

**STATE OF CONNECTICUT
SITING COUNCIL**

DOCKET NO. 488 – Homeland Towers, LLC and New Cingular Wireless PCS, LLC d/b/a AT&T application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at one of two sites: Kent Tax Assessor ID #M10, Block 22, Lot 38 Bald Hill Road or 93 Richards Road, Kent, Connecticut.

: AUGUST 31, 2020

**PDA OF NORTHWEST CONNECTICUT, INC. AND SSLR's OBJECTION TO MOTION
TO STRIKE TESTIMONY**

PDA hereby objects to the motion to strike the testimony of PDA and SSLR filed by the Applicant on August 31st, 2020. Applicant seeks to strike certain testimony related to the balloon flight¹ and photographic documentation conducted by the Intervenors.

Applicant's sole reasoning is based on relevance and a cursory allusion to UAPA §4-178(1)². For evidence to be inadmissible on the grounds on relevance it has to be essentially an extraneous or unfounded assertion of fact. The photographs submitted by Todd Powell were taken of balloons flown in close proximity to the sites in question and were taken from locations from which the proposed towers will be visible. The basis for the photographs and camera focal lengths were submitted as requested by the Council. It is unsurprising that the Applicant would be bothered by evidence which tends to demonstrate that the proposed towers will impact an incredibly pristine scenic ridgeline in an area designated as a National Heritage Corridor in material part for its scenic beauty.

¹ Intervenors conducted a balloon flight as a result of the Council straying from long-standing practice of requiring the Applicant to fly a balloon at the proposed sites on the day of the public hearing.

² Conn.Gen.Stat sec 4-178(1) Any oral or documentary evidence may be received, but the agency shall, as a matter of policy, provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence;...

However, Applicant's vexed reaction is not a basis upon which to strike testimony that was submitted under oath regarding the subject matter at hand.

STANDARD OF LAW

Sec. 4-1. Definition of Relevant Evidence

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is material to the determination of the proceeding more probable or less probable than it would be without the evidence.

It is without question that photographs taken from sensitive receptor locations of a balloon flown at the height of the towers described in the Application and in close proximity to the proposed towers and adjusted for elevation change **are relevant**: they make the negative visual impact of the towers more discernable than without the evidence.

The motion to strike must be denied.

Respectfully Submitted,

Planned Development Alliance of Northwest Connecticut, Inc., and South Spectacle Lake Residents,

By _____
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CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was served on the following parties and intervenors by electronic service and/or deposit in the United States mail, first-class, postage pre-paid this 31st day of August 2020 and addressed to:

Ms. Melanie Bachman, Esq., Executive Director, Connecticut Siting Council, 10 Franklin Square, New Britain, CT 06051 (1 orig plus 1 electronic) (US Mail/electronic).

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