

are using the antenna to cover the satellite service provider's costs.

If antenna space were not leased in this way, all of a center's tenants would have to pay for increased maintenance costs resulting from the presence of the antennas through their share of common area maintenance expenses, which are paid by all tenants, based on their gross leasable area in addition to their monthly rent. In other words, by leasing antenna space, landlords reduce the common area maintenance expenses of all tenants, and allocate expenses arising from the antennas only to those tenants that use the antennas. This is particularly beneficial to smaller, local, and regional retailers who do not rely on satellite communications as extensively as the national tenants. Generally speaking, tenants understand the landlord's concerns and recognize that they are trying to hold down costs and improve and maintain conditions in the center for all. Landlords also make every effort to accommodate tenants who have special needs. For example, if a tenant, such as a department store, can show that it has special needs or arrangements or its level of use warrants its own antenna, the building manager will allow the tenant to install an antenna. It is in the landlord's own economic interests to accommodate tenants and help them cut their costs, because increasing the tenants' revenue ultimately increases the landlord's.

In short, the associations' members are fully capable of meeting their obligations to their tenants and residents. As

keen competitors in the marketplace, they will continue to ensure tenants and residents have the services they need. It is unnecessary for the government to interject itself in this field, and any action by the government is likely to prove counterproductive.

D. The General Services Administration's Rules Regarding Placement of Antennas on Federal Property Demonstrate the Legitimacy of the Concerns of Private Property Owners.

The Commission's proposal departs from the policy of the Executive Branch of the U.S. government. Just weeks ago, the General Services Administration ("GSA") issued "Government-Wide Procedures for Placing Commercial Antennas on Federal Properties," governing placement of antennas for mobile services.⁵ These procedures are required by Section 704 of the 1996 Act, and demonstrate that the federal government as landlord is concerned with exactly the same issues as private landlords.

For example, the GSA procedures state that requests for antenna placements should be granted, but only "absent direct unavoidable conflict with the department's or agency's mission, or the current or planned use of the property, rights-of-way and easements in question."

In addition, such antenna sitings are to be in accordance with federal, state and local laws and consistent with "public health and safety concerns, environmental and aesthetic concerns, preservation of historic buildings and monuments, protection of

⁵ 61 Fed. Reg. 14100 (Mar. 29, 1996).

natural and cultural resources, protection of national park and wilderness values, [and] protection of National Wildlife Refuge systems" Id.

Finally, agencies have discretion to reject inappropriate siting requests, and are required to charge fees based on market value. Id.

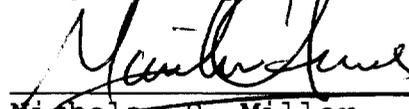
The federal government, in its role as landlord, is concerned with safety and aesthetic concerns, just as private landlords are, and retains the discretion to reject inappropriate requests, just as private landlords do. The federal government also will charge the market rate in return for the right to install an antenna. Under these circumstances it clearly would be unreasonable, arbitrary, and an abuse of discretion for the Commission to preempt nongovernmental limitations on the placement of satellite dishes on private property.

Conclusion

The Commission should recognize that it lacks jurisdiction to prohibit building owners from controlling the placement of satellite dishes on their property and that, in any event, there

are sound and persuasive reasons why the Commission should not prohibit such nongovernmental restrictions.

Respectfully submitted,



Nicholas P. Miller
William Malone
Matthew C. Ames

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.
1225 Nineteenth Street, N.W., # 400
Washington, D.C. 20036-2420
TP: (202) 785-0600
FAX: (202) 785-1234

Attorneys for National Apartment Association, Building Owners and Managers Association International, National Realty Council, Institute of Real Estate Management, International Council of Shopping Centers, National Multi Housing Council, American Seniors Housing Association and National Association of Real Estate Investment Trusts

OF COUNSEL:

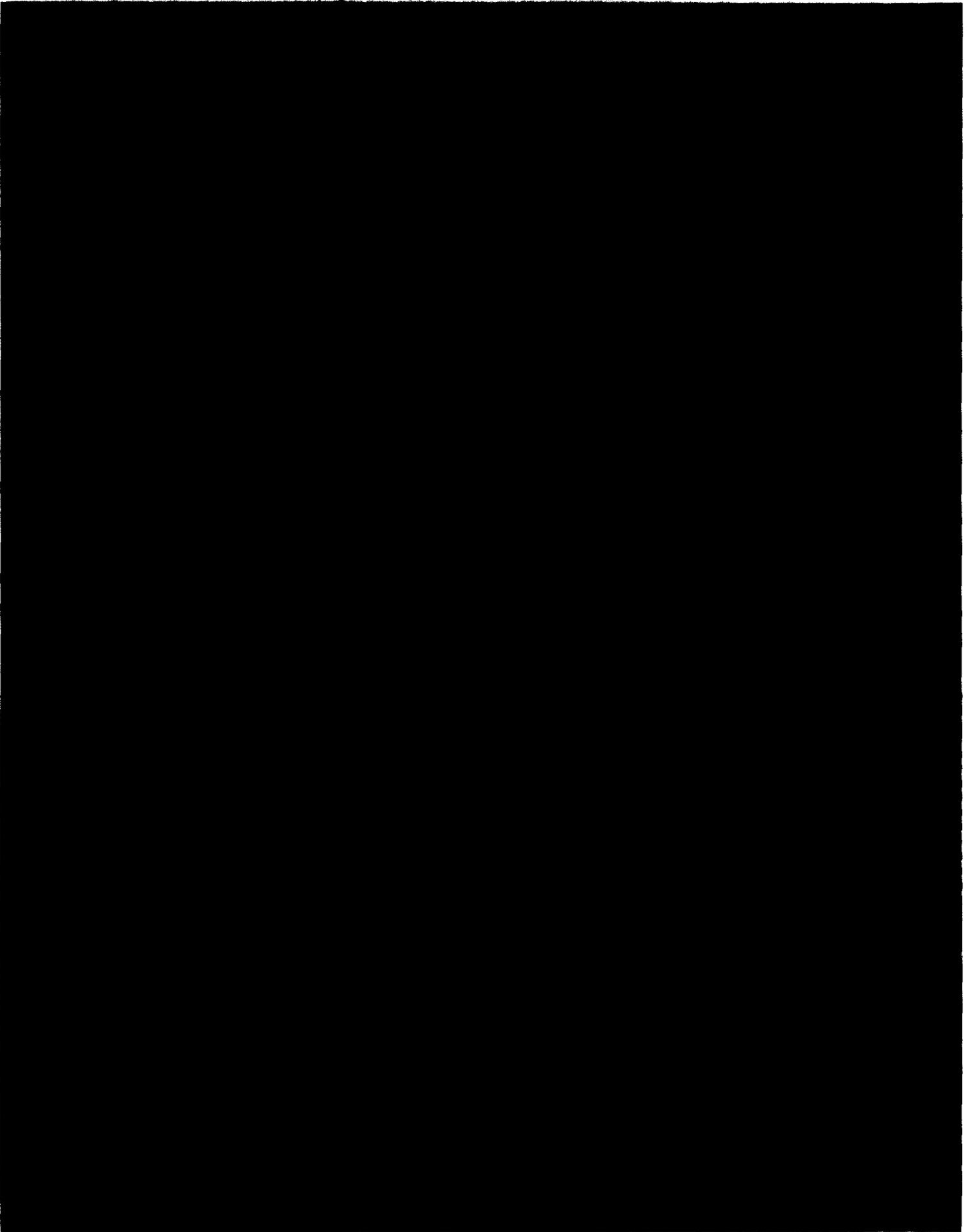
Gerard Lavery Lederer, Esq.
Vice President -- Government
and Industry Affairs
Building Owners and Managers Assn Int'l
1201 New York Ave., N.W., Suite 300
Washington, DC 20005

