

Jesse A. Langer  
(t) 203.786.8317  
(f) 203.772.2037  
jlanger@uks.com



December 21, 2020

***VIA ELECTRONIC MAIL  
AND FEDERAL EXPRESS***

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

**Re: Protective Order for Unredacted Lease Concerning the Application for Certificate of Environmental Compatibility and Public Need for a proposed monopole wireless telecommunications facility at 800 Prospect Hill Road, Windsor, Connecticut**

Dear Attorney Bachman:

This office represents Tarpon Towers II, LLC (“Tarpon”). On behalf of Tarpon, I have enclosed a motion for protective order and supporting memorandum of law, along with a copy of the unredacted lease under seal.

Please do not hesitate to contact me with any questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Jesse A. Langer', with a stylized flourish at the end.

Jesse A. Langer

Enclosures

3101415

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

**IN RE:**

**DOCKET NO. 496**

**APPLICATION OF TARPON TOWERS II,  
LLC FOR A CERTIFICATE OF  
ENVIRONMENTAL COMPATIBILITY  
AND PUBLIC NEED FOR THE  
CONSTRUCTION, MAINTENANCE  
AND OPERATION OF A  
TELECOMMUNICATIONS FACILITY  
AT 800 PROSPECT HILL ROAD IN THE  
TOWN OF WINDSOR,  
CONNECTICUT**

**December 21, 2020**

**MOTION FOR PROTECTIVE ORDER AND  
SUPPORTING MEMORANDUM OF LAW**

The Applicant, Tarpon Towers II, LLC, (“Tarpon”), respectfully moves the Connecticut Siting Council (“Council”) to enter a protective order regarding Tarpon’s lease in connection with the above-captioned Application for Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility at 800 Prospect Hill Road, Windsor, Connecticut (“Application”). Tarpon further requests permission to file a copy of the un-redacted lease concerning the Application under seal. In support of this Motion for Protective Order, Tarpon states as follows:

1. General Statutes § 16-50o(c) provides in relevant part that “[t]he applicant shall submit into the record the full text of the terms of any agreement, and a statement of any consideration therefore, if not contained in such agreement, entered into by the applicant and any party to the certification proceeding, or any third party, in connection with the construction or operation of the facility. This provision shall not require the public disclosure of proprietary information or trade secrets.” (Emphasis added.)

2. In accordance with § 16-50o(c), Tarpon submitted a redacted version of the lease (“Lease”) between it and The Ferraina Company, LLC (“Ferraina”) with the Application, which was appended thereto as Attachment 20. The redacted portions of the Lease pertain to rental amounts and related financial information (“Confidential Information”).

3. In passing upon the Application for Certificate of Environmental Compatibility and Public Need for a telecommunications facility, designated as Docket No. 366, the Council ruled that an applicant is required to disclose to the Council the specific rental amounts and related financial information, albeit subject to a protective order because such information constitutes a “trade secret.”

4. The affidavit of Brett Buggeln, Chief Operating Officer of Tarpon, which is attached hereto as Exhibit A, states that the Confidential Information contained in the Lease is proprietary and commercially sensitive information and that Tarpon would be harmed by the disclosure of the Confidential Information. The Confidential Information constitutes “trade secrets” as defined by Connecticut law.

5. Tarpon hereby submits with this motion and supporting memorandum one (1) copy of the Lease concerning the Application, without redaction, pursuant to the Council’s ruling in Docket No. 366, which is contained in a sealed envelope that has upon it the caption and docket number for this Application and the wording: “CONFIDENTIAL – PROPRIETARY INFORMATION; BOUND BY PROTECTIVE ORDER ISSUED IN DOCKET NUMBER 496; DISCLOSURE LIMITED TO CONNECTICUT SITING COUNCIL AND ITS STAFF ONLY.”

6. Tarpon respectfully moves the Council to maintain the Confidential Information under seal and keep it confidential pursuant to the terms of the proposed Protective Order, attached hereto as Exhibit B. Tarpon further moves the Council to order that any recipient of the

Confidential Information, as defined by the Protective Order, execute the proposed Non-Disclosure Agreement, attached hereto as Exhibit C, and be otherwise bound by the terms of the proposed Protective Order.

