

CITY ATTORNEY
Mark T. Anastasi

CITY OF BRIDGEPORT
OFFICE OF THE CITY ATTORNEY

ASSISTANT CITY ATTORNEYS

DEPUTY CITY ATTORNEY
Salvatore C. DePiano

999 Broad Street
Bridgeport, Connecticut 06604-4328

Melanie J. Howlett
Arthur C. Lasko III
R. Christopher Meyer
John J. Robacynski
Stephen J. Sedensky, Jr.

ASSOCIATE CITY ATTORNEYS

John H. Barton
John P. Bohannon, Jr.
Barbara Brazzel-Massaro
Russell D. Liskov
John R. Mitola
Ronald J. Pacacha



LEGAL ADMINISTRATOR
Kathleen Pacacha

Telephone (203) 576-7647
Facsimile (203) 576-8252

Via Facsimile and First Class Mail

November 8, 2002

Peter W. Van Wilgen
Southwestern Bell Mobile Systems, LLC
(also known as Cingular Wireless)
Senior Manager-Construction
500 Enterprise Drive
Rocky Hill, CT 06067

Re: Roof Top Telecommunications Antennas at 430 John Street

Dear Mr. Van Wilgen:

My office is in receipt of your letter dated October 3, 2002, which was issued in response to my telephone message to you of September 30, 2002. I am sorry for the delay in my response but, as a part-time attorney for the City of Bridgeport ("City"), I am not in my Bridgeport office on a daily basis, and I was out for over three (3) weeks due to illness.

It is clear to me that based on your letter you are unaware of the procedural history of the Connecticut Siting Council ("Siting Council") regarding approvals of facilities located on buildings and not towers within the State of Connecticut. The former executive director of the Siting Council, Joel Rinebold, explained to me in May 2001 that there was a short time period in the Siting Council's history where they accepted and ruled on applications to site telecommunications antennas and equipment towers on buildings in error without realizing that these locations are not within their jurisdiction. (The Siting Council is an agency within the Department of Public Utility Control. In 1990 when an approval was issued to SNET regarding the rooftop at 430 Street, I was still a State Hearing Examiner for the Department of Public Utility Control. However, I am unaware of the reasons for the misperception of the Connecticut General Statutes that the location of any cellular equipment belonging to SNET on an existing building had to be pre-approved by the Siting Council.) Since the errors made regarding a few roof top locations are all within this City, we have been ratifying the use of these telecommunications sites through Planning & Zoning Commission approvals, on a case-by-case basis.

The City's position regarding the granting of a Certificate of Zoning Compliance to the property owner of 430 John Street (SNET) and the FCC license holder (research indicates that there is a FCC license had not been issued in the name of "Cingular Wireless" so all applications to the City would have to be in the name of the license holder) which would enable those entities to obtain a Building Permit for the installation or additional antennas at that site, remains unchanged. Calling a roof top facility a "telecommunications tower" does not make the facility a tower under the jurisdiction of the Siting Council.

I also do not agree that with your statement that the lack of jurisdiction of the Siting Council is based on modifications to the Connecticut Statutes that occurred after 1990. The plain language of the definition of a "facility" as set forth in Section 16-50i (a) of the General Statutes of Connecticut as it existed in 1990 did not require Siting Council approval of a pre-existing building for the location of SNET cellular equipment. Accordingly, under this factual pattern, the Siting Council does not have any jurisdiction to "relinquish" to the City.

While, at a minimum, an application for site plan approval is required to be submitted to, and approved by, the City Planning and Zoning Commission, you should be aware that the Commission has not denied any such application filed by a wireless telecommunications provider since 1999 when I became the Commission's advisor on these matters. If you require assistance in learning the procedures for filing a proper site plan application, as well as confirming the zoning height and width requirements for this building, I recommended that you contact Mr. William Shaw, Clerk of the Planning & Zoning Commission, and myself. Your continued delay in submitting the necessary application will only prolong your gaining lawful access to the John Street rooftop, and may result in the City taking enforcement actions against the property owner.

In the interim, since you have implied that, unless the City obtains a ruling invalidating the City Council's decision, your Company will not comply with the City's requirements, we will be filing an Administrative Appeal of this matter. Since such an action will also put SNET in a difficult position, I urge you to reconsider your position. In any event, I will be contacting SNET in the next few days to alert them to this problem which, the City believes is not of its making.

Finally, for future reference, the Mayor of Bridgeport's address has not been 45 Lyons Terrace since 2000. The correct address is 999 Broad Street, Bridgeport, CT 06604. Since the filing of your application with the Siting Council (September 17, 2002) and the date a decision was issued on said application (September 26, 2002) all occurred within nine (9) calendar days, the sending of a copy of the application to the City via "snail mail" to an incorrect address resulted in my inability to alert the new Executive Director of the Siting Council to this history of this site as discussed herein until after the decision was issued. I believe the Siting Council's ruling would have been different if the City had been able to file an objection to your application. (See Minutes of Energy/Telecommunications Meeting held May 9, 2001, and Decision in EM-VER-015-010419.)

