



**Committee:** PHED  
**Committee Review:** At a future date  
**Staff:** Khandikile Mvunga Sokoni, Legislative Attorney  
**Purpose:** To receive testimony – no vote expected  
**Keywords:** #CommunityOwnershipCommunities

AGENDA ITEM #7  
 December 6, 2022  
**Public Hearing**

**SUBJECT**

Bill 28-22, Community Ownership Communities

Lead Sponsor: Council President Alborno at the request of the County Executive

**EXPECTED ATTENDEES**

Members of the public

**COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

- N/A; Public hearing

**DESCRIPTION/ISSUE**

Bill 28-22 would amend Chapter 10B of the Code to:

- (1) require regular periodic training of members of a governing board of a common ownership community;
- (2) clarify common ownership community registration, voting and dispute resolution procedures;
- (3) outline criteria that the County’s Commission on Common Ownership Communities (CCOC) considers in accepting jurisdiction over a dispute involving a common ownership community; and
- (4) generally, revise County law regarding common ownership communities.

**SUMMARY OF KEY DISCUSSION POINTS**

- N/A

**This report contains:**

Staff Report	Pages 1-2
Bill 28-22	© 1
Memorandum of the County Executive	© 14
Legislative Request Report	© 15
Fiscal Impact Statement	© 17
Racial Equity and Social Justice (RESJ) Impact Statement	© 19
Economic Impact Statement	© 24

**Alternative format requests for people with disabilities. If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at [adacompliance@montgomerycountymd.gov](mailto:adacompliance@montgomerycountymd.gov)**

**MEMORANDUM**

December 1, 2022

TO: County Council

FROM: Khandikile Mvunga Sokoni, Legislative Attorney

SUBJECT: Bill 28-22; Common Ownership Communities – Duties, Requirements and Procedures

PURPOSE: Public Hearing – To receive testimony – no vote expected.

Bill 28-22 Common Ownership Communities – Duties, Requirements and Procedures, sponsored by Council President Alborno at the request of the County Executive was introduced on October 18, 2022. The public hearing is scheduled for December 6, 2022.

The bill would:

- (1) require regular periodic training of members of a governing board of a common ownership community;
- (2) clarify common ownership community registration, voting and dispute resolution procedures;
- (3) outline criteria that the County’s Commission on Common Ownership Communities (CCOC) considers in accepting jurisdiction over a dispute involving a common ownership community; and
- (4) generally, revise County law regarding common ownership communities.

**BACKGROUND AND BILL SPECIFICS**

By transmittal memorandum dated August 30, 2022, the County Executive requested this bill to improve association governance of common ownership communities by requiring periodic retraining of members of governing boards, clarifying voting and registration, and enhancing dispute resolution procedures. The proposed changes were recommended by the CCOC. In addition to the changes outlined above, the County Executive’s proposed bill also included a provision that would enable common ownership communities to hold meetings remotely via video and teleconferencing platforms. However, this latter recommendation of the CCOC has been

rendered moot by State legislation that now allows for this. Therefore, that piece has been omitted from this bill.

The Office of Legislative Oversight (OLO) submitted a Racial Equity and Social Justice (RESJ) Impact Statement dated October 30, 2022. OLO anticipates Bill 28-22 could have a minimal impact on racial equity and social justice (RESJ) in the County.

OLO also presented an Economic Impact Statement anticipating that Bill 28-22 would have an insignificant impact on economic conditions in the County in terms of the Council's priority indicators.

This packet contains:

Circle #

Bill 28-22	© 1
Memorandum of the County Executive	© 14
Legislative Request Report	© 15
Fiscal Impact Statement	© 17
Racial Equity and Social Justice (RESJ) Impact Statement	© 19
Economic Impact Statement	© 24

Bill No. 28-22  
Concerning: Common Ownership  
Communities – Duties,  
Requirements and Procedures  
Revised: 10/13/2022 Draft No. 1  
Introduced: 10/18/2022  
Expires: April 17, 2024  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

---

By: Council President at the request of the County Executive

---

**AN ACT** to:

- (1) require regular periodic training of members of a governing board of a common ownership community;
- (2) clarify common ownership community registration, voting and dispute resolution procedures;
- (3) outline criteria that the County’s Commission on Common Ownership Communities (CCOC) considers in accepting jurisdiction over a dispute involving a common ownership community; and
- (4) generally, revise County law regarding common ownership communities.

By amending

Montgomery County Code  
Chapter 10B, Common Ownership Communities  
Sections 10B-2, 10B-3, 10B-6, 10B-7, 10B-7A, 10B-8, 10B-9A, 10B-11, 10B-12, 10B-13, 10B-17, and 10B-18.

