



Eric (Roderico) Villanueva <eric.villanueva@lacity.org>

Re CF 09-2645 -- Agenda Item #2, PWC meeting 6/15/11

1 message

Nahtahna Cabanes <cabanes2@gmail.com>

Tue, Jun 14, 2011 at 9:30 AM

To: councilmember.huizar@lacity.org, councilmember.alarcon@lacity.org, councilmember.smith@lacity.org, eric.villanueva@lacity.org

Cc: Councilmember.Krekorian@lacity.org, "damian.carroll@lacity.org" <damian.carroll@lacity.org>

To the Honorable Councilmembers Jose Huizar, Richard Alarcon and Greig Smith, Members, Los Angeles City Council Public Works Committee, and Mr. Eric Villanueva, Legislative Assistant to the Committee

Re CF 09-2645 -- Agenda Item #2, PWC meeting 6/15/11

Dear Committee Members Huizar, Smith and Alarcon and Mr. Villanueva:

Get the CELL Out is a group of Sherman Oaks community stakeholders who have been adversely affected by the current ordinance of cell tower installations in the PROW. In October 2010, our neighborhood was affected, with no foreknowledge, by the sudden excavation and construction of a 52-foot cell tower in a Public Right of Way (PROW) at 14830 Albers Street, Sherman Oaks, CA 91411. We quickly discovered that, in researching the notification, approval and construction process for this tower, not only did numerous violations of procedure occur, but the extent to which notification and regulation is required was alarmingly minimal.

Since then we have been actively involved in meeting with public officials, reaching out to the Board of Public Works to request an investigation, and urging the City Attorney to complete their report.

We are pleased that the report has been completed and Get the CELL Out commends the findings of the City Attorney for Report No. R11-0213, dated June 7, 2011, "Developments in the Law Regarding Regulation of the Placement of Cell Towers and Related Equipment" (the C.A. Report). We strongly support the City Attorney's recommendation to 1) **remove the utility pole/light pole exemption**; 2) **expand the notification requirements**; and 3) **enhance existing aesthetic criteria**.

We also request the following additional changes or new provisions (to the extent not encompassed by the general recommendations in the C.A. Report)

- Impose permit duration limits
- Require that renewed permits fall under the requirements of the new ordinance.
- Enact that any pending application for a permit that is not final on the effective date of the ordinance shall be subject to the requirements of this ordinance.

We believe these requests are reasonable as they comply with recent rulings of the San Francisco Ordinance and they fairly protect the rights of stakeholders who have been adversely affected by minimal installation and notification requirements.

6/14/2011

City of Los Angeles Mail - Re CF 09-264...

Thank you for your consideration and attention to this important matter.

Sincerely,

Get the CELL Out



Eric (Roderico) Villanueva <eric.villanueva@lacity.org>

Subject: CF 09-2645/PWC Agenda Item #2, 6-15-11/cell towers

1 message

John <john@mackel.net>**Mon, Jun 13, 2011 at 9:23 PM**

To: councilmember.huizar@lacity.org, councilmember.alarcon@lacity.org, councilmember.smith@lacity.org, eric.villanueva@lacity.org

To the Honorable Councilmembers Jose Huizar, Richard Alarcon and Greig Smith, Members, Los Angeles City Council Public Works Committee, and Mr. Eric Villanueva, Legislative Assistant to the Committee,

Re CF 09-2645 -- Agenda Item #2, PWC meeting 6/15/11

Dear Committee Members Huizar, Smith and Alarcon and Mr. Villanueva:

I would like to provide the perspective of a Westside homeowner caught in the middle of these overly restrictive cell tower regulations. After more than 18 years, my neighbors and I are still waiting for residential cell coverage. There is a geographic depression where my neighbors and I live that requires the placement of another antenna on a nearby pole. None of the carriers can provide coverage because of restrictions in placing new antennas in the area. My discussions with my representatives concerning the affects of these regulations go back to Councilwoman Ruth Galanter.

Cellular service has become more indispensable over the years as fewer people attempt to reach others anymore using landlines, yet there are still portions of the city with poor service due to unreasonable restrictions. Evidently, as long as some people have their service, they can afford to complain about the perceived blight caused by providing service to others. Please consider realistic regulations that would allow service to everyone. Although there appear to be safeguards against such overly restrictive impacts in these regulations, in practice, they rarely work and result in de facto moratoria.

Best regards,

John Mackel

10316 Lorenzo Drive

Los Angeles, CA 90064

Information from ESET NOD32 Antivirus, version of virus signature database 6205 (20110614)



Eric (Roderico) Villanueva <eric.villanueva@lacity.org>

Subject: CF 09-2645/PWC Agenda Item #2, 6-15-11/cell towers

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BILL ROSENDAHL

City of Los Angeles
Councilmember, Eleventh District

Committees

Chair, Transportation
Vice Chair, Trade, Commerce & Tourism
Member, Budget & Finance
Member, Ad Hoc on Economic Recovery &
Reinvestment
Member, Board of Referred Powers

June 15, 2011

Honorable Members of the Public Works Committee
Los Angeles City Council
City of Los Angeles

Dear Chairman ^{Jose} Huizar:

I write today to express my strong support of item #2 on today's Public Works Committee agenda, the City Attorney report dated June 7, 2011, "*Developments in the Law Regarding Regulation of the Placement of Cell Towers and Related Equipment.*"

Various community groups throughout the 11th Council District, including the Westside Regional Alliance of Councils and the Pacific Palisades Community Council, have been instrumental in educating other community leaders on the issues of wireless telecommunication facilities (WTF), both proliferation and regulation. Thanks to their tireless efforts, the City Attorney report was finally released last week.

I support the City Attorney's recommendations for changes in the City's public right of way regulations, specifically to: 1) remove the utility pole/light pole exemption; 2) expand the notification requirements; and 3) enhance existing aesthetic criteria.

It is my hope, that as the Committee and Council continue to debate the outstanding issues with the City Attorney, that these community groups be included in that process.

Thank you for your consideration and attention to this important matter.

Regards,

BILL ROSENDAHL
Councilmember, 11th District

Westchester Office
7166 W. Manchester Boulevard
Westchester, CA 90045
(310) 568-8772
(310) 410-3946 Fax

City Hall
200 N. Spring Street, Room 415
Los Angeles, CA 90012
(213) 473-7011
(213) 473-6926 Fax

West Los Angeles Office
1645 Corinth Avenue, Room 201
Los Angeles, CA 90025
(310) 575-8461
(310) 575-8305 Fax





LOS ANGELES CITY COUNCILMEMBER
GREIG SMITH
TWELFTH DISTRICT

June 15, 2011

Honorable Jose Huizar, Chair
Honorable Richard Alarcon
Public Works Committee
200 N. Spring Street
Los Angeles, CA 90012

RE: CF 09-2645
Item #2, June 15, 2011 Meeting

Honorable Members:

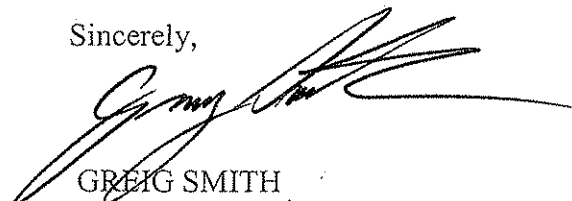
The increasing numbers of complaints that are made involving above ground cellular installations in the public right of way demonstrate the need to modify our current above ground facility ordinance. Although it was originally passed to provide an orderly method for controlling cellular installations in the public right of way, it is clear that more is needed. The motion asking the City Attorney for a report on possible new tools available to regulate these installations was both timely and necessary.

