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FCC
Washington D.C.

Re: PRM12WT and Federal Government Membership in Home Owners Associations

Supplemental Comment

Petitioner adds the following argument in support of the actions requested in PRM12WT.

Executive Summary

Petitioner points out that the Federal Government and agencies it controls or regulates are often members of Home Owners Associations with voting power, and often that voting power is given preferential override power within the association through “mortgagee” status.

Petitioner suggests that this situation contradicts the Commission's argument in PRB-1 that said Association agreements represent “private contracts”.

Argument and Discussion

Homeowners Associations are a contrived construction which utilize deed restrictions derived from racial bias of the last century. They became very common constructions after Congress outlawed redlining as a means of allegedly preserving the value of an investment by developers and banks.

Almost all HOA declarations favor the rights of the lenders over the rights of the owners of the property they “protect” and contain clauses deferring to institutional mortgagees' general policy documents.

When a lender, (Fannie May or Freddie Mac or FHA or other “Institutional Investors”) foreclose on property they become “voting owners” of the property in addition to the rights granted as a mortgagee.

Federal participation can grow to significance depending on the economy and the community, especially those subject to “The Housing and Community Development Act of 1980”, as amended.

Any HOA which permits superiority of mortgagee holders, or which permits those holders to vote, or submits to their policy, or which allows them to foreclose and become owners, creates a conflict between Federal Policy (which is to promote Amateur Radio) and the policy of those HOA which prohibit antennas.

The Association Contract, which is between the Association and its members and the Amateur Radio Operator/Owner creates a conflict with Public Law when one of those owners is actually the Federal Government or one of its agencies or assigns.

Many associations allow any member to enforce their interest or CC&R's **against any other member at will** at law. This would be impossible if the underlying contract did not actually create a contract between the HOA members themselves.

The fact that Federal Agencies can find themselves participating in a “private contract” which operates contrary to public policy established by the Federal Government by virtue of the situation created by the limitations of PRB-1 is unconscionable.

Arguably corporate institutions which owe their continued existence to the taxpayer funded TARP fund participate in this conflict under similar circumstances. Why would taxpayers fund and support the aversion of public policy?

To promote consistency of Federal Policy the requests in PRM12WT should be enacted. Further, all agencies which rely on or administer public funds should be directed to act according to the Public Policy of promoting Amateur Radio, when an opportunity gained as a result of the administration of those funds presents itself.

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