

CAI'S MAGAZINE FOR COMMUNITY ASSOCIATION LEADERS

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## A REAL-LIFE CLIFFHANGER

It's man vs. bug  
in one Maryland  
community

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## R.I.P.

Some willing spirits  
are dead set on  
preserving old  
burial grounds

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By Bob Kemper

Illustration by Bruce MacPherson

# Living on the EDGE

**Along the** picturesque shores of the Chesapeake Bay, there are homes with killer views. And then there are homes, owned by about 80 families in Lusby, Md., with a view that could kill. Literally.

Perched nearly 100 feet above the bay's shoreline, the residents of Chesapeake Ranch Estates have watched for decades as the waters and winds ripped away the land beneath their homes. Some houses built 100 feet or more from the cliffs' edge just 20 years ago are now only 10 to 15 feet from disaster.

Can a  
**tiny beetle**  
destroy  
a community?

# "It's a situation where our government is taking the position that bugs are more important than people."

AS THE SANDY soil of the Calvert Cliffs slid away year after year, mature trees planted to hold the ground together plummeted to the private beach below. In 1996, a 12-year-old girl standing on the beach was killed by falling debris. Last Thanksgiving, Bill Carmichael's back deck and hot tub tumbled down, too. And a month later, 500 feet of Golden West Way, a major road that runs through the 4,000-home development and near the cliffs, was closed, having become too unstable to allow a school bus to ride over it.

So far, the only thing the homeowners of Chesapeake Ranch Estates can do as their homes become uninsurable, unsalable and, possibly, uninhabitable with every foot of land they lose, is enjoy the view before it swallows their houses, too. Some longtime residents believe they have no more than a year or two left to act.

It's not that residents haven't tried to save their homes. The community's homeowners association has been working since 1996 to stop the natural, but deadly, erosion only to have their efforts thwarted by state and federal governments intent on protecting a bug on the brink of extinction—the Puritan tiger

beetle—that makes its home in the unstable cliff face.

The half-inch-long beetle is protected by the federal Endangered Species Act and a companion law in Maryland. And both state and federal officials have told residents repeatedly over the years that taking steps to protect their homes, including building a large concrete breakwater to reduce erosion, would destroy the beetle's habitat and was therefore forbidden.

"It's not an exaggeration. We are in a life-or-death situation," says John Eney,

president of the Property Owners Association of Chesapeake Ranch Estates. "It's a situation where our government is taking the position that bugs are more important than people."

Residents say they knew when they bought their bayside homes that erosion could be a problem, but they also believed they could take steps to protect the cliff face. Only after many purchased their homes in the 1990s did they learn that they couldn't take the same precautions as other waterfront communities across the country because of the beetle. The protections they were allowed to install, including smaller concrete obstacles that didn't threaten the beetle, proved ineffective despite their \$200,000 cost.

When Tony Vajda moved into Chesapeake Ranch Estates in 1996, his home was more than 100 feet from the cliff. The last time he measured the buffer area, it was down to 60 feet. He stopped taking measurements some time ago. "It's too frustrating," Vajda says.

Vajda, who led a special homeowners committee to deal with the erosion problem, says Chesapeake Ranch Estates has tried every governmental option available to them. He's trying one more time to get a permit to help eight homeowners shore up their parts of the cliff, but after that, it's likely the whole matter is headed to court, he says.

"If they say no, then as far as I'm concerned it becomes a legal issue, it becomes a taking of property," Vajda says.

State and federal environmental authorities have been meeting every two weeks for the last few months to review potential solutions to the problems at Calvert Cliffs. A solution that accommodates both homeowners and the beetle, however, has so far eluded them.

"We don't have any final solution yet, but we are working on it," says Glenn Therres, who oversees endangered species for the Maryland Department of Natural Resources. "This is a situation when there is not one (winner) over the other. We've got to come up with a solution so that the private homeowners and the tiger beetles both win."

## Beetle MANIA



**THE PURITAN TIGER BEETLE** (*Cicindela puritana*) isn't much to look at. It has long legs, a brown body and cream-colored markings on its wings. It is both predator and prey, and the primary reason given for preserving the species is the role it plays in the ecosystem, according to the U.S. Fish and Wildlife Service. The beetle eats other insects, particularly flies and ants, and is, in turn, eaten by larger bugs and birds.

