

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 906

(Prince George's County Delegation)

Environmental Matters

Judicial Proceedings

Prince George's County - Common Ownership Communities - Fee for
Administrative Hearing Services
PG 401-12

This bill authorizes Prince George’s County to enact an ordinance imposing and collecting a fee for the provision of administrative hearing services for the resolution of disputes involving common ownership communities located in the county. Within the ordinance, the county may specify which remedies must be exhausted prior to the utilization of the administrative hearing services as well as the process involved in the administrative hearing services. The bill defines a “common ownership community” as a condominium, homeowners association (HOA), or cooperative housing corporation organized under their respective titles.

Fiscal Summary

State Effect: None. The bill only affects local government operations.

Local Effect: Potential increase in Prince George’s County revenues and expenditures if the Prince George’s County Council enacts the ordinance.

Small Business Effect: None.

Analysis

Current Law: Under the Maryland Condominium Act (MCA), unless the declaration or bylaws of a condominium state otherwise, the governing body of a condominium may not impose a fine, suspend voting, or infringe upon the rights of a unit owner or other occupant for a violation of condominium rules until a written demand to cease and desist

is served upon the alleged violator that specifies (1) the alleged violation; (2) the action required to abate the violation; and (3) a time period of at least 10 days during which an ongoing violation may be abated without further sanction.

If a violation continues beyond the abatement period noted in the governing body's written demand to cease and desist, or if the same rule is subsequently violated, the alleged violator must be served with written notice of a hearing to be held by the governing body. The notice must be sent to the violator at least 10 days before the hearing; contain a description of the alleged violation and proposed sanction; and inform the individual of the opportunity to produce any statement, evidence, and witnesses on his or her behalf.

The hearing must be held in an executive session of the governing body and afford the alleged violator a reasonable opportunity to be heard. The meeting minutes must contain the results of the hearing and the details of any sanction, if imposed. A decision made pursuant to these procedures is appealable to the courts.

If a unit owner fails to comply with MCA, the condominium's declaration or bylaws, or a council of unit owners' decision made pursuant to these procedures, the unit owner may be sued for damages, injunctive relief, or both by the council of unit owners or any other unit owner. Attorney's fees may be awarded by the court to the prevailing party.

Unlike MCA, the Maryland Homeowners Association Act does not set forth a dispute settlement mechanism. Chapter 44 of 2003 authorized Charles County to establish a homeowners association commission with the authority to hear and resolve disputes between an HOA and a homeowner regarding the enforcement of the recorded covenants or restrictions of the HOA by providing alternative dispute resolution services, including binding arbitration.

Background: Both Charles County and Montgomery County have alternate dispute resolution boards for HOA disputes.

The Montgomery County Commission on Common Ownership Communities, established in 1995, provides these services for homeowners and HOAs in Montgomery County. Disputes before the commission typically involve architecture and landscaping, trash removal, and similar violations of rules of a community association. Montgomery County advises that referral of complaints to the board is voluntary, and individuals who are dissatisfied with board decisions can appeal to the circuit court.

Charles County advises that it receives numerous complaints from residents of defunct HOA neighborhoods that their neighbors are violating community covenants, as well as complaints from active HOAs about the prohibitive costs involved in litigating covenant violations in the circuit courts.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Charles, Montgomery, and Prince George's counties; Office of the Attorney General (Consumer Protection Division); Secretary of State; Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2012
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