
Public Hearing

before

ASSEMBLY TASK FORCE TO STUDY HOMEOWNERS ASSOCIATIONS

*“Information for the study of homeowner associations
and common interest property ownership under New Jersey law”*

LOCATION: Four Seasons Clubhouse
Lakewood, New Jersey

DATE: November 12, 1996
7:00 p.m.

MEMBERS OF TASK FORCE PRESENT:

Assemblyman Christopher “Kip” Bateman, Chairman
Assemblyman Guy R. Gregg
Assemblyman John Wisniewski
Wendell A. Smith
A. Christopher Florio
Phyllis A. Matthey
Stephen M. Dahl
Bruce D. Blumenthal
James H. Robinson
David Herzfeld

ALSO PRESENT:

Joyce W. Murray
Office of Legislative Services
Aide, Assembly Task Force to
Study Homeowners Associations



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ASSEMBLYMAN CHRISTOPHER “KIP” BATEMAN (Chairman):

Good evening. Can you hear me in the back?

UNIDENTIFIED MEMBER OF AUDIENCE: No.

ASSEMBLYMAN BATEMAN: Okay. We'll just try to speak loudly.

My name is Kip Bateman. I'm an Assemblyman from the 16th--

UNIDENTIFIED MEMBER OF AUDIENCE: Your mike is not on. We can't hear a word you're saying. We're senior citizens, you know. (laughter)

ASSEMBLYMAN BATEMAN: I didn't know that.

Can you hear me now? (holding PA microphone closer)

UNIDENTIFIED MEMBERS OF AUDIENCE: Yes.

ASSEMBLYMAN BATEMAN: Good evening. Let me introduce myself. I am Kip Bateman, an Assemblyman from the 16th Legislative District, which includes most of Somerset County and parts of Morris County. I live in Somerville. I was appointed by the Speaker to Chair this Task Force. This is the Assembly Task Force to Study Homeowners Associations.

Before I give my brief statement, I would like to have everybody introduce themselves so you know who is here tonight and what their role is.

Starting with my colleague to my right, Guy Gregg.

ASSEMBLYMAN GREGG: Good evening, everybody. I am Assemblyman Guy Gregg. My district is District 24. It encompasses northern Hunterdon County, southwestern Morris County, and all of Sussex County geographically going from, virtually, Route 78 to New York. It is a very large

district -- about an hour and 45 minutes north of here, to put it into your perspective.

We look forward to your comments this evening. I sit on the Appropriations Committee, as well as Housing, and Law and Public Safety, so I bring to this group, hopefully, some knowledge on community living from Housing and the understanding of dollars and cents from Appropriations. So I look forward to your comments this evening. It is nice to be in your neck of the woods.

Thank you, Mr. Chairman.

ASSEMBLYMAN BATEMAN: Thank you, Guy.

Why don't we go right down.

MR. SMITH: I am Wendell Smith. I am the attorney member of the Task Force, and I, too, am a senior citizen. (laughter)

MR. ROBINSON: My name is Jim Robinson. I am the Chairman of a home owners' association in Sayreville, which is in Middlesex County. I am a former director of CAPA. I am pleased to be in this facility, which is, perhaps, one of the most beautiful facilities of its kind that I have ever seen. I am very anxious to hear what your questions, comments, and concerns are, too.

MS. MURRAY (Task Force Aide): I am Joyce Murray. I am with the Office of Legislative Services, and I staff the Task Force.

MR. HERZFELD: I am Dave Herzfeld. I am President of an association in Robbinsville, which is in Mercer County.

ASSEMBLYMAN WISNIEWSKI: I am John Wisniewski. I am an Assemblyman from the 19th Legislative District, which is in Middlesex

County and includes the municipalities of Sayreville, South Amboy, Woodbridge, Perth Amboy, and Carteret.

I am very anxious to hear the testimony that you have for us tonight so that this Task Force can be better informed.

MR. BLUMENTHAL: I am Bruce Blumenthal. I am the President of the Wood Duck Pond Neighborhood Association in Bedminster, New Jersey. I am very glad to be here tonight, and I look forward to listening to everyone's testimony.

MS. MATTHEY: I'm not a senior citizen, but I have four grandchildren. I am Phyliss Matthey. I am the President of CAPA. I am serving on this Task Force as the manager member, but I am a past President of my own home owners' association, and I hope our Task Force can hear your concerns and maybe answer some questions.

MR. DAHL: I am Steve Dahl. I am Vice President and Chief Legal Counsel for K. Hovnanian Companies. I am the builder representative.

MR. FLORIO: My name is Chris Florio. I am an attorney who practices exclusively in this area.

ASSEMBLYMAN BATEMAN: Thank you.

By way of background, first of all, let me thank all of the members of the Task Force for coming down this evening, and let me thank you all for coming out. The purpose of this meeting is to listen to you, to hear your concerns, your questions, the problems you may be having. So we are here to listen to you.

We ask that if you are going to testify that, one, you sign up if you can, beforehand, and maybe limit it to five minutes. We can come back to

you, but I would like to give everybody in the room who would like to testify an opportunity to be able to do so.

I also want to thank K. Hovnanian, in particular, Steve, for hosting this tonight. He was nice enough to provide coffee and donuts for us. So we thank him. (applause)

I also, before we begin, for my own purposes, we need to -- and I will make that motion to appoint Joyce Murray as the Secretary.

Is there a second to that motion?

ASSEMBLYMAN WISNIEWSKI: Second.

ASSEMBLYMAN BATEMAN: It has been moved and seconded.

All in favor? (affirmative responses) Opposed? (no response)

Thank you.

Just by way of background, for those of you who are not familiar with the focus of our meeting tonight I would like to take a minute to explain. Last year, we started the work of the Assembly Task Force with the passage of Assembly Resolution 92. Our members were appointed by the Speaker of the House, but because of difficulties in scheduling we only had one public hearing. So we had to resubmit the resolution, and we were reappointed.

Our purpose is to start the process with going out and listening to individuals such as yourselves on problems that you may have regarding condominium associations, home owners' associations, to listen to the input, and after we have had three public hearings, put it together and come up with some recommendations on how we can change the laws to make the process work for you and others such as yourselves.

