



# CCOC Communicator

## The Importance of Proper Elections

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By Arthur Dubin, Commissioner

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Imagine your Board being stopped cold--unable to sign a vital contract or to implement that special assessment for critical repairs—until the last election is repeated and performed correctly.

This may sound extreme, but in recent years the CCOC has addressed a growing number of cases that focused on the proper election of a Board. Being with the CCOC has allowed us to see the differing and often creative ways by which community associations hold annual elections and address voting and proxies, and the cases that come to us often manifest at least one major flaw in the process that places the validity of the new Board—and all its actions—in dispute.

Most governing documents call for annual elections of Board members and spell out the process in some detail. By not following the requirements of your documents, by not being familiar with the relevant laws, or by failing to seek professional help answering important questions, the elections can later be called into question by any association member and possibly ruled invalid by the CCOC or a court. And even the existence of a legal challenge

can paralyze the new Board until it is finally resolved.

What can the Board do to avoid this? Begin with reading your governing documents. Then, if you have questions, consult a professional manager or attorney for answers and advice. Third, write an election plan that outlines all the different steps you have to take, create a time line or schedule, and draft a checklist to follow. It sounds simple, but if you take short cuts, or leave vague issues unresolved, you can create difficulties for community later.

Use notices that spell out the basic "5-W's and How:" **who** should get **what** type of notice, **where** and **when** should the notice be sent, **why** are you sending the notice, and **how** can the members reply, nominate, and vote in person or by proxy?

Ask for help from others with the project so that more attention can be paid to the details. If you know of disputes, try to work with the other parties to review the plans and reach agreement on them before the notices go out and the election held. Keep your records to simplify the process next

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## HOW THE COUNTY'S HOUSING DEPT. CAN HELP YOUR COMMUNITY

The Department of Housing and Community Affairs (DHCA) is one of the County's agencies that can be of direct assistance to communities and their members. DHCA operates a wide variety of housing programs, including the MPDU program, the Commission on Landlord-Tenant Affairs, Housing Code Enforcement, Weatherization Assistance and the financing of affordable housing.

DHCA can make grants and low-interest loans available to homeowners to help them finance basic improvements to their dwellings. Applicants must meet certain income guidelines in order to qualify.

Associations and members who have complaints about another member's failure to properly maintain his or her property (such as, by causing water leaks in a condominium or by refusing to repair flaking paint or a dilapidated fence) can make confidential complaints to DHCA's Housing Code Enforcement Unit. Likewise, a member who is concerned about the association's failure to fix a leak or to control a pest infestation (for example) can also make a confidential complaint to Code Enforcement. An inspector will visit the property and can issue a violation notice against the owner of the defect, and can file a court action if the violation is not corrected in the time given.

More information is available on DHCA's website at [www.montgomerycountymd.gov/hca](http://www.montgomerycountymd.gov/hca). The Housing Code Enforcement number is 240-777-3785. The other programs are available at 240-777-3600.

## RECENT COURT RULINGS ON CCOC DECISIONS

Final CCOC decisions are legally binding unless reversed on appeal. Appeals must be made to the County Circuit Court within 30 days of the decision. If a party is unhappy with the Circuit Court's ruling it can appeal to the Court of Special Appeals and then to the Court of Appeals, Maryland's highest court.

Two recent CCOC decisions were reversed on appeal and a third was upheld. The best-known of the cases was #71-06, *Fiscina v. Devonshire East HOA*. In that case, the hearing panel found that the HOA had committed numerous violations of State law and of its governing documents, and ordered the HOA to pay the successful homeowner's legal fees. The HOA appealed the award of legal fees (but not the other rulings). The Circuit Court held that the language of the covenants did not clearly require the HOA to pay legal fees in a homeowner suit to enforce the covenants, and he reversed that part of the CCOC decision. The judge made his ruling orally and did not issue any written decision.

