

# CONNECTICUT SITING COUNCIL

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## RESPONSE TO DRAFT FINDINGS OF FACT OF 9/18/09

**Docket/Petition No. 379**

**Town/City: Bloomfield**

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I am completely frustrated by the draft findings of fact for Docket #379. Put bluntly, it is the most slanted, one-sided official document I have ever read, and I am appalled by the bias against public comment demonstrated by a state agency. This council has sided with the applicant, SBA Towers, from the start and has completely ignored input from the public, most disturbingly two official interveners to the proceedings. This council is supposed to hear and document the concerns of the citizenry in regards to an application, but apparently the council would rather stifle that opposition and refuse to document it into the official record. It is bureaucracy run amok, and as a Connecticut taxpayer and very interested party I am not going to just sit back and let it happen.

This draft is supposedly representing the “facts” concerning this application, but this is far from the truth. For example, I see no mention whatsoever of concerns voiced by abutting neighbors, myself included as an official intervener. Disturbing is the lack of comment on complaints by said neighbors that this tower is inappropriate in the middle of a rural, residential neighborhood. There is only mention of this point being addressed to the council by the Attorney General, which was made in response to the public outcry.

Similarly, there is no mention of the complaint by a local benefactor, Elizabeth Auerbach Schiro (another official intervener), the tower will detract from the scenic views in this historical area (Auer Farm). No inclusion despite the council’s own directive stated on its website, and I quote: “The Connecticut Siting Council is tasked, among other things, with working to protect Connecticut’s scenic, historic, and recreational values.” A number of local constituents also voiced their concerns on this historical aspect, yet this “fact” appears nowhere in the draft.

What does predominate this document are the views and opinions of one party – the applicant. Even some of the “facts” stated come directly from this source, not an independent party, and contentions voiced over some of these supposed “facts” have been left out. For example, in regards to alternate sites, the applicant repeatedly makes the subjective statement the tower is “more visible” when the criteria and outright validity of these statements were openly challenged. Again, these responses have been ignored.

Distortion of “fact” is also evident when the document conveniently states Tumble Brook Country Club rejected SBA’s proposal, without any mention they were open to a tower on their property from another

party. There is also no mention of the “fact” amid local opposition after the hearing, club President Diane Greenfield formally approached the council with a willingness to approve a tower installation.

So, it appears the draft of “fact” is in actuality one of partial truths. I find this deplorable and intolerable from a public body, and contend the problem lies in the procedures followed by the council itself. The applicant’s counsel has repeatedly objected to the submittal of post-hearing evidence relevant to the issues on the grounds the proceedings dictate the hearing as a hard cutoff date for evidence, regardless of what transpired during this hearing (including my personal charge of information being withheld). This standoff apparently follows from the notices previously forwarded by the council – see the selected excerpts cited below:

Pre-hearing Conference announcement of 6/17/09

“The purpose of this pre-hearing conference is to expedite the hearing procedure without sacrificing an informative record necessary for the Council to render a decision.”

“To save the time and expense of the public, the Council wishes to avoid direct testimony at the hearing.”

Pre-hearing Conference minutes of 6/18/09

“... Council requested that the following format be used for the public hearing ...”

“Before July 2, 2009, all parties and intervenors are encouraged to exchange and respond to pre-hearing interrogatories and exchange pre-filed testimony, exhibits, ...”

“To save the time and expense of parties, intervenors, and the public, all parties and intervenors are encouraged to resolve discrepancies of these items before the hearing.”

I object to the council preventing the full disclosure of relevant evidence based on their own objective of saving the time and expense of the participants. This misguided format doesn’t just save time - it has the detrimental effect of thwarting any attempt by the public to respond appropriately to the hearing evidence by presenting all of the facts that should be given due consideration. The council has basically instituted a procedural block that inhibits full public participation and in effect prevents due process. I find this behavior by a public bureaucratic organization completely unacceptable.

I may not know the complete history of this council, but do know from the website it was originally established in 1972 for power facilities and transmission lines. This jurisdiction was later extended to hazardous waste facilities, then eventually to telecommunications sites. Therein lies the root problem. This council is applying procedures developed for large scale, high regional impact projects that extend over a considerable period of time. As a result, much media and public attention is placed on these projects, so information is readily and thoroughly available to the public over an extended timeframe.

Conversely, small telecommunications projects like this one do not get the same attention and visibility, so many facts do not come out until the public hearing. As in this specific case, information comes out at the last minute, giving the public no time to review, evaluate, and respond in a reasonable timeframe. The council holds firm to a deadline that holds no relevance under these conditions. Using a sports analogy, it’s like officiating a baseball game to football rules – it just doesn’t make sense or work effectively.

It is apparent this council holds higher regard for these inappropriate procedures than for constructively evaluating the situation to the full extent necessary. It then exacerbates the problem by only presenting a portion of the “facts” involved in the application, so that future reference will not provide the full picture. As an official participant in this process, I cannot stand for this without further action.

Therefore, since the council insists on officially ignoring the concerns voiced against this specific proposal, I guess it is time to voice concerns about the council itself. I find the conduct of this proceeding contrary to the best interests of the public it is meant to serve, and feel the procedures followed by the council are detrimental to its stated purpose. I thus believe the guidelines and actions of this council toward telecommunications projects needs re-evaluation to their appropriateness and suitability.

I am sending a copy of this response, along with other relevant information, to the Attorney General to respectfully request he initiate a class action against the siting council on behalf of all interested parties of telecommunications proposals in this state. The public is not being given a fair opportunity for participation with the current system, and I believe this situation needs formal review. The siting council exists to protect the people of Connecticut, but it is painfully evident from this application that this is not being adequately done in all cases.

This draft finding apparently confirms the council does not want the public’s voice to be heard, so it is time to pursue other avenues to ensure the word gets out. As a concerned citizen, I wish to make my state government representatives aware of this dilemma, so I am forwarding copies of this response to my local Connecticut legislators – Senator Jonathan Harris (5<sup>th</sup> District) and Representative David Baram (15<sup>th</sup> District). In addition, to also provide enhanced public awareness of this problem, I am sending a copy to Lynne DeLucia-Millea, State Editor at the Hartford Courant. My hope is these contacts act as the catalyst to initiate the appropriate changes necessary to guarantee the public is not ignored in these matters.

Regretfully,

Thomas H. Midney

Signed: \_\_\_\_\_ Date: 9/30/09

Cc: 15 Copies – Siting Council  
Carrie L. Larson (Pullman & Comley)  
Kenneth C. Baldwin (Robinson & Cole)  
Joey Lee Miranda (Robinson & Cole)  
Elizabeth Auerbach Schiro  
Diane Greenfield (Tumble Brook Country Club)  
Cecil & Jill Adams (1101 Mountain Rd.)  
Sandra Zieky (49 Fairfield Rd.)

Fwd: Attorney General Richard Blumenthal  
Senator Jonathan A. Harris

Representative David A. Baram  
Lynne DeLucia-Millea (Hartford Courant)

Bcc: Norma G. Grape (5 Burr Rd.)  
Geneva Williams & Merrick Davis (11 Burr Rd.)  
Joseph & Diane Guinan (15 Burr Rd.)  
Claude & Sean Christie (17 Burr Rd.)  
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