



# CITY OF KILLEEN

OFFICE OF THE CITY ATTORNEY

DOCKET FILE COPY ORIGINAL

May 6, 1996

101 North College P.O. Box 1329 Killeen, TX 76540-1329  
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MAY 6 - 1996

Secretary  
Federal Communications Commission  
1919 M. Street, N.W.  
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY  
VIA FAX: 202-418-0252

95.59

**RE: NPRM # 96-83, Implementing Section 207 of Telecommunications Act of 1996**

Dear Sir or Madame:

The City of Killeen, an incorporated municipality of approximately 75,000 persons, has taken great strides to provide a good quality of life through local land use planning and development. However, this progress is threatened by the removal of local control under your proposed rule.

We strongly oppose the federal presumption provision which deems as unreasonable any local zoning or building regulation that affects the installation, maintenance, or use of television broadcast antennas (TVBS) and multichannel multipoint distribution services (MMDS). This is a blatant federalization of what has historically been an area of local autonomy in this nation. Moreover, the opportunity for a city to avoid preemption by rebutting the presumption of unreasonableness is narrowly limited to health and safety considerations only. This limitation completely ignores federal court rulings that aesthetics is also an important and legitimate consideration in deciding neighborhood land use and building regulations.

This rule is contrary to both the wording of the Act and the congressional intent to largely preserve to local governments the power to regulate neighborhood land use. The telecommunications industry already has adequate protection, from capricious or arbitrary local decisions, by existing Constitutional provisions and legal precedents which limit the exercise of local zoning and building powers.

In his State of the Union address, President William Clinton stated, "the era of big government is over," but that was before this rule was proposed. We urge rejection of this rule with its unnecessary and overly broad attack on local government.

Sincerely,  
  
D.A. Blackburn  
Assistant City Manager & City Attorney

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cc: Hon. Phil Gramm  
Hon. Kay Bailey Hutchison  
Hon. Chet Edwards  
City of Killeen Mayor and Members of the City Council  
Members of the Killeen Planning & Zoning Commission  
Killeen City Manager

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April 30, 1996

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

Re: Proposed Federal Communications Commission rule overriding Over-The-Air Broadcast antenna restrictions

Dear Sirs:

The Board of Directors of Makaha Valley Towers would like to inform the Commission of the deep concern that the 586 apartment owners in our complex have for the negative impact, both fiscal and aesthetic, that the above proposed legislation will have on their homes. The property involved represents, for many, the only investment of a lifetime.

The Federal Communication Commission takes the position that the aesthetic impact that the antenna installations will have is the only concern of condominiums. When addressing real property aesthetics do not stand for beauty alone. Aesthetics are tied irrevocable to the VALUE of the property. When a property owner asks a realtor what actions should be taken to prepare a property for sale, the response is cut the grass, prune the planting and paint inside and out. These are all aesthetic concerns, however they are irrevocably tied to the MARKET VALUE of the property. The concern of condominium owners is that the inability to regulate television antenna installations will not only impact negatively on the aesthetics of their environment but more important that impact will seriously DEPRECIATE THE VALUE of their property.

Other problems that will be generated for condominiums by this legislation involve the impact upon the condominium common elements. Those elements that owners share jointly. those problems are questions of ownership, how much of the common elements can be used, how many antennas can be installed if there is insufficient space for all and who will be given the privilege, conflict with other common element uses, reception conflict between antennas and most import the increased maintenance costs for roofs and other structure elements upon which the antennas will be mounted.

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We therefore respectfully ask the following;

**THAT THE RULE EXPRESSLY RECOGNIZE THE RIGHT OF HOMEOWNERS'  
ASSOCIATIONS TO IMPOSE REASONABLE RESTRICTIONS ON THE LOCATION AND  
APPEARANCE OF ANTENNAS.**

Sincerely,



Henry Jagan

President, Board of Directors

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April 29, 1996

Federal Communications Commission  
1919 M St. N.W.  
Washington DC 20554

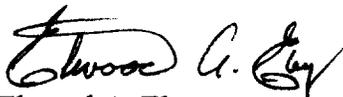
Dear Sir:

April 17, 1996, the FCC issued an order effecting the size of satellite dishes that could be installed in residential and commercial areas and that city and county governments could no longer restrict the placement of these dishes. Further, in a move that puts the right to receive broadcast signals above neighborhood aesthetics, you are proposing to extend the order to private communities with restrictive covenants.

I am in agreement with this proposal and the sooner, the better. Enclosed is a copy of the restrictive covenants of the Kloshe Illahee Mobile Home Community of which I am a homeowner on a rented space. Of 255 homes in this park, only a handful could receive a satellite signal by complying these retrictions.

Looking forward to your extended order.

Sincerely,



Elwood A. Eby

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✓ (3) Children in diapers or who are not "potty trained" may not use the swimming pool.

✓ (4) Pool hours are posted and may be changed from time to time. Pool rules and regulations are posted in the pool area.

✓ (5) All persons using the pool must shower before entering the pool. Anyone using suntan oils, lotions or creams must re-shower before entering the pool.

✓ (6) No one in bathing suits, bare feet or without a shirt will be allowed in the balance of the clubhouse.

✓ (7) For protection of the deck furniture, please place towels over them when using suntan oils, lotions or creams.

✓ (8) NO DIVING is permitted at any time.

✓ (9) Running, roughhousing, horseplay, or similar behavior is not permitted.

✓ (10) Food is not allowed anywhere in the pool area.

✓ (11) Only unbreakable containers are permitted in the pool area.

