

**Intro's 57, 104, 237 – Cellular Antennae
NYC Council – Housing & Buildings Committee
NYC Department of Buildings Testimony
December 1, 2010**

Good afternoon, Chairman Dilan and members of the Committee on Housing and Buildings. My name is James Colgate and I am Assistant Commissioner for Technical Affairs and Code Development at the Department of Buildings. I am joined today by Donald Ranshte, Director of Intergovernmental Affairs for the Department and representatives from the Department of Information Technology and Telecommunications (DoITT). Thank you for this opportunity to discuss Intro's 57, 104 and 237, regarding the installations of cellular antennae.

As you know, where cellular antennae are sited is governed by the Zoning Resolution, and their placement on roof tops has to adhere to the regulations of the Building Code, our Department's Published Interpretations and NYC's Fire Code.

First, I would like to turn to Intro 57. The Building's Department already requires that all buildings in the City over six stories tall file with us a critical examination and report of the condition of the exterior walls and roof. We commonly have called this a Local Law 11 filing, it is mandated to be performed by an architect or engineer, every five years. The details of this are described in 28.302.1-6 of the Administrative Code. This report must include all details of the exterior of the building, including any defects in the walls, cracks, and, placement of devices attached to the building like cellular antennae.

Intro 57 would amend section 28.302 by adding 28.302.7. This Intro would require the owner of a property undergoing a Local Law 11 examination to notify the Department if the placement of cellular equipment is causing a delay in the filing of the report. The Department is of the opinion that the placement of this equipment has not significantly impacted the undertaking of these inspections. Moreover, with building owners having ample time (up to five years), and a variety of methods, to undertake these inspections, the Department cannot support adding an extension to the amount of time to file and delay our receiving these very critical safety reports.

At this point I would like to turn to Intro 104. This bill would mandate the Department to notify Councilmembers and Community Boards within five business days of the permit application for a cellular antenna installation, and, require a public comment period of thirty days before permit issuance.

As I alluded to earlier in my testimony, the siting of cellular antennae is governed by the Zoning Resolution, and their installation by Department Published Interpretations. The Department is required to determine the application's conformity with these laws and must approve them if they comply it is purely a ministerial action. This is what is commonly called "as of right" status, and therefore, is only delaying these applications 35 days.

The idea of public notification is something that we have taken very seriously. Our commitment to transparency is evident in the amount of data that we include on our website. In the last legislative session Council put forth a similar notification concept. We worked along with the Council to enact Local Law 85 which created a separate permit type for cellular antenna placement, and to that end, we created and listed on our website, a weekly/monthly report that presents to the public, in spreadsheet form, all cellular permits issued by the Department by borough, community board and address. Currently, the Department has no capacity, or personnel, to fulfill this additional proposed notification requirement. However, our website is already supplying that information, and, it's only a few mouse clicks away for anyone who is interested.

Finally, I would like to discuss Intro 237. We feel that this bill hopes to accomplish two main goals, one is have the Department promulgate rules regulating the installation of cellular equipment, and second, attach an identification tag to the equipment; which will contain the permit number under which the installation took place and an advisory to call 311.

With regard to the mounting of these antennae, the Building Code is already explicit in its regulation of attaching these accessory structures to any building. The engineering relating to wind load, earthquake load, bracketing, mounting and bolting is contained in the Code. Second, the advisory "tag" is problematic, in that, according to the Fire Code each piece of equipment must already have a "unique identifier". This identifier allows FDNY to know to which company the equipment belongs and contains a phone number for the installer. At this time, we also feel that having the "call 311" advisory on the tag may work at cross purposes with the information already available. In any case, any member of the public could treat this like any other complaint and call 311 at any time anyway.

It is the position of the Department that we cannot support these bills. Thank you once again for allowing me to testify on these Introductions. We would be happy to address any questions you may have.

COMMENTS FROM WIRELESS PROVIDERS

**T-MOBILE
VERIZON WIRELESS,
SPRINT-NEXTEL,
and
AT&T**

**TO PROPOSED LOCAL LAW INT. 0237-2010
IMPACTING WIRELESS INFRASTRUCTURE**

NOVEMBER 2010

Overview

Proposed Local Law Int. 0237-2010 Impacting Wireless Infrastructure by adding a New Section 28-103.16.1 entitled "Placement of cellular telephone service antennas and related equipment" (hereinafter "Int. 237")

The following comments to Int. 237 are offered by those members of the wireless telecommunications industry commonly referred to as Verizon Wireless, T-Mobile, Sprint-Nextel, and AT&T (hereinafter referred to as "Wireless Providers").

Int. 237 Description

Int. 237 intends to have the Department of Buildings in conjunction with other city agencies promulgate rules for:

- 1) The attachment, installation or mounting of cellular telephone service antennas and related equipment on buildings; 2) written notice to the community board and to council members of the intent to locate cellular telephone infrastructure within the council members' district; 3) a requirement to label equipment with the permit # and an advisory to call "311" for exigent circumstances and for information; 4) a requirement seeking to encourage the permit applicant to locate wireless installations outside of residential zones, and to encourage each carrier to co-locate where other carriers have already installed equipment; 5) guidelines for aesthetics and visual impact to be applied where practicable; and 6) a requirement that a protocol be established for the removal of antennas and equipment. Int. 237 also provides an exemption for governmental agencies placing or replacing cellular telephone service antennas and related equipment from the foregoing rules enacted pursuant to proposed Section 28-103.16.1.

Summary of Response

In light of the existing rules already in place with respect to cellular telephone antennas and related equipment, Int. 237 is unnecessary, discriminatory and would needlessly impede the steady development of the wireless infrastructure in New York City. The wireless infrastructure is essential for residents, businesses and emergency personnel in every neighborhood. The Department of Buildings already regulates the attachment, installation and mounting of cellular telephone service antennas and equipment through Technical Policy and Procedure Notice 5/98, with limits on size, location and height. The Department of Buildings also posts all permit applications on the Department of Building's website. Moreover, the New York City building and fire codes (last revised July 2008) provide for proper access, labeling, signage and markings of cellular equipment in connection with fire prevention and safety. Therefore, additional rulemaking for wireless installations can only cause havoc in the development of this critical wireless infrastructure in New York City.

Comments

- 1. The additional mandatory reporting requirement to give written notice of even an “intent” to locate wireless infrastructure to council members and community boards is unnecessary and excessive in light of the reporting requirements already in place.**

In 2006, the Wireless Industry in New York City responded to notice and reporting requests of cellular telephone equipment deployment by overwhelmingly supporting full transparency and the posting of all applications on the Department of Buildings website at www.nyc.gov. Such posting provides notice and there is no need for any additional notification requirement.

Further, it is unclear why wireless providers, *unlike any other applicant entitled to a building permit*, are singled out and required to provide what amounts to an additional notice to council members and community boards of even an intent to locate wireless infrastructure, prior to even seeking a building permit.

If the purpose of this notice provision is to allow the council member and the community board input into the process for cellular equipment installations, then this provision is tantamount to a zoning process. It is well settled that the Technical Policy and Procedure Notice 5/98 promulgated by the Department of Buildings (“TPPN 5/98”) specifically provides what types of installations are and “are not regulated by the zoning resolution.”

In addition, such a notice requirement, if enacted, would create an unusual precedent whereby council members and community boards are given notice in advance of full public disclosure.

