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STOP THE TOWER COALITION

March 5, 2001

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D.C. ZONING COMMISSION
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Members of the District of Columbia Zoning Commission:

My name is Timothy Cooper and I am president of the Stop the Tower Coalition.

Allow me first to express on behalf of the Stop the Tower Coalition—an organization composed of upwards of a thousand District residents who oppose the construction of a telecommunications tower in Tenleytown-- our most profound gratitude to the members of the Commission for holding these potentially ground breaking hearings on antennas and antenna tower zoning law.

Nothing could be more vital in the evolution of the District's zoning regulations.

Your leadership in this field may transcend the immediate parameters of this discussion, because you hold in your hands the power to shape the contours of this debate not only at the local level, but also to extend it to the national level because we live in the nation's capital. What we do here in the coming weeks and month's may have national reverberations because so many other municipalities are experiencing a similar buildup of antennas and antenna towers without adequate or appropriate zoning regulations to ensure the well-being of the community.

Above all else, our purpose here this evening is to petition you to weigh in on the side of reasonable prudence and rational caution on behalf of the community with regard to what amounts to an unprecedented escalation of levels of electro-magnetic radiation that stem from the birth of these new technologies. Any final recommendations on this matter may have profound long-term implications for the quality of life of everyone working and living with this city.

And while the consultants and the lawyers for the telecommunications industry will issue solemn declarations about the purity and safety of their new-found technologies, we—the people-- maintain that your responsibility as community leaders compels you to adopt a more circumspect perspective about the certifications they may make, because a decade or two from now it will be the people of this city who will bear the scars of their misjudgments. A self-policing industry that stands to profit mightily by the pervasive spread of increasingly high levels of electro-magnetic radiation from telecommunications transmissions should be viewed with a suitable level of skepticism.

After all, what these technologies have to offer are little more than the tools of convenience. The inconvenience of leadership, however, charges you with the responsibility of putting the safety and welfare of the people first.

The Stop the Tower Coalition would like to offer its position to the Commission on several aspects of existing zoning law before presenting a brief outline of its recommendations for new zoning law.

First and foremost, we believe that

1) the Zoning Commission's own 1989 order, which was issued after years of rulemaking process

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Exhibit 4

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constitutes the substantive law on zoning governing antennas and antenna towers in the District. Our coalition faxed a copy of a legal opinion letter to Commission on February 5, 2001 from the law firm of Robins, Kaplan, Miller & Cirschi that supports this view.

2) Section 701.6 (g) was miscodified in Title II of the DC Municipal regulations. It was erroneously left in and therefore we contend that antenna towers over 20 feet tall must apply for a special exemption as more specifically delineated in the Commission's 1989 Order.

3 All antenna towers as provided for in the Office of Planning proposal in all zoning districts should be required to obtain a "special exemption."

Significant tower setbacks should be required for all lot lines, including rear and side yards, to prevent people and property from being exposed to the very real dangers of

- a) falling ice
- b) falling tower parts
- c) storm damage
- d) chronic exposure to RF radiation, low intensity or otherwise, depending on the number and size of the antenna clusters in any existing site. Large setbacks should be considered for all streets and sidewalks as well as parks.

Setbacks should be significantly increased in areas where especially vulnerable populations exist, such as schools, senior citizen centers, hospitals, hospices, nursing care centers, and day care centers.

The Stop the Tower Coalition offers the following recommendations to the Zoning Commission with regard to adopting a "Telecommunications Master Plan" for the District of Columbia, similar in scope and effect to the plan now being considered by the City of Berkeley, California.

Proposed Policies

(1) DC Health Department monitoring of ambient background radiation levels.

The City Health Department should be required to use state-of-the-art monitoring equipment that accurately measures ambient background radiation levels from microwave, radiofrequency and other forms of radiation. Measurements should be made of combined frequencies and cumulative levels of ambient background radiation. The Health Department should be required to maintain a database of current ambient background radiation levels at locations throughout the District of Columbia. For each Conditional Use Permit application for a cellular base station, microcell, or future generation antenna facility, measurements of ambient background radiation should be made in the vicinity of each proposed antenna site to determine the cumulative impact the proposed antenna(s) will have on any given area.

(2) Limiting radiation exposure through site planning.

(2a) Excluded locations.

District guidelines should be adopted so that the locations of facilities frequented by those most vulnerable to radiation from cellular base station antennas-- children, the elderly and the ill, including but not limited to schools, dormitories, hospitals, health care centers, nursing homes, senior centers, senior residences, recreational areas, places of worship and residential neighborhoods, are no longer preferred siting locations, as many now are, but excluded locations. Antennas should be placed such that ambient background radiation levels do not exceed $\frac{1}{1000}$ W/cm² at these locations.

(2b) Cumulative exposure.

District guidelines should be adopted so that cumulative radiation exposure from all sources is considered in a siting decision, not just radiation exposure from proposed antenna(s). Among non-excluded siting locations, those areas receiving the highest cumulative radiation from extant and proposed antennas should be the least favored. Once the cumulative ambient background radiation reaches a level of $\frac{1}{1000}$ uW/cm² within a $\frac{1}{1000}$ ft. radius of the proposed location site, this location should become an Excluded Site.

