

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
	)	
Petition for Rulemaking to Amend the	)	MB Docket No. 12-121
Commission's Over-the-Air Reception	)	
Device ("OTARD") Rules	)	
	)	

**REPLY COMMENTS OF THE CITY OF BOSTON, MASSACHUSETTS  
AND THE UNITED STATES CONFERENCE OF MAYORS  
IN OPPOSITION TO PETITION FOR RULEMAKING**

By and through their Attorneys

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June 22, 2012

## TABLE OF CONTENTS

I.	INTRODUCTION .....	1
II.	UNITED STATES CONFERENCE OF MAYORS RESOLUTION .....	2
III.	BOSTON ORDINANCE .....	4
	A.    Background .....	5
	B.    Industry Rejects Efforts to Develop Non Legislated Pilot Program.....	5
	C.    Boston Enacts an Ordinance That Respects OTARD Users’ Rights .....	6
IV.	CONCLUSION.....	6
Exhibit A	OTARD resolution	
Exhibit B	Boston Ordinance	
Exhibit C	Committee Report to accompany Boston OTARD Ordinance	
Exhibit D	Photographs depicting some of the offending dishes	

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**I. INTRODUCTION**

The United States Conference of Mayors ("USCM")<sup>1</sup> and the City of Boston, Massachusetts<sup>2</sup> ("City") (collectively "Mayors") hereby file these Reply Comments<sup>3</sup> in the above-captioned matter. Mayors offer these comments in short response to the comments of other parties in the above captioned proceeding and to offer new developments for consideration

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<sup>1</sup> The U.S. Conference of Mayors is the official nonpartisan organization of cities with populations of 30,000 or more. There are 1,210 such cities in the country today, and each city is represented in the Conference by its chief elected official, the mayor.

<sup>2</sup> Boston, first incorporated as a town in 1630, and as a city in 1822, is one of America's oldest cities, with a rich economic and social history. What began as a homesteading community eventually evolved into a center for social and political change and has since become the economic and cultural hub of New England. Boston is home to over 617,000 residents, many institutions of higher education, some of the world's finest inpatient hospitals, and numerous cultural and professional sports organizations. Millions of people visit Boston to take in its historic neighborhoods, attend cultural or sporting events, and conduct business.

<sup>3</sup> USCM joined its fellow national organizations to file Comments in this matter. See Comments of USCM, National League of Cities, National Association of Counties and the National Association of Telecommunications Officers and Advisors filed June 7, 2012. The City filed Comments on its own. See Comments of Boston filed June 7, 2012.

by the Commission. Nothing in the comments supporting the proposed rule change<sup>4</sup> alters the Mayors' conclusion that the Petitioners have failed to meet their burden under FCC rules.<sup>5</sup> The OTARD Rule<sup>6</sup> need not be changed. The Petition should therefore be dismissed or denied.

Since USCM and the City filed our respective Comments on June 7, 2012, two important events have occurred: USCM passed an OTARD resolution at its 80th Annual Meeting,<sup>7</sup> and the City adopted an OTARD ordinance.<sup>8</sup> We took these actions in reliance of the rich history of the FCC respecting the rights of local governments to limit the installation of OTARD placement to an area under the exclusive control of the viewer.

## **II. UNITED STATES CONFERENCE OF MAYORS RESOLUTION**

At the 80th Annual Meeting of The United States Conference of Mayors in Orlando, Florida (June 13-16, 2012), a bi-partisan collection of mayors from cities large and small met to discuss a broad range of policy issues impacting America's cities. These issues included the economy, job creation, defense transition, infrastructure, the presidential campaign and its potential impact in the nation's metro regions, and communications matters.<sup>9</sup> Among the resolutions adopted by the members of the Conference was a resolution dealing with the SBCA petition that is the subject of this proceeding. It was introduced by the mayors of Philadelphia,

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<sup>4</sup> Comments of the Satellite Industry Association (June 7, 2012) Comments of W. Lee McVey, P.E., (June 5, 2012);; Comments from Robert C. Boyd, M.D. (June 7, 2012); Comments from Nickolaus E. Leggett (June 7, 2012); Written Comments of Don Schellhardt, Esq. (June 7, 2012).

