
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: Sussex County Community College
Newton, New Jersey

DATE: May 6, 1997
8:00 p.m.

MEMBERS OF TASK FORCE PRESENT:

Assemblyman Guy R. Gregg
Assemblyman John Wisniewski
Wendell A. Smith
Phyllis A. Matthey
Stephen M. Dahl
Bruce D. Blumenthal
James H. Robinson



ALSO PRESENT:

Joyce W. Murray
*Office of Legislative Services
Task Force Aide*

Glenn Beebe
*Assembly Majority
Task Force Aide*

Gerald Ford
*Assembly Democratic
Task Force Aide*

Hearing Recorded and Transcribed by
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ASSEMBLYMAN GUY R. GREGG (Acting Chairman): Ladies and gentlemen, thank you, again, for your patience. I am Assemblyman Guy Gregg and welcome to glorious Sussex County. You're part of District 24, in an area that I represent with my two esteemed colleagues, Senator Littell-- Senator Littell asked me to share his condolences not to be here this evening. He also shares being a member of the Appropriations Committee; he is the Chair on the Senate side, and he is staying over tonight in Trenton to do the hard work of government down there.

I see we have Ellen Leaghy, from my running mate's, Scott Garrett's, office is here, as well, and we welcome her on Scott's behalf.

I am one of the legislators on this Task Force. Assemblyman Wisniewski, from the southern area of New Jersey, Middlesex, is not here this evening and the Chairman, Kip Bateman, is not here. This is my District, so I will be chairing it this evening.

This is the fourth and final public hearing for private community Task Force that we have been dealing with over the last couple of months. I am also, I should share with you, not only a member of the Appropriations Committee, but a member of the Housing Committee as well. That has given me some experience in realizing we have been doing individual pieces of legislation, trying to correct some of the problems we have in our private communities. The Speaker of our House, Jack Collins, determined, with Assemblyman Bateman, myself, and Wisniewski, that perhaps we should do public hearings and ensure that we look at the problem in total and perhaps come up with recommendations, when we complete your final public hearing, to solve or try to solve many of the concerns you have in your communities.

We deal with condominiums, we're dealing with town houses, co-ops, private lakefront communities -- that's one of the reasons we're up here. In Sussex, we have a number of lakefront communities, and I'm looking forward to hearing some of their problems.

We have been in South Jersey and Lakewood. We have been in Sayreville. We have been in Somerset, now we are in Sussex. We've tried to do a cross section of the State to get as many individual concerns, problems, and, quite frankly, compliments, if there are any, for the quality of life you have in the communities that you live in.

So I thank you for being here this evening. It is late in the evening, so we will try to do this as quickly as we can. The rules of the road will be quite simple. If you have any written documentation, you can submit it to the staff here, which will be on permanent record with our Task Force. If you do not, the microphones are not amplifying, but they are recording, so we will have testimony which will be turned into a transcript which will be available, as well as the transcripts from the other public hearings that we have already completed. So there will be documentation whether you have brought written testimony or not.

I hope you keep your testimony within normal amounts of time. As a member of the Appropriations Committee I'm used to hearing lots of people, and we have very strict rules about how many minutes that we allow public testimony. I'm going to give you a lot of latitude and longitude. I would like you to be able to get your points across, but realize that everyone has lives and they may wish to get home as well. So we want to give you

enough time to get your point of view across to the Task Force, while being reasonable to the concerns of other people.

At this point, before we start, I would like the Task Force, please, to introduce yourselves. We'll just start from my left, and please share with the public who you are, who you represent, as far as the Task Force is concerned.

MR. ROBINSON: My name is Jim Robinson. I am the Chairman of a small town house development in Middlesex County.

MS. MATTHEY: My name is Phyllis Matthey. I'm a property manager and I am the President of CAPA, the Coalition of Associations for Political Action.

MR. SMITH: My name is Wendell Smith. I'm an attorney member of the Task Force. My office is in Woodbridge, and I'm counsel for New Jersey Chapter of CAI.

MR. DAHL: I am Steve Dahl. I am Vice-President and chief legal counsel for K. Hovnanian and Companies. I'm the builder representative.

MR. BLUMENTHAL: I am Bruce Blumenthal. I am the President of the Wood Duck Pond Neighborhood Association in Bedminster, New Jersey, and I'm very anxious to hear your comments and recommendations tonight.

MS. MURRAY (Task Force Aide): I am Joyce Murray. I am Secretary to the Task Force. I work for the Office of Legislative Services in Trenton, which staffs the legislative committees.

ASSEMBLYMAN GREGG: We have Glenn Beebe sitting in the back, who is with the Assembly Republican Majority staff, as well here today.

Again, just for your own information, this is a public hearing. We are interested in what you have to state. If the members of the Task Force have some questions, they will ask you questions, but I don't suspect there will be a lot of questions. We've heard a lot of testimony, and we really want to hear what you have to say tonight and hear about your problems.

With that, we'll get the ball rolling. The first name that I have is Elinor Mulligan. When you do come up, state your name for the record and who you represent.

E L I N O R P. M U L L I G A N: My name is Elinor Mulligan. I represent no one but really myself. Quickly, I will tell you that for 25 years I have been a resident and owner of property in Panther Valley, the colloquial name for what is really called the Panther Valley Property Owners Association. It happens, also, that I am an attorney-at-law, which means--

UNIDENTIFIED SPEAKER FROM AUDIENCE: We can't hear.

MS. MURRAY: There is no amplification.

ASSEMBLYMAN GREGG: You know what you might want to do, Elinor, why don't you try facing them. (witness complies) I think we'll be able to hear you, and it's more interesting for them to hear you.

MS. MULLIGAN: I was introducing myself. My name is Elinor Mulligan. I am a resident and have been and an owner of property in Panther Valley, a place up in Allamuchy Township. It happens, also, that I'm an attorney-at-law, which means to some of you that I may be smarter than the general population and to some of you that I am dumber.

I'm here on my own. I've been a resident for Panther Valley for 25 years.

I'm uncomfortable facing this audience because--

MR. SMITH: Maybe we should put it over to the side. (referring to podium; podium is moved)

MS. MULLIGAN: But I'm still not amplified, am I?

MR. ROBINSON: No, but at least you're facing everybody.

ASSEMBLYMAN GREGG: Folks, if you could move in a little bit. We have to bear with the limitations we have. So you folks in the back, if you have a hard time hearing, we can be friendly and move a little closer.

MS. MULLIGAN: I am here, specifically, to call to the attention of you ladies and gentlemen a certain frailty in the present statute, specifically 45:22A-46A, which deals with the requirement that all meetings of the executive boards of these associations by whatever name they are known, condominiums, home owners association, etc.-- The present law requires that all meetings be open to the members except in limited instances where the board is privileged to go into closed or executive session. But, at the present time, this law that I have just cited by chapter and verse does not specify this procedure by which the board would go into closed session, when and under what circumstances the board must report what transpires in closed session, and whether minutes of those sessions should be kept.

I ask that you consider, and indeed I have taken the trouble to draft, an amendment to the present law, which would require these executive boards to do what is duplicated, or is presently specified, in the Open Public Meetings Act. Under the Open Public Meetings Act, no public body can go into closed session without first moving, in public, that they go into executive session and as to why -- what one of these specified reasons is the one they are

invoking. They also must declare that they will tape minutes. They must promise that they will take no action in that closed session, and they must also specify a time when what they did or discussed in closed session will be made public.

There should be that same duplication of what the Open Public Meetings Act calls for in these executive board sessions of even private property owners associations. I can tell you that as a resident-owner for some 25 years in Panther Valley that regularly, every month, the Board of Trustees in Panther Valley go into closed sessions. They never say why they're going, they never say what the reason is. We are not told whether minutes will be kept, but I believe they are not. We don't know whether action is taken. It is a blight that should be repaired.

I am in a part of the State where Senator William Schluter, a wonderful representative, has jurisdiction. I wrote to him on March 18, a letter enclosing a proposed draft -- or including a draft -- of an act which would impose, on what is presently 45:22A-46A, the language that would require these executive boards to do everything that I have described and which would duplicate what public bodies must do when they go into executive session. I've made extra copies of my letter to him. I did not anticipate as many of you being here as are here. I have only about four or five copies, but I would be happy to distribute them to you.

I will now add, almost extemporaneously, that the gated communities in this State are multiplying, we all know that. Whether they call themselves condominium associations, home owners associations -- which Panther Valley does -- or by any other name, but they are really small towns.

They must in time, and I think through your good studies and legislative encouragements will, come around to the view that they are as much subject to all of the rights of citizens as though they were towns. They are towns, even though they are gated communities. They are wonderful places, but their right to close out any law, whether it be police enforcement or First Amendment rights, must be in time recognized by the Legislature as not outside all of our constitutional rights.

Well, thank you very much. You have a lot of people to hear from.
(applause)

ASSEMBLYMAN GREGG: Thank you, Elinor.

Do you have a question?

MR. ROBINSON: Mr. Chairman, I have just one question. The chapter 231, the Open Public Meetings Act, specifies the kinds of things that a municipal governing body, for instance, or any official governing body can discuss in closed session: litigation, negotiations, personnel, things like that. Do you have a suggestion with respect to similar items for associations?

MS. MULLIGAN: Not really. The present statute that I cited here in this letter to Senator Schluter, and which is also cited in the proposed draft of amended legislation, duplicates the Open Public Meeting Act exactly by citing the same four reasons why the executive board can go into closed session. I could recite those four reasons for you.

MR. ROBINSON: No, you don't have to do that.

MS. MULLIGAN: Okay.

MR. ROBINSON: I was just wondering if you had some other things that might apply to home owner associations that might not apply to a local government.

MS. MULLIGAN: No, I really don't, and I personally am satisfied that those same four reasons are a good basis for going into closed session, but subject to the same obligation--

MR. ROBINSON: That, I understand. You are very clear on that.

MS. MULLIGAN: --to declare why you're going into an executive session, etc.

MR. ROBINSON: Thank you.

MS. MULLIGAN: You're most welcome

MR. ROBINSON: Thank you, Mr. Chairman.

ASSEMBLYMAN GREGG: Thank you, Elinor.

The next speaker is Shaukat Ali. I hope I didn't do too much damage to that.

S H A U K A T A L I: You are very close.

ASSEMBLYMAN GREGG: Your name, and where you're from, sir.

MR. ALI: My name is Shaukat Ali, and I am a resident of High Point Country Club, which is a planned community (indiscernible) in Sussex County.

I bought a condominium there about five years ago, and I had Judge Stenton to see if it was a first planned community in that area. While I was meeting at Judge Stenton's residence, I saw that local residents were beaten by the development police. He has a so-called private police. Nobody

can open their mouth against him, and people were openly challenged that if you did something against us, you are not going to stay in this area.

I go to the meetings, they have meetings once a year -- Board of Trustee meetings. I said to them openly, to the Board of Trustees, two times, I said, "Is that possible, can you tell me, that you do anything good for the home owners at the expense of the developer?" I challenged them twice, last year, as well as this year. They said to me, "If you're not happy you should move out." I said, "That's not the decision. You are Board of Trustee, you should have common sense that people are living here. They work, they commute at least one and a half hours. They are just making ends meet. You should have common sense to use courtesy and answer my question."

Then I cited them -- I have Judge Stenton's decision. In 1988 Judge Stenton said that any lot which exists close to the road, its assessment is \$303.76, it is in 1988. What that Board of Trustee did, that golf course, same golf course the judge cited in his decision, \$303.76, now they are charging \$90, a 70 percent reduction. Many told them, "How can you justify 70 percent reduction on all of those lots which are on the community road?" They have no solution.

Then there is a second. The owner has a golf course. He rents a pro shop from us. How much is the rent for the pro shop? He pays \$8000 a year, and I would like to let you know that I have a house which is 900 square feet and I pay electric bill for my house about \$3000. That man, he owns pro shop from us, he pays \$8000 for 1700 square feet, and if you just take the electric bill for that, it will be more than \$8000. Then our community pays insurance for that pro shop. Our community pays water bill for that pro shop.

Our community pays-- Then I have heading (*sic*). You can see it -- this in *The Star-Ledger* (indicating) -- that these people got convicted for running the gambling ring. You can read this, they got convicted. Now, can you believe that you people think that they will be out? That woman who got convicted, she is our President. The person who got one-year incarceration, he is the developer, he controls our 40 percent.