By adding

Montgomery County Code  
Chapter 10B, Common Ownership Communities  
Section 10B-9B.

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. Sections 10B-2, 10B-3, 10B-6, 10B-7, 10B-7A, 10B-8, 10B-9A, 10B-**  
2 **11, 10B-12, 10B-13, 10B-17, and 10B-18 are amended, and Section 10B-9B is**  
3 **added, as follows:**

4           **10B-2. Definitions.**

5   \*      \*      \*

6           *Common ownership community* includes:

- 7           (1) a residential development subject to a declaration enforced by a  
8                 homeowners' association, as those terms are used in state law;

9   \*      \*      \*

10           **10B-3. Commission on Common Ownership Communities.**

11   \*      \*      \*

- 12           (g) The Commission must elect one voting member as [chair] Chair  
13                 and another as [vice chair] Vice Chair, to serve at the pleasure of  
14                 the Commission, and may elect other officers as it determines.

- 15           (h) \*      \*      \*

- 16           (i) The Commission meets at the call of the [chair] Chair as often as  
17                 required to perform its duties, but at least once each month. A  
18                 majority of the voting members are a quorum for the transaction  
19                 of business, and a majority of the [voting members] quorum  
20                 present at any meeting may take any official action.

21   \*      \*      \*

22           **10B-6. Duties of the Commission on Common Ownership Communities.**

23           The Commission must:

24   \*      \*      \*

25 (f) provide training on the responsibilities of a board member for  
26 members of the governing body of a common ownership  
27 community by:

28 (1) developing an educational curriculum for new  
29 members; [and]

30 (2) offering training for Board Members, either in  
31 person, on-line, or by other electronic means; and

32 [(2)](3) approving an alternative educational curriculum for  
33 new members administered by other organizations.

34 (g) establish hearing panels to adjudicate cases on which the  
35 Commission accepts jurisdiction.

36 **10B-7. Requirements for [Registration] registration; fees, and board**  
37 **training.**

38 (a) Association registration.

39 (1) Each common ownership community must register with the  
40 Commission annually, and [identify its elected leadership  
41 and managing agents,] submit the information required on  
42 [a] the registration form provided by the Commission.

43 \* \* \*

44 (c) Training.

45 (1) Within 90 days after being elected or appointed to the  
46 governing body for the first time, a member of the  
47 governing body of a common ownership community must  
48 successfully complete the educational curriculum approved  
49 by the Commission. The governing body must:

- 50                   (A) certify that each member has successfully completed  
51                   this training to the Commission;  
52                   (B) retain a copy of the training certificate for inspection  
53                   by the members of the association for the duration of  
54                   the governing body member's service; and  
55                   (C) report to the Commission that each member has  
56                   successfully completed the training within 90 days  
57                   after each member has been appointed or elected.  
58                   (2) Each member of the governing body must maintain a  
59                   training certificate. A training certificate issued under this  
60                   Section is valid for 3 years.  
61                   (3) A failure to satisfy the training requirement in this  
62                   subsection does not:  
63                   (A) remove the member from the governing body; or  
64                   (B) invalidate a vote made by the member.  
65                   (d) A hearing panel or a hearing examiner may consider a board  
66                   member's failure to complete the training required under this  
67                   Section, if relevant, in deciding a dispute under Section 10B-13.

68                   **10B-7A. Notification requirements.**

69                   The governing body of a community association must, at least annually,  
70                   distribute information [in a form reasonably calculated to notify] to all owners  
71                   about the availability of dispute resolution, education, and other services to  
72                   owners and residents of common ownership communities through the  
73                   Department and the Commission. The governing body may satisfy this  
74                   requirement by including with any annual notice or other mailing to all members

75 of the community association [any written materials] the form developed by the  
76 Department to describe the Commission's services.

77 **10B-8. Defined terms.**

78 In this Article and Article 3, the following terms have the following meanings:

79 \* \* \*

80 (4) *Dispute* means any disagreement between 2 or more parties that  
81 involves:

82 \* \* \*

83 (B) the failure of a governing body, when required by law or an  
84 association document, to:

- 85 (i) properly conduct an election;
- 86 (ii) give adequate notice of a meeting or other action;
- 87 (iii) properly conduct a meeting;
- 88 (iv) properly adopt a budget or rules;
- 89 (v) maintain or audit books and records;
- 90 (vi) allow inspection of books and records;
- 91 (vii) properly maintain or repair a common element if the  
92 failure results in significant personal injury or  
93 property damage; or
- 94 (viii) exercise its judgment in good faith concerning the  
95 enforcement of the association documents against  
96 any person that is subject to those documents.

