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# City of Alpena

RECEIVED CITY ATTORNEY'S OFFICE • 114 SOUTH SECOND AVENUE • ALPENA, MICHIGAN 49707

AUG 11 1999

August 4, 1999

FCC MAIL ROOM

Chairman William Kennard  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

ORIGINAL

*Ex Parte Filing* in cases WT 99-217; CC 96-98

Dear Chairman Kennard:

Please do not adopt the rule proposed in these cases allowing any phone company to serve any tenant of a building and to place their antenna on the building roof.

In some states 70 or more new phone companies have been certified to provide service. Add in the wireless phone companies and under your rule you may have 100 companies allowed to place their wires in a building, and their antennas on the roof-all without the landlord's permission.

The FCC lacks the authority to do this. It would violate basic property rights-a landlord, city or condominium has the right to control who comes on their property. Congress did not give the FCC the authority to condemn space for 100 phone companies in every building in the country.

The FCC cannot preempt state and local building codes, zoning ordinances, environmental legislation and other laws affecting antennas on roofs. Zoning and building codes are purely matters of state and local jurisdiction which under Federalism and the Tenth Amendment you may not preempt.

For example, building codes are imposed in part for engineering related safety reasons. These vary by region, weather patterns and building type-such as the likelihood of earthquakes, hurricanes and maximum amount of snow and ice. If antennas are too heavy or too high, roofs collapse. If they are not properly secured, they will blow over and damage the building, its inhabitants or passers-by.

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Similarly, zoning laws are matters of local concern which protect and promote the public health, safety and welfare, ensure compatibility of uses, preserve property values and the character of our communities. We may restrict the numbers, types, locations, size and aesthetics of antennas on buildings (such as requiring them to be properly screened) to achieve these legitimate goals, yet see that needed services are provided. This requires us to balance competing concerns-which we do every day, with success. Everyone wants garbage picked up, no one wants a transfer station. Everyone wants electricity, no one wants a substation near their home.

The application of zoning principles is highly dependent on local conditions. These vary greatly state by state, from municipality to municipality and within municipalities. We have successfully applied these principles and balanced competing concerns for eighty years. Zoning has not unnecessarily impeded technology or the development of our economy, nor will it here. There is simply no basis to conclude that for a brand-new technology (wireless fixed telephones) with a minuscule track record that there are problems on such a massive scale with the 38,000 units of local government in the U.S. as to warrant Federal action.

On rights of way, local management of them is essential to protect the public health, safety and welfare. Congress has specifically prohibited you from acting in this area.

We believe the telephone providers' complaints about rights-of-way management and fees are overblown, as show by the small number of court cases on this-only about a dozen nationwide in the three years since the 1996 Act. With 38,000 municipalities nationwide and thousands of phone companies this number of cases shows that the system is working, not that it is broken.

Finally, we are surprised that you suggest that the combined Federal, state and local tax burden on new phone companies is too high. The FCC has no authority to affect state or local taxes any more than it can affect Federal taxes.

For these reasons please reject the proposed rule and take no action on rights of way and taxes.

Very truly yours,



Keith Wallace  
City Attorney

cc: Commissioner Harold Furchtgott-Roth  
Commissioner Michael Powell  
Commissioner Gloria Tristani  
Commissioner Susan Ness  
✓ Ms. Magalie Roman Salas  
Mr. Jeffrey Steinberg  
Mr. Joel Tauenblatt  
International Transcription Services  
Mr. Kevin McCarty  
Mr. Barrie Tabin

Mr. Robert Fogel  
Mr. Lee Ruck  
Mr. Thomas Frost  
Senator Carl Levin  
Senator Spencer Abraham  
Congressman Bart Stupak

Mr. William Kennard, Chairman

Page 3

July 27, 1999

Copy: Mr. Harold Furchtgott-Roth, Commissioner  
Mr. Michael Powell, Commissioner  
Ms. Gloria Tristani, Commissioner  
Ms. Susan Ness, Commissioner  
Ms. Magalie Roman Salas, Secretary  
Mr. Jeffrey Steinberg, Wireless Telecommunications Bureau  
Mr. Joel Tauenblatt, Wireless Telecommunications Bureau  
International Transcription Services  
Mr. Kevin McCarty, U.S. Conference of Mayors  
Ms. Barrie Tabin, Legislative Counsel  
Mr. Robert Fogel, Associate Legislative Director  
Mr. Lee Ruck, Executive Director, NATOA  
Mr. Thomas Frost, Vice President, BOCA International  
U.S. Representative Bart Stupak, D-Mich.  
U.S. Senator Spencer Abraham, R-Mich.  
U.S. Senator Carl Levin, D-Mich.

\\MANAGER\Receptionist\Antenna Zoning Ltr.doc

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VILLAGE OF SCHAUMBURG



814  
AT

AUG 8 7 19 PM '99  
OFFICE OF THE CHAIRMAN

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**Municipal Center**  
101 Schaumburg Court  
Schaumburg, IL 60193-1899  
(847) 895-4500  
TDD 923-4435  
FAX 895-7806

**Health Department/  
Nursing Division**  
521 E. Schaumburg Road  
Schaumburg, IL 60194-3510  
(847) 895-4500  
TDD 923-4435  
FAX 923-4405

**Prairie Center for the Arts**  
201 Schaumburg Court  
Schaumburg, IL 60193-1880  
(847) 895-3600  
TDD 895-3638

**Police Department**  
1000 W. Schaumburg Road  
Schaumburg, IL 60194-4198  
(847) 882-3586  
TDD 882-3586  
FAX 882-3846