**WHEREFORE**, Tarpon respectfully moves the Council to (1) enter a protective order prohibiting anyone but the Council and its staff from reviewing the un-redacted Lease (and any copies thereof); (2) order any recipient of the Confidential Information to execute the proposed Non-Disclosure Agreement; and (3) permit Tarpon to file the Lease under seal for the Council and its staff's eyes only.

Respectfully submitted by,

TARPON TOWERS II, LLC



By: \_\_\_\_\_

Jesse A. Langer  
Updike, Kelly & Spellacy, P.C.  
8 Frontage Road  
East Haven, CT 06512  
(203) 786-8310  
Email: [jlanger@uks.com](mailto:jlanger@uks.com)

**EXHIBIT A**

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

**IN RE:**

**DOCKET NO. 496**

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**AFFIDAVIT OF BRETT BUGGELN**

Brett Buggeln, having been sworn, hereby deposes and says:

1. I am over the age of eighteen and believe in the obligations of an oath, and I have personal knowledge of the facts outlined in this affidavit.
2. I am the Chief Operating Officer for Tarpon.
3. I am familiar with the Application for Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a telecommunications facility at 800 Prospect Hill Road, Windsor, Connecticut (“Application”), filed by Tarpon Towers II, LLC (“Tarpon”) with the Connecticut Siting Council (“Council”).
4. I am also familiar with the lease between The Ferraina Company, LLC (“Ferraina”) and Tarpon (“Lease”).
5. Tarpon submitted a redacted copy of the Lease with the Application, appended thereto as Attachment 20, which is now pending before the Council as Docket Number 496.

6. The redacted portions of the Lease concern rental amounts and related financial information to be paid by Tarpon to Ferraina during the term of the Lease (“Confidential Information”).

7. The Confidential Information contained in the Lease is proprietary and commercially sensitive information to Tarpon.

8. Tarpon would be harmed by the disclosure of the Confidential Information.

9. Tarpon has acted in a manner equal to or greater than a reasonable degree of care to maintain the confidentiality of, and prevent the unauthorized use, dissemination or publication of, the Confidential Information and has done so to avoid the harm that would result from the disclosure of the Confidential Information.

  
Name: Brett Buggeln  
Title: Chief Operating Officer

Personally appeared, BRETT BUGGELN, before me and subscribed and swore to the foregoing on this <sup>✓</sup> day of December, 2020.  
18<sup>th</sup>

  
Notary Public

My Commission Expires: 08/10/2022



TODD J BOWMAN  
Commission # GG 232941  
Expires August 10, 2022  
Bonded Thru Budget Notary Services

**EXHIBIT B**



**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

**IN RE:**

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**December 21, 2020**

**PROTECTIVE ORDER**

WHEREAS, the provisions of the lease between The Ferraina Company, LLC (“Ferraina”) and Tarpon Towers II, LLC (“Tarpon”) concerning the rental income and related financial information (“Lease”) are proprietary and commercially sensitive to Tarpon (“Confidential Information”).

WHEREAS, the provisions of the Lease concerning the Confidential Information are “trade secrets” as that term is defined by Connecticut law; and

WHEREAS, Tarpon would be harmed by the unauthorized use, dissemination or publication of the Confidential Information contained in the Lease.

NOW, THEREFORE, it is hereby ordered that a protective order enter with respect to the Confidential Information under the following terms:

1. The Confidential Information is confidential and proprietary and shall not be disclosed, used in an unauthorized manner, disseminated or published to any person or entity, except as provided herein.

2. Tarpon shall provide one (1) copy of the Lease, containing the Confidential Information, to the Connecticut Siting Council (“Council”) in a sealed envelope that has upon it the caption and docket number for this Application and the wording: “CONFIDENTIAL – PROPRIETARY INFORMATION; BOUND BY PROTECTIVE ORDER ISSUED IN DOCKET NUMBER 496; DISCLOSURE LIMITED TO CONNECTICUT SITING COUNCIL AND ITS STAFF ONLY.”

3. Confidential Information shall include any documents, electronic data, testimony, transcripts and any other medium or other tangible item containing the Confidential Information, including copies, portions, summaries, analyses or excerpts of the Confidential Information, or anything reflecting information derived from the Confidential Information.

4. Access to and use of the Confidential Information shall be limited only to the Council and its staff. The Council and its staff shall take reasonable precautions to maintain the confidentiality of the Confidential Information.

