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Nancy Skinkle
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The Presidential, 43 units

William Kammerer
The Chesterfield, 26 units

Robert Kilpatrick
The Westmoreland, 59 units

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**Homestead Exemptions:
Is Your Co-op Losing
Money?**

One Coalition member cooperative reduced its real estate property bill this year by nearly \$105,000 but could have reduced it further by an additional \$95,000 if every owner had provided a Homestead Exemption. In these days of simultaneous increases in rising property values and increasing utility bills, every dollar that can be saved should be saved. What is the Homestead Exemption and why don't all co-owners provide an Exemption?

What's a Homestead Exemption?

The Homestead Exemption reduces an owner's DC real estate tax bill. The District government gives this discount to all homeowners who can claim their unit as their primary residence. Each exemption reduces the Corporation's assessed valuation by \$38,000. Each \$38,000 deduction effectively reduces the tax liability by \$448.80 (\$364.80 in property tax plus an additional \$84 as a trash credit). Regardless of property value, size, or a unit's proportional interest, the value of the Homestead (*cont'd. page 5; see related Housing Counsel column, page 6.*)

**Building Codes—
CHC Represents
Members' Interests**

By Nancy Skinkle and Art Leabman, CHC Board Members

In the spring of 2004, the DC CHC Board of Directors designated Art Leabman and Nancy Skinkle to be the Coalition's representatives to the District of Columbia Building Code Advisory Committee (BCAC).

The BCAC consists of a diverse group of individuals, including District employees who review the model building codes and make recommendations for local amendments. These recommendations are forwarded to the Department of Consumer and Regulatory Affairs (DCRA) who can then accept, modify, or reject these recommendations prior to sending them to the City Council for final review. The BCAC is currently (*cont'd. page 3*)

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The ABCs of CHC— Who We Are

The D.C. Cooperative Housing Coalition exists to advance the common interests of cooperative housing associations in the District of Columbia and promote cooperative housing as a desirable form of home ownership. It is therefore both an advocacy organization that articulates the interests of members before government officials and regulatory agencies and a service organization that provides information and education to members.

Membership is open to all District housing cooperatives, regardless of size. A volunteer board of directors, elected by member co-ops, governs the Coalition. At least five seats on the board must be filled by representatives of small (50 or fewer units) cooperatives. Activities are financed through annual dues determined by the members at the annual meeting.

The Coalition grew out of an ad hoc group of District cooperatives that formed in response to a judicial ruling that had cast a cloud over many cooperatives by banning proportionate voting. By marshaling the forces of more than 3,000 units, the ad hoc group persuaded the D.C. City Council to resolve the matter. Recognizing the importance to the cooperative housing community of speaking in a single voice and maintaining the ability to respond quickly and

knowledgeably to matters affecting cooperative housing, the ad hoc group decided to form a permanent organization. The Coalition was established in 1984 and was incorporated as the DC/CHC, Inc., a nonprofit organization in the District of Columbia, in 1993.

The Coalition's most important accomplishment was its work toward the passage of the Cooperative Housing Procedure Act of 1988 (D.C. Law 7-205), a law that provides for uniform procedure and an equitable formula to assess real property owned by cooperatives.

CHC: The cooperative housing community speaking in a single voice.

Up to that time, the District did not have a prescribed method to estimate fair market value, and as a result the assessments were arbitrary and unpredictable. It also successfully opposed a move to charge each cooperative association \$3.00 per unit to fund a new government agency to oversee cooperatives and condominiums. It testified before the City Council in support of a recycling tax credit in lieu of the city collecting recyclables and successfully opposed a 50 percent reduction in the trash collection tax credit, which co-ops and condominiums receive in lieu of the city collecting their trash.

At the heart of many of these efforts was the defense of

cooperatives before the City Council to maintain parity between cooperative homeowners and single-family homeowners rather than to be treated as rental complexes. Perhaps most important, the Coalition successfully defended the assessment system it had worked hard to put in place in 1988 when it warded off proposals to change the system in recent years.

