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APR 22 1996

Cloisters in Georgetown

95.59

FCC FILE # 96-1004 - Homeowners Association, Inc. -

April 15, 1996

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Office of the Secretary
Federal Communications Commission
Washington, DC 20554

On behalf of The Cloisters in Georgetown Homeowners Association, Inc. we are writing to share our views concerning the FCC's deliberations regarding the implementation of Section 207 of the Telecommunications Act of 1996. We understand that congress has charged the FCC with implementing regulations that prohibit community associations and state and local governments from restricting any person's access to television or direct broadcast satellite signals received by satellite dishes of less than one meter in diameter or by television antenna. We fear that neither congress, nor the portion of the communications industry that has pushed for this legislation, have fully considered the impact that the FCC's regulations may have on the quality of life within community associations like ours. We appreciate this opportunity to share our views on the subject with you.

While we recognize that congress has mandated that there shall be no restrictions that impair a viewer's ability to receive video programming services, there are a number of issues left unaddressed. First of all, despite the growing interest in access to all forms of communications, many of us have substantial investments in our homes and communities that we fear will be diminished by the specter of satellite dishes and television antennas protruding from various locations throughout our complex. We intentionally purchased in a community association in which our property values could be maintained through controls on aesthetic issues. We bought here, knowing that television antennas and satellite dishes were prohibited because we wanted to live in a community that was free of such instruments.

We recognize that congress has mandated that the FCC's regulations shall prohibit restrictions that impair a viewer's ability to receive video programming services through satellite dishes (less than a meter in diameter) or through television antennas, however, we urge the FCC to read its mandate narrowly to avoid unnecessarily damaging those persons who have no interest in installing or seeing such equipment. We urge the FCC to uphold congress' intent without stripping our association of its property and contract rights to regulate the manner, placement and cost issues associated with the installation, maintenance and removal of the antennas and satellite dishes so long as such regulations do not impair a viewer's ability to receive video programming services.

In addition to losing control of our contract and property rights within our association, we should not be saddled with the costs associated with any individual's desire to install a satellite dish or antenna.

The placement of television signal reception devices on the exterior portion of any building would require individual unit owners to usurp property that they do not own alone for their own purposes. Clearly, your regulations should not be drafted to grant a person who desires a satellite dish greater property rights than any other person in the condominium. In addition, the installation of satellite dishes or exterior antennas necessarily entails drilling holes into the building and running wires through portions of the building that the unit owner does not own. The cost of such installation, any related repairs and maintenance should not be borne by the association which is generally responsible for maintaining the common elements.

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We trust that the FCC will be careful to craft its regulations such that they are not read to grant persons property rights greater than they have over their personal residences. It appears that congress was thinking of prohibitions against satellites on free standing detached homes when it passed section 207. It apparently did not consider the substantially different property rights association homeowners. We hope that the FCC will be mindful of this important distinction. This is not a mere matter of aesthetics. Persons who live in homeowner associations are not free to usurp the common elements for their own purposes as a matter of property rights any more than they are allowed to place their bedroom furniture in the lobby area. Unfortunately, if the FCC's regulations are too broad, then it will cause owners in our association who seek to install satellite dishes to believe that the FCC intends to provide them with a right to expand their property rights beyond their individual homes. This would be inappropriate, but this is likely if the FCC does not draft its regulation carefully.

We thank you for providing us with an opportunity to raise our concerns with you. We look forward to moving into a world where care is taken to protect the rights of persons to receive the full scope of broadcast, cable and satellite services without excessively trampling on the property rights and expectations of those of us who have chosen to live in community associations.

Sincerely,



Kenneth Millian
President,
Cloisters in Georgetown
Homeowners Association, Inc.

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ARTHUR K. GOTO
FCC MAIL ROOM
JOHN A. MORRIS

IWAI GOTO & MORRIS

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April 15, 1996

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Office of the Secretary
Federal Communications Commission
Washington, DC 20554

Dear Commissioners:

I am writing about your proposed rules for installing small satellite dishes at condominiums, cooperatives, and other homeowner association. I am an attorney who represents homeowners associations and I have a lot of experience with disputes between homeowners. Therefore, in drafting your rules, I hope you can recognize the problems of multifamily housing and the disputes which will arise to clog the courts if your rules do not address the following:

(1) Placement of Dishes: Dishes on the exterior of certain highrise buildings will certainly be unsightly and will probably be hazardous. It seems reasonable to give elected boards or a percentage of the owners some say over where dishes can be installed, as long as they do not absolutely prohibit dishes.