5. The Council shall maintain a written record of all individuals granted access to the Confidential Information. Under no circumstances shall the Confidential Information be disclosed, used in an unauthorized manner, disseminated or published to any person or entity other than the Council and its staff. All recipients of the Confidential Information shall be bound by this Protective Order.

6. The Council and its staff, or any authorized recipient of the Confidential Information pursuant to the terms of this Protective Order, may access or use the Confidential Information only for the purposes of Tarpon’s Application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a

telecommunications facility at 800 Prospect Hill Road, Windsor, Connecticut, identified as Docket Number 496 (“Application”).

7. The Council and its staff shall not disclose, use in an unauthorized manner, disseminate or publish the Confidential Information in any proceeding, including any proceeding associated with the Application, nor shall the Council and its staff make the Confidential Information available, to any other party, intervenor or interested individual or entity in any proceeding, including any proceeding associated with the Application.

8. Under no circumstances shall any recipient of the Confidential Information replicate the Confidential Information, except as authorized by the Council and in accordance with this Protective Order.

9. Any person or entity seeking to change or challenge the terms of this Protective Order shall do so in writing to the Council or proper authority (“Motion”). Tarpon and Ferraina shall receive written notice of the Motion. The Council shall not disclose, use in an unauthorized manner, disseminate or publish the Confidential Information to any person or entity, including the person or entity filing the Motion, until the Council rules on the Motion and Tarpon and Ferraina have been afforded an opportunity to respond to the Motion. Tarpon and Ferraina shall be entitled to a hearing on any Motion.

10. All recipients of the Confidential Information shall execute a Non-Disclosure Agreement in the form as attached to the Motion for Protective Order as Exhibit 3 and shall remain bound by the Protective Order.

11. By making the Confidential Information available for use in any proceeding or hearing related to the Application, Tarpon and/or Ferraina have not waived their rights or compromised the confidentiality or admissibility of the Confidential Information.

12. The Confidential Information shall remain confidential and proprietary in nature after the conclusion of all proceedings related to the Application. The Council and its staff shall maintain the Confidential Information in a sealed envelope with the wording “CONFIDENTIAL – PROPRIETARY INFORMATION; BOUND BY PROTECTIVE ORDER ISSUED IN DOCKET NUMBER 496; DISCLOSURE LIMITED TO CONNECTICUT SITING COUNCIL AND ITS STAFF ONLY.”

13. The Confidential Information, in any form, including any copies thereof, shall be destroyed at the time the Council and/or its staff destroys the file for Docket Number 496. Alternatively, all originals and copies of the Confidential Information, in any form, shall be returned to legal counsel for Tarpon within thirty (30) days after the expiration of all appeal periods applicable to the final decision in the proceedings related to the Application. The Council and its staff shall inform legal counsel for Tarpon in writing of its decision concerning the disposition of the Confidential Information.

**IT IS SO ORDERED BY:**

CONNECTICUT SITING COUNCIL

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

**EXHIBIT C**

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

**IN RE:**

**DOCKET NO. 496**

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**NON-DISCLOSURE AGREEMENT PURSUANT TO PROTECTIVE ORDER**

I hereby acknowledge that I am to receive information, documents and other items designated as Confidential Information pursuant to the terms of the Protective Order, dated \_\_\_\_\_, in Docket Number 496, pending before the Connecticut Siting Council (“Protective Order”). I acknowledge and verify that I have received a copy of the Protective Order; that I have read the Protective Order; that I understand the Protective Order; and that I agree to be bound by the terms and restrictions set forth in the Protective Order.

I further agree that any Confidential Information in my custody will be segregated and kept safe by me in a safe place, and will not be made known to others or used except in accordance with the terms of the Protective Order. I further understand and agree that any copies, portions, summaries, analyses or excerpts of the Confidential Information, or anything reflecting information derived from the Confidential Information furnished to me shall also be treated by me as Confidential Information in accordance with the terms of the Protective Order. I further agree to notify any stenographic or clerical personnel, or information technology (IT) consultants, who are required to assist me, of the terms of the Protective Order.

I further agree that I am subject to the jurisdiction of the Connecticut Siting Council, and the Courts of the State of Connecticut and the District of Connecticut, in connection with any proceedings concerning the enforcement of the Protective Order.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name:

Personally appeared, \_\_\_\_\_, before me and subscribed and swore to the foregoing on this . day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public

My Commission Expires: