Montgomery County Government
Commission on Common Ownership Communities
100 Maryland Avenue, Room 330
Rockville, Maryland 20850
www.montgomerycountymd.gov/ccoc

Summer 2011

CCOC Communicator

Inside this issue:

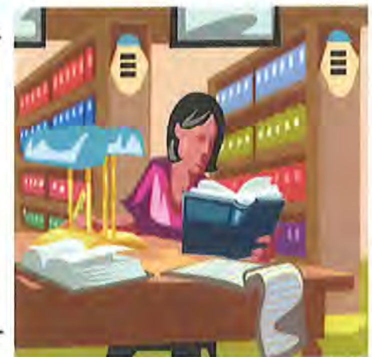
Montgomery County & Master-Metered Communities	2
Long-Range Financial Planning for Condominiums	2
Sign Up for eSubscribe	5
New Smoking Ban	6
Useful Phone Numbers	8
CCOC Participants	8
Maryland Law on Reserves	9
New Laws from Annapolis	10

How the New FHA Regulations Will Affect Your Condominium

By Ursula Burgess, Esq.

When the Federal Housing Administration ("FHA") began insuring loans made by private lenders, it allowed lower-income and first-time purchasers who had less money to put down, who were otherwise credit worthy, to obtain a home loan. Over the years, FHA backed loans have become increasingly popular. In 2007, FHA backed only 5% of condo mortgages, but that percentage jumped to over 20% in 2009, with no signs of slowing. Many believe, in fact, that FHA backed loans will become the dominant avenue for mortgage lending.

These skyrocketing numbers have occurred for several reasons. First, FHA's increased maximum values for loans (currently over $700k in the Washington, DC metro area), low interest rates and smaller down payments make these loans attractive to

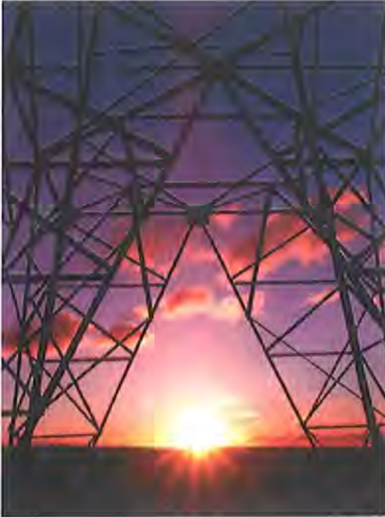


purchasers of all types. In addition, the collapse of the housing market has made FHA insured loans more attractive to private mortgage companies. Unfortunately, the housing market collapse,

(continued on page 3)

CCOC to Host Annual Forum October 15

The CCOC will host its Annual Forum on October 15, 2011, from 2 to 5:30 pm in the Cafeteria of the Executive Office Building at 101 Monroe Street, Rockville. There is no charge to attend. The Forum's theme is "Money—How to Get It and How to Save It." Speakers will address FHA regulations and assessment collection practices, refunds on sales taxes, grants for energy improvements, best practices for budget and reserve planning, and related topics. The Forum is open to all members of community associations and their managers, directors, and other professionals. We look forward to meeting you there.



What Montgomery County Is Doing to Help Its Master-Metered Communities

By Lisa Brennan (Office of Consumer Protection) and Eric Coffman (Department of Environmental Protection)

Montgomery County's Department of Environmental Protection (DEP) and Office of Consumer Protection (OCP) have been working with Pepco and others to expand the opportunities available for multi-family communities (e.g., condominiums, townhouses), particularly those with master meters, to participate in incentive programs offered by utilities in Maryland.

Under the EmPower Maryland initiative, electricity utilities were directed to develop programs to reduce per capita energy consumption 15% by the year 2015. Each of the three utilities serving customers in Montgomery County including Pepco, BG&E and Potomac Edison (formerly Allegheny Power) developed a package of programs.

