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RECEIVED
MAR 24 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

March 24, 2000

Via Hand Delivery

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Presentation in WT Docket No. 99-217

Dear Ms. Salas:

Pursuant to 47 C.F.R. § 1.1206, the Real Access Alliance, through undersigned counsel, submits this original and one copy of a letter disclosing an oral and written ex parte presentation in the above-captioned proceeding.

On March 23, 2000, the following representatives of the Real Access Alliance met with members of the staff of the Cable Services Bureau:

Jim Arbury	National MultiHousing Council National Apartment Association
Megan Booth	Institute of Real Estate Management
Lyn Lansdale	AvalonBay Communities
Matthew C. Ames	Miller & Van Eaton, P.L.L.C.

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Bureau staff present at the meeting were William Johnson, John Norton, Royce Dickens, Carl Kandutsch and Cheryl Kornegay. The matters discussed at the meeting are described in the attached written ex parte materials.

In addition to the material presented at the meeting, we enclose a tabulation of the data contained in the written presentation. We also wish to advise the Bureau staff that because of computational errors, two adjustments should be made to the cover sheet in the written presentation. First, the total number of buildings represented is 401, not 413. Second, the percentage of buildings in nonmandatory access states that are served by private cable operators is 26 percent, rather than 30 percent. We regret the errors. The tabulation includes the corrected figures.

Please contact the undersigned with any questions.

Very truly yours,

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

By Matthew C. Ames

cc: William Johnson, Esq.
John Norton, Esq.
Royce Dickens, Esq.
Carl Kandutsch, Esq.
Cheryl Kornegay, Esq.
Ms. Lyn Lansdale (by mail)
Mr. Jim Arbury (by mail)
Ms. Megan Booth (by mail)

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TABULATION OF DATA IN DECLARATIONS

	Avalon Bay	AMLI	Village Green	Camden	Total
Multiple providers (mandatory access)	1	1	0	0	2
Multiple providers (nonmandatory access)	2	0	1	0	3
Private operators (mandatory access)	7	3	0	0	10
Private operators (nonmandatory access)	19	12	3	36	70
Number of buildings (mandatory access)	48	16	25	40	129
Number of buildings (nonmandatory access)	85	47	52	88	272
Total buildings	133	63	77	129	401

- 70 of 272 buildings in nonmandatory access states are served by private operators. This is 26 percent.
- 10 of 129 buildings in mandatory access states are served by private operators. This is 8 percent.

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THE REAL ACCESS ALLIANCE SUPPORTS MEASURES THAT ADVANCE COMPETITION IN THE MARKETPLACE AND PROMOTE DELIVERY OF HIGH QUALITY VIDEO SERVICES TO APARTMENT RESIDENTS

- The Real Access Alliance opposes regulations that would grant telecommunications and video programming providers access to real estate without the consent of the property owner.

- The attached declarations present data representing 413 properties in 10 cable mandatory access states and 7 free-competition states. The quantitative information is not a statistically-valid survey, but it indicates that 30% of properties in non-mandatory access states are served by private cable operators, compared to under 8% in mandatory access states. The anecdotal evidence further illustrates both the importance of exclusive contracts to competing video providers and the negative effects of mandatory access statutes.

- The primary concern of property owners in negotiating with a video programming provider is the quality of service to tenants – residents get very upset when they do not get good quality service, and they blame the owner as much as the provider. Owners need to be able to replace providers who offer poor service with providers who will respond to tenant demands for expanded programming, high-speed Internet access, and other new services.

- Residential property owners negotiate exclusive contracts with video programming service providers primarily because service providers need exclusive contracts to develop and sustain profitable penetration levels. Views on the appropriate term for such contracts vary substantially, but 5 to 7 years appears to be the mid-range.

- Mandatory access statutes limit owners both in the choice of programming providers and bargaining strength – even in new construction projects – because non-franchised operators refuse to take the risk that they will not be able to build adequate market share. Even if the franchised operator is not operating in the building, there is always the threat that the franchised operator will exercise its right to forced access, and this threat poses too much of a risk to justify entry by the competitor.

