

**Connecticut Siting Council**  
**Docket No. 374**

RECEIVED  
JUN - 9 2009

IN THE MATTER OF:

CONNECTICUT  
SITING COUNCIL

**An Application of Cellco Partnership D/B/A Verizon Wireless for a  
Certificate of Environmental Compatibility and Public  
Need for the Construction, Maintenance, And Operation of a Wireless  
Telecommunication Facility at 199 Town Farm Rd. Farmington, CT**

**Party Susan Edelson Post-Hearing Brief**

**Submitted by:  
David R. Edelson, D.M.D.  
Representative to Susan Edelson  
11 Belgravia Terrace  
Farmington, CT 06032  
860-677-1263**

I. INTRODUCTION

II. FACTUAL BACKGROUND

A. Pre-Application History

B. The 199 Town Farm Road Site

III. THE APPLICATION DOES NOT SATISFY THE CRITERIA OF  
CONN. GEN. STA. 16-50p FOR ISSUANCE OF A CERTIFICATE  
OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

IV. CONCLUSION

## **I. Introduction**

On January 29<sup>th</sup> 2009, Cellco Partnership d/b/a Verizon Wireless (Cellco or Applicant) filed an application with the Connecticut Siting Council (Council) for a certificate of environmental compatibility and public need (Certificate), pursuant to Sections 16-50g et seq. of the Connecticut General Statutes (Conn. Gen. Stat.), for the construction, maintenance and operation of a wireless telecommunications facility at 199 Town Farm Rd. Farmington, CT. This application is a refilled application after the original, known to the Council as Docket No. 356, was officially withdrawn on October 30<sup>th</sup> of 2008. The facility at this site would fill an alleged coverage gap along Route 10 or "Waterville Road" in Farmington and Avon. Cellco claims that this significant coverage gap needs to be resolved in order for them to continue to provide high quality, uninterrupted wireless telecommunications coverage consistent with its Federal Communications Commission (FCC) and the demands of its customers.

The Council commenced a public hearing on the Application May 14<sup>th</sup> 2009 (5/14/09). Prior to the afternoon session of the hearing, The Council and its staff visited the proposed site and the residential property of Susan Edelson.

At the Council's request, Cellco attempted to float a balloon at the proposed site but according to sworn testimony at the hearing was unsuccessful at maintaining the balloon float for the duration of the prescribed time after several attempts. Also upon the request of the Council, Cellco placed a sign on the proposed property as per State regulations making known the date of the hearing at its purpose.

## **II. Factual Background**

### **A. Pre-Application History**

The Town of Farmington Planning and Zoning Commission held a public hearing on July 23, 2007 and recommended approval of the Town entering into an option to lease with Celco Partnership for property located at 199 Town Farm Road a.k.a. "Simmons Family Farm" and previously known as Fisher Family Farm. And on August 14, 2007, the Farmington Town Council unanimously approved the signing and entering into an option and land lease with Celco Partnership. According to Section 704 of the 1996 Telecommunications Act, preemption of local and state regulations pertaining to telecommunication towers only precludes municipalities from discriminating against a particular carrier, denial of a carrier on the basis of the environmental effects of radio frequency emission and or preventing tower placement altogether in a particular municipality. It is only in this respect that local city and town zoning regulations may be preempted. Therefore, Section 704 of the Telecommunications Act of 1996 expressly leaves in place the authority that local zoning commissions have over the placement of personal wireless services. Since the Town of Farmington is neither discriminating against nor attempting to prevent Celco Partnership from seeking a location in Farmington, fundamental planning and zoning regulations need apply with regard to the siting of this tower. The Town of Farmington has specific planning and zoning regulations regarding telecommunication tower siting.

The abutting property owners, including Susan Edelson, to 199 Town Farm Road and the location of the proposed tower, received no official public notice of such hearings as they were entitled to pursuant to Planning and Zoning Regulation 12.C.1, 2 of the Town of Farmington. Cellco's proposed site also does not fall into the "Permitted Uses" of Section 23(C), which means that the site falls into the category of Section D, "Uses allowed only by special permit." No special permit hearing was held either on Cellco's application by the Town of Farmington. Abutting property owners, including Susan Edelson, received no notice of any such public hearing or hearings and were thereby denied their legal right and the opportunity to express opinions to the zoning commission on the location of a tower at The Simmons Family Farm property. Placement of a telecommunications tower at the proposed location therefore required a special permit and concomitant public notice and hearing, according to Section 23(D) of the Farmington Planning and Zoning regulations.