So we have been trying to schedule these around the State. In January, we have one scheduled for the northern part of the State, and then we're going to have one more. There was one meeting held last year in Mercer County. We thought it was a good-- This was a good location to come down and hear from you firsthand some of your concerns and some of your problems. Really, what we're supposed to do is-- Our responsibility is to review the laws and the regulations as they are in effect and take back recommendations and draft legislation on how we can make the system work better.

So without taking any more of your time I would like to call the first speaker up -- I'm just going to go by the order in which you signed up -- I think it is Lois Pratt.

Lois, would you like to come up? We just ask that you sit right behind the big mike so everybody can hear you.

LOIS PRATT: Am I audible?

ASSEMBLYMAN BATEMAN: Yes, you just have to speak up so everybody can hear you in the back.

MS. PRATT: This one? (indicating microphone)

ASSEMBLYMAN BATEMAN: The large one. I would take it right out of the stand and hold it real close to--

MS. PRATT: Maybe it will work this way. I'll reach. (indicating microphone)

Thank you, sir.

Okay. I am Lois Pratt. I am a home owner from North Bergen. I would like to speak briefly about one aspect of condominium governance.

The thrust of legislation and court rulings appears to be that condominiums are given considerable discretionary authority to enforce their documents, their rules and regulations. This is a fairly unlimited kind of authority since we don't have the kinds of checks and balances that you do have in public governing bodies.

If that is the lay of the land, then condominium associations need some balance that protects the home owners from any unfettered, any abusive, any tyrannical, runaway situations so that it becomes the norm that you have a normal, democratic, open kind of governance in condominium associations.

I think that there are two major ones that concern me. One is due process, and the Legislature has made considerable strides, particularly this year, in the ADR legislation that has been passed. I would like to speak for my remaining minute or so about transparent governance through the open meeting process.

The Legislature did make an effort three years ago, I believe, and passed the beginning of an open meeting bill. However, it is extremely loose, and it is full of holes. For example, there are opportunities for any association board to go into a closed session for any of four reasons -- and these are terribly broad reasons -- for any litigation, any contracts, any employees discussions, and yet these are vital areas for home owners to know about. These give great leeway to go into closed session and never come out. There is no control over closed sessions. It is not only the leeway to go into closed sessions for those four kinds of broad subject areas, but in addition, the New Jersey law permits working sessions. A working session is a closed session

which, in practice, becomes the regular procedure in which boards do all their deliberations in closed sessions which they call working sessions.

I have a specific proposal. The New Jersey public open meeting law is tremendous, and I see no reason why home owners who live in associations that can regulate every aspect of their use of the property not only within their homes, but in the public spaces of the common elements-- The open meeting law of the State of New Jersey, which governs any kind of State or local agency, provides protections that if a public body is going to go into a closed session they must announce it publicly and go into closed session, conduct only the permitted closed confidential topic, and then come out.

In contrast, the condominium open meeting law has no such limitations at all and a board does not even then have to have minutes in a condominium for any of the meetings they hold in closed session, which means that if a board chooses to go into working sessions and/or confidential sessions they never have to produce minutes. So the unit owner then is denied access to information basic to his home and his investment in the property by not being able to attend the meetings in the first place and then not even having access to minutes which don't have to be produced because the meetings were held in closed session.

I thank you very kindly. (applause)

ASSEMBLYMAN BATEMAN: Thank you. Thank you very much.

LEO YOURISH: Thank you. Does this mike work good enough for you?

ASSEMBLYMAN BATEMAN: I'm sorry.

MR. YOURISH: Is this mike good enough for you?

ASSEMBLYMAN BATEMAN: Yes. Your name, sir?

MR. YOURISH: Pardon me.

ASSEMBLYMAN BATEMAN: Your name, sir, for the record.

MR. YOURISH: My name is Leo Yourish. Y-O-U-R-I-S-H.

I want to thank you guys. For me, you are manna from heaven.

I am going to get this off fast. I am going to make a lot of accusations. I can verify everything I say. If you want to talk to me later, you can talk to me later.

ASSEMBLYMAN BATEMAN: Leo, just for the record, what is your address?

MR. YOURISH: I live at Regency Village, 401 Route 22 West, North Plainfield.

I want to speak my five minutes.

ASSEMBLYMAN BATEMAN: Go ahead. I'm not cutting into your time. You're going to get five minutes.

MR. YOURISH: Right. It's not an old-people's condominium. It is mixed. It is managed by *C* and *R* Realty. *C* and *R* Realty, he owns some apartments. He manages it. He hires the site manager. You are familiar with certain things. He went auction. He went inside/outside price. He is the godfather. He ain't my godfather. I think he is President of CAI.

Now, I have various accusations both against the Board of Directors and *C* and *R*. I was a Board of Directors member at one time -- that was posttime. They held an open ballot to get rid of me, open. There are no open ballots in the State of New Jersey, they held one. They instituted proxy

votes to get rid of me with false accusations. There was no due process. The President said, "You will be heard." They violate due process a great deal up there.

JOSEPH VELLA: Talk into your mike.

ASSEMBLYMAN BATEMAN: Speak up a little bit, Leo.

MR. YOURISH: Pardon me?

MR. VELLA: Talk straight into the mike.

MR. YOURISH: Thank you.

The Superintendent filed false harassment charges against me, because I accused him of doing work for *C* and *R* Realty and other things. His witness, naturally, was the Assistant. They lied in court. I had no witnesses. There was lawyer, Ron Pearl, (phonetic spelling) who was also a lawyer for *C* and *R* Realty, and he was paid out of our funds \$1000. This is against our bylaws. I could talk all day, but nobody up there ever would pay attention to me.

I also had false charges addressed to me by Diane Peterson (phonetic spelling), the site manager. I can prove everything I say to be false. They also hired the lawyer for her, Ron Pearl, who worked also for *C* and *R*. The Board members voted it -- \$1327 -- our money again.

I had various arguments, they issued whereas proclamations denying me the right to visit the office. I'm not even allowed to go in the office where I pay my membership. They issued whereas proclamations forbidding me to talk to the six employees who work there, because they didn't want me to get any information.

They violated the sunshine law. They hired a lawyer. The lawyer, Pearl, sent me a letter. Three days later, one of the Board members asked me how I vote. Naturally, I voted for him. Those are my accusations against the Board.