**Fire Department**  
1601 N. Roselle Road  
Schaumburg, IL 60195-3612  
(847) 885-6300  
TDD 885-9045  
FAX 885-6360

**Fire Prevention Bureau**  
1351 S. Wright Boulevard  
Schaumburg, IL 60193-4422  
(847) 985-4452  
TDD 985-9109  
FAX 985-4479

**Public Works Department**  
714 S. Plum Grove Road  
Schaumburg, IL 60193-4329  
(847) 895-7100  
TDD 923-4105  
FAX 895-6086

**Teen Center**  
231 S. Civic Drive  
Schaumburg, IL 60193-1257  
(847) 524-3388

**Family Counseling Center**  
217 S. Civic Drive  
Schaumburg, IL 60193-1257  
(847) 524-1505  
TDD 524-2201  
FAX 524-2201

Chairman William Kennard  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Ex Parte Letter Re: Cases WT 99-217; CC96-98 FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Chairman Kennard:

Please do not adopt the rule proposed in these cases allowing any phone company to serve any tenant of a building and to place their antenna on the building roof.

In some states 70 or more new phone companies have been certificated to provide service. Add in the wireless phone companies and under your rule you may have 100 companies allowed to place their wires in a building, and their antennas on the roof-all without the landlord's permission.

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The FCC cannot preempt state and local building codes, zoning ordinances, environmental legislation and other laws affecting antennas on roofs. Zoning and building codes are purely matters of state and local jurisdiction which under Federalism and the Tenth Amendment, the FCC may not preempt.

For example, building codes are imposed in part for engineering related safety reasons. These vary by region, weather patterns and building type-such as the likelihood of earthquakes, hurricanes and maximum amount of snow and ice. If antennas are too heavy or too high, roofs collapse. If they are not properly secured, they will blow over and damage the building, its inhabitants or passers-by.

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Chairman Kennard  
July 30, 1999  
Ex Parte Letter Re: Cases WT 99-217; CC96-98  
Page 2.

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On rights-of-way, local management of them is essential to protect the public health, safety and welfare. Congress has specifically prohibited the FCC from acting in this area.

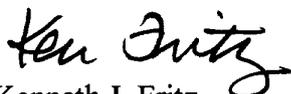
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Finally, we are surprised that you suggest that the combined Federal, state and local tax burden on new phone companies is too high. The FCC has no authority to affect state or local taxes any more that it can affect Federal taxes.

For these reasons please reject the proposed rule and take no action on rights-of-way and taxes.

Sincerely,

THE VILLAGE OF SCHAUMBURG



Kenneth J. Fritz  
Village Manager

cc: Village President and Board of Trustees

Commissioner Harold Furchtgott-Roth  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Mr. Jeffrey Steinberg  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street SW  
Washington D.C. 20554

Commissioner Michael Powell  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Mr. Joel Tauenblatt  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street SW  
Washington D.C. 20554

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July 30, 1999  
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Commissioner Gloria Tristani  
Federal Communications Commission  
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Commissioner Susan Ness  
Federal Communications Commission  
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Washington, DC 20554

Ms. Magalie Roman Salas (2 copies)  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

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Executive Director  
NATOA  
1650 Tysons Road  
Suite 200  
McLean, VA 22102-3915

Mr. Thomas Frost  
Vice President, Engineering Services  
BOCA International  
4051 West Flossmoor Road  
Country Club Hills, IL 60478

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Kluczynski Federal Building  
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Chicago, IL 60604

International Transcription Services  
445 12th Street SW  
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Mr. Kevin McCarty  
Assistant Executive Director  
U.S. Conference of Mayors  
1620 I Street  
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Ms. Barrie Tabin  
Legislative Counsel  
National League of Cities  
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6th Floor  
Washington D.C. 20004

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Associate Legislative Director  
National Association of Counties  
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8th Floor  
Washington D.C. 20001

Rep. Philip Crane  
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Arlington Heights, IL 60005

U.S. Senator Richard Durbin  
Kluczynski Federal Building  
230 S. Dearborn St., Suite 3892  
Chicago, IL 60604



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**CITY OF COCONUT CREEK**

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CITY MANAGER'S OFFICE  
4800 WEST COPANS ROAD  
COCONUT CREEK, FL 33063  
OFFICE OF THE CHAIRMAN

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**ORIGINAL**

August 3, 1999

Chairman William Kennard  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
446 Washington, DC 20554

Ex Parte Filing in cases WT 99-217; CC96-98

Dear Chairman Kennard:

Please do not adopt the rule proposed in the above cases allowing any phone company to serve any tenant of a building and to place their antenna on the building roof.

In some states 70 or more new phone companies have been certificated to provide service. Add in the wireless phone companies and under your rule you could have 100 companies allowed to place their wires in a building, and their antennas on the roof--all without the landlord's permission.

The FCC lacks the authority to do this. To do so would violate basic property rights. A landlord, city or condominium has the right to control who comes on their property and to protect the roofs of their buildings. Congress did not give the FCC the authority to condemn space for 100 phone companies in every building in the country.

The FCC cannot preempt state and local building codes, zoning ordinances, environmental legislation and other laws affecting antennas on roofs. Zoning and building codes are purely matters of state and local jurisdiction which under Federalism and the Tenth Amendment, you may not preempt.

For example, building codes are imposed in part for engineering related safety reasons. These vary by region, weather patterns and building type—such as the likelihood of earthquakes, hurricanes and maximum amount of snow and ice. If antennas are too heavy or too high, roofs collapse. If they are not properly secured, they will blow over and damage the building, its inhabitants or passers-by.

