

DAVID A. BALL

Please Reply To Bridgeport
E-Mail: dball@cohenandwolf.com

July 6, 2021

Via E-Mail and Federal Express

Attorney Melanie Bachman
Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: DOCKET NO. 503 - Arx Wireless Infrastructure, LLC Application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 43 Osgood Avenue, New Britain, Connecticut.

Motion for Protective Order – Response to Interrogatory No. 4 of the Council’s Pre-Hearing Interrogatories dated June 7, 2021 (“Interrogatories”)

Dear Attorney Bachman:

On behalf of the applicant, Arx Wireless Infrastructure, LLC (“ARX”), I’ve enclosed an original and fifteen (15) copies of the following:

- Motion for Protective Order
- Affidavit of Keith Coppins
- Proposed Protective Order

In addition, I’ve enclosed a sealed envelope containing a copy of the unredacted Land Lease Agreement, which is Exhibit 4 to ARX’s Responses to the Interrogatories.

Thank you.

Very truly yours,



David A. Ball

Enclosures

cc: Service List

1115 BROAD STREET
P.O. BOX 1821
BRIDGEPORT, CT 06601-1821
TEL: (203) 368-0211
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158 DEER HILL AVENUE
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320 POST ROAD WEST
WESTPORT, CT 06880
TEL: (203) 222-1034
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**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE:	:	
	:	DOCKET NO. 503
ARX WIRELESS INFRASTRUCTURE, LLC	:	
APPLICATION FOR A CERTIFICATE OF	:	
ENVIRONMENTAL COMPATIBILITY AND	:	
PUBLIC NEED FOR THE	:	
CONSTRUCTION, MAINTENANCE AND	:	
OPERATION OF A	:	
TELECOMMUNICATIONS FACILITY	:	
LOCATED AT 43 OSGOOD AVENUE,	:	July 6, 2021
NEW BRITAIN, CONNECTICUT	:	

MOTION FOR PROTECTIVE ORDER

ARX Wireless Infrastructure, LLC (“ARX”) respectfully requests that the Connecticut Siting Council (“Council”) issue a protective order pursuant to Connecticut General Statutes § 1-210(b)(5), regarding a copy of the unredacted ARX Land Lease Agreement (the “Lease”) in connection with the site located at 43 Osgood Avenue, New Britain, Connecticut. ARX further requests permission to file a copy of its unredacted Lease relating under seal. In support of this Motion, ARX states as follows:

1. Connecticut General Statutes § 16-50o(c) provides in relevant part that “The applicant shall submit into the record the full text of the terms of any agreement, and a statement of any consideration therefore, if not contained in such agreement, entered into by the applicant and any party to the certification proceeding, or any third party, in connection with the construction or operation of the facility. This provision shall not require the public disclosure of proprietary information or trade secrets.”

2. In accordance with § 16-50o (c), ARX submitted a redacted version of its Lease to the Council in the Docket No. 503 Application, which was appended thereto as Exhibit O.

3. In Interrogatory No. 4 of the Council's Pre-Hearing Interrogatories dated June 7, 2021, the Council requested that ARX submit an unredacted copy of the Lease.

4. In passing upon the application for a Certificate of Environmental Compatibility and Public Need for a telecommunications facility, designated as Docket No. 366, the Council ruled that an applicant is required to disclose to the Council the specific rental amounts, albeit subject to a protective order because such information constitutes a "trade secret."

5. As reflected in the attached affidavit of Keith Coppins, Managing Director of ARX, the information for which ARX seeks protected treatment is commercially valuable, confidential and proprietary, market sensitive information that is not readily obtainable from other sources, and that constitutes trade secrets within the meaning of Connecticut General Statutes § 1-210(b)(5). ARX has used its best efforts to maintain this information as secret in order to avoid the harm that would result if the confidential information were to become publicly available. The Council has historically granted protected treatment of similar filings.

6. ARX hereby submits with this Motion one (1) copy of the Lease regarding the Application in un-redacted form, pursuant to the Council's ruling in Docket No. 366, which is contained in a sealed envelope that has upon it the caption and docket number for this Application and the wording "CONFIDENTIAL; DISCLOSURE LIMITED TO CONNECTICUT SITING COUNCIL ONLY."

WHEREFORE, ARX respectfully moves the Council to grant the request for protected treatment consistent with the attached Protective Order which would limit disclosure of the un-redacted Lease (and any copies thereof) to the Council and its staff.

RESPECTFULLY SUBMITTED,

ARX WIRELESS INFRASTRUCTURE, LLC,

By: 

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Juris No. 010032

CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing was sent via electronic mail on this 6th day of July, 2021, to the following:

Thomas J. Regan, Esq.
Brown Rudnick LLP
185 Asylum Road
Hartford, CT 06103
Tel: (860) 509-6527
E-mail: tregan@brownrudnick.com

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Office of Corporation Counsel
City of New Britain
27 West Main Street
New Britain, CT 06051
Tel: (860) 826-3421
E-mail: Joseph.Skelly@newbritainct.gov


David A. Ball, Esq.