In their report, the City Attorney offered three tools:

- 1) Remove the AGFSP exemption for utility pole or streetlight mounted cell towers, which will allow them to be subject to both public review and aesthetic consideration;
- 2) Expand notification requirements, which will allow more people to become involved at the outset; and
- 3) Enhance existing aesthetic criteria, which will strengthen what is perhaps the most concrete tool now available.

In view of the above, I would like to take this opportunity to voice my support of the recommendations and urge their passage. Although they may not go as far as some would like, they work within the framework of our existing ordinance, and will bring more accountability to the process.

Sincerely,



GREIG SMITH
Councilman, 12th District



Eric (Roderico) Villanueva <eric.villanueva@lacity.org>

Cell Tower report & CF 09-2645; June 15 PWC meeting

1 message

Karen Gilman <gilperson2@gmail.com>

Wed, Jun 15, 2011 at 7:20 AM

To: councilmember.huizar@lacity.org, councilmember.alarcon@lacity.org, councilmember.greigsmith@lacity.org, eric.villanueva@lacity.org

Cc: Chris Spitz <ppfriends3@hotmail.com>, Greater Wilshire Neighborhood Council <info@greaterwilshire.org>, "<councilmember.labonge@lacity.org>" <councilmember.labonge@lacity.org>, Doug Mensman <doug.mensman@lacity.org>, sheila.irani@lacity.org, gilperson2@gmail.com, Faisal.Alserrri@lacity.org, Phyllis.winger@lacity.org

Greater Wilshire Neighborhood Council

Los Angeles, California

info@greaterwilshire.org

The Honorable Jose Huizar, Chair

The Honorable Richard Alarcon

The Honorable Greig Smith
Public Works Committee
City Hall
200 N. Spring St.
Los Angeles, CA 90012

Dear Honorable Chairperson Huizar and Members of the Public Works Committee:

It is the consensus of the Greater Wilshire Neighborhood Council that cell tower equipment and related installations should only be allowed in locations that are necessary and appropriate from an aesthetic and land-use standpoint. Cell tower equipment has proliferated in our neighborhood and around the City of Los Angeles to the significant detriment of our residents. Cell towers and other wireless telecommunications equipment in the public right of way are one aspect of the problem. Timely notification (or lack thereof) of plans to install such equipment in the public right of way in front of homes and businesses is one of our highest priorities. Design elements are another priority. The equipment is unsightly, attracts graffiti, degrades the value of the property where it's sited as well as that of adjacent properties. The City had claimed to have no right to regulate their placement or require public notice and hearings. Recent court decisions and the actions of other California cities challenge that assumption. Now, the pending outcome of the City Attorney's Report in response to CF 09-2645, at today's meeting of the Public Works Committee, has the potential to propel the City to move forward.

Cell towers and support equipment on private property pose a slightly different problem. While public notice and hearings do take place, the City has been reluctant to impose meaningful restrictions on number, location, and appearance, regularly ignoring zoning, regulations and restrictions such as height limits in community and specific plans. Our neighborhood council created a screening tool for all proposals brought to the attention of our land use committee and our full council. We would like to see recommendations for a consolidated ordinance at the City level to assist in the permitting-with-notice and enforcement process regarding private property as well.

We recognize the need for cell towers and supporting equipment to accommodate the ever increasing use of cell phone and accompanying bandwidth requirements. We strongly feel, however, that the City of Los Angeles is ready to provide meaningful regulation of the industry and to forcefully interpret various Federal and State laws and inter-government agreements in a way that protects the rights of our residents and stakeholders.

6/15/2011

City of Los Angeles Mail - Cell Tower re...

The Greater Wilshire Neighborhood Council voted at our Board meeting on June 8, 2011 to urge the City Attorney's office to complete the cell report directed by the Public Works Committee in CF 09-2645 as a first step in the drafting of a comprehensive new ordinance to regulate cell towers and their support equipment and to allow the ordinance to progress through the normal City approval process. We feel that the Position Paper on Wireless Telecommunications Facilities (WTF) Regulation, prepared by the Los Angeles WTF Working Group, provides a sound basis for the proposed ordinance and strongly recommend that the cited provisions be included. Thank you for following this issue. We are encouraged by the City Attorney's Cell Tower Report and support in general its recommendations regarding aesthetic considerations, expanded notice and elimination of the utility pole/light pole exemption. We encourage the Public Works Committee of the City Council to take steps to initiate regulatory reform as recommended in the report at today's hearing.

Thank you for helping us advocate to control the unregulated proliferation of cell towers and their detrimental effects on our residents.

Sincerely,

James Wolf, President, The Greater Wilshire Neighborhood Council

Delegates, alternates, Land Use Committee members and Stakeholders

Cc: The Honorable Tom La Bonge, CD 4

City Attorney's Office

Eric Villanueva, Legislative Staff, PWC Committee



Cell tower letter 061511 PWC cmte from GWNC.doc

30K

Greater Wilshire Neighborhood Council

Los Angeles, California

info@greaterwilshire.org

The Honorable Jose Huizar, Chair
The Honorable Richard Alarcon
The Honorable Greig Smith
Public Works Committee
City Hall
200 N. Spring St.
Los Angeles, CA 90012

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Cc: The Honorable Tom La Bonge, CD 4

City Attorney's Office

Eric Villanueva, Legislative Staff, PWC Committee

Westwood South of Santa Monica Blvd
Homeowner's Association
Incorporated November 8, 1971
P. O. Box 64213
Los Angeles, CA 90064

June 15, 2011

Chairperson Jose Huizar
Committee Members Greig Smith and
Richard Alarcon
LA City Council Public Works Committee
Los Angeles City Hall
200 N. Spring Street
Los Angeles, CA 90012

VIA EMAIL ATTN: Mr. Eric Villanueva, Legislative Assistant to the Committee
Eric.Villanueva@lacity.org

Re: Los Angeles City Council File No. 09-2645 // June 15, 2011 Agenda Item #2

Dear Council Members Huizar, Alarcon and Smith:

We last wrote you in support of a new ordinance for the regulation of wireless telecommunications facilities in November of 2009. At that time, we requested that new regulations be adopted by the City to take into account new judicial rulings that gave municipalities greater legal authority to regulate cellular installations than existed at the time that Los Angeles' ordinances were adopted. We further asked that the Council seek guidance from the City Attorney in crafting a new ordinance.

It has been over a year and half since your Committee considered this matter. Since that time numerous installations have been placed in our community, some on private properties and others in the public right-of-way with no advance notification. In fact, an installation recently completed was to have been located directly outside of a single family home's bedroom windows (on the side of a corner lot). Had the owner been away from the house at the time that workers were surveying the property, she would have been completely unaware that an installation was planned beside her home. As a result of her unplanned but fortunate viewing of the company representatives, she and our homeowners association obtained information that allowed us to contact the company and lobby for the relocation of the installation across a small cul-de-sac so that it would be placed nearer to Olympic Blvd. (at Olympic and Prosser) and away from her home. However, there was and is no formal process for notification and it was very likely that the construction plans would have been finalized with the installation directly adjacent to the home had the owner not happened by. We cannot leave such matters to chance. And, I must add that although the installation was moved, it is still near the home and is a hideous addition to the neighborhood that should have been required to meet additional standards.