I would request to this Assembly staff, please, you can do a big favor. Cut this thing out, that the developer should not have 40 percent right, because this is the debts and dents for all those people who live there who cannot do, who don't have money to face this developer.

The developer has a lot of money. I'm not against the developer. The people who make a living in a honest way, they are very good. We should help them. They are making a living, but the people who use their money to force the people and they don't pay their dues-- Then the same developer, you see the story when (indiscernible) township once a year budget meeting and they give you that delinquent people -- delinquent taxpayers, he's the biggest one. I cried to this community and I said to them, "Is that possible, can I get the record for these people who are delinquent?" because they give every year that we have so many delinquent in a homeowner association. I said, "Is that possible, can you give me the names?" They said, "No, you can not get it." Can you believe that that in a municipal government we have rights. We can go there, we can fill out the form, we can get all the records. But you go to these home owner associations, they are a dead end. You can't do anything. Whatever that you want to do, you will hit against steel. They will not listen

to you and they will make a mockery of and make fun of you and they say that you have an attorney and fight with us.

I would request to you that the examples I give are just two and three. I have whole book. Then they have laws, bylaws, in my community: If Board of Trustee will get convicted, then what will happen to him? Then they have another law that home owner association will pick up his bill, will pick up money to save him. It's not: that he got convicted by the court of law and he should pay from his own pocket. No. Even then, home owners and taxpayers will pick up his bill.

These are just a few things, because I'm living there three or four years and I suffer so much. I'm the fighter and I fight with them, and then they said to me that we will see what will happen. But I know that I trust in God whatever will happen, but I would request to you that please make the law that at least they should not gain -- they should not have more rights than the township or municipal committee. At least, home owners should be able to get the instruction that where they're spending money. If home owner want that's how they are spending their money, they should have the right, because these are the people who are paying the final bill. They should have the right to know where they are spending the money, and they will never let you know from which account the money is coming and from which account money is going out.

I can speak all night about this, but if you have questions, you can ask me and I can give you answer. I don't want to take everybody's time.

Thank you very much. (applause)

ASSEMBLYMAN GREGG: Thank you.

Next I have Phyllis Muska.

PHYLLIS MUSKA: Good evening, my name is Phyllis Muska and I am here only speaking for myself. I have resided at 38 Woodedge Avenue, Edison, New Jersey, for the last 18 years, the first 9 years as a renter and, since the conversion of Briarcliff Village to a cooperative in 1988, as a shareholder. Now known as Woodedge Estates, the ADU complex of five buildings is located one block from U.S. 1 South near the Ford Plant.

The co-op is managed by a seven-member Board of Directors, six of whom are elected annually and the seventh appointed by the original owner and sponsor, Solomon Organization.

Until the fall of 1992 I was a rather happy camper at Woodedge, unhappy only about the special assessments and raises in the monthly maintenance fee from slightly under \$400 for a one-bedroom apartment in 1988 to the current fee of almost \$550 monthly. However, in 1992 a neighbor alleged that plants I had placed in the corridor, near the window and removed from anyone's path, were the cause of her falling and fracturing her hip. When she brought suit against me, the lawyer engaged by my insurance company sent me a hospital report and a second doctor's report, which cited a bicycle and not a plant as the cause of her accident. The bicycle owners were not sued, perhaps, because they carried no personal household insurance or perhaps because the husband had been a member of the Board of Directors, as was the husband of the accident victim.

My insurance company settled in their favor, although I was never deposed to refer to the bicycle, rather than let the case go to jury. As a result of this settlement the neighbors generally believe that I was responsible for the

woman suffering. Had the board and the management company fulfilled their responsibility to conduct regular inspections of the common property, according to the management company's contract, and had the board reported violations of house rules to the board lawyer who, by contract, was responsible for notifying violators, this accident would have never occurred.

Since the settlement of the case early in November of 1994, I reported, orally, to the board violations of this and other house rules so that other residents would not incur further accidents. When no action was taken by the board on any of my oral complaints, the Board President directed me to commit them to writing. I did so for the first time on November 24, 1995. The response from the board some four months later indicated that enforcement of house rules was not a priority, especially since no shareholders had volunteered to serve on a rules committee that the board proposed in December of 1995.

While I waited for a response to that letter, I myself was the victim of an accident, falling on an icy, unsanded or unsalted sidewalk on January 2, 1996, during a period of at least six months when a custodian was not living on or near the premises as required by the State's Administrative Code. The fracture of my left wrist required the surgical attachment of an external fixator and, following its removal after six weeks, four months of intensive rehabilitation at the JFK Rehab Institute, as well as hours of home therapy daily to regain use of my hand, fingers, and shoulder. I still experience discomfort and somewhat limited mobility and continue abbreviated home therapy with a lawsuit pending for compensation.

Perhaps it is because of my lawsuit that my request to the board for basic services have been filled reluctantly after much delay, or not at all, and I have met with what I consider harassment. Two weeks after my surgery a neighbor who was a member of the board, and is now its President, knocked at my door to accuse me of moving a plant which another neighbor had placed on an outside stair, also against the house rules.

Actually, it was a third neighbor who had done this to avoid an accident as the plant had been blown into the pathway. I showed the accuser my arm with the fixator to illustrate that I could not have possibly lifted so large an object, but she forcefully persisted in her accusations, and I later found an accusatory note taped to my door.

When I signed a harassment complaint for a hearing in municipal court, the board provided her with legal defense. However, according to a letter from Paul Howard, of Planned Real Estate Development, since I had issued the complaint against an individual and not against the board, and I quote, "The board has no right to sponsor the legal fees incurred by this person." As I had feared, the judge's decision that I, without legal defense, representing myself, had not proven intent to harass led to another incident, this one witnessed by a neighbor in which the same party referred to me as crazy within my hearing to three different persons in a matter of some 10 minutes.

In conjunction with the board's failure to provide basic services such as heating for an entire week in January of 1996, residents of two buildings had inadequate heating while a new boiler was being installed and received no hot water for approximately two weeks.

In early October of 1996, on some unseasonably cold days, my apartment was without heat. Since several board members insisted that the heating season begins on October 15, I provided the board with a copy of the heating code from the Edison Board of Health, which verifies the heating season as starting on October 1. Also, Andy Farkas, of the Edison Board of Health, informed me that Woodedge Estates was one of two apartment complexes, in Edison, that had not submitted its annual boiler report by September 15, as required by the township.

On December 26, 1996 I again experienced a heating problem and was told that I would have to hire someone myself to correct the problem inside my apartment. However, after several calls to the Board of Health I had adequate heat again on January 1, 1997. The custodian implied that he had adjusted a control on the central system. I had been earlier told I was, "At the end of the line in the distribution of heat."

My heating problem reoccurred again this April 10 and was temporarily corrected, again after the custodian said that he had made an adjustment centrally, until April 14. Of course, the heating season ended on May 1.

With my complaints to the board mounting and being denied access or admitted an hour or more later to the open session section of monthly board meetings and not being provided with minutes of meetings as required by Chapter 30, at the suggestion of Senator Sinagra, I wrote to Stewart Palilonis, of Planned Real Estate Development. With that letter I included extensive documentation to support my complaints. On January 1,

1997 Mr. Palilonis had Edward R. Hannaman write me about ADR, alternate dispute resolution.

Following Mr. Hannaman's instructions I wrote to the Woodedge Board on February 13, 1997 to determine whether ADR procedures were in place. Since the board did not answer this letter nor my follow-up letter of February 25, I so advised Mr. Hannaman in my letter of March 4, to which I received a letter dated March 21, a verbatim copy of the January 21 letter. I then called Mr. Hannaman's office to explain to his secretary that I felt I had been moved back to square one. Subsequently, Mr. Hannaman left me a recorded message requesting, again, the name of my co-op, which I interpreted as meaning that my previous correspondence could not be located in the filing system.

I supplied the name in a letter on March 28 and am currently awaiting an answer as to whether the Home Owner Protection Bureau has notified Woodedge of ADR so that I can avail myself of this procedure and avoid expensive litigation.

Listening to the tip of the iceberg of my trials and tribulations as a Woodedge shareholder, you may wonder why I don't simply sell my apartment and leave. I have seriously considered doing so; however, I have been told by a real estate agent that I could probably receive only \$10,000 for the one-bedroom apartment for which I paid \$54,000 nine years ago, since the monthly maintenance fee of \$550 is a deterrent to a perspective buyer, and should I move elsewhere and rent out my apartment, I would have to subsidize the renter by \$200 per month, the difference between the monthly rental, which a similar apartment here brings in, and the total cost of my monthly

maintenance and mortgage fees. Most significantly, however, I am a senior citizen living on pension who simply cannot afford to lose a sizable portion of my life's savings.

In conclusion, although my own experiences as a member of a cooperative community have been less than positive, hope springs eternal in the human breast, as Alexander Pope once wrote. It is my hope that the present Task Force can influence legislation that will make Boards of Directors more responsible for decisions that effect the lives of thousands of New Jerseyans.

Thank you for the opportunity to speak this evening. (applause)

ASSEMBLYMAN GREGG: Thank you, Phyllis.

MR. BLUMENTHAL: Can I just ask one question?

ASSEMBLYMAN GREGG: Yes, you may.

MR. BLUMENTHAL: Could you just tell us what the monthly maintenance fee covers, the \$550?

MS. MUSKA: Well, the monthly maintenance used to cover more than it did up until one year ago when they decided that in leu of raising the monthly maintenance again -- and as I said it is \$550 for a one-bedroom apartment and I think, perhaps, something like \$700 for a two-bedroom apartment -- they have decided to eliminate certain services. For example, the thermostats and the safety valves in individual apartments must be replaced at the cost of the owner's expense rather than of the board management.

MR. SMITH: You're dealing with a co-op which includes debt service and real estate taxes, so that's why.

MS. MATTHEY: And utilities.

MR. SMITH: And utilities.

MS. MUSKA: Are there any other questions?

ASSEMBLYMAN GREGG: Members of the Task Force. (no response)

Thank you very much, Phyllis.

Let me take a few seconds to note the arrival of Assemblyman John Wisniewski.

John, if you would like to make a comment, at all.

ASSEMBLYMAN WISNIEWSKI: No, I'm just anxious. I apologize for my tardiness, and I'm anxious to hear whatever testimony is left.

ASSEMBLYMAN GREGG: Didn't realize we were so far north, did you? (laughter)

This is the final frontier. I'd also like to note, in the rear of the room, our host tonight, President Bill Connors, of Sussex County Community College.

Thank you, Doctor, I appreciate it. (applause) Thank you for your hospitality.

Next is Maxine Bedrick. Is that correct?

MAXINE BEDRICK: Gentlemen, I really don't know what to say, other than what has been said before.

ASSEMBLYMAN GREGG: Let's start with Maxine and where are you from.

MS. BEDRICK: Maxine Bedrick, Claridge House II, Verona, New Jersey.

ASSEMBLYMAN GREGG: Thank you very much.

MS. BEDRICK: You're very welcome.

I, too, have received a letter from Mr. Palilonis dated April 23, 1997. My Board of Directors had received a letter ordering them to comply with ADR for me because I had written to them many, many times to our Treasurer, completely under the laws, under our bylaws, and so on and so forth, and have received no reply because she was told, under counsel, that she didn't have to. Now, I came and showed this letter to the manager of -- that's who we deal with, the manager -- Claridge House II, who then wrote this note to me for Steve -- his name is Steve Moyal -- from Maxine Bedrick, Mrs. Bedrick -- I'm sorry about that -- dated 4/29. Mrs. Bedrick would like a copy of letter written to State of New Jersey Department of Community Affairs Bureau of Homeowners Protection letter, which was written to the board. Steve Moyal is not allowed to give the letter, which Mr. Wendell Smith has under consideration, because Mrs. Amoto, who is our President, is Mr. Moyal's boss and will not allow anything to be given to Mrs. Bedrick of Apartment 12GE.

I would like to know what the law, the Legislature (*sic*), what my rights are according to this law, this Legislature (*sic*), or the State of New Jersey legislation. I have shown the law to our people. Forget our bylaws they don't take care of them and they mean nothing. State of New Jersey bylaws -- I've said this before -- mean absolutely nothing to our people. They are lawless, they are awful, they do not abide, they do not care, we are abused.

I have been abused, I have been pushed down, I have been -- everything. I have gone to court, they have taken me to court, and I have just about had it. I've been accused by the President at an open meeting, two

weeks ago, of saying something that I never said, and I jumped up and I said that I am tired of being accused of anything that happens in my building, it's me, I've done it, I've said it. I do nothing.