- Mandatory access disrupts existing deals and permits franchised cable operators to disregard construction deadlines:

  In Jersey City, New Jersey, in a new community addition construction project, both the franchised operator and an existing private cable operator submitted service proposals for the new addition. The private cable operator agreed to provide video-on-demand to both the existing buildings and new addition. The franchised operator declined to install its cable facilities during construction.

  After construction was complete, the franchised operator filed a complaint with the New Jersey Board of Public Utilities, demanding access under the mandatory access statute. The franchised operator refused reasonable property owner requests to minimize damage to the property in the course of installation. After the building management spent $10,000 in legal fees, the NJBPU

ruled that the franchised operator had the right to enter the property, but was required to conform with the owner's installation procedures. In the interim, because the entrance of the franchised operator reduced both the potential subscriber base in the building and the opportunity to recover capital costs, the private cable operator dropped video-on-demand from its service in the building and no longer will provide service in mandatory access states.

- Mandatory access does not require franchised operators to provide service, while the threat of mandatory access inhibits private cable operators from providing service:

  In Ilinois, a mandatory access state, an owner sought to replace an inadequate private cable operator with the local franchised operator. The franchised operator refused to provide service unless the building owner indemnified the franchised operator from tortious interference and any other liability claims by the private operator. In addition, no other private cable operator wanted to enter the property so long as the franchised operator had the right to enter the property.

- Property managers and owners do not favor either private cable operators or franchised operators – they favor high quality service over poor service:

  In Oregon, a non-mandatory access state, in response to tenant complaints, the building management notified a private cable operator that it was in default of its agreement because of persistent resident complaints about poor service and invited the franchised operator, AT&T, to enter the property.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Promotion of Competitive Networks in Local Telecommunications	)	WT Docket No. 99-217
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Wireless Communications Association International, Inc. Petition for Rulemaking To Amend Section 1.4000 of the Commission's Rules to Preempt Restrictions on Subscriber Premises Reception or Transmission Antennas Designed to Provide Fixed Wireless Services	)	
	)	
Cellular Telecommunications Industry Association Petition for Rulemaking and Amendment of the Commission's Rules To Preempt State and Local Imposition of Discriminatory and/or Excessive Taxes And Assessments	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98

EX PARTE DECLARATION OF LYN LANSDALE

I, Lyn Lansdale declare as follows:

I am Vice President of Ancillary Services at AvalonBay and I have worked in the property management industry since 1989. I have close contact with property managers concerning their communication needs as they relate to the building, as well as those of telecommunication companies who want to provide video programming services to tenants.

I am fully competent to testify to the facts set forth herein, and if called as a witness, would testify to them.

1. Do you own or operate properties in states that have statutes that require you to grant access to the local franchised cable operator? These include CT, DE, DC, IL, IA, KS, ME, MA, MN, NV, NJ, NY, PA, RI, WV and WI.

<u>Answer</u>

Yes, AvalonBay has a total of 48 communities (14,694 units) in 8 mandatory access states:

CT:	**12 communities (3,842 units)**
DC:	**1 community (308 units)**
IL:	**4 communities (1,387 units)**
MA:	**9 communities (2,509 units)**
MN:	**4 communities (1,328 units)**
NJ:	**8 communities (2,946 units)**
NY:	**9 communities (2,149 units)**
RI:	**1 community (225 units)**

2. Do any of your properties in mandatory access states have more than one provider of video programming on the premises (not counting individual satellite dishes)? If so, how many such properties are there in each mandatory access state, and what proportion is that of the total number of properties in that state?

<u>Answer</u>

Yes, 1 community, Avalon Cove (504 units) in Jersey City, New Jersey has service provided by both the franchised operator and a private cable operator (two cable outlets in each room, one for each provider), which is 1 out of 8 of our New Jersey communities (12%).

3. Do any of your properties in non-mandatory access states have more than one provider of video programming on the premises (not counting individual satellite dishes)? If so, how many such properties are there in each non-mandatory access state, and what proportion is that of the total number in that state?

