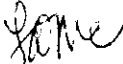


**MEMORANDUM**

September 20, 2018

TO: Planning, Housing, and Economic Development Committee

FROM: Linda McMillan, Senior Legislative Analyst 

SUBJECT: **Annual Report of the Commission on Common Ownership Communities (CCOC) and Common Ownership Community (COC) Program; Update on COC "Tiger Team"/Distressed Communities Project**

PURPOSE: Review Annual Report and Receive Updates

***Expected to Attend:***

Clarence Snuggs, Director, Department of Housing and Community Affairs (DHCA)  
Mark Fine, Chair, CCOC  
Tim Goetzinger, Chief, Finance and Administration, DHCA

Bill 50-15, which became effective July 13, 2016, transferred the COC program from the Department of Consumer Protection to DHCA, required CCOC members to complete certain training, and outlined the use of informal mediation. Along with these actions, the Council required that all revenues from COC fees be dedicated to the COC program and increased expenditures and staff for the COC program. The FY19 budget for the COC program is \$654,877 (©36). The CCOC is required to submit an annual report which is attached at ©1-21.

Councilmembers have expressed concerns about the affordability and sustainability of COCs. It has included in the Office of Legislative Oversight's work plan a report on COCs. The description is attached at ©22.

Current staffing at the COC program includes: oversight from Mr. Goetzinger, two Investigators, and one Office Services Manager (currently vacant but in process).

**Highlights from the attached material include:**

- In FY18, there were 1,066 registered COCs that had a total of 138,548 units and housed over 400,000 people.

- The current members of the CCOC are listed on ©5. In addition, there are seven volunteer panel chairs (up from three) and three mediators (up from one).
- The communities with more than 5,000 units in COCs: Silver Spring (27,486), Germantown (23,434), Rockville (18,683), Gaithersburg (12,718), Bethesda (8,322), Olney (7,792), Montgomery Village (7,840), Potomac (6,009), and Clarksburg (5,751).
- DHCA tracks service requests for the COC program through MC311. There were 596 requests and a success rate of 76.17% in terms of completing requests in the time required, however DHCA notes that by the 4<sup>th</sup> quarter of FY18 this rate had increased to 96.1%. (©7)
- There were 103 cases filed in FY18. 61% were related to architecture and maintenance issues. DHCA notes that 25% were related to governance issues (such as elections, failure to conduct meetings, open records, etc.) Summary information is at ©8 and a listing of all cases is attached at ©13-21.
- There were 56 cases closed in FY18; 55% of these took more than 120 days to close.
- In FY18, 1,225 COC board members completed the training “Community Governance Fundamentals” (775 online and 450 in person). This training was required by the Council in Bill 45-14. DHCA is improving its system to track compliance so that all board members complete the training.
- For FY19, DHCA is providing training modules on (1) insurance, indemnification, and risk management; (2) how to evaluate compliance with legal mandates; and (3) county, state, and federal obligations and how to obtain information from federal and state agencies.
- In FY19, DHCA and the CCOC will continue to work on case management and IT/website improvements.
- The CCOC developed a “Tiger Team” proposal to examine complex COC issues. DHCA is partnering with the University of Maryland National Center for Smart Growth on a data analysis project and literature review. The Annual Report says, “A tiger team is a diversified group of experts brought together for a single project, need or event. They are usually assigned to investigate, solve, build, or recommend possible solutions to unique situations or problems.” (©10)
- DHCA is providing a regular newsletter with topics of interest and discussion of certain cases. The Summer 2018 issues is attached at ©23-30.
- The CCOC is now receiving monthly data reports that include financial information and updates on the number of COCs, MC311 service requests, and case activity. A copy of the September 2018 report is attached at ©31-40.



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett  
County Executive

Clarence J. Snuggs  
Director

MEMORANDUM

September 14, 2018

TO: Hans Riemer, President  
Montgomery County Council

FROM: Clarence J. Snuggs, Director  
Department of Housing and Community Affairs

SUBJECT: Report Required under Chapter 10B-3(j) of the Montgomery County Code  
Regarding the Commission on Common Ownership Communities and the  
Common Ownership Communities Program

The attached document serves as the required annual report for the Commission on Common Ownership Communities and the Common Ownership Communities Program. Per Chapter 10B-3(j), the Commission must submit an annual report to the County Executive and the County Council summarizing its activities, needs, and recommendations, and the extent to which the goals of this Chapter are being met.

If you have any questions regarding this report, please contact Tim Goetzinger, Chief of the Division of Finance and Administration, at 7x3728.

CJS:tg

Attachment: Annual Report

cc: PHED Committee Members

Office of the Director

1401 Rockville Pike, 4th Floor • Rockville, Maryland 20852 • 240-777-0311 • 240-777-3791 FAX  
[www.montgomerycountymd.gov/dhca](http://www.montgomerycountymd.gov/dhca)



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# COMMISSION ON COMMON OWNERSHIP COMMUNITIES ANNUAL REPORT

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Fiscal Year 2018



SEPTEMBER 2018

COMMISSION ON COMMON OWNERSHIP COMMUNITIES  
1401 Rockville Pike, 4th Floor; Rockville, Maryland 20852

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## Purpose

This document serves as the required annual report for the Commission on Common Ownership Communities ("CCOC" or the "Commission") and the Common Ownership Communities ("COC") Program. Per Chapter 10B-3(j), the Commission must submit an annual report to the County Executive and the County Council summarizing its activities, needs, and recommendations, and the extent to which the goals of this Chapter are being met.

## Program Description

The Common Ownership Community Program ensures fair and equitable relations between the governing bodies of homeowner associations, condominium associations and co-ops, and the individuals living within these common ownership communities, and encourages the maintenance and improvement of housing. Activities include mediating and arbitrating disputes; providing information and technical assistance to all parties; and taking legal action as necessary, including referring unresolved complaints to the Montgomery County Commission on Common Ownership Communities.

## Common Ownership Communities in Montgomery County

Over one-third of Montgomery County residents live in communities governed by homeowner associations or condominium associations. The Commission on Common Ownership Communities operates as an alternative dispute resolution mechanism designed to hear and resolve disputes between homeowner and condominium associations and their owners and residents. The Commission has been in operation since 1991 and served as a model for other similar agencies that have been established in Prince George's and Charles counties. DHCA serves as staff to the Commission and responds to all inquiries and filed disputes. The Program's expenses are funded entirely from the annual registration fees all associations must pay, which are currently \$5 per unit. The CCOC consists primarily of 15 volunteer commissioners, which are appointed by the County Executive and confirmed by the County Council. Additionally, the Commission relies on volunteer local attorneys, which chair hearing panels and write decisions. In FY18, Montgomery County had 1066 registered common ownership communities. These communities comprise a total of 138,548 residential units, housing over 400,000 county residents.

## Commission on Common Ownership Communities Members

Section 10B-3(a) of the County Code provides the following guidance regarding the composition of the Commission on Common Ownership Communities:

The County Executive must appoint, subject to confirmation by the Council, a Commission on Common Ownership Communities. The Commission consists of 15 voting members.

- (1) **Eight members** should be selected from unit or lot owners or residents of self-managed and professionally managed condominiums, self-managed and professionally managed cooperative housing corporations, and self-managed and professionally managed homeowners' associations, and may include members or former members of governing boards.
- (2) **Seven members** should be selected from persons who are members of professions associated with common ownership communities (such as persons involved in housing development and real estate sales and attorneys who represent community associations, developers, housing management or tenants), including at least one person who is a professional community association manager.

The following chart provides the current composition of the CCOC.

No.	Residents	No.	Professionals
1	Mark Fine, Chairman	9	Ilana Branda (Chair - Legislative Committee)
2	Mike Burrows, Vice Chair (Chair - IT Committee)	10	David Gardner, Esq.
3	Marietta Ethier, Esq. (Chair - Process /Procedure Committee)	11	Staci Gelfound, AMS, PCAM (Ex-Officio Chair)
4	Kathy Viney (Chair - Education Committee)	12	Leonard Malamud, Esq.
5	Rand Fishbein, Ph.D. (Ex-Officio Chair)	13	Andrew Oxendine
6	Peter Myo Khin	14	Donald J. Perper, CMCA, PCAM
7	Galia Steinbach	15	Aimee Winegar, CMCA, LSM, PCAM (Ex-Officio Vice Chair)
8	Dallas Valley		

As demonstrated throughout this report, case volume for the program is increasing. To compensate for this added volume, the CCOC embarked on a successful advertising / outreach campaign resulting in increasing the number of panel chairs volunteers from three to seven. Additionally, the Program has added two new mediators. Below is a list of the of current panel chairs and mediators.

No.	Commission Panel Chairs	No.	Mediators
1	Hon. Bruce Birchman, Esq.	1	Michael Lang
2	Rachel Browder, Esq.	2	Sarah Stanton
3	Brian Fellner, Esq.	3	Partap Verma
4	Charles Fleischer, Esq.		
5	Sarah Stanton, Esq.		
6	Dinah Stevens, Esq.		
7	Partap Verma, Esq.		

## Historic Trends

The chart below highlights historic trends in five-year increments. Over the past ten years, over 100 new common ownership communities (or 16,000 new units) have come online.

