

Dear Senator Kavanagh

I cannot describe my dismay when I saw this morning that you dropped SB-1080. It is absolutely incredible to me that you would even consider such a proposal.

We need foreclosure reform and protections for the 3.5 million homeowners in this state not the total elimination of any semblance of protection that already exist for these homeowners. Your bill will allow an association to begin foreclosure proceeding on as little as \$1 of unpaid assessments in six months. The bill will also add additional confusion to the already confusing statutes. One could argue that under your bill a home could be foreclosed on only for unpaid assessments and cannot be foreclosed for unpaid collection cost or legal fees, but the existing statutes already state that those cost are part of the lien for assessments, and assessment liens can be foreclosed on. The existing statutes totally contradict themselves saying that assessment late fees and collection cost and attorneys fee are part of the assessment lien and can be foreclosed but also says that assessment late fees and collection cost and attorney fees cannot be foreclosed. Despite this clear contradiction these provision have never stopped any assessment lien from being foreclosed even if the delinquent assessments were paid in full. Often times attorneys insist on full payment prior to foreclosure proceedings, and make sure that partial payments that would pay off the assessment are refused and returned to the homeowner to ensure that the assessment principle is never paid, to allow the foreclosure to proceed. This bill as written simply feeds into this tactic.

While I'll agree that one very confusing and what I always believed to be an error and oversight in our statutes already states; **“The association's lien for monies other than for assessments, for charges for late payment of those assessments, for reasonable collection fees and for reasonable attorney fees and costs incurred with respect to those assessments may not be foreclosed and is effective only on conveyance of any interest in the real property.”** That existing statement totally conflicted and contradicted all other provisions in section A of the statutes. While that statement always existed it did nothing to prevent the total assessment lien (including all those fees and cost) from being foreclosed. With confusing statutes comes a license for attorneys to interpret those statutes in any way that benefits them and their clients. This will empower these associations, managements companies, collection agencies, and attorney to rapidly pile on these fees and cost to legitimize their claim before a court and rob homeowners of their property. You can be assured that even if a homeowner pays all his delinquent assessments in less than 6 months the associations egged on by their attorneys will still attempt to foreclose on those homes or threaten to use that license to extort from the homeowner the unreasonable and excessive collection cost and attorney fees that they piled on while they could. This extortion tactic would totally undermine the judicial judgment of what is reasonable and what is not with this cost. This bill without substantial clarification, will result in nothing short of legalized extortion of these homeowners for those collection cost and attorney fees, and has nothing to do with the actual delinquent assessment. The assessments can be paid, but now the foreclosure will proceed on simply whatever collection and attorney fees remain unpaid and in only six months' time.

I offered you true foreclosure reform for HOA's and Condominiums (attached) that provided protection for the homeowners while ensuring that the associations assessments are paid in the shortest amount of time and for the least cost to the association but you rejected sponsorship of that proposal. I also offered that proposals to both CAI and AACM to work with them to develop true reform, but they refused to allow any discussion or negotiation on that issue. What will it take for legislators to understand that CAI and AACM have no interest in reasonable and fair legislation that treats all parties associated with Common Interest Communities fairly. Their interest lie solely with their paid clients, and in no way seek to protect or present the perspective of the homeowners that ultimately pay all their salaries.

I assure you that I and my coalition will do everything in our power to defeat this bill, as written. We will however gladly work with you to amend the language of this bill to provide clarity and true protection to both the Homeowners and the Associations in these communities.

Thank You
Dennis Legere