I pay my taxes, I pay my maintenance, I don't bother anybody, and I don't want to be bothered by them also. I just want the laws of this State of New Jersey to be obeyed the same way we all have to obey them. The laws are for all of us, not for three members -- only three of our Board of Directors, because two treasurers stood up at the last meeting, and we had 1.2 million assessment, right here. You either vote for all of this or you get nothing.

My roof leaks, I have pictures. The whole place leaks, I have pictures right here. You either vote for all of these for 1.2 million or you get nothing. A vote comes around and you vote yes or you vote no. If you vote no, you get no roof, you get nothing here. Now, I don't believe that is legal -- I don't know whether it is or not -- it's a proxy vote. I don't know who is going to count them. My roof is still leaking and it has been leaking since June. I've had the building inspector up, he knows all about it. It's a constant thing. I have pictures right here. I take them every day, and every day that it rains, every day there is another leak. I just don't know what to do anymore, gentlemen.

You're our Assemblymen. I love my Assemblymen. We have wonderful-- I live in District 10. I have great Assemblymen and a great State Senator, and I come to you to ask you and to pray for you to please make legislation that is enforceable because our boards do not care about anything any of you people say, quite frankly, and they never did. I have lived there 16 years, and we live like we're ghettoized. We're like this. (indicating) They give

us nothing. We're not allowed to speak, and if you speak, "We'll take it under advisement." If you disagree with them -- like these people say -- well then, you better know something is going to happen to you.

I'm a pariah, I'm crazy. I'm this. Don't listen to her. I've heard all of these things. You look at me, sir, I'm a college graduate. I read, I know what's going on. These people are not going to tell me -- four people -- what I can do and what I cannot do. I obey the law, and I would like all of you to please make sure that they have to obey the law along with us. (applause)

ASSEMBLYMAN GREGG: Maxine, we have a question from the Task Force.

MS. MATTHEY: Can I just ask. Is this \$1.2 million involving a renovation and the foyer and a whole lot of other things?

MS. BEDRICK: No, we have had that done, six years ago.

MS. MATTHEY: It was only a couple of years ago I was contacted by-- I believe I was up to your community, I had dinner with somebody. You were having a meeting and I was asked to attend the meeting. I just was an observer --

MR. SMITH: It's much broader than that.

MS. BEDRICK: We had, six years ago, they called it deferred maintenance. We did it that way.

MS. MATTHEY: Where they were renovating the lobbies, and the halls, and the elevators, and everything.

MS. BEDRICK: Right.

MS. MATTHEY: I'm somewhat familiar, the late Assemblyman Lustbater had asked for our help.

MS. BEDRICK: (speaking from audience) This is the way this came down. My roof is leaking. It is full of fact here. Two secretaries stood up for past treasurers and said, "This bill has so much fat in it" and it says right down here because we do not have--

ASSEMBLYMAN GREGG: Maxine, you have to get back by the microphone.

MS. BEDRICK: We have no reserve fund.

MS. MATTHEY: I really have the information that I needed. Thank you very much.

ASSEMBLYMAN GREGG: Are you completed? Thank you. Then, Maxine, thank you very much.

Maxine, are you going to leave any of that with the staff here?

MS. BEDRICK: I can, I have copies.

ASSEMBLYMAN GREGG: I would suggest you leave anything you can leave with us. We are here not to just enforce the law, but look at how we may change the law in the future. We appreciate your comments and thank you.

MS. BEDRICK: I thank you very much, sir.

ASSEMBLYMAN GREGG: John Rogalski.

JOHN ROGALSKI: Good evening. I'm John Rogalski and I'm here representing myself as a home owner with Quailbrook Manor Homes, which is a town house condominium complex in Franklin Township, in Somerset.

The situation that I encountered with my home owner association board is that the home owner association board, Quailbrook Manor Homes, and the management company, CP Management Company, contracted with

the landscape maintenance services to spend \$35,520 for tree removal in our community. This is a project, in addition to the regular maintenance that the landscaper does, to remove all 48 10-year-old, mature trees that were growing on our front lawns. The home owners, however, were told by a budget announcement -- as an item on the budget that there would be money spent for grounds enhancements. Now, we looked at this enhancements and many of us thought this is a good idea, "I wonder what we're going to get for this money?" It wasn't until the landscaper came around marking every tree with an X and I inquired about it and he told me, "These trees are coming out." I called the board and they said, "You were told months ago that these trees were coming out, why didn't you say something sooner?" I said, "Enhancement is not tree removal."

So I was able to go to the Franklin Township because they hadn't bothered to get a permit for tree removal. I had the trees saved for a year because no permit was issued and there had to be a good reason to remove the trees. However, thinking that everything was safe, unbenounced to me, eventually the Township, under a threat of a lawsuit -- fear of being drawn into a lawsuit -- apparently agreed to just issue the permits since the landscape company was willing to take out the tree and put in another tree, replace the tree. That was the clincher, apparently.

I brought in a county agricultural agent, a representative of the New Jersey community forestry program, and the Director of the New Jersey Shade Tree Federation to advise the board that removing the trees was not justified and that it would clearly reduce our property values.

Several home owners, including myself, also believed that our covenant agreement requires a vote of all the home owners when the board decides to spend the sum in excess of \$5000 for an additional service. We all felt that removing all of our trees was not routine maintenance, that this would be some additional service that would be covered under this part of our covenant agreement. However, the board also budgeted an additional \$35,000 this year for legal services, and that lawyer who was getting the \$35,000 for legal services, which again, we would consider additional services, came right out and said that provision of the covenant agreement to bring this to a vote is unenforceable and it has no bearing on the matter.

The trees were removed on April 21. As of today, we have nothing but unsightly tree stumps in our front yards. The latest information from the management company is that it may take up to five weeks for them to purchase any replacement trees. I suspect that there will be no trees to be found. Their original plan to remove the trees, on the advice of the man who mows the lawn, will eventually come to pass. There is no recourse that we can see to get the enforcement of replacement trees unless we hire a lawyer on our own of some sort. We don't consider this routine maintenance, we didn't consider it any kind of an emergency. There was no vote. The expert opinions were ignored. There was no attempt to add any form of compromise, nothing to allow home owners a choice as to whether, perhaps, their tree could not be cut down. There was just no compromise, no discussion. It was the advice of the landscape company and followed to a *T*. Perhaps if there were some sort of commission that we could have appealed to, to stop this, it would have been a help.

Right now, I feel our property values have been reduced. The beauty -- the ascetics -- of the neighborhood has gone downhill, and I guess this is a fair warning to others to be a little more vigilant when you read what is being said in your budget.

Does anyone have any questions?

ASSEMBLYMAN GREGG: Thanks, John. Are there any questions from the Task Force?

MR. SMITH: They had no plan other than from the landscaping man. Did they say they were diseased, or what was the rationale for it?

MR. ROGALSKI: What they said, initially, was that the trees were raising sidewalks and destroying foundations. I believed that, even though I couldn't see it for myself. I toured the neighborhood and that was not the case. When the township engineer-- I brought him out and he looked and he agreed there was no damage to sidewalks, no damage to foundations. At that point the home owners association changed the story and said, "Not now, but there will be in the future."

MR. SMITH: So were they going to, theoretically, replace them with trees that have a different root system or a different location?

MR. ROGALSKI: Well, the county agriculture agent wrote a letter saying that you will be replacing trees every 10 years, at this point. I had people testifying to this, and the answer was just that, "We made our decision, our decision is final. This is legal, it doesn't have to come to a vote. Those opinions do not count."

MR. ROBINSON: Mr. Chairman, may I ask a couple of questions?

How old is the Quailbrook Manor Home?

MR. ROGALSKI: It is 10 years old. These are original trees.

MR. ROBINSON: And were those trees planted when the development was built, or were those trees there?

MR. ROGALSKI: Yes, those trees were part of the deed -- like that.

MR. ROBINSON: So they were part of the approval that the town granted?

MR. ROGALSKI: Yes. The town and deed requires that trees be there. However, the bond which the town kept has already been returned to the original builders, so I don't know what kind of--

MR. ROBINSON: If the plan -- that approved that development -- that allowed that development to be built calls for trees, those stipulations, those requirements, remain in perpetuity, and a code enforcement officer of the town can require the association to replace those trees.

MR. SMITH: Except that they got a tree removal permit.

MS. MATTHEY: But the tree removal permit, if I heard you correctly, included a requirement that they be replaced, and they would just have to go to a tree with a different root system. There are trees designed with roots not to spread, but to go down.

MR. ROGALSKI: Unfortunately, in our soil conditions, only shallow-rooted trees will grow, so they had to replace one shallow-rooted tree with another. That was the absurdity, and that's why the member who had a degree in forestry spoke to the board and tried to point out not only the exorbitant price that we were paying for these trees to be taken out and

replaced, but that the choice was absurd because we were replacing one type of tree with exactly the same type.

MR. ROBINSON: I don't think the fact that the town might have issued a tree removal permit negates the approval that requires a tree. It doesn't mean that you can't take down trees or replace trees, but if the plan indicates 12 poplar trees, that's what you have to have there.

MR. ROGALSKI: And yet, if they don't do it, the town would probably have to sue the home owners association or--

MS. MATTHEY: Or just cite them.

MR. SMITH: Cite them for a violation. That will get their attention.

ASSEMBLYMAN GREGG: I'm not too sure we're going to solve the tree problems this evening, but I certainly thank you for your testimony.

MS. MATTHEY: It's easier than the other ones though.

ASSEMBLYMAN GREGG: I can sense the Task Force has reached out to something they could solve, so they want to grab it while they got it. (laughter) They are beginning to get more like politicians the longer time I spend with them.

MR. ROBINSON: Maybe we should leaf this subject.

ASSEMBLYMAN GREGG: Leaf the subject. Is that what you said?

MR. ROBINSON: Yes.

ASSEMBLYMAN GREGG: I wanted everybody to hear that.

Thank you, John, I appreciate your testimony. (applause)

Margaret McConnell, please.

I hope the subject is going to branch out a little bit here.
(laughter)

MARGARET McCONNELL: Somewhat, but not a whole lot.

My name is Margaret McConnell. I'm a resident of Woodland Acres Condominium Association, located in Warren, New Jersey. As far as I'm concerned I have no rights as a unit owner. My board feels that they are untouchable, they refuse to follow the State laws. I've had lawyers write them letters, they still refuse.

Two years ago my upstairs neighbor became a board member. Since that time my entire family has become a victim of harassment, discrimination, and slander.

We've been fined and charged lawyer fees without any type of notification, which is contradictory to both our bylaws and the State statutes. On September 29, 1994, I was told by the association manager that the board felt that they did not need to provide any type of reasoning or documentation to facts concerning violations that I was fined with, thus, stating the board's standing policy.

In December of 1994, I became concerned as to where our condo fees were being spent. All attempts to review the association's documents have either been denied or gone unanswered. At one point, I was told that the old management company failed to keep the documentation, that there were no copies of the meeting minutes, and the secretary did not have any copies.

In August of 1996 our condo fees were increased from \$160 to \$122. The board blames this increase--

ASSEMBLYMAN GREGG: Decreased?

MS. McCONNELL: Well, no it went up. Increased to \$160 from \$122.

ASSEMBLYMAN GREGG: \$120 to \$160.

MS. McCONNELL: It was \$122 and it was \$160. I should mention that this is a low-to-moderate-income housing unit, the complex.

The board blames this increase, which we have gotten a newsletter, on the previous management company, stating that the management company had failed to pay our water bill to the tune of \$5000, a snow removal charge of \$10,000, and several other such bills. Consequently, that management company has filed for bankruptcy.

I wrote several times requesting copies of our monthly meetings but have only received three months' worth in five years. We have two open meetings a year, and those are for when we vote on members and that's pretty much it, or they tell us how they're spending our money.

The association's lawyer wrote me that the board must first approve my request for meeting minutes, and the cost associated, which is the copying and search of the files, will be billed to me and must be paid prior to receipt of those documents.

In March of 1997, in a closed meeting, the board voted on the adoption of a resolution limiting the access to many documents and now charging us a fee for the search and copying costs associated.

In a Florida judge's opinion, condominium resolutions cannot be amended by a straw vote but must be amended by appropriate procedures. According to Mr. Sclar, the attorney for the board, states that the New Jersey State statute 46:8B-14 allows the board, and I quote, "Responsibilities of the

Association include adoption, distribution, amendment, and enforcement of rules governing the use and operation of the condominium.”