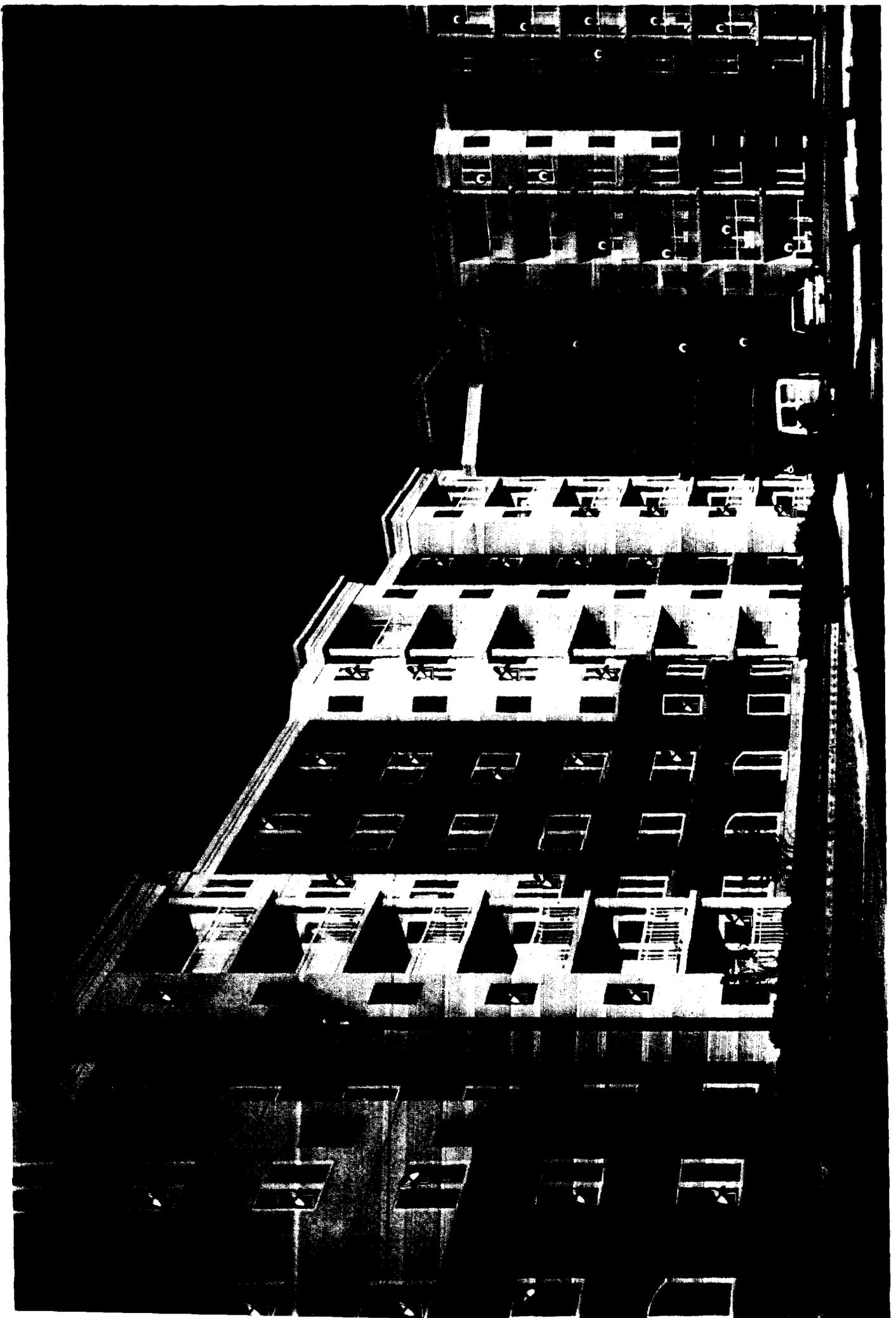
Roger Platt, Esq.
Deputy Counsel
National Realty Committee
1420 New York Ave., N.W., Suite 1100
Washington, D.C. 20005

Edward C. Maeder, Esq.
Counsel to the International
Council of Shopping Centers
400 Madison Street
Suite 2001
Alexandria, VA 22314