Finally, this provision creates the potential for interference in the contractual relationship between landlords and wireless carriers. Conceivably, council members and community boards could be part of pressure campaigns directed at the landlords to break or alter private lease agreements. This provision in effect would promote tortious interference with the private contractual relationship between the landlords and wireless carriers.

- 2. Promoting the location of wireless infrastructure outside of residential zones is illogical and places the public at risk.**

New Yorkers want the peace of mind of knowing they can use their cell phones to make a call in an emergency and to stay in touch with important people in their lives. New York City’s residents and its many frequent visitors are relying more and more on cell phones as their primary means of communication. Across the country, families are disconnecting their landlines and opting instead for cell phones to stay in touch, with nearly 1 in 4 U.S. households relying on cell phones as their primary means of communication¹ and New York

¹ National Health Interview Survey, July-December 2009, released May 12, 2010. Available from: <http://www.cdc.gov/nchs/nhis.htm>.

City is no exception. As a result, more New Yorkers are relying on cellular service for all types of communications, including emergency communications. As Mayor Bloomberg has noted, “we are becoming more and more dependent on cell service and I think it is physically dangerous in this day and age when you don’t have good cell service. God forbid you need to call 911 in an emergency.”² To enact regulations discouraging service in residential zones would slow the process of meeting residents’ wireless communications needs and place them at risk of being without the kind of reliable network that can deliver service when they use their phones at home in an emergency.

Wireless installations are placed in residential communities across the nation to provide effective communications and have been operating in compliance with federal safety standards for decades. The wireless industry is concerned that this distinction between residential zones and other zones is an inappropriate effort to exclude antennas from residential zones based on concerns associated with radio frequency emissions. Limiting or prohibiting antennas based on RF emissions is prohibited by the Telecommunications Act of 1996. Further, the FCC has exclusive jurisdiction over the regulation of RF emissions.

It should be a priority to ensure that everyone in New York City can connect to 911 using a cell phone in any borough, even those areas which are completely residential in nature. Due to the nature of the technology, antennas must be located in the proximate area they serve. This is not the time to be implementing legislation that will stymie reliable wireless services to New York City residents. In fact, reliable wireless service, including wireless 911 calls, in New York City is more important than ever.³ During the last year alone, the Wireless Providers handled an average of approximately 250,000 wireless 911 calls a month over their networks in New York City, and that number has been rising steadily.

Similarly, “Notify NYC”, New York City’s new emergency alert system, sends real-time, neighborhood specific e-mails, phone calls and text messages to city residents affected by storms, fires, and other hazards. Launched as a pilot in December 2007 after the deadly fire in the former Deutsche Bank building left nervous downtown residents unsure if they were in danger, Notify NYC now has a citywide reach, and has already sent over 70 advisories to more than 12,000 subscribers about a range of emergencies.⁴

In addition, residents of New York City are not the only individuals who rely on cellular service during an emergency in all parts of New York City. New York City police officers rely on cell phones more than ever to quickly communicate with dispatchers and other officers, saying that the devices can be more reliable than radio signals, and more convenient.⁵

² New York Post, “Can you Hear Mike Now?”, David Seifman, July 21, 2009.

³ A recent Federal Communications Commission news release, dated September 23, 2010, indicates that over 240 million 911 calls, or over two-thirds of all 911 calls made annually nationwide, were made over wireless networks.

⁴ Staten Island Advance, “Mayor Urges New Yorkers To Sign Up for Notify NYC,” May 31, 2009.

⁵ New York Sun, “In Sign of Times, City Police Officers Rely on Cell Phones,” Elizabeth Solomont, March 29, 2006.

*"A cell phone helped solve the high profile homicide case against the man who allegedly shot Brooklyn Detectives Patrick Rafferty and Robert Parker in 2004, when Parker called 911 from his cell phone to identify the shooter before he died."*⁶

*When the Roosevelt Island Tramway stalled in midair in 2006 trapping dozens of passengers, the tram's walkie-talkie also failed. Thankfully, the tram operator was able to rely on his cell phone to communicate with officials on the ground about the rescue effort.*⁷

Moreover, since the tragedy on September 11, 2001, "there have been at least 10 [terrorist] attempts to bomb New York City institutions" not including the recent attempt to set off a car bomb in Times Square.⁸ There is no doubt that New York City continues to be a prominent terrorist target. In the face of such ongoing danger it is imperative that citizens located anywhere in New York City have access to a reliable wireless infrastructure, allowing communications with first responders or loved ones in the event of another attack.

3. The requirement that multiple agencies besides the Department of Buildings should have jurisdiction over the process by which cellular telephone equipment is located is bad policy.

The above provision is unnecessary as the Department of Buildings has already promulgated rules for the placement of cellular telephone service antennas and equipment on buildings or structures with TPPN 5/98. In addition, wireless providers must comply with the applicable sections of the building, fire and electrical codes regarding cellular telephone installations. Charging multiple agencies with the ability to promulgate even more rules will only result in inconsistent provisions and confusion, adversely impacting New York City's vital communications infrastructure.

4. The requirement to place identification tags on cellular telephone equipment indicating the permit number and an "advisory" to call 311 for exigent circumstances or for information concerning the permit is both confusing and unnecessary.

Wireless carriers already post identification and notice signs at each installation. Those signs include an emergency contact telephone number for the carrier and a site identifier. If exigent circumstances arise, a citizen should be encouraged to call the carriers' emergency number, which is operational 24 hours a day 7 days a week. Unlike a 311 operator, the wireless carrier has the knowledge and expertise to address any concerns about the installation or to respond

⁶ New York Sun, "In Sign of Times, City Police Officers Rely on Cell Phones," Elizabeth Solomont, March 29, 2006.

⁷ New York Times, "Options Were Limited After Power Surge," James Barron, April 20, 2006.

⁸ The Wall Street Journal, "Bomb Was Crude but Lethal," Sean Gardiner and Sumathi Reddy, May 3, 2010.

to a problem that may have arisen. Therefore, encouraging citizens to call 311, instead of the carrier directly, will both confuse and delay a satisfactory response to citizens' concerns.

5. The requirement for a protocol for the removal of antennas and equipment following abandonment or discontinuance of service would unnecessarily infringe on the contractual relationships between landlords and wireless carriers.

Landlords and wireless carriers negotiate agreement provisions such as those for the removal of equipment, just like landlords negotiate agreements with owners of other types of rooftop equipment. These private agreements are tailored to the particular circumstances and needs of the respective parties. In light of the above, additional regulation is overly burdensome and superfluous.

6. The requirement that the Department of Buildings publish guidance for aesthetic considerations is unnecessary due to the Department's own guidelines on the placement of cellular antennas and equipment.

The limitations already set forth in TPPN 5/98 address the visual aspect of cellular antennas and equipment, which include height limitations of the antennas above the roof, the size of those antennas and the footprint of the related equipment.

7. Compliance with Int. 237's provisions will have the net effect of being a hidden tax on consumers.

Resources spent on complying with unnecessary regulations will inevitably have to be passed on to consumers and divert industry resources from providing consumer benefits such as improved wireless coverage and new product and service innovations.

8. Exempting governmental agencies from compliance with Int. 237 is discriminatory and evidence that Int. 237 is not conducive to providing a robust wireless infrastructure.

By exempting governmental agencies from the provisions of Int. 237, the City Council has made it clear that Int. 237 has the potential to hinder the development of the public wireless infrastructure. It is respectfully submitted that the City Council should also be concerned about the potential hindering of the development of the private wireless infrastructure since both infrastructures are critical to operations in New York City. Just look at the growing number of emergency 911 calls over wireless networks in the City to note the significance of the private wireless infrastructure to the City. Indeed, during an emergency, both public and private infrastructures are essential in protecting and saving the lives of people and property throughout New York City.

