

Exhibit 13

OFFICE OF THE DISTRICT ATTORNEY
STOREY COUNTY, NEVADA

Harold Swafford, District Attorney
Post Office Box 496
Virginia City, Nevada 89440

Telephone: (775) 847-0964

Fax: (775) 847-1007

MEMORANDUM

TO : Dean Haymore, Director, Storey County Planning
FROM : Laura Grant, Deputy District Attorney
DATE : July 1, 2008
SUBJECT : SCC 17.12.044 -- Height of Buildings/Structures

You have asked for my opinion regarding the construction of two (2) new amateur radio antennas in the Virginia City Highlands. It is my understanding, from the documents that you have provided to me,¹ Mr. Taormina has already applied for and received a building permit for the two (2) towers he wishes to construct. At this point in time it appears that the sticking points involve Mr. Taormina's neighbors within the Virginia City Highlands who object to the construction of the new radio antennas. I have not been made privy to their actual concerns, though I would surmise that these concerns center around aesthetics.

Several levels of law apply to this particular situation; federal, state and local authority. On the federal level, the Federal Communications Commission oversees the licensure, etc. of amateur radio operators. 47 C.F.R. §97.15² does not set specific heights for antennae but establishes the need for state and local authority reasonableness in the guidelines and/or regulations regarding such.

¹ Email correspondence from Tom Taormina dated June 27, 2008; Copy of correspondence from Tom Taormina to HRPOA Architectural Committee dated June 26, 2008; Copy of correspondence from Artisan Engineering, LLC. To Paul Nyland of Custom Metalworks dated June 2, 2008; Copies of drawings indicating plans for 2 radio towers (200' and 135'); Email correspondence from Tom Taormina dated June 24, 2008; Memo from HRPOA to Commissioners (undated); Email correspondence from Tom Taormina dated June 30, 2008 and Email correspondence from Tom Taormina dated July 1, 2008.

² §97.15 Station antenna structures.

(a) Owners of certain antenna structures more than 60.96 meters (200 feet) above ground level at the site or located near or at a public use airport must notify the Federal Aviation Administration and register with the Commission as required by part 17 of this chapter.

(b) Except as otherwise provided herein, a station antenna structure may be erected at heights and dimensions sufficient to accommodate amateur service communications. (State and local regulation of a station antenna structure must not preclude amateur service communications. Rather, it must reasonably accommodate such communications and must constitute the minimum practicable regulation to accomplish the state or local authority's legitimate purpose.

[Type text]

Mr. Taormina has repeatedly asserted that Storey County's ordinance is preempted by state law and, therefore, nothing can be done to enforce a height restriction on his towers. NRS 278.02085³ contains language which is essentially identical to that contained within 47 C.F.R. §97.15. Storey County Code §17.12.044⁴ places a specific height restriction upon the erection of radio towers. While the ordinance itself does not address the reasons for the restriction, I must presume that the limit imposed relates to public safety concerns.

Moreover, the properties contained within Virginia City Highlands are further governed by a property owners association (HRPOA) and Conditions, Covenants and Restrictions (CC&Rs). I have reviewed the CC&Rs and Section 3⁵ would indicate that permission of the Architectural Committee is necessary for the antennae. I spoke with Bill Lewis earlier today about that very issue and he assured me that the Committee does not consider that it has authority over radio antennae.

The FCC released a Memorandum Opinion and Order (FCC 85-506) in 1985 regarding the issue of federal preemption of state and local limitations on radio towers of amateur radio operators. The memorandum is referred to as "PRB-1" and has been updated as recently as 2001 wherein the FCC specifically declined to employ federal preemption to control radio tower heights.⁶

In Mr. Taormina's case, your department has apparently already issued building permits for the towers he wishes to build. Presumably, this means plans were submitted describing the proposed height of the towers (200' and 135'). As such, it would appear to me that you have

³ 1. A governing body shall not adopt an ordinance, regulation or plan or take any other action that precludes amateur service communications or that in any other manner does not conform to the provisions of 47 C.F.R. § 97.15 and the limited preemption entitled "Amateur Radio Preemption, 101 F.C.C. 2d 952 (1985)" as issued by the Federal Communications Commission.

