

Potomac Crossing Homeowners Association, Inc.
ARCHITECTURAL GUIDELINES AND REVIEW PROCEDURES
FOR TELECOMMUNICATION ANTENNAS



September 1, 2002

WHEREAS, all of the dwelling units and common areas in the Potomac Crossing Homeowners Association, Inc. are governed by a Declaration of Covenants, Conditions and Restrictions and Bylaws recorded among the Land Records of Montgomery County, Maryland; and

WHEREAS, Article VII of the Declaration of Covenants, Conditions and Restrictions of Potomac Crossing Homeowners Association, Inc. prohibits the installation of structures on or exterior changes to the real property within the jurisdiction of the Association without the prior approval of the Architectural and Environmental Control Committee; and

WHEREAS, pursuant to Section 207 of the Telecommunications Act of 1996 ("Act"), Congress directed the Federal Communications Commission ("FCC") to promulgate rules governing the application of private restrictive covenants to certain covered devices; and

WHEREAS, the FCC has adopted the Over-The-Air-Reception-Device Rule, 47 CFR § 1.4000 ("FCC OTARD Rule"), which prohibits restrictions that impair the installation, maintenance or use of antennas used to receive video programming, including satellite dishes less than one meter (39 inches) in diameter; and

WHEREAS, the effect of the FCC OTARD Rule is to prohibit most restrictions, including private restrictive covenants and architectural guidelines, which unreasonably delay or prevent the installation, maintenance, or use of such antennas; that unreasonably increase the cost of installation, maintenance or use; or that preclude reception of an acceptable quality signal; and

WHEREAS, the Board of Directors of Potomac Crossing Homeowners Association, Inc., wishes to adopt architectural guidelines and review procedures which will assist the Board of Directors in the exercise of the architectural review powers conferred upon it by Article V of the Declaration of Covenants, Conditions and Restrictions as they apply to telecommunication antennas covered by the Act and the FCC OTARD Rule.

NOW THEREFORE, in compliance with the Declaration of Covenants, Conditions and Restrictions and Bylaws of Potomac Crossing Homeowners Association, the Act, and the FCC OTARD Rule, it is hereby resolved by the Board of Directors that the following Architectural Guidelines and Review Procedures for Telecommunication Antennas ("Guidelines") be adopted:

Satellite Dishes and Television Antennas:

1. All television antennas receiving television broadcast signals, satellite dish antennas which measure one meter (39 inches) or less in diameter (hereinafter referred to as "Antenna") and are designed to receive direct broadcast satellite signals and wireless

cable antennas, are permitted, subject to the prior notification of the installation of the device to the Board of Directors (but without prior approval) and subject to the following regulations:

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- (a) Owners and Tenants must notify the Board of Directors in writing of their intent to install an antenna and must provide information about the proposed antenna placement.
 - (b) Antennas must be located on the lot, over which the owner has exclusive use or control. The preferred areas are a rear yard, rear roof, balcony, deck, or patio area. If there is more than one location where an acceptable quality signal can be received, the antenna must be placed in the location that is least visible to persons not on the owner's property, so long as such preferred location does not unreasonably delay, prevent or increase the cost of installation, maintenance, or use of such antenna.
 - (c) When mounted upon a structure, the antenna must be either black, white or gray in color to promote uniformity of appearance in the community, and to minimize the extent to which the antenna's presence detracts from the harmony of the structure to which it is mounted and surrounding structures.
 - (d) Cabling and grounding wire must be installed in the least visible manner possible and must enter the dwelling via the most direct route possible.
2. Where an owner demonstrates that these Guidelines impair the reception of an acceptable quality signal when the antenna is located in a preferred area, the Board may waive any or all of the regulations set forth herein with respect to that antenna only, upon the owner's submission of an application to the Board of Directors, pursuant to Article V of the Declaration of Covenants, Conditions and Restrictions. No decision made by the Board pursuant to this provision with regard to any single antenna shall constitute a waiver of any regulations with regard to the installation, maintenance or use of any other antenna.
 3. The reception of an acceptable quality signal shall be deemed by the Board of Directors to be impaired where it is shown by the owner that reception of the signal would be impossible or substantially degraded.
 4. Installation, maintenance and use of any antenna must be in accordance with any manufacturer's instructions in order to minimize the risk of any harm to any individual installing, maintaining or using said antenna. The unit owner shall be liable for any personal or property damage caused to the Association property by the installation, maintenance, or use of a television or satellite antenna.
 5. The provisions of these Guidelines are inapplicable and shall not govern the conduct of the Association nor control its rights and responsibilities with regard to any satellite dish

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antenna measuring more than one meter (39 inches) in diameter or to any other reception devices not covered by the FCC OTARD Rule.