It has further been suggested that this installation may have been one where "bootlegging" of wires took place where lines were removed from other poles to make this pole non-freestanding. We have heard from residents in Tarzana (and elsewhere) that new poles go up overnight in front of homes where old poles did not exist, and the carrier/contractor simply goes over and takes wires from another nearby pole and runs them to the new pole

Committee to recommend changes in the City's regulation of PROW WTF as set forth above, in order to "minimize cell tower environmental, aesthetic and public safety impacts" (the C.A. Report, p. 6, fn. 10).

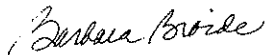
In addition, we request that the Committee recommend enactment of a **temporary moratorium** on PROW WTF while new ordinance provisions are being drafted. Locally-enacted moratoria on new towers for fixed periods of time have long-been approved by the wireless industry by agreement with the FCC (see attached CPUC internal memorandum dated 11/30/09, authorized for public release and previously submitted to the City Attorney). Such moratoria (or holds on applications) during the drafting process have been enacted without legal challenge in at least 10 large or nearby California cities, in order to prevent an inevitable onslaught of WTF PROW construction before stricter regulations are in place. We heartily endorse a moratorium on new installations to give the City the time needed to thoughtfully enact a new ordinance and to halt a rush to install new installations inspired by this legislative process.

We stand ready to continue to work cooperatively with the City Attorney, the Council, and other public officials as this process moves forward. We ask to be included in the drafting process should new regulations be recommended or directed by the Public Works Committee and/or City Council.

We also request that Mr. Villanueva please file this letter and attachments in CF 09-2645.

Thank you for your consideration and attention to this important matter.

Sincerely,



President

cc: Councilmember Paul Koretz, CD 5
Planning Deputy Chris Koontz, CD 5
Christina Spitz, LA WTF Working Group, Founding Member

**Additional Submission
to the Public Works Committee
(supplementing letter and documents
submitted on 6/13/11)**

Date: 6/15/11
Submitted in PW Committee
Council File No: 09-2645
Item No.: 2
Deputy: RUBEN

By the Los Angeles Wireless Telecommunications
Facilities (WTF) Working Group¹

Wednesday, June 15, 2011

Meeting Agenda Item #2
Council File No. 09-2645

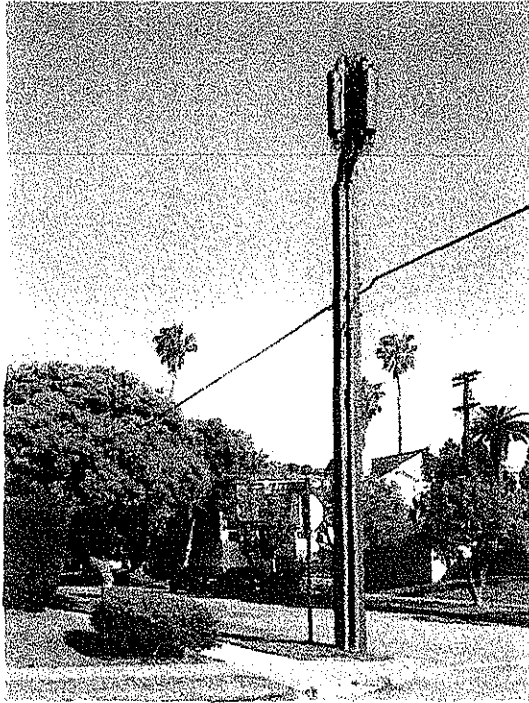
Contents

- 1. Examples of unregulated/exempt utility pole WTF in residential areas of Los Angeles**
- 2. Agreement between FCC and cell industry dated 8/5/98 re authority of local governments to adopt fixed time period moratoria for purposes of amending WTF regulations**

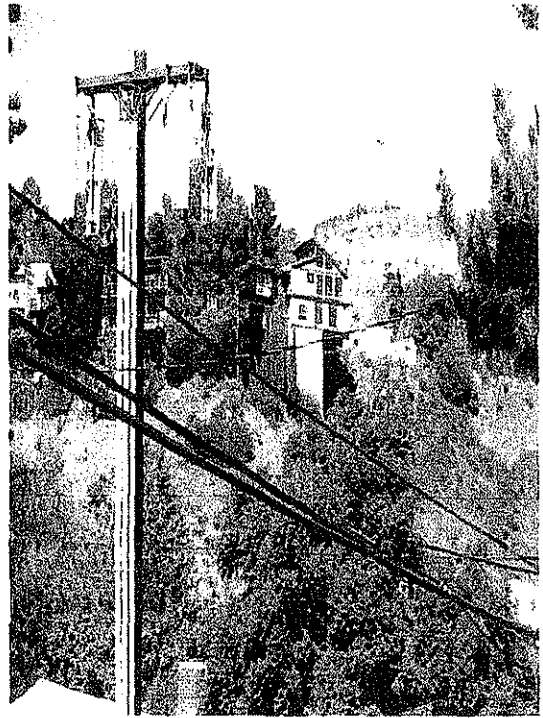
The Los Angeles WTF Working Group
ppfriends3@hotmail.com

¹ The Los Angeles WTF Working Group (Group) is a coalition of community leaders who have been extensively involved with investigating and researching the issue of WTF proliferation and regulation for the past several years. The Group has met with and exchanged materials and information with the City Attorney and has sought to work reasonably with the City Attorney and other public officials to advance the cause of WTF regulation reform. The Group's members are: Jerry Askew, Granada Hills South NC; Cindy Cleghorn, Sunland-Tujunga NC; Alexander von Wechmar, The Oaks Homeowners Association, Hollywood Hills; and Barbara Kohn and Christina Spitz, Pacific Palisades Residents Association.

