

**Patricia & Guy Rovezzi • 30 Barnes Road • Falls Village CT 06031**

State of Connecticut  
Connecticut Siting Council  
10 Franklin Square  
New Britain, Ct 06051

RECEIVED  
JUN - 9 2011

June 6, 2011

CONNECTICUT  
SITING COUNCIL

**REF: DOCKET 409**

*Application by New Cingular Wireless PCS, LLC (AT&T) for the construction of a telecommunications facility located at 8 Barnes Road, Falls Village, Connecticut.*

The following testimony is intended to outline known issues and concerns surrounding the proposed location of a cell tower on 8 Barnes Road in Falls Village, Connecticut. It is also intended to illuminate and accurately clarify substantial inaccuracies, incorrect assumptions and a lack of due diligence on the part of AT&T, and their subcontractors, as it pertains to the information found in their application, and subsequent communication provided by them at the initial Council hearing for siting approval.

**1) Road Improvements and Access Privileges:**

Access to the proposed tower site is made possible by a Right of Way Agreement recorded in the Town of Canaan Land Records, Volume 42 pages 194 and 195 which grants each of the parties to the agreement, including Dorothy A. Forino, "a perpetual easement right of way for all purposes for which a public highway now or hereafter may be used, including public utilities."

Substantively, as communicated in conversation with myself, Joseph Baker and Anthony Forino Sr., the original intent was to provide for residential development opportunities and the Right of Way Agreement goes on to define the limitations of access to "said right of way being thirty (30) feet in width, fifteen (15) feet on either side of the centerline of a roadway as presently laid out across lands of the grantor leading from Barnes Road".

To access the proposed tower site, this roadway covers a minimum distance of 3050 feet, of which only +/-500 feet is actually located on Forino property. The remaining 2,500 feet of wood road is bound by property that is not controlled by the Forino's or the applicant. There are four such property owners- Patty Rovezzi, Marc Rosen/ Susan Pinsky, Michael Burke, Joseph Baker, and each has vowed to protect his property rights as it relates to any proposed activity outside of the current easement boundary.

AT&T has unlawfully proposed, as part of their application -Attachment #3 Abutters Map C01 the relocation of the "roadway as presently laid out" on property not owned by the Forino's-- without legal authority or the permission of Mr. Burke, who owns the land on either side of the proposed wood road relocation. *See exhibit #1.* There is no precedent for AT&T to assume that they can arbitrarily and unilaterally change the location of a right of way by simply building a road to accommodate their access and safety requirements.

In addition, if the road, which must be "improved" in order to provide for heavy equipment and large vehicular traffic, is to be only "12 feet wide", as the applicant claims, then the property line AT&T must work within is on average only 9 feet from the existing road edge. (In fact, there are currently places on the existing road where the right of way boundary is the existing road edge). Under current right of way restrictions, 80% of the existing wood road (that part not bound by Forino property) requires AT&T to limit all improvements to inside the existing 30 foot easement including the falling and removal of 100 plus trees and all grading, swales, erosion control, sloping, cuts and fills and underground utilities will necessarily have to fit within 15 feet from the EXISTING road centerline.

Given known grade, bedrock, washout and erosion issues connected to the existing wood road there is no legitimate, substantive engineering evidence to suggest that this can be accomplished within the established boundary lines.

## **2) Road improvements and maintenance obligations:**

Paragraph two of the Canaan Land Records, Volume 42 page 197 states:

"The owners of all lots or parcels actually served by said roadway, and on which residence or other structures have been erected, shall share equally in road repair costs."

The potential current and future financial liabilities of Mr. Rovezzi, Mr. Burke and Mr. Baker pertaining to the wood road maintenance and repair costs associated with AT&T's rights to access (subsequent to proposed road improvements) have not yet been established or addressed by their application.

Cuddy and Fedder representing AT&T, in a letter (copy included) dated April 26th, acknowledged that "while not making any provision as to an equal share in the maintenance and improvement decisions..." that "...the Agreement plainly reflects that the parties nonetheless agreed to share equally in all road repair costs."



Further, Cuddy and Fedder in the same letter implied an ethical precedent for acting unilaterally was set when "Adjacent Property Owners have never paid the estate of Dorothy A. Forino or its predecessors... for any costs related to the construction, maintenance or upgrades to the Right of Way over the past thirty years, all of which the Forino Parties undertook at their sole expense without any assistance.."

As a matter of due diligence, this is a false assertion.

As stated on the Canaan Land Records Volume 42, page 196, the initial Right of Way construction cost obligations were shared equally with Mr. Baker and Ms. Osborne. Further, in a letter submitted to us by Anthony Forino's attorney on April 4, 1997 we were instructed to pay, de-facto, a 1/3 share of the expenses incurred by Mr. Forino for supposed repairs that he contracted out unilaterally in the amount of \$3,356.00 at that time. *See exhibit 2.*

In a conversation with Mr. Forino about this matter, we agreed that there existed an ethical obligation for any party intending to substantively change the characteristics of the existing road (by improvement or repair) to fully disclose the proposed expenditures and recommended contractor in order to make clear individual obligations and gain consent **before** shared liability is incurred.

### **3) Road improvements, topography and erosion control**

The proposed access to the cell tower is a wood road of approximately 3050 feet in length. Much of the north face of Cobble Hill sits on top of bedrock, which is in many places exposed and in other places as few as 20 inches below the topsoil, as affirmed in the AT&T application - Vanasse Hangen Brustlin report. Underground utilities are planned as part of the proposed improvements.

