

PA13-182

HB6513

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2013**

**VOL.56
PART 13
4177 – 4511**

hac/gbr
HOUSE OF REPRESENTATIVES

462
May 15, 2013

Absent and not voting 17

DEPUTY SPEAKER GODFREY:

The bill, as amended, passes.

Will the Clerk please call Calendar 460?

THE CLERK:

On Page 25, Calendar Number 4600, Favorable Report of the Joint Standing Committee on Judiciary, Substitute House Bill 6513, AN ACT CONCERNING THE BUDGET AND SPECIAL ASSESSMENT APPROVAL PROCEDURES -- OR PROCESS IN COMMON INTEREST COMMUNITIES.

DEPUTY SPEAKER GODFREY:

Representative Ritter.

REP. RITTER (1st):

Thank you, Mr. Speaker. Good evening.

DEPUTY SPEAKER GODFREY:

Good evening, sir.

REP. RITTER (1st):

I move acceptance of the Joint Committee's favorable report and passage of the bill.

DEPUTY SPEAKER GODFREY:

The question is acceptance of the Joint Committee's favorable report and passage of the bill.

Will you remark, sir?

REP. RITTER (1st):

To summarize rather briefly, Mr. Speaker.

This bill simply changes the voting requirements for annual budgets and special assessments in common interest communities.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Would you care to remark further on the bill before us?

Representative O'Neill of the 69th.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

I thank the Chair for bringing -- the Vice Chair for bringing the bill out and urge support.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Do you care to remark? Do you care to remark further on the bill before us?

If not, staff and guests to the Well of the House. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll.

The House of Representative is voting by roll. Will members please return to the Chamber immediately?

DEPUTY SPEAKER GODFREY:

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

Members please check the board to make sure your vote is properly cast.

If all the members have voted, the machine will be locked. And the Clerk will take a tally.

Will the Clerk please announce the tally?

THE CLERK:

Bill Number 6513.	
Total Number Voting	133
Necessary for Passage	67
Those voting Yea	133
Those voting Nay	0
Absent and not voting	17

DEPUTY SPEAKER GODFREY:

The bill passes.

Will the Clerk please call Calendar 511?

THE CLERK:

On Page 24 of Calendar 511, Favorable Report of the Joint Standing Committee on Judiciary, Senate --

HB 6678

H – 1176

**CONNECTICUT
GENERAL ASSEMBLY
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HOUSE OF REPRESENTATIVES

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June 3, 2013

ask that the Members of the Chamber please stay close to the Chamber so we can get these finished.

Will the Clerk please call Calendar Number 460.

THE CLERK:

Yes, Mr. Speaker. On Page 46, Calendar Number 460, Favorable Report of the Joint Standing Committee on Judiciary. Substitute House Bill Number 6513 AN ACT CONCERNING THE BUDGET AND SPECIAL ASSESSMENT APPROVAL PROCESS BY COMMON INTEREST COMMUNITIES.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker. I move for the acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER SHARKEY:

The question is acceptance of the Joint Committee's Favorable Report and passage of the bill. Will you remark, sir?

REP. FOX (146th):

Thank you, Mr. Speaker. This bill deals with how common interest communities pass their annual budgets and special assessments, and it previously passed the

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House unanimously. The Senate did put an amendment on this bill, LCO Number 8544.

I would ask that that be called and I be given leave to summarize.

SPEAKER SHARKEY:

Will the Clerk please call LCO 8544, which has been previously designated Senate Amendment "A".

THE CLERK:

Yes, Mr. Speaker. LCO Number 8544 designated Senate Amendment Schedule "A" and offered by Senator Fasano, Senator Doyle, et al.

SPEAKER SHARKEY:

The gentleman seeks leave of the Chamber to summarize. Is there objection? Seeing none, you may proceed with summarization, sir.

REP. FOX (146th):

Thank you, Mr. Speaker, what the Amendment does is, it limits the budget and special assessment provisions to those unite, or to those condominium associations with 2,400 or more units that were established before July 3 of 1991 and I move adoption.

SPEAKER SHARKEY:

The question before the Chamber is adoption of Senate Amendment "A". Will you remark?

Representative O'Neill of the 69th.

REP. O'NEILL (69th):

Yes, thank you, Mr. Speaker. I want to thank the Co-Chair of the Judiciary Committee for all of his hard work and cooperation with this bill during the course of this Session as well as last Session's earlier version of it, and also want to thank the Governor's office for their input on the development of the Amendment, which is before us, and of course the Senate for their being willing to move this bill back down to us and urge the adoption of the Amendment. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir. Do you care to remark further on Senate Amendment "A"? If not, let me try your minds.

All those in favor of Senate Amendment "A" please signify by saying Aye.

REPRESENTATIVES:

Aye.

SPEAKER SHARKEY:

Those opposed, Nay? The Ayes have it. The
Amendment Is adopted. Do you care to remark further

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HOUSE OF REPRESENTATIVES

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on the bill as amended? Do you care to remark further
on the bill as amended?

If not, staff and guests to the Well of the
House. Members take your seats. The machine will be
opened.

THE CLERK:

The House of Representatives is voting by Roll.

The House of Representatives is voting by Roll.

Will Members please return to the Chamber
immediately.

DEPUTY SPEAKER ORANGE:

Again, if Members can stay close to the Chamber
as we do the next several bills. It will help us move
these further along. Tell your friends. Tell your
neighbors.

Have all the Members voted? Have all the Members
voted? Members please check the board to make sure
your vote is properly cast.

If all the Members have voted, the machine will
be locked and following the machine being locked, the
Clerk will take a tally. If all Members have voted,
the machine will be locked and the Clerk will take a
tally.

The Clerk please announce the tally.

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THE CLERK:

H.B.6516 as amended by Senate "A".

(HB6513)

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	146
Those voting Nay	0
Those absent and not voting	4

SPEAKER SHARKEY:

The bill as amended passed.

Will the Clerk please call Calendar 584.

THE CLERK:

On Page 45, Calendar 584, Favorable Report of the Joint Standing Committee on Government Administration and Elections, Substitute Senate Bill 928 AN ACT CONCERNING PRECIOUS METALS OR STONES DEALERS.

SPEAKER SHARKEY:

Representative Dargan.

REP. DARGAN (115th):

Thank you very much, Mr. Speaker. I move for acceptance of the Joint Committee's Favorable Report and passage of the bill.

SPEAKER SHARKEY:

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**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

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The Senate will stand at ease.

(Chamber at ease.)

SENATOR LOONEY:

Yes, Mr. President.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

If the Clerk would call the item on Calendar page 18,
Calendar 613, House Bill 6513.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On page 18, Calendar 613, Substitute for House Bill
Number 6513, AN ACT CONCERNING THE BUDGET AND SPECIAL
ASSESSMENT APPROVAL PROCESS IN COMMON INTEREST
COMMUNITIES, Favorable Report of the Committee on
Judiciary.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Good evening, Mr. President.

I move acceptance of the Joint Committee's Favorable
Report and passage of the bill in concurrence with the
House.

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THE CHAIR:

On acceptance and passage in concurrence, will you remark?

SENATOR DOYLE:

Yes, Mr. President.

The underlying bill deals with the approval process of budgets for condominiums. The Clerk has an amendment, LCO 8544. May the Clerk please call and I be allowed to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO Number 8544, Senate "A" offered by Senators Fasano, Doyle, et al.

THE CHAIR:

Senator Doyle.

SENATOR DOYLE:

Yes, thank you.

I first move adoption of the amendment.

THE CHAIR:

On adoption, will you remark?

SENATOR DOYLE:

Yes. Thank you, Mr. President.

This amendment is very similar to the underlying bill, but it narrows or tightens the language. It deals with how -- how annual budgets are approved. And this

gdm/cah/meb/gbr
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bill changes, kind of -- it flips it to say the proposed budget or assessments are rejected if there are a majority of votes. It's very similar to the bill approved by the committee, and I urge the Chamber to approve the amendment.

THE CHAIR:

Thank you, Senator.

Will you remark further on the amendment? Will you remark further on the amendment?

If not, I'll try your minds. All those in favor, please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed, nay?

The ayes have it. Senate "A" is adopted.

Senator Doyle.

SENATOR DOYLE:

Well, the bill -- this amendment became the bill and it's a good bill, and I urge the Chamber to approve it.

THE CHAIR:

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

If not, Mr. Clerk, please announce the pendency roll call vote. The machine will be open.

THE CLERK:

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SENATE

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Immediate roll call has been ordered in the Senate.
Senators please return to the Chamber. Immediate
roll call has been ordered in the Senate.

THE CHAIR:

Have all members voted? If all members have voted,
please check the board to make sure your vote was
accurately recorded. If all members have voted, the
machine will be closed and the Clerk will announce the
tally.

THE CLERK:

House Bill 6513, as amended,

Total Number Voting	34
Necessary for Adoption	18
Those Voting Yea	34
Those Voting Nay	0
Those Absent and Not Voting	2

THE CHAIR:

The bill passes.

Senator Looney.

SENATOR LOONEY:

Thank you. Thank you, Mr. President.

Mr. President, I would move for immediate transmittal
to the House of Representatives of the -- the last
enacted item.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 7
2062 - 2447**

2013

Date: Wed, 20 Mar 2013 14:46:23 -0500

Subject: Re: Raised Bill 6513

Testimony in Support of the Passage of Raised Bill 6513

AN ACT CONCERNING THE BUDGET AND SPECIAL ASSESSMENTS
APPROVAL PROCESS IN COMMON INTEREST OWNERSHIP COMMUNITIES

Proposed to the Judiciary Committee

I respectfully request that you pass Raised Bill 6513 to the General Assembly and that it not die in committee.

This bill will provide a democratic process for the approval/rejection of a budget. My reasons for the above request are that our past history will support the fact that only a budget that is considered unreasonable by a majority of those who VOTE would not be passed. The history of the budget vote in 2011 demonstrated the lack of democratic process where two thirds of VOTERS voted to reject the budget and it passed because approximately 780 units cast no ballot. Furthermore, approximately 10-15% of the units in Heritage Village are not occupied by the unit owners either because they have been foreclosed, passed into an estate or are being used as rental properties. The simple math illustrates that approximately 258 units might not have any interest in voting on the budget making it almost impossible to reject a budget if it is automatically considered passed once accepted by the board of trustees rather than requiring a vote yea or nay on the budget presented and accepted by the board.

Thank you very much and hopefully you will all see the lack of democratic process on voting where the unit owners are essentially bypassed.

