Katherine Douglas Public Comment - Group 4 # 3 LATE DIST

From: Mark Graham <Mark@keepcellantennasaway.org>
Sent: Tuesday, February 4, 2025 12:30 PM
To: sbcob; Laura Capps; Roy Lee; Joan Hartmann; Supervisor Nelson; Steve Lavagnino; Eleanor Gartner; Cory Bantilan
Subject: Re: Public comments on agenda item 3, (2) revise existing development standards and permit procedures for Commercial Telecommunication Facilities;

February 4, 2025

Dear Supervisors of Santa Barbara County and staff,

I am sending this email during your meeting and your consideration of agenda item #3.

Please consider this information and request as part of the official record for this agenda item.

Please discuss this among yourselves and with your counsel before voting on the wireless telecommunication facilities proposal. Please postpone your vote on this part of agenda item 3 until such time as you have done this, and consider it at a future Board meeting

Your staff mentioned in her first sentence that, per the FCC's small cell order, the county can regulate placement of cell antennas on the basis of aesthetics.

This is only half truth. The bigger truth is that the FCC's small cell order does NOT change the County's regulatory authority over the placement of cell antennas, in particular the requirement that an effective prohibition does not occur **unless the applicant proves that there is a significant gap in wireless service coverage in the area where the new proposed cell antenna is proposed to be and that the proposed antenna is the least intrusive means of closing said gap**, and the local government denies the permit.

This remains the law in California and the Ninth Circuit, U.S. Court of Appeals, today.

Please see the following sources.

https://wireamerica.org/ninth-circuit-case-re-fcc-18-133/

https://wirecalifornia.org/fcc-18-133-limitations/

Please acknowledge your receipt of this message.

Thank you,

Mark Graham
Keep Cell Antennas Away

P.S. Here is the text of the above two pages.

So-called "small" Wireless Telecommunications Facilities (sWTFs)

The way to think about so-called "small" Wireless Telecommunications Facilities (sWTFs) is that each one is a toxic dump that spews toxic pollution – pulsed, data-modulated, Radio-frequency Electromagnetic Microwave Radiation (RF-EMR) – into bedrooms at levels that are 25 million times higher than needed for five bars on a cell phone.

See this professional measurement of a sWTF in Sacramento, CA. No one would dream of installing toxic dumps throughout residential neighborhoods. That is why localities must retain their local zoning authority to restrict such heavy-polluting industrial WTF equipment only to commercial/industrial zones or to sites at least 2,500 feet from where people live, sleep and heal.

August 12, 2020 Ruling in Case No. 18-72689 *City of Portland et al. v FCC*

Link to Ninth Circuit Court of Appeals Case No. 18-72689 *City of Portland et al. v FCC* re: repeal of FCC Orders 18-111 and 18-133. The full video of the oral argument is featured at the top of this page.

The judges ruled:

> We therefore hold that the FCC's requirement in the Small Cell Order that aesthetic regulations be "no more burdensome" than regulations applied to other infrastructure deployment is contrary to the controlling statutory provision. See 47 U.S.C. § 332(c)(7)(B)(i)(II).
>
> We also hold that the FCC's requirement that all local aesthetic regulations be "objective" is not adequately explained and is therefore **arbitrary and capricious**.
>
> We therefore:
>
> - **GRANT the petitions** as to those requirements,
> - **VACATE** those portions of the rule and
> - **REMAND** them to the FCC."

On the FCC Order's 18-133 Proposed 60-day shotclocks, the Ninth Circuit judges wrote:

> "It must be remembered that the 'shot clock requirements create **only presumptions**'. As under the 2009 Order, if permit applicants seek an injunction to force a faster decision, local officials can show that additional time is necessary under the circumstances."

FCC Order 18-133: Streamline Small Cell Deployment Order

FCC Order -18-133: (Sept 2018) Streamline Small Cell Deployment Order is only an interpretive, presumptive order; it is not a **self-enforcing order**. This means that it is only a statement of preferences and it cannot wipe out Ninth circuit case law.

July 23, 2020 Attorney Andrew Campanelli — City Councils' Hands Are Not Tied

Feb 10, 2020 — FCC Attorney Scott Noveck: FCC Order 18-133 in Not a Self-Enforcing Order

Attorney Andrew Campanelli at 30:29 in this July 23, 2020 video:

"You are probably going to hear someone [on a City Council] say, **'Oh no, we are preempted, our hands are tied.'** I hear that all the time.

There is a [September 2018] interpretive Order [FCC 18-133] . . . which I think is ineffective . . . Federal courts — for twenty years — have interpreted the language in the Telecommunications Act that says when an effective prohibition occurs. These cases have gone up to the US Courts of Appeals for the 2nd Circuit and all the other Circuits.

Federal judges are bound by these [No Significant Gap in Telecommunications Coverage and Least Intrusive Means] tests. So if some [company] wants to claim,

> 'you [the City] must give us an approval, even if it violates your code because saying no would be an effective prohibition',

. . . and you [the City] says no, [the company] would have to file a law suit in Federal court and the Federal judges are bound by the Circuit Court Rulings which say **an effective prohibition occurs when the company proves there is a signifcant gap and the proposed installation is the least intrusive means**.

The [company] can't meet that test in the [densified 4G/]5G rollout, so the Wireless Industry went to the FCC and got them to issue a new "interpretive" Order [FCC 18-133] and here is what the Order says . . . after 24 years, we the FCC interpret that that effective prohibition language meaning that applicants don't have to prove that there is a significant gap in service and they don't have to prove — **contrary to 20 years of Federal Court decisions** — they don't have to prove that their installation is the least intrusive means of remdying that gap. All they have to say is 'they need this facility at the location they want at the height they want to either improve an existing service or to add a new service.'

I don't think that has any effect on a town's ability because . . .

1. **The FCC can't take away** the powers preserved to towns by Congress — it wasn't intended
2. **The FCC can't wipe out** twenty years of Federal judges' interpretations
3. **The FCC can't strip** local governments of 20 years of local zoning regulations

The Wireless industry is going from town to town, showing this [FCC 18-133] as gospel and the closest thing I have to a decision on this, so far, is one Federal judge in New York said and I'll quote him:

> **'It is not up to the FCC to put words in the Telecommunications Act that aren't there.'**

So, that's why I think I am right. I know local towns still have the power to control the placement of Wireless Telecommunications Facilities (WTFs). To the extent an applicant says 'You have to give [this permit] to us because of this [September 2018] interpretive Order' — **I don't think the Order has any effect on the ability of towns to control the placement of Wireless Facilities at all**."

