

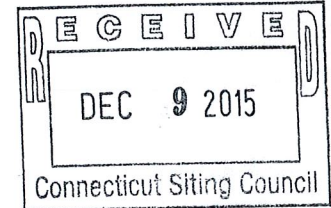
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December 8, 2015

VIA ELECTRONIC MAIL AND FIRST CLASS MAIL



The Honorable Robert Stein, Chairman
Attorney Melanie Bachman, Staff Attorney/Acting Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: Uncertificated Telecommunication Facility in Cheshire, CT at
1338 Highland Avenue – Request for CT Siting Council Jurisdiction

Dear Mr. Stein and Attorney Bachman:

An original and 15 copies of this letter are transmitted to the Connecticut Siting Council ("the Council") on behalf of the Town of Cheshire, Connecticut ("the Town"). Reference is made to the letter on behalf of the Town, dated October 2, 2015, concerning the silo telecommunications tower at 1338 Highland Avenue, Cheshire, Connecticut (hereinafter "the Facility"). The purpose of this letter is to report to the Council on recent developments concerning the Facility and to respectfully reiterate the Town's request that the Council undertake the procedural steps needed to exercise jurisdiction over the existing telecommunications tower facility, within the meaning of Conn. Gen. Stat. § 16-50i(a)(6).

Update on Silo Tower Condition:

The Town has been working with AT&T Wireless ("AT&T") to address the needed repairs to the silo tower and to the fencing around the associated equipment at the base of the Facility. Although the repairs have not been completed, primarily due to the need to order replacement panels for the silo tower, AT&T's personnel have communicated status updates to the Town, and the Town is satisfied that the work will be completed once AT&T and the property owner have arranged a suitable time that will not interfere with the property owner's business on the premises.

Update on "Ownership" of the Silo Tower:

In August 2007, the silo tower was conveyed via an Easement and Assignment and Assumption Agreement (the "Agreement") to GTP Towers I, LLC (a Delaware

limited liability company) ("GTP"). GTP, according to the Agreement, is obligated to maintain the structural integrity of, and also is obligated concerning the upkeep and maintenance of, the Facility. Under the Agreement, GTP was granted an exclusive easement and was assigned all of the leases for the telecommunications carriers then occupying the Facility, with the right to further lease the Facility to additional telecommunications tenants and subtenants. Upon information and belief, Global Tower Partners, the parent of GTP, was acquired by American Tower Corporation ("ATC") in 2013. The Town has no relationship or direct contact with ATC; nor was the Town ever notified by ATC of its interest in the Facility.

Siting Council Jurisdiction:

As requested in the Town's initial letter to the Council concerning this Facility, the Council should take the necessary procedural measures to assume jurisdiction over this Facility. It is the Town's view that this Facility falls within the statutory definition of a telecommunications tower, including associated equipment, under Conn. Gen. Stat. § 16-50i(a)(6). The Town acknowledges that, in 1999, at the time of the first wireless attachment to the silo tower, the Town had zoning jurisdiction over the project. Shortly thereafter, the legal issues were litigated and decided concerning the Council's jurisdiction over non-cellular towers, which involved a Second Circuit Court of Appeals decision¹ and a Connecticut Supreme Court decision² vesting the Siting Council with exclusive jurisdiction. In the wake of these decisions, any uncertainty in this area of law has been largely eliminated.

Notwithstanding the legal landscape at the time of the first attaching carrier, subsequent attachments and modifications to the Facility undoubtedly should have been presented to the Council by each of the carriers either as an application or a request for a ruling on the Council's statutory authority. At this point, the Town is not interested in any assignment of blame; rather, the Town believes that the public interest and the safety of the residents of the Town, along with the statutory provisions and underlying policy of the Public Utility Environmental Standards Act, appropriately require the Council with its agency expertise to deem the Facility to be a telecommunications tower facility under Conn. Gen. Stat. § 16-50i(a)(6).³ Accordingly, it is appropriate for the Council now to assume the necessary jurisdiction over the Facility.

¹ Sprint Spectrum LP v. Connecticut Siting Council, 274 F.3d 674 (2nd Cir. 2001).

² Town of Westport v. Connecticut Siting Council, 260 Conn. 266 (2002).

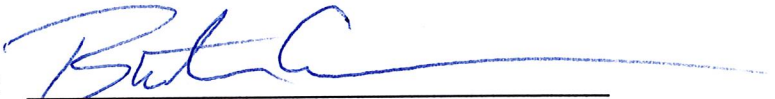
³ At this time, the Town takes no position on procedural issues relating to this request.

The Honorable Robert Stein
Attorney Melanie Bachman
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If you have any questions or require additional information, please feel free to contact me. On behalf of the Town of Cheshire, thank you for your consideration.

Respectfully submitted,

THE TOWN OF CHESHIRE, CONNECTICUT

By: 

Burton B. Cohen
Its Attorney

Enclosures

cc: Michael A. Milone
William S. Voelker
MUDDDM LLC
Christopher Fisher, Esq.
American Towers Corporation