BEFORE THE
COMMISSION ON COMMON OWNERSHIP COMMUNITIES
FOR MONTGOMERY COUNTY, MARYLAND

SYLVIA SAUNDERS,	)	
	)	
Complainant	)	
	)	
v.	)	Case No. 03-12
	)	August 12, 2013
GREENCASTLE MANOR TWO CONDOMINIUM ASSOCIATION,	)	
	)	
	)	
Respondent.	)	
	)	

Before Browder, Caudle, and Farrar.

DECISION AND ORDER

The above-captioned case came before the Commission on Common Ownership Communities for Montgomery County, Maryland ("CCOC"), on April 25, 2013, pursuant to Chapter 10B of the Montgomery County Code. After considering the testimony and evidence presented, this Hearing Panel finds, determines, and orders as follows.

BACKGROUND

On January 3, 2012, homeowner Sylvia Saunders ("Ms. Saunders" or "Complainant") filed this action against her association, Greencastle Manor Two Condominium Association (the "Association" or "Respondent"), the Association's Board of Directors, and Shireen Ambush, the Abaris Realty property manager for the condominium. In her complaint, Ms. Saunders alleged that the Respondent violated its governing documents and Maryland law in the following six respects:

1. failing to obtain approval of the general membership for assessment increases exceeding 15 percent;
2. failing to properly conduct an election (this included the allegation that there was an insufficient number of election inspectors);
3. failing to give advance notice of proposed rules and of other association actions;
4. refusing to allow members to speak at Board meetings;
5. imposing excessive fees for inspection of association records; and

6. intimidating members from exercising their right to comment on proposed budgets.

The Commission's staff, however, captioned this dispute only as "Sylvia Saunders v. Greencastle Manor Two Condominium" and referred to it at all times as a dispute between Ms. Saunders and her association, and never as a dispute between Ms. Saunders and any individual persons. Likewise, the Summons issued by the Commission referred to the dispute only as one between Ms. Saunders and the association as a body.

Before the matter proceeded to a hearing, the parties went to mediation, which was unsuccessful. This is not surprising, as the record is rife with examples of the parties' mutual dislike for one another.

On April 25, 2013, this case proceeded to a hearing. Commission's Exhibit 1 was admitted into evidence without objection. In addition to the pleadings, the parties' communications with the CCOC, and panel orders in this Exhibit, the Exhibit contained the minutes of an October 18, 2011, Board meeting, ballots from a 2010 election, and excerpts of the Association's governing documents, among other things.

Ms. Saunders was the sole witness in her case-in-chief. She offered a "Statement of Charges," which itself contained the following seven exhibits, which were admitted into evidence without objection:

1. ***Complainant's Exhibit 1***: Article VI of the Association's Bylaws;
2. ***Complainant's Exhibit 2:*** Undated excerpts from the Maryland Condominium Act, including provisions addressing elections and inspection of the association's books and records, among other provisions;
3. ***Complainant's Exhibit 3***: Excerpts from Chapter 10B of the Montgomery County Code, including provisions addressing fees for inspecting the Association's books and records, dispute resolution, voting procedures, and the budget, among other provisions;
4. ***Complainant's Exhibit 4***: a copy of an August 30, 2012, memorandum from the Association's Board of Directors to the Association's unit owners informing the owners of Ms. Saunders' complaint in this action, explaining that although the Association had proceeded "in good faith" to mediation to try to resolve the dispute, the matter was not resolved, requiring the Board "to retain legal counsel to defend this action";
5. ***Complainant's Exhibit 5***: a July 2012 blank proxy ballot;
6. ***Complainant's Exhibit 6***: Article X of the Association's Declaration; and
7. ***Complainant's Exhibit 7***: an October 12, 2012, memorandum from Ms. Ambush to the Unit Owners discussing the Association's 2013 budget.

Respondent called two witnesses in its case-in-chief: (1) Shireen Ambush, property manager; and (2) Lucretia Bartley, President of the Association. Respondent offered the following exhibits, which were admitted in evidence without objection:

1. ***Respondent's Exhibit 1***: A complete copy of the Association's bylaws;
2. ***Respondent's Exhibit 2***: A complete copy of the Association's Declaration;
3. ***Respondent's Exhibit 3***: A Memorandum of Law and Petition and Affidavit in Support of Attorneys' Fees.

The hearing lasted approximately five hours. At the close of the hearing, Respondent asked for an award of attorneys' fees.

FINDINGS OF FACT

After thoroughly considering the testimony and evidence, this Panel finds as follows.

1. Respondent Greencastle Manor II ("Greencastle") is a condominium as defined by Section 11-101 of the Real Property Article of the Code of Maryland, and is a common ownership community pursuant to Montgomery County Code Section 10B-2(b).

2. Greencastle consists of 175 townhome units and of common areas.

3. Greencastle's property and actions are subject to restrictions in its governing documents, which include a recorded Declaration and "By-laws [of] The Council of Unit Owners of Greencastle Manor Condominium No. 2, Inc."

4. Sylvia Saunders is a condominium unit owner at Greencastle Manor II and a member of the Association.

5. Shireen Ambush is the property manager at Greencastle Manor II. Ms. Ambush works for Abaris Realty, Inc. Ms. Ambush was employed as property manager of the Association at all times relevant to this action.

6. Lucretia Bartley is the current President of the Board of Directors for the Greencastle Manor II Condominium Association. Ms. Bartley held this office at all times relevant to this dispute.

I. Condominium Fee Increases

7. In 2010, the Association's Board of Directors approved a budget that included a condominium fee increase to $105 per unit per month, effective January 1, 2011.

8. In 2011, the Association's Board of Directors approved a budget that included a condominium fee increase to $125 per unit per month, effective January 1, 2012. This is an increase of almost 20 percent.

9. The Association provided unit owners with notice of the 2012 proposed budget, including the proposed condominium fee increase, in a September 16, 2011, memorandum. Addressing the condominium fee increase, the Board, through Ms. Ambush, explained that the "primary reason for the fee increase" was to qualify the condominium for approval from the Federal Housing Administration ("FHA"). The FHA had recently set guidelines for insuring loans to purchasers of units in condominiums, and under those guidelines it will not insure loans to the buyers if the condominium cannot meet its guidelines. The Association's application for FHA certification was rejected because of "significant deficits" in the 2009 and 2010 operating budgets caused by "excessive snow removal expenses." In 2009, the deficit was more than $20,000 and, in 2010, almost $97,000. As a condition of approval, FHA required the Association to create a plan to pay off the deficit. The Board explained that the condominium fee increase to $125 would generate funds that would go, in part, toward paying down the deficits incurred from 2009 and 2010.