Respectfully,

Salvatore A Pace MD

Unit 891A Heritage village

**JOINT
STANDING
COMMITTEE
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2013

That does exhaust the names of individuals who signed on the public officials list, so we'll now turn to the general public list, and the first person to sign up on that list is -- it looks like Kark Kuegler.

KARK KUEGLER: Good morning, Senator Coleman, Representative Fox, Senator Doyle, Representative Ritter, Senator Kissel, Representative Rebimbas, and members of the Judiciary Committee. Thank you for the opportunity to submit testimony on behalf of Imagineers, LLC.

My name is Karl Kuegler. I'm the director of property management for Imagineers, LLC. We are a common interest community management company based out of Hartford and Seymour. We serve 178 communities from offices in Seymour and Hartford that comprise just about 17,000 condominium and other types of common interest homes. We're registered with the Department of Consumer Protection. We actually hold registration number 0001. We've been serving communities for over 32 years. I have been in the industry for 23 years and have -- hold the -- I am a certified manager of common interest communities, and serve on CAI's legislative action committee as well as chair of the organization's annual state educational conference that was just held earlier this month.

I'd like to submit testimony on two bills: Bill 6662 and Bill 6513. I have written

testimony that has been submitted on both bills. That has been provided. Thank you.

The first bill that I would like to speak on is Bill 6513, AN ACT CONCERNING THE BUDGET AND SPECIAL ASSESSMENT APPROVAL PROCESS FOR COMMON INTEREST COMMUNITIES. I think it's important to note that in 2009, the legislature approved major revisions to the Common Interest Ownership Act which for communities created prior to 1984, made its -- made the budget approval process similar to communities that were created after '84 which is the way the law is right now, which is that a majority of all unit owners have to vote against the budget for the budget not to be approved.

Prior to 1984 the process was the board would approve a budget, and their only obligation was to present it to the unit owners. Very similar to the board's fiduciary responsibility is similar to the State Legislature where you, as a legislative body, approve a budget for the State, and then for the pre-'84 communities, it was similar where you just had the obligation to present it.

The post-'84 communities created a safety measure which gave homeowners the opportunity, if they disagreed with the budget that was approved by their elected officials, that they had the opportunity to change that. Prior to 1984, the only means, which is still in place today, is that they could vote to remove their directors and put in different elected officials, and look for a change in the budget.

We think that the law that was enacted, you know, for those communities post-'84 and with the revisions from the 2009 revisions that it puts in place what's worked well for greater than 25 years. The board -- the board members take very seriously their fiduciary responsibilities. As a practicing manager for over 23 years, I can assure you that boards take very seriously the increases in common fees to -- to a fault in many cases. And I think that's evident by the number of special assessments and other large increases in loans the associations are getting right now because they find themselves in a predicament that the capital components of their structures have failed to the extent that they need to fund those, and they don't have an opportunity to wait.

So we're opposed to this particular bill. We would like to see it remain as it is and work to have boards, you know, communicate to transparency that's out there. It's helpful, and all this is a relatively recent change to the Common Interest Ownership Act, only going into effect in July of 2010.

The second bill that I'd like to speak on is Bill 6662, AN ACT CONCERNING THE RECOUPMENT OF MONEYS OWED TO UNIT OWNERS' ASSOCIATION DUE TO NONPAYMENT OF ASSESSMENTS.

Currently the priority lien for common interest communities is six months. We agree with the increase of that to twelve months. We

evergreen-type effect to this priority lien to protect the homeowners that are paying on a regular basis so that they're not subsidizing assets being held by large banks as a maneuver to decide when they're going to finalize the foreclosure, or as a delay tactic so that the market maybe is going to recover, or maybe they just don't have a clue what they have in terms of an inventory. But it is something that needs to be effect -- a change that needs to be put into effect, because these condominium homeowners can't afford to be covering these expenses for these large banks.

Thank you.

SENATOR COLEMAN: Thank you. Are there questions?

Representative O'Neill.

REP. O'NEILL: Thank you. I'd like to ask you a couple of questions about Bill 6513.

KARK KUEGLER: Yes.

REP. O'NEILL: I understand that you're saying that the homeowners -- the unit owners have, or should have, access to information and that the board's directors you say always take into account the concerns about rising homeowner fees. But, what this is about is the idea that if people, at the end of the day, feel that those fees are going up too much, or that transparency has not, in fact, been going on, that they haven't gotten all the information that they needed, or there is a fundamental

disagreement about a budget, that it would change, in effect, the way we count the votes so that instead of needing 50 percent plus one of all unit owners to reject the budget, that you would need basically a majority of those who turn up to vote.

And I guess, if I could, based on your experience, if you could give me an idea, how often are budgets rejected under the existing system?

KARK KUEGLER: I -- not all that often, but it does happen. I know we've had at least a couple of budgets this particular year. The majority of our communities have calendar year budgets where the budget was voted down. And I know in the past that that was not -- that's happened several times in the last couple of years.

I think the fundamental difference that we may have is the fiduciary responsibility of these board members is great, and I think a lot of board members take that seriously, as they should. I think one of the challenges is that the election process for boards -- we don't get enough people, you know, we have people that take on that burden for other homeowners, and I think as the community -- in particular with communities, they don't necessarily see the importance of that election process of getting like-minded people, if they disagree with increases in the budget, getting like-minded people on the budget.

Also, the budgets -- obviously nowhere near as complex as the State budget, but a lot of the budgets that they're dealing with are more complex than just being concerned about what the dollar increase is for the budget. And the fiduciary responsibility that the board members have to provide the services and to be able to answer when the roof isn't fixed in a timely fashion, is great, and it's -- I've seen sometimes when budgets are voted down, you know, it's well I don't like the \$5 or the \$10 increase, yet a month later, when the project can't be completed, or when a maintenance need can't be responded too as quickly, those same people are, you know, opposing the board on those particular issues.

Transparency is important. I like aspects of the Common Interest Ownership Act changes where they talk about the need to present the capital reserve and the reserve spending as part of the budget process, because all too often I think that is forgotten, and then until the roof is failing, or the roads are filled with potholes, and I think it's important that the entire community consider those major capital expenditures so there isn't a surprise down the road, and so that they can adequately fund going forward so they don't have major assessments or don't have to do (inaudible).

REP. O'NEILL: Okay, so the answer I think was that -
- it sounds like relatively few times are budgets rejected under the existing system. Is that correct?

KARK KUEGLER: That is correct.

REP. O'NEILL: Okay. Good. And when they are rejected, do you have any sense of whether they're rejected in larger condominium complexes, or if it's more common when they are rejected that it's relatively small. And I'll give you my definition of -- let's say it's 50 or fewer units I would consider -- or 100 or fewer units, let's say is small. And if it's over 100, which isn't that many in complexes in Connecticut -- I would call that a large unit.

So as you're recollecting, are most of the rejections in the 100 or smaller category?

KARK KUEGLER: Well our -- our average size community is about 93, 94 units. Our largest community is 332 units. So my experience is going to be with the smaller communities. I think you mentioned there aren't very many large communities in the State of Connecticut to begin with. So the bulk of it is going to fall within those communities that are more around 100, you know, 100 units for the community.

REP. O'NEILL: Okay. And so, of the ones that are in that neighborhood of 100, do you remember any of them having their budget rejected?

KARK KUEGLER: Yes. Yes.

REP. O'NEILL: And how often did that -- I mean did it -- what was the result? I mean did the --

did eventually something pass, an increase that was smaller, or what happened?

KARK KUEGLER: I can -- I can recall one -- one particular community that comes to mind. It's a community -- it's about I believe 42 units. They went through the budget process three times. And actually what's interesting is they took into consideration different aspects of the law that was changed in 2010. Their first budget process was held the conventional way, where they held a unit owners' meeting, gave the appropriate notice, and provided the appropriate information and home owners showed up, as well as those that sent in proxies. And they voted down the budget. And the board went back to the drawing board, took into consideration the thoughts that homeowners had presented to them in the -- at that meeting, and came up with a version two of the budget.

They also took into consideration the obligations that they knew they had as an association with fixed contracts and fixed expenses, and looking at some of the maintenance things that were coming up.

That second budget vote they did through a mail-in ballot, and the statute clearly provides this option, whereas not only can you put out the budget and provide the information, you also give homeowners the opportunity to vote and voice concern. So for larger communities, this may be an option, too, and then the association has the obligation to convey the concern that somebody writes in or

emails in, and then they took a vote by mail-in ballot. And the vote failed again that particular time; 51 percent of the homeowners voted against it.

And the third time the community held another meeting. I was fortunate enough to be able to attend this particular meeting, and it was done the conventional way. They held a homeowners meeting, and at that meeting there was a very low turnout, but very few votes against the budget, and the budget was ratified at that particular meeting.

REP. O'NEILL: Okay, because I think I remember the person who was president of that association testified on last year's version of this bill, and that there were -- of the 42 units, I think 22 people voted no the first time; 22 voted no the second time; and the third time -- and in each of the second and third balloting, there was a change in the budget to make it smaller as I recollect your testimony.

KARK KUEGLER: Right.

REP. O'NEILL: So basically the homeowners were seeming to be saying "we want the budget to be less; we want the increase in the fees to be less."

KARK KUEGLER: Correct.

REP. O'NEILL: Okay. Now, I'm just curious. I mean how -- do you recollect how much less? I mean was it like a zero increase, and did they have

to cut the budget below what it was the previous year? I mean was it a radical change?

KARK KUEGLER: If my memory serves me correctly, I believe it started at a \$25 per month increase, and I think it settled around a \$10 increase, so it was still an increase. I think -- I think one of the challenges is that, you know, even though the budgets are relatively simple, for especially the -- the medium sized or smaller communities, I think the challenges that human nature -- we look at what the dollar-amount increase is, and we don't necessarily focus in on the reasons why.

And as I mentioned, I've been there. I remember one 100-unit community that I managed for a number of years that was a conversion. They were apartments before. They converted to condominiums, and the association unfortunately got stuck holding the bag for a developer coming in, putting a coat of paint and an inexpensive roof. And here they were five years into homeowner control and they needed to replace roofs and do major wood replacement. And they had some major expenses that they had to incur. They were fortunately able to work through it where, you know, they communicated with the homeowners. They got the homeowners to buy in with what was going to be prioritized in terms of the major expenditures, and they were able to fund through larger common fees and special assessment going forward to try to deal with these things. But everybody was on the same page.

So it's -- you need homeowner involvement as well as the board involvement. You know, it is a community -- it's a community that they bought into. It's a corporation, in essence, that they bought into with certain guidelines and rules and regulations, and their declaration talks about the budget-approval process, and the responsibilities of the board, and they truly need to be a community when these difficult decisions come up, and if they can -- and we do educational processes on our own, courses as well as with CAI, and board members are reminded of the fact that even though they don't like the increase of the operating budget, that they themselves can't afford it, that they have a fiduciary responsibility to put forth a budget that adequately meets the obligations of the association.

