

Cellular Telecommunications Industry Pu

By Community Lawyer Charlene LaVoie

Here comes another attempt to reduce state and local authority. On December 22, 1994, a petition was filed with the Federal Communications Commission (FCC) by the Cellular Telecommunications Industry Association (CTIA), a trade group for the industry. This petition requests that the FCC preempt state and local governments from enforcing zoning and other laws that regulate the siting and construction of communications towers.

The CTIA is in high gear on this issue because of the new personal communication services (PCS), a variation of cellular telephone service. In auctions held during December, the FCC received \$1.66 billion in license bids for the PCS system. FCC Chairman Reed Hundt said that this represents the "highest auction of public property in world history." CTIA estimates that the PCS system could require as many as 100,000 tower sites by the year 2000, compared with 15,000 new towers for cellular phone service. This proliferation of towers will be devastating for communities.

Cloaked in concern for the public interest, the CTIA argues that the economic costs to the industry which result from compliance with or attempts to override local regulation or the rejection of an application to build a tower will be borne by consumers in the form of higher rates and delayed services. CTIA argues that these costs can only be avoided by eliminating the state/local regulations.

The public interest, however, is not measured solely in terms of the buyer's cost for a service. State and local regulations balance the development of a telecommunications network with the potential adverse effects of tower proliferation on the environment and health and welfare of the public.

The Connecticut legislature adopted the Public Utility Environmental Standards Act which governs the siting and construction of telecommunications towers. Section 16-30g of the Connecticut General Statutes states that:

"Preemption of state and local regulations will lead to the reckless proliferation of telecommunications towers which would seriously and irreparably impair the public interest."

The Commission, therefore, should be urged to decline to make the change requested in the CTIA petition.

Citizen groups in Connecticut who have successfully prevented the proliferation of cellular towers in Litchfield County, and a citizens group in Berkshire County, Massachusetts are concerned about the attempt to diminish state/local input and regulatory control over this public utility either through the FCC or through Congress. Advancement of the telecommunications industry should not come at the expense of state and local authority to regulate development within its borders.

But don't count on Congress to prevent

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federal intrusion into state and local matters. Even House Speaker Newt Gingrich, a self-proclaimed opponent of federal interference says that in regard to cellular telecommunications, "we have to look seriously at those areas where the national economy requires preemption." So much for state and local autonomy when the economic inter-

ests of the powerful and well-financed communications industry are involved.

Citizens want input into local development. It is a "home rule" tradition and a cornerstone of the American system. In 1992 the Connecticut Siting Council rejected four out of five proposed tower sites in Litchfield County, including sites in Winsted and Norfolk, applied for by Litchfield County Cellular, Inc. The First Selectmen from Winsted and Norfolk, and citizens spoke in opposition to the application at public hearings. Winsted

"telecommunications towers have had a significant impact on the environment and ecology... and that the continued operation and development of such... towers, if not properly planned and controlled, could adversely affect the quality of the environment, the ecological, scenic, historic and recreational values of the state"