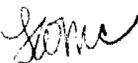


**MEMORANDUM**

June 16, 2016

TO: Planning, Housing, and Economic Development Committee  
FROM: Linda McMillan, Senior Legislative Analyst   
SUBJECT: **Executive Regulation 3-16, Establishment of Annual Registration Fee for  
Common Ownership Communities**

***Expected for this session:***

Clarence Snuggs, Director, Department of Housing and Community Affairs (DHCA)  
Jalal Greene, Chief, DHCA Housing Division  
Tim Goetzinger, DHCA Management and Budget

On May 26, 2016, the Executive forwarded proposed Executive Regulation 3-16, Establishment of Annual Registration Fee for Common Ownership Communities (COC) (©5-6). The proposed regulation increases the annual fee from \$3 per unit to \$5 per unit.

The fee increase was a part of the County Executive's Recommended Operating Budget. The following is the information that was provided during budget worksessions on proposed revenues and expenditures.

**COC Fee Revenues:**

Revenues (\$675,000) are based on approximately 134,000 COC units. The \$675,000 includes the \$5 per unit fee (134,000 x \$5 = 670,000) and \$5,000 in user fees that is charged for fulfilling certain information requests. Currently, the fee is \$3. A Method 2 Executive Regulation has been advertised in the April County Register. It is proposed to become effective July 1, 2016.

**COC Program Expenditures:**

Investigator III (from OCP)	\$166,089
OE transferred with position from OCP	\$ 24,000
Investigator II	\$ 75,010

Office Services Coordinator**	\$ 52,500
Outreach and Education	\$ 80,000
IT Systems Development	\$ 75,000
Other charges	\$ 79,044
<b>Total</b>	<b>\$551,643</b>

The Council approved the revenue and expenditure assumptions. The Council also decided that any surplus revenue must remain available to the Commission on Common Ownership Communities (CCOC) and not be sent to the General Fund for other purposes.

The Committee heard concerns from some Common Ownership Communities that they approve their budgets for a calendar year and therefore cannot adjust for the increase in the fee that would occur in July. Director Snuggs told the Committee that he would work with communities so that they could pay the additional \$2 next January, rather than in July, if needed. This way they could account for the increase in their new budgets.

DHCA received comments on the proposed regulation from The Montgomery Village Foundation (©7-8), Association Property Management, Inc. (©11), and Heron’s Cove of Montgomery Village (©13).

- The Montgomery Village Foundation does not believe that the increase is warranted, says that the timing of the increase conflicts with their fiscal year and budget, the added expense will be difficult to for some associations to cover, and recommends the increase be effective July 2017 (rather than 2016).
- Nadene Neel of Association Property Management, Inc. shared concern about the inequity of having CCOC fee revenues placed into the General Fund and recommends at least 12 months notice so that communities can adjust their budgets as communities should not have to take from other budgeted expenses to pay for this fee.
- Heron’s Cove HOA warns that there will be a domino effect from this increase, and that the Council and CCOC are out of touch with common ownership communities and should attend a Board meeting to find out how a HOA is run.

**Council staff recommendation**

**Council staff recommends approval** noting that DHCA will work with communities on the timing of payments and that the additional funding is needed to implement the improved program that is expected from the transition to DHCA.

Resolution No. \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT:** Approval of Executive Regulation 3-16, Establishment of Annual Registration Fee for Common Ownership Communities (Department of Housing and Community Affairs)

**Background**

1. On May 26, 2016, the County Council received proposed Regulation 3-16, establishment of Annual Registration Fee for Common Ownership Communities, from the County Executive.
2. The Council must review these regulations under method (2) of Section 2A-15 of the Code.
3. Under method (2), if the Council does not approve or disapprove a regulation within 60 calendar days after the Council receives the regulation, the regulation automatically takes effect.
4. The Planning, Housing, and Economic Development Committee held a worksession on this proposed regulation on June 20, 2016. The Committee recommends .....*TBD*.

**Action**

*The County Council for Montgomery County, Maryland, approves the following resolution:*

Executive Regulation 3-16, Establishment of Annual Registration Fee for Common Ownership Communities is .....*TBD*.

*This is a correct copy of Council action.*

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Linda Lauer, Clerk of the Council

Date



OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

May 26, 2016

TO: Nancy Floreen, President  
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Executive Regulation 3-16 – Establishment of Annual Registration Fee for  
Common Ownership Communities

I am transmitting for your approval Executive Regulation 3-16, which revises the annual registration fee charged per common ownership community dwelling unit. The proposed regulation was advertised in the April 2016 issue of the *Montgomery County Register* and the comment period expired April 30, 2016. Three comments were received and no revisions to the proposed regulation have been made. Copies of the comments, the Department's response to the comments, the revised regulation, and a bracketed copy of the original proposed regulation are included.