Scott Noveck, FCC Attorney on Feb 10, 2020 → https://youtu.be/zoZHNSOibmo?t=35m05s

"The Order doesn't purport to prevent localities from addressing reasonable aesthetic requirements. In fact we say in the small cell order that aesthetic requirements are permitted . . . a locality could say if a 50-foot pole would be out of character with the surrounding neighborhood, you can't put up a 50 foot pole."

Scott Noveck, FCC Attorney on Feb 10, 2020 → https://youtu.be/zoZHNSOibmo?t=37m47s

"Localities are still free to craft their own substantive aesthetic requirements"

Scott Noveck, FCC Attorney on Feb 10, 2020 → https://youtu.be/zoZHNSOibmo?t=38m28s

"These Orders [FCC 18-111 and FCC 18-133] are not self-enforcing. They contemplate the need, in many circumstances, for further case-by-case adjudication and in those instances either someone would have to come back to the Commission or go into court."

Scott Noveck, FCC Attorney on Feb 10, 2020 → https://youtu.be/zoZHNSOibmo?t=40m21s

"Nothing in this order is self-enforcing."

Scott Noveck, FCC Attorney on Feb 10, 2020 → https://youtu.be/zoZHNSOibmo?t=40m52s

"Anyone of these specific factual disputes that arise, this Order is designed to provide some clarity and narrow the scope of disputes . . . when there are remaining disputes, nothing about this Order is self-enforcing."

Scott Noveck, FCC Attorney on Feb 10, 2020 → https://youtu.be/zoZHNSOibmo?t=51m44s

"These small cells, though they have much less range than macro towers, they have a fair range."

Note: Noveck's truthful statement in front of a Panel of Federal judges from the Ninth Circuit agrees with the comments of Lee Afflerbach, RF Engineer for CTC Technology that were entered into the City of Sonoma Public record on Sept 12, 2019:

Lee Afflerbach at 3:10:24 in the video → https://youtu.be/HRYFXx7oNN4?t=3h10m24s

"many people are [wirelessly] streaming video and other services like that . . . each [small] cell is capable of almost **putting out the same energy as one macro cell**."

Lee Afflerbach at 3:13:22 in the video → https://youtu.be/HRYFXx7oNN4?t=3h13m22s

". . . my staff has probably reviewed several hundred of these small cells in the last year . . . and they are all 4G . . . The radios that they are using are the exact same radios that are up on the macro towers. It's not a different technology . . . **the same boxes as on macro towers. I see them all the time**."

Joseph Van Eaton, BBK Attorney for City of Portland et al. on Feb 10, 2020 → https://youtu.be/t_IMrAqwpNk?t=1h10m52s

"What the FCC sees as a generous order, when you look at what the findings of law are, it is actually pretty harsh and the same thing is true with the reasonable aesthetics requirements . . . **reasonable is defined as technically feasible** . . . and we know from the intevenor's brief that

the intervnor's view that as they get to install what the want and basically where they want subject to only such minor adjustments as they can make without preventing them from doing that which they want to do, so **it doesn't protect the city . . . ; the Wireless carriers always have the out of technical feasibility**."

US Code Title 47 § 253

(a) In general — No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

(b) State regulatory authority — Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254 of this title, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

(c) State and local government authority — Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

(d) Preemption — If, after notice and an opportunity for public comment, the Commission determines that a State or local government has permitted or imposed any statute, regulation, or legal requirement that violates subsection (a) or (b), the Commission shall preempt the enforcement of such statute, regulation, or legal requirement to the extent necessary to correct such violation or inconsistency.

US Federal Courts of Appeals Rulings

FCC preemption over local authority was significantly curtailed by DC Circuit Case No.18-1051. The judges accepted the arguments by Steven Wu, Deputy Solicitor General, Office of the Attorney General for New York State and agreed that the FCC had not properly sourced its authority to preempt the states over Wireless broadband service (information services). That means that the FCC now only has preemption for Wireless telecommunications service (the ability to make an outdoor phone call) and only if there is a significant gap in telecommunications coverage.

In addition, the Ninth Circuit Ruling on Case-No-18-72689 City of Portland et al. v FCC is a game-changing one with respect to local control. Both of the following orders . . .

- **FCC 18-133:** *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Inv., 33 FCC Rcd. 9088 (2018)* (Small Cell Order)
- **FCC 18-111:** *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Inv., 33 FCC Rcd. 7705, 7775–91 (2018)* (Moratoria Order)

. . . were admitted by FCC attorney Scott Noveck, the one who argued the case on Feb 20, 2020 in Pasadena, CA, to be presumptive and not self-enforcing. That means that these orders are merely statements of preferences by the FCC. In addition, the the Ninth Circuit judges ruled that two important attempted restrictions of local control were deemed unlawful:

1996 Telecommunications Act Conference Report

The 1996 H. R. Conf. Report No.104-458 further states:

> "It is not the intent of this provision to give preferential treatment to the personal wireless service industry in the processing of requests, or to subject their requests to any but the generally applicable time frames for zoning decision."
>
> " . . . the conferees do not intend that if a State or local government grants a permit in a commercial district, it must also grant a permit for a competitor's 50-foot tower in a residential district."

Local communities are the best equipped to make decisions on how to integrate needed Wireline and Wireless services into their unique geographies and economies. Local City Council/Trustee Board Members have taken oath sto provide public safety to its residents. Full stop. This means they must have the authority to regulate the maximum Effective Radiated power emitting from WTFs to cap it at levels that provide sufficient telecommunications services **AND** that do not ruin the quiet enjoyment of streets. That must be a local decision that can be enforced with local police powers.

So-called "small" Wireless Telecommunications Facilities (sWTFs) have already caused significant public safety, privacy and property value harms. We have to allow cities to better regulate Wireless Telecommunications Facilities (WTFs) so these harms do not occur.

Support WE-WANT-IT and VHP Amendments/Bills

Let's pass bills that place objective data about up-to-date Wireless Carrier-specific signal strength data (in dBm values) in the public record every six months — at no cost to the states or the localities. Every locality should have current, reliable, objective data provided by neutral RF Engineers in order to make the best decisions for regulating the placement, construction, and operations of WTFs within their jurisdictions.

