



FISCAL AND POLICY NOTE

May 31, 2024

TO: Jennifer A. Jenkins,
Council Administrator

Colette R. Gresham, Esq.
Deputy Council Administrator

THRU: Josh Hamlin 
Director of Budget and Policy Analysis

FROM: Shalene Miller-Whye 
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement
CB-031-2024 Common Ownership Communities - Alternative Dispute Resolution

CB-031-2024 (*proposed by:* Councilmember Blegay)

Assigned to the Planning, Housing, and Economic Development (PHED) Committee

AN ACT concerning Common Ownership Communities - Alternative Dispute Resolution For the purpose of providing for certain powers; providing for certain definitions; providing for alternative dispute resolution and the exhaustion of administrative remedies; providing for a request for relief from a stay; providing for acceptance of jurisdiction of complaints; providing for the production of evidence; providing for mediation and dismissal before a hearing; providing for a hearing panel; providing for an administrative hearing; providing for the settlement of disputes and assistance to parties; and generally relating to alternative dispute resolution in common ownership communities

Fiscal Summary

Direct Impact:

Expenditures: Significant additional expenditures are likely.

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Revenues: No direct revenue impact likely.

Indirect Impact:

Potentially favorable.

Legislative Summary:

CB-031-2024¹ sponsored by Councilmember Blegay, was presented to the Council on April 16, 2024, and referred to the Planning, Housing, and Economic Development Committee. It would amend Subtitle 13, Housing and Property Standards, of the Prince George's County Code to establish alternative dispute resolution processes for the Commission on Common Ownership Communities (the Commission).

If enacted, CB-031-2024 would:

- Repeal sections 13-314.07, 13-316, and 13-319 and reenact with amendments and add sections 13-320, 13-321, 13-322, 13-323, 13-324, 13-325 and 13-326.
- Allow for the commission to hear disputes between or among parties that have exhausted all procedures or remedies, which would also allow a party to file a dispute with the Commission 60 days after any procedure or remedy provided by association documents. The association would not be allowed to take any action or enforce or implement its decision for 14 days after they have notified parties of their rights to file a dispute. Through this, civil action is allowed. However, the court may pause all proceedings for at least 90 days after there is notice that a dispute has been filed. Whether a stay is issued or not, the court may hear the action de nova only if a hearing panel has not issued a decision.
- Allow parties to request that the automatic stay be lifted. A special standing panel consisting of three voting members of the Commission would consider this request.
- Allow the Commission to conduct hearings with witnesses and parties and administer oaths in connection with any dispute. They may also issue summons for witnesses and parties, as well as documents, records, and other evidence. The County attorney may enforce these summonses.
- Require the director to investigate facts and assemble documents relevant to the dispute filed with the Commission and summarize the issues in the dispute to see if there are reasonable grounds to conclude there was a violation or recommend it be dismissed. If reasonable grounds are found, the director must attempt to resolve the matter through informal negotiation, such as mediation, at the director's discretion.
- Require hearings to be scheduled if mediation has not taken place within 90 days after reasonable grounds of a violation have been found or if the director finds that mediation would be fruitless.

¹ [Prince George's County Council - Reference No. CB-031-2024 \(legistar.com\)](#)

- Require that hearings must convene a three-voting member panel to hear disputes that represent different membership groups apart of the dispute and a volunteer arbitrator.

Resource Personnel:

- Kathy Canning, Legislative Attorney
- Devan Martin, Chief of Staff, District 7

Current Law/Background:

If enacted, CB-031-2024 would repeal sections 13-314.07, 13-316, and 13-319 and reenact with amendments and add sections 13-320, 13-321, 13-322, 13-323, 13-324, 13-325 and 13-326.

Currently, staffing for the Commission is provided by the Office of Community Relations, according to section 13-314.06 of this Division. Further, the director of the Office of Community Relations currently has responsibilities related to administering the Common Ownership Communities Program. As well as duties described in section 13-317, which consist of researching, assembling, and disseminating data and materials about activities and programs related to Common Ownership Communities, developing and maintaining the program, as well as operating the dispute mediation process.

Additionally, according to sections 13-314.10 and 13-314.11, the Commission is required to submit an annual report to the County Executive and County Council and a quality review every three to five years, to be produced as a written report from a professional non-partisan objective group and delivered to the County Executive and County Council.

The current law² around alternative dispute resolution in section 13-319 states that any registered community associate and/or owner may request alternative dispute resolution subject to requirements including:

1. A party may not file an alternative dispute resolution request with the Office until the party makes a good faith attempt to exhaust all procedures or remedies provided in the association documents.
2. If a party requests the alternative dispute resolution procedure, the Office shall notify all parties of the filing and of the alternative dispute resolution session.
3. The Office shall provide a qualified alternative dispute resolution specialist to meet with the parties within thirty (30) days after a party requests the alternative dispute resolution procedure to attempt to settle the dispute and render a written decision within 60 days.

