

March 19, 2025

Minnesota Committee on Judiciary and Public Safety
Minnesota State Capitol
75 Rev Dr Martin Luther King Jr Boulevard
Room G-15 Capitol
Saint Paul, MN 55155

RE: CAI Opposition – SF 1063: Common Interest Community Ombudsperson Creation

Dear Chairman Latz and members of the Senate Judiciary and Public Safety Committee:

On behalf of Community Associations Institute¹ (CAI)'s Minnesota Legislative Action Committee and approximately [1,556,000 Minnesotans living in 620,100 homes in more](#)

¹ Background

CAI represents the interest of homeowners, community association management companies and business that support the more than 77.1 million Americans who live in a homeowners' association, planned community or condominium. Approximately 23% of Americans live in a community association, also known as condominium, homeowners association, and housing cooperative. Community association housing plays a critical role in meeting housing needs in a time of tight state and local budgets.

Role & Benefit Community Association Housing

Emerging in the 1970s, community association housing was a means to address issues of land use and limited resources at the state and local level for housing development. HOAs and condominiums allowed for affordable and efficient construction of housing while concurrently limited the financial impact of such development on local and state governments. The investment in community infrastructure including roads, retention ponds, parks, club houses and amenities are borne by developers and the ongoing cost of maintenance is supported by assessments paid by residents of the community association. Amenities and infrastructure are driven by market considerations and the result is a vast array of communities that provide consumers with an array of choices in housing and lifestyles.

When purchasing a home in a community association, a resident enters a contractual arrangement which obligates them to pay assessments to their association, which is governed by a board elected by the residents. Such communities, through deed restrictions and adopted rules have provisions to enhance and maintain the property values of homes in the community. The benefits of such communities accrue to both residents, taxpayers, and local business. First, homes in community associations are worth at minimum, 5% more than homes in a traditional community. This directly benefits the purchaser, but also the larger jurisdiction through enhanced property taxes resulting from this value premium. Additionally, community association residents assess themselves to maintain the infrastructure and amenities in their community, costs that would otherwise fall on state or local governments.

More importantly, community associations provide residents with an accessible opportunity for civic involvement. Community Associations are governed by their residents, who elect representatives to serve on a board of directors. This provides a level of local governance that residents find highly

[than 7,950 community associations](#), thank you for the opportunity to provide comment on SF 1063: Common interest community ombudsperson creation.

CAI opposes SF 1063 as currently drafted and asks that the Committee consider alternative language for this program that has been previously discussed between legislators and stakeholders. Our specific concerns include:

1. Lack of Efficacy

CAI has studied six ombudsperson programs that currently exist in the U.S. and have found that they have at best, a mixed record in support of homeowners living in community associations. Obstacles to success include structural issues, lack of mutuality in the process, added costs and complexity for homeowner dispute resolution, lack of actual use, and the existence of more effective alternatives to expanding state control over locally elected community association boards.

2. Private Contracts

Disputes between homeowners and their elected community association board are disputes of private contract, which state agencies typically do not involve themselves with. As such, many ombuds offices can offer little genuine resolution to parties complaining about their community association, and merely become the repository of negative anecdotes and half-truths.

3. Lack of Fairness and Balance

SF 1063 does not provide an impartial process to adjudicate community association disputes. In fact, the stated purpose of the proposed bill is to “advocate on behalf of unit owners and compile complaints against common interest communities made by unit owners.” That fails to reflect the fundamental purpose of an ombudsperson, which is to act as a neutral third party to resolve disputes in an unbiased way.

Commonly, complaints in associations are the result of uncooperative homeowners who fail to follow the covenants, restrictions, and rules that they agreed to abide by when they moved into the community. Their actions have a negative impact on their neighbors, who benefit from things like parking regulations, exterior maintenance requirements, and other policies adopted by the board on behalf of the members. An ombudsperson, by definition, cannot serve as an advocate, and it is important to make sure that the overarching goal of neutrality is maintained in any office created.

responsive to their needs. 86% of association residents rate their experience as positive or neutral, and 82% believe their elected boards strive to serve the best interests of their community. In total, more than 2.5 million Americans demonstrate their civic commitment by service on a community association board each year.

In programs where the “ombudsperson” serves in an advocacy role, data gathered has been biased against associations because it only represents one side of the dispute. Nevertheless, the data demonstrates that most complaints filed with ombudsman offices are found to be unsubstantiated. ([See full report](#)).

4. Increased Complexity and Expense

Establishing a state ombudsperson office adds complexity to dispute resolution within a community, which can actually make it more difficult to find resolution. Homeowners associations are democratically elected governing bodies who are responsible to the owners in their communities. A state ombudsperson shifts the center of gravity for dispute resolution from the community to a state level office, typically adding difficulty and expense to the process.

