
Public Hearing

before

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

“Testimony from the general public concerning issues and problems with laws governing common interest communities, especially concerning the respective rights, obligations and powers of unit owners, boards and associations”

LOCATION: America's KESWICK
Activity Center
Whiting, New Jersey

DATE: June 13, 2006
10:30 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Ronald L. Rice, Chair
Senator Leonard T. Connors Jr.

ALSO PRESENT:

Assemblyman Christopher J. Connors
Assemblyman Brian E. Rumpf

Robert C. Rothberg
Office of Legislative Services
Committee Aide

Julius Bailey
Senate Majority
Committee Aide

Nicole DeCostello
Senate Republican
Committee Aide



Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
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TABLE OF CONTENTS

	<u>Page</u>
Michael Fressola Mayor Manchester Township	6
Tom Cariota Private Citizen	8
Judy Montana Private Citizen	11
Ronald J. Kuchins Private Citizen	15
Fred Lund Assistant Treasurer West Village Civic Club Leisure Village West	19
Pat Oakley Treasurer Silver Ridge Park East	21
Betty Schreur Private Citizen	22
Walter I. Vogel Private Citizen	23
Jeanette Wolf Private Citizen	24
Alice Waespy Private Citizen	25
Tom Smith President Crestwood Village	26

TABLE OF CONTENTS (continued)

	<u>Page</u>
Anne Wolff Councilwoman-at-Large Berkeley Township	28
Al Walley Private Citizen	28
Kevin P. Donlin Chairperson Government Affairs Committee The Meadows at Lake Ridge	31
Anne K. Coll Secretary of the Board Greenbriar II	34
Jim Doran Private Citizen	47
James J. Hitlin Private Citizen	48
Lorraine Barbalinardo Private Citizen	50
Charles A. Mueller Representing Manchester Citizens with Disabilities, and Whiting VIPS	52
Judith L. Noonan President Coalition of Holiday City, and Trustee Silver Ridge Park East	54
Katherine A. Halifko Private Citizen	58

TABLE OF CONTENTS (continued)

	<u>Page</u>
Andrew Papa President Board of Trustees Crestwood Village VI, and Chairman President's Association Crestwood Village s/Cedar Glen Lakes, Inc.	60
Bert G. Lundberg President Board of Directors Cedar Glen Lakes, Inc.	62
Josephine Montenegro Private Citizen	63
Art Dieffenbach President Holiday City South Homeowners Association	64
Glennon L. Depetris Councilman Ward 3 Berkeley Township	65
Irene Brosang Private Citizen	68
Karol Bieniarz Private Citizen	69
Claire Parker Realtor ERA	70

TABLE OF CONTENTS (continued)

	<u>Page</u>
APPENDIX:	
Statement, plus Amendments submitted by Senator Leonard T. Connors Jr. Assemblyman Christopher J. Connors Assemblyman Brian E. Rumpf	1x
Statement, plus Attachments submitted by Anne K. Coll	7x
Letter addressed to Governor Corzine Submitted by Charles A. Mueller	18x
Letter, plus Reply, plus Photographs addressed to Association Regulation Unit Planned Real Estate Development Submitted by Katherine A. Halifko	21x
Testimony, plus Attachments submitted by Bert G. Lundberg	26x
Memorandum addressed to Senate Community and Urban Affairs Committee Submitted by Gregory Machyowsky Private Citizen	30x

TABLE OF CONTENTS (continued)

APPENDIX (continued):

	<u>Page</u>
Testimony submitted by Earl F. Sutton Jr. Administrator Cedar Glen West, Inc.	34x
Testimony submitted by Kevin P. Donlin	35x
lmb: 1-77	

SENATOR RONALD L. RICE (Chair): Good morning -- good afternoon. Good morning.

If I may have your attention please, we're about to start this hearing. My name is Ronald L. Rice. I'm a New Jersey State Senator. I represent the 28th Legislative District.

UNIDENTIFIED PERSON FROM AUDIENCE: Stand up?

MR. ROTHBERG (OLS Committee Aide): They can't see you.

SENATOR RICE: Oh, you want to see me?

AUDIENCE: Yes. (applause)

SENATOR RICE: Good morning.

My name is Ronald L. Rice. I'm a New Jersey State Senator. I'm also the Chairman of the Community and Urban Affairs Committee. I worked very closely for the last 20 years in the State government with your Senator and Assemblypersons, particularly Senator Connors, who's a good friend and associate. We have served well together, trying to balance and understand the needs of the people of the state. You're very fortunate to have the kind of representation you have in Trenton. And I think that's why he's returned -- he and his Assemblypersons -- for so many years.

Let me tell you why I'm here. There are legislative bills coming through both Houses of the Legislature. Nothing can happen in the Senate unless they get past me. I do know that there are some problems up and down the state. I'm smart enough to know that. My gray hairs are not premature. (laughter) I've lived life. I've worked life. I'm a product of the Newark community, where I live. I represent Maplewood and South Orange, some of the wealthiest people in the state; and some of the poorest

at the same time -- a very diverse community, every language you could think of.

I'm giving you this history for a reason. I'm a Viet Nam veteran, Marine Corps. I'm a former councilperson for 16 years. I've taught at a community college. I've worked for the private side. I'm a former cop and investigator. I've done many, many other things. Now, even I'd like to say that I like to play by my rules. And my rules are very simple. I want to listen. I want to hear. I want to understand. There are going to be people here who are for doing things one way. There are those who will be for doing things another way. And that's all right, because there are problems that we have in life that are common to all of us; but then there are problems that are unique to where we live or unique to us as individuals. We need to understand that in the State House. And we, as much as we try, cannot create a perfect world, but we can do the best that we can to make things as best for you as they can be, so you can have a quality of life that you deserve -- people in New Jersey and others.

And so the hearing this morning is not to discuss any specific bills -- does not mean that issues related to some of the bills won't come up for discussion. The hearing this morning, for my purpose and the purpose of my members who are here, and for the staff that's here with me, is to hear from you. You may have a problem in your association. You may not have a problem in your association. And then when I go to another part of the state, they may have problems you're not aware of in their associations too.

At the end of my going back and forth, we're going to make decisions based on what we know. Now, we're being transcribed, so make

sure when you do speak and testify, you speak as clearly, as loud, and as articulate as you can for the purpose of transcription. Try to get to the point. I have asked staff to take notes as well.

What do I want to know? As far as I'm concerned, there are no bills in Trenton -- there's no bills -- the bill that's going to help you, whatever your problems are. There's not a bill or any bill that's going to hurt you as far as your problems are. As far as I'm concerned, as concerns the State Senate, there are no problems. So my question to you this morning when you come up: What is your problem? Because I want people to say, "You know, I live so-and-so and here is my problem," and I want to be able to write that down. Do you understand where I'm coming from? I want people to say, "I don't have a problem." I want to be able to write that down. Because I want to be able to hear from the residents in New Jersey and go back and say, "You know, I've spoken to hundreds of residents and most of them said that this thing is taking place." That tells me, right there, I've got to find a way to fix it.

I don't want to assume that the Rice-Turner bill, Turner-Rice bill, or the Doria or Caraballo bill will fix your problem one way or the other. I don't want to assume that. If I wanted to assume that, I would not be here this morning with you to hear from you.

So with that, I want to ask, first of all, the Mayor-- I'm going to call him up, and he's going to welcome us, as well as testify. But I want to give my colleagues a chance to introduce themselves -- who are here -- and say hello to you. I believe they are your representatives. There may be others coming in that may represent some other districts. We are one State, we are one people. My title is not Senator 28. My title is New Jersey

State Senator. Understand what that means? You don't vote for me, but I represent you with my vote. So we're on the same page.

Senator Connors.

Before the Senator speaks to you, anyone who has a slip -- and we'll try to get to all of them today. If not, you can actually give us written testimony. If things are being said that you're going to repeat, you need not repeat it, because it's not necessary we go late. But the staff has asked that anyone who has these slips, if you pass them out to the end of the aisles, like you do in church, they will walk there like ushers and pick them up.
(laughter)

SENATOR CONNORS: Thank you, Senator Rice.

Good morning, ladies and gentlemen. (applause)

It sure is a pleasure to be here with you this morning, and I want to thank you for coming out here this morning on this beautiful day to discuss the situation with regard to common interest communities. But before I do, I want to say that I've worked with Senator Rice for a number of years. When the party in power was my party, I was the chairman of this Committee and Senator Rice and I have worked together with regard to that issue. And he is absolutely right -- he represents, just as I do, represents all of the people in this state, just not the 9th District. The fact of the matter is, this is an encompassing issue. It spreads its thoughts out across the State of New Jersey and will have far-reaching effects. And that's why you're here.

But you really didn't come to listen too much to me. We came here to listen to you. We want your input, and we want your advice with regard to how we're to proceed. (applause) We have some very definite

views with regard to the bills that have been put in the hopper so far, and we also have some suggestions with regard to those bills that we believe might -- would make them a better bill -- a much better bill and a much fairer bill. But we'll get into that discussion in a moment or two.

The fact of the matter is that we're here today to discuss this issue, and that's what we're about to do.

Thank you. (applause)

Please let me introduce the Assemblyman from the District, Assemblyman Chris Connors, who has worked for the last 16 years in the District. (applause)

ASSEMBLYMAN CONNORS: Thank you, Senator, members of the Community and Urban Affairs Committee. I want to thank you, Senator Rice, for holding the public hearing here in Ocean County. Senator Rice recognizes that this is an issue of paramount importance to the people.

While Assemblyman Rumpf and I are not members of this Committee, we're Assemblymen -- we're from the House of Commons. It's the senators who are from the House of Lords. (laughter) But they are gracious enough to invite us to the dais today so that we could hear many of your comments.

But I want to thank all of you for coming here today to express your support or opposition to proposed legislation that will have a profound effect on all of this, and I want to thank you from the bottom of my heart.

Thank you. (applause)

My Assembly colleague, to my left, Assemblyman Brian Rumpf. (applause)

ASSEMBLYMAN RUMPF: Thank you.

It's very good to be here with you this morning. And let me tell you, on behalf of Senator Connors, Chris Connors, and myself, we are proud of you, our constituency for turning out in such a large number to let your opinions, whatever they might be, be known. It's truly a pleasure, and we look forward to hearing from you. And hopefully, we'll see you again soon.

Thank you. (applause)

SENATOR RICE: Okay. Let's get started.

We have a little technical problem here. There are residents who think that we're from Hollywood; they would like to see us on a more regular basis. (laughter) Now, they have asked us to go up on the stage, but I'm not sure if that's doable because we're set up. And so, unfortunately, we don't have high chairs. (laughter) I'm going to have to ask that-- You will be able to see the speakers. I'm going to have to ask each of us who are here, when we respond, to please be kind enough to rise to be seen as you're being heard. And if you do that, we're going to pray for all of us. Okay? (laughter)

Would that suffice for the back?

AUDIENCE: Yes.

SENATOR RICE: Thank you very much for being so kind.

We're going to start our hearing now. I first want to bring up, for greetings as well as testimony, the Mayor of this great area, and that's Mayor Michael Fressola. (applause)

Mayor.

MAYOR MICHAEL FRESSOLA: Good morning. Can you hear me?

SENATOR RICE: Good morning.

MAYOR FRESSOLA: First of all, I want to thank Senator Rice and the Community and Urban Affairs Committee. I also want to thank America's KESWICK, who provided us with this beautiful hall. There aren't too many places in this area that can accommodate this many people, but they were very gracious and very helpful, as I said, providing this for us. (applause). Thank you, they deserve a big hand.

As the Mayor of Manchester for the passed eight years, and a councilman for six years prior to becoming Mayor, and a 17-year resident of a common interest community, I feel I am as qualified as some, and more qualified than most, to comment on any and all proposed legislation.

My position is fortified by the fact that Manchester has been home to many of these communities for well over 30 years. To quote your public hearing notice, "The Committee is interested in hearing testimony concerning rights, obligations, and power of unit owners, boards, and associations." Allow me to do just that.

My perception after 17 years of firsthand experience is that in our communities no problems of any consequence exist that cannot be cured. (applause) And I repeat, that cannot be cured or haven't been cured by implementation of existing community by-laws or by the next trustee election. (applause) This by no means denies that, perhaps, there are a few dissidents in every village. But we believe firmly in majority rule. (applause)

If, in fact, there are a few dissidents, I believe they are in the minority of the common interest communities, and that have problems proposed to be addressed by this legislation. And any legislation proposed

should include an opt-in clause to be decided on by a fair and open election within the community. (applause)

My strong conviction and contention is the following: Seventeen long years ago and with careful investigation, I searched for a retirement community to purchase a home and to move into. We looked at five or six different communities, familiarized ourselves with the rules and regulations governing each, and chose the one we live in now, accepting the regulations as being those we were comfortable with and were willing to abide by. (applause)

With all due respect, my contention is that no legislative body has the right to change, after the fact, the rules and regulations that were in place at the time I purchased my home. (applause) This, of course, would exclude rules regarding health or public safety.

