

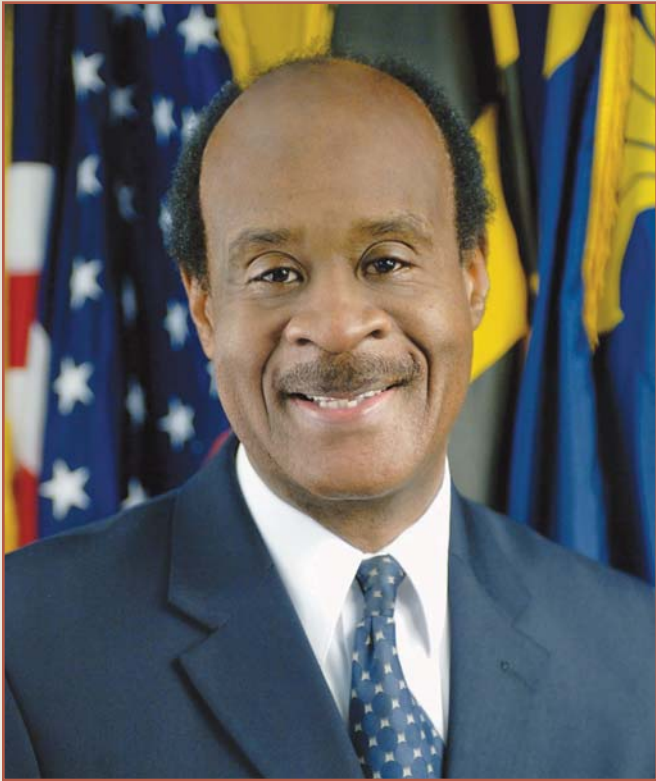


OFFICE OF CONSUMER PROTECTION

ANNUAL REPORT FY 2007



MONTGOMERY COUNTY, MARYLAND



Montgomery County places a priority on protecting our consumers from deceptive and unfair trade practices, and we are fortunate to have a consumer protection office with a national reputation for excellence.

While the majority of businesses in Montgomery County are reputable, consumers and merchants benefit from the services provided by our Office of Consumer Protection (OCP) in maintaining fairness in the marketplace.

One of the cornerstones of my administration is to deliver greater responsiveness and accountability and to provide the highest degree of customer service. The results-based operation of the Office of Consumer Protection exemplifies this approach.

The work of the Office of Consumer Protection contributes to our quality of life in Montgomery County and I am proud of the service they provide to all our residents.

Isiah Leggett
Montgomery County Executive



Fiscal Year 2007 marked OCP's first full year operating as a principal agency. Created in 1971 and restored to functioning as an independent department in 2006, we continued to be a results-based office dedicated to responsive customer service and protecting all of our residents.

The Office of Consumer Protection is grouped within the "Public Safety" sector of county agencies. OCP investigates and resolves thousands of written complaints each year involving automotive sales and repairs, new home construction, home improvements, credit issues, retail sales, advertising, internet services and most other consumer transactions. We enforce several consumer protection laws and have the authority to execute Settlement Agreements, issue civil citations and subpoenas, conduct administrative hearings, and initiate legal action through the County Attorney.

OCP provides pre-purchase information to consumers by responding to phone and email inquiries yearly, maintaining our website where consumers can check the complaint records of a merchant as well as obtain helpful information on many different subjects, and providing speakers on consumer issues for community meetings.

OCP works on federal, state and local legislation needed to help make the marketplace a fair one. OCP also licenses new home builders, automotive repair and towing firms, appliance repair firms and second-hand personal property dealers. OCP personnel serve as staff to the Commission on Common Ownership Communities, the Builders Board of Registration, and the Advisory Committee on Consumer Protection.

OCP is recognized as a leader in consumer issues, and its staff is therefore asked to serve as the "consumer voice" on several state commissions and boards including: Maryland Higher Education Commission's Secretary Advisory Council, Maryland Consumer Rights Coalition, Maryland Coalition for Financial Literacy, and the Governor's Maryland Homeownership Preservation Task Force.