This proposed regulation is being promulgated by the Department of Housing and Community Affairs (DHCA), under Method 2 of Section 2A-15 of the Montgomery County Code. If you have any questions or would like additional information, please contact Clarence J. Snuggs, Director, DHCA, at 240-777-3611.

IL

Attachments



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Establishment of Annual Registration Fee for Common Ownership Communities	Number 3-16
Originating Department Department of Housing and Community Affairs	Effective Date July 1, 2016

## ESTABLISHMENT OF ANNUAL REGISTRATION FEE FOR COMMON OWNERSHIP COMMUNITIES

### DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Issued By: County Executive  
Regulation No. 3-16

Authority: Code Section 10B-7(b)  
Supersedes: 12-09AM

Council Review: Method (2) under Code Section 2A-15  
Register Vol.  
Comment Deadline:

Effective Date:

**SUMMARY:** The proposed regulation establishes the annual registration fee for common ownership communities. The fee must be set at an amount sufficient to fund the provision of dispute resolution and technical assistance by the Department of Housing and Community Affairs.

**ADDRESSES:** Additional information and copies of the regulation are available from Tim Goetzinger, Department of Housing and Community Affairs, 100 Maryland Avenue, 4<sup>th</sup> Floor, Rockville, Maryland 20850 (240-777-3728).

The County Executive may establish reasonable annual fees in amounts sufficient to fund the provision of dispute resolution and technical assistance by the Department of Housing and Community Affairs.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Establishment of Annual Registration Fee for Common Ownership Communities	Number 3-16
Originating Department Department of Housing and Community Affairs	Effective Date July 1, 2016

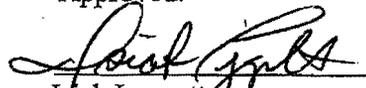
An annual registration fee of \$5.00 per unit is hereby established.

A unit shall be assessed only one registration fee, regardless of the number of common ownership communities that govern that unit.

Registration fees shall not be pro-rated and must be made payable to Montgomery County, Maryland.

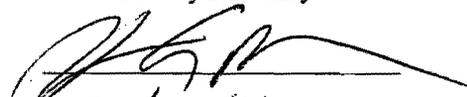
Failure to register is a Class A violation under Section 1-19 of the Montgomery County Code and also makes the community ineligible to file a dispute under Chapter 10B of the Code.

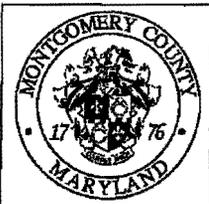
Approved:

  
Isiah Leggett  
County Executive

May 25, 2016  
Date

Approved as to Form and Legality  
Office of the County Attorney

By:   
Date: 5/18/16



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Establishment of Annual Registration Fee for Common Ownership Communities	Number [12-09AM] 3-16
Originating Department Department of Housing and Community Affairs	Effective Date July 1, 2016

## ESTABLISHMENT OF ANNUAL REGISTRATION FEE FOR COMMON OWNERSHIP COMMUNITIES

### DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Issued by: County Executive  
Regulation No. [12-09AM] 3-16

Authority: Code Section 10B-7(b)  
Supersedes: [9-02]12-09AM

Council Review: Method (2) under Code Section 2A-15  
Register Vol.  
Comment Deadline:

Effective Date:

**SUMMARY:** The proposed regulation establishes the annual registration fee for common ownership communities. The fee must be set at an amount sufficient to fund the provision of dispute resolution and technical assistance by the [Office of Consumer Protection] Department of Housing and Community Affairs.

**ADDRESSES:** Additional information and copies of the regulation are available from [Cynthia Gaffney] Tim Goetzinger, [Division of Housing and Code Enforcement] Department of Housing and Community Affairs, 100 Maryland Avenue, [Room 260] 4<sup>th</sup> Floor, Rockville, Maryland 20850 (240-777-[3799]3728).

The County Executive may establish reasonable annual fees in amounts sufficient to fund the provision of dispute resolution and technical assistance by the [Office of Consumer Protection] Department of Housing and Community Affairs.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject • Establishment of Annual Registration Fee for Common Ownership Communities	Number [12-09AM] 3-16
Originating Department Department of Housing and Community Affairs	Effective Date July 1, 2016

An annual registration fee of \$~~3.00~~5.00 per unit is hereby established.