In short, we need to allow localities to regulate the maximum effective radiated power from WTFs so the localities can fulfill their obligations to provide public safety to its residents and protect the quiet enjoyment of streets.

Links to Additional Resources

- Link to slides of our presentation to you
- Link to video on the home page of Our Town, Our Choice re: Ionizing radiation vs. Non-ionizing radiation
- Link to video of top Telecom attorney Andrew Campanelli
- Link to video of Insurance expert attorney Mark Pollock
- Link to three legs of the stool that establishes local control over the operations of Wireless Telecommunications Facilities (WTFs);
- Link to a 2020 Identification of a 3G/4G/5G National Security threat, proving that Big Wireless has been and continues to sell a defective product/service
- Link to 2019 DC Circuit Case No. 18-1051: Mozilla et al. v FCC about preemption of local authority

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- Tenth Circuit **Case 18-9568** . . . was moved to the Ninth Circuit.

- Ninth Circuit **Case 19-70144** (case opened on Jan 15, 2019; a consolidation of nine separate cases) — including Repeal of FCC 18-111 and FCC-18-133

Some Relevant Documents of the Case(s)

- Intervenor Brief: City of New York and NATIOA v. FCC
- 2019-0307-Joint-Opposition-to-FCC-Motion-to-Hold-in-Abeyance
- 2018-1114-GWTCA-et-al-Small-Cell-Petition-For-Reconsideration

NEXT WEB PAGE

Limitations of FCC Order 18-133

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April 9, 2021

Re: Analysis of FCC 18-133 and its Effect Upon the General Authority of State and Local Governments to Regulate the Placement of Wireless Facilities—as was Explicitly Preserved to Them Under 47 U.S.C. 332(c)(7)(A) of The Telecommunications Act of 1996

1. INTRODUCTION

Contrary to what the wireless industry is proffering, the FCC's recent attempt in FCC Order 18-133 to "reinterpret" the existing "effective prohibition" language of the TCA **does not** affect the Second Circuit's in Willoth[1] and its progeny.

This means that when a local government in New York is entertaining a zoning application, wherein an applicant seeks one or more zoning approvals for the installation of a new cell tower, small cell, or Disributed Antenna System (DAS) , an **applicant cannot claim** that a denial of their application would violate the "effective prohibition" provision of the Telecommunications Act of 1996 (the "TCA")[2] **unless** they can prove before the local zoning board that both:

- (i) a significant gap exists in a carrier's wireless coverage, and

- (ii) its proposed facility is the least intrusive means to close that gap.[3]

Apparently, harboring the view that Congress has been lax for not having amended the TCA to 'keep up with" changing technology,[4] the FCC has now tried (for the second time) to **"reinterpret' the language of the TCA to say something which it does not say**.[5]

In this second ill-advised attempt, the FCC issued a new "reinterpretation" of the "effective prohibition" language of the TCA. It now posits that applicants are no longer required to demonstrate the existence of a "significant gap" in personal wireless services, or that their proposed installation is the least intrusive means of remedying such gap, any time they seek to invoke a claim that a denial of their zoning application would constitute an effective prohibition in violation of the federal Act.

Instead, the FCC has now attempted to "reinterpret" the language of the TCA to mean that an applicant can prove a denial of their application would constitute an effective prohibition under the TCA if they merely assert that they "need" their new proposed facility to either: (a) improve an existing service, or (b) provide a new one.

Aside from the fact that this creative, new interpretation by the FCC would not only **all-but destroy the careful balancing of interests that Congress created** when it enacted the TCA, but it has also **already been ruled by at least two (2) federal courts** in New York that:

(a) United States District Courts sitting in New York are bound to follow the States Court of Appeals' interpretation of the "effective prohibition" language of the TCA, **and not** the FCC's attempt to reinterpret the very same language within the TCA,[6] and

(b) just because Congress has not updated the TCA to keep up with changing technology, **it is not up to the FCC to construe the TCA to say something it does not say**. [7]

As such, the FCC's attempt to fabricate this new meaning for the "effective prohibition" language of the TCA should **have no effect upon the powers of local governments** to deny applications for new facilities, where the applicant has failed to prove that its new desired cell tower, small cell or DAS system is necessary to remedy one or more significant gaps in personal wireless service, and is the least intrusive means of remedying such gap or gaps.

II. THE ROLE OF LOCAL GOVERNMENTS IN FACE OF THE DENSE 4G/5G ROLLOUT

Across the entire United States, local governments, communities, and homeowners face a never-before-seen plague of wireless installations being proposed and installed as part of the much-heralded "Race to 5G" rollout.[8]

Daily, homeowners awake to find that a cell tower, small cell, DAS Node, or other wireless installation has been installed right in front of their front door, or barely a few feet from a bedroom window, while others are finding that a wireless facility has been built on the front lawn of their home.[9]

For such homeowners and communities, their first and only line of defense against the irresponsible placement of such facilities are their **local zoning authorities, who employ their local zoning powers and ordinances to protect** them against same.

In enacting local zoning ordinances to protect their communities, the drafters of such ordinances have taken into account the rulings of federal courts through which local governments have come to understand what they can

and cannot do and to draft and enforce their local zoning codes in a manner that does not run afoul of the constraints which the TCA provisions impose upon them.

In an effort to strip local governments of their powers to protect their citizens and communities against the irresponsible placement of wireless facilities, the wireless industry has apparently influenced the FCC to render a "new" "interpretative" order, within which the FCC purports to "reject" more than two (2) decades of rulings of the United States Circuit Courts of and to create an entirely "new" interpretation of what constitutes an "effective prohibition" of personal wireless services under the TCA.

Significantly, this **"new" reinterpretation** of the effective prohibition language of the TCA **is not based upon any change in the language of the TCA**, but only upon the FCC's apparent opinion that Congress has been lax in not having amended the TCA "to keep up " with changing technology-

If, as the FCC now claims, an applicant could invoke an "effective prohibition" claim by merely asserting that it "needs" the new facility to either "improve an existing service" or to "provide a new service," this "new interpretation" would **all-but destroy the entire "balancing of interests" which the United States Congress built into the TCA when enacting it**.

The FCC's deliberate indifference to the intent of Congress in creating such a balancing of interests is glaringly apparent when one considers that, within its Report and Order, the **FCC refers to** the interests, concerns, and submissions of a well-known wireless infrastructure development company — namely, **Crown Castle — a total of forty-seven (47) times.**[10] At the same time, it **does not even mention the terms "balancing** of interests," "interests of local governments," "adverse impacts," or ' 'local government concerns" even once, within the entire 116-page, single-spaced, Report and Order.

