REVIEW OF RENTAL LICENSE AND COMMON OWNERSHIP COMMUNITIES REGISTRATION FEES

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EXECUTIVE SUMMARY

The laws of Montgomery County require that:

- To offer housing for rent, a landlord must obtain a rental license from the County and pay an annual fee for each unit; and

- Common ownership communities – entities such as homeowner associations, residential condominiums, and cooperative housing projects – must register with the County and pay an annual registration fee for each unit.

The County Government's Department of Housing and Community Affairs (DHCA) collects and expends revenue received from the rental license and common ownership communities registration fees. This study reviews the relationship between the revenues generated from these fees and the costs of the programs supported by these fees.

In FY 05, County Government plans to spend rental license and common ownership communities fee revenue on four different programs managed by DHCA as well as DHCA administration costs. DHCA's FY 05 budget for rental license fees includes $3.8 million in revenue and $3.2 million in expenditures. The FY 05 budget for common ownership communities fees includes $260K in revenue and $230K in expenditures.

OLO identified a $2 million surplus in rental license and common ownership communities registration fee revenue. The revenue surplus has accumulated since FY 03, when the County began accounting for these fees within the General Fund instead of as separate Special Revenue Funds. OLO found two primary factors leading to the $2 million surplus: overhead costs were assumed in DHCA's fee calculations, but not transferred to the General Fund since the switch in accounting practices; and fee revenue has exceeded program expenditures.

OLO's review supports three recommendations for Council action. OLO recommends that the Council:

- Request that the County Government develop a Reserve Balance Policy for future rental license and common ownership communities registration fee revenue surpluses;

- Decide and communicate the Council's priorities to the County Executive for the allocation of surplus rental license and common ownership communities registration fees in the FY 06 Operating Budget; and

- Request that annual budget submissions to the Council routinely include breakdowns for anticipated rental license and common ownership communities registration fee revenue and expenditures.

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CHAPTER I: AUTHORITY, SCOPE, AND ORGANIZATION

A. Authority

Council Resolution 15-710, *FY 2005 Work Program of the Office of Legislative Oversight*, adopted July 27, 2004.

B. Scope

As part of the budget process, the Council has raised fees as a method to increase overall revenue. This report looks at two fees collected by the Department of Housing and Community Affairs (DHCA) and examines whether the revenue generated accurately relates to the program costs.

More specifically, this report studies the relationship between the revenues generated from Montgomery County's rental license and common ownership communities registration fees and the costs of the programs those fees support. It includes a review of the accounting structure that DHCA uses to track fee revenues and program costs; the specific program activities that fee revenue will pay for in FY 05; and the fee-revenue relationship before and after the elimination of the Landlord-Tenant and Common Ownership Communities Special Revenue Funds.

C. Organization of Report

Chapter II, Overview of Fees, describes the Rental License and Common Ownership Communities fees, their regulatory authority, their current and former accounting structure, and applicable County financial management and accounting practices.

Chapter III, Rental License Fees, describes the FY 05 program activities supported by rental license fees; the FY 05 accounting structure, revenues, and expenditures related to rental license fees; and an FY 00 to FY 05 comparison of the revenues and expenditures.

Chapter IV, Common Ownership Communities Registration Fees, describes the FY 05 program activities supported by common ownership communities fees; the FY 05 accounting structure, revenues, and expenditures related to common ownership communities fees; and an FY 00 to FY 05 comparison of the revenues and expenditures.

Chapters V and VI present OLO's Finding and Recommendations.

Chapter VII, Agency Comments, contains the written comments received from the Chief Administrative Officer on the final draft of the report.

D. Methodology

Office of Legislative Oversight staff member Craig Howard conducted this study. OLO gathered information through document reviews, general research, and interviews with staff in the Montgomery County Department of Housing and Community Affairs, Department of Finance, and Office of Management and Budget.

E. Acknowledgements

OLO received a high level of cooperation from everyone involved in this study. OLO appreciates the information shared and insights provided by all staff who participated.

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CHAPTER II: OVERVIEW OF FEES

To offer housing for rent in Montgomery County, a landlord must obtain a rental license and pay an annual fee for each unit. Similarly, common ownership communities – entities such as homeowner associations, residential condominiums, and cooperative housing projects – must register with the County and pay an annual registration fee for each unit. The County Government's Department of Housing and Community Affairs (DHCA) manages the fee collection and the programs the fees support.

This chapter provides an overview of the history, legal authority, and structure of the rental license and common ownership communities registration fees. The chapter is organized as follows:

- **Part A** describes the general legal constraints for charging fees;
- **Part B** describes the legal authority and structure of the rental license fee;
- **Part C** describes the legal authority and structure of the common ownership communities registration fee;
- **Part D** describes the current and former accounting structures for the fees; and
- **Part E** reviews certain County financial management and accounting practices applicable to rental license and common ownership community registration fees.

A. Legal Constraints on Fees

In the State of Maryland, local governments have no authority to tax unless specifically authorized by State law. Local governments do have the authority to charge for services if those charges are authorized by local ordinance and not prohibited, regulated, or preempted by State law. Rental license fees and common ownership community registration fees fall into the "charge for services" category.

If a fee is legally construed as a tax, then the fee may be invalidated. In principle, a fee imposed as part of the County's regulatory powers must not exceed the cost of issuing the permit and of inspecting and regulating the permitted activity. A court can find that a fee is legally invalid if it raises revenue that is used to offset the cost of general governmental functions.

B. Rental License Fees

Residential property owners in Montgomery County[1] must obtain a license from DHCA's Division of Consumer Affairs, Licensing and Registration Unit prior to renting their property. This includes single-family homes, apartments, and condominiums. In order to obtain the rental license, the property owner must complete a Rental Facility License

[1] Montgomery County rental licensing requirements do not apply to properties within the incorporated municipalities of Chevy Chase Village, Town of Chevy Chase, City of Gaithersburg, Town of Garrett Park, Town of Kensington, Town of Laytonsville, Town of Poolesville, City of Rockville, Town of Somerset and Town of Washington Grove.

Application and pay an annual license fee. Licenses are valid for one fiscal year (July 1st to June 30th).

Legal Authority. Chapter 29, Article III of the Montgomery County Code establishes the requirement to obtain a license prior to operating a dwelling unit as rental housing. Section 29-16 of Article III establishes two classes of rental housing licenses. A Class One rental housing license is required for each apartment complex and personal living quarters building, and for multifamily dwelling units operated as rental housing. A Class Two rental housing license is required for each single-family dwelling unit operated as rental housing.

Section 29-20 of Article III requires the County Executive to **"establish an annual license fee per dwelling unit for each class of rental housing license by regulation under method (3) in an amount sufficient to pay the costs of administering this Chapter."** Article III also contains a penalty clause (Section 29-18) stating that operation of rental housing without the required license is a Class A violation.[2]
In addition to creating the license fee, Chapter 29 also establishes:

- The Commission on Landlord-Tenant Affairs;
- Standard rental obligations for both landlords and tenants;
- A dispute resolution process for landlord-tenant disputes;
- Inspection requirements for multi-family apartment complexes;
- Rental housing data collection guidelines; and
- Property standards for mobile home parks.

Executive Regulations. The County establishes the license fee for rental dwelling units through executive regulation. The regulation is under Method 3, meaning the County Executive sets the fee level with notice to the County Council. A Method 3 regulation becomes effective when the Council receives the regulation.

The Executive Regulation governing rental license fees establishes different rates for condominium, apartment, and single-family rental units. The Condominium License fee applies to rented units located in a condominium or co-operative building. The Apartment License fee applies to multi-family apartment complexes and accessory apartments. The Single-Family License fee applies to rented, detached single-family homes and townhouses.

A substantial restructuring of fees occurred in FY 03, when the Apartment License fee increased 9%, the Condominium License fee increased 57%, and the Single-Family License fee increased 58%. DHCA recommended the differentiated fee structure based on its experience with the amount of staff time associated with the specific types of properties. During the FY 05 budget process, the Council approved increased rental license fees as part of the DHCA budget to fund 750 hours of code enforcement overtime.

[2] Under Section 1-19 of the County Code, the penalty for a Class A violation is $500 for the initial offense and $750 for a repeat offense.

As a result, the County Executive issued Temporary Executive Regulation 11-04T, effective July 8, 2004, that set the following rental license fees:

- $38 per unit for an Apartment License;
- $56 per unit for a Condominium License; and
- $98 per unit for a Single-Family License.

The table below shows the rental license fee levels from FY 00 through FY 05.

TABLE 1: FY 00 TO FY 05 RENTAL LICENSE FEE RATES PER UNIT

Year	Apartment	Condominium	Single-Family
FY 00	$30	$30	$55
FY 01	$30	$30	$55
FY 02	$35	$35	$60
FY 03	$38	$55	$95
FY 04	$38	$55	$95
FY 05	$38	$56	$98

Source: DHCA

C. Common Ownership Communities Registration Fee

A common ownership community (COC) is a homeowner association, residential condominium association, or cooperative housing project. The leadership of each common ownership community in Montgomery County[3] must register annually with the County's Commission on Common Ownership Communities. To register, each Community must complete a Registration Application and pay an annual registration fee. Registrations are valid for one fiscal year (July 1st to June 30th).

Legal Authority. Chapter 10B of the Montgomery County Code establishes the Commission on Common Ownership Communities and provides guidelines and procedures for the provision of dispute resolution services to COC's and their residents.

Section 10B-7 requires that each common ownership community register annually with the Commission and that failing to register constitutes a Class A violation. It also authorizes the County Executive to **"establish reasonable fees in amounts sufficient to fund the provision of dispute resolution and technical assistance by the Commission and the Department."** Allowable fees include:

- A per unit annual charge to common ownership communities to renew registration;

[3] Montgomery County common ownership community registration requirements do not apply to properties within the incorporated municipalities of Chevy Chase Village, Town of Chevy Chase, City of Gaithersburg, Town of Garrett Park, Town of Kensington, Town of Laytonsville, Town of Poolesville, City of Rockville, Town of Somerset and Town of Washington Grove.

- Fees for service, that seek to recover the actual cost of the service, for technical assistance and dispute resolution; and
- A per unit charge to developers when documents are recorded.

Executive Regulations. The County establishes the registration fee for common ownership communities through executive regulation. The regulation is under Method 2, meaning the regulation becomes effective when the Council adopts a resolution approving the regulation or if the Council takes no action within 60 days of receiving the regulation.

The Code of Montgomery County Regulations (COMCOR) 10B.07.02 establishes a per unit registration fee of $2.25 for each common ownership community. The fee was last increased in FY 03. Table 2 below shows the registration fee levels since FY 00.

TABLE 2: FY 00 TO FY 05 COMMON OWNERSHIP COMMUNITIES REGISTRATION FEE

Registration Fee	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Per Unit Rate	$1.50	$1.50	$1.50	$2.25	$2.25	$2.25

Source: DHCA

D. Current and Former Fee Accounting Structures

Until FY 03, revenues from both the rental license fee and the common ownership community registration fee were accounted for in Special Revenue funds. Rental license fees were placed in the Landlord-Tenant Affairs Fund and COC registration fees were placed in the Common Ownership Communities Fund.

A January 2000 OLO Report discussed the creation of the Landlord-Tenant Fund:

> The County Code contains no authorization for the Landlord-Tenant Affairs Fund, and OLO was unable to locate any paperwork that documents the establishment of the Landlord-Tenant Affairs Fund. It is likely that the Office of Landlord-Tenant Affairs (which was charged with administering the Landlord-Tenant law) requested the Department of Finance or the Office of Management and Budget to establish the fund administratively to account for the revenues OLTA was collecting from the rental licensing fee.[4]

After implementation of the common ownership communities registration fee in 1991, there was no stipulation in the County Code that required the reporting of these fees in a separate special revenue fund. According to the legislative record (see ©2), the Common Ownership Communities Fund was originally established as a separate fund solely because of the similarity of it operations and purpose to the Landlord-Tenant Affairs Fund.

[4] *OLO Memorandum Report: Review of the Landlord Tenant Affairs Fund*, January 31, 2000.

As part of the FY 03 budget process, the County Executive recommended eliminating the Landlord-Tenant Affairs and Common Ownership Communities Special Revenue Funds and accounting for the fees within the General Fund. These recommendations were intended to align the County's budgeting practices with the Governmental Accounting Standards Board Statement 34 (GASB 34). GASB 34 recommends that governments establish and maintain only the minimum number of funds consistent with legal and operating requirements.

The Council's Management and Fiscal Policy (MFP) Committee reviewed and recommended approval of the changes; however, the legislative record indicates that the Committee expressed concern that dissolving the Landlord-Tenant Affairs and Common Ownership Communities funds into the General Fund would make it difficult to know whether the revenues from the fees were used to provide the services for which the revenues were collected. At that time, staff from the Office of Management and Budget and the Department of Finance stated that mechanisms were available to appropriately track revenues and expenses in the General Fund (see ©3).

E. County Financial Management and Accounting Practices

This section reviews selected County financial management and accounting practices potentially applicable to the rental license and common ownership communities registration fees.

Council User Fee Policy. The County Council adopted a User Fee Policy in March 1992. The Council's policy, attached at ©4, is that "User fees should be charged which are proportional to the individual benefit, subject to the criteria below. The starting point should be that 100% of the full cost should be reflected, with a reduction for the estimated public benefit." The policy defines "full cost" as "all direct costs of providing the service, plus indirect (overhead) costs, plus debt service."

Fund Balances. It is general County practice that all non-tax supported funds have a written fund balance policy. The fund balance policies determine the appropriate amount of balance each fund should maintain to protect against revenue shortfalls or unexpected expenditures in any given year. The policies generally indicate the procedures to be undertaken when a fund balance exceeds or drops below the identified threshold. The Landlord-Tenant Fund and Common Ownership Communities Fund were scheduled to have fund balance policies developed prior to their dissolution.

Overhead/Indirect Costs. It is general County policy to charge overhead costs to Special Funds and Enterprise Funds. According to the County's Fiscal Policy, detailed in the *County Executive's FY 05 Recommended Operating Budget*, "special funds pay an overhead charge to the General Fund to cover the management and support services provided by General Fund departments to these special fund programs." Additionally, it is the intent of Enterprise Funds to obtain "full cost recovery for direct and indirect government support." (©8)

The County does not have a specific, written policy related to overhead costs and revenues accounted for in the General Fund. However, the Policies for User Fees and Charges included as part of the overall Fiscal Policy states that "the cost of a program or service is an important factor in setting user charges. Costs may include not only the direct personnel and other costs of operating a program, but also indirect costs such as overhead for government support services." (©10)

The Office of Management and Budget (OMB) establishes overhead charges as a set percent of personnel costs, based on a formula reviewed and approved by the Federal Government (©12). For example, in FY 05, OMB set overhead costs at 12.6% of personnel costs.

