How to Handle Wireless Facilities Requests During the Coronavirus Crisis

We hope that you are staying safe and healthy during these challenging times. Our law firm has fielded many inquiries from municipalities about requests they have received regarding wireless facilities during the coronavirus crisis. We think you may find it helpful if we answer a few of the most common questions below.

**Question: A wireless company gave us a letter from the Department of Homeland Security regarding essential communications services. How should we respond?**

**No response is required.** As our country adjusts to the restrictions put in place to combat COVID-19, telecommunications service is crucial for public safety, work-at-home, and educational purposes. The Department of Homeland Security (through its Cybersecurity and Infrastructure Security Agency or CISA) recently issued a letter (attached) that is being presented by wireless providers to local governments requesting that “any courtesy that can be extended be offered to the bearer of this letter during [the COVID-19 period].”

These CISA letters are advisory in nature and do not mandate any expedited approvals by local governments. The extent to which your municipality extends such courtesies to wireless providers is at your discretion. We have seen wireless providers present CISA letters for expedited approvals to upgrade existing wireless facilities, but we also expect that they will use the letter to push for faster approvals of new facilities. While certain wireless providers may interpret these letters as federal mandates on local governments, they are not.

**Question: Some residents are asking that we impose a moratorium on approvals of new wireless facilities during the pandemic. What should we do?**

**We caution against a complete moratorium; a case-by-case review is more advisable.** As local governments work tirelessly to address public health and safety issues arising from the pandemic, they find that they have more pressing issues to tackle than processing applications for new small cell facilities in the public rights-of-way. Their first reaction may be to impose a moratorium on these new facilities until the crisis is over. As tempting as this may be, for most municipalities, the imposition of a moratorium is not advisable.

First, the Federal Communications Commission (FCC) prohibited moratoria on wireless facility approvals in its 2018 Moratorium Order. That Order is being challenged in court, but a decision
is not expected soon. While the Order allows for moratoria in the event of a public health or safety emergency, it is unclear whether COVID-19 constitutes such an emergency. Second, unless your municipality has received applications for wireless facilities that it is unable to process and wireless providers refuse to cooperate with limited time extensions, the imposition of a formal moratorium is simply asking for trouble.

The safer route is to communicate with wireless providers when applications are received and ask them to work with you to address federal “shot clock” deadlines if your ability to review applications in such timeframes conflicts with public safety demands. This will allow your municipality to avoid litigation resulting from a formal moratorium. The FCC Order encourages local governments to “work collaboratively with providers before resorting to express moratoria in the wake of natural disasters or emergencies.” If wireless providers refuse to cooperate with your reasonable efforts, only then should municipalities consider imposing a moratorium and defending such an action in court.

**Question: A few of our residents are worried that cell towers either cause or help spread the coronavirus. Is this true?**

**Absolutely not.** Some of you may have heard from residents regarding a possible connection between COVID-19 and radio frequency emissions from wireless antennas. If so, it is based on an unfortunate internet conspiracy that links the spread of coronavirus to 5G wireless technology. This conspiracy has gained momentum in certain Facebook groups and on YouTube videos. In England, for example, this conspiracy has led to more than 30 acts of vandalism against wireless towers and equipment in the past month (*New York Times, April 11, 2020*).

Needless to say, this conspiracy is completely false. Wireless technology does not cause or spread the coronavirus. If you receive inquiries about this, you may wish to direct them to the Federal Emergency Management Agency’s (FEMA’s) rumor control page ([www.fema.gov/coronavirus-rumor-control](http://www.fema.gov/coronavirus-rumor-control)), which debunks this conspiracy directly, stating: “5G technology does NOT cause coronavirus.”

**Question: Some residents are concerned about paying their bills for communications services at this time. Are there any resources available?**

**Yes.** The FCC introduced a new measure on March 13, 2020 called the “Keep Americans Connected Pledge”, which is designed to rein in potential abuses from telecom providers during the pandemic. The pledge asks that companies not terminate communications service for residential or small business customers, waive any late fees incurred due to the economic effects of the virus, and open access to public Wi-Fi hotspots to “any American who needs them.”

So far, the FCC says that virtually every major telecom company in the United States has committed to the pledge, including Comcast, Verizon, Charter, AT&T, Sprint, and T-Mobile. These carriers are offering payment and fee waivers to customers. However, these waivers are not
automatic. Individuals must contact their carrier directly to request a waiver. If customers do not contact their carrier, they will continue to be billed and their service may be subject to termination. (For more information, we have created a resource guide called Telecommunications Resources During COVID-19 on the homepage of the Cohen Law Group website.)

If you have questions about your municipality’s legal rights and regulations with respect to wireless facilities or the accuracy of any claims by wireless providers or residents during this crisis, please do not hesitate to contact our firm. Stay safe.

Dan Cohen
dcohen@cohenlawgroup.org
(412) 447-0130, ext. 11

Mike Roberts
mroberts@cohenlawgroup.org
(412) 447-0130, ext. 16

Joel Winston
jwinston@cohenlawgroup.org
(412) 447-0130, ext. 17

Cohen Law Group
413 S. Main Street
Pittsburgh, PA 15215
Phone: (412) 447-0130
Website: www.cohenlawgroup.org