

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE:

APPLICATION OF HOMELAND TOWERS, LLC AND
NEW CINGULAR WIRELESS PCS, LLC d/b/a AT&T FOR
A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR THE
CONSTRUCTION, MAINTENANCE, AND OPERATION
OF A TELECOMMUNICATIONS FACILITY AT
1837 PONUS RIDGE ROAD,
TOWN OF NEW CANAAN, CONNECTICUT

DOCKET NO. 509

June 24, 2022

**APPLICANTS' RESPONSE TO NEW CANAAN NEIGHBORS ("NCN") MOTION TO
COMPEL APPLICANTS' RESPONSES TO INTERROGATORIES**

Applicants, Homeland Towers, LLC and New Cingular Wireless PCS LLC ("AT&T"), hereby submit this response to the June 23, 2022 Motion to Compel Applicants' Responses to Interrogatories by Intervenor New Canaan Neighbors ("NCN") ("Motion"). As set forth below, the information requested by NCN in their interrogatories 14 and 20 are not relevant to this proceeding and as such, not necessary for the Siting Council's consideration when balancing the need for public service and environmental impacts with respect to the Applicants' Proposed Facility.

**State Enabling Legislation Establishing the Siting Council Does Not Allow For Consideration Of
Property Interests or Costs of Speculative Alternatives In A Certificate Application**

Section 16-50g of the Connecticut General Statutes ("C.G.S.") sets forth the specific purpose of the Public Utility Environmental Standards Act ("PUESA") as a State statute intended to regulate public utility infrastructure and provide for a balance between the public need for such infrastructure and any environmental effects associated therewith. As such, in enacting PUESA, the General Assembly established the Siting Council and authorized it to grant a "Certificate of Environmental Compatibility and Public Need" to applicants seeking to build such utility infrastructure. The name of the Statute itself, the legislative purpose behind it and even the name of an approval issued by the Siting Council, all specifically use the term "environmental" not "ownership" or "costs".¹ As such, PUESA is, at its core, an environmental siting statute and the Siting Council's authority as an administrative agency is related only to such purposes.

Indeed, Section 16-50p of PUESA specifically lists the Siting Council's obligation to consider potential significant adverse effects from a tower facility on "the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish, aquaculture and wildlife." Property interests or other property ownership information or the costs of speculative, unsupported alternatives are not mentioned in the Statute. Indeed, with respect to property interest, C.G.S. Section 16-50p(g), "specifically forbids the council from allowing a property interest to influence its decision." Corcoran v.

¹ The Applicants complied with C.G.S. 15-500(c) with submission of the lease between Homeland Towers LLC and the property owner.

Connecticut Siting Council, 50 Conn. Supp. 443, 452, 934 A.2d 870, 875 (Super. Ct. 2006), aff'd, 284 Conn. 455, 934 A.2d 825 (2007).

Accordingly, the Siting Council has no legal authority to consider property interests or costs of speculative alternatives as part of any specific application for a certificate. This is evident by the dozens of Opinions issued by the Siting Council in which the statutory criteria are cited to support its decision and none of the Opinions include consideration of property interests or costs of alternatives.

NCN Interrogatory 14

In its Motion, NCN states that the itemized breakdown of the costs of the costs of small cell facilities requested in interrogatory 14 is necessary for the Siting Council *and parties* to determine the need for the Proposed Facility. Only the Siting Council is authorized by statute to determine the public need for a proposed facility. The statutes do not authorize parties or intervenors to make this determination as C.G.S. 16-50x confers exclusive jurisdiction over the proposed facility to the Siting Council. And, as detailed above, the costs of a suggested alternative is not a factor for consideration by the Siting Council.

Moreover, as set forth in the Applicants' Response 18 to the Siting Council interrogatories, for several reasons, small cell and/or DAS systems are not a viable alternative to meeting the public need for reliable wireless service in this area of New Canaan. Thus, further inquiry into the costs of small cells is moot.

NCN Interrogatory 20

NCN asserts that its request for the identities of the residents at the Site is so NCN may contact them because they may have "unique information" about the Site. Any Site information relevant to this proceeding is obtained through the statutory hearing process. Moreover, the residents at the Site are not the Applicants and have not indicated their intent to be involved in the process. Their identities are not relevant or necessary for the Siting Council's consideration in this proceeding.

Conclusion

The information requested in NCN interrogatories 14 and 20 are not relevant to Siting Council review of a tower facility. Section 16-50p of PUESA establishes the legally applicable criteria for Siting Council deliberation in a certificate proceeding and these criteria do not include property interests or costs associated with suggested alternatives.

Respectfully submitted



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CERTIFICATE OF SERVICE

I hereby certify that on this day the foregoing was sent electronically and one (1) original was sent overnight mail to the Connecticut Siting Council and sent electronically to the parties on the service list as noted below.

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