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Chairman William Kennard  
Federal Communications Commission  
August 3, 1999

Page 2

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The application of zoning principles is highly dependent on local conditions. These vary greatly state by state, from municipality to municipality and within municipalities. We have successfully applied these principles and balanced competing concerns for 32 years. Zoning has not unnecessarily impeded technology or the development of our economy, nor will it here. There is simply no basis to conclude that for a brand-new technology (wireless fixed telephones) with a minuscule track record that there are problems on such a massive scale with the 38,000 units of local government in the U.S. as to warrant Federal intervention at the levels proposed.

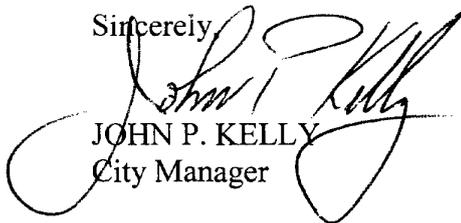
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Sincerely,



JOHN P. KELLY  
City Manager

(see attached sheet for individuals who received copies)

Cc: Commissioner Harold Furchtgott-Roth, FCC  
Commissioner Michael Powell, FCC  
Commissioner Gloria Tristani, FCC  
Commissioner Susan Ness, FCC  
Ms. Magalie Roman Salas (two copies)  
FCC  
Mr. Jeffrey Steinberg, FCC  
Mr. Joel Tauenblatt, FCC  
Thomas Frost, V.P. Eng. Svcs.  
BOCA International  
Thomas Frost, VP, Engineering Svcs.  
BOCA International  
Senator Connie Mack  
United States Senate  
Representative Alcee L. Hastings  
US House of Representatives  
Representative E. Clay Shaw  
US House of Representatives  
International Transcription Services  
Washington, DC  
Mr. Kevin McCarty  
US Conference of Mayors  
Ms. Barrie Tabin  
National League of Cities  
Robert Fogel, Associate Leg. Director  
National Association of Counties  
Lee Ruck, Executive Director  
NATOA  
Senator Bob Graham  
United States Senate  
Representative Robert Wexler  
US House of Representatives  
Rep. Peter Deutsch  
US House of Representatives

Sec'y

THE CITY OF

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RE  
Mont Belvieu  
Aug 5 11 39 AM '99

11607 Eagle Drive • Post Office Box 1048 • Mont Belvieu, Texas 77580 • (281) 576-2213 • (281) 385-2266 • Fax (281) 385-2194

OFFICE OF THE CHAIRMAN

August 2, 1999

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Chairman William Kennard  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

*Ex Parte Filing* in cases WT 99-217; CC 96-98

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Bob Lee  
Mayor  
Kevin Law • Lonnie Follis • Dennis Leonard • Judy Duncan • Dr. Gary L. Boehme  
City Council

Douglass F. Maurer  
City Administrator

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Very truly yours,



Douglass F. Maurer  
City Administrator

Page 3 – Chairman Kennard

Cc:

Commissioner Harold Furchtgott-Roth  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Commissioner Michael Powell  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Commissioner Gloria Tristani  
Federal Communications Commission  
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Ms. Magalie Roman Salas (two copies)  
Secretary  
Federal Communications Commission  
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Washington, DC 20554

Ms. Barrie Tabin  
Legislative Counsel  
National League of Cities  
1301 Pennsylvania Ave., N.W.  
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Washington, DC 20004

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Associate Legislative Director  
National Association of Counties  
440 First Street, N.W.  
8<sup>th</sup> Floor  
Washington, DC 20001

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445 12<sup>th</sup> Street SW  
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Executive Director  
NATOA  
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McLean, VA 22102-3915

Mr. Thomas Frost  
Vice President, Engineering Services  
BOCA International  
4051 West Flossmoor Road  
Country Club Hills, IL 60478

Senator David Bernsen  
P.O. Box 822  
Beaumont, Texas 77704

Representative Zeb Zbranek  
P.O. Box 2910  
Austin, Texas 78768

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# The City of Marshall

E.F. "BUD" BLOODWORTH • MAYOR

• Utility Office • 201 S. Michigan Avenue • P.O. Box 298 • Marshall, Illinois 62441 • 217/826-8084 • 217/826-2949 Fax •

GEORGE Q. SMITH  
Superintendent of Utility

ROGER WATWOOD  
Assistant Superintendent

KILE L. NAVE  
Chief of Police

STEVE CALHOUN  
Office Manager

August 03, 1999

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Chairman William Kennard  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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Sincerely



Emory F. Bloodworth  
Mayor

pc: Commissioner Harold Furchtgott-Roth  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Commissioner Michael Powell  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

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Assistant Executive Director  
U.S. Conference of Mayors  
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Washington, DC 20554

**Ms. Magalie Roman Salas**  
Secretary  
Federal Communications Commission  
445 12th Street SW  
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**Ms. Barrie Tabin**  
Legislative Council  
National League of Cities  
1301 Pennsylvania Ave., N.W.  
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Washington, DC 20004

**Mr. Robert Fogel**  
Associate Legislative Director  
National Association of Counties

**Representative David Phelps**  
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**Mr. Lee Ruck**  
Executive Director  
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McLean, VA 22102-3915

**Mr. Thomas Frost**  
Vice President, Engineering Services  
BOCA International  
4051 West Flossmoor Road  
Country Club Hills, IL 60478

**Senator Richard Durbin**  
364 Russell Office Building  
Washington, DC 20510

**Senator Peter Fitzgerald**  
B40-5 Dirksen Building  
Washington, DC 20510



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OFFICE OF THE SECRETARY

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Dear Chairman Kennard:

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In some states, 70 or more new phone companies have been certificated to provide service. Add in the wireless phone companies, and under your rule, you may have 100 companies allowed to place their wires in a building and their antennas on the roof - all without the landlord's permission.

