

95-59

**THE QUEEN VICTORIA RESIDENCES
1080 S. BERETANIA STREET
HONOLULU, HAWAII 96814**

**RECEIVED
APR 15 1996**

FCC MAIL ROOM

April 8, 1996

Office of the Secretary
Federal Communications Commission
Washington, DC 20054

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RE: TELECOMMUNICATIONS ACT OF 1996

Dear Sir:

I wish to take this opportunity to express my concern for a proposed Federal Communications Commission regulation which reads as follows:

"No restrictive covenant, emcumberance, homeowners' association rule or other nongovernmental restriction shall be enforceable to the extent that it impairs a viewer's ability to receive video programming services over a satellite antenna less than one meter in diameter".

The following questions must be fully considered prior to approving this proposed regulation:

1. If satellite antennas can be placed on common property of a community association by one of its members, there are substantial ownership questions. The common property is not owned exclusively (if at all) by the member.
2. Who decides what and how much common property may be used by a member for a satellite antenna?
3. How many satellite antennas can be placed on the common property? If there is insufficient space, who decides which owners can attach the antenna on the common elements?
4. What happens if someone wants to place an antenna on the recreation deck? Does that person's right to the antenna superceed the other owners right to use the recreation deck?
5. Even if an antenna is not placed on common property, one antenna can conflict with another. If one antenna blocks the reception for another unit, whose rights control the placement of the satellite antennas.
6. Can the Association mandate that the person installing the antenna maintain insurance and be responsible for costs caused by the antenna (i.e. increased maintenance costs for the roof)?

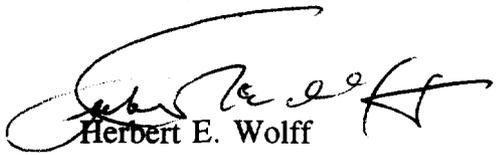
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OFFICE OF THE SECRETARY
FEDERAL COMMUNICATIONS COMMISSION
Page 2

Aesthetic controls are one of the most important characteristics of a condominium. An uncontrolled proliferation of antennas could seriously threaten property values by destroying the appearance of the project. Therefore, as a minimum, the rule should expressly recognize the right of homeowner's associations to impose reasonable restrictions on the location and appearance of antennas so long as those rules do not amount to a prohibition or materially affect the ability of the antennas to receive signals.

Sincerely,



Herbert E. Wolff
President
Queen Victoria Residences Inc.

95-59

Alii Ohana Property Management, Inc.

April 5, 1996

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1580 Makaloa St., Suite 1130

Honolulu, Hawaii 96814

Tel 808 947-3331

Fax 808 949-1399

Office of the Secretary
Federal Communications Commission
Washington, DC 20554

Gentlepersons:

This letter is regarding the proposed rules being promulgated in accordance with the Telecommunications Act of 1996. Our company provides third-party management for multi-family housing projects, i.e. condominium associations, cooperative housing corporations and homeowners associations, representing approximately 2,500 households. The proposed rules will create many problems for our clients.

Adoption of the rules as proposed is in direct conflict with most association governing documents, specifically uncontrolled use of common elements. Under the proposed rules, the Board will have no control limiting access or the number of antennas. Not restricting individuals from erecting whatever they desire, wherever they desire, will result in damage to common elements such as roofing membranes, and innumerable disputes between residents. The Board's valuable time will be consumed with developing policies and procedures and mediating conflicts, instead of being spent on the important business of running a multi-million dollar operation.

Of no less impact are aesthetic considerations. A miasma of antennas will have a negative impact on property values. For most owners, the purchase of a unit is the single largest investment they will ever make. Diminishing the value of that investment through lack of architectural controls is patently unfair.

These types of multi-family housing projects were designed to be self governing. Excessive legislation has already placed a huge burden on these volunteer organizations. I urge you to reconsider adopting the rule which will override their governing documents.

Sincerely,



Diane Reece
Property Manager

cc: CAI (via fax 703-684-1581)

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Mililani Town Association
95-303 Kaloapau Street
Mililani Town, Hawaii 96789
Telephone (808) 623-7300

April 10, 1996

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Office of the Secretary
Federal Communication Commission
Washington, D.C. 20554

Re: Proposed Federal Communications Commission Rule
Overriding Antenna Restrictions

Gentlemen:

The Mililani Town Association has been informed of your proposed regulations to prohibit restrictions that impair a viewer's ability to receive video programming services. Our understanding that the proposed regulation would strip condominiums, coops and community associations of its powers to regulate placement and appearance of antennas less than 39 inches in diameter.

Mililani Town Association is the largest community association in the State of Hawaii with over 12,000 units of single-family homes and townhouses. The association is over 27 years old. Within M.T.A.'s governing documents there is a restrictive covenants which reads:

"... No antenna of any sort shall be installed or maintained which is visible from neighboring property except that antenna placed on the ground and not exceeding ten (10) feet in height above normal grade are allowed if not visible from the adjacent street."