April 15, 1996
WAFS1\44571.1\107379-00001

EXHIBIT A





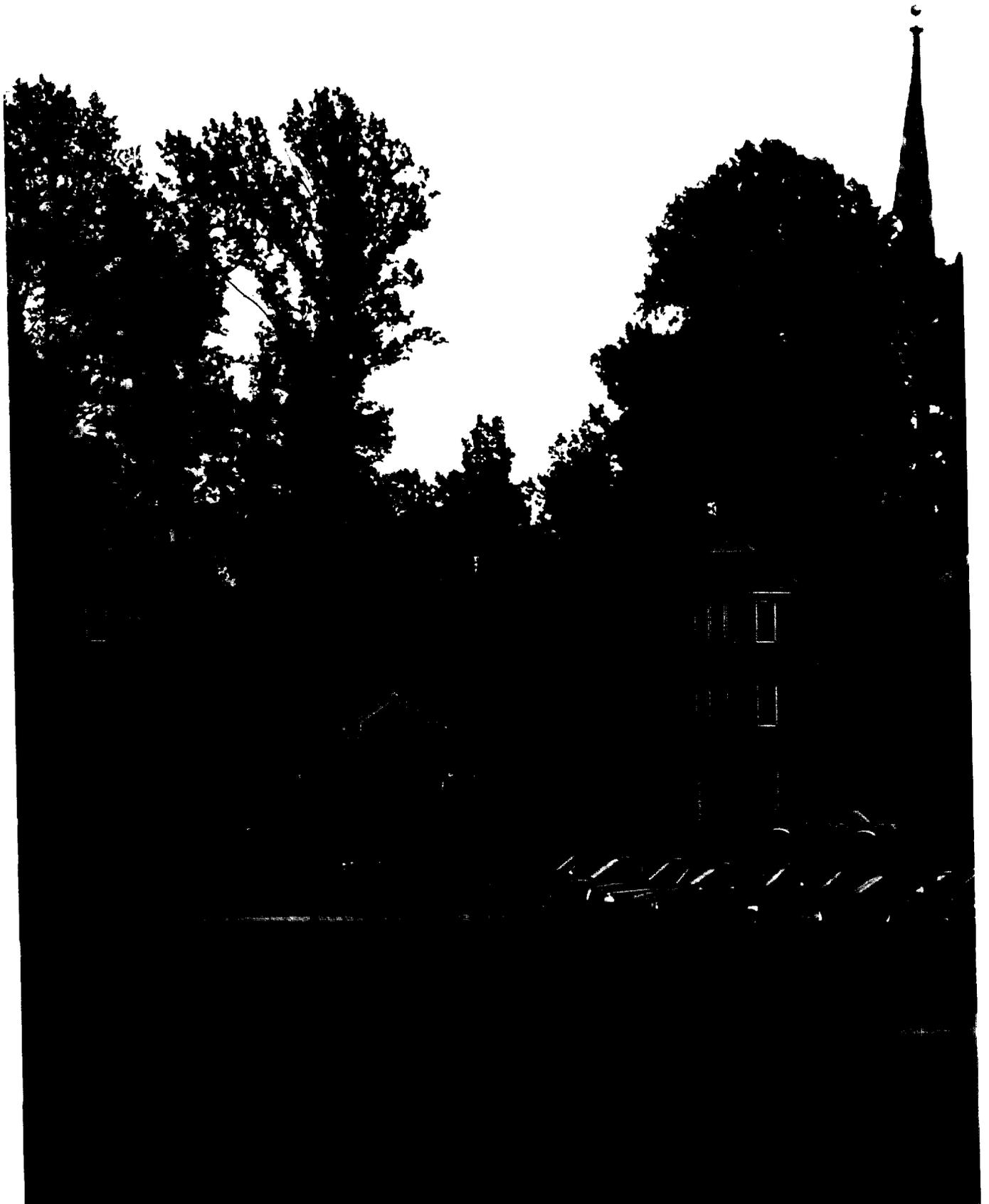


EXHIBIT B

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	IB Docket No. 95-59
)	DA 91-577
Preemption of Local Zoning Regulation of Satellite Earth Stations)	45-DSS-MISC-93
)	

**DECLARATION OF STANLEY R. SADDORIS
IN SUPPORT OF COMMENTS OF
NATIONAL APARTMENT ASSOCIATION,
BUILDING OWNERS AND MANAGERS ASSOCIATION INTERNATIONAL,
NATIONAL REALTY COMMITTEE,
AND INTERNATIONAL COUNCIL OF SHOPPING CENTERS**

I, Stanley R. Saddoris, declare as follows:

1. I submit this Declaration in support of the Comments of the National Apartment Association; the National Building Owners and Managers Association International; the National Realty Committee; and the International Council of Shopping Centers. I am fully competent to testify to the facts set forth herein, and if called as witness, would testify to them.

