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Commonly Interested Newsletter



Montgomery County, Maryland
Commission on Common Ownership Communities
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September 2024



September Fun Fact:

The first Newsletter in the US to be published was released on September 25, 1690 in Boston.

2024 LEGISLATIVE UPDATES!

[HB143/SB 46](#) Condominiums - Sales Contracts - Asbestos Disclosure; STATUS: PASSED - Effective October 1, 2024. **A unit owner must provide a statement, no later than 15 days prior to closing, on their knowledge of the presence of asbestos in the unit and whether abatement has been performed during the occupancy of the owner.**

[HB159/SB 465](#) Common Ownership Communities - Electric Vehicle Recharging; STATUS: PASSED - Effective October 1, 2024. **This bill prohibits condominiums and HOAs from enacting unreasonable prohibitions against the installation of electric vehicle recharging equipment by unit owners.**

[HB 280/SB 446](#) Local Condominium and Homeowners Associations Repair Funds; STATUS: PASSED - Effective October 1, 2024. **Counties and municipalities may establish a local fund for the purpose of repairing or rehabilitating infrastructure within Common Ownership Communities.**

[HB 309/SB 15](#) Cooperative Housing Corporations - Dispute Settlement; STATUS: PASSED - Effective October 1, 2024. **The dispute process for Cooperatives is adjusted to extend the timeframe for members to correct violations from 10 to 15 days, grant members the right to request hearings, and written notice of violations and advance notice of hearing dates.**

[HB 1227](#) Condominiums - Mandatory Insurance Coverage -Detached Units; STATUS: PASSED - Effective October 1, 2024. **This bill clarifies 2023's HB 98, which allows condominiums composed entirely of detached units to maintain insurance on the common elements only, like homeowners associations.**

[SB 665](#)

Maryland Condominium Act - Amendments to the Declaration; STATUS: PASSED - Effective October 1, 2024. **The threshold of unit owners required to amend a condominium's declaration is reduced from 80% to 66 2/3% once the developer has sold all units.**

Rent Stabilization Comes to Montgomery County!

By: The Montgomery County Office of Rent Stabilization



On July 23, 2024, the Montgomery County Council voted to approve Executive Regulation 2-24 ([COMCOR 29.58.01 – 29.62.01](#)) for the County's Rent Stabilization law ([Montgomery County Code Sections 29-56 – 29-62](#)). The Department of Housing and Community Affairs (DHCA) has a [Rent Stabilization FAQ webpage](#) that is regularly updated.

DHCA will publish the allowable rent stabilization rent increase annually. The annual rent increase allowance is the lesser of the consumer price index for Urban Wage Earners (CPI-U) for the Washington Metropolitan Statistical Area, plus 3% or 6%. Effective July 23, 2024, to June 30, 2025, the CPI-U is 3.3%, so the maximum rent increase allowance is 6%.

The Executive Regulation also limits the allowable fee charges, which landlords of units subject to rent stabilization must comply with by no later than October 21, 2024, 90 days after the law and regulation went into enforcement on July 23, 2024.

In addition to limiting rent increases, the Rent Stabilization law and regulation:

- Specify the fees a landlord can charge a tenant and limit the amount charged to maintain affordability.
- Provide landlords the ability to petition for a limited surcharge to pay for capital improvements.

- Allow landlords to apply for a 23-year substantial renovation exemption.
- Allow landlords to petition for an increase greater than the standard annual increase if they demonstrate that they are not receiving the fair return guaranteed in the regulation.
- Prevent properties designated as [Troubled or At-Risk](#) from increasing rents without approval from the DHCA.
- Exempt a unit owned by a natural person or the trust/estate of a decedent who owns two (2) or fewer rental units within the County.

Additionally, DHCA staff have launched a new Rental Housing Portal accessible to landlords, tenants, and the public. The portal allows landlords to register rents for their properties and file capital improvement petitions, substantial renovation applications, and fair return applications. It also enables tenants to verify that their increases comply with the new Rent Stabilization law. Related education and training on the portal will be released this month.