<sup>5</sup> Mayors have seen the Reply Comments of the City of Philadelphia and incorporate those herein by reference.

<sup>6</sup> 47 C.F.R. § 1.4000

<sup>7</sup> A copy of the resolution is attached hereto as Exhibit A and made a part hereof.

<sup>8</sup> A copy of the Boston Ordinance is attached hereto as Exhibit B. The text of the legislation is incorporated herein by reference.

<sup>9</sup> FCC Chairman Julius Genachowski has been among the lead speakers on communications policy matters this past year at the Conference of Mayors.

Boston, and Chicago; unanimously adopted by the Conference of Mayors' Transportation and Communications Committee on June 13, 2012; and adopted on a voice vote by the general membership on June 16, 2012.<sup>10</sup>

After reciting the history of the OTARD Rule, the resolution calls on the FCC to reject the SBCA petition. The resolves state:

**NOW THEREFORE BE IT RESOLVED**, that The United States Conference of Mayors calls on the FCC to reject the SBCA's petition to amend the OTARD Rule. The FCC's direction from Congress was to bar enforcement only when a restriction violates the OTARD Rule, not dependent on whether the source of the restriction is a homeowners' association or a municipal zoning regulation. Prohibition on municipal regulation would force every homeowners' association and every apartment owner in the country to enact its own satellite dish placement rules. This would likely lead to greater confusion regarding the deployment of over the air devices, not less.

**BE IT FURTHER RESOLVED**, that the Commission should find that the OTARD Rule does not preempt local zoning ordinances that require OTARDs not be deployed on the front façade of a building when an alternative location can be employed that does not delay installation, unreasonably burden the user, nor materially degrade the quality of a signal.

It is important that all parties understand that this resolution is not anti-satellite dish.

Mayors are not opposed to OTARD use. In fact, for many urban constituents, satellite dishes are the only competitive offering available for video entertainment.<sup>11</sup> Mayors do fear, however, that if the Commission grants the SBCA petition, the traditional zoning and public safety authority

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<sup>10</sup> A complete set of the passed resolutions can be found at <http://www.usmayors.org/80thAnnualMeeting/media/ADOPTEDRESOLUTIONS2012.pdf>.

<sup>11</sup> Mayors would also call the Commission's attention to the 4th Whereas in the Boston Ordinance which provides: "**Whereas**, the Boston City Council recognizes the importance of OTARD services to its constituents ...." The Ordinance's sponsor was quoted in a recent article with making the same point. "LaMattina said the goal of the proposed law is not to drive up costs or limit access to satellite television, but to force DIRECTV, DISH, and other companies to take more responsibility for their equipment." See Ryan, BOSTON LOOKS TO CURB CLUTTER OF SATELLITE DISHES, THE BOSTON GLOBE (June 1, 2012) available at [http://articles.boston.com/2012-06-01/metro/31929608\\_1\\_dish-installation-dish-law-satellite-dish/2](http://articles.boston.com/2012-06-01/metro/31929608_1_dish-installation-dish-law-satellite-dish/2) (last visited on June 20, 2012).

enjoyed by local governments would be injured. Further, granting the petition would require every homeowners' association and every apartment owner in the country to enact their own satellite dish placement rules. Mayors believe that such *ad hoc* enactments would lead to greater confusion regarding the rights of viewers in the deployment of OTARDs, not less.

### **III. BOSTON ORDINANCE<sup>12</sup>**

On June 6, 2012 the City, relying upon the long history of FCC deference to the police powers of local government, adopted an updated OTARD ordinance that requires all OTARD devices to be deployed in an area under a user's exclusive control.<sup>13</sup> As noted in the USCM's resolution, Congress in enacting the OTARD portion of the Communications Act was to bar enforcement of restrictions on OTARD deployments that impair their use, not to decide who may be the party enforcing the restriction.

