

**ISSUES RELATING TO SATELLITE DISHES &  
BROAD BAND CONTRACTS**

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Issues Relating to Satellite Dishes and  
Broad Band Contracts

I. Existing Issues in Law.

- A. Federal Communications Commission (“FCC”) adopted “Over the Air Reception Devices Rule” effective October 14, 1996.
- B. Federal Law supersedes State Law (U.S. Constitution).
- C. Communication/Entertainment lobbyists very strong.
- D. January 22, 1999, FCC amended rule to apply to rental property where renter has exclusive use balcony or patio.
- E. May 25, 2001, additional amendments.
- F. Basically allows video antennas, less than one meter in diameter, TV antennas and wireless cable.

II. Application of Rule.

Rule Prohibits most 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.

- A. Associations can enforce restrictions that do not conflict with rule.
- B. Associations can enforce restrictions that are needed for safety reasons/historic preservation.
- C. Rule does not apply to common area owned by association or owners in common (i.e., roofs, exterior walls of condo buildings).
- D. Rule does apply to exclusive use common area.
- E. In certain cases rule can be overridden if there is a central or common antenna used by association. Problem - one of the conditions is owner can get programming he wants (OK re basic cable but pay per view/satellite sports packages).

III. Practical Application. (PUD or Condo)

- A. Publish and disseminate association's policy.
- B. Cannot require application prior to installing.
- C. Probably cannot require removal or relocation of dishes installed before any association rule complying with FCC rule was adopted and disseminated.
- D. Any policy should include:
  - 1. Definitions.
  - 2. Installation Rules re:
    - a. Size and Type.
    - b. Location (most preferable/least preferable).
    - c. Condos - installation on exclusive use areas.
    - d. Requirements for outside contractors (insurance/licensed).
  - 3. Owners maintenance responsibility.
  - 4. Safety.
  - 5. Antenna camouflaging (if not costly and does not affect signal).
  - 6. Antenna removal.
  - 7. Notification process (not application).
  - 8. Installation by tenants.
  - 9. Enforcement - fines, etc.

IV. New Issues.

- A. Broadband, cable, satellite contracts
  - 1. Definitions
  - 2. Right of entry - common area, condominium units.

3. Easements - licenses.
4. Exclusivity - for what - what if channels change.
5. Length of contact, renewals.
6. Installation, destruction, repair, damage.
7. Ownership of equipment, if not timely removed.
8. Loss of franchise.
9. Who pays monthly fees? Can association? Association as vendor's collection agent? Pay Per View/Extras?
10. Right to contract for Services to Owners? Boards usually only have right to contract for goods and services for association.
11. Insurance, indemnity.

B. Middleman

1. Equipment - installation, maintenance, ownership.
2. Contractor's license necessary?
3. Installation contract, services contract, maintenance contract.
4. Disclosure of contract with satellite/service provider.
5. Can association agree to pay for basic services to all owners? Without owner vote? Without assessment increase vote?
6. What if middleman fails to provide services?
7. What if middleman goes out of business?
8. What if service provider fails to provide services?
9. What if service provider goes out of business?
10. What if service provider changes what it delivers?
11. Insurance - indemnification for construction, installation, repair,

replacement.

12. All other issues in IV.A. but magnified.

V. Conclusion.

A. Ever evolving issues because of Multimedia/Broadband issues.

B. Need to carefully review agreements and governing documents to ensure have right to agree.

C. New middleman agreements are acceptable but amplify all issues, check references.

D. Full Employment Act for attorneys.

E. Associations should have satellite companies walk their property and advise where best, acceptable signals can be received and use that as independent verification when owner raises issues, even disseminate to owners.