The Court of Special Appeals handed down another important (but not officially reported) decision in #30-06, *Masters v. Norbeck Grove Community Association*. In that case, the lot owner constructed a massive stone outdoor fireplace, and the dispute was over whether the HOA approved it. The evidence was clear that the owner never submitted detailed plans for the fireplace. Instead, he submitted detailed plans showing flower and other plantings, and claimed they included a small penciled notation "stone fireplace." He also claimed to have discussed the proposed stone fireplace with a member of the architectural review committee. The HOA's witnesses testified that they did not recall seeing the notation on the plans, but they did not keep their copy of the plans. The CCOC did not rule on whether or not the "stone fireplace" notation was on the submitted plans, holding instead that the rules clearly required lot owners to submit detailed plans for all new construction and therefore the lot owner had no good reason to believe that the HOA

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## County Assistance in Avoiding Foreclosure

Montgomery County is aware that many of its communities, especially condominium associations, are suffering from high rates of foreclosure and loss of assessment income. The County is responding in a variety of ways to deal with these problems.

- **Emergency financial assistance to homeowners.** The Department of Health and Human Services can provide temporary cash assistance to avoid foreclosures by paying part of the arrearages. Residents who need assistance should call HHS's Special Needs Housing Unit at 240-777-4565 or one of HHS's regional offices (Rockville: 240-777-4550/Silver Spring: 240-777-3075/Germantown: 240-777-4448).
- **Foreclosure prevention counseling:** Through the Department of Housing and Community Affairs (DHCA), the County has provided grants to several private agencies that offer free assistance on foreclosure prevention, including restructuring existing mortgage payments to make them more affordable. The Statewide information center is the Maryland HOPE Hotline at 1-877-462-7555. Regional agencies are: Rockville (Consumer Credit Counselling, 1-877-254-1097); Silver Spring (Latino Economic Development Corp., 1-866-977-5332 ext. 7434); Gaithersburg (Home Free USA, 301-891-8400); and Germantown (Housing Initiative Partnership, 301-699-0425).
- **Care of vacant properties:** DHCA's Housing Code Enforcement Unit will inspect vacant properties that are not being maintained and will board them up and take other actions to preserve them. Call 240-777-3785.
- **Emergency housing:** HHS also offers temporary housing for the homeless.
- **General information:** In addition to these agencies, general information on foreclosure avoidance and foreclosure law is available on State Senator Jamie Raskin's web site ([http://senatorjaminsraskin.com/files/Economic Assistance Guide.pdf](http://senatorjaminsraskin.com/files/Economic_Assistance_Guide.pdf)) and at People's Law ([www.peoples-law.org](http://www.peoples-law.org)). The CCOC encourages communities to distribute this information to all their members.

## EMPLOYEE LICENSING



The CCOC has received several recent complaints from members of associations that their boards or property managers have hired unlicensed personnel to maintain the common areas and utility services.

The CCOC has not yet taken any position on these complaints. As a general matter, boards of directors have broad discretion under the governing documents to hire employees, including managers. But broad discretion does not necessarily mean complete discretion. Governing documents and master insurance policies may set limits on the board's authority. For example, some governing documents require that the board cannot hire a new manager without the approval of a majority of the mortgage lenders. And some might require that personnel be properly licensed for their jobs. In addition, it's possible that a board decision to hire a person who is legally required to be licensed but is not, can be challenged as being contrary to public policy and therefore invalid. Finally, the improper use of an unlicensed worker might be considered a violation of the board's fiduciary duty to properly maintain the common elements.

Let's review County and State requirements:

*Plumbers:* In Montgomery County, plumbers must be licensed by the Washington Suburban Sanitary Commission (WSSC) if they perform any major plumbing repairs. This is true even if the employee making the repairs works only for the manager or the community association. (Minor repairs, such as changing valves or toilet mechanisms do not require a license.)

*Gas fitters:* In Montgomery County, WSSC also requires that anyone who performs *any* work on a gas line, even if it's simply hooking up a new gas stove, must be licensed as a gas fitter with WSSC.

*Electricians:* Montgomery County's Department of Permitting Services requires that everyone performing new electrical work or major electrical repairs must have an electrician license. (Minor repairs and replacements are not covered.)

*Boiler engineers:* The Maryland Department of Labor, Licensing and Regulation (DLLR) requires that anyone maintaining a steam boiler rated at more than 15 psig or 30 horsepower, or a hot water boiler rated at more than 160 psig or 250 degrees Fahrenheit, must have a Stationary Engineer's license.

