

Q&A Regarding Verizon's Request for Individual Lot Easements for Installation of FiOS

Q: *What is this all about?*

A: Fairfax County awarded a franchise agreement to Verizon in September 2005 to roll out its broadband Internet/digital TV/ digital Phone service called FiOS to County residents. The fiber optic cabling necessary to bring the FiOS services to homeowners has already been installed in our area, including on the side of the Ashburton Manor community developed by NV Homes. However, the side of our community developed by Equity Homes has been bypassed.

Q: *Why has FiOS been installed on the NV side of the community but not on the Equity side of the community?*

A: This disparity between the two sides of our community exists because Verizon had easements it could utilize on each of the individual lots on the NV side of our community but lacked such individual lot easements on the Equity side. Verizon has also indicated that it has a strong preference to rely on individual lot easements rather than existing public right of ways when installing the FIOS infrastructure.

Q: *What steps has Verizon taken towards installation of FiOS on the Equity side of the community?*

A: Several community residents who were interested in obtaining FiOS contacted Verizon to find out what could be done to facilitate the installation. A community wide meeting was held in June to discuss the issue. In July, a Verizon representative conducted a walk-through of the Equity side of our community to assess the physical layout of the neighborhood to determine what was and was not possible in terms of working around the lack of individual lots easements. We were also informed that the Equity side of our community was being bundled together with the homes in the adjoining Cinnamon Oaks community for the FIOS installation. Verizon is now in the process of assessing the community's interest in the FiOS service. During October, Verizon distributed door hangers on the Equity side of the community informing homeowners that Verizon was seeking individual lot easements for the installation of FiOS in the community. **Homeowners who would be willing to grant such an easement to Verizon should contact Ms. Terri Holland of Verizon at (703) 204-5209 before December 31, 2008.**

Q: *Will Verizon install FiOS in our community if they do not get the individual lot easements they are requesting?*

A: Verizon has voiced its strong preference for going forward with the install only if it obtains a sufficient number of the individual lot easements they feel necessary to proceed with the installation of FiOS. But Verizon has not told us what that sufficient number of

easements is. Verizon has also indicated that they do not think that it would be feasible to utilize the existing VDOT public right of way.

Q: Why can't Verizon install FiOS in our community using the same VDOT public right of way that Cox Communications used for the installation of their broadband cabling on the Equity side of our community?

A: Verizon has expressed two concerns: (1) the limited size of the public right of way in certain portions of the community and (2) the need to maintain a two foot separation between their infrastructure and that of other utilities.

Q: What can we do as a community if Verizon indicates that it cannot proceed with the installation of FiOS in our community?

A: As indicated above, Verizon has a franchise agreement with Fairfax County that requires them to roll out the FiOS service to the entire County by 2012. If Verizon decides it cannot proceed with the installation in our community, we may need to get Fairfax County involved. Another possible source of support could be the Virginia State Corporation Commission which administers "Miss Utility" and oversees enforcement of the rules governing the installation of underground utility lines in Virginia. (They were helpful during the episode involving Cox Communications.) It is possible that some pressure from State or County regulators might cause Verizon to proceed with the FiOS installation utilizing the public right of way.

Q: If Verizon doesn't get a sufficient number of easements to go forward and the involvement of regulatory authorities does not alter Verizon's position on the use of the public right of way, isn't there anything our HOA Board of Directors can do to intervene to prevent Verizon from bypassing our community?

A: Yes. The Ashburton Manor Homeowners Association Articles of Incorporation gives the HOA Board of Directors the authority to grant a blanket easements that would cover both HOA common property and individual homeowner lots in certain specific circumstances. However, most members of the HOA Board do not think we should even consider exercising that authority unless and until all other possibilities have been explored and exhausted. If Verizon fails to obtain enough individual lot easements for Verizon to proceed with the installation, then Verizon will be pressed to explain why they cannot (as Cox Communications was forced to do) utilize the existing VDOT public right of way to complete the installation of FiOS. The HOA Board anticipates that it may become necessary to involve Fairfax County and the State Corporation Commission in the discussion with Verizon at that point. If Verizon should decide that it cannot use the existing right of way and the regulatory authorities do not object, then the HOA Board of Directors will then need to address whether the circumstances are sufficient to justify the exercise of the blanket easement authority.