

responsibility,¹¹ and contemporaneousness.¹² Credit for localism and civic involvement is given not for good deeds, but rather, is given to the extent it is a barometer of integrated principals' empirical knowledge of the contemporary problems, needs, and interests of the proposed service area. Newton Television Limited, 3 FCC Rcd 553, 555, ¶ 9 (Rev. Bd. 1988). As the Commission concluded in Sorenson, as between even two applicants that each have past local residency:

We agree with Midwest that it has a substantial advantage over Sorenson for civic activities. Eychaner has had greater and continuing involvement, whereas Sorenson has been involved in fewer activities and he has not shown a continuing significant involvement. While both applicants have long term residence sufficient to develop a continuing knowledge of local interests and needs, any advantage which accrues to Sorenson for his longer local residence is outweighed by Midwest's substantial advantage

¹¹ The majority of Davis' activities involve leadership positions (Conclusion ¶ 82), a factor cited with approval in Rebecca Boedker, 6 FCC Rcd 2557, 2558, ¶ 12 (1991), and Ronald Sorenson, 6 FCC Rcd 1952, 1953, ¶ 7 (1991), while ASF's and Ringer's activities have not involved leadership positions. Finding ¶¶ 6, 15. Moreover, Davis' activities involved exposure to a broad range of civic concerns, including, e.g., education of young adults (Columbus Minority Business Center "Women's Network for Entrepreneurial Training," Linden McKinley High School Presenter, Columbus Chamber of Commerce Project Future mentor, Ohio State University's Young Black Scholarship Program, Columbus Chapter of Link's Project Lead); business development (Columbus Chamber of Commerce); aid to the speech and hearing impaired (Columbus Speech and Hearing Board); promotion of minority and women issues (Project Diversity, New Directions Panelist, Columbus Regional Minority Supplier Development Council); assistance to senior citizens (New Salem Baptist Church Business Development Board); and assistance with other charitable causes (Member of the United Way Business Development Committee and a Red Cross Neighborhood Volunteer), a factor noted with approval in Ronald Sorenson, 6 FCC Rcd 1952, 1953, ¶ 7 (1991). Conclusion ¶ 82. The activities engaged in by Ringer and ASF's principal, Ardeth Frizzell, were far more limited in depth, scope, and variety. Finding ¶¶ 6, 15.

¹² ASF's and Ringer's activities ended in 1991. Finding ¶ 6, 15. WII's civic involvement is non-existent. Finding ¶ 25. Davis' activities are recent and in many cases ongoing. Finding ¶ 35. Accord, Rebecca Boedker, 6 FCC Rcd 2557, 2558 ¶ 12 (1991) (more credit given to applicant whose activities were current).

for civic activities indicating greater overall knowledge of and interest in the community. See 1965 Policy Statement, 1 FCC 2d at 396. Thus, in making the overall comparison of the two applicants, we find that Midwest is entitled to a significant enhancement credit on the local residence factor.

Ronald Sorenson, 6 FCC Rcd at 1953, ¶ 11. Similarly here, only Davis has engaged in a broad range of activities which evidences an extensive familiarity with the needs and interests of the residents of the station's proposed service area. Consequently, Davis should receive a significant enhancement preference over Ringer and ASF (who has engaged in minimal civic activities and has no past local or service-area residency), WII (who has no past civic involvement or local/area residency to draw upon), and ORA (which is not entitled to any quantitative integration credit) under the local residence/civic activities factor.

105. While Ringer, WII, and Davis all have proposed future residency (Conclusion 57, 67, and 75), only Ringer's and Davis' residency in the area already has commenced. Conclusion ¶ 57 and 67. As the Commission recently stated:

little or no credit beyond basic "quantitative" credit for proposing full-time integration of a principal is to be awarded merely on the strength of representations that he intends to commence local residence in the event his application is granted.

Gloria Bell Byrd, FCC 93-460 ¶ 22 (Oct. 1, 1993). In contrast, a "slight" enhancement is warranted for future residency that already has commenced. Newton Television, Ltd., 3 FCC Rcd 553, 555 (Rev. Bd. 1988).

106. Davis receives a substantial enhancement for minority involvement (Conclusion ¶ 84), a factor awardable to no other applicant. Conclusion ¶ 58, 68, 74, and 91.

