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LEED Green Associate

March 13, 2015

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

Ms. Melanie A. Bachman, Esq., Executive Director  
Connecticut Siting Council  
Ten Franklin Square  
New Britain, CT 06501

**Re: Docket No. 454 – Application by Tower Holdings, LLC for A Certificate of Environmental Compatibility and Public Need for A Telecommunications Facility at 199 Brickyard Road, Farmington, Connecticut**

Dear Attorney Bachman:

This office represents Tower Holdings, LLC (“Tower Holdings”), the applicant in the above-captioned docket. In accordance with § 16-50j-12 of the Regulations of Connecticut State Agencies, I have enclosed an original and fifteen (15) copies of Tower Holdings’ objection to the Town of Farmington’s “Pre-Hearing Submission,” filed with the Connecticut Siting Council on March 10, 2015.

If you have any questions concerning the objection, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Jesse A. Langer', is written over a light blue horizontal line.

Jesse A. Langer

Enclosures

cc: *Service List (via regular mail and electronic mail)*

STATE OF CONNECTICUT SITING COUNCIL

APPLICATION BY TOWER HOLDINGS, LLC  
FOR A CERTIFICATE OF ENVIRONMENTAL  
COMPABILITY AND PUBLIC NEED FOR THE  
CONSTRUCTION, MAINTENANCE AND OPERATION  
OF A WIRELESS TELECOMMUNICATIONS  
FACILITY LOCATED AT 199 BRICKYARD ROAD,  
FARMINGTON, CT

DOCKET 454

March 13, 2015

**APPLICANT'S OBJECTION TO THE PRE-HEARING  
SUBMISSION BY THE TOWN OF FARMINGTON**

The Applicant, Tower Holdings, LLC, ("Tower Holdings"), respectfully objects to the Pre-Hearing Submission by the Town of Farmington ("Town"), dated March 10, 2015, 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 ("Facility") at 199 Brickyard Road, Farmington, Connecticut ("Application"), pending before the Connecticut Siting Council ("Council").

Tower Holdings objects to the Pre-Hearing Submission on the grounds that nearly all of the Pre-Hearing Submission is irrelevant to the Application or duplicative of the filings made by Tower Holdings. Specifically, (1) the pre-filed testimony of Mr. Philip Dunn and Ms. Kathleen A. Eagen (Attachments A and B) address matters largely irrelevant to the Application; (2) the agenda and meeting minutes of the Town's Zoning Commission (Attachment C) is wholly irrelevant to the Application; and (3) the Town's Zoning Regulations ("Regulations") and Plan of Conservation and Development ("Plan") were included in Tower Holdings' bulk filing (Attachments E and F).<sup>1</sup>

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<sup>1</sup> Tower Holdings does not object to the submission of (1) Attachment D, a preliminary and conceptual visibility analysis, with photo-simulations, submitted to the Town in the infancy of the proposed Facility as a courtesy to the Town or (2) Attachment G, a purported elevation map.

General Statutes § 4-178(1) provides in relevant part that in contested cases, such as this Docket, “[a]ny oral or documentary evidence may be received, but the agency shall, as a matter of policy, provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence . . . .” Section 16-50j-28(b) of the Regulations of State Agencies further provides that the “Council may exclude evidence that is not probative or material and tends not to prove or disprove a matter in issue.”

The Council has jurisdiction over the subject matter of the Application. The proposed Facility falls within the definition of “facility” as that term is defined by General Statutes § 16-50i(a)(6).<sup>2</sup> The involvement of a licensed wireless provider such as New Cingular Wireless PCS, LLC (“AT&T”) brings the proposed Facility squarely within the definition of “facility.” The Council has exclusive jurisdiction over “facilities” pursuant to General Statutes § 16-50x.<sup>3</sup>

The question of whether Tower Holdings initially considered constructing a training tower or a telecommunications facility is wholly irrelevant to the merits of the Application. The only relevant fact is that AT&T has intervened in the proceedings and desires to locate its antennas on the Facility. Moreover, the events predating the submission of the Technical Report

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<sup>2</sup> General Statutes § 16-50i(a)(6) provides in relevant part: “‘Facility’ means . . . such telecommunication towers, including associated telecommunications equipment, owned or operated by the state, a public service company or a certified telecommunications provider or used in a cellular system, as defined in the Code of Federal Regulations Title 47, Part 22, as amended, which may have a substantial adverse environmental effect, as said council shall, by regulation, prescribe . . . .”

