

BENJAMIN J. CAYETANO
GOVERNOR



KAZU HAYASHIDA
DIRECTOR
DEPUTY DIRECTORS
BRIAN K. MINAII
GLENN M. OKIMOTO

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OCT 13 1997

FCC MAIL ROOM

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION
400 RODGERS BOULEVARD, SUITE 700
HONOLULU, HAWAII 96819-1880

IN REPLY REFER TO:

AIR-LG
97.1295

October 29, 1997

DOCKET FILE COPY ORIGINAL

Mr. William F. Caton
Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

Dear Mr. Caton:

This letter is in response to the FCC's Notice of Proposed Rule Making, MM Docket No. 97-182, regarding *Preemption of State and Local Zoning and Land Use Restrictions on the Siting, Placement and Construction of Broadcast Station Transmission Facilities*. The State of Hawaii, Department of Transportation, Airports Division, is the approval authority of airport zoning and land use issues as it pertains to new construction and alterations to current structures on our State airports.

We are strongly opposed to the preemptive provisions contained in the Notice of Proposed Rule Making, MM Docket No. 97-182, Appendix B. We object to the apparent attempt to bypass the land use and airport zoning approval process through the use of restrictive time deadlines and the eventual approval, without the local approving authority's consent.

We also feel that the overall safety of our airports will be compromised, because of the preemptive decision process proposed in FCC, MM Docket No. 97-182, which proposes the speeding up of the approval process. We consider our involvement in the airport land use and zoning approval process as a necessary check and balance, to properly insure that we have not overlooked any potential hazards to our airports. We must not let expediency of the approval process compromise the safety and well being of the travelling public.

Thank you for allowing us to present our views.

Sincerely,

A handwritten signature in cursive script that reads "Jerry M. Matsuda".

JERRY M. MATSUDA, P.E.
Airports Administrator

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FLORIDA

LAWTON CHILES
GOVERNOR



DEPARTMENT OF TRANSPORTATION

605 Suwannee Street, Tallahassee, Florida 32399-0450

THOMAS F. BARRY, Jr.
SECRETARY

November 4, 1997

Mr. William F. Caton
Acting Secretary
Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

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Re: Notice of Proposed Rule Making; MM Docket No. 97-182
In the Matter of:
Preemption of State and Local Zoning and Land Use Restrictions on the Siting,
Placement and Construction of Broadcast Station Transmission Facilities

Dear Secretary Caton:

We have reviewed the referenced notice of proposed rule making that would empower the Federal Communications Commission with the authority to preempt state and local zoning and land use laws when siting communication towers. The Florida Department of Transportation objects to the preemption of state and local government authority to regulate the siting, placement or construction of any structure that could affect the safety or efficiency of Florida's transportation system.

We recognize that there is a significant public interest in the expanded development of our nation's broadcast communications system. However, we do not believe the interest in the communications system should substitute the public interest in our national transportation system. The infrastructure for much of the transportation system and its operating expense is publicly funded. When infrastructure needs of the two systems conflict, resolution should not be at the expense of the public's safety or investment.

For example, preemption of state and local government authority to regulate the siting, placement or construction of broadcast station transmission facilities will impact the safety and efficiency of Florida's aviation system. A proposed communication tower that impacts navigable airspace is a public safety issue. To ensure safety, such a structure requires aviation operating accommodations that will limit or degrade aviation system capacity. Degradation of capacity jeopardizes Florida's economic welfare and public investment in our aviation system.

By _____ as road
Date _____

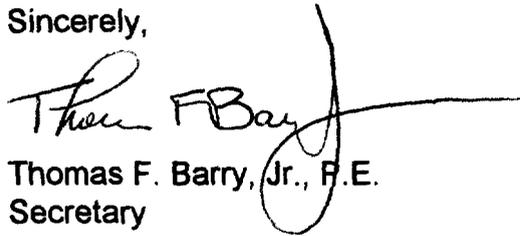
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Mr. William F. Caton
November 4, 1997
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To protect our investment, Florida has taken several years to carefully develop legislation that requires comprehensive land use and transportation system planning. These laws specifically require land use controls to assure that development remains consistent with our economic and environmental goals. Enforcement responsibility is shared by the Florida's Department of Community Affairs, Department of Environmental Protection, Department of Transportation and local agencies.

The Florida Department of Transportation with the other responsible state and local agencies have the expertise and are statutorily held accountable to provide a transportation system that safely and efficiently meets Florida's future development needs. To preempt Florida's comprehensive planning and implementation process could have serious negative economic and environmental consequences for our State.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas F. Barry, Jr.", with a long horizontal flourish extending to the right.

Thomas F. Barry, Jr., F.E.
Secretary

TFD/ar

cc: The Honorable Lawton Chiles, Governor