<u>Answer</u>

AvalonBay has a total of 85 communities (24,297 units) in 5 non-mandatory access states:

MD:	**10 communities (2,589 units)**
VA:	**12 communities (3,766 units)**
CA:	**58 communities (16,566 units)**
WA:	**4 communities (1,097 units)**
OR:	**1 community (279 units)**

AvalonBay has 2 communities, Alicante (135 units) and Hampton Place (308 units) in California with more than one provider of video programming, which is 2 out of our 58 California communities (3%).

4. Are any of your properties in mandatory access states served by a private cable operator, or any video programming provider other than the local franchised operator (again, excluding individual dishes)? If so, how many properties are there in each non-mandatory access state, and what proportion is that of the total number in that state?

Answer

Yes, see below for distribution:

CT: 2 communities; Hanover Hall*(388 units) & Avalon Corners (195 units); 17%.
DC: 1 community; 4100 Mass Avenue*(308 units); 100%.
IL: 2 communities; Avalon at Stratford Green (192 units) & Avalon at Danada Farms (295 units); 50%.**
MA: NONE out of 9 communities total (0%).
MN: NONE out of 4 communities total (0%).
NJ: 2 communities; Avalon Cove (504 units) & The Tower at Avalon Cove (269 units); 25%.
NY: NONE out of 9 communities (0%).
RI: NONE out of 1 community (0%).

* ***Contract for cable service recently sold to franchised cable operator.***
** ***Private cable operator filed bankruptcy while in default.***

5. Are any of your properties in non-mandatory access states served by a private cable operator, or any video programming provider other than the local franchised operator (again, excluding individual dishes)? If so, how many properties are there in each non-mandatory access state, and what proportion is that of the total number in that state?

Answer

MD: 1 community; Avalon Landing (158 units); 10%.
VA: NONE out of 12 communities total (0%).
CA: 17 communities; 30%.
WA: NONE out of 4 communities total (0%).
OR: 1 community; Waterhouse Place*(279 units); 100%.**

*** ***Private cable operator in default; franchised cable operator has been chosen as new provider.***

6. In your experience, is the market for video programming services more competitive, less competitive, or about as competitive in mandatory access states when compared to non-mandatory access states? Can you give any actual examples or illustrations?

Answer

Mandatory access statutes prevent competition with the franchised providers by providing the franchised operator with a "legally enforceable right" to remain/come onto our communities. It has been our experience that there are significantly fewer choices of providers in mandatory access states than in non-mandatory access states, particularly with respect to private cable operators.

In early 1998, despite an extensive search, AvalonBay could only find one private provider willing to compete with the franchised operator in a mandatory access state, and then only if it was a luxury property, with a minimum of 300 units, and located within a cluster of other buildings served by that provider. By the end of 1998, this same provider wrote the following to AvalonBay:

> **"..if you can give us the *two* Virginia communities that you have control of the internal wiring and the *two* new construction deals in New York and New Jersey, respectively and ensure that your electrician installs the internal wiring *(IW)* and you commit to us that you will give us *three* additional properties over the course of 12 months in non-mandatory access states that average 250 units each, I will get approval from our B of D to do the *two* mandatory access properties."**

Since when did:

2 Virginia communities

2 new construction deals in New Jersey and New York

IW cost of installation

+ 3 new non-mandatory access construction deals

==========

= 2 agreements to provide service in 2 other New York properties?

By 1999 and continuing in 2000, the same provider is no longer willing to compete with a franchised provider in any mandatory access state.

Other examples of the lack of competition in mandatory access states that we have experienced:

- **In Melville, New York, AvalonBay was exploring the possibility of using a private cable operator who offered superior programming, service and pricing than the franchised cable operator. Unfortunately, because the franchised operator had the legal right to also be in the community, the private cable operator determined that because of the risk of reduced penetration, it was not able to justify the capital expenditure involved and withdrew its proposal. AvalonBay was forced to go with the franchised operator who used heavy-handed tactics to create chaos with our residents. The franchised operator told our residents they would not have cable service and threatened our management team with a lawsuit.**

- **In New Jersey, in 1997, our experience with a private cable operator initially demonstrated the benefits of a multi-provider, competitive environment. Specifically, cable service rates were offered at more competitive prices ($14 to $22 per month for various levels of service compared to $25 to $33), and enhanced product offerings such as a video-on-demand and high-speed Internet access service were to be introduced one year earlier by the private cable operator than by the franchised cable operator or**