CHAPTER III: RENTAL LICENSE FEES

DHCA's Division of Consumer Affairs administers the County's rental licensing process and collects rental license fees. DHCA uses these fees to support a variety of programs administered through the Division of Housing. This chapter discusses the rental licensing fee and the programs it supports. The chapter is organized as follows:

- **Part A** discusses the FY 05 program activities funded with rental license fee revenue;
- **Part B** details the FY 05 accounting structure, revenues, and costs related to rental license fees; and
- **Part C** provides a comparison of costs and revenues from FY 00 to FY 05.

A. FY 05 Program Activities

In FY 05, rental license fees support, in whole or in part, four specific DHCA programs – Code Enforcement, Landlord-Tenant Mediation, Licensing/Registration, and Consumer Protection – as well as general DHCA administration costs. Table 3 summarizes the FY 05 program expenditures. Each of these programs and cost components is described in further detail following the table.

TABLE 3: FY 05 RENTAL LICENSE FEE REVENUE DISTRIBUTION BY DHCA PROGRAM

Program	Rental License Fee Revenue*	% of Total Rental License Fee Revenue
Code Enforcement	$1,681,324	53%
Landlord-Tenant Mediation	$835,545	26%
DHCA Administration**	$284,852	9%
Licensing/Registration	$245,045	8%
Consumer Protection	$147,431	4%
Total	**$3,194,197**	**100%**

*Portion of FY 05 projected rental license fee revenue allocated to fund all or part of FY 05 program budget.
**Includes administrative costs for the Housing Division Chief budgeted in the Housing Loans program.
Sources: DHCA and FAMIS

1. Code Enforcement

DHCA's Code Enforcement Section within the Division of Housing administers the Code Enforcement program. This program enforces Chapters 26 (Housing Standards), 48 (Solid Waste), and 58 (Weeds) of the County Code by inspecting rental and owner-occupied housing to ensure safe and sanitary conditions. The program also conducts rental housing inspections required under Chapter 29 (Landlord-Tenant Relations). In FY 05, Rental license fees and associated revenue pay for 74% of the Code Enforcement program. The Solid Waste Fund pays for the remaining 26%. DHCA allocates 17.7 of the programs 23.5 County-funded workyears (or 75%) to housing code enforcement.

The major activities of the Code Enforcement program are periodic inspections required by law, complaint-based investigations (including solid waste inspections), and targeted neighborhood projects. DHCA estimates that approximately 90% of the activities of the Code Enforcement program serve rental properties. In FY 04, DHCA inspected 18,000 properties/housing units.

DHCA's *Housing Code Enforcement Handbook* describes the code enforcement process:

> "An inspection is triggered by a complaint, referral, required inspection, or as part of an overall Departmental strategy in particular neighborhoods (target neighborhoods). If violations are observed, a violation notice is prepared and the owner has a stated period of time to correct the violations. After the stated time period has elapsed, the property will be re-inspected. If the owner has made the required repairs, the case is closed. Inspectors can grant for good cause an extension of time to correct violations. If the owner is not responsive, the Inspector takes legal action by issuing civil citations to the owner....In addition to the fine, the Inspector requests an Order from the Court requiring that the violations be corrected (an Abatement Order). If the owner fails to correct the problem within the timeframe set by the Judge, this Order allows the Department to enter the property, make the repairs and charge the owner. If the owner fails to pay for the repairs, the Department places a lien against the property and initiates legal actions to collect this lien."

Legally Required Inspection Activities. The required inspection activities of the Code Enforcement program consist of triennial inspections for multi-family properties and other inspections of accessory apartments and potential foster care and adoption homes.

- *Multi-Family Apartment Complexes* – The triennial inspections of multi-family units, required by County Code, equate to approximately 60,000 inspections each year. DHCA notifies the apartment owner, the tenant, and the management company prior to the inspections.

- *Accessory Apartments* – The Code Enforcement Section inspects accessory apartments annually as part of the licensing process. In FY 04, DHCA inspected 214 accessory apartments. Staff conduct follow-up inspections prior to issuing an accessory apartment license if problems were found in the initial inspection.

- *Adoption and Foster Care Homes* – The Code Enforcement Section conducts a one-time inspection of all residences to be used as foster care homes or for potential adoptions. In FY 04, DHCA conducted 500 adoption and foster care inspections. Staff conduct follow-up inspections if problems were found in the initial inspection.

Complaint Investigations. The Code Enforcement program administers an investigation program to address complaints in multi-family properties and single-family neighborhoods. DHCA conducts compliant-based code investigations for both rental and owner-occupied properties.

Complaints can be initiated via phone, mail, or online. A person may file a complaint anonymously or may request that their identity remain confidential. An inspector does not notify the property owners that an inspection will occur and an inspector generally conducts an inspection within four days of receiving a complaint. When an inspector conducts a complaint inspection, he or she will also look for code violations at other properties in the same neighborhood or vicinity.

The Code Enforcement program received over 5,400 code violation complaints from the public in FY 04. Approximately 80% of these calls were for single-family properties, 18% were for multi-family properties, and 2% were for commercial properties. Roughly 25% were solid waste complaints. According to DHCA, the majority of the solid waste complaints relate to single-family homes (both rental and owner-occupied) or commercial properties.

Targeted Neighborhoods. These special projects target certain geographic areas for code enforcement inspection activities. DHCA began the program to target certain neighborhoods in 1997 to focus the resources of the Department in neighborhoods with older deteriorated housing stock, a high concentration of rental units, substantial social problems, or a high number of code violations. Additionally, DHCA periodically conducts inspections in specific neighborhoods based on requests from Civic Associations, Code Enforcement staff, or other County Agencies.

Targeted housing code enforcement initiatives planned for FY 05 include:

- Continuing stepped-up enforcement along major roadways such as Georgia Avenue, Viers Mill Road, Randolph Road, and University Boulevard;
- Developing (in conjunction with the Department of Public Works and Transportation and the Montgomery Housing Partnership) a pilot program for solid waste and rodent control for the multi-family properties in the Long Branch area; and
- Conducting targeted neighborhood inspections in the Connecticut Avenue Estates, Wheaton Crest, and Kingswell communities.

2. Landlord-Tenant Mediation

DHCA's Office of Landlord-Tenant Affairs (OLTA) within the Division of Housing administers the Landlord-Tenant Mediation program. This program promotes fair and equitable relations between landlords and tenants by investigating and conciliating disputes, providing information and technical assistance, and taking legal actions as necessary. Rental license fees and associated revenues pay for 100% of the Landlord-Tenant Mediation program in FY 05. DHCA allocates six Landlord-Tenant Investigators and one Administrator to staff the program.

Landlord-Tenant Complaints. The Office of Landlord-Tenant Affairs (OLTA) receives and processes complaints from tenants and landlords concerning alleged violations of the County's Landlord-Tenant Law. In FY 04, OLTA received 952 complaints. Staff estimate that tenants file 98% of all complaints.

After a party files a complaint, an Investigator discusses the complaint with both parties to assess if a violation of the law may have occurred. Depending on the nature of the complaint, an investigator may be able to resolve the issue through a telephone conversation. If not, staff will schedule a conciliation conference with the aggrieved parties to try and mediate a settlement. Chapter 29 of the County Code requires a conference before a party files a formal written complaint with the Landlord-Tenant Commission. DHCA reports that staff resolves 95% of all complaints through a telephone conversation or a conciliation conference.

Sometimes, parties that resolve their dispute through conciliation will sign a consent agreement, a legally binding document signed by both parties and DHCA staff that details each party's responsibilities for resolving the complaint. Staff estimate that approximately one-third of decisions result in the signing of a consent agreement.

If the parties cannot resolve the complaint through conciliation, the Investigator presents the case to the Commission on Landlord-Tenant Affairs. The Investigator prepares a case summary and recommends whether the Commission should review the case or dismiss the complaint. If the Commission decides that a complaint warrants further review, it is scheduled for a public hearing. If not, the case is closed. After public hearing, the Commission decides the case and issues a consent order requiring both sides to abide by its decision. In FY 04, the Commission held hearings on 40 complaints. Staff also note that approximately 95% of cases referred to the Commission involve single family-units.

Information Requests and Technical Assistance. Investigators provide information to landlords and tenants over the telephone and in person. Landlord-Tenant staff responded to 47,500 information requests in FY 04. For landlords, the investigators typically answer questions about the law and leases. For tenants, the investigators typically answer questions about security deposits or emergency housing services. The investigators also answer questions for tenants or landlords referred from District Court. OLTA rotates responsibility for answering information requests among the investigators during the 40-hour workweek.

DHCA staff provide technical assistance for landlords, such as reviewing leases to ensure compliance with the law and developing model documents (leases, etc.). Using a model lease helps a landlord ensure his or her lease complies with the laws, and puts a landlord on better footing if a tenant files a complaint. Staff report that community and trade organizations, e.g. the Apartment and Office Building Association of Metropolitan Washington (AOBA), reviewed and endorsed the model documents.

Other Services. The Landlord-Tenant Mediation program also provides miscellaneous services to respond to individual requests or broader public information needs. Examples of these services include:

- *Outreach and Community Presentations* – Landlord-Tenant Mediation staff engage in community outreach about the Landlord-Tenant law through landlord-tenant workshops and presentations to community groups. Staff conducted 42 presentations in FY 04.

- *Pre-Move Out Walk-Through Inspections* – If a landlord has a history of not returning security deposits, the Landlord-Tenant Mediation staff will advise a tenant to call and schedule a walk-through inspection before he/she moves out. Landlord-Tenant Mediation staff will accompany owner representatives and the tenant on the walk-through inspection.

- *Development, Publication, and Distribution of Landlord Tenant handbook* – The Landlord Tenant Mediation staff prepared a landlord/tenant handbook and mail the handbook to all licensed landlords and tenants residing in the licensed properties.

3. DHCA Administration

The Administration Program includes the Office of the Director and the Technical Services Section. The Office of the Director provides overall direction, administration, supervision, and managerial support to all the Divisions and programs within the Department. The Technical Services Section is responsible for providing administrative services for the department including budgeting, financial management, personnel management, program oversight, training, and automated systems development and management. Rental license fees and associated revenue fund 38% of the total FY 05 DHCA Administration budget. The remaining portion of administrative costs is funded through the General Fund. DHCA allocates 2.1 of the program's 7.8 workyears (or 27%) to rental licensing activities.

In addition to the costs within the Administration Program, the Housing Loans Program contains $59,000 in administrative expenditures funded by rental license revenue for activities of the Housing Division Chief.

4. Licensing/Registration

The Licensing and Registration Unit in the Division of Consumer Affairs administers the licensing of rental properties. Aside from processing licenses, the Licensing and Registration Unit also: maintains a database of rental properties, conducts outreach efforts, produces an annual apartment directory and vacancy reports, responds to requests for public information, and administers the accessory apartment and registered living unit programs.

In FY 05, the County has 16,505 licensed rental properties representing around 78,000 units. Rental license fees and associated revenue[1] fund 63% of the total FY 05 costs for the Licensing and Registration Unit. In FY 05, DHCA allocates 2.4 of the Unit's 4 workyears (or 60%) to rental licensing activities.

Rental Licensing. The Licensing and Registration Unit manages both the licensing of new rental units in the County and the annual license renewal for existing rental units. For new rental properties, the Unit processes applications and conducts outreach to inform those landlords who may not be aware of the licensing requirements and to find those who may be choosing to avoid licensing. To find potential "evaders," DHCA staff review newspaper advertisements and cross-references DHCA's rental database with the MLS, State property, and tax assessment databases.

After receiving a new application, staff review it to ensure that a landlord provided all the required information and the correct payment amount. Staff record payments into a DHCA database and deliver payments to the Finance Department daily. The Unit produces two daily reports, a deposit report itemizing the payments delivered to the Finance Department and a detailed report listing all the rental unit information. The Licensing Unit received 2,300 new rental license applications in FY 04.

In mid-summer or early fall each year, DHCA begins the process of rental license renewals. The Licensing and Registration Unit sends out renewal notices to all current license holders and receives payment through a retail "lockbox," or contractor, which handles the processing. The contractor provides the Licensing Unit with a daily report of deposits. Staff estimate that the lockbox contractor processes two-thirds of rental license revenue and the Licensing Unit processes one-third. Around October 1st each year, staff begin contacting known landlords who are delinquent in payment.

Licensing Unit staff also process licenses and payments for Accessory Apartments and applications for Registered Living Units. Table 4 details the number of rental units licensed each year since FY 00 by type.

TABLE 4: FY 00 TO FY 05 RENTAL UNITS LICENSED BY TYPE

Year	Apartments	Accessory Apartments	Condominiums	Single-Family Homes
FY 00	56,788	256	5,956	13,043
FY 01	56,885	231	5,785	12,065
FY 02	57,794	226	5,722	11,693
FY 03	58,720	230	5,353	11,331
FY 04	61,828	244	5,083	11,182
FY 05 (Budgeted)	62,000	240	5,250	11,500

Source: DHCA and OLO

[1] Associated revenue refers to revenue from civil citations for non-compliance with rental licensing requirements and other miscellaneous revenue, such as license transfer fees.

Reports. Licensing and Registration Unit staff prepare an annual apartment directory – *A Guide to Rental Facilities in Montgomery County, Maryland* – and an annual *Rental Apartment Vacancy Report*. The apartment directory provides information about multi-family properties for rent. The Vacancy Report presents data about vacancy rates in multi-family properties. Government agencies often use information in the Vacancy Report to administer their programs, and members of the general public also request copies of both reports.

Surveys. Licensing and Registration Unit staff conduct two surveys each year of multi-family apartment complexes. One survey collects data on vacancy rates for the annual Vacancy Report by surveying multi-family complexes with 12 or more units (approximately 440 complexes). The other survey collects occupancy composition data on residents of multi-family complexes (i.e. race, ethnicity, gender, etc.). The Licensing and Registration Unit provides the Office of Human Rights with the data from the occupancy composition survey to analyze for patterns of discrimination.

