

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

APPLICATION OF OPTASITE TOWERS LLC
AND OMNIPOINT COMMUNICATIONS, INC.
FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR
THE CONSTRUCTION, MAINTENANCE AND
OPERATION OF A TELECOMMUNICATIONS
FACILITY AT 52 STADLEY ROUGH ROAD,
DANBURY, CONNECTICUT

DOCKET NO. 366

FEBRUARY 18, 2009

**APPLICANTS' RESPONSE TO THE CITY'S POST HEARING FILING
OF THE BAROODY TESTIMONY**

The Siting Council did not ask for or allow additional post-hearing filings by either party regarding septic conditions on site. The Council's cross-examination of Mr. Baroody at the January 26, 2009 continued hearing was not intended to offer such an opportunity. As such, a formal objection by the Applicants is warranted.

Nevertheless, the Applicants note that bullet point 1 of Mr. Baroody's testimony factually confirms that the Church maintains more than adequate space on its property for its existing and reserve septic areas as provided for by the Public Health Code. Doubling the existing size of the septic area as calculated by the City to include a "reserve" would result in a 15,600 total square foot total requirement. A code complying area for the existing and reserve septic leaching fields is available for that purpose irrespective of the tower site location and as shown on the Applicants' map prepared by CHA and included in Applicants Responses to City Interrogatories, Set V (See cross-hatched area of 22,000 square feet for septic and reserve).

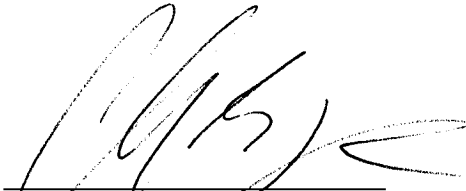
The Applicants also note that this latest filing totally undermines the City's initial position that the Church's existing septic field and the neighbor's curtain drain location created a non-complying septic condition on the Church site. It also verifies the Applicants' statements and testimony to the Council about the general location of the septic fields on the site. Finally, the Applicants reiterate that the City's inquiry of the property owner and request for a B100a review as noted in bullet point 2 of Mr. Baroody's testimony can not be legally tied to the Applicants' request for a Certificate and the permit process for a cellular tower facility which constitutes a public utility facility under Connecticut State law.

CERTIFICATE OF SERVICE

I hereby certify that on this day, an original and twenty copies of the Applicants Responses to the City of Danbury's Post-Hearing Filing of the Baroody Testimony were served on the Connecticut Siting Council by overnight mail hand with an electronic copy sent via email and copy served via overnight mail and email to:

City of Danbury
Laslo L. Pinter, Esq.
Robin L. Edwards, Esq.
City of Danbury
Office of the Corporation Counsel
155 Deer Hill Avenue
Danbury, Connecticut 06810
(203) 797-4518
R.Edwards@ci.danbury.ct.us
L.Pinter@ci.danbury.ct.us

Dated: February 18, 2009



Christopher Fisher

cc: Charles Regulbuto
Hans Fiedler