In enacting its Ordinance, the City's elected leadership sought to employ its traditional police powers to balance the needs and rights of all the citizens of Boston, not just those with OTARDs. An editorial by the staff of a local newspaper seems to poetically describe the challenge the City's elected officials face:

The vast and incredibly ugly proliferation in this neighborhood and in neighborhoods all over the city of satellite dishes placed on the front facades of homes like antlers hanging over a fireplace is a situation about to be drastically changed, that is, if legislation filed by Councilor Sal LaMattina is passed by the Boston City Council.... We welcome such legislation and we urge the city to vigorously enforce the ordinance which has much to do with aesthetics.<sup>14</sup>

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<sup>12</sup> The City of Boston's Municipal Code can be found on line at [http://www.amlegal.com/boston\\_ma/](http://www.amlegal.com/boston_ma/)

<sup>13</sup> Editorial, SATELLITE DISH ORDINANCE: STEPS TO REALITY, East Boston Times-Free Press (June 13, 2012) available at <http://www.eastietimes.com/2012/06/13/satellite-dish-ordinance-steps-to-reality/>. (Last visited June 20, 2012).

<sup>14</sup> *Id.*

Graphic representations of these “antler installations” were presented to the Council in the form of a PowerPoint presentation of photos depicting some of the offending dishes. In the spirit of a picture saving us all thousands of words, the PowerPoint photos are attached hereto as Exhibit D.

**A. Background**

Passage of the Boston OTARD ordinance was not the original goal of the City or of the ordinance’s principal author, Councilor Salvatore LaMattina. Councilor LaMattina had labored in good faith and with an open mind for over two years with the satellite industry to develop a workable non-legislative pilot program for addressing satellite dish installations and removal that all parties had hoped would serve as national model.<sup>15</sup> According to press accounts, LaMattina and the satellite dish providers worked to develop a pilot program for addressing abandoned dishes and new installation that would “be launched ...[in East Boston] then rolled out to the rest of the city and possibly the nation.”<sup>16</sup> The plan was to remove as many non-functioning dishes from the front of homes and to locate new installations on rooftops or in other inconspicuous spaces so long as there was no impairment of signal quality.

**B. Industry Rejects Efforts to Develop Non Legislated Pilot Program**

This effort came to a halt when the satellite industry filed its complaint here against the City of Philadelphia.<sup>17</sup> According to Councilor LaMattina, as documented in press accounts, his satellite partners in the pilot program were advised by their lawyers not to take part in any pilot

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<sup>15</sup> Lynds, LAMATTINA SEEKS SOLUTIONS TO STOP SATELLITE DISHES, East Boston Times-Free Press (April 18, 2012) available at <http://www.eastietimes.com/2012/04/18/lamattina-seeks-solutions-to-stop-satellite-dishes/> (Last visited June 20, 2012).

<sup>16</sup> *Id.*

<sup>17</sup> SBCA, Petition for Declaratory Ruling, CSR-8541-O (Nov. 8, 2011).

program until the proceedings surrounding the City of Philadelphia's ordinance were resolved.<sup>18</sup> With the Councilor's hope of having a non-regulatory pilot program gone, he had no choice but to seek an ordinance to address the challenges faced in East Boston and elsewhere in the City.

### **C. Boston Enacts an Ordinance That Respects OTARD Users' Rights**

On February 29, 2012, Councilor LaMattina submitted a proposed resolution regarding the placement of satellites, antennas, and receivers on residential properties throughout the City. Councilor LaMattina made clear upon introducing his bill that he did not seek to completely ban dishes from the front of buildings, but that he wanted dish companies to make every effort to exhaust all other possibilities before placing a dish on the front of a home.<sup>19</sup> He also sought to have the companies identify terminated accounts in rental units and, with the permission of landlords, begin removing and recycling non-functioning dishes from the front of homes.<sup>20</sup>

The proposal was referred to the Committee on Government Operations<sup>21</sup> where it was the subject of public hearings and working sessions on April 12th, April 23<sup>rd</sup>, May 3<sup>rd</sup>, and May 31<sup>st</sup> to discuss not only the need for the Ordinance, but also to ensure its compliance with the OTARD rules.<sup>22</sup> The resolution was adopted by the Council on June 6 and signed into law by Mayor Menino on June 12, 2012.

