on inactive status and shall be excused from the payment of renewal fees until the person notifies the Department in writing of the intention to resume active practice.

(e) A community association manager requesting his or her license be changed from inactive to active status shall be required to pay the current renewal fee and shall also demonstrate compliance with the continuing education requirements.

(f) Any license non-renewed or on inactive status shall provide community association management services or provide services as community association manager as set forth in this Act.

(g) Any person violating subsection (f) of this Section shall be considered to be practicing without a license and will be subject to the disciplinary provisions of this Act.

Section __. Fees; Community Association Manager Licensing and Disciplinary Fund.

(a) The fees for the administration and enforcement of this Act, including, but not limited to, initial licensure, renewal, and restoration, shall be set by rule of the Department. The fees shall be nonrefundable.

(b) In addition to the application fee, applicants for the examination are required to pay, either to the Department or the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application and fee for examination have been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the fee.

(c) To support the costs of administering this Act, all community associations that have 10 or more units and are registered in this State as not-for-profit corporations shall pay to the Department an annual fee of $75. The Department may establish forms and promulgate any rules for the effective collection of such fees under this subsection. Any not-for-profit corporation in this State that fails to pay in full to the Department all fees owed under this subsection (c) shall be subject to the penalties and procedures provided for under Section ___ of this Act.

(d) All fees, fines, penalties, or other monies received or collected pursuant to this Act shall be deposited in the Community Association Manager Licensing and Disciplinary Fund.

Section ___. Penalty for insufficient funds; payments.

Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of $50. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days after notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing. If, after termination or denial, the person seeks a license, he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

Section 75. Endorsement.

The Department may issue a license as a licensed community association manager, without the required examination, to an applicant licensed under the laws of another state if the requirements for licensure in that state are, on the date of licensure, substantially equal to the requirements of this Act or to a person who, at the time of his or her application for licensure, possessed individual qualifications that were substantially equivalent to the requirements then in force in this State. An applicant under this Section shall pay all of the required fees.

Applicants have 3 years from the date of application to complete the application process. If the process has not been completed within the 3 years, the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

Section __. Roster.

The Department shall maintain a roster of names and addresses of all persons who hold valid licenses and all persons whose licenses have been suspended, revoked or otherwise disciplined. Such roster shall also include the number of complaints received by the Department and the number of violation assessed against such persons. This roster shall be available on the Department's website and upon request and payment of the required fee as determined by the Department.

Section ___. Grounds for discipline; refusal, revocation, or suspension.

(a) The Department may refuse to issue or renew, or may revoke a license, or may suspend, place on probation, fine, or take any disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed $10,000 for each

492 violation, with regard to any licensee for any one or combination of the following
493 causes:
494 (1) Material misstatement in furnishing information to the Department.
495 (2) Violations of this Act or its rules.
496 (3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a
497 felony under the laws of the United States or any state or territory thereof or a
498 misdemeanor of which an essential element is dishonesty or that is directly related to
499 the practice of the profession.
500 (4) Making any misrepresentation for the purpose of obtaining a license or violating any
501 provision of this Act or its rules.
502 (5) Professional incompetence.
503 (6) Gross negligence.
504 (7) Aiding or assisting another person in violating any provision of this Act or its rules.
505
506 (8) Failing, within 30 days, to provide information in response to a request made by the
507 Department.
508 (9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely
509 to deceive, defraud or harm the public as defined by the rules of the Department, or
510 violating the rules of professional conduct adopted by the Department.
511 (10) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any
512 other chemical agent or drug that results in the inability to practice with reasonable
513 judgment, skill, or safety.
514 (11) Discipline by another state, territory, or country if at least one of the grounds for
515 the discipline is the same or substantially equivalent to those set forth in this Act.
516 (12) Directly or indirectly giving to or receiving from any person, firm, corporation,
517 partnership or association any fee, commission, rebate, or other form of compensation
518 for any professional services not actually or personally rendered.
519 (13) A finding by the Department that the licensee, after having his or her license
520 placed on probationary status, has violated the terms of probation.
521 (14) Willfully making or filing false records or reports relating to a licensee's practice,
522 including but not limited to false records filed any State or federal agencies or
523 departments.
524 (15) Being named as a perpetrator in an indicated report by the Department of Children
525 and Family Services under the Abused and Neglected Child Reporting Act and upon
526 proof by clear and convincing evidence that the licensee has caused a child to be an
527 abused child or neglected child as defined in the Abused and Neglected Child
528 Reporting Act.
529 (16) Physical illness or mental illness or impairment, including, but not limited to,
530 deterioration through the aging process or loss of motor skill that results in the inability
531 to practice the profession with reasonable judgment, skill, or safety.
532 (17) Solicitation of professional services by using false or misleading advertising.
533 (18) A finding that licensure has been applied for or obtained by fraudulent means.
534 (19) Practicing or attempting to practice under a name other than the full name as
535 shown on the license or any other legally authorized name.
536 (20) Gross overcharging for professional services including, but not limited to, (i)
537 collection of fees or monies for services that are not rendered; and (ii) charging for
538 services that are not in accordance with the contract between the licensee and the
539 community association.
540 (21) Improper commingling of personal and client funds in violation of this Act or any
541 rules promulgated thereto.

(22) Failing to account for or remit any moneys or documents coming into the licensee's possession that belong to another person or entity.
(23) Giving differential treatment to a person that is to that person's detriment because of race, color, creed, sex, religion, or national origin.
(24) Performing and charging for services without reasonable authorization to do so from the person or entity for whom service is being provided.
(25) Failing to make available to the Department, upon request, any books, records, or forms required by this Act.
(26) Purporting to be a licensee-in-charge of an agency without active participation in the agency.
(27) Failing to make available to the Department at the time of the request any indicia of licensure or registration issued under this Act.

- **CONDO ASSOCIATIONS:**
  - The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times free of charge. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member. Copies of documents in existing in electronic form shall be available to owners free of charge. An owner is not required demonstrate any proper purpose for the inspection or state any reason for the inspection, or shall not be limited to inspecting records to less than one 8-hour business day per month.
  - Have mandatory rules to protect the right of each member. Mandatory rules, such as (1) Providing owners up to 10 minutes to speak at the beginning of board meetings; this may include posing questions to the board as a whole or to individual board members who should respond at the meeting or give advise owner of future date when matter will be discussed publicly. (2) Providing owners meeting minutes, which shall include any documents submitted by owners at the meeting; (3) Providing copies of the board meeting agenda to owners 10 days before each board meeting along with any materials to be discussed by board members; (4) Giving owners some access to review association records at no charge (up to one hour per month); make documents and other documents available to all owners electronically in advance of meeting. Allow any owner to add item(s) to the agenda if submitted in writing at least 14 days prior to board meeting or any other meeting.
  - Final minutes available to all unit owners at least electronically within 45 after of meeting
  - Include basic content of condo owner issues raised at meetings in meeting minutes including owner name and unit #. Attach any hardcopies provided to board
  - Fine tune meeting process and communications process
  - Allow two hours per quarter to review association records and shall not be charged for this time.
  - have owners vote every three years on existing association rules and regulations or changes to rules and regulations
  - Access to requested records shall be within 10 working days after receipt of the written request
  - Bylaws, Declaration, Rules and Regulations, and Addendums shall be made available free of charge online and all owners shall be informed of its online location and how to access.
  - All documents, including, but not limited to, Insurance Policies, Manager's Contract, Landscapers Contract, Auditor's Contracts, Attorney's Contracts and all other contracts involving financial consideration shall be made available free of charge in the same online location as the bylaws

- Manager's Report, President's Report, Treasurer's Report, and all other committee reports and materials presented at meetings, including meeting minutes, and check register shall be made available online free of charge in same online locations as bylaws.

- **BOILER PLATE BYLAWS:**
  Create sample boiler plate by-laws for condo unit owners (one for self-managed and one where management firms are used) that can be adopted by associations within a very short time. They could be set up to show existing state laws and recommended by-laws in different fonts. I believe that many condo unit owners would benefit from this and it might just be a good way to get them on board. It would have saved me a lot of time and effort when I needed to get up to speed (and I have a wonderful research librarian). When ready for distribution, it could be used to get media attention.