<sup>3</sup> General Statutes § 16-50x(a) provides in relevant part: “Notwithstanding any other provision of the general statutes, except as provided in section 16-243, the council shall have exclusive jurisdiction over the location and type of facilities and over the location and type of modifications of facilities subject to the provisions of subsection (d) of this section. When evaluating an application for a telecommunication tower within a particular municipality, the council shall consider any location preferences or criteria (1) provided to the council pursuant to section 16-50gg, or (2) that may exist in the zoning regulations of said municipality as of the submission date of the application to the council. In ruling on applications for certificates or petitions for a declaratory ruling for facilities and on requests for shared use of facilities, the council shall give such consideration to other state laws and municipal regulations as it shall deem appropriate. Whenever the council certifies a facility pursuant to this chapter, such certification shall satisfy and be in lieu of all certifications, approvals and other requirements of state and municipal agencies in regard to any questions of public need, convenience and necessity for such facility.”

to the Town are equally irrelevant to whether the Council can approve the additional height above AT&T's position on the Facility as requested in the Application. The resolution of this second issue is addressed by the statutes, case law, administrative decisions and State and federal policies applicable to the Council's statutory charge.<sup>4</sup> This issue does not rest remotely on facts predating the Technical Report.

The first two pages of Mr. Dunn's pre-filed testimony are irrelevant and are "not probative or material and tends not to prove or disprove a matter in issue." Although Tower Holdings strenuously denies the assertions of subterfuge contained in Mr. Dunn's pre-filed testimony, even if those assertions were true, they would have absolutely no bearing on whether the Council should grant or deny the Application.

Tower Holdings does not, however, object to the portion of Mr. Dunn's pre-filed testimony addressing the zoning regulations or the Plan *to the extent they relate to telecommunications facilities*. Tower Holdings submitted the Regulations and Plan with its bulk filing, as well as several other documents related to the Town's land use policies, and provided a detailed zoning analysis of the Facility in the Application. *Application, pp. 20-25*.

The remainder of Mr. Dunn's discussion of training schools and the like are irrelevant to the Application. Currently, Tower Holdings' affiliate, Northeast Towers, Inc. ("NET"), intends only to train its employees as well as the first responders of the Town and surrounding municipalities, assuming the latter are interested in this important training. Although NET does not intend to provide training courses to others at this juncture, it is investigating the possibility of doing so in the future. If NET determines it would like to provide such courses in the future, it will seek all necessary approvals as required by law.

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<sup>4</sup> Accordingly, Tower Holdings does not object to the Town's request (Attachment H) to have certain dockets of the Council administratively noticed in accordance with § 16-50j-28(f) of the Regulations of State Agencies.

Similarly, Ms. Eagan's unfortunately angry testimony focuses largely on whether the Town believes Tower Holdings tried to avoid local zoning by luring a wireless provider, such as AT&T, to locate its antennas on the proposed Facility. Again, this is not true, and the facts presented in this Docket belie such contentions. Regardless, those facts have no bearing on whether the Council should approve the Application.

**WHEREFORE,** Tower Holdings respectfully moves the Council to sustain its objection to the Town's Pre-Hearing Submission, and preclude its admission into the record, to the extent the Town's Pre-Hearing Submission is irrelevant and/or duplicative in accordance with General Statutes § 4-178(1) and § 16-50j-28(b) of the Regulations of State Agencies.

Respectfully submitted by,

TOWER HOLDINGS, LLC

By:



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**CERTIFICATION**

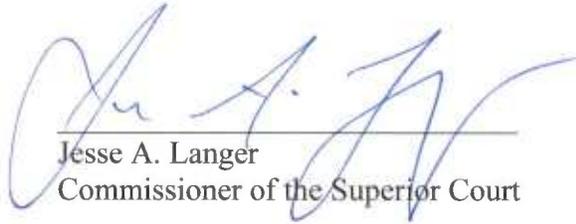
I hereby certify that on this day a copy of the foregoing was delivered by electronic mail and regular mail, postage prepaid, to all parties and intervenors of record, as follows:

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Jesse A. Langer  
Commissioner of the Superior Court