

RECEIVED

AUG 30 1999

FCC MAIL ROOM



DOCKET FILE COPY ORIGINAL

August 25, 1999

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W. 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:

We are writing to you in response to the FCC's Notice of Proposed Rulemaking released on July 7, 1999, regarding forced access to buildings. We have enclosed six (6) copies of this letter, in addition to this original. We are concerned that any action by the FCC regarding access to private property by large numbers of communications companies may inadvertently, unnecessarily adversely affect the conduct of our business, and needlessly raise additional legal issues. The Commission's public notice also raises a number of other issues that concern us.

Pacific Bay Club Apartments is owned by Picerne Real Estate Group and located in Phoenix, Arizona. We are managed by Picerne Management Company and we have 192 units in this apartment community.

First and foremost, we do not believe the FCC needs to act in this field because we are doing everything we can to satisfy our residents' demands for access to telecommunications. In addition, the FCC's request for comments raises the following issues of particular concern to us: "nondiscriminatory" access to private property; expansion of the scope of existing easements; location of the demarcation point; exclusive contracts; and expansion of the existing satellite dish or "OTARD" rules to include non-video services.

FCC Action is not Necessary: We are aware of the importance of telecommunications services to residents, and would not jeopardize our rent revenue stream by actions that would displease our residents. We compete against many other properties in our market, and we have a strong incentive to keep our properties up-to-date.

"Nondiscriminatory" Access: We must have control over space occupied by providers, especially when there are multiple providers involved. We must have control over who enters a building because we face liability for damage to the building, leased premises, and facilities of other providers, and for personal injury to our residents and visitors. We are also liable for safety code violations. Qualifications and reliability of providers are a real issue.

Scope of Easements: If we had known governments would allow other companies to piggy-back, we would have negotiated different terms. Expanding rights now would be a taking.

Demarcation Point: Current demarcation point rules work fine because they offer flexibility – there is no need to change them.

Exclusive Contracts: They generally work to the benefit of our residents and they give competitors a chance to establish a foothold in our area.

Expansion of Satellite Dish Rules: We are opposed to the exiting rules because we do not believe Congress meant to interfere with our ability to manage our property. The FCC should not expand the rules to include data and other services.

We believe no further action on these key issues is needed.

Thank you for your attention to our concerns.

Sincerely,

R. VanDyke, District Mgr.
PACIFIC
BAY CLUB