✓ (12) Owner reserves the right to restrict use of the pool by Residents and/or Guests who violate any of these policies. Owner further reserves the right to restrict the number of floatation devices in the pool at one time.

## 5. USE OF HOMESITE:

✓ A. Actions of any nature which unreasonably disturb the peace and quiet of any other person are not permitted. This includes, but is not limited to, any unusual, disturbing or excessive noise, intoxication or being under the influence of any controlled substance, quarreling, threatening, fighting, illegal conduct, profanity or rude, boisterous, objectionable or abusive language or conduct.

✓ B. Guests of any age shall be permitted to stay with Homeowner up to twenty (20) consecutive days or thirty (30) days in any calendar year. No guests under the age of 18 may remain longer than a total of thirty (30) days in any calendar year.

✓ C. Intentional or negligent conduct which could be a danger to any person or property is not permitted.

✓ D. Except for fireplaces installed in a Homeowner's mobilehome or charcoal and gas barbecues, no fires are permitted.

✓ E. Homeowners shall not trespass on any Homeowner's Homesite or on any area which is not open for general use by Homeowner or their Guests.

✓ F. "Ham" or "CB" radios and antenna, other radio transmitters and all types of individual satellite dishes (except as described below) or microwave antenna receivers may not be installed or operated in the Community.

✓ As an exception to the above, installation of a satellite dish with a maximum diameter of 18" is allowed based on the following parameters:

✓ 1. The dish is to be installed on the ground behind the home at the rear of the lot. The dish (including any stand) may not exceed three (3) feet in height. The installation must be done in such a way that the dish cannot be seen from the street or neighboring homes. This may necessitate the installation of screening to "hide" the dish.

1 2. Written approval is to be received from Owner. Failure to receive this approval could necessitate the removal of the dish.

Approval granted by Owner is not to be considered a warranty against damage to the lot due to the installation of the dish and accessory equipment. Homeowner should make sure that installation is done in such a way as to prevent damage that could occur during high winds, storms, etc.

G. Radios, televisions, record players, musical instruments and other related devices must be used so as not to disturb others.

✓ H. Kloshe Illahee may enter Resident's Homesite or mobilehome only as permitted by the Revised Code of Washington (RCW) or other laws. So long as Owner does not unreasonably interfere with Resident's use of the Homesite, Owner shall have the right to enter onto Resident's Homesite for any legitimate purpose, including but not limited to the following: maintenance of utilities, maintenance of the Homesite, to gain access to slopes or other improvements, to add improvements and to make inspections for the enforcement of standards.

✓ I. Residents shall not tamper with lot line markers.

## 6. MOBILEHOME SIZE AND CONDITION:

✓ A. All mobilehomes moving into the Park must be new or in excellent condition (comparable to the newer homes presently in the park). All homes moving into the Park must have aluminum lap siding or Simpson (or comparable) pre-treated wood siding. Roofs must be composition shingle, wood shingle, or shake with eaves around the entire home. The Owner's written approval of the home is required prior to it being moved onto the Homesite. Modification of the home may be required to meet current Park standards and/or limitations of the Homesite.

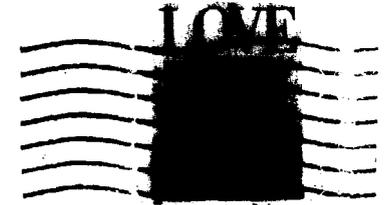
✓ B. If the Homesite is vacant or Resident brings a new mobilehome onto the Homesite, the mobilehome itself, as well as its placement on the Homesite shall comply with applicable laws, regulations, government permits and licenses. The expense of such compliance shall be the responsibility of the Resident.

C. Every mobilehome placed in the Community must comply with all federal, state and local laws and ordinances. This includes, but is not limited to, the requirement that all mobilehomes bear any required insignia of approval.

D. Only double-wide mobilehomes will be permitted to occupy double-wide Homesites. All mobilehomes moving into the Park must be a minimum 24 feet wide and 48 feet in length.



The Eby's  
2500 S. 370th St. #139 • Federal Way, WA 98003



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May 01, 1996

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Federal Communications Commission  
Washington, D.C. 20554

Reference IB Docket No. 95-59; FCC-78

To Whom It May Concern:

I am writing this letter to express my concern and opposition to the above referenced rule proposal. As an officer of the Board of Directors of my own Condominium Association, I spend my personal time (without compensation) in order to keep things running smoothly, and to regulate some of the crazy things that condominium owners believe they have a right to do. Condo owners should NEVER be permitted to install their own personal satellite dish on any COMMON AREA, or worse, hanging out of their window. We work hard to ensure that all property owners get equal and fair use of the common areas, and this rule would allow a few people to break the rules of our association, taking unfair advantage of the other owners or putting them at risk from things hanging out of windows.

The other issue is the fact that this rule proposal will reduce the value of condominiums in the Chicago area.

PLEASE DO NOT IMPOSE THIS RULE by giving SOME of the people ALL of the rights, and reducing the value of our homes at the same time. PLEASE DO NOT PASS THIS RULE.

Sincerely;

*Kim Miller*

*Kim Miller vice president 4310-22 claudon Condo Association*

*4320 N. Claudon  
Chicago IL 60613*

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Washington, D.C. 20554

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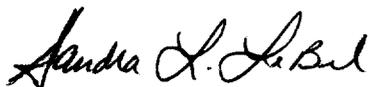
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Sincerely;



SANDRA L. LEBEL  
PRESIDENT

4310-4322 CLARENDON CONDO. ASSOC.

4318 N. CLARENDON  
UNIT # 1810  
CHICAGO, IL 60613

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