(2) Conflicting Rights: In some highrise buildings, there may be insufficient areas for all owners to install dishes, or installation in certain areas may prevent the use of those areas for their intended purpose. That means that (i) some owners may be able to install dishes and some may not; and (ii) owners installing dishes may impair the contractual rights of other owners to use parts of a project. For example, it may be feasible for certain projects to install a few dishes with multiple feeds. Again, it seems reasonable to provide a means for elected boards or a percentage of owners to approve alternatives.

(3) Liability: The rules should recognize the potential for dishes to damage property or injure persons, and allocate liability to the dish owner or installer. For example, a small leak in a roof caused by installation of a dish could cause thousands of dollars of damages to the apartments below. A flying dish blown off in high winds (of which Hawaii has many) will be dangerous to individuals and property.

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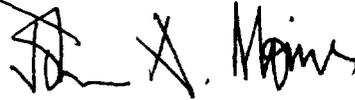
ATTORNEYS AT LAW
A LAW CORPORATION

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Office of the Secretary
April 15, 1996
Page 2

Although your rules must reconcile many competing concerns, I hope you can reconcile the obvious problems which will arise in multi-family housing projects and draft your rules accordingly. In the long run, recognition of those problems in the rules will make life easier for everyone.

Very truly yours,

A handwritten signature in black ink, appearing to read "John A. Morris". The signature is written in a cursive style with a large initial "J" and "M".

JOHN A. MORRIS

EILEEN A. LONERGAN

9385C Boca Gardens Circle South
Boca Raton, FL 33496

April 15, 1996

Federal Communications Commission
Office of the Secretary
1919 M St. N.W. Washington, D.C. 20554

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Reference: IB Docket 95-59

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Dear Sirs:

I am writing you to comment on the above referenced rule pertaining to the ban on restrictions for satellite dishes 18 inches in diameter or smaller.

I am in support of your actions to remove this limitation and look forward to the time when my right to chose intelligent thoughtful programming will begin.

I am a homeowner in Boca Raton Florida and am governed by a set of rules by my homeowner's association. Basic cable is included in my monthly maintainance fee, and as such, my ownership of a satellite dish is prohibited. The quality of my cable system is poor at best and I personally feel that the cable system feed to my development is a result of financial manuevering by the developer and the cable company. Why would my friend who lives just across the canal from me have a higher grade of channels when the entire West Boca Raton Cable Co. owned the entire service area? Don't tell me it "the cable lines already inplace which cannot be upgraded"! I was led to believe, through numerous calls to the cable office, that my basic cable would supply certain channels which never did show up and never will. I made these calls prior to purchasing this home because I am selective in channels and would have looked elsewhere for a similar residence with more reliable and diverse offerings. I realized too late that the system was inferior and that I should never listen to sales representatives, but I didn't realize that it extended to my cable supplier as well.

The 18 inch dishes are very unobtrusive and will enable a vast number of citizens access to quality programming. I also understand that there is much "junk" on these systems as well, but why should I be limited to "Sega" and the Playboy channel and Wrestlemania when I would appreciate quality channels such as The Learning Channel, Discovery, History and the like(all of which I do not have access to). I also know that there are very good systems out there, but I feel that the "bottom-dwellers" of the cable industry are taking over and deserve closer scrutiny in the future by you. I am a college educated citizen who happens to work 12 hour days in a hospital and am asking only that I be given the right to chose what networks I can select from.

Thanking you in advance for your consideration and efforts on this matter,

Sincerely,

Eileen A. Lonergan



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FCC Tulsa Properties Management, Inc.
New America Network

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Office (918) 665-6007
Fax (918) 663-6402

April 11, 1996

DOCKET FILE COPY ORIGINAL

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

**RE: PREEMPTION OF NONGOVERNMENTAL RESTRICTIONS ON SATELLITE
EARTH STATIONS, IB DOCKET NO. 95-59**

Dear Mr. Caton:

I am writing in response to the FCC's Report and Order and Further Notice of Proposed Rulemaking released on March 11, 1996, regarding preemption of certain local regulation of satellite earth station antennas, and proposing to prohibit enforcement of nongovernmental restrictions on such antennas that are less than one meter in diameter (the "FNPRM"). I've enclosed six (6) copies of this letter, in addition to this original.

Tulsa Properties Management, Inc. is in the commercial real estate business. We manage over one million square feet of retail, office and industrial property in Tulsa, Oklahoma and the surrounding area.

Tulsa Properties Management, Inc. is a small business as defined by the Small Business Administration.

