



September 26, 1996

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20004

09/26/96
RECEIVED

RE: Preemption of Local Zoning Regulation of Satellite Earth Stations, 1B Docket No. 95-59 and Implementation of Section 207 of Telecommunications Act of 1996, CS Docket No. 96-00000

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

I am writing in response to the FCC's Report and Further Notice of Proposed Rulemaking released on August 6, 1996, which asks for comments "with regard to placement of antennas on common areas of rental properties, property not within the exclusive control a person with an ownership interest, where a community association or landlord is legally responsible for maintenance and repair and can be liable for failure to perform its duties properly." We enclosed six (6) copies of this letter, in addition to this original.

Stewartown Homes is located in Gaithersburg, Maryland. The property consists of 94 units and serves approximately 281 residents. The property is managed by Insignia Financial Group, a diversified real estate business and the largest multifamily manager, as well as multifamily owner, in the United States.

Granting persons who do not have an ownership interest in the property they rent a presumptive right to install a satellite dish or to demand a community based signal 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 many reasons.

The FCC should not extend regulations implementing Section 207 of the telecommunications Act of 1996 to situations in which the viewer does not have exclusive use or control and a direct ownership interest in the property where the antenna is to be installed, used and maintained. There are many factors such as safety, security, aesthetics, liability, and insurance costs that a private property owner must consider and manage on a day-to-day basis. All of these factors are vital to the operation of an apartment community and cannot be discounted or properly compensated for on a uniform basis.

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. Slipshod or faulty contractors could create all kinds of safety problems. Even good installers cannot guarantee against weather damage.

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. A community-type satellite dish or antenna mounted on the roof of our properties is not necessarily the answer because of the great variation in condition and quality of roofs, and it maybe impractical and uneconomical to provide service to a small universe of potential subscribers.

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 properties as well as our bottom line and property rights.

Thank you for your attention to our concerns.

Sincerely,


Ricardo Diaz, Property Manager

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