

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

Petition for Declaratory Ruling to Clarify)
Provisions of Section 332(c)(7) to Ensure)
Timely Siting Review and to Preempt under) WT Docket 08-165
Section 253 State and Local Ordinances that)
Classify All Wireless Siting Proposals)
As Requiring a Variance)

**REPLY OF MONTGOMERY COUNTY
TO CTIA OPPOSITION
TO MOTIONS FOR EXTENSION OF TIME**

Montgomery County, Maryland (“Movant”) hereby replies to the CTIA Opposition to its Motion for Extension of Time in the captioned proceeding.

CTIA’s Opposition acknowledges that the Commission might call for further information to evaluate the claims in CTIA’s Petition. But CTIA’s offer that it would “of course, provide further information if requested” illustrates the need for a longer pleading cycle. (Opposition, 3-4) Additional information will be of little help to the anonymously accused local governments if there is only the 15 days of the present reply interval to share the information with the accused entity and for the accused entity to digest the information, test its veracity by searching local application files and ordinances, and then reply in defense. It is also of little help to other participants who may wish to gather information that will assist the Commission in determining whether action is necessary.¹ Basic fairness and due process require that the pleading cycle be expanded and that it begin to run only upon the receipt of CTIA’s further submissions identifying the governments whose actions form the basis for its petition.

¹ CTIA does not seriously contend that the time requested is unreasonable in light of the issues raised, which is reason enough to grant the Motions.

At page 3 of its Opposition, CTIA attempts to avoid the Commission's rules with a claim that its petition seeks only clarification, not preemption, as to the actions listed at pages 14-15 and 25-27. This is incorrect. Any FCC-established deadlines tighter than those in local ordinances will operate to preempt the ordinances.

In footnote 7 at the same page, CTIA admits to seeking preemption regarding mandatory variances. With respect to that issue, CTIA states that it has "served the Petition on two localities out of an abundance of caution." Opposition at 3, n.7. Movant asks that the two localities be identified. If CTIA is challenging their zoning variance regulations, service upon these two entities is not merely prudential. It is mandated by Note 1 of Section 1.1206(a).

For the reasons stated above and in its original Motion, Movant asks that the times for comment and reply in this proceeding be extended to 90 days and 45 days, respectively, from a new start date established by CTIA's filing of the identities of the local governments upon whose actions its petition is based, and service upon these governments of the original petition.

Respectfully submitted,

MONTGOMERY COUNTY, MD

By _____

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August 29, 2008

ITS ATTORNEYS

Certificate of Service

The Reply to Opposition to Motion for Extension of Time has been served today,
by e-mail attachment, upon:

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