

# Getting a Community Association (re)Started



**COMMUNITY  
LAW CENTER**  
LAWYERS FOR  
NEIGHBORHOODS  
& NONPROFITS

Baltimore Learning Collaborative  
Tues. Oct. 16

# About Community Law Center

Our mission is to provide legal services to community and nonprofit organizations throughout Maryland to promote stronger and more vibrant neighborhoods.



# Agenda

- ▶ Getting Started
- ▶ Bylaws
- ▶ Incorporation
- ▶ 501(c)(3) Tax Exemption
- ▶ Ongoing Compliance



# Disclaimer



This workshop is for informational purposes only and shall not be construed as legal advice.



Your attendance at this workshop does not make you or your organization a client of the Community Law Center.

# What is a nonprofit?

- ▶ Nonprofit (in Maryland: “nonstock corporation”)
  - ▶ Organization created for a purpose other than generating profit (charitable mission)
  - ▶ Can make a profit! (but that profit must go back into programming)
  - ▶ Does not have owner, and does not distribute income to members, Directors, or Officers
- ▶ Type of nonprofit: 501(c)(3) tax exempt organization
  - ▶ Recognized by the IRS as operating exclusively for charitable, religious, scientific, educational, or certain other purposes
  - ▶ Charitable donations to a 501(c)(3) can be deducted from the donor's taxes

# Preliminary Questions



- ▶ **Why** form this nonprofit?
- ▶ **Who** will it serve? Who will assist with this work?
- ▶ **When** will you have time to form and run the org?
- ▶ **How** will you find the funding to support the org?

Starting and maintaining a nonprofit is not easy!

- Must have a charitable purpose
- It's not just about getting yourself a job
- Not a tax shelter/sideline for a for profit business (IRS fraud)
- Value of donated time/services is NOT tax deductible
- Board has control, not you: publicly governed by regulation
- It's not easy to get grants: need a fundraising plan

# Hey Founders!

- ▶ A founder of a nonprofit does not own or control the organization.
- ▶ A nonprofit is governed by a board of directors that makes all major policy decisions for the organization, including the hiring and evaluation of the CEO/Executive Director.
- ▶ A founder's involvement in any organization is at the discretion of the board of directors.

# Getting Started

1. Gather a core group of people.
2. Determine what the organization will do; create a mission statement.
3. Pick a name and check to make sure it is available:  
<https://egov.maryland.gov/BusinessExpress/EntitySearch>
4. Raise money to get through set-up.
5. Elect interim leaders.





# SHADY ACRES COMMUNITY ASSOCIATION

## MEMBERSHIP

Nelly Neighbor  
and many others

Rhonda Resident

## BOARD

Bob Boardmember  
Brenda Boardmember  
Betsy Boardmember

## OFFICERS

Paul President  
Vicki Vice President  
Tim Treasurer  
Sandy Secretary

### Officers:

- Paul President
- Vicki Vice President
- Tim Treasurer
- Sandy Secretary

### Board:

- All the Officers: Paul, Vicki, Sandy & Tim
- Bob Boardmember
- Brenda Boardmember
- Betsy Boardmember

### Membership:

- All Board and Officers
- Nelly Neighbor
- Rhonda Resident
- And many others

# Board of Directors



- ▶ How many?
  - ▶ At least three unrelated persons (five is an ideal minimum)
  - ▶ Odd number avoids tie votes
- ▶ Qualities:
  - ▶ Majority unrelated; avoid conflicts of interest
  - ▶ Bring a variety of skills, resources, or funds to the organization
  - ▶ Not looking for personal gain (not compensated)
  - ▶ Reflect the community you serve
  - ▶ Reliable
  - ▶ Passionate about the organization's mission

# Officers

All Officers are Board members/Directors, but your Board may include additional Directors who do not have an Officer position.

- ▶ Required by Maryland law: President, Secretary, and Treasurer
- ▶ President & Vice President can't be the same person. President & Treasurer should not be the same person.

