OFFICE OF THE PEOPLE'S COUNSEL
INFORMATION PACKET

This packet, which has been created to provide you with some basic information about the Office of the People's Counsel, consists of a brief biography and the two sections of the County Code that relate to this office.

If you've received assistance from us, we'd really appreciate your input about how we've done. Please fill out our Satisfaction Survey on the last page of this packet or go to www.montgomerycountymd.gov/peoplescounsel to complete our on-line survey.

We are located in the Council Office Building in Rockville, so if you are in the area, please drop by and say hello.

The People's Counsel

MONTGOMERY COUNTY, MARYLAND

MARTIN KLAUBER
The People's Counsel

Land Use Law Experience

First People's Counsel of Montgomery County, since January 3, 2000

Hearing Examiner, Montgomery County, Maryland 1979-1991

Associate General Counsel, National Capital Planning Commission 1971-1973

Executive Secretary and Counsel of Zoning Commission and Member and Counsel of Board of Zoning Adjustment, Washington, D.C. 1973-1976

Special Assistant Corporation Counsel, Washington, D.C. 1976

Counsel to Chilean Minister of Housing and Urban Affairs, Counsel to Urban Planning Institute of the Catholic University of Chile 1976-1978

Legal Consultant to Commissioners of Charles County, Maryland 1992-1993

Education

L.L.B., George Washington University School of Law, Washington, D.C.

B.A., Rutgers College, New Brunswick, New Jersey

George Washington University Graduate School of Public Administration

Professional Activities

Co-founder and Chair, the Maryland Land Use Round Table.

Guest Lecturer at George Washington University School of Law, Catholic University of America School, and University of Baltimore School of Law.

Urban Development and Land Use Law in Chile, Chilean Ministry of Housing and Urban Affairs, 1978.

Personal

Resident of Montgomery County since 1978.

Married to Hope Sukin of the United States Agency for International Development, since 1976.
Two children, Rachel and David.

b. The Director is not a merit system employee.

c. Beginning on January 1, 1988, the term of the Director is 4 years. There is no limit to the number of terms that a Director may serve. If the County Council has not appointed a successor when a Director's term expires, the Director continues to serve until an appointed successor assumes office. The successor serves for the unexpired part of the term.

d. The County Council may dismiss the Director for good cause before the end of the Director's term. Before doing so, the Council must tell the Director the Council's reasons for the dismissal. If the Director requests a hearing, the Council must hold one and then issue a written decision to the Director.

e. The Director appoints and supervises all merit system employees of the Office. The Office and the employees operate independently of the Council's staff.

(3) Office of the People's Counsel.

(A) The County Council may employ, as a term merit system employee, a People's Counsel. The Council may, by a resolution adopted by an affirmative vote of 6 Councilmembers, remove a People's Counsel during the Counsel's term for good cause. Alternatively, the County Council may retain as an independent contractor one or more attorneys, along with support staff, consultants, and expert witnesses, to provide the services of the People's Counsel under Section 2-150. The contract may be canceled at any time by a resolution adopted by an affirmative vote of 6 Councilmembers.

(B) Any attorney employed or retained as the People's Counsel must:

(i) be a member of the bar of the Court of Appeals of Maryland;

(ii) have at least 5 years experience in the practice or teaching of law; and

(iii) have substantial experience with land use legal issues and procedures.

(C) Any attorney employed or retained as the People's Counsel must not represent any client, other than as People's Counsel, in any matter involving land use in Montgomery or Prince George's County.

(D) Any attorney employed or retained as the People's Counsel must not, within one year after the attorney's service as People's Counsel ends, represent any party in any proceeding involving land use in the County.

(4) Office of Zoning and Administrative Hearings.

A. The County Council, by a majority vote of Councilmembers in office, may appoint one or more hearing examiners of the Office of Zoning and Administrative Hearings, and designate a hearing examiner or the Council Staff Director as Director of the Office.

B. The County Council also may retain one or more hearing examiners as independent contractors, and may designate a contract hearing examiner as chief hearing examiner. Chapter 11B does not apply to any contract for hearing examiner services.

C. The hearing examiners are not merit system employees.

D. The Director must appoint and supervise the merit system employees of the Office. (1986 L.M.C., ch. 37, § 1; 1987 L.M.C., ch. 28, § 4; 1990 L.M.C., ch. 22, § 1; 1998 L.M.C., ch. 24, § 1; 1999 L.M.C., ch. 19, §§ 1 and 2; 2000 L.M.C., ch. 20, § 1; 2002 L.M.C., ch. 28, § 1.)

through absence and must explain any known extenuating circumstances. The presiding officer should send a copy of the notice to each member of the committee.