- **CONDO INSURANCE:**
  Establish new law that grants Dept of Consumer Protection authority to compel an association and/or its property management company to deliver insurance documents to a unit owner. A copy of the association's master policy shall be made available to unit owners online for owner review free of charge; liability limits and coverages must be clearly shown.
    - Unit owners shall be able, upon written request to receive a hard copy of the policy once per year from the association or property manager per year free of charge.
    - If the insurance policy is not provided to owner, owner may file a complaint with the CT Dept of Consumer Protection, who shall order the property manager and/or association to provide a copy of the insurance policy to the unit owner free of charge within 10 business days.
    - If not received, the unit owner may report back to DCP who shall inform the Secretary of State the association is acting unlawfully.
    - The Secretary of State shall then withhold renewal of the Association's incorporation certificate until the matter is resolved.

- **CONDO ELECTIONS:**
  (add to Sec. 47-252. Voting at meetings of association)
    - It shall be mandated that all associations hold elections annually. If it is reported to the Secretary of State that no election was not held, the Secretary of State shall give notice to the Association that an election must be held within 45 days with the results reported back to the Secretary of State. If no report is received 50 days, the Secretary of State shall revoke the incorporation registration of Association and no sales or purchases of units can be made.
    - MANDATORY ABSENTEE BALLOTS: All homeowner associations shall send out absentee ballots for all elections involving unit owners at least 14 days prior to an election, otherwise election results shall be invalid.
    - EMAIL VOTING: Homeowners who choose to vote by email may do so if sent from the owner's email address registered with the Association at least 14 days prior to any election, and shall be considered a legal vote. Confidentiality of email voting cannot be assured. The homeowner's association shall include in all unit owner notices about the election the name, email address and phone number of the designated person to receive any votes by email.
    - ROLL CALL: Whenever there is a vote of owners, there shall be a roll call of unit owners or sign-in attendance sheet, which shall be maintained along with the election ballots for the record. The association shall use a check and balance system

to ensure all unit owners who want to vote are accounted for before closing the poll.

- ONE PROXY OR ABSENTEE BALLOT PER OWNER: A unit owner who votes by proxy or absentee ballot who owns more than one unit may submit one proxy or absentee ballot representing all units owned. Each unit must be identified on the proxy or absentee ballot.
- An Association or its representatives may not alter any information provided by unit owner who runs as a candidate for the board without that owner's written permission as long as the information is within the parameters provided to all candidates. Such information shall be shared with unit owners at least 14 days in advance of association board of director elections.
- Members may request that elections be supervised by independent inspectors, which the Association shall provide (Refer to New York Not-for-Profit Corporation Law (NPCL) §610 is published as volume 37 of McKinney's Consolidated Laws of New York Annotated ("McKinney's")??)
- Directors and officers must act in good faith and with reasonable diligence, care and skill
- Owners may request to review or audit election results free of charge within 45 days of the election.
- Term limit: 12 years (3 years) for all board members who have served the homeowners association. Any present board members may serve out their term and then must comply with state statutes, unless there are no other candidates interested in running in opposition to a board member whose term has expired, that board member is automatically reappointed to the board without having to stand for reelection.
- Any challenges to the votes cast should be verified by an independent committee of owners prior to announcing the final vote count.

- **CONDO ASSOCIATION BIDDING PROCESS**
  - It shall be mandatory that all homeowner associations obtain at least three qualified bids from independent sources for all projects over $5,000 ($2,500). A majority of unit owners voting must approved the contract over $5,000. ($2,500). In person or absentee ballot signed and voted on by unit owner, verified/confirmed electronic voting.... Information concerning all bids shall be given to unit owners in writing.

- **CONDO OWNER BILL OF RIGHTS** shall be adopted

The following "bill of rights" summarizes basic principles for legislation regarding consumer protection in common-interest communities. Where appropriate (for instance, encouraging alternative dispute resolution), associations can consider these principles for their governing documents.

BILL OF RIGHTS FOR HOMEOWNERS

To ensure amicable and equitable relations between homeowners and their associations, this bill of rights seeks fair resolution of disputes, specifies rights regarding rules and charges, ensures individual autonomy, and promotes oversight and voting. The bill of rights uses reasonability as the touchstone for all actions, and includes a state Office of Ombudsperson for Homeowners to facilitate resolution of disputes in a manner that strengthens communities.

I: The Right to Security against Foreclosure

An association shall not foreclose against a homeowner except for significant unpaid assessments, and any such foreclosure shall require judicial review to ensure fairness.

II: The Right to Resolve Disputes without Litigation
Homeowners and associations will have available alternative dispute resolution (ADR), although both parties preserve the right to litigate.

III: The Right to Fairness in Litigation
Where there is litigation between an association and a homeowner, and the homeowner prevails, the association shall pay attorney fees to a reasonable level.

IV: The Right to Be Told of All Rules and Charges
Homeowners shall be told--before buying--of the association's broad powers, and the association may not exercise any power not clearly disclosed to the homeowner if the power unreasonably interferes with homeownership.

V: The Right to Stability in Rules and Charges
Homeowners shall have rights to vote to create, amend, or terminate deed restrictions and other important documents. Where an association's directors have power to change operating rules, the homeowners shall have notice and an opportunity, by majority vote, to override new rules and charges.

VI: The Right to Individual Autonomy
Homeowners shall not surrender any essential rights of individual autonomy because they live in a common-interest community. Homeowners shall have the right to peaceful advocacy during elections and other votes as well as use of common areas.

VII: The Right to Oversight of Associations and Directors
Homeowners shall have reasonable access to records and meetings, as well as specified abilities to call special meetings, to obtain oversight of elections and other votes, and to recall directors.

VIII: The Right to Vote and Run for Office
Homeowners shall have well-defined voting rights, including secret ballots, and no director shall have a conflict of interest.

IX: The Right to Reasonable Associations and Directors
Associations, their directors and other agents, shall act reasonably in exercising their power over homeowners.

X: The Right to an Ombudsperson for Homeowners
Homeowners shall have fair interpretation of their rights through the state Office of Ombudsperson for Homeowners. The ombudsperson will enable state oversight where needed, and increases available information for all concerned.

- **FUND ACCOUNTING** – Association shall segregate funds for special projects
- Add to "Sec. 47-260. Association records. Copies. Fees & Financial Reporting.
    - Association and property manager shall provide the first accounting request from a unit owner in a 12-month period free of charge.

Add AMENDMENT TO CHAPTER 828 COMMON INTEREST OWNERSHIP ACT AND (and for those condominiums created prior to 1984

(i) Financial Reporting , Bank Accounts. Reserves & Assessments

(a) The board of directors of the association shall be required to submit separate, monthly financial reports for each of any entities which are a part of or associated with a condominium association. Each entity being referred to in this section shall include but not be limited to the association's operating account, which is funded by monthly common charges, any Taxing district associated with the condominium, (which is funded by tax payments) any reserve accounts, any one time special assessments created for capital improvements and any marinas or clubs in which only a portion of the unit owners own slips or in which unit owners pay a separate fee or charge to maintain. The board shall be responsible for submitting monthly reports for each of the entities that shall indicate: beginning cash balances, cash received, cash dispersed and ending cash balances. Each receipt and disbursement shall be disclosed in such detail so as that unit owners will be able to clearly understand the exact nature of the cash in or cash out item.

All of the above reports to unit owners and shall be reconciled monthly with each entities related bank statements.

(c) Any of the above mentioned entities which are a part of any condominium shall not co-mingle any of the entities funds. Each of the entities funds shall be kept in a separate bank account with a unique name and account number.

(b) Any reserve funds and or Assessment fund accounts shall not be used for any day to day operating expenses unless the expense is a regularly approved, budgeted item, approved by the unit owners, such as insurance premiums that can be repaid to the reserve fund within 90 days or less.

In no instances shall any assessment funds be used to finance or pay for any budgeted items or for any new capital improvements other than for which the funds were originally approved for by the unit owner vote.