Our bylaws state, in Article 4 Section 2e, “Powers of the board are the adoption and amendment of rules and regulations covering the operation and use of the property.” This, he states, gives absolute power to the board concerning resolutions. Thus, the board has exclusive voting rights without prior approval or notification to any unit owner. Once the board approves a resolution, we, as unit owners, are required to obey their new resolutions or be fined.

Each year I have requested copies of the annual audits but have only received one in five years. All requests to resolve any of my disputes through the alternative resolution dispute procedure are ignored. Also, my letters to the Commissioner have produced no action. Currently, the association has filed a lawsuit against me without prior notification for what they state are arrearages. All correspondence from my lawyer asking for documentation has been ignored. They refuse to provide us with any type of explanation as to what these figures represent, so we go to court in two weeks.

Consequently, my account has automatically been charged with Mr. Sclar’s fees, prior to any court appearance, which can only be construed to mean that they have not considered the possibility that they may lose their suit.

In conclusion condominium associations continue, on a daily basis, to ignore the constraints placed on them by the U.S. Constitution, the State statutes, and the common laws of the elementary notions of equal treatment. We, as unit owners, need procedural safeguards which could be achieved by

increasing New Jersey resources with regard to associations that refuse to comply with the New Jersey Condominium Act. At present, my association requires us to get written permission to attend any monthly meeting and state our business, which is at the board's discretion to hear.

I firmly believe in the enforcement of an open meetings law. I plead with our legislators to give the Department of Community Affairs the resources they need to force condominium associations with compliance of the laws governing them.

Lastly, I oppose the Uniform Common Interest Ownership Act since it would take away more of our constitutional rights in a democratic society.

Thank you. (applause)

I have some documentation, if you would like to see it.

ASSEMBLYMAN GREGG: Thank you, Margaret.

Any questions from the Task Force? (no response)

Thank you.

MS. McCONNELL: Should I leave this with you?

ASSEMBLYMAN GREGG: You can leave anything that you have with you, and if you wish to provide, for the Task Force, any information as your progress of your situation occurs, we would appreciate that.

Thank you.

Stephen Levitt, please.

STEPHEN LEVITT: My name is Stephen Levitt. I live at 2 Claridge Drive in Verona. It's a condominium complex. I have lived there for 10 years as a unit owner. It has been a very unhappy experience, and for different

reasons it's not going to continue for me much longer, but I appreciate you making this effort. I appreciate it very, very much.

Now, in choosing how I was going to prepare what I was going to present tonight, realizing that I might not be around in the future and also because I am in a building where our developer is gone, but there are people who are affluent and powerful and people, in fact, who are on statewide political committees -- party committees -- that I figured my words might not count as much as documents that I might leave behind, because the documents, in a way, will speak for themselves.

I wanted to begin by talking about matters that have to do with the political process within the building, because for many of you and for your colleagues, this is an election time and those are the kinds of issues to which you can relate vividly.

Firstly, I will begin by saying that in our building we may not distribute literature of any sort. In other words, we can't go down the hall and drop things off at the door. I am a former county committee person and I had done a very effective job and the tool that I used was to pass out literature. Now, since I was not going to put everything in the mail -- it's just too much trouble to have continuing mailings to everyone in the district-- Frankly, when I moved into my building, I specifically did not run to be on the county committee just for that reason, but even within the building you can't pass out things at election time. On the other hand, the incumbent, of course, representing the board, possibly somebody who is on a board committee who is now going to run for the Board of Trustees, while they can't exactly pass out election literature, they can distribute materials from the board -- which we'll

talk about the wonderful things that they did -- which comes down to the same thing.

One of the things that bothers me the most-- We have election rules. Our election rules -- I'll just say this for those of you who are interested in procedural things -- are not in the master deed or bylaws or the board rules, but they are committee rules. However, they govern all of us, and the one thing in there that I want to bring to your attention is that in our building, in order to distribute literature in any way, even by mail -- by the way, some years we were allowed to use a table that was set up and some years we weren't -- we have to submit the literature for prior approval. Now, there are reasons given -- I'll change that-- There are things that they are supposed to be looking for in the literature, but you know, as a tactical matter, that this eliminates your opportunity to have your final say. They will always have final say if they can review your literature. I have to tell you that I believe that I have a fundamental First Amendment right to give a piece of paper to anyone I want to on earth without a committee reviewing it first.

I think there is one for each of you. (distributes papers)

Secondly, one of the tools that I used as a county committee person effectively was a voter registration list. The equivalent, in the building, is the list of unit owners. I, very recently, attempted to acquire the list of unit owners by writing to the Board Treasurer who, on our documents, appears to be the custodian of our records, but no matter. I was answered by the manager, and what the manager said was that the list of unit owners was proprietary and shouldn't be given to me at the advice of the attorney. I

presume that what he meant by proprietary was that it belonged to the board and not to the unit owners.

There was also a suggestion that I should go get a tax list. Well, frankly, if the board wanted to adopt the tax list as its voting list -- there is no reason why they can't do that, as far as I know, but bottom line is it would not mitigate their obligation to me.

(distributes papers) If there is any left over you can give them to the people out there, or anyone up in the front of the room who doesn't want them.

Thirdly, some of you have expressed an interest in having the State condominium law change the open meeting provisions so that they give us what would be in the Open Meetings Act. There is many of us who are interested in that. It would interest you to note that our unit owners voted to do that. I want to pass this out to you. (distributes papers)

You can see that -- when you get this -- it's a very simple sentence. It says, "Members of the association will be notified of all board meetings which will be held in compliance with the New Jersey sunshine law." So that's a wonderful thing. Attached to that is a memo that went out at the time -- now I'm on the last page, that paragraph I marked off -- and this was sent out when all of these bylaws passed -- and listen to this paragraph carefully. It says, "An overlooked statistic revealed by this vote is the amazing turnout by you, the association members. It is common today, all over our land, to display apathy and mistrust for the democratic tradition such as voting." I'll reread that sentence. "It is common today, all over our land, to display apathy and mistrust for our democratic tradition such as voting. However, at Claridge

House II, this was a historic occasion in many ways. Yes, we passed all six of the changes, but, more importantly, we received a voter participation level of almost 86 percent. It is a credit to you, an informed interested and concerned electorate.”

Well, there is only one thing, this was in the summer of 1994, and to this day none of this has been registered. When our lawyer sits up there in front of the room, he is leafing through the well-worn pages of the master deed and bylaws that his firm wrote 15 years ago.

Now, in regard to each of these items, am I supposed to or should I have, as a good citizen, spent a quarter of a million dollars to take each one through the court system? I tell you I can't. The problem is that they use our money to hire a lawyer to fight us. (applause)

Next, fortunately for us, we had a little falling out among the folks. I have this great letter which will really, for more than most of you, show you what living in a condominium is all about. This is a letter written to us by a CPA firm called Withum, Smith and Brown. They came in last spring and found fault with a number of things that went on in our building. At the bottom of the first page it says, “Additionally we noted one particular check appears to have a forged signature of the President of the Board.” Then, if you turn to Page 3, at the top, there is a sentence that reads, “All employees” -- this is a recommendation -- “employed by the association should be issued payroll checks only,” which goes out to say, well, gee, we found that a lot of the people got their money on checks other than payroll. For those of you who are not sophisticated, what that means is that there aren't any deductions, which is really good.

Now, if you go down to the bottom of the last page, which says "Contract Services" at the top and then I have underlined a few sentences, and I will read this into the record-- What this is about is the fact that the Board Manager paid a parking firm money which -- well, you will see what happened. "If the contract terms were followed, the association, in fact, is owed approximately \$56,000 from the parking vendor through March 31, 1996. This overpayment characterized by the manager as an undocumented, unauthorized loan without interest charges or formal repayment plans violates the duties and the manager's authority," then it goes on. In this particular case, this manager was fired -- as I say, I regard this as a falling out among the board members. The day after he was fired, the local gendarme came into the building representing the Essex County Prosecutor's Office, but they were kicked out. I don't know if they ever came back since.

I was told that this would be brought before a grand jury, but who knows. If any of you feel-- If you're an attorney or public official, and you feel concerned and would like to turn this letter over to the Attorney General's Office, you have my blessing.

Now, we get to the enforcement. I am going to give you another piece of paper and it does have a person's name on it. It's a public document, but I am asking you not to submit -- to put the person's name in the public record -- if you have to cross the name out by hand. We get to enforcement -- this is an enforcement issue.

This is a copy of an adjudication of a complaint. This person, who is my neighbor-- You can see the complainant is -- now you can see the nexus here -- the manager, the same person who gave away the \$56,000 on the form

over there. His complaint is that this neighbor, who is an activist on our building, who passed around two petitions and a few flyers, within the jurisdiction of this court, damaged Claridge House II tangible property carpeting, to wit, this is a criminal act. Rolled a cart across the carpet with grease on wheels causing damage to the carpet, causing monetary loss in excess of \$500. Now, the fact is the people came out the next morning and vacuumed it up. They may have used a little dry shampoo.

Now, you see the form on here where the county prosecutor's office spent 18 months deciding whether or not this attracting dirt on the carpet was an indictable offense. Now, we get to the \$500. Why \$500? Because in State law -- in the criminal code -- that's the threshold that makes it into a misdemeanor or an indictable offense. You can see that the county prosecutor, after agonizing over this for 18 months, realized that it was not an indictable act, referred it back to the town.

Now, you can see at the bottom of the sheet here, where the word dismissed is written over with the word guilty-- I listened to tape and what the judge said, and for those of you who are attorneys you can appreciate this, what the judge said is, "I believe that you didn't do this on purpose, but I have to fine you." That is exactly the opposite of what the law says. Also, they wouldn't give her the bill. The \$514.20 bill for vacuuming up the carpet -- we pay people \$6.00 per hour or \$8.00 per hour to do it. They told her that it would be entered as evidence and she could get it later, but it was never entered as evidence. It was a lie.

Here is another thing that is connected with this. The person that prosecuted this case was the board attorney. It wasn't Mr. Smith, I want to

make that clear. It was Mr. Robert Griffin. I was told by a board member that he got about \$300,000 from us. This was part of what he did and he clearly, on the tape, said this is being entered as evidence. You can have this bill, the \$514.00 phony bill.

I want you to understand, when we are talking about people and their political power and what goes on -- because you have to understand the situation that we are living in -- what I had to do to get this piece of paper, which is a public document-- I went there for this -- there are a lot of these cases. This lady was charged with a disorderly persons offense for calling the plumber. A complaint was brought against another person who is accused of laughing at the wife of the Board President while in her car at a traffic light. May I say who that person was? That was her. (points to Maxine Bedrick) She was charged with laughing.

So I go into the municipal court, and I want to begin to collect these things. First of all, you have to have the docket number, the full name and the date of the case -- and of course I didn't have all of those things -- then they said, "We don't give you this. What you have to do is buy from us the transcripts of docket." Well, I really didn't want that and I knew the difference, but I went along and a couple of weeks later I got the transcripts of docket and then I contacted the administrator of courts in Trenton and there were some letters back and forth.

I got a call from the office in Newark, which would be the Essex County Office, and they agreed with the court clerk in Verona that I couldn't get this piece of paper. The only reason that I was able, in my opinion, to get this piece of paper was the unfortunate passing of the Chief Justice. When he

passed away there was a change in staffing, and this new fellow, Ciansia -- when I wrote again and wrote to him, it was solved in a second. This is a whole circle of friends, these people are serious. I am a former trade unionist. I have been through this there, and one difference you can see, if you're a trade unionist, all they can do is take your job, which sounds bad, but here, as you can see by the type of prosecution of this one woman who is up here, it's the money, it's your property. That's what they are after. That's the purpose of a disorderly persons offense, because they can turn around and sue you, and when you go to your insurance company to represent you, they will say, "We don't have to represent you, you were found guilty."

Are there any questions?

ASSEMBLYMAN GREGG: That's my line. (laughter)

Task Force, are there any questions? (negative response)

Thank you very much. (applause)

MR. LEVITT: Thank you.

ASSEMBLYMAN GREGG: Fred Hotaling.

FRED HOTALING: Good evening. My name is Fred Hotaling. I reside in Howell Township. I am also a property owner of Lazy River Campground Condominium, which is in Estel Manor in Atlantic County. I'm representing myself.

