

I name is John Morris and I am an attorney who represents condominium and another homeowner associations. I am testifying in support of Senate Bill 2261, SD 1 because it attempts to balance the rights of the association with those of the owner.

Common expense payments are established by the association's annual budget and the amounts owed for common expenses are clearly stated in the budget. Moreover, common expenses are the "lifeblood" of the association and must be paid so the association can function fully and effectively. Therefore, this bill preserves the long-standing practice that owners must "pay first and dispute later" about the amount of common expenses.

Nevertheless, associations often claim other amounts from owners, such as fines, late fees, special charges, legal fees, and penalties, and sometimes those amounts are open to dispute. Moreover, they are not necessarily required immediately for the proper functioning of the association. Therefore, the pay first, dispute later practice does not necessarily work as well for those types of expenses.

For that reason, SB 2661, CD1 proposes to give owners the right to submit those other charges – apart from common expenses – to the mediation process prior to payment. In that way, an independent third party – the mediator – will be able to help the association and the owner review the amounts being claimed as additional charges and determine whether they are valid and payable to the association. This should help both the association and the owner resolve disputes over these additional charges prior to going to court or to foreclosure.

If the matter cannot be resolved through mediation, the association or the owner have the opportunity to go to court or arbitration for a ruling by the judge.

Thank you for this opportunity to testify.

John Morris