# Board Responsibilities

- ▶ Govern and manage the organization
- ▶ Make sure the org has resources it needs for success
  - ▶ Financial: many grantmakers require that every Board member make monetary contributions to the org, in order for org to get grants
- ▶ Fiduciary duties under state law:
  - ▶ Act in the best interests of the organization
  - ▶ If you hear about opportunities, offer to the org first
  - ▶ Keep information confidential
  - ▶ Be aware of existing laws and regulations that affect the org, and the org's internal policies

# Bylaws

- ▶ Governing rules of the organization.
- ▶ Clear and easy to understand.
- ▶ Should be amended as needed.



=

**BYLAWS**  
of  
**A Better Community, Inc.**

# Bylaws - Key Provisions



- ❖ Membership
  - ❖ Who may become a member? Dues? Voting rights?
- ❖ Directors - Leaders of the organization
  - ❖ How many? How elected? Term?
- ❖ Officers
- ❖ Meetings
- ❖ Conflict of Interest

# Bylaws - Final Thoughts

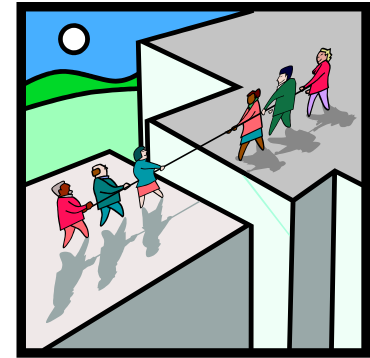


- ▶ Bylaws committee: draft, amend, recommend.
  - ▶ Get buy-in from the board.
- ▶ Ask CLC for help reviewing.
- ▶ Provide advance notice and copies for review.
- ▶ VOTE, sign, and date.
- ▶ Use them!

*Attend the Bylaws Bootcamp Session at 6:45 tonight!*

# Conflict of Interest Policy

- ▶ What is a conflict of interest?
  - ▶ Directors must make decisions based on best interest of organization
  - ▶ But sometimes, business or family relationships may conflict w/ org's best interest
  - ▶ When a director may not be able to make a decision in best interest of organization, a conflict of interest may occur
- ▶ Having a Conflict of Interest Policy makes sure that Board members are acting in the best interest of the organization, and not in some other interest.
  - ▶ Policy describes how organization will avoid conflicts of interest
  - ▶ May be included directly in bylaws or can be a separate document.



We all wear  
different hats in our  
lives.



# Managing Conflicts in 4 Easy Steps

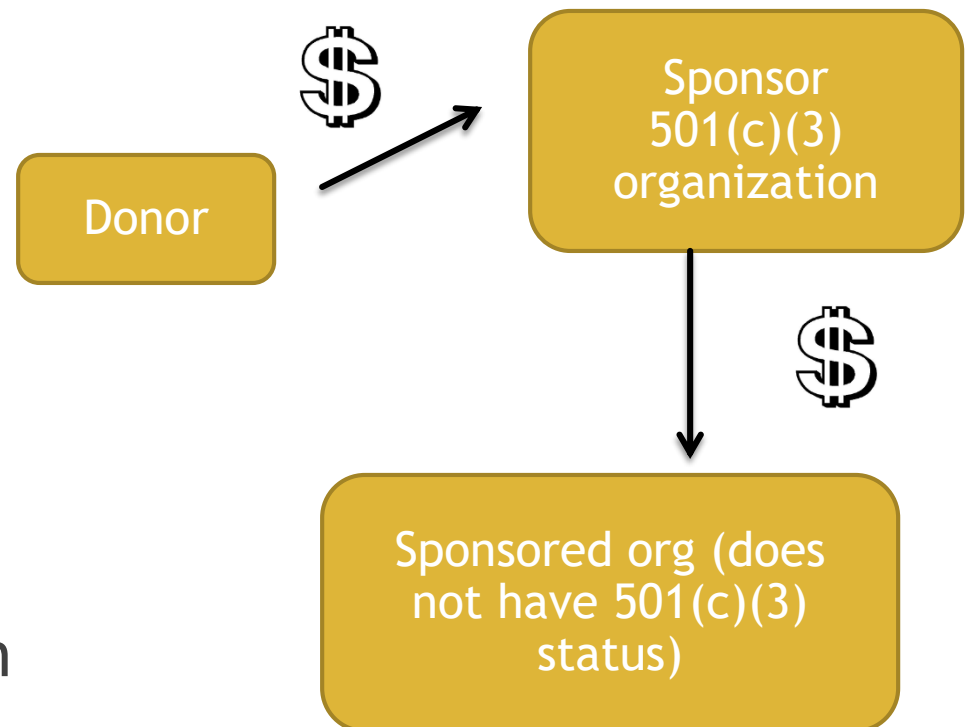


1. Director discloses conflict.
2. Board determines whether it is in the organization's best interest, without input from conflicted director.
3. Board votes before action takes place (without input of conflicted director).
4. Document everything in meeting minutes.

