



CRAMER & ANDERSON LLP

Attorneys at Law

30 Main Street
Suite 204
Danbury, CT 06810
(203) 744-1234
Fax (203) 730-2500

14 Old Barn Road
Kent, CT 06757
46 West Street
Litchfield, CT 06759
51 Main Street
New Milford, CT 06776
38C Grove Street, 1st Floor
Ridgefield, CT 06877
6 Bee Brook Road
Washington Depot, CT 06794

Daniel E. Casagrande, Esq.
*Also Admitted in New York
dcasagrande@crameranderson.com

April 24, 2020

VIA EMAIL TO MELANIE.BACHMAN@CT.GOV and SITING.COUNCIL@CT.GOV

Melanie A. Bachman, Esq.
Executive Director/Staff Attorney
State of Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

**Re: Town of Kent
Application by Homeland Towers, LLC for
Certificate of Environmental Compatibility and Public Need
(Docket No. 488)**

Dear Ms. Bachman:

This firm represents the Town of Kent ("Town") in connection with the subject application of Homeland Towers, LLC for a Certificate of Environmental Compatibility and Public Need, which was filed with the Connecticut Siting Council on February 28, 2020. (Docket No. 488) In that capacity, enclosed please find a copy of the Town's Application to Intervene. Please accept this letter as this firm's appearance in the proceeding.

If you have any questions, or if you would like an electronic copy of the above-referenced documents, please do not hesitate to contact me.

Very truly yours,

CRAMER & ANDERSON, LLP

By 
Daniel E. Casagrande, Esq., Partner

DEC/smc
Enclosures

cc: Homeland Towers, LLC, New Cingular Wireless PCS, LLC d/b/a AT&T, Planned Development Alliance of Northwest Connecticut, Inc., Bald Hill Road Neighbors

**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.

APRIL 17, 2020

APPLICATION TO INTERVENE UNDER C.G.S. § 22a-19, § 4-177a, AND § 16-50n

Pursuant to C.G.S §§ 22a-19, 16-50n and 4-177a, as well as R.C.S.A § 16-50j, the Town of Kent (“Town”) hereby requests that the Siting Council grant the Town party status in the above application (“Application”), with full rights to participate in the proceeding as a party. The purpose of the intervention is for the Town to participate in this proceeding to prevent unreasonable impacts to the natural resources of the state, including impacts to scenic resources and the scenic vistas surrounding the ridgelines overlooking North and South Spectacles Lakes, Lake Waramaug, the Appalachian Trail, and other public recreational and boating areas. The two proposed towers are located exclusively within the legal boundaries of the Town, and the Town seeks to participate in order to protect the interests of the Town and its residents in the location of the towers.

Specifically, the Town has an interest in ensuring that its residents and those travelling within its limits will have adequate and seamless cell tower coverage, especially when necessary for cellular phone communication with its first responders (police, fire and other emergency personnel) in protecting the public health and safety. The Town also has an interest in ensuring that the proposed Towers will not have a negative impact on the scenic vistas and natural resources in Kent and surrounding

areas because of the placement of a tower that rises significantly above pristine ridgelines currently with unobstructed views from abutting public and private recreational and boating areas.

Pursuant to C.G.S. § 22a-19 ("CEPA"), § 16-50n and § 4-177a, the Town seeks party status as an entity which has a direct interest in the proceedings which will be specifically and substantially affected, as its residents use and enjoy the land surrounding the proposed facilities being considered by the Council. The Town's duty to protect the public health, safety and welfare of its residents includes the obligation and right to protect the integrity of the natural surroundings and the quality of life enjoyed by the residents of and travelers to the region.

The Town seeks party status in this proceeding for the purpose of submitting testimony, briefs and other evidence relevant to the consideration of the Application. This evidence will or may include testimony as to the adequacy or inadequacy of the current and proposed cell tower coverage in the area discussed in the Application, and the mitigation of environmental impact to scenic and natural resources.

The Town's participation will be in the interests of justice and is proper under CEPA in that the evidence and testimony to be given will tend to show that the proposed activity for which Applicant seeks permission is likely to unreasonably harm the public trust in the air, water or other natural resources of the State of Connecticut in that, if granted, the proposed facility will, inter alia, unreasonably impair the visual quality of pristine ridgeline scenic vistas, when there are feasible and prudent alternatives to the coverage using alternative locations and/or smaller facilities that do not impair the scenic views.

In support of this application, the Town states the following:

1. The proposed communications facilities will have a negative impact on the scenic vistas and natural resources in Kent and the surrounding areas by placing a tower structure that rises significantly above pristine ridgelines currently with unobstructed views from abutting public and private recreational and boating areas.

2. The Town intends to submit and/or rely on evidence to be submitted by proposed intervenor Planned Development Alliance of Northwest Connecticut, Inc. ("PDA") in the form of expert testimony which will substantiate the feasibility of available alternatives to the proposed facilities of lesser visual impact and which will assist the Council in complying with its mandate to minimize such impact as required by C.G.S. §§ 16-50g and 16-50p(3)(G)(b)(1).