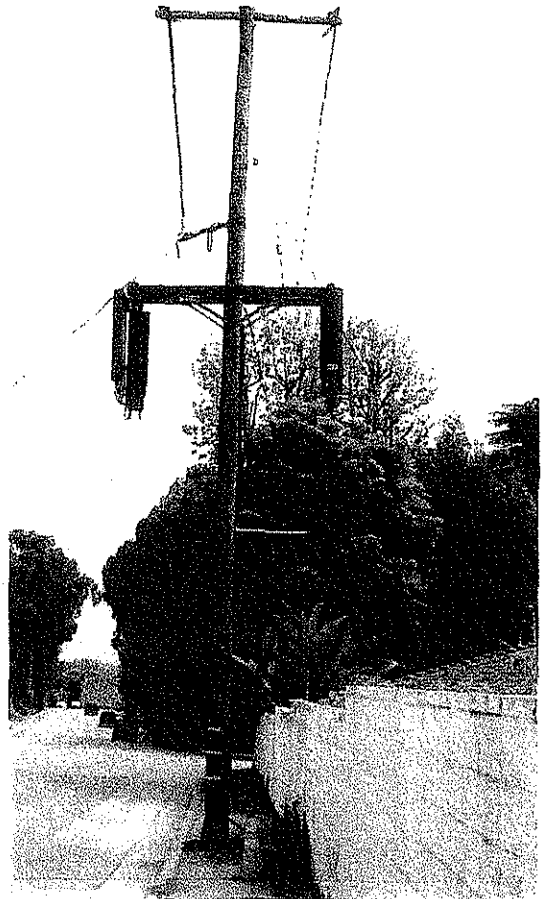
Pacific Palisades



Hollywood Hills – The Oaks



Brentwood



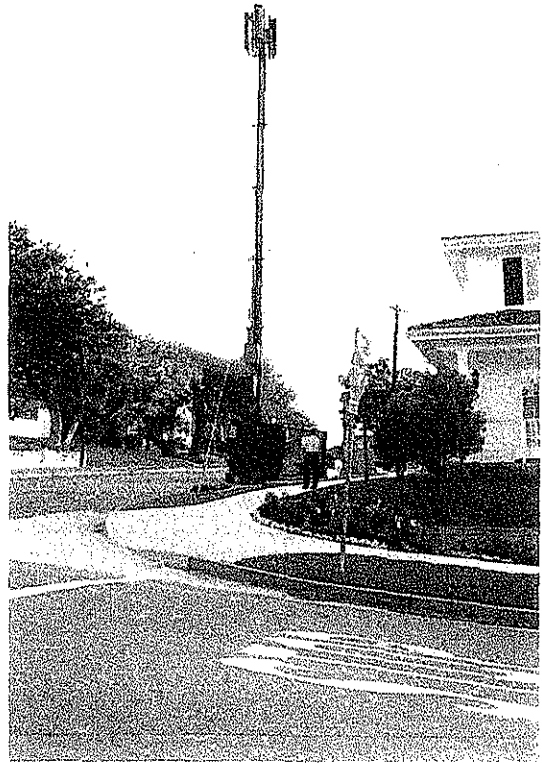
San Pedro



Cheviot Hills (before)



Cheviot Hills (after)



ADOPTED AUGUST 5, 1998

THE FOLLOWING GUIDELINES FOR FACILITIES SITING IMPLEMENTATION AND INFORMAL DISPUTE RESOLUTION PROCESS ARE AGREED TO BY THE FEDERAL COMMUNICATIONS COMMISSION'S LOCAL AND STATE GOVERNMENT ADVISORY COMMITTEE (LSGAC), THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION (CTIA), THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION (PCIA) AND THE AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION (AMTA). THE LSGAC IS A BODY OF ELECTED AND APPOINTED LOCAL AND STATE OFFICIALS, APPOINTED BY THE CHAIRMAN OF THE COMMISSION IN MARCH, 1997. A ROSTER OF LSGAC MEMBERS IS ATTACHED. CTIA, PCIA AND AMTA ARE TRADE ASSOCIATIONS REPRESENTING THE WIRELESS INDUSTRY.

I. GUIDELINES FOR FACILITY SITING IMPLEMENTATION

A. Local governments and the wireless industry should work cooperatively to facilitate the siting of wireless telecommunication facilities. Moratoria, where necessary, may be utilized when a local government needs time to review and possibly amend its land use regulations to adequately address issues relating to the siting of wireless telecommunications facilities in a manner that addresses local concerns, provides the public with access to wireless services for its safety, convenience and productivity, and complies with the Telecommunications Act of 1996.

B. If a moratorium is adopted, local governments and affected wireless service providers shall work together to expeditiously and effectively address issues leading to the lifting of the moratorium. Moratoria should be for a fixed (as opposed to open ended) period of time, with a specified termination date. The length of the moratorium should be that which is reasonably necessary for the local government to adequately address the issues described in Guideline A. In many cases, the issues that need to be addressed during a moratorium can be resolved within 180 days. All parties understand that cases may arise where the length of a moratorium may need to be longer than 180 days. Moratoria should not be used to stall or discourage the placement of wireless telecommunications facilities within a community, but should be used in a judicious and constructive manner.

C. During the time that a moratorium is in effect, the local government should, within the frame work of the organization's many other responsibilities, continue to accept and process applications (e.g., assigning docket numbers and other administrative aspects associated with the filing of applications), subject to ordinance provisions as may be revised during the moratorium. The local government should continue to work on the review and possible revisions to its land use regulations in order that the moratorium can terminate within its defined period of time, and that both local planning goals and the goals of the Telecommunications Act of 1996 with respect to wireless telecommunications services be met. Wireless service providers should assist by providing appropriate, relevant and non-proprietary information requested by the local government for the purposes of siting wireless telecommunications facilities.

D. Local governments are encouraged to include both the community and the industry in the development of local plans concerning tower and antenna siting. Public notice and participation in accordance with the local government's standard practices should be followed.

II. INFORMAL DISPUTE RESOLUTION

A. The parties have agreed to an informal dispute resolution process for the wireless industry and local governments to utilize when moratoria may seem to be adversely affecting the siting of wireless telecommunications facilities. The purpose of the process is to expeditiously resolve disputes in a manner consistent with the interests of all parties.

B. The LSGAC will publicize and promote the moratoria guidelines reflected in Part I of this document and the availability of this informal dispute resolution process in a press release, and will also urge the national organizations working with the LSGAC to promote and publicize the guidelines and the dispute resolution process to their respective members. CTIA, PCIA and AMTA also will publicize and promote the guidelines and informal dispute resolution process utilizing their respective websites, and in subsequent forums and educational materials.

C. Local government experts in the area of land use siting of wireless telecommunications facilities in accordance with Section 704 of the Telecommunications Act, as well as industry representatives will be encouraged to serve as volunteers to assist in the resolution of problems relating to moratoria. The process will work as follows:

1. Two volunteers, one representing local government and one representing the wireless industry, shall be assigned to each case. Any company seeking to locate wireless telecommunications facilities, that felt it was being adversely impacted by a moratorium that does not comply with the guidelines described above, could contact the Wireless Telecommunications Bureau ("WTB") and ask for the name of a volunteer to review the matter. Any local government seeking advice on zoning moratoria issues may also contact the WTB for volunteers. The LSGAC will provide the FCC with a list of volunteers representing local governments. The list will be maintained at the FCC by the WTB. A list of volunteers representing wireless service providers will be selected and maintained by their national associations (CTIA, PCIA, and AMTA).
2. Best efforts will be exercised in attempting to select volunteers who reflect a range of experience with different forms and sizes of local government and wireless service providers. Efforts will be used to assign volunteers whose experience has been with similarly situated local governments to those at issue. After the individual's name is provided it will be moved to the bottom of the list, so as to create a procedure where volunteers do not have a disproportionate number of cases to review. Volunteers cannot mediate a dispute if they have a direct interest of any type in the geographic area under review.
3. If, for any reason, the volunteer[s] was [were] not able to review the issue at that time, the complainant may contact the WTB and obtain the next name [or names] on the list. It is anticipated that the amount of time that will be spent by the volunteers reviewing and opining on these issues will be one to three hours per case.
4. The local government volunteer will review and listen to the local government's explanation of the issues. The wireless service provider volunteer will review and listen to the wireless service provider's explanation of the issues. If necessary, the volunteers will ask appropriate follow-up questions, then will make appropriate contacts, as [they] he or she deems necessary. The volunteers will then discuss the issues as they understand them, and attempt to reach a mutually agreeable proposed course of action. The volunteer[s] will then contact each party individually, (the local government volunteer contacting the local government, and the wireless service provider volunteer contacting the wireless service provider) and will inform each party of his or her opinion as to whether the present activities comply with the moratoria guidelines, making recommendations as may be appropriate. The recommendation and mediation process by the volunteers should be concluded within 60 days.
5. Neither party is bound by the recommendations of the volunteer[s]. Should the complaining part[ies] be dissatisfied with the result, the part[ies] retain the option to bring legal action.
6. This process is intended as a mechanism to resolve issues short of court action, if possible. As a result, none of the discussions, statements, or information conveyed in the

informal process, or even the fact that the informal process was undertaken, are subject to discovery, or admissible in a judicial or quasi-judicial proceeding.