97 \* \* \*

98 **10B-9A. Request for relief from stay.**



99 (a) At any time after a dispute is filed under Section 10B-9, a  
100 [community association] party to the dispute may submit a request  
101 to lift the automatic stay required under Section 10B-9(e) to a  
102 hearing panel appointed under Section 10B-12, or if no hearing  
103 panel has been appointed, a special standing panel authorized to  
104 consider requests for relief from stays.

105 (b) \* \* \*

106 (c) [An] A [association] party that requests relief from a stay must  
107 serve a copy of its request on any other party named in the dispute  
108 by certified mail or personal service. A certificate of service must  
109 accompany any request submitted under this Section. A party  
110 served with a copy of the request must file its opposition, if any,  
111 within 10 days after receiving service.

112 (d) \* \* \*

113 (e) Except as provided in subsection (d), a request for relief from stay  
114 may only be granted if the assigned panel finds that:

115 (1) enforcing the stay would result in undue harm to [the] a  
116 [community association] party; and

117 (2) lifting the stay [will] would not result in undue harm to the  
118 rights or interests of any opposing party.

119 **10B-9B. Acceptance of jurisdiction of complaints.**

120 (a) If the Commission does not accept jurisdiction of a complaint, the  
121 Director must notify the parties in writing of the decision and the  
122 reason for the Commission's denial of jurisdiction within 10  
123 business days after the decision.

- 124           (b)    The Commission may accept jurisdiction of a complaint if a party  
125                   fails to comply with an agreement reached during mediation.
- 126           (c)    The Commission’s decision not to accept jurisdiction of a  
127                   complaint is not subject to judicial review.

128           **10B-11. Mediation; dismissal before hearing.**

129                                   \*     \*     \*

- 130           (b)    If the Director, after reviewing a dispute, finds that, assuming all  
131                   facts alleged by the party that filed the dispute are true, there are  
132                   no reasonable grounds to conclude that a violation of applicable  
133                   law or any association document has occurred, the Director [may]  
134                   must so inform the Commission. The Commission must dismiss a  
135                   dispute if it finds that there are no reasonable grounds to conclude  
136                   that a violation of applicable law or any association document has  
137                   occurred, or it may order the Director to investigate further. The  
138                   Commission may reconsider the dismissal of a dispute under this  
139                   subsection if any party, in a motion to reconsider filed within 30  
140                   days after the dispute is dismissed, shows that:
- 141                   (1)   the Commission erroneously interpreted or applied  
142                   applicable law or an association document; or
- 143                   (2)   material issues of fact that are necessary to a fair resolution  
144                   of the dispute remain unresolved.

145                                   \*     \*     \*

- 146           (e)    The Commission must promptly schedule a hearing under Section  
147                   10B-13 if [either]: (1) mediation has not occurred within 90 days  
148                   after the Director found reasonable grounds to believe a violation  
149                   occurred; [or] (2) the Director decides at any time that mediation

150 would be fruitless[.]; or (3) the Commission has accepted  
151 jurisdiction. The Director may extend the mediation deadline by  
152 mutual consent of the parties.

153 **10B-12. Hearing panel.**

154 (a) If a hearing is scheduled, the [chair] Chair of the Commission must  
155 convene a 3-member panel to hear the dispute.

156 (b) The [chair] Chair must choose two members of the panel from the  
157 voting members of the Commission. The persons selected must  
158 represent the two different membership groups of the Commission.  
159 The [two] Chair of the Commission [members] must designate the  
160 third member from a list of volunteer arbitrators trained or  
161 experienced in common ownership community issues maintained  
162 by the Commission. The third member must [chair] Chair the  
163 panel. If a suitable arbitrator is not available, the [chair] Chair of  
164 the Commission must designate the third panelist from among the  
165 voting members of the Commission, and must designate the [chair]  
166 Chair of the panel.

167 \* \* \*

168 (e) If the Commission [chair] Chair decides that a hearing should be  
169 held by a hearing examiner instead of a hearing panel, the [chair]  
170 Chair, with the approval of the Commission, may designate the  
171 Office of Zoning and Administrative Hearings to conduct the  
172 hearing.

173 [(f) If the parties to a dispute agree that the hearing should be held and  
174 the dispute decided by a hearing examiner instead of a hearing  
175 panel, the chair must designate the Office of Zoning and

176 Administrative Hearings or another hearing examiner to conduct  
177 the hearing and issue a decision.]

178 **10B-13. Administrative hearing.**

179 \* \* \*

180 (b) [Sections 2A-1 through 2A-11] The Administrative Procedures  
181 Act (Article I of Chapter 2A) [apply] applies to a hearing held  
182 under this Section. However, the parties need not be given more  
183 than 15 days' notice before the hearing is held, if the Commission  
184 finds that an expedited hearing is necessary. At any hearing, a party  
185 or a witness may be advised by counsel.