The Office of Rent Stabilization will present an overview of the Executive Regulation at the Commission's next meeting on October 9, 2024. Residents and landlords may call MC311 or 240-777-0311 for more information about rent stabilization.

County Program to Support Urgent Repairs of Common Ownership Communities!

By: Frank Demarais



The County capital budget for Fiscal Year 2025 includes funding to create a loan program to help common ownership communities address critical repairs or replacements of common area building elements which could threaten health, safety or habitability of units. The approved debt funding of \$1.23 million will be made available as loans targeted to supplement other funding that associations generate from reserves, assessments and loans from other sources.

DHCA will publish guidelines on eligibility and requirements, hold public information sessions and may begin to take applications this fall. The department will send emails and post information on its COC webpage (<https://montgomerycountymd.gov/DHCA/housing/commonownership/index.html>) when the materials are available.

The program does not intend to provide total project funding and anticipates a maximum individual loan of \$500,000. The program requirements will include the association investment at least 20% of the total project cost; compliance with County governance and reserve study requirements; and owners occupying more than half of the total units. The loans must support addressing specific, critical common area structural issues which could threaten the habitability of units – such as roofing, stairwells, balconies, garages, storm water management, electrical, plumbing and others.

The application will require fully documenting the financial condition of the association, its efforts to raise the necessary funding, and the scope of the repair/replacement needs based on independent professional third-party analysis of conditions and project scope. The department will evaluate applications based on the urgency of the repair/replacement needs, the availability of other financing to the association, and the impact of County funding on completing the project.

The program will provide loans with terms negotiated based on the project and the capacity of the association to repay. The loans will include a promissory note defining interest rate and repayment terms, with a security agreement pledging current and future financial assets of the association in the event of default. The loan will not require any liens on real estate and will agree to subordination to any other financing for the proposed project or other prior loans.

The Office of Common Ownership Communities will conduct public information session(s) after it publishes the guidelines, application form and supporting information. The department will review applications as received, communicating with applicants on the eligibility of the project and the documentation needs. An approved application will involve working through the loan documentation, project scope and timing, and the construction funding process where funding draws occur based on completed work.

The County recognizes that the amount of approved funding for this year will not address the scope of many projects and that the number associations facing capital improvement demands continues to increase as the buildings reach expected lifespan on many elements. This program will increase dialogue with associations, members and the County on the issues and coordination of support.

The Corporate Transparency Act and Common Ownership Communities!

By: Billy Buttrey, OCOC Investigator



A Brief Summary of the Corporate Transparency Act

In 2021, as part of the National Defense Authorization Act (NDAA), Congress passed The Corporate Transparency Act (CTA). The CTA plays a crucial role in preventing individuals with the intent of hiding or benefitting from ownership in U.S.-owned companies by confronting illegal financial activities, including money laundering, tax fraud, and terrorism financing. This act is of utmost importance and requires “reporting companies” to file a report with the [Financial Crimes Enforcement Network \(FinCEN\)](#) to identify each Beneficial Owner Information (BOI) or each applicant owner information of a company.

Reporting Companies

The definition of a reporting company can be a corporation, limited liability company (LLC), limited partnership or similar entity created by filing a document with any US state, territory or Indian tribe (domestic reporting companies) **- including most Common Ownership Communities (COCs). On June 10, 2024, FinCEN updated its [FAQ's](#) to include a question regarding HOAs as follows:

C.10. Are homeowners associations reporting companies?

It depends. Homeowners associations (HOAs) can take different forms. As with any entity, if an HOA was not created by the filing of a document

with a secretary of state or similar office, then it is not a domestic reporting company. An incorporated HOA or other HOA that was created by such a filing also may qualify for an exemption from the reporting requirements. For example, HOAs recognized by the IRS as section 501(c)(4) social welfare organizations (or that claim such status and meet the requirements) may qualify for the tax-exempt entity exemption. An incorporated HOA that is *not* a section 501(c)(4) organization, however, may fall within the reporting company definition and therefore be required to report BOI to FinCEN.