No explanation has been provided which addresses how the utilities will meet their necessary depth should bedrock be discovered just below the road surface.

We live on the same side of Barnes Road as the proposed access drive and the topography to our home is very similar to the grade of the access road. Our driveway, which is an engineered four hundred by twelve foot landscaped gravel access with rip rap drainage swales, erosion controls, cuts, crowns, and slope grading washes out at least once or twice a year. *See exhibit #3.* I was asked by the town garage foreman to address this reoccurring issue, and I invested in the equipment needed to periodically repair it. The access area leading to the proposed tower has been named Cobble Hill for a reason.

The literally thousands of rock outcroppings, especially on the north face, are the perfect triggers for washouts, as they force and accelerate water movement through a very steep hillside, over shallow topsoil and covered bedrock.

#### **4) Water runoff on Cobble Hill**

In a wetland inspection report submitted by Vanasse Hangen Brustlin, Inc. as part of the AT&T application, a claim is made that "no wetlands or watercourses were identified (or delineated) on the Site or within 200 feet of the proposed development..." "The nearest wetland /watercourse is located on an adjoining property across Barnes Road to the north approximately 200 feet from the proposed access drive entrance onto Barnes Road."

This is an incorrect assertion. There are several watercourses and intermittent streams which originate directly below or in close proximity to the proposed tower location. These streams cross over my property and the property of my neighbors and feed into Robin Swamp through culverts that are plainly visible to anyone driving along Barnes Road. *See exhibit #4.* Our property (the Rovezzi property) which is in close proximity to the proposed tower location forms a northerly boundary for a portion of the Right of Way and runs exclusively down the entire north face of Cobble Hill to a 700 hundred foot frontage section of Barnes Road. There are at least three streams on it that run down the north face into Robin Swamp twelve months a year.

When queried about his report at the initial Siting Council hearing, Mr. Gustafson of Vanasse Hangen Brustlin indicated that he had never met my wife or me and that he had never sought or received permission to inspect our property. Notwithstanding the professional ethics surrounding trespass and securing permission to enter and inspect private property Mr. Gustafson commented that he "probably walked it."

#### **5) Sight Line and Public Viewshed**

My home, located at 36 Barnes Road is located over one thousand feet below the location of the proposed cell tower. Even during the summer months under the cover of full foliage, the sight lines from my home locally throughout the Canaan valley, and west and north to such scenic overlooks, hiking trails and public access points as those found on Mount Riga and Mount Everett are clearly unobstructed. *See Exhibit # 5.*



## 6) Public Safety: Fires and Mishaps

During the initial Siting Council hearing, I asked David Vivian if he was aware of any cell tower fires, mishaps or emergencies. His answer was in the form of a question suggesting the unlikelihood of a metal cell tower's ability to catch on fire. When I further questioned him about his knowledge and familiarity of cell tower emergencies he answered: "Not that I'm aware of." *See exhibit #6.* Using any computer search engine, and entering *cell tower fire* will reveal at least four tower fires over the past several years and numerous accidents (some resulting in death) due to mishaps and other unanticipated misfortunes. How can a professional in the telecommunications industry not be aware of this?

Related to the AT&T application's Statement of Benefit, even the Falls Village public safety officials, who make no secret about their desire for better mobile coverage in the area have expressed directly to the Siting Council concern and opposition to the site, and the dangers associated with their (fire and ambulance) inability to access the tower location should an accident occur.

This cell tower location is hugely unpopular in town. I haven't met anyone in favor of it. Our municipal leaders, elected officials, commissions and residents all oppose a tower on this site.

### Conclusion

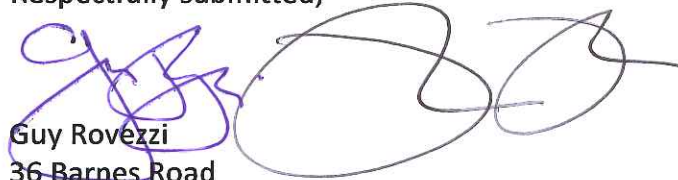
I know it is not the responsibility of the Siting Council to arbitrate private property disputes. I would hope you agree that something is fundamentally wrong when a corporation with the intellectual and financial resources as AT&T is complicit in a deal that knowingly fails to address something as fundamentally connected to a tower Siting as access and property rights. And their failure to do so now forces private citizens and neighbors to expend financial resources in order to protect their constitutional rights.

Cobble Hill is a genuine Falls Village jewel and a gateway to the community for anyone entering it from two major north/south thoroughfares. It is intrinsically connected to the economic welfare of the town, as Falls Village commerce depends considerably on its rural character and unspoiled vistas to attract tourists and visitors. Moreover, AT&T has failed to secure an accurate gauge of community sentiment, holding it's only public forum before it decided to relocate the tower from its original proposed location to one that negatively impacts – permanently - the scenic quality (and property values) of a much larger surrounding neighborhood including Music Mountain, Barrack Mountain and the Robin Swamp/Canaan Mountain and Undermountain Basin.

And so I ask you to deny the application, and in so doing send a message to AT&T that in their eagerness to install a cell tower on Cobble Hill, that they must file an application that is thorough and responsible, one that upholds a spirit of good corporate citizenship, the integrity of the process and the will of the community.

