The Promenade
5225 POOKS HILL ROAD
BETHESDA, MARYLAND 20814

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October 25, 1996

William Caton, Office of the Secretary
Federal Communications Commission
1919 "M" Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: 1B Docket No. 95-59
CS Docket No 96-83

Dear Mr. Caton:

I represent a 1071 unit hi-rise cooperative located in Bethesda, MD. The purpose of this letter is to file the following comments with your office, regarding the Telecommunications Act of 1996.

Taking of Property:
It appears that a well meaning act has created an environment which may be extremely detrimental to the operation of the housing cooperative and pit neighbor against neighbor. As the act stands now, it is unclear as to whether the FCC will allow individuals the use of the building common areas for the installation of antennas. To allow such an action would be a violation of private property rights. For the government to give the right to make use of common property to individuals would be wrong and place an unfair burden on the cooperative and its members. If such an action were allowed who would be liable for damages should someone be injured, as a result of the antenna installation? Who is to pay the additional cost of maintenance in the area where the antenna is installed? What if it is on a roof? What kind of liability would allowing individuals on the roof place on the cooperative? To allow such an action would amount to the "taking" of property without just compensation.

Enforcement after the Fact:
I would also like to comment on the FCC's current position that the cooperative can adopt rules governing the installation of an antenna, but cannot require an "antenna installer" to obtain permission for the installation in advance. Currently any adopted rules can only be enforced "after the fact", thus adding expense to the individual and creating unnecessary animosity between the individual and the cooperative. It would be much more reasonable for the cooperative to require the individual to "give notice" to the cooperative prior to the installation of any antenna so that the cooperative could make an effort to inform the individual of their responsibilities. Better yet, if the cooperative adopts rules that conform to the FCC guidelines and publishes those to the individuals, with a statement that antennas installed in accordance with the published rules require no prior notice; it should be able to prohibit the installation of antennas which do not comply with the published rules. A professionally installed antenna may not create a problem, but Harry Homeowner installing an antenna on a 17th floor balcony may be quite another story. It would seem that everyone would benefit if the cooperative had an active role to facilitate the proper installation of antennas before the fact, not after.

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Protection of Property:
Another area of concern is the ability of the cooperative to adequately protect the property and hold an individual responsible for any damage thereto. This housing cooperative recently spent $3,000,000 repairing its balconies and protecting the building from water infiltration. Individuals, who want tv reception should not be able to compromise that work and cause expensive problems for the building or create problems with water infiltration into other units. Unless the cooperative has some way of limiting penetrations into the building, before the damage, this could be a serious problem.

Unreasonable Costs:
One other key element of the FCC ruling addresses the fact that the cooperative can't place any restriction which "unreasonably increases the cost of installation, maintenance, or use". I am told that currently you can purchase an antenna for $200. Further, as competition increases antennas may only cost a penny, much like cellular phones. The money is not in the sale of the hardware it is in the services provided. If an antenna only cost a penny, what kind of cost would be considered unreasonable? Even at $200 it is clear what would be considered unreasonable. For example, for an antenna mounted on a balcony it may be reasonable to require a special flat wire that could be placed through the sliding glass door and prohibit the drilling of holes that penetrate the building. What if this additional cost was $100? What if the antenna could be mounted and installed in a way that caused no harm to the building what-so-ever, but the cost was $500? Would the FCC consider either of these an unreasonable cost?

Alternatives/Diminishment of Values:
What if we placed several antennas on the roof and gave individuals a choice of service? Could we then disallow the installation of antennas on balconies. What happens if someone on the ground floor wants to construct a tower for an antenna? In our environment that means that depending on the height of the tower, x number of other residents would be looking out their window with a tower only a few feet away. Is that fair to them? Should they have to see someone's tower or worse yet an antenna just outside of their window. What would it do to their property values? For some hi-rise units their view is one of their most important assets. Would you buy an apartment that had a beautiful view ruined by someone's antenna tower?

It seems to me that there should be some consideration of the above problems and some effort should be made to prevent an "antenna owner" from infringing on the rights of his/her neighbors. Your serious consideration of these issues is requested and will be appreciated.

Thank you.

J. William Reynold, CPM
Community Manager