The Simmons Family Farm is located on open space and is an active dairy farm and recreational area. The 9.9-acre parcel that is the subject matter of Cellco's application is a portion of a 108 acre farmland that was purchased with Farmington taxpayer money for the purpose of preserving the farm as open space and for agricultural use. Farmington Planning and Zoning Regulation 23.G.6 requires that a cell tower proposed to be sited on land designated as open space requires approval from the Farmington Conservation Commission. Because of this, endorsement of a cell tower on land designated as open space, as per Farmington's Land Acquisition Map, requires the approval of the Farmington Conservation Commission as per Farmington Planning and Zoning Regulations 23.G.6. A review of Town of

Farmington Conservation Commission's Meetings and Minutes from 2007 to 2009 reveals that this required approval was neither sought nor obtained by Cellco at any time during the Town Planning and Zoning Commission consideration of the Cellco lease nor during the Town Council's approval of said lease.

The Town of Farmington made no attempt to conduct any further public hearings and meetings according to the publicly posted 2008 and 2009 "Meetings and Minutes" of either the Town Council or the Town Planning and Zoning Commission as it may deem necessary and that either entity did not issue any further recommendations to Cellco within the 60 day period with regard to the new application process concerning Docket #374 dated and accepted January 27, 2009 by the Connecticut Siting Council. The Town of Farmington also did not provide the Council with any possible location changes or preferences and or other criteria and interrogatories with regard to the siting of this tower by the March 2, 2009 deadline of Docket #374. Essentially, the Town of Farmington has disregarded this matter since approving it in August 2007. This is further exemplified by the fact that neither the Town of Farmington and nor any of its representatives were "Party" to or "Intervener" to the hearing proceedings as described by the Council.

The site in question is part and parcel to property of approximately 108 acres purchased from the Fisher family in 2001 with 2.5 million dollars of public funds provided by Farmington taxpayers of which a portion of the purchase price was supplemented with a state Governor endorsed Connecticut Open Space And Watershed Land Acquisition Land Program,

as defined in Connecticut General Statutes (CGS) Section 25-32a, after approval by a town referendum in 2001 to be preserved for “open-space and agricultural purposes”. The purchase of this property with the use of town taxpayer funds and supplemental State Grant resources totaling over one million dollars of state taxpayer funds was for the intent of preserving a piece of Farmington’s and ultimately Connecticut’s farming heritage as per the Grant Application. Therefore, the property on the West side of Town Farm Road is protected by a “Conservation and Public Recreation Easement and Agreement” dated February 27<sup>th</sup> 2003 of which a copy of said agreement was entered into the Council’s record at the hearing. Even though the 9.9 acres of this 108 acre property that the tower may be sited on is free of State Grant money and therefore the State conservation easement, it contains the farm’s supporting structures which are still a vital element of the scenic quality of the farm and central to the original purchase meant for open space and agricultural purposes. It was intended to be an integral component of an initiative over the past ten years by the Town of Farmington to preserve and protect its historic farmland.

The 9.9 acres in question as part of the tower site is a portion of the land already leased by the Town of Farmington to Ron Simmons, who currently runs an active dairy barn known herein as “Simmons Family Farm”, till 2013. There appears to be no apparent provision in said lease between the Town of Farmington and Ron Simmons to allow for the subletting of “Land Space” in the existing lease to another entity such as Cellico.

The proposed cell tower will be on taxpayer-purchased open space land zoned Residential R-40 and Agricultural, and not commercial or industrial, owned by the Town of Farmington abutting a neighborhood of over 380 homes.

In 2001, the Town of Farmington residents were led to believe that the entire 108 acres formerly known as "The Fisher Family Farm," or "199 Town Farm Road," would be part of the open space and agricultural use acquisition. Relying on the Town's representations, Farmington taxpayers in a 2001 referendum approved the acquisition to be preserved for "open-space and agricultural purposes". However, unbeknownst to thousands of Farmington taxpaying residents, the town had ahead of time carved out 9.9 acres to be apparently free of open space restrictions. This 9.9 acre parcel just happens to be the "heart and sole" of this and for that matter any farm as it holds the barns and supporting structures that are elemental to any farm. Farmington residents were not made aware that a portion of the land they voted on to be open space had been marked out to allow the town to lease out the space for anything other than agricultural purposes or as they saw fit. Nowhere in any of the Town Council's Meeting and Minutes since 2001 is there any mention of this, thus raising a moral and ethical issue with regard to a town's government actions.

Unfortunately, officials of the Town of Farmington a.k.a. "the leaser" of said property were not party to the hearing and could not answer to their intentions for this land and whether the public was in fact informed and advised of this 9.9 acre subdivision prior to or immediately after the land's purchase by Town referendum in 2001 under sworn testimony.



## B. The 199 Town Farm Road Proposed Site

The Site Search Ring which was originally further north of this area was initiated in August of 2000. It has been almost two years since the investigation and proposed application of both Docket numbers 356, officially withdrawn from the Council, and 374 in question for this tower site. Coverage in the area claimed to be lacking by Cellco Partnership has improved significantly and sufficiently enough so as to satisfy at least the original intentions of the 1996 Telecommunications Act due to the inception of other cell towers and tower sharing in the area described. According to sworn testimony by Cellco representative Alex Restrepo, “dropped calls” or “loss of coverage” by their customers in the area of the alleged coverage gap on Route 10 is only one (1) to one and two tenths (1.2) percent. In other words, 98.8 to 99 percent of their customer’s calls are successful along the area described as deficient. The cell phone coverage at this time in this area is already “adequate and reliable,” as is required by the statutory requirements of the Connecticut Siting Council.

Cellco listed 28 Alternate Sites in their new application as opposed to 6 in their original application Docket No. 356. Listed in both Dockets, Sites 2-4 which are at Avon Old Farms School could, according to sworn testimony by Cellco representatives, in fact provide a suitable alternate site on the campus grounds of the newly constructed athletic facility a.k.a. Site A. This facility is already significantly above ground level and would require a smaller antenna mounted on the building in order to achieve Cellco’s 199 foot above ground level wavelength propagation models. According to Cellco supplemental exhibits pertaining to the investigation of

the Avon Old Farms School Site A, the potential exists for this site to cover all of Route 10 "Waterville Road" with -85 dBm and a more populated residential area for -75 dBm that would benefit from the "in building service" that -75 dBm provides. The -75 dBm frequency proposed to emanate from the Simmons Family Farm or Farmington North site resides primarily over empty uninhabited farm land and recreational fields and will be of little benefit to humans.

Cellco Partnership in their application claims that these sites (2-4) were ruled out because Avon Old Farms School did not return several phone calls or emails in an attempt to contact them in regard to this matter. Cellco's claim that attempted "numerous phone calls and emails" to the school described in Alternate Sites 2-4 is in fact not accurate because no documentation exists or ability to confirm that the alleged attempts by Cellco were actually made to the school beyond 2006 and as described in Docket #374. In fact sworn testimony by Cellco representatives confirmed that the alleged phone calls and emails were not made between the dates of October 30<sup>th</sup> 2008 and January 28<sup>th</sup> 2009, the time period in which an entirely new application for this site was presented to the Council and as alleged in said application. And that a personal phone by me, David Edelson, to the Chief Financial Officer of Avon Old Farms School, who had no previous knowledge or recollection of said "numerous phone call and emails" since her attainment of that service position in February of 2008 not only elicited a return phone call on the same day but also an email to me personally and a phone call to council representing Cellco Partnership expressing a "potential interest" in a cell tower. It was only after my contact with the school that Cellco then articulated a proper interest in investigating

the site. A sworn affidavit by the Chief Financial Officer of the school concerning this matter exists and has been entered into record with the Council.

Obviously Cellco Partnership felt strongly enough about this site to list it in value as the next three possible Alternate Sites and apparently worthy of attempts to purportedly make several alleged attempts at contact with this location in both applications. It appears that Cellco in an attempt to complete an application with regard to the Alternate Site Search for Docket No. 374 may have misrepresented their application to the Connecticut Siting Council once Cellco and the Town of Farmington had already entered into an option to lease the location at 199 Town Farm Road.

And that siting the proposed tower at the Avon Old Farms School location would meet and fulfill Cellco's requirements and still provide the public with the perceived need for coverage along Route 10 and "Waterville Road". Furthermore, it would provide improved coverage to, as per a conversation with Avon's Town Planner "a dangerous section of roadway along Old Farms Road" in Avon, thus improving emergency response capabilities, something the 1996 Telecommunications Act mandates. Considering the letter to the Council on March 27<sup>th</sup> 2009 negating the school as a possible location could be considered an after-the-fact attempt by Cellco representatives to discount this location, no legitimate technical reason other than its possible height and the potential for a supplemental tower or tower sharing was given under sworn testimony for it not to be a suitable site considering it is in the same latitude and reasonable distance from the perceived coverage gap along Route 10.

The Farmington Club, a locally owned private banquet facility in very close proximity to the Farmington North site, was not investigated. It is a fairly infrequently used banquet and recreational facility, a portion of which is above flood zone, where a stealth flagpole alone or as a supplemental tower to the Avon Old Farms School Site A would easily blend it to the existing environment.

The Visual Site Assessment performed by Cellco Partnership agent Vanasse Hangen Brustlin, Inc. (VHB) is insufficient. No views from the original balloon float and visual assessment of June 1<sup>st</sup>, 2007 and subsequent schematic representations of the tower exist in the Docket application from a direction to the west of the tower, in particular streets known as “Belgravia Terrace” and “Exeter Park.” Cellco Partnership claims that due to the purported dense forestation the tower will not be seen from these locations however, thus far has yet to provide actual concrete visual proof of this statement especially since the original balloon float was done when the leaves from the prevailing tree species were in full bloom. By their own admission under the sworn testimony of Cellco representative Michael Libertine, schematic representations or visual assessments are not always one hundred (100) percent accurate. Since no such representations or views are to be found in Cellco’s application, it could be assumed that during the months, November to April, the residents of Belgravia Terrace and Exeter Park will have seasonal views of the tower.

Although 199 Town Farm Road does not necessarily meet the prerequisite of being on the National Registry of Historic Places it does have

significant local, regional and state scenic and historic value. The proposed tower in conjunction with its supporting campus is, however, within a mere few feet of remnants of the Old Farmington Canal that once connected Northampton, Massachusetts to New Haven, Connecticut during part of the Nineteenth Century. The Old Farmington Canal is in fact listed on the National Registry of Historic Places. A 1934 aerial photo depicting the Canal passageway running precisely through the Simmons Farm was on display. Mr. Simmons to this day still uses portions of the Old Canal pathway on the farm to move supplies back and forth from the fields. Since the proposed location of this tower is on property owned by both the Town of Farmington and the Town of Avon and is designated as open space, the potential exists for the former Canal path that courses through this property and traverses from the Farmington River to the current Farmington Valley Rails to Trails to become a continuation of this pedestrian walkway and recreational venue. Siting a tower on or very near this trail would diminish the importance of this historic canal pathway for future generations to enjoy.

Interestingly, a picturesque aerial photo of the farm once and up until recently was coincidentally and to some extent inexplicably removed from the cover of the home page of the official Town of Farmington web site once this location became contentious during the previous Docket #356 application process. [Www.Farmington-Ct.org](http://www.Farmington-Ct.org) is a web site available to current and potential future Farmington residents to obtain information about Farmington government, schools, and activities and to acquire a general feel for the way of life in Farmington and its farming heritage. Since Cellco filed its application to place a cell tower there, town officials have removed the photo of The Simmons Family Farm from the town government's web site.

By removing that photo from the web site, Town officials have essentially acknowledged and admitted that a telecommunications tower will destroy the beauty of the site, and that it will no longer be a scene that the Town wishes current and prospective residents to see. Unfortunately, officials from the Town of Farmington were not party to the hearing and could not answer to their motives for removing the photo under sworn testimony.

Although the Connecticut Department of Transportation has no authority over the scenic designation of local town roads, Colleen Kissane, the Chairman of the Scenic Road Designation Committee for the Connecticut Department of Transportation agrees with the assessment of the scenic quality of the farm at the end of Tilloston Road and her document has been entered into record.

The Simmons Family Farm is also mentioned in a book by the name of "Connecticut; Off the Beaten Path" for its scenic and recreational values. It is described as one of the oldest active dairy farms in Connecticut and the site of glacial eskers from the last Ice Age.