If there are any questions regarding this matter, please do not hesitate to contact me. If I am not in the office, my secretary Marcia always knows how to reach me.

Sincerely,

Melanie J. Howlett
Assistant City Attorney

Cc: William Shaw, Clerk Planning & Zoning Commission
Peter Pajeen, State Building Official
S. Derek Phelps, Executive Director Connecticut Siting Council
Attorney Margaret Girard, SNET



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

136 Main Street, Suite 401
New Britain, Connecticut 06051-4225
Phone: 827-7682

June 9, 1993

Peter J. Tyrrell, Esq.
Senior Attorney
SNET Cellular, Inc.
227 Church Street - Room 1021
New Haven, CT 06506

RE: Springwich Cellular Limited Partnership notice of intent to modify an exempt telecommunications tower and associated equipment located at 38 Kaechele Place, in Bridgeport, Connecticut, as approved by the Council in Docket No. 45.

Springwich Cellular Limited Partnership notice of intent to modify an exempt telecommunications tower and associated equipment located on Horse Fence Hill Road, in Southbury, Connecticut, as approved by the Council in Docket No. 90.

Dear Attorney Tyrrell:

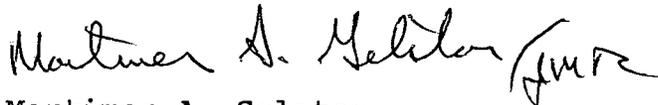
At a meeting held on June 8, 1993, the Connecticut Siting Council acknowledged your notice of intent to modify existing telecommunications towers and associated equipment located at 38 Kaechele Place in Bridgeport and on Horse Fence Hill Road in Southbury, Connecticut pursuant to Section 16-50j-73 of the Regulations of State Agencies (RSA).

As proposed in your notice dated May 5, 1993, the modifications are in compliance with the exception criteria specified in RSA 16-50j-72 for changes to an existing facility site that do not increase the tower height, extend the boundaries of the tower site, increase noise levels at the tower site boundary by 6 decibels, and increase the total radio frequency electromagnetic radiation power density measured at the tower site boundary to or above the standard adopted by the State Department of Environmental Protection pursuant to Section 22a-162 of the Connecticut General Statutes.

Peter J. Tyrrell, Esq.
June 9, 1993
Page 2

The Council is pleased to note that the shared use of an existing tower serves the Council's long-term goal of protecting the public interest by avoiding proliferation of additional tower structures.

Very truly yours,



Mortimer A. Gelston
Chairman

MAG/RKE/go

cc: The Hon. Joseph P. Gamin, Mayor
City Hall, 45 Lyon Terrace, Bridgeport, Connecticut 06604

The Hon. Carol A. Herskowitz, First Selectman, City Hall
501 Main Street, Southbury, CT 06485

7005E



JOSEPH P. GANIM
Mayor

City of Bridgeport, Connecticut
OFFICE OF PLANNING & ECONOMIC DEVELOPMENT
DEPARTMENT OF CITY PLANNING

ROOM 211 - 45 LYON TERRACE
BRIDGEPORT, CONNECTICUT 06604
TELEPHONE: (203) 576-7760
FAX 332- 5568



MICHAEL W. FREIMUTH
Director of
Planning and
Economic Development

MICHAEL P. NIDOH
Director of Planning

May 26, 1993

RECEIVED
MAY 27 1993

Peter J. Tyrrell, Esq.
Southern New England Telephone Co.
227 Church Street
New Haven, Ct. 06510

CONNECTICUT
SITING COUNCIL

**RE: Notice of Intent to Modify an Exempt Tower and
Associated Equipment, SNET Paging, Inc., Bridgeport**

Dear Mr. Tyrrell:

On behalf of the City of Bridgeport, I gathering information concerning your May 5, 1993 request to the Connecticut Siting Council seeking to modify the existing telecommunications tower, located at 38 Kaechele Place here in Bridgeport.

Specifically, I would like a site plan of the existing facility, including all buildings and structures located thereon, and plans or drawing showing the location of the newly proposed equipment on the existing tower. Also, any literature that explains the functioning of the existing and proposed equipment is requested.

It would be greatly appreciated if you would provide the above information on or before June 4, 1993.

Should you have questions, you can reach me a 576-7222.

Sincerely,

William E. Minor, Director
Land Use Construction and Review

cc: Michael Freimuth, Director, Office of Planning and Economic
Development

Mortimer A. Gelston, Chairman
Connecticut Siting Council

Southern New England Telephone
227 Church Street
New Haven, Connecticut 06510
Phone (203) 771-7381



Peter J. Tyrrell
Senior Attorney

RECEIVED
MAY 18 1993

May 5, 1993

Mortimer A. Gelston, Chairman
Connecticut Siting Council
136 Main Street, Suite 401
New Britain, Connecticut 06051

CONNECTICUT
SITING COUNCIL

Dear Honorable Chairman Gelston:

Enclosed please find a Notice of Intent to Modify an Exempt Tower and Associated Equipment for facilities operated by Springwiche Cellular Limited Partnership (SCLP). SNET Paging, Inc. (SPI) an affiliate of SCLP, proposes to add a message alert service antenna to two (2) previously authorized cell sites located in Bridgeport and Southbury.