(3) The appointing authority may waive the resignation for illness, emergency or other good cause. The appointing authority must notify the member whether a waiver has been granted.

(4) If a waiver has not been granted, the appointing authority must appoint a successor to complete the unexpired term, subject to Council confirmation if the original appointment was subject to Council confirmation. (1979 L.M.C., ch. 22, § 1; FY 1991 L.M.C., ch. 9, § 1.)

Sec. 2-149. Procedures at meetings.

Unless a committee meeting is subject to Chapter 2A, a meeting may be conducted informally. The parliamentary procedures of Robert's Rules of Order govern when it is necessary to take formal action or decide controversial matters. Committee meetings must be open to the public in accordance with the state open meetings law. (1979 L.M.C., ch. 22, § 1; FY 1991, L.M.C., ch. 9, § 1.)

ARTICLE XII. PEOPLE'S COUNSEL.

Sec. 2-150. People's Counsel—Functions.

(a) *Purpose.* Informed public actions on land use matters require a full exploration of often complex factual and legal issues. An independent People's Counsel can protect the public interest and promote a full and fair presentation of relevant issues in administrative proceedings in order to achieve balanced records upon which sound land use decisions can be made. In addition, a People's Counsel who provides technical assistance to citizens and citizen organizations will encourage effective participation in, and increase public understanding of and confidence in, the County land use process.

(b) *Authority; duties.* To protect the public interest and achieve a full and fair presentation of relevant issues, the People's Counsel may participate in a proceeding before:

(1) the Board of Appeals if the proceeding involves a variance or a special exception;

(2) the County Council (solely for oral argument) or the Hearing Examiner for the County Council if the matter involves a local map amendment, a development or schematic development plan approved under the zoning process or a special exception; and

(3) the Planning Board if the proceeding involves action on an optional method development, a subdivision plan including a subdivision plan for a cluster development, or a site plan.

his provision was eleted on 12-06-99 y ZTA 99004 (Ord. o. 14-11)

The People's Counsel may also file a complaint under Section 59-G-1.3(b) alleging failure to comply with a special exception, or may seek a modification of a special exception under Section 59-G-1.3(c) or a revocation of a special exception under Section 59-G-1.3(e).

(c) *Restrictions.* The People's Counsel must not participate in any proceeding before a board or agency of any municipality in the County.

(d) *Participation.* The People's Counsel is a party in a proceeding under subsection (b) once the People's Counsel files a notice of intention to participate. After the notice is filed, the People's Counsel is entitled to all notices to a party and may participate by making motions, introducing evidence, calling witnesses, examining and cross-examining witnesses, and making arguments as the law and the evidence in the proceeding warrant. The People's Counsel may file and argue an appeal the same as any other party to the proceeding.

(e) *Independent status.* The People's Counsel must not represent the County, any government agency, or any private party in any proceeding. The People's Counsel is not subject to the authority of the County Attorney.

(f) *Notice.* If the People's Counsel intends to participate in a proceeding, the People's Counsel must give all parties a notice of intention to participate.

(g) *Discretion.* In the People's Counsel's discretion, the People's Counsel may withdraw from, or decline to participate in, any proceeding in which the Counsel may participate under subsection (b). The People's Counsel is not liable to any person for participating in, or declining to participate in, any proceeding.

(h) *Technical assistance.* Without becoming a party to any judicial or administrative proceeding, and subject to available time and resources, the People's Counsel may provide technical assistance to any person about a proceeding listed in subsection (b). When providing technical assistance under this subsection, the People's Counsel must inform the recipient that the People's Counsel is not acting and cannot act as a personal attorney for the recipient.

(i) *Coordination.* The People's Counsel must coordinate the services of its office with those offered by land use information staff in the Council, Board of Appeals, and Planning Board, to avoid inconsistency and duplication and to maximize the assistance offered to citizens.

(j) *Annual report.* The People's Counsel must annually report to the Council on the activities of the office. (1990 L.M.C., ch. 22, § 2.; 1999 L.M.C., ch. 19, §§ 1 and 2; 2002 L.M.C., ch. 28, § 1)

OFFICE OF THE PEOPLE'S COUNSEL

SATISFACTION SURVEY

1. Did the Assistance provided to you by the Office of the People's Counsel help you participate effectively in the County's land use process?

   Yes ☐ No ☐ Somewhat ☐

2. Did the assistance provided to you by the Office of the People's Counsel increase your understanding of the County's land use process?

   Yes ☐ No ☐ Somewhat ☐

3. Were you satisfied with the assistance that the Office of the People's Counsel provided to you?

   Yes ☐ No ☐ Somewhat ☐

4. Was the information/assistance provided to you by the Office of the People's Counsel understandable?

   Yes ☐ No ☐ Somewhat ☐

_____

Date