10. Also in the September 16, 2011, memorandum, the Board of Directors invited unit owners to attend the meeting or to "forward any comments or questions . . . on the proposed budget" to Abaris Realty "prior to October 18, 2011." According to the Board, the unit owners' "comments w[ould] be taken into consideration by the Board prior to the budget being officially adopted."

11. In a letter dated September 23, 2011, Ms. Saunders wrote to Shireen Ambush, the Greencastle Manor II property manager, expressing, among other things, her concerns that the Association's 2012 budget was deficient in many respects. In particular, Ms. Saunders took issue with the following aspects of the budget, among other things: (a) the increase in the condominium fee; (b) the format of the budget; (c) the Association's last audit; (d) the Association's budget for landscaping; (e) the Association's budget for snow removal; and (f) the scheduling of the Association's annual meeting.

12. In a letter dated October 13, 2011, Ms. Ambush responded to Ms. Saunders' letter, briefly addressing Ms. Saunders' concerns about the format of the budget and the Association's prior audits, and addressing other matters detailed in subsection VI, *infra*.

13. On October 18, 2011, the Association held a general meeting addressing, among other things, the proposed budget. At the close of that meeting, a motion to approve the proposed budget was seconded and approved by the board.

14. In an October 24, 2011, memorandum to the Association's unit owners, the Board of Directors, again through Ms. Ambush, informed the unit owners that the Board approved the 2012 budget, including the condominium fee increase to $125 per unit per month. The memorandum was accompanied by the 2012 budget, which also reflected this fee increase.

15. Section 11-109.2(d) of the Maryland Condominium Act, Real Property Article, Code of Maryland, states as follows:

> Certain expenditures in excess of 15 percent of budgeted amount to be approved by amendment. — Any expenditure made other than those made because of conditions which, if not corrected, could reasonably result in a threat to the health or safety of the unit owners or a significant risk of damage to the condominium, that would result in an increase in an amount of assessments for the current fiscal year of the condominium in excess of 15 percent of the budgeted amount previously adopted, shall be approved by an amendment to the budget adopted at a special meeting, upon not less than 10 days written notice to the council of unit owners.

II. 2010 Board of Directors Elections

16. Six unit owners in the Greencastle Manor II Condominium Association submitted nomination applications for the May 2010 Board of Directors elections, including Ms. Bartley and Ms. Saunders. Three seats on the Board were available.

17. In letters to unit owners dated May 26, 2010, and May 4, 2010, Ms. Ambush provided notice of the Association's annual meeting, indicating the date, time, and location of the meeting, and attaching an agenda to the letter. The letter further explained that, at the meeting, an election would be held to fill three Board member positions.

18. On the May 13, 2010, agenda, item five was "Appointment of one inspector for the election."

19. The 2010 annual meeting of the Association was held on May 13, 2010.

20. The tally of votes, including absentee ballot forms and proxy ballot forms, were admitted into evidence in Commission's Exhibit 1. The ballot (Commission Exhibit 1 at p.118) did not list the candidates in alphabetical order.

21. According to the tally, Ms. Bartley received the greatest number of votes, followed by Karen Boyd and Hans Olson. These three unit owners were elected to the Board.

22. At the hearing, Ms. Ambush testified that she acted as an inspector of election at the request of the Board and assisted in the election proceedings along with two volunteer unit owners also acting as inspectors of election.

23. Ms. Saunders testified that the votes were tallied separately by two unit owners, and that, at the close of the election, the remaining unit owners were neither informed of the total number of votes cast nor the amount of votes that were cast for each candidate.

24. The Bylaws of the Association, Article IV, Section 14, state that the Board of Directors shall appoint "an uneven number of one or more inspectors of election."

25. Ms. Saunders further testified that, despite her belief that the election was not being handled in accordance with the Association's bylaws governing elections, she never raised any objections to the election process at the 2010 annual meeting.

III. Notice of Association Matters

26. The Association provided unit owners notice of approved budgets for 2011 and 2012.

27. The Association provided unit owners notice of changes in the law that affected the condominium's master insurance policy in its November 24, 2010, and October 24, 2011, memoranda to the unit owners.

28. The Association notified its unit owners of expenses that would increase association fees in its September 29, 2010, September 16, 2011, and October 24, 2011, memoranda to unit owners.

29. The Association provided notice of its May 17, 2011, annual meeting to unit owners pursuant to a March 16, 2011, notice and an April 27, 2011, second notice. After the quorum requirement was not met at the May 2011 meeting, the Association provided notice on May 26, 2011, of the rescheduling of that meeting to July 19, 2011.

30. The Association provided notice of its May 13, 2010, annual meeting to unit owners via a March 26, 2010, notice and a May 4, 2010, second notice.

31. In addition to the notice for budget meetings detailed above, Ms. Ambush testified that unit owners are informed of meetings through the Association's website, which is maintained by Ms. Bartley, and through the owners' condominium fee invoices.

32. Ms. Bartley testified that all of the pertinent information about the Association is available on its website. To inform the unit owners of the website, Ms. Bartley purchased calendars and refrigerator magnets containing this information.

33. Ms. Bartley further testified that, although the dates and times of the meetings are identified on the website, the location is not. According to Ms. Bartley, this information is not included because, at the time the meeting is scheduled, the Board often does not know where it will be held. Instead, Ms. Bartley testified that residents knew to contact Ms. Ambush to find out the location.

34. Ms. Ambush testified that the monthly billing statements also contained notices of upcoming board meetings. Ms. Saunders denied this. Neither party produced copies of any billing statements. This issue was not part of the original complaint, nor of the summons, which only dealt with advance notice of elections and special meetings. The issue of notice of regular meetings was not squarely raised, and Ms. Saunders had the burden of proof. Under the circumstances we will not make any finding on the issue of whether the monthly billing statements contain notice of board meetings.

IV. Member Participation at October 18, 2011, Meeting

35. A general meeting of the Association was held on October 18, 2011, at the East County Regional Services Center.

36. The "main issue" addressed at the meeting was unit owners' concerns about the condominium fee increase to $125 beginning on January 1, 2012.

37. Because Ms. Ambush expected the meeting to be "contentious," the Association hired a police officer to appear at the meeting.

38. Consistent with the Board of Directors' September 16, 2011, memorandum, Ms. Ambush explained that the increase was due, in part, to assist the Association in qualifying for FHA approval.