Conclusion

It is the position of the Wireless Providers that existing regulations serve all the interests sought to be addressed by Int. 237. Under the current scheme, cellular telephone antennas and associated equipment have been located on building rooftops in residential zoning districts as well as other districts over the course of three separate mayoral administrations, providing critical wireless communications throughout the city. Int. 237 is unnecessary and discriminatory. Moreover, Int. 237 would impede the development of a robust wireless infrastructure in New York City, which is essential for residents, businesses and emergency personnel in every neighborhood.

Dated: November 2010



The New York City Council

City Hall
New York, NY 10007

Legislation Text

File #: Int 0237-2010, Version: *

Int. No. 237

By Council Members Vallone, Jr., Fidler, Gentile, Lappin, Van Brammer, Nelson and Mark-Viverito

A Local Law to amend the administrative code of the city of New York, in relation to cellular telephone antennas and equipment.

Be it enacted by the Council as follows:

Section 1. Title 28 of the administrative code of the city of New York, as amended by local law 33 for the year 2007, is amended by adding a new section 28-103.16.1 to read as follows:

§28-103.16.1 Placement of cellular telephone service antennas and related equipment. (a) The department, in conjunction with such other city agencies as the commissioner shall determine, shall promulgate rules concerning the attachment, installation or mounting of cellular telephone service antennas and equipment on buildings or structures. Such rules shall contain, but need not be limited to, requirements for the manner in which cellular telephone service antennas and related equipment may be attached, installed, or mounted on buildings or structures; a requirement that any related wires or wiring running through a building or structure are properly enclosed or guarded in accordance with the electrical code; a requirement that prior to seeking a permit from the department to attach, install or mount a cellular telephone service antenna and related equipment on a building or structure, the applicant shall provide written notice of such intent to the community board and council member in whose respective districts the building or structure is located; requirements for the placement of an identification tag on cellular telephone service antennas and related equipment which shall include the permit number and an "advisory" to dial 311 where any exigent circumstances exist or for more information concerning such permit; a requirement that the permit applicant make best efforts to locate in a non-residential zone and make best efforts to co-locate cellular telephone service antennas and related equipment; guidance for aesthetical considerations to minimize the visual impacts of such antennas or related equipment where practical; and a protocol to address the removal of such antennas and related equipment following abandonment or discontinuance of service.

(b) The requirements of this section shall not apply to the placement or replacement of cellular telephone service antennas and related equipment, attached, installed or mounted by or on behalf of governmental agencies for a government purpose.

§2. This local law shall take effect ninety days after its enactment into law; provided, however, that any actions necessary for the implementation of this local law may be taken prior to its effective date.

JTB

LS# 0700
3/31/10
Int. 984/2009

COMMENTS FROM WIRELESS PROVIDERS

**T-MOBILE
VERIZON WIRELESS,
SPRINT-NEXTEL,
and
AT&T**

**TO PROPOSED LOCAL LAW INT. 0104-2010
IMPACTING WIRELESS INFRASTRUCTURE**

NOVEMBER 2010

Overview

Proposed Local law Int. No. 104 Impacting Wireless Infrastructure by adding a New Section 28-104.2.4.1 entitled “Comment Period for approval of cellular telephone permits” (hereinafter “Int. 104”)

The following comments to Int. 104 are offered by those members of the wireless telecommunications industry commonly referred to as Verizon Wireless, T-Mobile, Sprint-Nextel, and AT&T (hereinafter referred to as “Wireless Providers”).

Int. 104 Description

Int. 104 provides that the Department of Buildings (“DOB”) shall, within 5 business days, of receipt of an application for the issuance of an alteration permit for the erection or placement of an antenna used to provide cellular telephone service or similar service or any structure related to such service, notify in writing the community board and council member in whose districts the property involving the application is located. It further provides that the DOB must wait for 30 days prior to issuance of any permit since the community board and council member have 30 days to make any comments.

Summary of Response

In light of the existing rules already in place with respect to cellular telephone antennas and related equipment, Int. 104 is unnecessary and would needlessly delay the vital steady deployment of the wireless infrastructure in New York City, which is essential for public safety and relied upon by businesses, residents and emergency personnel in every neighborhood. Since 2006, cellular telephone permit applications have had complete transparency since the DOB already posts all permit applications for cellular telephone antennas on its website and lists the property address and the community board wherein the property is located. Such posting already provides notice and hence there is no need for additional notice, as required under Int. 104.

With respect to Int. 104’s mandatory 30 day comment period, such comment period can only result in unnecessary delay for the carrier’s installation. The DOB already regulates the attachment, installation and mounting of cellular telephone service antennas and equipment through Technical Policy and Procedure Notice 5/98, with limits on size, location and height. Hence, DOB’s review is one of code compliance. Therefore, once an application is code compliant, there is absolutely no need for the DOB to be forced to wait 30 days for comments, prior to issuing a permit. Indeed, Int. 104 can only stymie applications, and directly contravene the City’s policy of streamlining regulation for business to prosper in New York City.

Dated: November 2010

Int. No. 104

By Council Members Fidler, Vacca, Comrie, Dromm, Gentile, Jackson, Koslowitz, Mark-Viverito, Nelson, Palma, Van Bramer, Williams, Rodriguez, Lappin, Halloran and Koo

A Local Law to amend the administrative code of the city of New York, in relation to requiring notification to community boards and council members of applications for issuance of alteration permits for cellular telephone antennas and equipment.

Be it enacted by the Council as follows:

Section 1. Article 104 of title 28 of the administrative code of the city of New York is amended by adding a new section 28-104.2.4.1 as follows:

28-104.2.4.1 Comment period for approval of cellular telephone permits. When the department receives an application for issuance of an alteration permit for the erection or placement of an antenna used to provide cellular telephone or similar service or any structure related to such service, the department shall, within five business days of receipt of such application, notify in writing the community board and council member in whose respective districts the property in question is located of the receipt of such application. Such community board and council member shall have thirty days within which to make comments to the department on such application and no permit may be issued by the department during such comment period.

§2. This local law shall take effect ninety days after its enactment.

COMMENTS FROM WIRELESS PROVIDERS

**T-MOBILE
VERIZON WIRELESS,
SPRINT-NEXTEL,
and
AT&T**

**TO PROPOSED LOCAL LAW INT. 0057-2010
IMPACTING WIRELESS INFRASTRUCTURE**

NOVEMBER 2010

Overview

Proposed Local Law Int. 0057-2010 Impacting Wireless Infrastructure by adding a New Section 28-302.7 entitled "Exterior walls and appurtenances thereof, cellular telephone service apparatus" (hereinafter "Int. 57")

The following comments to Int. 57 are offered by those members of the wireless telecommunications industry commonly referred to as Verizon Wireless, T-Mobile, Sprint-Nextel, and AT&T (hereinafter referred to as "Wireless Providers").

Int. 57 Summary and Response

In sum, Int. 57 provides that if a property owner cannot perform a critical examination of an applicable building's exterior walls and appurtenances due to cellular telephone service apparatus, then the owner shall immediately notify the building department and the carriers shall immediately permit such examination and shutoff such apparatus for such period of time as necessary.