Activity	FY08	FY13	FY18
Number of Communities	958	1,034	1,066
Number of Units	122,142	127,320	138,548
Revenue Received	n/a	401,861	713,045
Requests for Info / Service Requests	883	916	596*
Cases filed	85	82	103
Cases closed	84	61	56

\*reflects MC311 services requests only

## List of Registered COCs

Common Ownership Communities (COC) are required to provide the Department of Housing and Community Affairs (DHCA) with its elected leadership and managing agents every year (Montgomery County Code Sec. 10B 7(a)(1)). This list is updated in real time and is available at <https://apps.montgomerycountymd.gov/DHCA-Licensing/COC/List>. Below is a list of communities by city. The second list provides zip code details for cities with a higher number of units.

City	Communities	Units
ASHTON	9	536
BELTSVILLE	1	89
BETHESDA	78	8,322
BOYDS	11	1,542
BROOKESVILLE	11	885
BURTONSVILLE	23	3,342
CABIN JOHN	4	205
CHEVY CHASE	22	3,148
CLARKSBURG	39	5,751
DAMASCUS	23	1,684
DARNESTOWN	8	899
DERWOOD	8	438
GAITHERSBURG	91	12,718
GERMANTOWN	125	23,434
KENSINGTON	16	714
LAUREL	2	49
LAYTONSVILLE	12	464
MONTGOMERY VILLAGE	16	7,840
NORTH BETHESDA	9	1,482
NORTH POTOMAC	28	3,724
OLNEY	42	7,972
Poolesville	1	17
POTOMAC	71	6,009
ROCKVILLE	136	18,683
SANDY SPRING	5	160
SILVER SPRING	249	27,486
SPENCERVILLE	2	40
TAKOMA PARK	18	591
WHEATON	6	324
<b>Grand Total</b>	<b>1066</b>	<b>138,548</b>

<b>BETHESDA</b>	<b>78</b>	<b>8,322</b>
20814	27	3,769
20815	4	371
20816	14	1,234
20817	32	2,888
20852	1	60
<b>GAITHERSBURG</b>	<b>91</b>	<b>12,718</b>
20877	19	1,409
20878	15	1,696
20879	47	8,655
20882	10	958
<b>GERMANTOWN</b>	<b>125</b>	<b>23,434</b>
20874	90	18,215
20876	35	5,219
<b>MONTGOMERY VILLAGE</b>	<b>16</b>	<b>7,840</b>
20886	16	7,840
<b>OLNEY</b>	<b>42</b>	<b>7,972</b>
20832	41	7,886
20879	1	86
<b>ROCKVILLE</b>	<b>136</b>	<b>18,683</b>
20850	54	8,125
20851	4	114
20852	46	6,880
20853	13	1,247
20854	4	549
20855	14	1,734
20895	1	34
<b>SILVER SPRING</b>	<b>249</b>	<b>27,486</b>
20783	1	20
20901	22	1,902
20902	29	2,226
20903	3	160
20904	53	5,357
20905	17	1,606
20906	79	13,235
20910	45	2,980



## MC311 Service Requests (SRs)

The MC311 Customer Service Center is Montgomery County's source for non-emergency government information and services. Annually, DHCA responds to 25,000 – 35,000 SRs with the Housing Code Enforcement, Landlord Tenant Affairs and Licensing and Registration each receiving approximately 10,000 SRs. Below is a summary of the SRs processed by COC Program staff in FY18. DHCA maintains a typical department-wide SR success rate (SRs fulfilled within the service length agreement (SLA)) of 85%, which compares favorably to other county departments with a large volume of SRs. Although the FY18 COC Program SR success rate was 76.17%, performance improved throughout the year. In Q4 FY18, the program had a success rate of 96.1% on 152 SRs, and in the first two months of FY19, the program had a success rate of 99.2% on 125 SRs.

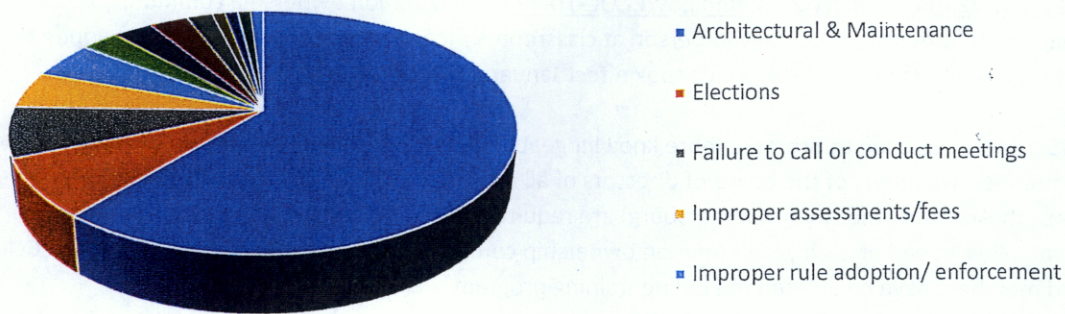
Topic	SRs	SRs Meeting SLAs	Success Rate
Bill 50-15: Common Ownership Community (COC) and Commission on Common Ownership Communities (CCOC) Transfer to Department of Housing & Community Affairs (DHCA) and increasing COC Registration Fees	1	0	0.00%
Request to Speak to a Commission on Common Ownership Communities (CCOC) Staff Member	557	439	78.82%
CCOC Online Training Program for Board Members	1	1	100.00%
Condominium or Homeowners Association Complaints	34	12	35.29%
Common Ownership Communities (CCOC) Office Location	3	2	66.67%
<b>Total</b>	<b>596</b>	<b>454</b>	<b>76.17%</b>

## FY18 Cases by Case Type

More cases were filed in FY18 than in any other year. Although the bulk of cases involved architectural and maintenance issues, nearly 25 percent of all cases involved association governance issues (elections, meetings, fees, rules). Case details are provided in Attachment 1.

Case Type	Cases Filed
Architectural & Maintenance	63
Elections	8
Failure to call or conduct meetings	7
Improper assessments/fees	5
Improper rule adoption/ enforcement	5
Noise/Nuisances	3
Open records	3
Failure to enforce rules against person subject	3
Failure to repair/prevent damage to condo units	2
Parking Rules and Enforcement	1
Common Areas	1
Dispute over damage charges	1
Harassment	1
<b>Grand Total</b>	<b>103</b>

FY18 Cases by Type

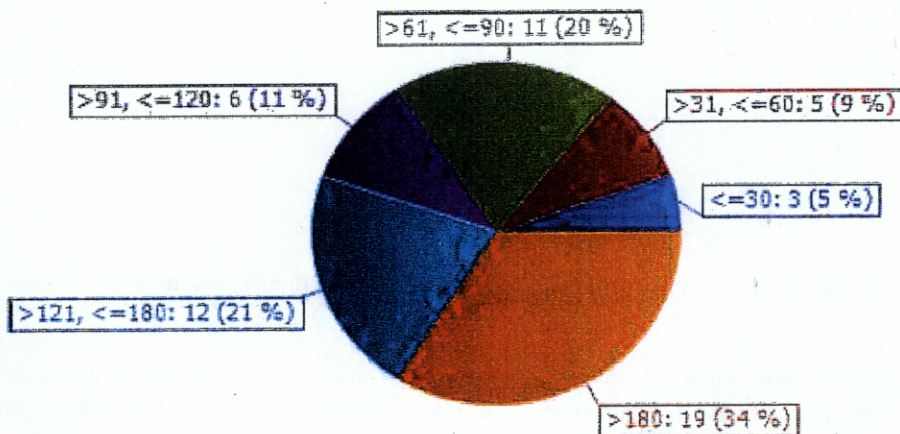


### Cases Closed in FY18

In FY18, 56 cases were closed, and although different cases or case types may take longer to close than others, the below charts and graph demonstrate how long it took to close cases in FY18. Of the 56 cases closed, 34% took longer than 180 days. As a part of a FY19 initiative, DHCA is working to update the COC Case Management System with all cases from the past 10 years. This will provide DHCA and the CCOC with the ability to delve deeper into the data to create baselines to measure and evaluate performance.

Cases Closed in FY18		56
Less than 30 days to close	3	
Between 31 and 60	5	
Between 61 and 90	11	
Between 91 and 120	6	
Between 121 and 180	12	
More than 180	19	

Case Type	Cases
Architectural & Maintenance	9
Dispute over damage charges	2
Elections	2
Failure to call or conduct meetings	2
Failure to enforce rules against person subject	1
Harassment	1
Improper rule adoption/ enforcement	1
Noise/Nuisances	1
<b>Grand Total</b>	<b>19</b>



## Director Training

The CCOC launched an online training program, "Community Governance Fundamentals", available at <https://www2.montgomerycountymd.gov/CCOC-Training> for common ownership community board members. The training is also offered periodically in-person at classrooms / learning centers. The CCOC developed this training to meet requirements of Bill 45-14, which took effect January 1, 2016.

Bill 45-14 was designed to promote more knowledgeable and responsible management of common ownership communities. Members of the board of directors of all common ownership communities in Montgomery County (except those within the city of Gaithersburg) are required within 90 days to successfully complete the training program. By the end of each year, common ownership communities are required to report to the CCOC when board members have completed the online training program.