# Fiscal Sponsorship

## ► Considerations

- Fiscal sponsors = legally responsible for activities of sponsored groups.
- Sponsored groups may have to give up some control of their programming.
- Have an agreement in writing



# Incorporation

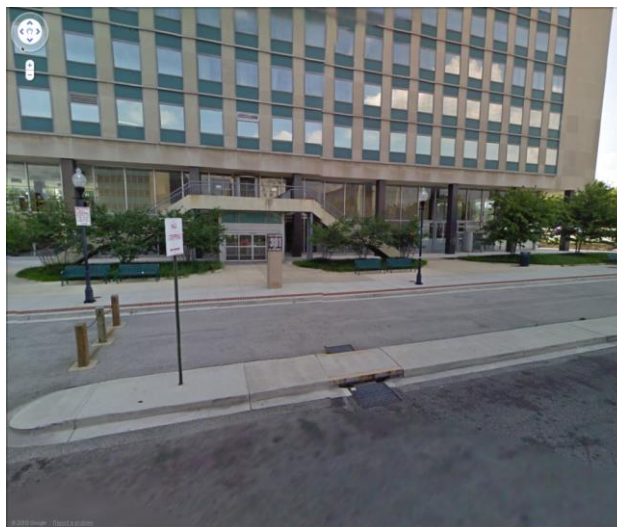
A corporation is a distinct legal entity able to do business in its own name.

- ▶ Benefit: Liability protection
- ▶ Responsibilities: Annual tax filings



# Articles of Incorporation

- ▶ File with State Department of Assessments and Taxation (SDAT) to create legal entity authorized to conduct business in Maryland.
  - ❖ Filing fee = \$170 (additional expediting fee = \$50)



# Articles of Incorporation



- ▶ Fairly standard/similar language.
- ▶ Key components:
  - ❖ Incorporator
  - ❖ Name
  - ❖ Purposes - use 501(c)(3) language
  - ❖ Language granting powers to corporation
  - ❖ Resident agent and principal office
  - ❖ Initial board of directors
  - ❖ Membership
  - ❖ Dissolution - assets
  - ❖ Indemnification

# Organizational Meeting

- ▶ Adopt and accept Articles of Incorporation and bylaws.
- ▶ Elect Board and Officers.
- ▶ Designate a bank.
- ▶ Approve financial records, funds, payments.
- ▶ Assign duties and establish committees.
- ▶ Approve contracts and other obligations.
- ▶ Authorize application for EIN and 501(c)(3) tax exempt status.



**TAKE MINUTES of this meeting and every meeting.**

# Obtain Employer Identification Number (EIN)



- ▶ Similar to a Social Security number for business entities
- ▶ Must have EIN to file for tax-exempt status
- ▶ <http://www.irs.gov/businesses/small/article/0,,id=98350,00.html>
- ▶ Form SS-4
  - ▶ Online <https://sa2.www4.irs.gov/modiein/individual/index.jsp>
  - ▶ Select “View Additional Types, Including Tax-Exempt and Governmental Organizations” on the first page to establish that the organization is - or is planning to become - tax-exempt.