So there's board members that vote for budgets with increases that they, themselves, may have a difficult time to pay, but they understand that in their obligations to their association, it's the best thing for the corporation and the association.

REP. O'NEILL: And I don't want to monopolize the time here, but just one last thing. You mentioned there was a unit, this place that you had managed for a number of years, was 100 units.

KARK KUEGLER: Uh-huh.

REP. O'NEILL: Have any -- can you recollect any time that a condominium association that was in excess of 100 -- let me -- actually to 100 units that actually rejected a budget? Can you remember any occasions?

KARK KUEGLER: I know that we had at least three this particular year, if I remember correctly, but I don't recall the quantity of units in those, and I don't remember what the numbers were at this point. I apologize.

REP. O'NEILL: Okay. And then secondly, when the board members and the ownership, the owners, effectively communicate with each other, has it been your experience that if there's a good reason for an increase in the budget, that the people in the condominium complex, the owners, eventually will see the value of what they're being asked to pay for?

KARK KUEGLER: Not always, but I think if a board and the manager take the time to communicate the needs of the community and try to make fairly clear what the ramifications of not approving a budget, I think it's helpful. I know in the case of that -- the client of ours that you recall testifying last year -- I remember talking to her through that process and reminding her that, you know, you're, you know, you're following through on your fiduciary responsibility. And homeowners, you need to help them through this process, because they don't necessarily understand all that information that you're grappling with for 12 months out of the year. They're coming to see

you one time a year for a homeowners' meeting, and yes, all too often they focus in on what the dollar amount is, and not the facts behind it. Associations have been successful in trying to communicate that, but it doesn't always -- and as I mentioned before even boards aren't necessarily approving budgets that are as high as they should be. And if I could -- in my written testimony I also pointed out the fact that FHA is asking associations to fund 10 percent of their operating budget towards capital expenditures. And a lot of local banks are adopting those guidelines in their lending -- in their lending guidelines, so it -- it becomes an issue of wanting to have that approval for homeowners to be able to get mortgages, or refinance, or reverse mortgages. So that adds another aspect of not only funding these capital programs, but also meeting these different guidelines.

REP. O'NEILL: Thank you, Mr. Chairman.

SENATOR COLEMAN: Thank you, Representative. Are there other questions?

Representative Dillon.

REP. DILLON: Good morning.

KARK KUEGLER: Good morning.

REP. DILLON: And I'm sorry. Many of us have multiple commitments.

Do you have a direct relationship, I mean, you have a general business interest, but do you have a direct relationship with -- with Representative O'Neill's district with the -- with the individual case?

KARK KUEGLER: Not that -- if we're talking about the large community, I don't have a direct interest in that. We do have communities within Mr. O'Neill's district, but not in particular the one that -- the large community.

REP. DILLON: Okay. Thank you very much. And I'm reading your testimony with interest. Thank you very much.

KARK KUEGLER: Thank you very much.

SENATOR COLEMAN: Are there other members with questions?

I have a quick question you may be able to help me with. Do you know whether foreclosure actions that are brought by condominium associations are subject to the foreclosure mediation program?

KARK KUEGLER: I don't believe they are. Attorney Scott Sandler will be speaking shortly in another three people after me. He'll be able to speak to that directly.

SENATOR COLEMAN: Okay. Thank you.

KARK KUEGLER: Thank you.

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rc/gbr JUDICIARY COMMITTEE

March 25, 2013
10:00 A.M.

SENATOR COLEMAN: Thank you for your testimony.

KARK KUEGLER: Thank you. Thank you for the opportunity.

SENATOR COLEMAN: Marianne Derwin.

MARIANNE DERWIN: Good morning, Co-Chairmen Senator Coleman, Representative Fox, Vice-Chair Senator Doyle, Representative Ritter, ranking members of the Judiciary, and members of the Judiciary.

HB 6662

I'm Marianne Derwin, Heritage Village, Southbury, Connecticut, and I am here to speak in favor of House Bill 6513. I respectfully request that you pass Raised Bill 6513 to the General Assembly. This bill will provide a democratic process for unit owners in common interest communities who vote on the budget.

In 2011-2012 budget vote in Heritage Village, 1786 votes were cast out of a potential 2580. Approximately 1200 votes were cast to reject the budget, and 594 votes not to reject. The budget was not rejected. The budget was not rejected because 794 unreturned ballots were counted as votes not to reject the budget. As is evident from these figures, one can conclude that virtually it is virtually impossible ever to reject a budget. This is the result of the formula for counting votes required in the current statute.

The proposed Bill 6513 adjusts the formula used to count the votes. This bill will count the majority of votes cast provided not less than

33 and 1/3rd percent of all unit owners entitled to vote on the proposed budget vote to reject the proposed budget.

This change will result, I believe, in a statute that is reasonable, fair, and balanced.

I would also like to speak in favor of Bill 6662 with the suggested amendments that refer to the proprietary liens.

Thank you so much for your consideration. Good morning.

SENATOR COLEMAN: Thank you. Are there questions for Ms. Derwin?

Representative O'Neill.

REP. O'NEILL: Mr. Chairman, not so much a question, but just thank you for taking the time to come up here and testify on this. I think you testified last year as well.

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MARIANNE DERWIN: I did.

REP. O'NEILL: And I know that this is an important issue to the folks who live in Heritage Village in particular, but I think in a lot of condominiums. But thank you very much for taking the time and coming up and testifying. Thank you.

MARIANNE DERWIN: Thank you, members of the Joint Judiciary. Good morning.

SENATOR COLEMAN: Are there any other questions?

Representative Adinolfi.

REP. ADINOLFI: Thank you, Mr. Chairman. Welcome. I just have a fast question. Do you have proxy votes?

MARIANNE DERWIN: No.

REP. ADINOLFI: That's unusual because I know my organization, who can't make the meeting use a proxy vote that tells how they're voting on the agenda.

MARIANNE DERWIN: Honorable Judiciary Chairman, we have a budget process that has been integrated in our by-laws and one of the statements in that budget process is there will be no proxy votes. And we don't -- we don't vote at a meeting. Because of the size of our community, we have to send ballots.

REP. ADINOLFI: Okay. That's -- that's what I meant, that if somebody can't make it, they could do, you know, vote by proxy, and you might consider that, also, because that would be helpful.

MARIANNE DERWIN: Thank you. We'll bring that information to our administration.

REP. ADINOLFI: Thank you.

SENATOR COLEMAN: Representative O'Neill, do you have a followup?

REP. O'NEILL: Yeah, I just wanted to make clear, because a lot of condominiums vote by a meeting, similar to, in effect, a town meeting where people, 50 or 100 people show up because that's the maximum number of unit owners. In Heritage Village there are 2500-plus units, so -- and there's no building in the town of Southbury that's capable of accommodating the number of people who would actually have to show up at a meeting. So everything is done by essentially the equivalent of an absentee ballot, a paper ballot that's mailed out and mailed back by the owners. So, in effect, they have the opportunity if they can't physically be in Heritage Village at the time of the vote, they still could vote that way, but -- but again still, you know, there's a significant non-return rate.

SENATOR COLEMAN: Representative Dillon.

REP. DILLON: Thank you. I'm sorry I'm asking again. As Representative O'Neill knows, I have a keen interest in that particular association through family members. The -- is it our statute that permits non-responders to be counted one way or the other?

MARIANNE DERWIN: The statute -- well if it -- if the statute states that a majority of all unit owners entitled to vote must vote to reject the budget, yes I would say it does. That's the statute. The -- all unit owners entitled to vote.

REP. DILLON: So 795 --

MARIANNE DERWIN: No. 794 did not return ballots.

REP. DILLON: I apologize. 794 did not return, and -
- which would be considered nonresponse in --

MARIANNE DERWIN: Uh-huh.

REP. DILLON: -- the physical terms, and yet their
votes were counted one way or the other.

MARIANNE DERWIN: No. They formed a block of votes
that was significant in size to offset a -- as
far as I am concerned, a true democratic vote.

REP. DILLON: But they didn't vote?

MARIANNE DERWIN: They didn't vote at all.

REP. DILLON: And -- and how did that affect the
vote? Is that -- does that go to the statute,
that the fact that they did not respond --
return the vote meant -- had -- had what
concrete impact on the -- on the vote? Does
that mean that they are counted as not
rejecting?

MARIANNE DERWIN: As recounted in our documents that
go out with the ballot, there is a sheet that
carefully goes through and outlines what
transpires, how the vote is counted, how the
vote -- the date that everything has to be
brought back, and there is very clearly stated
in that accompanying sheet that those votes
that are not returned will be counted as a yes
vote.

REP. DILLON: What is the legal authority for that and did you folks consent --

MARIANNE DERWIN: You will have to speak to our administration and the patient who created the budget process vote. I was not a member of that.

REP. DILLON: I'm sorry. I'm not trying to be unfriendly. I'm just trying to understand exactly how that could be, and why it would have been counted as yes, and whether they were operating in a legitimate way when they informed you that in the vote.

MARIANNE DERWIN: Well they may not have been.

REP. DILLON: Thank you very much, and thank you for coming up here.

MARIANNE DERWIN: Thank you.

SENATOR COLEMAN: Are there other questions or comments?

Let me -- let me attempt to be clear in my own mind. You had mentioned some numbers. I think you said 1700 -- I'm not sure.

MARIANNE DERWIN: It's 1700, I believe it's 86 --

SENATOR COLEMAN: 1786.

MARIANNE DERWIN: -- were returned. 1786 ballots out of a possible 2580, 580. Yes.

SENATOR COLEMAN: Okay. Thank you. Do you know, of the 1786, how many votes were in support of the budget and how many were --

MARIANNE DERWIN: In support? Yes, sir. We had 594 -- 594 not to reject the budget. We have to do a reject/not reject is the language, and we had approximately 1200 votes to reject. However, what you have to realize is that those votes are weighted votes, and the -- rather than write the number 1199.546, we use the approximation because we have two separate votes, one of them for the Master's Association is a weighted vote. The one for the Foundation is a 1:1 vote, one vote, one.

SENATOR COLEMAN: Okay. And also, regarding House Bill 6662, did you say you were supporting that bill?

MARIANNE DERWIN: I -- I am in support of that. I think it's very important that we protect our communities from exposure to really very dangerous risks.

SENATOR COLEMAN: Okay. Thank you for your testimony.

