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October 23, 1998

RECEIVED

OCT 23 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**VIA HAND DELIVERY**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Ex Parte Presentation in IB Docket 95-59

Dear Ms. Salas:

Pursuant to 47 C.F.R. § 1.1206, the Building Owners and Managers Association International, the Institute of Real Estate Management, the International Council of Shopping Centers, the National Apartment Association, the National Association of Real Estate Investment Trusts, the National Multi Housing Council, and the National Realty Committee (the "Real Estate Associations"), through undersigned counsel, submit this original and one copy of a letter disclosing a written ex parte presentation in the above-captioned proceeding.

On October 23, the enclosed letter was delivered to Susan Fox of Chairman Kennard's office. Copies of the letter were also delivered to Deborah Lathen, Chief of the Cable Services Bureau; Rich Chessen of Commissioner Tristani's office; Jane Mago of Commissioner Powell's office; Paul Misener of Commissioner Furchtgott-Roth's office; and Anita Wallgren of Commissioner Ness's office. The letter addresses the issue of structural damage arising from permitting building tenants to install antennas on balconies and similar places.

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Ms. Magalie Roman Salas

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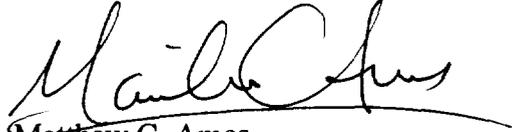
March 13, 1998

Please contact the undersigned with any questions.

Very truly yours,

**Miller & Van Eaton, P.L.L.C.**

By

  
Matthew C. Ames

cc: Susan Fox  
Deborah Lathen  
Rick Chessen  
Jane Mago  
Paul Misener  
Anita Wallgren

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October 23, 1998

**BY HAND**

Ms. Susan L. Fox  
Senior Legal Advisor  
Office of the Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Room 814  
Washington, D.C. 20554

Re: Over-the-Air Receiving Devices, Docket No. 95-59 and 96-83

Dear Ms. Fox:

On behalf of our clients, the National Multi Housing Council, the National Apartment Association, the Building Owners and Managers Association, the Institute of Real Estate Management, the International Council of Shopping Centers, the National Association of Real Estate Investment Trusts, and the National Realty Committee, I write to clarify a point that may be relevant to the Commission's pending Second Order in the Over-the-Air Receiving Devices proceeding.

As you know, one of the issues often raised in this proceeding concerns the placement of antennas on balconies and in similar areas located on the outside of a building, which a tenant has the exclusive right to use. In reply to statements by building owners that allowing such installations exposes owners to liability in the event of an unsafe installation, the analogy is often made to chairs and other items that a tenant might place in such an area. In our past submissions to the Commission, however, we have failed to note that installing an antenna on a balcony is different from placing a chair or other object on the balcony because installing the antenna cable requires penetrating the fabric of the building. To install an antenna, a resident must drill a hole through the wall and pass the connecting cable inside to the television set. Drilling the hole in the wrong place or failing to seal the hole properly after installing the cable raises the possibility of structural damage. In particular, water entering a hole can cause serious and extensive damage over the course of time. To prevent such damage, building owners routinely forbid

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tenants from activities that might compromise the physical integrity of a structure, including drilling holes in the outside of a building. Consequently, the "deck-chair-on-the-balcony" analogy is flawed. Building owners must continue to have the authority to prevent residents from installing antennas for this reason, as well as the others raised in our various filings before the Commission.

Thank you for your attention, especially at this late date. Please call me if we can be of any assistance.

Very truly yours,

**Miller & Van Eaton, P.L.L.C.**

By

  
Matthew C. Ames

cc: Deborah Lathen  
Rick Chessen  
Jane Mago  
Paul Misener  
Anita Wallgren