Utilities typically design programs providing incentives for energy efficient products and services to serve two broad types of customers single family and commercial and industrial. Each program package is supported by a surcharge paid by consumers. As each program was developed and expanded, certain areas were identified where the program design could not broadly serve the full range of customers. For example, residents of master metered communities could not access the refrigerator and appliance rebates available to individual residents or condominium owners with their own meters. Similarly, retrofits of equipment that were the responsibility of the unit owner, often could not be retrofitted unless organized by the management company. Master metered communities are not an insignificant fraction of our community, the County estimates that we have approximately 12,000 master metered residential units in Montgomery County and Pepco serves the bulk of those units in Montgomery County.

"Residents of master metered communities could not access the refrigerator and appliance rebates available to individual homeowners or to condominium owners with their own meters."

DEP and OCP have been collaboratively working with Maryland Public Service Commission staff, Pepco and other utilities to expand the energy efficiency incentives available to consumers residing in master metered communities. For example, they can now receive rebates for appliances through Pepco's EmPower Maryland programs effective October 21, 2010. Residents who purchase individual appliances that meet program requirements are eligible for a \$50 rebate for ENERGY STAR® qualified refrigerators, \$25 rebate for ENERGY STAR qualified room air-conditioners and \$20 rebate for quali-

(continued on page 5)

Long-Range Financial Planning in Condominium Management

By Arthur Dubin, Commissioner, and William Everngam, III

The condominium concept is no longer new to the Washington metropolitan area, and it accounts for an increasingly larger percentage of all individually owned housing stock. There is every reason to believe that this trend will continue, and as it becomes more prevalent, condominium owners must learn to place their objectives in a proper perspective.

(Continued on page 6)

The FHA and Your Condominium Association

(continued from page 1)

together with the increased popularity of these loans has forced HUD to adopt new, more stringent requirements for FHA backed loans for condominium units. In fact, even as this article was being written, HUD adopted new rules for the FHA which will take effect on August 30, 2011. Clearly, these regulations are a 'moving target" and will continue to evolve.

Previously, when someone purchased a condominium unit and wanted to obtain an FHA backed mortgage, the purchaser could obtain approval of the condominium association where the unit was located for that specific loan by providing some basic information regarding the condominium association. These types of loans were called "spot loans" because FHA approved the condominium association for only that specific loan.

While this process benefited condominium associations by putting the burden on the purchaser to obtain approval, FHA lacked a lot of information about the financial health of the condominium association where the unit was located, so over time, FHA developed concerns that defaults in some FHA backed loans was due, in part, to the poor financial health and overall condition of the condominium association where the property was located. In fact, some condominium associations were essentially inoperative, resulting in no maintenance of the property and devaluing of the units – a risky combination for a home loan.

In November 2009, FHA abolished "spot loans" altogether and decreed that FHA backed loans would be permitted for purchases of units located in condominium associations that were approved by FHA after going through an intensive application process. The application process includes submitting, among other documents, copies of the association's governing documents, budget, meeting minutes, proof of insurance and where the property is located on a FEMA flood map. All condominium associations, including ones that were previously approved by FHA, had to undergo the re-approval process. Notably, applications will be accepted only if submitted by the condominium association or its agent -- potential purchasers, current owners and realtors cannot submit an application on behalf of the condominium association and if they do, they will be rejected outright. Accordingly, boards have to evaluate whether they should undertake this process to get the association approved.

As a threshold matter, a board has to determine whether it would be a violation of its fiduciary duty to the association's membership to <u>not</u> proceed with this application process. For many associations, being approved for FHA backed mortgages could broaden the pool of potential purchasers, which would be helpful to the members trying to sell their units in this still unstable housing market. However, the expense of going through the process may not be within the association's budget and frankly, condominium associations which have a lot of foreclosures might not even qualify for approval, making the process futile. Accordingly, the first step in evaluating whether an association should undertake this process is to review whether the association can meet the minimum requirements for approval.

