

1 **Final agency action regarding decision below:**

2
3 **ALJCERT ALJ decision certified as final 2/13/13: mailed to all parties/rjr**

4
5 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

6
7 STEVE IKEDA,
8 Petitioner,

No. 12F-H1213004-BFS

9 vs

**ADMINISTRATIVE
LAW JUDGE DECISION**

10 RIVERVIEW PARK CONDOMINIUMS,
11 Respondent.

12
13
14 **HEARING:** December 20, 2012

15 **APPEARANCES:** Petitioner Steve Ikeda appeared on his own behalf.
16 Respondent Riverview Park Condominiums was represented by Lindsey O'Connor,
17 Esq.

18 **ADMINISTRATIVE LAW JUDGE:** Tammy L. Eigenheer

19
20 **FINDINGS OF FACT**

21 1. At all times relevant to this matter, Petitioner Steve Ikeda owned a
22 condominium in the condominium community currently known as Riverview Park
23 Condominium (Riverview).¹

24 2. Riverview is governed by Homeowner Association documents such as the
25 Articles of Incorporation, Bylaws, Amended Declaration of Covenants, Conditions and
26 Restrictions (CC&Rs), and Rules and Regulations. See documents attached to the
27 Petition and Answer forwarded to the Office of Administrative Hearings by the
28 Department of Fire, Building and Life Safety (Department).

29 3. The CC&Rs provide as follows:
30

¹ At one point, Riverview was known as Willow Parc Condominiums.

1 No antenna, satellite television dish or other device for the transmission or
2 reception of television or radio signals or any other form of
3 electromagnetic radiation shall be erected, used or maintained outdoors
4 on any portion of the Condominium whether attached to a Building or
5 structure or otherwise, unless approved in writing by the Board of
6 Directors

7 4. When Petitioner bought the condominium in 2007, he installed a satellite
8 dish in the common area of Riverview.

9 5. In 2011, Petitioner leased the condominium to a tenant. At that time, the
10 tenant had the existing satellite dish removed and replaced it with a new satellite dish in
11 the same location.

12 6. On or about April 23, 2012, Riverview notified Petitioner that he was in
13 violation of the CC&Rs.

14 7. On or about June 7, 2012, Petitioner obtained a letter from the prior
15 Riverview management company that read:

16 Please be advised that Mr. Steve Ikeda was given permission from
17 the developer, Willow Parc [D]evelopments, LLC and approval was
18 obtained from the home owners association, Riverview Park
19 Condominiums Association to install a satellite dish in front of his unit at
20 the time he purchased his unit #140 at Riverview Park Condominiums.

21 At that time, Mr. Mark Dawson was the registered 'Declarant' and
22 President of Riverview Park Condominium Association as well as the
23 Managing Partner of Willow Parc Developments, LLC and issued said
24 approval. We are hereby confirming such by this letter and stating that
25 Mr. Dawson was duly authorized to approve this installation.

26 8. On or about August 8, 2012, Riverview sent another notice to Petitioner
27 indicating he was still in violation of the CC&Rs because the satellite dish was sitting on
28 common area property and must be moved.

29 9. On or about August 31, 2012, Petitioner filed a Petition with the
30 Department alleging Riverview violated the CC&Rs by imposing a fine for the satellite
dish because Petitioner had permission from the prior management company to install
the satellite dish.

1 management company should be accepted as conclusive proof that he was granted
2 written permission at the time the satellite dish was installed.

3 7. Petitioner also argued that when he leased his condominium in 2011, he
4 granted the tenant the right to have a satellite dish based on Petitioner's reliance on the
5 permission he received from the prior management company. The tenant then entered
6 into a contract with a satellite television provider based on the tenant's reliance on the
7 lease. Petitioner argued it was unfair for the current management company to deny the
8 permission granted by the prior management company, in part, due to Petitioner's
9 contractual obligation to his tenant and his tenant's contractual obligation to the satellite
10 television provider.

11 8. Riverview argued all the files from the prior management company were
12 transferred to the new management company and that nothing in the files indicated
13 Petitioner had been given written permission to install the satellite dish. Further,
14 Riverview stated that in the event Petitioner had permission to install the original
15 satellite dish, when that dish was removed and a new satellite dish was installed, written
16 permission would have been required for the new satellite dish. Such written
17 permission was not sought or granted.

18 9. Petitioner failed to establish by a preponderance of the evidence that he
19 received written permission from the prior management company and that Respondent
20 violated the CC&Rs by imposing a fine for the satellite dish on the common area.

21 10. The Administrative Law Judge concludes that Petitioner's Petition should
22 be dismissed.

23 **RECOMMENDED ORDER**

24 In view of the foregoing, IT IS ORDERED that no action is required of
25 Respondent in this matter and that the Petition be dismissed.

26 *In the event of certification of the Administrative Law Judge Decision by the*
27 *Director of the Office of Administrative Hearings, the effective date of the Order will be*
28 *five days from the date of that certification.*

29 Done this day, January 7, 2013.

30 /s/ Tammy L. Eigenheer

Administrative Law Judge

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30

Transmitted electronically to:

Gene Palma, Director
Department of Fire Building and Life Safety