39. The minutes from this meeting, which were submitted by Janine McAdoo, the Association's Secretary, provided as follows with respect to Ms. Saunders' participation at this meeting: "There were many questions by Ms. Saunders regarding the format of the budget that had been presented in the mailing to residents."

40. According to the minutes, a "Mr. Edwin" asked whether the Board could guarantee that no additional fee increases would be imposed.

41. The minutes from the meeting also reference Ms. Bartley's comments at the close of the meeting, publicly admonishing Ms. Saunders for her "disrespect[ful]" September 23, 2011, letter to Ms. Ambush, and informing Ms. Saunders that "further actions would be reported to the authorities."

42. The Association does not have a formal, written policy regulating unit owners' rights to speak at meetings.

43. At the hearing before the CCOC, Ms. Ambush testified that, during Board meetings, unit owners are given an opportunity to comment. During Ms. Ambush's time as property manager, she has "never seen homeowner comments rejected."

44. Similarly, Lucretia Bartley testified that the Board "gives homeowners a chance" to speak at meetings.

45. Regarding the October 18, 2011, meeting, Ms. Bartley testified that, because the meeting was held at a community center, the meeting was subject to certain time restraints. These restraints, in turn, required the Board to limit Ms. Saunders' comments at the meeting to allow the Board and Ms. Ambush to address comments and concerns from other unit owners. Notwithstanding this limitation, however, Ms. Bartley believes Ms. Saunders received a sufficient opportunity to address her complaints about the budget.

46. In her complaint, Ms. Saunders alleged as follows: "There were about 10 unit owners present at the meeting [who] were allowed to ask a question, but their questions were viewed as an annoyance or ignored."

47. At the hearing before the CCOC, Ms. Saunders testified that she was denied the opportunity to respond to comments about her September 23, 2011, letter to the Board.

V. Inspection of the Association's Books and Records

48. In a letter dated November 7, 2011, Ms. Saunders, along with two other unit owners, requested to inspect the Association's "books and records for the past three years (to include 2009, 2010 and 2011)." In particular, the three unit owners asked to inspect the following documents:

> [D]etailed accounts, in chronological order, of receipts, expenditures and other transactions of unit owners, maintenance and repair expenses as well as related services with respect to the same and any other expenses incurred by unit owners.
> Also, the amount of any assessment that was required for payment of any capital expenditures or reserves of unit owners credited upon the books of unit owners to the "Paid-in-Surplus" account as a capital contribution by members.
> In addition, all receipts and expenditures credited and charged to other accounts under: Current Operations, Reserves, and Investments[,] including audit reports for those years performed by an independent Certified Public Accountant, and any/all correspondence between the association and FHA relative to or that may affect the listed accounts.
> (Paragraphs added for clarity).

49. The unit owners' November 7, 2011, request to inspect the books further explained that they were available to inspect the books on November 29, 2011, and December 13, 2011.

50. Ms. Ambush responded to Ms. Saunders and the other two unit owners' request to inspect the Association's books in a November 29, 2011, memorandum. Ms. Ambush explained that the Association's records are kept in Abaris Realty's offices, which are open Monday through Friday from 9 a.m. to 5 p.m. Ms. Ambush further explained that she could accommodate the unit owners' request to inspect the books on December 13, 2011, from 11:00 a.m. to 4:00 p.m. Ms. Ambush also addressed the costs of inspection: inspection costs $100 per hour "with a 1 hour minimum . . . under our staff's supervision" and copies of documents are 12 cents per page.

51. At the hearing before the CCOC, Ms. Ambush testified that the costs identified in her memorandum to Ms. Saunders and the two other unit owners conformed to Abaris Realty's "company policy" for inspection of condominium association records, which is part of its contract with the Respondent. However, she testified that the Respondent's Board of Directors had never formally adopted any rule or policy stating the requirements and costs for member inspection and copying of Respondent's books and records. She further testified that technology has in part reduced the need for the type of inspection requested in this case: if she has access to certain documents electronically, she provides them to the unit owner for no charge. Indeed, Ms. Ambush could not even remember the number of times she had provided similar records to owners without charge.

52. Ms. Saunders and the other two unit owners decided not to inspect the Association's books due to the fees described above.

53. Despite Ms. Saunders and the other unit owners' decision not to inspect the books, Ms. Ambush testified that she provided some of the documents Ms. Saunders requested anyway, and did not bill Ms. Saunders or any other unit owner for that service.

VI. Member Comment on 2012 Proposed Budget

54. As explained in subsection I, *supra,* Ms. Saunders expressed her reservations about the proposed 2012 budget in a September 23, 2011, letter to Ms. Ambush. In her letter, Ms. Saunders levied serious allegations against the Association, including the following. First, she alleged that the budget contained "misappropriated funds" and "fraudulent duplications." Second, she argued that the budget failed to show that the condominium fee increase to $125 was warranted, as "the budget does not show a need for an increase based on the lack of care the property has received in the past year or more." Third, she alleged that, through the budget, unit owners would be forced to pay for services provided to specific board members: "[w]ork done on the home and yard of the board's president," "as well as the home of another board member[,] should not be included in this budget." Fourth, Ms. Saunders alleged the budget contained "duplicate Grounds/Landscaping, Snow Removal, and Legal Fees charges." Fifth, Ms. Saunders argues that the budget "waste[s] money . . . on Landscaping." Finally, she argued that the Association's snow removal contractor's substandard work required renegotiation of that contract or, alternatively, hiring a new contractor.

55. In a letter dated October 13, 2011, Ms. Ambush responded to Ms. Saunders' letter, only addressing Ms. Saunders' concerns about the format of the budget and the Association's prior audits. Ms. Ambush also characterized Ms. Saunders' allegations as "insulting," and "libelous and slanderous," and threatened legal action:

> This letter is being sent on behalf of the entire Board and Abaris Realty to inform you that correspondence of this insulting nature will not be tolerated. You have absolutely no right to conduct yourself in such an inappropriate manner.
>
> . . . .
>
> We simply will NOT tolerate your abusive behavior any longer as we have tried our best to treat you in a professional, respectable manner and you have demonstrated your inability to treat us in the same fashion.
>
> . . . .
>
> If you should continue to conduct yourself in this manner, the Board will have no choice but to take appropriate legal action against you for your slander and libel in addition to referring ANY and ALL future correspondence from you to the Condominium's legal counsel for response. . . . **This will of course generate legal fees for the condominium which we have not budgeted for and perhaps you can explain to all 175 of your fellow homeowners why we have to increase our condo fees EVEN MORE in order to afford the legal fees to deal with your abuse.** The Board fully intends to notify all unit owners of this extra expense caused by your actions if it becomes necessary. (Emphasis in original).

