



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

March 10, 2004

The Honorable Lewis E. Pinson
Member, House of Representatives
327-D Blatt Building
Columbia, South Carolina 29211

Dear Representative Pinson:

In a letter to this office you questioned whether local subdivision covenants can override placement of a satellite. I assume you are questioning whether such covenants can prevent the placement of a satellite dish in a particular subdivision.

As referenced in a prior opinion of this office dated January 2, 1975, restrictive covenants are generally upheld as enforceable under the theory of protection of property values and maintenance of the character of a subdivision. The opinion commented that generally restrictive covenants are filed and disclosed prior to the purchase of the property. Therefore, a homeowner would be deemed to have been put on notice of the restrictions prior to purchase of the property. As stated in Sea Pines Plantation Company v. Wells, 294 S.C. 266, 270, 363 S.E.2d 891, 894 (1987)

Courts tend to strictly interpret restrictive covenants and resolve any doubt or ambiguities in a covenant on the presumption of free and unrestricted land use...Thus, to enforce a restrictive covenant, a party must show that the restriction applies to the property either by the covenant's express language or by a plain and unmistakable implication...(However)...(t)he rule of strict construction governing restrictive covenants does not preclude their enforcement. A restrictive covenant will be enforced if the covenant expresses the party's intent or purpose, and this rule will not be used to defeat the clear express language of the covenant...This restrictive covenant is a voluntary contract between the parties. Courts shall enforce such covenants unless they are indefinite or contravene public policy.

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Consistent with such, and acknowledging that this office has not reviewed any particular subdivision restrictions, a subdivision covenant restricting the placement of satellite dishes in a particular subdivision could be upheld in particular circumstances.

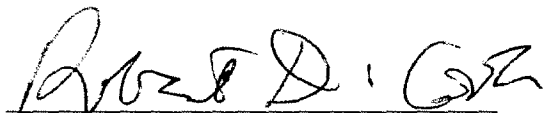
With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General