2. I am the Senior Vice President, Director of Operations for General Growth Management, Inc., and I have served in this capacity since July 1981. General Growth operates 105 shopping centers across the country and is the second largest owner and operator of shopping centers in the United States. I have a total of 27 years of experience in the management and operation of real estate.

3. In my capacity as head of operations for General Growth, I have become very familiar with issues related to the installation and operation of satellite systems in shopping malls. The access and use of satellite network systems is important for us, as well as our tenants for several reasons. A number of the national retail chains that lease space in our shopping centers use satellite communications extensively to transmit data to and from their national headquarters, as well as for financial services. The primary use of satellite communications is for the reporting of sales and inventory data on a daily basis. Satellite networks are also used to conduct credit card and check verification by retailers. Some national retailers use the satellite network for video conferencing to either conduct meetings or training sessions. The regional and local tenants in our malls also rely on satellite network systems for the same purposes, although to a lesser degree. General Growth also uses the satellite network technology to communicate with our mall management teams to communicate data and information. General Growth and our tenants have all benefitted from this technology because it has increased the speed of communications, and reduced communications expenses, as well as increased revenues.

4. The use of satellite network communications for the purposes described above began to grow sharply about three (3) years ago. More and more of our tenants sought permission to install antennas and run cable connections throughout the mall.

We were concerned that our roofs would become a field of satellite dishes and a number of concerns had to be considered.

5. Our primary concern regarding the installation and use of satellite network systems on our buildings centers on management, structural integrity, maintenance, safety, liability, security and costs. In some cases aesthetics has been an issue, but with the new technology in satellite dish construction, they have become smaller and weigh less. We still, however, want to reserve the right as to placement of a satellite dish on our roofs to prevent a visual distraction. Our biggest concern, however, is with controlling the integrity of the building, management, liability, structural damage, and maintenance costs, and protecting the safety and personal security of our employees, our tenants and their employees, and our customers. All of these concerns require that we control access to our property and the placement of satellite network equipment

6. The installation of a satellite dish on a shopping center roof can create serious structural, maintenance and property damage if not installed correctly. As an example, penetrating a roof to connect a cable to a satellite dish and a user's location can lead to leaks and water damage if the penetrations are not done correctly. Maintenance of the roof is one of the largest single maintenance concerns we have. Large flat roofs are prone to leak and deteriorate at a faster rate if not protected by good management techniques and preventive maintenance. The consequences of causing a leak by improper roof

penetration can be a serious issue, as the leaks may not be immediately detected, and may cause damage to the roofing material, the building structure, and other property damage. The responsibility for repairing such damage is the responsibility of the building owner. We are also concerned about the proliferation of satellite network equipment on roofs because of the increase in foot traffic to service and install such equipment. Roofs are not designed to carry a lot of equipment requiring penetrations and a lot of foot traffic. Any increase in these two (2) areas causes an increase in maintenance problems, and can cut the useful life of the roof in half. For these reasons, we require that all satellite dish and cabling installation be performed by certified personnel and in the presence of one of our staff members. We also prohibit the use of any satellite dish mounting system that requires penetration of the roof to stabilize the dish. Improperly installed satellite dishes and accompanying supports, if not done properly, can cause serious damage to a roof during a wet storm. For this reason, we have developed installation specifications that must be followed by any satellite dish installation.

7. We are also concerned about the integrity of our buildings. We are concerned primarily with contractors for tenants who drill holes in walls, ceilings, and the roof to run the cable connection from their store to the satellite dish. Local and national fire codes require that certain building assemblies, including walls and floors, provide specified levels

of fire resistance based on a variety of factors, including type of construction, occupancy classification building size, etc. Breaches of such fire codes have been shown to be a frequent contributor to smoke and fire spread. Only trained and knowledgeable people can determine whether the fire code permits a particular wall to be breached or how a hole should be filled in a wall that may be breached.