The Coalition has co-hosted mayoral candidate forums and recognized Council members who work on behalf of the interests of housing cooperatives. It has also promoted public awareness and interest in cooperative ownership by sponsoring events, most notably a tour of several D.C. housing cooperatives in 1995 to mark the 75th anniversary of the first housing cooperative in the District.

One of the most important benefits Coalition members receive is timely information. The Coalition has conducted seminars and issued newsletters covering topics as diverse as elevators, rentals, taxes and oil and gas bulk purchasing agreements, among others. As a consequence, members receive information that enable them to anticipate and address changes affecting their operations.

As it heads towards its 25th anniversary, the Coalition remains the premier organization devoted to advancing and protecting the interests of the owners of the approximately 15,000 cooperative units in the District of Columbia.

Building Codes

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completing their review of the 2003 International Building Code and making recommendations as they relate to the unique characteristics of the District of Columbia.

With fourteen subcommittees including Existing Structures, Fire and Life Safety, Accessibility, and Property Maintenance, the BCAC's review is extensive and comprehensive. All proposed amendments to the model code's provisions must be justified and based upon the following criteria:

- Inappropriate provision due to local conditions – climatic, physical, urban planning or economic.
- Provisions that hamper the economic development of the District without clearly contributing to the safety, health, and welfare of the building occupants or population at large.
- Provisions that create an economic hardship on owners without a clear justification based on consideration of protection of safety, health, and welfare of the building occupants or population at large.
- Provisions that are inconsistent or in conflict with the District statutes, regulations or established policies.

Art and Nancy serve on the Existing Structures Subcommittee, which reviewed many retroactive elevator code requirements, an issue of particular interest and relevance to CHC members. If approved by City Council, existing elevators will be required to comply with the new regulations within a three year period regardless of whether the building and/or elevator is undergoing renovation. In the recent past, the City had mandated similar elevator requirements but did not actively notify the general public. These requirements were later invalidated, but only after considerable consternation for many folks. It was particularly confusing that no distinction was made between automatic elevators and manual/attendant-operated elevators. However, thanks to Art and Nancy's participation on the Existing Structures Subcommittee, which worked closely with several other subcommittees, including Fire and Life Safety, this distinction is reflected in the new amendments.

Another important distinction that has now been made is between a high-rise building (defined as one where an occupied floor is located more than 75 feet about the lowest level of fire department vehicle access) and a non high-rise building. All of the proposed amendments pertaining to elevators are geared to ensuring greater safety, both in general and in emergency operations. The proposed amendments also

provide for deferred compliance in certain situations.

The 2003 code cycle is nearly over – the work of all committees coming to a close until the new cycle starts again in 2006. Until then, the proposed amendments will be forwarded to DCRA for review and are later forwarded to the City Council where they are voted upon. At this point, it is not known whether or not they will be approved. CHC will continue to update the Coalition when additional information becomes available.

The code amendments can be found at <http://www.dcrd.dc.gov> by clicking on Building Code Advisory Committee, Committee Membership and Meetings, and then proposed/approved amendments.

What's a Housing Co-op?

A housing cooperative is a form of ownership in which a person purchases shares (or membership) in a cooperative corporation that was formed for the purpose of providing its members a place in which to live. The cooperative corporation owns the building, land, apartments and all common elements. The owners/ members, in turn, own the corporation.

The instrument of ownership is called different things in different associations. Some issue "shares

of stock," some a "proprietary lease" and others a "perpetual use and equity contract." Regardless of what the ownership document is called, the effect is the same. It conveys the perpetual use of a specified unit - usually an apartment, sometimes a townhouse - together with the right to sell it subject to the co-op's approval and the obligation to support the co-op by paying fees.

A board of directors elected by the owners governs a cooperative corporation. Voting is democratic and can be one vote per unit or according to number of shares or percent of ownership. The board is charged with managing the co-op according to the bylaws, house rules and articles of incorporation. In many buildings, boards interview and approve prospective purchasers.