Now, against *C* and *R* Realty-- He used the site manager to intimidate me. She sent all kinds of malicious letters. I did this. I did this. I walked the dog. I did anything. It was harassment, but they don't call it harassment. He uses Regency Village work -- Regency Village employees to do his work in his apartments. Nobody stands up to him ever. I did, that is why I went to court.

He used the site manager. We have about 15 apartments left. She works both ways. It's hard to figure, but she is paid by *C* and *R*, but in reality we pay *C* and *R* \$100,000 to manage our apartments -- our condos. We're paying her. There is a conflict of interest that should be resolved or should be understood.

Now, I told you before he built them, he managed, and all of that stuff. Now, I asked Ron Pearl, the lawyer, once, I said, "How much business do you get from Rothenberger (phonetic spelling) *C* and *R*?" He said, "Oh, about 10 percent, probably more." There is a conflict of interest. Come on, if there is any kind of decision you know which way he is going to go. You guys have been around long enough.

Then, when they had the open-ballot vote, how would I know what votes he threw away. I got a couple of people that I know and they said, "We voted for you." Those votes were never recorded. Now, what do I do? Where do I go? Ain't nobody going to help me.

You fellas can ask me any question. I want you to advise me, can I go to the Attorney General? Thank you very much.

ASSEMBLYMAN BATEMAN: Thank you, Mr. Yourish. If you feel there has been a wrong, a criminal violation or something that has--

MR. YOURISH: That's why I'm here.

UNIDENTIFIED MEMBERS OF AUDIENCE: Can't hear you.

ASSEMBLYMAN BATEMAN: I'm sorry. I'm sorry.

MR. VELLA: Talk right straight into the mike.

ASSEMBLYMAN BATEMAN: Thank you.

You, obviously, have a right to write to the Attorney General if you feel you have been wronged and there has been some criminal activity. Obviously, we're here to try to listen to you to come up with revisions in the law to try to prevent what has happened to you in the past.

MR. YOURISH: I want to give you an overview of what can happen in a condominium.

UNIDENTIFIED MEMBERS OF AUDIENCE: Five minutes. Five minutes.

MR. YOURISH: That is what I'm here -- for an overview.

Incidentally, as an epilogue, the President went bankrupt and went belly up. So you can know what his intentions are. He walked away from this condo because it was a losing proposition. The lawyer was voted out, and the site manager got caught clipping money and she resigned.

I made one big mistake, I told both Rothenberger and that lawyer that I would never vote for them as long as I lived. Now you get the message.

ASSEMBLYMAN BATEMAN: We do. Thank you. In addition to testifying, if you would like to submit any written testimony, any letters or anything to this Task Force, we'll make certain that is part of the record.

Thank you.

MR. YOURISH: It will be on the record, but where can I go from here?

ASSEMBLYMAN BATEMAN: Well, that is the whole purpose of this. We're going to take the input we're getting tonight, as well as other hearings, take it back to the Legislature and see how we can make the laws better so the condominium associations, as well as the town home associations--

MR. YOURISH: Can I contact one of your aides?

ASSEMBLYMAN BATEMAN: Absolutely.

MR. YOURISH: Thank you very much.

ASSEMBLYMAN BATEMAN: Samuel Pratt.

S A M U E L P R A T T: Do I have the working one? (referring to microphone)

ASSEMBLYMAN BATEMAN: Yes, yes. Speak closer.

MR. PRATT: First, let me say I appreciate the time of each of you giving to what I consider--

UNIDENTIFIED MEMBERS OF AUDIENCE: Louder. Can't hear you.

MR. PRATT: Still can't hear me? (tries other microphone)

MS. MURRAY: No, no, that's the recording mike. You have to talk--

ASSEMBLYMAN BATEMAN: That is the one.

MR. PRATT: This one?

ASSEMBLYMAN BATEMAN: Now you have it.

MR. PRATT: All right.

Let me state what my frame of reference is, first of all. I am here principally as a home owner; although, I do serve on the Board. But I am speaking only as a home owner. My frame of reference is, what we are trying to do in this relatively new form of housing in the United States is build a community. We're not, from my frame of reference, not trying to build a special form of corporation or a special form of business. We're trying to do something relatively new in the history of housing in the United States. I think the form is an amazing way for many of us to live, and I support it very deeply from that standpoint. But I think there are problems with it which actually jeopardize the form in the future.

I think there is a very basic need to increase the level of accountability in housing associations such as condominiums. Now, we don't have any of the usual restraints. I didn't know quite what Lois was going to say on this, and so I am going to say remember what she said and I'll add this. There isn't the separation of powers that is customary. You have a single group of men and women who are legislators, who are executives, and who are judges. They run the three of them together without any apparent self-consciousness that: Now I'm a judge, next time I'm an executive, next time a legislator. The three just run together in an amorphous fashion.

I think there has to be something-- The ADR bill, both Lois and I testified in favor of that, and we think it is a tremendous step forward in this

regard of increasing the separation of powers. We think it should be more clearly defined, however. There isn't the normal constraint of an independent press. Even the CAI's own materials say that the newsletters should primarily be a management and board statement, not a home owners' statement. I think it has to be clearer that home owners should run the press in an association or actually have a parallel press with the same funds coming from the association as goes to the management newsletter.

In corporate life-- You know today they announced the increasing of the power of the independent members of corporate boards. A blue-ribbon panel made very strong recommendations just today in this regard. I think that that is a kind-- I don't know how we could do that in an association. My point is, is that normal constraint doesn't exist and so we have to find other forms of constraint which will do it.

An independent election scheme would be one way. Require in law that the board may not run the election in any way whatever, that it has to be an independent kind of arrangement built, really, from scratch, but take the boards out of elections. There is really a very fundamental need to redress this imbalance of lack of constraints.

There are other ways, and the one way I feel very strongly about is that we need to put into law great increased support for the development of -- I don't know what to call it -- owner activism, citizenship, volunteering services, however we label it. But that the laws reinforce that that is an obligation of a board, to generate unit-owner participation.

I have gone to meeting after meeting in the CAI and other places, and I have heard about the apathy of owners. That is a social construction.

