



CCOC Communicator

Association Rights Do Not Stand Alone

By Jeffrey Ross Williams, Chairman,
Commission on Common Ownership Communities

Inside this issue:

	Page #
Rights Do Not Stand Alone	1
Do You Want to Age in Place?	2
Safety and Human Services Resources	3
Receive Emergency Alerts and Road Closures	4
New CCOC Laws	4
Lifeline Refinance Mortgage Program	4
Selected Summaries of CCOC Final Panel Decisions	5
Nothing to Be Reserved About	6-7
Come to the Annual Forum on October 4	8

As the Chairman of the CCOC, I am committed to improving the quality of life in common ownership communities (COC). The Commission's fourteen other volunteer commissioners share this commitment. We will achieve this objective using both old and new methods of disseminating useful, practical information to you, including this newsletter (in paper and electronic form), in our revamped and upgraded CCOC website, attending association board meetings, and at our Annual Forum (see page 8).

I feel strongly that the quality of life in COCs will be maximized only if owners, board members, and managers appreciate that each "right" under Maryland or Montgomery County law or provided in your association's governing documents also imposes a corresponding "responsibility" necessary for the effective functioning of the COC. In other words, for every right there is an equally important responsibility that should be appreciated for the COC to reach its full quality of life potential. The following describes some of these "rights - responsibilities":

1. Before purchasing a residence in a COC, you have the **right to obtain** the community's governing documents, financial position, annual and other fees, and all rules and regulations. You have the **responsibility to fulfill the obligations** of the contract with the community that you sign at settlement so long as those obligations do not interfere unreasonably with homeownership.

2. You have the **right to be treated with respect by your neighbors**. You have the **responsibility to treat your neighbors with respect**. All groups have disagreements; however, neighbors should remember that they are on the same team and that they all strive to enhance the quality of life of the entire community.

3. You have the **right to privacy**

and **quiet enjoyment** consistent with state law and the COC's governing documents. You have the **responsibility to ensure that your actions do not unreasonably interfere with the rights of others**, which includes assuring the good behavior of your pets, guests and renters, and respecting the property of others and common areas that have been assigned solely for someone else's use (e.g., parking spaces, storage areas).

4. You have the **right to service** from your COC. You have the **responsibility to pay your assessments on time** to avoid placing an unfair financial burden on fellow owners.

5. You have the **right to vote** as a member of a COC (unless your rights have been suspended for delinquent payment of assessments or other reasons as provided in association documents). You have the **responsibility to vote** in elections. A certain percentage of participation is mandatory for the COC to conduct official business.

6. You have the **right to run for office** and to a fair election process. You also have the **responsibility to help recruit** competent candidates for office.

7. You have the **right to diligent, transparent, and accountable governance** by the elected board members. You also have the **responsibility to participate** in annual, board, and special meetings, and to be familiar with the decisions of the directors.

8. You have the **right to information**, including reasonable access to the COC's books and records. You have the **responsibility to be knowledgeable** of your COC's documents.

9. You have the **right to meet** with other owners/residents on COC property to discuss the activities of

the COC and the actions of the directors. You have the **responsibility to seek information** from the COC to convey a fair and balanced view to others and to seek positive approaches to resolving community issues.

10. You have the **right to due process and fair treatment** with regard to alleged violations, which includes, for example, notice in writing of an alleged violation, an opportunity to correct the violation, an open hearing if the alleged violation continues, an opportunity to present and cross-examine witnesses at an open hearing, and reasonable penalties. You have the **responsibility to respond and participate truthfully and cooperatively** to allegations of violations of any rules or covenants.

11. You have the **right to properly adopted and published architectural rules** that are enforced fairly by the COC. You have the **responsibility to comply with those standards and policies**, which includes following the application procedure required by the COC to make certain changes to your property, and to maintain your residence in good condition, free of trash, weeds, pests and other nuisances.

These rights and responsibilities are intended to inspire better communication between members of COCs and create practical expectations about living in a COC. The Commission that I chair is the first of its kind, and is one of only 4 that now exist anywhere in our nation. It was created fifteen years ago as a living experiment in self-governance on the community level. To reach its full potential, every member and leader of a COC must understand and appreciate the rights of such self-governance. At the same time, the assertion of such rights imposes a corresponding responsibility that also must be appreciated if the true purpose and spirit of COC self-governance is to be achieved for the benefit of the entire community.