The training program addresses ethics, roles and responsibilities of board members and homeowners, community governing documents, financial management, meeting rules, and general administration. The training also is available to members of the public interested in learning about operating common ownership communities.

The online curriculum includes a brief quiz after each chapter as a review for the participant. For the in-person training, the instructor is required to affirm that the participant has been meaningfully present throughout the instruction period and has completed the quiz. Additionally, the in-person program now includes a workbook for each participant to be used as an additional resource. The online program will be updated in the first half of FY19 to mirror the in-person program to include a downloadable version of the workbook.

In FY18, 775 board members took the training online and an additional 450 took the training in-person at learning centers. DHCA and the CCOC are working to integrate a system that synchs registration data with training data to enforce the training requirements in real-time and expect to complete this upgrade in the first half of FY19. This will allow DHCA and the CCOC to perform more comprehensive and targeted outreach to board members who have not completed the training. Failure to comply is a Class A violation with an accompanying \$500 fine per day. DHCA has not issued any citations to date as board members that had been identified as not taking the training complied after subsequent notification.

## COC Manual & Resource Guide

The CCOC is required to publish and maintain a resource guide to assist associations in governing their communities. The Guide was recently updated and expanded to include "the Business Judgment Rule". Additional topics include how to structure and hold annual, special and board meetings, budgeting and reserves, storm water management, association insurance, and more.

## FY19 Initiatives

### New Training Modules

The CCOC and DHCA are working to procure services that will provide three new training modules for communities. These include:

1. A training module and presentation on insurance, indemnification and risk management. The module will be taped and available online for use by COCs, managers and other interested parties and include general

information, explanation of terms, description of types of insurance and links to any underlying laws or regulations.

2. The creation of a checklist used to evaluate a community's degree of compliance with legal mandates, contractual provisions, policy requirements, etc. together with a training module to educate COCs, managers and other service providers on the use of the checklist.
3. A directory and training module regarding county, state and federal legal obligations that identifies required filings, reports, etc. and an explanation of how to obtain information from state and federal agencies.

### COC Guide to Orders and Decisions

The Guide, last updated in August 2015, provides reference to how the Commission ruled on past cases based on complaints filed, as well as previous case law cited. It references everything from board actions to architectural violations. This resource guide will be updated with current cases and decisions by the end of Q2 FY19.

### Tiger Team / Distressed Communities Project

Members of the CCOC developed a "Tiger Team" proposal aimed at examining and making recommendations on complex common ownership communities' issues. A tiger team is a diversified group of experts brought together for a single project, need or event. They are usually assigned to investigate, solve, build, or recommend possible solutions to unique situations or problems. The proposal seeks to study:

1. How State and County court systems create and/or contribute to distress for communities,
2. How the bankruptcy system creates and/or contributes to distressed communities,
3. How complexities and inequities of the financial system adds to distress of unit owners and communities,
4. How regulations and lack of administrative support add to distress,
5. The needs of COCs that are commonly ignored in setting utility rates and granting rebates, and
6. What changes can be instituted to prevent internal decline of communities and preventive roles of public policy and education.

### Teaming up with University of Maryland's National Center for Smart Growth

As the first step in implementing the Tiger Team initiative, DHCA has partnered with the National Center for Smart Growth at the University of Maryland for the Center to provide technical assistance on a project titled "Collecting and Analyzing Data on Common Ownership Properties in Montgomery County." Additionally, the National Center for Smart Growth is performing a literature review of best practices and research about the challenges surrounding distressed common ownership properties. The goals of the data portion of the project are:

1. Pool and combine different sources of data,
2. Identify useful indicators of distress available in the data,
3. Produce summary statistics on non-spatial and spatial indicators, and
4. Assess current distress level for common ownership communities

Initial phase reports are due in late September 2018.

## Case Management System (CMS) and Program Upgrades

DHCA and the CCOC are collaborating to streamline operations. Highlights of FY19 operational initiatives include:

- Analysis of the Complaint Process – In FY18, CountyStat mapped / flow charted the adjudicatory process from filing a complaint to post-hearing activities. In FY19, the map / flow chart will be updated to include regulatory timelines, which will aid DHCA and the CCOC in reviewing, updating and streamlining the process and create greater transparency to the public.
- Online Complaint Submission System – DHCA is working to streamline the complaint submission process. The process will be fully online including submitting a complaint and paying the processing fee.
- Importing Archived Cases into the Case Management System (CMS) – DHCA is working with DTS and DGS to scan case documents and to auto-populate the COC CMS to include all cases from the past 10 years. All relevant documents will be scanned into the CMS. This will provide DHCA and the CCOC with the ability to delve deeper into the data and identify any consistent results and trends with the goal of developing more comprehensive outreach, education and adjudicatory strategies.
- Website Upgrade – DHCA IT is working with the CCOC Education Committee to update and upgrade the look and feel of the COC Program portion of DHCA's website.
- Conversion of all Decisions and Orders to Readable and Searchable PDFs – These will be posted online and will provide public access to decisions on thousands of cases.
- Establishing a Fully Digitized Program – Along with the abovementioned upgrades, in October, DHCA will disseminate eReaders to program staff, commissioners and panel chairs. These eReaders come loaded with all applicable COC guides, training materials, laws and regulations. Monthly meeting packets and cases files will be downloaded to the eReaders. This furthers the County's goal of promoting environmental and fiscal stewardship by reducing printing/production costs (cases are often hundreds of pages long), and it will ensure that all members will have everything needed in one place.

## The State of DHCA and the CCOC

The Commission and program have been in operation since 1991. In July 2016, the program was transferred to DHCA. Since then, DHCA and the CCOC have stressed transparency and a spirit of cooperation, and although the program has been improved, there is still plenty of work to do. With a renewed focus on its mission and a better sense of the complex challenges ahead, DHCA and the CCOC will work collectively to find solutions that support our communities and improve the quality of life for our residents.

## Attachment 1 – Case List Report



# DHCA - Common Ownership Communities

## Case List

Case Number	Case Name	Sub-Type	Filed Date	Investigator	Assigned Date
<b>STATUS Appealed</b>					
<b>CASE TYPE Architectural &amp; Maintenance</b>					
2018-037	Maureen & Derek Hypolite v Longmead Crossing	Other	11/01/2017	Mark Anders	11/01/2017
<b>CASE TYPE Common Areas</b>					
2018-061	Habib Nadi v The Willoughby of Chevy Chase	Changes to common area	01/26/2018	Mark Anders	01/29/2018
<b>CASE TYPE Failure to call or conduct meetings</b>					
2018-040	Lawrence Donald Dillin v The Willoughby of Chevy Chase		11/17/2017	Mark Anders	11/17/2017
<b>STATUS Commission</b>					
<b>CASE TYPE Architectural &amp; Maintenance</b>					
2018-102	Gwendolyn Dixon v Montgomery Chase Condominium	Unapproved changes	06/18/2018	Ifeoluwapo Fabayo	06/27/2018
<b>STATUS Completed</b>					
<b>CASE TYPE Architectural &amp; Maintenance</b>					
2018-006	(41-17) Greencastle Lakes v. Tsedenia Bezabeh	Failure to maintain	07/18/2017	Mark Anders	07/19/2017
2018-007	(42-17) Greencastle Lakes v. Jonathan Lee	Failure to maintain	07/18/2017	Mark Anders	07/19/2017
2018-008	(43-17) Longmead Crossing v. Sierra Nguyen	Failure to maintain	07/18/2017	Mark Anders	07/19/2017
2018-010	(45-17) Rathy Tharmarajah v. Long Meadows at Davis Mill	Unapproved changes	07/18/2017	Mark Anders	07/19/2017
2018-015	(51-17) Crockett Lane HOA v. Victoria Nwogu	Other	07/27/2017	Mark Anders	07/31/2017

