



LOCAL GOVERNMENT PERSPECTIVE ON ZONING OF WIRELESS FACILITIES

- **Congress has spoken clearly on this issue and retained local zoning.**

The language of § 332(c)(7) is clear as to Congress' intent to keep local and State zoning of wireless facility siting applications intact. Even more to the point, the legislative history says that § 332(c)(7) "prevents Commission preemption of local and State land use decisions and preserves the authority of State and local governments over zoning and land use matters except in the limited circumstances set forth." The limitations referred to require that wireless siting applications must be addressed "within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request," and that zoning regulations "shall not prohibit or have the effect of prohibiting the provision of personal wireless services."
- **Congress left disputes arising under § 332(c)(7) to the courts.**

Congress was clear in the legislative history that "[i]t is the intent of the conferees that other than under section 332(c)(7)(B)(iv) [radio emissions] of the Communications Act of 1934...the courts shall have exclusive jurisdiction over all other disputes arising under this section."
- **The wireless industry has presented scant and specious claims to support its petition.**

The claims used to support the petition are few and faulty. The wireless industry has presented supposed "horror stories," telling only one side of the story and in some cases giving vague or anonymous tales to support their claims. At the same time, the wireless industry repeatedly says most local zoning authorities are able to complete applications within the deadlines they propose. In essence, they claim no problem exists except in extreme cases – the precise reason Congress left flexibility in the process by retaining local zoning control and providing for a judicial forum to handle disputes or delays that may arise during wireless siting applications. The last time the wireless industry made claims like those in the petition, the FCC and local governments worked with industry to find a solution – recent history the industry now chooses to forget.
- **Granting the industry's petition would undermine due process and democratic values.**

Many local zoning authorities are required to provide local residents with notice of a proposed siting, as well as an opportunity to comment and voice concerns with a proposal. This process – designed to further protect property values, safety, and aesthetic qualities of an area – would be eviscerated under the petition. Further, for local zoning authorities to process applications in line with the proposed deadlines, they would be forced to give preference to wireless siting applications, something Congress specifically rejected in the legislative history: "It is not the intent of this provision to give preferential treatment to the personal wireless service industry in the processing of requests, or to subject their requests to any but the generally applicable time frames for zoning decision."

NATOA filed comments in response to CTIA's Petition with the FCC on behalf of itself, the National League of Cities, National Association of Counties, and the United States Conference of Mayors. Additional information can be found at www.natoa.org.

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