Do You Want To Age In Place?

Most of us live in what urban planners and gerontologists call “Peter Pan housing” – housing that was designed, it seems, for people who are young and spry and who think they’ll never really grow up or grow old. If your home is typical, there’s a long list of things that persons who have trouble ambulating – even a little trouble – might find aggravating or worse and that’s true even in high-rise apartment buildings, which tend to be more accommodating of special needs than the traditional, multilevel single family home. Aggravants may include long hallways, step-ups and step-downs, poor lighting, hard-to-change furnace filters and a dozen other attributes, with even more if your home is in poor repair. Even an able-bodied 20-something can quickly come to appreciate how a home’s design, location, layout and accoutrements can hamper mobility. A sprained ankle or pulled hamstring can be an instantaneous eye-opener.

“Aging in place” is what most folks do these days. Year after year, we stay in our homes because doing so is easy and makes financial or emotional sense, even if our home is unsafe or in a location inconvenient to work, public transit, necessary services, family and friends. Indeed, as the years pass, as the treasured possessions accumulate and perhaps as our stamina wanes, moving anywhere for any reason may seem daunting or outright impossible. Time and again, older people (even many middle-agers) declare, “I’m not moving! They’ll need to carry me out of here in a box!”

What many seniors don’t realize, however, is that living in a hazardous or hard-to-ambulate environment may hasten illness or death, cause loved ones sleepless nights, or make it difficult for others with physical limitations of their own to provide help or even visit. In any event, a move-out may be essential long before one dies. Illness or infirmity may force a short or long-term stay in a nursing home, rehabilitation center, or other setting while such chronic, long-term conditions as debilitating arthritis, Parkinson’s disease or the effects of a stroke may force a move.

The alternative? In some cases, a bit of furniture re-arrangement plus the addition of some bright, non-glare lights and some grab bars, ramps or other simple retrofits may be all that’s needed to transform a hostile environment into a friendly one.

Developing a series of what-if scenarios and appropriate action plans in response to each of them could help you and your loved ones rest easy. So too could a hard-nosed assessment of your current living situation. Discovering now the variety and costs of support services available

to help seniors stay put or move with relative ease may have immediate as well as long-term payoffs.

In our area, there are chore services, geriatric care services, moving services and other specialty aids aplenty, though of course having a lot of money opens many doors that otherwise might be closed. Nonetheless, you may have more resources or less need for capital than you imagine. An estate sale, for example, can bring-in immediate revenue. So too can a reverse mortgage annuity, a home equity loan, a life insurance cash-out or other financial scheme, although certainly not all such schemes are right for all or even most seniors. Then, too, there are a myriad of public and charity-based programs available to help seniors, disabled persons and persons of low income.

Uncovering specific resources, however, or even knowing what kinds of resources you might need can be a daunting task. That’s where JCA™ – the Jewish Council for the Aging of Greater Washington™ – comes in. JCA services are open to all and, thanks to gifts from generous donors as well as government grants, most of what JCA does it does for free.

The JCA Senior HelpLine and the JCA HomeCare Resource Center should be a first stop because those programs can link you not only to JCA’s other helping services but also to a full range of public and private, nonprofit and for-profit resources for seniors, their families and their caregivers. (A single call to (301) 255-4200 or an email to Senior HelpLine@jcagw.org will launch an Information & Referral Specialist’s work on your behalf. Free.)

At JCA, an I&R Specialist is a trained professional, certified by the national Alliance of Information and Referral Systems, who will search JCA’s database of more than 4,000 local helping resources for seniors and caregivers and then call you, mail you, or email you information that might be of help. Transportation providers, assisted living communities, public benefits programs and home care vendors are among the indexed services. Indeed, the topic list alone would fill this page!

Alternatively, you yourself could search much of the Senior HelpLine’s database via the JCA website at www.jcagw.org. What’s more, through that site’s Frequently Asked Questions section, you can read dozens of tips and techniques for aging well. And through

the site’s Publications page, you can download JCA guidebooks on housing, home care, senior resources, and other topics, each guide being a brief, easy-to-read booklet that may help you or a friend, neighbor or loved one. (If you call instead of surf the web, simply ask JCA’s Information & Referral Specialist to send you the publications of your choice. Those, too, are free.)

“Aging in place” may be the norm these days. (Indeed, all of us aging in our places daily!) But that doesn’t mean that you need to be *stuck* in place. There are many ways to improve your housing situation and your wellbeing. All it takes to begin to improve your lot are some clicks on the Internet or a simple telephone call.

Aging is a natural part of living ...

Thrive where you reside.

Reach out!

The Jewish Council for the Aging (JCA)™ helps local seniors of all faiths, income levels and ethnic backgrounds. Since 1973, we’ve provided free and low cost care including ElderBus Rides, Information Services, Employment Assistance, Computer Training, Healthy Living classes and Adult Day Care.

The Jewish Council for the Aging™

11820 Parklawn Drive, #200

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Safety and Human Services Resources

These numbers are being provided to you to assist you in knowing what phone numbers to call in the event you or your family have a safety or human service need.

Montgomery County Government Main Number **240-777-1000 Voice 240-777-2545 TTY**

Call here to find out about programs and services provided by Montgomery County Government.

Montgomery County Department of Health & Human Service **240-777-1245**
Voice Information and Referral Line **240-777-1295 TTY**

Call here to find out about the programs and services provided the Department of Health and Human Services.

Montgomery County Police Department
Emergency: 911

Non-Emergency Dispatch: 301-279-8000

If you see someone acting in a way that you believe is endangering their life or the life of someone else or is in the act of breaking the law, please contact the police immediately.

Montgomery County Crisis Center **240-777-4000** **(24 hour service)**

People who call the crisis center usually are calling about a family member who is not in imminent danger to oneself or another and is not breaking the law, but is experiencing crisis needs. The Montgomery County Crisis Center provides immediate responses to crisis situations for all residents of Montgomery County, Maryland. The center provides goal-oriented crisis intervention, brief crisis stabilization, and help in obtaining services for individuals and families with a mental health crisis or experiencing other crisis situations. The Crisis Center has:

- ▷ [Telephone and walk-in crisis intervention](#)
- ▷ [Psychiatric consultation, evaluation and stabilization](#)
- ▷ [Assessment of children and adolescents](#)
- ▷ [Suicide Prevention](#)
- ▷ [Services for the homeless](#)
- ▷ [Response to victims of violence, including sexual assault and mate-related abuse](#)
- ▷ [Alternatives to psychiatric hospitalization](#)
 - [Triage and Evaluation \(T&E\) Beds](#)
 - [Mobile Crisis Team \(MCT\)](#)
- ▷ [Assertive Community Treatment \(ACT\) Team](#)
- ▷ [Critical Incident Stress Management \(CISM\)](#)
- ▷ [Training and Consultation](#)

Adult Protective Services **240-777-3000 (24 Hour Service).**

If you believe that a vulnerable adult is experiencing abuse, neglect, self-neglect or financial exploitation, call the Montgomery County Department of Health and Human Services, Adult Protective Services program. A vulnerable adult is an individual who is 18 years or older who lacks the physical or mental capacity to provide for his or her daily needs, and is at-risk in the community.

Abuse is the sustaining of any physical injury by a vulnerable adult as a result of cruel or inhumane treatment or a result of a malicious act.

Neglect is the willful deprivation of adequate food, clothing, essential medical treatment, shelter or supervision of a vulnerable adult.

Self-Neglect is the inability of a vulnerable adult to provide services that are necessary for their physical and mental health; the absence of which impairs or threatens their well being.

Exploitation is any action which involves the misuse of a vulnerable adult's funds, property or person.

You will speak with an intake worker about your concern that a vulnerable adult is being mistreated. Your report is confidential and can be made anonymously. Any person who in good faith makes a report is immune from any civil liability. Health practitioners, police officers, and human services workers are required to notify Adult Protective Services if they have reason to believe that a vulnerable adult has been subjected to abuse, neglect, self-neglect or financial exploitation.

Receive Emergency Alerts and Road Closures!! Sign Up for Alert Montgomery!!!!

Montgomery County officials are urging residents to take advantage of the County's automated warning system—Alert Montgomery. In an emergency, staff from the County's Homeland Security Department can send text messages to email accounts, cell phones, pagers, Blackberrys and wireless PDAs. In addition to emergency alerts, residents can sign up for information about severe traffic delays and severe weather. Residents of the City of Rockville, Gaithersburg and Takoma Park can also sign up for their municipal alert systems from the county website. Residents already signed up for their municipal alert systems will automatically receive the Montgomery County messages.

