Montgomery County Council

Committee: PHED
Committee Review: At a future date
Staff: Linda McMillan, Senior Legislative Analyst
Purpose: To receive testimony – no vote expected
Keywords: Common Ownership Community**;** #CCOC

AGENDA ITEM #10
July 21, 2020
Public Hearing

SUBJECT

Special Appropriation to the Fiscal Year 2021 Operating Budget; Montgomery County Government; COVID-19 Human Services and Community Assistance NDA; Short-Term Assistance to Distressed, Affordable Common Ownership Communities; $2,025,000 (Source of Funds: Federal Grant); Lead Sponsor: County Council

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Special appropriation was introduced on July 14, 2020.
- Planning, Housing, and Economic Development Committee is scheduled for July 27, 2020 at 9:30 a.m.
- Action is scheduled for July 28, 2020.

DESCRIPTION/ISSUE

The COVID-19 pandemic has caused severe income loss and economic distress for many households in Montgomery County. Low and moderate-income households have been disproportionately impacted. Older common ownership communities, primarily condominiums, are an important affordable housing resource for low and moderate-income households. When a common ownership community association cannot pay for common critical costs, such as utilities and essential maintenance, the housing of everyone in a building could be impacted. Because of the economic impacts from COVID-19, some households are unable to pay all or part of their monthly association fees. This may mean the association does not have sufficient revenue to pay for essential costs. Short-term financial assistance is critical to sustain the associations for these distressed, affordable, common ownership communities.

SUMMARY OF KEY DISCUSSION POINTS

- Older common ownership communities are an important part of the affordable housing supply, providing homeownership opportunities for low and moderate-income households. Many of the older, affordable condominium buildings are master-metered, and the association is responsible for paying the utility costs for all residents. Associations are also responsible for other essential costs such as basic management and maintenance, pest management, and insurance.
- Income loss from COVID-19 has impacted the ability of some households to keep current with monthly housing expenses, including monthly association fees. This may leave an association

without sufficient revenue to pay common costs. If this results in a loss of utilities or code enforcement violations, it could impact the housing of everyone in the building, including homeowners who are current with their fees.

- At the request of Council President Katz and in response to the concerns he received, a workgroup was convened to review this issue and make recommendations on short-term assistance that is focused on preventing the loss of affordable housing.
- This proposal would provide short-term assistance to distressed associations in affordable common ownership communities. Affordable is defined as an average sales price of $195,000, based on recorded sales prices from 2015-2020. This represents 10% of the lowest priced units. The Department of Housing and Community Affairs (DHCA) will reach out to these communities and invite them to apply for assistance. The grants would respond to a three-month shortfall and would fill no more than 75% of the gap identified through the review of financial information.
- Associations accepting the grants would be required to inform homeowners that they will make their best efforts to negotiate in good faith to enter into payment plans for arrearages accrued during the months of April through June. No action for collection could occur while the repayment plan is in effect.
- Associations accepting the grants would also agree to work with DHCA to undergo a "financial stress test." This will help associations understand their current condition and create financial sustainability plans. This requirement supports the work of the Distressed Communities' Task Force and the Recovery Team that is focused on the needs of common ownership communities in the next 3, 6 and 12 months.

Attached:

Special Appropriation Resolution	1-3
July 9, 2020 report from workgroup on distressed COC	4-7

Resolution No.:	______
Introduced:	July 14, 2020
Adopted:	______

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: County Council

SUBJECT: Special Appropriation to the Fiscal Year 2021 Operating Budget
Montgomery County Government
COVID-19 Human Services and Community Assistance NDA
Short-Term Assistance to Distressed, Affordable Common Ownership Communities
$2,025,000 (Source of Funds: Federal Grant)

Background

1. Section 308 of the County Charter provides that a special appropriation is an appropriation which states that it is necessary to meet an unforeseen disaster or other emergency, or to act without delay in the public interest. Each special appropriation shall be approved by not less than six Councilmembers. The Council may approve a special appropriation at any time after public notice by news release. Each special appropriation shall specify the source of funds to finance it.

