

PRINCE GEORGE'S COUNTY COUNCIL
COMMITTEE REPORT
2024 Legislative Session

Reference No.:	CB-031-2024
Draft No.:	2
Committee:	PLANNING, HOUSING AND ECONOMIC DEVELOPMENT
Date:	6/20/2024
Action:	FAVORABLE (A)

REPORT: Committee Vote: Favorable, as amended, 4-0 (In favor: Council Members Dernoga, Ivey, Hawkins, and Olson)

The Planning, Housing and Economic Development (PHED) Committee convened on May 16, 2024, to consider CB-31-2024. The PHED Committee Director summarized the purpose of the legislation and informed the Committee of written comments received on referral. As presented on April 16, 2024, Draft-1 of the bill is 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.

The PHED Committee did not take testimony on the bill and voted 5-0 to hold the bill until Thursday, June 3, 2024.

On Thursday, June 3, 2024, the PHED Committee met again. The Committee Director gave an overview of draft one of the bill and explained that draft two, which made a technical amendment to the bill, is also proposed.

The Division on Budget and Policy provided a policy analysis of the bill, which outlined that this bill may require extensive additional staffing. The new process and the overall operations of the Commission would need extra attention from the Commission through administrative hearings related to automatic stays as well as disputes, additional mediation processes, and increased responsibilities for the Director of the Office of Community Relations and staff. The new process may require additional commission members and 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.

CB-031-2024 (DR-2) Report

The staff complement provided by the Office of Community Relations needs to be clarified, but an increase in Commission members and staff is anticipated.

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. As outlined above, the Common Ownership Communities Commission is within the Office of Community Relations. For FY 2025, the Office of Community Relations has a proposed budget of \$5,760,2007. However, it needs to be clear how much of their budget will be dedicated to the staff complement of the Common Ownership Communities Program or the Commission. The current resources dedicated to this program should be mentioned in the FY 2025 proposed budget for the Office of Community Relations.

The 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 program's similarity and the jurisdictions' sizes, 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 could have an impact. The Office of the County Executive and the Office of Community Relations will provide additional information to determine these factors.

The indirect impact of the enactment of CB-031-2024 may allow for additional support to Common Ownership Community parties, including owners and occupants, due to increased protections and alternative dispute measures. The level of mediation produced per fiscal year is unknown; however, the Office of Community Relations can provide additional information.

The bill sponsor, Council Member Blegay, explained that the bill implements a hearing process at the Commission for Common Ownership Communities. Council Member Blegay also mentioned that Delegate Marvin Holmes discussed concerns within Prince George's County communities. Delegate Holmes sits on the Montgomery County and Prince George's County Commissions on Common Ownership Communities (CCOC) and discussed concerns with Council Member Blegay. In addition, Delegate Holmes introduced a state bill this year that did not pass the General Assembly on Common Ownership Communities. Delegate Nicole Williams, Chair of the Prince George's County Commission on Common Ownership Communities, is an expert on common ownership communities.

Council Member Blegay explained that her office receives complaints about common ownership communities several times monthly. Currently, there is a mediation process for Common Ownership Communities, but it is non-binding and does not require a hearing, discussion of facts, or a resolution. It is also voluntary and does not resolve issues.

The bill streamlines the process if a homeowners' association's governing documents are violated. People can appeal decisions to the court. Montgomery County has the process. Council Member Blegay does not want citizens to have to hire an attorney.

CB-031-2024 (DR-2) Report

Ms. Sakinda Skinner, County Council Liaison, stated that the County Executive's Office supports the spirit and intent of the bill. The bill is needed; other jurisdictions have the same process. The Administration is for transparency and efficiency for residents. There are concerns; they requested a two-week delay to meet with subject matter experts and to make the legislation more palpable and fiscally responsible.

Ms. Skinner explained that in attendance are Ms. Mashawn Hall, Unit Chief of the Office of Community Relations, and Delegate Nicole Williams, Chair of the Prince County Commission on Common Ownership Communities, and the fiscal and operational concerns with the bill as drafted.

Chair Williams explained how the Montgomery County Commission on Common Ownership Communities program operates compared to the current Prince George's County Commission mediation program. She also explained how the hearing process operates in Montgomery County and the fee charged per unit to pay for staff. Chair Williams recommended amending the bill to clarify property ownership types and time frames for case intake.

Council Member Dernoga asked how many cases are now under the mediation program. Ms. Hall explained that two mediators just received training.

Ms. Canning explained that to charge a fee, the voters of Prince George's County must approve the charge on a voting ballot.

Chair Ivey thanked the Council Member for bringing this issue to the Council, but we must find a way to make the program work. Montgomery County's budget includes two billion more dollars than Prince George's County's budget, and she supports a bill that solves the problems but is as inexpensive as possible because of budget constraints.