To sign up for the personal warning system, go to the County home page at www.montgomerycountymd.gov and click on Alert Montgomery. Residents can choose to have the emergency alerts, notifications and updates sent to one or more of their electronic communication devices. The service is free of charge, although residents may be charged by their wireless carriers to receive the text messages.

County residents are also urged to educate themselves about emergency planning and personal preparation. The County's "Plan to Be Safe" campaign includes a tri-fold "Plan 9" brochure with pictures and simple text listing the essential items (water, food, clothes, medications, flashlight, manual can opener, battery powered radio, hygiene items and first aid kit). Another component of the campaign is a brochure, "Everybody Ready," describing three steps to prepare: start a conversation, make a plan, and make a kit. The brochure is printed in nine languages, including Cambodian, Farsi, Spanish and Russian. For more information on the "Plan to Be Safe" campaign, go to www.montgomerycountymd.gov and click on the link for emergency preparedness or call **240-777-3038**.

Contributors: Betsy Luecking, Tracey Speelmans, June Galloway and Mary Anderson, Montgomery County Government.

New COC Laws Effective October 1, 2007

HB 183 Maryland HOA Act

Enforcement Authority of Division of Consumer Protection

Patterned after an existing law in the Maryland Condominium Act, this law allows the Division of Consumer Protection of the Office of the Maryland Attorney General to enforce certain sections of the Maryland HOA Act which affect consumers. A consumer includes actual or prospective purchasers, lessees, assignees or recipients of a lot within an HOA.

SB 287 Condominium and Homeowners Associations

Court Appointment of Receiver

This allows the local circuit court to appoint a receiver to run an association in the event that the association fails to have the number of board members required for quorum under the association's bylaws. A petition by three (3) or more members of the association can start the process of receivership. The association would have thirty (30) days to fill the vacant positions. If they are not successful, the petition for receivership would continue and the receiver would remain in place until the positions are filled by the association. All costs associated with the receivership would be borne by the association as a common expense.

HB95 Condominiums

Conversion of Rental Facilities – Notice Requirements

This law requires that tenants be provided notice of their right to purchase rental property at the same time that they receive notice of the conversion of the property to a condominium. Should notice not be given at the same time, the notice period (180 days) does not begin until the tenant receives the purchase offer and the tenant is allowed to remain at the property until the expiration of the notice period.

"LIFELINE" REFINANCE MORTGAGE PROGRAM

Find out if we can help you stay afloat... before you start getting under water.

There is **HOPE** 

Call: 1-877-HOA-P555 [1-877-462-7555]

SELECTED SUMMARIES OF CCOC FINAL PANEL DECISIONS



Thanks to the following CCOC Commissioners and Staff for making this publication possible:

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1. #30-06, Masters v. Norbeck Grove Community Association (March 8, 2007). The homeowner challenged the right of the association to order him to remove a stone fireplace he constructed. He argued that the fireplace was noted on the landscaping plans that he submitted and which the association approved. The Commission ruled that even if the words "stone fireplace" were on the landscaping plans at the time they were submitted (a point that was in dispute), the homeowner never submitted detailed plans for the fireplace itself, which was a violation of the rules. The Commission ordered the owner to remove the fireplace entirely. (This case is now on appeal to the Circuit Court.)

2. #35-06, Castle Gate Townhouse Assoc. v. Greenfield (April 25, 2007). The association complained that the homeowner had constructed a white vinyl deck without permission and in violation of rules requiring that all decks be of wood. The homeowner's defense was that there was no functioning architectural committee to rule on any application he might have submitted. The Commission held that the board of directors had the right to act on architectural applications and to make architectural decisions, and that the board had the right to hold the homeowner in violation of the architectural rules. The Commission ordered the homeowner to remove his deck. (This case is now on appeal to the Circuit Court.)

3. #25-06, Lieberman v. The Whitehall Condominium (March 7, 2007). The association adopted a rule requiring all unit owners to upgrade the electrical outlets in their bathrooms and kitchens from 3-prong grounded outlets to ground-fault interrupter (GFI) outlets, and the unit owner chal-

lenged this rule as unjustified. The Commission overturned the rule on the grounds that all actions of a board must have a reasonable basis, and the board was not able to produce any reason to support the new rule. The facts presented at the hearing showed that the lack of GFI outlets in these units would not affect any of the general common elements and would not affect the safety of any person except the unit owner.