2. A new coronavirus disease, named COVID-19, appeared in China in December 2019 and spread extremely quickly. On March 11, 2020 the World Health Organization declared the disease a pandemic. By July 9, 2020 there were more than 3.1 million confirmed cases and 133,000 confirmed deaths in the United States. On July 9, the State of Maryland reported 71,447 confirmed cases and 3,160 deaths statewide. In Montgomery County there were 15,503 confirmed cases and 716 confirmed deaths.

3. To slow the spread of the disease, Governor Hogan declared a State of Emergency and has issued several Executive Orders with actions that include, but are not limited to, closing schools, closing senior centers and adult medical day care programs, closing all non-essential businesses and limiting the number of people that can gather. These actions along with the health impacts of the pandemic have caused significant unemployment for Maryland residents. Households have lost all or part of their income from total job loss or reduced hours. Many household incomes are stretched thin and cannot pay all or part of their monthly housing costs.

4. Common Ownership Community associations are responsible for paying the common costs for all housing in their communities. The associations' revenues to pay these costs come from monthly fees paid by the homeowners. In many older condominium communities these costs may include all utilities, including those for individual housing units (master-metered buildings.) Older Common Ownership Communities, particularly condominium communities, are a source of affordable housing and are often the way for households with low and moderate incomes to become first-time homeowners. Just as the impacts of COVID-19 have made it difficult for many renters to stay current, households have been unable to pay all or part of their monthly association fee. If the loss of revenue to the association impacts its ability to pay utility bills and other essential costs, the housing of all in the community will be in danger from utility cut-offs or code enforcement violations.

5. Short-term assistance to affordable Common Ownership Communities that are in financial distress because of the loss of revenue since the onset of COVID-19 will promote housing stability and prevent the loss of housing in these communities.

6. Public notice of this special appropriation was provided and a public hearing was held.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

A special appropriation to the FY21 Operating Budget of the Montgomery County Government, in the amount of $2,025,000 is approved as follows:

	Personnel Expense	Operating Expense	TOTAL	Source of Funds
COVID-19 Human Services and Community Assistance NDA	$0	$2,025,000	$2,025,000	Federal Grant

These funds must be used by the Department of Housing and Community Affairs to implement a short-term assistance program for affordable Common Ownership Communities that are in financial distress because of revenue loss since the onset of the public health emergency declaration for COVID-19.

For purposes of the program funded by this special appropriation "affordable" is defined as Common Ownership Communities with an average sales price of $195,000 or less per unit, based on recorded sales from 2015-2020. The Department of Housing and Community Affairs will reach out and extend invitations to these affordable communities to apply for this assistance.

The assistance through this special appropriation will provide grants to Common Ownership Community associations. The grants will be responsive to no more than 75% of the financial gap over a three-month period. Part of the required documentation will be a year-over-year revenue comparison to determine the impact from the COVID-19 health and economic crisis.

Common Ownership Community associations that accept these grants must inform homeowners that they will make best efforts to negotiate repayment plans with individual homeowners for arrearages for the months of April through June 2020 and that no collection action can occur while the repayment plan is in effect. These plans must allow repayment over six to 12 months and a monthly payment for the plan should be no more than 50% of the regular monthly fee.

Common Ownership Community associations that accept these grants must agree to work with the Department of Housing and Community Affairs to undergo a financial "stress test." This stress test was developed by the Distressed Communities' Task Force as a way to work with communities on long term financial stability.

This appropriation is needed to act in response to a public health or safety emergency and to act without delay in the public interest.

This is a correct copy of Council action.

