



# CCOC Communicator

## It Is Now The Law!

By Harold H. Huggins, Chairman,  
Commission on Common Ownership Communities

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When the Commission on Common Ownership Communities (CCOC) was created under Chapter 10B of the Montgomery County Code, it was intended for owners, boards of directors and citizens living within a condominium, co-op, or homeowners association (common ownership community) to have a mechanism and procedure for handling their disputes quickly, quietly and inexpensively amongst themselves without resorting to the courts and legal system. Consistent with that intent, the parties had the option—but were not required—to be represented by an attorney before the CCOC.

This is what occurred for about 12 years until the County Attorney brought to the attention of the Commission that anyone representing a homeowners association in one of the CCOC's quasi-judicial hearings should be licensed as an attorney in Maryland. Otherwise, that person would be in violation of state laws prohibiting the practice of law without a license. It was the senti-

ment of the Commission and many of the members of boards of directors of common ownership communities that this requirement went against the spirit if not the intent behind the creation of the CCOC. Therefore, we went about the business of changing the law in the State of Maryland.

A bill was introduced during the 2005 legislative session by Delegate Susan Lee of Bethesda (District 16), with assistance from County Councilmember Steven Silverman. The House Judiciary Committee held a hearing but did not pass the bill.

It is said that if at first you do not succeed try, to try again. So we did. Delegate Lee reintroduced the bill (HB 1166) in the 2006 legislative session. *It would exempt a specified person representing a common ownership community in a dispute, hearing, or other matter before a board or commission established to oversee specified common ownership communities from the requirement of admission to the Bar of Mary-*

*land and other requirements of the Court of Appeals.*

I, as chairman of the CCOC, testified before the House Judiciary Committee along with Delegate Lee and others. Through Delegate Lee's efforts in front of the Committee and behind the scenes, we were able to succeed in getting the Bill passed out of committee and then passed by both the Maryland House and Senate. It will become law on October 1, 2006.

It normally takes from 3 - 5 years or longer for a bill to work its way through the state house in Maryland, pass out of the General Assembly and become law. We should all thank Delegate Lee and her staff for their hard work. This is nothing short of a remarkable achievement.

Therefore, effective October 1, 2006, common ownership communities may be represented by a director or officer of the community at a hearing or other matter before the CCOC.

By: Harold H. Huggins, CCIM, CPM, CRB, CRS, GAA, GRI, RECS

### The CCOC Complaint Process

One of the most common questions we receive is "What happens once I file a complaint with the CCOC?" This article will give you a summary of what you can expect once we receive a written complaint.

1. Staff in the Office of

Consumer Protection will review the complaint and set up a file. If the complaint is one that is clearly outside the CCOC's authority (for example, neighbor v. neighbors, or the unit is located in the cities of Rockville or Gaithersburg, which

have not yet chosen to come under the CCOC's authority) the staff will make an appropriate referral.

2. Staff then mails a copy of the complaint, together with useful information about the CCOC and relevant laws, to the other party. The

## CCOC complaint (continued from Page 1)

other party has 30 days to reply.

3. If the other party does not reply within 30 days, the staff will attempt to call the other party, and will send it a warning letter by certified and regular mail giving it 15 days to answer.

4. If the other party does answer the complaint, the staff will send a copy of the reply to the complaining party, and will also attempt to arrange a mediation session. Our mediations are conducted through the Conflict Resolution Center of Montgomery County. (It can take 3 - 5 weeks to schedule mediation.) (See the next article, **“What is Mediation.”**)

5. If the mediation is successful, the case may be closed.

6. If the mediation is not successful, or if the responding party does not answer the complaint, or if either of the parties rejected mediation, the staff refers the complaint to the full Commission at its next available monthly meeting. Staff forwards to the CCOC a summary of the complaint, together with a copy of the most relevant documents.

