

Summit Park Antenna/Satellite Dish Policy

The Summit Park Declaration of Condominium and Covenants, Conditions and Restrictions ("CC&Rs") prohibits the installation of an "external radio, direct television, television antenna, or Satellite dish on any Ownership Unit, Limited Common elements, or roof of any Ownership Unit. (Article 8.8 "Use Restrictions"). However, as anyone walking around the Summit Park grounds will quickly observe, there are many satellite dishes perched in, on or around, unit patio areas. The apparent justification for this apparent violation of the CC&Rs is that federal law limits the extent to which a condominium association may restrict the installation of satellite dishes, as satellite dish salespeople and installers have no doubt informed unit owners. However, this federal preemption does not entirely restrict the installation of satellite dishes and many of the dishes erected at Summit Park violate the CC&Rs and are not protected by the federal law.

The federal law in question is a Federal Communications Commission ("FCC") rule adopted under Section 207 of the Telecommunications Act of 1996. As directed by the Act, the FCC adopted the "Over-the-Air Reception Devices ("OTARD") rule concerning governmental and nongovernmental restrictions on viewers' ability to receive video programming signals from direct broadcast satellites, broadband radio service providers and television broadcast stations. The rule prohibits "restrictions that impair the installation, maintenance or use of antennas used to receive video programming." The rule applies to video antennas including direct-to-home satellite dishes that are "less than one meter (39.37") in diameter, TV antennas, and wireless cable antennas." (FCC Information Sheet on Over The Air Reception Devices Rule, published December 2007)

However, the rule does not completely eliminate the ability of a condominium association to restrict the placement of satellite dishes if the dish is installed on or protrudes into a common area. . The FCC Information Sheet states as follows:

The rule does not apply to common areas that are owned by a landlord, a community association, or jointly by condominium or cooperative owners where the antenna user does not have an exclusive use area. Such common areas may include the roof or exterior wall of a multiple dwelling unit. Therefore, restrictions on antennas installed in or on such common areas are enforceable.

(italics and underlined added). The following Q and A's, taken directly from the FCC publication; summarize the application of the rule and what it does not protect:

Q: if I live in a condominium or an apartment building, does this rule apply to me?

A: The rule applies to antenna users who live in a multiple dwelling unit building, such as a condominium or apartment building, if the antenna user has an exclusive use area in which to install the antenna. "Exclusive use" means an area of the property that only you, and persons you permit, may enter and use to the exclusion of other residents. For example, your condominium or apartment may include a balcony, terrace, deck or patio that only you can use, and the rule applies to these areas. The rule does not apply to common areas, such as the roof, the hallways, the walkways or the exterior walls of a condominium or apartment building. Restrictions on antennas installed in these common areas are not covered by the Commission's rule. For example, the rule would **not** apply to restrictions that prevent drilling through the exterior wall of a condominium or rental unit and thus restrictions may prohibit installation that requires such drilling.

Q: Does the rule apply to condominiums or apartment buildings if the antenna is installed so that it hangs over or protrudes beyond the balcony railing or patio wall?

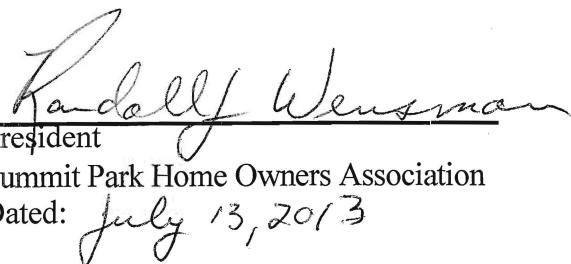
A: No: *The rule does not prohibit restrictions on antennas installed beyond the balcony or patio of a condominium or apartment unit if such installation is in, on, or over a common area.* An antenna that extends out beyond the balcony or patio is usually considered to be in a common area that is not within the scope of the rule. *Therefore, the rule does not apply to a condominium or rental apartment unit unless the antenna is installed wholly within the exclusive use area, such as the balcony or patio.*

(Italics and, underlined added). The FCC Fact Sheet can be viewed online at the following link: <http://www.fcc.gov/mb/facts/otard.html>.

The Summit Park CC&Rs define "Common Elements" as all areas that are not included within the description of the unit. The Unit Description can be found in Article 1.10. This description essentially describes a Unit as the interior of the condominium unit which includes the patio area. Any exterior surfaces outside of the immediate areas are regarded as part of the common elements. Thus, any satellite dishes, including wiring, connectors and similar installation items, which have been installed on any exterior building surface that is outside or the patio area, violate the CC&Rs. Similarly, if a dish is installed within the patio area but protrudes or overhangs a common area, it also violates the CC&Rs.

The Board of Directors is committed to enforcing the CC&Rs to the extent allowed pursuant to the FCC rule. Effective immediately all new requests for satellite dishes or other antenna equipment must comply with Summit Park CC&Rs and FCC rules and must be approved by the Board of Directors or their appointed agent, Evans HOA Management Company, before installation. All existing satellite dishes or other antenna equipment must be in compliance with those rules by October 1, 2013, unless otherwise granted a temporary extension by the Board of Directors. All satellite dish or other antenna equipment users should contact David Evans, Evans HOA Management Company, to request an extension of the October 1, 2013 deadline. David Evans can be reached at 928-526-7971 or david@evanshoa.com.

The Board is sensitive to individual situations regarding financial contracts for service, if not too long in duration, so that residents do not incur significant financial penalties from satellite providers. We are all interested in maintaining the appearance of our complex without causing financial difficulties to our neighbors if possible. The Board of Directors will review each extension request to determine if an extension is appropriate on a case-by-case basis, with the intent of ensuring compliance by all residents with the CC&Rs and FCC rules within a reasonable time frame.



President
Summit Park Home Owners Association
Dated: *July 13, 2013*