# Meeting Minutes

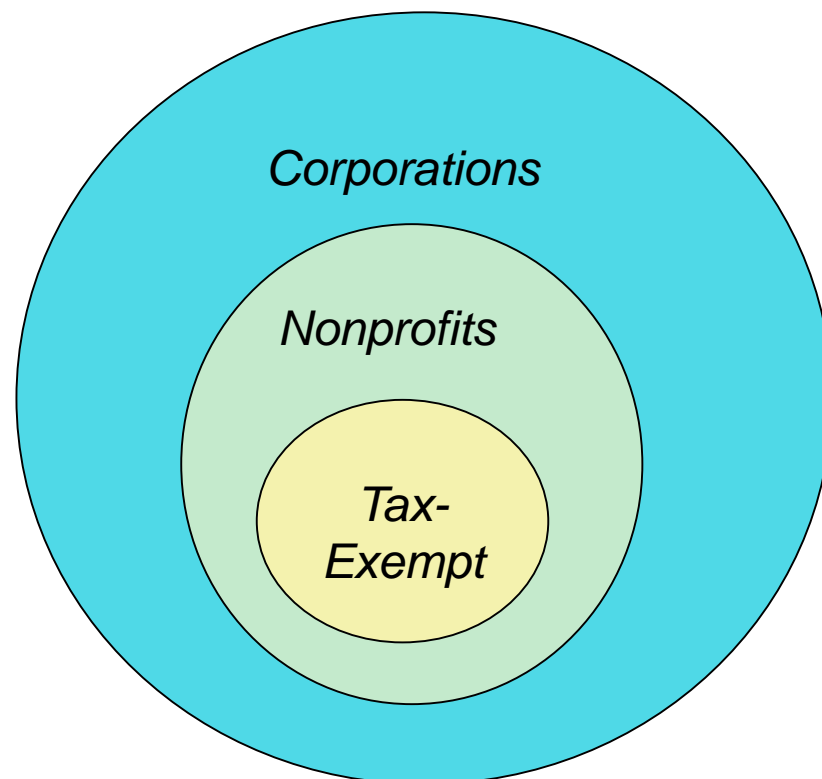
- ▶ Keep minutes of meetings
  - ▶ Any format (not a transcript of the meeting)
  - ▶ Include: what happened at the meeting, what decisions were made, the vote on the matter, who was present, and if requested by someone opposing the decision, the name of anyone opposed
  - ▶ Signed and dated by the secretary, approved at the next meeting
  - ▶ Keep all meeting minutes together
- ▶ Especially keep minutes when:
  - ▶ Decisions are made that affect third parties (e.g. hiring employees, signing contracts)
  - ▶ Decisions are made that affect the rights and responsibilities of people in the organization



# 501(c)(3) Tax Exemption

## Nonprofit ≠ Tax-Exempt

- ▶ “Nonprofit” refers to corporate set-up
  - ▶ Defined by the state (Maryland)
- ▶ “Tax-Exempt” refers to status with government regarding income taxes
  - ▶ Defined by taxing government (here, IRS - federal govt)
- ▶ An organization can be nonprofit in nature but not tax-exempt, but an organization that is tax-exempt must be nonprofit in nature.



# Pros and Cons of Tax Exemption



- ▶ Charitable income is tax exempt
- ▶ Contributions are tax-deductible for donors
- ▶ Eligibility for government and foundation grants
- ▶ May also be eligible for exemption from state income, sales, and property taxes
- ▶ Low-cost mailing and advertising rates



- ▶ Paperwork, time, and expense of applying - Form 1023
- ▶ Regulatory requirements and annual filings - Form 990
- ▶ Political activity limitations for 501(c)(3)s

# Restrictions on 501(c)(3) Organizations

- ▶ Must be nonprofit and for a public benefit (cannot benefit one individual/family)
- ▶ Earnings cannot benefit any private shareholder or individual
- ▶ Purposes must be "charitable" (IRS definition)
- ▶ Activities must be in furtherance of charitable purposes



# Internal Revenue Code Section 501(c)(3)

- ▶ To be tax exempt, org must be “charitable” =
  - ▶ religious
  - ▶ educational
  - ▶ scientific
  - ▶ literary
  - ▶ testing for public safety
  - ▶ amateur sports competition
  - ▶ preventing cruelty to children/animals

# Treasury Regulations further define “charitable”

- ▶ relief of the poor & distressed or underprivileged
- ▶ advancement of religion, education, or science
- ▶ lessening burdens of government
- ▶ promotion of social welfare by organizations designed to accomplish any of the above purposes or:
  - ▶ to lessen neighborhood tensions
  - ▶ to eliminate prejudice and discrimination
  - ▶ defend human and civil rights secured by law or
  - ▶ combat community deterioration and juvenile delinquency.