(2c) Demonstration of necessity for operation of carrier's wireless network.

The existence of a speculative market in the future sale or transfer of operations of a proposed antenna facility when there is no present need for such a facility is not sufficient cause for approval of such a facility. Each carrier must demonstrate that a proposed antenna facility is indispensable to the existing service of its wireless network in the District of Columbia. A 'drive test' is not sufficient proof of such a necessity. Each applicant must provide detailed information including but not limited to the coverage and capacity of its already-existing antenna facilities, the number of subscribers to the carrier's network in the District of Columbia, whether each subscriber is for cellular phone, PCS, Internet, or other wireless service(s), the number of subscribers the carrier anticipates will be added to or subtracted from the network over the following one-year period, yearly updates on the actual number of subscribers, and the coverage and capacity of the proposed facility. The Office of Planning would confirm the application information with appropriate audits or tests, e.g. by conducting spot checks. Any transfer of operation of an antenna facility from the existing carrier to another carrier would be subject to the provisions of the Office of Planning "Wireless Telecommunications Services Facilities Siting Guidelines" (WTS), and a new permit application would have to be filed with the Office of Planning.

(2d) Shared antennas.

The District of Columbia should explore encouraging shared (not co-located) antennas. Language reflecting its findings should be written into the WTS Guidelines. Co-location itself should be limited to $\frac{1}{1000}$ antennas per building/location site.

(3) Notification.

WTS Guidelines pertaining to neighborhood notification procedures must be changed so that all those who would be exposed to radiation from a proposed antenna would be notified by U.S. Mail in a timely manner in the three (3) languages most used in the area to be notified, to include renters as well

as property owners. The words "Important: Neighborhood Notification Enclosed" should be required to appear prominently on the enveloped containing the notification. All notifications are required to include the following language: "This facility will emit microwave radiation which may have public health consequences." The radius of notification must be greatly increased from 300 feet from a proposed site to some radius yet to be specified, but large enough to encompass all those who could be expected to receive radiation exposures of at least $\geq 1 \text{ W/cm}^2$ power density from a proposed antenna. In addition, public notification should always be made through media legally designated for that purpose in the native languages of the potentially affected populations. After the required public meeting(s) conducted by the applicant under special exemption requirements, a minimum of 90 days must be given to allow for those notified to organize and to discover, research, analyze, report and publicize their concerns prior to any BZA hearing on the matter.

(4) Microcell antennas.

Microcell antennas must require notification and District of Columbia Office of Planning siting and licensing approval, observing proposed policies 2 and 3.

(5) New evidence.

The District of Columbia's Public Health Department should conduct and maintain a comprehensive up-to-date survey of scientific evidence as to actual and potential health hazards from radiation emitted by cellular base station, microcell, and future generations of antennas, most particularly affecting the more vulnerable populations, most importantly those with developing nervous systems and weakened immune systems, namely children, the elderly and the ill, as well as 'electrosensitives' who are unusually sensitive to this radiation, and all people while sleeping. The survey process should allow for suggestions from the public with respect to both content and analysis. The survey and findings should be announced, published, and available to the public. All contractual agreements between site owners and carrier representatives should include a clause that this contract shall be revoked or subject to review within 60 days once a newer technology is widely available which reduces radiation exposure, either through tower power devices, a satellite-based system, or other alternative technologies which are safer. The District of Columbia should be responsible for continuously evaluating the availability of replacement technology and should work with licensed and permitted wireless carriers to determine whether the newer technology offers a safer alternative. If that is the case, carriers have 60 days to either replace the existing wireless facilities with the newer technologies or, in the case of satellite technology, to permanently remove the antennas.

(6) Public Right-to-Know.

Full public disclosure of all existing and proposed antenna facilities is required. The District's Office of Planning should keep and maintain a current map and list of all existing and proposed cellular base station, microcell, and future generation antenna sites, which should be readily available to members of the public and other interested parties for inspection and copying. This list should include the address of each antenna facility, the number of antennas at each site, the name of the carrier owning, operating or leasing each antenna, the number of channels used per antenna as well as its capacity for expansion, the manufacturer and model number of each antenna, the power of each antenna, the

frequencies utilized by the antenna, the amount of radiation emitted by each antenna, and the purpose of each antenna (commercial or public safety). In addition to warning signs required to notify workers of the potential hazards posed by existing antennas, public notification signage should be required for all antennas in the District of Columbia. The signs should read "This Building/Structure Contains [x number of] Microwave Antennas" in English and Spanish, and any other language(s) appropriate to the location, and state the maximum wattage at the location if all antennas were operating simultaneously at their maximum strength. The signs should be posted in a manner such that each sign is readily visible to a person entering a building or walking past a structure bearing antennas.

(7) Public participation.