We are a little bit different than what you have heard tonight, but not in the problems with the Board of Trustees. We have a Board of Trustees that runs this campground exactly the same way, under condominium laws, that is liberally running amuck.

This particular board that is here, ever since they came in, they have increased the condo fees every single year by at least 50 percent but not one increase in any of the services provided to us. When they are questioned about this they just say that, "We need the money."

Our bylaws also state that anything that is done in this campground on common ground has to be approved by the owners. When the owners turn them down, they turn around and get the things done and spend the money on their own and they do it by assessment. When the people don't pay the assessment, then they put a lien on your property. You get into this little circle play here.

Like this last gentleman that was up here, I spent over \$10,000 out of my own pocket taking this board to court, trying to get something rectified, and all I did was run up the association's bills because they used our lawyer, of whom I was paying, to defend themselves. As a matter of fact, we pay \$9000 a year to an insurance company to actually protect our board in case they are sued. On the advice of the board attorney, they told him not to contact the insurance company, to hire him. He collected \$15,000 representing this board, which was fed back to the association owners. We had to pay this bill.

I said that they violate State law, they violate municipal law, the bylaws, or anything they feel like doing, and there is nothing that we can do about it. I have been to Senator Bennett, I have been to Senator Gormley, I've been to newspapers, I've been to the township, I've gone to Trenton to Community Affairs, and, literally, no one is empowered to stop any of this. This is why I'm here tonight. There is something drastically wrong in this State when people like this can come in and they literally confiscate whatever

you have, and they do whatever they want. Then they use your own money to fight you and laugh at you.

What I would like to see this Task Force do is to deathly empower, in Trenton, whether it's the Community Affairs section or whatever -- give them some authority. Let them go in and make these Board of Trustees abide by their own bylaws, by the municipal laws, and by the State laws. I'd also like to add that I would like to see something put in there to not to allow a Board of Trustees to use our own lawyers against us. If they, in turn, are being accused of a wrong doing -- I don't mind them using lawyers for things for association business -- but when it involves them personally doing something wrong, I don't want to see our lawyers defending them because we are literally fighting our own lawyer. We are paying the bill both ways. That lawyer, as far as I'm concerned, is supposed to represent us, the association, not the board.

Thank you. (applause)

ASSEMBLYMAN GREGG: Thank you, Fred.

MR. HOTALING: Are there any questions, I forgot to ask?

ASSEMBLYMAN GREGG: Task Force? (negative response)

The next person is Jim Bevere.

J A M E S B E V E R E: Good evening. My name is Jim Bevere. I am a resident of Hamburg, New Jersey. I've been an advocate for condominium reform for the last eight and half years. I've spoken to this Task Force before about transition, which I feel is a very critical problem with planned residential communities. I've also stated on the record, for the last eight years, that I believe that planned residential development is the biggest consumer fraud issue to face the public since lemon laws were created for cars.

I want to talk a little bit about control tonight. That seems to be a fundamental problem here, who controls these boards? Whether it be a home owner makeup, a developer makeup, or a bank makeup. If I was, let's say, a lawyer and was entrusted to take money from a client -- that money, let's say, it was placed in a trust account -- and if that money was misappropriated, that lawyer could be disbarred. Well, that happens every day in condominiums. What happens is-- I see that we have a panel representing each different group such as builders, lawyers, home owners, board members, but let's get back to that core.

I worked with DCA for many years on forming a Task Force, I advocated it very early on. I was told that planned residential development was the only sensible type of building that New Jersey could afford because of the density of the population. I was also told that they were going to try and bring in responsible development. Well, how come a lawyer, who would misappropriate money would be disbarred, but why do we have builders that basically wreck havoc in people's lives -- I'm not saying that there are not good builders out there because there are, Hovnanian happens to be a very, very reputable firm, too -- not that I'm singling you out, I just recall that you said that you were from that firm.

How come these builders can come back and do the same thing that they have done wrong and ruin all of these people's lives. We need to license them. We need to hold that license up to some value that says that if you screw up you're out.

The next thing would be the management companies. The management companies are in charge with a fiduciary obligation to take -- I

was heard tonight as somebody saying -- a small government and try to be a judge and make it work efficiently. If we have management companies that are taking a piece of a \$10 fee for their fee off all of the units and basically just taking the money but not doing their job, they shouldn't be doing it.

Then we get into a situation, whereas what happens if the builder is gone, the management company is there, but it's controlled by a bank who came in, in place of the builder that couldn't build out this property? What happens then? Well, if somebody was to file for bankruptcy, they get a time limit, they get what they maybe can call a Chapter 11, a Chapter 13, a period to reorganize. Then, under the bankruptcy code, they have a set time limit with which they have to take that plan, present it, and then carry through on it. After that, if they don't, they are converted to a 7 and a trustee is put in place. To me, we need something in place like that. We cannot let lenders, builders' agents -- somebody come in after it fails and just keep this community in limbo.

Now, I would like to read you a letter from a community that is in just such a case. This is a letter to your Task Force. This is from a group that is on a transition committee with a bank in control. I'll read it, it says, "Dear New Jersey Task Force, the story of Heritage Lakes is a long and tragic one. It is a story about a system that has failed hardworking families and individuals. This story is, at times, heart wrenching, leaving you saddened, angered, and wondering how this could happen in America today.

"Contrarily, the system which was designed to protect consumers has provided numerous loopholes for builder-developers and the financial institutions that take place in the event of foreclosure.

“The builder-developer left the home owners at Heritage Lakes with quite a legacy, over \$1.4 million worth of construction deficiencies and a grossly mismanaged association. The countless deficiencies were a result of blatant, intentional violations of construction building codes and poor workmanship. The Heritage Lakes Transition Committee and its consultants were hard pressed to find anything that was constructed with a reasonable degree of integrity and workmanship. The builder-developer has been gone for years, but our association’s mismanagement continues because control has been turned over to the bank, hereby referred to as the sponsor in lieu of foreclosure. The years of mismanagement caused by the lack of home owner voting control in this association has filled this community with a sense of despair, concern, and apathy. This community should be directing its energy towards nurturing its families and creating a promising future. It should not be entwined in a situation that never should have been allowed to occur.

“The parties responsible for these unconscionable acts against families and individuals who purchased homes at Heritage Lakes must be held accountable for their actions, not sheltered by inadequate laws. The Transition Committee is currently finalizing documentation pertaining to the extent of the construction deficiencies and is now compiling documentation in regards to association mismanagement, ethics violations, conflicts of interest, and consumer fraud. The Committee is steadfastly committed to resolving these issues plaguing our community. It is our hope that this Task Force will look seriously into the shakedown of condominium home buyers, hardworking families, and individuals who are experiencing financial and personal hardships because of the transgressions of builder-developers and the sponsors.

“Improved legislation and safeguards need to be established that will ensure home buyers that they can purchase homes worthy of their work and efforts. Failure to provide reasonable workmanship should place liability directly on the responsible parties, not the innocent victims.

“The Heritage Lakes Transition Committee will gladly meet with the Task Force to further discuss this matter.”

All I can say is that I hope that this Task Force will not just hear the testimony that’s been given, but will truly feel the plight that is out there for the families that have lost quite a bit in this type of home ownership and make fundamental changes to the laws.

Thank you. (applause)

ASSEMBLYMAN GREGG: Thank you, Jim.

Lucinda Choquette.

LUCINDA J. CHOQUETTE: Good evening, my name is Lucinda J. Choquette, and I live in Leisure Village East, which is an age-restricted condominium community in Lakewood, which is in Ocean County. I’ve had the opportunity to speak before you twice before. Quite frankly, given the driving distance, I didn’t plan to come tonight. However, recent events in our community changed my mind.

Our bylaws require that for the election of trustees, the Board of Trustees shall fix the methods by which such election shall be conducted in accordance with civil election procedures. Despite complaints, this has never happened since I’ve lived there. Again, this year, the banana republic procedures set by the board provide for a three-week period of voting. This is not the only instance in which they fail to comply with accepted civil election

procedures. However, it is perhaps the most egregious and corruption prone.

This year, availing himself of the ADR procedure the board adopted in March, one resident filed an ADR, his complaint being that the board had failed to comply with accepted civil election procedures as required by our bylaws. He received a letter stating that the law had been changed and that they were modifying the ADR procedures. On the basis of that change, they denied his request for an ADR because it is not a housing-related matter. He met with the President of the association, who is also a board member. He attempted to share with him a broader definition of housing related that we had received from the Department of Community Affairs. Our President not only refused to look at it, he stated that the board did not have to follow accepted civil election procedures, anyway. Incredulously, his position was that they, the board, had not accepted civil election procedures. Therefore, since the board had not accepted them, they did not have to follow them.

In another instance, the Board of Trustees has recently reaffirmed their refusal to permit an organization to meet in our community hall. This, by the way, is a privilege that's extended to every other organization in the Village where I live. This particular organization has around 250 members, which is over 10 percent of the residents in our community. It is too difficult for many of our residents to venture out of the community. Therefore, they are now meeting in back to back sessions in private residences.

Although the organization's bylaws require members to comply with all laws, the master deed, all bylaws, and the rules and regulations, the Trustees don't like the organization's purpose statement and want it revised. It presently states, "The purpose of the organization is to provide an

environment in which members may discuss and explore various ways to enhance and improve their community home and thereby enrich their lives.” Their denial is also based on their position that the board has a responsibility to -- and I quote this from a letter that we received -- “Monitor all Village activities to prevent any organization from setting up plans or activities which might disrupt the peaceful, calm life to which our residents are accustomed.” While I fully understand and accept the need for structure, conformity, and compliance, I’m not sure what country I’m living in anymore.

It’s the most recent events like this that have brought me here again tonight. My job responsibilities, over a 25-year period, have included the review of Federal and State legislation, developing costs projections, and the development of programs, rules, and regulations to comply with legislation. Over that time I have watched a continued trend away from the use of specific, detailed language and toward the use of broad generalities and soft, fluffy feel-good stuff. The problem with the soft, fluffy feel-good stuff is that nobody knows what it means. In fact, everyone thinks that it means something different. This type of language has crept into condominium law. In fact, the law seems to be less clear with each amendment. For example, Title 46: 8B:14K requires that an association shall exercise its powers and discharge its functions in a manner that protects and furthers, or is not inconsistent with, the health, safety, and general welfare of the residents of the community. This, apparently, is the basis for the board’s authority to monitor all plans and activities to ensure that nothing disturbs the peaceful calm of the Village, which, by the way, translates to groups whom might possibly disagree with them must be prevented from assembly.

Somehow, I can't imagine that this is what our legislators meant. On the other hand, what was meant? Lack of clarity as to the term housing related is also at the base of our problem with the ADR provisions. If you ever get to the point of recommending legislation, it would be helpful if the language could be made as clear as possible. It would also be a benefit to charge the Department of Community Affairs with promulgating rules and regulations, as well as with the authority to provide interpretations.

In addition, the Department of Community Affairs must be given enforcement powers. With what we have now, it appears that we must constantly rely on attorneys and judges who interpret every sentence. It would seem that this would clog the courts and defeat part of the purpose of the ADR process. Someone told me that it was pointless to bring this problem to your attention since, at least, some of you are attorneys and therefore you benefit financially from soft, fluffy language and ambiguity. I'm betting my five-hour drive here tonight that that's not the case and that you will take these comments into consideration.

Thank you. (applause)

ASSEMBLYMAN GREGG: Just for members of the audience out there, we will take an opportunity to have all of the attorneys on the Task Force to please raise your hand.

MR. SMITH: I would just like to say, I'd like to know what housing related means, too.

ASSEMBLYMAN GREGG: So we have two attorneys, the rest of us are not, so there is some hope for you depending on your point of view.

MS. MATTHEY: We have a lawyer that's absent.

ASSEMBLYMAN GREGG: We have one absent lawyer. We do that on purpose at every meeting.

I do want to take an opportunity for a small commercial and then we will complete with the five remaining individuals that need to testify. The commercial is for copies of transcripts. Every one of our public hearings, all of your words have been carefully documented and they are available for you, so I will slowly read the number that you can receive transcripts at. That number is 1-800-792-8630. You get the ginsu (phonetic spelling) knives if you call in five minutes. (laughter)

I have a question in the back.

UNIDENTIFIED SPEAKER FROM AUDIENCE: How soon do they become available?

MS. MURRAY: It takes a while for them to be transcribed.