MISSION STATEMENT

The mission of the Office of Consumer Protection is to enforce several consumer protection laws prohibiting unfair and deceptive business acts or practices in order to ensure a fair marketplace for consumers and businesses. Our activities include complaint resolution, law enforcement, education, legislation, advocacy, licensing, and outreach. Our real commitment is reflected in the caliber of the staff. Laws are only as good as those who enforce them. Working as dedicated public servants, not government bureaucrats, our staff is here to help.

COMPLAINT RESOLUTION

Written complaints are assigned to an Investigator to review documentation, conduct interviews, and attempt to resolve the dispute. Investigators also review each complaint to determine if there has been any violation of federal, state or local consumer protection laws. In FY 2007, OCP staff became increasingly involved with consumers experiencing problems with home mortgages and foreclosure issues.

In FY 2007 OCP received nearly 2,000 written complaints. The following are a sampling of cases handled by OCP investigators in FY 2007:

Condominium Deposit— A Rockville City Condominium initially refused to refund a \$7,500 deposit made by a consumer who was attempting to purchase a Moderately Priced Dwelling Unit (MPDU). The consumer did not qualify to purchase a MPDU within Rockville City's program, but the international developer relied upon language in the sales contract asserting that deposits were non-refundable. Attempts by the consumer's attorney to resolve the case were not successful. OCP staff issued Subpoenas to sales personnel and worked with representatives of Rockville City's MPDU program to resolve the case, and obtained a full refund for the consumer.

Moving Madness— A police officer was moving into Rockville and obtained an estimate for the cost of the move. However, when the moving company arrived at the consumer's new home, it refused to unload the truck unless the consumer paid an amount 4 times the estimate. The consumer filed a complaint with OCP and filed a complaint in Small Claims Court. The mover filed a counter-claim in Court against the consumer. The OCP investigator, armed with the knowledge of federal and state laws regarding the moving industry, worked with the merchant's attorney and the claims adjuster in resolving the complaint. The parties executed a Settlement Agreement, dismissed their Small Claims lawsuits, and the consumer received a refund of \$1,275.

Furniture Financing— A financing company falsely asserted that a consumer owed \$2,504 for the purchase of furniture. The consumer purchased furniture from a Silver Spring furniture store and paid by cash. After receiving the furniture, the store went out of business, but the finance company attempted to collect money from the consumer asserting that the consumer had purchased the furniture using the store's in-house credit card. The OCP investigator was able to demonstrate that the finance company was not entitled to payment. The finance company acknowledged that the consumer was relieved of any further payment, and all further collection attempts were terminated.

Auto Service Contracts— Consumers frequently purchase service contracts to protect themselves from potentially paying for expensive repairs on their cars. However, two different extended service contract companies initially denied coverage for repairs to consumers' vehicles after the consumers requested coverage. OCP auto investigators inspected the vehicles and reviewed the terms of the service contracts and were successful in resolving the complaints. In one case the company agreed to replace the engine after initially denying the claim. In the second case, the company agreed to pay for a replacement engine after initially offering a lesser amount for a minor repair.

Cell Phone Downloads— A consumer contacted her cell phone provider and arranged to block downloads on her son's cell phone because her son has a learning disability and previously incurred exorbitant additional charges resulting from downloads. However, the download block arrangements were not successful, and the consumer filed a complaint with OCP after receiving a bill for over \$4,000 in additional charges on her son's phone. The OCP investigator, who specializes in tele-communications disputes, was able to resolve the complaint and the consumer received a full refund.

MORTGAGE AND FORECLOSURE CRISIS

During FY07 consumers in Montgomery County and throughout the nation were confronted with mortgage and foreclosure problems resulting from so-called “exotic” and “sub-prime” mortgages and a changing housing market. OCP was faced with the challenge of gaining an understanding of these transactions and products, and determining how best to be of assistance to consumers.