56. Four days later, the Association's October 18, 2011, general meeting was held, where the 2012 budget was approved. As the minutes of this meeting reflect, Ms. Saunders was publicly reprimanded for her letter to Ms. Ambush. Ms. Saunders testified that she was not afforded an opportunity respond to Ms. Bartley's characterization of Ms. Saunders' letter. The minutes do not contradict Ms. Saunders' testimony.

57. The Association again alerted its unit owners to Ms. Saunders' actions: in an August 30, 2012, letter, the Association informed unit owners that Ms. Saunders filed a complaint with the CCOC after efforts to mediate the dispute were unsuccessful. The letter indicated that, because the case would proceed to a CCOC hearing, "the Board may have to consider increasing assessments to cover up and/or recoup the expenses it has to incur in defending this action," including legal fees.

VII. Attorneys' Fees

58. Ms. Saunders appeared pro se at the hearing. She prepared the documents filed with the CCOC and entered into evidence at the hearing without the assistance of an attorney, with the exception of a question regarding the cost for inspecting Association books, which she posed to a "Real Estate Lawyer and Developer" online for $39.

59. Ms. Ambush testified that she prepared the Association's initial response to Ms. Saunders' CCOC complaint. She further testified that, only after it was apparent that the case would proceed to a hearing, the Association retained a law firm.

60. At the hearing, Jason Fisher, attorney for the Respondent, testified that attorneys' fees are warranted in this case because Ms. Saunders maintained a frivolous action.

61. In an August 31, 2012, letter, Mr. Fisher informed Ms. Saunders that the Association would seek attorneys' fees if the matter proceeded to a hearing and the Association prevailed.

62. The total request for attorneys' fees is $11,955.86. This figure is based on 31.1 hours of work before the hearing, and approximately four hours at the hearing. The fee is also based on Mr. Fisher's hourly rate of $380 for work performed through October 31, 2012, and $395 for work performed after November 1, 2012. The fee is further based on the work of another attorney, Ruth Katz, who also assisted in this case. Ms. Katz's hourly rates are as follows: $265 for work performed through October 31, 2012, and $285 for work performed after November 1, 2012.

63. Respondents' attorneys provided a detailed summary of attorney time incurred in connection with this litigation.

CONCLUSIONS OF LAW AND DISCUSSION

I. The Appropriate Parties

As a threshold matter, this panel must determine whether all of the named Respondents are appropriate parties to this action.

Before presenting its case-in-chief, Respondents made a motion for the panel to dismiss Ms. Ambush and the Association's Board of Directors as parties from this suit, arguing that they were not proper parties to the complaint. At the hearing, we reserved ruling on this matter, but we address it now.

Section 10B-8 (8) and (9) of the Montgomery County Code provide that the only persons who can be "parties" to a CCOC dispute are a member of the association, a resident of the association, and the council of unit owners, including a governing body of the association. *See* Montgomery Cnty, Md., Code § 10B-8(6) (defining "governing

body" as the board of directors, among other things). In that vein, lawyers, managers, employees, and agents cannot be parties to CCOC disputes. *Glenn v. Park Bradford Condominium*, CCOC #29-11 (November 30, 2012).

It is undisputed that Shireen Ambush is the property manager for the Association. It is similarly undisputed that Ms. Ambush is an employee of Abaris Realty, Inc. Because Ms. Ambush is neither a member nor a resident of the Association, she is not a proper party to this action.

We note that the Commission and its staff never treated this dispute as one involving Ms. Ambush as a party in her own right or the individual members of the Board of Directors as parties. The complaint was sent to Ms. Ambush only in her capacity as an agent for the Association. The Commission and its staff never requested responses from any individuals on their own behalf, but only on behalf of the Association as an entity. Likewise, the Summons was sent only to the Association, not to individuals. Although Ms. Ambush and the individual members of the Board of Directors were never formally dismissed from the dispute, they were never required to respond to it, either.

As the County Code reflects, the council of unit owners of an association is a proper party to a CCOC dispute. Montgomery Cnty, Md., Code § 10B-8(6). In most cases, the powers of the council of unit owners are delegated to and exercised by the board of directors. Indeed, the Code even identifies eight types of disputes that may arise due to the failure of an association's *governing body* to do certain things, at least four of which are implicated by this case: (1) failing to properly conduct an election; (2) failing to give adequate notice of a meeting or other action; (3) failing to properly adopt a budget; and (4) failing to allow inspection of books and records. Montgomery Cnty, Md., Code § 10B-8(4)(B)(i)-(ii), (iv)-(v). Because this case involves allegations of the Board of Directors' failure to do these things, among others, and because the Board is a proper party to a CCOC dispute under the County Code, Respondents' argument that the Board should be dismissed from this action on the ground that it is not a proper party is unavailing. However, this does not mean that individual members of the board are proper parties to a complaint that challenges the authority of the governing body. They are not, because the law requires that all disputes involve challenges to the authority of the governing body to do, or fail to do, something; the conduct of the individual members of the governing body is not included in the definition of "dispute" under this Section. Furthermore, we take note of Section 2-405.1(c) of the Corporations & Associations Article of the Code of Maryland, which states that directors who perform their duties consistently with the standards of Section 2-405.1(a) are immune from liability. We conclude that the Board of Directors, as a governing body, but not its individual members, is a proper party.

The separate, distinct issue of whether Ms. Saunders presented sufficient evidence to support her allegations against the Board does not control this threshold inquiry.

II. The 2012 Condominium Fee Increase

Ms. Saunders argues that the Association's decision to increase condominium fees from $105 to $125 per unit per month beginning on January 1, 2012, was improper because the more than 15 percent increase from the previous year's fees was approved without a vote by the unit owners. In adopting this position, she relies on the Association's bylaw provision governing special assessments.

Ms. Saunders' position is unavailing for three reasons.

First, her reliance on the special assessment provision is inapposite to this issue: nothing in the record supports a claim that the $125 fee was adopted as a special assessment. *See* By-Laws of The Council of Unit Owners of Greencastle Manor Condominium No. 2, Inc., Art. VIII, § 3 (requiring a unit owner vote of at least 67 percent in favor of a special assessment to levy the same). This increase was adopted as part of the annual assessments necessary to fund the 2012 budget.