Public Information Requests and Database Maintenance. The Licensing and Registration Unit maintains a database for rental properties and common ownership communities in the County. Staff regularly access the database to respond to requests from private individuals, businesses, elected officials, and a variety of Federal, State, and County government agencies. The Unit handled over 8,200 requests in FY 04. In addition, staff continually update the database with changes in ownership, address, etc. Staff made over 27,000 edits to the database in FY 04.

5. Consumer Protection

Investigators with the Consumer Protection program staff DHCA's information desk on a rotating basis. The Investigators answer questions and provide information about all DHCA programs and issues, including landlord-tenant issues. DHCA assigns 1.8 workyears of Consumer Affairs Investigators to the Office of Landlord-Tenant Affairs, and funds the personnel expenditures for those workyears through rental license revenue. Rental license fees and associated revenue fund 7% of the total FY 05 Consumer Protection budget.

B. FY 05 Accounting Structure, Revenues, and Expenditures

This section details DHCA's accounting structure for rental license fee revenue and expenditures. It also provides a detailed breakdown of the FY 05 budgeted revenue and expenditures.

1. Accounting Structure

DHCA's departmental accounting structure includes nine programs and distributes funds to index codes within each program. The nine programs are:

- Administration
- Commercial Revitalization
- Federal Programs
- Housing Loans
- Moderately-Priced Dwelling Units
- Code Enforcement
- Landlord-Tenant Mediation
- Licensing/Registration
- Consumer Protection

Six programs contain index codes that collect and/or expend revenue from rental licenses. The table below lists the applicable programs, index codes, and a description of any expenditures and revenues associated with a particular index code.

TABLE 5: FY 05 RENTAL LICENSE FEE INDEX CODE ACCOUNTING STRUCTURE

Program	Index Code	Expenditure Description	Revenue Description
Administration	*LTA* Administration*	Personnel and operating expenditures related to the administration of Landlord-Tenant activities by the DHCA Director and staff.	None
Housing Loans	*LTA Housing*	Personnel expenditures for administrative activities of the Housing Division Chief.	None
Code Enforcement	*LTA Code Enforcement*	Personnel and operating expenditures for all code enforcement activities.	None
Landlord-Tenant Mediation	*LTA Legal*	Personnel expenditures charged by the County Attorney for staff assistance in landlord-tenant mediation cases.	None
	LTA Mediation	Personnel and operating expenditures for the Office of Landlord-Tenant Affairs.	None
Licensing/ Registration	*LTA Licensing*	Personnel and operating expenditures related to administering and processing rental license fees and associated activities.	Revenue from rental licenses; civil citations; and other sources (described in more detail on next page).
Consumer Protection	*LTA Consumer Protection*	Personnel expenditures related to Consumer Protection staff time spent responding to information requests about landlord-tenant services.	None

*LTA = Landlord-Tenant Affairs
Sources: DHCA and FAMIS

As shown in the previous table, the *LTA Licensing* index code contains the revenue component of the rental license fee accounting structure. The revenue portion of the *LTA Licensing* index code consists of ten sub-object codes. Table 6 lists the sub-object codes and a description of the revenue stream represented in each.

TABLE 6: *LTA LICENSING* INDEX CODE – REVENUE SUB-OBJECT CODES

Revenue Sub-Object Code	Description
Landlord-Tenant Registry Fee	Reimbursement revenue from apartment owners with a limited number of properties that conduct credit checks on applicants using DHCA's subscription to a database.
Adult Foster Care	Revenue from a $60 fee for adoption and foster care home inspections.
Civil Citations	Revenue from civil citations for unlicensed rental properties and housing code violations.
Landlord-Tenant Transfer	Revenue from a fee charged to transfer a rental license between owners for multi-family properties. Fee is $5 per unit up to a maximum of $25.
Current·Year Condo License	Revenue from condominium rental license fee.
Current Year Apartment License	Revenue from apartment rental license fee.
Accessory Apartment License	Revenue from accessory apartment rental license fee.
Single Family License	Revenue from single-family home rental license fee.
Sundry/Misc. Revenue	Generally reimbursement revenue received for misc. services provided by the Department (i.e. emergency housing services, pest extermination).
Prior Year License	Revenue refunds due to license payments made in error.

Sources: FAMIS and DHCA

2. FY 05 Rental License Fee Revenue and Expenditures

DHCA's approved FY 05 budget includes $3.8 million in projected revenue from rental property licensing activities. Rental license fees account for 99% of the budgeted revenue, civil citations and other miscellaneous revenue account for the other 1%. DHCA's FY 05 projected rental license revenue is approximately $600,000 more than the budgeted expenditures of nearly $3.2 million.

TABLE 7: FY 05 BUDGETED RENTAL LICENSE FEE REVENUE AND EXPENDITURES

Program and Index Code	Type of Revenue/Expenditure	FY 05 Budget
Licensing: *LTA Licensing*	Civil Citations	$20,000
	Condominium Licenses	$294,000
	Apartment Licenses	$2,356,000
	Accessory Apartments Licenses	$9,120
	Single-Family Rental Licenses	$1,127,000
	Miscellaneous Revenue	$20,000
	FY 05 REVENUE TOTAL	**$3,826,120**
Administration: *LTA Administration*	Personnel Expenses	$214,541
	Operating Expenses	$11,350
	Subtotal	**$225,891**
Housing Loans: *LTA Housing*	Personnel Expenses	$58,961
	Operating Expenses	--
	Subtotal	**$58,961**
Code Enforcement: *LTA Code Enforcement*	Personnel Expenses	$1,486,754
	Operating Expenses	$194,570
	Subtotal	**$1,681,324**
Landlord-Tenant Mediation: *LTA Legal*	Personnel Expenses	$35,559
	Operating Expenses	--
	Subtotal	**$35,559**
Landlord-Tenant Mediation: *LTA Mediation*	Personnel Expenses	$755,966
	Operating Expenses	$44,020
	Subtotal	**$799,986**
Licensing: *LTA Licensing*	Personnel Expenses	$193,475
	Operating Expenses	$51,550
	Subtotal	**$245,025**
Consumer Protection: *LTA Consumer Protection*	Personnel Expenses	$147,431
	Operating Expenses	--
	Subtotal	**$147,431**
Subtotal Personnel Expenses		$2,892,687
Subtotal Operating Expenses		$301,490
	FY 05 EXPENDITURE TOTAL	**$3,194,177**

Sources: DHCA and FAMIS

C. FY 00 to FY 05 Comparison

This section compares annual rental license fee revenue and expenditures from FY 00 through FY 05. This timeframe covers the last three years of the Landlord-Tenant Fund's existence (FY 00-FY 02) and the first three years after the Fund's dissolution (FY 03-FY05). Table 8 shows:

- In the last three years of the Landlord-Tenant Fund, annual expenditures slightly exceeded annual revenues. The declining beginning balances for the Landlord-Tenant Fund from FY 00-02 indicate that the fund balance served to offset revenue shortfalls.

- Since FY 03, when the County dissolved the Landlord-Tenant Fund and increased rental license fees, revenues exceeded expenditures by an annual average of $725,000.

TABLE 8: FY 00 TO FY 05 RENTAL LICENSE FEE REVENUE AND EXPENDITURES*

Category	Landlord-Tenant Fund			Part of General Fund		
	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05 Budgeted
Beginning Balance*	$912,244	$838,828	$477,571	--	--	--
Revenues	$2,681,372	$2,670,397	$2,987,897	$3,751,843	$3,791,259	$3,826,120
Investment Income	$110,685	$117,237	$45,296	--	--	--
Expenditures	($2,563,886)	($2,845,427)	($2,851,965)	($3,019,500)	($2,980,836)	($3,194,177)
Overhead/Transfers	($325,160)	($333,360)	($658,799)**	--	--	--
Year-End Balance	**$815,255**	**$447,675**	**$0**	**$732,343**	**$810,423**	**$631,943**

*The Appendix (©16) contains a more detailed summary of the components in each Category. The differences between the FY 00 and 01 year-end balances and the corresponding FY 01 and 02 beginning balances are due to funds encumbered in one fiscal year but not spent until the next fiscal year.
**Includes remaining balance transfer to the General Fund of $179K due to the dissolution of the Fund.
Sources: DHCA and FAMIS

Significant differences for the rental license fees after the switch to General Fund accounting include the treatment of year-end balances; overhead charges for indirect costs; and interest income. Each of these differences is discussed in greater detail below.

Year-End Balance. When the Landlord-Tenant Fund existed, DHCA carried year-end balances into the following year's budget. DHCA used fund balances to offset revenue shortfalls when total expenditures/transfers exceeded total revenue/income, as was the case in FY 00 through FY 02.

Since FY 03, the Department of Finance places any year-end balance for both rental license fees and common ownership communities registration fees in a restricted reserve account within the General Fund. The purpose of establishing the reserve account was to ensure compliance with legal restrictions on the use of fee revenue. Montgomery County's *FY 04 Comprehensive Annual Financial Report* indicates a reserve balance of approximately $2 million at the end of FY 04, with $1.8 million resulting from rental license fee surpluses (see ©20).

An additional factor impacting year-end balances is that in both FY 03 and FY 04, actual expenditures of rental license fee revenue were 5% lower than budgeted. Also, FY 04 rental license revenues were 2% higher than budgeted. The Appendix includes a detailed breakdown of the FY 03 through FY 05 budgeted and actual rental license revenues (©17) and expenditures (©18) by index code.

Overhead. The Landlord-Tenant Fund annually transferred revenue to the General Fund for indirect services provided by other County departments, consistent with County overhead policies related to Special Revenue Funds. As part of the General Fund, however, the County Government does not have a specific policy on whether overhead charges should be part of the rental license fee calculations.

Absent a specific policy, DHCA continued their earlier practice (when revenues were in the Special Revenue Fund) of assuming overhead costs in their fee calculations. Overhead costs, however, have not been transferred since the switch to General Fund accounting in FY 03.

Paying overhead costs on actual FY 03 and FY 04 rental license expenditures would have reduced the year-end balances by approximately $300K and $400K, respectively. Staff from DHCA, Finance, and OMB recently began discussions on this issue to determine the correct application of overhead policies in this specific case.

Investment Income. Investment income, or interest, used to accrue to the Landlord-Tenant Fund, providing additional revenue ranging from $45K to $120K annually. Rental license revenue no longer collects interest separate from any interest collected by the General Fund.

CHAPTER IV: COMMON OWNERSHIP COMMUNITIES FEES

DHCA's Division of Consumer Affairs administers the common ownership community registration process and collects registration fees. DHCA uses these fees to support programs related to common ownership communities administered through the Division of Consumer Affairs. This chapter discusses the registration fee and the programs it supports. The chapter is organized as follows:

- **Part A** discusses the FY 05 program activities funded with common ownership communities fee revenue;
- **Part B** details the FY 05 costs, revenues, and accounting structure related to the registration of and provision of services for common ownership communities; and
- **Part C** provides a comparison of costs and revenues from FY 00 to FY 05.

A. FY 05 Program Activities

In FY 05, common ownership community (COC) fees support, in whole or in part, two specific DHCA programs: Consumer Protection and Licensing/Registration. Table 9 summarizes the FY 05 program expenditures. The following table describes each of these programs and cost components in further detail.

TABLE 9: FY 05 COMMON OWNERSHIP COMMUNITIES (COC) REGISTRATION FEE REVENUE DISTRIBUTION BY DHCA PROGRAM

Program	COC Fee Revenue*	% of Total COC Fee Revenue
Consumer Protection	$162,103	71%
Licensing/Registration	$66,141	29%
Total	**$228,250**	**100%**

*Portion of FY 05 projected COC fee revenue allocated to fund all or part of FY 05 program budget.
Sources: DHCA and FAMIS

1. Consumer Protection

The Consumer Protection program within the Division of Consumer Affairs contains the Office of Common Ownership Communities (OCOC). OCOC provides mediation and arbitration services for common ownership community governing bodies and their members and provides staff support to the Commission on Common Ownership Communities. Common ownership community registration fees and associated revenue[1] pay for 100% of the program costs in FY 05.

[1] Associated revenue refers to revenue from civil citations for non-compliance with common ownership community registration requirements and other miscellaneous revenue, such as complaint filing fees.

OCOC has one part-time Investigator dedicated 100% to dispute resolution and other activities. Other Consumer Affairs Investigators and staff work on OCOC issues as part of their duties. In total, DHCA assigns 1.6 workyears to OCOC.

Common Ownership Community Disputes. The Office of Common Ownership Communities receives and processes disputes between common ownership community governing bodies and their members. OCOC initially attempts to broker a resolution; however if a resolution cannot be reached, staff submits the dispute to the Commission on Common Ownership Communities.

Two Executive Regulations form the structure for dispute resolution services. The Code of Montgomery County Regulations (COMCOR) 10B.07.01 establishes a $50 filing fee for each dispute filed with OCOC. The intent of the filing fee is to discourage frivolous complaints. COMCOR 10B.06.01 governs the common ownership community dispute resolution process. When a dispute is filed, OCOC staff examine the complaint to see if it falls under the Commission's jurisdiction; ensure that the parties have made a good faith attempt to resolve the dispute as provided in the community documents; investigate facts, assemble documents, and summarize the issues; and provide copies of all the information to both parties.

Staff also inform both parties of the opportunity for mediation. Mediators from the non-profit Conflict Resolution Center of Montgomery County currently conduct the mediations. Prior to April 2004, OCOC staff conducted the mediation. Staff continue to schedule the mediations, which are held at the Office of Common Ownership Communities, and follow-up with the participants and mediators.

If neither party requests mediation, or mediation does not resolve the dispute, staff refer the case to the Commission on Common Ownership Communities. Staff prepare a case summary, including a recommendation on whether the Commission should review the case, and present it at a Commission meeting. If the Commission determines that a dispute warrants further review, the Commission schedules the dispute for a public hearing. In calendar year 2003, 58 disputes were filed and the Commission adjudicated 18 of those at public hearings.

Commission Staff Support. OCOC staff also assist the Commission in developing and distributing public education information and conducting outreach efforts. Examples include a newsletter published by the Commission and informational materials on topics such as architectural control, preparing for Commission hearings, FAQ's about homeowner/condominium associations, holding community meetings, and condominium elections. Also, the Commission and OCOC staff are currently developing a Community Association Manual and Resource Guide.