(e) The monthly reports and associated bank statements shall be made available to each unit owner via a property management or association web site or by mail depending on the unit owners' choice, no later than 15 days after the end of the each calendar month free of charge.

- **FHA APPROVAL**
  - Shall be required for all condo associations

- **PUBLIC HEALTH LAWS RELATING TO MOLD AND PESTICIDES** to include condos; Pesticide regulations to conform with current laws applying to schoolyards and/or elderly housing and grounds since children and elderly may typically reside in HOAs

- **FERTILIZER BAN** to include condos

- **ESTABLISH A COMMISSION ON CONDOMINIUMS**
  Attorney General Calls For Condominium Commission To Protect Condo Owners
  March 19, 2008

  Attorney General Richard Blumenthal, in formal testimony to the Judiciary Committee today, urged establishment of a state board to assist condominium unit owners by ensuring that

787 condominium associations abide by their bylaws and state laws, and tighter licensing requirements
788 for condominium managers.

789 Blumenthal, joined by state legislators and condo unit owners, said that a Connecticut Community
790 Association Commission would review condominium unit owner complaints concerning
791 violations of condominium bylaws or state condominium laws by the association's board of
792 directors, officers or professional managers.

793 The commission would attempt to mediate disputes, hold hearings and issue orders to resolve
794 problems. If necessary, the commission could also refer matters to the attorney general for civil
795 action in court to enforce provisions of condominium bylaws or state laws.

796 The legislation would also require condominium managers, currently registered through the
797 Department of Consumer Protection (DCP), to obtain licenses after completing a course and
798 passing a written exam approved by the DCP Commissioner. Condominium services include
799 preparing budgets, conducting association meetings and advising on the operations of the
800 association.

801 "Condominium owners need and deserve rights and remedies against wrongdoing by their own
802 associations," Blumenthal said. "These measures would help empower unit owners who are
803 fighting for their basic rights under the state's condominium laws. Hundreds of complaints come to
804 my office from condominium unit owners regarding blatant violations of state laws or bylaws by
805 their association board of directors, but no state office exists to assist these owners.

806 "My proposal establishes an independent commission to mediate and resolve disputes - and then
807 refer them to my office to protect unit owners if the association is unreasonable or intransigent.
808 These measures would help enforce state law and condominium bylaws - a basic right due
809 condominium owners."

810 "Current law provides no protection in the face of flagrant unfair practices. Many of the
811 complaints received by my office reflect defiance by the association board of directors of basic
812 governance principles such as adopting an annual budget with notice to the unit owners, holding
813 fair elections for the board of directors, providing key financial information about the association,
814 and fairly imposing association fines. Some of these complaints are based on deliberate
815 indifference by association boards to association bylaws or state condominium laws. Others are
816 probably due to a lack of full understanding of condominium association responsibilities.

817
818 ▪ **FORECLOSURE ISSUES**
819 *Limit on Creating Foreclosure Power.* No association may foreclose against a homeowner on any
820 lien without express authority granted by the declaration. Foreclosure power cannot be added by
821 amendment, except by unanimous homeowner vote.
822
823 2. *Non-Judicial Foreclosures, and Precipitate Foreclosures, Prohibited.* No association may
824 foreclose against a homeowner on any lien unless, in addition to compliance with all other
825 applicable laws, the association obtains a court order that specifies the assessments due, confirms
826 the association followed proper procedure, and allows at least three months before the sale date for
827 the homeowner to pay the court-specified debt.
828

3. *Predicates for Judicial Foreclosure.* No association may seek an order to foreclose against a homeowner on any lien unless, in addition to compliance with all other laws governing foreclosure of a mortgage on residential real estate, (a) the lien secures only a debt for an assessment authorized by a declaration recorded before the homeowner bought the home, (b) the directors by a two-thirds vote approve the foreclosure action, and (c) the assessment past due on the date of the vote exceeds $2,500. Notwithstanding the foregoing, any lawfully recorded lien (including liens that do not themselves provide a suitable basis for foreclosure) may be enforced on conveyance of any interest in a home, including conveyance by otherwise proper foreclosure sale.

4. *Right to Cure.* Each association shall, in governing documents, establish rights to make payments that ensure the following:

a. Homeowners may at any time make full or partial payment on any amount due. Any homeowner payment shall be credited first toward any past due assessment or other amount due to avoid foreclosure.

b. At least for homeowners who suffer job loss, disability, divorce, or family medical expenses, the association shall without penalty allow a homeowner 30 days after an assessment to propose an installment plan. Upon receiving the homeowner's installment proposal, the directors shall designate a committee to meet with the homeowner privately, and the association shall provide a written response to the homeowner. If the association does not approve the request in full, the response shall allow the homeowner at least 15 days after denying the request to pay without incurring attorney fees. Nothing prohibits the directors from approving an installment plan more lenient than provided by existing rules, in which case the directors shall amend the existing rules so that all homeowners shall receive fair notice and equal treatment.

c. Within five days after any vote by directors to seek foreclosure, the association shall give the affected homeowner notice of the vote, and include the ombudsperson's Notice of Foreclosure Rights. Within five days after filing any lawsuit seeking foreclosure, the association shall give the ombudsperson Notice of Foreclosure Filing.

d. If a homeowner pays all overdue assessments after directors properly vote to seek foreclosure, a court order nonetheless may permit foreclosure if (i) the homeowner has not paid all overdue late charges plus all attorney fees actually and reasonably incurred after the directors' vote; and (ii) the declaration authorizes foreclosure for such nonpayment.

e. Upon a homeowner's request, within three days, an association shall provide the amount due to avoid foreclosure, including past due assessments and any other amounts allowed by ¶ 4d or approved by court order under ¶ 2.

5. *Minimum Bid and Notice of Redemption Rights.* If an association forecloses against a homeowner, and sets the home for sale, the following provisions apply:

a. A price below 75 percent of the equity, measured by appraised fair market value less senior liens subject to which the successful bidder takes title, makes the sale void.

b. Within 30 days after the sale, the association shall provide the homeowner notice including the date and time of sale, the buyer's name and purchase price, and the ombudsperson's Notice of Right of Redemption. Within ten days after sending this notice, the association shall record, in the

real property records of the county where the home is located, an affidavit stating the date on which the association sent the notice and containing a legal description of the lot.

6. *Right of Redemption after Foreclosure.* Except to the extent that governing documents provide greater rights, after a foreclosure sale by an association the homeowner has

a. a right of redemption not less than if a secured lender foreclosed; and,
b. at least 180 days, after recording of notice under ¶ 5b, to redeem the home

http://www.ag.ny.gov/realestate/realestate.html

Department of Consumer Protection

WILLIAM M. RUBENSTEIN, ***Commissioner***
Michelle H. Seagull, ***Deputy Commissioner***
Established **– 1959**
Statutory authority **- CGS Chap. 416, Section 21a-1**
Central office **- 165 Capitol Avenue, Hartford, CT 06106**

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Recurring operating expenses: 25,085,779
General Fund Revenue: 54,706,861
Transportation Fund Revenue: 2,229,833

Organizational structure
Office of the Commissioner; Regulation of Food & Standards; Regulation of Drugs, Cosmetics & Medical Devices; Regulation of Alcoholic Liquor; Regulation of Occupational & Professional Licensing; Regulation of Trade Practices; Regulation of Public Charities; Regulation of Gaming; License Services Division; Legal Services Office; Communications & Consumer Education Office; Administrative Services Office; Accounting & Gaming Auditing Unit; Information Technology Unit

MISSION

The mission of the Department of Consumer Protection is to ensure a fair and equitable marketplace as well as safe products and services for consumers in the industries that it regulates.

STATUTORY RESPONSIBILITY

The Department of Consumer Protection (the "Department") is a regulatory agency that protects citizens from physical injury and financial loss that may occur as the result of unsafe or fraudulent products and services marketed in Connecticut. The extent of the department's regulatory oversight is unique in that its jurisdiction dovetails frequently with that of other Connecticut state agencies. The Department is responsible for enforcing numerous significant consumer protection laws, including the Connecticut Unfair Trade Practices Act, the Connecticut Pure Food, Drug & Cosmetic Act, the Connecticut State Child Protection Act, the Liquor Control Act, and the Connecticut Weights & Measures Act. The agency remains vigilant against unexpected, as well as ongoing, health, safety and product-related problems. The Department of Consumer Protection must be able to mobilize staff at any time in order to respond quickly and effectively to a food, drug, product safety, or economic crisis affecting Connecticut's marketplace or citizens.