The beetle prefers sandy soil and, while adult beetles can be found on the beach, their larvae are buried in the sides of cliffs that are free of vegetation. The greatest threat to the beetle is the loss of habitat, according to the Fish and Wildlife Service, whose website provides copies of 25 studies and reports done on the Calvert Cliffs since the 1990s. And much of that habitat is lost because of human efforts to prevent natural erosion or to bolster beachfronts, the service says.

With 75 percent of all endangered species living on private lands, according to the U.S. Department of Agriculture, community associations have had to learn to accommodate a variety of threatened animals, birds, bugs and flowers since the U.S. Endangered Species Act took effect in the 1970s.

The Lake Swannanoa Homeowners Association in New Jersey discovered bald eagles living along its private lake, and residents were soon tasked with identifying nesting areas. The Palm Island Estates Homeowners Association in Charlotte County, Fla., figuring it could not keep its residents from its private beach during the loggerhead turtle's mating season, issued an advisory instead: Don't let the turtles see you.

Near Boulder, Colo., the Pine Brook Hills Homeowners Association in 2007 actually wanted to bring an endangered species into their community by stocking a private reservoir with the endangered greenback cutthroat trout.

But none of the associations entangled in the Endangered Species Act face the kind of potentially cataclysmic problems confronting residents of Chesapeake Ranch Estates, an eclectic collection of houses first developed in the 1950s with its own beach, horse stables, lake, marina, airport and, of course, spectacular views of the Chesapeake Bay. For years, the once-segregated community, known locally as The Ranch Club, was run by its developer, though the homeowners took over in the late 1980s after the developer became entangled in the national savings and loan scandal.

Only a few years after the association took control, though, federal environmental agencies discovered the Puritan tiger beetle living in the cliffs on which the community was built. There are more than 2,000 kinds of tiger beetles in the world, with as many as 200 species in the United States alone. But there are only two colonies of Puritan tiger beetles. Besides the cluster beneath the Maryland homes, there is a smaller colony 600 miles away on the banks of the Connecticut River in New England.

The New England colony is on public land and, according to the Connecticut Environmental Protection Agency, the beetles' presence requires part of a beach to be closed during mating season, but poses no threat to private property.

Estimates of the number of Puritan tiger beetles living in Maryland varied over the years, from a high of about

later, the federal government refused to help for the same reason. Calvert County officials also declined to fund what amounts to private infrastructure.

The price tag for serious erosion-control measures now tops \$1 million, according to residents, who are still looking to local, state and federal governments to help finance it. In June,



**SLIP SLIDING AWAY.** Homes in Chesapeake Bay Ranch Estates in Lusby, Md., sit perilously close to the cliff's edge, but an endangered beetle prevents homeowners from taking steps to stop the erosion.

4,000 to a low of 300. However many there are, federal and state officials say, the vast majority of them are living along about two miles of beach owned by residents of Chesapeake Ranch Estates.

Being a private community has only complicated the residents' problem. The association first proposed resolving the erosion problem by building a 500-foot retaining wall that would protect the base of the cliffs. The price tag for the wall was about \$300,000 and, while Maryland provides grants and low-interest loans for such projects, Chesapeake Ranch Estates didn't qualify for public financial aid because it's privately owned. That was in 1996. Two years

the community association for the first time sent a written appeal to the Federal Emergency Management Agency, the office that deals with natural disasters. But because the community is privately owned, it has to get the support of the county commissioners first.

"With organizations like the (U. S. Army) Corps of Engineers, when we ask them for support, we only ask them for support where it was authorized by Congress and within their mission," Vajda says. "They came back and said, 'You're a private community, we can't help you.'"

One option the association has is to work with the county to create a special tax district, as it did for its 67 miles

of privately owned roads. But the cost of the cliff repairs would be much greater than the road maintenance costs, association members say. Given that only 77 of the association's 4,000 families are directly threatened by the cliff collapse, it's not at all clear that everyone would agree to pay more.

Del. Anthony J. O'Donnell, the Republican leader in the Maryland House of Delegates, represents the troubled area and for years has been trying to rewrite state law to give the community

association greater latitude to address the erosion problem. State bureaucrats ignored O'Donnell's first rewrite of the regulations in 2005; so this year he's pushing a stricter measure through the state legislature. The change O'Donnell seeks is to allow "incidental takings" of beetle habitat so that the private property can be protected.