ILEC. Additionally, at our request, the private cable provider added additional ethnic stations to accommodate the desires of a small percentage of our residents. Resident surveys were distributed soliciting feedback from the community, which resulted in the private cable operator offering even more programming specifically tailored to the unique demographics of our community. However, the quality of subscriber service declined soon after the franchised operator entered the property under the mandatory access statute. The private cable operator could not expand its subscriber base due to the entrenched market power of the incumbent franchised operator. The private cable operator raised its prices, eliminated the enhanced product services to recoup its capital investment, and decided not to roll out its high-speed Internet product.

- **In Minnesota, we were faced with a franchised cable operator blocking our construction efforts with poor work quality, incomplete wire installations, and poor response to our property-related concerns. Consistent with AvalonBay's experience in other mandatory access states, we were unsuccessful in locating any private cable operator willing to provide service in the mandatory access environment. After significant legal fees were spent, our only option was to acquiesce to the demands of the franchised cable operator in order to ensure cable service for residents. To date, our requests for the specifications regarding the type of inside wiring and other cabling installed, as well as the location of buried conduit throughout our community, have been ignored.**

Competition is severely limited when the franchised provider is favored. Without private providers, there are severely limited choices for the community – the only choice is the franchised provider. With no competition threatening the franchised provider there is little incentive for the franchised operator to honor quality of service provisions, make upgrades to the system, offer new programming packages, provide good customer service, or maintain reasonable subscriber rates.

7. If the FCC adopts a "fresh look" period within which owner can renegotiate or terminate perpetual contracts, how long should the window for negotiation be?

<u>Answer</u>
A minimum of 12 to 18 months should be allowed for owner review, renegotiation or termination of perpetual cable contracts if the FCC allows a "fresh look."

8. If the FCC decides to allow MDU owners to enter into exclusive contracts with video programming providers, what is the minimum reasonable time for an exclusive owner?

<u>Answer</u>
7 to 10 years is a reasonable amount of time to allow MDU owners to enter into exclusive contracts with video providers. 7 to 10 years will allow the provider to recoup a reasonable return on its capital investment. However, if a change in technology requires additional capital investment during the course of the initial term by a provider, the term will need to be extended in order to make an adequate return on that new technology investment.

Otherwise, there would be no incentive for providers to upgrade their equipment when necessary, after the term has commenced.

9. Have there been difficulties in applying the existing inside wiring rules? How can they be improved?

<u>Answer</u>

AvalonBay has successfully negotiated the purchase of inside wiring in several communities during a change of provider. However, we have had problems with cable providers when records documenting ownership of MDU wiring are missing or incomplete. Cable providers had asserted to AvalonBay that all of the MDU wiring is the property of the cable provider. Cable providers expect the MDU owner to prove that the MDU owner or previous MDU owner, has paid for some portion of the costs of installation or materials, while the cable provider has no duty to research whether or not it or its predecessor has received any compensation for the cost of the MDU wiring. Additionally, the FCC specifically stated that the inside wiring rules do no apply in mandatory access states. Therefore, enforcement of the inside wiring rules against cable operators in mandatory access states is not possible.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on March 23, 2000 in Washington, D.C.

Lyn Lansdale

Lyn Lansdale

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Promotion of Competitive Networks in Local Telecommunications	)	WT Docket No. 99-217
	)	
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	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98

EX PARTE DECLARATION OF GREGORY O'BERRY

I, Gregory O'Berry declare as follows:

I am Senior Vice President of Asset Management at Amli Residential. I have worked in the property management industry since 1985 with property managers who have close contact with tenants concerning their communication needs as they relate to the building. I also work closely with telecommunications companies who are attempting to provide services to those tenants.

I am fully competent to testify to the facts set forth herein, and if called as a witness, would testify to them.

1. Do you own or operate properties in states that have statutes that require you to grant access to the local franchised cable operator? These include CT, DE, DC, IL, IA, KS, ME, MA, MN, NV, NJ, NY, PA, RI, WV and WI.