The public should be encouraged to participate in site planning decisions. Approvals without public notice or hearing are prohibited. Citizens should not be constrained to three-minute statements before the BZA. Initial application review by the Office of Planning should allow the opportunity for dialogue and problem-solving. Applicants should be required to conduct public meetings which are required to include the participation of property owners of any proposed antenna site as well as representatives from the telecommunications carrier itself, not an outside agent or public relations firm. Issues of health, safety and public welfare should be the key determinants in siting decisions.

(8) Relocation of Existing Antennas.

The District of Columbia should establish a Task Force consisting of the Office of Planning, the Health Department and members of the public to enter into negotiations with cellular phone carriers and their representatives to establish programs of progressive relocation on a priority basis of those cellular phone, PCS and microwave antennas that are already located within ft. of schools, dormitories, hospitals, health care centers, nursing homes, senior centers, senior residences, recreational areas, places of worship and residential neighborhoods. These existing antennas shall be relocated consistent with proposed policies 2 and 3.

(9) Compliance and enforcement.

All wireless carriers owning, operating, maintaining or leasing cellular base station facilities in the District of Columbia should be required to be in compliance with any new WTS Guidelines. All applicants shall post a bond sufficient to fund the removal of the facility and restoration of the site in the event of abandonment or other termination of use and to maintain the facility in a condition that complies with all applicable building standards and regulations, including but not limited to the provisions of the WTS Guidelines. If the facility is not maintained, the District, after 30-days' notice, should render the facility inoperable and properly maintain it until such time as it is properly maintained by the carrier and the bond replaced. If the facility is not properly maintained and the maintenance bond funds not replaced within 60 days, the permit should be terminated and any re-use of the facility should require initiation of a new permit application. The District should be required to routinely inspect facilities and also inspect at any time the District has received five (5) or more complaints. Whenever, in the opinion of the Director of the Office of Planning, the facility is operated in a manner which causes adverse impacts on the safety or public welfare of the surrounding area, the

permit should be reviewed and additional conditions should be imposed. Such review should include a public hearing which may consider new or changed conditions of approval which address the adverse impacts, including but not limited to revocation or multi-year suspension of the permit and the carrier being barred from receiving any additional permits for 10 years. If any piece of equipment is found to malfunction, all equipment covered by the same permit is required to be decommissioned until repairs are made and tests are completed satisfactorily. The owner of any antenna, base station, cooling system and/or equipment cabinet determined by the District to be in non-compliance with the WTS Guidelines should have an administrative penalty imposed beginning at \$1,000 per day for each non-compliant antenna, base station, cooling system and/or equipment cabinet, with an additional \$1,000 fine for each additional day the antenna, base station, cooling system and/or equipment cabinet remains in non-compliance (e.g., \$1,000 * Day 1; \$2,000 * Day 2; \$3,000 * Day 3; \$4,000 * Day 4; etc.). Retroactive permits should be prohibited. All modifications to existing facilities (changes in power, frequency, etc.) should require a new permit and permitting process consistent with the foregoing policy proposals.

The Stop the Tower Coalition also supports the recommendations made by the International Conference on Cell Tower Siting in Salzburg, Austria in June, 2000 in its *Salzburg Resolution on Mobile Telecommunication Base Stations*.

The resolution reads as follows:

1) It is recommended that development rights for the erection and for operation of a base station should be subject to a permission procedure. The protocol should include the following aspects:

- Information ahead and active involvement of the local public
- Inspection of alternative locations for the siting
- Protection of health and well-being
- Considerations on conservation of land and townscape
- Computation and measure of exposure
- Considerations on existing sources of HF-EMF exposure
- Inspection and monitoring after installation.

2) It is recommended that a national (local) database be set up on a government level giving details of all base stations and their emissions.

3) It is recommended for existing and new base stations to exploit all technical possibilities to ensure exposure is as low as achievable (ALATA-principle) and that new base stations are planned to guarantee that the exposure at places where people spend longer periods of time as low as possible, but within the strict public health guidelines.

4) Presently the assessment of biological effects of exposures from base stations in the low dose range is difficult but indispensable for protection of public health. There is at present evidence of no threshold for adverse health effects.

5) Recommendations of specific exposure limits are prone to considerable uncertainties and should be

considered preliminary. For the total of all highfrequency irradiation a limit value of (10 uW/cm_) is recommended.

It should be noted that the Swiss, Italian, Polish, and Russian cell phone frequency standards are set at (10 uW/cm_) compared with US standards set at 200 uW/cm_).

For the record, we are also submitting a survey done in 2000 by Sage Associates on reported biological effects from radiofrequency radiation.

On behalf of the Stop the Tower Coalition, I wish to thank you for your attention to this matter of citywide-- and indeed national-- importance.

Respectfully submitted,

Timothy Cooper
President

***These numbers are intentionally left blank because we believe that the permissible levels of radiation at various proposed sites and the number of antenna per location should be determined in consultation and negotiation with health experts, ambient background radiation technicians, local, federal officials, and local citizens.**