

STATE OF CONNECTICUT
SITING COUNCIL

T-Mobile Northeast, LLC Application : DOCKET #421
for a Certificate of Environmental
Compatibility and Public Need
for a Telecommunications Facility Located :
at 158 Edison Road
Trumbull, Connecticut.
: November 29, 2011

**CATT'S RESPONSES TO THE APPLICANT'S INTERROGATORIES DATED
NOVEMBER 18, 2011**

The Intervenor, CATT, hereby files its responses to the Interrogatories propounded by T-Mobile Northeast, LLC. The responses are numbered corresponding to the Interrogatories.

1. Objection: This request is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in these proceedings. The identity of CATT's members is irrelevant under CEPA as there does not need to be a showing of aggrievement. Unlike a classical zoning cases, a §22a-19 intervenor need not show "aggrievement". Hyllen-Davey v. Planning & Zoning Commission, 57 Conn. App. 598, 593, 749 A.2d 682, cert denied, 253 Conn. 926, 754 A.2d 796 (2000)("the EPA waives the additional aggrievement requirement in ...§22a-19, [which] authorizes any citizen or other entity, without having to first establish aggrievement, to intervene in an existing proceeding."); Scaringe v. Meriden Planning & Zoning Comm, CV-000274515-S, J.D. at Meriden, (November 26, 2002)(Gilardi, J).

Moreover, CEPA allows any person to intervene to protect natural resources, regardless of their motive or location in relation to the natural resources. Interventions are about the impact of the Applicant's activity, not the Intervenor.

Notwithstanding the objection, CATT discloses its Executive Committee as follows:

Lois Gillern, 20 Merwin St., Trumbull, CT 06611
Carole Lefcort, 23 Chestnut Hill Rd., Trumbull, CT 06611
Henry Lefcort, 23 Chestnut Hill Rd., Trumbull, CT 06611
Danielle McCain, 72 Killian Ave., Trumbull, CT 06611
Frank MacPhail, 183 Edison Rd., Trumbull, CT 06611

2. Objection. See response to Int. #1. Notwithstanding the objection CATT responds that it is a voluntary association recognized under Connecticut law to participate in proceedings and therefore does not have "originating documents" or By-laws. CATT was formed on July 7, 2010. Connecticut General Statutes §52-76 acknowledges the long tradition of Connecticut citizens banding together to assert common goals and succinctly states:

Any number of persons associated together as a voluntary association, not having corporate powers, but known by a distinguishing name, may sue and be sued and plead and be impleaded by such name...

Id.

The law of Connecticut has long since recognized an unincorporated entity known as a "voluntary association". Bennett v. Lathrop, 71 Conn. 613, 616 (1899); Scanlon v. Duffield, 103 F.2d 572 (6th Cir.1936)(holding a voluntary association is a legal entity).

Many organizations recognized as legal entities for the purpose of suit exist in this form:

labor unions (Benoit v. Amalgamated Local 299, 150 Conn. 266 (1963)), teacher's associations (Waterbury Teacher's Ass'n v. Civil Service Commission, 178 Conn. 573 (1979)), ecclesiastical gatherings (McCauliffe v. Russian Greek Catholic Church, 130 Conn. 521 (1944)), cultural societies (Olechny v. Thadeus Kosciuszko Society, 128 Conn. 534 (1942)) and neighborhood associations (The South East Property Owners & Residents Association v. City Plan Commission, 156 Conn. 582 (1968) (§8-28 zoning appeal) and environmental associations (Timber Trails Corp. v. P&Z Commission, 222 Conn. 380 (1992)).

3. Objection: See objection to Interrogatory #1. In addition, the documents are protected by the attorney-client privilege in that CATT meetings were held to assist counsel in formulating the positions CATT now asserts. Moreover, CATT is not required to and therefore does not keep minutes.

4. CATT was formed for the sole purpose of addressing issues relating to the subject matter of this proceeding. Consequently, all of CATT's actions to protect or conserve the natural resources of the Town of Trumbull relate to its efforts regarding the proposed telecommunications facility.

5. Natural resources are not limited to brooks and streams, parks, etc. The proposed cell tower at the police station would impair the natural resources of the state by depriving residents of a very important natural resource: the beautiful vistas of sky. The cell tower would intrude dramatically on the view of our landscapes. The proposed cell tower would be seen by hundreds of residents in homes within a 1/4 mile radius of the tower and beyond. These resources affect the overall quality of life for all residents of Trumbull. The tower would reduce the value of homes within sight of the proposed tower as well as

negatively impact one of the main reasons for the purchase of the homes--the beautiful views of the sky . In addition, the town's achievement of being named year after year in the media as one of the best small towns in America in which to live would be negatively affected by a 170' industrial cell tower at the gateway to our beautiful town, easily visible from two of its major roads, Main Street and Edison Road.

6. See response to Interrogatory #5.

7. See response to Interrogatory #5.

8. The regulations provided by Trumbull's Planning and Zoning Commission are very explicit with regard to cell towers. Refer to pages 179-204 of the regulations.