MARIANNE DERWIN: Thank you, Senator Coleman. Good morning.

SENATOR COLEMAN: Elizabeth Silver.

ELIZABETH SILVER: My name is Elizabeth Silver and I'm a homeowner at Heritage Village at number

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203-E in Southbury, Connecticut. My testimony is in favor, in support of Raised Bill Number 6513.

Heritage Village is a senior, pre-1984 association of 24 separate condominiums totaling 2580 units. A budget of over sixteen and a half million dollars is presented by our management company, the HVMA, to our 24 trustees for two-thirds approval. Following that approval, the unit owners have the right to vote on the budget. A majority plus one of all unit owners are needed to reject the budget.

Presently Heritage Village is in a state of crisis. Twenty percent of units, approximately 516 units, are made up of renters, life tenants, non-resident owners, owners in nursing homes, and vacant units; 133 units are in varying stages of foreclosure. Owners of these units can read the balance sheets on the budget on our website. However, important information on our budget is found: (1) in our monthly bulletin found in our common cluster mailbox, and not mailed to non-resident owners, and (2) through our televised trustees' meeting on our cable channel 14. These unit owners can only access this information on the budget if they reside in the Village. Consequently 20 percent of owners cannot make a proper judgment to approve or reject the budget. Most of these owners never return their ballots, and those ballots are counted as a yes vote to approve the budget. With this 20 percent outstanding,

it is a near impossibility to overturn a budget.

A recent reserve study for the FHA is now requiring us to have approximately \$70 million in reserve spaced out over the next 20 years. This works out to \$3.5 million per year in our budget. This money is for capital improvements, restoration, roofs, roadways, pathways, etc. However, line items in our budget all ready account for a built-in reserve of \$2 million. In addition, we have undesignated and designated reserves of close to a million dollars. This makes a total of three million we all ready have, leaving a balance of 500,000. This 500,000 can easily be covered by a special assessment in the amount of \$194.

Therefore, there is no need to project maintenance's requested 3 percent increase in the budget each year for the next 20 years. This bill will help to keep our maintenance charges within an acceptable range that all Villagers can absorb.

Thank you for your consideration.

SENATOR COLEMAN: Thank you. Are there questions for Ms. Silver?

Representative O'Dea.

REP. O'DEA: Good morning, Ms. Silver. It is still morning. Thank you for your testimony. I guess my question is -- I appear to be late to

the Heritage Village game here to understand exactly what's going on, but I understand there appears to be a problem with how the board has conducted or -- are you -- let me ask this question: Are you on the board?

ELIZABETH SILVER: No, I'm not.

REP. O'DEA: Um --

ELIZABETH SILVER: But I go to many meetings.

REP. O'DEA: I used to live in a condominium, and I was brought onto the board by request because it was very hard to get people to volunteer. And I'm wondering -- the only testimony I've seen opposed to 6513 is from someone who was a prior board member.

I guess my question is: Can you just give me an overview as to what the problems are at Heritage Village that you believe this bill will address?

ELIZABETH SILVER: Well, it would give power back to the homeowners, the right to vote on our budget in an acceptable way. We feel the one-third requirement of no votes -- of votes to reject is fair. It meets a quorum of unit owners, and -- and also the right for the votes that are cast to be the ones that count, because we have too many people that are not involved in decision making, and I feel the ones who cast the votes are the ones who are most involved. We have a lot of problems in Heritage Village, and in most condominiums, too, of foreclosures

and vacant units. In fact, I've been in charge of tallying up all the vacant units and other statistics for the Village. So I'm aware of this problem.

So it's -- it's just very important to put the power back in the hands of the people who can make the proper judgments.

REP. O'DEA: Thank you very much for your testimony. Thank you, Mr. Chair.

SENATOR COLEMAN: Are there others with questions?

Let me ask this question: How would you characterize the relationship with the association and the unit owners?

ELIZABETH SILVER: I'm sorry. I couldn't quite hear you.

SENATOR COLEMAN: How would you characterize the relationship between the association and the unit owners?

ELIZABETH SILVER: And the unit owners?

SENATOR COLEMAN: Yes.

ELIZABETH SILVER: Between the --

SENATOR COLEMAN: Is the budget and the question of adoption of the budget the only issue that the unit owners may have with the association?

ELIZABETH SILVER: You mean the only decision we're able to make? I don't quite understand.

SENATOR COLEMAN: Well I'm trying to -- to get some sense of whether or not there is an effective working relationship between the unit owners and the members of the board other than obviously you're not pleased with the way action on the budget occurs. But on other issues, is there -- is there some working relationship between the association and the unit owners?

ELIZABETH SILVER: I think it's a lack of communication between management and the directors, that management does not always present contracts to our directors. We -- they -- the directors never see those signed contracts. On request they can get them, but it's -- I think it's a management problem.

SENATOR COLEMAN: Okay. Thank you. Are there others with questions?

Representative O'Neill.

REP. O'NEILL: Yes. Actually I do have a question. The budget that's been referred to that was voted 1200 in effect no's to about 600 yes's. That was not the most recent budget, was it?

ELIZABETH SILVER: No. It was two years ago.

REP. O'NEILL: The most recent budget -- do you remember what the votes were on that one?

ELIZABETH SILVER: Well it was a majority voted in favor of the budget.

REP. O'NEILL: Okay.

ELIZABETH SILVER: Because it was a much smaller increase. (Inaudible).

REP. O'NEILL: My recollection is that the number of votes was something like about 1200, in effect, in favor of the budget, and about 400 to reject the budget. Is that correct?

ELIZABETH SILVER: Yes. That's right. That's right.

REP. O'NEILL: But this was a smaller budgetary increase than the previous year. Is that correct?

ELIZABETH SILVER: That's correct.

REP. O'NEILL: That's correct. And just to make clear, the budget that, as I understand the situation, the budget debate in Heritage Village is between people who believe that the association and the board of directors have been trying to increase the budgets more than the membership -- the ownership wanted to see increased. Does that basically sum it up?

ELIZABETH SILVER: Yes. That is correct. In fact, they were previously asking for a three and a half percent increase each year for the next 20 years.

REP. O'NEILL: Okay.

ELIZABETH SILVER: But it's now, I understand, it's 3 percent.

REP. O'NEILL: Okay. All right. Thank you, Miss -- oh, and again, thank you for coming up from -- from Southbury and from the Village to testify on this bill. Thank you.

SENATOR COLEMAN: Are there other questions for Ms. Silver? I think you're good. Thank you, Ms. Silver.

Scott Sandler.

SCOTT SANDLER: Chairman Coleman, Chairman Fox, other esteemed members of the Committee, thank you very much for giving me your time and attention.

I am Scott Sandler. I'm an attorney with the law firm of Perlstein, Sandler, and McCracken. We represent approximately 450 associations throughout the State of Connecticut. I am far too familiar with the Common Interest Ownership Act and the operations of associations, and I'm happy to answer any questions you may have concerning how those associations operate under the statute.

I've submitted written testimony on several pending bills before you, but I will focus my comments this morning on Raised Bill 6662 concerning the priority lien of associations.

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I did not submit testimony on the budget ratification bill that --

REP. O'DEA: That was my next question: 6513?

SCOTT SANDLER: Yeah. I haven't submitted testimony only because I kind of ran out of time. This took a while. However, I did submit testimony on a very similar bill last year which I'd be happy to share.

I do want to clarify that the budget approval process, because there does seem to be some confusion -- under the laws it not provides, the board approves of the budget, calls a meeting of the owners or sets a date by which they can vote by ballot, and the vote to be taken is whether or not to reject the budget. And it takes a majority of the total voting power to reject.

Votes that are not cast are not counted. They are just -- well, they're not counted toward whether or not to reject. If you wish to reject, you cast your vote. If the total number of votes cast represent a majority, the budget is rejected. I believe there is an awful lot of confusion concerning how this statute actually functions, although it was written by lawyers. Who would expect any less? But there's an awful lot of confusion as to whether a vote that's not cast is counted. It's not. But the vote that's taken, to be perfectly clear, is a vote on whether to reject. Which is why a lot of people have this

misconception: If I don't vote, I'm voting in favor of the budget. Not exactly. You're voting not to reject this budget. And I have seen budgets rejected. I've also seen special assessments for projects rejected, some in communities that have as many as 250 to 300 unit owners. And the group didn't support the project. These were very close votes, I must say, but a special assessment in conjunction with a loan to approve a project -- in this case I believe it was a siding project -- it took more than three votes and a lot of politics within the community before this project could move forward, because -- and the project was reintroduced with all sorts of different changes each time to try to get unit owners comfortable with the idea of the project.

It's been my experience that the unit owners who cast their vote, who show up at a meeting, or cast their vote by written ballot, are the ones that are upset and you're going to hear from them. In fact, that's why the statute is -- is worded the way it is. Our Common Interest Ownership Act is based on a uniform act, a Uniform Common Interest Ownership Act. And the drafters believed, and I've seen it proved out through experience, that if folks feel their community is being properly run, or at least adequately run by the people they've elected as leadership, they're going to sit home and watch football or American Idol and not come out for an owner's meeting. It's when they're upset that you hear from them, and in many cases you hear from them quite loudly.

REP. O'DEA: Thank you very much, sir, and thank you, Mr. Chairman.

SENATOR COLEMAN: Thank you, Representative.

Representative Buck-Taylor.

REP. BUCK-TAYLOR: Thank you, Mr. Chair. Attorney Sandler, in your paperwork you state that two Connecticut Superior Courts have agreed with the lenders that they have permanently satisfied the priority lien. Do you know upon what grounds they based that decision?

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SCOTT SANDLER: The statute itself says that the association has a priority of an amount equal to six months' worth of charges and assessments that accrued during the six months immediately prior to an action to enforce either the association's lien or the mortgage. And as can be discussed by Attorney Kristie Leff, who will be testifying later on (she was actually involved in one of these cases), the court, in a more recent decision looked at -- at the history of both the mortgage foreclosure and the pending association foreclosure, and took the position that because the mortgage foreclosure had been pending continuously throughout both of association foreclosures, that by paying off the association in the first action, it paid the six months that accrued prior to its own -- the mortgage company's own foreclosure, thus those six months are satisfied and the lien is gone.

BARBARA ALBERT: Yes.

SENATOR COLEMAN: Terry Sullivan.

TERRY SULLIVAN: Good afternoon. My name is Terry Sullivan. I live in Heritage Village in Southbury. I am a board member and a trustee of the Heritage Village Master Association and Foundation. I serve on several committees in Heritage Village and I am the co-chair of the long-range planning committee. I also represent Heritage Village on the CAI Legislative Action Committee.