CAI believes the focus should be on empowering individuals to solve problems within communities rather than to place that right and obligation on the state. Mandating a state-commissioned office to investigate complaints is essentially outsourcing the administrative and democratic process of community associations. Nearly all issues and concerns are easily resolved through the process outlined in an association’s governing documents, and we should support and empower that process rather than turning it over to the state.

5. Communities are Thriving

While the comments and stories of individual owners are important to consider, the notion that association problems are widespread is not supported by board members, owners, or national surveys. Instead, despite occasional bad actors, the typical associations we see include community members working hard on behalf of their neighbors in way that benefits everyone.

CAI conducted national surveys over the course of several years to gauge homeowner satisfaction in community associations. The findings have been remarkably consistent, with more than eight of ten residents expressing positive views of their association, eight times in the last fifteen years. Residents are consistently satisfied with the actions of their elected boards, with 88 percent of residents surveyed reporting that the board absolutely or ‘for the most part’ serves the best interest of their community. This empirical and longitudinal data demonstrates that community association boards serve the needs of their residents and that most cases of complaints. [Foundation’s Homeowner Satisfaction Survey](#).

Alternate Solutions to Address Problems

CAI does not dismiss the fact that there are homeowners in community associations who have difficulty with their association and could benefit from mechanisms to assist in

dispute resolution. Still, there are more appropriate alternatives that serve to empower residents and associations, which provide greater transparency and clear processes to assist with issues and concerns as they arise.

CAI supports the adoption of a requirement that association boards adopt internal dispute resolution processes to address disagreements in their community, such as the model language from Virginia.² Having a clear process helps manage the expectations of the board and the residents in managing and working through problems. CAI also supports

² VIRGINIA STATUTORY LANGUAGE – Complaint Process

(8) Common Interest Community Complaint Process

To establish a template of reasonable procedures for a common interest community board to adopt for written complaints from the members of the association and other citizens. Each association shall adhere to the written procedures established when resolving association member and citizen complaints. The procedures may include but not be limited to the following in addition to any specific requirements contained in the association's governing documents:

- 1. The association complaint must be in writing.*
- 2. A sample of the form, if any, on which the association complaint must be filed shall be provided upon request.*
- 3. The association complaint procedure shall include the process by which complaints shall be delivered to the association.*
- 4. The association shall provide written acknowledgment of receipt of the association complaint to the complainant within fourteen days of receipt. Such acknowledgment shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided, or if consistent with established association procedure, by electronic means provided the sender retains sufficient proof of the electronic delivery.*
- 5. Any specific documentation that must be provided with the association complaint shall be described in the association complaint procedure. In addition, to the extent the complainant has knowledge of the law or regulation applicable to the complaint, the complainant shall provide that reference, as well as the requested action or resolution.*
- 6. The association shall have a reasonable, efficient, and timely method for identifying and requesting additional information that is necessary for the complainant to provide in order to continue processing the association complaint. The association shall establish a reasonable timeframe for responding to and for the disposition of the association complaint if the request for information is not received within the required timeframe.*
- 7. Notice of the date, time, and location that the matter will be considered shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided or, if consistent with established association procedure, delivered by electronic means, provided the sender retains sufficient proof of the electronic delivery, within a reasonable time prior to consideration as established by the association complaint procedure.*
- 8. After the final determination is made, the written notice of final determination shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the complainant at the address provided or, if consistent with established association procedure, delivered by electronic means, provided the sender retains sufficient proof of the electronic delivery, within fourteen days.*
- 9. The notice of final determination shall be dated as of the date of issuance and include specific citations to applicable association governing documents, laws, or regulations that led to the final determination, as well as the registration number of the association. If applicable, the name and license number of the common interest community manager shall also be provided.*

the ability of the community association to adopt bylaws or amendments to their governing documents to mandate alternative dispute resolution (ADR) prior to litigation. ADR allows for a neutral entity to assist the parties in finding a resolution to a dispute outside of court and often at a lower cost to the parties. In fact, many jurisdictions offer affordable community resolution services.

Considering our concerns and the availability of less intrusive remedies for dispute resolution in community associations, CAI is skeptical of the SF 1063 language and imposition of an ombudsperson office at the state level.

We hope the comments provided in this letter are helpful to the Committee and will assist in developing public policy that is sensible for residents living in Minnesota's community associations. We appreciate you taking the time to read over our concerns and understand the intricacies that this bill contains including the implications if it were to go into effect.

Please feel free to contact us to discuss these comments or any legislation impacting community associations and their residents in Minnesota.

Sincerely,

Alyson Astleford, PCAM
Vice-Chair

Karly A. Kauf, Esq.
Member

Minnesota Legislative Action Committee