III. HISTORY OF THE TCA AND ITS APPLICATION

As has been repeatedly cited by federal courts, when **Congress** enacted the TCA, it **sought to balance the interests in promoting wireless technology with local zoning authorities' rights to maintain the integrity of land-use rules**.

*See 47 U.S.C. 332(c)(7)(A): *

> "Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities."

See H.R.Conf.Rcp. No. 104— 458, 104th cong., 2d Sess. 207-08 (1996), reprinted in 1996 U.S.C.C.A.N. 10, 222:

> "The conference creates a new section 704 which prevents Commission preemption of local and State land use decisions and preserves the authority of State and local governments over mining and land use matters except in the limited circumstances set forth in the conference agreement.".

In enacting the TCA, Congress intentionally effectuated this balancing of interests by first explicitly preserving to state and local governments the "General Authority" to regulate the placement, construction, and modification of personal wireless service facilities, [11] and thereafter imposing five (5) finite procedural requirements and substantive limitations upon that general authority. [12]

To the extent that an applicant might seek to challenge a local zoning determination based upon a claim that a local government violated one or more of the provisions within 332(c)(7)(B) of the TCA, **Congress ensured**

that it would be the federal courts that would interpret the provisions of the TCA to determine such claims. Congress did so by expressly authorizing federal court review of local zoning decision impacting the provision of wireless communication services under the plain language of the statute. [13]

The five (5) finite constraints which Congress essentially imposed upon local governments include three (3) procedural requirements and two (2) substantive provisions.

The limited procedural requirements are that:

- (a) any adverse decision against a personal wireless services provider be in writing,[14]
- (b) the decision must be supported by "substantial evidence[15] , and
- (c) must be rendered within a reasonable time. [16]

Concerning its substantive provisions, the TCA provides that:

- (a) state or local government agencies "shall not prohibit or have the effect of prohibiting the provision of personal wireless services" [17] and
- (b) state or local government agencies "shall not unreasonably discriminate among providers of **functionally equivalent services**." [18]

See H.R.Conf.Rcp. No. 104— 458, 104th cong., 2d Sess. 207-08 (1996), reprinted in 1996 U.S.C.C.A.N. 10, 222:

> "When utilizing the term ''**functionally equivalent services**'' the conferees are referring only to **personal wireless services** as defined in this section that directly compete against one another."

See 47 U.S.C. 332(c)(7)(C) Definitions:

> "(i) the term '**personal wireless services**' means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;"

Almost immediately after the enactment of the TCA in 1996, site developers and wireless carriers began filing federal lawsuits claiming that virtually any denial of any type of zoning application constituted an "effective prohibition" under 332(c)(7)(B)(i)(II), and thus the TCA.

In only two (2) years, such litigation began reaching the United States Circuit Courts of Appeals across the Country, which were then constrained to interpret the meaning of the effective prohibition language within the TCA and **judicially determine what an "effective prohibition" under the Act**.

Across the entire nation, the United States Circuit Courts of Appeals ruled that to prove that a denial of a zoning application for a wireless facility would constitute an "effective prohibition" in violation of the TCA, **an applicant is required to show that an identified wireless carrier suffers from "a significant gap" in its personal wireless services coverage**.

Also, Circuit Courts have ruled that an applicant must additionally prove either that its proposed new wireless facility is

- (a) the least intrusive means of remedying such significant gap,
- (b) the only viable means of remedying such significant gap, or
- (c) that there are no feasible alternative locations for a facility with which to remedy the significant gap.

For the past twenty-four (24) years, federal courts across the United States have invariably applied this interpretation of the TCA's effective prohibition language. Local governments have been enacting and enforcing local zoning ordinances based upon such federal court precedential rulings. [19]

IV. THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT INTERPRETS THE EFFECTIVE PROHIBITION PROVISION OF THE TCA

In Willoth,[20] the United States Court of Appeals for the Second Circuit interpreted the meaning of the "effective prohibition" language of the TCA. That interpretation has been uniformly applied by the federal courts sitting in New York for more than twenty (20) years.

Under the Second Circuit's decision in Willoth, to establish that a denial of its zoning application constitutes an "effective prohibition" that violated the TCA, a wireless provider or its **site developer must prove** that it had established before a local zoning authority that **its proposed installation was "the least intrusive means" of closing "a significant gap" in the applicant's personal wireless services**, and the zoning authority still denied its application.

Thus, the applicant could only force a local government to permit it to install a non-zoning-code-compliant wireless facility if it could prove both that it suffered from "a significant gap" in its personal wireless services and that its installation was ' 'the least intrusive means" of remedying that gap.[21]

Faced with a claim by a site developer, Crown Castle,[22] that federal courts are now constrained to apply the FCC's new interpretation of what constitutes an effective prohibition, a **United States District Court in New York has already rejected that argument** and ruled that federal courts are bound to follow the existing decisions of the United States Court of Appeals for the Circuit, which has already interpreted the meaning of the "effective prohibition" language of the TCA.

In Crown Castle NG East LLC v. Town of Hempstead, the plaintiff (a site developer) argued that Districts Courts are now bound to follow the FCC' s "new" interpretation of the effective prohibition language of the TCA, as opposed to the existing precedential decisions of the United States Court of Appeals for the Second Circuit.

In positing same, both Crown Castle and the defendant Town requested that the District Court certify the question of which decision was binding upon the district court for an interlocutory appeal to the United States Court of Appeals for the Second Circuit. In denying that request, the Court opined:

- (a) that Crown Castle's suggestion that the District Court should reject the interpretation issued by the Court of Appeals because the FCC has now rejected it "**misperceives the role of the FCC in interpreting the law**," and
- (b) that both parties had "failed to meaningfully refute the controlling effect of Second Circuit precedent."[23]

The Court proceeded to rule that:

> Because the Second Circuit has opined as to the meaning of the Statute, there can be no substantial grounds for difference of opinion as to the binding nature of that interpretation. [24]

Alternatively stated, the Court ruled that in an action between a zoning applicant, and a local government that denied its application, United States District Courts sitting in New York are **bound to follow the**

interpretation of the Second Circuit, and not the FCC, as to what constitutes an "effective prohibition" under the TCA.