One of the requirements that some condominium associations are having a difficult time meeting is that no more than 15% of the total units in the association may be more than 30 days delinquent in the payment of assessments. The recent changes in the FHA regulations have clarified that this requirement applies only to assessments themselves and not to the related late fees, fines, or other charges posted to an owner's account. While boards of directors are working hard to collect outstanding assessments, most condominium associations have a higher number of bank owned properties than they have had in the past. Banks tend to not pay the assessments which come due after they have foreclosed until the property is sold to a third party. Since FHA does not carve out an exception for bank owned properties, these non-paying bank owned properties alone may make it impossible for a condominium association to qualify. Ironically, the banks are practically guaranteed to pay the past due assessments, plus interest when they sell the units, but FHA is using their current state of nonpayment against associations. If anything, these bank-owned properties should reassure the FHA that these units will ultimately be current. Fortunately, it is our understanding that HUD is aware that such properties are having an unfairly negative impact on the ability of associations to qualify for FHA backed loans, so hopefully there will be an exception created for these properties in the future.

> ***"As a threshold matter, the board has to determine whether it would be a violation of its fiduciary duty to the association's membership to <u>not</u> proceed with [the FHA's] application process......[F]rankly, condominium associations which have a lot of foreclosures might not even qualify for approval, making the process futile."***

Since the impetus for these changes for FHA approval is to have reassurance that the condominium association is in good financial health, FHA is scrutinizing special assessments. FHA is requiring associations to submit detailed information showing how the special assessment was adopted and the purpose for it. Fortunately, it appears that FHA is approving associations with special assessments to make up for budget shortfalls, including the massive snow removal bills in the 2009-2010 winter season. But, based on the scrutiny of the special assessments, it is clear that FHA may deny approval for a condominium association if there are special assessments imposed for other reasons, like

(continued on page 4)

The FHA and Your Condominium Association
(continued from page 3)

litigation costs or building repairs, or exorbitant ones to be paid in short periods of time. Regrettably, special assessments are imposed to improve a condominium association's financial health, yet they may ultimately result in the FHA's denial of the association's application.

Another restriction that is problematic for associations is that the reserve balance and the budget for the association must be "adequate." FHA requires that at least 10% of the budget be earmarked for reserves and the total reserve balance must be sufficient based on the age of the community and common elements. After August 30, 2011, applications must include balance and income sheets that are less than 90 days old in order for the FHA to review the association's financial situation. If FHA denies the application for failing to meet this requirement, the condominium association may need to obtain a reserve study and/or submit additional documentation supporting an argument that the budget and reserve balance are sufficient. While this sounds like a headache, it does have the benefit of a third party reviewing the budget and current reserve balance and giving the condominium association feedback as to whether it is sufficient. Many boards leave the budgeting process largely to a manager, as opposed to taking an active role in the process and this second guessing by FHA may be the trigger to get the board members more actively involved in the process.

"The FHA requires that at least 10% of the budget be earmarked for reserves and the total reserve balance be sufficient based on the age of the community and common elements."

FHA requires that condominium associations with at least 20 units have fidelity insurance or a fidelity bond for all officers, directors, and employees of the association and all other persons handling or responsible for funds administered by the association. The coverage must be no less than a sum equal to three months aggregate assessments on all units plus the current balance of reserve funds. Notably, the aggregate assessments include special assessments, so associations are required to have insurance at higher amounts where there is a special assessment in place. Fortunately, this requirement has forced condominium associations to review their insurance coverage and many associations find that they in fact, are underinsured, which is better discovered now, as opposed to when they have a theft or other similar loss. After August 30, 2011, if the association contracts with a professional management company, that company must have fidelity insurance coverage, so the applications will also need to include a copy of the management company's certificate of insurance. In addition, associations will have to prove that they have "blanket" hazard insurance which covers 100% of replacement costs.

Once a condominium association receives approval under this new process, the approval lasts for three (3) years, so associations will need to go through a re-approval again after that process expires. It now appears that the FHA is incorporating some requirements for an ongoing certification program, whereby changes to the eligibility of the association (for example, lawsuits challenging a special assessment) will have to be disclosed during the three-year period, with steep sanctions for noncompliance. FHA is optimistic that the re-approval process at the end of the three year period will be streamlined since FHA will have all of the basic information for approved condominium associations after going through this initial process. In fact, FHA is hoping that at some point the condominium association applications and supporting documentation would be maintained electronically, so renewals would simply be a matter of updating certain information without the requirement of submitting unchanged documents, like the recorded covenants.