Efforts to move the beetles from Calvert Cliffs to somewhere else along the bay that would pose no threat to private property have failed in the past. And

the government opposes moving the Maryland beetles to Connecticut because the two colonies are genetically distinct.

"This is changing my whole mindset on the Department of the Interior, Fish and Wildlife and every other environmental agency because I think they are out of control," Vajda says.

"I'm still an environmentalist at heart; but, you know, you have to be rational about this." **cg**

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# Whale of a TALE

**FOR A FEW DOZEN** Maryland homeowners whose houses are already being threatened by a bug that's on the brink of extinction, the 10 million-year-old whale found under their land was one ancient creature too many.

Nearly 80 homes in Chesapeake Ranch Estates in Lusby, Md., are already at risk because the sandy cliffs on which they're perched are crumbling. The owners can't do anything to stop the erosion because it would destroy the habitat of the endangered Puritan tiger beetle, which is protected by federal and state law.

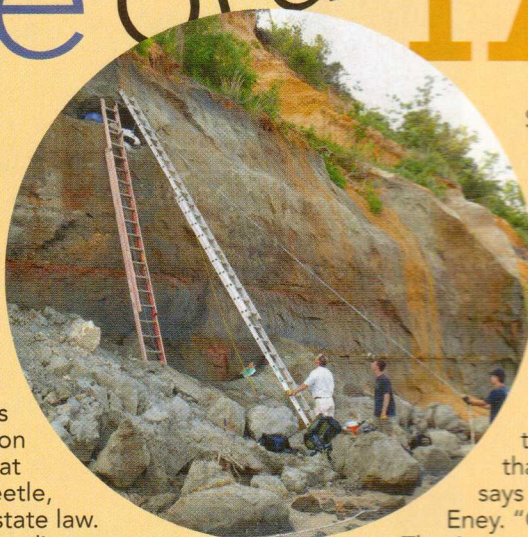
So homeowners were outraged to discover the Calvert Marine Museum had a crew digging into the face of the already unstable cliffs in hopes of unearthing 10 million-year-old whale bones.

It took the museum crew five months to excavate the skeleton, which was deposited on the bay's shore millions of years ago when the area was still buried beneath the Atlantic Ocean.

The Property Owners Association of Chesapeake Ranch Estates asked a judge for a temporary restraining order to halt the digging. The judge refused. So the homeowners sued.

The museum had obtained permission for the dig from a homeowner it believed owned the land. But the association claimed the cliff was communal property and the dig was illegal and dangerous. The homeowners not only wanted to be compensated for the whale bones, which were appraised at between \$8,000 to \$20,000, but asked for \$450,000 in punitive damages, the amount, they say, needed to repair the damage the dig had done to the cliffs.

In April, a Calvert County Circuit Court judge ordered the museum to pay the homeowners association \$10,000 for the bones. But he charged the museum just



\$1 in punitive damages—for trespassing. The association is now considering an appeal.

But the association has already borrowed money to pay its existing \$140,000 in legal fees and many of the community's 13,000 residents are irate over the expense.

"We're licking our wounds now and we're fighting with our membership about following through with the appeal because that's going to cost us more,"

says association President John Eney. "Our membership is in an uproar. They're ready to string up me and my board

of directors because in hindsight they say we spent \$140,000 to get \$10,000. Why would you do that? But, of course, the answer is we have to enforce our rules. If we allow anyone to go ahead and willy-nilly excavate and risk their own lives month after month, we become a hollow property owners association."

Indeed neighbor has turned on neighbor in the community. In online forums, residents complain bitterly about how the association is spending money.

One resident claimed there was no money for a monthly newsletter because the association has "other priorities like whale skulls and helping attorneys pay their kids' way through college."

Eney had one idea for making back some of the money the association has already spent.

"If we didn't get any other kind of compensation," he says, "we wanted to get that whale and sell it on eBay." —B.K.

**SHAKY GROUND.** Paleontologists from the Calvert Marine Museum uncovered the fossilized remains of an extinct whale in the eroding sediments of Calvert Cliffs. Meanwhile, homes atop the cliffs are in danger.