7. At its monthly meeting the CCOC will consider whether it has legal authority, under County law, over the complaint. The County Attorney is present and will give legal advice when necessary. At this point, the CCOC does not consider the merits of the complaint and reply, but only whether the complaint is one that is within the CCOC's authority to decide. If the CCOC rejects jurisdiction of a complaint, the case is then closed; however, either party still has the right to sue in the courts. If the CCOC accepts jurisdiction, it will select a hearing date (at least 30 days away) and a hearing panel of 3 members.

8. Staff then sends by regular and certified mail a “Summons and Notice of Hearing” to both parties. This notice orders them to attend the hearing, and gives the date, time and place of the hearing, the names of the panel members, and information about the parties' rights.

9. One of the parties' rights is the right to conduct “discovery.” The parties have 15 days to send each other interrogatories (questions to be answered in writing under oath) and document requests. Inter-

rogatories must be first approved by the panel chairperson. Parties may also request, with the panel chair's permission, subpoenas to be sent to relevant witnesses.

10. On the night of the hearing, there will be present a court reporter, the 3 panel members, a staff representative, and the parties. Staff will prepare a copy of the complaint file, which can be quite lengthy. Each party, and each panel member is given a copy of the file, which is then introduced in evidence as “Commission Exhibit 1.” This exhibit permits quick reference to all important documents at the hearing, but each party is also has the right to introduce into evidence other documents that may be relevant. Hearing procedures are orderly but informal.

11. After the hearing is over, the panel usually has 45 days to issue its Decision and Order. This is then mailed to the parties. Panels usually give the losing party 30 days to obey the order. A party also has 30 days to appeal the order to the Circuit Court.

12. If an order is issued but not obeyed, staff can sue the offending party in the District Court, using the “civil citation” procedures. Trial on the citation can take place within 3 months. If the offending party loses in the District Court trial, the Court can impose a fine of \$500.00 (\$1,000.00 if the party does not appear at trial) and issue its own Order of Abatement. A court order can be enforced by “contempt of court” proceedings, which can result in a jail sentence.

Recent CCOC decisions are available online at the CCOC's website. Summaries of older decisions will be posted as they become available. The CCOC also has a brochure called “How to Prepare for Your Hearing,” available on request, which is sent with the Notice of Hearing.

### What is Mediation

The CCOC strongly encourages the parties to attempt mediation of their dispute before requesting a public hearing from the CCOC.

Mediation is an informal process that helps people reach agreements, rebuild relationships, and find permanent solutions

to their disputes. During a mediation, people speak for themselves and make their own decisions. Mediation is a confidential process (except for cases of child abuse, elder abuse or credible threats of violence).

The mediator and staff of the Conflict Resolution Center of Montgomery County (CRCMC) and the Commission on Common Ownership Communities (CCOC) will not reveal any information gathered during the mediation process in any other setting. This does not include any written agreement we reach in mediation, which will be shared with the CCOC.

Mediation is a voluntary process and each participant may withdraw from the mediation process at any point during the mediation

In the mediation process, the parties will be responsible for the making their own decisions. The mediators will facilitate the process and will not give advice or offer solutions. Because the decisions made here are the parties' neither CRCMC nor the CCOC are liable for them.

The mediators do not provide for either legal advice or representation. Any document signed as a result of this mediation process may affect a party's legal rights. Parties are encouraged to, and have the opportunity to, consult with their legal counsel prior to signing any agreement

CRCMC provides very useful services not only to the CCOC, but to those who participate in its mediations. The CCOC's statistics show that CRCMC is able to settle from one-half to two-thirds of the disputes submitted to it.

### CCOC Monthly Meetings and Hearings

The full Commission meets on the first Wednesday of every month at 7 pm in the Council Office Building at 100 Maryland Avenue, Rockville. The public is always welcome to attend these meetings, which usually conclude by 9 pm.

In addition, public hearings on unresolved disputes are held frequently in the same location, beginning at 6:30 pm. on selected Wednesdays and Thursdays.



# CCOC Complaint Information

## CCOC Meetings (continued)

These are also open to the public to observe. For the current hearing schedule, call 240-777-3636.