To achieve substantial savings in the cost of State government and enhance the efficient delivery of agency missions as recommended in the budget prepared by Governor Malloy and approved by the General Assembly, the Department and the Division of Special Revenue collaborated during the spring of 2011 to consolidate the former stand-alone Division of Special Revenue with the Department of Consumer Protection.

The consolidation became effective July 1, 2011, with the former agency becoming the Gaming Division of the Department of Consumer Protection. As such, all responsibilities and duties of the Division of Special Revenue were transferred by statute to the Department of Consumer Protection Thus, as of July 1, 2011, through its Gaming Division, the Department of Consumer Protection regulates the State's legalized gaming activities, pursuant to Chapters 98, 226, 226b, 226c and 229a of the Connecticut General Statutes.

PUBLIC SERVICE

The Department of Consumer Protection continues to fulfill its mandate to protect Connecticut consumers, even as the State remains in financial straits and national and global economic struggles persist. Public service provided by the Department of Consumer Protection, including the Gaming Division (formerly the Division of Special Revenue) during Fiscal Year 2011 included the following activities:

License Services

- Efficiently and accurately processed more than 215,000 licenses in 200 different job categories.
- Reduced postage and paper processing, decreased renewal time and improved public information access through ongoing review and adjustment of the Department's web-based licensing system, which also allowed licensees, businesses and consumers to access on-line renewal service and up-to-the minute information about all persons and businesses registered with or licensed by the Department.
- Assisted the Department of Agriculture in the initial phases of utilizing the E-Licensing system to provide its licensees with on-line renewal service.
- Brought the Public Charities Unit under full authority of the Department of Consumer Protection in September 2010, and incorporated its work into the Connecticut E-licensing website. This Unit registers charities and paid soliciting firms that seek donations in Connecticut and responds to complaints and inquiries from the public, businesses and law enforcement agencies.

Legal Enforcement and Consumer Restitution

- Enhanced enforcement of all consumer protection laws by promoting effective resolutions with persons and establishments regulated by the Department These initiatives included 780 compliance meetings, 123 formal hearings/administrative complaints, 71 formal hearing decisions, 402 Settlement Agreements and Stipulations, and 262 Assurances of Voluntary Compliance.
- Processed and provided monetary restitution to consumers who were financially damaged in the areas of home improvement, new home construction, health clubs and real estate. Specifically: 346 consumer claims were processed from the Home Improvement Guaranty Fund resulting in $2,614,260 paid; 19 claims processed from the New Home Contractor Guaranty Fund with $453,419 ordered paid; 73 consumer claims to the Health Club Guaranty Fund were processed and $15,393 ordered paid; and two real estate claims to the Real Estate Guaranty Fund were processed with a total of $50,000 ordered paid. In addition, in FY 2011, the Guaranty Funds collectively contributed a total of $328,768 to the State's General Fund.

Communications and Consumer Education

- Informed and educated the public by issuing and posting online 54 press releases on numerous toy and children's product recalls, unregistered home improvement contractors, unlawful sales of alcohol to minors, food and beverage recalls, local scam warnings, home improvement contractor convictions, and reports of bad gasoline
- Maintained a social media presence to enhance the Department's ability to provide important consumer information to the public at no cost.
- Maintained the Department's website to provide consistently updated news, forms, and information to licensees and members of the public and media.

- Provided staff and speakers for 105 professional and community programs, conferences and seminars. Audiences reached included food sanitarians, home builders, home improvement professionals, homeowners, professional trades groups, business leaders, local community groups, senior citizens and students.
- Engaged state and local media in interviews and press events to educate and disseminate news on consumer protection issues and efforts.
- Launched "Consumer Watch," an e-mail-based monthly newsletter containing timely topics of interest to consumers and licensees. The first issue was published in June 2011 and was distributed to nearly 1,000 consumers and licensees.

Regulation of Alcoholic Liquor

- Worked to protect the health and safety of Connecticut citizens by regulating all persons and firms involved in the distribution, sale and dispensing of alcoholic liquor in order to prevent sales to minors and intoxicated persons, guaranteed product integrity and ensured that licensed premises were safe and sanitary.
- Conducted inspections and investigations to ensure compliance with the provisions of state laws and regulations pertaining to the manufacture, importation, sale and dispensing of alcoholic liquor.
- Investigated alleged violations of the State Liquor Control Act and consumer complaints involving alcoholic liquor that included: the sale of alcohol to minors and intoxicated persons; deceptive or unfair trade practices; improper pricing and labeling; violations of regulations regarding adult entertainment; and purchases of alcoholic liquor from prohibited entities.
- Collaborated with state and municipal police officers to conduct joint actions to enhance enforcement of underage drinking laws. These included alcohol compliance operations that utilized minors trained by the Connecticut Coalition to Stop Underage Drinking. In 2010-2011, the Division conducted 363 such local liquor compliance checks in more than 30 towns and cities in the state. Of that total, 292 Connecticut liquor retailers passed by NOT selling alcoholic liquor to persons under the legal drinking age of 21.
- Provided training and education to 476 law enforcement officers, liquor retailers and community members in strategies to deter access of alcoholic liquor to underage persons.
- Participated in the national recall of several alcohol energy drinks statewide and the voluntary recall of a wine product alleged to have bottle failure issue, resulting in exploding bottles.

Regulation of Drugs, Cosmetics & Medical Devices

- Worked to protect the health and safety of Connecticut citizens by regulating all persons and firms involved in the distribution of drugs, cosmetics and medical devices in order to detect and prevent the diversion of drugs from those channels.
- Investigated alleged diversions of controlled substances from pharmacies and healthcare facilities by medical professionals and paramedical professionals, and prescription errors at the retail level. In collaboration with the federal Drug Enforcement Administration (DEA) and the Food and Drug Administration (FDA), the Drug Control Division investigated sales and distribution of nutritional food supplements suspected of containing prescription drugs, including controlled substances.
- Assisted law enforcement, the FDA and the DEA in investigating and adjudicating cases of drug fraud in the state.
- Completed compliance inspections of registrant locations to safeguard the occurrence of drug diversion from these locations.
- Continued operation and implemented upgrades of the Prescription Monitoring Program (PMP), which protects the health and safety of the public by allowing prescribers and pharmacists to access a patient's prescription history to help identify patterns of misuse, diversion and/or abuse. Law enforcement and regulatory personnel also have access to the program to assist with investigations related to doctor shopping, pharmacy shopping and fraudulent activity. The program conducted educational and outreach activities to the general public on prescription drug abuse, safe storage and disposal of prescription medication and taking medications safely.
- Provided staff and speakers at professional and community programs, conferences and seminars

- Collaborated with local health departments, water departments and health care facilities to offer free Drug Collection events in communities statewide to collect and dispose of outdated and unwanted medications The events promoted drug safety in the home, including prescription drug abuse, and educated residents about the environmental impact of improper drug disposal.
- Continued to assist the Centers for Disease Control and Prevention (CDC) and Department of Public Health in managing the Chempak program for hospitals and first responders, and in the storage and dissemination of strategic medication. It also continued to assist the FDA in dissemination of drug recall notices to prescribers, pharmacists and pharmacies via the Division's electronic list-serve.
- Monitored compliance agreements of pharmacists currently in a probation program due to drug addiction, oversaw compliance of various police departments' canine labs, and maintained the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.
- Trained more than 2,900 law enforcement officers, pharmacists and health care providers in identifying narcotic drugs and the signs of drug abuse, as well as in preventing prescription errors and using Connecticut's Prescription Monitoring Program. These programs were conducted at various law enforcement agencies and the Connecticut Police Academy.
- Through a federal grant, the Prescription Monitoring Program developed, printed and distributed 400,000 copies of educational material to educate the public about the dangers of prescription drug abuse and safe storage and disposal of prescription medication.