The Wireless Providers' principle objection to Int. 57 is that Int. 57 is an unnecessary intrusion of the landlord-tenant relationship between the cellular telephone service provider and the property owner. Like other occupants of the building's exterior, Wireless Providers understand the importance of an owner completing a critical examination of a building's exterior walls and appurtenances in accordance with section 28-302.2. Such examination provides additional protection to a carrier's equipment, by ensuring that the building exterior is sound and in compliance with applicable codes. Therefore, Int. 57 is unnecessary as the Wireless Providers have an interest in cooperating with the building owner with respect to the examination and the Wireless Providers know of no instance where such cooperation has not occurred.

Moreover, in order to place its equipment on a building, the cellular telephone service providers have a lease or other contractual agreement with the property owner, which addresses maintenance issues. Therefore, the examination of the building's exterior should be coordinated between the provider and the property owner, and it should be in accordance with that contractual relationship, and not be mandated by the government, when an apparatus must be shut off and when it may resume in connection with the building's examination. Many factors such as the timing and the location of the repairs must be considered before a determination can be made if a cellular telephone service apparatus must be shut off at all and, if so, to what extent. Due to the intricacies involved in the shut down of any cellular telephone service apparatus and the contractual relationship that already exists between the property owner and the Wireless Provider, it should be left to those parties to coordinate any necessary critical examination and repairs and government involvement is unnecessary. Indeed, a building's exterior may have various apparatuses attached, so it is certainly questionable why only cellular telephone apparatuses are being singled out for additional regulation in Int. 57.

Dated: November 2010



The New York City Council

City Hall
New York, NY 10007

Legislation Text

File #: Int 0057-2010, Version: *

Int. No. 57

By Council Member Vallone Jr.

A Local Law to amend the administrative code of the city of New York, in relation to cellular telephone service equipment and the inspection of the exterior walls of buildings greater than six stories in height.

Be it enacted by the Council as follows:

Section 1. Article 302 of chapter three of title 28 of the administrative code of the city of New York as added by local law number 33 for the year 2007, is amended by adding a new section 28-302.7 to read as follows:

§28-302.7 Exterior walls and appurtenances thereof, cellular telephone service apparatus.

(a) Where a critical examination of an applicable building's exterior walls and appurtenances thereof cannot be conducted in whole or in part in accordance with section 28-302.2 due to the presence of any apparatus related to the provision of cellular telephone service, the owner of such property shall immediately contact the department in writing describing the nature of the circumstances for such inability and shall also indicate the building address, the cellular telephone service carrier or carriers whose equipment it is, and why such examination cannot be timely completed.

(b) The owner of the property to which subdivision a applies shall immediately coordinate with the cellular telephone service carrier or carriers for the critical examination of such exterior walls and appurtenances thereof, which carrier or carriers shall allow the owner, or his or her representative, to conduct such examination promptly and such carrier or carriers shall, if necessary, shut-off such apparatus for such period of time as is necessary to permit a complete critical examination as is required by section 28-302.2 of this article. Upon the completion of such critical examination, the apparatus related to the operation of cellular telephone service may resume unless such critical examination reveals that such exterior wall and

appurtenances thereof are in need of immediate repair. The report of such critical examinations shall be filed in accordance with section 28-302.4 of this article and any necessary repair of exterior walls or unsafe conditions made in accordance with section 28-302.5 of this article.

§2. This local law shall take effect immediately.

BH
Int. 307/2006
1/28/2010 2:12 PM

Good morning Council Members.

My name is Mari Sakaji. I live at 130 8th Avenue, Brooklyn in an 8-story coop building.

My personal encounter with cellular antennas started in July 2005 shortly before the construction of six T-Mobile antennas on our building was to begin.

Many of the shareholders after finding out about this project were extremely upset and a meeting was held with the shareholders and T-Mobile.

Many questions were asked about why T-Mobile did not make an effort to inform residents and the neighborhood. If this had occurred, there would have been a public disclosure and a public hearing before the contract was signed.

The senior project engineer for the company answered that T-Mobile's policy was to notify local community boards, so that those boards may inform their constituents call for hearings. This was not true.

We checked with our Community Board 6 and were told that they had not been informed by T-Mobile.

In our case, there was to be six antennas and 9 tons of equipment to be installed. The contract was for 15 years but no option for us to cancel the contract.

These antennas were going to be placed in a neighborhood where we have two schools both a block away from our building. We have residential buildings adjacent on both sides that stand higher than ours which would be in direct line of the radiofrequency radiation from the antennas. Our neighbors' apartments would have been showered with radiofrequency radiation continuously 24 hours a day.

I understand there is still a lot that is not understood about radiofrequency radiation and its long term effects on human health. These antennas emit radiofrequency radiation 24/7, every single day, year after year. In our case it would have been for at least 15 years and possibly many more. Since cellular antennas are so prevalent and have potential health risks, it makes sense to disclose their placement.

It took a group of dedicated shareholders 3 years in court, to defeat the plans for installing the antennas by T-Mobile. Unfortunately, many antennas are still popping up all over New York City because there are virtually no regulations on where these antennas are placed and cell phone companies are not required to notify the community.

I believe that it is important that community boards and elected officials be notified before a site is built, and that there is a transparent, thoughtful and accountable process for placing and maintaining them in residential neighborhoods. It is critical that there is more oversight as to how and where these antennas are placed because they emit radiofrequency radiation and impact the character of neighborhoods. I urge you to support these bills.



**TESTIMONY FROM JORDAN ISENSTADT, DEPUTY DIRECTOR OF
THE ASSOCIATION FOR A BETTER NEW YORK, BEFORE THE
NEW YORK CITY COUNCIL HOUSING AND BUILDINGS
COMMITTEE HEARING REGARDING PROPOSED REGULATIONS
IMPACTING WIRELESS INFRASTRUCTURE**

December 1, 2010

Good morning, my name is Jordan Isenstadt, and I am the Deputy Director of the Association for a Better New York (ABNY). On behalf of ABNY, I want to thank Chairman Dilan and members of the Housing and Buildings Committee for the opportunity to testify today. ABNY promotes and facilitates the effective cooperation of the public, private and non-profit sectors to improve the quality of life for those who live and work in New York City, and for the millions of tourists who visit each year. ABNY strongly opposes Proposed Local Laws #237, #104 and #57 due to the fact that these proposals could hinder the efficiency of networks vital to the growth of business in New York City, as well as technological innovations that benefit consumers in our city.

Let's take a look at the facts: Wireless services are increasingly relied upon by New Yorkers as their primary form of communications. In fact, earlier this year, the U.S. Center for Disease Control and Prevention released a report indicating that 1 out of 4 households now rely exclusively on a cell phone to stay connected. Over the last decade, the wireless industry has grown in New York City as the demand by consumers and businesses has also grown. Unfortunately, the legislation in question would set back the progress that has been made and would stifle the continued growth of the wireless industry, which has become a critical part of our economy. These networks promote the continued usage of technologies that are enhancing our competitive edge, allowing businesses to grow and create jobs. Placing further burdens upon the wireless industry will only weaken the average New Yorker's access to reliable and cost-effective mobile phone service, broadband, Wi Fi, and the wireless technologies of the future.

ABNY has a vested interest in New York City as a destination for people to live, work and play. We pride ourselves on being able to promote New York as a place that embraces change and innovation, as well as advancing of culture, arts, education and yes, technology. This cannot happen in an environment where all technologies aren't embraced equally. Wireless technology is more and more becoming a part of our public safety infrastructure, as well as our day-to-day communications infrastructure. Anything that compromises the technological advancement needed for better communications in the event of a personal or natural disaster goes against the betterment of New York City as a place to live and do business. The last thing New York City needs right now is another reason for people and businesses to leave.