I have discussed this issue with several attorneys who have indicated my arguments have some merit. I have promised my constituents that if legislation is passed without an opt-in clause, I will organize the retirement communities in Ocean County, who feel the way the vast majority of the Manchester communities feel, and proceed with a class action suit to overturn the legislation. (applause)

Thank you so much. (applause)

SENATOR RICE: Thank you, Mayor.

The next speaker we have is -- and if I pronounce these names wrong, please accept with love, and excuse me for it -- that would be Tom Cariota. Is that correct? Cariota.

T O M C A R I O T A: My name is Tom Cariota -- and thank you, Senator Rice -- from Original Leisure Village, and I've lived there about 12,

13 years. Before I make my two-or three-minute statement, I would like to mention that in Ocean County the county government has produced a pamphlet that shows we have 93 age-restricted villages in the county, with 78,000 residents. So this is a pretty big segment of the state. (applause)

I am here as an individual today. I have no agenda. I have no axe to grind. I have never been a member of a board of directors. My participation, as a volunteer, has been with the budget committee, because if you control the money, you control everything.

I'm very familiar with the issues. I'm a member of the Common Interest Homeowners Coalition -- at one time, I was on their board, back in the late '90s; the Community Association Institute -- I was on their board last year; the Ocean County Senior Coordinating Council; the Lakewood Senior Advisory Council. So you can see I'm not a Johnny-come-lately. I go back to the original bill, back in 1995, by Assemblyman Corodemus.

My point to make today is that -- just to give you a minute or two example of what I'm talking about, where it's hard to get rid of a board of trustees -- we had a-- Our Original Leisure Village had a special meeting to remove five of the seven trustees. This was about a year-and-a-half ago. The special meeting produced a vote of about two-to-one to remove those five trustees. The five trustees refused to step down. They said we didn't show cause, or the group fighting them didn't show cause. It went to the Superior Court in New Jersey, in Toms River, Judge Clyne -- the retired Judge Clyne. And he said that the cause was not in consideration, that there were other considerations.

So at that point, there was -- the question of being removed for cause was mute, and of course my feeling is they should have stepped down. They didn't. And a year later, we were still fighting the argument. The residents ran out of money. The five members of the board, of course, had the association money to spend, so they could hang in there as long as they wanted to -- one of the bad points. The residents pay for everything, all the mistakes that the board does, and we pay for it.

A year later, we ran out of money. The board was still fighting. We reached a compromise -- or the people involved reached a compromise, which would be a new vote. And that new vote, the five trustees lost again, two-to-one. So twice in a period of about a year and a half, the five sitting trustees lost a two-to-one vote in the community of 2,433 units, about 3,500 people. Original Leisure Village has 2,433 units. It's a very sizeable section.

The point that I want to make: It's very hard to get rid of bad apples if you have them, today in corporate America. Back in the '60s, because of takeovers, corporate America went to staggered boards, so they would take three years to remove a set of board of directors. That way, a company -- somebody couldn't take them over. That's being reversed. In the last couple of years, they are reversing that trend and going back to a straightforward -- where you stand for election each year.

And my proposal is to add to whatever comes out of this that we get rid of the staggered board and go to a situation where all the directors stand for election each year. If they're doing a good job, they'll get reelected. If two or three out of a board are doing a bad job, they won't get

reelected. Let's make them be accountable and stand up each year to have a vote.

Thank you very much. (applause)

SENATOR RICE: Okay, it's time to stand up. We're playing by my rules. Everybody gets an opportunity for free speech, because some of the concerns about -- I'm getting in letters -- has been about the exercise of people's right to speak at these board meetings. So we're going to start here by disciplining ourselves, so when we come back with legislation and make sure that people's rights at the boards, meetings, are not violated, we'll already be disciplined, because we started right here under the Rice rule. Okay? (applause)

The next person we have coming forth is Judy Montana. Did I pronounce that right or wrong?

JUDY MONTANA: Montana.

SENATOR RICE: Montana, okay.

Thank you.

MS. MONTANA: My problem is with the trustees in Village VII, Crestwood Village VII.

AUDIENCE: We can't hear you.

MS. MONTANA: Right. I moved to Village VII last July. And I was told that whatever you had to have done you needed a work approval, which I did. I had my house painted. I had to bring my colors down to the board to have it okayed. I had a pond put in, and patio. Then I wanted to put up a picket fence around my patio area. The trustee came over and approved it. And later, I changed fence companies, so this required a new approval, which I got from William Sheehan, who is in charge of Violations

and Fines. The day after my fence went up, one of the trustees was at my door saying it was over the 32-inch railing rule. I didn't put up a railing, I put up a picket fence. My request was for a picket fence enclosure of the patio area.

They then sent me a letter that I was to go to a meeting about my fence. I went well prepared to talk to reasonable people. I drove around the village and I had a list of 40 names, addresses, of homes who had picket fences--

UNIDENTIFIED PERSON FROM AUDIENCE: It's not a board meeting.

MS. MONTANA: What?

UNIDENTIFIED PERSON FROM AUDIENCE: It's not a board meeting.

SENATOR RICE: Go ahead. Go on and finish, so I can try to figure out what their concern is, okay?

MS. MONTANA: All right. I went to the meeting. They refused to let me talk. They wouldn't look at-- What? They wouldn't look at the list of homes and the pictures of the homes that violated the so-called rule. Even the clubhouse itself violates it. So they gave me two weeks, and they said I had to remove the fence, which is cemented in the ground. It's a beautiful fence -- it's the best fence the company sells, and they want it taken out.

UNIDENTIFIED PERSON FROM AUDIENCE: Get a lawyer.

MS. MONTANA: I have a lawyer. But the trustees don't listen to them.

SENATOR RICE: Okay. So your point is that, where you live, you have a board of trustees that if, in fact, unit owners go before them, they're not really listening, paying attention, or investigating the problems or the issues raised.

MS. MONTANA: Yes.

SENATOR RICE: Okay.

MS. MONTANA: They won't talk to me. They won't meet to have some kind of a compromise as to what to do.

SENATOR RICE: Okay. Is that reflective of pretty much most of the people in your unit, development there?

MS. MONTANA: Yes.

SENATOR RICE: Okay.

AUDIENCE: No.

SENATOR RICE: Okay. So I understand the issue. The issue is that, in your opinion, trustees are not giving you an opportunity to go through a process for fairness.

MS. MONTANA: Yes. And it's not in the by-laws. If you read them, it doesn't say anything about a fence.

UNIDENTIFIED PERSON FROM AUDIENCE: Stop leading her on.

SENATOR RICE: Excuse me one moment. Let me say this to you. I'm not leading. I'm asking questions, and I called the meeting here. Now, I'm being respectful, and I'm going to ask you to be respectful because it's important to me. I understand what you were saying about the way she's saying it, but I've already picked up two points. If your mission here is to disturb the hearing -- because I believe that there are one or two

whose mission is to do that, because I do get the letters -- I'm not going to tolerate it. I'm being honest. I want to hear from the people. You may not like what people have to say. I know when to cut them off. I know when to raise questions. Because she was giving a personal scenario, it became important for me to raise the question, not lead, to try to make sure I understand what she is saying.

I'm coming back to you, ma'am. My understanding is that when you have problems, and whether they are right or wrong, and you approach the board of trustees, you don't feel that the process is fair in terms of you communicating with them, looking a little further, or have an input. Is that what I'm hearing from you?

MS. MONTANA: Yes.

SENATOR RICE: Okay. We're going to make a note on that. It's on the record. Is there any other problems in terms of--

MS. MONTANA: I'd like to say one other thing. That once they told me to take down the fence, they are fining me \$10 a day for having the fence up. And now they are refusing to accept my maintenance fee, saying that any money I give them will go towards the fine. And they're telling me that within two months of being behind in my maintenance fee, they can put my house on the market and sell it for just the fines.

SENATOR RICE: All right. Let me ask you a question, and this will be the final question, because I think I've got the gist of where you're coming from. Does that apply across the board, to your knowledge, with others similarly situated as you are -- in other words, did the penalties, the fine, accepting the maintenance, not accepting the maintenance?

MS. MONTANA: That I don't know.

SENATOR RICE: Okay. And what I hear -- and we're making a note. And I want to thank you for your testimony, because I want to give them three minutes. I'm hearing on the issue of not being responded. I'm also hearing a potential issue of selective enforcement. And whether it's true or not, that's what I'm hearing in terms of your issue.

Okay. Thank you very much. (applause)

Okay. The next person we have is going to be Elizabeth Fecak, Fecak. Did I get that right? Elizabeth F-E-C-A-K. (no response) Okay, we'll put that on the side.

The next person will be Peter Minutolo. Yes, Minutolo. Peter? Okay.

The next person is Raymond -- there's two people -- Raymond and Barbara Smith. Are you making the same statements? Raymond? Okay. Thank you.

The next person is Ronald J. Kuchins. Is Ronald here?

R O N A L D J. K U C H I N S: I sure am.

SENATOR RICE: Okay, Ronald.

MR. KUCHINS: As you said, Ron is a good name, Senator.

SENATOR RICE: Yes.

MR. KUCHINS: I want to thank you for being here, and without being repetitious, I just want to thank, also, our legislative--

AUDIENCE: Can't hear you.

MR. KUCHINS: I said, without being repetitious, I do want to thank Senator Rice for his open-mindedness and fairness, and I want to thank our legislative group for arranging for this. We are fortunate in both

cases. I've had occasion to speak to Senator Rice, and I find him to be fair and open-minded.

As you pointed out, you got some gray hairs. Well, we're a cross-section of relocated New Jerseyans here. As you can tell, we've been around the block a few times, and we're old enough to brag about our age, rather than lie about it. So that gives us a certain amount of wisdom. And the point of that is, that we have the wisdom to govern ourselves. (applause)

We have issues. I have a specific example. And this example relates both to legislation and it relates to board abuse. I'm only down here two years. And we paid a \$150 entrance fee, and within a short time of one particular individual becoming responsible for new owner fee collections, it went to 200. And within nine months, it went to 500. The majority of our community is -- everyone I have spoken to, individually -- is against it.

I spoke to a couple trustees, and they said, "We need the money. The other communities are charging as much." Okay. And this money is being used-- Right now, our community is heads up enough to keep this funds separately, or so they claim, in a separate accounting, rather than utilize it for regular operating expenses. Now, that brings me to a particular bill, which came out after this issue was brought out by the courts, when someone up north won a case that this is, in essence, a -- I forget the word that they use. Let's call it a targeted tax against the new people, forcing them to contribute to the budgetary shortfalls of the boards. And immediately that that took place, there was an article that came out, that I saw, that was, I believe, by counsel to CAI and the sort of interpretation of the meaning of it. And the last two paragraphs of that --

whatever you want to call it, the memorandum -- essentially said, "Hey, boys, you've got a loophole here you ought to take a look at." And that's definitely rewording it, but their choice of words is -- their being a bunch of attorneys -- is very cautious, but what's between the lines is very clear.

So we have a situation whereby we have no way to remedy or to get that excessive entrance fee revoked. And the legislation says that it can be capped at 18 times the monthly fee. Well, that's a never-ending spiral. Take a community where they have a \$200 maintenance fee, and 18 times means that someone has to spend \$3,600 to enter that community. Now they turn around and raise the monthly maintenance fee \$20 and they can start charging \$360 more on the entrance fee. Where does it end? So I just wanted to point out that.

I want also to point out that I object to some inaccurate information that CAI has distributed. I have with me a letter that was circulated, dated back in March with a petition to the Governor, and in that letter it states that, "UCIOA will expand the powers of homeowner associations allowing them more extensive investment powers." It says, "This is a misleading assertion. Current law does not address the investment authority of associations, thereby leaving it up to individual association by-laws, a far-riskier proposition." Well, who makes the by-laws? The boards.

Now UCIOA addresses this void and tightens regulations to restrict reserve investments -- that's where I believe our one-time entrance fees should go -- for capital improvements, not for operating expenses. As 2822 says, "It can be used for common expenses." And it says, "They

restrict it to bank certificates of deposit, treasury bills, or other similar investments where the principle is secure.”

