

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## BILL 28-22: COMMON OWNERSHIP COMMUNITIES – DUTIES, REQUIREMENTS AND PROCEDURES

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 28-22 could have a minimal impact on racial equity and social justice (RESJ) in the County. While Asian and White homeowners could disproportionately benefit from more efficiently operated Common Ownership Communities, this likely would not affect existing housing inequities for Black and Latinx residents. Further, no resources are devoted to this Bill.

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### PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.<sup>1</sup> Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.<sup>2</sup>

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### PURPOSE OF BILL 28-22

A Common Ownership Community (COC) is a group of homes with their own government and binding rules. COCs in Maryland can be homeowner associations, condominium associations, or cooperative housing associations:<sup>3,4</sup>

- In a **homeowners' association (HOA)**, each homeowner individually owns their lot and home, while the association owns the common areas. Association fees and dues support the maintenance of common areas, with individual homeowners responsible for the cost of maintaining their property.
- In a **condominium (condo) association**, each homeowner owns his/her individual unit but maintains a joint ownership in the building and its grounds. Assessments paid by each unit owner cover the cost of maintaining the building and common areas.
- In a **cooperative housing (co-op) association**, a corporation owns the building and units, with residents purchasing stock in the corporation. The stock entitles the resident to live in the building owned by the cooperative. The resident does not own the unit but has an absolute right to occupy the unit. Corporations have the right to evict members who are in violation of their leases or not paying their fees.

The purpose of Bill 28-22 is to modify County law regarding COCs, as recommended by the Commission on Common Ownership Communities (CCOC). The changes would:<sup>5</sup>

- Require regular periodic training of members of a governing board of a common ownership community;
- Clarify common ownership community registration, voting and dispute resolution procedures;
- Outline criteria that the County's CCOC considers in accepting jurisdiction over a dispute involving a common ownership community; and
- Generally, revise County law regarding common ownership communities.

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Per the County Executive, the CCOC recommended these changes to support associations in understanding and adopting practices consistent with efficient and effective operations of the governing bodies that serve an association and its members. The CCOC also considered that changes clarifying the requirements for association practices and CCOC processing in particular would enhance association operations and resolve disputes.<sup>6</sup>

At the request of the County Executive, Bill 28-22 was introduced to the Council on October 18, 2022.

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### HOUSING INSECURITY AND RACIAL EQUITY

Government policies and practices have played a significant role in creating and sustaining housing inequities by race and ethnicity. As outlined below, Black and Latinx residents experience lower rates of homeownership and higher rates of housing insecurity. Please refer to the RESJIS for Expedited Bill 30-21, Landlord-Tenant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees, for more on the government’s role in fostering racial segregation in housing and the racial wealth divide, major driving forces of housing inequities.<sup>7</sup>

**Data on Housing Insecurity.** Local data on three metrics of housing insecurity – rent-burdened households, rental assistance during the pandemic, and homelessness – demonstrate that Black and Latinx households in the County are especially housing insecure. More specifically, in the County:

- In 2019, 66 percent of Latinx renters and 60 percent of Black renters were rent-burdened (expending 30 percent or more of income on rent), compared to 43 percent of White renters and 33 percent of Asian renters.<sup>8</sup>
- Among recent COVID-19 Rent Relief Program clients, 45 percent were Black and 25 percent were Latinx, while 6 percent were White and 2 percent were Asian or Pacific Islander.<sup>9</sup>
- Among single adults experiencing homelessness in 2020, 60 percent were Black, 30 percent were White, 17 percent were Latinx, and 5 percent were Asian or Pacific Islander.<sup>10</sup>
- Among families experiencing homelessness in 2020, 78 percent were Black, 15 percent were White, 9 percent were Latinx, and 2 percent were Asian.<sup>11</sup>

Local data on homeownership also confirms housing inequities by race and ethnicity. In 2019, 75 percent of White and 73 percent of Asian households in the County were owner-occupied, compared to 50 percent of Latinx households and 41 percent of Black households.<sup>12</sup>

**Data on Common Ownership Communities.** COCs are one component of the County’s complex housing landscape. As of January 2019, 34 percent of all COC units were within HOAs, 29 percent were within condo associations, and 38 percent had unknown association.<sup>13</sup>

A recent study from the Urban Institute found that condo and co-op prices were significantly lower than single-family home prices in every major city except New York and Philadelphia.<sup>14</sup> Condos and co-ops could be a more affordable homeownership option for Black, Latinx, and Native American residents since they have lower median incomes relative to White and Asian residents (refer to Table 1).

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**Table 1: Median Household Income by Race and Ethnicity, Montgomery County, Maryland<sup>15</sup>**

Race and ethnicity	Median Household Income
Asian	\$121,323
Black	\$78,246
Native American	\$88,828
White	\$131,602
Latinx	\$79,981

Source: 2020 American Community Survey (Table S1903)

In 2018, the Council initiated a Task Force on Distressed COCs, which was responsible for developing an action plan to support affordable housing preservation in COCs.<sup>16</sup> Part of the task force's scope included conducting in-depth studies of financially distressed COCs.<sup>17</sup> According to Department of Housing and Community Affairs (DHCA) staff, the task force stopped meeting in 2019, due in part to lack of funding.

### ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 28-22 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

**For the first question,** OLO considered the demographics of residents living in COC units. DHCA staff estimate that 70 percent of COC units are owner-occupied and 30 percent are renter-occupied.