A unit shall be assessed only one registration fee, regardless of the number of common ownership communities that govern that unit.

Registration fees shall not be pro-rated and must be made payable to Montgomery County, Maryland.

Failure to register is a Class A violation under Section 1-19 of the Montgomery County Code and also makes the community ineligible to file a dispute under Chapter 10B of the Code.

Approved:

Isiah Leggett  
County Executive

May 25, 2016  
Date

Approved as to Form and Legality  
Office of the County Attorney

By:

Date: 5/18/16



# MONTGOMERY VILLAGE FOUNDATION, INC.

10120 APPLE RIDGE ROAD  
MONTGOMERY VILLAGE, MARYLAND 20886-1000

(301) 948-0110 FAX (301) 990-7071 [www.montgomeryvillage.com](http://www.montgomeryvillage.com)

April 19, 2016

Mr. Tim Goetzinger  
Department of Housing and Community Affairs  
100 Maryland Avenue, 4<sup>th</sup> Floor  
Rockville, MD 20850

**Re: Opposition to Proposed Executive Regulation 3-16  
(Annual registration fee for common ownership communities)**

Dear Mr. Goetzinger:

The Montgomery Village Foundation (MVF) opposes proposed Executive Regulation 3-16. MVF has 21 community associations, comprising about 40,000 residents in over 12,000 dwelling units.

MVF and our member associations do not believe the \$2.00 increase in the registration fee is warranted. We are unaware of any rationale that has been advanced for nearly doubling the fee from \$3.00 to \$5.00 per unit. It would appear that the costs to administer CCOC's dispute resolution activities could be easily ascertainable. But during the recent hearings on Bill 5-15, there were substantial questions raised about whether the Commission on Common Ownership Communities ever received the full amounts of the fees collected for its activities. The registration fees collected, even at the rate of \$3.00, appeared to exceed the amount of the CCOC's budget.

In addition, the timing of the increase conflicts with our associations' fiscal years and budget process. The CCOC registration bills are sent in late June and cover the period from July 1 of the current calendar year through June 30 of the next calendar year.

In Montgomery Village, this means that associations will be asked in July, 2016 to pay IN ADVANCE for the period of July 1, 2016 to June 30, 2017. Payment is due by July 31, 2016.

However, each association's budget for the current calendar year, which would be used to pay the full bill by July 31, will not have planned for payment at the rate of \$5.00 for the period of July 1 to December 31, 2016—or for January 1 to June 30, 2017 either.

This added unexpected expense will be difficult for some associations to cover, given that their budgets are in place at this time. Moreover, many of MVF's associations have limits on the amount their budget and assessments can increase per year. This makes unexpected operating expenses additionally hard to absorb, because association assessments, by their nature, are designed to collect enough for operating expenses, but not significantly more.

We would ask that if the Council is going to increase the fee, that it not go into effect until the July 2017 invoices, so that associations can adopt budgets this fall that will include the increase.

Lastly, as one of the largest funders of the CCOC in the County, we would appreciate more information to justify any increase.

Sincerely,

Peter C. Young, President  
MVF Board of Directors

cc: MVF Board of Directors  
Isiah Leggett, County Executive  
Montgomery County Council Members  
David B. Humpton, Executive Vice President  
Christopher Hitchens, General Counsel

**Goetzinger, Timothy**

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**From:** Goetzinger, Timothy  
**Sent:** Wednesday, May 04, 2016 2:12 PM  
**To:** 'David B. Humpton'  
**Subject:** RE: CCOC Regulation -Annual registration Fee Comments 3-16  
**Attachments:** COC Program Fee Increase Response MVF.xps

Hi David,

Thanks again for the conversation and allowing me to communicate DHCA's plans for the COC program. I better understand your position and concerns. Attached please find the information we discussed.

Please let me know if you have any additional questions or concerns.