Senator, myself and a few others have searched through all this literature with word processor search functions. There is nowhere in any of these bills that we found any such restrictions. What we did find is open-ended opportunity for self aggrandizement.

AUDIENCE: What?

MR. KUCHINS: You don't understand what that means?

We found that in Section 49b, paragraph 15, it says that, “They can make investment on the basis of recommendation of counsel” -- okay -- “and on the basis of published financial statements,” which I presume can mean things such as prospectuses and stuff like that.

So I think that we need, in my opinion and the opinion of many others who are here, that we are against open-ended legislation also. And that's why we feel we can do well with self-rule. What we need is some very simple legislation.

In the words of what Tom Cariota mentioned months ago, “It's easier to change a no to a yes than it is a yes to a no.” So we can try fixing some of the stuff that's broken, rather than adding to it a more convoluted confusion, which is what the current legislation is. And I am strongly in favor of taking the points from the current legislation, which are good, and applying them to the individual pieces of legislation which they refer.

Because, for example, in many cases of S-805 and A-798, they specifically state, “This law shall govern in this case, except when it doesn't cover anything, then this law shall cover it. And any law hereafter shall

cover anything not covered in this.” Now, I mean, we don’t have the money to pay lawyers to figure out what that means.

Thank you. (applause)

SENATOR RICE: Thank you.

The next speaker we have is Mr. Fred Lund. Fred?

F R E D L U N D: Mr. Chairman and members of this Committee, my name is Fred Lund. I am Assistant Treasurer of the Civic Club of the Village-- Oh, my goodness. Excuse me, let me start over please.

My name is Fred Lund. I’m the Assistant Treasurer of the Civic Club of Leisure Village West, here in Manchester. Our village is a condominium type of planned common interest development, age-restricted and gated.

We have democratically elected trustees, a salaried manager, and union represented maintenance personnel. We are very pleased in the way our association is run (applause), and I am sorry that we cannot give you any new horror stories related to mismanagement (applause) or undemocratic treatment of unit owners.

However, we are extremely concerned with the effect that recently proposed legislation, which is intent on correcting reported problems existing in the governance of some common interest communities, will have on our Village, our association, and ultimately, our cherished lifestyle. (applause)

Admittedly, the current laws that control common interest associations do have to be updated and clarified. However, this updating should be accomplished by amending those individual current laws that will correct the existing problem. (applause) To create a new, composite one-

size-fits-all law, layered on top of the current laws, is unrealistic (applause) and it will not produce legislation that is more effective than what we have today. (applause)

A bill that attempts to consolidate all the laws applicable to every type of common interest community in this state will be too long, too complicated, and too difficult to read. (applause) The very complexity of this type of bill will result in years of costly litigation, and ultimately the residents of the associations will shoulder the costs, and the attorneys and the accountants of CAI will benefit handsomely. (applause)

We, the residents of condominiums, already have in place efficient and cost-effective ADR procedures that are in full compliance with current law. (applause) Associations with ADR currently in place should be exempt from State-mandated ADR that is proposed in any new legislation. (applause)

Further, we do not wish to see the granting of a right to fine any member of the executive board or an officer of the association for any infraction of the law. (applause) The mere mention of a fine, regardless of its size, will effectively destroy volunteerism that all associations depend on (applause) to fill these positions.

Also, no per unit tax should be imposed on homeowners residing in property governed by common interest associations. (applause) Many of these unit owners are senior citizens, living in retirement communities, whose fixed income cannot handle another tax. (applause)

I should also like to point out that the National Conference of Commissioners on Uniform State Law is currently drafting revisions to their model Uniform Common Interest Ownership Act, that was adopted in

1982 and revised in 1994. The revisions are scheduled to have their final reading in 2007. Any bill passed in this session that is based on this model will be outmoded immediately after it is effective.

Thank you very much. (applause)

SENATOR RICE: Thank you, Mr. Lund.

Next we have Carmen Gambacorta, Carmen Gambacorta. Okay. Okay, thank you.

Next we have Pat Oakley. Is Pat Oakley here to speak?

P A T O A K L E Y: My name is Pat Oakley. I live in Silver Ridge Park East, and I am presently on the board as Treasurer.

We have had some problems in our area. But again, nothing that we couldn't take care of ourselves. My comment -- and I definitely understand some of the problems that people have dealing with a board that doesn't respond at all; I mean, that's just totally unacceptable. But I also agree with what Fred said, because you're trying to have one shoe fit everything, and it's not going to work. (applause)

My other comment, which you probably will not like is, I think before you try and clean up our houses, you clean up your own. (applause)

SENATOR RICE: So I can be seen and heard (laughter), let me say this. I concur with you. And believe it or not, there are those of us, that you don't know, that work very hard and stay in Trenton trying to clean that House up. But in the process of cleaning our House up, we have to make sure, if there are problems in your house, we simultaneously clean it up, because people are being harmed every day by both houses. You don't spend the time on a problem over in your community here, where people have rats and roach infestation, and ignore it over here. Because

soon you won't have a village. And so we do agree with you, but we're going to stay focused on this house while we're here today. Then we're going to go back and address our House as we go through budget and continue with some of the laws that we're doing -- Pay-to-Play and stuff like that. But we do concur.

You see, I'm fair and I have balance. (applause) Okay?

The next speaker we have is Mrs. Elizabeth J. Colavito. Colavito, okay.

Next we have Francis Colavito, no? Francis, okay.

Next we have Betty Schreur. Give Ms. Betty a moment now. She's got to walk all the way around. Take your time, Ms. Betty. She said, "Very short."

B E T T Y S C H R E U R: I just want to say that I feel sorry for the poor lady who can't come to an agreement with her board. But I would also like to say there are two sides to every story. The board has probably enacted what it feels, according to the public offering statement, and maybe she doesn't agree with it. And I think that everybody in this room should be familiar with their public offering statement, because that's really what governs your community and tells you what you can do. (applause) And you should know that before you buy. Okay?

I just don't want to say anything further than, our community, The Meadows -- we're fine. We have a good community. We're not unhappy with anything. But, Mayor Fressola and this guy, Fred, over here, said it all. (applause)

SENATOR RICE: Thank you.

Next we have Barbara Ostapko. Did someone say "not here"?

Okay. Rose Ciccarone. Is that right? Ciccarone, Ciccarone, Ciccarone. I'm good with Smith and Johnson, but I'm not good for a lot for these names, man. (indiscernible) (laughter) Is Rose here, from Crestwood? Okay.

John, that was you raising your hand? Are you going to speak? Okay.

And some of this is the writing too, now. It's not all my eyes.

I've got Jacqueline Grandmaison, Grandmaison. Is that Jacqueline walking up? Okay. That's right, help me out.

UNIDENTIFIED PERSON FROM AUDIENCE: Next time put numbers on those things, and we don't have to read names.

SENATOR RICE: Right. But we need it for the record anyway, because it helps.

Barbara Starita? Okay, thank you.

We have Ann T. -- it looks like R-U-S-Z-- All right. Thank you.

Anne Van Why? Van Why? Okay.

Corinne Lacey? Okay. All right.

What about Walter I. Vogel? Walter here? Come on, Walter.

Felt like my cash register was going empty -- I wasn't getting any customers. (laughter)

W A L T E R I V O G E L: Yes. My name is Walt Vogel. I live in Holiday City South. And I'm very, very happy with the board we have. We're very blessed to have a very low maintenance fee. And I feel that by you people coming in and appointing a person to oversee us -- it was explained to me at our last meeting with our Congressman, etc., that we

would have to pay another \$8. Eight dollars isn't much. Times it by 12 is \$96. For a lot of these people, it's their medication. Okay?

Plus the fact, when you put another person in there to oversee this, we all know from the history of New Jersey there's not a commissioner up there that's not making less than \$100,000 a year. All right? Now, on top of this, you're going to have to pay these people benefits.

In this morning's paper, I understand that the State of New Jersey is going to be \$20 billion in the hole on Medicare, on hospitalization, etc. I think we're talking on both sides of our mouths here -- appointing people to do this, paying out more money. Where is it going to end, gentlemen? We are very capable of handling our own affairs. (applause) We are not high school children. We are not college people that have to be overseen. We are adults. Good minds yet, thank God.

Our board of trustees has good minds. They take good care of my funds. Leave us alone, guys, please. (applause)

SENATOR RICE: Next we have Barbara Vogel. Is Barbara here, Ms. Barbara Vogel? Okay.

Mr. Samuel M. Rizzo? Sam Rizzo. Okay.

John and Marion Wilkes? Is that Marion? I'm sorry I can't hear you. Okay.

Jeanette Wolf? Come on, Ms. Jeanette.

J E A N E T T E W O L F: I don't think that anybody here is actually opposed to having our laws updated and having somebody to plea to in case things in their village go wrong. What most everybody here, I think, is opposed to is having an ombudsman and having to pay for it, and having to pay for other people in the state, mostly in the North, who can't pay for

this ombudsman person. The thing is that we would rather govern ourselves than have an ombudsman. (applause)

SENATOR RICE: Thank you very much.

Next I have V. Merendino. Okay, thank you.

We have Ms. Alice Waespy, Waespy. Come on up, Ms. Alice.

A L I C E W A E S P Y: I'm from the Meadows community, and I really am going to be very brief. I feel that we have an excellent board of trustees. We don't really-- Speaking for myself, I'm very happy with how things are going. I'm about a five-year resident. What I'd really like to say is that we really do not need extra layers of oversight. (applause)

SENATOR RICE: Thank you very much.

Rich Nemeth? Rich Nemeth? Is Rich here? Do you want to speak Rich? Okay.

Linda Latzsch, L-A-T-Z-S-C-H? Not speaking, okay.

William Latzsch? Okay, Bill.

All right. Elaine Vanore? Is that Elaine? Did I hear Elaine? I got close to that name. Okay, thank you.

F. John Vanore? Is that Vanore? How do you pronounce your name? Oh, I was doing pretty good with that one. Okay.

Anthony Cicalese? Okay.

Let me ask a question and you can raise your hands. We have different slips up here, some made markings. It said, "Wish to speak on the bill." Those who put, "No," you don't want to speak, is that correct? You're just letting me know you oppose the bill?

AUDIENCE: Yes.

SENATOR RICE: All right. And those who left blank -- we'll try the blanks first. Okay?

Why don't we call up Tom Smith, President of Crestwood Village. Is Tom here? (applause)

T O M S M I T H: Good morning.

First of all, I would like to thank you for having the meeting here. Secondly, I would like to stipulate that our Senator Connors, Assemblyman Connors, Assemblyman Rumph, and Mike Fressola have worked on our behalf, as senior citizens, constantly. I want you to understand that you have here a group of people that have lived through the Depression, the Second World War, paid the bills for the State of New Jersey for 50 years. Now we have a situation where a state that cannot create a budget, a state that is ripe with corruption, a state that has problems all over is going to come in and straighten who out? (applause)

I want you to please understand this is not a personal attack on everyone at the board. When people make decisions, some decisions are correct, some decisions are incorrect. Rarely, if ever, is malicious tendencies involved. But in a situation like this, you cannot take a bureaucracy from a city like Trenton and run a place in Whiting, New Jersey, or any place in Manchester Township. (applause) Because between you and I, you don't even know where the hell it is. (laughter)

I would like to thank you very much for your time; and stay out of our pockets, stay out of our business, stay out of our lives.

Thank you.

SENATOR RICE: Thank you very much.

Let me make one comment. Every once in a while I do say something -- it's not intended to offend. As a Senator, I'm never going to tell you lies if you need me. I think we should (indiscernible) if you don't need us. But also, I believe, as I said earlier, there may not be a problem here. There may be a problem someplace else. Oftentimes in government, as much as we like it -- no different in boards -- in order to fix the problem we like to do it through permissive legislation. Which means that, if we do a legislation, you don't have to do it, someone else can do it. There are some problems we can't fix that way, based on law, and Constitution statute, court decisions.

And so I do know where Whiting is, because that's how I got here. (laughter) I'm a former Marine, was a recon guy. I did survive a war. Once again, this is not premature, my parents are 81 years old. My mother has Alzheimer's. I have a sister who was strung out there on drugs, got her life together. I can give you a whole history of what many of you have gone through. No one ever asked me, so I never tell them. So I just want to keep things in perspective. I concur with you. I can never stay out of your life, because every day in Trenton I have to vote on something. When I vote on it, it impacts your life. And so I've got to be cautious of what your needs are and how to make life better for you and stay away from interference. I think the less government we have, the better off we are. (applause) But in an orderly society, we need social orders, so we have to have some government to correct those problems that some people do have.