Council Member Olson asked how many staff would be needed. Ms. Hall explained that three additional staff members would need to be added. Council Member Olson asked if existing fees could be used to raise additional funds. Chair Williams explained that common ownership communities pay a registration fee of \$100.00 per entity, which would not generate enough funds. In Montgomery County, each unit must pay a fee of five dollars.

Delegate Holmes testified in support of the legislation. Delegate Holmes is Chair of the Housing and Real Property Subcommittee responsible for all common ownership communities and has been asked to travel the state to educate jurisdictions on creating CCOCs across the State of Maryland. Delegate Holmes explained that he would like to avoid seeing 24 different types of CCOCs across the state, so he established an operational framework as proposed in HB 279. The language in the Prince George's County bill mirrors the state language and is necessary and asked for across the State of Maryland. Currently, there is no place for citizens to go to obtain assistance. Next, many citizens testified in support of the legislation.

On June 20, 2024, the PHED Committee met again to discuss CB-31-2024 (Proposed DR-2).

Ms. Kathy Canning, Legislative Attorney, discussed all the amendments to the proposed draft bill, which included five amendments.

Amendment #1 Technical Amendment

On page 3, line 14. Add the word “Office” in front of the words “of Community Relations.”

Amendment #2, Proposed by Council Member Blegay, has four sets of amendments within the amendment.

AMENDMENT NO. 1—The first set of amendments adds to the number of voting Commissioners on the Commission on Common Ownership Communities and sets their terms. Amends the purpose paragraph.

Adds references to the addition of the six Commissioners to the Commission on Common Ownership Communities and the terms of the six additional Commissioners. On page 1, in lines 3 and 4.

Amends the function paragraph enacting clause to reference the addition of the six Commissioners. On page 1, in line 14, and on page 2, in line 5.

Amends the body of the bill to add the six additional voting members. The Commission shall consist of 15 members. On page 2, in line 13, after "of".

Amends the body of the bill to increase from 5 to 8 voting members shall be selected from unit or lot owners or residents of self-managed and professionally managed condominiums, self-managed and professionally managed cooperative housing corporations, and self-managed and professionally managed homeowner associations, and may include members or former members of governing boards. (On page 2, in lines 14 through 17.)

Amends the body of the bill to increase from 4 to 7 voting members that should be selected from persons who are members of professions associated with common ownership communities (such as a person involved in housing development and real estate sales and attorneys who represent community associations, developers, housing management or tenants), including at least one person who is a professional community association manager. (On page 2, in lines 18 through 22.)

Sets the terms of the six additional voting Commissioners. Each will serve staggered three-year terms, the same as existing voting members. (On page 2, lines 30-31, and page 3, line 1.)

Pursuant to this Act, the six additional voting members will serve a three (3) year term, and two must be appointed for one (1) year terms, two must be appointed for two (2) year terms, and two must be appointed for three (3) year terms.

AMENDMENT NO. 2 – Technical.

Amends Sec. 13-314.07. - Powers. to provide that the Commission shall review and evaluate the alternative dispute resolution process set forth in this Act.

AMENDMENT NO. 3 – Substantive.

The third set of amendments amends the definition section of the bill.

It amends four definitions and adds one new definition.

CB-031-2024 (DR-2) Report

1. Common Area – includes, in a homeowners’ association, any real estate owned or leased by a homeowners’ association. (On page 4, lines 9-15.)
2. Common element – includes, in a condominium, all portions of the condominium except the units. (On page 4, lines 16 through 17.)
3. Dispute means to strike a “fee or assessment” and to require any person to pay a fine related to violating the governing documents. (On page 4, lines 29 through 40.)
4. A dispute does not include any disagreement that only involves:
 - (1) Title to any unit or any common areas and/or common element; (On page 5, line 13.)
5. Adds the definition for notice. (On page 5, lines 22-26.)

Notice means a hearing examiner has provided the parties with the date, place, and nature of the hearing; the right of a party to be represented, at the party's own expense, by an attorney or, if permitted by law, another representative; the right of a party to seek discovery; the right of a party to call witnesses and submit documents or other evidence; and, that failure to appear for the scheduled hearing may result in an adverse action against the party.

AMENDMENT NO. 4 – Substantive.

The fourth set of amendments removes the current law regarding alternative dispute resolution and adds the new provisions of the alternative dispute resolution law set forth in this Act.
Removal of Current Law – On page 6, in lines 16 through 31, and on page 7, lines 1 through 23.

Timing – removes the provision that a party may file a dispute with the Commission 60 days after any procedure or remedy provided in the association documents has been initiated before the association.