*Heating and Air Conditioning Contractors:* The Maryland DLLR also requires all heating and air conditioning contractors to be licensed, unless the person involved works *only* for the coc involved or for its manager.

*Property Managers:* At this time there are no laws in Maryland or Montgomery County that require the licensing of property managers. However, out-of-state corporations must have "foreign corporation" certificates in order to legally do business in Maryland.

*Home improvements:* People doing work as home improvement contractors do not need licenses if they are hired by the community associations to perform work on the common areas. However, such people do need the Maryland Home Improvement Commission (MHIC) license, issued by DLLR, if they perform work on behalf of a home or private unit owner on that person's property. Associations should not refer or recommend their employees or other contractors to their members to hire unless the Association verifies that the employee or contractor is properly licensed with the MHIC, because it is illegal under State law to knowingly help an unlicensed home improvement contractor do business.

Boards and managers should not take the risks of doing business with people who are not properly licensed to do the work needed and should always require proof of a license.

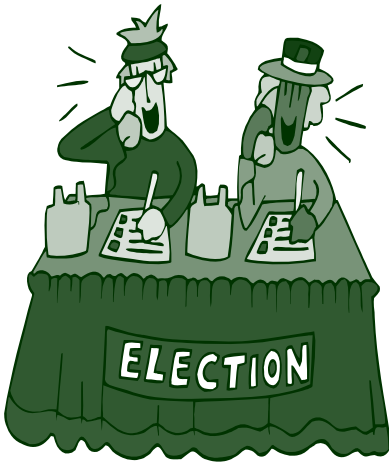
This article is intended only as a review of the relevant licensing laws, and not as an opinion or projection of how the CCOC might rule on any dispute coming before it.

\* \* \* \*

## Commission Welcomes New Members

Three new members were appointed to the CCOC in January and a fourth in July: Stephen Greenspan, Maria Garcia, Paul Nettleford and Elizabeth Molloy. They will replace Commissioners Jeff Kivitz, Clara Perlingiero, Carolyn Thompson, and Vicki Vergagni, who will be sorely missed. (The first three are appointed to 3-year terms; Ms. Molloy was appointed in July to fill the remainder of Ms. Vergagni's term after she resigned earlier this year.)

## ELECTING A BOARD OF DIRECTORS (continued from p.1)



time, to reuse what worked well, and to improve the forms and processes that need adjustment.

The repercussions of a challenged election cost the Association time and money and, most importantly, the good will of the community. Early and thorough planning, and a respect for the details of the process will reduce the likelihood of a challenge and improve the chances that the elections will be upheld if there is a challenge. The CCOC and the courts always look to the details of the process as required by the Association's own documents, the process actually followed, and the forms used in the process, when they examine complaints over disputed elections. The old colloquialism that "an ounce of prevention is worth a pound of cure" is certainly true here.

## ARE YOU READY FOR THE CIMICIDAE?

*Cimicidae*, or *cimex lectularius*, are the fancy names for a plain pest: the common bedbug. Banned from the average household for two generations, bedbugs are making an unwelcome comeback in the US. Many DC area landlords are reporting a major surge in bedbug infestations, and CCOC's own staff is beginning to receive complaints and inquiries about them for the first time. If rentals have the problem, can condos be far behind? It's important that condominium managers and boards learn now how to recognize and deal effectively with the problem before it appears in their communities.

**Anyone can bring home bedbugs.** They seem to arrive most often either in contaminated furniture, or in the luggage of travelers. (Bedbugs are becoming more common in hotels, where they can crawl into, or leave eggs inside, luggage that is left open at night.) Bedbugs can live as long as a year without feeding, so a problem might not show up right away.

**Bedbugs cannot be dealt with by ordinary pest control methods.** The treatments used for other pests like ants, roaches and fleas rely heavily on bait traps and the spraying of chemicals into the perimeters of an infested unit. Bedbugs ignore bait traps, since they feed off human and animal blood; and they live close to humans in bedding, bedframes, and stuffed furniture, where chemical pesticides cannot be safely used. Experts also doubt that fogging (or "bombing") a room is effective because it doesn't reach the most likely nesting places. Using the wrong methods can cause the infestation to spread.