Answer

Yes, AMLI owns and operates apartment communities in Kansas and Illinois.

2. Do any of your properties in mandatory access states have more than one provider of video programming on the premises (not counting individual satellite dishes)? If so, how many such properties are there in each mandatory access state, and what proportion is that of the total number of properties in that state?

Answer

We recently sold our only asset in a mandatory access state (Illinois) that had more than one video provider. The second, non-franchised video provider to this asset delivered their signal to the property via fiber from another property, thereby enabling them to deliver services with a minimal capital cost. It was 1 of 8 properties we operated in Illinois at the time of the sale. We operate 8 properties in Kansas and none have two video providers.

3. Do any of your properties in non-mandatory access states have more than one provider of video programming on the premises (not counting individual satellite dishes)? If so, how many such properties are there in each non-mandatory access state, and what proportion is that of the total number in that state?

Answer

We own 2 properties that have more than one video service option (but both options are provided through the same provider in each case), one in Texas and another in Georgia. We operate 27 properties in Texas and 14 in Georgia.

4. Are any of your properties in mandatory access states served by a private cable operator, or any video programming provider other than the local franchised operator (again, excluding individual dishes)? If so, how many properties are there in each mandatory access state, and what proportion is that of the total number in that state?

Answer

None of our 8 properties in Illinois is served by a private cable operator. 3 of our 8 properties in Kansas are served by a private/non-franchised cable operator.

5. Are any of your properties in non-mandatory access states served by a private cable operator, or any video programming provider other than the local franchised operator (again, excluding individual dishes)? If so, how many properties are there in each non-mandatory access state, and what proportion is that of the total number in that state?

Answer

9 of 27 properties we operate in Texas are served by private cable operators. 2 out of 14 properties we operate in Georgia are served by private cable operators. 1 out of 6 properties we operate in Indiana is served by a private cable operator.

6. In your experience, is the market for video programming services more competitive, less competitive, or about as competitive in mandatory access states when compared to non-mandatory access states? Can you give any actual examples or illustrations?

Answer

The market for video programming is clearly more competitive from an owner's perspective in our view in states without mandatory access. Private cable operators are much less willing to enter into agreements to serve properties in states where mandatory access laws exist. They have made it clear to us that they cannot underwrite the capital costs required to serve a multifamily community with video services if a franchised operator is already, or has the mandatory right to, provide video services to the community. We were only able to get a private cable operator to serve three new apartment developments we were building in Kansas because the private operator believed that the franchised operator would not enter the property or exercise its supposed "mandatory right" to serve the property without the Owner's clear consent, which we agreed not to grant. The private provider is hesitant to do more business in Kansas because of their concern that they cannot achieve their minimum required return on their capital if the franchised operator can be allowed the right to serve the same property by law.

7. If the FCC adopts a "fresh look" period within which owner can renegotiate or terminate perpetual contracts, how long should the window for negotiation be?

Answer

The window for negotiation should be 120 days or 3-6 months.

8. If the FCC decides to allow MDU owners to enter into exclusive contracts with video programming providers, what is the minimum reasonable time for an exclusive owner?

Answer

The standard minimum length of an exclusive contract is 5 years.

9. Have there been difficulties in applying the existing inside wiring rules? How can they be improved?

<u>Answer</u>

AMLI hasn't had any issues with inside wiring rules. In most cases it's clear we own the inside wire. Our fight is with who owns the outside wire.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on March 22, 2000 in Dallas, Texas.

Gregory O'Berry

Gregory O'Berry

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
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	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98

EX PARTE DECLARATION OF DANIEL DOYLE

I, Daniel Doyle declare as follows:

I am the Director of Special Projects of Village Green Management Company, and I have worked in the property management industry since 1996. I have close contact with tenants concerning their communication needs as they relate to our properties, as well as close contact with telecommunication companies who are attempting to provide a service to tenants.

I am fully competent to testify to the facts set forth herein, and if called as a witness, would testify to them.

1. Do you own or operate properties in states that have statutes that require you to grant access to the local franchised cable operator? These include CT, DE, DC, IL, IA, KS, ME, MA, MN, NV, NJ, NY, PA, RI, WV and WI.

