

Before the
Commission on Common Ownership Communities
for Montgomery County, Maryland

In the Matter of	x	
George Williams, Owner of	x	
5301 Westbard Circle, Unit 205	x	
Bethesda, MD 20816	x	
Complainant	x	
	x	
V.	x	Case No. 277-0
	x	
Board of Directors	x	
Kenwood Place Condominium	x	
Respondent	x	

DECISION AND ORDER

The above-captioned case having come before the Commission on Common Ownership Communities for Montgomery County, Maryland, pursuant to Sections 10B-5(i), 10B-9(a), 10B-10, 10B-11(e), 10B-12, and 10B-13 of the Montgomery County Code, 1994, as amended, of record, it is therefore, this 29th day of September, 1995, found, determined and ordered as follows:

BACKGROUND

On May 31, 1993, the Complainant, requested to examine and copy all the books and records of the Respondent, Kenwood Place Condominium Association, Inc. In particular, the Complainant stated "I want the Board to designate the place in Montgomery County where I and my attorney will examine every record of Kenwood Place. These records are to include all records, claims, and correspondence on insurance matters which may now be in the hands of the Board's lawyer, management company, now or former Board Members, and all other persons."

In response to the request, the Respondent wrote to the Complainant on June 9, 1993 and advised him that "(y)ou may examine these records in party room II and adjacent rooms in the Condominium, 5301 Westbard Circle, Bethesda, Maryland, 20816 for three hours on dates that can be agreed upon. The records may be copied at the Condominium's usual rate of 20 cents per page." The letter went on to state that "(w)e have therefore asked Diane Jones, On-Site Manager, to be present while you examine the files. If your searches last longer than three hours you will be responsible for paying Ms. Jones' time at the rate of \$30 per hour."

Thereafter, the Complainant filed the within Complaint and he seeks an Order from the Commission that "The Board will not charge to examine or copy every Kenwood Place record; the Board will designate the place in Montgomery County where every Kenwood Place record is available; and, the Board will invent no more such frivolous hurdles to keep owners from seeking every record."

Inasmuch as the matter was not resolved through mediation, this dispute was presented to the Commission on Common Ownership Communities for action pursuant to Section 10B-11(e). On June 28, 1995, the commission conducted a Hearing in this cause before a panel consisting of commissioners, Bruce Blumberg, Diane Fox, and panel chair, Jonathan Bromberg.

FINDINGS OF FACT

Based on the stipulations of the parties and the testimony and evidence of record, the Commission makes the following findings:

1. The Complainant requested to inspect and copy every record of Kenwood Place Condominium.
2. The Respondent agreed to produce such records at no charge to the Complainant for examination for a period of time of up to three hours. However, the Respondent informed the Complainant that it would charge a fee of \$30.00 per hour to provide personnel for time periods in excess of three hours. The Respondent also informed the Complainant it would charge 20 cents per page for any copy that the Complainant requested.
3. After receipt of the letter dated June 9, 1993 from the Respondent, the Complainant did not make a subsequent request to review the subject records even for a three hour period for which there would be no charge.

CONCLUSIONS OF LAW

The Commission concludes, based upon a preponderance of the testimony and documents admitted into evidence, and after a full and fair consideration of the evidence of record, that:

1. The Condominium Act (RP Section 11-116(c)) requires that a Condominium such as Kenwood allow a unit owner, upon reasonable notice, to examine during normal business hours the records of the Condominium Association.
2. The Condominium Act is silent about the issue of whether or not an Association may make a reasonable charge for copying and for the reimbursement of the costs of employee time related to the examination of such records.
3. With regard to the costs of copying such records, the Commission finds that there is no requirement that a Condominium Association own and maintain a copying machine for the benefit of the unit owners. As such, while records must be made available for reasonable examination and inspection, the Commission finds that an Association need not produce copies of those records for the benefit of the unit owner without assessing any reasonable costs of duplication. While it may be inconvenient, a unit owner may bring a portable copy machine to the Associations' offices and bear the costs of copying. If the unit owner asks the association to make photo copies of any records, it is not unreasonable for the Association to assess a normal fee for production of those photo copies.
4. With regard to the imposition of charges for time in excess of three hours for examination of such records, the Commission finds that it is not an unreasonable approach taken by the Condominium Association that balances the rights of the individual unit owners to examine the records with the right of all of the other unit owners to have their condominium's on-site manager dedicate her time for the benefit of the Council of Unit Owners.

5. Section 3.03 of the Bylaws of the Association provides that:

"Except as to those matters which the Condominium Act specifically requires to be performed by the vote of the Council of Unit Owners, the foregoing responsibilities shall be performed by the Board of Directors or Managing Agent as more particularly set forth in Article IV of these Bylaws."

6. Section 4.02(k) of the Bylaws provide that:

"Such books and vouchers accrediting the entries thereupon shall be available for examination by the Unit Owners, their mortgagees, and the duly authorized agents or attorneys of the Unit Owners or their mortgagees, during general business hours on working days at the times and in the manner set and announced by the Board of Directors for the general knowledge of the Unit Owners."

7. Section 11-124 of the Condominium Act provides that Bylaws "shall be liberally construed to facilitate the creation and operation of the condominium." The Commission finds that the Board of Directors of Kenwood Place Condominium established and announced reasonable procedures to facilitate the inspection and copying of Association documents within the confines of the Condominium Act and in accordance with the terms of the Association's Bylaws, rules and regulations.

ORDER

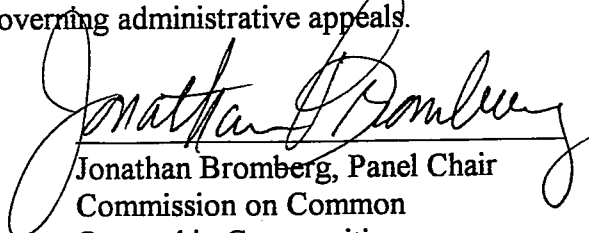
In view of the foregoing and based on the evidence of record, it is hereby ORDERED that:

1. The procedure established by the Board of Directors of Kenwood Place Condominium for assessing a fee of 20 cents per page for copying of Condominium records is not, *per se*, unreasonable, and it is further:

2. ORDERED that the decision of the Board of Directors to impose charges of \$30.00 per hour for supervisory time in excess of three hours taken by a unit owner for examination of the Condominium's records is also not, *per se*, unreasonable.

The foregoing was concurred in by panel members Blumberg, Fox and Bromberg.

Any party aggrieved by the action of the Commission may file an administrative appeal to the Circuit Court of Montgomery County, Maryland, within thirty (30) days from the date of this Order, pursuant to the Maryland Rules of Procedure governing administrative appeals.


Jonathan Bromberg, Panel Chair
Commission on Common
Ownership Communities