

Insurance Barriers to Cottage Homes in Maryland

- Under §11-114 of the Maryland Condominium Act it is a specified duty of the council of unit owners to obtain and maintain property insurance on both the common elements and units of the condominium.
- This requirement makes sense if the condominium units are townhomes or apartments, where there are shared physical connections between units (walls, roof, etc.). It makes much less sense however if the units are all detached, single family units.
- This creates 2 distinct problems with cottage home communities
 - First, as most cottage communities are small, seldom more than a dozen units and often less, if even a single owner is unable to pay their condo fees it imperils the insurance of the entire condominium as that is a substantial cost to be borne by the remaining owners (compare to a traditional condominium with dozens or even hundreds of units to disperse these kind of costs over).
 - Second, in our experience with the community of Cole's Crossing (see attached for more information about this community), it was in fact highly counter-intuitive to potential buyers, who saw the high condo fee and thought they would have to pay both that and the typical costs of home ownership of a fee simple home as well rather than the comparatively less expensive condo owner's policy.
- We believe that the simple fix is to modify the Maryland Condominium Act to exempt condos in which all units are detached homes from the requirement that the council of owners maintain property and liability insurance for the units. The council would still maintain property and liability insurance for the common elements, but individual unit owners would be responsible for property and liability policies for their own personal units.
- This solves both noted problems the current law poses for cottage home communities and will help encourage them as a viable means of diversifying the range of available housing choices for all Marylanders.
- As an additional benefit, by providing opportunity for people to purchase individual homeowners policies rather than the smaller condo policies there are potentially greater savings to homeowners from policy bundling with auto and other policies they may have.

Why Develop Cottage Clusters as Condominiums?

As was brought up in the hearing, there is often a question as to why cottage cluster communities are set up as condominiums.

While conditions vary from local jurisdiction to local jurisdiction, the primary reason for this is driven by the zoning code, which in most areas prevents the creation of traditional individual lots of the size necessary to make cottage homes viable.

For example, in Queen Anne's County, where my own experience lies, our growth zones allow a relatively low density per acre for traditional lots, but allow a much higher density for condominium and multi-family projects.

We experienced this first hand with Cole's Crossing, a small development project we created in 2015 (there is more info on this project on the following page). If done as traditional lots with an HOA we were restricted to only 2 lots in addition to the existing old homesite. For the home sizes realistically possible under the very limited size of the lots and the location of the project this would not have been financially viable. However by creating it under a condominium regime the project we were able to create an additional 8, much smaller units instead which both created more housing opportunities and at price points that were viable both for us as the developer/builder and for the consumers that ultimately purchased them.

For another example, in the Grasonville Village Center zoning, single family cluster subdivisions are restricted to a density of 3.5 units per acre, while multi-family (cottage home planned residential developments are included in the multi-family definition for Queen Anne's County's zoning) allows for a density of 10 units to the acre.

My understanding is this a common pattern of zoning throughout the state as it accords with basic principles of smart growth.

Other Questions Raised at Hearing:

- **If these are smaller lots wouldn't you want a master policy to cover the home insurance?** No, the master policy "home insurance" is no better or worse than an individual homeowner's policy. In fact, if an individual homeowner has more control over the selection of their home insurance, the homeowner can tailor their policy and receive the types of discounts that other homeowners receive when they combine policies like auto, boat, home etc. In addition, there are many townhomes sharing walls that are built under a HOA regime without the condominium master insurance policy. The townhomes have the same homeowner's insurance as other single-family properties.
- **When a developer uses a condominium regime rather than a HOA, is the developer circumventing zoning rules like density?** No. The condo, detached units are still subject to local zoning rules and the local zoning code ultimately determines whether a condominium regime or a HOA make more sense for the development. However, when the local zoning code permits a condo, detached development, HB 1305 gives homeowner's the ability to more closely compare

costs of the condo, detached units to other single-family detached properties built under a HOA or not subject to either a condo or HOA. Moreover, homeowners potentially have the benefit of combining insurance policies to receive discounts.

- **Couldn't the developer just build these small units under an HOA regime?** Yes, but depending on the local zoning law, the developer may not be able to build as many units. Whether a condo regime or HOA is used will be determined by the local zoning code.
- **Should the bill clarify the terms "ATTACHED" and "DETACHED UNITS"?** Maryland law does not define these terms but in at least one existing section of law (RP 14-130) there is reference to "a single-family detached property" which is also undefined. While we do not believe a definition is necessary, Charles County's local laws (Art. III, Section 297-49) define "attached dwelling" as "a residential building containing two or more dwelling units having common walls or roof and a separate [ground-level] entry for each unit." Eliminating "ground-level" could provide a definition for state law. In addition, a definition of "detached unit" would be similar. A detached unit would be "a single residential dwelling unit."

Cole's Crossing

Cole's Crossing is a small condominium development in Stevensville, MD created by Waterman Realty in 2007 and built in 2015. It consists of 1 prior existing home and 8 newly created single family homes, with each home and lot parcel comprising a unit of the condominium. Each of the 8 new homes is 1164 sq. ft. with a 1 car garage.



While marketing the homes in this project we found a consistent issue with potential buyers not understanding that the condo fee included their property insurance and that many never even contacted us or came to see the homes, meaning there was no opportunity to explain it.

These homes were all eventually sold and the individual owners now run the condo association but we do speak with them and it is definitely a concern they have as to what will happen if even a single owner

finds themselves unable to keep up with the condo fees – a concern that grew especially pressing in light of the last year and the economic hardships so many faced as a result of the shutdowns.