2. Licensing/Registration

The Licensing and Registration Unit in the Division of Consumer Affairs administers the registration of common ownership communities. Aside from processing applications, the

Licensing and Registration Unit also: maintains a database of communities, conducts outreach efforts, and responds to requests for public information.

In FY 05, the County has 788 registered common ownership communities. COC registration fees fund 17% of the total FY 05 costs for the Licensing and Registration Unit. In FY 05, DHCA allocates 0.7 of the Licensing Unit's 4 workyears (or 18%) to common ownership community activities.

COC Registration. The Licensing and Registration Unit manages both the registration of new COCs in the County and annual renewal of registration for existing COCs. For new COCs, the Unit processes applications and conducts outreach to inform communities of the registration requirements. Staff report that COCs managed by professional management companies – estimated at two-thirds of all COCs in the County – tend to know about the registration requirements. DHCA staff consult with Park and Planning staff to find out about COCs that will be established as part of new housing developments.

After receiving a new application, staff review it to ensure that it includes the required information and the correct payment amount. Staff record payments into a DHCA database and deliver payments to the Finance Department daily. The Unit produces two daily reports, a deposit report itemizing the payments delivered to the Finance Department and a detailed report listing all the COC information. The Licensing Unit received 13 new COC applications in FY 04.

In mid-summer or early fall each year, DHCA begins the process of renewing common ownership community registrations. The Licensing and Registration Unit sends out renewal notices to all current COCs. COCs send renewal payments to a retail "lockbox", or contractor, for processing. The contractor provides the Licensing Unit with a daily report of deposits. Staff estimate that two-thirds of COC registration revenue is processed via the lockbox, and one-third directly via the Licensing Unit. Around October 1st each year, staff begin contacting COCs who are delinquent in payment.

Table 10 details the number of common ownership community units registered each year since FY 00.

TABLE 10: FY 00 TO FY 05 COMMON OWNERSHIP COMMUNITY UNITS REGISTERED

Year	Common Ownership Community Units
FY 00	103,399
FY 01	104,472
FY 02	106,947
FY 03	110,204
FY 04	110,508
FY 05 (Budgeted)	113,000

Sources: DHCA and OLO

Information Requests and Outreach. The Licensing and Registration Unit maintains a database of common ownership communities and rental properties in the County. Staff regularly respond to requests from private individuals, businesses, elected officials, and a variety of Federal, State, and County government agencies for database information. The Licensing Unit received over 8,200 requests for information in FY 04.

The Unit also conducts outreach activities every December (separate from the registration renewal process) to obtain updated information. Staff report that COCs tend to have a fair amount of changes (i.e. new management companies, new board members, revised governing documents) that require periodic updating.

B. FY 05 Accounting Structure, Revenues, and Costs

This section details DHCA's accounting structure of common ownership communities registration fee revenue and expenditures. It also provides a detailed breakdown of the FY 05 budgeted revenue and expenditures.

1. Accounting Structure

DHCA's departmental accounting structure establishes nine programs and distributes funds to index codes within each program. The nine programs are:

- Administration
- Commercial Revitalization
- Federal Programs
- Housing Loans
- Moderately-Priced Dwelling Units
- Code Enforcement
- Landlord-Tenant Mediation
- Licensing/Registration
- Consumer Protection

Two programs contain index codes that are allocated and expend revenue from common ownership communities fees. Table 11 (page 25) lists the applicable programs, index codes, and a description of any expenditures and revenues associated with a particular index code.

TABLE 11: FY 05 COMMON OWNERSHIP COMMUNITIES REGISTRATION FEE INDEX CODE ACCOUNTING STRUCTURE

Program	Index Code	Expenditure Description	Revenue Description
Licensing	*COC* Licensing*	Personnel and operating expenditures related to administering and processing common ownership community fees and associated activities.	Revenue from common ownership community registration fee; complaint filing fee; and other misc. sources.
Consumer Protection	*COC Administration*	Personnel expenditures related to the administrative activities of the Office of the Division Chief.	None
	COC Mediation	Personnel and operating expenditures related to the Office of Common Ownership Communities.	None

*COC = Common Ownership Communities
Sources: DHCA and FAMIS

As shown in the previous table, the *COC Licensing* index code contains the revenue component of the common ownership communities registration fee accounting structure. The revenue portion of the *COC Licensing* index code consists of three sub-object codes. Each sub-object code and a description of the revenue stream it accounts for is listed in the table below.

TABLE 12: *COC LICENSING* INDEX CODE – REVENUE SUB-OBJECT CODES

Sub-Object Code	Description
OCOC Registration	Revenue from common ownership communities registration fee.
Common Ownership Communities	Revenue from a $50 filing fee charged when a complaint is filed with the Commission on Common Ownership Communities.
Sundry/Misc. Revenue	Generally reimbursement revenue received for misc. services provided by the Department.

Sources: FAMIS and DHCA

2. FY 05 Rental License Fee Revenue and Expenditures

DHCA's approved FY 05 budget includes approximately $260,000 in projected revenue from common ownership communities registration activities. Registration fees account for 99% of the budgeted revenue, miscellaneous revenue accounts for the other 1%. DHCA's FY 05 projected common ownership communities registration revenue is approximately $30,000 greater than the budgeted expenditures.

TABLE 13: FY 05 BUDGETED COMMON OWNERSHIP COMMUNITIES REGISTRATION FEE REVENUE AND EXPENDITURES

Program and Index Code	Type of Revenue/Expenditure	FY 05 Budget
Licensing: *COC Licensing*	COC Registration Fees	$254,250
	Miscellaneous Revenue	$3,000
	FY 05 REVENUE TOTAL	**$257,250**
Licensing: *COC Licensing*	Personnel Expenses	$57,147
	Operating Expenses	$9,000
	Subtotal	**$66,147**
Consumer Protection: *COC Administration*	Personnel Expenses	$42,975
	Operating Expenses	--
	Subtotal	**$42,975**
Consumer Protection: *COC Mediation*	Personnel Expenses	$105,498
	Operating Expenses	$13,630
	Subtotal	**$119,128**
Subtotal Personnel Expenses		$205,620
Subtotal Operating Expenses		$22,630
	FY 05 EXPENDITURE TOTAL	**$228,250**

Sources: DHCA and FAMIS

C. FY 00 to FY 05 Comparison

This section compares annual common ownership communities registration fee revenue and expenditures from FY 00 through FY 05. This timeframe covers the last three years the Common Ownership Communities Fund's existence (FY 00-FY 02) and the first three years after the Fund's dissolution (FY 03-FY 05). Table 14 (page 27) shows:

- In the last three years of the Common Ownership Communities Fund, annual expenditures and revenues were nearly equivalent. The declining beginning balance between FY 01 and FY 02 indicates that the fund balance served to offset revenue shortfalls when necessary.

- Since FY 03, when the County dissolved the Common Ownership Communities Fund and increased the registration fee, revenues exceeded expenditures by an annual average of $40,000.

TABLE 14: FY 00 TO FY 05 COMMON OWNERSHIP COMMUNITIES REGISTRATION FEE REVENUE AND EXPENDITURES*

Category	Common Ownership Community Fund			Part of General Fund		
	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05 Budgeted
Beginning Balance*	$150,812	$156,961	$132,273	--	--	--
Revenues	$155,503	$160,282	$163,522	$250,831	$254,910	$257,250
Investment Income	$11,807	$14,601	$5,455	--	--	--
Expenditures	($147,291)	($177,631)	($146,771)	($210,723)	($201,687)	($228,250)
Overhead/Transfers	($19,370)	($21,940)	($154,479)**	--	--	--
Year-End Balance	**$151,461**	**$132,273**	**$0**	**$40,108**	**$53,223**	**$29,000**

*The Appendix (©19) contains a more detailed summary of the components in each Category. The difference between the FY 00 year-end balance and the corresponding FY 01 beginning balance is due to funds encumbered in FY 00 but not spent until FY 01.
**Includes remaining balance transfer to the General Fund of $122K due to the dissolution of the Fund.
Sources: DHCA and FAMIS

Significant differences for the common ownership communities registration fees after the switch to General Fund accounting include the treatment of year-end balances; overhead charges for indirect costs; and interest income. Each of these differences is discussed in greater detail below.

Year-End Balance. When the Common Ownership Communities Fund existed, DHCA carried year-end balances into the following year's budget. DHCA used fund balances to offset revenue shortfalls when total expenditures/transfers exceeded total revenue/income, as was the case in FY 01 and FY 02.

Since FY 03, the Department of Finance places any year-end balance for both rental license fees and common ownership communities registration fees in a restricted reserve account within the General Fund. The purpose of establishing the reserve account was to ensure compliance with legal restrictions on the use of fee revenue. Montgomery County's *FY 04 Comprehensive Annual Financial Report* indicates a reserve balance of approximately $2 million at the end of FY 04, with $223K resulting from common ownership communities registration fee surpluses (see ©20).

An additional factor impacting year-end balances is that in both FY 03 and FY 04, actual expenditures of common ownership communities fee revenue were around 8% lower than budgeted. Also, FY 03 and FY 04 rental license revenues were 3% higher than budgeted. The Appendix includes a detailed breakdown of the FY 03 through FY 05 budgeted and actual common ownership communities revenues (©17) and expenditures (©18) by index code.

Overhead. The Common Ownership Communities Fund annually transferred revenue to the General Fund for indirect services provided by other County departments, consistent with County overhead policies related to Special Revenue Funds. As part of the General Fund, however, the County Government does not have a specific policy on whether overhead charges should be part of the common ownership communities fee calculations.

Absent a specific policy, DHCA continued their earlier practice (when revenues were in the Special Revenue Fund) of assuming overhead costs in their fee calculations. Overhead costs, however, have not been transferred since the switch to General Fund accounting in FY 03.

Paying overhead costs on actual FY 03 and FY 04 common ownership communities revenue expenditures would have reduced the year-end balances by approximately $30K and $26K, respectively. Staff from DHCA, Finance, and OMB recently began discussions on this issue to determine the correct application of overhead policies in this specific case.

Investment Income. Investment income, or interest, used to accrue to the Common Ownership Communities Fund, providing additional revenue ranging from $5K to $14K annually. The common ownership communities registration fee revenue no longer collects interest separate from any interest collected by the General Fund.

CHAPTER V: FINDINGS

To offer housing for rent in Montgomery County, a landlord must obtain a rental license and pay an annual fee for each unit. Similarly, common ownership communities – entities such as homeowner associations, residential condominiums, and cooperative housing projects – must register with the County and pay an annual registration fee for each unit. In FY 03 (in accordance with GASB 34 recommendations), the County Government began accounting for rental license and common ownership communities registration fees within the General Fund by dissolving the Landlord-Tenant Affairs (LTA) and Common Ownership Communities (COC) Special Revenue Funds.

This chapter presents the Office of Legislative Oversight's findings on the FY 05 revenues and expenditures for rental license and common ownership communities registration fees, as well as comparative information for FY 00-04. In sum, OLO found:

- County Government spends rental license and common ownership communities fee revenue on four different programs managed by the Department of Housing and Community Affairs (DHCA);
- For rental license fees, DHCA's FY 05 budget includes \$3.83 million in revenue and \$3.20 million in expenditures;
- For common ownership communities fees, DHCA's FY 05 budget includes \$260K in revenue and \$230K in expenditures; and
- Rental license and common ownership communities fees have accumulated a \$2 million surplus since the beginning of FY 03.

RENTAL LICENSE FEES

FINDING #1: In FY 05, rental license fee revenue funds four DHCA programs – Code Enforcement, Landlord-Tenant Mediation, Licensing/Registration, and Consumer Protection – as well as DHCA Administration costs.

Chapter 29 of the County Code, Article III, authorizes the collection of rental license fees to fund activities related to rental housing. County Government accounts for rental license fee revenue through an index code accounting structure. The index codes link to DHCA programs to track expenditures. In FY 05, DHCA plans to spend nearly \$3.2 million in rental license fee revenue across four programs as well as departmental administration. The table on the following page shows the fee revenue breakdown:

FY 05 RENTAL LICENSE FEE REVENUE DISTRIBUTION BY DHCA PROGRAM

Program	Rental License Fee Revenue*	% of Total Rental License Fee Revenue	Program Description
Code Enforcement	$1,681,324	53%	Activities include legally required code inspection activities, complaint investigations, and targeted neighborhood code enforcement initiatives.
Landlord-Tenant Mediation	$835,545	26%	Activities include investigating and conciliating landlord-tenant disputes, providing information and technical assistance, and staffing the Commission on Landlord-Tenant Affairs.
DHCA Administration**	$284,852	9%	Activities include overall supervision and managerial support as well as budgeting, financial management, and personnel management activities.
Licensing/Registration	$245,045	8%	Activities include administering the licensing of rental properties, producing reports, responding to information requests, and database maintenance.
Consumer Protection	$147,431	4%	Activities include staffing an information desk to answer questions and provide information about all DHCA programs and issues, including landlord-tenant.
Total	**$3,194,197**	**100%**	--

*Portion of FY 05 projected rental license fee revenue allocated to fund all or part of FY 05 program budget.
**Includes administrative costs for the Housing Division Chief budgeted in the Housing Loans program.
Sources: DHCA and FAMIS

FINDING #2: **Code Enforcement activities funded by rental license fees serve both rental housing and owner-occupied housing. OLO estimates that DHCA spends at least $170K of rental license revenue on activities that support owner-occupied housing.**

The Code Enforcement program is responsible for enforcing Chapters 26 (Housing Standards), 48 (Solid Waste), and 58 (Weeds) of the County Code by inspecting rental and owner-occupied housing to ensure safe and sanitary conditions. The program also conducts rental housing inspections required under Chapter 29 (Landlord-Tenant Relations).

The major activities of the Code Enforcement program are: periodic inspections required by law, complaint-based investigations (including solid waste inspections), and targeted neighborhood projects. While the periodic inspections are specific to multi-family rental properties, the complaint-based investigations and targeted neighborhood projects make no distinction between rental and owner-occupied properties. Other code enforcement activities that do not differentiate between rental and owner-occupied properties are adoption and foster care home inspections.

DHCA estimates that approximately 90% of the activities of the Code Enforcement program serve rental properties and 10% serve owner-occupied properties. As a result, OLO estimates that DHCA spends at least $170K of rental license revenue on activities that support owner-occupied properties.

COMMON OWNERSHIP COMMUNITIES REGISTRATION FEES

FINDING #3: In FY 05, common ownership communities registration fee revenue funds two DHCA programs – Consumer Protection and Licensing/Registration.