186 \* \* \*

- 187 (d) The hearing panel may award costs, including reasonable  
188 attorney's fees, to any party if the other party:
- 189 (1) filed or maintained a frivolous dispute, or filed or  
190 maintained a dispute in bad faith;
  - 191 (2) refused to participate in mediation of a dispute[;],  
192 unreasonably withdrew from mediation, or failed to comply  
193 with the terms of an agreement reached in mediation; or
  - 194 (3) substantially delayed or hindered the dispute resolution  
195 process without good cause

196 \* \* \*

197 **10B-17. Voting procedures[; training].**

198 \* \* \*

199 (c) *Absentee ballots* or directed proxies. Any unsigned absentee  
200 ballot or directed proxy, to be valid, must be:

- 201 (1) received in a signed, sealed envelope, bearing the  
202 identification of the dwelling unit and proportional voting  
203 percent, if any, on the outside; and
- 204 (2) opened only at a meeting at which all candidates or their  
205 delegates have a reasonable opportunity to attend.
- 206 (d) *Proxy or power of attorney.* Any proxy or power of attorney valid  
207 under state law may be used at any association meeting. However,  
208 [a] any proxy [and any] or power of attorney [created] containing  
209 votes for [the purpose of] candidates for a governing body's  
210 election [must] may be [appointed] counted only to meet a quorum  
211 or to vote on matters other than an election for a governing body  
212 unless the proxy or power of attorney contains a directed vote on  
213 the election. If a proxy or power of attorney form must be approved  
214 before it is cast, the approving authority must not unreasonably  
215 withhold its consent. A general power of attorney valid under state  
216 law may be used for any purpose at an association meeting that is  
217 consistent with the provisions of the general power of attorney,  
218 including for an election of the governing body.
- 219 (e) *Cumulative voting prohibited.* In an election for a governing body,  
220 for each unit that a [members] member owns the member must not  
221 cast more than one vote for each candidate.
- 222 (f) *Counting votes.* Until the time for voting closes, an association  
223 must not open or count election ballots, absentee ballots or directed  
224 proxies, and must keep all such documents in a sealed container  
225 which must not be opened or counted until the election. If an  
226 election is conducted electronically, the votes must not be  
227 disclosed or counted by anyone until the election. The individuals

228 counting absentee ballots or directed proxies must insure that the  
229 individual who has been directed to cast the proxy vote was in fact  
230 in attendance at the meeting.

231 (g) *Terms of office.* Unless the association documents provide for  
232 other terms of office:

233 (1) a member elected to the governing body of an association is  
234 elected for a term of [two 2] three (3) years; and

235 (2) the individual terms of the entire governing body are  
236 staggered, so that as close to one-third as possible are  
237 elected each year.

238 [(h) A member of the governing body of a common ownership  
239 community must successfully complete the educational  
240 curriculum developed by the Commission or a similar educational  
241 curriculum administered by another organization that is approved  
242 by the Commission within 90 days after being elected or appointed  
243 to the governing body for the first time. The governing body must:

244 (1) certify that each member has successfully completed this  
245 training to the Commission;

246 (2) retain a copy of the certificate of completion for inspection  
247 by the members of the association for the duration of the  
248 governing body member's service; and

249 (3) report to the Commission no later than December 31 of each  
250 year membership data required by the Commission,  
251 including

252 (A) the name and address of each member of the board;

253 (B) the date each member completed the required  
254 training;

- 255 (C) the number of vacancies on the board; and  
256 (D) the length of time each vacancy existed.
- 257 (i) A failure to satisfy the training requirement in subsection (h) does  
258 not:  
259 (1) remove the member from the governing body; or  
260 (2) invalidate a vote made by the member.
- 261 (j) The Commission may exercise its authority under Section 10B-  
262 19(a) to ensure compliance with the training required by  
263 Subsection (h).
- 264 (k) A hearing panel or a hearing examiner may consider a board  
265 member's failure to complete the training required by Subsection  
266 (h), if relevant, in deciding a dispute under Section 10B-13.]