There are many alternatives to this site, both in technology and in location. Most residents located in the "service" area of the proposed tower indicate that they already receive adequate wireless coverage from the existing provider network. AT&T would best serve the needs of the people it intends to serve through this wireless communications proposal, by recognizing the overwhelming consequences it holds for our small New England town, and expending the necessary energy and resources to find an alternatively viable and minimally impactful wireless communications solution.

Respectfully submitted,



Guy Rovezzi  
36 Barnes Road  
Falls Village, CT 06031



# Exhibit #1

SURVEY

1. THIS SURVEY HAS BEEN PREPARED PURSUANT TO THE REGULATIONS OF CONNECTICUT STATE AGENCIES SECTIONS 20-300b-1 THROUGH 20-300b-20 AND THE "STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT" AS ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS INC. ON SEPTEMBER 26, 1996. THE BOUNDARY LINES SHOWN ON THIS PLAN WERE COMPILED FROM OTHER MAPS, RECORD RESEARCH OR OTHER SOURCES OF INFORMATION. IT IS NOT TO BE CONSTRUED AS HAVING BEEN OBTAINED AS THE RESULT OF A FIELD SURVEY, AND IS SUBJECT TO SUCH CHANGE AS AN ACCURATE FIELD SURVEY MAY DISCLOSE.

TYPE OF SURVEY: COMPILATION PLAN

BOUNDARY DETERMINATION CATEGORY: NONE

CLASS OF ACCURACY: HORIZONTAL CLASS A-2  
VERTICAL CLASS V-2  
TOPOGRAPHIC CLASS T-2

2. PROPERTY LINE SHOWN HEREON ARE FROM RECORD DEEDS PLOTS AND TAX MAPS AS OVERLAID ON ANY MONUMENTATION OR OTHER EVIDENCE THAT MAY HAVE BEEN LOCATED DURING THE TOPOGRAPHIC SURVEY. A PROPERTY SURVEY WAS NOT PERFORMED BY CLOUGH HARBOUR & ASSOCIATES LLP AND AS A RESULT THE PROPERTY LINES SHOWN ARE APPROXIMATE AND DO NOT PRESENT A PROPERTY/BOUNDARY OPINION.

3. BASE MAPPING PREPARED BY CLOUGH HARBOUR & ASSOCIATES LLP FROM A JULY 2009 FIELD SURVEY AND A JULY 2010 FIELD SURVEY.

4. NORTH ORIENTATION IS TRUE NORTH BASED ON GPS OBSERVATIONS TAKEN AT THE TIME OF THE FIELD SURVEY.

5. UNDERGROUND UTILITIES, STRUCTURES AND FACILITIES HAVE BEEN SHOWN FROM SURFACE LOCATIONS AND MEASUREMENTS OBTAINED FROM A FIELD SURVEY. THEREFORE THEIR LOCATIONS MUST BE CONSIDERED APPROXIMATE ONLY. THERE MAY BE OTHER UTILITIES WHICH THE EXISTENCE OF ARE NOT KNOWN. SIZE, TYPE AND LOCATION OF ALL UTILITIES AND STRUCTURES MUST BE VERIFIED BY PROPER AUTHORITIES PRIOR TO ANY AND ALL CONSTRUCTION. CALL DIG SAFE PRIOR.

6. SUBJECT TO ANY STATEMENT OF FACTS THAT AN UP-TO-DATE ABSTRACT OF TITLE WOULD DISCLOSE.

7. SUBJECT TO ALL RIGHTS, EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD.

8. LATITUDE/LONGITUDE ARE REFERENCED TO NAD83 CONNECTICUT ZONE. COORDINATES SHOWN, IF ANY, ARE EXPRESSED IN U.S. SURVEY FEET. ELEVATIONS ARE REFERENCED TO NAVD88. TOP OF STRUCTURE HEIGHT AS SHOWN, IF ANY, DETERMINED BY VERTICAL ANGLE OR BY ACTUAL LOCATION.

INFORMATION SHOWN BASED ON FAA 2C CERTIFICATION ACCURACY LEVEL DEFINED AS:

HORIZONTAL: ±50 FEET / 15 METERS  
VERTICAL: ±20 FEET / 6 METERS

9. SITE FALLS WITHIN ZONE "X" DEFINED AS AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOOD PLAIN AS SHOWN ON FLOOD INSURANCE RATE MAP, TOWN OF CANAAN, CONNECTICUT, LITCHFIELD COUNTY, COMMUNITY PANEL NUMBER 090044 0012 B, REVISED SEPTEMBER, 1988.

MAP REFERENCES:

1. "MAP SHOWING PROPERTY OF JOE BAKER" ROUTE 63 CANAAN, CONN. SCALE 1"=60', DATED JULY 27, 1992. PREPARED BY JOHN L. THOMPSON R.L.S. 09507. FILED IN THE TOWN CLERK'S OFFICE IN FALLS VILLAGE CT. AS MAP No. 480.
2. "MAP PREPARED FOR GAIL E. SINCLAIR" BARNES ROAD, CANAAN, CONNECTICUT. SCALE 1"=100', DATED DECEMBER 23, 2005. PREPARED BY MOTHIAS M. KIEFER L.L.S. 16101. FILED IN THE TOWN CLERK'S OFFICE IN FALLS VILLAGE CT. AS MAP No. 652.
3. "PROPOSED SUBDIVISION PLAN PROPERTY OF JOE BAKER" BARNES ROAD, CANAAN, CONN. SCALE 1"=50', DATED DEC. 14, 1973. PREPARED BY HOWARD B. STERNS JR. R.L.S. 7035. FILED IN THE TOWN CLERK'S OFFICE IN FALLS VILLAGE CT. AS MAP No. 122.
4. "MAP SHOWING PROPERTY OF ANTHONY J. FORINO" TOP OF COBBLE MOUNTAIN SOUTH & EAST OF BARNES ROAD, CANAAN, CONN. SCALE 1"=60', DATED MAY 7, 1995. PREPARED BY JOHN L. THOMPSON R.L.S. 09507. FILED IN THE TOWN CLERK'S OFFICE IN FALLS VILLAGE CT. AS MAP No. 503.