DISCLAIMER

This Memorandum contains an analysis of whether United States District Courts sitting in New York would be bound by FCC 18-133 or the existing and conflicting decisions rendered by United States Courts within the Second Circuit. This Memorandum is not to provide legal advice regarding any case or matter.

Very truly yours,

Andrew J. Campanelli

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1. Sprint Spectrum L.P. v. Willoth. 176 F.3d 630, 643 (1999).
2. 47 U .S.C. §332(c)(7)(B)(i)(II) provides that local governments cannot prohibit or have the effect of prohibiting the provision ofpersonal wireless services.
3. See Orange County-Poughkeepsie Ltd. P'ship v.Town of East Fishkill, 84 F.Supp.3d 274, 296—97 (S.D.N.Y. 2015) (quoting T-Mobile Ne. LLC v. Town of Ramapo. 701 F.Supp.2d 446, 456 (S.D.N.Y. 2009).
4. As is laid bare within its language, the FCC adopted its new interpretative Report and Order (FCC 18-133) not due to any change in the language of the TCA, but because, in the FCC's words:
   "B. The Need for Commission Action.
   (23). In response to the opportunities presented by offering new wireless services, and the problems facing providers that seek to deploy networks to do so, we find it necessary and appropriate to exercise our authority to interpret the Act and clarib' the preemptive scope that Congress intended. (FCC 18-133 p. 9, ¶23).
5. See Clear Wireless LLC v. Bldg. Dep't of Vill. of Lynnbrook, 2012 WL 826749, at *9 (E.D.N.Y. Mar. 8, 2012) ("The Court agrees with the observation by the court in Arcadia Towers that the law has not kept up with changes in technology. Under such a circumstance it is not up to the FCC to construe the TCA to say something it does not say, nor up to the Court to find broadband communication encompassed by the law").
6. Crown Castle NG East LLC v. Town ofHempstead, 2019 WL 5188923 (E.D.N.Y. Oct 15, 2019).
7. Clear Wireless LLC v. Bldg. Dep't of Vill, of Lynbrook. 2012 WL 826749 (E.D.N.Y. Mar. 8, 2012).
8. Several site development companies have indicated that they seek to install 4G/5G wireless facilities as closely as every 100-300 feet in residential neighborhoods.
9. See, ABC News Video "More 5G Woes: Poles installed feet away from Pensacola's resident's front door" Thursday January 2 ISt 2021, https://weartv.com/news/local/more-5g-woes-pole-installed-feet-away-from-residents-front-door.
10. See FCC 18-133 atp. 9, '125; p. 10, 1125; p. 10 nn. 48, 49 (3 times), 55 11, 126 (twice); p. 11 n. 61; p. 15 nn. 78 (3 times), 79; p. 16 nn. 79, 80, 82; p. 18 nn. 86 (twice), 87; p. 19 nn. 91, 92; p. 20 nn. 91, 95, 96; p. 21 nn. 97, 100; p. 30 n. 159 (twice); p, 32n. 172; p. 33 nn. 181 (twice), 182; p. 34, 63; p. 34 nn. 183, 189; p. 36 nn. 200, 201; p. 44 n. 242; p. 46 n. 248; p. 47 n. 252; p. 49 n. 264; p. 56 n. 302; p. 59 n. 324; p. 60 n. 330 (twice); p. 66, n. 366 (twice); p. 73, 139; p. 73 n. 412; p. 75 n. 430 (twice); p. 76 n. 433 (twice); and Appendix B at p. 83.
11. See 47 47 U .S.C. §332(c)(7)(A)
12. See 47 47 U .S.C. §332(c)(7)(B)
13. See 47 47 U .S.C. §332(c)(7)(B)(v)

14. SEE 47 U .S.C. §332(c)(7)(B)(iii)

15. See Supra note 14.
16. See 47 U .S.C. §332(c)(7)(B)(ii)
17. see 47 U .S.C. §332(c)(7)(B)(i)(II)
18. see 47 U .S.C. §332(c)(7)(B)(i)(I)
19. Some of such federal case law, by Circuits, is as follows:
FIRST CIRCUITOmnipoint Holdings v. City of Cranston, 586 F.3d 38, 48 (1st a carrier claims an individual denial is an effective prohibition, virtually all circuits require courts to (1) find a "significant gap" in coverage exists in an area and (2) consider whether alternatives to the carrier's proposed solution to that gap mean that there is no effective prohibition.)SECOND CIRCUITSprint Spectrum L.P. v. Willoth. 176 F.3d 630, 643 (2d Cir. Act's ban on prohibiting personal wireless services precludes denying an application for a facility that is the least intrusive means for closing a significant gap in a remote user's ability to reach a cell site that provides access to land-lines"); Up State Tower Co., LLC v. Town of Southport, N.Y., 412 F.supp.3d 270 (W.D.N.Y. other words, "a plaintiffwill prevail on an effective prohibition claim 'if it shows both that a significant gap exists in wireless coverage and that its proposed facility is the least intrusive means to close that gap. ' ")THIRD CIRCUITOmnipoint Communications Enterprises. L.P. v. Zoning Hearing Bd. ofEasttown Tp., 331 F.3d 386, 390 (3rd Cir.2003) ("a provider whose application has been denied must show both that its facility will fill an existing significant gap in the ability of remote users to access the national telephone network and that the manner in which it proposes to fill that gap is the least intrusive on the values that the denial sought to serve.")FOURTH CIRCUITCellco Partnership v. Board of Supervisors of Fairfax County, VA, 140 F.Supp3d 548 (2015K' 'To prevail on a prohibition of service claim, a wireless carrier must show either ' 'that a local governing body has a general policy that essentially guarantees rejection of all wireless facility applications," or that "denial of an application for one particular site is 'tantamount' to a general prohibition of service... Under the latter theory, a plaintiff must demonstrate both ' 'a legally cognizable deficit in coverage amounting to an absence of coverage" and a lack of "reasonable alternative sites to provide wverage.'"')SIXTH CIRCUITT-Mobile Cent.. LLC v. Charter Tp. of West Bloomfield, 691 F.3d 794, 807 (2012) ("The Second and Third Circuits require the provider to show that "the manner in which it proposes to fill the significant gap in service is the least intrusive on the values that the denial sought to serve. The First and Seventh Circuits, by contrast, require a showing that there are "no alternative sites which would solve the problem. The Ninth Circuit adopted the "least intrusive" standard. Judge Cudahy found the precedents from the First and Seventh Circuit exacting." The Second and Third Circuit's "least intrusive" standard "allows for a meaningful comparison of alternative sites before the siting application process is needlessly repeated. We agree with Judge Cudahy and adopt the "least intrusive" standard from the Second, Third, and Ninth Circuits")(internal quotations and citations omitted).SEVENTH CIRCUITVoicestream Minneapolis, Inc. v. St. Croix County, 342 F.3d 818, 834-35 (7th First Circuit has held that the provider carries the 'heavy' burden to show 'not just that this application has been rejected but that further reasonable efforts are so likely to be fruitless that it is a waste of time even to try.' Under this standards thc provider must show that its 'existing application is the only feasible plan' and that 'there are no other potential solutions to the purported problem. We agree with the First Circuit's formulation of the statutory requirement and hold that, so long as the service provider has not investigated thoroughly the possibility of other viable altematives, the denial of an individual permit does not 'prohibit or have the effect of prohibiting the provision of personal wireless services"').NINTH CIRCUIT**T-Mobile USA. Inc. v. City of Anacortes,** 572 F.3d 987, 995 (**9th MetroPCS** we recognized that a locality could violate the TCA's effective prohibition clause if it prevented a wireless provider from closing a "significant gap" in service coverage. Such a claim generally "involves a two-pronged analysis (1) the showing of a 'significant gap' in service coverage and (2) some inquiry into the feasibility of alternative facilities or site. Once the provider has demonstrated the requisite gap, the issue becomes what showing a provider must make in support of its proposed means of closing the gap. **In MetroPCS we adopted the "least intrusive means" standard**

