

# A Synopsis of Tactics and Documents Used with T-Mobile in Culver City, 12/14/2009-10/10/2010

To whom it may concern,

On December 14, 2009 Culver City issued the standard 15 day/500' notice to residences around the Cash'n'Carry office supply at 5680 Sawtelle Blvd, stating that T-Mobile intended to lease space atop the building and place a cell phone transmitting station there. The location is adjacent to homes, within 500' of a grammar school, and the antennas would be level with two-story homes in the neighborhood. The 15-day public comment period included only one city council meeting, which was the following business day.

This synopsis and documents is provided as encouragement and a resource for neighborhoods facing a similar challenge. The neighborhood pushed back against T-Mobile, a German, \$900M company, because there was nothing else we could do to protect our homes and families. At first, as we learned more about the federal law and cell phone companies, winning almost seemed impossible. We were fortunate, and after 9 months of emotional and tenacious effort, we won. In the very early days and weeks it was not clear who could help or what a winning strategy and tactics might even look like.

In the end, here is what our strategy looked like:

Because of the seeming immediacy of the 15-day comment period, we aggressively 'got out the word' utilizing flyers and community and local schools' email lists. We drew on the emotional aspects of the issue and got as much attention as we could at city council and the local press. We were not shy. We found sympathy with the local school board and certain council members. Others on the council openly expressed to the press that the city couldn't help and we wouldn't win.

On 12-16-2009 about 40 people from the neighborhood attended the city council public meeting. We expressed our concerns and 1 of the 5 councilmen, Gary Silbiger, expressed serious concern and agreed to look into it. The 15-day public comment period came and went. The community had submitted 200 petition signatures to the city and bombarded their comments box with emails thru our website. From many visits to the building department, we vigorously studied the local building/planning code and every aspect of the application by T-Mobile. Via the internet we began to comprehend the actual power of the 1997 Federal Telecommunications Act. We prepared to appeal the likely decision to grant the T-Mobile permit, if only hoping to find a friendlier audience with the full planning commission. Instead the city scheduled a 1-19-2010 meeting between a T-Mobile rep and the community, with the city manager and planning department people there. The 15-day comment period had been extended.

About 35 community members attended the sometimes emotional 1-19-2010 meeting where Aaron Anderson, who would turn out to be the middleman between Cash n'Carry

and T-Mobile, outlined how the community needed improved cell phone reception and how they had considered every other conceivable location, including unsuccessful negotiations with the owners of the large Studio Village shopping center to the north. He did however display a new map **'5680 Sawtelle blvd. candidate history'** which indicated locations of other potential sites, each with a reason why it could not be used. These items were clearly added to the application file after the 12-16-2009 city council meeting, probably at the city's urging, and would ultimately provide the germ of our successes. The city also announced that they would procure an 'expert' consultant, Jonathan Kramer, who we later determined typically resists the interests of local communities and more often facilitates the proliferation of cell sites. At the end of the meeting Aaron Anderson agreed to ask T-Mobile to reconsider locating to one of the other sites, some of which were well away from homes and schools. This was the last the community would directly hear from the young and polished Mr. Anderson.

As we began to understand, this was merely the groundwork for T-Mobile to evoke the 1996 telecommunication act, which severely limits any city's authority to deny a permit to a telecommunications company if the phone company can demonstrate a lapse in coverage and that no other less obtrusive location exists. The law's most impactful feature is the prohibition of public health concerns to figure in any decisions regarding the building permit. However, our research and analysis revealed that the professional looking T-Mobile application was at best shoddy and misleading, at worst simply dishonest. We hammered on its shortcomings.

The first key document submitted in our effort was the 'Community's Objections' letter, 1/24/2010, which was subsequent to the 1-19-2010 community meeting. This was our official response to the T-Mobile application. Understanding that the only community objection prohibited by the 1996 federal law is over health concerns, we expressed many other objections.

