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BOARD OF COMMISSIONERS:
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Transylvania County

28 East Main Street
Brevard, NC 28712

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October 29, 1997

Mr. Bill Caton, Acting Chief
Office Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Re: FCC Preemption of local land-use decisions
Rule Making (Docket No. 97-182)

Dear Mr. Caton:

Transylvania County is opposed to any changes to the 1996 Federal Communications Act that would negate counties and municipalities ability to have land-use and building permit authority over television and radio broadcast towers. Specifically, Transylvania County is opposed to

- Any requirements that force local governments to act on all zoning and building permit requests for a broadcast tower within 21 to 45 days. A more reasonable timetable would be 90 to 180 days.
- FCC rules preempting local zoning and building permit requirements that are based on aesthetics, property values, tourism, and environmental considerations. Allowing local governments to demonstrate only that a proposed tower would create health or safety concerns as the requirement to not allow a tower is not reasonable.
- Allowing broadcasters unhappy with a local decision to appeal directly to the FCC, rather than going through the court system.

This past year, Transylvania County, a rural mountainous county in Western North Carolina was forced into a lengthy and expensive law-suit against Pappas Telecasting and Spartan Communications to prevent the construct a 2,500' TV tower on a prominent

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mountain in Transylvania County. Transylvania County prevailed in Federal Court. The Board of County Commissioners undertook this lawsuit knowing that such a tower would have a significant negative impact on the aesthetic and ultimately the County's economic welfare due to decreased property value and long term damage to our tourism economy. In addition, the County argued that there were other, less obtrusive areas in Western North Carolina and ways that Pappas could build this 2,500' TV tower. Ultimately, Pappas did find another location in an adjacent county and built a 600' tower.

Transylvania County strongly believes that the proposed rules, if adopted, would be detrimental to all counties and municipalities. Local governments should have the opportunity and right to determine the type and location of all TV, radio and telecommunication towers. Further, local governments should be able to defend their ordinances and actions in state and federal courts. We see no reason why local governments should have to defend their actions before the FCC in Washington, DC.

Should you have any questions or need further clarification on Transylvania County's position to oppose the current rule making process for docket No. 97-182, please let me know.

Sincerely,

R. H. Masengill
R. H. Masengill, Chairman
Transylvania County Board of Commissioners

Cc: US Senator Jesse Helms
US Senator Lauch Faircloth
US Representative Charles Taylor
Board of Commissioners
NC Association of County Commissioners
County Manager