Apathy comes when you have lack of support for its opposite. You construct apathy the same way you construct activism. You build it for one system or the other, but apathy is not a natural condition to mankind or womankind. It is something that is socially invented.

Now, I think we need to do some simple things like the agendas have to be required to be public. (applause) That the minutes have to be published, even if it is called a working session. I think the owners have a right to know what the topics were that were discussed and what the flavor of it was. (applause)

Open meetings, I see no reason that a system can't be arranged where unit owners can listen and hear what the arguments are, pro and con, on a fundamental issue that the board is about to make a decision on that affects important dimensions of their lives. In an association, you actually make decisions which affect how you live in your own private home. It is a unique situation. They actually can, by their decisions, determine the choices you have inside your apartment or inside your unit. It is an extraordinary kind of power to hold in the United States.

Going into closed sessions is vastly overdone, in my opinion. Now, I know there are problems with the idea of activism. I am not naive about the different forms that activism takes, whether in an association or in any other kind of social system. But boards must accept the responsibility to build a civic culture in which public citizen goals dominate the activism in associations rather than the seeking of private ends.

I appreciate the opportunity very much. (applause)

ASSEMBLYMAN BATEMAN: Thank you, Mr. Pratt.

The next speaker is Philip Goldblatt. I just would ask that you give your address for the record, please.

PHILIP H. GOLDBLATT: 710 Dunn Circle, Bridgewater.

I would like to make some comments that--

MR. VELLA: Speak louder.

ASSEMBLYMAN BATEMAN: You need to speak a little closer.
(referring to microphone)

MR. GOLDBLATT: I would like to make some--

UNIDENTIFIED MEMBERS OF AUDIENCE: Can't hear you.

MR. GOLDBLATT: I would like to make some comments that sort of take off from the last meeting when I submitted a petition to the Task Force. I don't know if all of you have had a chance to read and think about that petition as yet. Can you answer me on that?

BEN A. ROTH: (speaking from audience) Can he state his name and where he is from, please?

ASSEMBLYMAN BATEMAN: Yes. He is Philip Goldblatt from Bridgewater, New Jersey.

MR. GOLDBLATT: Could any of you give me feedback as to whether you reviewed the petition or not?

ASSEMBLYMAN BATEMAN: I do know for a fact that it is part of the record. We haven't had our work sessions yet. The first part of this process is to have the public hearings, take it all back, and discuss what has been testified to.

MR. GOLDBLATT: Okay. Do you all have some copies? I have some extra copies with me. Would you like to--

ASSEMBLYMAN BATEMAN: Please.

MR. GOLDBLATT: Okay. (distributes material)

ASSEMBLYMAN BATEMAN: Thank you. Go ahead. Thank you.

MR. GOLDBLATT: The comments I would like to make kind of assume that some of the things that were discussed at the first meeting are still remembered even though it was almost a year ago, so--

ASSEMBLYMAN BATEMAN: Then understand that, for the purpose of the record, there are new members now on the Task Force. So it is part of the record, and we appreciate it.

MR. GOLDBLATT: Okay. I would also like to address some concerns which may be relevant to the issues raised by the petition, as well as to some of the comments which we heard at the first meeting.

Part of the reason that this petition has come about has to do with the New Jersey condo law -- New Jersey Annotated Statutes Section 46:8B -- which I believe was ill conceived. The very essence of this statute is to give condo associations certain powers which, of course, are needed to run the affairs of that development; however, the form of government which had been intended by the law was a pure democracy. This sounds good on paper, but it is really not what the public is accustomed to, nor should it be.

A constitutional republic is what exists in all parts of the country outside of these types of developments. The difference, as I'm sure you realize, is that the rights of the individual and minority are protected by a constitutional republic even if everything else is decided by the majority. Under the true democracy of the condo law, virtually anything can be voted

upon regardless of whether basic rights are abandoned in the process or not. The individual and the minority, therefore, can easily become subject to the tyranny of the majority.

You may wonder what the people think. I would like to say that I did not undertake a campaign of knocking on people's doors to obtain signatures to my petition. I did not wish to annoy anyone nor to violate any development's rules about soliciting. Virtually all of the signatures were obtained from people who I met on the street in decent weather. I found that the majority of the people who I talked with were willing to give a perfect stranger their name, address, and phone number for this petition.

I do believe in a silent majority that is out there and who do, indeed, believe in the Constitution. Why? Because on balance people are in favor of the rights and protections which the Constitution affords them. It is their only defense against, indeed their last line of defense for the little guy. It protects the minority from the majority.

At the last hearing, a question was raised to me concerning the right of the owners of a shopping mall to protect their property using rules which are not generally available to the public at large. The analogy being, of course, that condo associations should have similar powers.

So for illustration I would like to comment on that. I do agree that shopping malls have more public than the common elements of a condo association. However, they are fundamentally different in at least three ways:

Number one, they are different because of public access. There is less public access to a condo association from the outside, but at least as much from the inside.

Number two, the access to a condo association is from the owners themselves rather than the general public. So should rules which allow protection of the community from the general public be as stringent as rules which protect the CA property from its own owners? I think not.

Most importantly, the difference is, is that people do not live in a shopping mall, but we do live on CA property. People take care of their homes, raise families, care for their pets, cook their meals all at their home. Traditionally, there has been constitutional protection and respect for the home as the starting place for human rights rather than some remote outpost.

On top of that, owning a home has always been a part of the American dream for the very ironic reason that it represents a sense of freedom and self-determination which is emblematic of our national character. Why fall under the tyranny of the majority for having a dream which has been rendered in name only? The true goal, after all, is for governments such as the State of New Jersey to pass laws which encourage and reward the responsible exercise of freedom rather than laws which discourage individual responsibility.

As long as I am on the subject of the law of New Jersey, would you allow me to wax philosophical for a moment? A famous quote -- I believe it is by Lord Coke -- reads, "Reason is the life of the law." However, it seems that in the past, the word reasonable as found in the present New Jersey Condo Act with regard to the power of boards to adopt "reasonable" rules and regulations simply means that they would not be liable in any lawsuit.

But according to most people, that has very little to do with whether something is reasonable or not. For instance: Does owning a dog or cat violate any public policy? I think not. And if does not violate public

policy, reason would conclude that associations cannot ban them, yet some do. That is not reasonable in the common sense, yet it may be reasonable in a strictly legal sense. I think you get the idea.

