



OPPOSE TELECOM INDUSTRY PROPOSALS TO REMOVE LOCAL AUTHORITY IN SITING OF WIRELESS ANTENNAS AND EQUIPMENT

**Industry Legislation in S. 2183 and House Economic Development Bill would Strip Cities,
Towns and Residents of any Effective Site Review of Wireless Facilities**

**The FCC Will Issue Nationwide Siting Standards for Wireless Antennas Later this Year,
and the Legislature Should Not Act until the FCC Finishes Its Process**

June 17, 2014

The Honorable Cynthia S. Creem
Senator
State House, Room 312A
Boston, MA 02133

Dear Senator Creem,

The telecommunications industry is moving quickly to fast-track legislation to preempt virtually all municipal zoning or control over the siting of wireless antennas and equipment in Massachusetts. We respectfully ask you to oppose this far-reaching effort to prevent cities, towns and citizens from having any effective say in how the build-out of wireless networks impacts their neighborhoods.

These powerful companies are determined to pass a state law that would allow them to place wireless antennas and equipment on virtually any building or structure in any location in any community, and override all municipal zoning bylaws, ordinances, and local authority to protect neighborhoods and the public from unsightly and intrusive antennas.

The Telecom Industry is Pursuing Two Routes

• **The Legislature's Economic Development Bill.** Last week, by a voice vote, House members attached this industry-written language to the House's economic development bill (Sections 74 and 75 of H. 4181), which was passed by the House of Representatives and is now before you in the Senate. With your own economic development bill expected to emerge shortly, it is certain that the wireless telecommunications companies will attempt to attach the same language to override local control.

• **S. 2183 – "An Act Upgrading Mobile Broadband Coverage in the Commonwealth."** This stand-alone bill with language identical to Sections 74 and 75 of the House economic development bill has also been sent from the Committee on Telecommunications and Energy, and is now before the Senate Ways and Means Committee.

The Telecom Industry Bill Would Override All Local Decision-Making

S. 2183 and Sections 74 and 75 of the House economic development bill would allow telecommunications companies to "collocate" unlimited new antennas and equipment on any and all existing buildings and structures, regardless of the impact on neighborhoods or interference with public right-of-ways.

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The legislation would allow all wireless telecommunications companies to install or upgrade wireless antennas and equipment on any building or structure in Massachusetts. These structures could include commercial or residential buildings, water towers, billboards and even homes – with NO effective local government authority to regulate. The telecom companies could ignore all municipal zoning provisions, ordinances and bylaws – including height limits, set-back requirements, or the ability to require aesthetic modifications to ensure the antennas and equipment blend in.

Municipalities would also have no recourse to ensure that unused or abandoned facilities must be removed in the future. The wireless telecommunications provider would only need to comply with the state building code, which is simply a technical construction standard.

The measure envisions no role for the general public, and fails to recognize that citizens have a right to basic zoning protections that guarantee accountability on the part of developers.

Under this proposal, in order to obtain a “collocation” permit, a mobile broadband provider would merely need to submit an application to the appropriate issuing authority in a municipality, and the city or town would have only 90 calendar days to review and act upon the “collocation” application, and could only reject applications that fail to meet the state building code. Under the language of the bill, telecom companies could start the “90-day shot clock” by submitting incomplete applications, and have up to 45 days to complete their submissions, leaving cities and towns only 45 days to review a completed application. If a municipality does not complete its review 90 days from the start of the “shot clock,” applicants could immediately go to court to compel the issuance of a license, short-circuiting the local process. This irresponsible provision would in no way benefit the community.

The cities and towns of the Commonwealth strongly support expanding and upgrading wireless telecommunications services throughout the state for the benefit of consumers, but the expansion simply cannot come at the expense of the quality of life for residents.

Specific provisions of the telecom industry’s legislation include:

- No zoning ordinance or bylaw could regulate, restrict or prohibit collocation of wireless facilities on existing structures in any way inconsistent with the industry legislation;
- The issuing authority of a city or town must grant approval of all applications for the “collocation” of wireless antennas and equipment on any existing building or structure (except utility poles), as long as the application complies with the state building code;
- Cities and towns must also approve all applications to expand existing stand-alone cell towers (including monopoles), unless the proposals would increase the height or width of the tower by more than 10 percent or 20 feet (whichever is more) – which means that the industry could take a current monopole with antennas hidden inside and attach a 20-foot wide antenna, and go up 20 feet, and communities would have NO say regarding this complete change of appearance;
- The issuing authority has only 90 days to approve the application – if cities and towns take longer than 90 days, then the telecom companies could immediately go to court, with approval virtually assured because the court’s only standard would be compliance with the state building code, and NO local bylaws, ordinances or zoning provisions would be allowed;
- Communities could NOT require companies to remove obsolete, abandoned or unused antennas and equipment;
- Telecom companies could even bypass local Historic Commissions and install antennas inside local historic districts, as long as the targeted building is not listed on the register of historic structures (it

could be right next to a listed building!), and could even get clearance from the state historic preservation officer to put an antenna directly on a building that is listed on the register; and

- Communities could not require a higher fee for reviewing an application than for other types of commercial applications, and fees for technical consulting would be capped at \$1,000.

The FCC is Promulgating National Standards on Wireless Antenna Siting – But the Telecomm Industry is Working Feverishly to Win More Favorable Rules in Massachusetts

In 2012, Congress and the President enacted “The Spectrum Act” that will implement a nationwide uniform process for the collocation of wireless antennas and equipment. At this moment, the FCC is promulgating final regulations (FCC 13-122) that will govern the build-out of the wireless telecommunications network, and it is expected that the FCC will give industry its often-stated top goal of a time-limited expedited application process. The FCC has received detailed input from all stakeholders in this process, including industry and municipal organizations. It is expected that the FCC will issue its final rules later this year.

Why is the telecom industry jumping to Massachusetts and other states to win a complete override of local zoning, when the FCC is on the verge of issuing its decision? The answer is clear: the FCC may give deference to local zoning rules, and allow cities and towns to act in the public interest. In particular, the FCC could allow municipalities to have zoning provisions, ordinances and bylaws on height limits, set-back requirements, or the ability to require aesthetic modifications to ensure the antennas and equipment blend in. In effect, the telecom industry wants to preempt all local rules AND preempt any FCC provisions to protect municipal authority and public input.

The Legislature should reject this fast-track attempt by the wireless industry to ignore the FCC process, and instead wait until the federal government issues its final rules on uniform national standards later this year.

Please oppose any attempt to pass S. 2183 or any amendment to the Senate’s economic development bill that would strip cities and towns of the ability to regulate wireless antennas. The Legislature should wait until the FCC makes its final ruling on national standards. If you have any questions, please do not hesitate to contact me, Catherine Rollins or John Robertson of the MMA staff at any time.

Thank you very much.

Sincerely,



Geoffrey C. Beckwith
Executive Director

cc: The Chief Municipal Officials in Brookline, Newton, and Wellesley

