Condominium Associations and Satellite Dishes

In this digital world that we live in, a common question that arises from our clients relates to what ability a condominium association has to restrict and control the placement of satellite dishes. Issues regarding the placing of satellite dishes tend to arise in associations that are either located in heavily populated urban areas where a direct line of sight to a satellite is not available or in a heavily wooded area where surrounding trees block reception. The placement of over-the-air reception devices, which include satellite dishes, is regulated by the Federal Communications Commission (the “FCC”). The specific rule covering these antennas was put into effect in October 1996 and is titled 47 C.F.R. Section 1.4000 (the “Rule”). The Rule applies to video antennas, including direct-to-home satellite dishes that are less than one meter (39.37 inches) in diameter, t.v. antennas, and wireless cable antennas.

The Rule prohibits most restrictions that unreasonably delay or prevent the installation, maintenance or use of an antenna; unreasonably increase the cost of the installation, maintenance or use of the antenna; and/or would preclude the reception of an acceptable quality signal. However, of specific note is the fact that the Rule does not apply to the common elements of a condominium association. The FCC does not restrict the association from prohibiting the placement of satellite dishes on the roofs or on the siding of the association’s building(s) or those areas deemed to be common areas/elements under the association’s governing documents. The association is not obligated to allow access to either the roof, the siding, or the common elements to allow unit owners to place satellite dishes or other antennas.

However, if a unit owner has exclusive use of property within the association, such as a balcony, patio or backyard, then the satellite dish may be placed there. “Exclusive use” means an area of the property that only the unit owner may enter and use to the exclusion of other residents. Even if the satellite dish is placed on an area of exclusive use, the association may restrict the drilling through of exterior walls which are common elements or where the drilling would affect the fire safety or structural integrity of the building. The installer/retailer must find an alternative way of providing wiring into the unit to transmit the signal. Furthermore, the association may prohibit the installation of satellite dishes which would extend beyond the balcony or patio of a unit. Therefore, if the satellite dish is placed on the railing of a balcony which is the exclusive use of a condominium unit, but the dish extends past the railing, the association may prohibit its placement on the railing. Even if a satellite dish is placed in an area of exclusive use, the association can create restrictions designed to protect the safety of the association, such as restricting areas that are close to powerlines or fire escapes. However, all such safety restrictions must be placed in writing, explaining the reason for the safety restriction.

If the Association decides to allow a unit owner to place a satellite dish on a common element, including a lawn area, roof, chimney or exterior wall, the association can establish procedures which include: a). the charging of a deposit to protect against any damage to the common element; an application form to be completed and reviewed prior to the installation; b). a requirement that the unit owner indemnify the association from any harm or damage caused by...
If you would like to discuss this client alert in more detail or how it may affect your community association, please contact Richard B. Linderman at 609-219-7456 or by email at rlinderman@stark-stark.com.

the installation of the satellite dish; and, c). a requirement that the unit owner remove the satellite dish at the time of sale and return the common element to its original condition. In addition, the association may require that the satellite dish be painted a particular color to match the surrounding area and not become an eyesore to the association.

If you have questions regarding the rules promulgated by the FCC regarding antennas and satellite dishes, you may contact our office regarding same.