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Subject: Homeowners Association Tip of the Week - Analog to Digital Television Signals

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As you may know, television stations are switching from broadcasting their programming through analog signals to only broadcasting digital signals. Congress has set June 12, 2009 as the last day that television stations may broadcast their programming in analog. Many stations have already begun this switch to all-digital television programming. This switch has caused many homeowners and associations to take a closer look at the association's restrictions and rules regarding antennas and satellite dishes.

As a reminder, there are Federal Communications Commission (FCC) rules protecting the right of association members to install antennas and certain satellite dishes on property owned by the member or on property under the exclusive use or control of the member (such as a private patio or balcony). The FCC rules cover the installation of television antennas of any size, as well as fixed wireless devices that are one meter or less in diameter regardless of the nature of the services provide through the antenna.

The FCC rules regarding the installation of antennas of and certain satellite dishes overrule associations' governing documents, to the extent the provisions: (1) completely ban antennas throughout the association; (2) require prior approval from the association before the installation of an antenna; (3) require antennas and satellite dishes to be painted a certain color if painting them will void the manufacturer's warranty or affect the signal; and (4) unreasonably increase the cost of such installation. In other words, an association cannot enforce provisions of the governing documents that are in conflict with the FCC rules.

The association may, however, adopt reasonable rules regarding antennas and satellite dishes, such as requiring the owner to paint the antenna or satellite dish the color to match the house so long as the painting does not affect the manufacturer's warranty or affect the signal. The association may also require the antenna or satellite dish to be placed in a location that is not visible from neighboring property so long as the owner can still receive an acceptable signal.

In the event of a violation concerning antennas or satellite dishes, the association may not impose fines until either a court or the FCC has found the association's rules to be reasonable. The owner then has a certain time period to bring the antenna or satellite dish into compliance. Therefore, the association must file a petition with the FCC or bring a legal action for injunctive relief and/or to determine whether the rules are reasonable to require the owner to move the antenna or satellite dish.

For more information about the switch from analog to digital broadcasting, see www.dtv.gov or www.fcc.gov/cgb/consumerfacts/digitaltv.html.

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