

Testimony on 2019 Senate Bill 512

Senator Robert Cowles

Senate Committee on Utilities and Housing - December 11, 2019

Thank you, Chairman LeMahieu and Committee Members, for hearing 2019 Senate Bill 512 to create a pre-filing notice requirement applicable to a dispute between a condominium association and a unit owner.

Over the past 20 years, Wisconsin has seen a surge in condominium developments. Owners of condominiums buy for many reasons, including the ease of maintenance, affordability, a choice to downsize from a larger home, or the hope of proving a long-term investment or rental income.

While many condominium associations and unit owners have strong relationships, there are some that have not. This bill came to my office after a meeting 18-months ago with a few constituents from my district that owned properties in the same condominium complex that's located in Representative Kitchens' district.

These constituents had several questions on why the condominium association board was not answering their questions regarding specific decisions the board had made. These constituents ended up having to go to circuit court to obtain the answers they were looking for. The reason being, condo unit owners currently have no statutory dispute resolution process to resolve issues between condo associations and unit owners.

Senate Bill 512 provides basic guidelines to ensure that unit owners have a seat at the table with their condominium associations to protect their private property rights. This bill would help facilitate a conversation to resolve issues between condominium associations and unit owners through a direct negotiation conference.

This legislation requires notice to be given by the aggrieved party that a direct negotiation conference is requested. Receipt of this notice sets forth a timeline for the parties to meet in a direct negotiation conference for dispute resolution that could hopefully avoid costly litigation expenses and untimely delays for both parties and alleviate court congestion.

By establishing a statutory process that gives unit owners a seat at the table when condominium associations are obstructing the ability for the unit owners to maintain or modify their condos, or questions decisions that affect their property, we can ensure that Wisconsinites have their property rights protected; no matter what their property looks like.



JOEL KITCHENS

STATE REPRESENTATIVE • 1ST ASSEMBLY DISTRICT

Testimony for the Senate Committee on Utilities and Housing Senate Bill 512 Wednesday, Dec. 11, 2019

Thank you Chairman LeMahieu and committee members for holding a public hearing and giving me the opportunity to testify on Senate Bill 512, bipartisan legislation that will help condominium associations and unit owners resolve issues through a direct negotiation conference.

For the past several decades, we have been seeing a significant increase in condominium development here in Wisconsin. Unfortunately, there currently is no dispute resolution process in state statutes to help reconcile conflicts between condo owners and association boards.

In other words, if a condo association decides it doesn't want to work with a unit owner, the only option for that condo owner is to take the association to circuit court.

SB 512 provides basic guidelines to ensure that unit owners can protect their property rights by having a seat at the table with their condo associations. The proposed legislation creates a dispute resolution process where a condominium association must meet with a unit owner if they request a direct negotiation conference.

However, a unit owner would not be required to meet with a condominium association if the condo association has given notice for a conference. That is because condo associations and boards generally have a greater influence in the decisions being made that affect unit owners. The exceptions and options for going directly to court are also more favorable for condo associations.

If the direct negotiation conference is unsuccessful or there is a breach by one of the parties in the agreement created through the conference, then the case can be brought to court.

An amendment to SB 512 is also being brought forward that would require all condominiums to have some form of dispute resolution, whether it be direct negotiations, mediation or arbitration.

I want to thank you for taking the time to listen to my testimony, and I hope you consider supporting SB 512. I would also like to thank my co-author, Sen. Cowles, and his staff for all the hard work they put in to this bill. I would be happy to answer any questions if you have them.

Moore, Heather

From: Penny Albers <paalbers@new.rr.com>
Sent: Tuesday, December 10, 2019 10:19 AM
To: Moore, Heather
Subject: Penny Albers statement regarding Senate Bill 512

Follow Up Flag: Flag for follow up
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December 10, 2019

Dear Senator LeMahieu,

I am writing to you today to express my full support for Senate Bill 512 and why I believe it is incumbent that our state legislatures pass legislation that address issues that many condo owners face when dealing with associations that do not behave in the interest of condo owners.

