

OPPONENT TESTIMONY OF DAVID TAMNY OF THE NORTH CENTRAL OHIO ASHI CHAPTER-HB 257

Chairman Brinkman and members of the Commerce and Labor Committee, I would like to thank you for the opportunity to testify before you on HB 257 the licensing of home inspectors. My name is David Tamny. I have been a full time home inspector in the State of Ohio for the last 16 years. I am also a member of the North Central Ohio Chapter of the American Society of Home Inspectors.

Our chapter is one of two ASHI chapters in the state and has about 60 members primarily in the Cleveland area. We are not part of the group called the Joint Legislative Commission or JLC, which is the primary backer and advocate for HB 257. The JLC has not invited us to participate in any interested party discussion regarding its provisions and they do not represent us nor speak for all the home inspectors working in Ohio.

We have testified before this committee in the past and have cited several objections. Our objections have included the following arguments.

1. Housing this function under the Division of Real Estate fails to maintain a separation of home inspectors and Real Estate agents. There is a fundamental conflict of between the two groups as real estate agents receive a commission based on the sale of a property whereas the home inspector's unbiased reporting on the condition of the home may put that commission in jeopardy. This is especially a concern because real estate agents are a primary source of referrals for home inspectors and can exert pressure upon home inspectors to report favorably. The independent study performed by the Ohio Division of Real Estate's educational fund specifically recommended against administration by the Division of Real Estate.
2. The educational requirements are simply too low. Not only do they fail to provide a sufficient level of education to insure competency, they fail to provide the ability to have reciprocity with adjacent states which have higher educational requirements. The low number of supervised inspections also fails to provide a true level of competency.
3. The lack of a board comprised of active practicing home inspectors fails to give assurance that the administration and enforcement of this law will adequately address the needs of the industry.
4. We also feel that the lack of professional liability insurance fails to provide assurance that relief will be available to consumers if a legitimate complaint were to occur.

Much of this has been said already, but there are several points that have not yet been addressed. First the current substitute bill has a provision to allow home inspectors to perform work on homes which they have inspected. The prohibition of this practice is a fundamental tenet of both the ASHI and NAHI code of ethics and creates a conflict of interest whereby the home inspector can prey upon unwary consumers by fraudulently inflating defects of the home for the sole purpose of enriching themselves through the repair work obtained by the inspection. The request for this change to the original bill was brought up by the interested party lobbyist for the American Home Inspector Association in previous testimony. The primary aim of this association headquartered in Virginia is to be a lobbying entity in states enacting legislation. Their members are franchise businesses corporations owned across the United States such as Pillar to Post and House Master. The Ohio Attorney General continuously prosecutes cases against home improvement contractors for consumer fraud. HB 257's provision allowing home inspectors to use inspections as a springboard to gain home improvement work would certainly undermine the principal goal of consumer protection.

On a broader level there is the question of whether we need legislation for home inspectors at all. The annual report published by the Ohio Attorney General's office on consumer protection for 2007 failed to list one case that involved a home inspection company. The preponderance of complaints involving consumer fraud were those against appraisers and mortgage lenders for inflating the appraised values of homes. In the light of Ohio's current status as a leading state in foreclosures, one has to ask the question why the existing licensing of both appraisers and mortgage lenders has failed to circumvent the huge issues for our state revolving around predatory lending. These mortgage lenders are accused of using undue pressure upon appraisers to falsely value property so that borrowers could over leverage their homes.

Appraisers are currently regulated under the Ohio Division of Real Estate and mortgage lenders under the Financial Institutions Division of the Ohio Department of Commerce.

The Better Business Bureau Annual Inquiry, Complaint and Service Summary cites the highest areas of claims processed by their local member groups. A total of 568 complaints were filed against home inspectors across the entire United States in 2006 which is the most recently available report. Out of these 68.5% were resolved leaving a total of only 164 cases left unresolved. Interestingly enough Home Builders who remain unlicensed in Ohio ranked number 19 with 7,081 complaints. Mortgage Brokers which are licensed in Ohio were ranked 17 with 7,463 complaints and Construction and Remodeling services were ranked number 22 with 6,489 complaints. Home inspectors simply are not a significant source of complaint for consumers.

Additionally there is the fiscal impact for the State of Ohio. I recently did a home inspection for an employee of the Ohio Office of Budget and Management. I was interested in the recent developments regarding our state budget and the cuts requested by Governor Strickland. He told me that there were hiring freezes in effect and due to recessionary pressures causing a reduction in revenue the state had to cut the budget across most agencies. The fiscal analysis of HB 257 shows that this bill is not able to be self funding and will contribute to higher government spending. According to the fiscal analysis provided by the Ohio Legislative Services Commission the program will cost \$498,000 to administer in the first year with revenues of only \$160,000. These revenues are mostly due to initial grandfathering of home inspectors already in business. In future years the administration costs drop to \$450,000 per year, however, revenues in the second year do not increase but are reduced to \$40,000 and then to \$15,600 every two years. This law will cost the taxpayers over \$400,000 per year with little demonstrated need based upon actual complaints.

Real estate sales in Ohio have been continuing to slide. The Ohio Association of Realtors reports existing home sales for January and February to be shrinking at the rate of 13% below the prior year. The average sales price of a home has declined 7.2%. Along with these statistics the number of home inspectors is also declining across the state. Many home inspectors are struggling to survive. Home inspection is simply not an occupation which people are getting into for easy money. The home inspectors that have been doing business in this state simply cannot afford additional regulatory entanglements to solve problems that don't exist. The adage "If it ain't broke don't fix it" is most appropriate regarding HB 257. I would urge this committee to end the initiative to license home inspectors.

Thank you for your time.