This provision was specifically included in the Mililani Town Declaration of Covenants, Conditions and Restrictions (DCC&R) by the developer to prevent a proliferation of antennas throughout the community. The homeowners are aware of this restriction and like all the other restrictions within the DCC&R, consider the restrictions desirable and necessary to protect the aesthetic of their community and thus the value of their property. In 1986, Mililani Town won the prestigious recognition as being Hawaii's first and only "All America City" by the Citizen's Forum on Self Government of the National Municipal League in Washington, D.C. This success is attributable to the ability of the association to enforce its restrictive covenants and preserve the aesthetic appearance of the community.

Within the Mililani Town DCC&R are provisions which allows the members to amend or delete its governing documents. The membership has not indicated any strong desire to change any of its DCC&R restrictions.

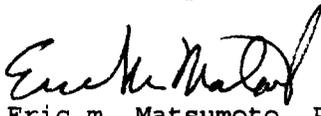
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Federal Communication Commission
April 10, 1996
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Mililani Town is currently serviced by both cable-conduit and wireless cable companies. Antennas are permitted in Mililani Town provided they meet the conditions cited above. Exceptions have also been made by Board resolution for specific antennas which are covered or camouflaged such that they do not have the appearance as being an antenna and which blend in with the existing structure.

The Mililani Town Association opposes the proposed FCC rules which would eliminate the authority of community associations to regulate the placement and appearance of antennas on residential properties within that association's jurisdiction. Such a federal mandate usurps the powers of the associations to be self-governing. The members of an association already have the ability to change their governing documents if that is what they choose to do. The M.T.A. membership does not seek relief from the FCC to override its existing restrictions on antennas. Also, considering that technological advancements in efficient, miniaturized antennas which may eventually eliminate the need for visible antennas altogether, the need for a homeowner to erect an antenna outside of his home or condo may soon be moot. Therefore the proposed Federal Communication Commission's proposed rule changes to override community association restrictions does not serve the best interest of homeowners. The Mililani Town Association beseeches you to reconsider this matter.

Respectfully,



Eric m. Matsumoto, President
Mililani Town Association



April 11, 1996

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APR 15 '96

THE JEFFERSON BUILDING
108 W. CHESAPEAKE AVENUE
SUITE 307
TOWSON, MD 21204
410-821-0800
FAX 410-821-5296

FEDERAL COMMUNICATIONS
COMMISSION
OFFICE OF THE
SECRETARY

DOCKET FILE COPY ORIGINAL

Mr. William F. Canton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

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

Dear Mr. Canton:

We write 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"). We enclose six (6) copies of this letter, in addition to this original.

Partners Management Company is in the residential real estate business. We own and manage over 5000 apartments in the Baltimore area.

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. We must retain the authority to control the use of our property, for several reasons.

First, the FNPRM incorrectly states that "nongovernmental restrictions would appear to be directed to aesthetic considerations." Aesthetic considerations are not trivial – the appearance of a building directly affects its marketability. Most people prefer to live in attractive communities, and the sight of hundreds of satellite antennas bolted to the outside walls and railings of apartment units would be extremely unappealing to present and future residents. Aesthetic considerations have definite economic ramifications.

Second, the weight or wind resistance of a satellite and the quality of installation may create maintenance problems and – more importantly – a hazard to the safety of residents, building employees, and passers-by. Damage to the property caused by water seepage into the building interior, corrosion of metal mounts, or weakening of concrete could lead to safety hazards and very costly maintenance and repair.

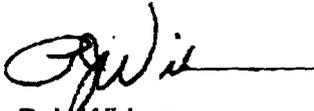
Third, the technical limitations of satellite technology create problems because all of our residents may not be able to receive certain services. It is our understanding that satellites are only positioned in certain areas, thus limiting access.

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Mr. William F. Canton
April 11, 1996
Page 2

In conclusion, we urge the FCC to avoid interfering in our relationships with our residents. All of the potential problems we cite will adversely affect the safety and security of our property as well as our bottom line and our property rights. Thank you for your attention to our concerns.

Sincerely,



P.J. Widerman
Vice President

238.PJW/jp



VILLAGES OF
**KILN
CREEK**
OWNERS
ASSOCIATION

2801 Kiln Creek Parkway
Yorktown, VA 23693
(804) 877-9835
FAX (804) 877-9862

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April 11, 1996

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Office of the Secretary
Federal Communications Commission
1990 M Street, N.W.
Washington, D.C. 20554

Re: IB Docket 95-59; Telecommunications Act of
1996 and FCC Proposed Addition to Paragraph
(f) to Section 25.104, FCC Rules

Dear Sir:

The Villages of Kiln Creek is a planned residential development located on 1,200 acres and comprised of 31 neighborhoods with a population of approximately 9,000. Upon the purchase of a parcel, lot, condominium, duplex, quadplex, townhome or single-family residence, an owner automatically becomes a member of the Villages of Kiln Creek Owners Association, Inc. ("Association"). As a member of the Association, the owners, their families and guests are contractually bound to abide by the governing documents, including the Declaration of Covenants and Restrictions, Articles of Incorporation, Bylaws, Architectural Guidelines and Rules and Regulations.