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Selena Mendy Singleton, Esq.
Clerk of the Council

TO: Sidney Katz, County Council President
Aseem Nigam, Director, Department of Housing and Community Affairs (DHCA)

FROM: Workgroup on COVID-19 Short Term Assistance to Distressed, Affordable Common Ownership Communities

DATE: July 9, 2020

Workgroup Members:
Marietta Ethier, Attorney at Law/Distressed communities Task Force
Vicki Vergagni, Association Manager/Distressed Communities Task Force
Mark Fine, Chair, Commission on Common Ownership Communities
Francis "Frank" Demarais, Deputy Director, DHCA
Christopher Anderson, Chief, DHCA Community Development
Tim Goetzinger, Chief, Finance and Administration, DHCA
Pofen Salem, Office of Management and Budget
Mary Gies, Legislative Senior Aide, Office of Council President Katz
Linda McMillan, Senior Legislative Analyst, County Council

Background

Several weeks ago, Council President Sidney Katz received correspondence describing the need for financial assistance for distressed common ownership communities (COCs) whose homeowners are facing the same financial impacts from COVID-19 as low and moderate-income renters. This workgroup was convened at Council President Katz's request to advise him on how to help address this problem. This workgroup has focused on short-term, limited assistance in line with the short-term and limited help provided through rental assistance programs.

Shortly after the workgroup convened, the County Executive convened recovery teams for different policy areas. DHCA Director Nigam is leading the recovery effort for housing, including a recovery team for common ownership communities. The recovery team is looking at longer term needs and is focusing on education, legislation, and sustained financial stability. The recovery team has been informed about the efforts of this workgroup.

Problem

In 2017, the Montgomery County Distressed Communities Task Force was convened over concerns about financially distressed, older condominium buildings that had never really recovered from the housing crisis of the mid-2000s. These older, naturally affordable condominium communities are often the first opportunity for homeownership. However, often households are financially stretched, with little or no disposable income. When enough households fail to pay monthly fees, there may not be enough revenue to cover common costs.

One solution for the association is to raise the monthly fees for everyone to try and cover the loss. This impacts homeowners who may have been current but cannot afford any increase in housing costs. These COCs often have depleted cash reserves and little way to address a sudden loss of revenue that is needed to pay for necessary common costs.

The members of the Distressed Communities' Task Force are concerned that the "current pandemic has exacerbated the financial underpinnings of these communities. It is highly probable that many of then will become insolvent as a result of COVID-19. This will create wholesale homelessness and the loss of life savings sunk into homes."[1]

Currently, in the State of Maryland there is a stay on COVID-19 related evictions and foreclosures and residential utility cut-offs. There is no date certain for the lifting of the Governor's prohibition on evictions and foreclosures, but just recently an Executive Order was issued lifting the stay on residential utility cutoffs as of August 1, 2020.[2]

In master-metered communities, utilities are paid through a common account. Affordable units by sales prices can have monthly fees of $500 to $700 dollars when all utilities are included. If an association cannot pay for utilities, the entire building may be threatened, not just an individual unit. In all buildings, master-metered or not, a lack of funds to maintain the building, keep it pest free, and meet other housing code requirements impacts everyone's stable housing.

Proposal

In response to the concern that a COC association may lack sufficient funds to sustain essential operating costs and the potential for this to impact all housing in a COC, the workgroup is proposing a short-term grant program that will address these critical needs.

Recommended Framework

Target Affordable Housing: While the economic impacts from lost jobs or reduced income from COVID-19 can be felt at any income level, it is particularly felt by low and moderate-income households. These households have been disproportionately affected by job loss or reduced hours. Federal, State, and local <u>rental</u> assistance recognizes this, and eligibility has income maximums. For homeownership communities, the workgroup recommends that average sales price be used as the proxy for affordability. The recommendation, based on the review of 1,068 COCs in the county, is to **set eligibility at an average sales price of $195,000,** based on recorded sales 2015-2020**.** A home priced at this amount would be affordable to a household earning about $60,000. This is about 53% of area median income for a household of three.

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[1] Members of the Montgomery County Distressed Communities' Task Force: Marietta Ethier, Rand Fishbein, Vickie Vergagni, and Aimee Winegar

[2] https://governor.maryland.gov/wp-content/uploads/2020/06/Utility-Shutoffs-and-Late-Fees-3d-Amended-6.29.20.pdf

There are just under 15,000 units in the 105 COCs that meet this criterion. This represents the lowest priced 10% of units in the County. The vast majority of these units are in condominium communities, but a townhome community that meets the average sales price would also be assisted.