Second, the Association's governing documents do not provide that the unit owners must vote on fee increases in excess of 15 percent. Instead, with respect to assessments, the Bylaws merely provide that the "*Board of Directors* shall determine the amount of the assessments at least annually." Article VIII, § 1(g) (emphasis added).

Third, Maryland law governing the preparation and adoption of an association's annual budget similarly fails to impose the requirement Ms. Saunders would have this panel impose here. Section 11-109.2 of the Maryland Code, Real Property Article (quoted above at pages 4-5), governs the council of unit owners' preparation of the annual budget. This provision requires the council to do three things: (1) prepare and submit the budget to the unit owners at least 30 days before its adoption; (2) include certain items in its budget; and (3) adopt the budget at an open meeting of the council of unit owners. Md. Code Ann., Real Prop. § 11-109.2(a)-(c).

Section 11-109.2 also addresses when an amendment is required to make an expenditure for the current fiscal year *after* the budget is adopted: if the expenditure is being made for a reason other than to address conditions that could threaten the unit owners' health or safety or cause a significant risk of damage to the condominium, and the expenditure would cause an increase in "an amount of assessments for *the current fiscal year* . . . in excess of 15 percent of the budgeted amount *previously adopted*" (emphasis added), the Association must approve this increase in "an amendment to the budget adopted at a special meeting, upon not less than 10 days written notice to the council of unit owners." Md. Code Ann., Real Prop. § 11-109.2(d). Maryland law does not impose this requirement if the expenditure is being adopted as part of the annual budget; rather, by its terms, this provision applies only to expenditures made after the budget for the current fiscal year is approved. The statutory clause "an amendment to the budget" reinforces our conclusion that the special meeting requirement does not apply to all increases in assessments but only to increases that are proposed after the adoption of

the current fiscal year's budget and which would require the amendment of that budget. The adoption of a budget for the new fiscal year is not an "amendment" of the budget for the prior fiscal year; rather, it is a new budget. We have found no Maryland case construing this particular provision of the Real Property Article that suggests the contrary.

It is undisputed that the condominium fee increase from $105 to $125 was an increase of more than 15 percent. Neither the Association's governing documents nor Maryland law required that this increase – which was a part of the annual budget, not an expenditure after its adoption – be subject to a vote of the unit owners. Consequently, Ms. Saunders failed to prove that the Association charged an assessment in violation of law. *See Shomette v. Greencastle Lakes Community Association*, CCOC #140 (June 30, 1993) (a person who claims that an association is charging a fee or assessment in violation of law or the association's governing documents must prove the claim).

III. 2010 Board of Directors Elections

Article V section 5 of the Association's bylaws provides that elections for directors "shall be by ballot." The bylaws also provide that the Board "shall appoint . . . an uneven number of inspectors of election," who "take and sign an oath faithfully to execute the duties of inspector of election," which is filed with the Secretary. Article IV § 14. Regrettably, the bylaws are silent as to the specific duties of the inspector of election, *see id.* Current officers, directors, or director candidates are precluded from serving as inspectors in an election to elect directors. *Id.* The governing documents fail to provide further election guidance, other than to allow voting by proxy. Article IV § 10.

Ms. Saunders argues that the May 2010 election was technically deficient in several respects. She did not voice these objections until lodging her January 3, 2012, complaint with the CCOC.

First, she argues that the Board failed to swear in the Inspectors of Election "and selected two unit owners to count the ballots, not an odd number, as required by the By-laws." The record reflects that item five of the agenda from the May 13, 2010, meeting was "Appointment of one inspector for the election." However, the balance of the evidence in the record and presented at the hearing suggests that the Board failed to comply with this agenda item. The uncontroverted evidence presented at the hearing was that two resident volunteers counted the ballots at the 2010 election, and that Ms. Ambush assisted these residents in some capacity. The record does not contain a signed oath from the inspector of election, much less identify the inspector who was selected (if any). In this way, the Association failed to follow its by-laws requiring the appointment and role of an inspector of election. The defense and factual claim that Ms. Ambush acted or purported to act as a third inspector of election was not put forward until the hearing in this matter.

Second, Ms. Saunders correctly argues that the Association erred in failing to place the nominees' names in alphabetical order on the ballot. Indeed, Maryland law

requires that candidates be listed in alphabetical order on the ballot "with no indicated candidate preference." Md. Code Ann., Real Prop. § 11-109(c)(13)-(14). The absentee and proxy ballots in the record reflect that the candidates were not listed alphabetically and, as a result, the Association violated the law. It is not clear, however, how this violation affected the balloting. Ms. Saunders' name was near the top of the list, rather than almost last, as it would have been had all names been listed alphabetically.

Third, Ms. Saunders asserts that (a) "the president did not count the ballots during the meeting" and (b) "unit owners were not made aware of the voting process, i.e., notified of the number of votes cast for each applicant or how their selection was determined, []or the length of their terms." Each allegation is addressed in turn.

Ms. Saunders correctly argues that the president did not count the ballots during the election portion of the May 2010 meeting. This is not entirely problematic, however, because this vote was for the election of three directors, which is within the province of the inspector of elections. *Compare* Bylaws Article VI, § 4 (providing that the President "shall count the votes at all meetings of the unit owners"); *with* Article IV § 14 (current officers, directors, or director candidates are precluded from serving as inspectors of elections). At the time of the May 2010 election, Ms. Bartley was a current officer and a director candidate. Consequently, she was precluded from serving as an inspector of election. Therefore, the Board did not violate its rules governing elections when the president failed to count the votes at the May 2010 election.

Ms. Saunders argues that the unit owners were not notified of the number of votes cast for each applicant, how their selection was determined, or the length of their terms. In the March 26, 2010, Notice of Annual Meeting, Ms. Ambush notified the Association that there would be an election at the May 13, 2010, meeting "to fill 3 positions on the Board of Directors, one for a 3 year term and two for 1 year terms." The record contains the nomination forms of six unit owners, absentee ballots, proxy ballots, and the total tally of votes cast for each of the six nominees. It was undisputed at the hearing that the unit owners were not given a vote-breakdown of the three members elected to the Board of Directors. However, neither the Association's governing documents, nor Maryland law, imposes such a requirement. Furthermore, in her complaint, Ms. Saunders argued that the directors' position as officers was tied to the number of votes they received in this election for directors. To the contrary, the bylaws provide that "the officers . . . shall be elected annually by the Board of Directors at the organization[al] meeting of each new Board and shall hold office at the pleasure of the Board of Directors." Article VI § 2. The results of the election were divulged at the close of the vote tally, and the ballots themselves, which are part of the record of this case (Commission Exhibit 1 at pp. 130-165), support the results. For these reasons, the Board did not violate the election rules in these respects.