used by the Second and Third Circuits. This standard requires that the provider "show that the manner in which it to fill the significant gap in services is the least intrusive on the values that the denial sought to quotations and citations omitted).TENTH CIRCUITAT&T Mobility Services, LLC v. Vill. of Corrales, 642 Fed.Appx 886, 899 (10th Cir.2016) ("The sole questions, then, are: (1) whether Corrales's conduct has "the effect of prohibiting the provision of personal wireless services" and, if it does, (2) whether AT&Ts plan constitutes "the least intrusive" means of remedying the service gap at issue).

20. See supra note 1.
21. Again, that being the **standard applied by federal courts in the Second, Third and Ninth Federal Circuits**. See Willoth supra and supra note 19.
22. Significantly, Crown Castle is the very same site developer whose interests were referenced by the FCC forty- seven (47) times in the FCC's new order "reinterpreting the effective prohibition language of the TCA, see supra note 10.
23. *Crown Castle NG East LLC v. Town of Hempstead*, 2019 5188923, at (E.D.N.Y. Oct. 15, 2019).
24. Seg supra note 23.

Keep Cell Antennas Away
A local residents' advocacy group
www.KeepCellAntennasAway.org

On Monday, February 3rd, 2025 at 2:54 PM, Mark Graham <Mark@keepcellantennasaway.org> wrote:

February 3, 2025

Dear Supervisors and staff of Santa Barbara County,

Please acknowledge your receipt of this email and the attachments. This is for your meeting tomorrow morning.

I would appreciate the Board of Supervisors' questions and substantive response to the recommendations and information in this email. More than that I would appreciate and I ask for you to vote NO on or postpone a vote on the item I am writing about.

On Tuesday, February 4, 2025, the Santa Barbara County Board of Supervisors will vote on amendments to the County's Wireless Ordinance that will allow the telecommunication companies to blanket our neighborhoods with small cell antennas, removing essential restrictions. This dangerous Ordinance removes notification, hearings, opposition, setbacks and environmental protection. Applications and permits will be rubber stamped!

For the reasons stated in this email please vote NO or POSTPONE the vote on the proposed Wireless Ordinance and work with Attorney Julian Gresser, attorney Andrew Campanelli, and your informed local residents, your constituents, and others including myself who have been through this entire policy revision process that you are currently in and learned valuable lessons.

You can pass this agenda item after omitting the section on (2) revise existing development standards and permit procedures for Commercial Telecommunication Facilities, which stands alone and is not directly related to the subject of the rest of this agenda item, and which could be brought back to the BOS as a new agenda item at a later date.

Overall if the County passes the proposed item you will fail to exercise your zoning authority generally preserved to you in the Telecommunications Act of 1996 and you will fail to protect the County and your residents and constituents, leaving them and you open to significant avoidable harm. Once permits are issued it will be nearly impossible to unwind this mistaken policy. The right thing to do is fully know and exercise the County's rights and protect the County and your residents through an appropriate ordinance, which you do not have in front of you but could be written by you in cooperation with your local residents with input from attorneys Andrew Campanelli and Julia Gresser. Both are very experienced in helping local governments exercise their zoning authority fully and appropriately and protecting themselves and their residents.

There are several key points that I want to make.

#1 Get a complete and accurate understanding of the County's regulatory authority over cell antennas per the Telecommunications Act of 1996.
#2 Please read, discuss and implement all of the recommendations in attorney Julian Gressers letter to the Board of Supervisors of Santa Barbara County.
#3 Please hear a presentation by and discuss this policy issue with the expert Dr. Kent Chamberlain.
#4 Know that even if the telecommunications companies ("telecom") sues the County, they cannot get the Court to order you to pay their attorney fees.
#5 The County can regulate cell antenna placement on the basis of aesthetics. Please do this.
#6 Please consider adopting a cell antenna policy such as the City of Elk Grove, California adopted in August, 2019.

Details of each point follow.

#1 Get a complete and accurate understanding of the County's regulatory authority over cell antennas per the Telecommunications Act of 1996.

The BOS and staff should have a complete and accurate understanding of the full extent of its regulatory and zoning authority over cell antennas and their placement per the Telecommunications Act of 1996 and case law. It appears that you do not have it. It appears you have been pressured and misled by the telecommunications companies, who have a vested interest in deceiving and misleading you, into believing that you have very few options.

The best way for you to gain this complete and accurate understanding is by, broadly speaking, listening to your well informed residents and to attorney Andrew Campanelli and attorney Julian Gresser.

In 2021 attorney Andrew Campanelli prepared for the City of Santa Barbara a document titled, "Federal law based analysis of The City of Santa Barbara, California Municipal Code Proposed Amendment to Add Chapter 9.170", dated August 16, 2021.