The three bills in question all seek to place further regulation upon the work of maintaining and growing our city's wireless infrastructure. The fact remains that there are a host of existing rules already in place with respect to cellular telephone antennas and related equipment that make the proposed legislation unnecessary and redundant. In addition, the wireless industry already presents notification of applications to the public through the Department of Buildings website. Finally, the proposed legislation imposes a burdensome process on wireless sites that does not exist for any other type of public works structure placed on buildings, such as water towers, satellite dishes, and radio antenna.

As an association whose membership includes businesses large and small, educational institutions and non-profit organizations, we are focused on making New York a better place to live and work. There are many major issues we need to address to strengthen our city's economy and secure our future. Increased regulation for the wireless industry is not one of them and we encourage you to oppose the proposed legislation.

Thank you for the opportunity to testify today.

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Testimony of Sylvester A. Giustino, Director of Legislative Affairs Building Owners and Managers Association of Greater New York, Inc.

Council of the City of New York

Committee on Housing and Buildings

Hearing in relation to Prop Int. No. 57 & Int. No. 237

December 1, 2010

Good Morning, Chairman Dilan and members of the City Council, my name is Sylvester Giustino, Director of Legislative Affairs for the Building Owners and Managers Association of Greater New York, Inc. (BOMA/NY). We represent more than 700 owners, property managers and building professionals who either own or manage 400 million square feet of commercial space. We're responsible for the safety of over 3 million tenants, generate more than \$1.5 billion in tax revenue and oversee annual budgets of more than \$4 billion.

BOMA/NY opposes the proposed Int. No. 57 and Int. No. 237.

Int. 57 states that if a property owner cannot perform a critical examination of an applicable building's exterior walls and appurtenances due to cellular telephone service apparatus, then the owner shall immediately notify the building department and the carriers shall immediately permit such examination and shutoff such apparatus for such period of time as necessary. This is an unnecessary infringement of the relationship between the cellular telephone service provider and the property owner. Additionally, our members would need to revise license agreements to include removal of a structure to remain in compliance with Local Law 11 inspections. The examination of the building's exterior should be coordinated between the provider and the property owner and it should be in accordance with that contractual relationship, and not be directed by government agencies, when an apparatus must be shut off and when it may resume in connection with the building's examination.

In regard to Int. No. 237, BOMA/NY is opposed to the additional mandatory reporting requirement to give written notice of even an "intent" to locate wireless infrastructure to council members and community boards is unnecessary and excessive in light of the reporting requirements already in place. We believe that the current reporting regime is sufficient and transparent. If this proposed bill is enacted it would create an unusual precedent whereby council members and community boards are given notice in advance of full public disclosure. It would empower council members and community boards to pressure landlords to break or alter private lease agreements. This provision in effect would interfere with the private contractual relationship between our members and wireless carriers.

In conclusion, the Building Owners and Managers Association of Greater New York, Inc. (BOMA/NY) believes the existing rules and regulations with respect to cellular telephone antennas and related equipment are sufficient. We respectfully ask that this committee reject these proposed bills and not jeopardize the ability to provide a robust wireless infrastructure in New York City, which is essential for businesses, residents, consumers and emergency personnel.

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**BUILDING OWNERS AND MANAGERS
ASSOCIATION OF GREATER NEW YORK, INC.**

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Anti-Wireless Bills Would Hurt Cell Phone Service and Jeopardize Public Safety

On May 12th the National Health Interview Survey released new data finding that 1 out of 4 households rely exclusively on a cell phone to stay connected- surpassing the number of landline-only residences.

On the same day, legislation was introduced in the New York City Council that would make it more difficult for wireless phone carriers to improve their networks in residential neighborhoods- resulting in more dropped calls, more fast busy signals, slower data processing and weaker in-home coverage for customers across NYC.

TELL THE NYC COUNCIL TO KEEP NEW YORK CONNECTED

Intros 237, 104, and 57 would restrict wireless deployment-- resulting in more dropped calls, slower download speeds, and weaker in-home service for New Yorkers across the 5 boroughs.

The amount of information passing through mobile phone networks doubles every year. By the end of 2010, data traffic on cell phone networks will hit an exabyte - that's more than 18,000 times the amount of information contained in all the books ever written.

Like midtown at rush hour, heavy traffic means more congestion which leads to bottlenecks. The same is true for wireless broadband. Growing demand for data heavy applications - like streaming video, and sending emails and text messages - clogs the existing network. Only by adding more capacity can everyone travel smoothly.

WIRELESS FOR THE WAY WE LIVE

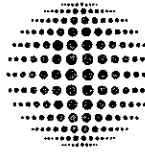
A decade ago, incomplete and disconnected calls were a way of life. Many New Yorkers had to stand near a window or step outside just to make a phone call.

Today, 93% of us depend on cell phones, Blackberries, iPhones, and Androids for peace of mind:

- ✓ New Yorkers make 250,000 calls to 911 every month from mobile phones. Across the U.S., more than 50% of all emergency calls are made from a wireless phone.
- ✓ Thousands of text messages and online tips help the NYPD fight crime.
- ✓ 50,000 New Yorkers rely on Notify NYC for real-time emergency alerts.

To meet New York's growing demand for reliable coverage, wireless carriers must continually upgrade their networks so we can all stay connected to our families, our jobs, our city, and our lifelines.

For more information, please contact Doug Dimitroff, President, New York State Wireless Association at 917-714-3489



Partnership for New York City

**TESTIMONY BEFORE THE CITY COUNCIL COMMITTEE ON HOUSING AND
BUILDINGS**

WEDNESDAY, DECEMBER 1, 2010

MICHAEL SIMAS, VICE PRESIDENT, GOVERNMENT AFFAIRS

On behalf of

**KATHRYN WYLDE, PRESIDENT & CEO
PARTNERSHIP FOR NEW YORK CITY**

Good morning Chairman Dilan and members of the committee. Thank you for the opportunity to testify today.

The Partnership for New York City represents leadership of international and regional businesses that are headquartered in New York. Our members employ 775,000 people in New York City and contribute over \$140 billion to the annual Gross City Product.

A strong, redundant wireless communication system is absolutely essential to the continued growth of our city's economy. This is a matter where a decision to restrict service providers from installation of equipment and facilities will have immediate consequences for our city, in terms of lost jobs and tax revenues.

New York City's central role in the national and global economy is very much defined by the strength of our telecommunications system. These are the tools of the trade of our city's most important industries: financial services, media, and professional services. The speed and reliability of wireless access is a top priority in business location decisions in each of these sectors.

In addition to broadband, businesses are increasingly reliant on different forms of wireless technology. In the last year we have seen an explosion in the use of iPads and tablet PCs. While these devices provide even greater convenience and productivity, they require a robust wireless network.

Not only does wireless connectivity have an impact on the existing drivers of our economy, it also plays a significant role in our economic future. New York is positioned to be a hub for innovation in communications technology and digital media in the coming years thanks to a large number of small but growing entrepreneurial firms who lead in Web 2.0 and social media applications. The success of these burgeoning businesses is dependent on the availability and accessibility to wireless spectrum.

In 2008 Nielsen reported the top U.S. markets for voice and 3G data service. New York lagged behind Dallas, Atlanta, Chicago and other leading cities. In addition, a 2010 ranking by Forbes Magazine named "America's Most Wired Cities," which identified the top twenty cities in terms of broadband connectivity and access to Wi-Fi hot spots. New York was not on the list.

