

Date: March 12, 2012

From: Mr. Daryl E. Sampson W4OH
7672 Maple Bluff Lane
Concord, NC 28025

To: Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Subject: Comments on Petition for Rule Making - **PRM12WT**

To Whom This May Concern:

I am a US Amateur Radio Licensee under the FCC issued amateur radio call sign W4OH. I have been a licensed amateur radio operator since age 12 (June 1983) through present day. I currently hold a US Extra Class Amateur Radio license. I have served this nation during times of need as part of the radio amateur service via the Amateur Radio Emergency Service .

During my childhood years, I was able to avoid antenna restrictions due to my parents owning a large amount of private land. However, during the last 18 years of my adult life I have owned two different residences (one in an urban area and one in a rural area). With both of these properties (in a subdivision with no organized Home Owners Association), I have faced CC&Rs that prohibited any installation of an antenna system. This has drastically and negatively impacted my participation in the amateur radio service at my home residence. In both these cases, PRB-1 has done nothing to assist me in fulfilling a lifelong dream to own my own home and enjoy the hobby and public service aspects of amateur radio.

In the search for my current home (the rural residence at my address listed above), I considered around 100 different homes for sale on the local Charlotte, NC area housing market. Only about three of those homes did not have some type of CC&R preventing an antenna installation. Unfortunately, those 3 homes were removed from my potential purchase list due to other factors that were negative (i.e. residing in a flood plain, etc.). When I entered into a contract on my current home, the closing lawyer stated I must agree to and enter into a CC&R contract to purchase the property. I did so willingly in order to meet the needs of my family, but was very disheartened to again be legally bound to give up my amateur radio dream. After moving into this home, I installed some very low profile antennas (i.e., a ground mounted HF vertical antenna and a 900 MHZ Yagi antenna on a mast up 15 feet behind my home) because there is not a Home Owners Association in our neighborhood. Shortly thereafter, a home owner who lives at the back of our neighborhood reported me to our subdivision declarant. Afterwards, I received a letter from our declarant stating I must remove all antennas from my property or face further legal action. I complied and removed these antennas at that time to avoid further problems and legal fees.

In the contract I signed, here is how the section of my CC&R reads in regards to antennas for the Maple Bluff subdivision in Concord, NC (Book 2712 Page 293 Cabarrus County, NC): ***“Section 12. Antennas. No radio or television aerial, antenna or T.V. satellite dish (except those which do not exceed 18 inches in diameter and are not visible from the street fronting the particular Lot), or any other external***

electronic equipment or devices may be installed or maintained on any exterior of any structure erected on a Lot unless the location, size and design has been approved by the Declarant.”. From the way I understand this wording, a customary Over-The-Air Television antenna is illegal also in our neighborhood. It is my understanding that this wording is in violation of FCC law (i.e., Section 207 of the Telecommunications Act of 1996) preempting CC&S for such an antenna installation. However, I do not have the personal funds to pursue the legality of such wording changes on my own.

The Declarant did come to my property and we discussed this situation, but the conclusion was “no antennas unless I can make it look like an 18 inch dish”. The declarant in this case has not turned over the CC&R management to a HOA yet, because he has not sold the required number of lots to be legally bound to do so. And, since the declarant owns these remaining properties... he is in total control of this situation.... and my rights to request such a change to a larger controlling body is non-existent. This is why I refer to these CC&Rs as unreasonable.

As you can see, PRB-1 has done nothing to remedy my situation because my problem is not public zoning... it is a private CC&R. And this situation has forced me to be off the air completely (or to do my amateur radio activities in secret on a temporary basis) and not be able to retain the talents and equipment needed to publically and adequately serve during a natural disaster (where amateur radio may be needed by our local emergency management or other served agencies). I have found that I am not alone in this situation either locally, as many other amateur radio operators have been forced to install antenna systems in their attic (which produces other non-desirable issues such as RF exposure and system performance problems). Based upon my own personal observation, it is almost impossible to purchase a modern home in the Charlotte area without encountering some type of CC&R in this day and time (unless you purchase an older home or a large amount of private land requiring personal wealth).

What I find ironic about all this ... is that the FCC has preempted CC&R law for communication devices where money is to be made (i.e. satellite dish or TV antennas). I’m sure the political process of lobbying has something to do with these preemptions and the funding which it involves. Also, I assume there is some level of concern here for disseminating public information to the masses in emergency situations. But, regardless... how are these preemptions being fairly governed?

I feel PRB-1 has not served the modern day amateur radio operator fairly or well... and tends to inadvertently discriminate based upon wealth among amateur radio operators. I feel PRB-1 needs to be revised to address concerns for people like myself, who face unreasonable CC&Rs privately... and we should be given the same freedoms of preemption that as has been granted the commercial satellite dish and TV services. After all, we are a radio service designed to assist in times of emergencies for the public good and to foster international good will. These are good things for America! Amateur Radio was part of me becoming an Eagle Scout and it drove me into a computer science degree and my current career field (information technology and computers). Are we willing to sacrifice these driving factors and positive influence for tomorrow’s American youth, just because someone doesn’t like the looks of an antenna in my back yard on their morning walk? When that antenna has no bearing on their home value and does not interfere with their television reception and is used as part of a national emergency backup communication network? What a shame we have become such a self-centered and money-driven people here in America. And it seems where money can flow... change happens. But, when it comes to the average man... it does not.

Please consider revising PRB-1 to preempt private CC&Rs to at least allow for reasonable amateur radio antenna installations. By reasonable, I see this as a basic wire (i.e., dipole, windom, loop, etc.) or vertical antenna installation for the HF, VHF and UHF spectrum. We (the modern day amateur radio operator) need this today to avoid watching our great hobby and service die off one person at a time as the prior generations reach their end of life. CC&Rs prevent the younger (and less affluent) generation of American's from enjoying the radio amateur dream lived out by so many of our Elmers, who likewise served this great nation.

Sincerely and 73,

Daryl Edward Sampson (W4OH)