



COMMUNITY ASSOCIATIONS & HAM RADIO TOWERS, ANTENNAS

Community Associations Do Not Support Preemption of Private Contracts for Ham Radio Enthusiasts

THE ISSUE

Amateur radio, sometimes known as HAM radio, is a hobby pursued by approximately 700,000 individuals nationwide. More than 74 million people live in condominiums, homeowners associations, and housing cooperatives in the U.S.

NO NEED FOR LEGISLATION

HAM radio operators typically engage in radio broadcasts for recreational purposes. HAM radio operators working with their communities are often part of disaster preparedness, response, and recovery efforts. This cooperative effort works with the existing law and doesn't need to change to support community disaster response.

FCC DOES NOT SUPPORT PREEMPTING PRIVATE CONTRACTS

The Federal Communications Commission (FCC), which licenses HAM radio operators, has struck down local ordinances that do not allow reasonable accommodation for the installation of HAM radio antennas. The FCC has also considered, but ultimately rejected, request by HAM radio operators to overturn community association covenants and architectural standards that apply to the installation of HAM radio antennas.

On numerous occasions over the past decade, HAM radio operators appealed to the FCC with a request that the agency invalidate community association covenants applicable to the installation of various radio antennas. Each time, the FCC reaffirmed its long-standing position that the agency should not interfere with community association covenants, which the commission rightly recognizes as private contractual agreements under state law.

WHY IT MATTERS TO COMMUNITY ASSOCIATIONS

Community associations work best when residents come together to establish and enforce reasonable rules and policies to govern their communities.

This type of legislation is an attempt to circumvent community rules and take decision-making authority away from community association homeowners. Not only is this unnecessary, it degrades the underlying concept of community association governance, which is based on private contractual obligations of the community's homeowners.

Community associations across the country have disaster preparedness plans that include engaging HAM radio when necessary and as appropriate in preparedness, response, and recovery activities. Further, there are many community associations that have organized HAM radio clubs for residents whereby the club is a part of the community, and enthusiasts can participate in their hobby under the framework of community association covenants.

State and Local Public Policy. The legal framework for land use and deed-based covenants exists at the state and local level and works for community association owners across the country.

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