Regulation of Food and Standards

- Conducted inspections of food-processing plants, warehouses, retail food stores, bakeries, non-alcoholic beverage plants, frozen dessert plants, vending machine locations, apple juice & cider plants, gasoline stations, heating oil dealers and all weighing & measuring devices used commercially such as retail store scales, motor truck scales, petroleum meters and home delivery truck meters.
- Responded to 27 traffic and highway accidents involving food and beverage products in order to ensure that contaminated/adulterated foods were not distributed to the public.
- Checked packaging, labeling, unit pricing, scanning and advertising of food products, kosher foods and non-food items, restaurant menus, advertisements and gasoline station price signs to ensure that the contents and their weights were represented correctly.
- Conducted effectiveness checks on meat and poultry recalls that affected the State of Connecticut, pursuant to a Memorandum of Understanding with the U. S. Department of Agriculture.
- Worked cooperatively with the Department of Motor Vehicles and the Department of Public Safety on the Commercial Vehicle Safety and Inspection program, and the Calibration of Portable Scales program.
- Regulated fuel retailers in the state and supplemented the inspection work performed by municipal sealers of weights and measures.
- Enforced the requirements of the Stage II Vapor Recovery Program, pursuant to a Memorandum of Understanding with the State Department of Environmental Protection.
- Investigated and resolved a case in which a gasoline retailer was selling lower octane gasoline as higher octane product at two local gasoline stations. The investigation resulted in a halt to the problem and a $20,000 settlement payment to the State.
- Reestablished the State of Connecticut Measurement Center, which has custody of the physical standards of mass, length, volume, and temperature (clinical thermometer standards). The Department maintains accreditation from the U. S. Department of Commerce National Institute of Standards and Technology (NIST) in order to ensure that the calibration services provided to public and private sector customers are certifiable. Connecticut businesses and industries must utilize NIST standards, which guarantee uniform measurement in order to compete successfully in the national and international marketplace. Calibration services were also performed on standards used by other state agencies, municipalities, registered dealers of weighing and measuring devices, institutions and, those carried by the Division's field inspectors.

- Responded to 1,650 complaints, a 65% increase over the prior year. Most complaints were related to gasoline and fuel oil, with 300 consumer complaints involving bad gasoline that was sold for a short period of time in stations across the state. The Division worked to isolate the source, halt the flow of the tainted gasoline into the marketplace, and assure restitution to consumers whose vehicles were affected by the gasoline. The division also responded to 323 consumer complaints related to misbranded food items, adulterated food, price scanner errors, expired food and poor sanitation.

Regulation of Occupational & Professional Licensing

- Administered professional licensing procedures that ensured that only qualified, competent individuals were licensed in the occupational trades and in several professional licensing categories.
- Enforced laws governing approximately 93,000 licensees in 33 areas and administered nationally standardized examinations as approved by the appropriate State licensing board

Regulation of Trade Practices

- Worked to protect Connecticut citizens from unfair or deceptive practices in the marketplace through the enforcement of consumer protection laws and the mediation of disputes between buyers and sellers.
- Enforced the State Child Protection Act and conducted product testing, and initiated and monitored product recalls
- Inspected used furniture and bedding to ensure that cautionary labeling was accurate and complete and that proper sanitation procedures were followed.
- Conducted a tenth undercover home improvement sting operation in Waterford to review compliance with state home improvement laws. Forty-four unregistered individuals were found engaging in home improvement work, in violation of state law.
- Responded to more than 53,000 consumer telephone calls and 6,150 written consumer complaints, involving problems with home improvement, retail sales, telemarketing, online shopping and numerous scams. The Division mediated settlements between buyers and sellers, and utilized the Connecticut Unfair Trade Practices Act where appropriate to combat unfair business practices in the Connecticut market place.
- Processed 47 applications to the state's new automobile warranty arbitration "lemon law" program, and ordered restitution or replacement of consumer's vehicles in the amount of $596,000.
- Processed and investigated 1,100 cases against real estate professionals, including consumer complaints and cases concerning non-compliance with state continuing education requirements.

Regulation of Gaming

- Regulated Connecticut's authorized forms of gambling, which include Tribal Casino gambling, pari-mutuel wagering, State Lottery ticket sales, and Charitable Games. Specifically, the Gaming Division completed 9,868 gambling regulation inspections and visits, managed 2,139 lottery drawings to ensure the integrity of the games, issued 2,999 charitable games registrations and permits, and conducted five charitable games audits.
- Visited lottery agents and licensees, and Off-Track Betting ("OTB") facilities on a random, unannounced basis to ensure compliance with all State statutes and regulations related to gaming, and to educate agents on use of the lottery reporting system.
- Assured that only suitable individuals worked in the Connecticut gaming industry by coordinating and conducting appropriate background checks before licensing, registering, or issuing permits to individuals, organizations, and vendors to be employed by or contracted with, gaming licensees or permittees within the State, including those businesses authorized to sell lottery tickets.
- Oversaw 17,050 active licensees in Connecticut's gaming industry These included 3,675 lottery and OTB enterprise, 854 occupational, 2,821 lottery, 6,848 Foxwoods Casino and 6,519 Mohegan Sun Casino active licenses

- Provided due process and an opportunity to be heard to those individuals or entities denied initial licensure, whose current license was in the process of being revoked, or who had regulatory issues, and held numerous compliance hearings.
- Conducted a total of 227 field investigations and central office investigations, and monitored operations to assure that all gambling activities were consistently conducted in a fair and honest manner, and to detect and prevent fraudulent gaming activity. Conducted 121 administrative hearings and participated in 18 arrests.
- Tested wagering systems and related equipment to ensure the integrity of casino games.
- Assisted in determining if a public safety emergency was imminent in any locale where lottery tickets are sold during large jackpot incidents, especially for Powerball.
- Supported treatment and rehabilitation for chronic gamblers through public awareness activities and by ensuring that funding for such programs is provided pursuant to Section 17a-713(b) of the Connecticut General Statutes.

IMPROVEMENTS / ACHIEVEMENTS, 2010 – 2011

During Fiscal Year 2010 – 2011, the Department of Consumer Protection realized numerous improvements and achievements These are outlined below.

- The Food and Standards Division sponsored a Federal Drug Administration (FDA) workshop, "Special Processes at Retail," to educate staff and local health departments about the process of producing in the retail environment food items that are typically manufactured.
- The agency was co-sponsor of the North East Food and Drug Officials annual meeting at the Mystic Hilton in Mystic, Connecticut. This was the 100th anniversary of the founding of the Northeastern branch of the Association of Food & Drug Officials.
- Through the Food and Standards Division, the agency participated in the FDA's food establishment plan review.
- The Licensing Division expanded operation and implemented upgrades of the Connecticut E-Licensing website. All but 12 of the Department's 200 licensing categories were configured to allow licenses to be renewed through the E-Licensing system.
- The new automobile warranty surcharge billing through the Lemon Law program was extended from quarterly to six months to be more efficient and cost effective. Automobile dealerships are now afforded the ability to pay their bill online through the E-Licensing system.
- The Department realized a 41% increase over FY 2010 in the number of online renewals and a 44% increase in the amount of revenue collected via online renewal.
- The agency assisted the Board of Accountancy and the Division of Special Revenue (now the DCP Gaming Division) in their initial configuration of license types for the E-Licensing system, with the goal that each would be fully operational by the Fall of 2011.
- The Public Charities Unit was brought under full authority of the Department of Consumer Protection in September 2010, significant changes to its initial registration and renewal processes has brought about efficiency and a quicker response time for applicants.
- The Department continued to make available to its licensees, registrants and permittees, more online license and permit applications and forms.
- Through participation in the LEAN process, the Liquor Control Division dramatically reduced the time period between accepting a permit application to issuing a provisional permit (reduced from an average of six weeks to ten days)
- Following a LEAN value-mapping of the Home Improvement Guaranty Fund approval process, the Trade Practices Division eliminated unnecessary steps and adopted an electronic file approval process. The resulting system reduced paperwork, staff time and consumer wait time for restitution from the fund.
- Results of the Trade Practices Division's tenth undercover home improvement sting operation found that contractor compliance with state registration requirements increased to 79% of the targeted contractor population – up from 40% in 2000 -- indicating that the Department's ongoing education, outreach and enforcement efforts have been effective.