Buying a home is the single largest purchase consumers typically make, and consumers were subjected to solicitations from lenders which gave consumers the false sense of how much house they could afford to purchase. Many consumers relied upon the perceived promises of these mortgage companies and the belief that housing prices would continue to rise rapidly. Unfortunately, when the payments of these “exotic,” “sub-prime,” and adjustable rate mortgages began to reset and when housing prices began to level off, consumers found that they could not afford to make their mortgage payments and were not able to refinance as they originally anticipated.

There were more foreclosures in Montgomery County in the first quarter of 2007 than in all of 2006. This became a national problem and Montgomery County was not immune.

The challenge for OCP was to master the learning-curve in understanding these transactions and in determining how best to be of assistance to an increasing number of consumers contacting our office with questions and problems. OCP staff attended mortgage and foreclosure seminars and met with lending experts to better understand the mortgage and foreclosure process and issues related to predatory lending.



1st Quarter 2006: 74 Foreclosure Events

2nd Quarter 2007: 605 Foreclosure Events

OCP’s Advisory Committee on Consumer Protection organized and conducted its first Public Forum on mortgage and foreclosure problems in a changing housing market. This Public Forum, entitled “Your House – Your Money,” brought together experts from all fields and industries and was hosted by County Executive Isiah Leggett and moderated by TV 4’s consumer reporter, Liz Crenshaw. This “standing-room-only” event held at the new Rockville Library enabled consumers to directly speak with government regulators, lending experts, consumer advocates, real estate attorneys, and elected officials including Council Member Phil Andrews and Delegate Jane Lawton.

OCP staff had the opportunity to meet with consumers at this forum and returned to the office with a list of consumers seeking information and assistance. As our investigators began to carefully analyze each consumer’s financial situation, it became clear that OCP would have to begin redefining its roles with respect to these types of cases.

OCP investigators are accustomed to taking direct action in resolving the majority of complaints we receive. However, this new category of consumer problems required that OCP investigators retool procedures in order to be of assistance. The challenge for OCP was to serve as a clearinghouse and to “triage” mortgage and foreclosure cases in order to help consumers understand their options and direct consumers to the best sources of information and assistance.

LEGAL ACTION

Warner Plumbing Settlement—

OCP distributed \$1 million in refunds to consumers as the final step in a protracted litigation process. Postcards were sent to more than 10,000 consumers notifying them that they were eligible to receive a refund as a result of a lawsuit filed in 1996 by Montgomery County against Warner Plumbing and related companies.

The lawsuit alleged that the Warner Companies and its' top-level managers and employees engaged in deceptive and unfair trade practices in violation of Montgomery County's Consumer Protection Act. The individual refunds were based upon the extent to which each consumer was overcharged between 1993 and 1995. Efforts were taken in order to contact all eligible consumers and, with the assistance of a settlement administration firm, we were even successful in locating several hundred consumers who moved to other states after the lawsuit was filed. The average refund was \$363, with some consumers receiving refunds of several thousand dollars.

Montgomery County retained the services of the law firm Arent Fox to work with the Office of the County Attorney in prosecuting this case. The lead attorney presenting the case in Circuit Court, Chris Van Hollen, now serves as Congressman for the 8th Congressional District. Cases of this magnitude serve to send a strong message to the business community and have a deterrent effect in protecting consumers from deceptive trade practices.

As one consumer from Bethesda wrote in her letter to OCP, "Of course it is always nice to receive a check, but it is more important to know that consumer protection can be relied upon and works."