Next, I want to call up Mr. Kenneth Shipman. Is Ken Shipman here? Kenneth Shipman. Want to speak, Kenneth? Opposed, okay.

What about Ms. Margaret Kennedy? Opposed, okay.

Hang on a moment. I called Anne Wolff earlier. Is Anne Wolff here?

A N N E W O L F F: This is short and to the point -- two sentences. As Councilwoman-at-Large for Berkeley Township, I vote for what the majority requests. I respectfully request that when the time comes, you gentlemen will do the same. (applause)

SENATOR RICE: Thank you, Councilwoman Wolff.

Is Mr. Al Walley here?

A L W A L L E Y: That's me.

SENATOR RICE: Hey, Al. Okay.

MR. WALLEY: My name is Al Walley, and I live in Twin Rivers, which is probably the poster boy for the need for a lot of legislation. Now, I've got to tell you, that if you read *Smart Money* magazine, published by the *Wall Street Journal*, you will see that already in California and Arizona the resale prices of houses in deed-restricted communities that have a lot of problems are going downward. And that's a harbinger of what may come.

Now, I think that there's legislation needed to protect the rights of homeowners. I agree with the Mayor that our governing documents should govern. But I have seen four amendments in my association that were voted down by the people and yet magically appeared in the County Clerk's office restricting my rights. I've seen resolutions passed in executive session restricting my rights. I've seen resolutions passed (indiscernible) of the governing documents, State statute, Federal statute, judicial decision that are violating my rights, and nobody stands up for me. And do you know what I'm told in my community? "If you don't

like it, go sue us.” And whoever said talk is cheap never hired a lawyer to defend themselves. (laughter)

And by the way, Senator Rice, I found out the difference between an attorney and lawyer -- \$100 an hour. I also got to tell you I’ve seen minutes in the meetings that are different than the ones submitted to the courts. I’ve seen resolutions substituted, that were not voted on, for resolutions that were. I’ve seen our budget treated with disrespect where even our accounting firm said you have to have votes on these expenditures.

So, in total, I don’t want to belabor each and every problem, but I will tell you there are problems. And those outfits that have their own way of ADR and fixing their own problems within, fine. But what about us that don’t? We have an ADR resolution, by the way, drawn by Wendell Smith. It calls for, first, ADR and mediation under the rules of the American Arbitration Association. First you have to go through mediation, then nonbinding arbitration, and then final and binding arbitration. You have any idea what that costs? Arbitration under the rules of the American Arbitration Association, just for nonbinding arbitration, are about 4,000 for the arbitrator and their published rates, about 1,500 to administer the case, and 3,500 for another fee. Plus, if I have to hire a lawyer, I have to hire a lawyer. And as a result, nonbinding arbitration could cost me, as my share, \$9,000. And if the board rejects my nonbinding arbitration, then I have to go through binding arbitration. Do I want to pay \$9,000 or \$10,000 to go to ADR to resolve this small problem?

To that extent, I would rather submit to your group very specific items. Because I think the thing that is needed most are laws with teeth in them. We currently have laws, but they have no teeth in them. I

think that you should punish -- but there's a key word here -- for *knowing* violations of the laws. Punish the lawyers, the administrators, the accountants, as well as the board members, for knowing violations, not just for violations.

And to that extent, I would like to repeat something from the Jim Gearhart show with Senator Diane Allen. "I understand that maintenance fees are the lifeblood of a community. I further understand that sometimes a lien is necessary to effectuate the collection of maintenance fees." But stealth liens, as Senator Diane Allen complains about them, happen to be punitive and secretive, amongst other things. If you don't know about a lien, how do you pay your money?

And by the way, according to what I believe was State statute, legal action has to be voted on by the board. The board must, under the law, send out a Federal Fair Debt Collection Practices Act. In some cases, a court of common jurisdiction must decide the amount. And then if a lien is sent, when the copy of the lien is filed, a copy has to be sent to the homeowner. Now, I have seen liens filed where it says, "Done according to the voluntary action of the board for no meetings," and there were no meetings whatsoever. These are the kinds of things, the abuses, that have to be addressed.

And that's all I have to say. Please help protect us that can't protect ourselves. (applause)

SENATOR RICE: Any documentation you have that has some validity to it, just forward it to this Committee. I would like to take a look at it. Because people believe that because their lives are okay, other people's lives aren't messed up. And that's a sad state, because everybody

doesn't complain. But I'd like to look into anything that's occurring that needs to be looked into. Because there may be a situation that doesn't require a change of law, it requires investigation to be subjective on that particular issue and that particular area.

But I want to thank you for your testimony.

Next we have Michael Pesce. Okay.

Is there a Kevin Donlin? Kevin, you write small. Man, you wear glasses like me. How do you write that small? Are you a doctor?
(laughter)

KEVIN P. DONLIN: No, I'm not, Senator.

SENATOR RICE: Go ahead.

MR. DONLIN: I'm Kevin Donlin, with the Meadows of Lake Ridge. I'm Chairperson of the Government Affairs Committee.

Thank you, Senator Rice and those on the Committee, for coming to Whiting to hear our concerns about 805, as well as associations in adult communities. I have lived in the Meadows for six years, and it's been a very positive experience. I can attest to the fact that the concerns of the residents are addressed by a very competent board, a very knowledgeable board, and a very dedicated board. While I don't always agree, and maybe others in the community don't always agree, with every decision, we find out that they are open. They listen. They also allow us to vote in a very proper way. So my own experience has been very positive.

This bill intrudes into a private agreement that I made when I became a member of my community. When we purchased our home, we agreed, read, agreed and signed off on by-laws and regulations contained in the public offering statement. We did it because that was the kind of life

we wanted to have. Now, because of the complaints of some few, maybe legitimate in some cases, the State apparently wants to come in, regulate and control just about every detail of our community life. While there may be some gaps and technicalities in the current law, this bill goes over the top rather than focus on specific legal needs.

A major concern in my opposition to this bill is the strong sponsorship of the Community Association Institute. According to the *Asbury Park Press*, it is “organizations representing the businesses that sell services to homeowner associations, such as attorneys, property management companies, and others.” Apparently this is, in part, similar to a trade organization supported by the contractors who live off communities like our own. In their own brochure, they list association managers, management companies, professionals, and suppliers to associations among those who should join CAI. In that same press article, they documented heavy -- the CAI as heavily supporting this bill, and many believe that they were the primary lobbyist.

In a recent meeting between Ocean County citizens and the CAI, their New Jersey president admitted that only two of their 16 national board members specifically represent the interest of the individual homeowner. At the same meeting, over 98 percent of the homeowners attending voiced strong opposition to the bill, and even several CAI members had deep concerns about their support and sponsorship of this bill.

For these reasons, this raises the question as to whether CAI really speaks for the majority of individual homeowners regarding this legislation. Legislators from Ocean and Monmouth County have voted

against this bill. Manchester, Berkeley, and Dover town councils have all passed resolutions against it.

Even Governor Corzine, during his campaign stop in Whiting, promised me and several others he would veto similar legislation that had been proposed last year.

It is often reported, in promoting this bill, that similar model legislation has been passed in 16 states. Rather, I would ask this Committee to look at why 36 states have not passed similar bills? (applause) Sixteen out of 52 is not a very good batting average, considering the many years that this model legislation has been around.

Finally, the confusing and overly-complex provisions of this bill will drastically increase the cost of running our communities. It will require legal opinions and reports on just about every situation, benefiting only the law firms, management companies, and other service providers. Personal fines provisions against volunteer trustees could result in many resignations. This raises the possibility of the State paying management companies to temporarily run these communities.

While the State is trying to close a \$4 billion budget deficit, it seems ridiculous to add a costly new bureaucracy, complete with ombudsmen, staff, enforcement system, and reporting. Facing new taxes, with many of us on fixed income, this is just another burden thrown on retirees. (applause)

In summary, while there may be legal technicalities and gaps in the current law that need to be addressed, this bill is not the answer. Let's start over again -- involve the individual homeowners. I believe that most groups opposed to this bill would consider the recommendations of a new

study committee focusing on the specific problems in current law. However, such groups require a significant representation of individual homeowners, including adult community residents, as opposed to outside trade organizations.

Thank you very much. (applause)

SENATOR RICE: Thank you very much.

Next, I have Ms. Florence Conover. Okay, thank you for being here.

Is this George Loeffler? George, George Loeffler? George Goeffler? Okay. George, you should have let me know.

We have Robert Ferguson. Mr. Robert Ferguson? He may have stepped out. There were some gentlemen heading toward the break room.

Nan Coll, Coll? Nan Coll?

A N N E K. C O L L: Coll.

SENATOR RICE: Coll. Okay.

MS. COLL: Yes.

Senator Rice and other distinguished members of the panel, first I'm going to read you my fourth draft that I prepared for coming here. And I'm going to comment on some of the things I've heard, because I can't let it go. I also am going to give you a package, that I request you don't bother returning to me, that only has a couple of things that backs up, including my prepared statement.

My name is Anne Coll, but I'm also known as Nan or Nancy Coll. Thank you so much for holding this hearing. I live in an almost 30-year-old restricted community in Ocean County -- Greenbriar II, in Brick,

to be specific. We are self-governed by a five-member board of trustees. I am the Secretary of the board, and I'm here to tell you we need help.

Excuse me, I find it very disappointing that you are not following the Rice rule and respecting people who disagree with you, when you don't even hear their story. (applause)

SENATOR RICE: Go ahead.

Please follow my rule please.

MS. COLL: I think you shouldn't be applauding yes in favor or not. It should be conducted in a professional manner. And I don't fault Senator Rice, because he did invoke the Rice rule, and I'm respecting it for everybody who speaks even when I disagree with them.

My board is derelict in fulfilling their fiduciary duty, as pertains to maintaining and protecting our property. You will see pictures of the common area behind mine and my neighbors' property that shows you what they have allowed to happen by not maintaining it properly. They are derelict in informing membership, including them in major decisions, and accounting for expenditures. How about allocating a \$40,000 budget to redecorate a lobby that's the equivalent of a living room and dining room, and then without a word, without any discussion of the plans, spending more than \$80,000? Who has a \$4,000 sofa in their home and a \$1,500 console table in the hall? They did that without permission, without voting on it in public. It is illegal. But we don't have the money to fight them, and many of the older people don't have the stomach for it.

They hold two meetings a month, but now neither one of them is a workshop or planning meeting. They call them *open meetings*. But they can't explain what the purpose of those meetings are. If you don't have

Comcast, you don't get to see the second meeting, which is broadcast over the closed-circuit television. You also don't get updates on what's happening in our community. Routinely, matters that do not meet the requirements for closed session are not only discussed in closed session, but a vote is taken. And whether it meets the requirements of closed session or not, they never, ever, ever report out on it, even in redacted form. Members, even this trustee who questioned them, are verbally abused. I mean screamed at, called a liar, gaveled down to prevent me from saying something the membership should know, and telling me, "No, it will be discussed in closed session." That happened last week, when I tried to say that for two months I have been trying to get the details of the opinions rendered by our attorney to the tune of \$7,000. Questions such as, what does it take to remove a board member? Who do you think they might want to remove? But they don't want me to see what he said. As a board member, I should be seeing every bill that comes in. I don't see anything.

There's other things that I've been denied. We have absolutely no way to voice our comments. Our community paper, that started out as the voice of the people by volunteers, is now completely censored. By their actions, they're putting this association in jeopardy of expensive lawsuits, such as what happened in Original Leisure Village, that Tom Cariota told you is still going on. You didn't ask him how much money? I think it may be in the millions of dollars for that lawsuit. My community can't afford to pay it.

Owners are denied access to records. I already told you about the \$7,000 attorney bill. These problems are not unique to my community. I'm an active member in the Common Interest Homeowners Coalition, and

I have a feeling, Senator Rice, you're well aware of that Coalition. I've heard horror stories from all over New Jersey. I moved here six years ago from Brooklyn. I love my community; I do not love the mismanagement of it. And the president told me last week, when I said I wanted these documents from the attorney, that if I'm unhappy in the community, "Move out." To which I replied, "No. I'm not going anywhere. This is my community. I love it here. I do not like the mismanagement." So now they're trying to remove me by petition. I wonder how they know enough to do that. I know about it.