- The Drug Control Division, through application of the LEAN Process, implemented electronic work flows, electronic inspections, and electronic transfer of reports and began to transfer these processes to the Commission of Pharmacy. As a result, processes are more efficient for both the Division and public, increasing productivity. There is also a subsequent reduction in the use of paper products.
- The Division partnered with the Partnership Prevention Network, local community organizations and municipal police departments to develop and implement a statewide Drug Drop Box program. A pilot program is nearing the end of its trial and will be open to statewide involvement. This will allow municipalities a viable, sustainable option for the proper removal of unused medications from homes, for environmental reasons and to prevent misuse or abuse.
- The Drug Control Division was named to the Board of the State's Health Information Exchange.
- The Gaming Division implemented a delinquent lottery agent amnesty program to recover back fees due from certain lottery agents and to pursue license revocations when necessary.
- Gaming Division staff regulated and helped to ensure that new OTB facilities were operated successfully.
- Total wagering revenue from all forms of legal gambling regulated by the Division in 2010-2011 was nearly $18.1 billion, with $16.1 billion returned to the general public in prizes and more than $653 million transferred to the General Fund.

INFORMATION REPORTED AS REQUIRED BY STATE STATUTE

The Department of Consumer Protection is firmly committed to the principles and objectives of equal employment opportunity for all individuals. The Department's full-time Affirmative Action Officer Alicia Nunez coordinates and monitors the agency's programs and ensures compliance with the Americans with Disabilities Act, the Fair Employment Practices Act, state Affirmative Action regulations and Contract Compliance laws. The Department operated under a plan approved by the Commission on Human Rights and Opportunities and is an Affirmative Action/Equal Opportunity Employer. The agency did not knowingly do business with any bidder, contractor, sub-contractor, supplier of materials, or licensee who discriminates against members of any class protected under C.G.S. Sec. 4a-60.

In Fiscal Year 2010-2011, 49.6 percent of the Department's employees were female and 50.4 percent were male, with the following composition: 72.7 percent white, 17.2 percent black, 8 percent Hispanic, and 2.1 percent Asian.

Department of Consumer Protection

WILLIAM M. RUBENSTEIN, ***Commissioner***
Michelle H. Seagull, ***Deputy Commissioner***
Established **– 1959**
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Legal Enforcement and Consumer Restitution

- Enhanced enforcement of all consumer protection laws by promoting effective resolutions with persons and establishments regulated by the Department These initiatives included 780 compliance meetings, 123 formal hearings/administrative complaints, 71 formal hearing decisions, 402 Settlement Agreements and Stipulations, and 262 Assurances of Voluntary Compliance.
- Processed and provided monetary restitution to consumers who were financially damaged in the areas of home improvement, new home construction, health clubs and real estate. Specifically: 346 consumer claims were processed from the Home Improvement Guaranty Fund resulting in $2,614,260 paid; 19 claims processed from the New Home Contractor Guaranty Fund with $453,419 ordered paid; 73 consumer claims to the Health Club Guaranty Fund were processed and $15,393 ordered paid; and two real estate claims to the Real Estate Guaranty Fund were processed with a total of $50,000 ordered paid. In addition, in FY 2011, the Guaranty Funds collectively contributed a total of $328,768 to the State's General Fund.

Communications and Consumer Education

- Informed and educated the public by issuing and posting online 54 press releases on numerous toy and children's product recalls, unregistered home improvement contractors, unlawful sales of alcohol to minors, food and beverage recalls, local scam warnings, home improvement contractor convictions, and reports of bad gasoline.
- Maintained a social media presence to enhance the Department's ability to provide important consumer information to the public at no cost.
- Maintained the Department's website to provide consistently updated news, forms, and information to licensees and members of the public and media.

- Provided staff and speakers for 105 professional and community programs, conferences and seminars. Audiences reached included food sanitarians, home builders, home improvement professionals, homeowners, professional trades groups, business leaders, local community groups, senior citizens and students.
- Engaged state and local media in interviews and press events to educate and disseminate news on consumer protection issues and efforts.
- Launched "Consumer Watch," an e-mail-based monthly newsletter containing timely topics of interest to consumers and licensees. The first issue was published in June 2011 and was distributed to nearly 1,000 consumers and licensees.

Regulation of Alcoholic Liquor

- Worked to protect the health and safety of Connecticut citizens by regulating all persons and firms involved in the distribution, sale and dispensing of alcoholic liquor in order to prevent sales to minors and intoxicated persons, guaranteed product integrity and ensured that licensed premises were safe and sanitary.
- Conducted inspections and investigations to ensure compliance with the provisions of state laws and regulations pertaining to the manufacture, importation, sale and dispensing of alcoholic liquor.
- Investigated alleged violations of the State Liquor Control Act and consumer complaints involving alcoholic liquor that included: the sale of alcohol to minors and intoxicated persons; deceptive or unfair trade practices; improper pricing and labeling; violations of regulations regarding adult entertainment; and purchases of alcoholic liquor from prohibited entities.
- Collaborated with state and municipal police officers to conduct joint actions to enhance enforcement of underage drinking laws. These included alcohol compliance operations that utilized minors trained by the Connecticut Coalition to Stop Underage Drinking. In 2010-2011, the Division conducted 363 such local liquor compliance checks in more than 30 towns and cities in the state. Of that total, 292 Connecticut liquor retailers passed by NOT selling alcoholic liquor to persons under the legal drinking age of 21.
- Provided training and education to 476 law enforcement officers, liquor retailers and community members in strategies to deter access of alcoholic liquor to underage persons.
- Participated in the national recall of several alcohol energy drinks statewide and the voluntary recall of a wine product alleged to have bottle failure issue, resulting in exploding bottles

Regulation of Drugs, Cosmetics & Medical Devices

- Worked to protect the health and safety of Connecticut citizens by regulating all persons and firms involved in the distribution of drugs, cosmetics and medical devices in order to detect and prevent the diversion of drugs from those channels.
- Investigated alleged diversions of controlled substances from pharmacies and healthcare facilities by medical professionals and paramedical professionals, and prescription errors at the retail level. In collaboration with the federal Drug Enforcement Administration (DEA) and the Food and Drug Administration (FDA), the Drug Control Division investigated sales and distribution of nutritional food supplements suspected of containing prescription drugs, including controlled substances.
- Assisted law enforcement, the FDA and the DEA in investigating and adjudicating cases of drug fraud in the state.
- Completed compliance inspections of registrant locations to safeguard the occurrence of drug diversion from these locations.
- Continued operation and implemented upgrades of the Prescription Monitoring Program (PMP), which protects the health and safety of the public by allowing prescribers and pharmacists to access a patient's prescription history to help identify patterns of misuse, diversion and/or abuse. Law enforcement and regulatory personnel also have access to the program to assist with investigations related to doctor shopping, pharmacy shopping and fraudulent activity The program conducted educational and outreach activities to the general public on prescription drug abuse, safe storage and disposal of prescription medication and taking medications safely.
- Provided staff and speakers at professional and community programs, conferences and seminars.

- Collaborated with local health departments, water departments and health care facilities to offer free Drug Collection events in communities statewide to collect and dispose of outdated and unwanted medications. The events promoted drug safety in the home, including prescription drug abuse, and educated residents about the environmental impact of improper drug disposal.
- Continued to assist the Centers for Disease Control and Prevention (CDC) and Department of Public Health in managing the Chempak program for hospitals and first responders, and in the storage and dissemination of strategic medication. It also continued to assist the FDA in dissemination of drug recall notices to prescribers, pharmacists and pharmacies via the Division's electronic list-serve.
- Monitored compliance agreements of pharmacists currently in a probation program due to drug addiction, oversaw compliance of various police departments' canine labs, and maintained the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.
- Trained more than 2,900 law enforcement officers, pharmacists and health care providers in identifying narcotic drugs and the signs of drug abuse, as well as in preventing prescription errors and using Connecticut's Prescription Monitoring Program. These programs were conducted at various law enforcement agencies and the Connecticut Police Academy.
- Through a federal grant, the Prescription Monitoring Program developed, printed and distributed 400,000 copies of educational material to educate the public about the dangers of prescription drug abuse and safe storage and disposal of prescription medication.