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- 6. The provisions of these Guidelines shall not govern any antenna installed, used or maintained upon the common area property of the Potomac Crossing Homeowners Association, Inc.
- 7. If the antenna location does not meet these Guidelines, a written notice of violation will be sent to the Owner that will include, but not be limited to: the location of the antenna; the reason for the violation; and the time period within which to either correct the violation or file an appeal to the Board of Directors. Failure to comply with any notice of violation will result in a hearing before the Board of Directors, at which time a sanction may be imposed for the unit owner's violation.
- 8. The Board of Directors has adopted the foregoing Guidelines in a good faith effort to comply with the FCC OTARD Rule and the Act, and believes them to be consistent therewith. The Board will use good faith efforts to become aware of and respond to subsequent changes to or implementations of the Act.
- 9. If any provision of these Guidelines is found to be illegal or unenforceable by the FCC or a court of competent jurisdiction, the remaining provisions shall survive and remain in full force and shall not be thereby affected.
- 10. These Guidelines may be amended from time to time by the Board of Directors in accordance with the Declaration of Covenants, Conditions and Restrictions and Bylaws and applicable laws.

IT IS FURTHER RESOLVED that these Guidelines shall be distributed to the owners and residents of the Association in a manner to be specified by the Board of Directors.

ADOPTED THIS 9th DAY OF September, 2002.

WITNESS:

**BOARD OF DIRECTORS
POTOMAC CROSSING HOMEOWNERS
ASSOCIATION, INC.**

By: Karen Chandler
Secretary

By: Linda R. Mayo
Linda Mayo
President

DUFIEF MILL ESTATES HOMEOWNERS ASSOCIATION, INC.
t/a POTOMAC CROSSING HOMEOWNERS ASSOCIATION, INC.

**Policy Resolution for
Collection of Assessments
May, 1997**

Adopted: May 21, 1997
Effective: June 15, 1997

Whereas, Article V of the Declaration of Covenants, Conditions and Restrictions (Declaration) for Dufief Mill Estates Homeowners Association, Inc., t/a Potomac Crossing Homeowners Association, Inc. (Association), requires each unit owner to pay to the Association, in advance, a sum, hereinafter referred to as "assessments", equal to the homeowners' proportionate share of the annual expenses of the Association; and

Whereas, Article VI of the Declaration for the Association provides that any assessment not paid when due will be delinquent and will bear interest at the maximum rate allowed by law, and in addition, the Board of Directors may impose a late charge upon any assessment which has not been fully paid when due; and

Whereas, Article VI of the Declaration for the Association further provides that the Association may claim the amount of such delinquent assessments, together with interest thereon, late charges, the actual costs of collection, and reasonable attorney's fees, as a lien upon the lot against which it is assessed; and

Whereas, Article VI, Section 3 of the Declaration for the Association provides that, upon the default in the timely payment in any one or more quarterly assessment installments, the entire balance of the annual assessments may be accelerated and be due and payable in full; and

Whereas, Article V, Section 3 of the By Laws for the Association establishes that the powers and duties of the Board of Directors shall include the establishment, collection, use and expenditure of assessments and carrying charges from the members and for the assessment, the filing and enforcement of liens therefore in a manner consistent with law; and

Whereas, it is the intention of the Board of Directors for the Association to establish formal policy and procedure for the collection of homeowner assessments.