4. #15-06, Shearer v. Severn Run Homeowners Association (February 21, 2007). The homeowner challenged a finding of the association that he violated the architectural rules by constructing a picket fence instead of a split rail fence. The evidence showed that the Declaration permitted fences if they were similar to the fences installed by the developer, and the developer had installed or permitted a small number of picket fences. The attempt by the architectural committee to limit all new fences to a split rail design was in conflict with the Declaration and therefore the Commission held it was invalid.

5. #779/26-06, Susman v. Sussex House (May 18, 2007).

The homeowner complained that the association budgets did not identify specifically what repair expenses were to be covered by the reserves, that the association increased the assessments without the necessary membership approval, and that the election of board members to 2-year terms was invalid. The Commission held that state law only required the association's budget to provide for reserves and capital expen-

ditures, but the law does not require the budget to state every expense to be paid for out of those categories. Such detail is within the discretion of the board of directors. The Commission noted that the board has the right to raise the assessment level above the 15% maximum, without the vote of the members, if there is an emergency. The Commission upheld the board's action in raising the assessments more than 15% two years in a row, because there was evidence to show that certain repairs were necessary, and it was within the discretion of the board to treat them as emergencies; the board's action treating these repairs as an emergencies had a reasonable basis and must be upheld. However, the Commission overturned the election of the 2-year directors, because the bylaw amendment that changed the terms of office from 1-year to 2-years did not become effective and obtain the necessary number of votes until after the board election. Therefore, the terms of the newly-elected members expired after 1 year. The Commission ordered the association to hold new elections to fill the expired terms.



NOTHING TO BE RESERVED ABOUT!

Communities age in place, just like many of the community's residents. And every community needs to be fully prepared with a plan and the financing to replace the aging components of the community. That means having an up-to-date reserve study in hand (often prepared by an outside consultant) with projected dates to replace various components. It also means including a line item in every budget to build up savings so that money is available to replace components as it becomes necessary to do so.

Most common ownership communities need to replace:

- **Entrance signs, light posts** and other **exterior building lights**, as well as **fences, railings, retaining walls** and **benches**.
- **Private roadways, parking areas**.
- **Curb and gutter, sidewalk, concrete steps**. In some communities, there also are **concrete patios**.
- **Irrigation, landscaping, trees, shrubs** and **perennials**.

As land settles, water may end up flowing toward buildings, which damages building foundations and causes leaks into homes. Thus, there may be the need for irrigation (or landscaping at the very least). Also, trees, shrubs and perennials age like people and communities. Some of them die from old age while others are taken prematurely by weather-related incidents. Older shrubs and perennials may no longer contribute to the appearance of the property as they previously did. These components add tremendously to the value of a property, so these living organisms must be replaced as they age and die.

- **Playground(s)**. It is important to note that in Montgomery County the Maryland-National Capital Park and Planning Commission has inserted itself into this aspect of common ownership communities. Now any changes being made to a playground (which is part of the community's site plan) must go through the approval process with this agency.

- **Building interiors and exteriors**. In homeowner associations these could include **club/pool facilities**; in condominiums these could include **club/pool facilities**, as well as **common area and unit windows** (depending on the community's documents), **walls, floors, lighting, stair treads, mailboxes, laundry rooms**, etc.

If your property has a swimming pool, consider the cost of replacing the **swimming pool(s), underground pipe, whitecoating, filtration systems, pool apron, and pool furniture**.

Some communities are responsible for **required safety equipment**, such as fire alarms and sprinkler systems. Others are responsible for **elevators**.

Particularly in condominiums, the community is responsible for **replacing roofs** (and **drains, flashing, collection boxes, internal and external downspouts, splashblocks**), **tuckpointing** brickwork, and replacing **exterior/interior common area doors**.

In some condominiums, the community also is responsible for replacing the **heating and air conditioning units**, as well as the **chimney stacks**.



NOTHING TO BE RESERVED ABOUT (continued from Page 6)

While all communities with amenity buildings must deal with utility infrastructure, particularly in condominiums and cooperatives there is significant expense related to **electrical and plumbing infrastructure**, as well as **water/sewer laterals**. In an aging building these can be particularly daunting issues, as these key infrastructure must be upgraded instead of merely replaced.