**Careless disposal of infested materials can easily spread the infestation.** Dragging infested mattresses or furniture down a hallway can cause bugs or eggs to fall off, thus spreading them through the building; storing such items inside or adjacent to the building allows the bugs to wander back in; such items should be defaced or destroyed lest another resident unknowingly bring them back inside to be reused. (Bag the items whenever possible before moving them.)

**Managers should prepare now.** **First**, they should find out which professional exterminators have been trained to deal with bedbugs, and keep their names and phone numbers available. **Second**, they should know how they will remove and store any contaminated items. **Third**, they should obtain and keep copies of materials on recognizing and dealing with such infestations so that they can give them to any residents to assist them in eliminating the problem quickly and before it spreads.

Many useful guides on bedbugs can be downloaded from the Internet. Some recommended sites are the Harvard School of Public Health ([www.hsph.harvard.edu/bedbugs/](http://www.hsph.harvard.edu/bedbugs/)); the Mayo Clinic ([www.mayoclinic.com/health/bedbugs/](http://www.mayoclinic.com/health/bedbugs/)), the University of Kentucky Cooperative Extension Service ([www.ca.uky.edu/entomology/entfacts/ent636.asp](http://www.ca.uky.edu/entomology/entfacts/ent636.asp)); BedBug Central ([www.bedbugcentral.com](http://www.bedbugcentral.com)); and Cooper Pest Solutions ([www.cooperpest.com/factsheets/Your Guide to Bedbugs.pdf](http://www.cooperpest.com/factsheets/Your%20Guide%20to%20Bedbugs.pdf)).



## CLARIFYING THE MANAGER'S ROLE

Many of our associations employ highly-qualified professional community managers, and we think residents should know what the manager has-and has not-been hired to do. The manager has two primary responsibilities: to carry out policies set by the board and to manage the association's daily operations.

Some residents expect the manager to perform certain tasks that just aren't part of the job. When the manager doesn't meet those expectations, residents naturally are unhappy. Since we want you to be happy, we're offering a few clarifications to help you understand what the manager does.

- The manager is trained to deal with conflict, but he or she will not get involved in quarrels you might be having with your neighbor. However, if association rules are being violated, the manager is the right person to call.
- While the manager works closely with the board, he or she is an advisor, not a member of the board. Also, the manager is not your advocate with or conduit to the board. If you have a concern, send a letter or e-mail directly to the board.
- Although the manager works for the board, he or she is available to residents. That doesn't mean the manager will drop everything to take your call. If you need to see the manager, call and arrange a meeting. If a matter is so urgent that you need an immediate response, call the association number or 911.
- The manager is always happy to answer questions, but he or she is not the information officer. For routine inquiries, like the date of the next meeting, please read the newsletter or check the association website.
- The manager is responsible for monitoring contractors' performance, but not supervising them. Contractors are responsible for supervising their own personnel. If you have a problem with a contractor, notify the manager, who will forward your concerns to the board. The board will decide how to proceed under the terms of the contract.
- The manager inspects the community regularly, but even an experienced manager won't catch everything. Your help is essential. If you know about a potential maintenance issue, report it to the manager.
- The manager does not set policy. If you disagree with a policy or rule, you'll get better results sending a letter or e-mail to the board than arguing with the manager.
- The manager has a broad range of expertise, but he or she is not a consultant to the residents. Neither is he or she an engineer, architect, attorney or accountant. The manager may offer opinions, but don't expect technical advice in areas where he or she is not qualified.

Although the manager is great resource to the association, he or she is not available 24 hours a day-except for emergencies. Getting locked out of your home may be an emergency to you, but it isn't an association emergency. An association emergency is defined as a threat to life or property.

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### ***The CCOC in the Courts (continued from page 2)***

had approved the details of his fireplace. The Courts disagreed. Both Courts found that the disputed notation was in fact on the landscaping plan and that the owner had in fact discussed the fireplace with one member of the architectural committee. Therefore, the HOA had notice of the fireplace and the duty to respond to it and to inform the owner it was not approved; otherwise, the owner had good reason to believe the HOA had no objections.

