

To the Commission:

This responds to Mr. Adams' filing yesterday. My assertion has been (and shall continue being) that a plain reading of Section 310(d) of the Communications Act renders codes, covenants, restrictions, and homeowner association rules void, ab initio. Congress wanted zero rights or interests in any license being transferred (directly or indirectly) without the Commission's prior written consent. Since HOA's cannot take an amateur radio operator exam, there is no way for those to be qualified for the very licenses over which they purport to exert control; hence, the very need for ham radio operators to beg and scrape to do what they have earned the right to do is because we are, in essence, a very neighborly bunch (as a rule...there are always those few who give us no pride).

The second point of contention I have with the interference complaint suggested by one of the HOA commenters is this: Part 97 licensees (Amateur Radio) have priority over all equipment under Part 15 of the FCC's rules, such as televisions, CD players, etc. We keep acting like we must cow-tow to Part 15, but it's quite the opposite...and again...it's because Amateur Radio operators are TRAINED to be courteous to their neighbors and accomodate every need-even when the need isn't the operator's responsibility whatsoever. I strongly believe the Commission has allowed amateur radio to play second fiddle to HOA's long enough and that's why Congress is forcing this issue.

It would behoove the Commission not to inconvenience Congress, but instead gather up the political courage to dispose of this once and for all with the preemption of these codes, covenants, restrictions and HOA rules, and let the chips fall where those may. The statutes and precedents are already crystal clear who would prevail in litigation: the Commission.

Kindest regards,

/s./ James Edwin Whedbee