For New York City to maintain its competitiveness, our infrastructure must keep pace with global cities around the world. When it comes to wireless access, we are in real danger of falling behind. That is why we urge the Council to take a balanced approach to this issue and to consider how to improve and increase the capacity and reliability of the existing system, rather than imposing new obstacles to its growth.

My name is Evie Hantzopoulos and I represent Astoria as well as the hundreds of people who have contacted me throughout the years who like me, have been alarmed by the proliferation of cellular antennas in residential communities and the complete lack of oversight over this industry.

Over seven years ago, T-Mobile constructed a cellular antenna base station on the rooftop of a building across the street from me. My neighbors and I had no idea what was going on, and were told by the workers that it was “for cable”. It was only because the blueprint blew off the roof into my neighbor’s backyard – and he happened to be an engineer – that we realized they were cellular antennas.

I must admit, I thought it was no big deal at first , after all, it was just nine ugly white panel antennas mounted to the edge of the rooftop. It was only after this same neighbor, whose wife was a breast cancer survivor, alerted us to the fact that the antennas emitted radiofrequency radiation, that I began to question what was occurring, and what was this meant for my children, my neighbors, and all the residents of New York City.

Many of us on the block started doing research and we were alarmed by what we were reading and the potential harm that can come from long term, low dose exposure to radiofrequency radiation, which is not factored into any FCC guidelines – those guidelines only factor in immediate thermal exposure. We called our CM, who at the time knew nothing about this issue – who did?. We contacted City planning, who could not tell us how many antenna sites there were in NYC or where they were located. We called the FCC, who had not conducted even one inspection of any rooftop cell antenna sites in NYC to ensure the carriers were in compliance. We could not believe that only a simple alteration permit was all that was needed to put one of these sites up and that no one was tracking them or devising a sensible policy or plan. Basically, the telecommunications industry was given free reign to place these wherever and when ever they wanted.

I am grateful that 5 years ago, under the leadership of CM Vallone, the City Council did pass legislation requiring the Dept of buildings to maintain a separate list of cell antenna sites, so that the public could see and track how many there are. Here are some numbers that we can now site: since it went into effect in July 2005, over 4600 sites have gone up – each with approximately 9 antennas, some more. That’s over 41,000 antennas....This

thru
Sept
2010

number does not include the thousands of sites that were constructed prior to the tracking.

This initial legislation was the right step, but it is not enough. There have been cases of building's structural integrity being compromised by the tons of rooftop equipment. We've heard from landlords who are afraid to make repairs on their roofs because they can't get the companies to turn them off while work is done. We've heard from hundreds of people across this city who are stunned to see antennas going up across from their bedroom windows without their knowledge and feeling powerless to do anything about it. We've heard from parents who want to know why antennas are pointed in the direction of their children's schools, when it is well accepted by the medical community that children are more vulnerable to the effects of RF radiation than the general population.

The industry is looking to put up as many of these sites as possible, without having to prove that there is an actual need, or whether the area is already saturated. They do not want public notification, they do not want to have to plan with our government agencies or one another to maximize coverage in a way that could minimize risk or impact to communities. They do not want to even have to identify who they are on their permits or their equipment. So while the industry is looking out for themselves, who is looking out for the people?

I understand that wireless communication is a part of everyday life, and I am not anti-technology. I'm a new member of CB 1 in Queens, where I am notified and make decisions on things like how many outdoor café tables can be placed on sidewalk, weighing the interests of local business with concerns of local residents. Public notification and community input regarding the placement of cell antennas should be a no-brainer. Tagging equipment so that the carriers can be identified should be a no-brainer. Requiring companies to make a best effort to locate sites away from residential areas should be a no-brainer. It is possible to balance different interests but right now, the scales are tipped well in favor of the industry, at the expense of the public.

I'm sure today you are going to hear from the industry that any regulation will compromise service and hurt NYC's economy. They may even say that people will lose their lives. Be prepared for half truths and disinformation. What's interesting to me is that these carriers are in fierce competition,

refusing to collaborate, share infrastructure, or plan on anything together. The only time they seem to want to work together is at hearings like this, when they bring in their lobbyists and highly paid lawyers to fight tooth and nail against any transparency, democratic participation, and accountability. Imagine if they spent as much time and money on working with the people and our government to create a plan together. For years, they've worked in isolation, without any meaningful regulation, and have been unable to satisfy most of their clients. Some oversight may actually provide everyone with better service.

Thank you for your support, and especially to CM Vallone for his pioneering efforts.

inspect see whether in compliance

Co-located

Bank rate

My expenses
Wingby attached

Build owner is responsible

to we support
to
exempted
them
Zeny Reg.

Data audit
Just access to
building



NOTICE



RF Controlled Area Beyond This Point

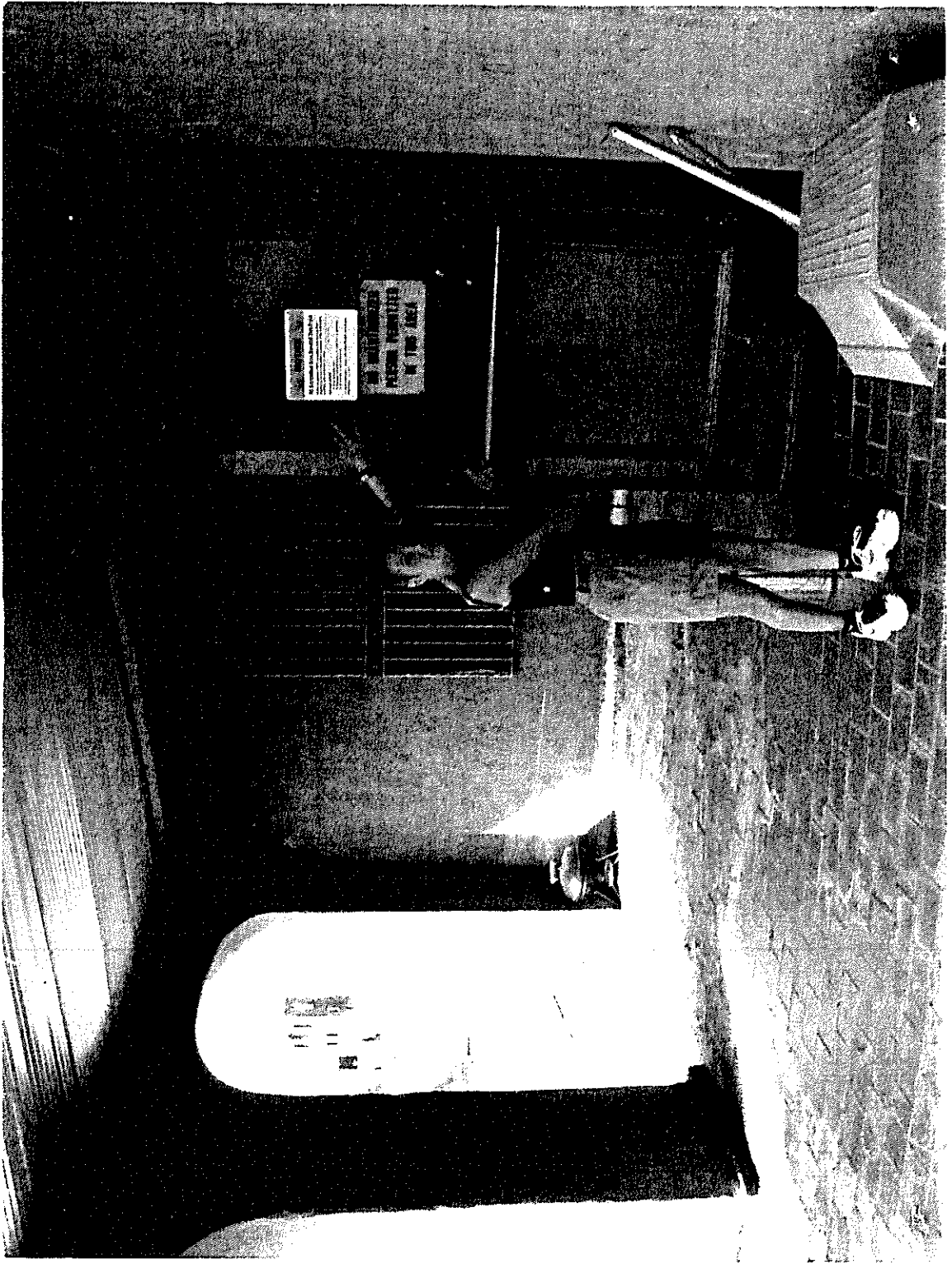
Radio frequency ("RF") emissions may exceed FCC Standards for general public exposure. Only authorized workers are permitted to enter.