For example, when condominiums were built forty years ago, it was common to provide a total of 100 amps of electricity for three homes in a single stack of “garden apartments.” Since those days, residents have added a television in every room, stereos, computers, microwaves, toaster ovens, and in some cases clothes washers and dryers. Thus the demand for electricity has grown dramatically. When there is a greater demand for power than there is a supply of power to operate a particular piece of equipment, motors and lights burn out prematurely – an expense that residents rarely know is related to the minimal supply of power to their homes. Today’s condominiums are typically supplied with 125 amps per unit – a far cry from a total of 100 amps for three units. And so a community must do an analysis of usage. In many cases the conclusion of such a study is that the supply of power provided by the electric company needs to be increased. A need for more power typically requires the electric company to install larger cables to carry the higher volume of electricity. It also may mean the upgrading of wiring in individual units. (Since the major amount of high-demand electricity is usually associated with the kitchen, some communities have chosen to upgrade only that wiring within a unit.) The responsibility for the cost of upgrading the supply of power from the electric company falls to the community while the in-unit upgrade falls to the unit owner. Due to safety considerations in interdependent condominium and cooperative living situations, communities have been able to achieve the in-unit upgrade through a special assessment.

Plumbing and water/sewer laterals also must be upgraded if there is a greater density of residents per home and if washers are being installed in units as opposed to having a common laundry area.

Since many aging communities have commonly metered utilities, this brings up another upgrade issue: individual metering. Common metering has proven to be a wasteful approach to the use of utilities, as individuals feel no need to conserve because it costs them the same amount each month regardless of the amount of utilities that they use. Individual metering, particularly of gas and electricity, is a capital improvement project that can eliminate a huge common expense from the condominium fee and give total control of the use of utilities directly to the resident who is using them. (At this time, individual metering of water is a very expensive proposition, so many communities are working with water conservation companies on the installation of unit components that will reduce the use of water. Many of these companies purchase and install toilets, showerheads, and other equipment to reduce the use of water; the anticipated savings in the water bill are then split between the community and the water conservation company.)

So, aging is not for the faint-of-heart. Like individuals, communities must plan for their old age. Regular reserve studies will provide guidance to assure a properly functioning property, and steady contributions to savings consistent with the reserve studies will assure that adequate funds are available to maintain the integrity of the property. Capital replacements and upgrades are nothing to be reserved about!



Come to the Annual Forum October 4!

The Commission will host its 2007 Annual Forum on October 4 at 6:30 pm. The theme of the Forum will be “Setting a Stable Course Through Troubled Financial Times.”

All members of community associations—owners, residents, directors and managers—are invited.

The ongoing collapse of the subprime mortgage industry is a matter of grave concern to many communities. Growing numbers of owners who used subprime loans to buy their units are unable to keep up with their rising mortgage payments, and as a result, the number of foreclosures in the State and County has increased significantly. When this happens, the owners stop paying their assessments, which can force the community to raise the assessments for all other owners in order to cover the shortfall in revenue.

The 2007 Forum will discuss the Commission’s efforts to deal with this looming issue. Chief among these will be a proposal to revise State law by giving community associations’ liens for up to 6 months of unpaid assessments higher priority than

mortgage liens if there is a foreclosure. (In the current housing market in which prices are falling, when the mortgage company forecloses, the market value of the unit is usually less than the unpaid balance of the loan, and there is no money to pay off the association’s lien.)

Other initiatives that the Commission will present include a proposal to amend State law to allow associations to increase the amount of the master insurance deductible; a new brochure explaining the law of community assessments, and the Bill of Rights and Responsibilities (see page 1).

The Annual Forum will begin at 6:30 pm in the Executive Office Building Cafeteria, which is on the ground floor of 101 Monroe Street, Rockville. The EOB is located just north of Route 28 (Jefferson Street) between Monroe Street and Maryland Avenue, 2 blocks west of the Rockville Metro. Parking is available in the nearby Jury Parking Lot and Council Office Building Garage. More directions are posted at the Commission’s website.

Commission on Common Ownership Communities

100 Maryland Avenue, Room 330

Rockville, Maryland 20850

www.montgomerycountymd.gov/ccoc