

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
)	
Stephen Yusi)	
)	CSR-5606-O
)	
Petition for Declaratory Ruling)	
Pursuant to 47 C.F.R. § 1.4000)	

MEMORANDUM OPINION AND ORDER

Adopted: December 4, 2001

Released: December 6, 2001

By the Chief, Consumer Protection and Competition Division, Cable Services Bureau:

1. In this Memorandum Opinion and Order, we dismiss the above-captioned petition for declaratory ruling without prejudice. Stephen Yusi (“Petitioner”) filed a Petition for Declaratory Ruling (“Petition”) against the Harrison House Condominium (“HHC”), located in Harrison, New York.¹ Petitioner seeks a determination that Article VIII, Section 8 of the By-Laws of the “Declaration Establishing Harrison House Condominium,” which prohibits or restricts the use of externally mounted over-the-air video reception antennas, is prohibited by the Commission’s Over-the-Air Reception Devices Rule (the “OTARD Rule”).² HHC filed a response. Petitioner did not file a reply.

2. Upon examination of the record in this matter, Bureau staff determined that Petitioner’s lease on the property in question expired on June 30, 2001.³ Staff attempted to contact Petitioner by telephone and letter to update his information on file. Petitioner’s telephone number on file apparently is no longer in service, and Petitioner did not respond to our letter (sent by certified mail) requesting information about the status of his dispute with HHC concerning his installation of a satellite dish.⁴ Petitioner’s landlord confirmed that Petitioner has since vacated his unit at the condominium complex, and that he did not leave a forwarding address with them. It appears, therefore, that Petitioner no longer resides in the Harrison House Condominium Complex and is no longer subject to the HHC antenna restrictions.

¹ See Public Notice, “Petitioner Seeking Declaratory Ruling That Certain Restrictions of Condominium Association Are Preempted by the Commission’s Over-the-Air Reception Devices Rule,” DA 00-2488 (Nov. 6, 2000).

² The OTARD Rule provides that parties may petition the Commission for a declaratory ruling under Section 1.2 of the Commission’s rules to determine whether a particular restriction is permissible or prohibited under the Rule. See 47 C.F.R. § 1.4000(d).

³ A copy of the lease agreement was attached to the Petition.

⁴ See Letter from Benigno E. Bartolome, Staff Attorney, Cable Services Bureau, to Stephen Yusi (Oct. 15, 2001). A copy of the letter was also sent to HHC’s counsel and Mr. Yusi’s landlord. The letter requested a response from Petitioner by November 15, 2001.

3. In light of these developments, it appears that Mr. Yusi is no longer a party nor affected by the HHC antenna restrictions. Therefore, we dismiss Mr. Yusi's Petition without prejudice. This dismissal, however, should not be construed as a ruling on whether the HHC antenna restrictions are prohibited by the OTARD Rule.

4. Accordingly, **IT IS ORDERED**, pursuant to Section 1.4000(d) of the Over-the-Air Reception Devices Rule, 47 C.F.R. § 1.4000(d), and Section 1.2 of the Commission's rules, 47 C.F.R. § 1.2, that the Petition for Declaratory Ruling filed by Stephen Yusi is **DISMISSED** without prejudice.

5. This action is taken by the Chief, Consumer Protection and Competition Division, Cable Services Bureau, pursuant to authority delegated by Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321.

FEDERAL COMMUNICATIONS COMMISSION

Deborah E. Klein, Chief
Consumer Protection and Competition Division
Cable Services Bureau