Chapter 10B of the County Code allows for the collection of common ownership communities (COC) registration fees to fund the provision of COC dispute resolution and technical assistance services. County Government accounts for common ownership communities registration fee revenue through an index code accounting structure. The index codes link to DHCA programs to track expenditures. In FY 05, DHCA plans to expend approximately $230K in common ownership communities fee revenue among the two programs.

FY 05 COMMON OWNERSHIP COMMUNITIES (COC) REGISTRATION FEE REVENUE DISTRIBUTION BY DHCA PROGRAM

Program	COC Fee Revenue*	% of Total COC Fee Revenue	Program Description
Consumer Protection	$162,103	71%	Activities include mediation and arbitration services between common ownership community governing bodies and their members and staff support to the Commission on Common Ownership Communities.
Licensing/Registration	$66,141	29%	Activities include administering the registration of common ownership communities, responding to information requests, and database maintenance.
Total	**$228,250**	**100%**	--

*Portion of FY 05 projected COC fee revenue allocated to fund all or part of FY 05 program budget.
Sources: DHCA and FAMIS

FEE REVENUE BALANCES

FINDING #4: DHCA's FY 05 budget projects a $630K surplus for rental license fees and a $30K surplus for common ownership communities registration fees.

DHCA's FY 05 budget includes $3.83 million in projected revenue from rental property licensing activities and expenditures of $3.20 million. As a result, the budget projects a $630,000 rental license fee surplus.

The FY 05 budget also includes $260,000 in projected revenue from common ownership community registration activities and expenditures of $230,000. As a result, the budget projects a $30,000 COC fee surplus.

For both fees in FY 05, the actual fees account for 99% of the budgeted revenue, with civil citations and other miscellaneous revenue accounting for the other 1%.

FINDING #5: The Department of Finance places any year-end revenue surplus from rental license and common ownership communities registration fees in a restricted reserve account. Since FY 03, the reserve account has accumulated a $2 million balance.

In the last three years of the Landlord-Tenant Fund, annual expenditures slightly exceeded annual revenues and prior-year fund balances served to offset revenue shortfalls. In the last three years of the Common Ownership Communities Fund, annual expenditures and revenues were nearly equivalent.

Since FY 03, when the County dissolved the special revenue funds and increased the license and registration fees, revenue has substantially exceeded expenditures for both rental license and common ownership communities registration fees. The year-end balances since FY 03 are listed below.

Year-End Balance	Rental License Fees	Common Ownership Communities Fees
FY 03 Actual	$732,343	$40,108
FY 04 Actual	$810,423	$53,223
FY 05 Budgeted	$631,943	$29,000

The Department of Finance places any surplus fees in a restricted reserve account since the County Code designates fee revenues for rental housing and COC-related activities. At the end of FY 04, the reserve account (which includes cumulative surpluses for both rental license and common ownership communities fees) had a balance of approximately $2 million. The rental license fee portion of the total is $1.8 million. The common ownership communities fee portion is $223,000. (see ©20)

Explanation for $2 million Reserve Balance. Two primary factors have led to the $2 million reserve balance:

- ***Overhead costs have continued to be assumed in DHCA's fee calculations, but not transferred to the General Fund*** – The County Government does not have a specific policy on whether overhead charges should be part of the rental license and common ownership communities fee calculations. Absent a specific policy, DHCA continued their earlier practice (when revenues were in separate Special Revenue Funds) of assuming overhead costs in their fee calculations. Overhead costs, however, have not been transferred since the switch to General Fund accounting in FY 03.

- ***Fee revenue continued to exceed program expenditures*** – In both FY 03 and FY 04, actual expenditures of rental license and common ownership communities fee revenue were a cumulative 5% ($180K) lower than budgeted. Additionally, actual fee revenues were a cumulative 2% ($74K) higher than budgeted in FY 04.

CHAPTER VI: RECOMMENDATIONS

The County Government's Department of Housing and Community Affairs (DHCA) collects and expends revenue received from rental license fees and common ownership communities registration fees. OLO's review of these fees supports three recommendations for Council action. In sum, OLO recommends that the Council:

- Request that County Government develop a Reserve Balance Policy for future rental license and common ownership communities registration fee revenue surpluses;
- Decide and communicate Council priorities to the County Executive for the FY 06 allocation of surplus rental license and common ownership communities registration fees; and
- Request that annual budget submissions to the Council include specific breakdowns for anticipated rental license and common ownership communities registration fee revenue and expenditures.

In addition, as described in Finding #5 (page 33), OLO found a lack of clarity over the correct application of overhead policies and practices with regard to rental license and common ownership communities fee revenue. This issue stems from the FY 03 switch from Special Fund accounting to General Fund accounting. OLO recommends that, during Committee worksessions on this report, County Government staff:

- Clarify the County Government's position on whether overhead will be charged to rental license and common ownership communities registration fee revenue in future budget years as well as retroactively for FY 03 and FY 04; and
- Explain how the overhead position is consistent with the County's fee policies and practices.

Recommendation #1: The Council should request that the County Government develop a written Reserve Balance Policy for rental license and common ownership communities registration fees.

Over the past few years, the five County and bi-County agencies have worked to develop written Fund Balance Policies for Enterprise and Special Revenue Funds. Fund Balance Policies help protect against revenue and expenditure volatility and promote sound fiscal management.

Similar to a Fund Balance Policy, the Council should request that County Government develop a written Reserve Balance Policy for rental license and common ownership communities registration fees. The current reserve balance is $1.8 million for rental license fees, equivalent to nearly 50% of FY 05 budgeted rental license revenue, and

$223,000 for common ownership communities registration fees, equivalent to nearly 90% of the FY 05 budgeted registration fees.

OLO recommends that the Council request the Reserve Balance Policy include:

- The appropriate level of reserve balance to maintain for each fee;
- Procedures if the reserve balance exceeds or falls below a set threshold; and
- Accounting for projected cost increases over time to maintain existing service levels (e.g. increases in personnel costs due to rising benefit/health care costs.)

OLO recommends that the Council ask County Government to develop this policy and present it to the Council for review by **June 15, 2005.**

Recommendation #2: The Council should decide and communicate to the County Executive the Council's priorities for the FY 06 allocation of surplus rental license and common ownership communities registration fees.

Since FY 03, rental license fee and common ownership communities registration fee revenues have exceeded program expenditures. As a result, a reserve surplus of $2 million currently exists. OLO recommends that the Council determine and communicate the Council's priorities for allocation of the surplus revenue to the Executive Branch. Options for the Council to discuss include:

- **Reduce the rental license and COC registration fees** and use the current balance to offset revenue decreases resulting from a fee reduction. A fee reduction could be structured as a single-year, multi-year, or permanent reduction.
- **Fund new services or a higher level of existing services** related to rental housing and common ownership communities with the surplus. Any proposal for new or increased services should be analyzed to ensure long-term sustainability once the current reserve surplus is consumed.
- **Transfer funds from reserve account to pay prior year overhead costs** for rental license and common ownership communities fees from FY 03 and FY 04. This option should be analyzed in conjunction with the County Government position on whether overhead will be charged to rental license and common ownership communities registration fee revenue in the future. Paying prior year overhead would reduce the surplus by approximately $900K.

Recommendation #3: The Council should request that DHCA's annual budget submission to the Council include data on projected rental license and common ownership communities registration fee revenue, expenditures, and reserves.

Currently, DHCA incorporates fee revenue and expenditure data within broad program budget categories. As part of the worksessions on DHCA's budget, tables should be included that provide the Council with explicit data on projected revenues and expenditures related to the rental license and common ownership communities fees.

The provision of such data will allow the Council to annually examine the relationship between fee levels, projected revenue, and requested expenditures. It will also better position the Council to analyze potential changes in fee levels. OLO recommends a format similar to the samples provided below that use FY 05 budget data.

Rental License Fees

	FY 05 Budget
Expenditures	
Personnel Costs	$ 2,892,687
Operating Expenses	$ 301,490
Subtotal	$ 3,194,177
Revenues	
Apartment Rental License	$ 2,356,000
Accessory Apartment License	$ 9,120
Single Family Rental License	$ 1,127,000
Condo Rental License	$ 294,000
Foster Care	$ -
Civil Citations - Landlord-Tenant	$ 20,000
Misc - Landlord-Tenant	$ 20,000
Refunds/Revenue Adjustment	$ -
Subtotal	$ 3,826,120
Projected Balance	$ 631,943

COC Registration Fees

	FY 05 Budget
Expenditures	
Personnel Costs	$ 205,620
Operating Expenses	$ 22,630
Subtotal	$ 228,250
Revenues	
Registration Fees	$ 254,250
Common Ownership Communities	$ 3,000
Misc. - COC	$ -
Subtotal	$ 257,250
Projected Balance	$ 29,000

In addition, the narrative text accompanying the data should describe how any projected balance is consistent with the criteria established in a potential Reserve Balance Policy or other appropriate County policy.

CHAPTER VIII: AGENCY COMMENTS

The Office of Legislative Oversight circulated a final draft of this report to the County Government's Department of Housing and Community Affairs, Department of Finance, and Office of Management and Budget. The final report incorporates all of the technical corrections provided by the departments.

Written comments from the Chief Administrative Officer are included in their entirety beginning on the following page.

OLO greatly appreciates the time taken by everyone who reviewed the draft report and looks forward to discussing the issues raised in this study.

OFFICES OF THE COUNTY EXECUTIVE

Douglas M. Duncan
County Executive

Bruce Romer
Chief Administrative Officer

MEMORANDUM

January 14, 2005

TO: Karen Orlansky, Director
Office of Legislative Oversight

FROM: Bruce Romer, Chief Administrative Officer

SUBJECT: Office of Legislative Oversight Report 2005-2
Reviews and Analysis of Rental Licenses and Common Ownership Registration Fees

Thank you for the opportunity to comment on OLO Report 2005-2, Review and Analysis of Rental License and Common Ownership Communities (COC) Registration Fees. This report provides a very thorough and accurate account of the rental and COC fee structure and the operations and programs they fund within the Department of Housing and Community Affairs. We wish to thank Craig Howard for this thorough analysis and excellent report.

In general, we concur with the findings and recommendations in this report. However, we believe certain recommendations warrant further discussion and analysis before they are finalized and implemented. The Executive will be making recommendations for use of the reserved funds identified in the report, as part of his FY06 Recommended Operating Budget, in a manner consistent with the options outlined in the report.

We look forward to working with Council in its review of this report.

BR:jb

101 Monroe Street • Rockville, Maryland 20850
240/777-2500, TTY 240/777-2544, FAX 240/777-2517
www.co.mo.md.us

Review of Rental License and Common Ownership Communities Registration Fees

OLO Report 2005-2

Appendix

Description	Circle Number
Detail on Recommended GASB 34 Related Resource Adjustments (Excerpt from County Council FY 03 Operating Budget Worksession Packet, Agenda Item #23 – May 10, 2002)	©2
Recommendations from the Management and Fiscal Policy Committee regarding the County Executive's FY 03 budget adjustments for GASB 34 (Excerpt from County Council FY 03 Operating Budget Worksession Packet, Agenda Item #23 – May 10, 2002)	©3
Montgomery County Council User Fee Policy	©4
County Government Policies for Revenues and Program Funding (Excerpt from Recommended FY 05 Operating Budget and Public Services Program FY05-10)	©7
Overhead/Indirect Costs in County Government (Excerpt from Management and Fiscal Policy Committee Worksession Packet, Agenda Item #2 – July 26, 2004)	©12
FY 00-05 Rental License Fee (formerly Landlord-Tenant Fund) Financial Summary	©16
FY03-05 Budgeted and Actual Rental License and Common Ownership Communities Registration Fee Revenue	©17
FY03-05 Budgeted and Actual Rental License and Common Ownership Communities Registration Fee Expenditures	©18
FY 00-05 Common Ownership Communities Registration Fee (formerly COC Fund) Financial Summary	©19
Rental License and COC Fee Balances Placed in Reserve Account	©20

DETAIL ON RECOMMENDED BUDGET ADJUSTMENTS

TAX SUPPORTED FUNDS

RESOURCES

GASB 34 RELATED RESOURCE ADJUSTMENTS

TRANSFER LANDLORD/TENANT AFFAIRS FUND TO GENERAL FUND 3,125,150
It is recommended that the activities for the Landlord/Tenant Affairs (LTA) Special Revenue Fund be consolidated into the General Fund as part of the Department of Housing and Community Affairs. There is no stipulation in the County Code, Chapter 29 that requires LTA activities to be reported as a separate special revenue fund. An FY00 study by the Office of Legislative Oversight recommended that the County discontinue the use of the LTA Special Revenue Fund; implementation of this recommendation was deferred until the County implemented other fund changes required under GASB 34. Consolidation of LTA activities into the General Fund is consistent with the GASB principle of establishing and maintaining only the minimum number of funds consistent with legal and operating requirements.

TRANSFER COMMON OWNERSHIP COMMUNITIES FUND TO GEN. FUND 212,940
It is recommended that the activities for the Common Ownership Communities (COC) Special Revenue Fund be consolidated into the General Fund as part of the Department of Housing and Community Affairs. There is no stipulation in the County Code, Chapter 10 that requires the COC activities to be reported as a separate special revenue fund. COC was originally established administratively as a separate fund solely because of the similarity of its operations and purpose to the LTA program, which had previously been established as a separate fund. Consolidation of COC activities into the General Fund is consistent with the GASB principle of establishing and maintaining only the minimum number of funds consistent with legal and operating requirements. Because the County Code requires that fee revenues collected for COC activities be used only for that purpose, the excess revenues of $98,970 should be reserved for FY04 for COC activities.

TRANSFER AUCTION PROCEEDS AGENCY FUND TO GENERAL FUND 895,040
The Police department auctions abandoned vehicles and certain other items and the money collected is recorded in the Auction Proceeds Agency Fund. The payments made out of this agency fund include towing and storage charges, auctioneers fees, overtime, and certain other miscellaneous expenses. The net remaining amount at the end of the fiscal year is transferred to the General Fund as auction revenue. Under GASB 34 guidelines, this practice of transferring only the net revenues cannot be continued because the activity being recorded in the agency fund is a County program. Therefore, the estimated expenses for FY02 should be appropriated under the Police department in the General Fund. The source of revenue in the General Fund to support this expenditure is the auction proceeds. In the Executive's Recommended FY03 Budget, $360,000 in net auction revenues was assumed. The balance of these revenues, $895,040 will be shifted to the general fund.

AGENDA #23
May 10, 2002

MEMORANDUM

May 8, 2002

TO: County Council

FROM: CHS Charles H. Sherer, Legislative Analyst

SUBJECT: Recommendations from the Management and Fiscal Policy Committee regarding the County Executive's FY 03 budget adjustments for GASB 34

On April 23, 2002, the Council received the County Executive's FY 03 budget adjustments. As the Executive stated in his memorandum, "In addition, several amendments are included to align the County's budgeting practices with guidance from the Governmental Accounting Standards Board Statement 34 (GASB 34)." The amendments affecting the tax and non-tax supported budgets are summarized on ©1 and explained in ©2-4. On ©5-6 are explanations of changes related to GASB 34 that do **not** impact the budget.

On May 1, the Committee reviewed the changes and recommends **approval.** The Committee was concerned that transferring Landlord-Tenant Affairs and Common Ownership Communities into the General Fund would make it impossible to know that the revenues for each function were used to provide the services for which the revenues are collected. How could anybody know that the revenues are not being used to support other services? Expenses should be approximately equal to revenues. OMB and Finance assured the Committee that they have mechanisms to track revenues and expenses.

Council staff believes that the existing budget figure pages can easily be adapted to address the Committee's concerns. Page ©7 is from the FY 03 operating budget for DHCA. Council staff suggests simply modifying the page as hand annotated on ©7.

Resolution No.: 12-595
Introduced: March 24, 1992
Adopted: March 31, 1992

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Management and Fiscal Policy Committee

Subject: User Fee Policy

Background

1. The Council's Commission to Review the Efficiency and Effectiveness of Government conducted a study of user fees, which was included in the Commission's report to the Council dated December 6, 1991. The Commission recommended that the County increase user fees and recommended the basic elements of a policy on user fees.

2. As part of the Council's special budget project, the Management and Fiscal Policy Committee decided to develop a user fee policy which would apply to all agencies. This policy will serve as the basis for individual fees, which the agencies and the Council's Committees will review for FY 1993 and for future years.

3. On March 12, 1992, the Committee discussed user fees with each agency, discussed the Commission's report on user fees, discussed the Executive's fee policy, and discussed a proposed policy on user fees. On March 23, the Committee discussed the policy again and prepared the policy on user fees which is reflected in this resolution.

Action

The County Council for Montgomery County, Maryland, approves the attached policy on user fees.

This is a correct copy of Council action.

Kathleen A. Freedman

Kathleen A. Freedman, CMC
Secretary of the Council

POLICY ON USER FEES

INTRODUCTION The Council adopted the following policy on user fees to insure that the County agencies have a consistent rationale for charging user fees. Existing and proposed fees should be evaluated based on this policy and criteria.

User fees can be charged to ration scarce resources, to cover the "privilege" costs of having a facility available, and to cover the costs of reserving a facility or program. If State law grants authority to a separate legal body to set fees, this policy is a guide to that body in setting fees. However, if the separate legal body adopts a different policy, then that body should give the Council a copy of that policy.

POLICY ON USER FEES User fees are payments for the use of a government service. The total cost to the user varies with the quantity of the service used. In contrast to user fees, general taxes, such as property taxes and income taxes, do not vary with the quantity of any government service used. For purposes of this fee policy, there are two types of fees: 1) Voluntary, for voluntary participation in a government-sponsored activity (the participation, not the fee, is voluntary); or 2) Regulatory, for government regulation of a private activity.

Government services provide benefits to individuals and to society as a whole. The Council's policy on user fees is that **"User fees should be charged which are proportional to the individual benefit, subject to the criteria below. The starting point should be that 100% of the full cost should be reflected, with a reduction for the estimated public benefit."** The phrase "full cost" means all direct costs of providing the service, plus indirect (overhead) costs, plus debt service. Rather than charging 100% of less than full costs as defined here, it is preferable to charge a lesser percent of full costs, to insure that the full cost is not forgotten.

Because of the extreme difficulty in estimating the public benefit, we suggest that fees be set at one of four levels: 25%, 50%, 75%, or 100% of full cost. Each agency and department must explain how the public receives a benefit which justifies not charging 100% of the cost. The amount of the public benefit cannot be calculated in any objective way and will reflect the value judgments of the policy makers involved. Some fees will be set at whatever level policy-makers think is reasonable, without regard to cost.

Each agency should review its programs every year as part of its budget preparation, to answer the following questions: Are existing fees at the appropriate level, and should new fees be charged? When an agency proposes to change an existing fee or to charge a new fee, the agency must give the Council an analysis of how the following criteria were applied, and must specify which fund will receive the revenue.

CRITERIA FOR DECIDING WHETHER A USER FEE SHOULD BE CHARGED. A user fee is not always feasible. The following criteria must be considered before a user fee is charged.

1. The service must be divisible, which means that it can be provided separately to some individuals but not to others. Also, people who do not pay must be easily prevented from using the service.

2. The following factors must be considered in deciding whether to charge a fee: Ease of collecting, cost of collecting, and the amount of net revenue.

3 Higher fees should be considered for non-County residents. Residents should not pay as much since they also pay for services through County taxes.

4. The following factors must be considered: a) the effect of the fee on usage; and b) the impact of reduced usage, or in other words, whether the County is concerned from a policy or fiscal perspective if the fee results in less usage.

5. The ability of users to pay must also be considered. Each agency should establish a policy with regard to low income users and should consider and develop strategies that permit low income participants to contribute by paying some portion of the fee. Costs not covered by low income users would be absorbed by the general taxpayers, not by the other users.

6. Some fees are prohibited or set by law or other regulation. However, if a fee or a higher fee were warranted by the policy, then an effort to change the law or regulation should be considered.

Tax-Exempt Financing - Private Use

The County will support the private use of tax-exempt financing through Economic Development Revenue bonds, or such other instruments as are authorized by law, only when such financing: serves public objectives; has economic, fiscal, and social benefits for the County; and does not pledge either the full faith and credit or the taxing power of the County or its political subdivisions.

GOVERNMENTAL MANAGEMENT POLICIES

Productivity

The County will seek continuous improvement in the productivity of County programs in terms of quantity of services relative to resources expended, through all possible strategies.

Employee Involvement

The County will actively encourage and make use of the experience and expertise of its workforce for optimum program effectiveness and cost-efficiency of public service delivery through training, teamwork, employee empowerment, and other precepts of quality management.

Intergovernmental Program Efforts

The County will seek program efficiencies and cost savings through cooperative agreements and joint program efforts with other County agencies, municipalities, regional organizations, and the State and Federal governments.

Alternative Service Delivery

The County will consider obtaining public service delivery through private or nonprofit sectors via contract or service agreement, rather than through governmental programs and employees, when permitted by law, cost-effective, and consistent with other public objectives and policies.

Risk Management

The County will: control its exposure to financial loss through a combination of commercial and self-insurance; self-insure against all but highest cost risks; and aggressively control its future exposure through a risk management program that allocates premium shares among agencies based on loss history.

Employee Compensation

The County will seek to provide total compensation (pay plus employee benefits) that is: comparable to jobs in the private sector; comparable among similar jobs in the several County departments and agencies; and comparable between employees in collective bargaining units and those outside such units.

The government will act to contain the growth of compensation costs through organizational efficiencies within its departments and agencies, management efficiencies within its operations and service delivery, and productivity improvements within its workforce.

Pension Funds

The County will, to assure the security of benefits for current and future retirees and the solvency of the Employee Retirement System of Montgomery County, provide for the judicious management and investment of the fund's assets through the Board of Investment Trustees (BIT), and strive to increase the funding ratio of assets to accrued liability. The BIT also selects the service providers and investment options available for employees participating in the Retirement Savings Plan and the Deferred Compensation Plan.

Surplus Property

The County will maximize the residual value of land parcels or buildings declared excess to current public needs through public reuse, lease to appropriate private organizations, or sale, in order to return them to the tax base of the County. Disposition of goods which have become obsolete, unusable, or surplus to the needs of the County will be accomplished through bid, auction, or other lawful method, to the purchaser offering the highest price except under circumstances as specified by law.

Fiscal Impact Reviews

The County will review proposed local and State legislation for specific findings and recommendations relative to financial and budgetary impacts and any continuing and potential long-term effects on the operations of government.

Economic Impact Statements

Where applicable, the County will review proposed local and State legislation for specific findings and recommendations relative to economic impacts for any continuing and potential long-term effects on the economic well-being of the County.

Resource Management

The County will seek continued improvement in its budgetary and financial management capacity in order to reach the best possible decisions on resource allocation and the most effective use of budgeted resources.

POLICIES FOR REVENUES AND PROGRAM FUNDING

Diversification of Revenues

The County will establish the broadest possible base of revenues and seek alternative revenues to fund its programs and services, in order to:

- Decrease reliance on general taxation for discretionary but desirable programs and services and rely more on user fees and charges;
- Decrease the vulnerability of programs and services to reductions in tax revenues as a result of economic fluctuations; and
- Increase the level of self-support for new program initiatives and enhancements.

Revenue Projections

The County will estimate revenues in a realistic and conservative manner in order to minimize the risk of a funding shortfall.

Property Tax

The County will, to the fullest extent possible, establish property tax rates in such a way as to:

- Limit annual levies so that tax revenues are held at or below the rate of inflation, or justify exceeding those levels if extraordinary circumstances require higher rates;
- Avoid wide annual fluctuations in property tax revenue as economic and fiscal conditions change; and
- Fully and equitably obtain revenues from new construction and changes in land or property use.

A 1990 amendment to the County Charter (Section 305), "Question F," limits the annual increase in real property tax revenue to the rate of inflation plus that associated with new construction, rezoning, changes in property use, and development districts. This limit may be overridden by a vote of seven of the nine councilmembers.

County Income Tax

The County will maintain the rate for the local personal income tax within the limits specified in the Maryland Code, Tax-General Article, Section 10-106.

Special Districts

The County has established special districts within which extra services, not performed Countywide, are provided and funded from revenues generated within those districts. Examples are the Urban, Recreation, and Parking Lot Districts. The County will also abolish special districts when the conditions which led to their creation have changed.

Most special districts have a property tax to pay all or part of the district expenses. Such property taxes are included in the overall limit set on annual real property tax revenue increases by Section 305 of the County Charter.

Special Funds

The revenues and expenditures of special districts are accounted for in special revenue funds or, in the case of Parking Lot Districts, in enterprise funds. As a general principle, these special funds pay an overhead charge to the General Fund to cover the management and support services provided by General Fund departments to these special fund programs.

When the fund balances of special funds grow to exceed mandated or otherwise appropriate levels relative to district public purposes, the County may consider transferring part of the fund balance to support other programs, as allowed by law. For example, portions of the fee and fine revenue of the Parking Lot Districts (PLDs) are transferred to the Mass Transit Fund and a portion of the PLDs' fee revenue is transferred to the Urban Districts.

Enterprise Funds

The County will, through pricing, inventory control, and other management practices, ensure appropriate fund balances for its enterprise funds while obtaining full cost-recovery for direct and indirect government support, as well as optimal levels of revenue transfer for General Fund purposes.

One-Time or "Windfall" Revenues

Except for excess revenues which must go to the Revenue Stabilization Fund (see below), the County will, whenever possible, give highest priority for the use of one-time revenues from any source to the funding of capital assets or other nonrecurring expenditures so as not to incur ongoing expenditure obligations for which revenues may not be adequate in future years.

Intergovernmental Revenues

The County will aggressively seek a fair share of available State and Federal financial support unless conditions attached to that assistance are contrary to the County's interest. Where possible, Federal or State funding for the full cost of the program will be requested, including any indirect costs of administering a grant-funded program. For reasons of fiscal prudence, the County may choose not to solicit grants that will require an undeclared fiscal commitment beyond the term of the grant.

User Fees and Charges

The County will charge users directly for certain services and use of facilities where there is immediate and direct benefit to those users, as well as a high element of personal choice or individual discretion involved, rather than fund them through general taxation. Such charges include licenses, permits, user fees, charges for services, rents, tuition, and sales of goods. This policy will also be applied to fines and forfeitures. See also: "Policies for User Fees and Charges," later in this Fiscal Policy section.

Cash Management and Investments

The objective of the County's cash management and investment program is to achieve maximum financial return on available funds while assuring a high level of safety. Cash will be pooled and invested on a daily basis reflecting the investment objective priorities of capital preservation, liquidity, and yield.

Reserves and Revenue Stabilization

The County will maintain total reserves for tax supported funds that include both an operating margin reserve and the Revenue Stabilization Fund (or "rainy day fund"). For tax supported funds, the budgeted total reserve of the operating margin and the Revenue Stabilization Fund should be at least 6.0 percent of total resources (i.e., revenues, transfers, prior year undesignated and designated fund balance).

An operating margin reserve (or unappropriated fund balance) will be budgeted for tax supported funds in order to provide sufficient funds for unanticipated revenue shortfalls or unexpected expenditure requirements.

The County's Revenue Stabilization Fund was established to accumulate funds during periods of strong economic growth in order to provide budgetary flexibility during times of funding shortfalls. Fifty percent of selected revenues in excess of budgeted amounts must be transferred to the Fund; discretionary contributions may also be made. Unless decided otherwise by six or more councilmembers, withdrawals may be made only under certain economic conditions and may be used only to support appropriations which have become unfunded.

The budgeted reserve levels for non-tax supported funds are established by each government agency and vary based on the particular fiscal requirements and business functions of the fund as well as any relevant laws, policies, or bond covenants.

POLICIES FOR USER FEES AND CHARGES

To control the growth of property taxation as the County's principal revenue source, there is a need to closely allocate certain costs to those who most use or directly benefit from specific government programs and services. Fees and charges are those amounts received from consumers of government services or users of facilities on the basis of personal consumption or private benefit rather than individual income, wealth, or property values. Significant government revenues are and should be obtained from licenses, permits, user fees, charges for services, transit fares, rents, tuition, sales, and fines. The terms "fee" and "charge" are used here interchangeably to include each of these types of charges.

Purpose of User Fee Policy

Access to programs and services. The imposition of and level of fees and charges should be set generally to ensure economic and physical access by all residents to all programs and services provided by the government. Exceptions to this basic public policy are: the pricing of public goods (such as parking facilities) in order to attain other public policy objectives (such as public use and support of mass transit); and using a charge to enforce compliance with laws and regulations, such as fines for parking violations.