3. The design does not incorporate the best available technology for reducing the visual impacts of the facilities in that it fails to fully consider impacts to scenic views, natural habitats and neighboring property uses, including nearby scenic trails, waterbodies and nearby homes.

DISCUSSION OF LAW.

The statutory requirements which apply to interventions under CEPA are well settled. The bar is quite low for filing an intervention, and thus § 22a-19 applications should not be lightly rejected. Finley v. Town of Orange, 289 Conn. 12 (2008) (an application need only allege a colorable claim to survive a motion to dismiss, citing Windels v. Environmental Protection Commission, 284 Conn. 268 (2007)).

CEPA clearly and in the broadest terms indicates that any legal entity may intervene. This includes municipalities. Avalon Bay Communities v. Zoning Commission, 87 Conn. App. 537, 867 A.2d 37 (2005).

An allegation of facts that the proposed activity at issue in the proceeding is likely to unreasonably impair the public trust in natural resources of the state is sufficient. See Cannata v. Dept. of Environmental Protection, 239 Conn. 124 (1996) (alleging harm to floodplain forest resources).

The Connecticut Appellate Court has noted that statutes “such as the EPA are remedial in nature and should be liberally construed to accomplish their purpose.” Avalon Bay Communities, Inc. v. Zoning Commission of the Town of Stratford, 87 Conn. App. 537 (2005); Keeney v. Fairfield Resources, Inc., 41 Conn. App. 120, 132-33 (1996). In Red Hill Coalition, Inc. v. Town Planning & Zoning Commission, 212 Conn. 727, 734 (1989), the Supreme Court stated that “section 22a-19[a] makes intervention a matter of right once a verified pleading is filed complying with the statute, whether or not those allegations ultimately prove to be unfounded.” See Polymer Resources, Ltd. v. Keeney, 32 Conn. App. 340, 348-49 (1993) (“[Section] 22a-19[a] compels a trial court to permit intervention in an administrative proceeding or judicial review of such a proceeding by a party seeking to raise environmental issues upon the filing of a verified complaint. The statute is therefore not discretionary.”) See also Connecticut Fund for the Environment, Inc. v. Stamford, 192 Conn. 247, 248 n.2 (1984).

In Mystic Marinelife Aquarium v. Gill, 175 Conn. 483, 490 (1978), the Supreme Court concluded that a person who files a verified pleading under § 22a-19 becomes a party to an administrative proceeding upon doing so and has “statutory standing to

appeal for the limited purpose of raising environmental issues.” “It is clear that one basic purpose of the act is to give persons standing to bring actions to protect the environment.” Belford v. New Haven, 170 Conn. 46, 53-54 (1975).

An intervenor’s right to participate pursuant to § 22a-19 allows the intervenor the right to appeal under the statute. Committee to Save Guilford Shoreline, Inc. v. Guilford Planning & Zoning Commission, 48 Conn. Super. 594 (2004); Mystic Marinelife Aquarium v. Gill, 175 Conn. 483 (1978); Branhaven Plaza, LLC v. Inland Wetlands Commission of the Town of Branford, 251 Conn. 269, 276, n.9 (1999); Red Hill Coalition, Inc. v. Conservation Commission, 212 Conn. 710, 715 (1989).

The rights conveyed by CEPA are so important and fundamental to matters of public trust that the denial of a 22a-19 intervention itself is appealable. See CT Post Limited Partnership v. New Haven City Planning Commission, 2000 WL 1161131 (Conn. Super.) (Hodgson, J.) (§ 22a-19 intervenors may file an original appeal for improper denial of intervenor status.)

The Town’s application for intervenor status should be granted so that it may participate by presenting evidence and meaningfully assisting the Siting Council in reaching a decision which balances the impact to natural resources of the state against the public need for responsible siting of telecommunications facilities as required under the Siting Council’s enabling legislation.

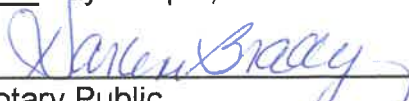
VERIFICATION


The undersigned, Jean Speck, duly authorized First Selectman of the Town of Kent, duly sworn, hereby verifies that the above application is true and accurate to the best of her knowledge and belief.



Jean Speck

Sworn and subscribed to before me this 17th day of April, 2020.


Notary Public
My Commission Expires: 5/31/2021
Respectfully Submitted,
The Town of Kent

By 
Daniel E. Casagrande, Esq.
Cramer & Anderson, LLP
30 Main Street, Suite 204
Danbury, CT 06810
Telephone: (203) 744-1234
Facsimile: (203) 730-2500
dcasagrande@crameranderson.com

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was deposited in the United States mail, first-class, postage pre-paid this 24th day of April, 2020 and addressed to:

Ms. Melanie Bachman, Executive Director
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

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

Lucia Ciocchio, Esq.
Cuddy & Feder, LLP
445 Hamilton Avenue, 14th Floor
White Plains, NY 10601

CERTIFICATE OF SERVICE (continued)

Raymond Vergati
Manuel Vicente
Homeland Towers, LLC
9 Harmony Street
Danbury, CT 06810

Brian Leyden
Harry Carey
AT&T
84 Deerfield Lane
Meriden, CT 06450

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