The FCC lacks the authority to do this. It would violate basic property rights - a landlord, city or condominium has the right to control who comes on their property. Congress did not give the FCC the authority to condemn space for 100 phone companies in every building in the country.

The FCC cannot preempt state and local building codes, zoning ordinances, environmental legislation and other laws affecting antennas on roofs. Zoning and building codes are purely matters of state and local jurisdiction, which under Federalism and the Tenth Amendment, you may not preempt.

For example, building codes are imposed in part for engineering related safety reasons. These vary by region, weather patterns and building type - such as the likelihood of earthquakes, hurricanes and maximum amount of snow and ice. If antennas are too heavy or too high, roofs collapse. If they are not properly secured, they will blow over and damage the building, its inhabitants or passers-by.

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The application of zoning principles is highly dependent on local conditions. These vary greatly state by state, from municipality to municipality and with municipalities. We have successfully applied these principles and balanced competing concerns for eighty years. Zoning has not unnecessarily impeded technology or the development of our economy, nor will it here. There is simply no basis to conclude that for a brand-new technology (wireless fixed telephones) with a minuscule track record that there are problems on such a massive scale with the 38,000 units of local government in the US as to warrant Federal action.

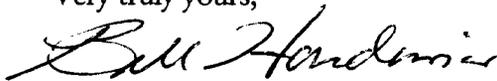
On rights-of-way, local management of them is essential to protect the public health, safety and welfare. Congress has specifically prohibited your from acting in this area.

We believe the telephone providers' complaints about rights-of-way management and fees are overblown, as shown by the small numbers of court cases on this, which is only about a dozen nationwide in the three years since the 1996 Act. With 38,000 municipalities nationwide and thousands of phone companies, this number of cases shows that the system is working, not that it is broken.

Finally, we are surprised that you suggest that the combined Federal, state, and local tax burden on new phone companies is too high. The FCC has no authority to affect state or local taxes any more than it can affect Federal taxes.

For these reasons, please reject the proposed rule and take no actin on rights-of-way and taxes.

Very truly yours,



Bill Hardiman  
City of Kentwood

Cc:

Commissioner Harold Furchtgott-Roth  
FCC  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Commissioner Susan Ness  
FCC  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Commissioner Michael Powell  
FCC  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Ms. Magalie Roman Salas (two copies)  
Secretary  
FCC  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Commissioner Gloria Tristani  
FCC  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Mr. Jeffrey Steinberg  
Wireless Telecommunications Bureau  
FCC  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Mr. Joel Tauenblatt  
Wireless Telecommunications Bureau  
FCC  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

International Transcription Services  
445 12<sup>th</sup> Street SW  
Room CY-B402  
Washington, DC 20554

Mr. Kevin McCarty  
Assistant Executive Director  
US Conference of Mayors  
1620 I Street  
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Ms. Barrie Tabin  
Legislative Counsel  
National League of Cities  
1301 Pennsylvania Ave. NW  
6<sup>th</sup> Floor  
Washington, DC 20004

Mr. Robert Fogel  
Associate Legislative Director  
National Association of Counties  
440 First Street NW  
8<sup>th</sup> Floor  
Washington, DC 20001

Mr. Lee Ruck  
Executive Director  
NATO  
1650 Tysons Road, Suite 200

McLean, VA 22102-39125

Mr. Thomas Frost  
Vice President, Engineering Services  
BOCA International  
4051 West Flossmoor Road  
Country Club Hills, IL 60478

The Honorable Vern Ehlers  
United States Representative  
1714 Longworth House Office Building  
Washington, DC 20515

The Honorable Carl Levin  
United States Senator  
459 Russell Senate Office Building  
Washington, DC 20510

The Honorable Spencer Abraham  
United States Senator  
329 Dirksen Senate Office Building  
Washington, DC 20510-2203

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August 5, 1999

EX PARTE OR LATE FILED

Chairman William Kennard  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

**Re: Ex Parte Filing in Cases WT 99-217; CC96-98; Preemption of State/Local Rules and Deed Restrictions Affecting Placement of Telecom Antennas; Preempting Taxation of Telephone Companies**

Dear Chairman Kennard:

Please do not adopt the rule proposed in these cases allowing any telephone company that serves tenants of a building to place their antenna and related facilities in and on the buildings notwithstanding any governmental regulations to the contrary or the building owners' objections.

In some states, 70 or more new telephone companies have been certificated to provide service. If you include the wireless phone companies under your rule you may have 100 companies allowed to place their wires and antennas on and in a building, including the roof – all without the owner's permission and possibly contrary to government regulations.

The FCC lacks the authority to enact this rule because it violates property rights, specifically, the owner of the property whose rights include who may enter onto their property and locate fixtures thereon. Congress did not give the FCC the authority to condemn space for phone companies in every building in the country, and yet this is the effect of this rule.

In addition to property owners' rights, governments are also adversely affected. For example, building codes are for engineering related safety reasons. These regulations vary by region due to building type to account for many factors such as potential earthquakes,

L-WT 99-217

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John Longstreet  
Mayor

Cheryl D. Williams  
Mayor Pro tem

Rick Neudorff  
Deputy Mayor Pro tem

Pat Evans  
Place 2

Phil Dyer  
Place 3

Steve Stovall  
Place 5

John R. Roach, Jr.  
Place 7

Dick Bode  
Place 8

Thomas H. Muehlenbeck  
City Manager

hurricanes, tornadoes and maximum amount of snow and ice. If antennas are too heavy or too high, they pose a direct threat to the building's integrity and safety of persons. Further, if antennas are not properly secured, they may fall and damage the building, or injure the inhabitants or passers-by.

Similarly, zoning laws are matters of local concern and are designed to protect and promote the public health, safety and welfare, ensure compatibility of uses, preserve property values and the character of our communities. We may restrict the numbers, types, locations, size and aesthetics of antennas on buildings (such as requiring them to be properly screened) to achieve these legitimate goals, yet see that needed services are provided. This requires us to balance competing concerns – which we do every day, with success without the necessity for this rule.

It is Plano's position that the telephone providers' complaints about rights-of-way management and fees are overblown, as shown by the small number of court cases on this – only about a dozen nationwide in the three years since the 1996 Act. With 38,000 municipalities nationwide and thousands of phone companies, this number of cases shows that the system is working, and the proposed rule is unnecessary.

Finally, their request to preempt local and state taxes because of the concern that the combined Federal, state and local tax burden on new phone companies is too high is not only unfounded, the FCC has no authority to affect state or local taxes any more that it can affect Federal taxes.

For these reasons, please reject the proposed rule and take no action on rights-of-way and taxes.

Very truly yours,



Diane C. Wetherbee  
City Attorney

DW/lk

c: Thomas H. Muehlenbeck, City Manager  
Phyllis Jarrell, Director of Planning

c: Commissioner Harold Furchtgott-Roth  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Commissioner Michael Powell  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Commissioner Gloria Tristani  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Commissioner Susan Ness  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Mr. Jeffrey Steinberg  
Wireless Telecommunications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Mr. Joel Tauenblatt  
Wireless Telecommunications Bureau  
Federal Communications Commission  
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Washington, DC 20554

Mr. Kevin McCarty  
Assistant Executive Director  
U.S. Conference of Mayors

620 I Street. Fourth Floor  
Washington, DC 20006

Ms. Barrie Tabin  
Legislative counsel  
National League of Cities  
130 Pennsylvania Ave., NW, 6<sup>th</sup> Floor  
Washington, DC 20004

Mr. Robert Fogel  
Associate Legislative Director  
National Association of Counties  
440 First Street, NW, 8<sup>th</sup> Floor  
Washington, DC 20001

The Honorable Sam Johnson  
House of Representatives  
Room 1030 Longworth House Office Building  
Washington, DC 20515

Mr. Lee Ruck  
Executive Director  
NATOA  
1650 Tysons Road, Suite 200  
McLean, VA 22102-3915

Mr. Thomas Frost  
Vice President, Engineering Services  
BOCA International  
4051 West Flossmoor Road  
Country Club Hills, IL 60478

The Honorable Phil Gramm  
United States Senator  
Room 370 Russell Senate Office Building  
Washington, DC 20510

The Honorable Kay Bailey Hutchison  
United States Senator  
Room 184 Russell Senate Office Building  
Washington, DC 20510



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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

A. Allen Ramsey  
Mayor

**ORIGINAL**

August 2, 1999

Chairman William Kennard  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Ex Parte Filing in cases WT 99-217, CC 96-98

Dear Chairman Kennard:

Please do not adopt the rule proposed in these cases allowing any phone company to serve any tenant of a building and to place their antenna on the building roof.

In some states 70 or more new phone companies have been certificated to provide service. Add in the wireless phone companies and under your rule you may have 100 companies allowed to place their wires in a building, and their antennas on the roof - all without the landlord's permission.

The FCC lacks the authority to do this. It would violate basic property rights - a landlord, city or condominium has the right to control who comes on their property. Congress did not give the FCC the authority to condemn space for 100 phone companies in every building in the country.

The FCC cannot preempt state and local building codes, zoning ordinances, environmental legislation and other laws affecting antennas on roofs. Zoning and building codes are purely matters of state and local jurisdiction which under Federalism and the Tenth Amendment you may not preempt.

For example, building codes are imposed in part for engineering related safety reasons. These vary by region, weather patterns and building type--such as the likelihood of earthquakes, hurricanes and maximum amount of snow and ice. If antennas are too heavy or too high, roofs collapse. If they are not properly secured, they will blow over and damage the building, its inhabitants or passers-by.

Similarly, zoning laws are matters of local concern which protect and promote the public health, safety and welfare, ensure compatibility of uses, preserve property values

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Page 2  
Chairman William Kennard  
Federal Communications Commission  
August 2, 1999

and the character of our communities. We may restrict the numbers, types, locations, size and aesthetics of antennas on buildings (such as requiring them to be properly screened) to achieve these legitimate goals, yet see that needed services are provided. This requires us to balance competing concerns--which we do every day, with success. Everyone wants garbage picked up, no one wants a transfer station. Everyone wants electricity, no one wants a substation near their home.

The application of zoning principles is highly dependent on local conditions. These vary greatly state by state, from municipality to municipality and within municipalities. We have successfully applied these principles and balanced competing concerns for eighty years. Zoning has not unnecessarily impeded technology or the development of our economy, nor will it here. There is simply no basis to conclude that for a brand-new technology (wireless fixed telephones) with a minuscule track record that there are problems on such a massive scale with the 38,000 units of local government in the U.S. as to warrant Federal action.

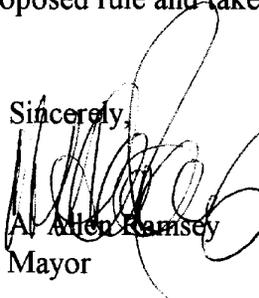
On rights of way, local management of them is essential to protect the public health, safety and welfare. Congress has specifically prohibited you from acting in this area.

We believed the telephone providers' complaints about rights-of-way management and fees are overblown, as show by the small number of court cases on this--only about a dozen nationwide in the three years since the 1996 Act. With 38,000 municipalities nationwide and thousands of phone companies this number of cases shows that the system is working, not that it is broken.

Finally, we are surprised that you suggest that the combined Federal, state and local tax burden on new phone companies is too high. The FCC has no authority to affect state or local taxes any more than it can affect Federal taxes.

For these reasons please reject the proposed rule and take no action on rights-of-way and taxes.

Sincerely,



Al Allen Ramsey  
Mayor

AAR/gfc

Copies to:

Commissioner Harold Furchtgott-Roth  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Commissioner Michael Powell  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Commissioner Gloria Tristani  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Commissioner Susan Ness  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Mr. Jeffrey Steinberg  
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Mr. Robert Fogel, Assoc. Leg. Dir.  
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Engineering Services - BOCA Int'l  
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Honorable Jeff Sessions  
United States Senator  
U. S. Senate  
Washington, DC 20510

Honorable Richard Shelby  
United States Senator  
110 Hart Building  
Washington, DC 20510-0103

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SCHERTZ, TEXAS 78154-0890  
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KERRY R. SWEATT  
CITY MANAGER

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July 26, 1999

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Chairman William Kennard  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ex Parte Filing in cases WT 99-217; CC 96-98

Chairman Kennard:

Please do not adopt the rule proposed in these cases allowing any phone company to serve any tenant of a building and to place their antenna on the building roof.

In some states 70 or more new phone companies have been certified to provide service. Add in the wireless phone companies and under your rule you may have 100 companies allowed to place their wires in a building, and their antennas on the roof- all without the landlord's permission.

The FCC lacks the authority to do this. It would violate basic property rights- a landlord, city or condominium has the right to control who comes on their property. Congress did not give the FCC the authority to condemn space for 100 phone companies in every building in the country.

The FCC cannot preempt state and local building codes, zoning ordinances, environmental legislation and other laws affecting antennas on roofs. Zoning and building codes are purely matters of state and local jurisdiction which under Federalism and the Tenth Amendment you may not preempt.

For example, building codes are imposed in part for engineering related safety reasons. These vary by region, weather patterns and building type - such as the likelihood of earthquakes, hurricanes and maximum amount of snow and ice. If antennas are too heavy or too high, roofs collapse. If they are not properly secured, they will blow over and damage the building, its inhabitants or passers-by.

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We believe the telephone providers' complaints about rights-of-way management and fees are overblown, as shown by the small number of court cases on this-only about a dozen nationwide in the three years since the 1996 Act. With 38,000 municipalities nationwide and thousands of phone companies this number of cases shows that the system is working, not that it is broken.

Finally, we are surprised that you suggest that the combined Federal, state and local tax burden on new phone companies is too high. The FCC has no authority to affect state or local taxes any more than it can affect Federal taxes.

For these reasons, please reject the proposed rule and take no action on rights of way and taxes.

Please let me know if we may furnish other information.

Sincerely,



Kerry R. Sweatt  
City Manager

KRS:db

cc: Mayor and City Council

Commissioner Harold Fruchtgott-Roth  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Mr. Jeffrey Steinberg  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12 Street SW  
Washington, DC 20554

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**City of Malibu**  
23555 Civic Center Way, Malibu, California 90263  
(310) 456-2489 Fax (310) 456-3356  
Harry R. Peacock, City Manager

July 30, 1999

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**AUG 11 1999**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Chairman William Kennard  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Re: Ex Pare Filing in cases WT 99-217; CC 96-98

Dear Chairman Kennard:

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Commissioner Michael Powell  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Commissioner Gloria Tristani  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Commissioner Susan Ness  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Ms. Barrie Tabin  
Legislative Counsel  
National League of Cities  
1301 Pennsylvania Ave., N.W.  
6<sup>th</sup> Floor  
Washington, DC 20004

Mr. Robert Fogel  
Associate Legislative Director  
National Association of Counties  
440 First Street, N.W. 8<sup>th</sup> Floor  
  
Washington, DC 20001

The Honorable Lamar Smith  
U.S. House of Representatives  
2443 Rayburn HOB  
Washington, DC 20510

The Honorable Kay Bailey Hutchison  
U.S. Senate  
283 Russell Senate Building  
Washington, DC 20510

Mr. Joel Tauenblatt  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

International Transcription Services  
445 12<sup>th</sup> Street SW  
Room CY-B402  
Washington DC 20554

Mr. Kevin McCarty  
Assistant Executive Director  
U.S. Conference of Mayors  
1620 I Street, Fourth Floor  
Washington, DC 20006

Mr. Lee Ruck  
Executive Director  
NATO  
1650 Tysons Road  
Suite 200  
McLean, VA 22102-3915

Mr. Thomas Frost  
Vice President, Engineering Services  
BOCA International  
4051 West Flossmoor Road  
Country Club Hills, IL 60478

The Honorable Phil Gramm  
U.S. Senate  
370 Russell Senate Building  
Washington, DC 20515

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For these reasons please reject the proposed rule and take no action on rights of way and taxes.

Sincerely,

CITY OF MALIBU



Harry R. Peacock  
City Manager

HP:vjb





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city of **Belding**, michigan

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Chairman William Kennard  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

*Ex Patre Filing* in cases WT99-217; CC 96-98

Dear Chairman Kennard:

Please do not adopt the rule proposed in these cases allowing any phone company to serve any tenant of a building and to place their antenna on the building roof.

In some states 70 or more new phone companies have been certificated to provide service. Add in the wireless phone companies and under your rule you may have 100 companies allowed to place their wires in a building, and their antennas on the roof-all without the landlord's permission.