Many of those requirements would not be met by the proposed cell tower, including the following:

a) The use of land distant from higher density residential properties, where visual impact can be minimized, shall be encouraged.

b) The use of land in areas of high density residential properties is the least preferable selection.

c) The applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the facilities.

d) Visual/aesthetic: Towers shall, when possible, be sited where their visual impact is least detrimental to highly rated scenic and historic sites...

d) The minimum lot size shall be 10 acres.

f) Not to be closer than 750' to any structure ...used as primary or secondary residences.

g) The Fall Zones for towers shall be at least the height of the tower plus 75 feet.

h) [Not to be] Within 2,000' of any historic district or property.

i) The Commission will hire an independent consultant to verify Adequate Coverage and justify tower height.

An exemption is made for cell towers built on town property. Connecticut Code Section 8-24 exempts such towers from Planning and Zoning regulations, notwithstanding basic safety issues and other public interest requirements.

Nevertheless, the last paragraph of the Exemptions section 4, 2. (2) in Trumbull's Planning and Zoning Regulations states:

(2) Town of Trumbull Property

For any wireless telecommunications facilities to be placed on town property, the applicant must obtain a written lease approved by the Planning and Zoning Commission as required by Section 8-24 of the Connecticut General Statutes. In addition, these facilities shall be subject to the town's monitoring program, on an annual basis, with applicable fees.

No such lease was presented to the Planning and Zoning commission, the hearing for which was held on September 16, 2009. In a Freedom of Information Act request, CATT was given an audio tape of the hearing minutes plus the document supplied by T-Mobile. That document stated only the location, option periods, and lease fees. No further information about the tower was submitted in writing to the Planning and Zoning Commission despite the availability of a lease.

9. The configuration that would provide adequate coverage with less impact would be a shorter tower in a flagpole design. CATT's expert witness, Kevin Plumb, will be presenting such a plan as described further in his pre-filed testimony. With regard to "the height is driven by a speculative and baseless purported need..." please refer to #12.

10. See response to Interrogatory #9.

11. a) Westfield Mall undeveloped land, located between the current Mall and the Merritt Parkway.

b) The owner of that property is The Westfield Group, an Australian company with malls located in a number of countries, each headed by a locally based management team.

c) T-Mobile has stated they had communications with Westfield Mall management and had been told that Westfield Mall is not interested in locating a cell tower on that property. However, CATT questions what communications transpired between the 2 companies, whether T-Mobile spoke with the proper authorities, and whether T-Mobile-- because of its clear objective to put its Facility on the Trumbull Police Department site-- effectively presented its interest in the Mall site and the income benefits to the Westfield

Mall. Westfield Mall currently hosts the major cell service providers on the roof of their buildings.

d) There has been no communication between CATT or anyone affiliated with CATT with the property owner.

e) An analysis of the site was made by an RF engineer who is a resident of Trumbull. A conceptual site location map was provided to T-Mobile which led it to contact Westfield Mall. The conceptual site location map is furnished with this document.

12. The height of the cell tower, in T-Mobile's original proposal to Trumbull's Police Chief, was 130'. Therefore, that was the height that T-Mobile felt would provide adequate coverage of their target area. Further, based on CATT's discussion with Trumbull's Police Chief, representatives of North Eastern Communications, and a review of Police Commission minutes from 2008 forward, there is no indication that any studies, tests, analyses, or reports were prepared by or for town government regarding the need for a police communications tower 150' high--50% taller than the current police communications tower. Please refer to #13 regarding visibility from sensitive residential receptors.

13. "Sensitive residential receptors" is a term used to describe the views of the sky from residential properties -- in this case the scenic vistas are the unobstructed views of the sky. Such views would be partially obstructed by the proposed cell tower, in many cases to a very significant degree.

14. The proposed cell tower would consist of a 150' monopole, 4' in diameter in its widest section. Its construction is considered an industrial design. Such a design is not meant to be located in a high density residential area. Its height, extremely large monopole configuration, and high visible antennas are destructive to the beauty of the area. Also, please be referred to the pre-filed testimony of Kevin Plumb.

15. None, however, T-Mobile's own photosimulation exhibits are graphic proof of the negative impact the proposed cell tower would have on the scenic views in Trumbull.

16. Please be referred to the response to #8.

17. CATT relied upon its rf engineer's many years of hands-on experience with a wide range of tower configurations and heights. Regarding the proposed Trumbull cell tower's height requirement being "speculative and baseless," please refer to #12.

18.

The information relied upon to determine a configuration which can provide "adequate coverage...with less impact" is contained in CATT's pre-filed testimony detailing a flagpole configuration.

19.

The information relied upon to determine a configuration which can provide "adequate coverage...with less impact...by removing the Town whip antennas from the top of the pole..." is contained in CATT's prefiled testimony exhibit detailing a flagpole configuration.

20.