Census data in Table 2 demonstrates that White households are overrepresented among owner households and Asian households are slightly overrepresented. Conversely, Black and Latinx households are underrepresented among owner households, while Native American households are proportionately represented.

**Table 2: Percent of All Households and Owner Households by Race and Ethnicity, Montgomery County, Maryland**

Race and ethnicity	All Households	Owner-Occupied Households
Asian	14.3	15.6
Black	17.7	11.2
Native American	0.3	0.3
White	57.3	64.8
Latinx	13.9	11.4

Source: 2020 American Community Survey (Table S2502)

**For the second question,** OLO considered how the Bill could address housing inequities in the County. Bill 28-22 could improve the efficiency and effectiveness of all COCs by requiring board members to engage in periodic training. However, periodic training would likely not change structural housing inequities affecting BIPOC residents.

Taken together, OLO anticipates Bill 28-22 could have a minimal impact on RESJ in the County. While Asian and White homeowners could disproportionately benefit from more efficiently operated COCs, this likely would not affect existing housing inequities for Black and Latinx residents. Further, no resources are devoted to this Bill.<sup>18</sup>

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### RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.<sup>19</sup> OLO finds Bill 28-22 will have a minimal impact on RESJ in the County. As such, OLO does not offer recommended amendments. However, if the Council would like to improve the RESJ impact of COCs, OLO offers the following item for consideration:

- **Restart DHCA Task Force on Distressed COCs and expand the scope to include RESJ.** As discussed in ‘Housing Insecurity and Racial Equity,’ condos and co-ops could be a more affordable homeownership option for BIPOC residents. The Council could consider restarting the Task Force on Distressed COCs and funding studies that explore current BIPOC residence in COCs and opportunities to increase BIPOC homeownership, in addition to understanding financially distressed COCs.

### CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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<sup>1</sup> Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

<sup>2</sup> Ibid

<sup>3</sup> “What is a Common Ownership Community,” Montgomery County Department of Housing and Community Affairs, Accessed October 21, 2022. [https://www.montgomerycountymd.gov/DHCA/housing/commonownership/what\\_is\\_a\\_coc.html](https://www.montgomerycountymd.gov/DHCA/housing/commonownership/what_is_a_coc.html)

<sup>4</sup> Natalia Carrizosa and Kristen Latham, OLO Report 2019-6, Common Ownership Communities, Office of Legislative Oversight, Montgomery County, Maryland, June 25, 2019.

<https://montgomerycountymd.gov/OLO/Resources/Files/2019%20Reports/OLOReport2019-6.pdf>

<sup>5</sup> Bill 28-22, Common Ownership Communities, Montgomery County Council, Introduced October 18, 2022.

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20221018/20221018\\_4A.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20221018/20221018_4A.pdf)

<sup>6</sup> Memorandum from County Executive to Council President, Bill 28-22, Common Ownership Communities – Duties, Requirements and Procedures

<sup>7</sup> Racial Equity and Social Justice Impact Statement for Expedited Bill 30-21, Office of Legislative Oversight, Montgomery County, Maryland, September 9, 2021. <https://montgomerycountymd.gov/OLO/Resources/Files/resjis/2021/Bill30-21RESJ.pdf>

<sup>8</sup> Gross Rent as a Percentage of Household Income in the Past 12 Months, Table S0201: Selected Population Profile in the United States, 2019 American Community Survey, Census Bureau. <https://data.census.gov/cedsci/table?t=002%20-%20White%20alone%3A004%20-%20Black%20or%20African%20American%20alone%3A012%20-%20Asian%20alone%3A400%20-%20Hispanic%20or%20Latino%20%28of%20any%20race%29%3AIncome%20and%20Poverty%3ARace%20and%20Ethnicity&g=050000US24031>

<sup>9</sup> “COVID-19 Rent Relief Update: Week of Jul 11 – 17,” DHHS Pulse Report: COVID-19 Impact and Recovery, Department of Health and Human Services, Montgomery County, Maryland, July 20, 2022.

<https://www.montgomerycountymd.gov/covid19/Resources/Files/pulse/DHHS-Pulse-220720.pdf>

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<sup>10</sup> Memorandum from Linda McMillan to County Council, “FY22 Operating Budget: Homeless Services, Rental Assistance, and funding through Housing Initiative Fund,” May 11, 2021 (See PDF page 19).

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2021/20210512/20210512\\_30.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2021/20210512/20210512_30.pdf)

<sup>11</sup> Ibid

<sup>12</sup> “Percent of Owner-Occupied Households by Race/Ethnicity: Montgomery County, MD,” National Equity Atlas, Accessed July 22, 2022. <https://nationalequityatlas.org/indicators/Homeownership#/?geo=04000000000024031>

<sup>13</sup> Carrizosa and Latham, calculated from Table 2.2 data (page 10). Refer to page 7 in report for limitations with data.

<sup>14</sup> Michael Neal and Laurie Goodman, “The Housing Market Needs More Condos. Why are So Few Being Built?,” Urban Institute, January 31, 2022. <https://www.urban.org/urban-wire/housing-market-needs-more-condos-why-are-so-few-being-built>

<sup>15</sup> Latinx is an ethnicity rather than a race. Therefore, Latinx people are included in multiple racial groups throughout this impact statement, unless where otherwise noted.

<sup>16</sup> Carrizosa and Latham

<sup>17</sup> Ibid

<sup>18</sup> Fiscal Impact Statement for Bill 28-22, Common Ownership Communities – Duties, Requirements and Procedures

<sup>19</sup> Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council