

**Proponent Testimony of the Ohio Apartment Association
On House Bill 343**

**Senate Ways and Means Committee
June 26, 2018**

Dear Chairman Eklund and members of the Senate Ways and Means Committee:

My name is Rob Risman and I am the President and CEO of Burton Carol Management LLC in Cleveland. My father founded the company over 50 years ago that became Burton Carol, which I named in both of my parents' honor. Today, we own and manage 17 apartment communities throughout Northeast Ohio, along with multiple properties in Michigan and Florida. Our portfolio of apartment communities consists of a total of approximately 6,000 apartment units. We are members of the Ohio Apartment Association, of which I am a past president. OAA is a federation of nine local apartment associations. OAA members own or manage about 500,000 rental units across the state of Ohio. Thank you for the opportunity to appear before you today to provide proponent testimony on House Bill 343 on behalf of the Ohio Apartment Association.

As significant property owners in our communities, property taxes are one of the largest costs of business that I and other OAA members face. In years past, I have been able to plan for increases – in line with improvements to the property and the statutory assessment periods. State law requires counties to revalue all real property every six years with an update at the three-year midpoint. The only changes to a property's value outside of the three-year cycle should be due to physical changes to the property (improvements such as the addition of a porch, patio or deck) or the demolition of an existing structure. But, Ohio is one of a minority of states (including Pennsylvania and New Jersey) that allows for a change in value based on a complaint and not just a complaint filed by the property owner. Unfortunately, increasingly my properties have been the target of complaints by certain local governments that are designed to increase the assessment on the property that is out-of-line with the normal periods or reasons for which I would expect an increase in valuation. This practice not only increases my property taxes at unexpected times and beyond the normal inflationary increases I have budgeted for, it also means that I must spend valuable time and money defending against these complaints. We find that other local governments that are not represented by certain law firms that take this aggressive posture have taken a much more fair and reasonable approach regarding a property's value.

For instance, in some areas, every time a nearby property sells, I can expect a complaint to be filed challenging my assessment even though there was no change to my property and/or that my property is fundamentally different from the property that was sold. By way of example, our company owns a 171-unit apartment community in Lakewood, Ohio known as Marine Towers West. We purchased the property on September 1, 1994 and have owned and managed it for over 23 years. Marine Towers was built in 1963, making it 55 years old. It is an 18-story high rise building located on the shores of Lake Erie, 20 minutes from downtown Cleveland.

The property was assessed through the county auditor's office for the 2015 tax year at \$5,640,200. On March 30, 2016, a complaint was filed on behalf of the Board of Education for the Lakewood City School District with the Cuyahoga County Board of Revision seeking to increase the value

of the property to \$9,150,000. This would amount to an increase in the value of the property of over 62%. The complaint was based on a June 30, 2014 sale of a 117-unit apartment complex up the street from Marine Towers West. That property sold for \$8,500,000, a price at which it was clear to the local property management community was well above market and actual value.

Our company filed a counter-complaint with the Board of Revision to leave the fair market value the same. At the hearing before the Board of Revision, each side presented an MAI appraisal as to the property's value as of January 1, 2015. The appraiser hired by the attorney for the school board appraised the property at \$7,700,000 (\$1,450,000 less than the value claimed by the school board in its complaint). Our appraiser valued the property at \$4,225,000 (\$1,415,200 less than the current assessed value of the property). Both appraisers took into account the age of the property and the amount of maintenance that it needs. We had to hire a licensed engineer to testify to the almost ten million dollars of capital needed to address the building envelope, underground leaking parking garage, and HVAC mechanical systems. Between work to address the leaking underground garage and the HVAC system, we will have spent over \$700,000 just this year. This only scratches the surface of the work that must be done and none of it addresses the original kitchens and baths in the apartments that are now competing with all new apartments in downtown Cleveland. Please don't let these figures leave you with the impression that we do not spend capital dollars on our properties. Nothing could be further from the truth. Since 2012 alone, at Marine Towers West, we have spent over \$500,000 on roofs and \$350,000 on elevators. Prior to that we spent over \$1,000,000 on all new windows in the building. We in no way could anticipate that the plumbing lines in the building would fail, the underground garage would leak terribly, potentially causing structural damage to the building, and the asbestos panels on the outside of the building would need to be replaced. My point being, it is hard to believe with all of these issues that this property is worth over \$9 million dollars.

The fact is buyers today are paying unheard of prices for multi-family apartment properties, much of which is driven by historically low interest rates and the inability of investors to find yield on their money elsewhere. This fact should have no effect on a property that has not been transferred and was originally underwritten and purchased or developed under very different market conditions. Although the comparison property due to its location does compete with Marine Towers West, it is a completely different property in different condition and was acquired at a different time under different market conditions for different motivations.

This isn't even the whole story because unbeknown to the Cuyahoga County Treasurer's office, we actually paid an additional \$38,012 in 2015 to the Lakewood school board as a result of a private pay agreement to settle an earlier tax complaint with the school board for the tax years 2012, 2013, and 2014 (which had us paying to the school board \$38,012 for each of those years). These so called private pay agreements perhaps more than anything else, highlight the unfairness of the present way things are being done.

In our Marine Towers case, the Board of Revision must have agreed with and understood our arguments as they ruled in our favor and maintained the fair market value of Marine Towers West at \$5,640,200. The school board appealed the decision of the BOR to the Ohio Board of Tax Appeals. The matter has since been settled upon the advice of counsel, but it is our strong feeling that based on the facts, the real estate taxes at Marine Towers West should be lowered and not

increased.

And it is not just inflated sales prices that drive these complaints. We've also seen complaints based on mortgages, which may include financing for things other than the property like future improvements or purchasing business interests, and complaints based on the value of properties in other communities, even in other counties. These are not appropriate bases for property tax assessment complaints. Even if we ultimately succeed in defending the complaint, we have spent precious time and money that could have been reinvested in our properties.

House Bill 343 is a step in the right direction by requiring more accountability by the local government filing these complaints.

Our system of property tax assessment is supposed to guarantee at least some stability of the assessment where there have been no improvements to the property. House Bill 343 is a good first step in reasserting that principal into the system. I appreciate that local governments are facing tough fiscal times. But it is fundamentally unfair that I and my fellow OAA members are being targeted by outside parties, in some cases on an annual basis, for re-assessment. We are constantly being put in the position of defending against these complaints – marshalling legal and market expertise at their own great expense - when these resources and funds could be much better spent improving the real estate.

Thank you for your time today.