Timing

1. Request for relief from a stay – filing of opposition 14 days rather than 10 days. (Page 8, line 29)
2. Grant or denial of relief from stay – 21 days, not 20 days. (Page 8, line 31.)
3. Denial of jurisdiction of complaint – 14 days rather than 10 business days. Civil (Page 9, line 10)
4. Motion to reconsider dismissal – 60 days, rather than 30 days (Page 10, line 15)
5. Appearance at hearing – “is not required” (Page 10, line 29.)

Civil Fines

1. Failure to Adhere to Consent Agreement – 750 to 1000 fine for each repeat offense. (Page 11, line 14)
2. Noncompliance with a Commission Order -750 to 1000 fine for each repeat offense. (Page 13, Line 13)

Amendment #3, Proposed by Council Member Blegay

On page 4, in line 11, strike “; and” and insert a period

On page 4, strike beginning with “(2)” in line 14 down through “declaration in line 15.

On page 4, after line 17, insert:

“(d) Cooperative project includes:
(1) in a cooperative all the real and personal property in the State of Maryland owned or leased by the cooperative housing corporation for the primary purpose of residential use.”

On page 5, in line 22, after "examiner," insert "or the Director."

On page 4, in line 2, strike “c” and substitute “(a).” On page 4, in line 2, strike "d" and substitute "(b)”.

Amendment #4, Proposed by Council Member Dernoga

On page 2, strike beginning with “Pursuant” in line 30 down through “two” in line 31, and on page 3, strike beginning with “must” in line 1, down through “terms.” in line 1 and substitute “Upon expansion of the Commission, the appointments shall be staggered so that one-third must be appointed for one (1) year terms, one-third must be appointed for two (2) year terms, and one-third must be appointed for three (3) year terms. The appointment of voting members shall be such as to obtain a geographical distribution of voting members throughout the County in so far as practicable and consistent with the purpose of the Commission on Common Ownership Communities.”

Amendment #5 Proposed by Chair Ivey

On page 13, after line 29, insert: “SECTION 5. BE IT FURTHER ENACTED that the provisions of this Act shall be implemented beginning in Fiscal Year 2026, subject to appropriation.”

Council Member Blegay thanked Delegate Nicole Williams for meeting committee staff to revise the bill and discussed implementing the legislation in Fiscal Year 2026 to address any fiscal cost associated with adding three additional staff members. That would give the County Executive's staff extra time to research and find funding for additional staff.

Ms. Dinora Hernandez, with the Office of Law, thanked the group for the opportunity to participate in the workgroup meeting and explained that there were no legal impediments to enacting the bill.

Ms. Skinner with the County Executive's Office thanked the bill sponsor, Commission Chair Williams, and all members of the workgroup for meeting to revise the bill to ensure that the language if enacted, was palpable, functional, and operational so that the Office of Community Relations could carry out the requirements within the bill. The workgroup was also looking into the funding issue.

CB-031-2024 (DR-2) Report

There were three options to fund the additional requirements. Those options include (1) determining if the County has the additional money to fund three new positions, (2) imposing a new fee schedule similar to the Montgomery County program, which would require voters to approve the fee schedule through a ballot referendum, (3) implement the program in Fiscal Year 2026 to allow the County, agencies that are involved an opportunity to look at the funding to ensure that the Office of Community Relations could implement legislation. Ms. Skinner requested that the bill be held until she has the actual fiscal cost and impact of the legislation from the Office of Budget Management and the Office of Community Relations.

Chair Ivey explained that the service is needed. She requested information on the force of law for decisions made and the types of cases involved. Council Member Blegay explained that the violation must be listed in the bylaws to have a hearing. The decisions are binding and have the right to appeal to the court. Homeowner associations do not have to attend hearings, and the proposed legislation would require people to participate in the hearing.

Council Member Dernoga requested an amendment to have the eight common ownership communities' members have a geographic distribution of the members.

Chair Ivey asked what happens if the voters vote against the fee's approval. Council Member Dernoga asked if the General Assembly could introduce state legislation to increase the registration fee for homeowner associations and condominium associations.

Council Member Olson explained in response to Chair Ivey's question that the bill could be rescinded and amended and that there are options, even though that is not his desire.

Amendment #1, the PHED Committee voted 4-0 favorably on the amendment.

Amendment #2, the PHED Committee voted 4-0 favorably on the amendment.

Chair Ivey requested that her question on what happens if the voters vote against the fee schedule be revisited. She explained that the budget deficit will be more significant next year than this year.

Amendment #3, the Committee voted 4-0 favorably on the amendment.

Amendment #4, the Committee voted 4-0 favorably on the amendment.

Amendment #5, the Committee voted 4-0 favorably on the amendment.

Next, on a motion of Council Member Hawkins, seconded by Chair Ivey, the PHED voted 4-0 favorably on CB-031-2024 (DR-2) as amended.