At the last session, one of the condo representatives made the very reasonable suggestion that the associations be given tools to enforce rules which fell somewhere between “having their hands tied” and going all the way to a lawsuit. I am very disappointed to have to say that the Legislature has recently passed rules which allow punitive fines as one means of doing this.

Unfortunately, one of the items requested by petitioners is that punitive fines be outlawed. The reason this item was included in the petition was that courts in three states, California, Virginia, and New Jersey, have ruled that these fines are unenforceable by CAs. The reason I believe the courts have struck these down is a very critical and important one. It is a misuse of the so-called police powers.

Only governments may have police type of powers and an association is not a government. Really, the only reason that governments can have them is that checks and balance exist which protect the individual from abuse of the police power by the government. Generally, this arises from being duly constituted which condo associations are not. To have this without the concomitant rights for individuals sets a dangerous precedent, and it must be corrected.

I am sure that many ideas can be applied which are halfway between doing nothing and going all the way to a lawsuit. The punitive fines are not a reasonable answer. Then, besides the legal argument, this type of fine

is both demotivating, as well as inflexible. It is this type of power which does not promote responsibility on the part of the individual.

I would like to quote a passage from *The New Testament Bible* to, I hope, convince you and lend support for this as a maxim of human nature. The quote is from the Book of Romans, Chapter 7, Verses 7 and 8. The apostle Paul is speaking. He says, "What shall we say then? Is the law sin? God forbid. Nay, I had not known sin but by the law: for I had not known coveting except the law had said, Thou shalt not covet. But sin, taking occasion by the commandment, wrought in me all manner of coveting, for apart from the law sin is dead."

So I am saying that the law which says thou shalt not produces all kinds of thou shalts as a part of human nature.

ASSEMBLYMAN BATEMAN: Mr. Goldblatt, could you just kind of summarize it? You can submit the written testimony.

MR. GOLDBLATT: Well, I'm almost-- I'm sorry.

ASSEMBLYMAN BATEMAN: Just try to finish up.

MR. GOLDBLATT: I'm almost finished.

UNIDENTIFIED MEMBERS OF AUDIENCE: Time. Time.

MR. GOLDBLATT: Let's see--

ASSEMBLYMAN BATEMAN: I have been flexible with your time.

MR. GOLDBLATT: Of course fines come on top of numerous costs which owners already pay, etc. I submit to you that the responsible exercise of freedom always improves the health, happiness, and peace of mind

of the people, something which I believe our own New Jersey Constitution links to privately owned property in Article 1, Paragraph 1.

I would just like to make a few closing comments. As we are all--

UNIDENTIFIED MEMBERS OF AUDIENCE: No. No.

ASSEMBLYMAN BATEMAN: Mr. Goldblatt, why don't you submit the rest of that--

MR. GOLDBLATT: Okay.

ASSEMBLYMAN BATEMAN: --only because we want to give everybody an opportunity to speak tonight. I appreciate your testimony.

MR. GOLDBLATT: Okay. Well, I have a copy of this for each member.

ASSEMBLYMAN BATEMAN: Great. Thank you so much.
(applause)

Joseph Vella.

MR. VELLA: Good evening. It could be better. I'm the one who was giving all the advice on how to use the microphone earlier.

ASSEMBLYMAN BATEMAN: We thank you.

MR. VELLA: Am I being heard?

ASSEMBLYMAN BATEMAN: Just a little bit louder for the--

MR. VELLA: A little bit louder, is this any better? (affirmative response)

I would like to take the opportunity to congratulate this body for their participation in getting the ultimate resolution passed. It was a fine piece of work. We have put it into effect, and it is working very, very favorably. The idea and the first step of putting people face-to-face to one another seems

to have alleviated a lot of the animosity and friction that initiated the controversy in the first place.

I was appalled at what I heard here this evening. I can't believe, but I must believe that these violations and grievances are happening in community associations throughout this State. I am happy to say that we don't have that and would like to encourage those who brought their remarks here that maybe good counsel is the way to go. We are represented by good counsel. On all of these committees that you spoke of, we have secretaries. They write the notes. They have the minutes. They are open. When we have an election we don't have any apathy, we have a battle.

ASSEMBLYMAN BATEMAN: You have to speak up, and actually, where are you from?

MR. VELLA: I am from Greenbriar Woodlands up here on New Hampshire Avenue.

I only have-- Therefore, since I have only good things to say, so far, in the main about the association life, beauty, and commiserating that we have with people from all ethnicities and all kinds of backgrounds--

But I do have two questions that have surfaced in our community. Last year, the Department of Transportation issued an edict which prevented communities like ours from taking our small bus, minibus, and taking the seniors on trips in the vicinity. Even if it was only at a minimal cost, we are prohibited from doing this. People were going to the State House. They were going nearby. Maybe the farthest place they went to was the naval background and New York Harbor or to see the Liberty Bell in Philadelphia. Now, they

can no longer do that unless there is a charge. If we charge, you cannot use that bus. I have a copy of that. I also got that from our counselor.

The other item that seems to be also rising and becoming very controversial anymore is our residents are asking us to prohibit smoking in the clubhouse. Now, we have this dilemma: Can a board on its own initiative ban smoking in its clubhouse?

Those are the only two questions I have.

ASSEMBLYMAN BATEMAN: Mr. Vella, we would like to see the regulation that you received from -- or the communication from DOT.

MR. VELLA: I will send it to you.

ASSEMBLYMAN BATEMAN: Very good.

MR. VELLA: Thank you. (applause)

ASSEMBLYMAN BATEMAN: Thank you.

Next, is Sy Solomon.

SY SOLOMON: My name is Sy Solomon. I am a home owner in an adult community here in Lakewood.

I have two simple questions. We're newcomers on the block, and we really need a lot of support from the State. These two questions are very, very simple and won't take long.

The first question I have is: Can a law be enacted which ensures that the stated consideration paid for a house to a developer is limited to the cost of the house and not the value of the house plus all options? This may prevent home owners from being additional taxed for things such as optional appliances or decorative options. This is an experience that we have had in

this particular community. Our taxes are much higher than anticipated because we were not told that the options were included in the price.

