

To: Connecticut Siting Council
Re: Docket #373: Motion for a Protective Order to Not Disclose the Amount of
Monthly Rent in Lease Agreement.
From: David S. Lampert, intervenor

ORIGINAL

April 13, 2009

The following are my comments pertaining to the issues #1 and #2 in the April 1, 2009 letter from the Council:

1. I think the plain language of C.G.S. 16-50o(c) does require public disclosure of the rent amount contained in telecommunication tower lease agreements. The statement requiring submission "into the record the full text of the terms of any agreement, and a statement of any consideration therefor, if not contained in such agreement" makes clear to me the requirement of public disclosure of any consideration, and furthermore it is obvious to me that rent amount qualifies as such a consideration.

2. It is possible that rent amount contained in telecommunication tower lease agreements could qualify as "proprietary information" or a "trade secret". The rent amount is an element of "cost data" as cited in the FOIA 1-210(b)(5)(A) definition of "trade secret". However, given the plain language in C.G.S. 16-50o(c) requiring public disclosure of any consideration in telecommunication tower lease agreements (cited above), I think that the petitioner of this motion must demonstrate that public disclosure of rent amount would potentially confer competitive disadvantage or damage of such importance as to override the public disclosure requirements. I think that a simple prima facie claim that rent amount is inherently proprietary information or a trade secret does not provide such demonstration. Furthermore, if such demonstration were to be given by the petitioner then the Council should require full disclosure to the Council, parties and intervenors, using nondisclosure agreements assigned by the Council to protect the competitive business interests of the petitioner.

Thank you.

Sincerely,

David S. Lampert (intervenor)



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