2. If a governing body adopts an ordinance, regulation or plan or takes any other action that regulates the placement, screening or height of a station antenna structure based on health, safety or aesthetic considerations, the ordinance, regulation, plan or action must:

(a) Reasonably accommodate amateur service communications; and

(b) Constitute the minimum level of regulation practicable to carry out the legitimate purpose of the governing body.

⁴ In the R-1, R-2, E, A, PUD, and F zones, no building, manufactured building or manufactured home shall exceed a height of three stories or thirty-five feet, whichever is higher, except as may be allowed by special use permit. The requirements of this section shall not apply to church spires, belfries, cupolas, domes, chimneys or flagpoles. *Radio, television and other communication masts may extend not more than forty-five feet above grade level, provided that the same may be safely erected and maintained at such height in view of surrounding conditions and circumstances.*

⁵ All plans and specifications for any building or swimming pool, or for any improvements, storage shed, fence, wall or other structure whatsoever to be erected on or moved upon or to any lot, and the proposed location thereof on any lot or lots, the roofs thereof, any later changes or additions thereto after initial approval thereof, and any remodeling, reconstruction, alterations, or additions to any building or other structure on any lot shall be subject to and shall require the approval in writing, before any such work is commenced, of the Architectural Control and Planning Committee (herein called "Committee"), as the same is from time to time composed.

⁶ 25. Because amateur station communications are only as effective as the antennas employed, antenna height restrictions directly affect the effectiveness of amateur communications. Some amateur antenna configurations require more substantial installations than others if they are to provide the amateur operator with the communications that he/she desires to engage in. For example, an antenna array for International amateur communications will differ from an antenna used to contact other amateur operators at shorter distances. *We will not, however, specify any particular height limitation below which a local government may not regulate*, nor will we suggest the precise language that must be contained in local ordinances, such as mechanisms for special exceptions, variances, or conditional use permits. Nevertheless, local regulations which involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to accommodate reasonably amateur communications, and to represent the minimum practicable regulation to accomplish the local authority's legitimate purpose. (1985)

[Type text]

waived the height limitations set out in SCC §17.12.044. Aside from the precedent-setting aspects of such a waiver, it would appear to me that the County is entitled to enforce its height limits as being in full compliance with NRS 278.02085 and 47 C.F.R. §97.15. While it is true that amateur radio operators provide the public with very important services during emergency situations, limiting tower heights does not unreasonably impinge on amateur service communications. I believe that Storey County's regulations fall within the definition of "reasonable accommodation."

Please let me know if this addresses your concerns or if you require further assistance. I look forward to hearing from you.


LAURA GRANT

Virginia City Highland Ranches Property Owners Association

To: Storey County Board of Commissioners

Subject: Amateur radio towers

A concern has been raised by some association members over the erection of amateur radio towers in the Virginia City Highlands. I have reviewed the existing association CC&Rs and find nothing which prevents erection, limits tower size, or the quantity of these structures on a member's property.

The issue does raise some questions which the association members have requested the property owner's board to ask the Commissioners.

- 1) Will the county require and review, tower and component fabrication design drawings prepared and wet stamped by a structural engineer, licensed by the state of Nevada?
- 2) Will the county require and review, tower and support component foundation design and installation drawings prepared and wet stamped by a structural engineer, licensed by the state of Nevada?
- 3) Will the county issue building permits and perform inspections on these structures, verify compliance with the design drawings, and all applicable codes and mandatory county set backs.

The Commissioners consideration and subsequent specific ruling to these questions posed by the Virginia City Highlands Ranches Property Owners Association would be appreciated.

