

## **Glendale Organized Against Cell Towers**

Letter sent to the Glendale News Press

January 5, 2009 –

### **Proposed Cellular Transmission Towers Raise Concerns Over Health Issues and Property Values**

In November 2008, Northwest Glendale residents discovered that installation of a cellular tower in front of a home at 509 Cumberland Road was about to begin. Neighbors quickly contacted the Mayor and City Council, who worked to put the project on hold.

T-Mobile applied for this construction permit through the City Engineer's Office. The company has also applied to build another tower near Glenwood Ave. and Clement St., and will likely apply to build more in the neighborhood. T-Mobile lacks a land-based system like AT&T's, and is moving into residential areas by constructing towers on the public right-of-way.

T-Mobile's application subverted the normal conditional-use permit process and bypassed city planning and design reviews. The company paid only lip service to Glendale's zoning code disfavoring telecommunications facilities in residential zones, by briefly stating that no alternative sites were available. It quickly moved through the public works process intended only for granting utility rights-of-way.

Since these facts have become known, the city attorney's office has carefully researched its options under the 1996 Federal Telecommunications Act and the California Public Utilities Code, while local residents have formed a community group, G.O.A.C.T. (Glendale Organized Against Cell Towers).

The federal 1996 act, written largely by the Telecom Lobby, prohibits cities from considering potential health concerns at zoning hearings, even while the Food and Drug Administration recommends a policy of "prudent avoidance" of cell phone radiation, especially among children. The Telecommunications Act was, in the words of its chief sponsor, former Senator Larry Pressler of South Dakota, "the most lobbied bill in history."

The California Public Utilities Code overrides local zoning codes, allowing telecommunications carriers to construct any equipment upon public property that does not impede public use of the right-of-ways. In the courts, however, the County of San Diego just prevailed against Sprint PCS in a September 2008 Ninth Circuit Court of Appeals decision. Our city attorney's office cited this decision in its report, because it has returned some measure of control to local jurisdictions.

Homeowners around the country are overwhelmingly against having cellular towers in residential neighborhoods. Valuations are bound to decrease for homes close to such towers and their accompanying electrical vaults, as buyers mull potential health effects and visual blight. Realtors in other Southern California communities have testified to this fact in hearings related to cellular tower installations, and several Glendale-area realtors concur.

The Glendale City Council has put this item onto the agenda for its weekly public meeting on Wednesday, January 7 at 6:00 p.m. and welcomes all residents to attend the meeting and voice their concerns.

#### OUR OBSERVATIONS ON T-MOBILE'S APPLICATION:

**T-Mobile's permit application states that it is experiencing coverage problems as well as capacity problems within the surrounding areas.** However, it cannot prove a significant gap in service. Residents who live near the corner where the tower is to be placed and who have T-Mobile service confirm they are able to make and receive calls from inside their homes and from within the two block radius which the T-Mobile application states is the capacity for the tower. Additionally, T-Mobile has offered no evidence that it has a problem with 'capacity' in the area that can only be remedied by this installation.

**T-Mobile has not shown this placement is the least intrusive site and has failed to specify alternative sites and co-location possibilities beyond those most convenient for T-Mobile.** In the public's interest, T-Mobile should have the burden of showing that its proposed site is the "least intrusive site" for the community and that there are no other options. The Ninth Circuit Court of Appeals clearly stated in another decision, MetroPCS v. City and County of San Francisco, that the 'least intrusive' standard "allows for a meaningful comparison of alternative sites." According to the Court, the least intrusive site is not necessarily the best site from a technological or profit-making standpoint; it is the best site from the perspective of the community.

**T-Mobile states that the proposed project will provide "alternative emergency response communications for police, fire, paramedics, and other emergency services."** G.O.A.C.T. learned that T-Mobile has attempted to make its case to other local planning boards by asserting that large numbers of 911 calls from cell phones were being dropped. A citizen's group in Windsor Hills, part of unincorporated LA County, recently showed T-Mobile's 911 claims in their case to be greatly exaggerated. Further, T-Mobile and other cellular carriers are doing a disservice by encouraging users to think 911 calls placed from cell phones are as reliable as those placed from land lines. Cell phone 911 calls are answered by the California Highway Patrol, not local emergency dispatchers. **T-Mobile also states that the proposed project will provide "broadband data services for high speed data applications used in mobile devices such as PDAs or laptops" and "more affordable service due to increased competition in the market area."** G.O.A.C.T. raises the question: is this really about regular cell phone service, or is this an attempt to drive demand for new services? The market for basic cell phone services is saturated. Is T-Mobile (a company that is 100% wireless with no landline or cable internet infrastructure) attempting to become a new area provider of wireless broadband internet and TV services? If wireless broadband internet or TV home service means radiation-emitting antennas next to homes, wouldn't most people choose to get their internet or TV service via DSL, cable, satellite or fiber optic? Are companies like T-Mobile abusing FCC provisions to enter the market for other services, undermining local control and the rights of citizens?

WHAT WE NEED FROM OUR OFFICIALS:

The purpose of this letter is to present G.O.A.C.T.'s suggested action plan for City Council, which is as follows:

1. A public study session with all relevant staff, including City Engineer and City Attorney, to educate the public about the towers and issues surrounding them.
2. The establishment of a notification process similar to that of Design Review Board (DRB) applications.
3. That all new towers be approved by the Planning Commission, so that the public will have the opportunity to review data and respond.
4. That the Planning Commission must make the following findings, based on proof provided by the utilities and thoroughly verified by city staff or an independent third party:
  - a. that there is a current lack of coverage;
  - b. that the placement is the least intrusive to the community;
  - c. that the tower utilizes the least intrusive (rather than least expensive) available technology;
  - d. that there is no other feasible location (such as open space) or technology available;
5. That DRB review the design and placement for all towers not in designated or proposed historical districts.
6. That HPC approve the design and placement of all towers in designated or proposed historical districts.

7. That the Planning Department have authority over Public Works and Engineering with regard to antennas and towers.
8. That all applications are reviewed to insure that they are in complete compliance with all zoning codes.
9. That the City of Glendale pass a resolution condemning the portion of the Federal Communications Act which prohibits municipalities raising the issue of health concerns, to be sent to Sacramento and Washington DC.
10. That the City of Glendale pass a resolution condemning the portion of the California Public Utilities Code section 7901 which allows telecommunications companies to ignore local zoning codes and construct facilities along any public right-of-way, to be sent to Sacramento.

Residents of Northwest Glendale urge all concerned citizens to come to the meeting January 7<sup>th</sup> at 6 p.m., fill out an oral comment card, and raise your voices in protest.

Further information is available at [www.getthecelloutofhere.com](http://www.getthecelloutofhere.com).

With regards,

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