## CCOC COMPLAINT INFORMATION

The following statistics compare the CCOC's workload for the period of January 1 through August 31, 2006 with the same period last year:

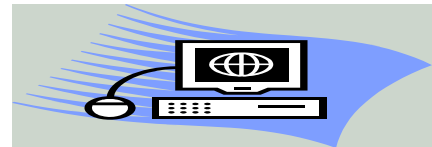
Task	2006	2005
Disputes filed:	62	69
Disputes resolved:	60	53
Public Hearings:	17	12
Mediations	25	20

Advice given 770 789

CCOC staff also filed 3 civil citations this year against parties who did not obey decisions and orders issued against them by CCOC hearing panels after public hearings. (Civil citations are lawsuits filed in the County District Court to enforce County laws or formal agency decisions, and carry fines of up to \$500 per day.) In 2 of the cases, the action resulted in the party taking corrective action. The third case resulted in the Court finding

the homeowner in violation of the law, imposing a fine of \$500 and ordering the homeowner to make the necessary repair. The homeowner has not yet complied with the court order, and a proceeding to hold the homeowner in contempt of court is now pending.

As of August 31, 2006, 838 communities (with 117,386 units) are registered with the County, an increase of 29 communities and 3996 units in 1 year.



# Get Wired! Resources Online

Websites of interest to owners in common ownership communities.

### Local Government:

- Housing Opportunities Commission [www.hocmc.org](http://www.hocmc.org)
- Montgomery Co. Council [www.montgomerycountymd.gov/council](http://www.montgomerycountymd.gov/council)
- Montgomery County Executive Douglas Duncan [www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)
- Montgomery County Government [www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)
- Comm. Use of Public Facilities [www.montgomerycountymd.gov/cupf](http://www.montgomerycountymd.gov/cupf)
- Department of Environmental Protection [www.askdep.gov](http://www.askdep.gov)
- Dept. of Housing & Community Affairs [www.montgomerycountymd.gov/dhca](http://www.montgomerycountymd.gov/dhca)
- Office of Consumer Protection: [www.montgomerycountymd.gov/consumer](http://www.montgomerycountymd.gov/consumer)
- Commission on Common Ownership Communities: [www.montgomerycountymd.gov/CCOC](http://www.montgomerycountymd.gov/CCOC)
- Dept. of Permitting Services: [www.montgomerycountymd.gov/dps](http://www.montgomerycountymd.gov/dps)
- Montgomery County Judicial System: [www.montgomerycountymd.gov/mc/judicial](http://www.montgomerycountymd.gov/mc/judicial)
- Montgomery County Library [www.montgomerylibrary.org](http://www.montgomerylibrary.org)
- Montgomery County Planning Board [www.mncppc.org](http://www.mncppc.org)
- Montgomery Co. Police [www.montgomerycountymd.gov/police](http://www.montgomerycountymd.gov/police)

### State Government:

- Maryland State Government [www.maryland.gov](http://www.maryland.gov)
- Maryland Attorney General's Office [www.oag.state.md.us](http://www.oag.state.md.us)
- Maryland General Assembly [www.mlis.state.md.us](http://www.mlis.state.md.us)
- Maryland Secretary of State [www.sos.state.md.us](http://www.sos.state.md.us)
- Maryland Condominium Act Statutes [www.mlis.state.md.us/#stat](http://www.mlis.state.md.us/#stat)

### Federal Government: [www.firstgov.gov](http://www.firstgov.gov)

FCC Telecommunications Act of 1996 [www.fcc.gov](http://www.fcc.gov)