Our covenants do regulate aesthetics, the control of which is very important in a planned residential community. The control over exterior appearances is vital to property values and becomes even more so in our neighborhoods comprised of dwellings with uniform exteriors, such as townhomes and condominiums. The haphazard placement of satellite dishes will detract from such uniformity thereby having a detrimental effect on property values.

On behalf of all residents in the community who have voluntarily chosen to reside in such a locale adhering to covenants and restrictions, we are requesting that the verbiage, meaning and interpretation of the proposed additions be such that it will enable homeowner associations to regulate the placement of the dish antennas on individual homes to maintain the aesthetics of the

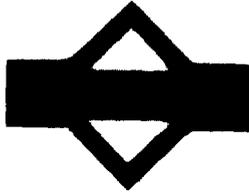
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Office of the Secretary
April 11, 1996
Page 2

neighborhoods, provided such regulation does not amount to a prohibition in application of such regulation.

Sincerely,


Spencer Semmes, President
Villages of Kiln Creek
Owners Association



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APR 5 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

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

Dear Mr. Caton:

We write 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"). We enclose six (6) copies of this letter, in addition to this original.

Hathaway is in the residential real estate business. We are a 385 unit apartment community. 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. We must remain the authority to control the use of our property, for several reasons.

First, the FNPRM incorrectly states that "nongovernmental restrictions would appear to be directed to aesthetic considerations." Aesthetic considerations are not trivial - the appearance of a building directly affects its marketability. Most people prefer to live in attractive communities, and the site of hundreds of satellite antennas bolted to the outside walls and railings of apartment units would be extremely unappealing to present and future residents. Aesthetic considerations have definite economic ramifications.

Second, the weight or wind resistance of a satellite and the quality of installation may create maintenance problems and - more importantly - a hazard to the safety of residents, building employees, and passers-by. Damage to the property caused by water seepage into the building interior, corrosion of metal mounts, weakening of concrete could lead to safety hazards and very costly maintenance and repair.

Third, the technical limitations of satellite technology create problems because all our residents may not be able to receive certain services. It is our understanding that satellites are only positioned in certain areas thus limiting access.

In conclusion, we urge the FCC to avoid interfering in our relationships with our residents. All of the potential problems we cite will adversely affect the safety and security of our property as well as our bottom line and our property rights.

Thank you for your attention to our concerns.

Sincerely,


Sam Same
Property Manager

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Mark Taylor

Mr. William F Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

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FCC MAIL ROOM

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

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Mark-Taylor, Inc. is in the residential real estate business. We have developed and managed 6000 units in the Southwestern United States.

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. We must retain the authority to control the use of our property, for several reasons.

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In conclusion, we urge the FCC to avoid interfering in our relationships with our residents. All of the potential problems we cite will adversely affect the safety and security of our property as well as our bottom line and our property rights. Thank you for your attention to our concerns.

Sincerely,


Scott L. Taylor
Vice President

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ASSOCIATION
OF REALTORS®**

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FCC MAIL ROOM

April 12, 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

Dear Secretary Caton:

In reference to IB Docket No. 95-59 Preemption to Local Zoning Regulation of Satellite Earth Stations (Satellite Dishes).

Please be aware that IB Docket No. 95-59, as proposed, is a direct violation of property rights and rental agreements.

Having the government allow indiscriminate placement of Satellite Dishes by any individual will have a major impact on the management of residential or commercial investment properties.

Also, please consider why an action such as IB Docket No. 95-59 would have numerous adverse affects:

- * This rule will adversely affect the conduct of our business without justification and needlessly raise additional legal issues.
- * This rule would infringe on private property rights. The government should not interfere with the right of an owner to protect his/her property from actions, such as unlimited installation of satellite dishes, that could result in a decrease in the value of the property and cause safety and /or security problems.
- * The aesthetic issue is not the only issue of concern, but neither is it a trivial issue. Aesthetics are important to the value of a property and are already regulated in many areas. Aesthetic considerations have definite economic ramifications.
- * This rule raises safety issues for our industry. Improper installation, weight or wind resistance of a satellite could create safety concerns to passers-by should the dish fall.
- * Installation of satellite dishes may also create structural problems. Damage to the property due to dish installation may cause water leakage into the building, corrosion of

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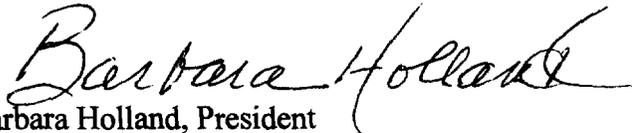
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metal mounts or weakening of concrete. Any of these could lead to additional safety hazards and very costly maintenance and repair.

* Technical limitations of satellite technology may create problems because all residents/commercial tenants may not be able to receive the services due to limitations caused by satellite positioning.

On behalf of the 4,500 members of our Association, we urge you not to adopt IB Docket No. 95-59.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Holland". The signature is written in black ink and is positioned above the typed name.

Barbara Holland, President
Greater Las Vegas Association of REALTORS®