



October 25, 2019

Federal Communications Commission
Via Commission's Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Re: Petition for Rulemaking filed by the Wireless Infrastructure Association (WIA), the Petition for Declaratory Ruling filed by WIA, and the Petition for Declaratory Ruling filed by CTIA, WT Docket No. 19-250; WC Docket 17-84; RM-11849

Dear Chairman Pai and Commissioners O'Rielly, Carr, Rosenworcel and Starks:

The City of Gaithersburg is submitting this letter in opposition to the requests included in the above captioned dockets seeking new rules or clarification of existing rules under Section 6409(a) of the Spectrum Act of 2012 and Section 224 of the Communications Act.¹ Gaithersburg believes that further rulemaking in this area will not only unconstitutionally preempt local government authority; it will result in delays, rather than promote, infrastructure deployment.

The City of Gaithersburg has worked diligently with the wireless infrastructure providers to facilitate and expedite deployment of wireless services in our community. We employed a collaborative public process, including industry representatives, to craft a Wireless Ordinance, Wireless Regulations and template agreements to comply with the Commission's 2018 Orders. This effort has resulted in the negotiation of Franchise Agreements and Master License Agreements with several providers, and we have worked cooperatively in identifying locations for deployment. Through this process, we have also been able to address the public's concerns with the aesthetics of the facilities, while meeting industry needs.

The three above referenced proceedings have the potential to disrupt this balance, causing significant delay in the deployment of facilities, as we would again be forced to amend our

¹ The City of Gaithersburg will also be filing Comments as a part of a larger municipal collation that more fully articulates the legal and practical reasons for opposing the identified Petitions. Still, these issues are of such importance to my constituents and my fellow elected officials; I am filing this letter separate and apart from that effort.

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Ordinances, Regulations and Agreements prior to issuing permits. Many of the aesthetic protections that our residents demanded and the industry providers have agreed to provide could be stripped from our control if the terms concealment element, equipment cabinet and base station are modified and the rules regarding collocations and substantial changes are expanded.

While I write on behalf of Gaithersburg, we are not alone. Municipalities across the State of Maryland have diligently pursued the adoption of aesthetic standards following the Commission's Declaratory Ruling and Third Report and Order in WT Docket No. 17-79 and WC Docket No. 17-84. To take away what little control the Commission has allocated to local governments to address the appearance of these facilities would be not only an overreach of the Commission's authority; it completely disregards the public's concerns with the appearance of these structures and preserving the community character of our neighborhoods.

The industry's attempt to again have the Commission expand the deemed granted remedy is equally troubling. Municipalities, like Gaithersburg, are working hard with limited staff and resources to meet the FCC shot clocks. However, industry tactics such as batching of applications and failing to cooperatively participate in the application and permitting process sometimes results in delays. Expansion of the deemed granted remedy could also result in significant public safety issues if installations are allowed to proceed without required approvals and permits.

For all of these reasons, the City of Gaithersburg opposes the pending Petitions filed by WIA and CTIA. The Commission's 2018 Orders have been in place for less than one year and are currently under appeal. Before taking additional regulatory action, the Commission should give local governments and the industry adequate time implement these Orders and to evaluate whether these Orders achieve the Commission's intended result. The City of Gaithersburg appreciates the opportunity to submit comments in these proceedings and respectfully requests that the Commission not undertake additional rulemaking at this time.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jud Ashman", followed by a long horizontal line extending to the right.

Jud Ashman, Mayor
City of Gaithersburg