² [DIVISION 11. - COMMON OWNERSHIP COMMUNITIES PROGRAM. | Code of Ordinances | Prince George's County, MD | Municode Library](#)

4. A party may file a dispute with the Office thirty (30) days after any procedure or remedy provided in the association documents has been initiated before the association.
5. The community association may not take any action to enforce or implement its decision until the time to file a request for alternative dispute resolution process has been exhausted and the opposing party has not requested alternative resolution process.
6. When a dispute is filed with the Office, a community association may not take any action to enforce or implement the association's decision until the process under this Section is completed.
7. A community association member may not file an action in any Prince George's County Court until he/she has first attempted conflict resolution as outlined in this Section.
8. The Office may investigate facts and assemble documents relevant to a party if, in its opinion, a dispute was not properly filed with the Office. The Office may dismiss a dispute if it finds that there are no reasonable grounds to conclude that a violation of applicable law or a violation of any association document has occurred, or it may investigate further.
9. No association member or its representatives will be allowed to petition the courts for resolution to a matter until all options in this Section/Subsection have been exhausted.
10. The Office may reconsider the dismissal of a dispute under this Subsection if any party, within thirty (30) days after the dispute is dismissed, shows that:
 - A. The Office erroneously interpreted or applied applicable law or an association document; or
 - B. Material issues of fact that are necessary to a fair resolution of the dispute remain unresolved.
11. Dismissal of a dispute shall not prevent a parties' rights to file a claim in the appropriate court.
 - A. The parties to an alternative dispute resolution session may not use any statement or information from an alternative dispute resolution session in any later court proceedings, and alternative dispute resolution specialists and intake staff in the Office may not be compelled to testify in a court proceeding related to an alternative dispute resolution session.

In relation to CB-031-2024, currently, the Commission does not hear disputes. Instead, a current alternative dispute resolution specialist is assigned to meet with parties within 30 days of a request for an alternative dispute. There are no protections related to automatic stays, nor does the current law require the Commission to conduct hearings if a dispute resolution is unsuccessful or deemed necessary.

Discussion/Policy Analysis

Neighboring Jurisdictions

The Maryland Department of Housing and Community Development has compiled a list of all local Common Ownership Community programs. A "Common Ownership Community Program"

is defined as "a program operated by a local jurisdiction for the regulation or oversight of common ownership communities."³

Montgomery County's law⁴ currently has a model of CB-31-2024. However, Montgomery County has a Commission with 15 volunteer members, including eight (8) owners or residents of common ownership communities and seven (7) professionals associated with common ownership communities. This may play a major factor in the Commission's ability to conduct hearings on Common Ownership Communities matters.⁵

Administrative Impact

Due to the details outlined in this Bill, this may require extensive additional staffing. The new process of the overall operations of the Commission would require additional attention from the Commission through administrative hearings related to automatic stays as well disputes, additional mediation processes, as well as increased responsibilities to be required of the Director of the Office of Community Relations and staff as required by the stipulations in this Bill. This may require additional commission members and/or a staff complement to meet the increased administrative workload. Currently, the Commission on Common Ownership Communities has nine (9) voting members and five (5) non-voting members. The staff complement provided by the Office of Community Relations is not currently clear, but an increase of both Commission members and staff is anticipated.

Cost Considerations

Currently, the costs of adopting this model of Common Ownership Communities and extending our current model under CB-031-2024 are modeled in Montgomery County. They have approximately seven (7) employees and an approved budget of \$1.19 million to operate under this structure, of which \$1.0 million is for personnel costs.⁶ As outlined above, the Common Ownership Communities Commission is situated within the Office of Community Relations. For FY 2025, the Office of Community Relations has a proposed budget of \$5,760,200⁷. However, it is not clear how much of their budget is dedicated to the staff complement of the Common Ownership Communities Program or the Commission. The current level of resources dedicated to this programming is not mentioned in the FY 2025 proposed budget.

³ [MD DHCD list of Common Ownership Community Programs](#)

⁴ [Sec. 10B-3. Commission on Common Ownership Communities. \(amlegal.com\)](#)

⁵ [Common > The Commission on Common Ownership Communities | DHCA \(montgomerycountymd.gov\)](#)

⁶ [Montgomery County Open Budget – Housing and Community Affairs – Common Ownership Communities Program](#)

⁷ [Office of Community Relations FY 2025 Proposed Budget](#)

Fiscal Impact:

- *Direct Impact*

Enactment of CB-031-2024 is likely to have a significant direct fiscal impact in the form of increased expenditures for staffing and increased administrative costs. As noted above, Montgomery County's program, upon which this bill is based, requires 7.2 full-time equivalents and has a budget of \$1.19 million. Given the similarity of the program and sizes of the jurisdictions, it is reasonable to assume that the program created under this Bill would have a similar impact. Differences in the number of residents of common ownership communities in the respective counties is a variable that could affect the impact. The Office of the County Executive and the Office of Community Relations will provide additional information to determine these factors.

- *Indirect Impact*

Enactment of CB-031-2024 may allow for additional support to Common Ownership Community parties, including owners and occupants, due to increased protections as well as alternative dispute measures. The level of mediation produced per fiscal year is not currently known; however, additional information can be provided by the Office of Community Relations,

- *Appropriated in the Current Fiscal Year Budget*

No.

Questions for Committee Consideration:

1. What is the Commission's current staff complement, and if enacted, will CB-031-2024 require increased staffing to meet the needs outlined in this Bill?
2. What is the current workload for current alternate dispute resolution procedures?
3. Would this require increasing the Commission's current size to meet the workload demands outlined in CB-031-2024? Montgomery County's Commission size is 15 voting members.
4. What are the estimated costs associated with extending the current ADR procedures?
5. When was the last quality review done, and what were the results?

Effective Date:

CB-031-2024 shall be effective forty-five (45) calendar days after it becomes law.

If you require additional information or have questions about this fiscal impact statement, please call me.