I am sending you in this message a copy of Mr. Campanelli's report. Please vote no or postpone a vote on this agenda item and make time to review this, discuss it amongst yourselves and with your counsel, and implement his recommendations.

Regarding the significant gap in coverage and the least intrusive means requirements, which have been part of case law in the U.S. Court of Appeals for the Ninth Circuit for many years, the

FCC purported to eliminate those requirements in its small cell order and substitute in their place a new and much lower bar, not authorized by Congress and not found in the TCA, of a "material inhibition", which FCC defined very broadly so as to include virtually any improvement in service.

FCC does not have the authority to change the TCA or to creatively "reinterpret" it to mean something it does not mean or something it does not say! Is the County and the BOS clear on this? If you believe that FCC has the authority to change the TCA through an interpretive order into meaning something it does not mean then you have been misled by telecom and possibly by your own counsel.

Please consult with attorney Andrew Campanelli and attorney Julian Gresser on this point. Even attorney Jonathan Hobbs.

Mr. Campanelli can point to specifics on this. Please see his section on the Relevant History of the TCA and its application.

Even if you have fallen for FCC's creative reinterpretation of the effective prohibition section of the TCA you can still, per recent case law, regulate the placement of cell antennas on the basis of aesthetics as I will demonstrate in this letter as the City of Elk Grove has done and I am sure as several other cities and counties have done. See paragraphs 5 and 6 in this email.

Please read and discuss among yourselves and with your counsel section A of the Campanelli report, titled "The Preservation of Powers to Local Governments and Their Exercise of Same", on pages 4 - 7 of his report to the City of Santa Barbara.

Even though the recommendations in section V. of his report, "Recommended Changes to the Code of the City of Santa Barbara and Proposed Chapter 9.170" are specific to the City, they are directly applicable to Santa Barbara County too. You will see this in the outline on pages 3-4 and in the body of the report on pages 19 - 32.

V. Recommended Changes to the Code of the City of Santa Barbara and Proposed Chapter 9.170

A. Legislative Intent Provisions

B. Fact-Finding Requirements and Evidentiary Guidance

1. Local Zoning Determinations

2. TCA Determinations
3. Evidentiary Standards

a. Significant Gap Claims
b. Capacity Deficienty Claims

c. FCC Compliance Reports

d. Propagation Maps

e. Visual Impact Analyses

f. Verification Requirements

C. Notice Provisions and Hearing Requirements

You will no longer believe that your options are so limited after you have read this report and discussed it.

#2 Please read, discuss and implement all of the recommendations in attorney Julian Gressers letter to the Board of Supervisors of Santa Barbara County.

https://www.bbilan.org/blog/2025-01-24-bbilan-letter-to-santa-barbara-county-board-of-supervisors

I am sending you the short version of Mr. Gresser's letter in this email. You can access the longer version from a link found inside the short version and at that web address.

#3 Please hear a presentation by and discuss this policy issue with the expert Dr. Kent Chamberlain. Please read his letter before the hearing and before voting on the Wireless Ordinance. Dr. Chamberlain served on the New Hampshire Commission, is a Biomedical and Radiofrequency Engineer, was Chair of the Department of Electrical & Computer Engineering at the University of New Hampshire, performed research for over twenty-five sponsors, including the Department of Justice and the National Science Foundation. Most of his research has involved the modeling and measurement of electromagnetic fields which included the siting of communications and navigation antennas. Your other constituents have sent you a copy of his letter.

#4 Know that even if the telecommunications companies ("telecom") sues the County, they cannot get the Court to order you to pay their attorney fees. Telecom often threatens cities and counties with lawsuits, misrepresenting the Telecommunications Act of 1996 (TCA) and exaggerating their own powers and minimizing the cities' and counties' powers per the TCA. Do not be afraid. Do not buy their misrepresentations. You can ask attorney Andrew Campanelli, attorney Julian Gresser, and attorney Jonathon Hobbs (City of Elk Grove City Attorney) about this.

#5 The County can regulate cell antenna placement on the basis of aesthetics. Please do this. This is directly related to the front yard rule for cell antenna placement, my next point below. The City of Elk Grove has demonstrated how a local government can regulate cell antenna placement on the basis of aesthetics. I recommend that you postpone your vote on this proposal in agenda item 3 until such time as you and your staff have written, edited, and discussed, amongst yourselves and with counsel, a front yard rule for cell antenna placement for Santa Barbara County.

Slide 17 in your presentation says in part:

Federal Communication Commission's (FCC) "Small Cell Order" 18-133

- Requires streamlined permit process for "small wireless facilities" (shot clock)
- **Allows local use of aesthetic standards if reasonable and objective**

What are "aesthetic regulations"?

Federal law does not define aesthetics.

The FCC small cell order does not define aesthetics. It is up to the County to define and state what "aesthetic standards" mean to you. This is where local government, which has its zoning authority preserved generally in the TCA, can exercise that zoning authority.

18-133 is the number of the small cell order. Paragraph 87, on page 45 of the FCC small cell order, says this about aesthetic regulations.

"Analogously, aesthetic requirements that are reasonable in that they are technically feasible and reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments are also permissible. In assessing whether this standard has been met, aesthetic requirements that are more burdensome than those the state or locality applies to similar infrastructure deployments are not permissible, because such discriminatory application evidences that the requirements are not, in fact, reasonable and directed at remedying the impact of the wireless infrastructure deployment. For example, a minimum spacing requirement that has the effect of materially inhibiting wireless service would be considered an effective prohibition of service."

But again, FCC lacks the authority to "interpret" and "redefine" the TCA to say or mean something it does not say or mean.

The telecoms have accepted and acknowledged, through their failure to challenge it in court, that the City of Elk Grove front yard rule for cell antenna placement (see the next time) is acceptable per the TCA. The front yard rule for cell antenna placement in the City of Elk Grove has been in place, it has been the City's law, since September of 2019. During that time the City has received hundreds of cell antenna permit applications from telecom and has issued hundreds of permits - but none for a cell antenna immediately adjacent to or immediately across the street from the front yard of a residential dwelling. Telecoms have had over 5 years to consider whether this front yard rule for cell antenna placement is consistent with the TCA and whether the City of Elk Grove properly exercised its zoning authority when it passed this law. Telecom could have sued the City in federal court at any time for an alleged violation of the TCA and in particular the effective prohibition provision. But they chose not to. Their actions tell you something very valuable. Telecom knows that the City DOES have the right to so regulate cell antenna placement and the City DID properly exercise its local zoning authority, generally preserved by the TCA, when it passed this law. Santa Barbara County can do this too! I recommend that you do this in lieu of your proposed agenda item that I am talking about.