Fairness. User fees and charges are based on the idea of equity in the distribution of costs for government programs and services, with the objective of sharing those costs with the individual user when there is individual choice in the kind or amount of use, and of adjusting charges in accordance with individual ability to pay when there is no choice.

Diversification of revenue sources. User fees and charges enhance the government's ability to equitably provide programs and services which serve specific individuals and groups and for which there is no other alternative provider available. The policy objective is to decrease reliance on general revenues for those programs and services which produce direct private benefits and to fund such programs and services through revenues directly related to their costs and individual consumption.

Goals

Goals for the imposition of user fees and charges include:

- Recovery of all, or part of, government costs for the provision of certain programs and services to the extent that they directly benefit private individuals or constituencies rather than the public at large;
- Most efficient allocation of available public resources to those programs meeting the broadest public need or demand;
- More effective planning and alternative choices for future programs, services, and facilities through "market" information from actual user demand;
- Improved cost-effectiveness and accountability for the spending of public funds by allowing individual citizens to choose their level of use from among those programs, services, and facilities where individual choice may be exercised; and
- Ensuring dedicated sources of funds to cover the costs of programs and services of direct benefit to designated special areas or user groups rather than the County as a whole.

Criteria

Within these goals, government officials must consider a variety of factors in deciding whether to employ fees and charges and what rates to charge. Each proposal for a new or increased fee is evaluated according to these criteria.

Public benefit. Many programs benefit the public as a whole as well as those who directly use the service. By definition, all programs offered by government have some public benefit or they should not be undertaken. However, the rate set must balance the private benefit with the public good so that there is maximum overall benefit to the community, and the costs are fairly allocated.

This balance may be achieved either by specifying a percentage of cost recovery (from users) or by a tax subsidy for each service (from the general public). The greater the public benefit, the lower the percentage of cost recovery that is appropriate. On one end of the scale, public utilities such as water and sewer should be paid for almost entirely on the basis of individual consumption, with full cost recovery from consumer-users; on the other, public education and public safety (police and fire service) are required for the overall public good and so are almost entirely supported through general taxation.

In between are services such as public health inspections or clinic services which protect the public at large but which are provided to specific businesses or individuals; facilities such as parks which are available to and used by everyone; and playing fields, golf courses, or tennis courts which serve only special recreational interests. Services that have private benefit for only a limited number of persons (such as public housing, rent or fuel subsidies) should not be "free" unless they meet very stringent tests of public good, or some related criteria such as essential human needs.

Ability to pay. Meeting essential human needs is considered a basic function of government, and for this reason programs or services assisting the very poor are considered a "public good" even though the benefit may be entirely to individuals. Whether to assess fees and how much to charge, depends on the ability to pay by those who need and make use of programs and services provided by government.

Without adjustment, fees are "regressive" because rates do not relate to wealth or income. For this reason, services intended mainly for low-income persons may charge less than otherwise would be the case. Policies related to fee scales or waivers should be consistent within similar services or as applied to similar categories of users. Implementation of fee waivers or reductions requires a means for establishing eligibility that is fair and consistent among programs. The eligibility method also must preserve the privacy and dignity of the individual.

User discretion. Fees and charges are particularly appropriate if the user has a choice about whether or not to use a particular program or service. Individuals have choices as to: forming a business that requires a license; use of particular recreational facilities; obtaining post-secondary education; or in transportation and related facilities. When fines represent a penalty to enforce public law or regulation, citizens can avoid the charge by compliance; fines should be set at a point sufficient to deter non-compliant behavior. The rates for fines and licenses may exceed the government cost of providing the related "service" when either deterrence or rationing the special "benefit" is desired as a matter of public policy.

Market demand. Services which are fee-supported often compete for customer demand with similar services offered by private firms or by other public jurisdictions. Fees for publicly-provided goods cannot be raised above a competitive level without loss of patronage and potential reduction in cost-effectiveness. Transit fares, as a user charge, will compete with the individual's real or perceived cost of alternative choices such as the use of a private automobile. In certain cases, it may be advisable to accept a loss of volume if net revenue increases, while in others it may be desirable to set the fee to encourage use of some other public alternative.

Specialized demand. Programs with a narrow or specialized demand are particularly suitable for fees. The fee level or scale may be set to control the expansion of services or programs in which most of the public does not need or elect to participate. Services that have limitations on their availability may use fee structures as a means of rationing available capacity or distributing use over specific time periods. Examples include golf courses, parking, and transit fares, all of which have differentiated levels related to time of use. Even programs or services which benefit all or most residents may appropriately charge fees if their benefits are measurable but unequal among individuals. Charges based on consumption, such as water and sewer provision, are examples. In addition, because they do not pay taxes, nonresidents may be charged higher rates than residents (as with community college tuition), or they may be charged a fee even if a program is entirely tax supported for County residents.

Legal constraints. State law may require, prohibit, regulate, or preempt certain existing or proposed user charges. In general, local government has no authority to tax unless specifically authorized by State law. Localities are generally able to charge for services if those charges are authorized by local ordinance and not prohibited, regulated, or preempted by State law. If a proposed fee is legally construed as a tax, then the fee may be invalidated until authorized as a tax by the State. Federal or State law may also prohibit or limit the use of charges for certain grant programs, and other Federal or State assistance may require the local authority to "match" certain amounts through imposition of charges. It should be noted that law on such issues is frequently in dispute; particular fees, or the level of charge, may be subject to legal challenge.

Program cost. The cost of a program or service is an important factor in setting user charges. Costs may include not only the direct personnel and other costs of operating a program, but also indirect costs such as overhead for government support services. In addition, a fee may be set to recover all or part of facilities construction or debt service costs attributable to a program. Recovery of any part of the costs of programs benefiting specific individuals should identify and consider the full cost of such programs or services to acknowledge the cost share which will be borne by the public at large.

Reimbursement. A decision on whether to use fees is influenced by the possibility of reimbursement or shifting of real costs that can lower the net cost to the resident. For example, some County taxes are partially deductible from Federal or State income tax, while fees and charges may not be deducted. Hence, the same revenue to the County may cost less to the resident if it is a tax rather than a fee. Charges may also be reimbursed to (shifted from) the paying individual from (or to) other sources, either governmental or private. For example, ambulance transport charges may be payable under health insurance. In general, the County will use fees to minimize the real cost to residents, within the context of equity and other criteria noted.

Administrative cost. The government incurs administrative costs to measure, bill, and collect fee revenues. In general, it is less expensive to collect tax revenue. If a potential user fee revenue will cost more to collect than it will produce, it may not be appropriate to assess a fee even if otherwise desirable and appropriate. It is important to develop ways to measure the use of services which do not cost more than the usefulness or fairness of doing the measurement. For example, "front footage" is used as a measurement basis for assessing certain charges related to road improvements and supply of water and sewer, to avoid the administrative cost of precisely measuring benefit. Similarly, the cost of effective collection enforcement must be weighed against total benefits of the charge, including the value of deterrence if the charge is punitive.

Preserving the real value of the charge. During the period when a fee has been in effect, costs have usually risen and inflation has cut the real value of revenue produced by the fee. In many instances, adjustments to user charges have either not been imposed or have lagged behind inflation. The rate of the charge should be increased regularly to restore the former value of the revenue involved. Most fees and charges should be indexed so that their per unit revenues will keep up with inflation.

FRAMEWORK FOR FISCAL POLICY

Legal Framework

Fiscal policy is developed and amended, as necessary, according to:

- Federal law and regulation;
- Maryland law and regulation;
- Montgomery County Charter; and
- Montgomery County law and regulation.

Fiscal Planning Projections and Assumptions

Various trends and economic indicators are projected and analyzed for their impacts on County programs and services and for their impact on fiscal policy as applied to annual Operating Budgets. Among these are:

- Inflation, as measured by change in the Consumer Price Index (CPI) for the Washington-Baltimore area, is an important indicator of future costs of government goods and services, including anticipated wage and salary adjustments. The CPI change also specifies the increase in property tax revenue allowed by Section 305 of the Charter (1990 "Question F" Amendments) without an extraordinary vote of the Council.
- Growth of population and jobs, which are principal indicators of requirements for new or expanded programs and services.
- Demographic change in the numbers or location within the County of specific age groups or other special groups, which provides an indication of the requirements and costs of various government services and programs.
- The assessable property tax base of the County which is the principal indicator of anticipated property tax collections, a major source of general revenues.
- Personal income earned by County residents, which is a principal basis for projecting income tax revenues as one of the County's major revenue sources, as well as being a basis for determining income eligibility status for certain government programs.
- Employment growth and unemployment rates within the County, as indicators of personal income growth as a revenue source, as well as being indicators of various service or program needs, such as day care or public welfare assistance.

Generally Accepted Accounting Principles (GAAP)

The application of fiscal policy in the financial management of annual operating expenditures must be in conformity with GAAP standards. This involves the separate identification of, and accounting for, the various operating funds; adherence to required procedures such as transfers between funds and agencies; and regular audits of general County operations and special financial transactions such as the disbursement of Federal grants.

Credit Markets and Credit Reviews

The County's ability to borrow cost-effectively depends upon its credit standing as assessed by the three major credit rating agencies: Moody's Investors Service, Inc., Standard and Poor's, and Fitch. While key aspects of maintaining the highest credit rating are related to the management of the County's Capital Improvements Program (CIP), others are directly applicable to the annual Operating Budgets:

- Maintenance of positive fund balances (reserves) to ensure continued County liquidity for debt repayment; and
- Assurances through County law and practice of an absolute commitment to timely repayment of debt and other obligations.

Intergovernmental Agreements

Fiscal policy for operating budgets must provide guidance for, and be applied within, the context of agreements made between the County and other jurisdictions or levels of gov-

MFP # 2
July 26, 2004

MEMORANDUM

July 20, 2004

TO: Management and Fiscal Policy Committee

CHS

FROM: Charles H. Sherer, Legislative Analyst

SUBJECT: Overhead/indirect costs in County Government

Schedule A-5 in the Operating Budget is 8 pages of roughly 300 "Inter-Fund Transfers" among funds in all agencies. The purpose of this memorandum is to explain one type of transfer within County Government: overhead, also referred to as "indirect costs". Overhead costs are costs incurred in the General Fund (such as County Attorney, Finance, Human Resources, and Procurement) which benefit, or are incurred to support, other funds (special and enterprise). If the special or enterprise fund did not exist, then these costs in the General Fund would be less. The following questions and answers will hopefully explain these transfers.

1. **What is being transferred?** Revenue is transferred from the special or enterprise fund to the General Fund. The General Fund "needs" the revenue to cover the costs that would not be incurred if the special or enterprise fund did not exist. Revenue in the special or enterprise fund must be sufficient to cover all costs incurred by the fund, to provide a reserve, and to cover the amount of costs incurred in the General Fund. As just noted, the General Fund costs are covered by the revenue transfer from the fund to the General Fund.

2. **Which funds transfer revenue to the General Fund (including funds which could, but do not)?**

Type: N = Non tax supported; T = Tax supported

Fund	Type	FY05 Transfer
CATV	N	$178,490
Community Use of Public Facilities	N	264,790
Economic Development Fund	T	0
Fire	T	0
Housing Initiative	N	55,840

Fund	Type	FY05 Transfer
Liquor Control.	N	1,716,580
Mass Transit	T	5,372,360
Parking District, Bethesda	N	172,810
Parking District, Montgomery Hills	N	5,680
Parking District, Silver Spring	N	194,400
Parking District, Wheaton	N	25,550
Permitting Services	N	2,489,910
Recreation	T	2,207,680
Solid Waste Collection	N	122,180
Solid Waste Disposal	N	915,570
Urban Districts, Bethesda	T	0
Urban Districts, Silver Spring	T	190,190
Urban Districts, Wheaton,	T	87,480
Vacuum Leaf Collection	N	422,400
Water Quality Protection	N	108,830

3. **What is the rationale for these transfers?** Since revenues, not costs, are being transferred, the transfer does not have the result of more accurately reflecting the costs incurred by a fund. To answer this question, the transferring funds can be put in three categories, with a slightly different rationale for each:

a) Tax-supported fund, not County wide (Recreation and the Urban Districts. Both Park and Planning are Tax-supported, not County wide, but they are not part of the County Government). The transfer ensures that only the residents in the district pay the costs of the fund – residents outside the district do not benefit from the fund, at least in theory, so they should not pay any costs of the fund. The Bethesda Urban District does not pay a charge because the charge is based on personnel costs, which are zero for this District (all costs are operating costs for a contract with the Bethesda Urban Partnership). But surely the General Fund supports the BUD, so should another basis for applying the charge be considered?

b) Tax-supported fund, County wide: Fire and Mass Transit. As shown in the table above, Mass Transit makes a transfer to the General Fund, but Fire does not. Since both funds are County wide, there is no impact on the taxpayers, so Council staff's view is that the revenue transfer serves no purpose (in other MFP meetings, Council staff has suggested merging both funds into the General Fund). A question for OMB is why Fire is not charged but Mass Transit is.

c) Enterprise Funds. The rationale is similar to that for the tax-supported funds which are not County wide. The transfer ensures that the users of the fund's services, not the General Fund taxpayers, pay the costs of the fund.

4. **Why is there no transfer of revenue to cover overhead costs within the General Fund, such as from Human Resources to each department?** As a practical matter, some of the departments do not have **any** revenue to cover any costs, whether direct or indirect. Without revenue, there can be no revenue transfer. Before making a revenue transfer, the department would have to have more revenue than direct costs. However, in Council staff's view, even if a department had such excess revenue, a revenue transfer within the General Fund makes no sense and serves no purpose: there is no impact on the General Fund "as a whole" and no impact on the taxpayers. As noted above, even if revenues were transferred, such transfers would not have the result of more accurately reflecting the costs incurred by a department.

In a related matter, the Committee is aware that several departments have employees whose costs are charged to (included in) the budgets of other departments, and are **not** in the budget for the charging department. This could be viewed as a **cost** transfer, but is in no way a **revenue** transfer. Examples are: the County Attorney charges 26.5 workyears to various other departments; Finance charges 6.9 workyears to various other departments; and OHR charges 11.2 workyears to various other departments.

5. **Which specific costs are included in the overhead/indirect cost, and how is the cost calculated?** One way to calculate the overhead charge from support departments to supported departments would be for each support department to "keep track of" the amount of time and expense it incurs to support each supported department. However, this would clearly be difficult and burdensome in the extreme. Instead, an estimate is used, as described below.