107. While ASF and Ringer are entitled to a preference for past broadcast experience over Davis and WII (as well as ORA) due to their principals' past broadcast experience (Conclusions ¶ 59, 69, 77, 86, and 93), since lack of past broadcast experience is remediable, and "since emphasis upon this element could discourage qualified newcomers to broadcasting," this preference is only of "minor significance." Policy Statement, 1 F.C.C.2d at 396 and n.8. As between Ringer and ASF, ASF's principal has been involved in broadcast experience of greater variety and duration. Finding ¶¶ 9, and 18-19. ASF therefore receives a very slight preference over Ringer under this factor.

108. Finally, Davis (as well as ORA, Ringer, and ASF) receive a slight preference over WII for comparative coverage. Conclusion ¶ 88.

109. Based upon the foregoing, Davis, Ringer, ASF, and WII all enjoy a decisive and substantial quantitative integration preference over ORA. Moreover, Davis is entitled to two substantial enhancements to her 100% quantitative integration credit (for minority involvement and past local residency/civic activities), a slight enhancement (for future residency), a slight preference over Ringer, ASF, and WII (for auxiliary power), and a slight preference over WII for comparative coverage, and a substantial quantitative integration preference over ORA. ASF, in contrast, is entitled only to a single slight enhancement to its quantitative integration credit (for past broadcast experience), a slight preference over WII for comparative coverage, a slight preference over Ringer for past broadcast experience, and a substantial quantitative integration preference over ORA; Ringer is entitled to only to a one slight enhancement to his quantitative integration credit

(for future residency) and one very slight enhancement (for past broadcasting experience), a slight preference over WII for comparative coverage, and a substantial quantitative integration preference over ORA; and WII is entitled to absolutely no enhancements to its 100% quantitative integration credit or other preferences other than a substantial quantitative integration preference over ORA. ORA receives a slight preference over ASF, Ringer, and WII for auxiliary power; and one slight preference over WII for comparative coverage. In short, due to her entitlement to a greater number of enhancements and preferences, Davis is the comparatively superior applicant in this proceeding. Frank Digesu, Sr., 7 FCC Rcd 837, 841 ¶ 17 (Rev. Bd. 1992) (preferred applicant is the one with the greatest number of enhancements), remanded on other grounds, 7 FCC Rcd 5459 (1992).

WHEREFORE, it is respectfully requested that the Proposed Findings of Fact and Conclusions of Law submitted by Shellee F. Davis be adopted, and that the Presiding Judge, upon consideration of the foregoing Proposed Findings of Fact and Conclusions of Law, enter an ORDER as follows:

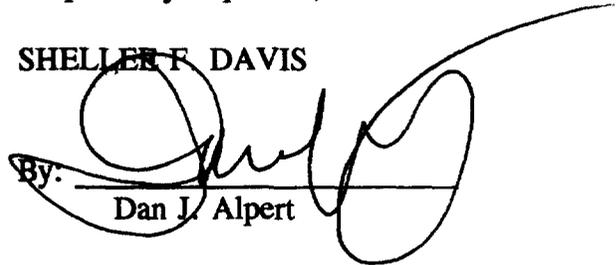
ACCORDINGLY, IT IS ORDERED, that unless an appeal is taken to the Commission by a party, or the Commission reviews this action pursuant to Section 1.276 of its Rules, the application of Shellee F. Davis is GRANTED, and the applications of David A. Ringer, ASF Broadcasting Company, Wilburn Industries, Inc., and Ohio Radio Associates are denied.

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October 25, 1993

Respectfully requested,

SHELLEE F. DAVIS

By: 

Dan J. Alpert

Her Attorney

CERTIFICATE OF SERVICE

I, Dan J. Alpert, hereby certify that foregoing document was served on October 25, 1993 upon the following parties by First Class Mail, postage prepaid, or by Hand:

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Administrative Law Judge
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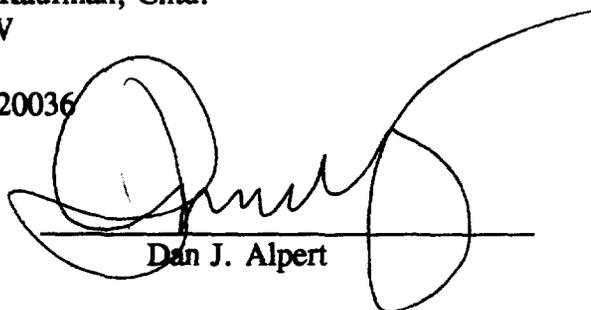
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