These conditions exist because those of us who know our rights have no one and nowhere to go for help. The Department of Community Affairs' powers are so limited that they might as well be nonexistent. I've gone to them several times. As I said at the Assembly hearing, I could paper a room with their response, which doesn't help. We desperately need an ombudsman to add to-- (boos from audience)

Excuse me, how classless can you be? This is exactly--

SENATOR RICE: Let her finish. No decisions are being made here. We're taking notes. I want to hear from all sides. This is not a one-sided trip for me.

MS. COLL: And that's what goes on at board meetings.

SENATOR RICE: It's two-way. I've got to go back that way, if I came down. Because if I'm here, I'm going to hear both sides.

Go ahead and speak, ma'am.

MS. COLL: Thank you very much, Senator.

SENATOR RICE: I apologize for those who--

MS. COLL: You don't need to apologize. You lay down your law. It's the violators who should be apologizing.

We desperately need the ombudsman. We need a method to educate members as to what their rights are, as well as responsibilities, because all we hear is what you've got to obey. We need a written guide for those of us who want to, and do, get involved in governing the associations; and a guide that the membership can measure whether we're doing a proper job, or an ineffective job, or maybe, even if we can't prove it in a case of law, a corrupt job.

Well, I welcome the opportunity for more studies. The Assembly Task Force hearings, at which Tom Cariota testified at the very first one about the need for legislation -- they were held from 1995 to 1997, as you well know. Their recommendations have yet to have any part of it enacted. People are talking about *the* bill, the bill, which is the bill. S-805 is very different from the A-798 that came out of the Assembly. There is no fee at all. Do you hear me? No fee in S-798 (*sic*). There's no fee. A-798 has no fee. The Office of the Ombudsman, I believe, doesn't necessarily have to have a staff.

SENATOR RICE: Excuse me. I need to interfere right here.

You can talk about bills in general, but not about bills. Because if we're going to talk about bills, then we're going to talk about my bill. My bill doesn't have some of those components. Our bill doesn't have an ombudsman. But as far as I'm concerned, there are no bills. I want to hear some of the things that I've been hearing. You were doing pretty good, in terms of the way you're being treated, because I spent 16 years on council,

24 in government. I've been bounced out of my party twice for standing up and speaking on behalf of people.

MS. COLL: Oh, thank you. I'm in your club then.

SENATOR RICE: When you're a board member and you can't get information, it makes it very clear to me that you alone are not going to get information. That's not reflective of every -- and I think that's what I'm hearing here.

MS. COLL: Absolutely not.

SENATOR RICE: As you said, and as people said, it's not reflective of a lot -- probably most -- of our developments, particularly in areas like this. So I'm trying to not deal with bills, but to hear these concerns from both sides, so I can go back and see what we have to structure for accountability, what do we have to structure in terms of making sure that one out of thousands of unit owners whose rights are being violated get corrected. But that impacts on everybody in the process. It appears to me that we have to be objective in our thinking, and rationale, and reasoning as we continue to put together legislation and look at what we have. But we ought to be somewhat subjective about what takes place in these developments. There are some developments in New Jersey that build them in phases. And when you build them in phases, like (indiscernible) did, you have three and four phases, you can have three or four boards.

Things are different. There are complaints. There are condominiums, believe it or not, in Newark, New Jersey, for those who have not been there in a while. We have problems, too, that've come to my attention; but they sound different, to some degree, to some of the

problems I'm hearing here -- and they sound the same. And that's why I say, hold it. In north Jersey, they're sending me letters every day, the legislators, because they heard about these bills -- "Move the bill, move the bill." I said, "I'm not moving the bill." I'm not moving the bill because you're jumping on board trying to make me do something very rapidly, and then I find I lose in court in the first place. Then a court case came down and gave me the case that the Turner-Rice bill is probably more appropriate than what the other bill is. But they're not listening to people. I say, you know what? Maybe we need to build us a program. Maybe some other bill. Maybe there's something else we need to be doing. Maybe they both need to be cut up.

And let me say something else to you, not meaning to take your time. I didn't start off with the bill. I do business a little different than most of my colleagues. I brought the senators on both bills into the room with people from both sides, and staff, to try to see where there's a compromise based on the concerns that we had when we were here. I could never really strike a compromise. And I say, you know what, as a result of that, no bill is going anyplace. I would join the Turner bill, because to me it's more (indiscernible) on the friendly, in terms of trying to balance rights without taking total control of the board, because somebody has to govern.

But to me, they still aren't where they should be. So I said we're going to go up and down the state and hear the people, hear from the people. So I want to hear your nightmares and frustrations, just like I want to hear that most people here, if not all, don't have a problem at all. I don't think we should boo someone who has a problem because you don't. I don't think we should boo someone who doesn't have a problem because we

do. I think you should give those of us who lead and represent you, until you take us out, an opportunity to hear.

There's not many of us that go up and down the state, like Senator Connors and myself and the Assemblypersons, to listen. Sometimes we just sit in that little dome and just say, "Yes, yes, yes." They probably don't read half the stuff that comes into the office. But there are some of us that do. And that's why the Senator has been a Senator so long. Not because he's the greatest around -- because he's done the people's business. I've been there 20 years, because I'm doing the people's business. And so I want to hear it. I just don't want to address any particular bill. Because if we talk about what's in this bill versus this bill, we'll lose focus on what this meeting is all about.

So everybody is doing very good so far, but why don't you start to conclude. And send me your information, your package, because I'm concerned about what you are saying at that board, particularly you being a representative of the board.

And by the way, no one ever asked me this, so I'll always add a little bit of knowledge and information. I don't even think the staff knows this or my colleagues. My parents live in a community of like kind, but no one ever asked me. And I do have problems with the way they operate -- not in this state, though, thank God, because then I think I would have a conflict.

But send that to me, wrap up on your statement, but not the bills. Okay?

MS. COLL: Okay. I will just then address -- and I will be in touch with you. But I will address about the business of the governing

documents. New communities get the public offering statement. As I said, mine is almost 30 years old. The only change to the original Articles of Incorporation was to change it from age 48 to 55. In all these years, when I entered this community, I was never given that, which is known as the covenant. I had to ask for them. I went to Trenton, or sent to Trenton, and paid to get them. I also got a copy and paid for it from Ocean County. I have read it. I understand it. They are in violation of it.

It talks about a woodworking shop -- long since disappeared. It talks about sewing machines -- long since gone. There are many things in it that are not there, and unless they change it, they're in violation; but nobody knows it, because they didn't get it and they don't read it. Because my real estate agent knows about common interest communities, she gave me a copy of the by-laws and the rules and regulations, which I read every single word of, highlighted, before I ever signed my contract. Of course, they've changed it to suit their own needs.

So we have big problems. And the last thing I'm going to say, Senator Rice is, there is a woman, well in her 80s, that's in another community in Brick, Lions Head North, and she's been fighting for handicapped access and other things. And when I talked to her this morning, she said she just couldn't possibly come, because she gets too upset. And she wanted to know if you would be amenable to us visiting you and speaking one-on-one, where she would be more calm. This woman is in the community that a short time ago they were told, many of them, in their 80s, "You have 30 days to pay \$1,400" for the million dollar replacement of the irrigation system that got that condition because they neglected to take care of the property all those years.

So thank you Senator Rice. I really appreciate that you truly are a person of the people and willing to hear everything, good or bad.
(applause)

SENATOR RICE: Thank you very much.

In response to your question, I'd be more than happy to receive and entertain you and the young lady of 80 with the problems that you hear from her.

MS. COLL: A beautiful woman she is.

SENATOR RICE: I can imagine.

Senator Connors wanted to make some remarks at this time.
Senator.

SENATOR CONNORS: You know, ladies and gentlemen -- the lady, Ms. Coll, that just had spoken to you-- I've heard this over the phone, and from some of the people in the 9th District that are in common interest communities. So it shouldn't sound strange. They really are frustrated, there's no question about it. There's no question that some folks that are elected to boards of directors, some folks, act in a very high-handed way. But you want to know something? The State of New Jersey has the Department of Community Affairs. And the Department of Community Affairs, and all the laws in our state, operate and run the local government.

And yet, in the very county that the lady came from -- Brick rather, not in that county, I'm sorry -- in Monmouth County, right now, there are people going to jail. Freeholders that were once freeholders going to jail because they were committing violations of the law. And the plain fact of the matter is that no matter what we write on paper with regard to the laws, there are people who are going to break them. That just seems to

be God's will, that we're going to have those kinds of people around. I don't know why, but that's the fact of the matter.

And Senator Rice, in putting in this bill with Senator Turner, is trying to look at the side of the coin. Now, I'm opposed to these bills. (applause) I'm opposed. And I'm going to tell you why. I'm going to tell you why. Because what the State runs, doesn't seem to run. The gentleman said it before. (applause) Look at what the hell has been the problem in the State now. And these are nothing more than fads. We've had before our Committee, with regard to the Home Warranty program, people that can't get their houses up to 55 degrees when the temperature is 32 degrees. You know what I'm talking about -- you people from Berkeley, for example, where there's a separation from the wall to the ceilings where foundations are crumbling, where girders are being broke. And, yes, the State of New Jersey has -- all the building inspectors are licensed. Every one of them. All the electrical work it's licensed inspectors that go in there. And they charge to build this. Do you know what an average permit costs today, just for the homeowner warranty program? The builder doesn't pay it. You do. It's \$1,000 -- \$1,000 on a new home, average.

I asked the question the other day -- Bill Connolly from DCA had stated it -- 1,000 bucks. And they collect all this money, and so we still have buildings that are falling down. We still have homes that can't be heated properly. And I'm not saying that's right. What I'm saying is, we've got to take ourselves by the bootstraps. The fact of the matter is, by putting more laws in place -- hiring an ombudsman and giving him computers and whatchacallit -- this is nothing more, in my opinion, than

just more government. We don't need more government. (applause) We need far less government.

So I wanted to respond to that. I also wanted to get the opportunity -- not to make any kind of political speech or pretty speech here -- but here's over 30,000, in three boxes, of single paper that constituents in this District have sent to us. Maybe not all, not all of them, because there are people out there and there are common interest communities out there like Ms. Coll had problems with. They didn't send us any. But the plain fact of the matter is that, shouldn't the ones that can operate according to their by-laws, that are considerate of people -- and we got a hell of a lot of them here in Ocean County-- And the fact of the matter is, shouldn't they be allowed to continue on without having Big Brother looking over their shoulder and running their lives for them? (applause)

While you look for simplicity, while you look for somebody to look over you, when you're looking for that policeman or that investigator, or so forth, be careful, be careful. Because I don't want to indict DCA or I don't want to indict the system. But the plain fact of the matter is, we've got some big problems in this state, and they're leading us towards bankruptcy. The fact of the matter is that we're way over our heads in bonded indebtedness and so forth. So the people that have said, "We're concerned with that" -- if you're common interest community wants to remain the same, you should have the privilege to say, "Stop it. We don't want it." (applause)

I will support -- our delegation will support any bill that has the right for you to opt into it. In other words, you want to go into it, fine. If

there's a bill that's coming out -- and that's what I'm going to ask Senator Rice. We have the amendments. They've already been prepared. The Assembly people had spoken -- the two Assemblymen -- Assemblyman Connors and Assemblyman Rumph have spoken to this issue before this Committee. And you want to know something? They just turned it away. They turned it away. What this State wants -- I'm going to tell you right now -- they want your money, and they don't want to pay for it. That's where it's all about -- is another way to tax you. And that's my opinion. (applause) But the plain fact of the matter is, if you've got a model community -- if you've got a community that you're happy with, if your board of directors treat you right, why do you have to have an ombudsman and all the other stuff? We don't need that.

Just for the record, Mr. Chairman, I'd like to submit these in evidence, and also this amendment that was proposed by the two Assemblymen, and I have the Senate version of it. And also, the statement. You all got a copy of it -- that's the reason why you haven't read it -- you all got a copy of it, with regards to the feelings of the two Assemblymen and myself, with regard to common interest communities. And that's already been printed and put on your seats. If you need additional copies, we have them up here.

Thank you for listening to me. I really appreciate it. (applause)

SENATOR RICE: Thank you, Senator.

And let me assure you that we'll certainly look into the opt-in and opt-out language. It makes sense to me, based on what I understand of that. I have not read it yet. But we're going to take that into consideration.

I also want to say that I have thousands of letters sent to me, as well, from those, particularly, in this community and adjacent communities. And I have a few come in -- a thousand coming from the other side of the issue also, and that's what lead me to say I think we'd better start to hold hearings before we make decisions. And just being here, a lot of good things are coming out, a lot of questions are going to be raised.

All right. Next, we have here Jim Doran. Is Jim here? Come on, Jim.