Every year, in July or August, OMB calculates an indirect cost rate based on actual costs of the fiscal year that ended on June 30 of the previous calendar year. The indirect cost rate is calculated as a percentage of personnel costs, and OMB submits the proposed calculation to the Federal Department of Health and Human Services. The Federal government reviews the calculation and after approving a rate, allows the County to apply this rate to personnel costs in calculating the County cost to be reimbursed or covered by a grant. The rates calculated in July 2004 are based on FY03 actual costs and will be used for overhead charges in FY06.

For example, the overhead rate for FY05 is almost 16% based on FY03 actual costs. If the County calculates the direct personnel cost to provide a service is $100,000, the Federal Government would consider a total grant in the amount of $116,000.

The FY05 indirect cost proposal starts on ©1. The departments and other costs which the Federal government allows as overhead are explained on ©4-7 (23 components). The first 21 are listed on ©10 and the last two are on ©9. The allowable overhead/indirect costs incurred in the General Fund are added and then divided by total personnel costs in all County Government funds.

As can be seen on ©9, there are two rates. Each rate is multiplied by the personnel costs in the fund or grant, and the product is charged to the fund or grant. The first rate is 12.60%, which is used to charge the special funds for the costs incurred in the General Fund. The second is 15.96% (3.36% more), which is used to determine the full cost of providing services funded by a grant. Again as can be seen on ©9, the lower rate excludes two costs which are already included in the budgets for the special funds, so these two costs should not be charged again to the special funds. The higher rate includes these two costs, which are incurred when providing services funded by a grant.

As noted above, the overhead charge is stated as a percentage of personnel costs. The assumption is that the cost of providing support to a department is determined entirely by the personnel cost in the supported department. However, operating costs also create the need for some support, such as administering contracts or buying equipment (operating costs, not a personnel costs).

FY 00-05 Rental License Fee (formerly Landlord-Tenant Fund) Financial Summary

	Actual FY 00	Actual FY 01	Actual FY 02
Beginning Fund Balance			
LTA Fund	$ 912,244	$ 838,828	$ 477,571
Expenditures			
Personnel Costs	$ 2,245,908	$ 2,381,230	$ 2,541,176
Operating Expenses	$ 292,979	$ 440,624	$ 280,893
Prior Year Encum. Adjustment	$ 24,999	$ 23,573	$ 29,896
Subtotal	$ 2,563,886	$ 2,845,427	$ 2,851,965
Revenues			
Apartment/Condo Rental Fees	$ 1,886,293	$ 672,528	$ 196,081
Apartment/Accessory Apartmen	$ -	$ -	$ 2,026,990
Single Family Rental Fees	$ 722,297	$ 1,909,418	$ 710,965
Ivestment Income	$ 110,685	$ 117,237	$ 45,296
Foster Care Inspection	$ 8,410	$ 7,730	$ -
Civil Citations	$ 35,155	$ 32,476	$ 20,505
Other	$ 29,217	$ 48,245	$ 33,356
Subtotal	$ 2,792,057	$ 2,787,634	$ 3,033,193
Overhead and Transfers			
Overhead Transfer to GF	$ 268,470	$ 333,360	$ 479,090
Transfer to Internal Service Fun	$ 56,690	$ -	$ -
Balance Transfer to GF	$ -	$ -	$ 179,709
Subtotal	$ 325,160	$ 333,360	$ 658,799
End of Year Fund Balance	$ 815,255	$ 447,675	$ -

	Actual FY 03	Actual FY 04	Approved FY 05
Expenditures			
Personnel Costs	$ 2,757,548	$ 2,776,431	$ 2,892,687
Operating Expenses	$ 261,952	$ 204,405	$ 301,490
Subtotal	$ 3,019,500	$ 2,980,836	$ 3,194,177
Revenues			
Apartment Rental License	$ 2,272,970	$ 2,277,773	$ 2,356,000
Accessory Apartment License	$ 9,022	$ 9,272	$ 9,120
Single Family Rental License	$ 1,097,443	$ 1,136,633	$ 1,127,000
Condo Rental License	$ 303,000	$ 300,941	$ 294,000
Foster Care	$ 2,940	$ 1,020	$ -
Civil Citations - Landlord-Tenant	$ 39,830	$ 42,875	$ 20,000
Misc - Landlord-Tenant	$ 27,124	$ 30,500	$ 20,000
Refunds/Revenue Adjustment	$ (486)	$ (7,755)	$ -
Subtotal	$ 3,751,843	$ 3,791,259	$ 3,826,120
Balance	$ 732,343	$ 810,423	$ 631,943

Sources: FY 00, 01, and 02 Montgomery County CAFR and FAMIS

FY 03-05 Budgeted and Actual Rental License and Common Ownership Communities Registration Fee Revenue

Program and Index Code		FY 05 Budget	FY 04 Actual	FY 04 Budget	FY 03 Actual	FY 03 Budget
Licensing						
	Landlord Tenant Re	$ -	$ 3,900	$ -	$ 3,140	$ -
	Adult Foster Care	$ -	$ 1,020	$ -	$ 2,940	$ -
	Civil Citations	$ 20,000	$ 42,875	$ 20,000	$ 39,830	$ 35,000
	Landlord Tenant Transfer	$ -	$ 560	$ -	$ 425	$ -
	Current Yr Condo License	$ 294,000	$ 300,941	$ 288,750	$ 303,000	$ 368,500
762050002 LTA Licensing	Current Yr Apt License	$ 2,356,000	$ 2,277,773	$ 2,245,800	$ 2,272,970	$ 2,204,000
	Accessory Apt License	$ 9,120	$ 9,272	$ 9,500	$ 9,022	$ 12,920
	Single Family License	$ 1,127,000	$ 1,136,633	$ 1,140,000	$ 1,097,443	$ 1,140,000
	Sundry/Misc Revenue	$ 20,000	$ 26,040	$ 20,000	$ 23,559	$ 20,000
	Refunds/Revenue Adjust.	$ -	$ (7,755)	$ -	$ (486)	$ -
	Revenue Total	**$ 3,826,120**	**$ 3,791,259**	**$ 3,724,050**	**$ 3,751,843**	**$ 3,780,420**
	OCOC Registration	$ 254,250	$ -	$ 245,250	$ 234,650	$ 240,990
762050004 COC Licensing	Common Ownership Comm	$ -	$ -	$ -	$ 1,900	$ -
	Sundry/Misc Revenue	$ 3,000	$ -	$ 3,000	$ 130	$ 3,000
	Revenue Total	**$ 257,250**	**$ -**	**$ 248,250**	**$ 236,680**	**$ 243,990**
Consumer Proctection						
	OCOC Registration	$ -	$ 251,135	$ -	$ 12,969	$ -
762050005 COC Mediation	Common Ownership Comm	$ -	$ 3,400	$ -	$ 800	$ -
	Sundry/Misc Revenue	$ -	$ 375	$ -	$ 382	$ -
	Revenue Total	**$ -**	**$ 254,910**	**$ -**	**$ 14,151**	**$ -**
Rental License Fee Revenue		**$ 3,826,120**	**$ 3,791,259**	**$ 3,724,050**	**$ 3,751,843**	**$ 3,780,420**
Common Ownership Community Fee Revenue		**$ 257,250**	**$ 254,910**	**$ 248,250**	**$ 250,831**	**$ 243,990**

Source: FAMIS

FY 03-05 Budgeted and Actual Rental License and Common Ownership Communities Registration Fee Expenditures

Program and Index Code			FY 05 Budget	FY 04 Actual	FY 04 Budget	FY 03 Actual	FY 03 Budget
Administration							
761030001	LTA: Administration	Personnel Costs	$ 214,541	$ 185,792	$ 205,024	$ 195,670	$ 190,604
		Operating Expenses	$ 11,350	$ 9,791	$ 5,350	$ 2,428	$ 5,350
		Subtotal	**$ 225,891**	**$ 195,583**	**$ 210,374**	**$ 198,098**	**$ 195,954**
Housing Loans							
764010002	LTA Housing	Personnel Costs	$ 58,961	$ 67,121	$ 82,809	$ 91,016	$ 81,781
		Operating Expenses	$ -	$ 1,374	$ -	$ 348	$ -
		Subtotal	**$ 58,961**	**$ 68,495**	**$ 82,809**	**$ 91,364**	**$ 81,781**
Code Enforcement							
764060004	LTA Code Enforcement	Personnel Costs	$ 1,486,754	$ 1,398,870	$ 1,378,991	$ 1,392,814	$ 1,429,989
		Operating Expenses	$ 194,570	$ 131,935	$ 188,191	$ 187,078	$ 199,921
		Subtotal	**$ 1,681,324**	**$ 1,530,805**	**$ 1,567,182**	**$ 1,579,892**	**$ 1,629,910**
Landlord Tenant Mediation							
764010004	LTA Legal	Personnel Costs	$ 35,559	$ 32,369	$ 35,567	$ 24,327	$ 32,942
		Operating Expenses	$ -	$ 255	$ -	$ -	$ -
		Subtotal	**$ 35,559**	**$ 32,624**	**$ 35,567**	**$ 24,327**	**$ 32,942**
764050002	LTA Mediation	Personnel Costs	$ 755,966	$ 628,953	$ 660,735	$ 605,952	$ 609,483
		Operating Expenses	$ 44,020	$ 28,057	$ 76,800	$ 35,564	$ 76,800
		Subtotal	**$ 799,986**	**$ 657,010**	**$ 737,535**	**$ 641,516**	**$ 686,283**
Licensing							
762050002	LTA Licensing	Personnel Costs	$ 193,475	$ 254,688	$ 261,591	$ 236,281	$ 292,705
		Operating Expenses	$ 51,550	$ 32,993	$ 44,290	$ 36,534	$ 50,000
		Subtotal	**$ 245,025**	**$ 287,681**	**$ 305,881**	**$ 272,815**	**$ 342,705**
762050004	COC Licensing	Personnel Costs	$ 57,147	$ 49,251	$ 53,328	$ 36,593	$ 46,719
		Operating Expenses	$ 9,000	$ 10,614	$ 12,000	$ 12,314	$ 12,000
		Subtotal	**$ 66,147**	**$ 59,865**	**$ 65,328**	**$ 48,907**	**$ 58,719**
Consumer Protection							
762020010	LTA Consumer Protection	Personnel Costs	$ 147,431	$ 208,638	$ 198,341	$ 211,488	$ 212,736
		Operating Expenses	$ -	$ -	$ -	$ -	$ -
		Subtotal	**$ 147,431**	**$ 208,638**	**$ 198,341**	**$ 211,488**	**$ 212,736**
762050003	COC Administration	Personnel Costs	$ 42,975	$ 27,026	$ 47,933	$ 9,985	$ 34,705
		Operating Expenses	$ -	$ 598	$ -	$ 6,559	$ -
		Subtotal	**$ 42,975**	**$ 27,624**	**$ 47,933**	**$ 16,544**	**$ 34,705**
762050005	COC Mediation	Personnel Costs	$ 105,498	$ 105,957	$ 98,620	$ 140,903	$ 124,312
		Operating Expenses	$ 13,630	$ 8,241	$ 10,800	$ 4,368	$ 10,800
		Subtotal	**$ 119,128**	**$ 114,198**	**$ 109,420**	**$ 145,271**	**$ 135,112**
Rental License Fees	LTA Expenditures	Personnel Costs	$ 2,892,687	$ 2,776,431	$ 2,823,058	$ 2,757,548	$ 2,850,240
		Operating Expenses	$ 301,490	$ 204,405	$ 314,631	$ 261,952	$ 332,071
		Subtotal	**$ 3,194,177**	**$ 2,980,836**	**$ 3,137,689**	**$ 3,019,500**	**$ 3,182,311**
Common Ownership Fees	COC Expenditures	Personnel Costs	$ 205,620	$ 182,234	$ 199,881	$ 187,481	$ 205,736
		Operating Expenses	$ 22,630	$ 19,453	$ 22,800	$ 23,241	$ 22,800
		Subtotal	**$ 228,250**	**$ 201,687**	**$ 222,681**	**$ 210,722**	**$ 228,536**

Source: FAMIS

FY 00-05 Common Ownership Communities Registration Fee (formerly COC Fund) Financial Summary

	Actual FY 00	Actual FY 01	Actual FY 02
Beginning Fund Balance			
COC Fund	$ 150,812	$ 156,961	$ 132,273
Expenditures			
Salaries and Wages	$ 124,812	$ 160,182	$ 135,382
Operating Expenses	$ 22,479	$ 11,949	$ 11,389
Prior Year Encum. Adjustme	$ -	$ 5,500	$ -
Subtotal	$ 147,291	$ 177,631	$ 146,771
Revenues			
Registration Fees	$ 154,563	$ 159,712	$ 163,126
Ivestment Income	$ 11,807	$ 14,601	$ 5,455
Other	$ 940	$ 570	$ 396
Subtotal	$ 167,310	$ 174,883	$ 168,977
Overhead and Transfers			
Overhead	$ 19,370	$ 21,940	$ 31,960
Balance Transfer to GF	$ -	$ -	$ 122,519
Subtotal	$ 19,370	$ 21,940	$ 154,479
Balance	$ 151,461	$ 132,273	$ -

	Actual FY 03	Actual FY 04	Approved FY 05
Expenditures			
Personnel Costs	$ 187,482	$ 182,234	$ 205,620
Operating Expenses	$ 23,241	$ 19,453	$ 22,630
Subtotal	$ 210,723	$ 201,687	$ 228,250
Revenues			
Registration Fees	$ 247,619	$ 251,135	$ 254,250
Common Ownership Communities	$ 2,700	$ 3,400	$ 3,000
Misc. - COC	$ 512	$ 375	
Subtotal	$ 250,831	$ 254,910	$ 257,250
Balance	$ 40,108	$ 53,223	$ 29,000

Sources: FY 00, 01, and 02 Montgomery County CAFR and FAMIS

Rental License and COC Fee
Balances Placed in Reserve Account

Year	Rental License Fee	Common Ownership Communities Fee
FY 02	$ 175,490	$ 122,519
FY 03	$ 815,115	$ 48,100
FY 04	$ 810,424	$ 53,222
Totals	$ 1,801,029	$ 223,841

Reserve Account Total: $ 2,024,869

Source: Department of Finance