

Cohen Law Group

# ALERT



**From: Cohen Law Group**

## **Wireless Industry Drafts Bill to Eliminate Zoning of Towers and Antennas in the Public Rights-of-Way**

Our law firm represents local governments in cable, telecom, and wireless matters and it is a priority for us to inform our clients regarding important issues. We recently learned that four wireless companies (Sprint, AT&T, Verizon, and T-Mobile) have drafted a bill for introduction in the Pennsylvania General Assembly that would: 1) strip municipalities of their right to control the construction and location of wireless facilities in the public rights-of-way; and 2) effectively eliminate the right of municipalities to assess fees for such facilities.

The biggest change in wireless facilities in the last several years has been wireless towers and antennas placed in the public rights-of-way. Known as “distributed antenna systems” or “DAS,” they boost capacity to meet consumer demand for wireless broadband service. In addition to antennas on existing utility poles, a DAS system usually includes new towers that can be up to 120 feet in height. Industry experts predict that the number of DAS towers and antennas in the rights-of-way will grow exponentially over the next several years. Many PA municipalities have amended their Zoning Codes to address these new facilities while still being able to manage their rights-of-way and preserve the character of their communities.

The bill has the benign title of the “Wireless Infrastructure Deployment Act,” but it is anything but benign. If enacted, it would prohibit municipalities from using their zoning

authority to control the construction and location of towers and antennas in the rights-of-way. It would also make it nearly impossible for municipalities to assess fees or negotiate rental payments for those facilities. This means that a wireless contractor such as Mobilitie would be permitted by state law to install 120-foot towers along any roads in your municipality, including in residential areas, and there would be nothing that you could do to stop them. The only document that you could require for the company would be a building permit.

Your municipality's zoning authority is its most important tool to control development. Its public rights-of-way are its most important physical asset. If the State Legislature and Governor eliminate your zoning authority over wireless facilities, then other portions of your Zoning Code could be the next to fall, and if they weaken your power to manage your rights-of-way, then other municipal powers could be in danger in the future.

The wireless industry is well financed and has hired numerous lobbyists to secure passage of this bill. It is critical that PA municipalities rally to oppose it. We are in discussions now with the Pennsylvania municipal associations and expect that there will be an aggressive effort to stop this bill from ever becoming law. This is simply an informational alert, but you can expect to receive an Action Alert from us soon that recommends specific steps to oppose the legislation. In the meantime, please feel free to contact Dan Cohen or Natausha Horton if you have any questions. Our contact information is below.

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*The Cohen Law Group is a law firm that represents municipalities in cable, wireless, and broadband matters.*