### Municipalities:

- Chevy Chase Village [www.ccvillage.org](http://www.ccvillage.org)
- Village of Friendship Heights [www.friendshipheightsmd.gov](http://www.friendshipheightsmd.gov)
- Gaithersburg [www.gaithersburgmd.gov](http://www.gaithersburgmd.gov)
- Garrett Park [www.garrettpark.org](http://www.garrettpark.org)
- Olney [www.olneymd.com](http://www.olneymd.com)
- Poolesville [www.ci.poolesville.md.us/index](http://www.ci.poolesville.md.us/index)
- Rockville [www.rockvillemd.gov](http://www.rockvillemd.gov)
- Takoma Park [www.takomagov.org/index](http://www.takomagov.org/index)
- Public Utilities:**
- Allegheny Power (Potomac Edison) [www.alleghenypower.com](http://www.alleghenypower.com)
- Baltimore Gas & Electric (BG&E) [www.bge.com](http://www.bge.com)
- Potomac Electric Power Company (PEPCO) [www.pepco.co](http://www.pepco.co)
- Washington Gas [www.washgas.com](http://www.washgas.com)
- Washington Suburban Sanitary Commission [www.wssc.dst.md.us](http://www.wssc.dst.md.us)
- Associations/Organizations:**
- Community Associations Institute Publications and Periodicals [www.caionline.org](http://www.caionline.org)
- Community Associations Institute Washington Metropolitan Chapter [www.caicd.org](http://www.caicd.org)
- Institute of Real Estate Management [www.irem.org](http://www.irem.org)
- IREM West-Central Maryland Chapter [www.irem92.org](http://www.irem92.org)
- Maryland Homeowners Association [www.erols.com/marylandhomeownersassociation](http://www.erols.com/marylandhomeownersassociation)
- Metropolitan Washington Council of Governments [www.mwcoq.org](http://www.mwcoq.org)
- National Board of Certifications for Community Association Managers [www.nbccam.org](http://www.nbccam.org)
- Regenesis [www.regenesis.net](http://www.regenesis.net)
- Rockville Community Network [www.rocknet.org](http://www.rocknet.org)

## SELECTED SUMMARIES OF CCOC FINAL PANEL DECISIONS



### 1. Unauthorized Patio

*Weiss v. Woodrock Homeowners Assoc.*, decided March 29, 2006, involved a homeowner challenging an association's alleged failure to act in a timely manner on her application to install a patio and retaining wall, and provide access to the association's documents for inspection. At the hearing, the association amended its response to the complaint and asserted that it would not further challenge the improvements but did request that the owner submit an "after the fact" application setting forth the improvements and materials used to erect the improvements so the association would have a record of the modifications to the property. The panel also found, after considering witness and documentary evidence, that the association did not unreasonably withhold documents or fail to provide minimally lawful notice of meetings and hearings. Requests for attorneys fees were also denied.

### 2. Unauthorized Painting

*Dufief Homeowners Assoc. v. Sacchi and Karowiec*, decided March 29, 2006, involved an association's challenge of homeowner's painting of window trim, front doors and garage door without prior approval from the association. The homeowner argued in response that the association waived its right to take enforcement action due to the passage of time in that the paint colors and changes were performed in 1992, 1994 and 1996, that the enforcement action was arbitrary, and that the association's rules were not properly adopted.

The hearing panel decided, after witness testimony and an examination of the documents submitted by the parties, that the associa-

tion's more than five year delay in initiating enforcement did not substantially prejudice the owner, that the association had consistently enforced its architectural polices (including the prohibition on "white" trim color), and that several methods of complying with the association's color schemes were available and reasonable to the owner. Significantly, the panel decided that the owner was not ignorant of the association's rules and procedures when she originally filed the application in 1992 and therefore cannot claim not to have known about the association's polices

### 3. When Must Owners Pay the Association's Legal Fees?

In *East v. Bel Pre Square Homeowners Assoc.*, decided Dec. 8, 2005, the unit owner claimed, among other things, that (1) the association did not own the property that she lived in, (2) the board was not properly elected, (3) the association was not validly formed, and (4) the contract with the association's management company should be terminated. The panel found that the complainant presented no credible evidence to support any of her complaints and simply objected to the payment of any dues to the association and the association's use of the funds for any purpose, including the maintenance of common areas. The panel held such objections to be "irresponsible and without merit," and granted the association's request for reimbursement of legal fees.