So, if a condominium association can meet all of the requirements to obtain approval, the board must then decide whether to proceed with the application process and there are an infinite number of factors that the board needs to take into consideration. Condominium associations with units that sell for amounts far above the maximum loan amount for FHA backed loans would likely not affect potential purchasers at all by not obtaining approval. In addition, once a condominium association receives approval for FHA backed mortgages, there is no guarantee that other entities, like Fannie Mae and Freddie Mac will approve a loan to purchase a condo-

(Continued on page 9)

What Montgomery County is Doing to Help Its Master-Metered Communities

(continued from page 2)

fied high-efficiency electric water heaters. In order to receive the rebate, the appliance must have been purchased by the occupant of the unit and the resident must include their address on the application, the electric account number is not needed for master metered residents. More information on the program can be found at: http://homeenergysavings.pepco.com/md/appliance-rebate. Similarly, communities that work together and "group purchase" to get a better price in concert with their property management company are eligible for the same incentives (https://cienergyefficiency.pepco.com/Multi.aspx).

BGE has similar incentives and BGE customers who live in master metered properties who would like to participate in the Appliance Rebate Program should call 877-685-SESP (7377). Potomac Edison (formerly Allegheny Power) has made similar arrangements and residents should visit http://www.alleghenypower.com/EngConserv/MD/WattWatchers/RebatesRes.asp for information on how to access these incentives.

While appliances were a significant issue, there are a wide variety of incentives available that residents through their community boards can direct their property manager to consider. These incentives are expected to be available through December 31, 2011 and may be reauthorized by the Maryland Public Service Commission. Please go to your appropriate utility website for more information .

While there is still significant room for improvement in how utility, state and local programs are designed to serve master metered communities, DEP and OCP are working to advocate for equitable access to these programs consistent with the surcharges paid by consumers and potential energy savings. Pepco, their consultants, and PSC staff have also been extremely helpful in refining programs.

Finally, Montgomery County has just concluded accepting applications for its Commercial and Multi-Family Energy Efficiency Rebate program, which was designed to provide 50% of the cost of a retrofit up to $75,000 awarded competitively. The County is wrapping up review of the applications and expects to make awards to several commonly owned communities. Furthermore, the upcoming residential rebate program, was designed to allow unit owners to apply for energy efficiency improvements in their own units. Additional information on this program will be posted on www.mcenergyfunding.com.

The County has also embarked on a comprehensive study to identify opportunities to reduce energy consumption for both multi-family and commercial buildings by 25%, and will be evaluating options such as financing options, energy use disclosure and sub-metering.

"We have approximately 12,000 master metered residential units in Montgomery County and PEPCO serves the bulk of those units."

DEP and OCP are continuing to seek new opportunities for all of our residents to embrace energy efficiency improvements that can help reduce operating costs, benefit the environment and improve property value. Please feel free to contact either Lisa Brennan of the Office of Consumer Protection or Eric Coffman of the Department of Environmental Protection for additional information.

Sign Up for eSubscribe!

The Latest Way to Stay Informed

By signing up for the County's eSubscription service, you can receive free, electronic newsletters, updates and announcements via email. Go to the County's website and then go to the link on the left side for "I want to…" Click on eSubscription. Click on "Create an Account" (or "Update an Account" if you already have one). Mark each item you would like to receive and enter your name and email address. It's that simple. The direct link is: https://ext01.montgomerycountymd.gov/entp/s1p/esubpublic/newsubscriber.do

The CCOC will be issuing its newsletters and other announcements electronically, so if you want to continue receiving the newsletter, please sign up at eSubscription. CCOC is listed under Office of Consumer Affairs.

Long-Range Financial Planning in Condominium Management (continued from page 2)

Establishing the amenities, and creating the rules and regulations necessary for the sharing of common areas by many different people—such as determining where Mrs. Jones can walk her dog and where Mr. Smith can park his car—are important, but they are low on the list of priorities when compared to the importance of preserving the continued existence of a stable community and, in fact, the continued existence of the building itself. That future can best be insured by sound, long-range financial planning.

Perhaps the primary concern of the board of directors is the budget. In a new project the immediate operating expenses may seem to be more important because they are not yet an established statistic. Even so, in distributing the money for the day-to-day operations, the board must not lose sight of the fact that the budget must also provide a reserve for future essential expenditures.