I am here today to testify on Proposed House Bill 6513, AN ACT CONCERNING THE BUDGET AND SPECIAL ASSESSMENT APPROVAL PROCESS IN COMMON INTEREST COMMUNITIES, and I also want to make mention of S.B. 1103, AN ACT CONCERNING THE APPROVAL PROCESS FOR ASSIGNMENTS OF FUTURE INCOME IN COMMON INTEREST COMMUNITIES.

I am opposed to House Bill 6513. Section 47-261e of the Common Interest Ownership Act has been in effect since 1984. It was enacted to protect unit owners' rights. It gave unit owners the right to vote on the association budget, and it intentionally made it so that budgets could not be rejected frivolously. However, it did not include common interest communities established before 1984. Prior to 2009 when CIOA was updated, Heritage Village unit owners never had the ability to vote directly on the yearly operating budget. With the update to CIOA that went into effect in 2010, unit owners were given, for the first

time, the mandate to vote on the budget. They could now reject any budget that a majority of unit owners felt did not meet their needs.

You've all ready heard from others that in 2011 Heritage Village owners voted 1192 to 594 to reject the budget, but the budget still went into effect.

In Heritage Village there are 2580 owners eligible to vote. We are the largest condominium community in the State of Connecticut. A majority of those owners would be 1291. Those who wanted to reject the budget were 99 votes short of the majority.

H.B. 6513 is an attempt to do exactly what CIOA was created to protect owners from. It will allow a minority of unit owners to reject and approve the budget. We can discuss wording, the changes reject to approve, and whether to vote to reject as a yes vote or a no vote, but when all the verbiage and legalese is stripped away, all the claims of fairness and democracy, assertions that non-returned ballots count as yes votes. When all of these claims are set aside, this bill does one thing, and one thing only. It allows one-third of the unit owners to reject and approve budget if they are in the majority.

One-third of the unit owners is a minority no matter how you slice it, and that is too small a number to reject a budget approved by the trustees. I ask you to reject this bill now. It is not good for the future of my condo. It

is not good for Heritage Village. It is not good for property values in Southbury, and above all, it is not good for any town that contains condos in the State of Connecticut.

Senate Bill 1103, on the other hand, seems to give to condominium associations what H.B. 6513 is attempting to take away. When an association seeks a loan on the basis of future income, it would be more likely to pass. This concept was vetoed last year by Governor Malloy. I'm not sure, but I believe that he might still feel the same way.

That concludes my oral testimony, but I would like to comment on the yes votes for vote ballots not counted that was brought up earlier.

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SENATOR COLEMAN: If you can do so quickly.

TERRY SULLIVAN: Thank you. It is true that the directions for voting do contain a sentence that says, "If you are satisfied with the budget you don't need to return your ballot because it's counted as a yes vote."

I did not write that, but I have gone on record as being opposed to it, that it is not a true reflection of the way the law was written, and I will make sure that that does not appear on the ballot when we vote on this coming year's budget.

I also have 239 signatures on petitions asking for no change to the current CIOA law, and I

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will leave them with you, and if you need copies I have -- I can email copies to you.

SENATOR COLEMAN: I would suggest that you leave them with the two young people at the desk before you leave.

TERRY SULLIVAN: Okay.

SENATOR COLEMAN: Are there questions for Mr. Sullivan?

Senator Doyle.

SENATOR DOYLE: Thank you, Mr. Chairman. I just want to clarify, sir, your opinion on Senate Bill 1103. I'm not -- I'm not certain I understood where you fall on that.

TERRY SULLIVAN: Well, as a trustee I'm in favor of it. As a homeowner, I'm not. I think that it would probably be best if it kind of just went away.

SENATOR DOYLE: Well, I'll just explain to you why the bill is here. It was presented to me and several of the Legislators that the current law makes it very difficult for any of these, you know, for the approval process to be -- for future income to be effectuated, and therefore capital projects aren't being completed. Do you find that, or do you think it's --

TERRY SULLIVAN: That hasn't been a problem that I am aware of in Heritage Village. It seems to me that what -- the way the budget bill is

TERRY SULLIVAN: We had nine ballots that were returned as undeliverable out of -- out of the 2580 that were mailed out.

SENATOR DOYLE: Okay. Any further questions?

Representative O'Dea.

REP. O'DEA: Thank you. You may have overheard my question earlier to one of the proponents to 6513 about issues surrounding Heritage Village. I actually was a board member at Heritage Hill in New Canaan, Connecticut, but, you know, Senator Coleman and I were trying to understand what the perceived problem was at Heritage Village. Do you have an opinion on what -- why we're here today on this bill with so many people from Heritage Village?

TERRY SULLIVAN: Heritage Village is quite unique. I've lived in other condominium communities before moving the Heritage Village. When I moved into Heritage Village, I thought that that was what I was doing. I was moving into Heritage Village. But once I got there I come to find out that Heritage Village is not *the* Heritage Village. It's a master association that's made up of 24 separate, individual condominium associations, and each one of those associations sends a trustee to the Master Association, or a director to the Foundation. It also has a Foundation and the Master Association. The Master Association takes care of the maintenance and things. The Foundation has the foundation buildings and other operations that they're in charge of.

So it's rather unique as far as the manner in which Heritage Village is operated. There are some members of the board of directors who like to micromanage, and when they ask a question we know exactly what they, you know, what they're getting at, that they want to see the dotted line, the day-to-day operations. They want to make sure that everything is going exactly the way they want them to.

And there are others, as in many condo associations that are on the board because nobody else would do it. And so we get this kind of dichotomy where there's a group promoting micromanaging, and a group that, well, whatever they want to do is fine. And hopefully there's people in between that are interested and take their fiduciary responsibilities as being very important.

REP. O'DEA: Thank you very much, sir, and understanding that 2580 owners -- hearing that's the largest in the state, I can understand what little bit of an issue, having that large of an association.

TERRY SULLIVAN: Well, it's -- it's an issue only in the amount of work that needs to be done. I lived in a condominium before coming here that was twice as large. It had over 5000 units. It was in the state of Arizona. And they had a board of five that managed it quite well.

REP. O'DEA: All right, sir. Thank you very much and thank you, Senator Doyle, very much.

SENATOR DOYLE: Any questions from the Committee?
Thank you very much.

The next speaker is Kim McClain, then Lauren MacDonald, Kristie Leff, Rebekah Diamond, Peter Jones.

Is Kim here? Yes. Hello.

KIM MCCLAIN: Good afternoon, Senator Doyle, and distinguished members of the Judiciary Committee. My name is Kim McClain and I'm the executive director of the Community Associations Institute which is a chapter of a national organization that has 60 chapters throughout the country.

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I'd like to focus my comments on H.B. 6666, but I just would like to comment on a few of the other bills that have been discussed all ready today.

One is I don't know if the Committee takes requests for words for the day, but I'd like to propose one, and it would be evergreen, because with the proposed priority lien bill I think it's important to underscore the incredible significance of allowing the priority lien to be continued, to be evergreen. Many other states have been looking at this issue, and in fact this year, according to our national organization, we've got Florida looking to extend the priority lien from 12 months to 24; Massachusetts is looking to clarify the language in their bills; and S.B. 603 with Massachusetts is seeking to have the six months

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be continued as an evergreen bill, or an evergreen law; Georgia is looking to create a six-month priority, as is Hawaii, and Maine; and Virginia is looking to go three years. So I just wanted to put that into perspective for all of us because it really doesn't matter whether it's 6 months, or 12 months, or 24. It's that it is evergreen. And Kristie Leff will be speaking in a few moments about this particular bill.

Also too on 6513, I'd also like to remind you that Heritage Village is, indeed, very unique, and because of its size, it's been exempted from certain portions of CIOA in the past. So it's -- I would just like you to make note of that as well.

On bill number 6666, I'd just like to note that CAI supports alternative dispute (excuse me) alternative dispute resolution, and we do like the spirit of the bill. However, it's important to note that in our experience, when issues causing conflict arise in common interest communities, in the majority of situations it's due to the lack of understanding about the rights and responsibilities of unit owners and their boards. It is also -- we're thrilled to say that lately we've been working with the Department of Consumer Protection to create a greater access to information to better serve common interest community residents, and by virtue of that we are looking at opportunities to have more information on both their website

REP. FOX: So if somebody like lives in an apartment complex down the hall, or if it's a co-worker or something like that, this would enable --

ANNA DOROGHAZI: Correct. Those individuals are currently not covered under family or household member.

REP. FOX: Okay. Well thank you. Any questions?

ANNA DOROGHAZI: Thank you.

REP. FOX: Thank you very much.

Calvin Turin. Good afternoon.

CALVIN TURIN: Mr. Chairman, members of the Committee, my name is Calvin Turin, and I'm a resident of Heritage Village in Southbury. I wished to voice my objection to Raised Bill 6513 which affects the budget approval process in my condo. The current budget process in Heritage Village extends over many months after a proposed budget is presented by our manager. There are reviews and comments by a number of different committees, reviews at the owner -- unit-owner level, televised public forums, and after much discussion, approval by our trustee board of directors who are elected as representative of the 24 separate condos which make up Heritage Village.

This form of representative government is both democratic and fair to all our residents. Current law provides a voice to residents after approval by the trustees. The unit owners may

reject the approved budget if a majority of them feel that something egregious has been offered.

Raised Bill 6513 lowers the current bar from a majority of unit owners to 33 and a third percentage of unit owners. This may lead to disastrous, unintended consequences.

At one of Representative O'Neill's visits to Heritage Village, he noted that generally 15 percent of residents will vote no regardless of the issues. This was borne out when the vote on this year's budget was tallied. Sixteen percent of residents, 420 of them, voted to reject a two-tenths percent increase, \$1.00 a month. It would not take much for a local -- vocal and determined group to garner enough votes to reject the budget for whatever their motive may be.

Our residents are resistant to maintenance increases for various reasons, many age related. I fear that even reasonable budgets may very well be rejected as our last vote demonstrated. This can only lead to a deteriorating maintenance program and decrease in property values. This would harm the town of Southbury as well as Heritage Village.

If I may comments on the previous budget that was referred to earlier. A large number of residents voted to reject, but did not reach the threshold needed to reject. Our residents tend to vote no. That budget called for a 3.2 percent increase. Perhaps short-term memory

loss often attributed to people my age is a factor. The prior budget called for a 1.8 percent increase and the budget before that had a zero percent increase. I think short-term memory must be a factor.

And I strongly urge rejection of Raised Bill 6513.

And thank you for giving me this opportunity to speak.

REP. FOX: Well -- well-timed, your testimony. Thank you. Are there any questions?