The Town of Avon referred to the Simmons Family Farm as "historic" and as one of the venues available for family tours during their 175<sup>th</sup> Anniversary Celebration. It is also a location for other Avon annual recreational activities and general public activities such as Boy and Girl Scout outings, 4H Club outings, elementary school field trips and a publicly available farm produce stand.

The farm's barn and silo is also the backdrop for many a local artist's canvases.

The Farmington Valley Visitors Association recently sponsored a fundraising benefit for historic preservation by visiting five historic barns in the Farmington Valley including the Simmons Family Farm. The Simmons Family Farm barn is listed with the Historic Barns of Connecticut. The Historic Barns of Connecticut is a Connecticut Trust for Historical Preservation Project. Established in 1975 as a non-profit organization by Special Act of the Connecticut General Assembly, the Connecticut Trust for Historical Preservation's mission is to preserve the character and ensure the vitality of Connecticut's historically significant places. Information concerning Connecticut's historic barns, including the Simmons Family Farm barn, is available on the Historic Barns of Connecticut web site, a site that also receives funding from the Connecticut Humanities Council.

III. THE APPLICATION **DOES NOT** SATISFY THE CRITERIA OF CONN. GEN. STA. 16-50p FOR ISSUANCE OF A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

In a certification proceeding, the council shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate.... (3) The council shall file, with its order, an opinion stating in full its reasons for the

decision. The council shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine:

**Except as provided in subsection (c) of this section, a public need for the facility and the basis of the need; (B) The nature of the probable environmental impact of the facility alone and cumulatively with other existing facilities, including a specification of every significant adverse effect, including, but not limited to, electromagnetic fields that, whether alone or cumulatively with other effects, on, and conflict with the policies of the state concerning, the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish, aquaculture and wildlife; (C) Why the adverse effects or conflicts referred to in subparagraph (B) of this subdivision are not sufficient reason to deny the application; . The council may deny an application for a certificate if it determines that... or (iii) the proposed facility would substantially affect the scenic quality of its location and no public safety concerns require that the proposed facility be constructed in such a location. (b) (1) Prior to granting an applicant's certificate for a facility described in subdivision (5) or (6) of section 16-50i, the council shall examine, in addition to its consideration of subdivisions....(C) whether the proposed facility would be located in an area of the state which the council, in consultation with the Department of Environmental Protection and any affected municipalities, finds to be a relatively undisturbed area that possesses scenic quality of local, regional or state-wide significance. The council may deny an application for a certificate if it determines that ... (iii) the proposed facility would substantially affect the scenic quality of its location and no public safety concerns require that the proposed facility be constructed in such a location.**

1. A Public Need for this Facility does not exist.



**(c) (1) The council shall not grant a certificate for a facility described in subdivision (3) of subsection (a) of section 16-50i, either as proposed or as modified by the council, unless it finds and determines a public benefit for the facility....**

**(iii) the proposed facility would substantially affect the scenic quality of its location and no public safety concerns require that the proposed facility be constructed in such a location.**

According to CGS Sec. 16-50p in Certification proceedings decisions an Applicant must make a determination of “public need for a facility”.

Upon sworn testimony to the 1 to 1.2 percent “dropped call rate” in the area of alleged cellular deficiency and the unfortunate objection by Cellco legal council to an exhibit verifying this fact, the public need for this facility is lacking because cellular coverage in the area described in this Docket is already satisfactory and sufficient to satisfy the public need. Emergency response capabilities will not be compromised by the denial of this Application. The evidence in the record for this docket establishes that the criteria for this and other public needs has not been satisfied as the Applicant is not entitled to a Certificate. An alternative location does exist that could supplement the existing and already sufficient coverage and also satisfy a public need further north of the proposed location thus alleviating the need for tower redundancy as described in CGS 16-50p .

## 2. The nature of the probable environmental impact.

According to CGS Sec. 16-50p in Certification proceedings decisions the

Council must make a determination of the nature of the probable environmental impact of the facility.