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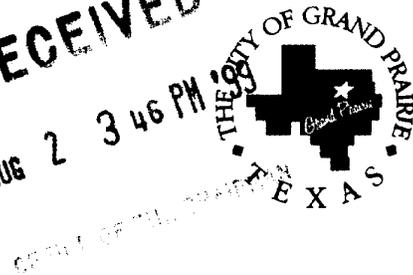
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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July 29, 1999

Chairman William Kennard  
Federal Communications Commission  
445 12th St. SW  
Washington DC 20554

ORIGINAL

Dear Chairman Kennard:

Please do not adopt the rule proposed in the Ex Parte Filing in Cases WT99-217 and CC 96-98 that would:

- \* preempt state and local laws, ordinances, building codes and deed restrictions affecting telecommunications antennas
- \* allow multiple telephone companies to place their wires in buildings and their antennas on buildings without the permission of the building owner
- \* preempt local management of rights of way, compensation, permitting and fees regarding telephone companies
- \* consider preempting state and local taxation of telephone companies.

In some states, more than 70 phone companies have been certified to provide service. Add in the wireless phone companies and under this rule, cities and building owners may have up to 100 companies allowed to place their wires in a building and antennas on a building — all without the owner's permission.

With all due respect, the FCC lacks the authority to do this. Not only would basic property rights be violated, but also Congress did not give the FCC the right to condemn space for phone companies nor to preempt local zoning and building ordinances. Local management of zoning, building and rights of way issues is essential to protect public health, safety and welfare. Congress has specifically prohibited the FCC from acting in this area. Therefore, we ask that you reject the proposed rule and take no action on rights of way and taxes.

Sincerely,

Charles England  
Mayor

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**City of Missouri  
City**

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1522 Texas Parkway, Missouri  
City, Tx. 77459

Phone: 281-261-4240  
FAX: 281-261-3141  
email: ctymgr@ci.moccity.tx.us

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July 28, 1999

**ORIGINAL**

Chairman William Kennard  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

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AUG 11 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: ExParte Filing in cases WT 99-217; CC 96-98

Dear Chairman Kennard:

Please do not adopt the rule proposed in the these cases allowing any phone company to serve any tenant of a building and to place their antenna on the building roof.

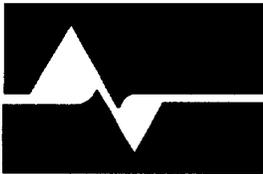
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The FCC lacks the authority to do this. It would violate basic property rights-a landlord, city of condominium has the right to control who comes on their property. Congress did not give the FCC the authority to condemn space for 100 phone companies in every building in the country.

The FCC cannot preempt state and local building codes, zoning ordinances, environmental legislation and other laws affecting antennas on roofs. Zoning and building codes are purely matters of state and local jurisdiction which under Federalism and the Tenth Amendment and may not preempt.

For example, building codes are imposed in part for engineering related safety reasons. These vary by region, weather patterns and building type-such as the likelihood of earthquakes, hurricanes and maximum amount of snow and ice. If antennas are too heavy or too high, roofs collapse. If they are not properly secured, they will blow over and damage the building, inhabitants or passers-by.

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CITY OF LOVELAND

OFFICE OF THE CITY ATTORNEY

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July 28, 1999

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Chairman William Kennard  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington DC 20554

AUG 11 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

*Ex Parte Filing* in cases WT 99-217, CC 96-98

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On rights of way, local management of them is essential to protect the public health, safety and welfare. Congress has specifically prohibited you from acting in this area.

We believe the telephone providers' complaints about rights-of-way management and fees are overblown, as show by the small number of court cases on this – only about a dozen nationwide in the three years since the 1996 Act. With 38,000 municipalities nationwide and thousands of phone companies, this number of cases shows that the system is working, not that it is broken.

Finally, we are surprised that you suggest that the combined federal, state and local tax burden on new phone companies is too high. The FCC has no authority to affect state or local taxes any more than it can affect federal taxes.

For these reasons, please reject the proposed rule and take no action on rights-of-way and taxes.

Very truly yours,



Adele L. Reester  
Assistant City Attorney

cc:

Commissioner Harold Furchtgott-Roth  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Mr. Jeffrey Steinberg  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Commissioner Michael Powell  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Commissioner Gloria Tristani  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Commissioner Susan Ness  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Ms. Magalie Roman Salas (2 copies)  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

Ms. Barrie Tabin  
Legislative Counsel  
National League of Cities  
1301 Pennsylvania Ave NW 6<sup>th</sup> Floor  
Washington, DC 20004

Mr. Robert Fogel  
Associate Legislative Director  
National Association of Counties  
440 First Street, NW 8<sup>th</sup> Floor  
Washington, DC 20001

Representative Bob Schaffer  
4<sup>th</sup> Congressional District  
212 Cannon Office Building  
Washington, DC 20515

Mr. Joel Tauenblatt  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

International Transcription Services  
445 12<sup>th</sup> Street SW  
Room CY-B402  
Washington, DC 20554

Mr. Kevin McCarty  
Assistant Executive Director  
U S Conference of Mayors  
1620 I Street 4<sup>th</sup> Floor  
Washington, DC 20006

Mr. Lee Ruck  
Executive Director  
NATO  
1650 Tysons Road Ste 200  
McLean, VA 22101-3915

Mr. Thomas Frost  
Vice President, Engineering Services  
BOCA International  
4051 West Flossmoor Road  
Country Club Hills, IL 60478

Senator Wayne Allard  
513 Hart Senate Office Building  
Washington, DC 20510

Senator Ben Nighthorse Campbell  
380 Russell Senate Office Building  
Washington, DC 20510

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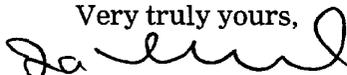
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For those reasons please reject the proposed rule and take no action on rights of way and taxes.