D. Upon agreement with LSGAC on the moratoria guidelines and informal dispute process described herein, CTIA will withdraw without prejudice its petition seeking preemption of zoning moratoria, docket number DA96-2140, FCC97-264.

Above Ground Facilities (AGF) Report
Pole Mounted Facilities Work Group

Meeting at 1:00 PM, on Wednesday, Jan. 12, 19, 26, 2000
201 N. Figueroa St., 3rd Floor, Conf. Rm. #1

Date: 6/15/11
Submitted in: AW
Council File No.: 09-2645 Committee
Item No.: ABUC Deputy:

The Pole Mounted Facilities Work Group shall develop guidelines related to Pole Mounted Facilities within public rights-of-way.

Minutes of Jan. 12 and 19, 2000 meetings:

1. Pole mounted facilities policy should be consistent with Dept. of City Planning and Dept. of Public Works policy.
2. How will the City process permits for facilities that are installed on both private property and public property.
3. Who controls wood poles and wood poles with streetlights? The Dept. of Water and Power (DWP).
4. Who controls streetlights? The Dept. of Public Works, Bu. of Street Lighting (BOSL).
5. In general, Bu. of Street Lighting field personnel approve installations on City Street Lights.
6. The DWP and BOSL charge fees to use lease space on their facilities.
7. BOSL lease agreements govern installations on City Street Lights.
8. At the present time, BOSL does not require installations to be approved by Cultural Affairs. BOSL will require Cultural Affairs review if an installation significantly alters the aesthetics of a street light
9. BOSL does not have specific aesthetic criteria. The BOSL goal is to have the least aesthetic impact as possible. BOSL intends to create guidelines.
10. BOSL does not allow changes to City Street Lights.
11. All BOSL pole-mounted facilities are covered by master agreements. Each new pole-mounted facilities requires an addendum to the master agreement.
12. Pole-mounted facility maintenance is an issue.
13. State laws pertaining to electric poles govern DWP "climbing space" requirements.

14. Pole-mounted facilities have above ground facilities (AGFs) associated with them.
15. A moratorium exists for DWP leased space on poles.
16. A master standard agreement for all carriers is desirable.
17. Does the imposition of fees waive telecommunication's right to be in the public right of way? From Legal: No. Fees do not waive franchise agreements either.
18. Regarding jointly owned poles, who will be exempt from the City's policy?
19. Pole-mounted facilities allow for easier access into residential communities where AGFs are less desirable.
20. Mulholland Scenic issue is primarily aesthetic degradation.
21. Do pole-mounted facilities pose a high fire risk?
22. What are the safety issues regarding pole-mounted facilities?
23. Wireless companies need to provide wireless service where it is demanded.
24. What do whole pole-mounted facilities look like? Viewing the installation in its entirety is important.
25. Mapping of pole-mounted facilities is important.
26. There is no compelling reason for mapping.
27. Past mapping information provide little value.
28. Mapping should not be too detailed as to represent a security risk.
29. Utility Stakeholders desire an individual report from each company in lieu of mapping.

BOSL comments by Jonathan Levy, BOSL Director

- Changes in appearance to Street Light will require Cultural Affairs review.
- Street Lighting assessment districts (the community) may have input. Street Lighting assessments are paid by the community. The community therefore, may want benefits of pole-mounted facilities lease agreements.
- Monies paid by lessee are deposited into Street Lighting assessment funds.
- BOSL desires to balance the communities needs and demand for pole-mounted facility leases.

- Weight load of Street Lights depends on type of pole. BOSL will create weight guidelines that will cover the different types of Street Lighting poles.
- BOSL will inspect each pole-mounted facility site under an overall lease agreement.
- BOSL requests guidelines from the utility industry.
- BOSL will create a joint report regarding pole-mounted facilities that is consistent with the AGF report.

DWP comments:

- DWP pole lease agreements are subject to City Council approval. Council offices are notified of each DWP lease agreement.
- DWP will create guidelines that will be consistent with BOSL guidelines, and the AGF report.

Outstanding questions:

1. How will jointly owned power poles be impacted?
2. What is the intention of the Council motion regarding pole-mounted facilities?



PACIFIC PALISADES COMMUNITY COUNCIL

June 15, 2011

Councilmembers Jose Huizar, Richard Alarcon and Greig Smith
Los Angeles City Council Public Works Committee
200 North Spring Street
Los Angeles, CA 90013

Date: 6/15/11
Submitted in PW Committee Public
Council File No: 09-2645
Item No.: 2
Deputy: Public

Re CF 09-2645 -- Agenda Item #2, PWC meeting 6/15/11

Dear Committee Members Huizar, Smith and Alarcon:

Pacific Palisades Community Council has been the voice of the Palisades since 1973.

In August 2009 PPCC voted to recommend the enactment of a comprehensive new ordinance which sets uniform standards for the design and development of WTF on private property as well as in the public right-of-way (PROW).

PPCC strongly supports the City Attorney's recommendations for changes in the City's PROW regulations, in particular to: 1) remove the utility pole/light pole exemption; 2) expand the notification requirements; and 3) enhance existing aesthetic criteria.

We also request the following additional changes or new provisions (to the extent not encompassed by the general recommendations in the C.A. Report):

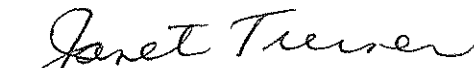
- Extend appeal rights to all interested persons and/or relevant NCs, CCs and/or HOAs;
- Require noise/acoustical and wind load consideration or analysis;
- Require RF emissions analysis or certification;

In addition, we request that the Committee recommend enactment of a **temporary moratorium on PROW WTF** while new ordinance provisions are being drafted.

These reasonable provisions for the most part have been adopted by several California cities, including Richmond, San Francisco and Glendale (as referenced in the C.A. Report), without legal challenge.

Thank you for your consideration and attention to this important matter.

Sincerely,


Janet Turner, Chairman
310-573-0382

CC: Councilman Rosendahl, Whitney Blumenfeld, Norm Kulla, Joaquin Macias



Eric (Roderico) Villanueva <eric.villanueva@lacity.org>

CF 09-2645/PWC Agenda Item #2, 6-15-11/cell towers

3 messages

Chris Spitz <ppfriends3@hotmail.com>

Mon, Jun 13, 2011 at 10:41 AM

To: councilmember.huizar@lacity.org, councilmember.alarcon@lacity.org, councilmember.smith@lacity.org, eric.villanueva@lacity.org

Cc: bill.rosendahl@lacity.org, PPCC <pacpalicc@aol.com>, info@pprainc.org

To the Honorable Councilmembers Jose Huizar, Richard Alarcon and Greig Smith, Members, Los Angeles City Council Public Works Committee, and Mr. Eric Villanueva, Legislative Assistant to the Committee

Re CF 09-2645 – Agenda Item #2, PWC meeting 6/15/11

Dear Committee Members Huizar, Smith and Alarcon and Mr. Villanueva:

The Los Angeles WTF Working Group (Working Group) is a coalition of community leaders who have been extensively involved in the issue of wireless telecommunication facilities (WTF) proliferation and regulation. Members of the Working Group have sought to work reasonably with the City Attorney and other public officials for the purpose of advancing the cause of WTF regulation reform.