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE: :
 : DOCKET NO. 503
ARX WIRELESS INFRASTRUCTURE, LLC :
APPLICATION FOR A CERTIFICATE OF :
ENVIRONMENTAL COMPATIBILITY AND :
PUBLIC NEED FOR THE :
CONSTRUCTION, MAINTENANCE AND :
OPERATION OF A :
TELECOMMUNICATIONS FACILITY :
LOCATED AT 43 OSGOOD AVENUE, :
NEW BRITAIN, CONNECTICUT :

PROTECTIVE ORDER

WHEREAS, ARX Wireless Infrastructure, LLC (“ARX”) is willing to submit an unredacted copy of a Land Lease Agreement (the “Lease”), providing to the Connecticut Siting Council (“Council”) certain confidential information (“Confidential Information”) in connection with the Lease regarding the above-referenced Application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless telecommunications facility at 43 Osgood Avenue, New Britain, Connecticut (“Confidential Information”).

WHEREAS, ARX considers the Confidential Information to be commercially valuable, confidential and proprietary information, and which information ARX contends constitutes trade secrets within the meaning of Connecticut General Statutes section 1-210(b)(5);

WHEREAS, the Confidential Information contains commercially valuable, confidential, proprietary and market-sensitive information that is not readily obtainable from other sources and may be harmful if publicly disclosed; and

WHEREAS, ARX is willing to provide the Confidential Information subject to a Protective Order.

NOW, THEREFORE, it is hereby ordered, that the following procedure is adopted for the protection of the Confidential Information provided by ARX:

1. All documentation provided by ARX, shall be identified as follows: “CONFIDENTIAL INFORMATION” and shall be governed by the terms of this Protective Order (“Order”). This Order is applicable to all such Confidential Information.

2. All Confidential Information shall be subject to this Order and shall be given solely to the members and staff of the Council. No recipient shall use or disclose the Confidential Information for purposes of business or competition, or for any other purpose, other than the purpose of preparation for and conduct of this proceeding, and then solely as contemplated herein, and shall in good faith take all reasonable precautions to keep the Confidential Information secure in accordance with the purposes and intent of this Order. All parties in receipt of any Confidential Information pursuant to this Order, including consultants, shall maintain a written log of all individuals granted access to the Confidential Information.

3. Confidential Information shall be marked as such and delivered in a sealed envelope to the Council. A statement in the following form shall be placed prominently on the envelope:

CONFIDENTIAL-PROPRIETARY

This envelope is not to be opened nor the contents thereof displayed or revealed except pursuant to the Protective Order issued in connection with Docket No. 503.

4. Any Confidential Information made available pursuant to this Order shall be part of the record in the docket cited above, subject to the same relevancy and other evidentiary considerations as non-confidential information and subject to the conditions stated in Paragraphs Six and Seven of this Order.

5. If the Confidential Information is used in any manner in any interrogatory, letter, petition, brief or other writing, all references to the Confidential Information shall be either:

- (a) in a separate document, prominently labeled "Confidential Information," which document shall be safeguarded in accordance with this Order and distributed only to the members and staff of the Council; or
- (b) solely by title or exhibit reference, in a manner reasonably calculated not to disclose the Confidential Information.

6. In the event that the Confidential Information is to be disclosed or used in any manner in any proceeding or hearing before the Council, such proceeding or hearing shall not be held before, nor any record of it made available to any person or entity not a signatory of the Order. Presence at such proceeding or hearing shall be limited to the members and staff of the Council as well as representatives of ARX. No record shall be disclosed or communication made of the Confidential Information at any time to any other person or entity. Any transcript or other recording of the Confidential

Information shall be placed in sealed envelopes or containers and a statement in the following form placed prominently on such envelope or container:

CONFIDENTIAL-PROPRIETARY

This envelope is not to be opened nor the contents thereof displayed or revealed except pursuant to the Protective Order issued in connection with Docket No. 503.

7. No copies shall be made of the Confidential Information unless expressly ordered by the Council.

8. Nothing herein shall be construed as a final determination that any of the Confidential Information will be admissible as substantive evidence in this proceeding or at any hearing or trial. Moreover, nothing herein shall be considered a waiver of any party's right to assert at a later date that the material is or is not proprietary or privileged. A party seeking to change the terms of this Order shall by motion give every other party five (5) business days' prior written notice. No information protected by this Order shall be made public until the Authority rules on such motion to change the terms of the Order. Confidential information otherwise properly discovered, even though also subject to the terms of this Order, shall not be considered protected by this Order.


9. All copies of the Confidential Information shall be returned to ARX no later than thirty (30) days after the date the final decision is rendered in this proceeding.

CONNECTICUT SITING COUNCIL

By: _____

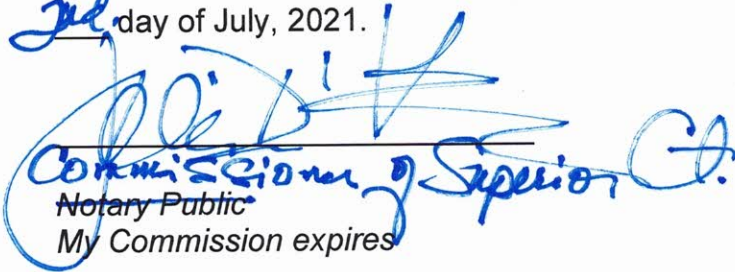
Dated _____

7. ARX Wireless Infrastructure, LLC has therefore used its best efforts to maintain the Confidential Information as secret in order to avoid the harm that would result if the information were to become publicly available.



Keith Coppins
Managing Director
ARX Wireless Infrastructure, LLC

Sworn and subscribed to before me this
24 day of July, 2021.



Commissioner of Superior Ct.
Notary Public
My Commission expires