My second question is also a very brief one. Can a statute be formulated such that if there is a difference of deficiencies within a community that are pinpointed by a professional transition engineering team and the developer refuses to remedy such deficiencies a municipality can issue some type of right-to-sue letter that the association has an opportunity to pursue the bonds placed with the municipality? The home owners must be protected. We have no rights right now. If the municipality doesn't go after the developer, the home owner is on his own to go into court and sue. We need some help and some relief in those matters.

Thank you. (applause)

ASSEMBLYMAN BATEMAN: Thank you.

Kathleen Maher.

KATHLEEN MAHER: My name is Kathleen Maher.

ASSEMBLYMAN BATEMAN: Oh, Maher, I'm sorry. (indicating pronunciation)

MS. MAHER: I live in Leisure Village East here in Lakewood.

UNIDENTIFIED MEMBERS OF AUDIENCE: Louder. Can't hear. Talk into the mike.

MS. MAHER: I wasn't prepared for the depth of your coverage here, but--

UNIDENTIFIED MEMBERS OF AUDIENCE: Louder.

ASSEMBLYMAN BATEMAN: I'm sorry. You're going to have speak louder.

MS. MAHER: Okay. I have scribbled some notes here to help me.

The first woman who spoke, spoke about the possibilities, I think, of the abuses that could occur with the condo setup the way it is presently. If you wanted to use my village as an example of the worst-case scenario of how these things can go awry--

After 25 years of trustees piling rights upon themselves and absorbing the rights of the residents who live in a community, ours would be a perfect example for you. There are times when I think that I live in George Bailey's Pottersville when I think of the way we are treated.

If you examine our election process for new trustees, you will see a ballot box posted in our clubhouse the whole month before the ballots are counted. These ballots are removed at night and looked at or put somewhere, or whatever. It is certainly not an election as you would term it in a democracy.

I have lived there for 3 years. I went to the public library reference section and studied condo law so I would understand the framework under which our trustees operate. It seems they have only borrowed some terms from the terminology in the law, especially when it comes to giving themselves titles. They like titles.

We are not permitted to speak at monthly meetings. We are permitted to speak at quarterly meetings; however, we might be ridiculed by the people who like the trustees, who are becoming less and less.

Let me see here. Some of our trustees become consultants to the village after they stop being trustees. Some of our trustees hold paid positions

on certain political parties or water companies or other things which possibly might pose a conflict of interest.

The lawyer, who we pay handsomely as our so-called village lawyer, sits in at meetings where we are not permitted to speak, and he also protects their secrecy. Our employees are the best paid employees, according to 1960 and 1970 standards where our people got wonderful benefits, wonderful pensions, and so on, which many of retired not getting. They are protected by the trustees and have these solid-gold salaries, pensions, and health benefits which we are not permitted to question, which we are frequently not permitted to see or know. It is called personal when we want to know what the salaries are.

Can you do anything for us?

ASSEMBLYMAN BATEMAN: Well, that is why we're here. You have raised a lot of, I think, valid concerns.

MS. MAHER: I think we would be a wonderful challenge for you.

ASSEMBLYMAN GREGG: What place is that? (applause)

MS. MAHER: That place is Leisure Village East, two developments down from here on Sherlock Road.

Thank you.

ASSEMBLYMAN BATEMAN: Thank you very much. (applause)

Next is Sol Levine. Mr. Levine.

S O L L E V I N E: (speaking from audience) With your permission, the next gentleman requested that he get up before me.

ASSEMBLYMAN BATEMAN: Absolutely.

MR. LEVINE: I believe the next one is Stuart Rosenbaum?

ASSEMBLYMAN BATEMAN: Yes.

MR. LEVINE: Well, I would like him to go first. (applause)

ASSEMBLYMAN BATEMAN: Sir, just give your name and address for the record, please.

STUART ROSENBAUM: Can you hear me?

UNIDENTIFIED MEMBERS OF AUDIENCE: Yes.

MR. ROSENBAUM: My name is Stuart Rosenbaum. I live in an adult community in Lakewood.

Before I start, I would like to welcome the Task Force over here. We appreciate your attendance to listen to our problems. I would also like to welcome the gentlemen and the ladies back here. (gesturing) It is important for all of us.

One of the things I would like to bring out is what the first person spoke about. Her name is Lois, I believe. She had mentioned something about closed meetings. I have the article right here. I do save these things. This article was written by Jack Holdman (phonetic spelling) who wrote the "Condo Line" some years back in *The Asbury Park Press*.

It states, "Boards abuse provisions allowing closed meetings." I'll just read two paragraphs, if I may. The question to Mr. Holdman was "Our Board of Trustees holds closed meetings, which unit owners are not allowed to attend. No minutes are taken at these sessions. I am under the impression that this is improper." Mr. Holdman answers by saying, "In the matter of meetings, the law stipulates that at least all of the regular meetings of the Board be announced well in advance and be open to all unit owners. It does

provide that workshop or conference sessions of the Board may be closed as long as no binding votes are taken.”

To many directors or trustees that sounds like a good plan, but in reality, it is abused terribly. Boards often meet weekly like that and discuss all the whys and wherefores of the association businesses, take straw votes, and in reality, conduct the business of the corporation. Then, once a month or once a quarter they hold an open meeting and, in reality, tell the attending membership what they have already decided.

In my opinion, associations should amend their governing documents to require that all meetings of the board be open and posted. Board members are, indeed, trustees handling the business of others in trust. Should they be allowed to keep the trustors out of their own meeting? Other states require open meetings. It does not hinder doing business, but it promotes democracy and keeps the board members from looking like dictators.

I have personal experience with boards of directors and trustees. I came from New York. I worked and lived in the world’s largest housing complex that had 55,000 residents. In my development, I was part of the trustees, working as vice chairman of most committees, and in that capacity we met with legislative people like yourselves. We met with representatives from the state, as well as the governor.

What we here now are talking about, and as was said in the past, we need more input from the trustees. We need more openness. We know, and I am familiar with this, that trustees must have closed sessions or conference sessions if it is regarding an employee, if it is regarding another

board member or personal attacks, or litigation between residents, etc., etc. This has to be closed for the protection of each individual.