UNIDENTIFIED AUDIENCE MEMBER: So you're talking a week, a month, six months?

MS. MURRAY: No, it takes between four to six weeks to get the transcript.

ASSEMBLYMAN GREGG: Some are already transcribed.

MS. MURRAY: The past meetings, most of them have been transcribed except the immediate preceding meeting.

ASSEMBLYMAN GREGG: So some are available now.

MS. MURRAY: For those of you who have already called for transcripts I will be sending those out.

MR. ALI: (speaking from audience) How much do they cost?

MS. MURRAY: There is no cost.

ASSEMBLYMAN GREGG: We're not a condo association.
(laughter)

MR. LEVITT: (speaking from audience) Will the documents I gave you be put as attachments (indiscernible)?

MS. MURRAY: I can't assure you that all of them will be. We have to review them because some of them may not be appropriate, and we'll put the ones that have public-- Most of them will be. Some of them I'll have to review.

ASSEMBLYMAN GREGG: They will be all available for our members of the Task Force when we are completing our job.

Last question so that we can get back to testimony.

MS. BEDRICK: (speaking from audience) May I say something (indiscernible)? I know that all of you are aware that I am going through litigation. My litigation is not against the association. It is a civil rights litigation, and I was not able to speak at any meeting from 1993 until 1996 at any Claridge House open board meeting and was not allowed to see any papers, anything that was related to the building. As I said before, I hired an attorney to fight with my attorney, who I pay for, and then of course who is a civil rights attorney. This is not a litigation against the association, it is against my civil rights, which were finally given to me after all of the lawyers (indiscernible). In 1996 of January I finally get these civil rights and I am going to be able to ask a question. I raise my hand and they say you can not speak, you are not one-- (indiscernible)

ASSEMBLYMAN GREGG: We don't want to-- I don't want to interrupt you, but we don't want to jeopardize your lawsuit. At this point,

you're not at the mike so we are not getting that testimony. It was only meaning to be for a question, but I appreciate that comment and we'll move forward.

For the courtesy of everyone else who is here, it is growing late -- it's about 10 after 10:00 -- so if we can try to make our comments in the 5-7 minute range, I would be appreciative, as well as the other members of the Task Force.

The next individual is Mark Macarrick (phonetic spelling) please.
(no response) Mark Macarrick? Going once, going twice.

Evelyn Mills, please.

EVELYN MILLS: Good evening.

ASSEMBLYMAN GREGG: Good evening.

MS. MILLS: Thank you very much for taking an interest in our communities. My name is Evelyn Mills, and I am with High Point Country Club, in Montague, New Jersey.

Our community is slightly different than most of these. That is that we have small condominiums with two or three or four families, each building looks like a private home. We pay our own heat, we pay our own electricity, and the only thing we pay is dues for maintenance of the pool, the clubhouse, and the roads. My thunder was taken by Mr. Shaukat, who talked previously. What I want to discuss is the assessments that we have at our community.

Our board is a board that is controlled by a 40 percent vote, and we have no opportunity to put any member in there without their specific vote, and therefore they control us. Our home owners dues, this year, have been

increased 20 percent and all the other properties were not increased. In the year from 1990 to 1996, our dues were decreased by 53 percent; however, the golf course lots were decreased 258 percent, and the pro shop rental was decreased 445 percent. What we have here is a pro shop that is owned by the home owners and is leased to the golf course. The lease is for \$667 a month. In this lease they have a pro shop with about 1800 square feet. They have golf cart storage, about 3500 square feet, also includes the utilities, air-conditioning, heat, hot water, sewer, trash collection, half of the ladies' locker rooms, half of the men's locker rooms, golf bag storage, putting green, and all of this for \$667. The utilities -- the lighting -- is used constantly, 24 hours a day, 12 months out of the year, and this is one of the things that they will not change. The new lease was just signed and it still continues at \$667 a month.

That's all I have to say. (applause)

ASSEMBLYMAN GREGG: Thank you, Evelyn. (applause)

ASSEMBLYMAN WISNIEWSKI: Mr. Chairman.

ASSEMBLYMAN GREGG: Evelyn, one second, Assembly Wisniewski has a question.

ASSEMBLYMAN WISNIEWSKI: Ms. Mills, these figures that you have on this chart, these are annual assessments?

MS. MILLS: Yes, those are annual assessments.

ASSEMBLYMAN WISNIEWSKI: Thank you.

ASSEMBLYMAN GREGG: Leo Yourish.

LEO YOURISH: My name is Leo Yourish, I live in North Plainfield in a conversion condominium of 424 units. I spoke to you before. I really

thank you guys for keeping the midnight hours. I have good news, I'll be very brief.

I am angry because I have been framed in court by the board, by the Superintendent, by the site manager, and to the day I die I will fight it. I sent a letter to our new lawyer who was associated with the CAI. To me the CAI is a Trojan horse, they don't really work for us, and a lot of people know that. I asked them how come they had an open vote for the Board of Directors, and how come they hired a lawyer, at our expense, for the site manager who naturally worked for the managing agent. I knew the answer before I ever said anything. I knew they wouldn't answer me, the President said he didn't have time. You've heard this story a thousand times. It's impossible for you to legislate a kangaroo court. It's impossible for you to legislate ethics.

I'll ask for a closed ballot from you people, for the Board of Directors to eliminate the slap law, and we need stronger teeth for the democratic process for the home owners. The man in the brown jacket there (indicating) was great, as far as I'm concerned. I think we should license the managing agents. That will give us some kind of a right, it will give us some kind of a recourse. We should license the site managers; if they do wrong, they have to answer for it. We should also license the Superintendents. This will -- from what I understand -- help thousands of people in South Jersey. If we have a legitimate complaint, we will get some power and rights. We live in a fiefdom, we have no rights to date, as far as I'm concerned, and I thank you guys very much. (applause)

ASSEMBLYMAN GREGG: Thank you, Mr. Yourish.

Mr. Hannaman.

EDWARD R. HANNAMAN: (speaking from audience) I believe there is somebody who signed up after me. I defer it to the public first.

ASSEMBLYMAN GREGG: I want to defer to Linda Hymes.

LINDA HYMES: Good evening. I live in Montague, in High Point Country Club, the same place as Evelyn Mills, Shaukat, and Betty Romyns. I think they basically have mostly said it all, except for one serious thing, I think, and one not so.

The serious thing is the children in my community. In 1987, when we moved there, we had a half a bus load of children going to the schools. Today we have 202 children leaving our community going on the bus. The thing is they are in a dangerous situation, they have been since 1987, and they still are and it's 1997.

The entrance to our community is separated by an island, ingress and egress. Back in 1989 and 1990, that front entrance was deemed unsafe by the Township Board of Education. We are now in the back, which was done without a parent representative from the community, which was myself.

I have been very active in this for 10 years with the community corporation and the Board of Education. What they did was, they put the children in the back entrance, which is a 19-foot-wide road. It backs a township road, New Road, and it's one side of the street parking, and we have all 202 children boarding buses from that area. The thing is, it's a construction entrance. When there is building going on, there are huge trucks passing there, carrying pipes that you bury in the ground and everything. I am very active, and I am not going to stop until this bus stop is brought into the community.

I don't know why our association didn't fight harder for these kids; after all, they do live within our community. It's always left up to the parents. It's hard because you are pushed around, and that's why I hung on for 10 years, because I know it like the back of my hand and I will not let anybody touch it until it's settled.

The thing I'm asking is that there has to be some kind of responsibility in situations like this. Although, I know Montague and High Point Country Club, we are unique in the setup of the particular club because it was never set up for children. I hope that, maybe, through Legislature (*sic*) it would make them a little more responsible to work with the Boards of Education, not only the parents. It's tough, we have people that live up in that town that have great animosity towards the club on our Board of Education. It's not easy and these kids are in danger.

Number two is policing. It drives me crazy that I drive through my community, and I stop for the stop signs and slow down at the 20 mile per hour speed limit. There are people that know that those signs are illegal. They don't care whether they are going through them or whether they are speeding, and it makes it dangerous for the people who are, at least, trying to do that.

Something has to be done with more police enforcement in our communities. I never see them unless they are called or to come in to serve a warrant or a ticket or whatever, that's another bone of contention with me. Mostly the kids, somebody has to be responsible for school buses.

Thank you.

MR. ROBINSON: Mr. Chairman, may I ask a couple of questions?

ASSEMBLYMAN GREGG: Linda, please stay if you would, and there are a couple of questions from the Task Force.

MR. ROBINSON: Is this a situation where your association will not allow school buses into the neighborhood?

MS. HYMES: Well, they are working with us this year. In the past they have not been too much in compliance.

MR. ROBINSON: Who?

MS. HYMES: The association.

This year they are, and I think because the number of children has increased significantly, I mean 202 kids leaving from the same area. Most of them go to our grammar school. There is about 190 going to Montague Elementary.

MR. ROBINSON: My real question is, why doesn't the bus come into the development? Why do they have to go to a construction site?

MS. HYMES: They are requesting now, the first time in 10 years, as a matter of fact -- they did mention it in the newsletter -- the community newsletter -- indemnification, and the school board, through rumors, they think that our roads are unsafe. Our roads are not unsafe. And that was another thing. I could not get anything that says -- or the State Board of Education or the State -- any transportation -- to come in and look at our roads and say the roads are safe. They're safe. We have State minibuses coming in.

MR. ROBINSON: Or less safe than a construction entrance.

MS. HYMES: Pardon me.

MR. ROBINSON: Or less safe than a construction entrance, which is what they use now.

MS. HYMES: Well, no because our roads have been done over a couple of years ago. See, it depends on who you have on your Board of Education and who you have on your committee, you know, how things are going to be done. Our roads have been improved. What I'm saying to you is, when I heard from a Board of Education member, "Well, we're going to look into the shape of your roads," I could not get State Board of Education, Transportation, or anybody come in and look at our roads because they said that it was a private community.

MR. ROBINSON: How wide are the roads, do you know?

MS. HYMES: The roads are 19 feet wide on the residential, around the lake they are 25. They formally all were 25 feet wide. The bus would travel a 19-foot-wide road down to Shore Drive. At that point, the road is 25 feet wide around to where we want the bus stops to go.

MR. ROBINSON: Thank you.

ASSEMBLYMAN GREGG: Any other questions from the Task Force? If not, Linda, I would be happy to give you my card before you leave, and we can, through my office, talk to the Department of Transportation and Education to see if they can at least give you some advisement or the Board of Directors of your condominium association some advisement, as well as the school board some advisement, on the issue because children's safety transcends what we're talking about today, so we'll move that in a different direction. Before you leave I will give you my card.

MS. HYMES: Thank you. (applause)

ASSEMBLYMAN GREGG: If you have a question you have to come up here, Jim.

MR. BEVERE: It will wait.

ASSEMBLYMAN GREGG: Ed Hannaman from DCA.

MR. HANNAMAN: (speaking from audience) Is there anyone else?

ASSEMBLYMAN GREGG: The next question would be, is there anyone who has not addressed the Task Force that would wish to?

The gentleman right here and then the gentleman after him.

Please state your name and where you are from, sir, thank you.

L E O N A R D R U B I N: My name is Leonard Rubin. I live in Lawrenceville, New Jersey. I live in Woodmont Town House Association.

The announcement was made tonight that this is the last hearing that is going to be held by this Task Force. I'm particularly impressed by the charge that this Task Force has for itself. I'm impressed with the potential that exists for this Task Force to do something for the residents of this State, which I understand number somewhere near a million people, in terms of the tremendous anecdotal evidence that has been given to you through the testimony these last four hearings.

There is one area I think that you can add an additional area of effort. Each of you wears a hat representing an entity which in no case specifically identifies you as a unit owner with a unit owner's concern. I don't know whether it can be accomplished, but I would strongly recommend that consideration be given to the appointment of two unit owners to sit with this Task Force during its deliberations so that--

ASSEMBLYMAN GREGG: Not to interrupt you, sir, but we do have on the Task Force unit owners.

MR. RUBIN: You do have unit owners, and I accepted that fact when I noted to you that you wear the hat of another entity. A unit owner who is a property manager and may sit here as a property manager, in that context, wears two hats.

MS. MATTHEY: Well, we have two unit owners that are nothing else but unit owners.

MR. SMITH: We have unit owners that are here as unit owners. You have two that are independent.

MR. RUBIN: Are these members of boards?

MR. SMITH: Yes.