PROPERTY RIGHTS

We are concerned that the proposed rule prohibiting enforcement of nongovernmental restrictions will adversely affect the conduct of our business without justification and needlessly raise additional legal issues. We question whether the Commission has the authority to require us to allow the physical invasion of our property in this way. It is imperative that we retain the authority to control the use of our property to effectively manage the property and carefully monitor building security.

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Tulsa Association of Building
Owners & Managers



International Council of
Shopping Centers

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Mr. William F. Caton
Page Two
April 11, 1996

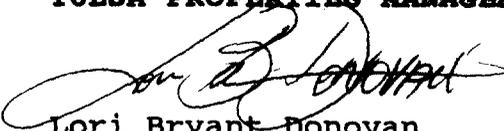
MARKETABILITY

The FNPRM incorrectly state that "nongovernmental restrictions would appear to be directed to aesthetic consideration." It is certainly true that aesthetic considerations play a part, but it is by no means the only concern. Nor are aesthetic considerations trivial--the appearance of a building directly affects its marketability. A primary function of a property manager is to protect and enhance the property's value and marketability.

We urge the FCC to consider carefully any action it may take. Thank you for your attention to our concerns.

Sincerely,

TULSA PROPERTIES MANAGEMENT, INC.


Lori Bryant Donovan
President

bcc: Gerard Lavery Lederer, Esq. ✓
Vice President, Government and Industry Affairs



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2117 Smith Avenue
Chesapeake, VA 23320-2515
(804) 420-2434 • FAX (804) 424-5954

April 15, 1996

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

RE: IB Docket No. 95-59; Preemption of Local Zoning Regulation of Satellite Earth Stations

Dear Mr. Caton:

On behalf of the Tidewater Multifamily Housing Council (TMHC) of the Tidewater Builders Association (TBA), I am writing to oppose the FCC's proposal to prohibit enforcement of nongovernmental restrictions on satellite antennas that are less than one meter in diameter. TMHC and TBA are members of the National Association of Home Builders, and we represent the shelter industry in South Hampton Roads - Virginia. Our members are engaged in the construction and development of single family housing, the production and management of multifamily housing and the construction and management of light commercial buildings. Specifically, we are opposed to the Commission's proposal which will adversely affect the operation and management of multifamily and commercial structures.

The FCC proposal is unnecessary, since our property owners are already providing telecommunication service options to their tenants and residents. The proposed rule will interfere with effective property management. Building owners are required to maintain structures in a safe and aesthetic manner. However, a property owner cannot maintain the interior or exterior premises in a safe condition if individual residents are allowed to install at their will telecommunications equipment on the property. For example, telecommunications equipment providers installing equipment on the roofs would subject the roof to more wear and tear. Roofing contractors would not provide warranties for such providers' activities on the roofs. To attach the satellite cable to the resident's television, a hole would have to be drilled through the roof or through exterior walls. Such holes are sealed by soft, synthetic material, which tends to degrade and shrink more quickly than concrete. This degradation could compromise the structural integrity of the building by weakening roofs and exterior walls. Water damage would occur as a result of the drilling of such holes.

In addition to these potential problems, there is also a question of potential harm to residents and building occupants resulting from installation of satellite equipment. The weight or wind resistance of a satellite and the quality of installation may create maintenance problems and could present a safety hazard to residents, building employees and pedestrians below. The building owner could be liable for damages to such persons even though the owner had nothing to do with the installation. The owner may bear the ultimate responsibility when it is unclear which telecommunications provider caused the damage.

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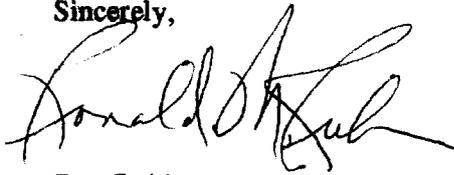


Mr. Caton
Page 3

The proposal also raises the issue of aesthetic considerations. Although the Commission appears to minimize the importance of aesthetic issues, it is clear that the installation of numerous satellites on a building will reduce the building's attractiveness. Building owners recognize that attractiveness affects marketability. Most people prefer to live in an attractive building, and the sight of hundreds of satellite antennas bolted to the outside of the building would be unappealing to present and future residents.

TBA and TMHC are committed to providing shelter with the highest quality and most cost effective services. At the same time, we seek to protect the safety and security of the resident's property. This proposal interferes with the owner's private property rights and compromises the safety of building residents. We urge the Commission not to adopt this proposed rule.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald A. Rubin". The signature is fluid and cursive, with a large initial "R" and "A".

Ron Rubin
Chairman
Tidewater Multifamily Housing Council