



Legislation Details (With Text)

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Title: Resolution urging the Federal Communications Commission to deny the petition filed by the CTIA (The Wireless Association) regarding wireless tower siting in relation to state and local zoning laws.

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Res. No. 1721

Resolution urging the Federal Communications Commission to deny the petition filed by the CTIA (The Wireless Association) regarding wireless tower siting in relation to state and local zoning laws.

By Council Members Avella, Gentile, James, Palma, Seabrook, Dilan, Vallone Jr. and Oddo

Whereas, In July, CTIA (The Wireless Association), an international nonprofit organization that represents all sectors of wireless communications, filed a petition with the Federal Communications Commission (FCC) to request that the Commission clarify provisions of the Communications Act of 1934 that affect cell tower and antenna siting; and

Whereas, CTIA specifically requested that the FCC require municipalities to approve a zoning request for cell towers within forty-five (45) days for modifications to existing towers and seventy-five (75) days for new towers; and

Whereas, The petition also requested that if a local government fails to act within the proposed period of

time, the application will be automatically approved; and

Whereas, The petition, if approved, would pre-empt any local ordinances and state laws that would automatically require a variance for cell tower applications, directly threatening the exercise of local zoning powers for the siting of wireless facilities; and

Whereas, The 1996 Telecommunications Act enacted by Congress stated that local governments should act on cellular zoning requests “within a reasonable time period, taking into account the nature of the request,” thus recognizing the variety of issues municipalities must consider when making local zoning decisions; and

Whereas, The petition from the CTIA does not reflect the wide range of zoning procedures throughout the country since some local governments may require a public hearing, zoning authority meetings, or appeal procedures for facility siting applications while others may have to follow certain state processes and procedures; and

Whereas, Based on the Telecommunications Act, any determination by the FCC to require a fixed period of time and impose a penalty for violating that proposed time frame appears to be in conflict with the statute by requiring the FCC to act beyond its authority; and

Whereas, The FCC Intergovernmental Advisory Committee, a committee created in 1997 to provide guidance to the Commission on issues of importance to state, local and tribal governments, recently called upon the FCC to deny the CTIA’s tower siting petition and continue to recognize zoning as a local concern; and

Whereas, While local siting ordinances and state laws might be viewed by wireless companies as leading to inappropriately slow local governmental action, states and municipalities have the right to consider issues that may affect their community and thus, zoning should continue to be a local matter with which the FCC is not involved; now, therefore, be it

Resolved, That the Council of the City of New York urges the Federal Communications Commission to deny the petition filed by the CTIA (The Wireless Association) regarding wireless tower siting in relation to state and local zoning laws.

CFP
LS# 6368/2008