Thanks,  
Tim

*Tim Goetzinger*

Budget and Finance Manager  
Department of Housing and Community Affairs  
100 Maryland Avenue, 4th Floor  
Rockville, Maryland 20850

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[timothy.goetzinger@montgomerycountymd.gov](mailto:timothy.goetzinger@montgomerycountymd.gov)  
Office: 240.777.3728  
Cell: 301.674.1139  
Fax: 240.777.3691

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**From:** David B. Humpton [mailto:dhumpton@mvf.org]  
**Sent:** Wednesday, April 27, 2016 11:43 AM  
**To:** Goetzinger, Timothy <Timothy.Goetzinger@montgomerycountymd.gov>  
**Cc:** Matthews, Catherine <Catherine.Matthews@montgomerycountymd.gov>; Floreen's Office, Councilmember <Councilmember.Floreen@montgomerycountymd.gov>; Rice's Office, Councilmember <Councilmember.Rice@montgomerycountymd.gov>; Katz's Office, Councilmember <Councilmember.Katz@montgomerycountymd.gov>; Ike Leggett <Ike.Leggett@montgomerycountymd.gov>; Drymalski, Peter <Peter.Drymalski@montgomerycountymd.gov>; Christopher Hitchens <chitchens@mvf.org>  
**Subject:** CCOC Regulation -Annual registration Fee Comments 3-16

Mr. Goetzinger - Please see attached letter in opposition to the proposed regulation 3-16.

Please include in public record.

Sincerely,

David B. Humpton  
Executive Vice President  
10120 Apple Ridge Rd  
Montgomery Village, MD 20886

4-May-16

Bill 50-15 recently passed. This legislation is effective July 2016 and transfers the Common Ownership Community (COC) Program from the Office of Consumer Protection to the Department of Housing and Community Affairs. Additionally, this legislation enhances the COC Program mediation effort, increasing the business demand on the program. Additional resources including financial, administrative, and information technology are needed to implement this legislation, which are afforded by increasing the COC Program per unit fee by \$2.00 via Executive Regulation 3-16. This regulation has a prospective effective date of July 1, 2016.

To try to alleviate the impact of the fee increase, DHCA will provide COC's with the option to pay the fee in two installments. The first installment of \$3.00 will be due July 2016. The second installment of \$2.00 will be due January 2017. This is a one-time opportunity. Looking ahead to FY18, DHCA will provide COC's with a single \$5.00 invoice due July 2017.

Along with this year's July billing, DHCA will work with the Commission on Common Ownership Communities (CCOC) to include language informing COC's of:

- the fee increase,
- the services that the fees provide (see below for highlights), and
- to remind COC's to incorporate the fee increase in their annual budgets (which may require a one-time \$4.00 increase in individual assessments this calendar year to account for the \$2.00 January and \$2.00 July increases before settling to a \$2.00 increase)

Please find below a list of enhancements gained by transferring the COC Program to DHCA and increasing the fee:

1. Enhances staffing to administer the COC Program, which supports 134,000 COC units, adding an:
  - a. Investigator – providing greater public outreach and more expeditious complaint resolution.
  - b. Office Services Coordinator – coordinating and streamlining program operations, answering calls, scheduling appointments, providing data entry, etc.
2. Allows for DHCA to value engineer and consolidate operating expenses,
3. Provides much needed IT resources in order to develop a case management system for all COC complaints and to upgrade the existing COC Registration database, and
4. Provides resources to support community outreach and education initiatives.

For additional information on regarding the COC Program or the potential fee increases, please contact Tim Goetzinger, Budget and Finance Manager at 240.777.3728 or via email at [dhca\\_fees@montgomerycountymd.gov](mailto:dhca_fees@montgomerycountymd.gov).



**ASSOCIATION PROPERTY MANAGEMENT, INC.**

April 26, 2016

Tim Goetzinger  
Department of Housing & Community Affairs  
100 Maryland Avenue, 4<sup>th</sup> Floor  
Rockville, MD 20850

Re: Montgomery County Executive Regulation #3-16

Dear Mr. Goetzinger:

I am writing to you on behalf of the communities managed by my company, as a community manager, and as past Vice-Chair of the Montgomery County Commission on Common Ownership Communities (COC); asking that the following comments and concerns be entered into the record and considered with regarding to raising the fee (from \$3 to \$5) that is paid by each household within a common ownership community.

First, while serving on the Commission and attempting to procure funds for community education, the entire Commission was advised that the funds which are allegedly procured for the COC are in fact not provided to the COC for use by the COC, but are rather placed into a general fund. We also learned that the budget and direct expenses of the COC were substantially less than the funds that were collected, allegedly for the COC. Granted, it has been a number of years since I served on the Commission and while I hope this has changed, I am not aware that anything with regard to this inequity has changed. Unless and until the funds that are collected for the COC are actually and fully allocated to the activities of the COC; we consider the fee increase to be improper and a misrepresentation of the needs of the COC. In addition, assuming this is still the case, the fact that this is not known to the public at large is of concern to the few of us who were informed.

