



BROADBAND AGREEMENTS

BY MFC

A Division of Morgan Fussell Consulting, Inc.



We Negotiate:

INTERNET, CABLE TV, FIBER, Right of Entry, Access, Marketing and Compensation Agreements for your **COMMUNITIES.**

• **ASK ABOUT BULK INTERNET & WI-FI** •

We have over 30 years' experience in cable television and understand the internal workings of all providers, which translates to **MAXIMUM COMPENSATION** for our clients. Our fees are only 20% of any income and/or savings we obtain when negotiating a new or renewal agreement. That means our clients **KEEP 80%**. If there is a current offer or agreement in place, we will improve that offer or agreement and split the upside with our client equally. Therefore, our services are **RISK FREE!**

**WE IMPROVE YOUR INCOME AND/OR SAVINGS
OR WE ARE NOT PAID.**

FREE REVIEW AND NEGOTIATION of any Agreement with signed **LETTER OF AUTHORIZATION (LOA).**

ACTIVE MEMBERS OF:

California Association of Community Managers (CACM), CAI-Northern California, CAI-BayCentral, CAI-San Diego, and the CAI-Greater Inland Empire

(916) 803-8399 • www.broadbandagreements.com

CABLE TV CONTRACTS

QUESTION: Our association would like AT&T to install fiber optic cable to units. Our CC&Rs limit the board from entering into agreements longer than 5 years without membership approval. We want to comply with the restriction but AT&T has language in their agreement they refuse to amend that AT&T's ownership of facilities and the ability to service existing customers survives the agreement. Does that violate our CC&Rs?



ANSWER: I don't believe it does. Your board is entering into a bulk service agreement for five years. At the end of five years, you can switch to another provider. The agreement allows AT&T to continue servicing individual customers who choose to keep the programming. That does not violate your CC&R restriction. I would be more concerned with automatic renewals and ownership of the cable.

Automatic Renewal. Boards should be cautious about automatic renewals. Almost all service providers (elevator companies, management companies, landscapers, etc.) have "evergreen clauses" in their agreements. They provide for automatic renewal of the agreement unless the board gives written notice otherwise. They often have a 30-, 60-, or 90-day notice period. Failure to give notice within that period means the contract automatically renews for another term.

The longer the notice period, the more likely a future board will miss the requirement and the contract automatically renews. Boards should either remove the automatic renewal clause or reduce the notice requirement to no more than 30 (or 45) days.

Infrastructure Ownership. Ownership of the cable should be explored. AT&T is investing a lot of money installing it and rightly wants to recoup its investment. If they retain ownership, they have leverage to induce a future board to renew the contract. If the association does not renew with AT&T, another provider would need to install their own cable--a costly and disruptive process.

You should explore sharing the cost of the installation with AT&T so ownership of the cable transfers to the association at the conclusion of the agreement. Another approach is to negotiate language that if the association renews the agreement for a second term, ownership transfers to the association. I've used both approaches in the past.

RECOMMENDATION: As the industry shifts to fiber optic cable (for fast internet speeds and more bandwidth for live streaming), many associations will be negotiating new contracts. We just installed it in our main office. In addition to using legal counsel to review the contract, boards should consider using a cable consultant (yes, they exist) to assist in the negotiations. Attorneys are good at reviewing legal issues but the cable industry is constantly changing and someone with industry expertise can help negotiate better deals. **One consultant I'm aware of is Morgan Fussell (www.morganfussell.com).** An internet search should identify others.



AMC 25th Anniversary
Celebration and HOA
Vendor Expo
August 7th 2017
www.assocmc.com

RUSSO
INSURANCE AGENCY

- HOAs
- CONDOS
- COMMERCIAL

(800) 281-7873
www.rickrussosinsurance.com

 **THE MILLER
LAW FIRM**
constructiondefects.com
**Delivering the
Highest Recoveries
for 40 Years**


BROADBAND AGREEMENTS
BY MFC
A Division of Morgan Fussell Consulting, Inc.

We Negotiate:
**INTERNET, CABLE TV,
FIBER,** Right of Entry,
Access, Marketing and
Compensation Agreements
for your Communities.

• **ASK ABOUT
BULK INTERNET & WI-FI** •

**FREE REVIEW AND
NEGOTIATION** of any
Agreement with signed
LETTER OF AUTHORIZATION

**WE IMPROVE YOUR
INCOME AND/OR SAVINGS
OR WE ARE NOT PAID.**

W. Morgan Fussell Jr.

(916) 803-8399

[www.
broadband
agreements
.com](http://www.broadbandagreements.com)