

**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 ONE OF TWO SITES IN THE  
TOWN OF KENT, CONNECTICUT**

**DOCKET NO. 488**

**July 20, 2020**

**HOMELAND TOWERS LLC AND NEW CINGULAR WIRELESS PCS, LLC d/b/a  
AT&T**

**MOTION TO STRIKE R. BRUCE HUNTER, MAI PRE-FILED TESTIMONY  
SUBMITTED BY INTERVENOR BALD HILL ROAD NEIGHBORS**

Applicants, Homeland Towers, LLC and New Cingular Wireless PCS, LLC d/b/a AT&T move to strike the pre-filed testimony of R. Bruce Hunter, MAI submitted by the intervenor Bald Hill Road Neighbors for the reasons fully set forth herein.

STATE ENABLING LEGISLATION ESTABLISHING THE SITING COUNCIL DOES NOT ALLOW  
FOR CONSIDERATION OF PROPERTY VALUES  
IN A CERTIFICATE APPLICATION

Section 16-50g of the Connecticut General Statutes sets forth the specific purpose of PUESA as a State statute intended to regulate public utility infrastructure and provide for a balance between the public need for such infrastructure with 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 “economic”. 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 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 values or other off-site economic factors are not even mentioned in the Statute. In fact, PUESA’s reference to the term “values” in Section 16-

50p omits any mention of property or real estate. Had the General Assembly intended for the Siting Council to consider such values, it would have inserted the word “property” as a term modifying “values” as language directly within the ambit of Section 16-50p, something it did not do in enacting PUESA. As such, the Siting Council has no legal authority to consider real estate values 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 values.

Moreover, this exact issue was addressed by the State Supreme Court in Town of Westport v. Conn. Siting Council, 47 Conn. Supp. 382 (2001), affirmed 260 Conn. 266 (2002). In Westport, the town argued that the Siting Council was required to consider surrounding property values as part of a tower application on a residential lot. The Supreme Court held that “[u]nder section 16-50p . . . the council is not obliged to take into account the status of property values directly.” Westport at 407. As such, the Court reiterated that the Council’s obligation as part of a tower proceeding was to consider “environmental, scenic, historical and recreational values” and not property values. Given all the foregoing, there simply is no authority for the Siting Council to take into consideration property values in the manner sought to be addressed by the intervenors to this proceeding.

#### CONCLUSION

Real estate and property value considerations 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 real estate property values.

Respectfully submitted,



Lucia Chiocchio, Esq.  
Cuddy & Feder LLP  
445 Hamilton Avenue, 14th Floor  
White Plains, New York 10601  
(914) 761-1300  
Attorneys for the Applicants

**CERTIFICATE OF SERVICE**

I hereby certify that on this day the foregoing was sent electronically to the Connecticut Siting Council and to the service list below with one hard copy sent to the Connecticut Siting Council via first class mail in accordance with Connecticut Siting Council directives:

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

Anthony F. DiPentima, Esq.  
Michael D. Rybak, Jr., Esq.  
Guion, Stevens & Rybak, LLP  
93 West Street  
P.O. Box 338  
Litchfield, CT 06759

Daniel E. Casagrande, Esq.  
Cramer & Anderson, LLP  
30 Main Street, Suite 204  
Danbury, CT 06810  
(203) 744-1234  
dcasagrande@crameranderson.com

Daniel S. Rosemark, Esq.  
Rosemark Law, LLC  
100 Mill Plain Rd., Third Floor  
Danbury, CT 06811  
(203) 297-8574  
daniel@rosemark.law

July 20, 2020



---

Lucia Chioocchio  
Cuddy & Feder LLP  
445 Hamilton Ave, 14<sup>th</sup> Floor  
White Plains, NY 10601  
(914)-761-1300  
Attorneys for the Applicants

cc: Homeland Towers; AT&T; APT; C Squared