In short, incorporated Associations (Homeowners, Condominiums, and Cooperatives) are likely considered reporting companies. The CTA also provides 23 specific exemptions, so your COC should review this information as well and determine whether they are a reporting company. It is imperative that your COC work with its legal counsel and/or your certified professional accountant, to confirm its status and reporting requirements. This clarity will help your COC to be fully prepared for the reporting process.

Beneficial Owners

The CTA defines beneficial owners as an individual who either directly or indirectly: (1) exercises substantial control over a reporting company, or (2) owns or controls at least 25 percent of a reporting company's ownership interests. Because beneficial owners must be individuals (i.e., natural persons), trusts, corporations, or other legal entities are not considered to be beneficial owners. However, in specific circumstances, information about an entity may be reported in lieu of information about a beneficial owner.

For COCs, this most likely means all board members will qualify as beneficial owners and are subject to reporting requirements, as FinCEN expects that at least one individual exercise substantial control over the COC.

The CTA Reporting Requirements and My COC

Any COC formed before January 1, 2024, has until January 1, 2025, to file their initial report with FinCEN. For COC's formed on or after January 1, 2024, and before January 1, 2025, must file their initial report within 90 days of formation. It's important to note that any willful failure to comply with the CTA may result in civil penalties of up to \$500 for each day of

continued violation or criminal penalties including imprisonment of up to two years and/or a fine of up to \$10,000. This underlines the seriousness of non-compliance and the need for strict adherence to the reporting requirements.

All beneficial owners of your COC must file their Beneficial Ownership Information Report (BOIR) on the BOI E-Filing website at (<https://boiefiling.fincen.gov>). Filings may be completed online, using a FinCEN prepared fillable PDF, or by utilizing a service provider in a system-to-system Application Programming Interface (API).

For more information, please visit FinCEN's website at [Beneficial Ownership Information Reporting | FinCEN.gov](#).

** The full definition of a reporting company includes (1) any corporation, LLC, limited partnership or similar entity created by filing a document with any US state, territory or Indian tribe (domestic reporting companies), and (2) any non-US entity that registers to do business with any US state, territory or Indian tribe (foreign reporting companies). Trusts (other than trusts created by a filing, such as statutory or business trusts) are themselves not reporting companies.

Annual Registration Information

The Licensing & Registration Unit requires completion of the following:

- The completion of the [CCOC Registration Form](#).
- The completion and current copy of the governing documents.
- A list of the rental units in the community.
- A payment of the annual registration fee which is calculated based upon the number of units in the common ownership community.

It is the responsibility of each common ownership community to ensure compliance with this requirement.

Please feel free to contact the Licensing & Registration Department at ccocregistration@montgomerycountymd.gov with questions and/or concerns you may have.

UPCOMING BOARD TRAINING DATES!



[Saturday October 12, 2024](#)

[Sunday October 27, 2024](#)



The leadership of each common ownership community must register annually as a requirement as stated in Chapter 10B of the Montgomery County Code.

Mandatory Board Training



In July 2023, [amendments to the county code](#) continue to require all Board of Directors for common ownership communities to successfully complete the Commission's Board Training program, also known as Community Governance Fundamentals. The new provision requires Board members to recertify every *three (3) years*. Therefore, if you have not completed the training after July 3, 2020, you are required to fulfill this requirement. Information on the free training program and [schedule](#) may be found on the website or [click here](#).

COC Links and Shortcuts

[Office of Common Ownership Communities | DHCA \(montgomerycountymd.gov\)](#)- General information and resources for common ownership communities and homeowners.

[Common > "Community Governance Fundamentals" Training Program | DHCA \(montgomerycountymd.gov\)](#)- Mandatory training on Community Governance Fundamentals.

[Common > Registration of Common Ownership Communities | DHCA \(montgomerycountymd.gov\)](#) – Mandatory annual registration of common ownership communities.

[Calendar | DHCA \(montgomerycountymd.gov\)](#) – Calendar of Events.

[Common > Community Information | DHCA \(montgomerycountymd.gov\)](#) – FAQ's

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