We vigorously disputed their claims of signal gaps with our own tests and showed inconsistencies with their maps by actually using their own data to illuminate the application's misleading nature. It is important to note that the very scientific looking 'existing' and 'proposed coverage' maps from the original application are just graphic art for the convenience of the cell company. The application did, however, include a supposedly empirical 'real time drive test' map showing signal strength by colored dots at various locations. When the two documents are overlaid, the results are startling since the drive test data contradict the 'existing coverage map' and claims by T-Mobile.

The parts of the Community's Objections document are:

1. The application is misleading and contains false information
2. Aesthetic concerns
3. Safety concerns and apparent violation of Culver City fire code
4. Impact to surrounding property values
5. Better alternative locations exist
6. Health concerns

T-Mobile, probably in the form of Mr. Anderson, replied with a point-by-point response in the document '**T-Mobile's Response**'. This and the following '**Community Reply**' are public documents on file in Culver City planning department. Since the response letter from T-Mobile includes the body of the Community Objections, they can be considered together.

Important items to note in 'T-Mobile's Response':

T-Mobile predictably brushes aside community-oriented issues like aesthetics [part 2] and does not directly address items like the pre-existing fire code concerns [part 3] and false building drawings [part 2]. Very notably, the wordy response to our claims about contradictions between their 'actual coverage' and 'real drive test' maps completely fails to address the point [part 1]. The anonymous author of the T-Mobile document even vaguely defers to his own opinion to counter our assertions about decrease in property values [part 4].

When the 'Objections' describe community health concerns, the reflexive invoking of the 1996 telecommunications act is almost amusing [part 6]. Perhaps this is because the author was slightly nervous about the previous section 5, which was a misleading description of T-Mobile's negotiations with the owners of the Studio Village Shopping Center, an infinitely more preferable site far from homes and schools, the previous year. T-Mobile stated at the community meeting, on the 'candidate history' document, and again in their response letter, that this site was not available.

In the '**Reply to T-Mobile's Response**' the community has found our bearings. Based on a better understanding of the 1996 Telecommunications act we systematically dismantled their claims to protection from the act. Through research and phone calls, we were then able to establish that at least two of the alternative sites identified by Aaron Anderson on 1-19-2010 were indeed available to house the facility. *Further, one alternative, Studio Village Shopping Center, already had a cell site which made it a 'preferred site' to Cash'n' Carry under the Culver City planning ordinance.* Contact names and phone numbers were provided to the city. Lacking any other explanation, it would appear that T-Mobile had just been trying to get a cheaper lease at Cash'n'Carry. T-Mobile (Aaron Anderson) was willing to submit official documents to the city and stand up in front of a room full of concerned residents and say that the Studio Village site was not available, when apparently it was.

The process took about nine months and probably 200 hours of organizing, research and writing by the community. We rarely were informed of what was happening between the city and T-Mobile, however the city government, or some officials in it, were indeed sympathetic. The city was undoubtedly mindful of T-Mobile's big gun, namely their option of bringing an expensive lawsuit against the city under the 1996 Telecommunications Act. They also were aware of a new FCC 'shot clock' law, approved 11-18-2009, which required municipalities to render or deny approval of new cell tower permits within 150 days. If the city failed to do so, they risked automatic and irreversible granting of the permit under this draconian law.

As the 4-17-2010 shot clock deadline passed, the community had no update from the city, however, based on a letter from the official file dated 4-6-2010 '**CC-Tmobile 6-6-, 2010**' Culver City had indeed found its bearings. They ultimately called on T-Mobile to extend the 'shot clock' deadline or receive a denial on the Cash n' Carry permit. This is because, in light of the community's input, Culver City had concluded that despite the 1996 Federal law, they could enforce their planning ordinances and require T-Mobile to co-locate with an existing cell transmitter at a large shopping center far from homes and schools, an undoubtedly more expensive location the cell company preferred to dismiss. Subsequently, T-Mobile applied for and was granted a permit to place the antenna at the Studio Village shopping center.

It is hoped that this body of work is beneficial to other communities faced with this challenge. While every battle will be different, it may be helpful to have a realistic expectation about the honesty of participants involved, the potential misleading nature and exploitable weaknesses of seemingly professionally prepared documents, and a picture of how the city can be guided to work in the community's best interests.

Good Luck