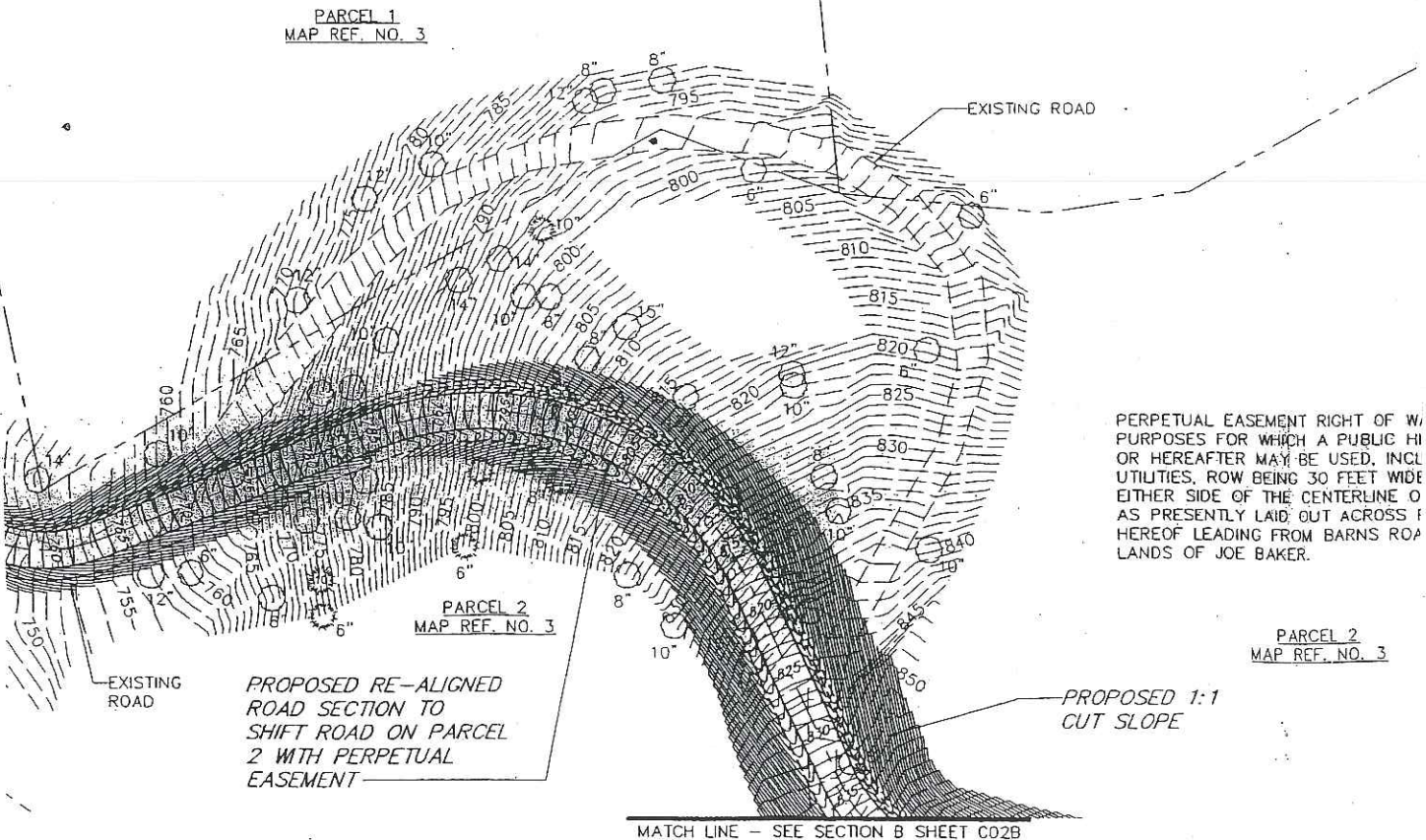




EXHIBIT #2

**CHRISTOPHER M. DAKIN**

ATTORNEY AT LAW  
11 HAMMERTOWN ROAD  
SALISBURY, CONNECTICUT 06088  
(860) 435-0473

April 4, 1997

Mr. Guy Rovezzi  
Barnes Road  
Falls Village, CT 06031

Dear Mr. Rovezzi:


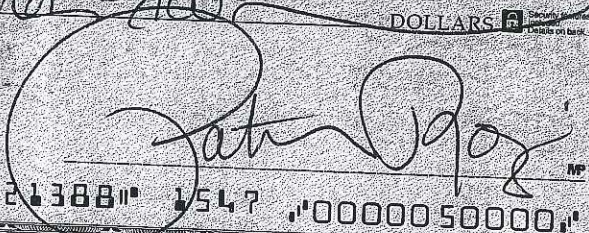
As you know, Tony Forino has, over the past year or so, had a substantial amount of work done on the road leading across your Barnes Road property and in the course of doing so has incurred expenses which he has paid and for which he has provided me with invoices which total some \$3,356.00 for materials and labor (not his). As you are aware, the parties having an interest (you, Joe Baker, and Tony) in the road are equally responsible for its upkeep. Tony has asked me to contact you with the bad news of the cost of maintaining the road and would like you to forward to me your check for one-third of those expenses he has incurred, or \$1,118.67, which I will pass along to him upon receipt.