Second, if the fee is put in place regardless of the opposition, there should be sufficient warning (i.e. more than 12 months) for each community to properly budget for this 66% fee increase. An increase of this nature could have a serious negative impact on communities with a large number of units and minimal common expenses, and/or communities with a large number of delinquent assessments. Any fee increase that is approved should be approved at least 12 months prior to implementation to provide communities with the opportunity to properly budget and collect the fee from their owners. Communities should not be forced to take from other budgeted expenses in order to pay this fee.

Thank you for your consideration.



Nadene L. Neel  
Community Manager & President, APMI

**Goetzinger, Timothy**

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**From:** Goetzinger, Timothy  
**Sent:** Thursday, May 12, 2016 12:55 PM  
**To:** 'nadenen@verizon.net'  
**Subject:** CCOC Regulation -Annual registration Fee Comments 3-16  
**Attachments:** COC Program Fee Increase Response MVF.XPS

Hi Nadene,

Thanks again for the conversation and allowing me to communicate DHCA's plans for the COC program. I better understand your position and concerns. Attached please find the information we discussed.

Please let me know if you have any additional questions or concerns.

Thanks,  
Tim

*Tim Goetzinger*

Budget and Finance Manager  
Department of Housing and Community Affairs  
100 Maryland Avenue, 4th Floor  
Rockville, Maryland 20850

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[timothy.goetzinger@montgomerycountymd.gov](mailto:timothy.goetzinger@montgomerycountymd.gov)

Office: 240.777.3728

Cell: 301.674.1139

Fax: 240.777.3691

## Goetzinger, Timothy

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**From:** Joe Simcox <jsimcox@skslaw.net>  
**Sent:** Wednesday, April 27, 2016 3:54 PM  
**To:** Goetzinger, Timothy  
**Cc:** michelle jolles  
**Subject:** CCOC Fee Increase - OPPOSITION

Dear Mr. Goetzinger:

I am President of the Board for the HOA at Heron's Cove in Montgomery Village.  
I wish to advise that the letter from the MVF President has my community's full support (there are 406 units).

While a \$2 increase may not seem much to you and the powers above, I can assure you there is more of a domino effect than you all realize.

I believe that the Council and the CCOC are out of touch with the community. I would like to suggest that before making or endorsing such proposals, maybe you and some of the council members should come to our Board meeting and find out what we do and how the budget process and an HOA is run.

Respectfully yours,

Joseph R. Simcox  
Board President, Heron's Cove HOA

## **Goetzinger, Timothy**

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**From:** Joe Simcox <jsimcox@skslaw.net>  
**Sent:** Wednesday, April 27, 2016 3:21 PM  
**To:** 'David B. Humpton'; Goetzinger, Timothy  
**Cc:** Matthews, Catherine; Floreen's Office, Councilmember; Rice's Office, Councilmember; Katz's Office, Councilmember; Ike Leggett; Drymalski, Peter; 'Christopher Hitchens'  
**Subject:** RE: CCOC Regulation -Annual registration Fee Comments 3-16

Thank you for objecting to this "tax" and forwarding this info to us.  
Like the 8% increase in property taxes Ike Leggett is proposing and currently endorsed by the council, this is not getting much publicity - if at all. I never even heard of this proposed fee increase being instituted!!

Please provide email addresses for us to send oppositions to the addressee (if known) and the council members.

Joe Simcox

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**From:** David B. Humpton [mailto:dhumpton@mvf.org]  
**Sent:** Wednesday, April 27, 2016 11:43 AM  
**To:** 'timothy.goetzinger@montgomerycountymd.gov' <timothy.goetzinger@montgomerycountymd.gov>  
**Cc:** catherine.matthews@montgomerycountymd.gov; 'councilmember.floreen@montgomerycountymd.gov' <councilmember.floreen@montgomerycountymd.gov>; councilmember.rice@montgomerycountymd.gov; Councilmember.katz@montgomerycountymd.gov; 'ike.leggett@montgomerycountymd.gov' <ike.leggett@montgomerycountymd.gov>; 'Drymalski, Peter' <Peter.Drymalski@montgomerycountymd.gov>; Christopher Hitchens <chitchens@mvf.org>  
**Subject:** CCOC Regulation -Annual registration Fee Comments 3-16

Mr. Goetzinger - Please see attached letter in opposition to the proposed regulation 3-16.

Please include in public record.

Sincerely,

David B. Humpton  
Executive Vice President  
10120 Apple Ridge Rd  
Montgomery Village, MD 20886  
301-948-0110 x2322  
[dhumpton@mvf.org](mailto:dhumpton@mvf.org)  
[www.montgomeryvillage.com](http://www.montgomeryvillage.com)