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<sup>18</sup> See Lynds, *supra*.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> A copy of the Committee report to accompany the OTARD resolution, as submitted to the Boston City Council by Government Operations Chair Matthew O'Malley is attached hereto as Exhibit C and incorporated herein by reference. A PDF of the original report can be found at <http://www.universalhub.com/files/satellite.pdf>

<sup>22</sup> 47 C.F.R. § 1.4000.

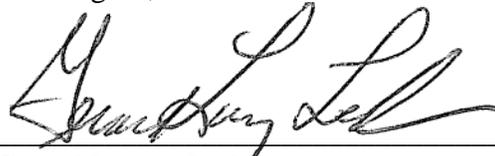
#### IV. CONCLUSION

For the reasons stated above, and as reflected by the recent enactment of Boston's OTARD ordinance, local governments continue to rely on prior OTARD rulings that have properly respected a local government's police power authority to require an OTARD user to have exclusive control over the area of installation. The Commission should dismiss or deny the SBCA Petition for Rulemaking.

Respectfully submitted,

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## **EXHIBIT A**

**PRESERVING LOCAL GOVERNMENT AUTHORITY  
OVER SATELLITE DISH INSTALLATION LOCATIONS**

**WHEREAS**, the Federal Communications Commission, as directed by Congress in Section 207 of the Telecommunications Act of 1996, adopted the Over-the-Air Reception Devices (OTARD) Rule to prohibit governmental and nongovernmental restrictions on a viewers' ability to receive video programming signals from direct broadcast satellites (DBS), broadband radio service providers (formerly multichannel multi-point distribution service or MMDS), and television broadcast stations (TVBS); and

**WHEREAS**, The OTARD Rule (47 C.F.R. Section 1.4000) applies to video antennas including direct-to-home satellite dishes that are less than one meter (39.37") in diameter (or of any size in Alaska), TV antennas, and wireless cable antennas and prohibits most governmental and nongovernmental restrictions that: (1) unreasonably delay or prevent installation, maintenance or use; (2) unreasonably increase the cost of installation, maintenance or use; or (3) preclude reception of an acceptable quality signal; and

**WHEREAS**, in 1999, the Commission amended the rule to extend its protections to rental property so long as the renter had an exclusive use area, such as a balcony or patio, in which to deploy an OTARD; and

**WHEREAS**, The Satellite Broadcasting & Communications Association (SBCA) has filed a Petition for Rulemaking seeking to amend the exclusive use provision of the OTARD Rule to empower only property owners or homeowners' associations to restrict reception devices to areas under user's exclusive control and bar any such restrictions imposed by state or local governments.

**NOW THEREFORE BE IT RESOLVED**, that The United States Conference of Mayors calls on the FCC to reject the SBCA's petition to amend the OTARD Rule. The FCC's direction from Congress was to bar enforcement only when a restriction violates the OTARD Rule, not dependent on whether the source of the restriction is a homeowners' association or a municipal zoning regulation. Prohibition on municipal regulation would force every homeowners' association and every apartment owner in the country to enact its own satellite dish placement rules. This would likely lead to greater confusion regarding the deployment of over the air devices, not less.

**BE IT FURTHER RESOLVED**, that the Commission should find that the OTARD Rule does not preempt local zoning ordinances that require OTARDs not be deployed on the front façade of a building when an alternative location can be employed that does not delay installation, unreasonably burden the user, nor materially degrade the quality of a signal.