In an effort to spare a few trees and to save on postage, I have not included copies of the invoices, but if you would like to have them for your records, I will be happy to forward them to you upon request.

Very truly yours,

Christopher M. Dakin

cc: Anthony J. Forino, Sr.

	<b>PATRICIA ROVEZZI</b>	51-2637111	1547
	<b>GUY ROVEZZI</b>	01000421388	
	36 BARNES RD. FALLS VILLAGE, CT 06031	DATE <u>4/25/97</u>	
PAY TO THE ORDER OF	<u>Anthony J. Forino Sr.</u>	\$ <u>500.-</u>	
	<u>five hundred and 00/100</u>	DOLLARS	
<b>NATIONAL IRON BANK</b> Since 1847	Falls Village, Connecticut 06031 (860) 824-5111		
MEMO			
⑆011102638⑆ 0100 0421388⑆ 1547 ⑆0000050000⑆			



**CHRISTOPHER M. DAKIN**

ATTORNEY AT LAW

11 HAMMERTOWN ROAD

SALISBURY, CONNECTICUT 06088

(860) (266) 435-0473

**TELECOPIER INFORMATION**

Date: August 18, 1997  
To: Patty Rovezzi  
ATTN:  
From: Christopher Dakin  
FAX No: 860-482-3590  
RE: Tony Forino road repairs

Per your message on my machine this morning, following is a copy of my letter to you of April 4, 1997, regarding the costs incurred by Tony Forino for road repairs. I did receive and pass on to Tony your check #1547 dated 4/25/97 in the amount of \$500.00, so the balance due Tony would be \$618.67. Should you have any questions, please don't hesitate to give me a call.



This transmission page is 1 of 2. Should there be a problem with the transmission, please contact us at 860-435-0473.

This facsimile transmission (and/or the documents accompanying it) may contain confidential information belonging to the sender which is protected by the attorney-client privilege. This information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this information by telephone

	<b>PATRICIA ROVEZZI</b> <b>GUY ROVEZZI</b> 36 BARNES RD FALLS VILLAGE, CT 06031	51-263/111 01000421388	1678
		DATE <u>8/15/97</u>	
PAY TO THE ORDER OF <u>Anthony J. Forino, Jr.</u>		\$ <u>618.67</u>	
<u>Six hundred eighteen and 00/100</u>			
NATIONAL IRON BANK Since 1947 Falls Village, Connecticut 06031 (860) 824-5111		MEMO <u>Balance in full</u>	
1011026381 0100 0121388 1678 0000061867			



**TO:** AT&T/New Cingular Wireless PCS, LLC  
**FROM:** Christopher B. Fisher, Esq., Lucia Chiochio, Esq., Anthony P. Luisi, Esq.  
**DATE:** April 26, 2011  
**RE:** Proposed Tower Site – Barnes Road, Falls Village, Connecticut (SR 2413)

**The Owner Of A Right Of Way Easement In Connecticut  
Has The Legal Right To Reasonably Repair And Improve The Right Of Way**

Under Connecticut law, the owner of a right of way easement has, as a matter of law, all the rights incident or necessary to its proper enjoyment, including specifically the right to make any repairs "reasonably necessary to make the right of way suitable and convenient." Kudlis v. Rocheleau, 1998 WL 638463, 23 Conn. L. Rptr. 137 (Conn. Super. 1998); see also Pudim v. Moses, 20 Conn. Supp. 311, 134 A.2d 478 (1957) ("It is well established that the owner of a right of way may repair it and do what is reasonably necessary to make it suitable and convenient").

Connecticut law is equally clear that this right to make reasonable repairs to a right of way, such as the Right of Way running from Barnes Road to the property of the Dorothy A. Forino Estate, also includes the right to lay a gravel surface on a right of way, where doing so is reasonably necessary to its proper use and enjoyment. See Hyde Road Development, LLC v. Pumpkin Assocs., LLC, 2010 WL 2682555, No. CV075005120S (Conn. Super. 2010) ("The language of the deed grants the right to 'construct, maintain, and repair a roadway' over parcel two, which naturally permits [plaintiff] to turn the right of way into a paved roadway").

Based on the above-cited Connecticut law, the right of an owner of a right of way easement to repair the same may arise automatically by operation of law, and/or from the express language of an agreement between the owners of the subject properties, such as the controlling written agreements in this matter. In this case, the right of the Estate of Dorothy A. Forino and its assignees, including AT&T/New Cingular Wireless PCS, LLC, to repair and improve the Right of Way arises by operation of law as well as from the express language of the controlling agreements and instruments of record.

The proposed repairs and improvements to the Right of Way, including laying gravel on the road and making other incidental alterations such as slope stabilization and drainage management, are necessary in order to access to the proposed tower site on the property of Dorothy A. Forino in connection with the construction phase of the project, as well as brief, monthly inspections of the tower site on an ongoing basis by our support technicians. In light of the fact that the grade of



certain portions of the Right of Way exceeds twenty percent (20%), access to the proposed tower site would be unreasonably constrained and essentially restricted without the proposed graveling, slope stabilization, and any other related and incidental improvements to the Right of Way.

