

*Spring 2006*

## ***Community Association LawLetter***

### **FCC VALIDATES CONDO BAN ON BALCONY ANTENNA INSTALLATION**

The Federal Communications Commission Media Bureau recently ruled that no waiver of the FCC rule regarding satellite dish antennas is needed for a condominium association to prohibit installation of satellite dishes on limited common element balconies and to require that all satellite dishes be installed on the general common element roof.

The FCC antenna rule generally prohibits private restrictions which unreasonably impair the ability of antenna users to install, maintain or use satellite dishes and certain other antennas where installed on an owner's dwelling unit or exclusive use areas.

#### **Balcony Ban Allowed**

In *The Matter of Shadow Wood Condominium Association*, the FCC concluded that the condominium rule, as applied to newly-installed antennas, was consistent with the FCC antenna rule so long as there would be no unreasonable delay in obtaining video service, the owner's cost of installation was no greater

than if the antenna were installed on the owner's balcony, and the quality of signal was at least as good for antennas installed on the roof as those installed on balconies.

Therefore, the condominium association could ban newly-installed satellite dish antennas from limited common element balconies.

#### **Antenna Fees**

However, according to the FCC, a restriction requiring relocation of an existing antenna from a balcony to the roof is permissible only if the association pays for the cost of relocation. Additionally, no owner can be required to be liable for damages to the roof area as a result of the antenna installation.

The FCC declined to address whether a \$75 installation fee charged by the condo association was reasonable and therefore permissible. However, it did note that, as the charge by the association approaches or exceeds the installation cost which would apply to antennas installed on balconies, it is less likely that the association charge would be deemed to be reasonable.

## MARYLAND COURT OF APPEALS UPHOLDS COMMON AREA TAX FORECLOSURE SALE

The Maryland Court of Appeals--the highest state appellate court--has upheld the tax foreclosure sale of common area intended for use by residents of a Prince George's County homeowners association.

In *Royal Plaza Community Association, Inc. v. Bonds*, a 4.4 acre parcel in the middle of the Royal Plaza subdivision was intended to be conveyed to the Royal Plaza Community Association by the developer of the community, but no conveyance occurred.

When the real estate taxes were not paid, the common area property was sold at tax sale. Following a tax sale, the tax sale purchaser must comply with the statutory procedure of notifying interested parties and obtain court approval to obtain legal title to the property. This includes service of a suit on the record owner of the property. If the property is the common area "owned by or legally dedicated to a homeowners association", notice must be sent to the homeowners association's last reasonably ascertainable address.

---

**"The *Royal Plaza* court ruling underscores the importance for homeowners associations to ensure that a developer conveys the common areas to the association."**

---

The purchaser at the tax sale of the Royal Plaza property sent notice of the sale to the developer in care of its resident

agent, but did not send a separate notice to the homeowners association in care of the association's resident agent (who was also the registered resident agent for the developer). A year and a half after the trial court approved the conveyance to the tax sale purchaser, the homeowners association sought to set aside the conveyance. The trial agreed that the conveyance should be set aside because the homeowners association did not receive actual notice of the post-sale suit to obtain legal title.



On appeal, the Court of Appeals upheld the ruling of the intermediate appeals court which had reversed the trial court decision. The Court of Appeals ruled that because the homeowners association was not the record owner of the property, the homeowners association was not required to be a party to the post-sale suit. Therefore, the trial court had jurisdiction to approve the conveyance of the common area property to the tax sale purchaser despite failure to give notice to the non-party association.

The *Royal Plaza* court ruling underscores the importance for homeowners associations to ensure that a developer conveys the common areas to the association. It also highlights the need for a homeowners association to maintain a current corporate registration so that an association receives legal notices affecting association common area property.

**FANNIE MAE RELAXES CONDO  
INVESTOR-OWNER STANDARD**

Fannie Mae has revised its lending standards to allow up to 50 percent of the dwelling units in a condominium to be owned by investors who do not occupy the unit. The percent of allowable investor owners has increased from 30 percent for new condominiums and from 40 percent for existing condominiums.

Additionally, the "conforming loan" limit for loans purchased by Fannie Mae has been increased from \$359,650 in 2005 to \$417,000 in 2006.

As a result of these changes, many condominiums may see an increase in the number of units purchased by investors and rented.

Condominium associations, housing cooperatives, and homeowners associations concerned about the growing number of investor-owned units can adopt restrictions to discourage the number of rented units and encourage tenant compliance with community rules.

#### **MONTGOMERY COUNTY WILL ACCEPT MAINTENANCE RESPONSIBILITY FOR STORM WATER FACILITIES**

Montgomery County is continuing to accept the turnover of structural maintenance for storm water management facilities located on homeowner association and condominium common property. The annual cost to maintain these facilities is

typically \$5,000 or more, depending on the type, number and location of the facilities.

Most communities built prior to 2003 have eligible storm water facilities such as wet and dry ponds and oil/grit separators. However, it is estimated that less than 35 percent of the eligible storm water facilities have been turned over to the County.

For communities started since 2003, the County has accepted the maintenance responsibility as part of the development process.

Transferring the structural maintenance responsibility to the County involves revising existing covenants to require the County to pay for future structural maintenance expenses for storm water facilities located on association property.

***VISIT US ONLINE !***  
***schildlaw.com***

- \* **LawLetter Archives**
- \* **Articles**
- \* **What's New Update**
- \* **LawLinks**

#### **MARYLAND TASK FORCE EXAMINES COMMON OWNERSHIP COMMUNITIES**

A Maryland state task force is currently looking at various aspects of governance and operations in common ownership communities--condominiums, homeowners associations and housing cooperatives.

### Topics Under Study

Among the topics under study are the education and training needs of boards of directors and owners; alternative dispute resolution options; collection of assessments; funding of replacement reserves; resale disclosure procedures; and the desirability of enacting the Uniform Common Interest Ownership Act.

The state Task Force on Common Ownership Communities is expected to

gather information through public hearings to be held at various locations throughout Maryland later this year. A task force report of findings and recommendations is to be submitted to Governor Ehrlich and the General Assembly by the end of 2006.

### Prince George's County Task Force

In Prince George's County, a task force appointed by the County Council has recommended the creation of a county Office of Common Ownership Communities to educate government officials, community governing boards, and prospective home purchasers about common ownership communities. The proposed government agency would also collect and maintain information about common ownership communities and management companies which do business in Prince George's County.

---

**THOMAS SCHILD LAW GROUP, LLP** represents condominiums, cooperatives, and homeowner associations in Maryland and Washington, D.C. Since 1985, the firm has advised community associations on all aspects of association operations including covenant enforcement, assessment collections, developer warranties, maintenance and management contracts, and association document interpretation. Thomas Schild Law Group also represents community associations in court litigation and administrative hearings.

---

*\*\*\* Copyright 2006 Thomas Schild Law Group, LLP\*\*\**

*Articles may be reprinted with attribution to the  
Thomas Schild Law Group Community Association LawLetter*

*The Thomas Schild Law Group Community Association LawLetter includes general legal information and should not be relied on with respect to any specific facts and circumstances. Readers are encouraged to consult an attorney as to the current law applicable to particular situations.*