**EXHIBIT B**

Offered by Councilor Salvatore LaMattina



CITY OF BOSTON

IN THE YEAR TWO THOUSAND TWELVE

**AN ORDINANCE FOR INSTALLATION, USE, MAINTENANCE AND REMOVAL OF OVER-THE-AIR-DEVICES (THE “OTARD ORDINANCE”)**

**Whereas**, the City of Boston is a city with a storied history, diverse culture, and proud heritage with ever evolving neighborhoods and communities that are an integral part of its dynamics; and,

**Whereas**, the Boston City Council recognizes the repeated concerns raised by the public over the blight caused by satellite dish installations on the front façade of residential and non-residential properties and is committed to the continued beautification of the City’s neighborhoods, streets and properties; and,

**Whereas**, In 1996, the Federal Communications Commission (the “FCC”) adopted the Over-the-Air-Reception Devices (“OTARD”) rule concerning restrictions on viewers’ ability to receive the programming signals. However, the FCC has recognized the authority of local governments to enact reasonable ordinances, regulations and requirements that place reasonable restrictions on satellite dish and antenna placement as long as such regulations do not impede signal access; and,

**Whereas**, the Boston City Council recognizes the importance of OTARD services to its constituents and importance of enhancing the quality of life, maintaining and improving property values and protecting the health, safety and welfare of the public.

**NOW THEREFORE,**

*Be it ordained by the City Council of Boston, as follow;*

CBC Chapter XVI shall be amended by adding after section 16-55 the following new section, 16-56 and subsections:

**16.56.1 Purpose**

This ordinance is applicable to the installation, maintenance, use or removal of over the air reception devices (“OTARD”), for residential and non-residential properties within the City of Boston.

**16.56.2 Definitions**

(1) For purposes of this ordinance, the terms “satellite dish” and “antenna” have the same meaning as that provided for by the Federal Communications Commission’s rules at 47 C.F.R. 1.4000. Satellite dish and antenna shall mean such device that is one meter or less in diameter, and is designed to receive broadcast satellite service, including direct-to-home satellite services or to receive or transmit fixed wireless signals via satellite; or receive video programming services via wireless cable or to receive

or transmit fixed wireless signals other than satellite; or to receive television broadcast signals. Hereinafter, the terms satellite dish and antenna shall be referred to collectively as eligible devices.

It is further defined that eligible devices are those actively subscribed or used by OTARD users, and such use and subscription are not effectively terminated or expired.

(2) An OTARD user is defined as any person who requested the installation of eligible devices or actively subscribed the services via the eligible devices defined in subsection (1). The OTARD users, either an individual or legal person, or any combination of both, must have certain leasehold or a proprietary interest in the properties where the eligible devices are installed or used.

The other responsible parties are anyone other than OTARD users, who can be either an individual or legal person, or any combination of both, and who are responsible for maintenance and removal of OTARD devices.

(3) An OTARD installer is defined as any person who installed eligible devices upon request of OTARD user defined in subsection (2). The OTARD installer can be individuals or legal persons or any combination of both. The installers include their affiliate service providers.

(4) Non-use devices are not eligible devices, and they are not actively subscribed or used by the OTARD users or their use and subscription are effectively terminated or expired.

(5) The Department means the Inspectional Services Department of the City of Boston.

(6) A unified statement means a written form approved by the Department, which includes but not limited to the following:

(a) The name, address and contact information of OTARD user(s), including the valid contact information of the property owner if the user is not the owner;

(b) The name, address and valid contact information of OTARD installers,

(c) The street address of the property where the OTARD is installed and approximate location of installation;

(d) The statement that the eligible devices installed are actively subscribed and used by OTARD users, and maintained or removed, if use and subscription are effectively terminated or expired by such user(s) or other responsible party, and their valid contact information.

(e) If applicable, a statement by OTARD installers or users that there is no alternative location available within the properties without unreasonable increase of cost of installation, use or maintenance or lack of installation will impair the OTARD users ability to receive acceptable quality signals;

(f) If applicable, legitimate safety hazard being appropriately addressed;

(g) If applicable, any information on existing non-use devices, and their removal status.

### **16.56.3 Installations**

Effective on or after the effective date of this Ordinance, no eligible devices can be installed without applicable approval if such installation

(1) interferes with historic preservation;

(2) constitutes a legitimate safety hazard, including but not limited to placing eligible devices within the roofs, hallways, walkways or the exterior walls unless such safety hazard is appropriately addressed. Legitimate safety hazards also include but are not limited to installations around fire escapes, windows; emergency exits or critical utilities infrastructures, which may cause personal injury, death or property damages.

