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- GINSBURG DEVELOPMENT CORP.
- GDC CONSTRUCTION & DEVELOPMENT CORP.

FCC MAIL ROOM

August 13, 1999

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th St. SW - TW - A325
Washington, D.C. 20554

**Re: Promotion of Competitive Networks in Local Telecommunications Markets,
WT Docket No. 99-217; Implementation of the Local Competition Provisions
in the Telecommunications Act of 1996, CC Docket No. 96-98**

Dear Ms. Salas:

I am writing in response to the FCC's Notice of Proposed Rulemaking released on July 7, 1999, regarding forced access to buildings. I have enclosed six (6) copies of this letter, in addition to the original.

I believe that, if enacted, the actions proposed by the FCC will effect a taking of my property without just compensation. Such actions will not only interfere with my business operations and give my property to large and wealthy telecommunications firms, such actions will unnecessarily and unfairly hurt my business, place the residents at a competitive disadvantage for the purchase of telecommunications services, and needlessly raise additional legal problems as a result of this unprecedented government action.

My company, (Ginsburg Development Corp.) is in the business of providing rental multifamily homes in New York, Florida, Tennessee, Georgia and New Jersey. We own and manage 3500 apartment residences.

Issues Raise by FCC Notice

I am extremely disturbed by the proposed rule. It seeks to give a permanent easement to any telecommunications provider that has an interest in selling services to my tenants without my consent. It purports to do this in the name of consumer protection, hoping to provide less expensive services to tenants through a system you have called "non-discriminatory access." I believe this practice is misguided, is unnecessary, and will harm the residents in my properties as well as my company's property rights.

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First, let me assure you that my company is doing everything it can to meet our tenants' needs and demands for access to a wide range of telecommunications services. Ours is an extremely competitive industry. We compete with other multifamily properties in every community in which our properties are located. In addition to competing on unit size, location and lay-out, one of the primary areas of competition is the set of amenities we can provide to our tenants. One of the most important of these is telecommunication services.

In each of my properties, in each market in which we are located, my company studies the market, analyzes the best package of telecommunications services available, determines what our tenants want and negotiates vigorously with providers of these services. If tenants with month-to-month or one year tenancies are forced to negotiate directly with national or international telecommunications firms, they will be at a disadvantage. My company has the negotiating strength afforded one who represents thousands of tenants. No individual can strike as good a deal as we can in this collective manner.

Furthermore, once a telecommunications firm has entered and wired one of our buildings, other providers may be less interested in incurring the cost to compete. Thus, it is likely that one or more of the large firms will obtain an effective monopoly on providing services to our tenants at what will be far from an arms-length, negotiated rate. We have all seen what has happened to cable TV rates where cable TV companies have acquired monopolies in communities across the country. Is it necessary to create such a system when we already have the incentive to negotiate for, and provide the most effective, extensive and competitive set of services in our competitive business?

Non Discriminatory Access

There are dozens of providers out there, but limited space in buildings means that only a handful of providers can install facilities in a particular building. Nondiscriminatory access discriminates in favor of the first few entrants.

It is unreasonable to ask property owners to provide "non discriminatory access to any company on their property.

Building owners must have control over space occupied by telecommunications providers, especially when there are multiple providers involved. This is to protect the tenants and to protect the integrity of the building itself as well as it's appearance.

Building owners must have control over who enters their buildings: owners face liability for damage to building, leased premises, and facilities of other providers; and for personal injury to tenants and visitors. Owners are also liable for safety code violations. Qualifications and reliability of providers are a real issue.

Scope of Easements

If owners had known governments would allow other companies to piggy-back, they

would have negotiated different terms. Expanding rights now would be a taking of private property.

In summary, I am very much opposed to the proposed rule and urge the FCC to refrain from issuing it in final form. Thank you for your consideration of my views.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin Ginsburg". The signature is written in a cursive, somewhat stylized font.

Martin Ginsburg

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