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Law in Hand

Restrictions on Satellite Dishes in Homeowners Associations

Over the last few years, associations have seen a significant rise in homeowners switching away from their local cable company to a satellite dish provider. And while some have embraced these dishes as new technology, which provides better reception, more channels, and greater competition in the marketplace, others have seen the dishes as unsightly and potentially unsafe. This debate has caused many associations to ask what type of restrictions can be placed upon the installation of these dishes?

In passing the Telecommunications Act of 1996, with some limitations, Congress prohibited any restriction that impairs the installation, maintenance, or use of antennas used to receive video programming. Accordingly, associations must permit the use of satellite dishes, but can impose reasonable restrictions on their use. Under the Telecommunications Act, associations must allow the use of dishes that are less than one meter or 39.37" in diameter (or of any size in Alaska), TV antennas, and wireless cable antennas. The act 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. These rules apply to individuals who place antennas on property they own or rent, that is within their exclusive use or control, such as a balcony or patio.

Reasonable safety restrictions may be imposed by the association. Such restrictions can include ensuring adequate distance from electrical lines and grounding the dish to prevent fires, prevention of water intrusion into the building, and ensuring the building's structural integrity is maintained. As a method of increasing revenue, without raising assessments, some associations have attempted to charge "permit" fees. While the FCC has held that such permit fees are generally prohibited, reasonable fees can be charged as payment for damage caused in the installation of the dish and must be comparable to fees charged for other equipment such as air conditioning units or trash receptacles. The FCC has further allowed permit fees where a legitimate historical preservation objective can be demonstrated by the association.

Additionally, an association may make its approval for the installation and use of a satellite dish contingent upon painting the dish to blend with the home's color, unless painting voids the dish warranty or imposes an unreasonable expense upon the homeowner. A homeowner may not be required to paint cables or other accessories to the dish.

Townhomes -The dish can be on top of the roof because the owners owns the airspace (including the roof) above the townhome; however, if the CC&Rs indicate that it is the responsibility of the HOA to maintain the roofs regardless of ownership, then the HOA can attempt to recover money if the installation of the dish or the dish itself causes any damage(s) to the roof.

Single-Family Homes - (1) the dish must be 20" or less, (2) must be installed on the roof or rear backside of residence, (3) must be out of plan view from public streets or common rights of way, (4) the dish may not be installed in the front yard or in a side yard, and (5) if it is placed in the rear/back yard, then it must be set back by a distance equal or greater than the diameter of the dish itself.

If your association is considering enacting any restrictions on satellite dishes or other antennas, be sure to check with your counsel to ensure you are not running afoul of the Telecommunications Act or other FCC guidelines. If you are a homeowner looking to install a dish, be sure to check to see if your association has any restrictions and ensure the dish is installed by a licensed contractor.