The Working Group commends the City Attorney for Report No. R11-0213, dated June 7, 2011, "Developments in the Law Regarding Regulation of the Placement of Cell Towers and Related Equipment" (the C.A. Report). While we continue to request enactment of a comprehensive new ordinance which sets uniform standards for the design and development of WTF on private property as well as in the public right-of-way (PROW), **the Working Group strongly supports the City Attorney's recommendations for changes in the City's PROW regulations**, in particular to: 1) **remove the utility pole/light pole exemption**; 2) **expand the notification requirements**; and 3) **enhance existing aesthetic criteria**.

We also request the following additional changes or new provisions (to the extent not encompassed by the general recommendations in the C.A. Report):

- Expand notification to relevant NCs, CCs and/or HOAs and also via on-site posting of notice (in addition to expanded distance and content requirements);
- Provide for hearings and/or public comment prior to permit issuance;
- Extend appeal rights to all interested persons and/or relevant NCs, CCs and/or HOAs;
- Require evaluation of environmental, aesthetic and public safety impacts (as permitted by federal law);
- Impose meaningful set-backs from dwellings/schools/parks and minimum concentration/distance limits in residential zones;
- Impose clear design/development standards specific to poles and antennas, such as height and other dimensions, color, finish, camouflage, antenna placement, number and size, landscaping, ID and/or accessory equipment requirements;
- Require noise/acoustical and wind load consideration or analysis;
- Require RF emissions analysis or certification;
- Require mapping of existing WTF and/or projection of future needs;
- Discourage residential siting and provide for tiered support structure and/or location preferences;
- Require a justification/prohibition analysis for proposed residential siting and/or deviations from required standards, i.e., showing of a significant coverage gap and lack of feasible alternatives;
- Impose permit duration limits and/or periodic review/monitoring requirements;
- Require applicants to bear costs of analysis and/or monitoring of impacts, coverage, alternative site availability, RF emissions, mapping, independent consultant evaluation and the like.

6/14/2011

City of Los Angeles Mail - CF 09-2645/P...

These reasonable provisions for the most part have been adopted by several California cities, including Richmond, San Francisco and Glendale (as referenced in the C.A. Report), without legal challenge. See attached lists of WTF Governance by California Cities, updated as of 6/10/11 (please also note the most recent ordinance *enacted on 6/7/11 by the City of Long Beach*).

The Working Group urges the Public Works Committee to recommend changes in the City's regulation of PROW WTF as set forth above, in order to "minimize cell tower environmental, aesthetic and public safety impacts" (the C.A. Report, p. 6, fn. 10).

In addition, we request that the Committee recommend enactment of a **temporary moratorium on PROW WTF** while new ordinance provisions are being drafted. Locally-enacted moratoria on new towers for fixed periods of time have long-been approved by the wireless industry by agreement with the FCC (see attached CPUC internal memorandum dated 11/30/09, authorized for public release and previously submitted to the City Attorney). Such moratoria (or holds on applications) during the drafting process have been enacted *without legal challenge* in at least 10 large or nearby California cities, in order to prevent an inevitable onslaught of WTF PROW construction before stricter regulations are in place.

The Working Group reminds the Public Works Committee that in addition to the 3 councils expressly identified in the meeting agenda, 47 other NCs, CCs, HOAs and/or alliances (**50 in total, representing 85 organizations City-wide**) have publicly expressed concerns or submitted letters/motions in CF 09-2645 calling for reform of the City's regulation of WTF, including all members of the Westside Regional Alliance of Councils (see attached list of organizations). Many of these organizations are also calling for enactment of a temporary moratorium.

Members of the Working Group stand ready to continue to work cooperatively and reasonably with the City Attorney and other public officials as this process moves forward. We ask to be included in the drafting process should new regulations be recommended or directed by the Public Works Committee and/or City Council.

We also request that Mr. Villanueva please file this letter and attachments in CF 09-2645.

Thank you for your consideration and attention to this important matter.

Sincerely,

Christina Spitz

Founding Member, Los Angeles WTF Working Group

Other positions (for identification purposes):

Chair, Land Use Committee, Pacific Palisades Community Council

Vice-President, Pacific Palisades Residents Association

Member, Land Use & Planning Committee, Westside Regional Alliance of Councils

Other Working Group members:

Jerry Askew, Granada Hills South NC; Cindy Cleghorn, Sunland-Tujunga NC; Alexander von Wechmar, The Oaks Homeowners Association, Hollywood Hills; Barbara Kohn, Pacific Palisades Residents Association

5 attachments



CPUC01-#406912-v1-Revised_Wireless_Tower_Siting_Authority_Backgrounder_11_30_09.DOC
51K





DiscretionaryPermitsPROW.doc
39K


AdministrativepermitsPROW.doc

6/14/2011

City of Los Angeles Mail - CF 09-2645/P...

 35K

 **Comparison of WTF Governance by California Cities.doc**
35K

 **Organizations That Have Passed Motions.doc**
34K

Chris Spitz <ppfriends3@hotmail.com>
To: adam.lid@lacity.org, eric.villanueva@lacity.org

Tue, Jun 14, 2011 at 1:13 PM

To Adam Lid and/or Eric Villanueva:

RE CF 09-2645 (agenda item #2, PWC meeting 6-15-11).

Please file the email letter below and the attached documents in the above referenced council file. Thank you.

Sincerely


Christina Spitz
L.A. WTF Working Group


From: ppfriends3@hotmail.com
To: councilmember.huizar@lacity.org; councilmember.alarcon@lacity.org; councilmember.smith@lacity.org; eric.villanueva@lacity.org
CC: bill.rosendahl@lacity.org; pacpalicc@aol.com; info@pprainc.org
Subject: CF 09-2645/PWC Agenda Item #2, 6-15-11/cell towers
Date: Mon, 13 Jun 2011 10:41:13 -0700


[Quoted text hidden]


5 attachments

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34K

Adam Lid <adam.lid@lacity.org>
To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>

Tue, Jun 14, 2011 at 1:15 PM

More...


[Quoted text hidden]


6/14/2011


City of Los Angeles Mail - CF 09-2645/P...


—
Adam R. Lid
Legislative Assistant I
Office of the City Clerk
Council and Public Services


5 attachments

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34K

**Wireless Telecommunication Facilities (WTF) Governance by California Cities –
Administrative/Ministerial Permits in the Public Right-of-Way (Residential Districts)¹**

1. Large and/or nearby cities with the administrative permitting requirements:

- Glendale (G; Muni. Code §12.08.037)
- Santa Barbara (SB; Muni. Code §28.94.030.DD)
- Torrance (T; Muni. Code §92.39)
- Beverly Hills (BH; Muni. Code §§10-3-4508, 8-7-6)
- West Hollywood (WH; Muni. Code §§11.40.120, 19.36.350)
- Santa Monica (SM; Muni. Code §7.06 -- existing and replacement poles)
- Long Beach (LB; Muni. Code §21.56.010)²

2. Common key provisions:

- Design, installation and/or development standards (e.g., height, scale, color, finish, camouflage, antenna placement/number, landscaping, setbacks, ID and/or accessory equipment requirements)³
- Visual/aesthetic impact and public welfare/safety considerations
- No exemption for pole-mounted or utility pole installations

