

June 9, 2015

**VIA FEDERAL EXPRESS AND  
ELECTRONIC MAIL**

Ms. Melanie A. Bachman, Esq., Executive Director  
Connecticut Siting Council  
Ten Franklin Square  
New Britain, CT 06501

**Re: Docket No. 454 – Application by Tower Holdings, LLC for a Certificate of Environmental Compatibility and Public Need for a Telecommunications Facility at 199 Brickyard Road, Farmington, Connecticut**

Dear Attorney Bachman,

This office represents the Town of Farmington (the “Town”), a party in the above-captioned docket. In accordance with § 16-50j-12 of the Regulations of Connecticut State Agencies, I have enclosed an original and fifteen (15) copies of an objection by the Town in response to Tower Holdings, LLC (“Tower Holdings”) written comments concerning the Council’s Draft Findings of Fact, dated June 5, 2015.

If you have any questions concerning the Town’s objection, please do not hesitate to contact me.

Very truly yours,



Kelly C. McKeon

Enclosures

cc: *Service List* (via regular mail and electronic mail)

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

**APPLICATION BY TOWER HOLDINGS, LLC FOR A  
CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY  
AND PUBLIC NEED FOR THE CONSTRUCTION,  
MAINTENANCE AND OPERATION OF A WIRELESS  
TELECOMMUNICATIONS FACILITY LOCATED AT  
199 BRICKYARD ROAD, FARMINGTON, CONNECTICUT**

**DOCKET NO. 454**

**JUNE 9, 2015**

**TOWN OF FARMINGTON'S OBJECTION TO TOWER HOLDING'S FACTUAL  
ADDITIONS**

The Town of Farmington ("Town"), hereby objects to several factual additions submitted by Tower Holdings, LLC ("Tower Holdings" or "Applicant") on June 5, 2015 in response to the Siting Council's memorandum requesting that "parties and intervenors . . . identify errors or inconsistencies between the Council's draft findings of fact and the record," dated May 29, 2015 (the "Memorandum"). The Council's Memorandum explicitly states that "no new information, evidence, argument, or reply briefs would be considered by the Council." For the following reasons, the Town respectfully requests that the Council be advised not to consider several improper factual additions made by the Applicant, as they exceed the scope of what the Council requested in its Memorandum and would prejudice the Town.

**OBJECTION #1**

**Finding of Fact No. 21.**

The Applicant first approached the Town in regards to constructing a tower for training purposes in March 2013. The Applicant intended to make an informal presentation before the Planning and Zoning Commission on April 9, 2013 and prepared an information packet that contained a visibility analysis for a 180-foot training tower without antenna arrays for the presentation. The Applicant withdrew from the meeting on April 9, 2014, stating to the Town that windy weather precluded necessary testing prior to the meeting. The Applicant also withdrew after determining AT&T was interested in locating on the facility. AT&T, **which had expressed its interest in early March 2013**, ~~at that time, did~~ **had** not reviewed the site

in detail so a co-location height was not known. (Town 2, Town 3, Town 4; Town 5; AT&T 6, response 13; Tr. 1, pp. 34-35, 81-82, 90-92; Tr. 3, pp. 2287-230)

The Town objects to this addition because the Council's Memorandum clearly states that no new information or argument will be considered. The Applicant's insertion of this new fact regarding when AT&T expressed interest in locating on the facility, which the record demonstrates was disputed throughout the course of this proceeding, is beyond the scope of the Council's stated limits of what it would consider in its Memorandum. As the Town's proposed findings of fact suggest (*see* # 9-19), as well as its brief (*see* pages 5-7), the Town clearly disputes the fact that there was any cellular component to the tower when the Applicant provided the Commission with the All-Points Technology booklet in March of 2013. The Applicant obviously disagrees, and argues that AT&T was involved at this point in time. Regardless, by not including this disputed fact in its draft findings of fact, the Council already decided that this information was irrelevant for purposes of making its decision. The Applicant should not now be given the opportunity to reassert this disputed fact for the Council's consideration. To allow otherwise would prejudice the Town.

## **OBJECTION #2**

### **Finding of Fact No. 65(c).**

Private entities that would locate on the proposed tower include the following:

...

c) WBMW Radio – seeks to install a 5-foot antenna at 175 feet. WBMW would **need a location at the top of the facility.** ~~like to locate at a minimum tower height of 100 feet agl.~~ (Applicant 1, p. 2, Tab 1; Applicant 3, response 5; Applicant 11, part 3; Tr. 3, pp. 210-214)

Note: The transcript at page 213 is inaccurate.

The Town objects to this addition because the Council's Memorandum clearly states that no new information or argument will be considered. Even though Mr. Regulbuto clearly states on the record that "WBMW said they need 100 at the top of the tower or they can't use it," the Applicant is

now arguing that page 213 of the transcript is somehow “inaccurate.” The Council has already weighed the credibility of this witness, and deemed his assertion truthful and accurate, and therefore included it in their draft findings of fact. The Applicant should not now be given an opportunity to argue that an unambiguous statement made by its own witness on the record and relied upon by the Council is somehow incorrect, especially in light of the Council’s limitations imposed in its Memorandum. To allow otherwise would prejudice the Town.

**OBJECTION #3**

**Finding of Fact No. 69.**


As proposed, Once installed, a gin pole could extend above the existing tower up to 19 feet to for proper use but still be under 200 feet agl to avoid Federal Aviation Administration (FAA) hazard criteria. The Applicant is willing to limit the height at which the gin pole extends above the top of the existing tower or utilize the gin pole such that it does not extend above the top of the existing tower. (Applicant 1, pp. 7-8; Tr. 1, pp. 19-22, 57-59, 109-114)

The Town objects to this addition because the Council’s Memorandum clearly states that no new information will be considered. This is new factual information, and as such, should not be considered by the Council. To allow otherwise would prejudice the Town.

For the foregoing reasons, the Town respectfully requests that the Council not consider the Applicant’s proposed changes and/or additions in Finding of Fact Nos. 21, 65(c) and 69.

Respectfully Submitted,

TOWN OF FARMINGTON

By:   
Kelly C. McKeon  
Duncan J. Forsyth  
Kenneth R. Slater, Jr.  
Halloran & Sage, LLP  
One Goodwin Square  
225 Asylum Street  
Hartford, CT 06103  
Its Attorneys

**CERTIFICATION**

I certify that on this 9th day of June, 2015, fifteen copies of the foregoing were sent by regular and electronic mail to all parties and intervenors of record, as follows:

**Counsel for the Applicant**

Jesse A. Langer, Esq.  
Updike, Kelly & Spellacy, P.C.  
265 Church Street  
New Haven, CT 06510  
(203) 786-8300  
JLanger@uks.com

**Counsel for New Cingular Wireless PCS, LLC ("AT&T")**

Christopher B. Fisher  
Lucia Chiochio  
Cuddy & Feder LLP  
445 Hamilton Avenue, 14th Floor  
White Plains, NY 10601

  
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Kelly C. McKeon