Finally, the Court of Special Appeals (in another unreported decision) upheld the CCOC ruling in #35-06, *Castle Gate HOA v. Greenfield*, in which the CCOC had ordered a townhome owner to remove a white vinyl deck he constructed in violation of rules that permitted only wood decks. The owner had argued on appeal that the HOA's violation procedures were flawed because it had no architectural committee to review his deck; but the Court held that under the HOA's rules, the Board of Directors had the authority to act as the architectural committee when it felt necessary, and that it did so properly.

The decision with the most potential impact for HOAs is the *Masters* case. Although the HOA's rules clearly required owners to submit detailed applications for new construction, the Courts felt that it was sufficient that the HOA was aware, thru the brief notation on the proposed landscaping plan and the conversation with the architectural committee member, that the owner was proposing to build an outdoor fireplace. Therefore the HOA had a duty to respond to the proposal. This ruling places a burden on HOAs to scrutinize every detail of a proposed change carefully, to keep detailed records of proposals, and to respond to every detail that it does not approve; otherwise, it might be found to have approved every detail that it did not object to.



## COMMISSION ADOPTS NEW POLICY ON COMPLAINTS

On April 1, 2009, the CCOC adopted a "Statement of Policy Concerning the Exhaustion of Remedies as a Precondition to Filing a Dispute with the Commission." This policy basically requires the person or association to first attempt to resolve the dispute directly with the other party before filing a complaint with the CCOC.

The policy explains how the CCOC interprets Section 10B-9(b) of the Montgomery County Code, which says that anyone filing a complaint with the CCOC must first make "a good faith attempt to exhaust all procedures or remedies provided in the association documents."

*If the complainant is an association,* it must comply with its own rules (if any) for handling the type of dispute at issue. Condominiums are already required to have a procedure in place for dealing with alleged rule violations by their members under Section 11-113 of the Maryland Condominium Act; but many homeowner associations do not have such written procedures. If the rules do not contain a dispute resolution procedure, the association must: (1) give a written notice to the member or resident specifying the violation and the rule involved, allow time to correct the violation, and give the person the right of appeal to the board of directors; (2) give a hearing on request to the person charged; (3) give a written decision to the person, and if the decision is unfavorable, notify the person of his right to appeal to the CCOC and that the association will take no action to enforce its decision for 14 days. If the association then proceeds to file a complaint with the CCOC, the complaint must be signed by the chair or vice-chair of the board of directors and the association must file with the complaint copies of the required notices.

*If the complainant is a member or resident,* he or she must comply with any association rules governing the resolution of member complaints. The problem is that many, if not most, associations have no rules governing most types of member complaints. If there are no rules on point, then the person is expected to give written notice to the board of directors (and not just the property manager) about the complaint and to allow the board a reasonable amount of time to resolve it. If the board does not resolve the complaint within a reasonable time, the member can then file a complaint with the CCOC, but he or she must also include copies of the notice given to the board and of any other correspondence on the complaint.

If the complaining party does not follow the rules or the policy, the CCOC staff can reject the complaint or suspend action on it until the party complies. A responding party can also object to a complaint on these grounds.

The policy statement only applies to rules governing disputes between associations and members or residents. It does not require a party to follow every possible option referred to in the governing documents. For example, a member can complain about defects in an election without having to run for a seat on the board or without having voted. Likewise, an association can complain about an architectural violation without having first attempted to enter the property and remove the violation even though this is allowed by the governing documents.

The new policy is effective immediately and the CCOC has revised its complaint forms to include the new standards. The policy itself is posted at the CCOC's website.



## WHEN IS A "REPAIR" NOT AN "IMPROVEMENT"?



The Bylaws of the University Towers Condominium, like those of most condominium associations, give the board of directors the authority to raise the annual assessments to pay for necessary "repairs, additions, replacements and improvements" to the common elements. However, any "additions, alterations or improvements" that cost over \$25,000 must be approved by more than 50% of the members. But neither the Bylaws nor the Maryland Condominium Act defines the difference between a "repair" and an "improvement." It's not far-fetched to say that when a condominium fixes something that's broken, it's made an improvement. So when does the board that is faced with major repairs have to obtain the approval of the membership for those repairs?