2018-016	(52-17) Steven Bramow v. Hallowell HOA	Other	08/01/2017	Mark Anders	08/03/2017
2018-019	(55-17) Douglas and Julie Braunstein	Unapproved changes	08/23/2017	Mark Anders	08/25/2017
2018-027	Greencastle Lakes v. Pramod Singh	Unapproved changes	10/12/2017	Mark Anders	10/16/2017
2018-029	Greencastle Lakes v. Cesar Claros	Failure to maintain	10/12/2017	Mark Anders	10/16/2017
2018-035	Hallowell HOA v. Steven and Terry Bramow	Unapproved changes	10/16/2017	Mark Anders	10/16/2017
2018-036	Churchill Village South v Ekene Monyei	Unapproved changes	10/25/2017	Mark Anders	11/01/2017
2018-046	Longmead Crossing v Marco Alomoto	Failure to maintain	12/14/2017	Mark Anders	12/14/2017
2018-048	Longmead Crossing v Sierra Nguyen	Failure to maintain	12/14/2017	Mark Anders	12/14/2017
2018-049	Potomac Crossing v Terry Hahn	Unapproved changes	12/14/2017	Mark Anders	12/14/2017
2018-091	Longmead Crossing v. Jaideep Chawla	Other	05/08/2018	Mark Anders	05/08/2018
2018-051	Alain Thiney v Lake Hallowell HOA	Other	12/27/2017	Ifeoluwapo Fabayo	01/02/2018
2018-052	Hallowell HOA v Jhon Gamez	Failure to maintain	12/27/2017	Ifeoluwapo Fabayo	01/02/2018
2018-053	Hallowell HOA v Housing Opportunities Commission	Failure to maintain	12/27/2017	Ifeoluwapo Fabayo	01/02/2018
2018-054	Hallowell HOA v Israel & Lillian Sotelo	Failure to maintain	12/27/2017	Ifeoluwapo Fabayo	01/02/2018
2018-059	Elvin and Meredith Luskey v Arora Hills HOA	Unapproved changes	01/08/2018	Ifeoluwapo Fabayo	01/22/2018
2018-066	Longmead Crossing v Sheldon Chung	Failure to maintain	01/31/2018	Ifeoluwapo Fabayo	01/31/2018
2018-078	Longmead Crossing v. Awatif Diab & Ahmed Bur	Failure to maintain	04/03/2018	Ifeoluwapo Fabayo	04/03/2018
2018-082	Longmead Crossing v. Renee Raquel Hanson	Failure to maintain	04/03/2018	Ifeoluwapo Fabayo	04/03/2018
2018-084	Marie-Louise Goulet v. Norbeck Manor HOA	Unapproved changes	04/03/2018	Ifeoluwapo Fabayo	04/03/2018



2018-086	Jennifer Navas v Promenade Towers Housing Corp	Failure to maintain	04/10/2018	Ifeoluwapo Fabayo	04/11/2018
2018-088	Sandor Toth v. Churchill View Condominium	Failure to maintain	04/30/2018	Ifeoluwapo Fabayo	04/30/2018
2018-100	Park Ridge HOA, Inc. v. Mamoun & Aroub Saad	Other	06/14/2018	Ifeoluwapo Fabayo	06/14/2018

#### CASE TYPE Elections

2018-002	(35-17) Eric J. Lienhard v. Poplar Run HOA		07/10/2017	Mark Anders	07/10/2017
2018-005	(40-17) Aaron Jones v. Georgian Colonies Condo Council of Unit Owners		07/18/2017	Mark Anders	07/19/2017
2018-020	(56-17) Linda Barnes-Pretlow v. Mutual 6A		08/30/2017	Mark Anders	09/05/2017
2018-023	(59-17) Mizan Rahman v Layhill Square HOA		09/15/2017	Mark Anders	09/15/2017
2018-072	Leah Tavens v. The Willoughby of Chevy Chase Unit or Council Owners		03/23/2018	Ifeoluwapo Fabayo	03/23/2018

#### CASE TYPE Failure to call or conduct meetings

2018-012	(48-17) Cable & MacLaughan v. Cabin John Garden		07/24/2017	Mark Anders	07/26/2017
2018-038	Patricia Kitson v Riverstone Condominium		11/09/2017	Mark Anders	11/09/2017

#### CASE TYPE Failure to enforce rules against person subject

2018-024	(60-17) John Yourshaw v. Waring Station		09/18/2017	Mark Anders	09/20/2017
2018-043	William H Roberts Jr.		12/14/2017	Mark Anders	12/14/2017

#### CASE TYPE Failure to repair/prevent damage to condo units

2018-044	Shokouh Behin Pod v South Vilalge homes Corporation		12/13/2017	Mark Anders	12/14/2017
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CASE TYPE Harassment					
2018-011	(47-17) Daborah Williams v. Arora Hills		07/24/2017	Mark Anders	07/24/2017
CASE TYPE Improper assessments/fees					
2018-021	(58-17) Suresh Varghese v Seneca Park North HOA		09/05/2017	Mark Anders	09/11/2017
2018-041	Richard Berman v New Mark Commons		11/20/2017	Mark Anders	11/20/2017
2018-045	Lowell Lima v Carter Hill HOA		12/14/2017	Mark Anders	12/14/2017
2018-057	Mamoun & Aroub Saad v Park Ridge HOA		01/03/2018	Ifeoluwapo Fabayo	01/04/2018
CASE TYPE Improper rule adoption/ enforcement					
2018-001	(46-17) Clara Sachs v. Camelback Vilalge	Failure to give hearing	07/05/2017	Mark Anders	07/19/2017
2018-062	Pha Huynh v Clarksburg HOA	Other	01/29/2018	Ifeoluwapo Fabayo	01/29/2018
2018-070	Yuetao Ru v Redland Crossing HOA	Other	02/27/2018	Ifeoluwapo Fabayo	02/27/2018
CASE TYPE Noise/Nuisances					
2018-017	(53-17) Mary Curran v. The Elizabeth Condominium		08/07/2017	Mark Anders	08/07/2017
2018-058	Lidia Hernandez v Damascus Garden		12/28/2017	Ifeoluwapo Fabayo	01/03/2018
CASE TYPE Open records					
2018-068	Vicki Korobkin v. Timberlawn South		02/12/2018	Ifeoluwapo Fabayo	02/13/2018
2018-074	Timberlawn South Tuckerman Walk v Vicki Korobkin		03/26/2018	Ifeoluwapo Fabayo	03/26/2018

**STATUS Declined**

**CASE TYPE Failure to call or conduct meetings**

2018-063	Lawrence Dorney v Grosvenor Park IV Condo Association	01/29/2018	Mark Anders	01/29/2018
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**STATUS Default**

**CASE TYPE Architectural & Maintenance**

2018-009	(44-17) Longmead Crossing v. Dawit Bayou	Failure to maintain	07/18/2017	Mark Anders	07/19/2017
2018-013	(49-17) Greencastle Lakes CA v. Martha Rivera	Failure to maintain	07/24/2017	Mark Anders	07/26/2017
2018-028	Greencastle Lakes v. Ki Bum Kim	Failure to maintain	10/12/2017	Mark Anders	10/16/2017
2018-030	Greencastle Lakes v. Kyung Sik & Youn Sook Min	Failure to maintain	10/12/2017	Mark Anders	10/16/2017
2018-031	Greencastle Lakes v. Young Man Kwon	Failure to maintain	10/12/2017	Mark Anders	10/16/2017
2018-032	Greencastle Lakes v. Harshmer & Sarbjit Kaur	Failure to maintain	10/12/2017	Mark Anders	10/16/2017
2018-034	Greencastle Lakes v. Juliana Ofori Bamfo	Failure to maintain	10/12/2017	Mark Anders	10/16/2017
2018-047	Longmead Crossing v Darlene Cockfield	Failure to maintain	12/14/2017	Mark Anders	12/14/2017
2018-065	Longmead Crossing v Raymond Bleu-Laine	Failure to maintain	01/31/2018	Mark Anders	01/31/2018
2018-075	Longmead Crossing v. Sung & Jin Choi	Failure to maintain	04/03/2018	Mark Anders	04/03/2018
2018-081	Longmead Crossing v. Shawn & Carmen Johnson	Failure to maintain	04/03/2018	Mark Anders	04/03/2018
2018-093	The Brandermill Association v. Angela M. Watts-Perry	Failure to maintain	05/08/2018	Mark Anders	05/08/2018

2018-094	Mansukh Sakhawala & Jyothi Shanbhag vs. Seneca Park North HOA	Other	05/22/2018	Ifeoluwapo Fabayo	05/22/2018
<b>CASE TYPE Dispute over damage charges</b>					
2018-042	Serge Mbetcha v Laing at Milestone Condominium		11/30/2017	Mark Anders	11/30/2017
<b>CASE TYPE Noise/Nuisances</b>					
2018-026	(62-17) Villas at Willow Cove v. Alicia Baiocchi		09/27/2017	Mark Anders	10/02/2017
<b>STATUS Hearing</b>					
<b>CASE TYPE Architectural &amp; Maintenance</b>					
2018-014	(50-17) Greencastle Lakes CA v. Jude Egoro	Failure to maintain	07/24/2017	Mark Anders	07/26/2017
2018-018	(54-17) Williamsburg Square Community Council v. Jose Villegas/Eva Martinez	Unapproved changes	08/09/2017	Mark Anders	08/14/2017
2018-067	Longmead Crossing v Rogatus Maturula	Failure to maintain	01/31/2018	Mark Anders	01/31/2018
2018-064	Longmead Crossing v Anita Massengale	Failure to maintain	01/31/2018	Ifeoluwapo Fabayo	01/31/2018
2018-076	Longmead Crossing v. Felton Mitchell	Failure to maintain	04/03/2018	Ifeoluwapo Fabayo	04/03/2018
2018-080	Longmead Crossing v. Robert Sanchez & Olga Munoz	Failure to maintain	04/03/2018	Ifeoluwapo Fabayo	04/03/2018
<b>CASE TYPE Elections</b>					
2018-003	(36-17) Carole Portis v. Mutuall 22 The Pines		07/10/2017	Mark Anders	07/11/2017
2018-050	Deer Park HOA v Sudesh Ranade		12/21/2017	Mark Anders	12/21/2017

**CASE TYPE Failure to call or conduct meetings**

2018-025	(61-17) Stacy Jarboe v The Takoma Condominium John	09/20/2017	Mark Anders	09/20/2017
2018-060	Palmisano v Whitley Park Condo Association	01/25/2018	Ifeoluwapo Fabayo	01/29/2018