Regulation of Food and Standards

- Conducted inspections of food-processing plants, warehouses, retail food stores, bakeries, non-alcoholic beverage plants, frozen dessert plants, vending machine locations, apple juice & cider plants, gasoline stations, heating oil dealers and all weighing & measuring devices used commercially such as retail store scales, motor truck scales, petroleum meters and home delivery truck meters.
- Responded to 27 traffic and highway accidents involving food and beverage products in order to ensure that contaminated/adulterated foods were not distributed to the public.
- Checked packaging, labeling, unit pricing, scanning and advertising of food products, kosher foods and non-food items, restaurant menus, advertisements and gasoline station price signs to ensure that the contents and their weights were represented correctly.
- Conducted effectiveness checks on meat and poultry recalls that affected the State of Connecticut, pursuant to a Memorandum of Understanding with the U. S. Department of Agriculture.
- Worked cooperatively with the Department of Motor Vehicles and the Department of Public Safety on the Commercial Vehicle Safety and Inspection program, and the Calibration of Portable Scales program.
- Regulated fuel retailers in the state and supplemented the inspection work performed by municipal sealers of weights and measures.
- Enforced the requirements of the Stage II Vapor Recovery Program, pursuant to a Memorandum of Understanding with the State Department of Environmental Protection.
- Investigated and resolved a case in which a gasoline retailer was selling lower octane gasoline as higher octane product at two local gasoline stations. The investigation resulted in a halt to the problem and a $20,000 settlement payment to the State.
- Reestablished the State of Connecticut Measurement Center, which has custody of the physical standards of mass, length, volume, and temperature (clinical thermometer standards). The Department maintains accreditation from the U. S. Department of Commerce National Institute of Standards and Technology (NIST) in order to ensure that the calibration services provided to public and private sector customers are certifiable. Connecticut businesses and industries must utilize NIST standards, which guarantee uniform measurement in order to compete successfully in the national and international marketplace. Calibration services were also performed on standards used by other state agencies, municipalities, registered dealers of weighing and measuring devices, institutions and, those carried by the Division's field inspectors.

- Responded to 1,650 complaints, a 65% increase over the prior year. Most complaints were related to gasoline and fuel oil, with 300 consumer complaints involving bad gasoline that was sold for a short period of time in stations across the state. The Division worked to isolate the source, halt the flow of the tainted gasoline into the marketplace, and assure restitution to consumers whose vehicles were affected by the gasoline. The division also responded to 323 consumer complaints related to misbranded food items, adulterated food, price scanner errors, expired food and poor sanitation.

Regulation of Occupational & Professional Licensing

- Administered professional licensing procedures that ensured that only qualified, competent individuals were licensed in the occupational trades and in several professional licensing categories.
- Enforced laws governing approximately 93,000 licensees in 33 areas and administered nationally standardized examinations as approved by the appropriate State licensing board.

Regulation of Trade Practices

- Worked to protect Connecticut citizens from unfair or deceptive practices in the marketplace through the enforcement of consumer protection laws and the mediation of disputes between buyers and sellers.
- Enforced the State Child Protection Act and conducted product testing, and initiated and monitored product recalls
- Inspected used furniture and bedding to ensure that cautionary labeling was accurate and complete and that proper sanitation procedures were followed.
- Conducted a tenth undercover home improvement sting operation in Waterford to review compliance with state home improvement laws. Forty-four unregistered individuals were found engaging in home improvement work, in violation of state law.
- Responded to more than 53,000 consumer telephone calls and 6,150 written consumer complaints, involving problems with home improvement, retail sales, telemarketing, online shopping and numerous scams. The Division mediated settlements between buyers and sellers, and utilized the Connecticut Unfair Trade Practices Act where appropriate to combat unfair business practices in the Connecticut market place.
- Processed 47 applications to the state's new automobile warranty arbitration "lemon law" program, and ordered restitution or replacement of consumer's vehicles in the amount of $596,000.
- Processed and investigated 1,100 cases against real estate professionals, including consumer complaints and cases concerning non-compliance with state continuing education requirements.

Regulation of Gaming

- Regulated Connecticut's authorized forms of gambling, which include Tribal Casino gambling, pari-mutuel wagering, State Lottery ticket sales, and Charitable Games. Specifically, the Gaming Division completed 9,868 gambling regulation inspections and visits, managed 2,139 lottery drawings to ensure the integrity of the games, issued 2,999 charitable games registrations and permits, and conducted five charitable games audits.
- Visited lottery agents and licensees, and Off-Track Betting ("OTB") facilities on a random, unannounced basis to ensure compliance with all State statutes and regulations related to gaming, and to educate agents on use of the lottery reporting system.
- Assured that only suitable individuals worked in the Connecticut gaming industry by coordinating and conducting appropriate background checks before licensing, registering, or issuing permits to individuals, organizations, and vendors to be employed by or contracted with, gaming licensees or permittees within the State, including those businesses authorized to sell lottery tickets.
- Oversaw 17,050 active licensees in Connecticut's gaming industry. These included 3,675 lottery and OTB enterprise, 854 occupational, 2,821 lottery, 6,848 Foxwoods Casino and 6,519 Mohegan Sun Casino active licenses.

- Provided due process and an opportunity to be heard to those individuals or entities denied initial licensure, whose current license was in the process of being revoked, or who had regulatory issues, and held numerous compliance hearings.
- Conducted a total of 227 field investigations and central office investigations, and monitored operations to assure that all gambling activities were consistently conducted in a fair and honest manner, and to detect and prevent fraudulent gaming activity. Conducted 121 administrative hearings and participated in 18 arrests.
- Tested wagering systems and related equipment to ensure the integrity of casino games.
- Assisted in determining if a public safety emergency was imminent in any locale where lottery tickets are sold during large jackpot incidents, especially for Powerball.
- Supported treatment and rehabilitation for chronic gamblers through public awareness activities and by ensuring that funding for such programs is provided pursuant to Section 17a-713(b) of the Connecticut General Statutes.

IMPROVEMENTS / ACHIEVEMENTS, 2010 – 2011

During Fiscal Year 2010 – 2011, the Department of Consumer Protection realized numerous improvements and achievements. These are outlined below.

- The Food and Standards Division sponsored a Federal Drug Administration (FDA) workshop, "Special Processes at Retail," to educate staff and local health departments about the process of producing in the retail environment food items that are typically manufactured.
- The agency was co-sponsor of the North East Food and Drug Officials annual meeting at the Mystic Hilton in Mystic, Connecticut. This was the 100th anniversary of the founding of the Northeastern branch of the Association of Food & Drug Officials.
- Through the Food and Standards Division, the agency participated in the FDA's food establishment plan review.
- The Licensing Division expanded operation and implemented upgrades of the Connecticut E-Licensing website. All but 12 of the Department's 200 licensing categories were configured to allow licenses to be renewed through the E-Licensing system.
- The new automobile warranty surcharge billing through the Lemon Law program was extended from quarterly to six months to be more efficient and cost effective. Automobile dealerships are now afforded the ability to pay their bill online through the E-Licensing system.
- The Department realized a 41% increase over FY 2010 in the number of online renewals and a 44% increase in the amount of revenue collected via online renewal.
- The agency assisted the Board of Accountancy and the Division of Special Revenue (now the DCP Gaming Division) in their initial configuration of license types for the E-Licensing system, with the goal that each would be fully operational by the Fall of 2011.
- The Public Charities Unit was brought under full authority of the Department of Consumer Protection in September 2010, significant changes to its initial registration and renewal processes has brought about efficiency and a quicker response time for applicants.
- The Department continued to make available to its licensees, registrants and permittees, more online license and permit applications and forms.
- Through participation in the LEAN process, the Liquor Control Division dramatically reduced the time period between accepting a permit application to issuing a provisional permit (reduced from an average of six weeks to ten days).
- Following a LEAN value-mapping of the Home Improvement Guaranty Fund approval process, the Trade Practices Division eliminated unnecessary steps and adopted an electronic file approval process. The resulting system reduced paperwork, staff time and consumer wait time for restitution from the fund.
- Results of the Trade Practices Division's tenth undercover home improvement sting operation found that contractor compliance with state registration requirements increased to 79% of the targeted contractor population – up from 40% in 2000 -- indicating that the Department's ongoing education, outreach and enforcement efforts have been effective.