The purchaser of a cooperative unit agrees to abide by the co-op's bylaws and house rules and to pay a proportionate share of the co-op's expenses. These expenses include operating costs (e.g., staff, utilities, maintenance and repairs of common areas, management fees), real estate taxes, and accumulation of reserves.

The co-op's total fees are divided among individual units based on number of shares, square footage or some similar measure, as established in the co-op's articles of incorporation or other documents. Though this formula remains fixed, the assessed fees are changed periodically by the board of directors or membership

in line with the co-op's total budget.

Still Going Strong at 85!

In 1920, ten rental apartment buildings in Washington, D.C. converted to cooperative ownership, and over the years many more did so or were built as co-ops. Housing co-ops are in every part of the city and take many architectural and organizational forms.

There are more than a million co-op units in the U.S. Washington has one of the largest concentrations, though New York City has the largest. In the metropolitan area there are about 15,000 cooperative units, most of which are in the District. Just as neighborhoods have distinct personalities, so do co-ops. Choose one that suits your lifestyle. Review the house rules and by-laws and assess the level of services and amenities available. A real estate agent familiar with co-ops can provide the information you need to make an educated decision.

2005 Annual Meeting, Officers Elected

The 2005 Annual Meeting of the DC Cooperative Housing Coalition (CHC) was held on Tuesday, July 26 at 6:30pm in the law offices of Whiteford, Taylor & Preston. President Desmond Foynes presided.

The Minutes from the 2004 Annual Meeting and Treasurer's

Report were approved along with the approval of the 2006 annual dues rate which will remain at \$1.50 per unit.

President Foynes reviewed the past 6 years he has served as President of the Coalition and major accomplishments including the annual assessment survey reported to our members each year that tracked the assessments of a major sample of the District's market-rate housing cooperatives; the establishment of the Coalition's web site; connecting our members with a bulk rate electricity buying program sponsored by the Apartment & Office Building Association (AOBA); and our membership on the International Codes Commission on building codes and elevator retrofit requirements.

Following President Foynes' presentation, members were elected to the Board.

After the meeting was adjourned, the elected members met and elected officers (see column, cover).

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Homestead Exemptions

(Continued from page 1.)

Exemption is the same for each unit—the exemption for a co-op’s smallest apartment is the same value as the largest apartment or townhouse.

For example, a co-op with 50 units, the \$38,000 deduction has a potential value of \$1,900,000 that could be subtracted from its property’s assessed value prior to computing the yearly tax liability. The savings to co-owners is realized in a reduced tax bill which, in turn, reduces the corporation’s operating budget. Staying with the example of a 50 unit cooperative, the tax bill would be reduced by \$22,440. As a result of that reduction, that portion of each person’s monthly operating assessment is reduced based on that unit’s proportional interest (“assigned capital value”).

How does the Exemption affect Co-ops?

As a housing cooperative, the corporation receives certain homeowner benefits on behalf of its owners. For example, interest paid on the corporate mortgages and real estate taxes are passed on to co-owners in a financial statement (form 1098) that each co-owner receives at the end of the year. The corporation, as representative of its collective co-owners, also receives on behalf of the co-owners a discount on its annual real estate property tax bill.

Co-owners who can claim their unit as their primary residence submit their Homestead Exemption to their management office or designee responsible for these matters who, in turn, registers the form with the city’s Office of Tax and Revenue.

Like many other properties in the DC metropolitan area, market-rate housing cooperatives have realized substantial increases in their value over the past few years. Therefore, future increases in real estate taxes are inevitable. In this time of increasing property values coupled with increasing operating expenses, it is important to make sure that every housing cooperative maximize the value of its Homestead Exemption by obtaining every, single Homestead Exemption possible.

Why doesn’t everyone provide a Homestead Exemption?