**CASE TYPE Failure to enforce rules against person subject**

2018-022	(57-17) Damian Cevallos v. Edson Park Condominium	09/11/2017	Mark Anders	09/11/2017
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**CASE TYPE Improper assessments/fees**

2018-073	Lowell Lima v Carter Hill HOA	03/25/2018	Mark Anders	03/26/2018
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**STATUS In Process**

**CASE TYPE Architectural & Maintenance**

2018-087	Churchill East Village v Irene Kapche	Failure to maintain	04/11/2018	Mark Anders	04/11/2018
2018-104	Roman Svirsky v. Woodcock HOA	Other	06/25/2018	Mark Anders	06/27/2018
2018-055	Hallowell HOA v Housing Opportunities Commission	Failure to maintain	12/27/2017	Ifeoluwapo Fabayo	01/02/2018
2018-056	Hallowell HOA v Housing Opportunities Commission	Failure to maintain	12/27/2017	Ifeoluwapo Fabayo	01/02/2018
2018-092	Longmead Crossing v. Francesca De Los Santos and Paul & Patricia Mangus	Failure to maintain	05/08/2018	Ifeoluwapo Fabayo	05/08/2018

**CASE TYPE Elections**

2018-103	Shella Snell vWIntergate at Longmead Condominium	06/18/2018	Mark Anders	06/27/2018
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**STATUS Mediation**

**CASE TYPE Architectural & Maintenance**

2018-004	(39-17) Longmead Crossing v. Charlene Lovings	Failure to maintain	07/18/2017	Mark Anders	07/19/2017
2018-033	Greencastle Lakes v. Nicole Dedjeh	Failure to maintain	10/12/2017	Mark Anders	10/16/2017

2018-069	Steven Thornton v Wanut Grove Condominium	Failure to maintain	02/26/2018	Mark Anders	02/26/2018
2018-071	Joseph Dunn Jr. v Grosvenor Park IV	Unapproved changes	03/11/2018	Mark Anders	03/12/2018
2018-077	Longmead Crossing v. Farhad Parsi	Failure to maintain	04/03/2018	Mark Anders	04/03/2018
2018-095	Edward Woody v. Hampshire Greens HOA	Unapproved changes	05/24/2018	Mark Anders	05/24/2018
2018-099	David and Elina Zlotchenko v. DuFief Homes Association	Unapproved changes	06/14/2018	Mark Anders	06/14/2018
2018-090	Longmead Crossing v. Michael Baker	Failure to maintain	05/08/2018	Ifeoluwapo Fabayo	05/08/2018

**CASE TYPE Failure to call or conduct meetings**

2018-089	Joan Godfrey v. Hamlet North Towne Association, Inc.		05/07/2018	Mark Anders	05/07/2018
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**CASE TYPE Failure to repair/prevent damage to condo units**

2018-096	Andrea Shapiro v. CUO of Midtown Bethesda North Condominium		06/01/2018	Ifeoluwapo Fabayo	06/01/2018
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**CASE TYPE Improper rule adoption/ enforcement**

2018-101	Mary Dolbashian v Kenwood Place Condominium	Other	06/25/2018	Mark Anders	06/27/2018
2018-098	Jayanthi Sambasivan v. Maryland Mutual No. Eight, Inc.	Other	06/14/2018	Ifeoluwapo Fabayo	06/14/2018

**CASE TYPE Open records**

2018-085	John Feldman v. The Greens at Leisure World II		04/09/2018	Mark Anders	04/09/2018
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**CASE TYPE Parking Rules and Enforcement**

2018-097	Caroline J. Kelley v. Waters Landing Association		06/12/2018	Mark Anders	06/12/2018
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**STATUS** New Case

**CASE TYPE** Architectural & Maintenance

2018-079	Longmead Crossing v. Warongrat and Cristino Argueta	Failure to maintain	04/03/2018	Mark Anders	04/03/2018
2018-083	Longmead Crossing v. Smithrose Investments	Failure to maintain	04/03/2018	Mark Anders	04/03/2018

## **Project #2**

### **Common Ownership Communities**

**Principal Agencies:** County Executive, DHCA

Common Ownership Communities (COCs) are a vital component of the housing landscape in Montgomery County and include (1) developments subject to a declaration enforced by a homeowners' association; (2) residential condominiums; or (3) cooperative housing projects. Increasingly, COCs are faced with growing pressures internally (units in foreclosure, delinquent unit owners, deferred maintenance, etc.) that threaten financial stability and externally with policies that discourage communities from investing in their properties or which make it difficult to buy/sell properties.

Councilmembers are concerned for the continued affordability and sustainability of COCs and have asked OLO to examine the state of COCs in the County. OLO will compare the current laws and government policies affecting this type of housing to homes not located in the COCs.

In particular, this OLO report will, to the extent possible:

- Catalog all common ownership communities in Montgomery County by location, number and type (HOA, condo, co-op), along with the number and age of housing units;
- Detail the various ways in which County departments interact with COCs from a regulatory/statutory perspective (e.g., services, reports, fees, rebates);
- Compare and contrast fees charged by the County to master-metered COCs to fees paid by single-family homeowners that are not in COCs for the same purpose;
- Compare and contrast financial assistance (credits, rebates, discounts) provided by utilities to residents in master-metered COCs with assistance provided to individuals in single family homes not in COCs which have individual utility bills;
- Examine the eligibility of County residents living in COCs for programs/tax credits and compare them to the eligibility of County residents living in single-family homes not in COCs; and
- Assess the impact of the "commercial" categorization of multi-family COC buildings (e.g., building standards, required permits, cost of permits, etc.).





One of the original homes in Cabin John Gardens, a housing cooperative created in 1956 and probably Montgomery County's first common ownership community.

## CCOC COMMUNICATOR Summer 2018

### USING TAX BASIS ADDITIONS AS A WAY TO REDUCE CAPITAL GAINS TAXES ON SALE OF HOME

By Howard A. Goldklang, CPA, and S. Gail Moore, CPA

#### Inside this issue:

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and Directors 8

When you sell your home you may be faced with a taxable gain. A gain or loss on your home is determined by the selling price less the adjusted cost basis in the home. Improvements to your property will increase the basis in your home.

For condominium owners and homeowner association members, increases in basis may occur in two ways:

#### 1. Any specific improvement to your unit.

(continued on page 4)

### CCOC TOSSES OUT SECOND CONDO ELECTION IN TWO MONTHS

In our last issue (Spring, 2018) we reported the CCOC's decision in *Jones v. Georgian Colonies Condominium Ass'n*. CCOC #40-17 (May 26, 2018). In that case the hearing panel held invalid a disputed election because the election notice sent out by the board was improper and as a result all decisions made by the newly-elected board at its meeting immediately following the election were also invalid. Less than a month later, another CCOC hearing panel has invalidated a disputed election because of the use of improper proxy ballots and confusing ballot-counting procedures that made it impossible to determine the accuracy of the vote tallies.



In the most recent case, *Tavens v. The Willoughby Condominium of Chevy Chase*, CCOC No. 2018-072 (June 22, 2018), the Condo's election notice was not the problem but its ballots were. To

(continued on page 5)

# A Reminder of Some of the Notices that Associations Must Give Annually

By Jason Fisher

From long experience serving community associations, I can sympathize with directors and managers who feel so overwhelmed by the many laws governing their associations that they start to lose track of what they must do. To help you out, I've put together a short list of five of the most important notices that you must give to your members and to the CCOC.

## 1. *Elections: Informing the Members of the Who, the How, and the When*

As another article in this issue demonstrates (see page 5), defective election notices and sloppy election procedures can result in a declaration that the election is invalid and must be done all over. This is avoidable if the board and its manager work together to plan for the election well before it will be held.

In addition to the requirements set forth in the community's Bylaws, Section 10B-17 of the Montgomery County Code imposes very specific requirements for doing an election correctly.

- \*Notice of the Election – the association must notify all members at least 10 days but no more than 90 days before an election of the directors of the association. The notice must explain the election procedures and the date of the election.

- \*Under State law for new communities where the developer is still in control, the initial election for the board must be held not later than 60 days after the date that 50 percent of the units have been conveyed by the developer to the initial purchaser. Specifically, the provision provides:

Election dates and procedures. Not less than 10 nor more than 90 days before an election for the governing body of an association, the governing body must notify all members of the association of election procedures and the date of the election. An initial election for the governing body must be held not later than 60 days after the date that 50 percent of the units have been conveyed by the developer to the initial purchasers. (See Note at the end of this article.)

## 2. *Proposed Annual Budgets*

Owners have the right to have advanced review of an association's proposed annual budget, before it is voted upon and approved. This requires that associations mail the send the budget to the unt owners prior to its adoption. While there are nuances among the types of community associations, the following general rules apply and should be followed to prevent issues for failing to comply. To be safe, associations should be mindful that communication and transparency with the owners is best.

Both the HOA and Condominium Acts specifically require that at least 30 days before the budget is going to be voted on for adoption by the Board (or unit owners—as required by some documents). For Cooperatives, the Bylaws will typically specify the timing. Other requirements for the actual meeting include allowing the owners to attend an open meeting where it will be discussed and providing the owners the ability to provide comments *before* it is voted upon.