**Prior to granting an applicant's certificate for a facility described in subdivision (5) or (6) of section 16-50i, the council shall examine, in addition to its consideration of subdivisions....(C) whether the proposed facility would be located in an area of the state which the council, in consultation with the Department of Environmental Protection and any affected municipalities, finds to be a relatively undisturbed area that possesses scenic quality of local, regional or state-wide significance.**

This facility would negatively impact a relatively undisturbed area that possesses not only state-wide significance but more importantly local and regional worth. The Simmons Family Farm, formally known as the Fisher Family Farm, was purchased by the taxpayers of both Farmington and Avon along with supplemental state taxpayer funds for the intent of keeping it as open space and free from commercial development. The majority of this property is also protected by the Town's of Farmington and Avon under a Conservation and Public Recreation Easement and Agreement. It is an active dairy farm and the proposed facility would sit in close proximity to the farm's working structures. A majority of any farm's "intangible" scenic quality rests on the ability to view the farm's barns and silos and not be distracted by any disproportionate "fake" structures typically absent on farms. The fact that the proposed site does not have state historical agency recognition is irrelevant. As evidenced by the numerous exhibits pertaining to this farm location, the Simmons Family Farm or 199 Town Farm Road has significant local and regional scenic, historic and recreational relevance as indicated by subsection C. Therefore, the council may deny an application for a certificate if it determines that.... (iii) the proposed facility would substantially affect the scenic quality of its location and no public

safety concerns require that the proposed facility be constructed in such a location. Neither the Department of Environmental Protection nor either municipality that shares joint ownership of this farm where ever consulted by any party involved in this Application with regard to the local and regional scenic and historic relevance of this site. However, documents where provided by Party Susan Edelson and entered into the record attesting to its local and regional scenic, historic and recreational importance.

### 3. The Acquisition of the Location of the proposed tower.

Cellco's contention that matters concerning land leases and site acquisitions are not before the Council was fortunately overruled by the Council at the Hearing on May 14<sup>th</sup> 2009.

**(g) In making its decision as to whether or not to issue a certificate, the council shall in no way be limited by the fact that the applicant may already have acquired land or an interest therein for the purpose of constructing the facility which is the subject of its application.**

Interpretation of this subsection can be seen in several ways. One can contend and infer that the Council can not be influenced in its decision to issue a Certificate based on the prior acquisition of and or investment in land by a telecommunications entity for a proposed site and their decision cannot be swayed because of that investment. It in no way mentions or negates the significance of how that land was in fact acquired and its relevance to the Certification process. The option to lease land in this particular Application is noteworthy and relevant. The lesser, a.k.a. the Town of Farmington, who had no representative available for cross examination at the hearing, may

have illegally leased a portion of 199 Town Farm Road to Cellco. There is no provision in the existing lease of this property between the Town of Farmington and the current tenant Ron Simmons to allow for subletting of "Land Space". Nor was their any approval sought from the current tenant Ron Simmons, who also was not party to the proceedings, by the Town of Farmington to allow for the subletting of his lease. Abutting property owners to this site where also not properly notified as per and concerning Farmington's Planning and Zoning approval of said property and were therefore denied their right to voice their opinions to the Planning and Zoning Commission and Town Council as per the Town's regulations. And according to Planning and Zoning regulations, which are valid in this argument because the Town of Farmington has met its 1996 Telecommunication Section 704 obligation that leaves in place a municipalities planning and zoning regulations, the approval for a tower on open space, as per Farmington's Land Acquisition Map that was entered into evidence, requires the consent of the Farmington Conservation Commission. This approval was neither sought nor obtained.

#### 4. An Alternate Location Exists.

Cellco listed twenty eight (28) alternate sites in their Alternate Site Search. Sites 2-4 are at the property approximately one mile north of the 199 Town Farm Road location and known as the Avon Old Farms School (AOF). School officials have expressed an interest in obtaining a telecommunications tower. Cellco claims in their Application that numerous attempts were made to contact this site but were unsuccessful. Upon sworn testimony however, Cellco admitted that the last known and documented

attempts to actually contact school officials were in 2006 and not 2008 as indicated and implied by and from the date of this Application in Docket No. 374. This essentially constitutes a fabrication of information in order to complete an Application. It appears that Cellco in an attempt to complete their application with regard to the Alternate Site Search for Docket No. 374 may have misrepresented the truth to the Connecticut Siting Council once Cellco and the Town of Farmington had already entered into an option to lease the location at 199 Town Farm Road.

According to CGS 16-50p ....