J I M D O R A N: Before I speak, I'd like to give Senator Connors something.

SENATOR CONNORS: Jim and these gentlemen have collected more petitions.

MR. DORAN: That's 4,000 more letters to the Governor.
(applause)

SENATOR CONNORS: Thank you.

Mr. Chairman, I ask that they be put in the record.

SENATOR RICE: Sure.

MR. DORAN: Thank you very much.

SENATOR RICE: Let the record reflect we got that. Also, let someone on staff have the ability, prayfully, to transport it back. (laughter)

MR. DORAN: My name is Jim Doran. I live in Crestwood Village IV for 12 years. I was trustee in Crestwood Village IV; also, two years as president of trustees. I have really just a statement to make. This is my country. We have men and women across the seas dying every day to protect our rights. And yet, we have laws coming out to take our rights away from us. I don't understand it. This is America. Who has the right

to tell us what to do? I think the people who are involved with these laws that are coming out against -- and that's why I say, it is against the will of the people -- should really sit and think of what they're doing. And that's about all.

God bless America. (applause)

SENATOR RICE: Thank you very much.

And I do understand what you're saying. Once again, I'm going to always remind people I'm a Viet Nam veteran and fought a real war. But I was blessed, I survived it. Also, take a good look at me, because that way you understand my history. Let me stand up again. I don't like rights being violated. (applause)

Next we have Mr. Joseph Graziano. Is Joe here? Joseph Graziano? Okay.

Maria Kilberg? Maria? She's opposed.

Okay. My old radio car partner. (laughter) I'm a former cop, if you have someone needs to ride with me in your community.

Edythe Quinn. Is Edythe here? Edythe Quinn.

James -- it looks like Hitlin. It's Hitlin, not Thitlin, right? That's a middle initial?

J A M E S J. H I T L I N: It's not Adolph. It's H-I-T-L-I-N.

SENATOR RICE: That's a middle initial in front of it? It's not a T, right?

MR. HITLIN: No. James J., if there's a middle initial there.

SENATOR RICE: Okay. Go ahead.

MR. HITLIN: Senator Rice, I have just a few things to say. Most of the things have already been said. But we here, in the villages here,

we don't have any burden to the State with respect to our roads. We take care of our own roads. The State doesn't pay a dime. We have buses. We pay for our own buses. The State doesn't pay a dime. We pick up our own garbage. That's no burden on the municipality. We have a nuclear plant that is close risk, here in Atlantic County, that we are more subject to anything that would happen -- not the people up North, who seem to be having trouble and problems with these common interest communities. And we have Atlantic City down here, South, that is generating a lot of money for the State to spend on various programs.

I haven't seen anything that the State has ever been involved in that is run smoothly or efficiently. I would really appreciate it if you would go back and kill this bill or whatever it is that's going to govern our places here in Whiting, New Jersey, and probably Ocean County. Maybe you could exempt Ocean County from this bill.

Thank you very much. (applause)

SENATOR RICE: Let me assure you, if I could legally find a way to exempt you, I would exempt you. I could also assure you that probably there's going to be a bill. The question is what the bill is going to look like, and that's the important purpose of the hearing: to address those problems that people do have that are real problems. I will continue to emphasize that. Because when we talk about other issues, whether it's health care or something else, I always get people who say, "We don't have those problems." I said, let's talk about the seniors and people that do have them. And so you can always find somebody with the problem and you can always find someone without a problem. You can always find someone with problems that are more serious, where people cannot handle them or

tolerate them, than some with problems that can manage them. It's just a way of life. And that's just the way the world is. If God wanted to be perfect, then we wouldn't be here today. But we have the opportunity to hear you and try to get this as right as we can. Once again, if we could do permissive legislation, we would move it that way. We can't do permissive legislation, which means we have to go back and clean up and take a look at fixing things that are broken, rather than messing with things that have no problem and nobody's really concerned about it one way or the other.

Next, I want to bring up Lorraine Barbalinardo.

LORRAINE BARBALINARDO: Good afternoon--

SENATOR RICE: Good afternoon.

MS. BARBALINARDO: --and welcome to Ocean County.

SENATOR RICE: Thank you.

MS. BARBALINARDO: I originally came from Hudson County. And there's a lot of people in here who came from Hudson County, and a lot of people in here who came from Essex County as well, Senator Rice. I represent Silver Ridge Park West in Berkeley Township. It's a fee simple community, common interest, and we're working pretty well there. We are all older people, but we're not stupid. (laughter) I am a former guidance counselor and teacher, and sat on the Board of Education when the State took over Jersey City, so I know what I'm talking about. Okay?

This -- and I shouldn't talk about the bill -- but any of the bills that you are dictating to us, like we are children, like many of the children I taught-- We are not children. At times, it seems that you are telling us what is good for us. Just like sometimes I told my little children in the third

grade what was good for them. Okay? We don't need this. I feel very bad for the people in some of the communities where they are having a problem. Any problem that we ever had in our community -- and I've been living there for 13 years, and my mother and father were pioneers over 30 years ago in the same community-- So my husband and I knew where we were going to retire. Okay? And I love my community. All right?

We settle our problems amicably, through our by-laws and our covenant. In the 13 years that I have lived in Silver Ridge Park West, we have had three ADRs, which were settled amicably. That's a record in our particular community. We are governed also by the State and by the Department of Community Affairs. And they have answered any pertinent questions that we may have concerning some problems we had. Namely, Ed Hannaman has helped us quite a bit. I don't know if he's still with the Department of Community Affairs. And it is a shame that he's not.

I suggest that you send a person who is now employed by the Department of Community Affairs to assist those communities that are now disgruntled. That may be a way of solving some of the problems, but you have seen the signs here of the people who are content within their communities. We would hope that you see them and that you would leave many of us alone. I know you can't be discriminatory, but perhaps, Senator Rice, you can find some way, as someone said, to consider Ocean County. We don't have as many problems in most of our villages that -- as was stated here.

So I ask you, sir-- We are seniors; we are living on fixed incomes. We have come down from New York and from northern New Jersey to live in peace and quiet. Okay? We don't want to be burdened

with more moneys to be spent on other people to come in and tell us how to govern. We're pretty smart cookies. We don't get paid too much to sit on our boards, but we still do it because we love our communities. So please take this into consideration when you are sitting there talking about the particular bills.

Now, the numbers of the bills, sir, keep changing. Okay? We started out with one bill and now we're talking about another bill. I stood up in Berkeley Township, one of the communities before, and I talked about the original bill that we were all afraid of, originally. And I did say, "Watch, that's going to go by the wayside." And coming from Hudson County, sir, I said there will be something else of a sweetheart deal. And this is what I think that some of these bills are going to be, so -- any bill that's now introduced. So please take this into consideration.

I thank you, Senator Rice. (applause)

SENATOR RICE: Thank you.

I hope when those sweetheart bills come through -- the only sweetheart I have is Senator Turner. I'm on her bill. But her bill is about unit people and bringing some balance, and that still may not be the way we want the bill to look. And that's why we are here once again.

Is there a Mr. Charles Mueller here? Charles Mueller.

CHARLES A. MUELLER: Thank you.

My name is Charles Mueller. I'm speaking here on behalf of our--

SENATOR RICE: Pick it up a little bit, Charles. (referring to PA microphone)

MR. MUELLER: Can you hear me now?

SENATOR RICE: Yes.

MR. MUELLER: My name is Charles Mueller. I'm representing the Manchester Citizens with Disabilities. I live in Crestwood Village I; we have for the past 17 years. I'm involve on the county level with the Senior and Disabled Transportation Advisory Committee. I'm involved with the-- I am a representative for my area in Village I. I am also a facilitator for three Whiting VIP groups -- visually impaired support groups.

One point has not been made. As we age, we're more prone to a disability. And can you imagine the costs that we have to bear in combating any disability? Have you thought on two things: What is the difference between the public advocate and an ombudsman -- very little. I would like to make a point, perhaps that the public advocate can handle much of these internal disputes, because most of our villages have a Dispute Resolution Committee, and they can be resolved that way.

In addition, most of our people with disabilities -- and we have many of them -- tend to be ignored by their communities, by the county, and by the State. There's a law called the Americans With Disabilities Act, and we have tried time and time again to find ways of determining how to enforce some of those provisions. By enforcing some of those provisions, you can minimize the expense of most of the people who are in poor health and must depend on local transportation, have to depend on pedestrian safety features, such as sidewalks and other things.

Here in Manchester Township, we advocated for nine solid years, and finally we have a pedestrian safety program, and we hope it will continue. And let's hope the county and the State will help to provide

funding throughout Ocean County, in their senior developments, for a pedestrian or a senior safety program. That will minimize a lot of the problems.

Thank you. (applause)

SENATOR RICE: Thank you.

Mr. Edwin G. Blackburn? Mr. Blackburn, Edwin? Okay, thank you.

Kevin Donlin? Didn't we have Kevin before? Okay.

Clara Blackurn? Okay, thank you.

Elinor Eufemia? Okay.

John Dilts Jr.? All right.

Edwin-- All right. Thank you.

Laura Frothingham? Okay.

Warren Wenz?

Claire Parker? Okay.

Mary Conte (*sic*)? Mary La Conte? Okay, Mary.

Robert Oberschmidt? Okay.

Gary Orlando? (no response)

Elmer Danenberger, is that correct? Danenberger, Elmer? Okay, not here.

Judith Noonan? OKAY.

J U D I T H L. N O O N A N: I'm Judith Noonan. I'm also President of the Coalition of Holiday City in Silver Ridge Park. I'm also a trustee at Silver Ridge Park East.

A lot has been said by Fred Lund, Ron Kuchins, and other people -- Lorraine. I have to concur with what -- a lot they had to say.

There are problems with trustees in associations, but I feel that the oversee is not truly necessary. I do, however, approve of education for board members. I think that one of the problems is, when a lot of people come on these boards they do not know the covenant and restrictions themselves -- do try to do the best they can. And it's a real serious learning curve. And I think that's what presents some of the problems with the discontent with the membership against the board.

Also, when the houses are sold, they are not informed by some of the attorneys and the realtors of the covenant or restrictions. When people move into a restricted neighborhood, they should know that there are rules. In any condo up North, down South, the needs that the condos -- I think, are a lot different than the associations that govern over seniors. The covenant and restrictions came from Community Affairs, Fair Housing, which developed all of these senior homes in the beginning. One of the things it has not protected with all your rules and regulations, and following HUD and the Fair Housing -- which I am a commissioner for the Housing Authority for Affordable Housing, so I do understand the laws -- you do not protect our age. We are fighting for everything -- from the money -- but the senior age changes. It is challenged where they want younger people to come in, because it's affordable housing and our taxes are reasonable.

These houses were designed for affordable housing in the beginning, in 1968. HUD was the guide and the planning board when these homes were started. Things have changed. They are more expensive homes. But I think education is a part of the problem with a lot of board members; including myself, when I started as the President of the association. That is, I think, one of the problems that is really the root of a

lot of these associations. I don't think we need an ombudsman also. But I think Community Affairs should have a little more power to come in. We have ADRs.

There are a lot of people-- I represent 30,000 who could not come here, and I don't know if everybody agrees -- but I do think education is the root of some of the problems that we have at the associations. But also, when people buy their homes, they have to know that they're governed. They move in, and then they don't want to follow the rules, because it doesn't suit them. I agree that some things need to be changed and updated, but there has to be a way to do it without having a great cost to some of the people.

The baby boomers are going to come down. They want senior development. They want rules themselves. But what you're asking us to do -- but you're not protecting what is the most vital thing of us -- is our age, 55. People are pushing us from lawyers to realtors, coming at us on both sides.

I agree that we do need some guidance. But I do think education of board members is one of the crucial things. But I think that each area is subject to different needs. Up North, I'm in a condo, which we've all -- the needs are different. But when they move in, they know that they have rules. But I think that when you look at these bills, I think that they should be geared to what the area is and, like you said, what the needs are. Most of the people down here are educated. A lot of them think we're old and we don't know. We are very vulnerable to people with scams, politicians, the whole nine yards.

But I think when you sit down, you have to govern the areas and what kind of people it applies to. Newark does not apply to the same as us, not that they don't have problems, but we are the largest senior community in Ocean County. They advertise, "Come down and live." New Jersey has made it impossible for us to afford to even live here anymore. I think 57,000 have moved out of New Jersey. The seniors are struggling. We do have a lot of senior things for us in the State of New Jersey, which people don't understand. The reason we go broke is we have more things for seniors, than any other state, for care and facilities.