After the approval of the budget, another notice to the owners is required to be provided prior to the implementation of the new amounts. The specific timing of that notice is specified by the governing documents. In most instances, however, the Bylaws require 30 days' notice before the first payment is due.

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# CCOC ROLLS OUT UPDATE TO DIRECTOR TRAINING

By Mark Fine, CCOC Chairperson

The Commission on Common Ownership Communities (CCOC) unveiled its 2018 update to the mandatory Board of Director Training Program at its Town Hall meeting at the Silver Spring Civic Center this spring. In addition to the online version that was initiated in 2015, the Commission now offers its program in a classroom setting.

The program covers the fundamentals necessary for an informed director of a board. These include in part: legal structures and your governing documents, ethical behavior, the Fair Housing Act, financial management, the role of the board of directors, administrative procedures, rules enforcement, collections, and conducting meetings and hearings.

Students who register for a class, will receive a workbook that can be used with the program presentation and, because it also includes some information not offered in the presentation, it will be a useful reference for students to refresh and broaden their knowledge. The workbook will be available on-line soon, but until then we can email a .pdf or mail a 'hard' copy upon request.

Developed by The Montgomery County Maryland Commission on  
Common Ownership Communities



The workbook will also assist those who prefer to take the online version of the program. The link can be found on our website: [www.montgomerycountymd.gov/ccoc](http://www.montgomerycountymd.gov/ccoc).

Both programs take approximately 2.5-3 hours to complete. The presentation includes short videos and a "check for knowledge" quiz. Should you wish to schedule a class for your Association, at your community's facility or at the Commission's offices, please contact the Commission at [ccoc@montgomerycountymd.gov](mailto:ccoc@montgomerycountymd.gov)

## Sign Up for eSubscribe!

If you don't receive this newsletter and other CCOC news by email, you can do so by signing up for the County's email services. Simply go to <http://www.montgomerycountymd.gov/govdelivery> and open an account (if you don't already have one), and follow the instructions to select the CCOC. The CCOC is part of the Department of Housing and Community Affairs.



## TAX BASIS ADDITIONS

(continued from page 1)

Examples include installing a hardwood floor or remodeling/upgrading a kitchen.

### **2. Improvements that the condominium and homeowner associations make to the overall property.**

Examples might be roof replacement; alterations or additions to the property such as adding a tennis court or a playground. The key is that it is a capital replacement or improvement that adds to the life of the asset, and it has a life greater than one year. If the expenditure meets the appropriate requirements then the unit owner can add their percentage interest portion to their basis thereby reducing their potential profit in the sale of their unit.

In addition to expenditures made by the individual unit owners, an Association could advise its member owners that they might be able to add to their basis their percentage interest in the annual contribution to replacement reserves from their operating budget. This would be appropriate where the Association has a capital replacement reserve fund based on a prepared reserve study. As long as the contribution to the fund is capital in nature, the unit owners can add their percentage interest in the annual contribution to their basis.

It must be remembered that any contributions related to an *operating reserve* or a *contingency reserve*, and any contribution made for *maintenance* items (e.g., painting) must be eliminated from the allocation and will not increase basis. If expenditures are made from replacement reserves for items that are not capital in nature, then the contribution should be reduced by that amount. For example, if the budgeted contribution was \$300,000 but a \$50,000 painting project was funded from replacement reserves, then the net contribution eligible for basis increase would be \$250,000 times each unit's percentage interest.

The use of tax basis additions as a way of reducing the possible capital gains taxes on residential units is not limited to condominiums. Members of homeowner associations and of housing cooperatives can also benefit from this deduction when the association spends money for qualified capital repairs and improvements to the property owned by the association.

How can member owners obtain this information? The best way is to have the association request its accountant to provide an annual tax basis letter identifying the total potential addition to the current tax basis for qualified expenses and contributions to capital reserves. Owners should then save those letters with other documents relevant to the purchase and improvement of their homes.

Howard A. Goldklang, CPA, and S. Gail Moore, CPA, are principals of the Goldklang Group CPAs, P.C.. The Goldklang Group is one of the area's leading CPA firms specializing in providing audit and tax services to common ownership communities, with 40 years of experience and a staff of nearly 50 employees. For more information visit [www.GGroupCPAs.com](http://www.GGroupCPAs.com). The opinions expressed in this article are those of the authors and do not necessarily represent the opinion of the CCOC.

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## CCOC TOSSES OUT SECOND CONDO ELECTION IN TWO MONTHS

(CONTINUED FROM PAGE 1)

begin with, the proxy ballots contained the member's vote on one side, and the member's unit number on the other side. This made it necessary for the Condo to open these ballots before the election meeting began in order to determine if there was a quorum. (Each unit had a different percentage of ownership so not all votes had the same weight.) This practice not only violated the secrecy of the ballots but violated Chapter 10B of the County Code, which prohibits opening ballots until the time for voting closes.

To make matters worse, there were problems counting and evaluating the ballots, and numerous recounts resulted in different results, with 762 ballots counted at the election and 804 ballots counted in the 4th and final recount. The hearing panel concluded that it could not confirm the results of the election. "It is not the role of the Commission to recount ballots that have admittedly been modified by one or more entities changing codes or percentages purportedly to correct errors and for which the chain of custody cannot be certified. The original election process was not conducted in accordance with generally accepted standards and must be set aside," the panel wrote. The panel also stated that the integrity of the election process was especially important because it took place during a time of major controversy within the association itself.

The panel ordered the Condo to hold a new election, supervised by an independent agency such as the League of Women Voters and using a management firm that had the ability to handle a complex voting system. (The panel members were Dinah Stevens, Michael Burrows and Aimee Winegar.)

## ELECTION ASSISTANCE FROM THE CCOC

Association annual elections can be complex but serious mistakes are unnecessary and can be avoided through careful review of the relevant association documents, reading the advice and materials offered by the CCOC, and then careful, step-by-step planning.

One source of information is Chapter 3 of the CCOC's online *Manual and Resource Guide* (2017), which deals extensively with annual elections as part of its discussion of proper meeting procedures. Among other things, this chapter discusses how to preserve voter privacy in the use of proxy and absentee ballots.

Sample election forms and checklists are also online in the package *How to Hold an Annual Election*, which is listed under the general heading of "Association Resources."

## A Reminder of Some of the Notices that Associations Must Give Annually

(Continued from Page 2)

### 3. Condominiums: Notice to Members of Liability for Master Insurance Deductible

Section 11-114 of the Maryland Condominium Act requires the Board/management to annually inform unit owners of the individual owner's responsibility for the Condominium's Master Insurance Policy property insurance deductible, as well as the amount of the deductible.

The reason this notice is important is because, in a condominium, unit owners can be liable for some or even all of the costs of repairing damage to their unit, other units or even the common elements if the cause of the damage originates in their unit, even if the owner was not at fault in causing the damage. It is a "strict liability" law. If the cause of the damage comes from an individual unit, that owner is liable for the first \$5,000 of any repairs not covered by the master insurance policy. If the master insurance policy deductible is \$5,000, then the owner pays for the repairs up to the maximum of that \$5,000; if the cost of repairs is less, the owner pays it all.



In addition, members should be reminded that the Master Insurance Policy does not cover their unit's "improvements, betterments or personal property." So, the association is generally not liable for damage to a member's grand piano or costly Persian rug even if the damage is caused by some defect in the common elements. This means that owners would be foolish if they didn't take out their own homeowner insurance to cover those items and their substitute living expenses.

The notice might also state that the association highly recommends that unit owner policies include a special rider, referred to in the industry as an "HO6" policy, to cover the owner's portion of the Master Insurance Policy Deductible. So, for example, if the Master Insurance Policy Deductible portion that is the obligation of the unit owner is \$5000, typically, the HO6 Policy would pay that amount on behalf of the unit owner, less the individual owner's portion of their HO6 deductible, which may only be \$250.00. Without the HO6 rider, a unit owner may have to pay his share of the Master Insurance deductible in cash and on short notice.

### 4. Notice to Members of the CCOC

Condominiums, Homeowners Associations and residential Co-Operatives in Montgomery County are required to advise owners annually about the existence of the Montgomery County Commission on Common Ownership Communities. Section 10B-7A of the Montgomery County Code specifically provides:

The governing body of a community association must, at least annually, distribute information in a form reasonably calculated to notify all owners about the availability of dispute resolution, education, and other services to owners and residents of common ownership communities through the Department and the Commission. The governing body may satisfy this requirement by including with any annual notice or other mailing to all members of the community association any written materials developed by the Department to describe the Commission's services.

This requirement is very simple for associations to meet. In fact, the CCOC has done most of the work for you by providing form language on its website to use (both a "long form" and "short form"), which allows

(Continued on page 7)



## A Reminder of the Notices that Associations Must Give Annually

(Continued from Page 6)

you to simply copy and paste the required information into the association's Annual Meeting or Budget Notice, which all associations are required to send anyway each year. The reason for having this notice is to ensure owners within community are aware of the CCOC's education and dispute resolution offerings. Practically speaking, all associations (and indirectly the owners that pay fees), pay an annual registration fee to support the CCOC, so owners should be aware of the resources it has to offer.