In any event, the language of the instruments that created the Right of Way expressly permits the Estate of Dorothy A. Forino and AT&T/New Cingular Wireless PCS, LLC to make the proposed repairs and improvements.

As you are aware, the Right of Way was created under certain written agreements of record that were executed in 1981 and filed in the Town of Canaan Land Records at Volume 42, pages 189 through 198. In two separate Grant of Right of Way instruments, each dated June 12, 1981 and filed in the Town of Canaan Land Records at Volume 42, pages 194 and 195, respectively, Joseph Baker conveyed to Anthony J. Forino and his heirs and assigns forever, and to Catherine B. Osborn and her heirs and assigns forever, the Right of Way as "a perpetual easement right of way for all purposes for which a public highway now or hereafter may be used, including public utilities." (emphasis supplied). The Right of Way that Joseph Baker conveyed to Anthony J. Forino and Catherine B. Osborn and their respective heirs and assigns was measured as "being thirty (30) feet in width, fifteen (15) feet on either side of the centerline of a roadway as presently laid out across lands of the grantor leading from Barnes Road across Lot #5, as shown on Joseph Baker's proposed subdivision map, dated December 14, 1973. A copy of the Grant of Right of Way instrument that Joseph Baker executed in favor of Anthony J. Forino is annexed hereto as Exhibit A. A copy of the Grant of Right of Way instrument that Joseph Baker executed in favor of Catherine B. Osborn is annexed hereto as Exhibit B.

Approximately two weeks later, on June 26, 1981, Catherine B. Osborn, Joseph Baker, and Anthony J. Forino executed an agreement titled "Right of Way Agreement" (the "Agreement") concerning the Right of Way. In that Agreement, the parties, as adjacent owners of contiguous parcels of property south of Barnes Road, acknowledged that the Forino parcel had (and continues to have) valid and legal access to Barnes Road over the Osborn and Baker properties via the thirty (30) foot wide Right of Way.

In addition, the Agreement expressly contemplated future repairs to the Right of Way. While not expressly making any provision as to an "equal share in the maintenance and improvement decisions" between the parties with respect to the Right of Way (as indicated in the letter you recently received Patricia and Guy Rovezzi, Michael Burke, Marc Rosen, and Susan Pinsky, collectively referred to herein as the "Adjacent Property Owners"), the Agreement plainly reflects that the parties nonetheless agreed to share equally in all road repair costs. A copy of the Agreement is annexed hereto as Exhibit C.

The broadly-worded perpetual use of the Right of Way "for all purposes for which a public highway may now or hereafter be used, including public utilities," is further evidenced in: (1) a Deed from Catherine B. Osborn to Anthony J. Forino and Dorothy A. Forino, dated June 26, 1981, filed in the Town of Canaan Land Records at Volume 42, page 189, a copy of which is annexed hereto as Exhibit D; and (2) a Deed from Anthony J. Forino and Colangelo A. Forino to Catherine B. Osborn, dated August 4, 1981, filed in the Town of Canaan Land Records at Volume 42, page 192, a copy of which is annexed hereto as Exhibit E. In each of the two



foregoing Deeds, the parties expressed their unambiguous intent that the wood road comprising the Right of Way could be used for each and every purpose that a public highway could be used.

There can be no good faith disagreement that such broadly worded language necessarily includes the right of a beneficial owner of the Right of Way and any heirs or assigns thereof to lay gravel on the Right of Way and make any reasonably necessary repairs or improvements, including, for example, the installation of public utilities, re-grading, and/or drainage management. See Sgrignari v. Vallone, 1999 WL 367988, No. CV 97040-4191S (Conn. Super. 1999) (“To determine the character and extent of the easements at issue, the court must look to the language of the deed, the situation of the property and the surrounding circumstances in order to ascertain the intention of the parties”); Hyde Road Development, LLC v. Pumpkin Assocs., LLC, 2010 WL 2682555, No. CV075005120S (Conn. Super. 2010) (“The language of the deed grants the right to ‘construct, maintain, and repair a roadway’ over parcel two, which naturally permits [plaintiff] to turn the right of way into a paved roadway”).

In addition, notwithstanding the contractual obligations of the Adjacent Property Owners under the Agreement to pay an equal share of all repair costs for the Right of Way, we understand that the Adjacent Property Owners have never paid the Estate of Dorothy A. Forino or its predecessors (the “Forino Parties”), as the primary beneficiaries of the Right of Way, for any costs related to the construction, maintenance, or upgrades to the Right of Way over the past thirty years, all of which the Forino Parties undertook at their sole expense without any assistance from any of the Adjacent Property Owners. Nonetheless, none of the Adjacent Property Owners are being asked to contribute to any of the costs associated with the instant application or with the proposed repairs and improvements to the Right of Way, the same being waived by the Forino Parties and AT&T/New Cingular Wireless PCS, LLC. Accordingly, we do not see any valid basis upon which the Adjacent Property Owners can rely to demand an “equal share in the maintenance and improvement decisions that potentially affect” the Right of Way.



# Exhibit # 3





# Exhibit #4





Transportation  
Land Development  
Environmental  
Services



imagination | innovation | energy Creating results for our clients and benefits for our communities

August 25, 2010

Ref: 41502.06

Vanasse Hangen Brustlin, Inc.

