



**Federal Communications Commission  
Washington, D.C. 20554**

December 15, 2014

*In Reply Refer to:*  
1800B3-HOD

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**In re: KBOO Foundation  
Applications for Transfer of Control of  
Licenses and Construction Permit**

KBOO(FM), Portland, Oregon  
Facility ID No. 65755  
File No. BTCED-20131029AFK

KBLU-FM, Pilot Rock, Oregon  
Facility ID No. 173820  
File No. BTCED-20131029AFL

K220HR, Hood River, Oregon  
Facility ID No. 33677  
File No. BTCFT-20131029AFM

K242AX, The Dalles, Oregon  
Facility ID No. 147659  
File No. BTCFT-20131029AFN

K264AA, Corvallis, Oregon  
Facility ID No. 65756  
File No. BTCFT-20131029AFO

K282BH, Philomath, Oregon  
Facility ID No. 149626  
File No. BTCFT-20131029AFP

New NCE FM, Chehalis, Washington  
Facility ID No. 173822  
File No. BTCED-20131029AFQ

**Petition for Reconsideration**

Dear Counsel:

We have before us a Petition for Reconsideration ("Petition") filed by the KBOO Foundation ("Foundation") on September 26, 2014. The Foundation seeks reconsideration of an August 25, 2014, letter decision in which we (1) granted the referenced applications ("Applications") to transfer control of the licenses and construction permit held by the Foundation from the Foundation's old Board to its new Board, and (2) directed the Foundation to include the residence addresses for its Board members in the

ownership report filed after consummation of the transfer of control as well as all subsequent ownership reports.<sup>1</sup> The Foundation does not seek to overturn our grant of the Applications. Rather, it challenges the requirement that it list the residence addresses of its Board members in future ownership reports. For the reasons discussed below, we deny the Petition.

**Background.** The Foundation filed the Applications on October 29, 2013. On February 3, 2014, one of the Foundation's Board members – Michael Papadopoulos (“Papadopoulos”) – filed an Informal Objection to both the Applications and the Foundation's most recent biennial ownership report. Among other things, Papadopoulos argued that the Foundation failed to list the residential addresses of its Board members in both the Applications and the ownership report. The Foundation had listed its headquarters address as the address of each member. The Foundation maintained that it was not required to list Board members' residential addresses, citing the instructions to FCC Forms 315 (Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License) and 323-E (Ownership Report for Noncommercial Broadcast Stations).

We determined that the Foundation was not required to list the residential addresses of its Board members in the Applications.<sup>2</sup> In contrast, we found that the Foundation should have listed the residential addresses of these members in its ownership reports.<sup>3</sup> We cited Section 73.3615 of the Commission's rules (“Rules”), which requires that ownership reports for noncommercial educational (“NCE”) stations include, among other things, the “[n]ame, residence, office held, citizenship, principal profession or occupation, and by whom appointed or elected” for each board member.<sup>4</sup> We thus required the Foundation to amend the ownership report it had filed on September 20, 2013, to provide the residential addresses of each Board member.<sup>5</sup> We further directed the Foundation to include the residence addresses for each Board member in its post-consummation ownership report and “all subsequent ownership reports.”<sup>6</sup>

The Foundation explains that it did amend the ownership report filed in September 2013 to include the residence addresses of its Board members and that it included the residence addresses of its Board members in the ownership report that it filed after consummating the transfer of control from its old Board members to its new Board members.<sup>7</sup> The Foundation, however, does not wish to include the residential addresses of its Board members in any future ownership reports it files. Thus, it urges us to remove or revise the requirement that it include such information in these future reports.<sup>8</sup>

**Discussion.** The Foundation acknowledges that Section 73.3615 does require disclosure of the “residence” of its Board members.<sup>9</sup> However, it argues that the term “residence” is ambiguous and could be interpreted to mean state of residence.<sup>10</sup> The Foundation asserts that the Commission has never issued

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<sup>1</sup> Letter to Michael Papadopoulos and KBOO Foundation from Peter H. Doyle, Chief, Audio Division, Media Bureau (dated Aug. 25, 2014) (“Letter Decision”).

<sup>2</sup> *Id.* at 4.

<sup>3</sup> *Id.* at 4-5.

<sup>4</sup> 47 C.F.R. § 73.3615.

<sup>5</sup> *Id.* at 5.

<sup>6</sup> *Id.* at 5 n. 24.

<sup>7</sup> Petition at 2-3 and n.6.

<sup>8</sup> *Id.* at 7.

<sup>9</sup> *Id.* at 4.

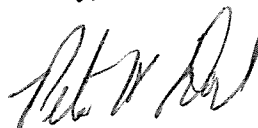
<sup>10</sup> *Id.*

any guidance defining the term “residence.”<sup>11</sup> Thus, it argues that our decision to interpret the term “residence” as “residential address” is a policy change that must be made in a more general ruling.<sup>12</sup>

We disagree. We find the use of the term “residence” to be unambiguous. We find disingenuous the Foundation’s argument that the term could be interpreted to mean state of residence. No provision of the Communications Act of 1934, the Commission’s rules or its policies, turns on whether a board member of an applicant or licensee resides in one state versus another. In contrast, certain Commission rules and/or policies do require us to know the address at which an applicant’s or licensee’s board members reside.<sup>13</sup> In addition, we note that, to interpret the term “residence” differently would be a policy change. Accordingly, we affirm that the Foundation must include the residence addresses of its Board members in any future ownership reports it files.

**Conclusion/Actions.** IT IS ORDERED that the Petition for Reconsideration filed by the KBOO Foundation on September 26, 2014, IS DENIED.

Sincerely,



Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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<sup>11</sup> *Id.* at 5.

<sup>12</sup> *Id.* at 6.

<sup>13</sup> For instance, in the NCE FM context, the Commission conducts point hearings to select among mutually exclusive applications and awards points to applicants for, among other things, being an established local applicant. 47 C.F.R. § 73.7003(b)(1). An established local applicant is an applicant that has met the definition of “local applicant” for at least the two years immediately preceding its application. 47 C.F.R. § 73.7000. One way for an applicant to qualify as a “local applicant” is for 75% of its board members to reside within 25 miles of the reference coordinates for the community to be served. *Id.* Similarly, in the LPFM context, the Commission also conducts point hearings to select among mutually exclusive applications. It awards points to applicants that have an “established community presence.” 47 C.F.R. § 73.872(b)(1). To qualify as having an established community presence, an applicant must have been “local” for a period of at least two years prior to filing its application and at all times thereafter. *Id.* One way for an LPFM applicant to qualify as local is for 75% of its board members to reside within either 10 or 20 miles of the LPFM station’s proposed transmitting site. 47 C.F.R. § 73.852(b)(2).