

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

In the Matter of: )  
Ray and Mary Thweatt )  
 )  
 ) CSR 4914-O  
Petition for Declaratory Ruling )  
Under 47 C.F.R. § 1.4000 )

**MEMORANDUM OPINION AND ORDER**

**Adopted: November 26, 1997**

**Released: November 28, 1997**

By the Chief, Cable Services Bureau:

**I. Background**

1. Petitioners Ray and Mary Thweatt (herein "Thweatts"), filed a Petition for Declaratory Ruling<sup>1</sup> ("Petition") seeking a determination that the Architectural Regulations adopted by the Townes of Ashleigh of Stafford [Virginia] Homeowners Association, Inc. (herein "Ashleigh HOA"), which impose certain restrictions on the installation and placement of antennas designed to receive video programming, are preempted by the Commission's Over-The-Air Reception Devices Rule (the "Rule").<sup>2</sup> The Petition also sought the Commission's ruling that Ashleigh HOA's requirement that the Thweatts move their satellite dish to comply with the Architectural Regulations was prohibited by the Rule.

2. After the pleading cycle ended, the Thweatts informed the Commission that they decided unilaterally to move their antenna to a location approved by Ashleigh HOA on the back of their roof, and that Ashleigh HOA had adopted new antenna regulations.<sup>3</sup>

**II. Discussion**

3. Because the Thweatts have resolved the issue of placement of their antenna in a manner satisfactory to both parties, we dismiss the Thweatts' Petition without prejudice.

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<sup>1</sup>In the matter of Ray and Mary Thweatt, Petition for Declaratory Ruling (filed Oct. 15, 1996) ("Petition").

<sup>2</sup>47 C.F.R. § 1.4000 (1996). The Rule prohibits governmental and private restrictions that impair the ability of antenna users to install, maintain, or use over-the-air reception devices. Pursuant to the Commission's declaratory ruling procedures, *see* 47 C.F.R. § 1.2, parties may petition the Commission to declare whether a particular restriction is permissible or prohibited under Section 1.4000. 47 C.F.R. § 1.4000(d).

<sup>3</sup>*See* Thweatts' post-reply letter dated June 20, 1997 and "Townes of Ashleigh of Stafford Homeowners Association Administrative Resolution 97-02 (Antennas)", attached thereto.

**III. Ordering Clauses**

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 Ray and Mary Thweatt on October 15, 1996, is **DISMISSED**.

5. This action is taken by the Chief, 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

Meredith J. Jones  
Chief, Cable Services Bureau