



“Primum Non Nocere”
Hon. Larry Stirling, ret.

As of this moment, the motto of the California State Assembly, honored too often in its breach, is: “The Assembly Shall Pass Just Laws.”

“Just” is an adjective meaning “fair to all.”

Apparently that motto is not clear enough for Assembly Member Julia Brownley who has introduced AB 2502 that can only be described as “the deadbeats’ bill of rights.”

To set a bright-line standard for Ms. Brownley the Assembly motto should be changed to the ancient admonition given to medical doctors approaching a new patient: “Primum non nocere” which is Latin for “First do no harm.”

What harm can Ms. Brownley do? Her AB 2502 exacerbates the fundamental blunder of San Diego Senator Denise Ducheney from a few years back.

The otherwise sane Ducheney successfully carried legislation frustrating the contractual rights of volunteer board members of common interest homeowners associations (HOA’s) to collect lawful debts due their association.

Ms. Ducheney’s law prohibited commencement of foreclosure proceedings on deadbeat homeowners until the debt they owed to the association was at least \$1800 and/or 12 full months in arrears.

Adding the time of the foreclosure proceedings to the end of the 12-month waiting period means that it could take up to two years to collect a debt.

That also means that the hardworking homeowners that do pay their lawful debts on time have to make up for the deadbeats that do not. How is that “just”?

Ducheney’s bill makes it much more difficult for HOA’s to meet the myriad of recent mandates Ducheney and her colleagues have been imposing on HOA’s through unwelcome modifications of my legislation famously known as the Davis-Stirling Act.

Brownley’s micro-managing, officious intermeddling AB 2502 threatens to completely strangle HOA’s eventually requiring massive bail outs of broken-down and worn-out “condos” around the state.

More than nine million Californians live within common-interest subdivisions (CID’s) with the number growing every day.

Local governments have begun requiring developers to create new HOA’s to provide local services through on-going homeowner’s fees rather than property taxes.

Nope there is no relief from the property taxes.

The local governments keep collecting those for themselves but force their traditional responsibilities on to volunteer board members.

This is especially problematical in the long run because government is essentially immune from liability for negligence while HOA’s are not.

The result is that by forcing basic services to be borne by HOA’s, whose fees are not deductible as taxes and whose costs can skyrocket through legal claims, promises the eventual abandonment of entire communities which get saddled with excessive judgments.

Homeowners will simply walk away from the encumbered units just as they have done in the wake of the subprime scandal.

A national research poll by Zogby International found that fully 71 percent of CID residents like their situation. Another 19 percent are neutral on their feelings about their boards while only ten percent constitute the disgruntled few who chafe at the very rules they freely agreed to when they purchased their homes in a CID.

Ms. Brownley's bill if enacted will constitute a nuclear time bomb eventually wrecking CID's up and down the state.

Her legislation would prohibit commencement of collections efforts for a full 18 months after they become delinquent or until the debt balloons to \$3600.

Whether a CID has a hundred or a thousand units, as an increasing numbers of homeowners avail themselves to this defense the HOA's will go bankrupt.

Shifting the burden to others will create an increasing cascade of defaults.

The contractual relationships among homeowners are protected in the US constitution by the "abridgement" clause.

How is constitutional, fair, or just for the legislature to abridge the contractual relationship among millions of California to give deadbeats a bill of rights to shaft their neighbors?

It isn't.

To add high-octane jet fuel to the fire, Ms. Brownley's bill also prohibits HOA boards from rejecting partial payments. So the homeowner

could send in five bucks and evade collections forever.

She also adds a completely mysterious requirement that the financial distress of the debtor be discussed and ruled on in open session of the board. That certainly does not protect the financial privacy of individual homeowners.

She also prohibits anyone attempting to collect from the homeowner except the board members themselves.

What possible purpose is gained by adding to the difficult jobs that these board members already have?

The day will come when board membership is so onerous they will have trouble getting people to serve.

These particular provisions simply sabotage the ability of anyone to resolve their delinquencies

This bill:

Makes the bad provisions of Senator Ducheny's bill worse, and

Provides incentives for deadbeat homeowners to manipulate the system and repeatedly delay paying lawful debts that will cause financial havoc for HOA's, and

Undeservedly increases the burdens on the honest homeowners.

It would certainly do no harm to kill AB 2502