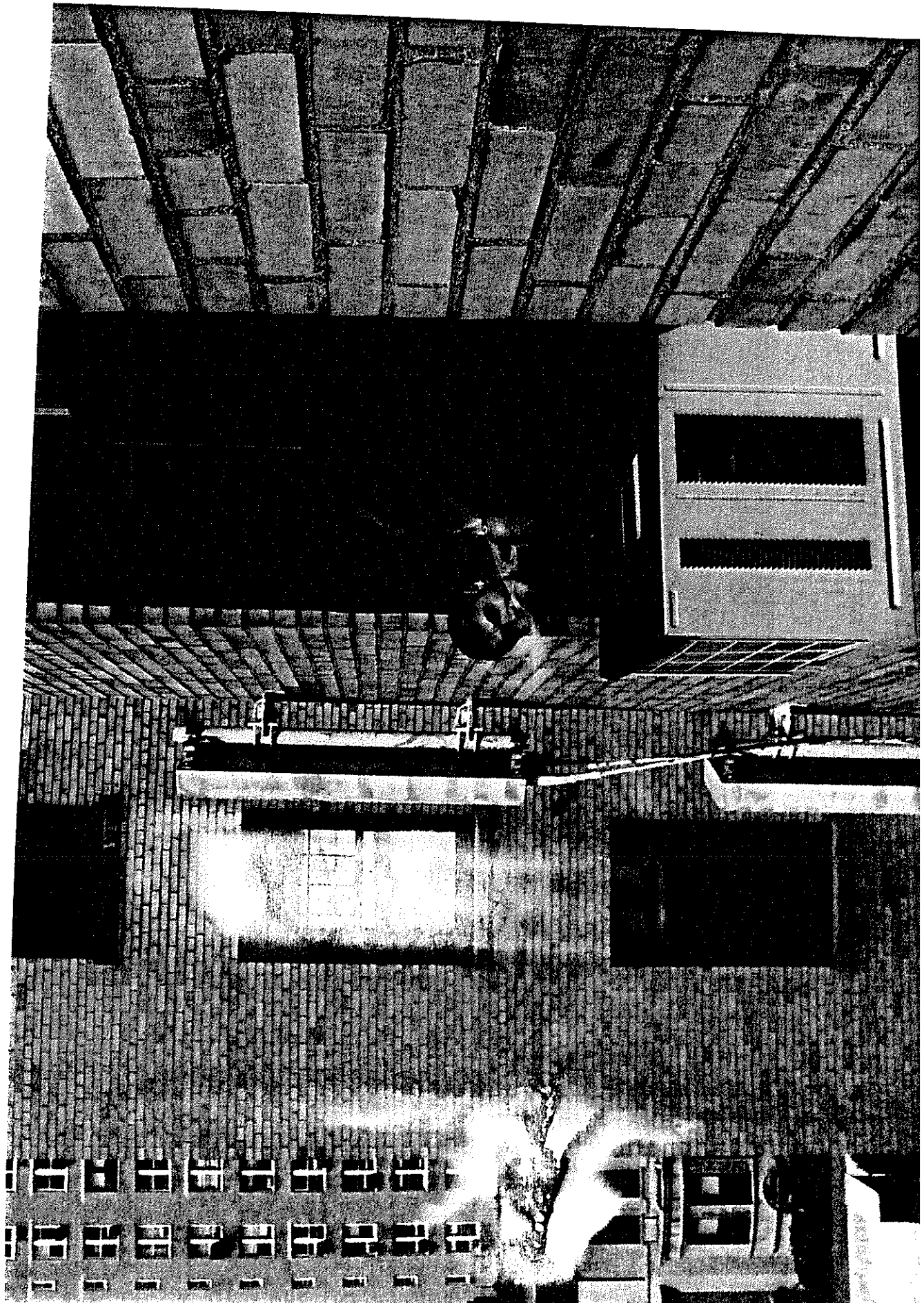
For your safety:

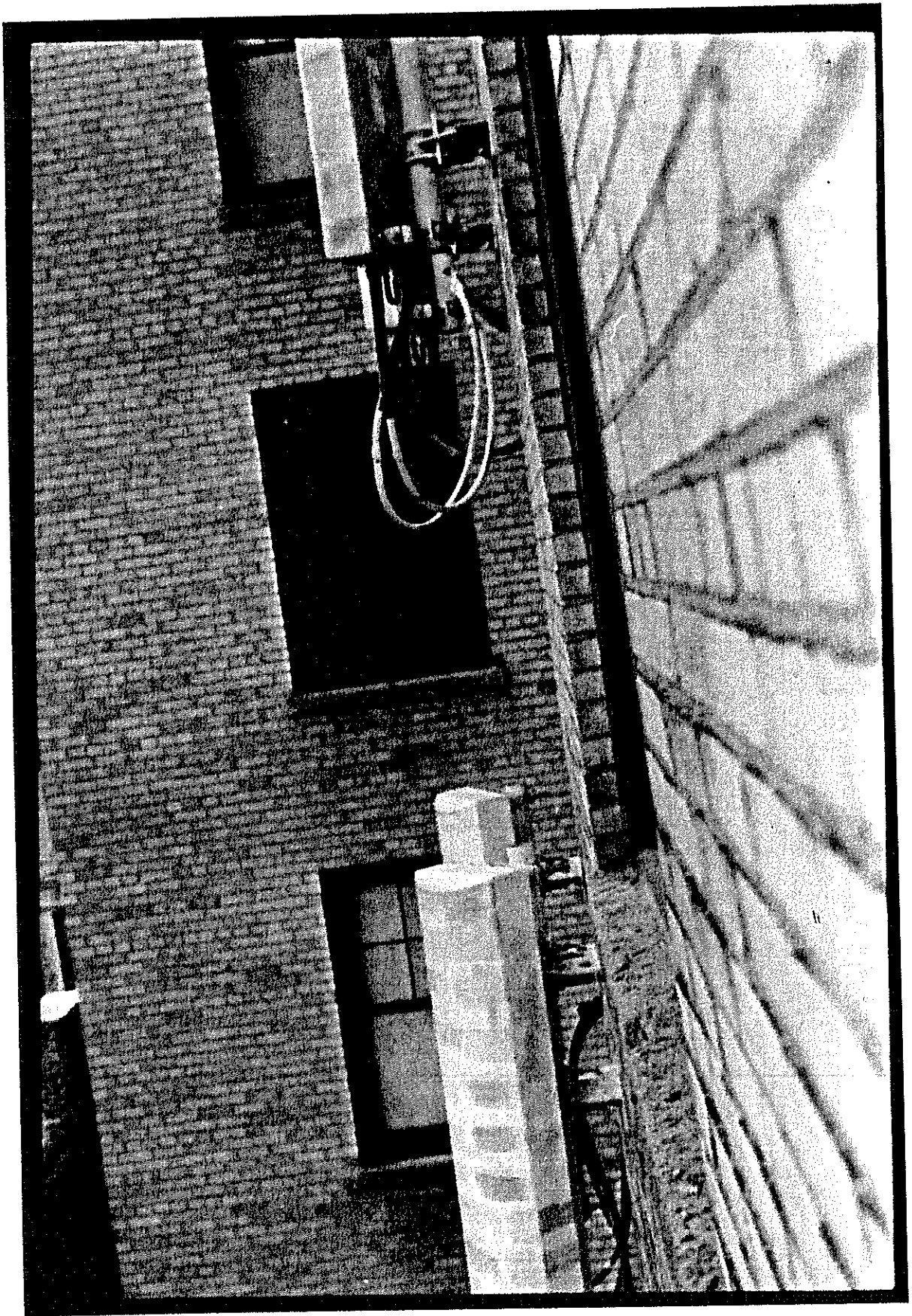
- ▶ Obey all posted signs
- ▶ Maintain minimum distance of 1 foot from all antennas
- ▶ Do not stop in front of antennas