Representative O'Neill.

REP. O'NEILL: It's good to see you. I'm glad you came up, even though we don't agree on -- on the bill, but I'm glad you were able to come and testify and have an opportunity to speak to the committee directly on the subject.

The one question, I guess, is given that the last budget, the most recent budget, passed overwhelmingly by a majority of all those who actually turned out to vote, and given that this budget was a very low budget increase, I mean that seemed to be what people were complaining about the previous year -- that was the big objection. It -- does it appear to you that -- that the public in Heritage Village is effectively responsive? I mean when the budget goes down, the pro-budget vote goes up, and when the budget goes up, the pro-budget vote goes down. I mean, there is a certain amount

of -- of reflection and thought that goes into this.

CALVIN TURIN: Yeah, I would agree that a certain amount of thought and reflection go into it. When I look at the numbers, that 16 percent of the people rejected a \$1.00 per month increase, I have to look at it with a jaundiced eye.

REP. O'NEILL: Do you suppose any of those people -- and I don't know -- but it occurs to be, when budgets are defeated, say a school board budget, sometimes people vote know because they don't think a budget is high enough. In other words they felt that the budget was too low. Do you think any of the people who voted no might have been thinking that?

CALVIN TURIN: Yes. In response to that, I did speak to a number of people who voted now, and I got some strange answers. One lady says well I voted now because my neighbor told me to vote no. One person told me they voted no because there was not enough money in the reserve. So yes, there are other reasons why people reject the budget. But the bottom line is, 16 percent voted to reject a \$1.00 per month increase.

REP. O'NEILL: And by the way, one of the conversations that we often has is that the board of trustees is elected by the folks in the Village. Could you describe how that election process works?

CALVIN TURIN: Well, as was mentioned earlier, there are 24 separate condominiums which have joined

together as a master -- under a master association. Each condo has its own board, generally nine members. The nine members are -
- select the trustee who is on the board. It is not a direct vote by the unit owners.

REP. O'NEILL: Okay. That's -- that's the point that I was trying to get at. Thank you very much.

REP. FOX: Thank you. Are there other questions?

A VOICE: (Inaudible).

REP. FOX: Well, are you signed up to speak, sir. Oh, you already spoke. Maybe you can just talk to Representative O'Neill privately.

Anybody else? Any members of the committee?

Thank you very much, sir.

CALVIN TURIN: Thank you.

REP. FOX: Next is Meg McDermott.

MEG MCDERMOTT: Can you hear me?

REP. FOX: Yes. Yes.

MEG MCDERMOTT: Thank you for allowing me to speak today, Members of the Committee. And my name is Meg McDermott and I live in Unionville, Connecticut. I'm speaking on behalf of the Developmental Disabilities Council where I'm co-chair -- where I co-chair the legislative policy and program committee. The Council is

HB 6641

143
rc/gbr JUDICIARY COMMITTEE

March 25, 2013
10:00 A.M.

MARY DELUCIA: Thank you.

REP. FOX: David Roberts.

DAVID ROBERTS: Good afternoon --

REP. FOX: Good afternoon.

DAVID ROBERTS: -- officers and members of the Judiciary Committee, you'll be happy to know I'm the last speaker on 6513. My name is David Roberts, a 15-year resident of Heritage Village. I've never been an officer, but I've seen the tremendous amount of work they do, and I respect the efforts of those volunteers.

Thank you for giving us the opportunity to personally urge you not to change the existing condo budget rejection system. You decided on the current system only two years ago after much discussion and deliberation by a special commission working on that issue. Why would you change a carefully developed regulation just because a minority of owners at Heritage Village have misled Representative O'Neill by claiming they were a majority. They are not a majority. I think our letters, our petitions, and so on have done exactly what Representative O'Neill told us to do, showed that had people who were very much in favor of the current system.

In a recent budget rejection vote, which you've heard about repeatedly, which involves essentially no fee increase, 400 residents voted to reject. Incidentally, I interviewed a

few of those. Three of them said we always vote no on every school budget, on every other budget we have a chance to. We just vote no. That is not, to me, a rational reason. The leaders of the -- the leader of the Make It Easier to Reject Group, rudely called the 400 voters idiots just the other day when Representative O'Neill was kind enough to have a meeting at our Village. And they are certainly entitled to their vote, but as other people have said, 400 rejection votes is halfway to your 33 percent, with a zero, essentially zero increase. It is just scary. Rejection should not be easy, and it is very easy to downgrade the quality -- very likely to downgrade the quality of our frankly lovely, well-maintained, 45-year-old Heritage Village. A 45-year-old facility takes maintenance and care, especially for older people. Our average owner age is 76, and they are therefore very prone to vote no rather than attend the many, many open hearings over the six-month-long detailed review of all budget items done in a most transparent manner. We put things on television. We issue a detailed vote and as it's growing in bulletins that we issue. Attendance is invited. People can come to any trustee meeting and get their two cents in, and complain about anything they don't like.

The volunteers who spend (can I have a second) -- the volunteers who spend hours reviewing the budget details are likely to become discouraged. They're volunteers, and we are hard pressed to get them to do the work. And they'll resign. The wholesome, constructive,

positive attitude in our Village will suffer. Property values are likely to fall from excessive penny pinching, and we may be burdened with sudden assessments to correct false economy. Heritage Village has never had an assessment up to now.

So please don't make budget rejection easier. Maintain your present well-developed, well-thought out system. Thank you very much. I appreciate your time, and I don't know how you do it.

REP. FOX: Well you're here today too, so, no, thank you very much.

DAVID ROBERTS: Thank you.

REP. FOX: And we appreciate it, and we'll have to talk about this. A lot of response today in the public hearing process.

DAVID ROBERTS: Thank you.

REP. FOX: Geralyn Laut. Hello.

GERALYN LAUT: Hi. My name is Geralyn Laut.

REP. FOX: Laut; I'm sorry.

GERALYN LAUT: I live at 126 South Mill Drive in South Glastonbury which is one of 87 units in the South Mill Condo Association. Just briefly I just want to recap my support of H.B. 6662 with the amendment to include the evergreen clause.

SB 1101 SB 1145
HB 6513 HB 6641

I would like to personally oppose H.B. 1101 concerning security cameras. Quite honestly one does lose an element of privacy living in a multi-unit development, and I don't personally think I would like my neighbors to see me coming and going from my back porch or side common area. I think that should be something that would be left up to an individual association and not the gentleman's concern.

I would also oppose 1145 and 6513. I have attended board meetings and I, too, avow for the time and energy that's put into a voluntary position as the board of directors. I would trust their judgment regarding decisions for the long-term benefit of a community such as South Mill, and quite honestly, after hearing testimony earlier -- I was not here to testify on behalf of 6641, but I would like to support that bill in honor of those people that are not able to be here because of physical and developmental problems to support such an effort.

Thanks for your time and energy.

REP. FOX: Well thank you. That sometimes happens. People sit here all day. They listen to another bill and they end up testifying on that. So that's great.

GERALYN LAUT: Yeah. No. That certainly seems like something that should be addressed.

REP. FOX: Well thank you.

a chance to testify who would like to testify,
you may.

You'd like to testify?

ROBERT CAMPBELL: I'm with -- I'm living in the
Heritage Village. I'm president of Condo-8
which is one of the 24. We have --

(HB6513)

REP. FOX: I'm sorry. If you could just please state
your name (inaudible).

ROBERT CAMPBELL: Oh, Robert Campbell. We have 108
units in Condo-8. We have condo meetings every
month. Everyone is welcome. We have our
board. We all -- the community as well as the
people on our Condo-8 board consult, approve,
and then it goes to the Foundation and the
trustees, and they have another meeting about
what to take away, what we need, and our
budget. The 33 percent is not going to work
and I oppose anyone passing this bill because
it will lead to -- Heritage Village will be a
slum without a doubt, because we're behind on
all of our maintenance. Staining of buildings.
We're behind four years.

So I strongly recommend that this is not
changed, and that's it.

REP. FOX: Thank you, and thanks for being here all
day to testify.

Are there questions?

Thanks.

CONNECTICUT GENERAL ASSEMBLY
Monday, March 25, 2013

TESTIMONY OF J. Terry Sullivan
TO THE JUDICIARY COMMITTEE
ON PROPOSED HOUSE BILL 6513 "AN ACT CONCERNING THE BUDGET AND SPECIAL
ASSESSMENT APPROVAL PROCESS IN COMMON INTEREST COMMUNITIES"

and

SB 1103 "AN ACT CONCERNING THE APPROVAL PROCESS FOR ASSIGNMENTS OF FUTURE
INCOME IN COMMON INTEREST COMMUNITIES."

Senator Coleman, Representative Fox, Senator Doyle, Representative Ritter, Senator Kissell, Representative Rebimbas, and Representative O'Neill:

My name is Terry Sullivan. I am a resident of Heritage Village in Southbury. I am a board member for my condominium and a trustee to the Heritage Village Master Association and Foundation. I serve on several committees in Heritage Village and I am the co-chair of the Long Range Planning Committee. I also represent Heritage Village on the CAI Legislative Action Committee.

I am opposed to HB 6513. Section 47-261e of the Community Association Ownership Act (CIOA) has been effect statewide since 1984. It was enacted to protect unit owners' rights. It gave unit owners the right to vote on the approved budget, and it intentionally made it so that budgets could not be rejected furiously; however, it did not include common interest communities established before 1984. Heritage Village being the oldest and largest condominium community did not come under Chapter 828, but continued operating under Chapter 825 of the Connecticut General Statutes.

Prior to 2009 when CIOA was updated, Heritage Village unit owners never had the mandate to directly vote on the yearly operating budget. With the update to CIOA that went into effect in 2010 unit owners were given for the first time the mandate to vote on the budget. They could now reject any budget that a majority of unit owners felt did not meet their needs. This is the current law in effect today.

You will hear from those who support HB 6513 that in 2011 Heritage Village owners voted 1192 to 594 to reject the budget but the budget still passed. That is correct. In Heritage Village there are 2580 owners eligible to vote, a majority is 1291. The current law prevented a 46% minority from rejecting the approved budget. CIOA 47-261e works.

HB 6513 is an attempt to do exactly what 47-261e was created to protect owners from: It will allow a minority of unit owner to reject an approved budget. We can discuss wording that changes reject to approve, and whether a vote to reject is a "yes vote" or "a no vote," but when all the verbiage and legalese is stripped away; all the claims of fairness and democracy; assertions that non-retuned ballots count as "yes" votes—of course, we're not sure if a "yes" vote really is a vote "to reject" or not—when all of the claims by either side are set aside, this bill does one thing and one thing only: IT ALLOWS ONE-THIRD OF THE UNIT OWNERS TO REJECT AN APPROVED BUDGET if they are in the majority.