Fourth, Ms. Saunders argued that "the chairperson did not establish the rules of order or any other matter of procedure at the meeting, e.g., motions for acceptance were not made for the newly elected directors." The record does not contain Association rules and regulations governing elections. The Association's governing documents offer very

limited guidance on the procedure for conducting elections. Under these circumstances, Ms. Saunders' confusion about the proper procedure at the meeting is unsurprising. *See Conradt v. Rock Creek Apt. Condominium II*, CCOC #707 (February 22, 2006) (requiring that association to have its election rules and regulations in writing and available to the members).

Fifth, Ms. Saunders argued the Association did not satisfy the notice requirements for the May 2010 meeting. The record reflects the contrary. The Association mailed a March 26, 2010, letter identifying the date, time, and location of the meeting that would be held to elect three directors. Ms. Saunders did not testify or otherwise present evidence that she did not timely receive this letter. A second notice, which was dated May 4, 2010, identified the same information. The March 26, 2010, notice complies with the Association's Bylaws governing notice of meetings, which requires the Association to provide at least 15 but not more than 90 days' notice before a meeting by mail or other form of delivery. Article IV § 5. For these reasons, this aspect of Ms. Saunders' argument is without merit.

In sum, the Association complied with its governing documents in most respects but violated the law or its own governing documents in some respects during the May 2010, election process, although we do not find that these violations were likely to have affected, or did affect, the results of the elections.

IV. Providing Unit Owners Notice of Association Matters

Parties who complain about improperly-conducted meetings must prove their claims with competent details and evidence. *Johnson v. Hallowell HOA*, CCOC #46-06 (July 12, 2007); *Turner v. Cherrywood HOA*, CCOC #111 (June 29, 1992).

Ms. Saunders generally argued that the Association failed to give advance notice of proposed rules and of other Association actions:

> Right to be notified of proposed rules, that an open meeting be called and the rules passed by a majority of the council of unit owners. Unit owners are not notified at annual or special meetings of association matters regarding homeowners' insurance, property improvements or repairs, tax status changes, expenses that may or may not increase association fees, or given the right to hear and vote on changes or repairs to the property, but decided by the board of directors and the property manager. In select cases, the results are mailed to unit owners after the fact.
> (Commission Exhibit 1 at 5.)

With the exception of her notice arguments in the context of elections, Ms. Saunders failed to further supplement or clarify the above allegations when the matter proceeded to a hearing. Because Ms. Saunders did not provide details and evidence to

support the above allegations, she did not prove her claim that the Association failed to properly conduct meetings. Moreover, some of Ms. Saunders' claims fail for the additional reason that the actions which she argues are subject to a unit owner vote are actually within the province of the Board of Directors to accomplish without unit owner assent. *See, e.g.*, Bylaws Article V, § 3 (vesting in the Board the power and duty to do the following things, among others: provide for the care, upkeep and surveillance of the condominium and its general common elements and services; hire and dismiss personnel to keep the condominium in good working order; purchase insurance for the condominium).

At the hearing, Ms. Saunders raised the issue of notice of meetings of the Board of Directors and claimed the Board did not provide proper notice. The Association's governing documents require notice to Board members of Board meetings but do not require the Association to give notice to all of its members of those meetings. Section 11-109 of the Maryland Condominium Act requires at least 10 days' notice to the members of the regular meetings of the council of unit owners, and this applies as well to the regular meetings of the Board of Directors because the statute allows delegation of the council's authority to the Board, Md. Code Ann., Real Prop.§ 11-109(b), and specifies that meetings of the council of unit owners or board of directors may not be held on less notice than required by Section 11-109(d). In addition, the failure to give notice can result in a meeting being a closed meeting in violation of Section 11-109.1. Although Ms. Saunders failed to prove that the Association did not properly conduct meetings, testimony and evidence at the hearing suggested that, in at least some cases, the Association failed to provide proper notice of meetings to its members.

According to Ms. Ambush's testimony, unit owners are informed of meetings through the Association's website, which is maintained by Ms. Bartley, and through the owners' condominium fee invoices. Ms. Bartley testified that all of the pertinent information about the Association is available on its website. To inform the unit owners of the website, Ms. Bartley purchased calendars and refrigerator magnets containing this information. Ms. Bartley further testified that, although the dates and times of the meetings are identified on the website, the location is not. According to Ms. Bartley, this information is not included because, at the time the meeting is scheduled, the Board often does not know where it will be held. Instead, Ms. Bartley testified that residents knew to contact Ms. Ambush to find out the location.

We cannot assume that all members of the Association have access to the Internet and the ability to access its web page. In addition, neither party furnished a copy of the assessment invoices to support their claims that the invoices do, or do not, contain information about the dates and locations of board meetings.

V. Member Right to Speak at October 18, 2011, Meeting and Intimidation of Members from Speaking at Meeting

Under the Maryland Condominium Act, meetings of the Board of Directors are open to the public. Md. Code Ann., Real Prop. § 11-109. At these meetings, the Board of

Directors "shall provide a designated period of time during a meeting to allow unit owners an opportunity to comment on any matter relating to the condominium." Md. Code Ann., Real Prop.§ 11-109(7)(ii). Associations are permitted to adopt "reasonable rules" regulating unit member comments at meetings. *Id.*

This Association does not have a formal, written policy regulating unit owners' rights to speak at meetings. According to Ms. Ambush and Ms. Bartley, unit owners are always given an opportunity to comment at Board meetings. Indeed, Ms. Ambush has "never seen homeowner comments rejected."

In her complaint, Ms. Saunders advanced two related arguments: (1) the Board violated her right and other unit owners' rights to speak at the October 18, 2011, meeting; and (2) at that meeting, the Board intimidated members from exercising their right to comment on proposed budgets and, as a result, improperly conducted the meeting. Because these issues overlap significantly, they are addressed in tandem here.

Ms. Saunders argued that the Board violated her right to speak at the October 1, 2011, meeting. This claim does not warrant relief. The minutes from this meeting reflect that unit owners, including Ms. Saunders, spoke at the meeting. Specifically, the minutes show that Ms. Saunders asked "many questions" about the budget, and a "Mr. Edwin" asked about additional fee increases. Further, in Ms. Saunders' complaint, she conceded that other unit owners were given an opportunity to speak: "[t]here were about 10 Unit Owners" who "were allowed to ask a question." Although the Board in some instances limited the time allotted to member comments, this limitation was reasonable given the time constraints on the meeting. This evidence weighs against a finding that Ms. Saunders and other unit owners' right to speak at the meeting was violated.