**(F) In the case of an application that was heard under a consolidated hearing process with other applications that were common to a request-for-proposal, that the facility proposed in the subject application represents the most appropriate alternative among such applications based on the findings and determinations pursuant to this subsection;**

It is our contention that the Farmington North or 199 Town Farm Road site is not “the most appropriate alternative” for a telecommunications tower. Based on propagation maps supplied by Cellco, the alleged coverage gap along Route 10 “Waterville Road” would be satisfied with a site known as AOF Site A. The Farmington North site as shown in this application covers the Route 10 corridor as well but leaves a gap along Old Farms Road which is known amongst local residents and Avon town officials as a “dangerous section of roadway”. Based on propagation models supplied by Cellco, AOF Site A would cover the gap that would be produced by a Farmington North location as well. Locating the tower at AOF site A would prevent further proliferation of unnecessary towers something that is also mandated by this Statute. Considering that the Site A location, the athletic facility, is already

199 feet above ground level a smaller less noticeable antenna would be required and would not call for FAA lighting as acknowledged at the hearing by Cellco representatives.

5. The location of this tower may pose harmful effects to a nearby residential development.

Also according to CGS 16-50p, the location of this tower may pose a health threat to neighboring home owners. ... **(B) The nature of the probable environmental impact of the facility alone and cumulatively with other existing facilities, including a specification of every significant adverse effect, including, but not limited to, electromagnetic fields that, whether alone or cumulatively with other effects,...**

Even though Cellco claims the proposed tower complies with the 1996 Telecommunications Act with regard to radiofrequency output, the FCC recommends avoiding exposure at elevations above ground level and close to the antennae output. This FCC recommendation was presented as an Exhibit and accepted by the Council. With the topography being what it is in the area, thirteen homes are significantly elevated above ground level and are within a one thousand foot (1000) radius of the tower and the potentially relatively unknown electromagnetic fields and radiofrequency effects.

6. Other Connecticut General Statutes were not adhered to.

Pursuant to General Statutes 16-50l (e) regarding the application process, in particular Docket #374, the Town of Farmington made no attempt to conduct any further public hearings and meetings according to the publicly posted 2008 and 2009 "Meetings and Minutes" of either the Town

Council or the Town Planning and Zoning Commission as it may deem necessary and that either entity did not issue any further recommendations to Cellco within the 60 day period with regard to the new application process concerning Docket #374 dated and accepted January 27, 2009 by the Connecticut Siting Council. This would have allowed concerned individuals at the very least a forum to voice their opinions and concerns before Town officials prior to the reapplication process. Also, pursuant to Public Act No. 07-222, the Town of Farmington did not provide the Council with any possible location changes or preferences and or other criteria and interrogatories with regard to the siting of this tower by the March 2, 2009 deadline of Docket #374. Again, it is unfortunate that the Town of Farmington was not a Party at the Hearing and could not answer questions under cross examination and lend some legitimacy to the proceedings.

#### IV. CONCLUSION

The Siting Council is ultimately tasked and mandated by Connecticut State law to protect and minimize damage to the State of Connecticut's local, regional and state scenic, historic and recreational values especially when there may be a more suitable and less intrusive site available. In the end, Simmons Family Farm's local and state scenic, recreational and historical significance cannot and should not be overlooked nor ignored when siting this proposed tower.

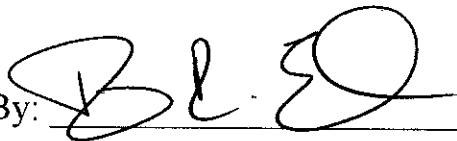
We respectfully request that the Connecticut Siting Council carry out its statutory mandate and deny Cellco's application in Docket #374. To sacrifice such a beautiful and historic piece of Farmington's history for an

unnecessary telecommunications tower, would set a precedent and potentially deal a death blow to farms and open spaces across the state.

Fortunately, The Connecticut Siting Council has the statutory power to help preserve this local, regional, state historic and scenic piece of land for future generations to enjoy. We urge you do so by denying Cellco's application and advise them to find a more appropriate alternative location.

Irregularities and inconsistencies in both the Town of Farmington's approval process for this location and Cellco's administrative processes of this Application should also render it null and void.

Respectfully Submitted,

By:  \_\_\_\_\_

David R. Edelson, D.M.D.

Representative to Party

Susan R. Edelson

11 Belgravia Terrace

Farmington, CT 06032