There is one basic reason why an owner can not provide a Homestead Exemption: They can not claim their particular cooperative unit as their primary residence. The following categories of owners cannot provide a Homestead Exemption:

- Owners who live in their cooperative unit but claim another jurisdiction as their primary residence (for example, “Snowbirds”—people who summer in DC but live elsewhere the balance of the year; some

Senators and Congress people and political appointees);

- people maintaining a pied-de-terre—those whose permanent residence is nearby but stay in their DC cooperative for work or intermittent periods;
- owners who rent their cooperative units to others; and
- owners who own multiple units in the same cooperative (District residents are entitled to only one Exemption for their primary residence), even if they use the additional unit(s) for their own, personal use (for example, owners who own multiple units, some adjoined to their primary residence and some not, all for their personal uses as offices, guest units, etc.).

Can we increase the number of exemptions?

Clearly, for the reasons explained above, not everyone can provide an exemption for their apartment(s) or townhouse. But there is a question of fairness and equity. Is it reasonable that a portion of co-owners must carry an extra burden of paying more in real estate taxes for the corporation? How, then, can housing cooperatives get the value of the missing exemptions? Should those who cannot provide an exemption be charged an amount equal to what the exemption is worth. In 2005, that would be, as explained above, \$448.80. If so, how can this be

accomplished? The answer differs for cooperatives depending on their incorporation and other organizational documents. Regardless, this is a difficult issue and is one that all housing cooperatives are facing in the District of Columbia. (See following legal article.)

HOMESTEAD EXEMPTIONS: Who Benefits?

By: Joe Douglass, CHC Counsel

District of Columbia law provides a property tax break on owner-occupied homes. The idea is to discourage absentee ownership and reward owner-occupancy. This tax break is known as the Homestead Exemption, and it applies to cooperatives, as well.

But, there is a problem. Since a cooperative corporation owns all of the real estate, the corporation is the taxpayer for property tax purposes. So, while cooperative member-occupants can qualify for Homestead Exemptions, the resulting property tax break goes to the cooperative corporation (the taxpayer), not to the actual member-occupants. The result is that the benefit of the tax reduction (which happens at the corporate level) is shared by all members of the cooperative, whether they are occupants or not.

Since everyone benefits, the Homestead Exemption, in a cooperative, does not really serve its intended purpose of discouraging absentee ownership and encouraging owner-

occupancy. Can this be corrected? Is it possible for a cooperative to pass the property tax reduction through to only those resident members who qualified for Homestead Exemptions?

A number of cooperatives have looked for ways to do this, reasoning that the members who qualified for Homestead Exemptions should receive the entire benefit, as they would if they owned condominium units or houses. The question is: How can this be done?

The answer to this, as to so many questions, is: "It depends." Primarily, it depends on the cooperative's governing documents.

Some documents are very rigid, providing only that the cooperative's property tax burden will be shared by all cooperative members according to their ownership percentages, or shares. In the absence of any other helpful provisions, it will be difficult, if not impossible, for a cooperative to pass the benefit of the Homestead Exemptions down to the cooperative members who "earned" the benefit by residing in the building.

Other documents may give the board of directors greater flexibility in allocating the cooperative's expenses among the members, but this is rare. Alternatively, a cooperative's documents may allow the board to recover costs from members whose conduct caused the cooperative to incur those costs.

Depending on the exact wording, a provision like this might give the board authority to shift an additional increment of the cooperative's property tax bill to each of those members who did not qualify for a Homestead Exemption. The result would be that those members would pay more, and the members who qualified for Homestead Exemptions would pay less.

This issue is worth examining by each cooperative board, since it may (at least in some cooperatives) be possible to fulfill the intent of the Homestead Exemption law by letting member-occupants receive the intended financial benefit. Proceed cautiously. Before adopting a "pass through" policy for Homestead Exemptions, it is essential for a cooperative board to make sure that it has a legal basis for the policy in its governing documents, and to structure the policy in a manner consistent with its governing documents.

Joe Douglass is a partner in the Washington office of Whiteford, Taylor & Preston, LLP, and serves as counsel to the D.C. Cooperative Housing Coalition.

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