But I think that education is really the key to some of these associations. A lot of board members don't understand their own rules, and neither do the membership. That's all I have to say. But there are 30,000 that I represent, and we intend to fight this to a certain degree. But again, I cannot totally disagree with some of the things that are being asked upon.

Thank you for your time, Senator Rice, Senator Connors.
Thank you.

SENATOR RICE: Thank you, as well.

Hopefully we don't have to fight anything. We can compromise and get people's problems resolved. But I do like action, so I like this Committee. And I like this crowd here too, by the way. Give yourselves a hand. (applause)

Let me now invite up Mr. Robert Nokes, N-O-K-E-S? Did I pronounce that right, Robert?

Wilma Bouse? Ms. Wilma Bouse?

Frances and John Resta? Frances and John?

Anna -- it looks like Saverio Diomedede? Okay.

Dan Petruzzi? Dan Petruzzi, okay.

Is this Reverend? Reverend D. K. Balforth? Reverend? Is there a minister in the house? Okay.

Mrs. Ann L-O -- it looks like F-G-R-E-N? Lofgren? Okay. I know a lot of people have left.

Joseph Ippolito.

Mrs. Phyllis Burke?

Ms. Melba Moore? Is that the singer? (laughter) Because I thought she still lived in East Orange.

I know I have Mr. A. Healy here. A. Healy? Or is that Mrs. A. Healy? Okay.

Okay, let me ask a question before I get to a couple of others. Is there anyone here who signed up that wants to speak? Okay. Why don't we do this. Yes, why don't we start lining up here at the mike, while -- just call your name out and we'll try-- You signed up, right? We'll try to find it in here, okay?

I know it's been a long morning for you. I just want to thank you for your patience on behalf of the Committee, your Senator, as well as myself. If you could take maybe three minutes at most -- we're trying to be kind with the time -- just to give a chance to maybe get everybody out of here. It's about 12:50 now.

KATHERINE A. HALIFKO: My name is Katherine Halifko. I live in Mystic Shores Adult Community, located in Little Egg Harbor, New Jersey. I live in a single-family home which I purchased fee simple, and we are governed by seven board trustees and a management company, Diversified Management Company. I'd just like to say that for the last -- I

lived there, as a matter of fact, for about 10 years now -- for the last five years, I have been active in my community trying to get the board of trustees to understand that they are not complying with the State statutes in regard to having an ADR, to having open board meetings, to having free -- if you write a letter, you would be able to see your financial records. They are arrogant. They do not want to listen. I have gone to board meetings with friends and tried to raise my hand, and I was told, "Sit down and be quiet. We're not interested." So maybe you could call me a dissident.

I don't know, honestly, how I feel about having the State of New Jersey come into our community. But I know we need help from someplace. So if it is not an ombudsman, then please tell us where can we go, who can we go to where we don't have to spend a great deal of money on a lawyer. I consulted a lawyer. They told me, "Kay, give me \$5,000, we'll start the case. You definitely have a case." I don't want to give them \$5,000. I may need that for medical bills, or maybe I want to leave it to my children when I'm not here any longer.

We also have a problem in that our elections are -- well, you wouldn't believe them. Recently, they have decided to rewrite our by-laws. The developer has been out of our community over five years. Mr. Rumph knows the head of our trustees. They've been -- the same trustees have been elected and reelected. And it is, as one man said, a staggered board. So we can never get rid of these people. There is no way.

We recently rewrote the by-laws. The community was called together to give their opinions and to make statements at that time, all of which were ignored. We have a lawyer that was hired by our management

company, Mr. Mann. (phonetic spelling) Apparently, he's supposed to be very good. Well, he may be very good for the management companies, but he's not so good for us. They called us in to vote on this by-law that they wanted to revise. And at that point in time, the people showed them that, no, they did not want to have the by-laws revised. Well, that didn't stop them. They went house to house, cajoled, in some cases, threatened -- it's just ridiculous.

We need some help, please, if you can manage to do that. I'm not really familiar with the bills other than what the CIHC has informed me of. So I don't know what the answer is, but somebody has to step up to the plate. It's all very good to say, "Oh, it's great in my community." But that's like me walking down the street and saying, "I don't care if you eat or not, I'm eating. I don't care if you are." So we need to be more concerned with everybody. It's important. We're supposed to be -- well, I get too emotional. So I'm going to let it go.

But I want to thank you so much, Senator Rice, for coming down and listening to all of this. I know it can't be easy.

Thank you so much. (applause)

SENATOR RICE: Thank you, and I think your attitude is on the right track. We have got to do something to help you.

Go, ahead, sir. Your name?

A N D R E W P A P A: Senator Rice, Senator Connors--

SENATOR RICE: Give your name first.

MR. PAPA: My name is Andy Papa. I'm the President of the Board of Trustees of Crestwood Village VI, Chairman of the President's Association of all the Crestwood Villages and Cedar Glen Lakes.

I'd like to give you information on this survey that was taken. This is about national homeowner research about people living in community association residences. Eighty-nine percent said their community association board members strive to serve the best interests of the community as a whole -- 89 percent. Another question was asked at the survey: The governance of community associations is subject to differing State laws and regulations. Would you like to see more government control of these associations? Yes, was 15 percent; no, 78 percent; and not sure, 7. It's a terrific survey.

Now, you might ask: Who conducted this survey? The CAI did. The CAI conducted this survey and now the CAI, as far as I'm concerned, is sleeping with the enemy. They are for this bill, which we are opposed to. We have a very good run community. We have a board of trustees. We have ADR. We have open meetings. We have open elections. As a matter of fact, we are revising our election procedure to allow voting machines at our next election. And challengers for anyone who runs for the board -- it can have a challenger at that election, more like they do in regular elections, public elections.

So what I'm saying to you, Senator, is I appreciate the time you're taking to come here and listen to our problems. And I would also appreciate it more if you voted against any bill that would govern associations such as ours.

I thank you very much. (applause)

SENATOR RICE: I don't know if I can vote. You see, one thing about me, I think honesty is the best policy. I'm not so sure I'm going to vote against a bill of the governing associations. I would have to

determine what's in the bill. I'm going to vote against bills that I think it's the majority -- would harm the majority of our associations, any of them. And once again, that's why we're having the hearing. We have now some control when things go beyond a certain point. How we get to that, I'm not sure.

But, go ahead, sir, state your name.

BERT G. LUNDBERG: Thank you, Senator Rice.

Senator Connors, thanks again for all your support over the last year. You were at our village, Cedar Glen Lakes, about a year ago, and we were in the forefront of this fight right from the beginning.

Good morning, ladies and gentlemen. I would like to introduce myself. My name is Bert Lundberg. I am the President of Cedar Glen Lakes and the greatest people in the world that live in our village, and the board of directors. (applause)

I would like to thank the Senate Community and Urban Affairs Committee for sponsoring this forum that is so important to our community and other senior communities throughout the state.

As a common interest community and homeowners association, I am hereby opposed to Senate Bill 805 and Assembly Bill 978, as they are written. Ladies and gentlemen, I would like to tell you a little bit about our community. Our community has been self-governed by residents since 1979. In those 27 years, extensive projects have been undertaken and completed. We are proud to say all projects are paid in full. And our financial status is solvent and growing for the future repairs and replacements, as well as any unexpected expenditures. All financial reports and updates are given by our Treasurer and posted in our clubhouses.

These reports are published in our monthly newspaper that is hand delivered to 1,236 homes. Our Board of Directors has the fiduciary responsibilities for running a multi-million dollar corporation. They have been very active in the community with volunteerism, since the inception, and is getting better all the time.

So in such a great way, why would the State want to impose these bills? So my final word is, why fix it if it isn't broken?

Thank you. (applause)

SENATOR RICE: Thank you, sir.

Yes, ma'am. Good afternoon.

J O S E P H I N E M O N T E N I G R O: My name is Josephine Montenigro.

SENATOR RICE: Could you pull your mike down and say that one more time for me, please?

MS. MONTENIGRO: My name is Josephine Montenigro, and I'm a resident of Cedar Glen Lakes. I've been living there for 18 years. When I first moved to Cedar Glen Lakes, the one thing that our manager gave us was the rules and the covenant. And we knew what we were buying into. That didn't mean that as time went by there weren't problems. And my husband and I would approach the board, and sometimes we didn't get action, but they were willing to talk. And through time, we have seen the board of directors and the management open up in all areas, and we couldn't live in a better place. The people that gave objections to some of our suggestions have since gone to their maker, but they have been replaced by very open-minded people who see the needs of the people. We still have some residents, I think, that are probably on Social Security and live on

that alone. I don't see how they could manage to continue to live in such a lovely place.

If you walked in Cedar Glen Lakes 18 years ago when I moved there, there were restrictions on what people could do and what they couldn't do. Now if you go through, you see a whole new world. The Board of Directors has opened up many areas to improve properties, and the people are happier than ever. And I'm happier than ever to live there, even without my husband. He's gone, and he would be very proud.

I thank you. (applause)

SENATOR RICE: Thank you.

State your name, sir, please.

A R T D I E F F E N B A C H: My name is Art Dieffenbach. I'm the President of the Holiday City South Homeowners Association.

First, I'd like to thank Senator Rice for being here, to listen to us, and thank Senator Connors and our representatives for inviting Senator Rice.

It seems to me, in looking at some of the statements that have been made by people here, both for and against the bill, or bills, that some of the people voting in favor of more regulation of our communities seem to have an axe to grind, to put it very bluntly. It seems to me like they neglect to read or understand the by-laws and covenant restrictions of their communities. And as a result of this, they get into confrontations with trustees and officers in their community, and this kind of turns them off. But I don't think that more legislation is the answer to this.

One of the previous speakers, who is the President of the Holiday City Silver Ridge Park Coalition, of which we are members, made it

a point to suggest that some of the trustees or directors, or some of the homeowners associations could use a little bit of education. I think that's a very good idea. But I still think that the people who are complaining about the associations and the directors really need to look at themselves to see why they had this axe to grind about some of the things that are being done in their communities. The communities are being run for all of the people in the community.

We have 2,349 homes in our community. We have seven trustees who meet weekly to conduct the business of this community. We are all volunteers. We are elected by our community. In fact, our election is tomorrow. And Senator Rice, if you feel free, you could come up and watch us conduct our election.

I don't think we need a bill that's going to set us with an ombudsman. I do feel that the CAI is behind this whole thing, and that their intent is strictly monetary; that their intent is just to grow their organization at the expense of the senior communities and the condominium associations. I really believe that. I think that it's a very selfish interest on their part. They're just in it for the money. But what they're planning on doing is discrediting the trustees that run the organization. They're forcing the communities to install an administrator who would be paid \$100,000 a year to run a community that's being run now by volunteers, and it's not going to be done any better.

I thank you for your time, and I vote no. (applause)

SENATOR RICE: Thank you, sir.

Would you state your name, for the record, and the location?

G L E N N O N L. D E P E T R I S: Good afternoon, sir.

My name is Glennon L. Depetris. I'm a Councilman, Ward 3, Berkeley Township. In my ward, I have seven retirement communities. We're not gated communities. We're not co-ops. I call us *open communities*. All our streets, our utilities, are run by the town.

I think a lot of this bill, or the bills that have been presented in the past, are basically in relation to co-ops, gated communities, and condos. People have to understand, once they move into a gated community, a condo, or a co-op, that's like another town. You're under the jurisdiction of that area. Your township does not supply you with the services. So your trustees or your directors are your governing body.

What I see with these bills -- is happening here -- and I think the State should look into it -- one of the biggest problems we have with retirement communities -- and being a Councilman I can understand that -- the real estate agents are not responsible. They're not held responsible. When they sell someone a home, they do not verify with them the regulations that those people have to encounter when they move into that community.

I think the State would do a great service for every retirement community in New Jersey if they required every real estate and every lawyer that closes on a home in a retirement community -- would make sure that people buying that home understand the rules and the regulations. (applause) The communities I live in, I consider open communities. We have by-laws which govern how much money the trustees can spend. Before the trustees can spend over that amount of money, it has to be approved by the membership.

We also regulate how long a term a director or a trustee can serve -- in my community, no more than two terms. So after your second term, you cannot run again. You have to take a break. So this was one of the controlling factors. The people in our communities do not pay high maintenance fees, because all our roads, utilities are run by the town itself.

The biggest problem with people moving into the co-ops or restrictive community is they do not have control over their properties, basically. They may not even own the ground. We own our own grounds. We maintain our own homes. We vote for our local mayors, our councilmen, and we also vote for our directors. Our directors are held responsible to us. They're not held responsible to anyone else. We have no problems.