This important issue came before a CCOC hearing panel in *Lee v. University Towers Condominium*, #52-08 (April 8, 2009) (Panel: Fleischer, Gelfound, Kali). The UTC board of directors, faced with chronic pinhole leaks throughout its two buildings, opted to repair the pipes by injecting epoxy into them to halt corrosion. The project cost almost \$2 million and resulted in major assessment increases for all the members. However, to replace the pipes would have cost up to \$10 million. The board advised the community of its plans but did not call for a vote of the members to approve them, and Ms. Lee complained that the board had violated the Bylaws by agreeing to spend more than \$25,000 for additions, alterations or improvements without the approval of the membership.

Maryland's courts of appeal have never addressed this issue. The hearing panel looked at the dictionary definitions of the key words in the Bylaws, as well as decisions of courts of other states, and concluded that a "repair" is something that restores an item to its proper condition whereas an "improvement" means the addition of something new. On that basis the panel found that the main purpose of the work was "to restore [the water supply system] to a sound state, and not to add to, modify, or improve the system." Although the work involved some changes and additions to the existing system, such as installing new valves and access panels, these changes were minor compared to the bulk of the work, which was to stop the corrosion of the copper pipes, and some of them were required so that the work could be properly done. "Here, a repaired and restored water supply system, even with new and additional valves and access panels, is still a water supply system in the same building."

The panel upheld the board's right to adopt the repairs and raise the assessments without a membership vote.

This decision is significant because it helps to remove an ambiguity in the law and in many condominium documents.

### *Another Perspective on Community Disputes*

It's not uncommon in our communities for disputes to become personal or even bitter. Homeowners can feel persecuted by dictatorial boards, board members feel harassed by homeowners or even by other board members. The pressures of living in a common ownership community, especially when you have good intentions, can sometimes seem overwhelming.

At such times, it's worth considering matters from another perspective. Phil Ochs, a local attorney who specializes in community association law, recently wrote the following comment while serving as a mediator in a CCOC dispute:

*"On a side note we were away in Israel. One afternoon, my wife and I had lunch with some friends at their condominium in Jerusalem. They have three children and live in what appeared to be a three-bedroom condo, which is large by Israeli standards. But my friend showed me that one of the rooms where his children slept, perhaps 8' by 8', filled with children's things, was not just the bedroom it appeared to be but a bomb shelter. The room has steel walls reinforced with about one foot of concrete, steel window shutters and a steel door. According to my friend, the building code requires every new condominium to have a bomb shelter designed to withstand a designated force of explosion and to be impervious to poison gas. Whatever disputes have developed at ["X"] condominium, we should all be grateful that we live in a country where the code does not require bomb shelters for condominium construction."*

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## SELECTED SUMMARIES OF CCOC FINAL PANEL DECISIONS



### CCOC Issues Major Decisions on Violation Procedures, Negligence

The Commission's hearing panels have recently issued several important decisions that all Associations should know about.

In one case affecting a homeowner association (*Greencastle Lakes Community Association*, #50-07) and in another involving a condominium association (*Salzman v. The Whitehall Condominium*, #21-08), the panels overturned Association decisions imposing penalties on their members because the Associations failed to follow their own procedures or State law for resolving disputes.

In *Greencastle Lakes*, the Architectural Committee found the homeowner was in violation of the architectural rules, and then referred the whole matter to the property manager. The property manager revoked the homeowner's privileges (parking, pool), and filed a complaint against her with the CCOC. When the hearing panel looked into the facts, it learned that the property manager was acting pursuant to an unwritten delegation of authority from the board of directors and that the board itself had not been involved in this particular dispute. This violated an Association rule that all delegations of authority from the board to the manager be in writing. In addition, the violation notices did not inform the homeowner of her right to ask for a hearing with the board. The hearing panel dismissed the complaint and denied the Association's request for legal fees because the Association had not properly exhausted its remedies, and ordered the Association to develop proper procedures for handling these kinds of disputes.

Similarly, in *The Whitehall* case, a new townhome owner disputed the validity of a \$300 "move-in" fee and refused to pay it. The Association immediately moved to revoke his privileges (key pass, parking, storage). Although the hearing panel found that the "move-in" fee was valid, it found that the Association violated not only its own rules on dispute resolution but Section 11-113 of the Maryland Condominium Act because it failed to give the owner a hearing with the board before taking any action against him. Here, too, the panel rejected the Association's claim for legal fees.