For this reason I am opposed to HB 6513. One-third of the unit owners is a minority of unit owners no matter how you slice it, and that is too small a number to reject an approved

Terry Sullivan

HB 5613

p. 2

budget. I ask you to reject this bill now. It is not good for the future of my condo unit; it is not good for Heritage Village as a whole; it is not good for property values in the Town of Southbury; and above all it is not good for any town that contains common interest communities in the State of Connecticut.

HB 1103 seems to give to condominium associations what HB 6513 is attempting to take away. HB 1103 would make is more likely that if an association would seek a loan on the basis of future income (those are the association fee that result from the budget voted on in HB 6513) it would be more likely to pass. I don't understand why it is being introduced again. This is the major reason why HB 5511 from last year was vetoed by Governor Malloy. I'm not an expert, but I believe that he might still feel the same way.

Thank you. I will gladly answer any questions you might have.

**TESTIMONY IN OPPOSITION TO GENERAL ASSEMBLY BILL No. 6513 - AN ACT
CONCERNING THE BUDGET AND SPECIAL ASSESSMENT APPROVAL PROCESS IN
COMMON INTEREST COMMUNITIES**

MARCH 25, 2013

Good morning Senator Coleman, Representative Fox, Senator Doyle, Representative Ritter, Senator Kissel, Representative Rebimbas and members of the Judiciary Committee. Thank you for the opportunity to provide testimony on behalf of Woodfield Village Unit Owners Assoc. of Fairfield.

My name is Laura OBrien and I am the President of Woodfield Village Unit Owners Assoc. in Fairfield, with more than 15 years of experience on our condominium board. I have some very serious concerns about bills that are up for consideration in the legislature this year that could have a significant effect on condominium associations, detailed below:

I strongly oppose this bill which allows a minority of 1/3 of unit owners to reject an approved budget in a situation where many of the unit owners have not voted at all. Current law requires a majority. In my experience many unit owners do not vote on proposed budgets. There can be many reasons: they aren't informed, they trust the elected board to make the right decisions, they are unable to make the meeting, they forget to send in their proxy, etc. People opposed to a budget will rally support for their views and can sometime get enough people on their side to constitute 1/3 of the population. If this proposed bill passes this small group could impose their will even though it is not what the majority of the community wishes. In my opinion this can be very dangerous for communities as these small groups could delay or prevent required maintenance which could allow the property to degrade. We have had an experience in our community where a small group was almost successful in this regard. In our case, and I assume many others, those opposed to the budget did not fully understand the financials and the responsibility to maintain the community and preserve its resale value. They are mainly driven by the desire to keep common fees low and do not understand the long term impact of letting things deteriorate. Please oppose any bill which changes the current law requiring 50% of unit owners to reject a budget.

I should mention that elected condominium board members, like myself, are unpaid volunteers who are subject to the same common fees and assessments as all other owners. We have no "special interest" other than to insure that our homes maintain their value through appropriate maintenance of the entire community.

Laura OBrien
178 Glengarry Rd
Fairfield CT 06825

obrien-laura@sbcglobal.net

Testimony in support of the passage of
Raised Bill No. 6513 – an act concerning the budget and special assessment approval
process in common interest communities

Proposed to the Joint Judiciary Committee

By Elizabeth B. Silver
203-E Heritage Village
Southbury, CT 06488
Tel (203) 262-8816
March 23, 2013

Co-Chairmen of the Joint Judiciary and members of the Joint Judiciary, I urge you to pass
Raised Bill No. 6513 to the General Assembly for the following reasons:

Heritage Village is a senior, Pre-1984 Association of 24 separate condominiums totaling 2,580 units. A budget of over 16.5 million dollars is presented by our management company, the H.V.M.A. (Heritage Village Master Association) to our 24 Trustees for two-thirds approval. Following that approval, the unit owners have the right to vote on the budget. A majority, plus one, of all unit owners are needed to reject the budget.

Presently, Heritage Village is in a state of crisis. Twenty percent of units, approximately 516 units, are made up of: renters; life tenants; non-resident owners; owners in nursing homes; and vacant units (195 units). One hundred and thirty-three units are in various stages of foreclosure. Owners of these units can read the balance sheets on the budget on our website (www.hvowner.info). However, important information on our budget is found: (1) in our monthly Bulletin, found in our common cluster mailbox and not mailed to non-resident owners; and (2) through our televised Trustees meeting on our cable channel 14. These unit owners can only access this information on the budget if they reside in the Village. Consequently, twenty percent of owners cannot make a proper judgment to approve/reject the budget. Most of these owners never return their ballots, and those ballots are counted as a "yes" vote to approve the budget. With this twenty percent outstanding, it is a near impossibility to overturn a budget.

A recent reserve study for the FHA (Federal Housing Administration) is now requiring us to have approximately 70 million dollars in reserve spaced out over the next 20 years. This works out to 3.5 million dollars a year in our budget. This money is for capital improvements, restoration, roofs, roadways, pathways, etc. However, line items in our budget already account for a built-in reserve of 2 million dollars. In addition, we have undesignated and designated reserves of close to a million dollars. This makes a total of 3 million we already have, leaving a balance of five hundred thousand. This \$500,000 can be easily be covered by a special assessment in the amount of \$194. Therefore, there is no need to project maintenance's requested 3% increase in the budget each year for the next 20 years.

This bill will help keep our maintenance charges within an acceptable range that all Villagers can absorb. Thank you for your consideration.

Sincerely,

Elizabeth B. Silver

TESTIMONY IN FAVOR OF HOUSE BILL 6513**AN ACT CONCERNING THE BUDGET AND SPECIAL ASSESSMENT
APPROVAL PROCESS IN COMMON INTEREST COMMUNITIES**

Marianne D. Derwin
786 B Heritage Village
Southbury, CT 06488

Co-Chairmen, Senator Coleman and Representative Fox,
Vice-Chairmen, Senator Doyle and Representative Ritter,
Ranking Members of the Judiciary and Members of the Judiciary:

I respectfully request that you pass Raised Bill 6513 to the
General Assembly. This bill will provide a democratic process for
unit owners in common interest communities who vote on the budget.

In the 2011-2012 budget vote in Heritage Village, 1786 votes were cast,
Approximately 1200 votes were cast to reject the budget and 594 votes
not to reject. The budget was not rejected because 794 unreturned ballots
were counted as votes not to reject the budget. As is evident from these figures,
one can conclude that it is virtually impossible ever to reject a budget.
This is the result of the formula for counting votes required in the current statute.

The proposed Bill 6513 adjusts the formula used to count the votes. This
bill will count the majority of votes cast, "provided not less than thirty-three
and one third percent of all unit owners entitled to vote on the proposed
budget, vote to reject the proposed budget."

This change will result in a statute that is reasonable, fair and balanced.

Thank you for your consideration.

Respectfully,


Marianne D. Derwin
March 25, 2013

In Opposition to

**H.B. 6513 AN ACT CONCERNING THE BUDGET AND SPECIAL ASSESSMENT APPROVAL
PROCESS IN COMMON INTEREST COMMUNITIES.**

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 Unit 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 oppose H.B. 6513.

I am strongly opposed to this bill which essentially violates the basic rights of democracy in action in our state's common interest communities. This bill seeks to unfairly grant extensive voting powers to a minority of unit owners within a common interest community I cannot imagine a more poorly conceived method of taking away the will of the majority in favor of the will of a minority.

The decision to vote, or not to vote, is entirely up to the unit owner. It is a right that is purchased when the unit owner decides to buy a unit in a community association. Through the democratic election of officers to serve the best interest of the association, unit owners have a full say as to who will make the executive decisions to run their association. The preparation and ratification of the Annual Budget is one of the duties of these democratically elected volunteers. Deciding when and how much of a special assessment is required is another such duty. When a budget is presented at the Annual Meeting of Unit Owners, all unit owners have an opportunity to vote in favor or against the budget If a unit owner chooses not to attend or vote by proxy at the Annual Meeting, the current law is right in assuming that the unit owner's lack of negative vote should be construed as a vote in favor of the budget. If a unit owner wishes to vote against a proposed budget, the unit owner has the right and the option to do so. However, just because a unit owner does not exercise that right, it in no way should be construed to indicate that the unit owner is against the budget, which is exactly what this proposed bill would do The same process holds true for special assessments

This bill is unfair, unnecessary, and violates the core democratic rights of all individual unit owners. I encourage that all lawmakers vote "no" on this misguided bill and respect the rights of all common interest community unit owners.

Very Truly Yours

Bob Gourley

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

President (2003-13) of the Board of Directors, Captain's Walk PUD

Founder, MyEZCondo

Marinelli, George

From: TSRickart@aol.com
Sent: Monday, March 25, 2013 5 59 AM
To: Marinelli, George
Subject: Testimony on HB 6513

Testimony on HB 6513

I ask you NOT to pass House Bill 6513 Concerning Changes to Budget Voting in Common Interest Communities like Heritage Village.

I ask you to reject the bill because I feel the change is not necessary as purported by the head of the CRC here. It is clear that if the new bill passes that it will require only one-third of the HV owners to reject the budget. I have found that here in a community like Heritage Village the very vocal small group who is pushing for this bill does not have my best interests here in mind. At some point I do get tired of my life being ruled by a minority who does not listen well.

The fact that it currently takes one-half plus one votes to reject the budget works for me. Everyone here, just like everyone in the general population in a state or federal election, has the **opportunity** to vote. You cannot make everyone vote here any more than you can make the general population vote. Not everyone is unhappy here in Heritage Village. Not everyone here is angry about something.

I do not want the "disgruntled one-third" to take control of my life here as I know it and I ask you again to reject Raised Bill 6513 and revert to the law as it stands currently.

Thank you,

Tara S. Rickart
532B Heritage Village
Southbury, CT 06488
tsrickart@aol.com

Testimony of
Kim McClain

Before the Judiciary Committee
Monday, March 25, 2013
10:00 a.m.

**H.B. 6513 AN ACT CONCERNING THE BUDGET, SPECIAL ASSESSMENT
AND ASSIGNMENT OF FUTURE INCOME APPROVAL PROCESS IN
COMMON INTEREST OWNERSHIP COMMUNITIES.**

Kim McClain

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

Background

CAI-CT OPPOSES HB 6513

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

Prior to 2010, unit owners had no direct involvement in the budget ratification process, now they have an opportunity to have their voices count. We are concerned that if a vocal minority of unit owners could have the ability to reject a budget, associations would be hard-pressed to be able to support necessary maintenance and long-term projects.