267 **10B-18. Budget.**

268 Unless the association documents provide otherwise:

269 \* \* \*

- 270 (b) the governing body must provide members of the association with  
271 any proposed amendment to the budget at least 30 days before the  
272 governing body votes on the amendment, if the amendment will  
273 result in an increase or decrease of more than 15 percent of the  
274 approved budget. This requirement does not apply to expenditures  
275 made to respond to an imminent threat to health or safety or of  
276 serious property damage, or to properly fund the most recent  
277 reserve study conducted for the association.

278 **10B-19. Enforcement.**

279 (a) The Department may enforce this Article by appropriate legal  
280 action.

281 \* \* \*






OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich  
*County Executive*

MEMORANDUM

August 30, 2022

TO: Gabe Albornoz, President  
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Introduction of Bill XX-22, Amendments to Common Ownership Communities –  
Chapter 10B

I am transmitting the attached proposed Bill XX-22, *Amendments to Common Ownership Communities Dispute Resolution, Open Conduct* for the County Council's introduction. This proposed legislation will improve association governance by requiring periodic retraining of governing body members, clarifying voting procedures, streamlining annual registrations, and authorizing video and telephonic meetings.

The Commission on Common Ownership Communities (CCOC) has recommended these changes to support associations in understanding and adopting practices consistent with efficient and effective operations of the governing bodies that serve an association and its members. The clarification of the requirements for association practices and CCOC processing will enhance association operations and resolve disputes.

I appreciate your prompt consideration of this action.

Enclosures

cc: Richard S. Madaleno, Chief Administrative Officer, Office of the County Executive  
Jake Weissmann, Assistant Chief Administrative Officer, Office of the County Executive  
Ken Hartman, Director of Strategic Partnerships, Office of the County Executive  
Debbie Spielberg, Special Assistant to the County Executive, Office of the County Executive  
Nigam Aseem, Director, Department of Housing and Community Affairs

## LEGISLATIVE REQUEST REPORT

Bill XX-22

Common Ownership Communities – Dispute Resolution, Open Conduct

<b>DESCRIPTION:</b>	Bill XX-22 would require periodic retraining of members of a common ownership community's governing body, establish criteria for members of the Commission on Common Ownership Communities to accept the jurisdiction of a complaint that involves a common ownership community, allow either party to a dispute to lift the automatic stay imposed when a dispute is filed, provide for community association meetings to be held remotely via video and teleconference platforms, and clarify certain common ownership community voting procedures.
<b>PROBLEM:</b>	The Commission is proposing changes to Chapter 10B so that it better assists the common ownership communities in Montgomery County. These changes address issues that have arisen during elections, holding meetings during the pandemic, training community association board members, determining what is to be considered in accepting the jurisdiction of a dispute, and registering associations with the County.
<b>GOALS AND OBJECTIVES:</b>	The proposed amendments will require association board members to be retrained every three years, streamline the registration process, summarize what is considered when the Commission accepts jurisdiction over disputes, and keep the ballots confidential until an election, as well as other technical amendments.
<b>COORDINATION:</b>	Department of Housing and Community Affairs
<b>FISCAL IMPACT:</b>	Office of Management and Budget
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	None
<b>SOURCE OF INFORMATION:</b>	Frank Demarais, Department of Housing and Community Affairs, 240-701-7456.

**APPLICATION  
WITHIN**

**MUNICIPALITIES:** Rockville

**PENALTIES:** Class A

**Fiscal Impact Statement**  
**Council Bill 22-XX, Common Ownership Communities – Dispute Resolution,  
Open Conduct**

1. Legislative Summary.

This Bill requires periodic retraining of members of a common ownership community's governing body by establishing that the required training certification is only valid for three years. It allows an association to conduct meetings of the membership or of the governing body of the association using a video platform that allows all of the members of the association to attend the meeting by video and teleconference, and clarifies common ownership community voting procedures to define elements of proxy voting, ballot control and counting requirements.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The Bill is not expected to have an impact on County revenue or expenditures. The changes to the Commission on Common Ownership Communities are not expected to increase the number of complaints for processing, the complexity of complaints, nor the expenses associated with training or support of Commission activities.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

The Bill is not expected to impact County revenues or expenditures.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

The bill is not expected to impact retiree pension or group insurance costs.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

The bill is not expected to impact the County's IT or ERP systems.


6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

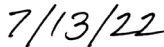
Not applicable, the bill does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

Staff time of less than 40 hours will be required to implement the bill, including updating of webpages and training materials.