Contractor Crackdown Continues— OCP saw a rise in complaints against unlicensed home improvement contractors in Fiscal Year 2007. In addition, OCP saw a rise in the number of unlicensed contractors who also have prior criminal convictions including theft, assault, and drug charges. One contractor was the subject of multiple complaints. The first investigation resulted in the contractor being charge with acting as a home improvement contractor without the required license, abandoning the job, and felony theft. The contractor pled guilty in Maryland District Court to the charge of failing to perform the job, was sentenced to 6 months in jail and ordered to pay \$75,000 in restitution to the consumer. The jail term was suspended. A few months later, in two new cases received by OCP, the contractor was again charged with acting as a home improvement contractor without the required license, abandoning the job, and felony theft. The contractor pled guilty to these new charges and was sentenced to 5 years in jail which was reduced to 15 months. In addition, since the contractor violated the terms of his first conviction by committing another crime and not complying with the order for restitution, he was sentenced to an additional 6 months in jail.

Illegal Car Seller— A consumer responded to an advertisement in the Washington Post for a 1989 Honda Accord believing the seller of the car was an individual selling his/her own personal car for \$1550. The "seller" stated that a few repairs were needed on the car, and if the consumer agreed to buy the car and paid \$800 up front, the repairs would be made and the vehicle would pass Maryland State Inspection. The consumer paid the \$800 and was told a few days later that the vehicle was repaired and ready to be picked up. The consumer paid the remaining amount in cash and took the car. However, it quickly became apparent that the vehicle had serious mechanical and structural problems. The OCP Investigator determined that the "seller" was in fact a used car dealer who not only deceived the consumer, but did not have the required licenses. The OCP Investigator obtained a warrant for the seller's arrest based on these criminal charges. The seller made restitution to the consumer but was found guilty in District Court. He was sentenced to one year of supervised probation and fined \$500.



LEGISLATIVE ACTION

OCP staff are recognized in Annapolis by the members of the General Assembly as respected and credible sources of information on consumer legislation. OCP continued to represent the consumer voice in the Maryland General Assembly in FY07 by closely following 38 proposed bills involving consumer issues such as: identity theft, tax preparers, rebates, and mortgage brokers. OCP provided either written or oral testimony on 10 of these bills.

Secret Warranties— A significant victory this year was passage of legislation that will provide for consumers to be alerted to warranty coverage that previously may have been kept secret. Prior to this bill, automobile manufacturers issued “secret” notices to dealers advising them that if a car came into their dealership with a particular problem, the dealer could repair it at no cost to the consumer even though it was beyond the limits of the original warranty. These “secret warranties” were revealed in some of the “technical service bulletins” manufacturers sent to dealers. The problem for consumers was that only a fraction of those affected benefited from the “secret warranty,” and those who took their car to an independent mechanic were paying full price for the repair. OCP supported the bill, provided testimony, and helped negotiate with interested parties. The bill mandates that manufacturers notify consumers when technical service bulletins are issued involving their make/model of car, and will be in effect as of October 1, 2007. Only four other states have similar laws protecting consumers on the secret warranty issue.

ID Theft & Security Freezes— OCP provided testimony on two bills designed to help protect consumers from being victims of identity theft. The first bill will allow consumers to “freeze” access to their credit report, meaning that any information contained in the credit report may not be released without the consumer’s authorization. The second bill requires a business to protect an individual’s personal information and to notify consumers if their personal information was acquired as a result of a security breach. Specifically, any business that owns or licenses computerized data which includes personal information of a Maryland resident must conduct a reasonable and prompt investigation of any breach of the security of a system to determine the likelihood that personal information of the individual has been or will be misused as a result of the breach. If the business determines that misuse of the individual’s personal information has occurred or is likely to occur as a result of the breach, that business is required to notify the individual. There were several bills introduced regarding security breaches involving personal information, and OCP worked diligently to protect consumers and produce the strongest legislation possible. These bills will become effective on January 1, 2008.

For-Profit Credit Counseling— OCP testified and helped to defeat legislation which would have allowed for-profit credit counseling agencies to operate in Maryland.