But anything to do with the operation day-to-day or week-to-week or month-to-month or by the year should be open to all of the residents, open in the sense that the residents can listen without making comments. This way you learn what your trustees are doing and whether you want them to be reelected or turned out. This is imperative for all the residents of the villages.

The other area, I might add, residents should have the right in their comments. Now, in New York, before the trustees started the meetings, they printed an agenda. Any resident who wanted to talk had a half hour to speak only on the agenda. This keeps the members there, it also gets them involved with the trustees, and it minimizes the amount of time that would be used up by talking about anything other than the agenda.

We hope that you people here today, and I know you're all listening-- In fact, we talk about listening, I met with Ms. Matthey. She came to our place, and we were on the radio together, I believe.

Thank you, Phyliss.

I wish you all good luck. I hope that you can help all of us here today, and I am sure that you will. I will give you my address after the meeting is over, if you have any information that you can pass onto me so I can digest it.

Thank you very much, and thank you to the audience. (applause)

ASSEMBLYMAN BATEMAN: Thank you, Mr. Rosenbaum.

Mr. Levine.

MR. LEVINE: Sol Levine, 7060 Plymouth Drive in original Leisure Village, now known as the Village of Seven Lakes, because we do have seven lakes.

UNIDENTIFIED MEMBERS OF AUDIENCE: Six and a half.

MR. LEVINE: I have a large contingent from my village here tonight, as you can hear.

We are the oldest condominium village in Lakewood. We are 33 years old, and many of the current villages have followed us in our processes of government in original Leisure Village.

The first item I want to talk on is budgets. We have just been presented with the annual budget where we have received increases in our maintenance fees. We're not saying that that increase is not correct, but this budget was presented to us and there was nothing we could do to change it. We're going to have a hearing on the budget. We're going to say what we think about some of the things on the budgets, some of the increases, and so forth, but the budget stands as it is. We have no right to change that budget.

I believe that a budget should be presented to the residents of the village at least a month prior to the finalizing of the budget so that the budget can be scrutinized and the residents can express their comments before that budget is finalized. (applause)

On real estate taxes: This community, Four Seasons, is suffering very badly on the taxes that they are having to pay on their homes. As you know, the taxes are based on the market value -- 100 percent of the market value of the property. The properties in Four Seasons range from \$125,000 up to maybe over \$200,000, depending upon the options, and so forth. These

people are paying close to \$3 per \$100 in the Township of Lakewood on their homes. As you can see, that may amount to from \$2000 to \$5000 in taxes.

UNIDENTIFIED MEMBERS OF AUDIENCE: Or \$8000, or \$8000.

MR. LEVINE: The increase in taxes was given to these retirement villages, they were just changed, and they were based on the market values of the homes. Some of these homes have gone up, as you can readily see if you follow the real estate in the County of Ocean, but they have increased these taxes to the extent that some of these people who are on fixed incomes are unable to meet the increase.

My particular unit, the taxes were increased \$182 a year, based on increase in assessment of \$6000. Some of the units were increased in assessments of \$14,000 and \$15,000 in one shot.

Another thing I want to talk about is the Kelly bill. The Kelly bill provides that condominiums who supply their own services for snow removal and leaf removal are to be reimbursed by the township for the expense. Our village, the original Leisure Village, still have not received payment for our snow removal for 1995. As you recall, 1995 was a heavy snowfall during the winter months. The township still hasn't given us the money. I think something should be done to the township telling them that within a certain period of time that money must be made available to the retirement communities. They can't take almost a year to decide what to pay them for snow removal and leaf removal.

Thank you very much. (applause)

ASSEMBLYMAN BATEMAN: Thank you.

Mr. Levine, on that last issue, we can look into that for you and find out why they haven't reimbursed the association.

UNIDENTIFIED MEMBERS OF AUDIENCE: Thank you.
(cheers and applause)

ASSEMBLYMAN BATEMAN: Our next speaker is Barbara LaBua, is it? (indicating pronunciation)

B A R B A R A L a B U A: (speaking from audience) LaBua. (indicating pronunciation)

ASSEMBLYMAN BATEMAN: Thank you. I couldn't read your handwriting.

MS. LaBUA: Good evening. I am very pleased to meet you all. I hope everybody can hear me. Can you hear me back there?

UNIDENTIFIED MEMBERS OF AUDIENCE: Yes.

MS. LaBUA: Okay.

I am also with Leisure Village East, and I agree with Kathleen. We have a very big problem there that you people should really look into. We try to work with the board and the board doesn't.

I'll give you an example of what they did to me. I moved in in 1990, 1991. While I was there we had a beautiful road. The road was A-OK to me. They put in a new road, and by 1993 it was starting to slip, the road. So I went to the meeting, to the board, and I said to them, "You know, I really don't know if you board members live here, but have you seen what is going on with the road? It's starting to slip." Somebody got paid off. You know what they told me? "Sit down. Shut up and sit down." Now, this is where I

live and I am paying my maintenance fee and I pay my taxes and they tell me to sit down and shut up.

They don't pick up fast enough. We have a group in Leisure Village East. We want to have a club. We cannot have this club, and it is a home-improvement club. We want to help the old people there, because they're getting ripped off by some of the maintenance men -- \$5 to put a bulb in, \$375 to paint a bathroom. (cheers and applause) I could do it for them for nothing, because I know how to paint. But we're getting ripped off by the maintenance.

If you come in and look at the property, it is deteriorating. You know what, every resident cleans, cuts, goes after their lawn. What is it for them to keep it a little cleaner and help us? I called up the office once and said, "I raked all the leaves, would you please" -- and they were only half a block away -- "would you please let them come and pick up the leaves?" "You bag them," she said. "I will not." They expect you to bag the leaves. You have to pay your maintenance fee.

We had snow removal. We even shoveled our own snow in the back to get out to help other people. They had the city come in and block us in. They blocked us in, and they charged us \$50 extra for snow removal. Now, is this fair to us? (cheers and applause)

Please, I'd go before the board with you, but I beg each and every one of you to help us. We need the help. Thank you. (cheers and applause)

ASSEMBLYMAN BATEMAN: Thank you very much.

Nina Robinson.