3. Other provisions of note:

- Notice of installation and/or hearing to nearby/affected property owners/occupants (300 ft./500 ft.) (G, T, BH)
- Expanded notice (e.g., posting on-site; notice to others requesting notice) (G)
- Public comments and/or limited purpose hearings prior to permit issuance (G, SB, T, SM)⁴
- Conditions may be imposed by reviewing authority (G, T, BH, SM)
- Appeals by any interested/aggrieved persons (G, T, BH)
- Tiered location preferences/residential siting discouraged (e.g., commercial districts preferred over residential districts) (G, T, SM)
- Tiered support structure preferences (e.g., co-location, existing poles, streetlights) (T, BH, SM, LB)
- Justification/prohibition analysis and/or hearing (coverage gap, alternative site feasibility, hardship, least intrusive means and/or needs tests) (G, T, BH, SM, LB)
- Concentration/distance limits (SM, LB)
- Noise, acoustical, wind/load consideration/analysis (G, T, BH, LB)
- Additional specific siting requirements: prohibitions against installations in center median and in areas with no overhead utilities (LB); pole height limitation/at or near height of comparable existing infrastructure (T, LB, SM); 100 ft. separation between facility's base and dwelling (SB); potential quarterly construction delay "windows" (WH)
- RF emissions analysis and/or certification of compliance with FCC requirements (G, T, BH, SM, LB)
- Mapping of existing WTF and/or projection of anticipated future needs (G, BH)
- Showing of CPUC issuance of Certificate of Public Convenience & Necessity (public utility status of applicant) (G, WH, LB)
- Permit duration limits and/or periodic review/monitoring (G, BH, LB)
- Procedures for permit revocation/termination and/or facility removal (G, T)

4. Temporary moratorium/hold on applications during drafting process: G, T, SM, LB

5. Legal challenges to listed ordinances: None (as of 6/13/11)

Los Angeles WTF Working Group, 6/13/11

¹Includes cities with specific and/or extensive WTF regulations (does not include counties); sources: communications with city officials/city attorneys/text of ordinances.

²Enacted by LB City Council on 6/7/11 (Ord. No. 11-11-001; LB City Attorney).

³In practice, West Hollywood sets standards/considers impacts on case-by-case basis (staff, WH Planning Dept.)

⁴In practice, Santa Barbara has held public hearings for certain proposed PROW projects (e.g., city-wide microcell network) (staff, SB Architectural Board of Review/SBMC §28.94.030.DD.1.c(5)).

Comparison of WTF Governance by California Cities in the
Public-Right-of-Way (Residential Districts)

15 large and/or nearby cities (other than Los Angeles):

15 of the 15 require or provide for

- regulation of all WTF, including monopoles, antennas and utility pole installations
- design, installation or development standards (e.g., height, scale, color, finish, camouflage, antenna placement/number, landscaping, setbacks, ID and/or accessory equipment requirements)
- visual/aesthetic impact and public welfare/safety analysis/consideration

12 of the 15 require or provide for

- notice to property owners/occupants within a distance of 300/500 ft.
- public comments or hearings prior to permit issuance
- authority to impose conditions prior to permit issuance
- appeals by any interested/aggrieved persons
- RF emissions analysis and/or certification of compliance with FCC requirements

11 of the 15 require or provide for

- a justification/prohibition analysis or hearing for all WTF (e.g., alternative sites, coverage gap)

9 of the 15 require or provide for

- permit duration limits and/or periodic review/monitoring

9 of the 15 imposed

- a **temporary moratorium**/hold on applications during the ordinance drafting process

8 of the 15 require or provide for

- tiered support structure preferences (e.g., co-location, existing poles, streetlights)

7 of the 15 require or provide for

- noise, acoustical, wind/load consideration or analysis
- expanded notice (e.g., on-site posting, notice to any others requesting notice)

6 of the 15 require or provide for

- tiered location preferences or discouragement of residential siting
- concentration/distance limits on residential siting

Los Angeles:

In contrast, Los Angeles **does NOT** require or provide for

- regulation of all WTF, including antennas, pole-mounted and/or utility pole installations¹
- design/development standards and visual impact or public welfare/safety analyses specific to poles/antennas (most standards pertain to *cabinets*, e.g., 5 ½ ft. height limit; cabinet volume/treatment limits)
- hearings or public comment prior to permit issuance
- notice to owners/occupants within a distance of 300/500 ft., on-site posting or other expanded notice
- appeal by any interested persons, i.e., by other than adjoining/abutting owners/occupants
- authority to impose conditions prior to permit issuance
- RF emissions analysis or certification
- a justification/prohibition analysis for poles/antennas sited in or near residential districts
- permit duration limits and/or periodic review/monitoring
- tiered support structure or location preferences or discouragement of residential siting
- noise, acoustical, wind/load consideration or analysis
- concentration/distance limits on residential siting specific to poles/antennas

Los Angeles WTF Working Group, 6/13/11

¹ The City's AGF ordinance on its face regulates cabinets, not poles/antennas; pole-mounted and utility pole installations are *expressly exempt*, but in practice, AGF permits are required for monopoles (height variances routinely granted).

Wireless/Cellular Tower Siting:

****What is the law?***

****What are the federal, state and local responsibilities?***

Summary:

- Under both Federal law and California law, local governments have primary authority to approve tower sites. The CPUC has delegated this primary authority to local jurisdictions.
- The CPUC handles disputes between local government agencies and wireless service providers, but does not handle tower siting complaints of private citizens.
- Private citizens wishing to contest a tower siting should appeal to their local government agencies, which have processes in place to handle such inquiries either within their planning or building code departments, or some other department. *Federal statute also provides that any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with the federal law may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court is required to hear and decide such action on an expedited basis.*
- Federal judicial decisions uphold local jurisdiction in tower siting decisions.

Federal Law:

- Section 332(c)(7) of the federal Communications Act of 1934, as amended, [47 USC 332(c)(7)] preserves state and local authority over zoning and land use decisions for personal wireless service facilities.
- The statute provides that a state or local government may not unreasonably discriminate among providers of functionally equivalent services, and may not regulate in a manner that has the effect of prohibiting the provision of personal wireless services. *The Federal Communications Commission (FCC) has also found that it is a violation of the Communications Act to deny a siting request based on availability of service from another provider.*
- Federal statute also provides that state/local government must act on applications within a reasonable period of time (*see November 2009 FCC decision below*) and must make any denial of an application in writing supported by substantial evidence in a written record.
- The statute preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions, assuming that the provider is in compliance with the FCC's RF rules. Any person adversely affected by an act or failure to act by a State or local government that is inconsistent with this federal preemption clause may petition the FCC for relief.
- *In November 2009, the FCC established timeframes for state and local zoning boards to rule on applications for cell-tower sites. The FCC order allows 90 days for ruling on collocations and 150 days for ruling on applications other than collocations. If the state or local government has not acted within these*

timeframes the applicant may seek redress in a court of competent jurisdiction within 30 days of the failure to act.¹

Transition Period for Pending Applications: *For applications pending as of November 18, 2009, a “failure to act” will occur 90 days (for collocations) or 150 days (for other applications) after November 18, 2009. However, a party whose application has been pending for the applicable timeframe established by the FCC in this November 2009 ruling may, after providing notice to the relevant State or local government, file suit under Section 332(c)(7)(B)(v) of the Communications Act if the State or local government fails to act within 60 days from the date of such notice. This option does not apply to applications that have been pending for less than 90 or 150 days as of November 18, 2009 -- in these instances the State or local government will have 90 or 150 days from November 18, 2009 before it will be considered to have failed to act.*

Incomplete Applications: *Reviewing authorities must notify applicants within a reasonable period of time that their applications are incomplete. The FCC found that a review period of 30 days gives State and local governments sufficient time for reviewing applications for completeness, while protecting applicants from a last minute decision that applications should be denied as incomplete. Accordingly, the time it takes for an applicant to respond to a request for additional information will not count toward the 90 or 150 days only if that State or local government notifies the applicant within the first 30 days that its application is incomplete.*