*nity Assoc. v. Abeje*, decided June 26, 2006, the association claimed that the unit owner violated the architectural rules. The unit owner did not answer the complaint and did not appear at the hearing despite being properly served with the hearing summons. The panel heard the evidence offered by the association and ordered the unit owner to make the requested repairs. Although the panel did not find the unit owner to be acting frivolously or in bad faith, it nonetheless ordered him to pay \$767 in attorney fees to the association because the association's rules provided for the assessment of attorney fees against any homeowner found to be guilty in a legal action of violating the architectural rules.

However, in the case of *Longmead Crossing Community Assoc. v. Venson*, decided June 14, 2006, the panel reached a different conclusion based on different rules. The association complained that the unit owner was in violation of its architectural rules, and the homeowner did not answer the complaint or appear at the hearing despite having been properly served with the hearing summons. The panel, having heard the association's evidence, determined that she had in fact violated the rules and ordered her to make repairs. The panel refused to award attorney fees, finding that there was no evidence that the unit owner acted frivolously or in bad faith; and in addition, the association's rules did **not** provide for attorney fees in such a case.

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#### Printing & Mailing:

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Pandora Prather

In *Greencastle Lakes Commu-*





## Useful County Phone Numbers for Common Ownership Communities

Department of Housing and Community Affairs (240) 777-3600	Stormwater Inspections (240) 777-6266
Office of Consumer Protection (240) 777-3636	General Information (240) 777-1000
Office of Common Ownership Communities (240) 777-3766	Housing Opportunities Commission (301) 929-6700
Cable Office (240) 773-2288	Human Rights Commission (240) 777-8450
Landlord-Tenant (240) 777-3609	Libraries (240) 777-0002
Licensing Registration (240) 777-3799	Park and Planning Commission (301) 495-4600
Housing Code Enforcement (240) 777-3785	Police Department (non-emergency) (301) 279-8000
Circuit Court (240) 777-9400	Abandoned Autos (301) 840-2455
Community Use of Public Facilities (240) 777-2706	Community Outreach (301) 840-2715
County Council (240) 777-7900	Department of Public Works & Transportation (240) 777-7170
County Executive (240) 777-2500	Traffic Operations (240) 777-2190
Department of Permitting Services	Trash & Recycling Collection (240) 777-6410
Zoning Information (240) 777-6240	

## FY 2006 Commission Participants (as of September 1, 2006)

### \*Residents from Condominiums/Homeowner Associations:\*

Charles H. Fleischer  
 Robert A. Gramzinski  
 Antoinette Negro  
 Eric D. Smith  
 Vicki Satern Vergagni, Annual Forum Chair  
 (One "Resident" position is currently vacant.)

### \*Professionals Associated with Common Ownership Communities:\*

Jeff A. Kivitz  
 Richard J. Leeds, Manual Committee Chair  
 Stephen M. Maloney  
 Staci Gelfound, Legislative Committee Chair  
 Andrew Oxendine, Education Committee Chair  
 Jeffrey R. Williams, Vice Chair

### \*Real Estate Sales and Development:\*

Harold H. Huggins, Chair  
 Bryan Cook  
 Kevin Gannon

### \*County Attorney's Office:\*

Walter Wilson, Esq. Associate County Attorney

### \*Volunteer Panel Chairs:\*

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 John F. McCabe, Jr.  
 Dinah Stevens  
 John Sample

Douglas Shontz

Julianne Dymowski

Corinne Rosen

Robert Thorpe

### \*Office of Consumer Protection:\*

Evan Johnson, Administrator  
 Peter Drymalski, Investigator  
 Nellie Miller, Investigator



The CCOC strongly supports the efforts of the Conflict Resolution Center of Montgomery County (CRCMC) to publicize the National Alternative Dispute Resolution (ADR) Day on **October 19, 2006**. CRCMC conducts almost all of the CCOC's mediation sessions, resolving the majority of the disputes favorably and without the need for public hearings. It performs similar services for the County courts and public schools, and for any County residents and businesses who contact it directly. You are invited to CRCMC's National ADR Day Expo from 5:00 pm to 7:30 pm, October 19, 2006, in the cafeteria of the Council Office Building, 100 Maryland Ave., Rockville, which will feature information on, and demonstrations of, CRCMC mediations. We hope you can attend.

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