Very truly yours,

  
James Thurmond  
City Manager

Cc: Commissioner Harold Furchtgott-Roth  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

**Commissioner Michael Powell  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554**

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Washington, DC 20554**

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Wireless Telecommunications Bureau  
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**Mr. Joel Tauenblatt  
Wireless Telecommunications Bureau  
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Vice President, Engineering Services  
BOCA International  
4051 West Flossmoor Road  
Country Club Hills, IL 60478

The Honorable Kay Bailey Hutchison  
United State Senate  
284 Russell Senate Office Building,  
Washington, DC 20510

The Honorable Phil Gramm  
United State Senate  
370 Russell Senate Office, Building  
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July 29, 1999

Chairman William Kennard  
 Federal Communications Commission  
 445 12<sup>th</sup> Street SW  
 Washington, DC 20554

Ex Parte Filing in cases WT 99-217; CC 96-98

Dear Chairman Kennard:

I am the Village Attorney for the villages of Hewlett Bay Park, Hewlett Neck, Great Neck Estates, North Hills, Saddle Rock, Thomaston and Woodsburgh, all located in Nassau County, New York. I write this letter in opposition to adoption of the rule proposed in the referenced cases, which would permit any phone company to serve any tenant of a building and to place antenna on the building roof, without the consent of the owner and notwithstanding local zoning regulations.

We respectfully submit that the FCC lacks the authority to enact this rule. Doing so would violate basic property rights, and force owners of property to permit entry and occupation of their property by a person or entity without the owner's consent. Property owners have a fundamental right to control who comes on their property. Congress has not vested in the FCC, and could not vest in the FCC, the authority to effectively condemn building space in every building in the country. Nie

Neither does the FCC have authority to preempt state and local building codes, zoning regulations, environmental legislation and other laws affecting antennae on the roofs of buildings. Zoning and building codes are purely matters of state and local jurisdiction which, under basic principles of federalism and the Tenth Amendment, the FCC may not preempt.

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Chairman William Kennard  
July 29, 1999  
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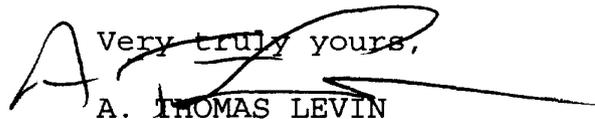
There are good reasons for refusing this authority to pre-empt. For example, building codes are imposed in part for engineering related safety reasons, which vary by region, weather patterns and building type. Whether or not particular antennae are appropriate in a particular location is a matter for local determination, and not one as to which the federal government should override local government. Significant issues of local public safety and property rights are involved.

Zoning laws similarly are matters of local concern, to protect and promote the public health, safety and welfare, ensure compatibility of uses, preserve property values and the character of the community. Local governments may restrict the numbers, types, locations, size and aesthetics of antennas on buildings (such as requiring them to be properly screened) to achieve these legitimate goals, while still insuring that needed services are provided. This requires balancing of competing concerns, which would not be done if the proposed rules are enacted.

The application of zoning principles is highly dependent on local conditions, which vary greatly from municipality to municipality, and even within municipalities. Our clients have successfully applied these principles and balanced competing concerns for the seventy or eighty years of their existence. Zoning laws have not unnecessarily impeded technology nor the development of our economy. There is simply no basis upon which to conclude that for a brand-new technology (wireless fixed telephones), with a very short track record, that there are problems on such a massive scale with the 38,000 units of local government in the United States such as to justify such drastic federal action.

Similarly, management of municipal rights of way is a fundamental matter of local concern, essential to protect the public health, safety and welfare. Congress has specifically prohibited the FCC from acting in this area.

We respectfully request that the FCC reject the proposed rule and take no action on rights of way and local taxation.

Very truly yours,  
  
A. THOMAS LEVIN

cc:  
Commissioner Harold Furchtgott-Roth  
Commissioner Michael Powell  
Commissioner Gloria Tristani

Chairman William Kennard  
July 29, 1999  
Page 3

Commissioner Susan Ness  
Wireless Telecommunications Bureau  
International Transcription Services  
U.S. Conference of Mayors  
National League of Cities  
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National Association of Counties

254953



OLD KENTUCKY HOME  
DOORWAY

City of Bardonia

WILLIAM G. BROWN, MAYOR  
220 N. 5TH ST.  
BARDSTOWN, KENTUCKY 40004  
TEL. NO. 502/348-5947  
FAX. NO. 502/348-2433

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Office

August 2, 1999

Chairman William Kennard  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

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AUG 11 1999

FEDERAL COMMUNICATIONS COMMISSION  
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Re: Ex Parte Filing in cases WT 99-217; CC 96-98

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Federal Communications Commission  
Chairman William Kennard  
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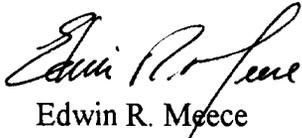
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Finally, we are surprised that you suggest that the combined Federal, state and local tax burden on new phone companies is too high.

For these reasons, please reject the proposed rule and take no action on rights of way and taxes.

Sincerely,



Edwin R. Meece  
City Administrative Officer

ERM/jd

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# ORIGINAL ROBINSON TOWNSHIP

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Ottawa County

12010 - 120th Avenue

Grand Haven, Michigan 49417  
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(616) 846-2210  
FAX: (616) 846-2369

OFFICE OF THE CHAIRMAN

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AUG 11 1999

July 27, 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Chairman William Kennard  
Federal Communications Commission  
445 - 12th Street SW  
Washington, DC 20554

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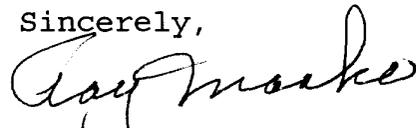
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For these reasons, please reject the proposed rule and take not action on rights of way and taxes.

Sincerely,



Raymond Masko  
Supervisor

RM/mlr