COMMUNITY OUTREACH

“Look, Learn, & Listen Walking Tour”— Our Staff and a team of volunteers conducted a walking tour of the Takoma/Langley Crossroads area to better understand the needs and issues faced by residents and business owners in this community. Rather than solely relying upon consumers to call our office to report problems or seek information, OCP staff walked around the shopping centers in this multi-national community interacting with consumers and businesses. A local television station reported this outreach event on the evening news, and OCP staff became better acquainted with the tempo and needs of the marketplace.

OCP places a high priority on consumer education and trying to prevent consumer problems. OCP uses a multifaceted approach to educate consumers and businesses on their rights and responsibilities including: media outreach, participation/hosting in local events/fairs; speeches to community groups; maintaining our website along with a Tip of the Week; producing and distributing consumer education material at local sites, and distributing alerts via our “eSubscription” email service which has over 1,600 subscribers. IN FY 2007, OCP staff gave 44 speeches reaching over 5,600 consumers. We worked with DEP to host seminars on conserving energy and avoiding energy related scams, as well as with the Upcounty Regional Service Center to host a “Shred Your Documents Day”.



Montgomery County Coalition for Financial Literacy (MCCFL)- OCP is a founding member of this

coalition dedicated to improving the financial literacy and education of Montgomery County residents. In FY 2007, MCCFL volunteers and members reached over 1600 individuals through speeches, classes and events. One event involved partnering with a related State coalition, the Maryland Coalition for Financial Literacy (MCFL), to teach financial literacy concepts to high school ESOL (English for Speakers of Other Languages) students. Over 25 volunteers were trained in a statewide curriculum which they then used to teach at 17 high schools. MCCFL appeared on two “Metro Talk” Washington Post Radio shows, and distributed educational materials at many of its members’ venues.



Chinese Delegation—

Consumer Protection officials from several Chinese providences and cities visited OCP to exchange ideas related to consumer protection procedures and concepts. At the time of their visit, the Washington Post reported on a merchant in China who was sentenced to death for overcharging consumers.



Website Improvements— In FY 07 improvements to OCP's website included:

- Weekly updates with a “Consumer Tip of the Week”.
- Adding case summaries on the Commission on Common Ownership Communities “Decision and Orders” page.
- Augmenting content on our A-Z Consumer Advice.
- Providing video streaming “News Clips” of television news stories featuring OCP staff.

NEWS EVENTS

In Fiscal Year 2007, OCP issued 12 press releases about consumer issues and actions including: the conviction of a an unlicensed home improvement contractor; the 4th Annual Gift Card Report; an unlicensed out of state loan company; a settlement agreement with a furniture retailer who failed to comply with state and local laws; and the announcement of \$1 million in refunds being made to consumers from a settlement agreement with a plumbing company.

Phony Police Charity— In FY 07 OCP participated in a press conference alerting the public to a charity scam which claimed to be supporting local police, but instead was using most of the money collected from the public to pay the charity's executives' salaries and fundraising expenses.

OCP received over 70 requests from the media for information on consumer topics as well as requests for television, radio, and print interviews from media outlets such as “Good Morning America”; the Associated Press; *USA Today*; the *Washington Post*; the *Baltimore Sun*; the *Chicago Tribune*; and the *Orlando Sentinel*; along with local TV and radio stations. Our Spanish speaking Investigator conducted interviews with the Spanish speaking media—Telemundo, Univision, Washington Hispanic and Radio America. OCP's press releases were featured in several consumer blogs.

In addition, OCP was featured in three local in-depth TV shows--the County Council's “Did You Know” show, County Channel 6's “One on One” show and “Crossroads Café: Let the Buyer Beware” produced for Montgomery College.

OCP staff are “regulars” on television and radio shows, and in FY 2007, appeared on 7 “County Comments” television shows and in 10 “Metro Talk” Washington Post Radio shows.