MR. RUBIN: Yes. Therefore, the unit owners represents a board, as well as representing himself or herself as a unit owner. What I'm identifying to you is the sole representation of an individual as a unit owner having only that concern to represent during deliberations. I think it would add a dimension of concern that would be very, very helpful to you. In that context, I would like to recommend two people to you to, perhaps, fill this role if the Task Force sees fit to accept the suggestion.

One is Margaret Bar-Akiva, the other one is Dr. Lois Pratt. These two women have a very significant debt of understanding of these issues. I think you all know them by name and you probably know them by their contributions during the testimony. It is my own personal suggestion that if the thought be given by the Task Force to have this inclusion that they be recommended to you and that you appoint them to sit in with you during your deliberations, rather than outside, where the real work that has to be

accomplished will be addressed. That is no easy task. I don't envy any of you for the task that you have ahead of you.

Thank you very much. (applause)

ASSEMBLYMAN GREGG: Assemblyman Wisniewski.

ASSEMBLYMAN WISNIEWSKI: Mr. Chairman, Mr. Rubin makes a good point. Just for the record, my wife and I are also unit owners and I'm not on a board and I'm not representing any other interest other than the people in my District and the Legislature.

ASSEMBLYMAN GREGG: And we also have Glenn Beebe at the other end of the aisle.

MR. RUBIN: (speaking from audience) If I may make another comment. The Assemblyman is a unit owner, but he sits on the Task Force as an Assemblyman, and that's the problem. You can't wear both hats, and if you try to, you will lose the case.

ASSEMBLYMAN WISNIEWSKI: No, I didn't disagree with your point. I just wanted to make sure that was clear.

ASSEMBLYMAN GREGG: We would wish you know who is on the Task Force, and, quite frankly, there is no human being on the planet that wears one hat. Everybody has a special interest and I think you have heard it, and for those of you who have been here for four hearings, as I have and my colleagues have been here, everyone has -- for a lack of a better word -- an ax to grind with certain issues. No matter who we put on -- and I'm not going to discount your point of view-- The Speaker did appoint this Task Force, and it will be his determination whether he wishes to expand it, but we have certainly heard our history of problems.

With all do respect to your comments, I certainly understand Assemblyman Wisniewski's point of view. I think there is no better advocate than you can have as an elected official as not just a hair club president but also a member. (laughter)

This is an individual who has been elected by his citizens to do his due diligence for his 200,000 constituents. I don't think we can do better than have somebody who is one who has a vote of the 80 members of my body, as well as a member, but we will take your advisement. We will certainly reach out to those two people, regardless, because we want their points of view.

The end of public testimony is not the end of discussion. The door is still open. You can still input, in writing, to us if there are any other thoughts that you have after our public discussions end. Before I go to Ed Hannaman, I think it is also important for you to understand the process.

This Task Force is to get your public input. It is for you to be able to speak to us, as legislators, and to individuals in the industry. From there, assuming that we go to a legislative solution to this -- which is what I believe is your hope and I do believe it's why the Task Force was created -- whether it be one, two, or three bills that begin to solve en masse the problems we have with these kinds of communities, we go into public hearings again. So understand that this isn't really the end of public hearings because you will always have the right, on the Assembly side, to come in and listen to those pieces of legislation in committee. You will have an opportunity, again, when they go through the Senate and to talk to the sponsors at that period of time. So I don't want you to think, for a minute, that the door closes tonight. What we've done is just drawn a line in the sand, because if we don't draw a line in

the sand, we will never go to work, and if we don't go to work, we're never going to solve the problem. We are very sensitive to your issues and your comments were very valid, sir.

Mr. Hannaman, are you ready to come-- Oh, I'm sorry, the gentleman in the leather coat -- my apologies.

Step right up.

RICHARD SPOERL: My name is Richard Spoerl and I happen to have two hats. I am a member of my community and I happen to be the President, so I guess I am the enemy.

ASSEMBLYMAN GREGG: Your name wasn't Richard Sperling, was it?

MR. SPOERL: Richard Spoerl.

ASSEMBLYMAN GREGG: Oh, I thought it was Sperling--

MR. SPOERL: I am the President of the Highland Lakes Country Club--

ASSEMBLYMAN GREGG: I was almost going to sit there and say it doesn't get this much better than that. We have the real hair club president here. (laughter)

MR. SPOERL: I am the President of the Highland Lakes Country Club and Community Association, and we are a private community, but we are not under the Condominium Act. We are serviced by the Secretary of State, right now, because we are a private, nonprofit corporation.

I would like this Task Force to think about leaving us, as a private, nonprofit corporations, under the Secretary of State. We have enough regulation right now. I don't hear any complaints from members of private

lake communities, which we are. We all were established many, many years ago, and we've gone through a lot of the growing pains that you're hearing about. We have very few developer responsibilities anymore, and overall-- We do have complaints, there is no question about it. There are members that are always going to be unhappy. There are people that think they are being hurt when they -- and possibly some people are hurt-- There are also people who move into communities, such as ours or even in condominiums in other communities, who do not understand that they are giving up certain rights when they move into a private community.

I've lived in my community for three times as long as I have been President, and I've been President for six years, so you know I have been living there a long time. At first I was unhappy with things, but I found that I could get things accomplished by getting involved. The only way you can get involved is by getting into the act, and I ended up becoming the President. There is a lot of work involved in doing it, but when you see things happen you become very happy for it. Not all my members are happy, but I think a vast majority are, and there is no way government -- whether it be a private government, which is what a community is, or the public government -- can make every member of our constituency happy. So we have to look at that. As long as there are recourses that our constituents have, we won't have any problems. I know that there are some problems and I hope you can address them, especially in the growing communities and new communities. Some of them have been horrible.

I thank you. (applause)

ASSEMBLYMAN GREGG: I thank you for coming tonight, and the lake communities are one of the reasons we came up here, to give an opportunity for those groups to have something to say. I'm sensing from your testimony that there is some comfort level to your operation at this point, but I do not challenge you but request from you to think through our deliberations if there are issues that are in existing law that are problematic to you. I have had a number of communities reach out to me and they have obviously, for whatever reason, not been able to be here. I would hope that when we do our deliberations on these issues that we can solve as many problems as we possibly can.

So, sir, if you have anything that you think about in the future, please get in touch with the Task Force so we can have the lakefront communities represented with any problems they may have.

MR. SPOERL: Thank you.

ASSEMBLYMAN GREGG: With that I think now, finally, we are going to get to Mr. Ed Hannaman.

MR. HANNAMAN: (speaking from audience) Is there anyone else who wants to speak?

ASSEMBLYMAN GREGG: He doesn't want to speak, he just wants someone else to get up here.

From the Department of Community Affairs.

MR. SMITH: If you don't want to you don't have to.

ASSEMBLYMAN GREGG: There is no requirement.

MR. HANNAMAN: Nice try.

Thank you, Mr. Chairman, and I thank Joyce for inviting me to attend. Those of you who don't know me, my name is Edward Hannaman, and I brought with me the entire resources of the State of New Jersey devoted to your problems. They are right here. (indicating) If the Task Force, with all their patience, could have sat here tonight and every other of the four meetings with a phone held to their ears, you could see what I go through every single day, five days a week, and I have been going through since July of 1996, since I was transferred over to this section before anyone else had an opportunity to handle that.

Now we have in the State at this time 3680 larger developments that are registered. We have 7263 developments with associations that are exempt from registration. That just means they didn't have to have public offering statements and some other technicalities, but they are still required to have associations, and they still have all the problems that we've heard here tonight.

I have to say I second many of the comments that I've heard at all of the Task Force hearings. I hear them everyday in my office, and the frustration level that I have in Trenton is tremendous because there is very little we can do to provide relief. I will suggest a couple of things to the Task Force tonight, and I also will offer as a caveat that anything of an opinion is my personal opinion and not the spokesman for the State or the Department of Community Affairs; however, certain facts I relate would be done in an official capacity.

I found, in the various areas -- open public meetings have been well documented here -- what I think needs to be done is we can adopt more

of the Sunshine Act provisions, but we also need to make some provision to allow people to speak at these meetings. The open public meetings, right now, are tantalizing. It's sort of like locking someone like me in a bakery and saying you can have your nose pressed up against that counter but don't dare touch a donut or eat a crumb. You can let people go to these meetings, but they can not speak. That needs to be changed, because that would let off a lot of steam and allow people to voice their opinions.

As to the level of interest and involvement, we have absolutely no regulations on voting in this State. We have no requirements as to secrecy of ballots or encouraging voting. There is confusion out there as to proxies and the absenteeism ballots. There are no standards involved with voting. People often feel boards have been entrenched in power for year upon year and they control the entire process, and there is a feeling of hopelessness that you cannot crack in and get in and get elected to membership. We need definite changes there in the election procedure.

That would tie me back into something fundamental another gentleman here spoke of tonight and we have spoken of down in the office. There is a definite need for programs to, perhaps with property managers, have a small education, mainly a certification program, so they can be somehow controlled. I don't know how many times I deal with people relaying horror stories of property managers treating them, the owners, as if they are tenants in an apartment house, failing to recognize that the property manager, in effect, is an employee of the board and works for them. There needs to be some type of a constraint in that area. The same has to be said of board members. Just as every other board that I can think of in the State -- and I'll

relieve a couple of specifically regarding ADR -- have training programs. I think board members, upon election, maybe with the cooperation of CAI, DCA, and other community resources -- can provide a very short training program for any board members so they can learn what a fiduciary obligation is and what they have to do to manage what is essentially a government business. They handle very large sums of monies -- and I also hear horror stories all day long about money that are frightening. We need some kind of a course so board members are prepared to handle their duties.

That is going to relate to ADR. The Legislature made a very valiant attempt to provide an outlet for disputes that people have. I characterize the disputes, basically, owner to owner and owner against board. I have not yet had a dispute of owner against owner come to me in ADR. Everyone of mine has been owner against board, and the owner against boards fall into two categories. Either they are complaining about the board failing to follow their own rules, regulations, master deeds, declarations of covenant, what have you, or they're saying that the board itself is failing to respond to necessary physical problems.

I think under physical problems area it would be quite easy to do something the way we have in landlord/tenant law with habitability and self-help measures. If you notify the board that water is pouring in through my windows, the roof is leaking, my cellar is flooding, if you give the board notice and they fail to act in a certain period of time, you should be allowed to tell them, "I am going to effectuate a repair in accordance with covenant, architectural review, and keeping standards unless you take some action," and give them another seven days. There are ways to do it. Many of my

complaints are people just complaining fundamental physical problems are wrong with their unit that have to do with common elements that they are not empowered to take action to fix, and they are threatened, and legally so, by the boards and by the board's attorney that if you do something, you're liable for us, and you cannot hold back your maintenance for any of the work that you do. So you are faced with a dilemma. Either you suffer under the adverse conditions or you pay to have them corrected and probably be sued and you have to bear all of the expenses yourself anyway.

On the ADR issue, though, we need a system that is out of the board's control. As much as I fight right now -- and I fight with board attorneys constantly, and as you can imagine I am overwhelmed with the number of associations and the amount of resources, namely me-- In the State, for all of the construction contract problems we have and all of the safety code problems, we have established county construction boards of review. They are under the auspices of DCA, but they are fairly independent and they work in a countywide basis. One advantage to think about a system such as that -- so an owner who has a problem with their board could file with an independent body and say, "I have this problem and I want this heard." County executives appoint these boards, or staff, by volunteers. There is a very small cost associated with them, but the main advantage is that people perceive them to be an objective body composed of a cross section of interested community members with specific training and skills and abilities that can hear their problems and the procedure will go on.

I fight constantly, it's a multistep process. I fight with boards to enact ADR, then I fight with them to give the people the ADR they just

enacted. There are levels of resistance all along the way. Some other type of independent system -- and I would ask that DCA somehow be involved in review, because I think it is an advantage for people not to have to go spend the money on an attorney in courts to get at least two administrative bites of an apple. If you can go to your county board and they render a written decision -- and the construction boards are very good, I oversaw their decisions for 11 years in another regulatory agency that I was heading, and I was quite happy with most of them. They have board attorneys, they do professional fact-finding, they take testimony, they write reports, and they file them with DCA. We review them, and we comment on them as to whether they followed State law and things. If we had a chance to review them, we could, perhaps, pull together problems throughout the State and bring back to the Legislature things that may need statutory modification or maybe we ourselves could fix it with regulations within DCA. So, if we are part of that loop, I think we will help to maybe solve and anticipate some of the problems.