The people in my area -- as I say, I'm a Councilman for Ward 3, which covers seven communities, 20,000 people -- we have no basic problem governing our communities. We're all separate communities. We are not for this bill. The thing we do emphasize, and I said before, is the State has to step in and regulate the real estate agents and the lawyers that close on any of these homes. Make sure the people buying the home understands the by-laws. That's where the trouble comes in. People don't know the by-laws. The real estate says, "Oh, this is a beautiful house. It won't cost you much to live here. The taxes or the entrance fees are very small." That's a selling point. But they do not have any responsibility beyond that.

So gentlemen, I would hope you would consider that when you go back to Trenton. And give that a great deal of thought, and maybe you could correct this problem that is throughout the State of New Jersey.

I thank you. (applause)

SENATOR RICE: Thank you, Councilman.

Next speaker to the mike and give your name, okay?

I R E N E B R O S A N G: Mr. Chairman, Senator Rice, the distinguished gentlemen of the board, thank you for listening to me.

I think the issue here should go back to the laws of the United States. Last night I spent several hours reading the United States Constitution and then the Constitution of New Jersey. I could not find anything in these documents that allowed the government of New Jersey, or the government of the United States, to take over the control of private property. Now, if I've missed something in those documents and you know them, gentlemen, I'd appreciate you telling me where I can find it.

This is the greatest nation that has ever -- the greatest civilization as well -- that has ever existed in mankind. The mainspring of human progress is freedom, and that's what we had. That's why we put the world on wheels, and lit up the world, and then filled our skies with airplanes.

I want to uphold the Constitution and the spirit of the Constitution. And everything I do in my life, I try to do that. And any infringement on my rights, under the Constitution, I consider an abuse of my privileges. I am opposed to the State taking over my private property. No matter how many problems we may come up against, we handle them ourselves. The Board of Trustees are human beings like the rest of us and make mistakes like the rest of us. But I've had no complaints with any of them. And if I did, I'd tell them, and I'd vote them out of office. And that, I believe, is the American way.

God bless America. (applause)

God bless this State and keep it free. (applause)

SENATOR RICE: Thank you, too.

Would you just mention your name one more time in the mike, for the record? It didn't record. Just put your name in the mike for the record.

UNIDENTIFIED PERSON FROM AUDIENCE: He wants to know what your name is.

MS. BROSANG: It's Irene Brosang.

SENATOR RICE: Into the mike? We'll record it.

MS. BROSANG: My name is Irene Brosang. Okay?

SENATOR RICE: Okay. Thank you very much.

And let me just say that we said we sort of concur with the document known as the Constitution, both in New Jersey as well as United States. Unfortunately, people give misinterpretation to that, too. Even in my history, of at least my ancestors, there was misinterpretation. They finally got it right. But I think that in Twin Rivers, that's what the courts was speaking to, also -- to rights of unit owners and those who govern within those associations. And that's where we're trying to strike a balance and bring this home, where we don't have problems.

Sir, speak into the mike.

KAROL BIENIARZ: My name is Karol Bieniarz, and I'm from Cedar Glen Lakes. I'm here to oppose the last two bills and the new one that's coming up. I also want to say that our association is an excellent association. We got a wonderful board of directors. And I've been there for almost 29 years. So I've grown up with these places and this place here,

and I've seen how this place operates, and it's been operating excellent. Our grounds are beautiful. Our homes are beautiful. And the people in my area are beautiful.

And I want to say that that's -- we have-- Like our President has said, we'd probably have a surplus if the State had run the State like we do. They'd probably be in better shape. (applause)

And that's all I have to say.

Thank you.

SENATOR RICE: Thank you.

Ms. Claire Parker?

C L A I R E P A R K E R: Hi. My name is Claire Parker, and I want to refute what the gentleman said about the real estate people. At least my real estate, an ERA, and also in Holiday City South Homeowners Association, we give out, to those homeowners, a covenant. We give them all the information that they need. And I think the real estate people in our area really do a good job. In fact, I've had my license for 30 years, and I know what it is to be a real estate person and what it is to come down here to Ocean County and really live the life that you're supposed to be living as a senior citizen, our golden years.

If you guys want to take more money away from us, we are not going to -- not as a real estate person now, me as a person who lives in Holiday City South -- we're not going to be able to enjoy all these good things that are down here for us in Ocean County. And we do have a lot of things going for us in Ocean County that we don't have to pay money for, to go to see and do, and we get the help and we appreciate everything that the county does for us.

We don't need anybody from the State coming in and telling us how to run our homeowners association. We have Art here, who is definitely-- He's been on the board, and I'm sure he'll be voted in again tomorrow. There is no problem.

I just want to say that I'm very happy to have said this and, hopefully, that I am opposed to the State coming in and running our association.

Thank you.

SENATOR RICE: Thank you.

Just for the record, we have Mr. Gregory Machyowsky's comments that will be placed into the record.

I believe that concludes our speakers.

Let me, prior to dismissing -- adjourn the meeting -- give my colleagues an opportunity to close up. But I want to say to all of you, I'm one for not trying to have the State come in and run your community. I didn't like school takeover in my district. There's a lot of things I don't like. But I also recognize that we have to, at various times, as a government in this country, be interveners in people's lives upon request and when things aren't right. That's why we're a country built on social order, rules, and regulations. And so never tell me not to intervene for you, you don't need it. But think about the person who's making the phone call with the problem.

It seems to me this whole issue, from what I've gathered -- from reading, from hearings, from meetings with people who have interest on both bills -- is really an issue, in one instance, of what powers does the Planned Real Estate Development Act really give; the Full Disclosure Act

really give, right now, to the unit owners versus the board and the developers -- and the people who own it, recognizing that board members are unit owners also. How much authority should any act, if we change the laws, give to the board members versus those who are the unit owners, such as the many people here today, and why? We have to justify why that should be, in terms of balance -- and I'm talking about without violating owners' rights. Because we do know that board members need the authority and the ability, within reason, to govern and manage multi-million dollar entities -- that's what they really are -- and to make certain that the quality of life where you live remains a quality of high standard as best it can be, without placing an extreme or substantial financial burden on the unit owners. And that's regardless of age.

And so the question is, what are those rights? Can someone just tell me-- When I pay taxes, I get very angry about things that don't happen in my community I know can happen, if people stopped being so arrogant and just listened. And so, if I'm a unit owner, I'd be very angry if I went before a board -- and I know this does happen. It may not happen in your community, but I can tell you it happens, okay? And someone with one of those asinine minds, if you will, tell me where to go -- then I'm arguing, every time I go, that I'm telling them. Or they clear up a person in the office-- You know, it's just not people friendly.

Well, that doesn't reflect everybody. But we know that that's a problem. The question is, can we address it legislatively? In some cases we can and some cases we can't. And some of it has to be addressed, as you've said, through the election process. Your elections may be okay. There are other elections that we have to look at the process. I happen to know units

where you're required to get, like, a hundred-and-some people out to have a quorum, just to even deal with the election. And they can never get beyond 70, 75 people. And so therefore, you can't change the by-laws because you can't change the board. It's like a dilemma. And so, yes, we have to intervene and figure out where we can help without impacting on your rights as a people and as unit owners.

And then the question should be, because I know this is real in some cases: Should there be access to records where you're paying your money and you have people who have -- their share of responsibilities to you? Yes, there should be. Then the question becomes, what records? Who has access to them and for what purposes? Now, I don't know. The by-laws may say one thing, but you may have a need to go beyond what they're saying. Just like when we passed the public access bill, and the things that we do in the State to give you more access to the kinds of things that we do -- including personal information -- I call it *personal* sometimes -- that I don't think you ever need to know. But because of politics, our colleagues passed bills, so I have to give you my life. My wife ain't happy about it, but I chose to be in this business. And I still think it's wrong. I don't think there's some things you need to determine if I can represent you. But we do that.

And then how do we basically protect against the fundamental rights of unit owners as it relates to even including -- the inclusion of the filing of appeals. You have an (indiscernible) situation that's taken place, and is taking place. Your staff will tell you that, because we looked at it from all sides. And I heard it mentioned here again today from people here -- and that is that situation that you're paying to defend yourself of your

problems against your board, and the board is using your money to fight you back. And then you go on to an appeal. And as is said, a lot of lawyers and a lot of other people are making money -- no different in local government. Yes, it may be your private world, but you're paying for the private world; but there are some people in the private world getting hurt, just like they're people in the public world and my city getting hurt. And there's a lot of people making big money, some in government, and encouraging and helping it, that could care less about those little people, whether in the minority or not, that I'm trying to make sure don't have problems because of their personal concerns and likes and dislikes.

And then the question, which is the real one, is how much enforcement should the State have versus the court? This issue of ADR continues to come up. We have a public advocate now. We fought to get it back. I hear the concern about an ombudsman. I'm not sure who it should be. I don't think we have to spend a lot of dollars, but I do think that when I'm frustrated, when I've been in those predicaments where I needed somebody to go to, somebody has to hear me.

You read the paper about government officials and corporate America and people going to jail, and you call us a bunch of bums, and rightfully so. But that's because somebody didn't listen to somebody. It would never have been that bad if somebody listened. There was no one to go to. And that's why, in my office, people just come in. It's open door. They don't have to talk to secretaries and people like that if I'm there. I find the time. Because sometimes we laugh at people even when they come before a microphone, because they're always there. And they're very critical sometimes; where they say things the wrong way. And I always tell the

people, if someone is cussing you out, don't listen to how they say it, listen to what they're saying. Because we spend too much time listening to little things that wind up being the big problems.

I don't know, as a legislator, how much we should enforce and how much we shouldn't enforce. And that's what these bills are trying to get to, and that's why we're holding a hearing. And I don't know what methodology of ADR is best if we're going to use ADR to accomplish some of the things we're trying to accomplish. The Federal Government has already cautioned some on the use of ADR, in a specific way. So we don't need thin-line anything.

And so, as we move up and down the state, I can assure you that my role -- and I will tell my colleagues here, who will be with me in some of those areas -- is not going to be as passive and friendly, articulate maybe, because of frustrations or problems that do exist. The difference is, is that we've got to figure out how to address those problems without doing harm to people situated here. And that's why I like your statement, because you do understand. You are being victimized, but you're wise enough to know that as a victim, that may not be the situation for all the people here, and you know that something has to be done. You just don't know how it should get done.

The boards at these very wonderful communities, with things and making changes -- those boards only reflect people. It's the human resource factor and probably residents involvement that's making the board a lot better board than other boards. And it may be the geographic area you're situated in. It may be the influence of local, and State, and Federal politicians, and businesspeople that's creating some of the problems in

other areas of the boards, because even though it's private, there are internal politics that extend outside.

And so I don't know. I'm just being honest with you. Let me say this to you: There's going to be a bill. I didn't say it was going to be the Turner-Rice bill the way it is, Doria-Asselta bill the way it is, on the Senate side. But it's clear to me that there is this push for legislation. The question is, what is it going to look like?

Your concerns are on record. I hear you loud and clearly. And I'm so happy I came down today. I always drive down this way. But you know me, I'm with my wife and I'm going straight past 77 to 38. I don't know why I never get past 38, but after 38, then we turn off. Then it's *ching* time, you know.

But it's good to be here. And I want to thank Senator Connors and my colleagues for inviting me and for also spending the time. I want to also thank the staff for being here, and also advise they'll be some others to do, so just stay flexible.

Thank you very much. (applause)

Senator Connors?

SENATOR CONNORS: Thank you very much, Mr. Chairman.

Ladies and gentlemen, I can tell you how proud I am of you today. The testimony was given on both sides of the issue. Whether you were for or against it really doesn't make anything -- except you were contributing to the dialogue that's so necessary.

There's a transcript that will be prepared here. Tapes have been rolling, and it will all be printed in a transcript and it will be available at some point in time.

The Office of Legislative Services -- the staff that have come down here today to do this hearing and take this hearing -- we take it very, very seriously.

And again, I can't say how proud I am of you -- the testimony you gave. Whether you were for or against really doesn't make any difference. You contributed, and that's what's most important.

And to our Chairman -- Mr. Chairman, again, thank you. It's a long way from Newark to -- here to Ocean County, but I'm sure you appreciated the beauty when you got here. (laughter) (applause)

So with that, I just again want to say, thanks an awful lot. You've really done a fine job with something you should all be proud of.

Thank you. (applause)

SENATOR RICE: Adjourned.

Thank you.

(HEARING CONCLUDED)