

the Motion's representations, can hardly be considered a "trade secret" as that term is defined under Conn. Gen. Stat. § 1-210(b)(5)(A).⁴ Thus, the question for the Council is whether a lease payment for a wireless communications facility constitutes "[c]ommercial or financial information given in confidence, not required by statute."⁵ If the request does not meet any of the three components of this provision, the Council must deny the motion. It is respectfully submitted that the Motion does not meet any of the conditions of Conn. Gen. Stat. § 1-210(b)(5)(B).

First, the amount of a lease payment is required by statute: it is expressly required under Conn. Gen. Stat. § 16-50o(c), as detailed above. So Verizon's Motion fails the basic test for being exempt from the FOIA, as consideration is required by statute.

Second, it stretches the realm of credibility to consider the ground lease for a wireless communications facility, proposed by a massive national telecommunications company for review by and certification from a State Agency like the Council, to be considered to be "commercially valuable, confidential, proprietary and market-sensitive information that constitutes trade secrets" as represented in ¶ 6 of the Befera affidavit. Certainly, this embellishment in support of a Motion to suppress the terms of the Lease at 208 Kirk Road, Hamden should not be given credence without substantial and

⁴ Under the FOIA, the term trade secret is ". . . defined as information, including formulas, patterns, compilations, programs, devices, methods, techniques, processes, drawings, cost data, customer lists, film or television scripts or detailed productions budgets. . . ." that meet certain specified criteria, none of which can reasonably be deemed applicable to Verizon's Motion. Accordingly, the Movant must respectfully disagree with the Council's determination in Docket No. 366 that lease payment information constitutes a "trade secret" as that term is defined in the FOIA.

⁵ Conn. Gen. Stat. § 1-210(b)(5)(B). The Motion erroneously characterizes commercial and financial information given in confidence as a "trade secret" which only pertains to certain limited and defined information set forth in Conn. Gen. Stat. § 1-210(b)(5)(A).

credible supporting detail substantiating Verizon's representations. Instead, the Council has been provided only boilerplate language that does not even use the correct statutory terminology.

Third, for commercial and financial information to be considered exempt from disclosure under the FOIA, it must be "given in confidence." The Lease does not in and of itself contain any confidentiality provisions and, thus, cannot be deemed to be given in confidence, without more than just boilerplate representations. Moreover, the provisions of the Lease, specifically ¶ 16 (Right of First Refusal), ¶ 17 (Rights Upon Sale), and ¶ 22 (Assignment), contemplate the full disclosure of the entire Lease, including the consideration thereunder, to third parties in any of the transactions contemplated under those provisions.

Fourth, the Motion would have the Council assume that Verizon maintains secret protection for all of its lease terms. Any Google search for "Verizon Lease Documents" or "Cellco Lease Documents" demonstrates that innumerable Verizon lease documents in their entirety, as well as articles about its rental payments, are readily available in the public domain. See, for example, the following as a small sample of what is publicly available, all of which provide information on Verizon wireless communication lease payments and related lease terms:

<http://www.yorkville.il.us/DocumentCenter/View/1057>⁶

<http://www.tahodailytribune.com/news/south-lake-tahoe-approves-lease-for-verizon-cell-tower/>⁷

⁶ Attached as Exhibit 1

⁷ Attached as Exhibit 2