Whether the project is old or new, the most important first step in formulating any long-range financial plan is to make an objective evaluation of the condominium's current physical condition, workmanship, and age.

First step: evaluation. In making this evaluation, the building structure will, to a large degree, determine the areas of maintenance that will eventually require a major financial outlay. For instance, in a hi-rise the most important areas of common maintenance will probably be the lobby, elevators, hallways and central heating and cooling plants. In a garden apartment association, the roof and grounds will likely be the prime concerns.

The age of the condominium's buildings is very important. Although many condominiums were constructed in the last 10 or 15 years, others are much older, and those that were converted from rental housing may be the oldest of all. Newer buildings, if properly constructed, normally require allocations to the reserve funds than older buildings of the same size and type. A condo conversion completed 15 years ago is likely to have a critical need to accumulate enough reserves to replace a roof with a normal life expectancy of 20 years.

A third consideration is the quality of the construction and improvements within the buildings. Construction quality is a sensitive subject between developers and association members, and the quality of the work can vary even within the same project. Certainly, the quality of the work will affect the condominium's future needs, for a top-notch job by a competent contractor will likely reduce the need for the early replacement of the work.

As discussed earlier, the condominium budget is made up of two very different components: the *operating fund* and the *capital reserve fund*. Focusing on the individual categories of reserves for each major item, careful members must ask these questions: how much money is in each replacement reserve category? How much will a replacement cost at today's prices? And how will inflation affect those prices by the time the work must be done?

The following comparisons illustrate the importance of these questions and factors. We will examine long-range

(Continued on page 7)

County Adopts New Smoking Ban, Law Took Effect August 12, 2011

In July, the County Council unanimously adopted a new health regulation on smoking. The law bans smoking in the indoor common areas of all residential buildings with 3 or more units, and within 25 feet of any privately-owned playground that serves more than one home (this means it applies to all playgrounds owned by community associations). Associations must post signs in each affected common area and playground. The law will be enforced by the Department of Health & Human Services (DHHS) and violations can be reported by calling the "311" number. (Staff suggests that the signs not only state "no smoking" but also direct readers to call "311" so that they report violations to the proper authority, and not to the association.)

Long-Range Financial Planning In Condominium Management (continued from page 6)

plans for a newly built townhome community and an older one. We will first determine the common areas for which the association is responsible to maintain and then evaluate each one. We will ask what is the condition of the roofs, swimming pools, parking lots and so forth. We will inquire into the age and quality of these parts, and we will then examine whether the reserves are sufficient.

An example of financial planning. Let us take a hypothetical community which we shall call "Dubin Manor" as an example. It has 100 homes, is 10-years old, and has asphalt shingle roofs with a 20-year life expectancy. The average size of the roofs is 8 squares (800 square feet). Currently, the board is setting aside $4000 per year for roof replacements, and so has accumulated $40,000 . If rhe cost per square today is $100, each roof will cost $800 to replace at today's prices, and after 20 years, the board will have enough money to replace them at its current savings rate. But if we factor in the cost of inflation at just 5% per year, then the replacement cost in another 10 years will be increased by $400 per roof, or 50%, at least. Therefore, the probable cost of replacing all 100 roofs will be about $120,000, not $80,000 Because of this error in planning, the board must find another $40,000 within 10 years, either by raising the annual assessments or by imposing a special assessment.. *While a low inflation figure may seem unimportant over the short time, over 10 or 20 years it can be crucial indeed.*

"If the reserve funds are insufficient for major repairs and replacements, the options for the board of directors are grim. The board may be forced to increase greatly the monthly assessments, levy a special assessment, borrow the funds (and pay to do so), or do nothing. The first three options will be difficult and unpopular, but the fourth is completely unacceptable, and may expose the association to legal actions and increased damage claims."

In the same vein, these calculations must be made for all other major reserve items such as pools, parking, and utilities.

A comparison with a different type of condominium will provide other conclusions. We will compare a larger, older, garden– type condominium ("Everngam Gardens") with a newer high-rise ("EverngamTowers"). We will ask the same questions we asked about the townhome community.

Everngam Gardens & Towers is a mixed community of 300 garden apartments that are 10 years old and 100 units in a brand-new high rise. It must plan for both exterior and interior repairs . The costs to replace the common elements in the garden apartments will be higher than in the Towers because the garden units take more space and are considerably older. Sound financial planning requires these differences to be taken into account with setting the goals for the reserves. Also, different sizes reflect the different absolute amounts of money that must be accumulated. For example, the Gardens must plan especially for their parking lots and roofs; the Towers must plan for its elevators and central utilities.

Board often find it difficult to reserve enough funds in the various capital reserve accounts because the need for the funds is not readily accepted by the membership, who may be more concerned with their own short term financial situations. Moreover, some members may point to a million-dollar reserve and think it's more than enough, without regard to the probable needs of the association. And members who investment owners or landlords often are more interested in keeping their own costs as low as possible than in the long term health of the community.

Fund-raising alternatives. The implications of not placing enough money in each capital reserve category must be clearly understood. If the reserve funds are insufficient for major repairs and replacements, the options for the board of directors are grim. The board may be forced to increase greatly the monthly assessments, levy a special assessment, borrow the funds (and pay to do so), or do nothing. The first three options will be difficult and unpopular, but the fourth is completely unacceptable, and may expose the association to legal actions and increased damage claims.

These risks can be eliminated if the association employs professional management. One of a professional manager's roles is to provide the expertise and guidance necessary for long range financial planning, thus helping to maintain the condominium as a viable, valuable, and attractive entity.

(Arthur Dubin is the President of ZALCO Realty and a professional representative on the CCOC. Mr. Everngam is the President of Veritage Management Co.

This article was originally printed in *Realtor* magazine and is reprinted here with the consent of the authors.)

Useful County Phone Numbers for Common Ownership Communities

Most County Government agencies may now be reached by phone by dialing "311" during ordinary business hours. The operator will then refer the caller to the proper agency. This service includes non-emergency Police services such as reporting abandoned cars and community outreach, Libraries, the Circuit Court, Landlord-Tenant Affairs, Housing Code Enforcement, the Office of the County Executive, Cable TV regulation, the Department of Permitting Services and the Department of Transportation.

Some County agencies may be called directly or through 311, including:

Office of Consumer Protection	240-777-3636
CCOC	240-777-3766
County Council	240-777-7900
Parks & Planning Commission	
Planning Board	301-495-4605
Parks Headquarters	301-495-2595

City of Rockville: residents should still call their City agencies directly.

Emergency services:	911

For more information on the 311 system or to search for agencies by computer, go to:

Http://www3.montgomerycountymd.gov/331/Home.asp

FY 2012 Commission Participants (as of August, 2011)

Residents from Condominiums/Homeowner Associations:

Elizabeth Molloy (Vice Chair and Education Committee Chair)

Karen Shakira Kali (Annual Forum Chair)

Allen Farrar

Jan Wilson

Bruce Fonoroff

Elayne Kabakoff

David Weinstein

Ken Zajic

Professionals Associated with Common Ownership Communities:

Staci Gelfound (Chair)

Helen Whelan (Legislative Committee Chair)

Mitchell Alkon

Richard Brandes

Ralph Caudle

Arthur Dubin

Barbara Gwen Henderson

County Attorney's Office:

Walter Wilson, Esq. Associate County Attorney

Volunteer Panel Chairs:

Christopher Hitchens, Esq.

John F. McCabe, Jr., Esq.

Dinah Stevens, Esq.

John Sample, Esq.

Douglas Shontz, Esq.

Julianne Dymowski, Esq.

Corinne Rosen, Esq.

Ursula Burgess, Esq.

Greg Friedman, Esq.

Charles Fleischer, Esq.

Commission Staff

Ralph Vines, Administrator

Peter Drymalski, Investigator

*Newsletter *

Deputy Assistant Editor: Peter Drymalski

IT Assistance: Pam Prather, Lorena Bailey

How the New FHA Regulations Will Affect Your Condominium Association

(Continued from page 4)

minium unit in the same association. In fact, there are instances where the condominium associations were approved by the FHA under these new rules, but the purchasers were unable to obtain loans from these other entities. A board also must consider whether the budget will support the expense of the application process, which can be accomplished much more efficiently but at significant expense if handled by an attorney or a company that specializes in these types of applications. In short, it is not necessarily an easy decision for a board to make.