Answer
Village Green Management Company manages approximately 5,900 apartment units in 25 communities located in the mandatory access states of Minnesota and Illinois.

2. Do any of your properties in mandatory access states have more than one provider of video programming on the premises (not counting individual satellite dishes)? If so, how many such properties are there in each mandatory access state, and what proportion is that of the total number of properties in that state?

Answer
There are no communities under our management in mandatory access states having more than one cable provider.

3. Do any of your properties in non-mandatory access states have more than one provider of video programming on the premises (not counting individual satellite dishes)? If so, how many such properties are there in each non-mandatory access state, and what proportion is that of the total number in that state?

Answer
One community under our management in a non-mandatory access state has two video providers. This community represents 10% of our managed portfolio in that state.

4. Are any of your properties in mandatory access states served by a private cable operator, or any video programming provider other than the local franchised operator (again, excluding individual dishes)? If so, how many properties are there in each mandatory access state, and what proportion is that of the total number in that state?

Answer
There are no communities under our management in mandatory access states presently serviced by a private cable operator. While Ohio is not listed as mandatory access state, we have experienced great difficulty in the Cleveland area with a provider claiming "eminent domain rights." This has precluded any private operator from attempting to provide service to the community.

5. Are any of your properties in non-mandatory access states served by a private cable operator, or any video programming provider other than the local franchised operator (again, excluding individual dishes)? If so, how many properties are there in each non-mandatory access state, and what proportion is that of the total number in that state?

Answer

One community in each of the following states are serviced by a private cable operator: Michigan (1 of 41), Missouri (1 of 2), and Ohio (1 of 9).

6. In your experience, is the market for video programming services more competitive, less competitive, or about as competitive in mandatory access states when compared to non-mandatory access states? Can you give any actual examples or illustrations?

Answer

Mandatory access states are by far less competitive than non-mandatory access states. In mandatory access states, strong arm tactics are common on the part of cable providers. They force their way into communities and determine if, what, and how they will provide service, and how much a resident will pay for that service. The franchised operator knows it will not have competition for a contract with the community. There is no incentive for the franchised operator to maintain equipment, or improve the level of service to residents since they know there is nothing we can do to remove them from the community.

7. If the FCC adopts a "fresh look" period within which owner can renegotiate or terminate perpetual contracts, how long should the window for negotiation be?

Answer

The window for negotiation should be between 12-14 months.

8. If the FCC decides to allow MDU owners to enter into exclusive contracts with video programming providers, what is the minimum reasonable time for an exclusive owner?

Answer

A reasonable length of time of an exclusive contract would be 3 years; the average length is 5 years.

9. Have there been difficulties in applying the existing inside wiring rules? How can they be improved?

Answer

We have not had many difficulties applying existing inside wiring rules. In most cases, it is clear that the inside wiring will become the property of the building owner upon termination. If there is any conflict, a termination price will be negotiated before the contract is signed.

However, under the inside wiring rules, there are 3 options: (1) agree to a purchase price; (2) abandon the wiring; (3) remove the wiring. Recently, cable operators have begun to tell us that they no longer sell the wire. So that in practice, there are only 2 inside wiring options.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on March 22, 2000 in Farmington Hills, Michigan.

Daniel Doyle

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Before the
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EX PARTE DECLARATION OF GREG G. McDONALD

I, Greg G. McDonald declare as follows:

I am the Director of Cable Services of Camden Property Trust. I have worked in the property management industry since 1996, and I have worked in the telecommunication industry (cable, phone and data) since 1982. I have close contact with tenants concerning their communication needs as they relate to the building, as well as contact with telecommunication companies who are attempting to provide a service to tenants.

I am fully competent to testify to the facts set forth herein, and if called as a witness, would testify to them.

1. Do you own or operate properties in states that have statutes that require you to grant access to the local franchised cable operator? These include CT, DE, DC, IL, IA, KS, ME, MA, MN, NV, NJ, NY, PA, RI, WV and WI.

Answer
Camden currently owns and manages 40 complexes with 11,963 total apartment units in the State of Nevada.