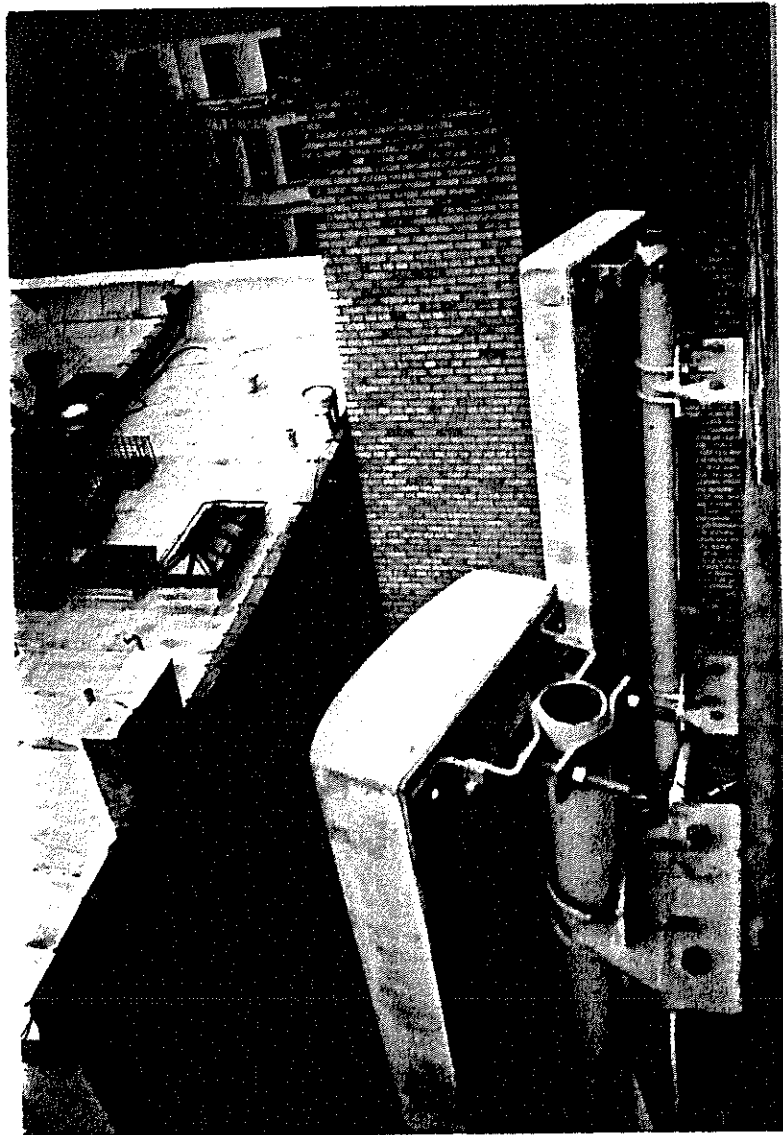
For further information, please call 1-800-451-7000
Site Number: 00000000000000000000000000000000

**NO UNAUTHORIZED
PERSON PERMITTED
IN THIS AREA**









**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 12/1

Name: Eire Hartzopoulos (PLEASE PRINT)

Address: 32-39 23 Astoria 11106

I represent: Astoria Neighborhood Coalit

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: Jane Bender (PLEASE PRINT)

Address: _____

I represent: T-Mobile

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 12/1/10

Name: Mari Sakaj (PLEASE PRINT)

Address: 130 8th Ave, Brooklyn NY 11215

I represent: _____

Address: _____

◆ Please complete this card and return to the Sergeant-at-Arms ◆

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: Nancy Friedman (PLEASE PRINT)

Address: 103 Centre St Bronx NY

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: JAMES COLGATE (PLEASE PRINT)

Address: Assistant Commissioner

I represent: Dept of Buildings

Address: 280 Broadway

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 104 Res. No. _____

in favor in opposition

Date: _____

Name: Jordan Isenhardt (PLEASE PRINT)

Address: _____

I represent: ABNY

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 237,104 Res. No. 57

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: DAN MULLIN
Address: 100 SOUTHGATE PKWY, MORRISTOWN, NJ
I represent: VERIZON WIRELESS
Address: VERIZON WAY, BASKING RIDGE, NJ

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. Cell Antenna Bill Res. No. 5

in favor in opposition

Date: 12/1/10

(PLEASE PRINT)

Name: THOMAS MORAN
Address: 350 EAST 79th ST 24B NYC 10075
I represent: EAST 79th ST Neighborhood Association
Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 27,57,104 Res. No. _____

in favor in opposition

Date: 12/1/10

(PLEASE PRINT)

Name: John C. Jefferson
Address: 77 Water St. 25-e-15 NY NY 10005
I represent: AT&T
Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 12-1-10

(PLEASE PRINT)

Name: Mike Jimas

Address: One Battery Park Plaza

I represent: Partnership for New York City

Address: One Battery Park Plaza

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 57, 103, 237 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Douglas Dimitroff

Address: 3400 HSE Cdr Buffalo NY

I represent: NYS Wireless Assn

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 12-1-10

(PLEASE PRINT)

Name: Michael Santorelli

Address: NY Law School 185 W. Broadway

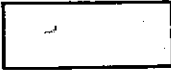
I represent: ACLP & NY Law School

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Sylvester Giustino

Address: 11th Ave Plaza

I represent: DOMAIN

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 57 Res. No. 104

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Joan Bondell

Address: 350 Central Park West NY 10025

I represent: 350 CPW Tenants Association

Address: 350 CPW NY 10025

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: ROBERT HOLDEN

Address: 74-19 CALDWELL AVE MIDDLE VILLAGE

I represent: JUNIPER PARK CIVIC ASSOC.

Address: PO BOX 790275 MIDDLE VILLAGE NY

◆ Please complete this card and return to the Sergeant-at-Arms ◆