BUSINESS LICENSING

OCP is responsible for issuing licenses to new home builders, auto repair shops, auto towing operations, appliance repair firms, and second-hand personal property dealers. In FY07, OCP issued the following number of licenses:

Building Contractor's Licenses	531
Motor Vehicle Repair Licenses	840
Auto Towing Licenses	114
Radio/TV and Small Appliance Repair Shop Licenses	188
Secondhand Personal Property Dealer Licenses	106

The Builder's Board works with OCP to enter into settlement agreements for violations of Montgomery County's builder registration and warranty law. In FY 07, the Board and OCP entered into three settlement agreements involving new home builders who started construction before obtaining a license.

COMMON OWNERSHIP COMMUNITIES

The 15 member Commission on Common Ownership Communities (CCOC) operates an alternative dispute resolution mechanism designed to hear and resolve disputes between homeowner and condominium associations and their owners/residents. The volunteer commissioners are appointed by the County Executive and approved by the County Council; volunteer local attorneys chair the hearing panels and write the decisions. Over 850 community associations, with over 119,000 homes, are now registered with the Commission. OCP serves as staff to the Commission, and deals with all inquiries and filed disputes.

The CCOC had its second busiest year ever in FY 2007, receiving 80 written complaints from homeowners and community associations, and responding to 1109 requests for advice and information. With the assistance of the Conflict Resolution Center of Montgomery County (CRCMC), 28 mediation sessions took place. The Commission held 19 hearings, and issued 15 formal decisions.

The Commission adopted *Default Judgment Procedures*, modeled on similar rules in the Circuit Court, which will allow it to resolve complaints more quickly when one party refuses to answer a complaint.

The Commission continues to improve upon the ways it educates community associations and their members. It conducted a well-attended and well-received Annual Forum in September 2006, participated in the National Alternative Dispute Resolution Day activities hosted by the CRCMC, and the Conference and Expo of the Washington Metropolitan Chapter of the Community Association Institute. The Commission also published 3 newsletters which it mailed to all registered communities. It is continually adding to the information available on its website, including summaries of all decisions issued by the Commission since 1992, and minutes of its recent meetings.

The Commission also continues to be involved in public policy matters affecting community associations and their residents.

STAFF PROFILES

In FY07 the County Executive initiated, and the County Council passed, legislation to designate certain positions in the Executive Branch as non-merit positions. As a result of this legislation, the Director of the Office of Consumer Protection became a non-merit position. Eric S. Friedman was subsequently nominated by the County Executive and confirmed by the County Council as OCP's first appointed Director.

The OCP staff of 22 includes six attorneys and two certified automotive technicians. Two of our staff are fluent in Spanish. Several are certified by the judicial system as experts in their fields qualified to testify in court on cases involving their specialties. OCP is fortunate to have a cadre of dedicated English and Spanish speaking volunteers and interns. Volunteers contributed a total of 3,307 hours in FY 2007, enabling OCP to "leverage" our ability to be productive.

OCP STAFF

Richard Alexander, Investigator
Lorena Bailey, Investigator
Lisa Brennan, Investigator
Peggie Broberg, Administrative Aide
Marsha Carter, Financial and Human Resources Manager
John Creel, Investigator
Peter Drymalski, Investigator
Virginia Foronda, Program Specialist
Eric Friedman, Director
Evan Johnson, Administrator
John Lewis, Investigator
Sharon Margolis, Investigator
Joy Matthews, Investigator
Nellie Miller, Investigator
Doug Numbers, Investigator
Pam Prather, Program Specialist
Sue Rogan, Communications Manager
Kathy Schaeffen, Administrative Aide
Linda Silverman, Administrative Aide
Frederick Titus, Investigator
Ralph Vines, Administrator

During FY07 we mourned the loss and celebrated the life of Janet Wenk, who worked for Montgomery County for 42 years.



Contact Information

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Rockville, MD 20850
240-777-3636
Anonymous Consumer Tip Line: (240) 777-3681
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