### 5. Board Member Education Report to the CCOC

All newly elected Board members of a community association must get the required training within 90 days after being elected or appointed to the Board for the first time. An often-missed requirement is for the association to provide proper verification to the CCOC that the Board members completed the training. The verification under Section 10B-17(h) requires that the Association:

- (1) certify that each member has successfully completed this training to the Commission;
- (2) retain a copy of the certificate of completion for inspection by the members of the association for the duration of the governing body member's service; and
- (3) report to the Commission no later than December 31 of each year membership data required by the Commission, including
  - (A) the name and address of each member of the board;
  - (B) the date each member completed the required training;
  - (C) the number of vacancies on the board; and
  - (D) the length of time each vacancy existed.

The consistent themes established through the requirements highlighted above are transparency, being proactive in communicating information, and fairness. When it comes to operation and governance of community associations, remember to also consider the practical application of the requirements and good old common sense.

**Note:** Concerning election notices, there appears to be a conflict between County and State laws for new homeowner associations (but not condominiums or cooperatives). County law (Section 10B-17) states that new associations must hold elections once 50% of the homes have been sold to private owners; but State law (Section 11B-1016.1 of the HOA Act) says that unless the Bylaws provide otherwise, a new HOA must call the election within 60 days after 75% of the homes have been sold to private owners. Which law should the HOA obey? In my experience, HOAs usually obey the State law, and I doubt the County intended to create a conflict with the State law. Any HOA faced with this situation should consult its attorney once it reaches the 50% level.

Jason Fisher is the principal and founder of Fisher CAC, where he serves as a professional consultant to community associations, management companies, individuals and developers. He is a former president of the Washington, DC Chapter of the Community Associations Institute.

## Private Sources of Information & Assistance for Common Ownership Communities

The CCOC, as a government agency, is sometimes limited in the kinds of services it can offer to the public. Fortunately, there are private organizations that can supplement the CCOC's efforts with their own programs.

Chief among these is the Community Associations Institute's Washington Area Chapter. The CAI not only offers excellent education programs, it also can lobby for improvements in County and State laws, and it has lists of professionals who specialize in common ownership services of all kinds. Its website is [www.caide.org](http://www.caide.org).

A new entry into this field is End the Condo Crisis, [www.endcondocrisis.org](http://www.endcondocrisis.org). This group focuses on improving the lot of condominiums in Montgomery County, and in bringing their problems to the attention of lawmakers. ECC sponsors a 6-point program of reforms, including changes to County laws and programs that discriminate unfairly against homeowners in community associations compared to the benefits available to homeowners who are not in community associations. It also publishes lists of political candidates who support its programs.

A statewide organization that advocates for the rights of members of all community associations is the Maryland Homeowners' Advocacy Alliance, whose website is [www.md-hoa.org](http://www.md-hoa.org). The Alliance's goal is to protect the rights of homeowners through education, encouraging good governance, civility, the use of best practices, and informed participation in community affairs.

Last but certainly not least is the Conflict Resolution Center of Montgomery County, [www.crcmc.org](http://www.crcmc.org). Individuals as well as association boards and managers can use the Center to defuse and resolve chronic conflicts in community associations—whether between boards and homeowners, between board members themselves, or neighbor versus neighbor. If both parties agree, the Center's trained mediators will work with the parties to resolve the dispute in an amicable fashion. Its services are free.

### A Note from the Editor

This newsletter is voluntarily edited by Peter Drymalski, a former member of the County staff assigned to the CCOC. Any opinions expressed in the signed articles are those of their authors and in the unsigned articles are those of the editor. The opinions do not necessarily reflect the opinion of the CCOC or of Montgomery County. The CCOC appreciates the services of those who have taken the time and effort to share their knowledge with the readers.



2018

# Department of Housing and Community Affairs

COC PROGRAM MONTHLY REPORT  
TIM GOETZINGER, DIVISION CHIEF



HOUSING AND COMMUNITY AFFAIRS | 1401 Rockville Pike, 4th Floor; Rockville MD 20852

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## Program Description

The Common Ownership Community Program ensures fair and equitable relations between the governing bodies of homeowner associations, condominium associations, and cooperatives, and the individuals living within these common ownership communities, and encourages the maintenance and improvement of housing. Activities include mediating and arbitrating disputes; providing information and technical assistance to all parties; and taking legal action as necessary, including referring unresolved complaints to the Montgomery County Commission on Common Ownership Communities.

## List of Registered COCs

Common Ownership Communities (COC) are required to provide the Department of Housing and Community Affairs (DHCA) with its elected leadership and managing agents every year (Montgomery County Code Sec. 10B 7(a)(1)). Every attempt is made to ensure the accuracy and reliability of the COC information on this website. However, this information is provided as a convenience "as is" without any guarantee of the accuracy, content, completeness or reliability of the information contained. It is the responsibility of the COC to ensure the accuracy of the information and official representatives may make updates by going to the [DHCA COC Registration website](#) or contacting DHCA at 240-777-0311.

This list is updated in real time and is available at <https://apps.montgomerycountymd.gov/DHCA-Licensing/COC/List>

City	Communities	Units
ASHTON	9	536
BELTSVILLE	1	89
BETHESDA	78	8,322
BOYDS	11	1,542
BROOKEVILLE	11	885
BURTONSVILLE	23	3,342
CABIN JOHN	4	205
CHEVY CHASE	22	3,148
CLARKSBURG	39	5,751
DAMASCUS	23	1,684
DARNESTOWN	8	899
DERWOOD	8	438
GAITHERSBURG	91	12,718
GERMANTOWN	125	23,434
KENSINGTON	16	714
LAUREL	2	49
LAYTONSVILLE	12	464
MONTGOMERY VILLAGE	16	7,840

NORTH BETHESDA	9	1,482
NORTH POTOMAC	28	3,724
OLNEY	42	7,972
Poolesville	1	17
POTOMAC	71	6,009
ROCKVILLE	136	18,683
SANDY SPRING	5	160
SILVER SPRING	249	27,486
SPENCERVILLE	2	40
TAKOMA PARK	18	591
WHEATON	6	324
<b>Grand Total</b>	<b>1,066</b>	<b>138,548</b>

# Financial Reports

## Revenue

### Revenue Tracking for Cost Center - 76206

Time run: 9/3/2018 9:00:07 AM

\* Thru FY19 Period 3 - On Going

CostCenter	Fund Desc	Account Character	Account Code	Account Name	Orig Budget	Latest Budget	Curr Mo Exp	YTD Actual Amt	Variance	%Received
76206 - Common Ownership Community Programs	001 - General Fund	Charges for Services Total			(685,125)	(685,125)	-	(620,437)	(64,688)	90.56
		REV03	44800	Office of Common Ownership Community Registration Fees	(680,125)	(680,125)	-	(619,537)	(60,588)	91.09
			44801	Common Ownership Community - User Fees	(5,000)	(5,000)	-	(900)	(4,100)	18.00
			4R308-Charges/Fees - Housing & Econ Development Total		(685,125)	(685,125)	-	(620,437)	(64,688)	90.56
		001 - General Fund Total			(685,125)	(685,125)	-	(620,437)	(64,688)	90.56
	76206 - Common Ownership Community Programs Total				(685,125)	(685,125)	-	(620,437)	(64,688)	90.56
Grand Total					(685,125)	(685,125)	-	(620,437)	(64,688)	90.56