The City of Elk Grove wrote a letter of opposition to SB 556 on April 7, 2021 inwhich Mayor Bobbie Singh-Allen stated that the City has the authority to regulate the placement of cell antennas on the basis of aesthetics. I am enclosing a copy of that letter. You can also find it online here.

https://www.keepcellantennasawayfromourelkgrovehomes.org/wp-content/uploads/2021/04/COEG-Opposition-Letter-Final-2021.04.05-SB-556.pdf

"As recently confirmed by the Federal Ninth Circuit Court of Appeals, under Federal FCC regulations, cities retain local authority to impose reasonable aesthetic regulations on telecommunication providers' facilities, provided the regulation is technically feasible. (See *City of Portland v. United States*, 969 F.3d 1020, 1039-1043 (9th Cir. 2020).)"

(City of Elk Grove letter to the author of SB 556) I am sending you a copy in this email.

The rest of the letter explains why local government is best suited to make policy on cell antenna permitting and placement. SB 556 was vetoed and did not become law, similarly to SB 649 from a previous legislative session.

#6 Please consider adopting a cell antenna policy such as the City of Elk Grove, California adopted in August, 2019. This policy has protected by my estimate 90% of the homes in Elk Grove from having a cell antenna placed near it; those homes with a front yard.

Due to a grassroots campaign that I started (along with 2 other EHS friends) and led from early 2018 through the date of the City Council vote on August 28, 2019, the City adopted an ordinance 19-2019 which contained a key provision, which I call the "front yard rule for cell antenna placement". This rule says that the City will not permit a cell antenna immediately adjacent to or immediately across the street from the front yard of a residential dwelling.

The City Council adopted this in Ordinance 19-2019 on August 28, 2019.

https://www.keepcellantennasawayfromourelkgrovehomes.org/wp-content/uploads/2019/09/City-of-EG-Ordinance-19-2019.pdf

The front yard rule (unofficial name) in the Elk Grove Municipal Code says:

> b. No small cell wireless communication facility shall be located immediately adjacent to, nor immediately across the street from, a front yard of any residential dwelling.

EGMC 23.94.050 A.6.b.

Here it is in context.

23.94.050 Development standards.

> A. General Development Standards. Unless otherwise exempt pursuant to EGMC
>
> Section 23.94.040, Exemptions, or as otherwise provided in an agreement approved by the Elk Grove City Council pursuant to EGMC Section 23.94.035, Small Cell Wireless Communications Facilities, the following general development standards shall apply to all wireless communications facilities:
>
> > 6. In a residential zoning district, the following development standards shall apply, unless the applicant can demonstrate with substantial evidence satisfactory to the approving authority that such siting limitation will materially inhibit personal wireless service as to a particular small cell wireless communication facility.
> >
> > > a. No small cell wireless communication facility shall be placed within five hundred (500' 0") feet of another small cell wireless communications facility.

b. No small cell wireless communication facility shall be located immediately adjacent to, nor immediately across the street from, a front yard of any residential dwelling.

https://www.codepublishing.com/CA/ElkGrove/#!/ElkGrove23/ElkGrove2394.html#23.94.050

Here is the signed version of City of Elk Grove Ordinance No. 19-2019, which approved a new cell antenna policy which includes zoning code amendments and a master license agreement between the City and AT&T / Cingular. You can download it from this page.

City of EG Ordinance 19-2019

The agenda for the August 28, 2019 Elk Grove City Council meeting is here:

http://elkgrovecity.org/UserFiles/Servers/Server_109585/File/cityclerk/citycouncil/2019/ag-08-28-19.pdf

You can also download it from this site

EGCC ag-08-28-19Download

The staff report, containing the proposed zoning code amendment and master licensing agreement with AT&T / Cingular, is here:

http://www.elkgrovecity.org/UserFiles/Servers/Server_109585/File/cityclerk/citycouncil/2019/attachments/08-28-19_9.3.pdf

You can also download it from this site

08-28-19_9.3

I welcome your comments on this.

Will you acknowledge your receipt of this message?

Thank you and best wishes,

Mark Graham

Co-Founder and Organizer
Keep Cell Antennas Away
A local residents' advocacy group
www.KeepCellAntennasAway.org

Good morning. My name is ~~I I G~~ Janet del Giudice
I am an anthropologist and taught at UCSB.
I am also a homeowner and at 90 years old
would find it difficult to evacuate if there was
a cell tower fire in front of my house which
could not be put out with water from a hose or
I would be electrocuted. It can only be ~~extinguished~~
~~by~~ turned off by the power company which would
take too long. We have plenty of cell coverage
at my home. And so I am asking you to vote
no, or abstain or pause on the proposed
ammendments to the wireless ordinance.

Thank you

#3

Katherine Douglas

From:	Mark Graham <Mark@keepcellantennasaway.org>
Sent:	Tuesday, February 4, 2025 1:28 PM
To:	sbcob; Laura Capps; Roy Lee; Joan Hartmann; Supervisor Nelson; Steve Lavagnino; Eleanor Gartner; Cory Bantilan
Subject:	What is the shortest distance to a home where you would permit a cell antenna? Please answer. Re: Public comments on agenda item 3, (2) revise existing development standards and permit procedures for Commercial Telecommunication Facilities;

February 4, 2025

Dear Supervisors and staff of Santa Barbara County,

In the proposed wireless telecommunication facilities ordinance you are about to vote on, I asked you this in my public comments and nobody on the Board or staff has addressed it.

What is the shortest distance to a home where you would permit a cell antenna?

Please answer. Your constituents have a right to know this before you vote! You are still discussing agenda item 3 at this moment. 1:27 p.m.

Mark Graham

Keep Cell Antennas Away
A local residents' advocacy group
www.KeepCellAntennasAway.org

On Tuesday, February 4th, 2025 at 1:02 PM, Mark Graham <Mark@keepcellantennasaway.org> wrote:

> Dear Supervisors,
>
> I request an additional 60 sixty seconds to speak as you allowed to attorney Julian Gresser
>
> You are still doing public comments at this moment.
>
> 1:01 p.m.
>
> Mark Graham
>
> Keep Cell Antennas Away
> A local residents' advocacy group
> www.KeepCellAntennasAway.org