When put into proper perspective, one-third of unit owners is a minority of owners and it is too small of a number to reject a budget that was already approved by a board which worked diligently for months to approve.

We would be happy to further discuss with you this issue, or any others affecting common interest communities in Connecticut. Please do not hesitate to contact us with any questions or concerns. I can be reached at 860-633-5692 or email caictkmclain@sbcglobal.net.

Thank you for your consideration.

Respectfully submitted,

Kim McClain

Testimony of David Kelman
IN FAVOR OF HB6513
For Judiciary Committee Public Hearing
March 25, 2013

Dear Members of the Judiciary Committee:

I reside in a condo in West Hartford, am a former condo association board member, a long-time volunteer for the State of Connecticut Attorney General's Office Consumer Assistance Unit, and Chairman Emeritus of the Connecticut Condo Owners Coalition. I have witnessed and been the victim of board abuse of authority and disrespect.

I support House Bill 6513, An Act Concerning The Budget And Special Assessment Approval Process In Common Interest Communities.

All unit owners should be encouraged to vote on matters affecting the community. If unit owners do not vote for whatever reason, then a simple majority of those voting should prevail.

In 2011, my condo association had an annual budget vote. At that time, ballots or proxies were not mailed out with the budget meeting notice. The budget meeting had an overflow crowd of attendees. The board president first called the vote by a show of hands. Then realizing that it was too much to handle that way, he distributed paper ballots. However, those who did not attend the meeting did not receive the ballots. All owners were not treated equally. The budget vote was unfair from the start.

While there was a 54% majority of unit owners in person or by proxy opposed the proposed budget, yet the board president declared the budget passed. Another board member challenged some proxies saying one person was not an owner (which was incorrect), and another unit owner could only vote once, even though he owned two units. When challenged, the board president nor the property manager did anything to verify the challenge. The budget vote should have been stopped until the matter was resolved. This was one budget vote scandal. The chairman of the Election Committee did nothing about it. When a unit owner asked for a meeting to discuss the matter, he refused. Unit owners could not afford an attorney to challenge the board's behavior.

Enforcement of condo laws is needed in Connecticut.

I urge all Committee members to vote in FAVOR of HB6513 with the above mentioned change.

Thank you for your kind attention to this very important matter

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Pachkovsky, Alex

From: Marinelli, George
Sent: Monday, March 25, 2013 5:59 AM
To: Jud Testimony
Subject: FW: Testimony on HB 6513

From: TSRickart@aol.com
Sent: Monday, March 25, 2013 5:59:18 AM (UTC-05:00) Eastern Time (US & Canada)
To: Marinelli, George
Subject: Testimony on HB 6513

Testimony on HB 6513

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I ask you to reject the bill because I feel the change is not necessary as purported by the head of the CRC here. It is clear that if the new bill passes that it will require only one-third of the HV owners to reject the budget. I have found that here in a community like Heritage Village the very vocal small group who is pushing for this bill does not have my best interests here in mind. At some point I do get tired of my life being ruled by a minority who does not listen well.

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I do not want the "disgruntled one-third" to take control of my life here as I know it and I ask you again to reject Raised Bill 6513 and revert to the law as it stands currently.

Thank you,

Tara S. Rickart
532B Heritage Village
Southbury, CT 06488
tsrickart@aol.com

Mr. Chairman and Members of the Committee

My name is Calvin Turin and I am a resident of Heritage Village in Southbury. I wish to voice my objection to Raised Bill 6513 which affects the Budget approval process in my condo.

The current budget process in Heritage Village extends over many months after a proposed budget is presented by our Manager. There are reviews and comments by a number of different committees, reviews at the unit owner level, televised public forums, and after much discussion approval by our Trustee/Board of Directors who are elected as representatives by the 24 separate Condos which make up Heritage Village.

This form of representative government is both democratic and fair to all our residents.

Current law provides a voice to residents after approval by the Trustees. The unit owners may reject the approved budget if a majority of them feel that something egregious has been offered.

Raised Bill 6513 lowers the current bar from a majority of unit owners to 33-1/3 % of unit owners. This may lead to disastrous unintended consequences. At one of Rep O'Neill's visit to Heritage Village, he noted that generally 15% of residents will vote no, regardless of the issues. This was borne out when the vote on this year's budget was tallied. Sixteen percent of residents, 420 of them, voted to reject a 0.2 % increase, \$1 00 a month. It would not take much for a vocal and determined group to garner enough votes to reject a budget for whatever their motives may be.

Our residents are resistant to maintenance increases for various reasons, many age related. I fear that even reasonable budgets may very well be rejected as our last vote demonstrated. This can only lead to a deteriorating maintenance program and a decrease in property values. This would harm the town of Southbury as well as Heritage Village

I strongly urge rejection of Raised Bill 6513

Thank you for giving me the opportunity to have my voice heard

**TESTIMONY IN OPPOSITION TO GENERAL ASSEMBLY BILL No. 6513 - AN ACT
CONCERNING THE BUDGET AND SPECIAL ASSESSMENT APPROVAL PROCESS
IN COMMON INTEREST COMMUNITIES**

MARCH 25, 2013

Good morning Senator Coleman, Representative Fox, Senator Doyle, Representative Ritter, Senator Kissel, Representative Rebimbas and members of the Judiciary Committee Thank you for the opportunity to provide testimony on behalf of Imagineers, LLC ("Imagineers")

I am Karl Kuegler, Jr of Imagineers, LLC where I serve as the Director of Property Management for our common interest community management division From our offices located in Hartford and Seymour, we serve about 178 Connecticut common interest communities comprising about 17,000 homes. Imagineers is registered with the Department of Consumer Protection as a Community Association Manager holding registration number 0001 and has been serving Connecticut common interest communities for 32 years I have over 23 years experience in common interest community management and hold a Certified Manager of Community Associations designation from the National Board of Certification for Community Association Managers. Imagineers is a member of the Connecticut Chapter of Community Associations Institute I serve on the organization's Legislative Action Committee and chair the organization's annual state educational conference

Imagineers has concerns regarding several portions of this bill and is therefore in opposition to it The following is a summary of some of our concerns

Section 1 (a) & (b) of 6513 makes a major change to the budget approval process for all common interest communities. The 2009 revisions to the Common Interest Ownership Act which took effect on July 1, 2010, took the procedures for budget and special assessment approval that were found to be effective in the majority of the communities created after 1984 and applied them to all communities including those created prior to 1984 Up to July 1, 2010, the majority of the communities created prior to 1984 had provisions in which the Board of Directors approved the operating budget and any special assessments with only the requirement to "present" it to the owners. The provisions used for the last 25 plus years in communities created after 1984 differed in that although the Board of Directors still approved the budget and special assessments, the owners now had the opportunity to ratify the budget and special assessments greater than 15% of the total annual operating budget (The July 1, 2010 revisions clarified the 15% to be defined as the aggregate of special assessments in any one budget period) The ratification procedure provides that, for the budget and/or special assessment equaling more than 15% of the total of the annual budget to be rejected, a majority of "all" owners must vote to reject the budget or assessment What in essence the change created was a safety measure to keep Boards from putting in place a budget or assessment greater than a majority of the community would not be in favor The changes proposed in 6513 would make the vote requirement to reject the budget to equal a majority of those voting at the meeting provided not less than thirty-three and one-third per cent of the unit owners entitled to vote on the proposed budget, vote at the meeting or in the vote by ballot to reject the proposed budget

It has been my experience in the 23 plus years of serving communities (both created before and after 1984) that Boards take very seriously the anticipated response to the budgets they approve, especially when the budget calls for an increase in common fee

rates. It may be a reasonable conclusion that Boards have potentially been concerned to a fault when taking into consideration the number of communities which are currently underfunded in regards to capital expenditures which have now come due. Many of the fee increases occurring in communities are not only a result of rising costs, but also a direct result of years of underfunding regular maintenance and failure to set aside adequate funding for future capital expenditures. The fact that an association is not funding capital components does not prevent the roof from aging, the boilers from failing and the asphalt roadways from breaking down. Ultimately, an association can only forego capital repairs so long before there is no choice but to make the repairs in order to maintain a safe living environment and to maintain the values of their homes.

Communities are further being challenged by changes made to the FHA approval process in which associations are now required to allocate a minimum of 10% of their annual operating budget to fund capital reserves and deferred maintenance as well as adequately budgeting for insurance deductibles. Further adding to the difficulty that unit owners are having in refinancing or selling their homes is the adoption of these FHA requirements as loan requirements by many lenders.

I respectfully ask that you consider the following when reviewing concerns raised regarding the operation of common interest communities. Each unit owner has the right to put their name forward to serve on their association's board and/or vote for who does govern matters as a board of directors. Each unit owner has the opportunity and responsibility to review in advance of purchasing a home in a common interest community the governing documents and laws impacting the form of ownership into which they are entering. All too often owners purchase without fully understanding the aspects of operating the community entrusted to the elected board of directors. Many associations already have a very difficult time seeking members to serve on their Board of Directors. The changes proposed to the Common Interest Ownership Act will only further add to this problem. Each association has assigned to it specific responsibilities to maintain and operate the community for the benefit of the unit owners. The Board is charged with the responsibility to ensure that obligations of the association to its members are adhered to. These changes proposed to the statute compromise the ability of boards to fulfill this obligation. In addition, safeguards are in place which were better defined in the 2009 revision to the Common Interest Ownership Act that afford the members of an association the ability to remove members of the board if they disagree with their actions and decisions. One of the methods is to call a meeting for that purpose by the collection of 20% of the owners' signatures. At that meeting, subject to the association's quorum requirement, a majority vote of those present may remove the member or members of the board as per the call of the petition. The Board is required to call for and schedule the meeting within a prescribed time period; otherwise, the meeting can be directly noticed by the requesting association members.

Furthermore, there are provisions in the governing documents and especially in the revised 2009 Common Interest Ownership Act that allow individual owners to have greater access to information, to attend meetings of the board, to be heard by the board, to affect change in the association and to keep the association's operation in check. A commonly used selling point for purchasing a home in a common interest community is the care free living that is the benefit of not having to worry about certain aspects of the care for your home. The ironic fact is that a group of these owners instead agree to volunteer their time as Board members taking on the task and responsibility of ensuring that the maintenance and operation of all the units is properly facilitated. The changes to the Common Interest Ownership Act put into place on July 1, 2010 took steps to create more transparency and to ensure that owners have greater control over the operation of their common interest community. The benefits of the changes have had a positive impact and will only increase with increased education and promotion.