IB 95-59

Burberry Court Condominium

- Unit Owners Association -

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Office of the Secretary
c/o Rosalee Chiara
Federal Communications Commission
Washington, DC 20554

On behalf of The Burberry Court Condominium Unit Owners Association, 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.

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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. More importantly, in a condominium such as ours no unit owner owns any property outside of their individual unit. Individual unit owners do not own the exterior walls or the roofs of the building alone. Each owner owns a percentage interest in all of the property, but no one owner owns any portion of the condominium except for the interior of their condominium unit.

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 of the building. The common elements are any portion of the building that are not within the boundaries of the condominium unit.

We trust that the FCC will be careful to craft its regulations such that they are not read to grant person property rights greater than they have over their condominiums. 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 of condominium unit owners. We hope that the FCC will be mindful of this important distinction. This is not a mere matter of aesthetics. Persons who live in condominiums 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 living room furniture in the lobby area. Unfortunately, if the FCC's regulations are too broad, then it will cause condominium owners 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 condominium units. 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.

On Behalf of the
BOARD OF DIRECTORS
BURBERRY COURT CONDOMINIUM

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