



STELTING LAW OFFICE, P.C.

Neal R. Stelting - Attorney at Law

September 11, 2015

Sublette County Historical Society
P.O. Box 909
700 East Hennick Street
Pinedale, Wyoming 82941

RE: Verizon Communications Tower – Answers to Sublette County Historical Society (SCHS) Membership Concerns

Dear Sublette County Historical Society Board:

At your request, I have researched the concerns expressed by your membership. Please find the following answers to those concerns. My answers relate solely to issues of legal responsibility and liability. The answers do not relate to other issues such as public relations or neighbor relations.

CONCERN (A): Is the Sublette County Historical Society (hereinafter “SCHS”) required to have any signage, at the MMM entrance, or on MMM grounds, that would warn people of a cell tower nearby and that it MIGHT interfere with pacemakers, small children, etc.?

Answer: The SCHS is not legally required to display any warning signage on the entrances that relate to the cell tower. Verizon must go through a permitting process with the Federal Communications Commission (hereinafter “FCC”). Verizon may have certain signage requirements as part of permitting process through the FCC, but those requirements will be the sole responsibility of Verizon.

CONCERN (B): Is the SCHS violating any FAA rules, or federal rules of any type, by having a 55 foot tower on the SCHS property?

Answer: Probably not. The landing pad at the hospital is not designated or zoned as an airport. As part of the permitting process with the FCC, the FCC will evaluate whether the tower complies with federal regulations. In the event the tower would violate a federal aviation regulation, Verizon may be required to amend or modify the tower design, or the tower’s permit may be denied.

CONCERN (C): Will the communications tower be of a concern for helicopter pilots landing at the clinic?

Answer: The cell tower will be no taller or closer to the clinic’s landing pad than the softball field lights. The tower should be a lesser danger and concern than the softball field lights.

In the event there is a legal issue with the size or location of the tower, those issues will be addressed in the FCC permitting process.

CONCERN (D): Does SCHS have a legal obligation to notify all of the neighboring property owners in advance?

Answer: No. The SCHS has no legal obligation to notify the neighboring property owners. The tower project will go through several permit processes where public notice and comment may be required, including with the Town of Pinedale.

CONCERN (E): What “federal government” group has oversight of cell towers on private property (SCHS)?

Answer: The FCC is the federal regulatory agency responsible for oversight of this project. The tower must comply with the requirement of the Federal Telecommunications Act.

CONCERN (F): The issue was brought up that the communications tower would cause interference with the medical equipment at the clinic. Is it SCHS’s responsibility to verify and clear this or do we take Verizon’s word that it doesn’t? What keeps the SCHS liability clear on this concern?

Answer: It is not the SCHS’s legal responsibility to verify that the tower will not cause interference with the clinic’s equipment. In the event the tower does cause interference, it is Verizon’s legal responsibility and liability to resolve those issues. Pursuant to SCHS’s lease agreement with Verizon, Verizon is required to indemnify and defend the SCHS for the damages Verizon’s activities may cause.

CONCERN (G): The issue was brought up that the communications tower would cause other health concerns other than in Item “A” above. Again, is it “our” responsibility to verify and clear this or do we take Verizon’s word that it doesn’t? What keeps the SCHS liability clear on this concern?

Answer: It is not the SCHS’s legal duty to independently determine whether the cell tower creates health concerns. The SCHS is allowed to rely upon the FCC’s determination and research that such towers do not create health risks, and are therefore, permissive in the location permitted. In the event there becomes scientifically provable evidence that cell towers cause such health dangers, Verizon is required to indemnify and defend the SCHS for any damages the tower may cause.

CONCERN (H): Concerns were raised as to what if someone got hurt, electrocuted, or whatever while playing around the tower enclosure “or” what if they broke in and the same happened?

Answer: Any liability for damages caused at or from the tower facility is the legal responsibility of Verizon. Pursuant to the lease agreement, Verizon is required to indemnify and defend the SCHS for any damages or injuries that occur at the tower.

CONCERN (I): Concerns were brought up that what if Verizon decided to move the tower 10 years from now. Are there provisions in the lease regarding their “clean-up” of an abandoned site?

Answer: Yes. The lease agreement requires that Verizon remove all its property (equipment, fencing, concrete footings, etc.) when the lease is expired or terminated. In the event they fail to do so, the SCHS may remove Verizon’s property and charge Verizon for the reasonable cost to remove and discard the property.

CONCERN (J): Concerns were brought up that “if” the Verizon communications tower went off line, maybe it was struck by lightning or something, and was down for a month or 6 weeks, does SCHS still get paid the monthly lease. Is this covered in the lease?

Answer: Yes. Pursuant to the lease agreement, Verizon can only terminate the lease or cease making payments if land leased to Verizon becomes destroyed or unusable by Verizon. In the event of an earthquake or explosion that renders the land or location unusable, Verizon may terminate the lease agreement if the SCHS does not repair the property. A lighting strike or windstorm that damages Verizon’s own tower or equipment would not permit Verizon to cease making payments or terminate the lease.

CONCERN (K): What about raptors that might build a nest in the tree and cause issues. Does the SCHS have any liability there?

Answer: No. SCHS has no liability for such issues. As part of the FCC permitting process, these issues will be evaluated. Verizon may have certain requirements to address raptor concerns as part of the permit Verizon receives from the FCC. Verizon holds all legal liability related to such issues.

CONCERN (L): There were concerns that the SCHS could be liable for causing property (real estate) devaluation in the area. Should we be concerned?

Answer: The SCHS should have no legal obligation for devaluation of neighboring property in the area that may be caused by the cell tower. It is highly speculative that such devaluation would occur. This is an issue that may be considered and addressed in the permitting process.

I hope the answers set forth above will assist the Board in the consideration of this project.

Sincerely,



Neal R. Stelting
Attorney at Law