8. An explanation of how the addition of new staff responsibilities would affect other duties.  
Staff responsibilities represent modest increase of activities the staff currently manage and will not materially delay or impact other duties.
9. An estimate of costs when an additional appropriation is needed.  
No additional appropriation is needed.
10. A description of any variable that could affect revenue and cost estimates.  
None.
11. Ranges of revenue or expenditures that are uncertain or difficult to project.  
None.
12. If a bill is likely to have no fiscal impact, why that is the case.  
The changes to the Commission on Common Ownership Communities are not expected to increase the number of complaints for processing, the complexity of complaints, nor the expenses associated with training or support of Commission activities.
13. Other fiscal impacts or comments.  
None
14. The following contributed to and concurred with this analysis:  
Frank Demarais, Chief Operating Officer, DHCA  
Anita Aryeetey, Fiscal and Policy Analyst, OMB

  
\_\_\_\_\_  
Jennifer Bryant, Director  
Office of Management and Budget

  
\_\_\_\_\_  
Date

# Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

## **BILL 28-22: COMMON OWNERSHIP COMMUNITIES – DUTIES, REQUIREMENTS AND PROCEDURES**

### **SUMMARY**

The Office of Legislative Oversight (OLO) anticipates Bill 28-22 could have a minimal impact on racial equity and social justice (RESJ) in the County. While Asian and White homeowners could disproportionately benefit from more efficiently operated Common Ownership Communities, this likely would not affect existing housing inequities for Black and Latinx residents. Further, no resources are devoted to this Bill.

---

### **PURPOSE OF RESJ IMPACT STATEMENTS**

The purpose of RESJ impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.<sup>1</sup> Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.<sup>2</sup>

---

### **PURPOSE OF BILL 28-22**

A Common Ownership Community (COC) is a group of homes with their own government and binding rules. COCs in Maryland can be homeowner associations, condominium associations, or cooperative housing associations:<sup>3,4</sup>

- In a **homeowners' association (HOA)**, each homeowner individually owns their lot and home, while the association owns the common areas. Association fees and dues support the maintenance of common areas, with individual homeowners responsible for the cost of maintaining their property.
- In a **condominium (condo) association**, each homeowner owns his/her individual unit but maintains a joint ownership in the building and its grounds. Assessments paid by each unit owner cover the cost of maintaining the building and common areas.
- In a **cooperative housing (co-op) association**, a corporation owns the building and units, with residents purchasing stock in the corporation. The stock entitles the resident to live in the building owned by the cooperative. The resident does not own the unit but has an absolute right to occupy the unit. Corporations have the right to evict members who are in violation of their leases or not paying their fees.

The purpose of Bill 28-22 is to modify County law regarding COCs, as recommended by the Commission on Common Ownership Communities (CCOC). The changes would:<sup>5</sup>

- Require regular periodic training of members of a governing board of a common ownership community;
- Clarify common ownership community registration, voting and dispute resolution procedures;
- Outline criteria that the County's CCOC considers in accepting jurisdiction over a dispute involving a common ownership community; and
- Generally, revise County law regarding common ownership communities.

# RESJ Impact Statement

## Bill 28-22

Per the County Executive, the CCOC recommended these changes to support associations in understanding and adopting practices consistent with efficient and effective operations of the governing bodies that serve an association and its members. The CCOC also considered that changes clarifying the requirements for association practices and CCOC processing in particular would enhance association operations and resolve disputes.<sup>6</sup>

At the request of the County Executive, Bill 28-22 was introduced to the Council on October 18, 2022.

---

### HOUSING INSECURITY AND RACIAL EQUITY

Government policies and practices have played a significant role in creating and sustaining housing inequities by race and ethnicity. As outlined below, Black and Latinx residents experience lower rates of homeownership and higher rates of housing insecurity. Please refer to the RESJIS for Expedited Bill 30-21, Landlord-Tenant Relations – Restrictions During Emergencies – Extended Limitations Against Rent Increases and Late Fees, for more on the government’s role in fostering racial segregation in housing and the racial wealth divide, major driving forces of housing inequities.<sup>7</sup>

**Data on Housing Insecurity.** Local data on three metrics of housing insecurity – rent-burdened households, rental assistance during the pandemic, and homelessness – demonstrate that Black and Latinx households in the County are especially housing insecure. More specifically, in the County:

- In 2019, 66 percent of Latinx renters and 60 percent of Black renters were rent-burdened (expending 30 percent or more of income on rent), compared to 43 percent of White renters and 33 percent of Asian renters.<sup>8</sup>
- Among recent COVID-19 Rent Relief Program clients, 45 percent were Black and 25 percent were Latinx, while 6 percent were White and 2 percent were Asian or Pacific Islander.<sup>9</sup>
- Among single adults experiencing homelessness in 2020, 60 percent were Black, 30 percent were White, 17 percent were Latinx, and 5 percent were Asian or Pacific Islander.<sup>10</sup>
- Among families experiencing homelessness in 2020, 78 percent were Black, 15 percent were White, 9 percent were Latinx, and 2 percent were Asian.<sup>11</sup>