Mr. David Vivian  
New Cingular Wireless PCS, LLC  
500 Enterprise Drive, Suite 3A  
Rocky Hill, Connecticut 06067

Re: Wetland Inspection  
Proposed AT&T Cingular Wireless Telecommunications Facility  
8 Barnes Road  
Canaan, Connecticut

Dear Mr. Vivian:

Vanasse Hangen Brustlin, Inc. (VHB) has completed on-site investigations to determine if wetlands and/or watercourses are located on the above-referenced Site. VHB has relied upon the accuracy of information provided by CHA (refer to attached Abutters Map) regarding the proposed lease area, access road, and utility easement locations for identifying wetlands and watercourses within and proximate to said locations.

VHB understands that AT&T proposes to construct a wireless telecommunications facility along the southwest side of Cobble Hill in Canaan, Connecticut (the "Site"). A proposed 12-foot wide gravel access drive will extend in a southeasterly direction off of Barnes Road generally along an existing gravel drive that currently provides access to a hunting cabin. The subject property is dominated by undeveloped upland forest. No wetlands or watercourses were identified (or delineated) on the Site or within 200 feet of proposed development activities during a July 1, 2010 field investigation. The nearest wetland/watercourse is located on an adjoining property across Barnes Road to the north approximately 200 feet from the proposed access drive entrance onto Barnes Road. Soils classified in the vicinity of the proposed development are generally consistent with published data (attached) as confirmed during the field investigation consisting of Hollis-Chatfield-Rock outcrop complex (soil symbol - 75). Hollis and Chatfield soils consist respectively of somewhat excessively drained, shallow (10 to 20 inches to bedrock) and well drained, moderately shallow (20 to 40 inches to bedrock) glacial till soils derived from gneiss, granite and schist. Therefore, the proposed development will not directly or indirectly affect wetlands or watercourses.

If you have any questions concerning this matter do not hesitate to call me.

Very truly yours,

VANASSE HANGEN BRUSTLIN, INC.

  
Dean Gustafson  
Professional Soil Scientist

Enclosures

\\c:\midat\PROJECTS\41502.06\reports\wetland\Falls Village Wetland Inspection\_082510.doc

54 Tuttle Place  
Middletown, Connecticut 06457-1847  
860.632.1500 • FAX 860.632.7879  
email: info@vhb.com  
www.vhb.com



# Exhibit #5





Rovezzi -Docket 409

# Exhibit #6

Make Yahoo! your homepage Mail

Video Local Shopping News More

cell tower fire

Search

Options

QuickApps

SafeSearch - On

34,200,000 results for cell tower fire:

Show All

Kansas City Star

YouTube

Video Sites

### I-435 Reopens After Cell Tower Fire

KANSAS CITY, Mo. -- A cellphone tower caught fire Thursday afternoon and shut down Interstate 435 for a couple hours. Police closed I-435 between Winner Road and ...  
[www.kmbc.com/news/28036654/detail.html](http://www.kmbc.com/news/28036654/detail.html) - [Cached](#)

### Cell tower fire sparks loathing anew - Wall, NJ Patch

A weekend fire atop a cellular telephone tower in neighboring Tinton Falls ignited residents' fear that the same could happen near their homes if a proposed ...  
[wall.patch.com/articles/cell-tower-fire-sparks-loathing-anew](http://wall.patch.com/articles/cell-tower-fire-sparks-loathing-anew) - [Cached](#)

### Cell phone tower fire burns itself out

[Jul 24, 2007] A cell phone tower on the property of the Howell High School complex on Highlander Way in Howell caught fire and forced the evacuation of several buildings ...  
[blog.mlive.com/.../07/updated\\_cell\\_phone\\_tower\\_fire.html](http://blog.mlive.com/.../07/updated_cell_phone_tower_fire.html) - [Cached](#)

### Cell Tower Fire - News Results

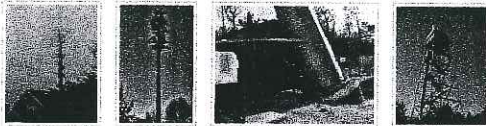
[Verizon Deploys Mobile Cell Site](#) FOX 10 Phoenix - Jun 03 09:26pm

[Wallow Fire Burns 106,000 Acres, At Least 3 Cabins](#)

CBS 5 Phoenix - Jun 03 07:43am

[Medina Police Report](#) Medina Press & News - 8 hours ago

### Cell Tower Fire - Image Results



### Cell Phone Tower Collapses After Fire

BOSTON -- A cell phone tower caught on fire in Wellesley on Friday afternoon. Friday, January 23, 2009.  
[www.thebostonchannel.com/news/18549832/detail.html](http://www.thebostonchannel.com/news/18549832/detail.html) - [Cached](#)

### Cell phone tower catches fire, collapses

WELLESLEY, Mass. -- A cell phone tower caught fire and collapsed to the ground Friday afternoon. The 100-foot tower is located at 978 Worcester Street in Wellesley ...  
[www.whdh.com/rss/read/news/articles/local/BO102487](http://www.whdh.com/rss/read/news/articles/local/BO102487) - [Cached](#)

### Cell tower planned outside fire station

A public hearing for a new cellphone tower at Columbia's Fire Station No. 2 was sparsely attended yesterday. Only reporters and a few AT&T representatives showed up ...  
[www.columbiatribune.com/news/2011/apr/21/cell-tower...](http://www.columbiatribune.com/news/2011/apr/21/cell-tower...) - [Cached](#)

