

State of Connecticut Siting Council

DOCKET NO. 488 —

Homeland Towers, LLC and New Cingular Wireless PCS, LLC d/b/a AT&T application for Certificate of Environmental Compatibility and Public Need for construction, maintenance, and operation of a telecommunications facility located at one of two sites: Kent Assessor ID #M10, Block 22, Lot 28 “Bald Hill Road” or 93 Richards Road, Kent, Connecticut.

: October 5, 2020

MOTION FOR ADVICE AND PROCEDURAL CLARIFICATION

The Bald Hill Road Neighbors hereby request the advice of the Connecticut Siting Council or the Council’s staff, whichever the Council deems appropriate, as to how to proceed with the filing of the Neighbors’ Post-Hearing Proposed Findings of Fact and Conclusions of Law under the Non-Disclosure Agreement dated August 27, 2020.

At the Siting Council’s public hearing of August 11, 2020, the Neighbors focused their cross-examination of the Applicants’ witnesses on exhibits and photos of public record for the purpose of demonstrating that Site A was inappropriate site for the proposed cellular communications facility, in part due to debris on the property and similar concerns.

During the public cross-examination process, the Chairman suggested that cross-examination on debris and similar environmental concerns about Site A could only be conducted in a “closed hearing” after the Bald Hill Neighbors signed a Non-Disclosure Agreement. Counsel for the Neighbors executed that Agreement under protest and exception. On September 3, 2020, the cross-examination of the Applicants resumed in a session closed to the public as to environmental concerns and a Phase 1 environmental review of the Site A property.

Under Regulation 16-50j-31, the Council, “shall fix a time within which any party and intervenor may file proposed findings of facts and briefs.” The Council has fixed October 22, 2020 as the deadline for such post-hearing filings in this matter. The Bald Hill Neighbors will file post-hearing Proposed Findings of Facts and Conclusions of Law for the Council to consider. Although portions of those filings will address issues and evidence of public record in this matter, a substantial part will rely on testimony and evidence elicited during the “closed hearing”. The Neighbors seek the Council’s (or its staff’s) clarification as to how to file a Brief and Proposed

Findings of Fact where those filings rely partly on testimony and evidence of public record and partly on evidence and testimony closed to the public.

Accordingly, the Bald Hill Neighbors seek the advice of the Siting Council or its staff as to how to proceed with the filing of the Post-Hearing Proposed Findings of Fact and Conclusions of Law so as to comply with the mixture of public and non-public cross-examination and hearing under the Non-Disclosure Agreement.

Respectfully Submitted,

The Bald Hill Neighbors.

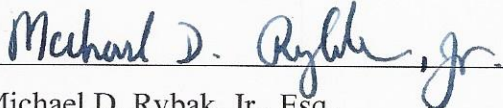
By


Anthony F. DiPentima, Esq.

October 5, 2020

Date

By



Michael D. Rybak, Jr., Esq.
Guion, Stevens & Rybak, LLP
93 West Street
PO Box 338
Litchfield, CT 06759
(860) 567-0821
Juris No. 025673
Their Attorneys

CERTIFICATE OF SERVICE

I hereby certify that a true, original copy, of the foregoing was placed in the U.S. Mail on this 5th day of October 2020 and addressed to:

Ms. Melanie Bachman
Executive Director
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

I further certify that an electronic copy of the foregoing was sent to:

siting.council@ct.gov

And I certify that electronic copies of the foregoing were sent to:

Lucia Chiocchio, Esq.
Cuddy & Feder, LLP
445 Hamilton Ave
14th Floor
White Plains, NY 10601
LChiocchio@cuddyfeder.com

Keith R. Ainsworth, Esq.
Law Offices of Keith R. Ainsworth, Esq.
51 Elm Street, Suite 201
New Haven, CT 06510-2049
keithrainsworth@live.com

Town of Kent
Daniel E. Casagrande, Esq.
Cramer & Anderson, LLP
30 Main Street
Danbury, CT 06810
dcasagrande@crameranderson.com

Daniel S. Rosemark, Esq.
Rosemark Law, LLC
100 Mill Plain Rd., Third Floor
Danbury, CT 06811
daniel@rosemark.law

Anthony F. DiPentima, Esq.
Commissioner of the Superior Court