Sincerely,



Howard H. Depew, P.E.
Chairman Architectural Committee
Virginia City Highlands Ranches Property Owners Association

Cc Dean Haymore

Exhibit 14

Storey County
110 Toll Road ~ Gold Hill Divide
P O Box 526 ~ Virginia City NV 89440



Building Dept
building@storeycounty.org
(775) 847-0966 ~ Fax (775) 847-0935

July 7, 2008

Tom Taormina
370 Panamint Road
VC Highlands, NV 89521

Re: Amateur Radio Antennas – Permit #8354

Dear Mr. Taormina:

The Storey County Deputy District Attorney, Laura Grant, has reviewed all the rules and regulations regarding Amateur Radio Antennas. Please see her attached Memorandum on the subject. Due to her findings, I believe that a Variance will be required for the placement of any more antennas which are above the height of forty-five feet. As per our phone conversation today, my office has emailed you a SUP/Variance application. Understand that your permit to construct will have a special condition that you must obtain the required Variance on height before you may continue under Permit #8354. Please get your Variance application into the Planning Department office by July 11, 2008, for us to process for the August 7 Planning Commission meeting.

You will also make sure all guide wires, foundations and towers are on your property. You shall remove all improvements, foundations, guide wires and towers that are not on your property and are encroaching on your neighbors' properties. You will reclaim abutting property back to its natural state. Thank you for your prompt attention to this matter.

Sincerely,

Dean Haymore
Building Official / Planning Administrator

encl: Memorandum
Special Use Permit Application

Cc: Laura Grant, Deputy District Attorney
Pat Whitten, County Manager
Bum Hess, Commissioner
John Flanagan, Commissioner
Bob Kershaw, Commissioner
Donna Giboney, Planning Department

Exhibit 15

7/11/08

To Whom it May Concern:

We are writing this complaint against Tom and Midge Taormina at 370 Panamint Road. Tom and Midge have erected 8 unsightly antenna towers and are in direct violation of at least 2 County Ordinances, and some are in direct violation of at least 3 County Ordinances. Tom and Midge are also in the process of erecting 2 new towers. One of the new towers is going to be 196' tall and the other is 140' tall. These towers have created a nuisance and quite an eyesoar.

We would like to start with the definition of "Structure" according to Storey County Code 17.10.098. "Any building, fence, tower, ediface or building of any piece of work artificially built up or composed of parts joined together in some definite form which requires location on the ground or is attached to something having location on the ground". Tom has never aquired a building permit for any of the existing towers!

The following County Ordinances are in direct violation:

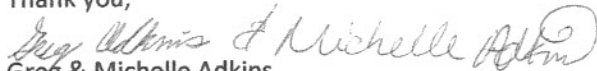
- 1.) Storey County Code 15.12.010 "It is unlawful for any person, corporation, municipal, corporation, association, club, business trust, estate, or any group or combination thereof to erect, construct, relocate, or alter any sign, building, or structure within the county without first obtaining a building permit from the building official."
- 2.) Storey County Code 17.12.044 Height of buildings "...Radio, television and other communication masts may extend not more than forty-five feet above grade level, provided that the same may be safely erected and maintained at such height in view of surrounding conditions and circumstances."
- 3.) Storey County Code 17.12.050 Setbacks "The following minimum setbacks shall apply to all structures over six feet in height in the E estates zones... E-10-HR [Front Setback] 30 ft. [Rear Setback] 40 ft. [Side setback] 15 ft."

The tower owner, Tom, has said that the towers are in part for Emergency Communications. I have spoken to Pat Whitten about this, and he has basically said that Tom is the **Volunteer** Storey County Emergency Communications Officer, he has expressed that Tom is strictly a Volunteer and that the County does not have any equipment on Tom and Midge's property, the County does not intend to have equipment on Tom and Midge's property, and does not pay Tom for any services. Tom does not need the type of equipment that he has erected to be the County Emergency Officer. Tom does not play an active roll in the Emercency system.

We believe that Tom's self appointed title is a convient excuse to get people to not ask questions and has allowed him to do whatever, wherever he wants to do it. He has affected many good people in our neighborhood. We all want our country setting back and are asking for your help in doing so. We are asking you to help us and to please take action immediatley.

We have attached a few photos of our property and the new towers that Tom and Midge are planning on erecting so that you can see the eyesoar that we have to look at everyday and will have to look at in the days to come if nothing is done to stop them. One of the photos is back in 2003 when I bought my property. The other is a current July 2008 photo.

Thank you,


Greg & Michelle Adkins
390 Panamint Road
VC Highlands, NV 89521
(775) 847-7097