Local data on homeownership also confirms housing inequities by race and ethnicity. In 2019, 75 percent of White and 73 percent of Asian households in the County were owner-occupied, compared to 50 percent of Latinx households and 41 percent of Black households.<sup>12</sup>

**Data on Common Ownership Communities.** COCs are one component of the County’s complex housing landscape. As of January 2019, 34 percent of all COC units were within HOAs, 29 percent were within condo associations, and 38 percent had unknown association.<sup>13</sup>

A recent study from the Urban Institute found that condo and co-op prices were significantly lower than single-family home prices in every major city except New York and Philadelphia.<sup>14</sup> Condos and co-ops could be a more affordable homeownership option for Black, Latinx, and Native American residents since they have lower median incomes relative to White and Asian residents (refer to Table 1).

# RESJ Impact Statement

## Bill 28-22

**Table 1: Median Household Income by Race and Ethnicity, Montgomery County, Maryland<sup>15</sup>**

Race and ethnicity	Median Household Income
Asian	\$121,323
Black	\$78,246
Native American	\$88,828
White	\$131,602
Latinx	\$79,981

Source: 2020 American Community Survey (Table S1903)

In 2018, the Council initiated a Task Force on Distressed COCs, which was responsible for developing an action plan to support affordable housing preservation in COCs.<sup>16</sup> Part of the task force’s scope included conducting in-depth studies of financially distressed COCs.<sup>17</sup> According to Department of Housing and Community Affairs (DHCA) staff, the task force stopped meeting in 2019, due in part to lack of funding.

### ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 28-22 on RESJ in the County, OLO recommends the consideration of two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

**For the first question,** OLO considered the demographics of residents living in COC units. DHCA staff estimate that 70 percent of COC units are owner-occupied and 30 percent are renter-occupied.

Census data in Table 2 demonstrates that White households are overrepresented among owner households and Asian households are slightly overrepresented. Conversely, Black and Latinx households are underrepresented among owner households, while Native American households are proportionately represented.

**Table 2: Percent of All Households and Owner Households by Race and Ethnicity, Montgomery County, Maryland**

Race and ethnicity	All Households	Owner-Occupied Households
Asian	14.3	15.6
Black	17.7	11.2
Native American	0.3	0.3
White	57.3	64.8
Latinx	13.9	11.4

Source: 2020 American Community Survey (Table S2502)

**For the second question,** OLO considered how the Bill could address housing inequities in the County. Bill 28-22 could improve the efficiency and effectiveness of all COCs by requiring board members to engage in periodic training. However, periodic training would likely not change structural housing inequities affecting BIPOC residents.

Taken together, OLO anticipates Bill 28-22 could have a minimal impact on RESJ in the County. While Asian and White homeowners could disproportionately benefit from more efficiently operated COCs, this likely would not affect existing housing inequities for Black and Latinx residents. Further, no resources are devoted to this Bill.<sup>18</sup>



# RESJ Impact Statement

## Bill 28-22

### RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.<sup>19</sup> OLO finds Bill 28-22 will have a minimal impact on RESJ in the County. As such, OLO does not offer recommended amendments. However, if the Council would like to improve the RESJ impact of COCs, OLO offers the following item for consideration:

- **Restart DHCA Task Force on Distressed COCs and expand the scope to include RESJ.** As discussed in ‘Housing Insecurity and Racial Equity,’ condos and co-ops could be a more affordable homeownership option for BIPOC residents. The Council could consider restarting the Task Force on Distressed COCs and funding studies that explore current BIPOC residence in COCs and opportunities to increase BIPOC homeownership, in addition to understanding financially distressed COCs.

### CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

### CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

<sup>1</sup> Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

<sup>2</sup> Ibid

<sup>3</sup> “What is a Common Ownership Community,” Montgomery County Department of Housing and Community Affairs, Accessed October 21, 2022. [https://www.montgomerycountymd.gov/DHCA/housing/commonownership/what\\_is\\_a\\_coc.html](https://www.montgomerycountymd.gov/DHCA/housing/commonownership/what_is_a_coc.html)

<sup>4</sup> Natalia Carrizosa and Kristen Latham, OLO Report 2019-6, Common Ownership Communities, Office of Legislative Oversight, Montgomery County, Maryland, June 25, 2019.

<https://montgomerycountymd.gov/OLO/Resources/Files/2019%20Reports/OLOReport2019-6.pdf>

<sup>5</sup> Bill 28-22, Common Ownership Communities, Montgomery County Council, Introduced October 18, 2022.