8. Preempting lease restrictions and building codes regarding antenna installation would raise a number of management issues. We maintain strict access to the roofs of our buildings. Contractors must sign in before being allowed to gain access to the roof. Also, unless we are familiar with a particular service contractor, we require them to be accompanied by one of our staff members while on the roof or in the building. In addition, our roof entrances are locked at all times. These rules apply to all contractors wanting to gain entrance to our roof. This could include heating, ventilating, and air conditioning contractors to service tenant and mall units, satellite dish — an antenna service personnel and installers, or electricians servicing or troubleshooting the electrical system for a tenant or the mall. Generally speaking, out of our concerns for the safety of our tenants and our customers and to limit our and our tenants' liability in cases of an incident, we try to limit the number of service personnel who have access to our building and to our building systems and to control and monitor their activities. As an example, as much as possible, we generally contract with only

one cleaning crew and one HVAC contractor for the common areas and the nondepartment store tenants. We encourage our tenants to use those contractors that are on our approved contractor list to help reduce the number of contractors needing access and negotiate to include such requirements in our leases with our tenants. Allowing tenants to install their own antennas at will makes it much more difficult and costly to limit and control such access.

9. Out of concern for such issues, we have developed a leasing policy to regulate and limit the number and use of satellite dishes on our roofs. If a tenant can show that it has special needs or requirements or that its level of use warrants its own satellite dish, we will allow a tenant to install such equipment. They must, however, install it based on our approval of the location and by our specific specifications. We also require that any roof penetrations be completed by the mall roofing contractor. To assist us in controlling the number of satellite dishes on our roofs, we have contracts with two (2) national service providers that offer retailers satellite network communications to facilitate the transmission of data and services. If a tenant can be serviced through either of the two (2) national service providers, we ask that they do so. This reduces additional satellite dishes on the roof and protects the integrity of our building systems.

10. This process is the same that we use in leasing space and other rights to our tenants and other service providers,

i.e., negotiations and agreements between parties in a competitive market regarding the space and services to be provided and leased and the allocation of the obligations, limitations, rights, and costs between the parties. Service providers compete for the right to provide service in our centers, and like our tenants and other service providers, are chosen based on the nature, quality and cost of the service provided and must meet our requirements regarding financial stability, insurance, etc. Our policies regarding the regulation and limitation of antennas are a subject of negotiations with our tenants and are reflected in our lease agreements with them and the rules and regulations of the center. Under our standard policy, tenants are free to chose between the competing designated providers, and, as beneficiaries of the competition between them, usually are able to obtain services from them at an equal or lower price than they could elsewhere on their own. Thus, there is competition between service providers at two levels. First, they compete to become designated providers, and then they compete to sign up and provide services to individual tenants. Our tenants benefit from the competition in terms of price and service, while avoiding the disruption and costs that would occur if the owner did not have the ability to control his property.

11. Our agreement with satellite service providers is very similar in terms to our usual retail tenant leases. Our retail leases provide for a base rent, plus a percentage of tenants'

revenues over a specified break point. We treat satellite dish space in the same way by changing a small base rent plus a percentage of revenue once enough retailers are using the antenna to cover the satellite provider's basic costs. If we did not provide satellite service in this way so as to recover the costs associated with the installation, maintenance, and use of the antennas, all of our tenants, whether or not they use satellite services, would have to pay for the additional maintenance and management costs resulting from the presence of satellite dishes through their share of the Common Area Maintenance ("CAM") expenses paid by all tenants, based on their gross leasable area in addition to their monthly rent. In other words, by leasing antenna space, we reduce the Common Area Maintenance expenses of all tenants, and allocate expenses arising from the antennas only to those tenants that use the satellite services. This is particularly beneficial to small, local, and regional retailers who do not rely on satellite communications as extensively as national tenants.

12. I am unaware of any complaints from tenants arising out of our satellite dish network policies. They understand our concerns and recognize that we are trying to hold down everyone's costs and maintain order and security in the center. We make every effort to assure that the needs of all our tenants are met and to accommodate tenants who have special needs in terms of satellite network communications. It is in our economic

interests to accommodate them in any way possible to increase their sales and their profits.

13. Because of the issues I've raised, I am very concerned over the prospect of FCC preemption of our leases. Allowing tenants to set up satellite dishes wherever they want, without any control or supervision by our personnel, would present serious safety, maintenance, security, management and cost allocation problems that would far outweigh any benefit to such tenant rights.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of our knowledge and belief, and that this declaration was executed on April 15, 1996, at

Minneapolis, Minnesota.


~~(Stan) Sadoris~~
Stanley R. Sadoris

WAFSI 44384.11107379-00002