- The Drug Control Division, through application of the LEAN Process, implemented electronic work flows, electronic inspections, and electronic transfer of reports and began to transfer these processes to the Commission of Pharmacy. As a result, processes are more efficient for both the Division and public, increasing productivity. There is also a subsequent reduction in the use of paper products.
- The Division partnered with the Partnership Prevention Network, local community organizations and municipal police departments to develop and implement a statewide Drug Drop Box program. A pilot program is nearing the end of its trial and will be open to statewide involvement. This will allow municipalities a viable, sustainable option for the proper removal of unused medications from homes, for environmental reasons and to prevent misuse or abuse.
- The Drug Control Division was named to the Board of the State's Health Information Exchange
- The Gaming Division implemented a delinquent lottery agent amnesty program to recover back fees due from certain lottery agents and to pursue license revocations when necessary.
- Gaming Division staff regulated and helped to ensure that new OTB facilities were operated successfully.
- Total wagering revenue from all forms of legal gambling regulated by the Division in 2010-2011 was nearly $18.1 billion, with $16.1 billion returned to the general public in prizes and more than $653 million transferred to the General Fund.

INFORMATION REPORTED AS REQUIRED BY STATE STATUTE

The Department of Consumer Protection is firmly committed to the principles and objectives of equal employment opportunity for all individuals. The Department's full-time Affirmative Action Officer Alicia Nunez coordinates and monitors the agency's programs and ensures compliance with the Americans with Disabilities Act, the Fair Employment Practices Act, state Affirmative Action regulations and Contract Compliance laws. The Department operated under a plan approved by the Commission on Human Rights and Opportunities and is an Affirmative Action/Equal Opportunity Employer. The agency did not knowingly do business with any bidder, contractor, sub-contractor, supplier of materials, or licensee who discriminates against members of any class protected under C.G.S. Sec. 4a-60.

In Fiscal Year 2010-2011, 49.6 percent of the Department's employees were female and 50 4 percent were male, with the following composition: 72.7 percent white, 17.2 percent black, 8 percent Hispanic, and 2.1 percent Asian.

JUDICIARY PUBLIC HEARING
MARCH 29, 2012, 10:00 A.M.

RE: **HB5536** AN ACT CONCERNING REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY ASSOCIATION MANAGER, LICENSURE AS A REAL ESTATE BROKER OR SALESPERSON AND ORGANIZATION OF A UNIT OWNERS' ASSOCIATION.

HB HB5511 AN ACT CONCERNING THE BUDGET, SPECIAL ASSESSMENT AND ASSIGNMENT OF FUTURE INCOME APPROVAL PROCESS IN COMMON INTEREST OWNERSHIP COMMUNITIES.

Good Morning members of the Judiciary Committee and others present.

My name is Linda Palermo. I reside in Stratford, CT at Stonybrook Garden Cooperative Inc. I am here today to speak as an individual and CCOC member in favor of HB5536 and HB511, because inherently, as members our issues are heard only once a year at the Annual Membership meeting where we have five minutes to speak. We have an officer manager, who lacks any credential such as those proposed in HB5536. He takes his directives from the president of the Board, who allows and relies on the office manager to do the things a property manager would do. In the past money was missing, the office assistant got blamed. When she left, and another assistant was working in the office, she would get the blamed when certain things went wrong. He listens to phone calls over her shoulder. I personally had a portion of my membership file sealed due to a past President saying he was going to access it without my being present. More recently the sealed portion was opened with out my knowledge my security number is missing how and by whom we will never know Documents were thinned out; put into my more recent membership file; there again, I was not present and recently discovered this when I was going through my membership file. Because of event such as these I would like back ground checks done not only on the office manager but also on any potential property manager prior to hiring. Members', complain about the office managers, attitude and job performance -the Board does nothing and members get ignored. We get minutes one month after the Board's Regular meeting. So here is where I speak out I welcome the organization of a unit owner's association to spite the fact I bet they wouldn't. Wherefore I support HB5536 AND HB 5511. Thank you for the opportunity to speak.

Linda Palermo

I Diane morales 506 king st unit 20 bristol ct 06010 Castillian condominiums

Am In Favor of HB5536 And IN Favor HB5511 (testimony)

I hope this goes through. I have been living in a condo for 8 years with "8 years " of special assesments. 800.00 dollars a year on top of regular condo fees. And no one recieves financials EVER. No work has been done at all through these extra monies. The board members are bullies. I am so happy to have found ctcondo because they have given me some power to stand up to these people. Now i recieve financials. (still nobody else does except board members) I could go on and on lol Thank you

Diane Morales condo owner Bristol Ct

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CONNECTICUT
GENERAL ASSEMBLY
SENATE

PROCEEDINGS
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THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Also calendar page 14, Calendar 438, House Bill 5347. Move to place the item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Moving to calendar page 15, where we also two items. First is Calendar 441, House Bill 5501. Madam President, move to place this item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Also calendar page 15, Calendar 442, House Bill 5536. Madam President, move to place this item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Moving to calendar page 16. The first item is Calendar 445, House Bill 5145. Move to place the item on the consent calendar.

On page 13, Calendar 426, House Bill 5443; on page 14, Calendar 438, House Bill 5347; Page 14, Calendar 439, House Bill 5388; page 15, Calendar 441, House Bill 5501.

Also on page 15, Calendar 442, House Bill 5536; page 16, Calendar 445, House Bill 5145; page 16, Calendar 446, House Bill 5395; on page 16, Calendar 448, House Bill 5414; page 17, Calendar 451, House Bill 5548; page 18, Calendar 456, House Bill 5285.

Also on page 18, Calendar 458, House Bill 5031; on page 20, Calendar 468, House Bill 5217; page 21, Calendar 471, House Bill 5164; page 22, Calendar 476, House Bill 5263.

On page 23, Calendar 485, House Bill 5237. On page 25, Calendar 497, House Bill 5512; page 26, Calendar 502, House Bill 5497; page 26, Calendar 503, House Bill 5409.

On page 28, Calendar 512, House Bill 5424. And on page 30, Calendar 522, House Bill 5289.

THE CHAIR:

That seems correct.

Mr. Clerk, would you please call for a roll call vote on the consent calendar. (Inaudible.)

THE CLERK:

Immediate roll call has been ordered in the Senate. Will senators please return to the Chamber. Immediate roll call has been ordered in the Senate.

THE CHAIR:

Senator Gomes, would you like to vote, please. Thank you.

If all members have voted, if all members have voted, the machine will be closed.

Mr. Clerk, would you please call a tally.

THE CLERK:

On today's consent calendar,

Total Number Voting 35
Necessary for passage 18
Those Voting Yea 35
Those Voting Nay 0
Those Absent and Not Voting 1

THE CHAIR:

The consent calendar passes.

Are there any points of personal privilege or announcements? Are there any points of personal privilege or announcements?

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Yes, Madam President, if there are no announcements or points of personal privilege, we will, of course, be in session tomorrow -- or actually it's later today but -- but not on Thursday. But --

THE CHAIR:

Okay. Promise?

SENATOR LOONEY:

-- we will -- we will convene later this morning. We will have a -- announce the Democratic caucus at eleven followed by session at noon today.

Thank you, Madam President.

With that, would move the Senate stand adjourned, subject to the call of the chair.

THE CHAIR:

So ordered, sir. Everybody drive safely.

On motion of Senator Looney of the 11th, the Senate, at 12:32 a.m. adjourned subject to the call of the chair.