



INTERNATIONAL BUREAU

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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May 22, 1996

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

The Honorable Charles Robb  
United States Senate  
154 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Robb:

Thank you for your letter on behalf of your constituent, Ms. Sue M. Miller of Herndon, VA. Ms. Miller is concerned about her homeowners association's right to restrict the installation of satellite systems.

Pursuant to section 207 of the Telecommunications Act of 1996, the Commission issued a Further Notice of Proposed Rulemaking regarding Preemption of Local Zoning Regulation of Satellite Earth Stations on March 11, 1996. The Commission proposes to add the following paragraph to section 25.104 of our rules.

"No restrictive covenant, encumbrance, 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 Commission has requested comment on its proposal and we have received numerous responses. My staff is reviewing those comments and we will add your letter to the public file. A final ruling is expected to be made in August of this year.

I have enclosed a copy of the Public Notice related to the Report and Order.

Thank you for your interest in this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Donald H. Gips".

Donald H. Gips  
Bureau Chief



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
1919 M STREET, N.W.  
WASHINGTON, DC 20554

62508

News media information: 202-418-0500 Recorded listing of releases and texts: 202-418-2222.

Report No. SPB-41

April 17, 1996

## Procedures for Filing Petitions for Declaratory Relief of Local Zoning Regulations and for Waivers of Section 25.104

### Petitions for Declaratory Rulings:

On March 11, 1996, the Commission released a Report and Order and Further Notice of Proposed Rulemaking (RO&FNPRM) revising our rule regarding preemption of local zoning regulations of satellite earth stations, IB Docket No. 95-59, FCC 96-73 (released March 11, 1996). The preemption rule allows for any person "aggrieved by the application or potential application of a state or local zoning or other regulation in violation of paragraph (a)" of Section 25.104 of the Commission's rules to file a petition requesting a declaration that the state or local regulation in question is preempted by Section 25.104. Petitioners must show that they have exhausted local administrative remedies pursuant to Section 25.104(c), 47 C.F.R. § 25.104(c). All allegations of fact contained in petitions and related pleadings must be supported by affidavit pursuant to Section 25.104(d), 47 C.F.R. § 25.104(d).

In addition to demonstrating exhaustion of administrative remedies, petitioners must show that a copy of the petition, a copy of this Public Notice (Report No. SPB-41), and a copy of the Commission's March 11 RO&FNPRM have been served on the appropriate local officials concurrent with its filing at the Commission. For administrative purposes, a number will be assigned to each petition filed and should be used whenever possible in corresponding with the Commission on the given petition. The numbers will be designated as File No. ###-SAT-DRZ-YY, where ### is the next sequential number in the Satellite Policy Branch Database and the YY is the fiscal year in which the petition is filed (e.g., 120-SAT-DRZ-95). A Public Notice will be issued when petitions are filed. The Commission will send a copy of such notices -- via certified mail, return receipt requested -- to the parties.

Oppositions to preemption petitions must be filed within 30 days after the receipt of the Public Notice that a petition has been filed and replies must be filed within 15 days after the time for filing oppositions has expired. Additional pleadings may be filed only if specifically requested or authorized by the Commission.

Approved by OMB  
3060-0705  
expires 6/30/96

CHARLES S ROBB

VIRGINIA

WASHINGTON OFFICE  
Russell Senate Office Building  
First and Constitution Avenue, N.E. Room 154  
Washington, DC 20510  
(202) 224-4024  
Email: senator@robb.senate.gov  
http://www.senate.gov/~robb

# United States Senate

WASHINGTON D.C. 20510-4603

April 11, 1996

*OIC  
Attended*

COMMITTEES:  
ARMED SERVICES  
FOREIGN RELATIONS  
INTELLIGENCE  
JOINT ECONOMIC COMMITTEE  
Vice Chairman,  
Democratic Policy Committee

*2147*

The Honorable Reed E. Hundt  
Chairman  
Federal Communications Commission  
1919 M Street, NW, Room #814  
Washington, DC 20554

Dear Chairman Hundt:

I have been contacted by Ms. Sue Miller of Herndon, Virginia, expressing concern about the effects of new telecommunications legislation. I am enclosing a copy of the correspondence I've received.

I would appreciate it if you could review the letter and respond to the issues raised. Please note that Ms. Miller needs an early reply. Many thanks for your consideration.

Sincerely,



Charles S. Robb

CSR/egf  
Enclosure  
c: Ms. Sue M. Miller

State Office:  
The Ironfronts, Suite 310  
1011 East Main Street  
Richmond, VA 23219  
(804) 771-2221

Regional Offices:  
Dominion Towers, Suite 107  
999 Waterside Drive  
Norfolk, VA 23510  
(804) 441-3124

First Union Bank Building  
Main Street  
Clinchwood, VA 24228  
(540) 926-4104

Signet Bank Building  
530 Main Street  
Danville, VA 24041  
(804) 791-0330

Crestar Bank Building  
310 First Street SW, Suite 102  
Roanoke, VA 24011  
(540) 986-0103



1121 Player Way  
Herndon, VA 22070  
March 8, 1996  
703-478-3551

The Honorable Charles Robb  
United States Senate  
Washington, D.C. 20510

Dear Senator Robb:

As a member of the Board of Directors of the Potomac Fairways Home Owners Association in Herndon, I would appreciate your contacting the Federal Communications Commission for information on the Communications Act of 1995, P.L. 104-104.

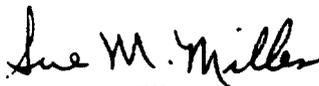
I do not have a copy of P.L. 104-104, but the bill, H.R. 1555, SEC. 306, reads as follows:  
"SEC. 306. RESTRICTIONS ON OVER-THE-AIR RECEPTION DEVICES.

Within 180 days after the enactment of this Act, the Commission shall, pursuant to section 303, promulgate regulations to prohibit restrictions that inhibit a viewer's ability to receive video programming services through signal receiving devices designed for off-the-air reception of television broadcast signals."

Our Homeowners Association must make a decision regarding the installation of the Digital Satellite System Dish on the property of homeowners and we need to know if this section of the Public Law would prevent our organization from restricting the use of the dish. It is my understanding that the required placement of this dish would in some cases necessitate it being placed on the front yards of the homeowners. It is, of course, our desire to keep the community attractive and unencumbered with such devices, as well as all other television and radio antennae and aerials.

Thank you very much for checking into the situation for the Potomac Homeowners Association. An early reply would be appreciated.

Sincerely,

  
Sue M. Miller