- In the matter of locally enacted moratoria on new towers, *in 1998, the Commission's Local and State Government Advisory Committee, the Cellular Telecommunications Industry Association (CTIA), the Personal Communications Industry Association, and the American Mobile Telecommunications Association entered into an agreement addressing issues relating to moratoria on the siting of wireless telecommunications facilities. This agreement sets out recommended guidelines for local governments and carriers to follow in connection with moratoria, and it establishes a non-binding alternative dispute resolution procedure that either carriers or local governments may invoke.* The agreements can be found at <http://www.fcc.gov/statelocal/agreement.html> , and are explained in two Statements released August 5, 1998: the Kennard Statement and the Fellman Statement. Among other things, the agreement provides:
“If a moratorium is adopted, local governments and affected wireless service providers shall work together to expeditiously and effectively address issues leading to the lifting of the moratorium. Moratoria should be for a fixed (as opposed to open ended) period of time, with a specified termination date. The length of the moratorium should be that which is reasonably necessary for the local government to adequately

¹ If a local entity has a shorter timeframe within which the local authority must act on an application, that timeframe is still valid.

address the issues described in Guideline A. In many cases, the issues that need to be addressed during a moratorium can be resolved within 180 days. All parties understand that cases may arise where the length of a moratorium may need to be longer than 180 days. Moratoria should not be used to stall or discourage the placement of wireless telecommunications facilities within a community, but should be used in a judicious and constructive manner.”

- Additional information is available at <http://wireless.fcc.gov/siting/>

California: CPUC General Order 159A and Decision 96-05-035:

- The original GO 159 [D.90-03-080 dated March 28, 1990], required cellular carriers to file advice letters and copies of local government permits with the CPUC for each new cell site, and to seek Commission approval to complete its siting process.
- **In 1996, the CPUC adopted General Order 159-A in D. 96-05-035.** The Decision provided that Commission authorization prior to construction would no longer be required. GO 159-A also streamlined the procedure to be utilized by the cellular carriers to notify the Commission of new facilities or significant modifications to existing facilities.
- GO 159-A continues to recognize that primary authority regarding cell siting issues should continue to be deferred to local authorities. GO 159-A affirms that the Commission will continue to defer to local governments in its exercise of its authority to regulate the location and design of cell sites and MTSOs including (a) the issuance of land use approvals; (b) acting as Lead Agency for purpose of satisfying the California Environmental Quality Act (CEQA); (c) the satisfaction of noticing procedures, public comment requirements, if any, for both land use approvals and CEQA procedures.
- The Commission's role continues to be that of the State agency of last resort, intervening only when a utility contends that local actions impede statewide goals.
- The CPUC ruled that individual citizens should not be able to petition for the CPUC to preempt such local jurisdictions; in ceding primary facility review authority to local agencies, the Commission reasoned that only carriers, and not individuals, should be able to appeal a local agency decision to the Commission
- In GO 159-A the CPUC replaced an advice letter filing requirement process with a notification letter process. Under GO 159-A, prior to commencing construction, cellular carriers must send to the Commission's Consumer Protection and Safety Division a notification letter within 15 business days of receipt of all requisite land use approvals or a determination that no land use approval is required (see sample letter GO 159-A, p. 8). Carriers must provide a description of the facility and identify the local permit obtained or state that no land use permit is required.

The carriers no longer need to file with the Commission copies of applications and permits obtained from local authorities. However, such documents must continue to be retained by the carriers and must be available to the Commission upon request. Carriers must provide copies of the notification letter to the city planning director, the city clerk, and the city manager of the affected city, or where no city is involved, a copy of the notification letter must be provided to the county planning director, the clerk of the board of supervisors, and the county executive of the affected county.

- The revisions to GO 159 do not change any local land use or building permit procedures.
- As noted above, in GO 159-A, the Commission continues to delegate its authority to regulate the location and design of cellular facilities to local agencies, **except in those instances when there is a clear conflict with statewide interests**. In those instances, the Commission will review the need to preempt local jurisdiction, allowing local agencies and citizens an opportunity to present their positions. The cellular utility will have the burden of proof to demonstrate that accommodating local agency requirements for any specific site would frustrate the Commission's objectives. If the cellular utility is able to prove this point, the Commission will preempt local jurisdiction pursuant to its authority under Article XII, Section 8 of the California Constitution.
 - ▷ Because statewide telecommunications interests in some infrequent cases may be in conflict with local interests, the Commission continues to reserve jurisdiction to preempt those matters which are inconsistent with the overall statewide communications objectives. The Commission continues to have an interest in assuring that individual local government decisions do not impact uniform state interests, or create unconscionable standards.
- CPUC policy as stated in the decision is to enable adoption of advanced communications technologies.

California: CPUC General Order 95:

- GO95 governs constructions in the "right-of-way."

Federal Court, 8th and 9th District Rulings (2008):

- In "Level 3 Communications LLC v. City of St. Louis, Mo." (Case 08-626) and "Sprint Telephony PCS, L.P., v. San Diego County, Calif., et al." (08-759) both courts left in place rulings by two separate judicial circuits -- the Eighth and the Ninth -- that repudiate the idea that section 253 of the 1996 Act preempts state or local government requirements. The decision may make it more difficult for wireless telecommunications companies to bring facial challenges to local wireless tower moratorium ordinances absent proof of actual prohibitive effect, but leaves intact the ability for wireless telecommunications companies to challenge local zoning decisions on permit applications where the decisions violate federal restrictions.

Communications Division Contacts Regarding This Backgrounder:

Lisa Prigozen 3-1157; Bill Johnston 3-2124; Roxanne Scott 3-5263

**Organizations That Have Passed Motions or Publicly Expressed
Concerns About WTF Regulation in Los Angeles
(See motions/letters on file in CF 09-2645)**

Westside Regional Alliance of Councils
(All members individually passed motions)
Pacific Palisades CC
Brentwood CC
Westside NC
Bel Air-Beverly Crest NC
West Los Angeles NC
Mar Vista CC
Palms NC
Venice NC
Del Rey NC
NC Westchester/Playa del Rey
South Robertson NC
Westwood CC

Additional Neighborhood Councils

Chatsworth NC
Granada Hills North NC
North Hills West NC
Northridge West NC
Granada Hills South NC
West Hills NC
Encino NC
Studio City NC
Sunland Tujunga NC
Northwest San Pedro NC
Coastal San Pedro NC
PICO NC
Mid City West NC
Greater Wilshire NC
Hollywood Hills West NC
Hollywood United NC
Central Hollywood NC
Sherman Oaks NC
Silver Lake NC
Mission Hills NC
Tarzana NC (concerns expressed to the
Board of Public Works)

Federation of Hillside and Canyon Assns.
(35 members; www.hillsidefederation.org)

Additional Associations/Coalitions

The Oaks Homeowners Assn.
Comstock Hills Assn.
Westwood So. of SM Assn.
Marina Peninsula Assn.
Glassell Park Improvement Assn.
San Pedro Peninsula Homeowners United
Del Rey Homeowners & Neighbors Assn.
Old Granada Hills Residents Group
San Fernando Valley Historical Society
Tarzana Property Owners Assn.
Westchester Neighbors Assn.
LaBrea Willoughby Coalition
Brentwood Residents Coalition
L.A. Neighbors Coalition
Pacific Palisades Residents Assn.

Los Angeles WTF Working Group, 6/13/11
ppfriends3@hotmail.com