(3) are not located within the exclusive use or control of OTARD users, including but not limited to roofs, hallways, walkways or exterior walls;

(4) is between the exterior walls of properties and streets of public travel unless an alternative location(s) impairs or imposes reception of acceptable quality of signal or imposes unreasonable increase of expense or delay.

#### **16.56.4 Use and Maintenance**

Effective on or after the effective date of this ordinance, the OTARD user and installers must notify the Department, within thirty (30) days of installation of eligible devices in the unified statement of the party responsible for the maintenance and removal of such devices.

#### **16.56.5 Removal**

(1) The installer must use its best efforts to notify the users or other responsible parties about effective expiration or termination of active use or subscription.

(2) For any eligible device, installed or already in active use or subscription on or after the effective date of this Ordinance, the OTARD installer, user or other responsible party must, within sixty (60) days upon expiration or termination of active use or subscription, remove, at their own cost and expense, the non-use devices from the properties. The removal deadlines in subsections (4) and (6) shall not be applicable to this subsection.

(3) For properties with existing non-use devices, no new eligible devices shall be installed after effective date of this Ordinance, unless and until such existing devices are removed or caused to be removed at installers own cost and expenses. If lack of new installation impairs the ability of the OTARD user to receive an acceptable quality signal or imposes an unreasonable increase of expense or delay, the installer must remove the existing non-use devices within ten (10) days of new installation. The deadlines in subsections (2), (4) and (6) shall not be applicable to this subsection.

The user or/and other responsible parties, and installer must work cooperatively, to the best of their ability, to identify and remove such non-use devices.

(4) Excluding those described in subsections (2) and (3), if the existing non-use devices can be reasonably identified by and/or with a particular installer, such installer must remove such devices at their own cost and expenses no later than January 1, 2014.

(5) The installers must use the resources available, such as billing, account information and installation and maintenance record, in good faith to make such identification, and must relate such information to users or other responsible parties, and the Department in reasonable fashion.

(6) Excluding those described in subsections (2), (3), and (4), if the existing non-use devices cannot be reasonably identified by and/or with a particular installer as described in subsection (4), the users or other responsible parties of the properties must remove them at their own cost and expenses no later than January 1, 2015.

#### **16.56.6 Unified Statement**

(1) The OTARD user, other responsible parties, and installer must file or notify the Department in unified statement for activities outlined in Sections 16.56.3, 16.56.4 and 16.56.5.

(2) The copies of signed unified statements for installation, maintenance and removal, must be provided to the OTARD users, the other responsible parties, and the Department. The OTARD installer must maintain a record of such statement at its office with regular business no less than two (2) years after the effective termination or expiration of use or subscription.

**16.56.7 Appropriate City Authority**

(1) The Department will assume primary jurisdiction to ensure, among others, legitimate safety objectives in association with installation, use, maintenance and removal of the OTARD devices. The Department shall promulgate rules and regulations if necessary, to implement the provisions of this Ordinance.

(2) Non-compliance with Sections 16.56.3 and 16.56.5 may constitute violations of applicable State and city building regulations and requirements, and result in applicable enforcement actions.

**16.56.8 The Effective Date**

The ordinance shall become effective immediately upon passage.

Filed in Council: June 6, 2012

## **EXHIBIT C**



**Boston City Council**<sup>23</sup>  
Committee on Government Operations

Matt O'Malley, *Chair*

June 1, 2012

Dear Councillors:

The Committee on Government Operations held a hearing on **Docket #0320, an ordinance regarding the placement of satellites, antennas and receivers on residential properties throughout the City of Boston.** This matter was sponsored by Councilor Salvatore LaMattina and was referred to the Committee on Government Operations on Wednesday, February 29, 2012 and was heard at a public hearing on Thursday, April 12, 2012. The Committee also held three working sessions on April 23<sup>rd</sup>, May 3<sup>rd</sup> and May 31<sup>st</sup> to discuss language revisions.