An analysis of "... a configuration which can provide adequate coverage with less impact...in another location" resulted in the choice of the Westfield Mall which was conducted by an RF engineer. The result of that analysis was the creation of a conceptual view of the proposed alternate site which is furnished with this document.

21.

Please refer to the responses to #12 and #15.

22.

Visual analyses by CATT were conducted of numerous existing cell towers in the configuration proposed by T-Mobile, as well as alternative configurations and designs. In addition to actually viewing cell towers, print and electronic media were used to view many additional cell towers in various configurations. There are many less visually intrusive designs being employed in Connecticut.

23.

CATT's RF engineer (Kevin Plumb) analyzed T-Mobile's need for the Facility and T-Mobile's coverage objectives. Verbal reports were presented to CATT.

24.

CATT's RF engineer analyzed alternative deployment technologies for the Facility and T-Mobile's coverage objective. Verbal reports were presented to CATT.

25.

CATT's RF engineer conducted analyses of the Town of Trumbull's communications needs. Verbal reports were presented to CATT.

26.

CATT has analyzed whether the proposed Facility is reasonably likely to have the effect of unreasonably destroying the natural resources of the state. Please refer to #5.

27.

CATT has analyzed the impact on the residents in the immediate neighborhood of the

Facility with regard to several issues: property values, salability of homes, negative impact of aesthetics on the community, and the overall rating by the media of Trumbull as one of the best towns under 35,000 population in which to live.

28.

CATT will have one expert and one neighborhood witness.

The first expert witness:

a) The first expert witness, an RF engineer, Kevin Plumb, will testify as to the configuration of the Facility as a flagpole based on current technology, common use of such configuration by the telecommunications industry, the ready availability of cell towers of such construction, as well as ancillary issues.

b) The exhibit prepared by CATT's RF engineer expert, to be submitted by November 29, 2011, will show in detail the information requested in this interrogatory.

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d) The exhibit prepared by CATT's RF engineer expert, to be submitted by November 29, 2011, will show in detail the information requested in this interrogatory.

e) Please be referred to the pre-filed testimony of Kevin Plumb.

f) Objection: the request for "all publications" authored by the witness is overbroad and seeks information wholly unrelated to the subject matter involved in these proceedings.

g) None. CATT's expert is not an expert for hire whose opinion may be bought and sold and manipulated by clients seeking a particular outcome. Nor is he a person whose income is substantially derived from rendering testimony for a particular client such that his loyalty to his income may conflict with candor to the tribunal. CATT has retained a person qualified to testify based upon his training, education and experience.

The second witness:

a. The second witness is an abutter and CATT member, Lois Gillern. She will testify to the negative impact the proposed Facility would have on property values, scenic beauty, and aesthetics of the neighborhood and the town.

b. The witness has relied on photosims supplied in exhibits submitted by T-Mobile, a review of the signed lease, discussions reported by CATT which were held by CATT with members of Northeastern Communications, and T-Mobile, discussions with community groups in other towns, visual inspections of cell towers similar in size, construction and design of the proposed cell tower, and media reports of the impact of cell towers in other communities.

c. Please see "b" above.

d. The exhibit prepared by CATT's expert witness will present issues of serious concern by residents and will enumerate the specifics.

e. The witness is a long time resident of Trumbull whose home would be approximately 175' from the proposed facility, who viewed from her home the balloon test at the Trumbull police station in March 2009, and was recipient of the abutters notice from T-Mobile.

f. Not applicable.

g. Not applicable.

29.

First expert witness:

a) Kevin Plumb, RF engineer, broadcast engineer.

b) 10 Marina Avenue, Trumbull, CT 06611

c) Please see his pre-filed testimony.

d) The testimony will focus on the use of a flagpole design for the proposed Facility as well as ancillary design issues. The expert's interest in this Docket is as a concerned Trumbull resident.

Second witness:

a) Lois Gillern, Director of a not for profit entity, full time caregiver for an elderly mother, wife and mother.

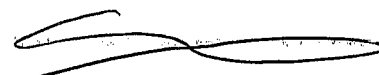
b) 20 Merwin St., Trumbull, CT 06611

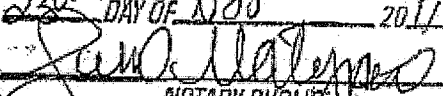
c) For testimony please see "a" above. The interest in this Docket is the effect the proposed Facility would have on her life and those of her neighbors.

I, Henry Lefcort, the undersigned representative of Citizens Against Trumbull Tower, duly authorized, hereby verify that the answers to interrogatories are true and accurate to the best of my knowledge and belief.

Henry Lefcort 11-23-11 (signature/date)

Respectfully Submitted,
Citizens Against Trumbull Tower

By 
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SUBSCRIBED AND SWORN TO BEFORE ME A
NOTARY PUBLIC, IN AND FOR COUNTY OF
FAIRFIELD AND STATE OF CONNECTICUT, THIS
23RD DAY OF NOV 2011

NOTARY PUBLIC
MY COMMISSION EXPIRES August 31, 2016

for Henry Lefcort