These two cases emphasize the importance of knowing, and following, the Association's own rules (and, in the case of condominiums, the clear requirements of Section 11-113) when taking action against members for rule violations. Under Section 10B-9(b) of the Montgomery County Code, the CCOC can insist that the party filing a complaint show

that it has "exhausted all procedures or remedies" provided for in its governing documents before filing the complaint with the CCOC.

In a third major case, a hearing panel found a condominium association to be liable to a unit owner for \$9577 in damages resulting from its failure to halt repeated water leaks into her ground-floor unit. This is believed to be the first time a panel has found an association to be negligent and to have awarded damages. In *Prentice v. Sierra Landing Condominium*, #15-08, the unit owner showed that her unit had begun to leak from the floor and window wells as far back as 1992, with major flooding in 2006. Although the Association undertook major repairs in 2007, the unit continued to leak through the window wells, including at least 3 times in 2008 before the hearing. The owner complained to the Association of all these leaks, and proved she suffered damage to her floors and carpets as a result of the 2008 floodings in the amount of \$9577. The panel found that the Association had violated its fiduciary duty to maintain the common areas (including window wells) in good condition, and it ordered the Association not only to pay damages but to determine the cause of the leaks and stop them.

Significantly, the hearing panel also rejected the Association's argument that it was protected by a "disclaimer of liability" clause in the governing documents. This clause stated generally that the Association was not liable for damage caused by water, ice or snow. The hearing panel found that the clause did not protect the Association from the consequences of its own negligence, however. The clause conflicted with other clauses requiring the Association to maintain the common areas and to have insurance covering it for damages resulting from its own negligence, and its own rules stated that it would repair damage to units caused by water leaks from the common areas.

*Prentice v. Sierra Landing* is a reminder that Associations should be diligent not only in responding to owner complaints about defects in the common areas but also in getting to the root of the problems and fixing them effectively.

All of these cases show that the CCOC believes rules are a two-way street, and it expects Associations to live up to them to the same extent that members must do so.

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

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# Useful County Phone Numbers for Common Ownership Communities

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

## FY 2009 Commission Participants (as of December 31, 2008)

### Residents of Common Ownership Communities

Charles H. Fleischer  
 Antoinette Negro  
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 Allen Farrar  
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 Elizabeth Molloy

### Professionals

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 Staci Gelfound, Vice Chair  
 Andrew Oxendine, Education Committee Chair  
 Jeffrey R. Williams, Chairman  
 Helen Whelan, Legislative Committee Chair  
 Mitchell Alkon

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 John F. McCabe, Jr., Esq.  
 Dinah Stevens, Esq.  
 John Sample, Esq.  
 Douglas Shontz, Esq.  
 Julianne Dymowski, Esq.  
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 Ursula Koenig, Esq.  
 Greg Friedman, Esq.

### Staff:

Evan Johnson, Administrator  
 Peter Drymalski, Investigator  
 Nellie Miller, Investigator  
 Peggie Broberg, Aide



## ***CCOC REGISTRATION FEES INCREASE***

For the first time in several years, the annual fee to register the County's common ownership communities will increase. The previous fee was \$2.25 per unit or lot. The new fee for Fiscal Year 2010 (July 1, 2009-June 30, 2010) is \$3.00 per unit or lot, an increase of 75 cents per unit. The fees are due with the annual registration, which should be filed with the Licensing Unit of the Department of Housing and Community Affairs.

There will be no change in the fee to file complaints with the CCOC, which remains at \$50.

### ***ANNUAL FORUM: OCTOBER 22, 2009***

The theme of this year's Annual Forum is "Building Sustainable Communities" and it will focus on how our communities can benefit from the use of renewable energy and other environmentally-friendly projects. The Forum will be held in the Cafeteria of the Executive Office Building in Rockville and begin at 6:30 p.m. Make plans to attend! The Annual Forum invitation, with online registration information is available on our webpage at

[www.montgomerycountymd.gov/ccoc](http://www.montgomerycountymd.gov/ccoc)

**Commission on Common Ownership Communities**  
**100 Maryland Avenue, Room 330**  
**Rockville, Maryland 20850**  
**[www.montgomerycountymd.gov/ccoc](http://www.montgomerycountymd.gov/ccoc)**