Now, Therefore, Be It Resolved That, in support of the above, the following will be the procedure of the Association for the collection of assessments:

- I. The assessment for the Association will be an annual assessment collected in quarterly installments due on the first (1st) day of each quarter.
- II. All payments made will first be applied against any unpaid balance on a homeowner's account as of the date of receipt of the payment. As a result, the current quarter's assessment, or a portion thereof, will still be considered late.
- III. The Association or its managing agent will, by the thirtieth (30th) day of each calendar quarter, send a notice of late payment and acceleration to each homeowner having an outstanding balance. The late notice will remind the homeowner of his or her obligation to pay an assessment, that a late charge may be applied, and that, if the full balance is not paid by the forty-fifth (45th) day after the due date, the Association may accelerate and call due the remainder of the annual assessment for the fiscal year.
- IV. Any assessment which remains unpaid on the forty-fifth (45th) day of the date due and payable will be considered late and will bear interest from the date of delinquency at the maximum rate permitted by law.
- V. The Association or its managing agent will, on or about the sixtieth (60th) day after the due date of the quarterly assessment payment, send a "NOTICE OF INTENT TO CREATE A LIEN" which will be mailed by registered or certified mail, return receipt requested, to the homeowner of record at said homeowner's last known address. The homeowner will be responsible for any and all costs associated with the preparation and delivery of said notice.
 - A. Should the unpaid balance be less than the amount of one (1) half of the current quarterly assessment payment, paragraph V above will not apply. The Association will, however, send to all homeowners having such an unpaid balance, the notice described in paragraph III above.

Dufief Mill Estates Homeowners Association, Inc.
t/a Potomac Crossing Homeowners Association, Inc.
Policy Resolution for Collection of Assessments

- VI. In accordance with the Title 14, Subtitle 2 of the Maryland Contract Lien Act, the "NOTICE OF INTENT TO CREATE A LIEN" will include the following:
- A. The name and address of the party seeking to create the lien ;
 - B. A statement of intent to create a lien;
 - C. An identification of the contract;
 - D. The nature of the alleged breach;
 - E. The amount of damages (including all assessments, late charges, interest, lien fees, legal fees, and any other costs of collection, as applicable);
 - F. A statement that the Association intends to accelerate the assessments and call due all quarterly installments for the remainder of the calendar year;
 - G. A description of the property against which the lien is intended to be imposed which is sufficient to identify the property, and stating the County or Counties in which the property is located; and
 - H. A statement that the party against which whose property the lien is to be imposed has the right to a hearing under Subsection (c) of Section 14.203 of the Maryland Contract Lien Act.
- VII. Within thirty (30) days of the date of the "NOTICE OF INTENT TO CREATE A LIEN", the homeowner may seek to obtain judicial determination as to the appropriateness of the intended lien.
- VIII. If the Association has not been notified by the Clerk of the Circuit Court of Montgomery County, Maryland within thirty (30) days of the date of the "NOTICE OF INTENT TO CREATE A LIEN", a "STATEMENT OF LIEN" will be filed in the Land Records for Montgomery County, Maryland pursuant to the Maryland Contract Lien Act provided that the Board of Directors has approved such filing or has been given seven (7) days written notice by the management agent.
- A. Pursuant to Article VI of the Declaration for the Association, upon filing of a "STATEMENT OF LIEN", the entire balance of the annual assessments will be accelerated and will become due and payable in full.
 - B. The lien will secure the payment of:
 - 1. Damages defined in Section 14.201(c)(1) of the Maryland Contract Lien Act,
 - 2. Accelerated assessments,
 - 3. Any costs of collection,
 - 4. Late charges as permitted by law, and
 - 5. Attorney's fees incurred in the collection of the debt.
- IX. **Priority of Payments.** All payments made will be allocated in the following order of priority:
- A. Charges for attorney's fees, court costs and other costs of collection,
 - B. All late fees and accrued interest,
 - C. Any special assessment levied against the homeowner or property,
 - D. The monthly assessment amount.
- X. Any homeowner, whose account has achieved an unpaid balance equivalent to or greater than two (2) quarterly installments of the current assessment, will be turned over to legal counsel for collection proceedings or any other action at law which the Board of Directors may deem appropriate. Delinquent homeowners will be responsible for all costs associated with collection proceedings.
- XI. This policy may, from time to time, be amended, repealed, or superseded pursuant to applicable laws.
- XII. It is the homeowner's responsibility to keep the Association or its managing agent, informed of the proper and current address for the billing of assessments.