Attached is a page for each location detailing the required information. As is shown in the attachments, the proposed additions meet all the necessary criteria established in the Regulations of Connecticut State Agencies, Section 16-50j-72(b)(2) and are thus exempt facilities pursuant to Section 16-50j-73.

Please record me as counsel for SCLP in this matter and in all correspondence from the Council.

Thank you for your cooperation.

Sincerely,

A handwritten signature in blue ink that reads "Peter J. Tyrrell".

Attachments

cc: Honorable Joseph P. Gamin, Mayor, City Hall, 45 Lyon Terrace,
Bridgeport, 06604

Honorable Carol A. Herskowitz, First Selectman, City Hall, 501
Main Street, Southbury, 06488

BRIDGEPORT-NORTH

Pursuant to Section 16-50i(a)(5) of the Connecticut General Statutes and Section 16-50j-72(b)(2), as amended, of the Regulations of Connecticut State Agencies, Springwich Cellular Limited Partnership (SCLP) hereby notifies the Connecticut Siting Council that it intends to modify an existing telecommunications facility by adding a message alert service antenna. The site is located at 38 Kaechele Place, Bridgeport, Connecticut.

DISCUSSION

The proposed addition will not increase the overall height of the existing tower.

The power densities in the cellular and paging frequency bands are shown below. The levels shown indicate the total power density in milliwatts per square centimeter.

<u>SERVICE</u>	<u>LOCATION HEIGHT AMSL FT.</u>	<u>DISTANCE TO ANTENNA CENTERLINE FEET</u>	<u>POWER DENSITY AT SITE BOUNDARY (12' FROM TOWER BASE) IN mW/cm²</u>				
			<u>EXISTING</u>	<u>INCREASE</u>	<u>TOTAL</u>	<u>CONNECTICUT STANDARD</u>	<u>PERCENT OF STANDARD</u>
Cellular	237	152.47	0.13535	0.0	0.13535	2.933	4.61
Paging	237	157.46	0.0	0.02266	0.02266	3.103	0.73

The current Connecticut (and ANSI) power density level standards for non-ionizing radiation in the cellular and paging frequency bands are 2.933 and 3.103 milliwatts/cm², respectively. The levels demonstrated in this case are well below the standard levels.

The proposed addition does not constitute a "modification" of an existing facility as defined in Connecticut General Statutes, Section 16-50i(d). This is because there is no change in the tower's height. There is no extension of the boundaries of the tower site. There will be no increase in noise levels at the tower's boundary by six decibels or more, and the total radio frequency electromagnetic radiation is not at or above the standard set forth in Section 22(a)-162 of the Connecticut General Statutes. This addition will not have a substantially adverse environmental effect.

For the reasons discussed above, Springwich Cellular Limited Partnership requests the Council to acknowledge that the Notice of Modification meets the Council's exemption criteria.

SOUTHBURY

Pursuant to Section 16-50i(a)(5) of the Connecticut General Statutes and Section 16-50j-72(b)(2), as amended, of the Regulations of Connecticut State Agencies, Springwich Cellular Limited Partnership (SCLP) hereby notifies the Connecticut Siting Council that it intends to modify an existing telecommunications facility by adding a message alert service antenna. The site is located on Horse Fence Hill Road, Southbury, Connecticut.

DISCUSSION

The proposed addition will not increase the overall height of the existing tower.

The power densities in the cellular and paging frequency bands are shown below. The levels shown indicate the total power density in milliwatts per square centimeter.

<u>SERVICE</u>	<u>LOCATION HEIGHT AMSL FT.</u>	<u>DISTANCE TO ANTENNA CENTERLINE FEET</u>	<u>POWER DENSITY AT SITE BOUNDARY (10' FROM TOWER BASE) IN mW/cm²</u>				
			<u>EXISTING</u>	<u>INCREASE</u>	<u>TOTAL</u>	<u>CONNECTICUT STANDARD</u>	<u>PERCENT OF STANDARD</u>
Cellular	346	159.31	0.09962	0.0	0.09962	2.933	3.40
Paging	346	157.32	0.0	0.02270	0.02270	3.103	0.73

The current Connecticut (and ANSI) power density level standards for non-ionizing radiation in the cellular and paging frequency bands are 2.933 and 3.103 milliwatts/cm², respectively. The levels demonstrated in this case are well below the standard levels.

The proposed addition does not constitute a "modification" of an existing facility as defined in Connecticut General Statutes, Section 16-50i(d). This is because there is no change in the tower's height. There is no extension of the boundaries of the tower site. There will be no increase in noise levels at the tower's boundary by six decibels or more, and the total radio frequency electromagnetic radiation is not at or above the standard set forth in Section 22(a)-162 of the Connecticut General Statutes. This addition will not have a substantially adverse environmental effect.

For the reasons discussed above, Springwich Cellular Limited Partnership requests the Council to acknowledge that the Notice of Modification meets the Council's exemption criteria.