The crux of Ms. Saunders' argument is that she was not allowed to respond to Ms. Bartley's comments at the close of the meeting about Ms. Saunders' September 23, 2011, letter, which detailed Ms. Saunders' objections to the budget. The minutes reflect that "Ms. Saunders denied the contents of her letter," but offer no further explanation. This evidence, along with Ms. Bartley and Ms. Ambush's testimony that Ms. Saunders was not denied an opportunity to speak, weigh in favor of a finding that Ms. Saunders' right to speak at the meeting was not violated, though it may have been limited by time constraints.

Ms. Saunders' claim that the Association intimidated members from exercising their right to speak at the October 18, 2011, meeting is more persuasive than her claim that she was precluded from speaking at all, though this claim is belied by evidence in the record that unit owner questions were taken at the meeting and that Ms. Saunders addressed the Association at the meeting despite the strong language used by Ms. Ambush in a letter to Ms. Saunders preceding the meeting.

The Board's decision to hire a police officer to attend the meeting bolsters Ms. Saunders' testimony that the atmosphere was oppressive and discouraging in a manner

that intimidated unit owners from making comments. Nevertheless, Ms. Saunders admits that 10 unit owners spoke, and the minutes reflect that she also spoke.

Correspondence dating as far back to 2001 between the parties, as well as the parties' testimony at the hearing, reflects that the parties' relationship remains rife with conflict. In particular, the letters exchanged between Ms. Saunders and Ms. Ambush in September and October 2011 reflect that the parties' relationship was anything but amicable. Certainly, the language in both letters leaves much to be desired – as does Ms. Bartley's decision to close the meeting by publicly reprimanding Ms. Saunders. However, these actions, taken together, do not demonstrate that the Board failed to properly conduct the meeting, and we find that the Respondent did not deny Complainant her right to speak at meetings.

VI. Inspection of the Association's Books and Records

Section 11-116 of the Maryland Condominium Act allows members of associations to inspect the books and records of their associations, subject to exceptions not at issue here. *See Pereira v. Park Terrace Condominium*, CCOC #335 (March 3, 1997) (ruling that members have the right to inspect the financial records of the association). The association may impose "a reasonable charge" for inspection and copying of records, Md. Code Ann., Real Prop. § 11-116 (d), including fees for staff time beyond normal business hours or for additional staff if reasonably necessary to supervise the inspection and safeguard the documents, *Campbell v. Lake Hallowell HOA*, CCOC #541 (July 24, 2002). The association may not charge for the cost of removing items from storage and bringing them to the association's business office. *Campbell, supra.* Further, the copying fee may not exceed the fee charged by the Circuit Court. Md. Code Ann., Real Prop. § 11-116(d)(2).

The CCOC has addressed the issue of reasonable fees for inspection of association books and records. In *Campbell v. Lake Hallowell HOA*, CCOC #541 (July 24, 2002), a homeowner argued, among other things, that his association was charging an unreasonable fee for inspection of books and records. The association wanted to charge an up front payment of $1,000 to cover the costs associated with locating the records. This estimate was based on a per hour charge of $25 for the time involved in researching and preparing for disclosure of the records responsive to the homeowner's request. The CCOC ruled that this fee was excessive. Although the association could require payment of reasonable charges for searching its records and making them available for inspection, it could not impose a system that made it prohibitively costly for a unit owner to review the records. In that vein, the association could not charge the homeowner for the cost of removing the items from storage and bringing them to the association's business office. It similarly could not prevent the homeowner from searching for the records by requiring that the association staff search on the homeowner's behalf.

The *Campbell* panel identified the following costs as reasonable: costs for searching association records and making them available for inspection; copying costs;

staff time beyond normal business hours; and additional staff if reasonably necessary to supervise the inspection and safeguard the documents.

Here, Ms. Saunders' request, made alongside two other unit owners, was substantial. In particular, they requested the following documents from 2009-2011:

> [D]etailed accounts, in chronological order, of receipts, expenditures and other transactions of unit owners, maintenance and repair expenses as well as related services with respect to the same and any other expenses incurred by unit owners.
> Also, the amount of any assessment that was required for payment of any capital expenditures or reserves of unit owners credited upon the books of unit owners to the "Paid-in-Surplus" account as a capital contribution by members.
> In addition, all receipts and expenditures credited and charged to other accounts under: Current Operations, Reserves, and Investments[,] including audit reports for those years performed by an independent Certified Public Accountant, and any/all correspondence between the association and FHA relative to or that may affect the listed accounts.
>
> (Paragraphs added for clarity).

The cost of inspecting these records, per Ms. Ambush, was $100/hour "with a one hour minimum." The inspection would occur "under [Abaris Realty's] staff's supervision." Copies would cost 12 cents per page, which is well below the amount currently being charged by the local courts, which is 50 cents per page. Ms. Ambush indicated that the unit owners would have a five-hour window to inspect the documents.

Under *Campbell*, the fees for copying and additional staff to supervise the inspection are reasonable costs. Given the breadth of the inspection request, the one-hour minimum requirement was not prohibitive. Even if the unit owners used the full five-hour period allotted, that cost would have been $500, or a little over $166/per unit owner for 5 hours of inspection time. The costs are based on, and do not exceed, the amounts charged to the association by the manager for this service. For these reasons, these are not excessive under *Campbell* or Maryland law. Indeed, none of the types of fees deemed excessive by *Campbell* are applicable here. Moreover, even though Ms. Saunders and the other unit owners opted not to inspect the records, Ms. Ambush sent audit records via email at no cost.

We are troubled, however, that the Respondent is imposing such charges on its members without having adopted a policy or rule on this topic. Article XIII Section 5, of the Bylaws states that the Association's books and records "shall be available" to the

members for examination, and it does not authorize the Respondent to charge a fee for the exercise of this right. Section 11-116(d) of the Condominium Act does authorize reasonable fees, however. When there is no written policy, a fee could be set in a particular case at a level intended to discourage a member from exercising his or her right to inspect the documents. While a manager's contract with the association is relevant to the determination of what is a "reasonable" fee, the charges set in that contract are not binding on the individual members of the association, and the association could set its charges to the members above, or below, the sum charged by its manager. Under the facts of this dispute, we do not feel it necessary to determine whether an association can impose fees on its members for the inspection of books and records without having adopted a rule or policy. However, we strongly encourage this Respondent, and all associations, to adopt written policies and fee schedules for inspection and copying of their books and records.