2. Do any of your properties in mandatory access states have more than one provider of video programming on the premises (not counting individual satellite dishes)? If so, how many such properties are there in each mandatory access state, and what proportion is that of the total number of properties in that state?

Answer
None of our 40 properties in the mandatory access state of Nevada have more than one provider.

3. Do any of your properties in non-mandatory access states have more than one provider of video programming on the premises (not counting individual satellite dishes)? If so, how many such properties are there in each non-mandatory access state, and what proportion is that of the total number in that state?

Answer
We have no properties, in non-mandatory access states, that have more than one provider of video programming.

4. Are any of your properties in mandatory access states served by a private cable operator, or any video programming provider other than the local franchised operator (again, excluding individual dishes)? If so, how many properties are there in each mandatory access state, and what proportion is that of the total number in that state?

Answer
No. All of our properties in the mandatory access state of Nevada are serviced only by the incumbent franchised cable operator.

5. Are any of your properties in non-mandatory access states served by a private cable operator, or any video programming provider other than the local franchised operator (again, excluding individual dishes)? If so, how many properties are there in each non-mandatory access state, and what proportion is that of the total number in that state?

Answer

Yes:

Colorado:	**3 properties; 33%.**
Texas:	**31 properties; 56%.**
Florida:	**1 property; 5%.**
Kentucky:	**1 property; 25%.**

6. In your experience, is the market for video programming services more competitive, less competitive, or about as competitive in mandatory access states when compared to non-mandatory access states? Can you give any actual examples or illustrations?

Answer

There is currently a mandatory access law in Nevada that grants the cable operator free access to all of our properties. The property owner has no right to limit the access of the cable operator in any manner. The law has been written to appear to be in favor of the resident. But in practice, the residents and the property owners are the parties that suffer the most from the effects of the mandatory access statute. The only party that benefits from this law is the incumbent franchised operation.

Camden has made numerous attempts over the past two years to establish a business partnership with Cox Communication in Las Vegas. They have refused to discuss the matter with us in good faith. We have spent countless hours and thousands of dollars pursuing this project with Cox Communications. Unfortunately, the only thing we have received is a series of broken promises and less than superior service for our residents. When we confronted Cox about their lack of resolve to complete a business deal, their arrogant response was "Why should we"? Since that time, we have been desperately trying to get a Private Cable Operator to over-build one or more of our properties so that a competitive service could be made available for the residents. Regrettably, we have been working on this project for almost two years and we still do not have a competitive service provider on-line. This is because the economics of the preexisting cable television market will NOT be favorable to the competitive operator. In a mandatory access state, the private or competitive operator has never been able to achieve the market penetration or the favorable economics necessary to survive. Therefore, the net result is zero competition.

7. If the FCC adopts a "fresh look" period within which owner can renegotiate or terminate perpetual contracts, how long should the window for negotiation be?

Answer

The window for negotiation should be 3 months or less.

8. If the FCC decides to allow MDU owners to enter into exclusive contracts with video programming providers, what is the minimum reasonable time for an exclusive owner?

Answer

The minimum reasonable time for an exclusive owner depends on the cost structure. If the building owner pays for the wiring, the contract length should be at least 5 years. If the cable operator pays for the wiring, the contract length should be at least 7 years. The additional two years would enable the cable operator to recover its investment.

9. Have there been difficulties in applying the existing inside wiring rules? How can they be improved?

Answer

We have had very little experience in applying the existing inside wiring rules. The majority of our pre-existing cable agreements already address inside wiring issues upon any termination of the agreement. In virtually every property that we have changed cable operators, the new provider installs new wiring. This is because most of the pre-existing wiring does not meet the minimum specifications wiring requirements of the new cable operator.

However, in the state of Nevada, the franchised cable operator has made it clear that they do not recognize the FCC Inside Wiring Rules as having jurisdiction over their ownership rights due to the mandatory access law. In instances where the existing wiring is acceptable to the new operator, we have had very little success in reaching a reasonable purchase price with the existing cable company.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on March 22, 2000 in Houston, Texas.

Greg G. McDonald

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