This article addressed only some of the restrictions imposed on condominium associations for FHA financing approval, and, as noted earlier, the regulations are frequently be updated and supplemented. For more information on all of the restrictions and to stay up to date on changes the regulations, you can contact your association's attorney or the Community Associations Institute's website at www.caionline.com.

(Ursula Burgess is an associate with the law firm of Rees Broome, and chair of the Education Committee of CAI's Washington, D.C. regional chapter. She is also a volunteer panel chair for the Commission on Common Ownership Communities and will be the keynote speaker at the CCOC's Annual Forum in October.)

What Does Maryland Law Say About Reserves?

By the CCOC Staff

Surprisingly, and to the disappointment of many, the Maryland Condominium Act and the HOA Act have little to say about the important topic of reserve funding. Sections 11-109.2 and 11B-112.2 of the Real Property Article of the Maryland Code merely state that the annual budget must provide for "reserves" and for "capital items." They do not specify how much the reserves shall be, nor create any formula that associations should use. Nonetheless, it is clear that the General Assembly expects associations to pay regular attention to the need for reserves and for future capital repairs. As Ms. Burgess points out in her article in this issue, the Federal Housing Administration requires that at least 10% of condominium budgets be set aside for reserves, and that the reserve fund itself must be adequate based on the age of the community and its common elements. This provides useful guidance to all associations.

But associations should not believe they are building sufficient reserves simply because they comply with the 10% rule. Some associations may need to do much better than that, for as one authority has written, "there is no way to pluck a number out of the air. Years ago, some experts said that the reserves should equal 10% of the operating budget. That advice is no longer appropriate." She recommended, instead, itemizing the major components of the common elements, estimating their remaining useful lives, and determining the future replacement costs of each, then planning for funding those costs. Jan Hickenbottom, Questions and Answers About Community Associations (2nd Ed., 2002), page185. This process is similar to that outlined in this issue by Mssrs. Dubin and Everngam.

Both Acts contain an important provision that is relevant to major repairs. Sections 11-109.2 and 11B-112.2 allow boards of directors to increase assessments *by any amount necessary* in order to pay for the repair of conditions "which, if not corrected, could reasonably result in a threat to the health or safety of the owners or a significant risk of damage to the [association]." This law overrides any association document limiting the board's right to increase the assessments. All that the law requires is that the board call a special meeting for this purpose and give the members at least 10 days advance notice of the meeting. If a major repair is necessary, and it has not been adequately budgeted for, a board may have no choice but to exercise this authority. As Mssrs Dubin and Everngam warn in their article, such a step, however necessary, is likely to cause anger, resistance, and complaints of poor management. Proper planning will minimize the need for such an action.

More information on budgeting and reserves is available in the CCOC's online *Manual and Resource Guide.*

Montgomery County Government
Commission on Common Ownership Communities
100 Maryland Avenue, Room 330
Rockville, Maryland 20850
www.montgomerycountymd.gov/ccoc

New Laws from Annapolis

By the CCOC staff

Only 3 bills affecting community associations passed the General Assembly this spring. The most important was HB 842, which allows condominium associations to amend their bylaws by a simple 51% majority to require that all members carry homeowner insurance on their units. If an association passes such an amendment, it must regularly gather written proof that the members have taken out such insurance.

HB 99 also passed. This bill allows the Maryland Attorney General to enforce an HOA's rules regarding annual elections. (This law does not affect HOAs in Montgomery County as County law already gave the CCOC jurisdiction over the failure to properly conduct elections.)

A watered-down version of the long-desired law giving condominium association liens for unpaid assessments priority over mortgage liens also passed. However, the priority is limited to only $1200 or 4 months of assessments; and it only applies to mortgages recorded after October 1, 2011, which means it will have little effect for years to come.

Various bills proposing to regulate community managers were made and referred to Assembly committees for further study and coordination.