Record access. Again, the legislation and part of the thing that we need for uniformity is, as you well know, we have the PRED law that applies across the board to all of these real estate developments, and then we have the Condominium Act.

We have fit certain things in different aspects. The latest ADR improvements in January of 1996 and access the financial records, where the Legislature said, "Go to the Commissioner of Community Affairs if you have a problem," that only applies to condominiums. So when people call me from home owner associations or co-ops, I can give them no support in that regard. I also have to tell them that it is not a common expense, and one association is

charging people \$1000 to file for ADR. They are permitted to do that, under law, as it presently stands. So we need to have a uniformity. The way I see it -- again, my personal opinion -- is, if you live in an association, you should not have to wonder whether it's co-op, condo, home owner, or whatever, that you have certain rights, that you have the right to ADR at a minimal expense and cost to yourself and not have to think of technically which one you're in and also so that the Legislature doesn't put it on a PRED law that really-- Our frustration is that we always say our only enforcement tool is a howitzer. We can use that against developers. We can stop a project. We can stop them from selling. We can penalize them, they are a businessperson. For us to penalize an association, punishes all of the innocent people, and the association forces them to pay the cost or maybe the board just fails to follow along with what needs to be done.

One of the things we talked about before I came here today is that we would offer, if the Legislature sees fit and sees needs in these areas, we would be happy to work with and staff different groups, if you want to come up with, and involve the community in drafting proposals on voting, on ADR, on access to records, which by the way is not part of the law for home owners associations and co-ops. Again, not to contradict the gentleman that spoke about Nonprofit Corporations Act, we are dealing here with people's homes and lives and communities and not with a business where they are a shareholder where they can cash in their shares, be bought out, and move on to the next investment. This is their home, their lives, their children's lives, and their property. Attention must be paid to that fact in dealing with these types of operations. They are not simply corporations, although they may be

filed under 15A and I hate to have to tell people all of the time -- they come to me for assistance and I say, " Well, you can get an attorney, you can enforce your rights as a Nonprofit Corporation Act." It would be so much better if we said, "You're entitled to see a maintenance agreement, you're entitled to see contracts that your association assigned because that is your association, that's your money."

We need to itemize the types of documents that you are allowed to see and not just say broadly say financial documents. A woman here said that a lot of these things is fluff, and that is true. We need to give them rights to see brokerage agreements and investment agreements that the board signs and not restrict people from access because, again, this is their association, their money, their lives and property. So we would hope that we can help the Legislature in providing some statutory mandates, and we offer to work with them on regulations or to staff task forces to address specific problems and specific items in all of the areas that I have addressed.

Again, I would like to see the people here -- and it's been a pleasure for me to actually see the faces connected with the phones. They now got me a headset because I'm on the phone so much and I have to access files that I have gotten so cramped up with holding a phone to my ear all day and listening to problems that I now have an easier way to handle it.

So, because it's late, I won't continue, and I thank you for the opportunity to address all of the members of the Task Force and I hope we can work together in the future.

Thank you. (applause)

MR. ROBINSON: Now that you have that headset, can I have a business card?

ASSEMBLYMAN GREGG: Thank you, Ed.

Do we have questions?

MR. HANNAMAN: No, they have never gotten me business cards. I made up my own title, Association Regulation, when I got transferred over there.

ASSEMBLYMAN GREGG: Briefly--

MR. BEVERE: (speaking from audience) I just have a question for Mr. Hannaman.

ASSEMBLYMAN GREGG: You've got to come to a mike.

MR. BEVERE: Mr. Hannaman, I appreciated your comments, and I had one question I'd like to hear your response to. My concern is the multiple dwelling act and that, in many cases, a planned residential community will be faced with enforcement of a multiple dwelling act long after they have had any involvement pertaining to the actual inspections because the developer is long gone. What are your comments on that? Do you think that it's fair that home owners should be forced to pay and make corrections for code violations years later when -- and you mentioned that you come from the building department, too, so I was curious to see what your recommendation was to maybe addressing that.

MR. HANNAMAN: I came from Fire Safety. I have to say that.

MR. BEVERE: Fire Safety, all the better. Retrofits, and so forth, I know that Phyllis Matthey is very involved with that.

MS. MATTHEY: Yes, they are the biggest.

MR. HANNAMAN: That's a broad question, and again, I will introduce it by the caveat that I am not speaking for the State or the Department. I was able, actually-- It is so difficult because, as you know, State law through court enforcement-- I think in one of the communities that is represented here challenged the State's right to inspect multifamily dwellings when they are condos and town homes and the developer lost, and they said that you are multiple family dwellings. I have actually, although personally -- again, my personal viewpoint is, if I own property and -- I will never now or ever live in a condominium -- live in a private home in a town, which will be nameless, where we elect our officials and have two parties and all the wonderful things, I would not like DCA coming in and inspecting my home. My town happens to not even have the CO requirement on a transfer of title, which was my unfortunate thing when I bought and I became a handyman helper.

But into your question. I've used that aspect to help some of the people who have complained to me about leaks that came from common element defects in roofing, gutters, leaders, windows, and basements by, in essence, sicking the DCA inspectors on their association and citing their association for violations that now they have to correct when the association would not listen to the home owner who was being burdened with the defect. So, even though it has a negative aspect that, yes, the State is coming into your private property and inspecting and enforcing with violations, and I can't speak for BHI because I never worked with them directly-- I know that is an intrusion.

On the other hand, it can work to your benefit. It is a two-edged sword. If you are the person with the leaks coming through the windows with gutters and DCA said they are now going to fight the battle for you against your association--

Is that a response of it all?

MR. BEVERE: I appreciate the answer. You answered half of my question, but the first half was, what happens to the unfortunate innocent parties who are now faced with reconstruction costs and they had nothing to do with it because it was almost as a construction deficiency to begin with? What we are talking about is perhaps home owners who bought into a situation now facing, as we said, fire retrofit which could be extremely costly -- \$750,000 to a million dollars, which is not unheard of. Who then bears the responsibility of this cost? It's not fair to the home owners. So I'm wondering if there is any way -- just to put it as part of this record because we are creating a record tonight -- that the Legislature and the Task Force can take this into consideration.

My thought at one time was to combine it with the transition and to do it at the same time, as a way to alleviate the State having another bureaucratic agency come and do it and make it part of the same process, so you nip it in the bud before it becomes a cost.

Thank you.

MR. HANNAMAN: No, a retrofit -- I have to say -- is by definition after the fact, that the developer would not have known. Conceivably, since I don't know of a case, and maybe Mr. Smith knows of a case, where we have ever had a transition without a lawsuit, I think that is part

of the law in New Jersey -- unwritten -- that when you transfer from the developer to the owners that the owners get a good attorney and engineer and they sue the developer for all of the defects. So I would expect the developer to be held to task for meeting all codes. When you do have a retrofit type of situation, unfortunately that does fall on whose ever -- it's like musical chairs, if you're sitting in the chair with legal ownership when the law becomes effective, it's your obligation to comply with it.

I don't know any way to handle it. I know that under the fire code with landlord buildings, they were able to pass along any fire retrofit costs as a capital improvement and were exempt from rent control provisions to recoup that from the tenants. In essence, an association required to retrofit would be doing a special assessment to recoup it from the owners. But again, that is part of a safety code, and when I was in Fire Safety, I used to tell people that you have to follow the *Registers*, and you have a lobbying group. When the laws-- We published everything in *New Jersey Register*. When it's planned to do, that's the time to come to public hearings. If these men and women here were considering this, people can speak out and say, "No, this is not being cost benefit. I don't want to pay for this. Don't protect us, stop being a Big Brother." Unfortunately, people come out of the woodwork -- I'm sure as everyone who is involved with government here and the Legislature knows -- after the fact and then say, "I don't like this law." Well, now it's too late, now we are enforcing the law.

So, on the second half, that's I think the best I can do as to the responsibility, and it could be unfair, it could not be, but those are safety issues

and construction issues. I would hope that the developer is held responsible by local code officials when COs are issued and when inspections are done.

I know you are smiling, it's not a perfect system. I just referred complaints yesterday from a man who called me up and said he is in a multimillion dollar building down the shore, that the panels are blowing out of the balconies, the main timbers are rusting, the roofs are falling onto their Ferraris. I was very sympathetic because I would hate the roof to fall onto my Ferrari. I told him to get a private attorney and sue, but they are all different levels of culpability, capability, and responsibility out there for the different things.

There was another question?

ASSEMBLYMAN GREGG: Thank you, Ed.

MR. HANNAMAN: No more questions?

ASSEMBLYMAN GREGG: With all due respect, this is not question and answer, this is public testimony, so I don't want to cut it short, but that's not why we are here tonight.

At this point I would like to give my Task Force or Chairman Bateman's Task Force, any member of the Task Force, since this is our final public hearing, an opportunity to make any final comments, if you wish. Speaking with my colleague Assemblyman Wisniewski first and anyone else who would like to make comments.

ASSEMBLYMAN WISNIEWSKI: Mr. Chairman, the testimony tonight, as well as the other nights, was informative and enlightening, and I appreciate the time that all members of the public have taken to come out and

inform us of their problems and the concerns they have, and I look forward to the deliberations we will have in formulating policy.

ASSEMBLYMAN GREGG: Thank you. (applause)

You don't have to feel compelled to do that. (laughter)

Is there anyone else who would like to make a closing comment?

MS. MATTHEY: If I may. I wear a number of hats while I sit up here tonight. For those of you who don't know me, I started many years ago as a unit owner advocate and helped push through the municipal services law. I'm a Realtor for 25 years, so I never go anywhere without my Realtor hat. I sold myself my town house, so I have no one to blame. When I got into my town house, within a year, I ran for the board, and I served on my board three years as a member and three more years as a President of the board. I became a property manager. Each is an evolution, I must tell you. You start out knowing a little bit about real estate, you buy a town house, you realize that you have really done yourself no service, you find out everything you can about laws, you start to try and change them, you get more involved, you get sucked in.

I can tell you that I will die in my town house because it lost about 40 percent of its value right after the 1986 tax reform and just a few months after I closed. I can tell you that although I sit here as the manager representative, I am a unit owner lobbyist at heart, an advocate for people who buy these units, but I must say this one thing and get it off my chest. If you have a problem with local government, you go into town hall -- I live in a big town like Edison -- as a taxpayer, I pay the attorney who pursues me because he didn't like something that I did. I mean, you must remember that we are

little minigovernments and we have our flaws and most of us try very hard and are well meaning and there are abuses.

I get many of the calls that Mr. Hannaman can't handle, somehow they get my name. I know that we do need to modify the laws and I will work very hard for them. I can also assure you that everyone up here is on this panel with the same goal. There is nobody here with a personal agenda. The builder here is just as concerned about the quality of life in condominiums and town house communities as the attorneys who have made this a speciality in their practice. I think all of us feel for all of you. We also all want our communities to be an investment, and we want to see the values start to come back up so we can someday retire to another condo in Florida.

I just thank you all for coming out tonight, and I thank everyone on the Task Force because I know we have a lot more work to do and it's going to be a real difficult thing. You can really overregulate something to the point where nobody will ever run on the board and the State will step in and run our associations for us, and I don't think that we know what we're getting into if we let that happen.

With that, I'll be quiet. (applause)

ASSEMBLYMAN GREGG: I would like to take this opportunity on behalf of Chairman Bateman to thank all of you. You have traveled long distances, many of you incredibly long distances, for each one of these Task Force hearings. Many of you have come many times which shows the commitment that you have to make a difference here.

I would also like to, through Chairman Bateman, thank members of the Task Force for them driving, the staff, the OLS people who have also

taken a large amount of time out of their schedule -- driven long distances in hours that are difficult for them, so I would like to thank them as well.

I think that we should look at this as a page turned and now we are moving to the next page as a Task Force. I think we have all heard comments about your lifestyle and your quality of life, the way you live in condominiums. If we do not do our job correctly, the concept of condominiums, co-ops, and private communities are at risk. So it is our job to ensure that we can come up with a structure for you so that type of lifestyle that I think many of you bought into because you wish to have certain freedoms and certain abilities to not to have to do certain things that home owners do have to do-- Much of that seemed good 15 and 20 years ago, and today we have found some flaws in that system and it is our job to fix it. This Task Force is committed to that and I appreciate your time and effort you have put in on this issue, and at this point I will hold this hearing closed.

Thank you.

(HEARING CONCLUDED)