The purpose of the ordinance is to regulate the placement of satellite dishes and to establish removal requirements for satellite dishes that are no longer in service while also maintaining access to satellite services and quality signal reception. The original draft prohibited the placement of satellite dishes between the front of residential buildings and the street provided that an alternative location was available without material delay, reduction in signal reception, and no additional significant cost to the owner or tenant. Television access providers or installers would have to sign a certification form stating that actual testing conducted at the site showed that alternative locations were not available without material delay, a reduction in signal reception, or significant additional cost. The Inspectional Services Department ("ISD") would create and approve the certification form. The original draft also included language that would require television access providers or installers to remove all previously installed satellite dishes when such dishes are no longer in service. Concerns about the adverse effects on the aesthetic character of neighborhoods, reduction of property values caused by clusters of satellite dishes as well as who bears responsibility for the use, maintenance and removal of the satellite dishes were raised at the public hearing.

The Committee held working sessions to discuss revisions to address the placement of satellite dishes, the removal of unused satellite dishes, grandfathering provisions for current users and public safety concerns. Emphasis was placed on prohibiting the installation of satellite dishes on the front of buildings where an alternative location is available that does not impair a person's access to services or unreasonably increase the cost of installation. The redraft applies to the installation, maintenance, use or removal of over the air reception devices ("OTARD") for residential and non-residential properties within the City of Boston as opposed to just residential in the previous draft. Language revisions also included clarifying the person or persons responsible for the use and maintenance of the satellite dish. New definitions include the

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<sup>23</sup> A PDF of the original report can be found at <http://www.universalhub.com/files/satellite.pdf>

following terms: OTARD user; other responsible party; OTARD installer and non-use devices. Defining OTARD user(s) and installers provides clarification regarding responsibility for maintenance and removal purposes and identification of the account holder. The term “other responsible party” was added to ensure that non-use devices are removed by the landlord should a tenant move out. The terms satellite dish and antenna for purposes of the ordinance have the same meaning as that provided for in 47 C.F.R. 1.4000 by the Federal Communications Commission and are referred to as “eligible devices”. The amended draft would require OTARD users, installers and other responsible parties to notify ISD in a unified statement approved by ISD within thirty (30) days of installation of an eligible device. The purpose of the unified statement is to ensure compliance with the ordinance and to identify responsible parties for maintenance and removal purposes. The amended draft consists of a new section that relates to installations and identifies legitimate safety hazards. Specifically, **Section 16.56.3**, would prevent installation of eligible devices without applicable approval that interfere with historic preservation; constitute a legitimate safety hazard, including installation on fire escapes and windows; are not located within the exclusive control of OTARD users; and are located between the exterior walls of properties and streets of public travel unless an alternative location prevents reception of a quality signal or imposes an unreasonable increase in expense or delay.

The amended ordinance consists of new removal provisions that places shared responsibility for removal of eligible devices among OTARD users, other responsible parties, and installers. The installer is required to use best efforts to notify users or other parties about effective termination or expiration of active use or subscription. Under the redraft, eligible devices installed and in active use on or after the effective date of the ordinance would be grandfathered in. Upon expiration or termination of active use, the OTARD installer, user or other party would be required to remove such devices within sixty (60) days at their own cost and expense. For properties with existing non-use devices, no new eligible devices shall be installed unless existing non-use devices are removed at the expense of the installers; however, if lack of new installation impairs the ability of OTARD users to receive an acceptable signal or results in unreasonable delay, the installer would be required to remove existing non-use devices within ten (10) days of the new installation. The installer would also be required to remove existing non-use devices at their own expense that can be reasonably identified with a particular installer by January 1, 2014. If non-use devices cannot be reasonably identified with a particular installer, than the OTARD users or other responsible parties as identified in the unified statement would be responsible for removal at their own cost and expense by January 1, 2015. Removal of OTARD devices includes wires and other equipment and is covered by the definition in the ordinance.

In conclusion, the redraft amends the title of the original docket in order to include non-residential properties and includes new definitions and provisions that clarify the placement and installations of eligible devices as well as identifies the parties responsible for maintenance and removal. The amended ordinance addresses public safety concerns, placement of eligible devices, and the removal of non-use devices while still maintaining access to quality signal reception.