## Expenditures

Cost Center	Fund	Account	Latest Budget	YTD Actual Amt	YTD Encumb Amt	YTD Total Exp	Remaining Balance	Rem%	
76206 - Common Ownership Community Programs	EXP01 - Personnel Costs Total		439,877	33,049	-	33,049	406,828	92.49	
	001 - General Fund	50010 - Full Time Salaries	339,662	23,468	-	23,468	316,194	93.09	
		50110 - Annual Leave Pay	-	299	-	299	(299)	-100.00	
		50112 - Sick Leave Pay	-	633	-	633	(633)	-100.00	
		50116 - Compensatory Leave Pay	-	296	-	296	(296)	-100.00	
		50324 - Overtime	-	349	-	349	(349)	-100.00	
		5A001 - Salaries and Wages Total	339,662	25,046	-	25,046	314,616	92.63	
		51002 - Social Security- FICA	20,354	1,855	-	1,855	18,499	90.89	
		51004 - Social Security- FICA Medicaid	4,925	-	-	-	4,925	100.00	
		5A002 - Social Security Total	25,279	1,855	-	1,855	23,424	92.66	
		52002 - Group Insurance	51,207	4,079	-	4,079	47,128	92.03	
		5A003 - Group Insurance Total	51,207	4,079	-	4,079	47,128	92.03	
		53016 - RSP (Retirement Savings Plan)	9,640	125	-	125	9,515	98.70	
		53018 - ERS (Employee Retirement Plan)	6,741	828	-	828	5,913	87.72	
		53020 - GRIP (Guaranteed Retirement Income Plan)	7,348	1,117	-	1,117	6,231	84.80	
		5A004 - Retirement Total	23,729	2,069	-	2,069	21,660	91.28	
	EXP02 - Operating Expenses Total		215,000	3,895	34,358	38,253	176,747	82.21	
	001 - General Fund	60018 - Professional Computer	30,000	-	-	-	30,000	100.00	
		60026 - Professional Educational/Training	80,000	-	-	-	80,000	100.00	
		60062 - Management Consulting	35,000	-	-	-	35,000	100.00	
		60106 - Financial Advisor Services	35,000	-	-	-	35,000	100.00	
		60168 - Temporary Office Clerical	-	-	21,122	21,122	(21,122)	-100.00	
		60426 - Preparation Of Transcripts/Recorders	-	1,619	-	1,619	(1,619)	-100.00	
		60530 - Other Professional Services	-	-	12,000	12,000	(12,000)	-100.00	
		6A001 - Contract and Services Total	180,000	1,619	33,122	34,741	145,259	80.70	
		61926 - Building Or Space Rentals/Leases	-	520	-	520	(520)	-100.00	
		6A003 - Rental Leases Total	-	520	-	520	(520)	-100.00	
		62010 - General Office Supplies	1,500	1,170	715	1,885	(385)	-25.66	
		62016 - Computer Supplies	1,000	-	-	-	1,000	100.00	
		62018 - Computer Equipment - Non Capitalized	2,500	-	-	-	2,500	100.00	
		62022 - Paper & Supplies For Copiers	150	-	-	-	150	100.00	
		6A004 - Office Supplies/Equipment-Not Capitalized Total	5,150	1,170	715	1,885	3,265	63.40	
		63022 - Other Central Duplicating Services - Printing	1,500	-	-	-	1,500	100.00	
		6A013 - Printing - Cental Duplicating Services Total	1,500	-	-	-	1,500	100.00	
		63200 - Central Duplicating - Postage - Bulk	2,500	460	-	460	2,040	81.59	
		6A015 - Mail - Central Duplicating Services Total	2,500	460	-	460	2,040	81.59	
		63604 - Cellular Phone Line Charges	-	42	-	42	(42)	-100.00	
		6A018 - Phones/Telecommunication Services Total	-	42	-	42	(42)	-100.00	
		64010 - Metropolitan Area Travel	250	-	-	-	250	100.00	
		6A021 - Travel Total	250	-	-	-	250	100.00	
		64120 - Other Education	500	-	-	-	500	100.00	
		6A022 - Training and Education Total	500	-	-	-	500	100.00	
		64208 - Other Dues	400	-	-	-	400	100.00	
		6A023 - Memberships and Dues Total	400	-	-	-	400	100.00	
		64410 - Meeting Room Rentals	-	-	520	520	(520)	-100.00	
		6A025 - Special County Functions Total	-	-	520	520	(520)	-100.00	
		69038 - Transcripts	14,000	85	-	85	13,915	99.39	
		69999 - Other Miscellaneous Operating Expenses	10,700	-	-	-	10,700	100.00	
		6A099 - Miscellaneous Operating Expenses Total	24,700	85	-	85	24,615	99.66	
76206 - Common Ownership Community Programs Total			654,877	36,944	34,358	71,301	583,576	89.11	
Grand Total			654,877	36,944	34,358	71,301	583,576	89.11	

## MC311 Service Request Details

MC311 Customer Service Center is Montgomery County's source for non-emergency government information and services. You can reach MC311 by calling 311 in the County or 240-777-0311, 711 for MD Relay TTY, from anywhere, Monday - Friday 7 a.m. – 7 p.m. Use the links on this page, or follow us on twitter [@311MC311](#).

Annually, DHCA responds to 25,000 – 35,000 services requests with the Housing Code Enforcement, Landlord Tenant Affairs and Licensing and Registration receiving approximately 10,000 requests annually.

Below is a summary of the service requests processed by Common Ownership Communities for the current month and fiscal year to date (July – Present).

### Month to Date

SLA	Topic	# of SRs	# of SRs meeting SLA	% of SRs meeting SLA
3	Request to Speak to a Commission on Common Ownership Communities (CCOC) Staff Member	68	68	100.00%
1	Condominium or Homeowners Association Complaints	2	2	100.00%
Total		70	70	100.00%

### Fiscal Year to Date

SLA	Topic	# of SRs	# of SRs meeting SLA	% of SRs meeting SLA
3	Request to Speak to a Commission on Common Ownership Communities (CCOC) Staff Member	122	121	99.18%
1	Condominium or Homeowners Association Complaints	3	3	100.00%
Total		125	124	99.20%

## Activity Status Reports

The following reports demonstrate the volume of cases filed within a given timeframe and details the case status from filing through disposition. Note that most of these reports include details for a specific date range; however, "cases pending" include details that are aggregated (include all open cases in the COC Case Management System).

### Monthly and Annual Case Summaries

#### Activity Summary Report

From 08/01/2018 to 09/01/2018.

By Date Range	Disputes filed:	8
	Disputes adjudicated at Public Hearing:	1
	Decisions issued:	2
	Formal mediation sessions:	0
	Cases pending:	152
Aggregate to Date	New cases	3
	Cases in process	102
	Cases in mediation stages	17
	Cases in default stages	18
	Cases to Commission	1
	Cases in hearing	11
	Cases appealed	0
By Date Range	Disputes closed:	5
	Settled by the parties:	1
	Settled in formal mediation:	0
	Settled after CCOC took jurisdiction:	0
	Resolved by CCOC ruling:	2
	Withdrawn:	2
	No jurisdiction	0

#### Activity Summary Report

From 07/01/2018 to 08/31/2018.

Disputes filed:	13
Disputes adjudicated at Public Hearing:	1
Decisions issued:	7
Formal mediation sessions:	0
Cases pending:	152
New cases	3
Cases in process	102
Cases in mediation stages	17
Cases in default stages	18
Cases to Commission	1
Cases in hearing	11
Cases appealed	0
Disputes closed:	16
Settled by the parties:	2
Settled in formal mediation:	3
Settled after CCOC took jurisdiction:	0
Resolved by CCOC ruling:	7
Withdrawn:	2
No jurisdiction	1

### Monthly Trends

COC Case Inflow / Outflow	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Total
Disputes filed:	6	7											13
Disputes adjudicated at Public Hearing:		1											1
Decisions Issued:	5	2											7
Formal mediation sessions:													0
Disputes closed:	11	5											16
Settled by the parties:	1	1											2
Settled in formal mediation:	2												2
Settled after CCOC took jurisdiction:													0
Resolved by CCOC ruling:	6	2											8
Withdrawn:	1	2											3
No jurisdiction	1												1

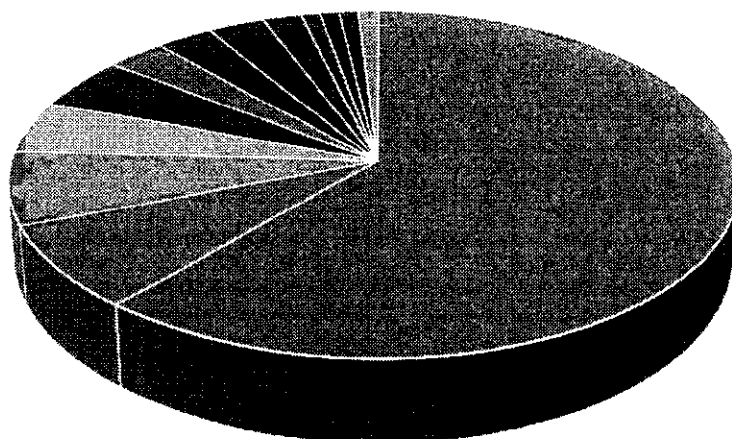


## FY18 Cases by Case Type

More cases were filed in FY18 than in any other year. Although the bulk of cases involved architectural and maintenance issues, nearly 25 percent of all cases involved association governance issues (elections, meetings, fees, rules). Case details are provided in Attachment 1.

Case Type	Cases Filed
Architectural & Maintenance	63
Elections	8
Failure to call or conduct meetings	7
Improper assessments/fees	5
Improper rule adoption/ enforcement	5
Noise/Nuisances	3
Open records	3
Failure to enforce rules against person subject	3
Failure to repair/prevent damage to condo units	2
Parking Rules and Enforcement	1
Common Areas	1
Dispute over damage charges	1
Harassment	1
<b>Grand Total</b>	<b>103</b>

FY18 Cases by Type



- Architectural & Maintenance
- Elections
- Failure to call or conduct meetings
- Improper assessments/fees
- Improper rule adoption/ enforcement
- Noise/Nuisances
- Open records
- Failure to enforce rules against person subject
- Failure to repair/prevent damage to condo units
- Parking Rules and Enforcement

## Cases Closed in FY18

In FY18, 55 cases were closed, and although different case types inherently take longer to close than others, the below chart and graph demonstrate how long it took to close cases in FY18. As a part of a FY19 initiative, DHCA and the CCOC will take a comprehensive look at historic performance to create baselines to measure and optimize performance.

<b>Total Cases Closed in FY18</b>	<b>55</b>
Less than 30 days to close	3
Between 31 and 60	5
Between 61 and 90	10
Between 91 and 120	6
Between 121 and 180	12
More than 180	19