### Cell phone tower collapses in Wellesley

A cell phone tower collapsed right off Route 9 eastbound early this afternoon, after a fire started underneath the tower while welders were working on it. The fire ...  
[www.metrowestdailynews.com/multimedia/x1278516165/Cell...](http://www.metrowestdailynews.com/multimedia/x1278516165/Cell...) - [Cached](#)

### Cell Tower Fire in New Jersey - CNN iReport

It's not common, and quite frankly the first that most of us has seen - but we were dispatched for a cell phone tower fire. The tower was near the border of ...  
[ireport.cnn.com/docs/DOC-543602?ref=feeds%2Flatest](http://ireport.cnn.com/docs/DOC-543602?ref=feeds%2Flatest) - [Cached](#)

### I-435 re-opens on the east side of KC

The highway was re-opened about 2:30 p.m. after being shut down for about 90 minutes after fire left a nearby cellular phone tower in an unstable condition.  
[www.kansascity.com/2011/05/26/2905996/cell-phone-tower...](http://www.kansascity.com/2011/05/26/2905996/cell-phone-tower...) - [Cached](#)

### YouTube - Cell Tower Burns to the Ground

A cellular tower caught fire in Wellesley, MA. I happened to be driving by, and was at a red light, so I went to take a video clip of it burning, when I ...  
[www.youtube.com/watch?v=0cT5cXuyiYY](http://www.youtube.com/watch?v=0cT5cXuyiYY) - [Cached](#)



### Cellular Tower Lease?

Approached For A Cell Tower? Wonder What A Fair Lease Rate Is?  
[www.SteeInTheAir.com](http://www.SteeInTheAir.com)

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### Communication Tower Parts

Mono Steel-Hardware-Ground Equip for Cell Tower Construction.  
[www.sitepro1.com](http://www.sitepro1.com)

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**Fatal bandwidth: 6 cell tower deaths in 5 weeks**

But this year's concentrated run of **cell tower accidents**, he says, was extraordinary. The toll, as recorded by Wireless Estimator: April 12: A 34-year-old **cell tower** ... [tech.fortune.cnn.com/2008/05/28/fatal-bandwidth-6-cell...](#) - [Cached](#)

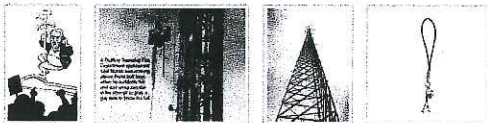
**Cell Phone Tower Accident: Lawyer: Seattle and Portland**

Cell Phones May Cause Cancer Announces WHO; Toyota Influenced Government Report on Vehicle Safety; Oregon Bill to Raise Speed Limits; Cardiac Stent Manufacturers Provide ... [www.personalinjurylawupdate.com/.../cell...tower\\_accident](#) - [Cached](#)

**Cell tower deaths - Fortune Tech: Technology blogs, news and ...**

But this year's concentrated run of **cell tower accidents**, he says, was extraordinary. The toll, as recorded by Wireless Estimator: April 12: A 34-year-old **cell tower** ... [tech.fortune.cnn.com/tag/cell-tower-deaths](#) - [Cached](#)

**Cell Tower Accident - Image Results**



**Cell Phone Tower Worker: Deadliest Job in America**

Cell Phone Radiation; Cell Phone Tower Accident; Child Injury; Choking Hazards; Cleaning Product Injury; Construction Accident; Cosmetic Safety; Crane Accidents [www.personalinjurylawupdate.com/damorelaw/2008/07/cell...](#) - [Cached](#)

**Cell Tower Climbing: Deadliest Job in United States?**

[Oct 27, 2008] **Cell tower** climbers perform work on these **cellular** telephone towers. ... The part that really impacts me the most is the simple fact that most **tower accidents** ... ( 10 Comments ) [www.associatedcontent.com/article/1129428/cell\\_tower...](#) - [Cached](#)

**Cell tower climbers surface as having the most dangerous job ...**

Cell tower climbers surface as having the most dangerous job in America ... resources have been developed to address those aspects of working on towers where accidents ... [www.wirelessestimator.com/t\\_content.cfm?pagename=Climber...](#) - [Cached](#)

**America's most lethal job is on cell towers**

America's most lethal job is on **cell towers** Workers' accident rate is higher than that of loggers, miners or offshore fishermen [www.heraldtribune.com/article/20070921/NEWS/709210477](#)

**Wireless Estimator - Cell Site Tower News**

Haynes was employed by Overland Contracting Inc., a Black & Veatch Company, and was reportedly hanging boom gates on a **Cell South tower** when the accident occurred. [www.wirelessestimator.com/...pagename=Cell+Site+Tower+News](#) - [Cached](#)

**WEPP News: Cell tower presents health concerns / EMR and ...**

Cell tower presents health concerns / EMR and 342,000 auto accident injuries / These towers are very harmful / Nigerian information false? [weepnews.blogspot.com/2009/08/cell-tower-presents-health...](#) - [Cached](#)

**Cell tower climbers may have the most dangerous job in America**

But this year's concentrated run of **cell tower accidents** is said to be extraordinary. The following, as recorded by Wireless Estimator, an online newsletter that covers ... [www.jerebeasleyreport.com/2008/09/cell-tower-climbers...](#) - [Cached](#)

**Cellular Tower Lease?**

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