# Political and Legislative Activity



- ▶ 501(c)(3) organizations cannot **directly support or oppose** any candidates for office
- ▶ Other political activity (e.g., attempting to influence legislation): cannot be a “substantial part” (more than 5%) of expenses and time.

# How to Apply for 501(c)(3) Status

## Two paths to applying

- ▶ Form 1023 (long form): \$600
  - ▶ Longer (29 pages), requires more information
  - ▶ Attachments become public after filing: Articles of Inc., Bylaws, Conflict of Interest Policy, Projected Budget
  - ▶ Must write narrative description of past, present, and planned activities and events
- ▶ Form 1023-EZ: \$275
  - ▶ New since July 2014
  - ▶ Short, online form
  - ▶ Does not require many of the attachments
  - ▶ Limited to organizations that are eligible



# Who is eligible to file Form 1023-EZ?

- ▶ Cannot be a church, school, hospital, or hospital service organization
- ▶ Financial requirements:
  - ▶ Annual gross receipts of \$50,000 or less for each of next three years
  - ▶ No annual gross receipts in excess of \$50,000 in each of the preceding three years
  - ▶ Total assets less than \$250,000
- ▶ See instructions and eligibility worksheet for other restrictions

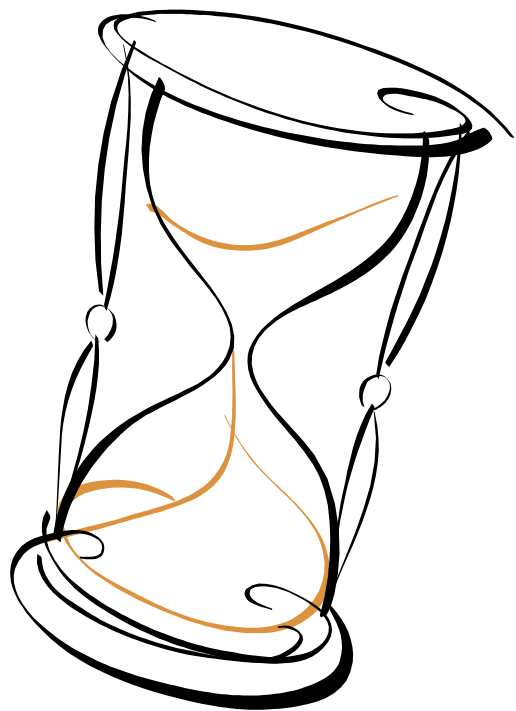


# Keys to Successful Applications



- ▶ Give yourself plenty of time to complete the application
- ▶ Read the instructions - see accompanying instruction forms
- ▶ Only answer what is asked
- ▶ Provide detail, but not too much (for long form: narrative: 2-4 pages; other questions: one paragraph)
- ▶ Label any attachments with EIN, name, and question being answered
- ▶ Type it! Download forms from [www.irs.gov](http://www.irs.gov)
- ▶ Make sure you have the current form
- ▶ Keep all documentation easily accessible
- ▶ Form 1023-EZ: complete the Eligibility Worksheet first, and prepare a narrative even though it won't be submitted

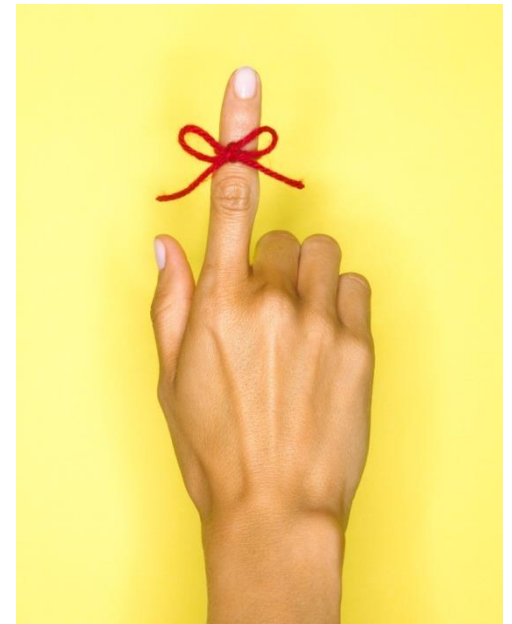
# What Next?



- ▶ Sit and wait!
  - ❖ Processing time varies; several weeks (for Form 1023-EZ) to several months (for long Form 1023)
  - ❖ IRS website has information about status of applications
- ▶ IRS may need additional information
- ▶ Will receive letter describing outcome
- ▶ Good luck!

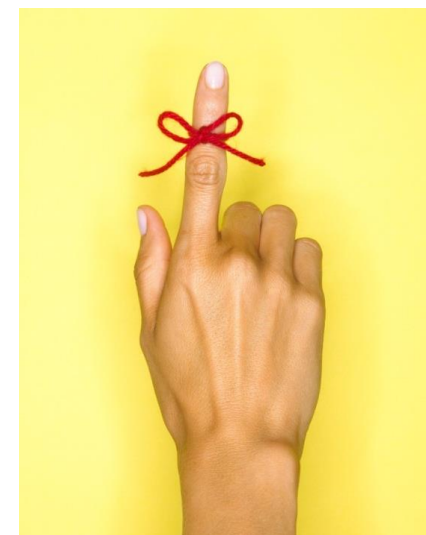
# Continuing Requirements

- ▶ Keep meeting minutes, corporate records, policies together (accessible, multiple copies)
- ▶ Charitable Solicitation Registration (annual, MD Secretary of State):  
<http://sos.maryland.gov/Charity/Pages/Registering-Charity.aspx>
  - ▶ Multistate: <http://multistatefiling.org/>



## Continuing Requirements (cont.)

- ▶ Apply for sales and property tax exemption (Comptroller):  
[http://forms.marylandtaxes.com/current\\_forms/cra.pdf](http://forms.marylandtaxes.com/current_forms/cra.pdf)
- ▶ If you sell anything, collect sales and use tax: [http://forms.marylandtaxes.com/current\\_forms/CRA.pdf](http://forms.marylandtaxes.com/current_forms/CRA.pdf)
- ▶ Keep a budget & annual audit
- ▶ Annual tax filings
  - ▶ Maryland: Form 1 Personal Property Return
  - ▶ IRS: Form 990



# Annual Tax Filing #1: MD Form 1 - Annual Report and Personal Property Return

**ANNUAL REPORT - Due by April 15th**  
STATE OF MARYLAND, DEPARTMENT OF ASSESSMENTS AND TAXATION, TAXPAYER SERVICES DIVISION  
P.O. Box 17052, Baltimore, Maryland 21287-1052 • www.dat.maryland.gov • (410) 787-1340 • (888) 246-5941 within Maryland • [taxpayerservices@maryland.gov](mailto:taxpayerservices@maryland.gov)

2018  
Form 1

CHECK ONE  
Type of Business  
 Domestic Stock Corporation (D) \$300  
 Foreign Stock Corporation (F) \$300  
 Domestic Non-Stock Corporation (DN) -0-  
 Foreign Non-Stock Corporation (FN) -0-  
 Foreign Insurance Corporation (FI) \$300  
 Foreign Interstate Corporation (FIC) -0-  
 SCAT Certified Family Firm (A, D, M, W) \$100  
 Real Estate Investment Trust (REIT) \$300  
 Type of Business  
 Domestic  
 Foreign LI  
 Domestic  
 Foreign LI  
 Domestic  
 Foreign LI  
 Domestic  
 Foreign LI

**PERSONAL PROPERTY TAX RETURN - Due by April 15th**  
STATE OF MARYLAND, DEPARTMENT OF ASSESSMENTS AND TAXATION, TAXPAYER SERVICES DIVISION  
P.O. Box 17052, Baltimore, Maryland 21287-1052 • www.dat.maryland.gov • (410) 787-1340 • (888) 246-5941 within Maryland • [taxpayerservices@maryland.gov](mailto:taxpayerservices@maryland.gov)

2018  
Form 1  
Page 3 of 5

**STOP!** If you answered "No" to BOTH questions in Section III, DO NOT complete Sections V-VIII and DO NOT submit them.

**SECTION I - ALL BUSINESS ENTITIES COMPLETE**

NAME OF BUSINESS \_\_\_\_\_  
 INCORPORATION OR FORMATION NUMBER (Enter Prefix followed by 8-digit number) \_\_\_\_\_  
 FEDERAL EMPLOYER IDENTIFICATION # (Employer Identification Number) \_\_\_\_\_  
 STATE OF INCORPORATION OR FORMATION \_\_\_\_\_  
 DATE OF INCORPORATION OR FORMATION \_\_\_\_\_  
 FEDERAL PRINCIPAL BUSINESS CODE (8-digit number or 10+ with 02-2) \_\_\_\_\_  
 TRADING NAME \_\_\_\_\_  
 MAILING ADDRESS \_\_\_\_\_  
 Check here if this is a change of mailing address.  
 PLEASE NOTE: This will not change your 2018/2019 return. You need the 4-digits to change if 4-digits differ within \_\_\_\_\_  
 Note: Please include an e-mail address in order to receive reports.  
 E-MAIL ADDRESS \_\_\_\_\_

**SECTION II - ONLY CORPORATE ENTITIES COMPLETE**  
 A. Corporate Officers (names and mailing addresses)

Name	Title	Address

B. Corporate Directors (names only)

Name	Title	Address

**SECTION V - ALL BUSINESS ENTITIES COMPLETE**

A. Is this the first Personal Property Tax Return filed by this business entity?  Yes  No  
 B. Does this business entity succeed an already established business entity?  Yes  No

If you answer "Yes" to both questions, please complete this section:

NAME OF FORMER BUSINESS \_\_\_\_\_  
 MD DEPT ID OF FORMER BUSINESS \_\_\_\_\_  
 FORMER BUSINESS LOCATION \_\_\_\_\_  
 Yes No Yes No Yes No

**SECTION VI - ALL BUSINESS ENTITIES COMPLETE**

A. Is any business conducted in Maryland?  Yes  No B. Date began: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 C. Nature of business: \_\_\_\_\_  
 D. If business operates on a fiscal year: Start: \_\_\_\_/\_\_\_\_/\_\_\_\_ End: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 E. Total Gross Sales, or amount of business transacted during prior year in Maryland: \$ \_\_\_\_\_

If you report Total Gross Sales in question E of Section VI, but do not report any personal property in Section VII, please explain how business is conducted without using personal property. If the business is using personal property of another business entity, please provide the name and address of that business entity below.

F. Explanation: \_\_\_\_\_

NAME OF THE OTHER BUSINESS \_\_\_\_\_  
 MD DEPT ID OF THE OTHER BUSINESS \_\_\_\_\_  
 LOCATION OF THE OTHER BUSINESS \_\_\_\_\_  
 Yes No Yes No Yes No

INCLUDE MD DEPARTMENT ID NUMBER TO CHECK  
 PLEASE STAPLE CHECK HERE

(SDAPPR\_Form\_1\_11.2017.2)

## Two forms:

- ▶ Annual Report is required of all corporations; must be filed, even if the organization does not own any personal property (any asset other than real estate)
- ▶ Personal Property Return: file if organization owns personal prop.
- ▶ Can apply for exemption from paying personal property tax

Failure to file = forfeiture of corporation

Due each year on April 15<sup>th</sup>

Current form: <http://dat.maryland.gov/businesses/Pages/Business-Personal-Property.aspx>

# Annual Tax Filing #2: IRS Form 990

Due: 15th day of 5th month of fiscal year  
(**May 15<sup>th</sup>** for Jan. 1 - Dec. 31 fiscal year)

## Several versions

- ▶ Form 990: long form for orgs with gross receipts of \$200k or assets of \$500k
- ▶ Form 990-EZ: 2 pgs, for orgs with gross receipts of <\$200k and assets <\$500k
- ▶ Form 990-N (ePostcard): 8 question electronic form, for orgs with gross receipts <\$50k

Under \$5,000 or prior to filing Form 1023, call (877) 829-5500 and ask to establish an account to file the 990-N

# Helpful Resources

- Recruit volunteers
  - Business Volunteers Maryland: <http://businessvolunteersmd.org/nonprofit/>
  - Volunteer Match: <https://www.volunteermatch.org>
  - Local volunteer centers (e.g. Anne Arundel County Volunteer Center: <http://www.aacvc.org>)
- Budgeting
  - Budgeting for nonprofits: <https://www.councilofnonprofits.org/tools-resources/budgeting-nonprofits>
  - Budget examples: <http://grantspace.org/tools/knowledge-base/nonprofit-management/establishment/budget-examples>

## Helpful Resources (cont.)

- Business Plan
  - SCORE: workshops, mentorship (<https://www.score.org/find-mentor>)
  - Small Business Resource Center (<http://www.sbrcbaltimore.com/>)
  - MD Small Business Development Ctr (<http://mdsbdc.umd.edu/>)
- Build Capacity
  - Maryland Nonprofits - Nonprofit Development Center:  
<https://marylandnonprofits.org/NonprofitResources/NonprofitDevelopmentCenter.aspx>
- Tax Exemption
  - [www.irs.gov](http://www.irs.gov) and [www.stayexempt.org](http://www.stayexempt.org)
  - Publication 557 - “Tax-Exempt Status for Your Organization”



# Fundraising Resources

- ❖ Enoch Pratt Library, Grants Collection Center:
  - ❖ Resources on finding grants, writing proposals, and more:  
[www.prattlibrary.org/locations/grants](http://www.prattlibrary.org/locations/grants) ; 410-396-5320
- ❖ Foundation Center: <http://foundationcenter.org/find-funding>
- ❖ Maryland Nonprofits: <http://www.marylandnonprofits.org>
- ❖ Association of Baltimore Area Grantmakers (ABAG):  
<http://www.abagrantmakers.org>
- ❖ Association of Fundraising Professionals (MD Chapter):  
<http://afpmaryland.afpnet.org/>
- ❖ College of Southern Maryland Nonprofit Institute:  
<http://www.csmd.edu/community/institutes/nonprofit-institute/index.html>
- ❖ Community Foundation of the Eastern Shore: <https://cfes.org/learn/events/>
- ❖ Governor's Grants Office: <http://grants.maryland.gov/Pages/Training.aspx>
- ❖ Grassroots Fundraising Journal:  
<http://www.grassrootsfundraising.org/sustainable-organizations/grassroots-fundraising-journal/current-issue-2/>

# Legal Assistance from Community Law Center

- ▶ Forming, reviving, or maintaining a nonprofit (bylaws, incorporation, and 501(c)(3) tax exemption applications);
- ▶ Leasing or transferring real property;
- ▶ Zoning appeals;
- ▶ Drafting and negotiating contracts;
- ▶ Employment issues;
- ▶ Copyright and trademark issues;
- ▶ Nuisance properties (vacant, abandoned, drug nuisance)
- ▶ Liquor license protests; and
- ▶ Much, much more!

# Legal Assistance from Community Law Center

- ▶ How to Start a Nonprofit Organization in Maryland handbook
- ▶ Sample documents
- ▶ Workshops and trainings for Boards
- ▶ Apply for legal services to work with a volunteer attorney
- ▶ Steps to Take Before Working with an Attorney
  - ▶ Have a Board of Directors in place
  - ▶ Develop a mission statement and plan for programs/activities, fundraising, etc.
  - ▶ Develop a budget
  - ▶ Draft bylaws (see sample - CLC can also help with this)
  - ▶ If applying for 501(c)(3): business plan or narrative description of nonprofit's goals and activities



# We're here to help!

Community Law Center, Inc.  
3355 Keswick Road, Suite 200  
Baltimore, MD 21211

Phone: 410-366-0922

Fax: 410-366-7763

[www.communitylaw.org](http://www.communitylaw.org)

[www.facebook/CommunityLawCenter](https://www.facebook.com/CommunityLawCenter)

Follow us on Twitter: CommunityLawCen

**To apply for legal assistance, contact:**

Ingrid Hitchens at x113 or [IngridH@communitylaw.org](mailto:IngridH@communitylaw.org)  
Shana Roth-Gormley at x118 or [ShanaR@communitylaw.org](mailto:ShanaR@communitylaw.org)