Strategic Outreach and an Invitation to Apply: As these affordably priced COCs are known to DHCA, the recommendation is that DHCA reach out to each of the average sales price eligible COCs, explain the program and invite them to apply. Like other programs, after an application period the applications will be randomized and then reviewed. The analysis will be different from some COVID-19 housing assistance programs as the review will look at the specific financial situation and what is needed to stabilize it.

The documentation will not be complicated but will include the association's operating budget, balance sheet, and income/expense statement. There will also be an evaluation of whether cash reserves can be used. There will be a year-over-year comparison of revenue from monthly fees to determine the impact of the COVID-19 financial/job crisis. It is important that DHCA be able to administer this program quickly and efficiently. Directly reaching out to associations and working with the association, rather than individual homeowners, will streamline the process for stabilizing the whole housing community. It will also allow direct consultation with the board and management which can start the process to strengthen the community's financial infrastructure.

The focus is helping a distressed COC's ability to maintain utilities, sustain basic management, and pay for other costs that could result in a code violation (HVAC, exterminator) or loss of critical requirement, such as insurance. Optional costs, such a maintenance of a swimming pool or community room would not be eligible for support. Funds cannot be used to be cover costs for non-emergency renovations or improvements.

Assistance is Short-term and is Not to Fill 100% of the Gap: This grant funding would provide no more than 75% of the gap identified through the review of financial information. The assistance will also be based on no more than three-months of lost revenues

Basis for Recommended Funding: As previously noted, most of the COCs that meet the sales price requirement are condominiums and many, if not most, are older, master-metered buildings. The typical month's fee for such a home is about $600 per month. Based on assisting with 75% of the gap, this is $450 per month. Using 1,500 units x $450 per month x 3 months, the recommendation is to **approve a special appropriation for $2,025,000** in total funding. Because this is specifically targeted to the months since the COVID-19 public health emergency is in place and it is meant to prevent a loss of housing, Federal CARES money can be used. This is the workgroup's best estimate, but actual need will be informed by experience once applications are received and financial distress reviewed.

Grant to go to the Association not to the Individual Homeowner: This funding is needed because individual homeowners are unable to pay all or a portion of their monthly fees because of a recent loss of income. Not paying the monthly fee will put a homeowner in arrears and, depending on how delinquent the homeowner is and the association's rules, the association may move to collect the past-due fees. A reasonable question to ask is, why not provide the grant to the individual homeowner who is delinquent, rather than the association?

The workgroup is recommending the payment to the association because:

- The goal of this effort is to maintain the housing of all residents in the COC, it is not focused on the individual homeowner. If an association cannot pay common utilities and there is a shut-off, all residents' housing is in danger whether or not they are individually current with the fees.
- The financial review will be on the association as a whole, not a review of individual accounts.
- A requirement of accepting this assistance will be that the COC association must inform homeowners that they will make their best efforts to negotiate in good faith with individual homeowners to enter into payment plans for any arrearages for the months of April through June 2020. Payment plans should allow repayment over a six to 12-month period. The monthly amount in the payment plan should not equal more than 50% of the regular monthly fee. No action for collection can occur during the time the repayment plan is in effect.
- COC associations may not be legally allowed to forgive an individual's arrears depending on law and association rules.
- If the framework for the program is focused on the individual homeowner, then there should be an income requirement for individual households. This would add significant layers of review when the goal is sustainability for the common costs.
- If the framework is focused on individual homeowners and it is found that some who are delinquent are not income-eligible to receive direct assistance, the association is still faced with a shortfall and nothing is done to better the association's financial standing.

COCs accepting this Assistance must Agree to Undergo a COC Stress Test: This stress test was developed through the work of the Distressed Communities' Task Force based on indicators from a community distress index and in coordination with DHCA and CountyStat. This will open the door for helping COCs create financial sustainability plans. It supports the work and recommendations of the Distressed Communities Task Force and has been a subject of the recovery team discussions.