VII. Attorneys' Fees

An attorneys' fees award as a penalty for bringing a lawsuit "without substantial justification" or in bad faith is "an extraordinary remedy, intended to reach only intentional misconduct." *Black v. Fox Hills N. Cmty. Ass'n, Inc.*, 599 A.2d 1228, 1232 (Md.App. 1992). In that vein, attorneys' fees awards are "reserved for the rare and exceptional case" and are not intended to penalize a party for asserting a colorable claim. *Id.* Attorneys' fees are not appropriate "simply because a complaint failed to state a cause of action" or because a party "misconceive[s] the legal basis upon which he sought to prevail." *Id.* (citations omitted).

Section 10B-13(d) of the Montgomery County Code allows the CCOC to require a party to pay the other party's attorneys' fees if the association's own rules require it, or if the party being charged the fees is guilty of some type of misconduct while the case is pending before the CCOC. "Misconduct" in this sense includes, among other things, unreasonable action such as pursuing a frivolous complaint. *See, e.g., Harary v. The Willoughby of Chevy Chase*, CCOC #373 (Sept. 4, 1998) (awarding attorneys' fees because the complaint was frivolous); *see also Black*, 599 A.2d at 1232 (when a suit is "patently frivolous and devoid of any colorable claim," a party may be entitled to attorneys' fees).

In *Black v. Fox Hills North Community Association, Inc.*, two homeowners filed suit against their association and neighbors to prevent the construction of a fence. 599 A.2d at 1229-30. There, the trial court dismissed the homeowners' complaint because it failed to state a cause of action. *Id.* at 1231. The court also awarded the association its attorneys' fees, apparently based on its finding that because the suit was brought "without substantial justification," the homeowners acted in bad faith. *Id.* On the attorneys' fees issue, the Court of Appeals reversed, ruling that even though the homeowners failed to state a claim, their suit was neither "patently frivolous" nor "devoid of any colorable claim." *Id.* at 1232. Consequently, their suit "was not so outrageous that they should [have been] penalized" by an attorneys' fees award. *Id.*

An additional factor the CCOC considers in evaluating whether attorneys' fees are appropriate due to misconduct is whether the party from whom fees are sought was represented by an attorney. *McDonald v. Briars Acres Cmty Assoc.*, CCOC #64-10 (Apr. 20, 2011). For example, in *McDonald v. Briars Acres Community Association*, the CCOC denied an attorneys' fees award in part because it took "into account the fact that the Complainants proceeded pro se," reasoning that "although pro se litigants must also act in good faith, their ability to evaluate the legal merits of their cause and to support it must be judged by a lesser standard than should be applied to those represented by counsel." *Id.* at 4 (citations omitted).

In the absence of "misconduct," the CCOC is precluded from awarding attorneys' fees unless the association's governing documents clearly require such an award in the type of case before the CCOC. *See Greencastle Lakes Community Association v. Baker*, CCOC #88-06 (Dec. 13, 2007) (attorneys' fees award was proper where, among other things, the association's rules allowed attorneys' fees in the type of case at issue before the CCOC).

We do not find the complaint to be frivolous or without merit. *Black*, 599 A.2d at 1232. Although Ms. Saunders did improperly name the manager as a respondent, the Commission properly ignored this and did not require the manager to respond on her own behalf.

Ms. Saunders' claim about the lack of election inspectors was, on its face, not without merit, and it was not until the hearing that evidence showing that Ms. Ambush acted as a third inspector at the 2010 election was produced; until that point, the evidence was that there were two inspectors, which would have been a Bylaw violation. As we have noted, there were other violations of the Bylaws, such as the fact that there is no evidence that the inspectors were sworn in. In addition, the undisputed evidence is that the 2010 ballot violated the law by failing to list the candidates impartially in alphabetical order.

The documentary evidence of this case does not show that the Respondent provides due notice of all of its Board meetings to all its members. That information might be available online, but we cannot assume all members have Internet access. Respondent claimed that the assessment invoices contained the necessary information, but Complainant denied this, and neither party furnished documentary corroboration for their claims. We cannot, therefore, say that this claim is clearly erroneous or frivolous.

Ms. Saunders' claim that the 2012 assessment increase of almost 20 percent was a violation of the Condominium Act, while ultimately erroneous, was not frivolous but due more to the fact that the law is not as clearly written as it could be. The phrase in the law – "the budget previously adopted" – could reasonably be interpreted to mean the prior fiscal year's budget, not the current fiscal year's budget. We cannot blame a layperson for misinterpreting a complex statute. *See McDonald*, #64-10 (pro se litigants' ability to

evaluate the legal merits of their case "must be judged by a lesser standard than . . . those represented by counsel").

Finally, Ms. Saunders raised an important issue of whether the fees for document inspection are reasonable. This is an issue not dealt with in any detail by either the CCOC or the courts. It is not frivolous to believe that a fee of $100 simply to see the first document is a fee intended to discourage members from requesting to inspect any documents at all. The fee schedule involved here was never adopted by the Board at a public meeting, and the Board never gave any advance notice or explanation of it to the members or offered them the opportunity to comment on it. The Board cannot complain that under the circumstances such charges will arouse resentment in the Association's membership and questions about their legality and reasonableness.

For these reasons, we find and conclude that the complaint, taken as a whole, was not made frivolously or in bad faith, and we deny the motion for attorneys' fees under Section 11B-13(d) of the Montgomery County Code.

ORDER

It is therefore adjudged and ORDERED as follows:

1. Respondent shall use ballots in its elections that list the names of the known candidates in alphabetical order; and

2. Respondent shall give at least 10 days notice to its members of all regular meetings of its Board of Directors. This notice must be calculated to be available to all its members, whether or not they use the Internet, and at the very least shall be posted in the common areas of the association to the extent possible or delivered to each member. If the notice cannot state the location of the meeting it must advise the reader on how he or she can obtain that information; and

3. All other claims of the Complainant are DISMISSED WITH PREJUDICE;

4. The motion for attorney's fees is DENIED.

The panel strongly recommends, but does not order, that Respondent adopt a policy or rule for the inspection of its books and records, and the charges for such service, pursuant to the procedures of Section 11-111 of the Maryland Condominium Act.

Commissioners Caudle and Farrar concur.

Any party aggrieved by this decision may file an administrative appeal in the Circuit Court for Montgomery County, Maryland, within 30 days from the date of this decision, pursuant to the Maryland Rules for Judicial Review of Administrative Agency Decisions.

Rachel Browder

Rachel Browder, Panel Chair