My husband and I purchased a condo at the Landmark Resort in Egg Harbor in April of 2016. From almost the beginning of our ownership we experienced issues with property management and board association members who would choose either not to respond or not work with owners to resolve our questions and/or concerns. An example I would like to highlight took place in 2017. Under the Landmark Declaration owners can rent their unit(s) through private means such as VRBO, Airbnb, etc. As more owners were choosing to rent their units privately versus the Landmarks Rental Management Company, the Owners Association Board adopted new Bylaws that made it more difficult for owners to rent their condos privately. An Adhoc Committee of 3 to 4 members of the Owners Association Board and Rental Management Company met in April of 2017 to formulate these new Bylaws. They were adopted by the full Owners Association Board the first weekend of May, 2017 and announced to owners at the annual owners meeting also the first weekend of May, 2017. These new Bylaws were to be effective June 1, 2017. For many owners who were renting their unit(s) privately, we had very little time to procure additional liability insurance for our units, which was now mandated of us. Housekeeping costs tripled, but only for those who rented privately and again, the board mandated that we could only use Landmarks housekeeping service. There were other Bylaws adopted that affected only owners renting their condos privately as well. Many owners requested to meet with the Owners Association Board to ask questions and learn why the Association Board felt compelled to adopt these new Bylaws and how they arrived at these highly inflated housekeeping costs. The Owners Association Board determined that while they would meet with the concerned owners, it would only be a "listening session". We as owners could share our concerns but there would be no discussion, no questions answered and no opportunity for mediation. To this day, the only explanation the Owners Association Board will give for adopting these particular Bylaws is that they were "leveling the playing field".

Another area of concern are rules that the Owners Association Board enforces that have never been adopted as Rules and Regulations as required by the Landmark Declaration and Bylaws. An example would be that as an owner *not renting my property for a period of six months, I was still required to communicate to the Front Desk exactly when I would arrive on property and exactly when I would be vacating my condo. Upon arrival, I would have to stop at the Front Desk and stand in line to obtain a key card which the property management controlled. I was not allowed to have my key card beyond the date I was vacating. So as an example, only our family used our condo from November through April each year. I would send a written request for a key card to be issued to me for the time period of November 1 through April 30. This request was repeatedly denied. Upon review of the Bylaws and Rules and Regulations, there was nothing in either document that gave the property management this type of control over our access to the condo we

owned. Questions to the board asking for an explanation as to how they can enforce a rule that didn't exist was met with silence.

This type of behavior from the current Owners Association Board was prevalent during the 3 1/2 years we were owners at the Landmark. In checking Wisconsin state law, we had no legal means to force the association board members to respond to our questions and concerns much less meet to try and resolve them. There are 3 attorneys that sit on the Owners Association Board. They know owners have no viable recourse to force dialogue and they know that there is no dispute resolution system between an owner and the association board in the state of Wisconsin. This unchecked behavior has allowed this Owners Association Board (who have not allowed any other owners other than current board members to be on the ballot for open board positions) to behave in my opinion, in a manner that rejects the opinions or concerns of any owner who does agree with their positions.

Senate Bill 512 is desperately needed as a resource to protect condo owners from Owners Association Boards like the Landmarks that will not act in good faith when an owner wants to discuss and resolve issues/concerns surrounding their ownership of their condo in the state of Wisconsin.

Sincerely,

Penny Albers
3911 St. Croix Circle E.
Green Bay, WI 54301



To: Members, Senate Committee on Utilities and Housing

From: Tom Larson, Senior Vice President of Legal and Public Affairs and Cori Lamont, Senior Director of Legal and Public Affairs

Date: December 10, 2019

Re: SB 512 – Alternative Dispute Resolution for Condo Owners and Associations

The Wisconsin REALTORS® Association (WRA) generally supports the goals of SB 512, which is to create an opportunity for a condominium association and a condominium owner to resolve disputes as an alternative to litigation. Moreover, we very much appreciate the efforts by Senator Cowles and his staff to reach out to the WRA and other stakeholders to obtain feedback and attempt to address identified concerns.

Background -- Disputes between condominium association owners and the association are not uncommon. The enforcement of rules, restrictions, and assessments are often contentious, and some get resolved without either party having to take any legal action or initiate a predetermined alternative dispute resolution (ADR) process. However, in many cases, the parties pursue litigation because no ADR process is in place.

Proposed Legislation and Possible Amendment -- SB 512 seeks to help condominium associations and unit owners avoid litigation by establishing a statutory ADR process. As currently drafted, SB 512 would provide condominium associations and unit owners with only one option for ADR -- direct negotiation. While direct negotiation is an effective form of ADR, other forms of ADR are equally effective such as mediation and arbitration.

The WRA has been working with Senator Cowles on an amendment to SB 512 that would provide condominium associations and unit owners with greater flexibility in choosing which form of ADR they believed would be best suited to resolve their conflicts. We are hopeful this amendment will be introduced soon and supported by this committee.

If you have questions, please contact us at (608) 241-2047.