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20221018/20221018\\_4A.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20221018/20221018_4A.pdf)

<sup>6</sup> Memorandum from County Executive to Council President, Bill 28-22, Common Ownership Communities – Duties, Requirements and Procedures

<sup>7</sup> Racial Equity and Social Justice Impact Statement for Expedited Bill 30-21, Office of Legislative Oversight, Montgomery County, Maryland, September 9, 2021. <https://montgomerycountymd.gov/OLO/Resources/Files/resjis/2021/Bill30-21RESJ.pdf>

<sup>8</sup> Gross Rent as a Percentage of Household Income in the Past 12 Months, Table S0201: Selected Population Profile in the United States, 2019 American Community Survey, Census Bureau. <https://data.census.gov/cedsci/table?t=002%20-%20White%20alone%3A004%20-%20Black%20or%20African%20American%20alone%3A012%20-%20Asian%20alone%3A400%20-%20Hispanic%20or%20Latino%20%28of%20any%20race%29%3AIncome%20and%20Poverty%3ARace%20and%20Ethnicity&g=050000US24031>

<sup>9</sup> “COVID-19 Rent Relief Update: Week of Jul 11 – 17,” DHHS Pulse Report: COVID-19 Impact and Recovery, Department of Health and Human Services, Montgomery County, Maryland, July 20, 2022.

<https://www.montgomerycountymd.gov/covid19/Resources/Files/pulse/DHHS-Pulse-220720.pdf>

# RESJ Impact Statement

## Bill 28-22

---

<sup>10</sup> Memorandum from Linda McMillan to County Council, “FY22 Operating Budget: Homeless Services, Rental Assistance, and funding through Housing Initiative Fund,” May 11, 2021 (See PDF page 19).

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2021/20210512/20210512\\_30.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2021/20210512/20210512_30.pdf)

<sup>11</sup> Ibid

<sup>12</sup> “Percent of Owner-Occupied Households by Race/Ethnicity: Montgomery County, MD,” National Equity Atlas, Accessed July 22, 2022. <https://nationalequityatlas.org/indicators/Homeownership#/?geo=04000000000024031>

<sup>13</sup> Carrizosa and Latham, calculated from Table 2.2 data (page 10). Refer to page 7 in report for limitations with data.

<sup>14</sup> Michael Neal and Laurie Goodman, “The Housing Market Needs More Condos. Why are So Few Being Built?,” Urban Institute, January 31, 2022. <https://www.urban.org/urban-wire/housing-market-needs-more-condos-why-are-so-few-being-built>

<sup>15</sup> Latinx is an ethnicity rather than a race. Therefore, Latinx people are included in multiple racial groups throughout this impact statement, unless where otherwise noted.

<sup>16</sup> Carrizosa and Latham

<sup>17</sup> Ibid

<sup>18</sup> Fiscal Impact Statement for Bill 28-22, Common Ownership Communities – Duties, Requirements and Procedures

<sup>19</sup> Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

# Economic Impact Statement

Office of Legislative Oversight

## Bill 28-22

## Community Ownership Communities – Duties, Requirements and Procedures

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 28-22 would have an insignificant impact on economic conditions in the County in terms of the Council's priority indicators.

### BACKGROUND

As stated in the proposed legislation's text, Bill 28-22 would do the following:

- (1) require regular periodic training of members of a governing board of a common ownership community;
- (2) clarify common ownership community registration, voting and dispute resolution procedures;
- (3) outline criteria that the County's Commission on Common Ownership Communities (CCOC) considers in accepting jurisdiction over a dispute involving a common ownership community; and
- (4) generally, revise County law regarding common ownership communities.<sup>1</sup>

### INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess the impacts of Bill 28-22 on County-based private organizations and residents in terms of the Council's priority economic indicators and whether the Bill would likely result in a net positive or negative impact on overall economic conditions in the County.<sup>2</sup> Because there are no clear connections between CCOC governance and the Council's priority indicators, OLO anticipates the Bill would have insignificant impacts on private organizations, residents, and overall economic conditions in the County.

### VARIABLES

Not applicable

---

<sup>1</sup> [Bill 28-22](#).

<sup>2</sup> Montgomery County Code, [Sec. 2-81B](#).

# Economic Impact Statement

Office of Legislative Oversight

## IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Not applicable

## DISCUSSION ITEMS

Not applicable

## WORKS CITED

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements.](#)

Montgomery County Council. [Bill 28-22, Common Ownership Communities – Duties, Requirements and Procedures.](#)

Introduced on October 18, 2022.

## CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

## CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.