By the Chair of the Committee on Government Operations, to which the following was referred:

**Docket #0320, an ordinance regarding the placement of satellites, antennas and receivers on residential properties throughout the City of Boston,**

submits a report recommending that this docket **ought to pass in a new draft.**

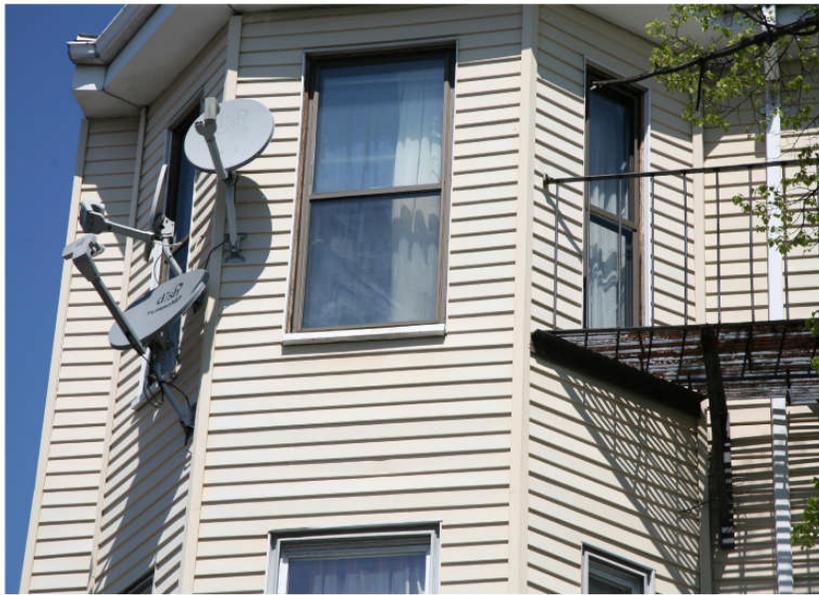
For the Chair:

Matt O'Malley, *Chair*  
Committee on Government

Operations

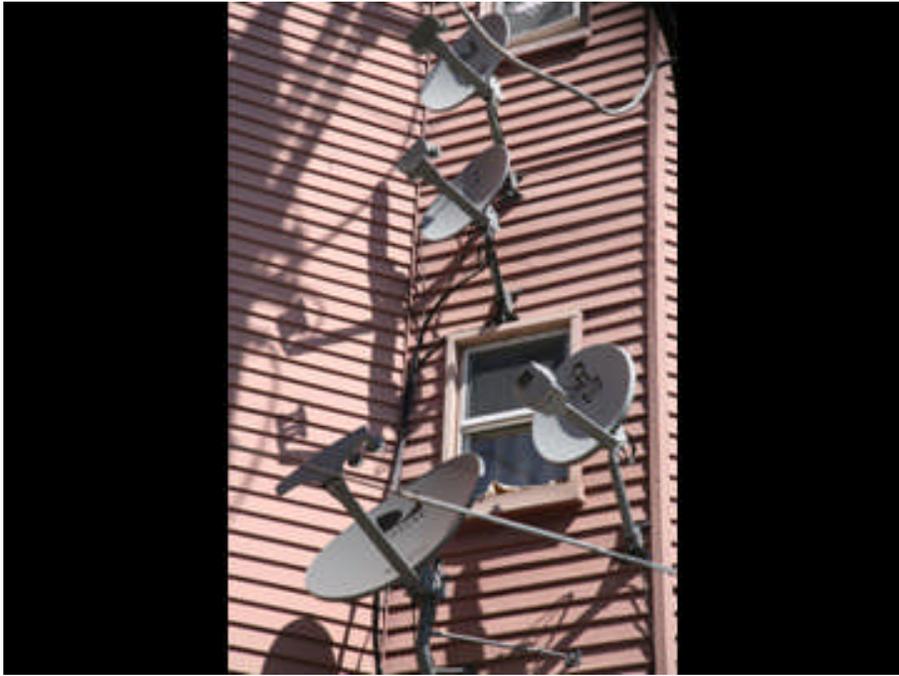
**EXHIBIT D**















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