

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

July 11, 2022

**APPLICANTS' RESPONSE TO PARTY/ INTERVENOR MARK BUSCHMANN,
TRUSTEE MOTION TO STRIKE PUBLIC COMMENTS**

Applicants, Homeland Towers, LLC and New Cingular Wireless PCS LLC ("AT&T"), hereby submit this response to the July 6, 2022 Motion to Strike by Mark Buschmann, Trustee and Jamie Buschmann, Trustee as party and Mark Buschmann as intervenor in this proceeding ("Motion"). As set forth below, the Motion should be denied as the comments by the New Canaan First Selectman, the former Chair of the New Canaan Police Commission, the Deputy Chief of the New Canaan Police and the New Canaan Fire Chief at the June 28, 2022 public hearing were proper limited appearances pursuant to Regulations of Connecticut State Agencies ("R.C.S.A.") §16-50j-15b.

The practice and procedure before the Siting Council are governed by R.C.S.A. §§16-50j-1 through 16-50z-4. R.C.S.A §16-50j-15b(a) specifically provides that "any person may make a limited appearance". Any person making a limited appearance cannot also participate as a party or intervenor. The forms of limited appearances are set forth in R.C.S.A. §16-50j-15b(b), which provides that "an oral statement may be made during the public comment session of a hearing held after 6:30 PM." "Person" is defined as "any individual, corporation, limited liability company, joint venture, public benefit corporation, political subdivision, governmental agency or authority, municipality, partnership, association, trust or estate and any other entity, public or private, however organized".¹

Here, the statements at the duly noticed public comment session on June 28, 2022 by the Honorable Kevin Moynihan, New Canaan First Selectman, Stuart Sawabini, former Chair of the New Canaan Police Commission, John DiFederico, Deputy Chief of the New Canaan Police and Albert Basset, New Canaan Fire Chief fit squarely within the limited appearance participation in Docket No. 509. Each of these individuals are "persons" as defined by the statute and none are

¹ See R.C.G.A. 16-50j-2a(23) Definitions: "Person" means any person as defined in Section 16-50i of the Connecticut General Statutes.; and C.G.S. §16-50i: Definitions: c) "Person" means any individual, corporation, limited liability company, joint venture, public benefit corporation, political subdivision, governmental agency or authority, municipality, partnership, association, trust or estate and any other entity, public or private, however organized.

parties or intervenors. Thus, in accordance with the regulations, their statements at the public comment session shall become part of the record in this proceeding. In essence, the Motion seeks to strike public comment offered in accordance with Siting Council rules and procedures.

With respect to the Siting Council's consideration of public need for a proposed facility, Connecticut General Statutes ("C.G.S.") §16-50p(b)(1) states that "there shall be a presumption of public need for personal wireless services and the council shall be limited to consideration of a specific need for any proposed facility to be used to provide such services to the public." Thus, wireless services as proposed in this proceeding are a public need, and the Applicants' exhibits and witnesses with respect to the need for the Proposed Facility are available for review and cross examination for the Siting Council, party and intervenors.

The Town of New Canaan's use of the facility proposed in this Docket for emergency communications supports the public need for the Proposed Facility, but the Town's emergency services needs are not determinative as to finding a "public need" as set forth in the statute. Indeed, the Siting Council issued Certificates for numerous facilities where the approved facility was not proposed for use by local municipal emergency services. Moreover, despite the fact that the need for emergency communications by the Town is not required to demonstrate public need, one of the Applicants' witnesses is available for questions regarding the Town's use of the Proposed Facility in this Docket.

For the reasons set forth above, we submit that the Motion is without merit and should be denied.

Respectfully submitted



Lucia Chiochio, Esq.
Kristen Motel, Esq.
Cuddy & Feder LLP
445 Hamilton Ave, 14th Floor
White Plains, NY 10601
(914)-761-1300
Attorneys for the Applicants

CERTIFICATE OF SERVICE

I hereby certify that on this day the foregoing was sent electronically and one (1) original and fifteen (15) hard copies were sent overnight mail to the Connecticut Siting Council and sent electronically to the parties on the service list as noted below.

Kenneth C. Baldwin, Esq.
Robinson & Cole LLP
280 Trumbull Street
Hartford, CT 06103-3597
kbaldwin@rc.com

David F. Sherwood, Esq.
Moriarty, Paetzold & Sherwood
2230 Main Street, P.O. Box 1420
Glastonbury, CT 06033-6620
Phone (860) 657-1010
dfsherwood@gmail.com

Justin Nishioka
60 Squires Lane
New Canaan, CT 06840
Phone (510) 913-3476
Justin.nishioka@gmail.com

Dated: July 11, 2022



Lucia Chiochio, Esq.
Kristen Motel, Esq.
Cuddy & Feder LLP
445 Hamilton Ave, 14th Floor
White Plains, NY 10601
(914)-761-1300

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