FACT SHEET
The Maryland Condominium Act

A condominium is a communal form of property ownership consisting of individually owned units supported by collectively held facilities and areas. The Maryland Condominium Act (the Act) regulates the formation, management, and termination of condominiums in Maryland. Although no summary can contain the entire range of provisions for a set of laws as comprehensive as the Act, this Fact Sheet provides basic information on various provisions of the Act that may be relevant to smoke free housing.

Formation of a Condominium

Property becomes a condominium upon the recording of a declaration, bylaws, and a condominium plat. The declaration must include the name of the condominium; a description of the entire project, the units, and the common elements; and the percentage interests in the common elements and votes appurtenant to each unit. The declaration may be amended with the written consent of at least 80% of the unit owners, except for some amendments that require unanimous consent of the owners.

Meetings

The governing body of the condominium is required to meet at least annually, although the members are not. Notice of meetings of the council of unit owners must be provided at least 10 but not more than 90 days prior to the date of the meeting to each unit owner in writing or by electronic transmission. Unless the bylaws provide otherwise, a quorum has been reached for any meeting of the council of unit owners if persons entitled to cast 25 percent of the votes are present. Members may use proxies, and a quorum can be reached by including votes present by proxy. The Act requires the same notice requirement for Board meetings as for regular meetings of the council of unit owners.

Bylaws

The bylaws govern the administration of the condominium and must include the form of the condominium administration and its powers, meeting procedures, and fee collection procedures. The bylaws may also contain any other provision regarding the management and operation of the condominium, including any restriction on or requirement respecting the use and maintenance of the units and the common elements, but are not required to do so. Unless a higher percentage is required in the bylaws, the bylaws may be amended by at least a 2/3 vote of the unit owners.

The Council of Unit Owners, which is comprised of all unit owners, governs the affairs of the condominium and may adopt rules for the condominium. The Council may, in turn, delegate its powers to a Board of Directors through a process specified in the bylaws. If there is any conflict between the provisions of the various documents governing the condominium, the statute controls, then the declaration, plat, bylaws, and rules in that order.

Rules, Regulations, and Use Restrictions
Condominium rules containing restrictions on use of individual units are permissible as long as the rules adopted by a board of directors are properly adopted and within the scope of powers delegated to the board, as set forth in the condominium’s master deed, declaration, and bylaws. Any rule or regulation properly adopted by the council of unit owners or its designee is binding on residents of the condominium, whether they apply to common areas, individual units, or both. The governing body may, after giving notice and an opportunity to be heard, levy reasonable fines for violations of the condominium’s declaration, bylaws, and rules and regulations.

If a condominium rule is passed and challenged, a court determines the validity of the rule using two factors: first whether the entity passing the rule had the authority to do so under the Act, declaration, and bylaws; and second, whether the rule meets a reasonableness test. Condominium rules regulating the use of individual units are common. Some frequently cited examples include restrictions on owning pets, creating loud noise or other nuisances, displaying flags or political endorsements, and solar panels and clotheslines. Courts have recognized such restrictions as reasonable, citing potentially offensive odors, noise, clean-up and maintenance problems, and possible health hazards.

Dispute Resolution

Prior to instituting any disciplinary action, the governing body of the condominium must notify an owner or occupant of an alleged violation of the rules in writing. This notice must include an explanation of the alleged violation, any action required to abate the violation, and must specify a period of time of at least 10 days during which the violation may be remedied without further sanction.

If the violation continues or is repeated after the grace period and the board wishes to impose a sanction, the board of directors must hold a confidential hearing on the violation. It must give notice of the hearing to the alleged violator that states the date and time of the hearing, the nature of the alleged violation, the right to attend the hearing and present a defense including evidence and witnesses, and the proposed penalty. The board must then hold a hearing at which the alleged violator can present his side of the story, present his own witnesses and cross-examine the witnesses against him. The board must record minutes of the hearing, including a written statement of the results of the hearing and of any penalty imposed.

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