NINA ROBINSON: My name is Nina Robinson. I am the President of the 19 Lions Avenue Towers Condominium Association.

UNIDENTIFIED MEMBERS OF AUDIENCE: Louder. Can't hear you.

MS. ROBINSON: Sorry.

Thank you, Mr. Chairman, and Task Force members for the opportunity to speak this evening. In fact, I thought we had a real problem until I heard some of the problems going on here. It's appalling. (laughter)

ASSEMBLYMAN GREGG: Where is your association?

MS. ROBINSON: In Newark, New Jersey, 19 Lions Avenue Towers Condominium Association.

UNIDENTIFIED MEMBERS OF AUDIENCE: Can't hear you.

ASSEMBLYMAN BATEMAN: Try to speak closer to the mike.

MS. ROBINSON: Okay. I'm sorry.

My concern is for protection of unit owners in our condominium. The developer-sponsor of our condos ran/operated the condo association until last January, January of 1996. They deserted, left us in debt with no reserves, and turned over their share -- they still have 28 units in the building that are unsold-- I shouldn't say unoccupied, unsold. They turned over their share to two gentlemen who have not paid a penny since they have taken over, in a year, which has put us in a great deal of hardship.

We had no way of knowing that we were in debt. The sponsors were in control of the board and never gave us information even though we asked for it. Since the time we took over the board in January of 1995, we have managed, by the grace of God, for this year with a great management

team and great lawyers. We have been able to survive, but it is becoming very difficult.

We had a threat of having our electricity turned off, our water turned off, and the city is foreclosing on the 28 units that were previously owned by the sponsor. They have had people living in the building rent free for this year, and we, the owners who are living in that building, had to pay all expenses. So we feel that we are victims and that we are not protected at all, that we have no recourse. We don't have funds to file a lawsuit, because there are structural damage problems, as well as these fiscal problems. We would have to file for everything at once, and we don't have the money to have an engineer's report to file for the structural damage. So we have not been able to do that.

So it puts us in a very bad position, because we have a financial responsibility, as a condo, to pay our bills, but we are not able to pay them under the circumstances that we have been left in. I don't understand how a sponsor can just desert like that and do what they want to do and leave people who buy into a condo in good faith -- leave us in this situation.

It puts me in mind of what is happening with the Internet. That laws are made on the Internet, laws are made in condos as things happen instead of having the foresight of what is coming and protecting people. After I heard the stories I heard tonight, I mean, it's really appalling that these kinds of things could happen to people who put their savings into a quality of life that they expect and it's just taken away from them.

Thank you. (applause)

ASSEMBLYMAN BATEMAN: Thank you.

James Ritter.

JAMES W. RITTER: Good evening. Thank you for coming down to this neck of the woods.

I am the professional Property Manager of Leisure Village West, which is a retirement association with about 4000 voters. One of my tasks within the community is to ensure compliance of the various laws, rules, and regulations that exist in the State.

Recent-- There is a certain amount of confusion when home owners come to you and they are quoting co-op laws or they're quoting condominium law or just standard home owner association laws.

I have had a chance to review the Uniform Common Interest Ownership Act, which is a nice compilation of all of these laws and would hope this group can do something to see that it is enacted in the near future to alleviate most of these confusions and concerns.

Thank you. (applause)

ASSEMBLYMAN BATEMAN: Thank you, Mr. Ritter.

Now, that is all I have on my list. Is there anyone else in the audience who would like to come forward and testify? If not, we will, obviously, welcome any written testimony.

MR. YOURISH: (speaking from audience) I would like to say one more thing, please.

ASSEMBLYMAN BATEMAN: Go ahead, sir.

MR. YOURISH: Thank you again.

In my condominium, a lot of people are backing away from their condos, and they're not paying maintenance. Some of them pay their taxes.

They give it back to the bank, like I said to the-- The President of our organization did that. Now, you know the law well, but we don't have any protection and the rest of the members -- the real paying members -- have to pay. As a result, we have a 5 percent tax for the people who deliberately, and sometimes not deliberately, back away from the condos. I wish you would make a law where we could get our money first.

Thank you very much. (applause)

ASSEMBLYMAN BATEMAN: Thank you.

Yes, sir?

MR. ROTH: If I may--

My name is Ben Roth. I am the Vice President of the Clearbrook Condominium Association. I am very distressed at what I heard here tonight. A lot of these problems can be alleviated by having these boards from the various condos and home owners' associations hire competent attorneys and use their attorneys to guide them through the maze of the rules and regulations.

I can sit here quite confidently and say we have excellent counsel in Clearbrook. Through that vehicle, we have avoided a great deal of these problems that I heard here tonight. We have a Grievance Committee. We have resident input. We have open meetings. We have an open forum once a month where no business of the board is transacted, but rather we listen to the comments of all of the home owners, be they yea or nay, be they compliments, be they grievances, or just complaints.

I will say that there are some residents in my community who, regardless of sits on the board over the years, have the same complaint. They seem to be professional complainers. But you must extend these--

I would like to see legislation that would require condominiums and home owner associations have professional services. Listening to some of the problems here, I have learned and observed that they do not have professional services. It is a must. We hire engineers for any construction projects. We have auditors. We try to do the right thing by our fiduciary responsibility and for our residents.

Thank you, Assemblyman Bateman, and Task Force.

ASSEMBLYMAN BATEMAN: Thank you, Mr. Roth.

Again, I thank you all for coming. Some of us will be here for a few minutes after the meeting to answer specific questions. We welcome your input. You can send to either my legislative office at 36 East Main Street, Somerville, New Jersey 08876 or you can send it to our Secretary, Joyce Murray.

Joyce, what is your address for the record?

MS. MURRAY: Office of Legislative Services, CN 068, Trenton, New Jersey 08625.

MR. ROTH: Can you repeat that, please?

MS. MURRAY: Okay. It's Joyce Murray, Office of Legislative Services, CN -- Charley, Nancy -- 068, Trenton, New Jersey 08625.

ASSEMBLYMAN BATEMAN: All right. Thank you again for your input, because if we're going to try to make the laws better to help you all,

we really need to hear firsthand, and tonight, I think, was very informative.
We're going to have some more public hearings.

Again, thank you for coming out this evening. (applause)

(HEARING CONCLUDED)