

**Testimony of Diane Dupuis, Chair Cell Tower Committee, Washington, CT
In Support of House Bill 5213 An Act Concerning the Siting Council 2/23/10**

Dear Senator Fonfara, Representative Nardello and Members of the Energy and Technology Committee,

In August 2008, Optasite, a tower broker company, began its initial consultation period with the towns of Washington and Warren regarding a site situated on the Tanner Farm just over the Washington border. After consultation with the Department of Agriculture, I advised both Optasite's lawyer and representative that the location for this tower was on land to which the State of Connecticut had purchased the development rights. An email from Chairman Philip Prelli confirming this fact was handed over to Optasite's Attorney.

Despite this information, Optasite and subsequently SBA (which purchased Optasite during the initial consultation period) continued to move forward with this location. I made calls to the Attorney General's office and their representatives were incredulous that SBA would move forward, knowing the State owned the development rights, which forbade commercial use of the property. SBA did continue, and for almost an entire year the Town of Washington's Conservation Commission had to defend the rights of our citizens and our environment. Despite informing the Siting Council that the State held the rights to the land, Mr. Tanner having previously received payment in excess of \$700,000 for those rights, the process continued.

Town commissions in Connecticut incorrectly believe they have no say in the siting of towers; they know that most applications to the Siting Council are approved and feel helpless and frustrated by the process. The Siting Council receives their operating budget from application fees generated by Industry and there is a supposition among environmental groups that what the telecoms want, the telecoms get. We are in a deep recession and town officials feel they cannot justify hiring lawyers to oppose applications that are routinely approved.

In order to defend an environmentally sensitive area and important viewshed, the Conservation Commission and our Chair, Susan Payne, decided to we would continue Pro Se. I personally put in over 300 hours of time on this application. I researched, attended meetings in New Britain and other locations, and wrote briefs and motions and other documents. I spent hours at night and on weekends at Staples to produce the numerous copies required by the Siting Council; it was a full-fledged legal battle and learning curve. My portrait business and private teaching had to stop, personal and professional lives had to be put on hold until a resolution was determined. The Town of Washington reimbursed \$2000 in expenses and those were just the ones submitted after costs became a burden on the individuals working on the case.

The Conservation Commission feels that SBA not only misrepresented their rights to a lease on state owned land but also misrepresented other material facts during the process, including not having a signed lease agreement on a second site when presented on CSC Docket 378. They were dismissive of our requests for information, seeing us as an irritant, knowing they would proceed to the Siting Council where their battles are almost always

won. Their disregard and dismissive behavior towards the people of the towns of Washington and Warren was appalling.

We fought alongside of CROWW, a group of concerned citizens from Washington and Warren, working people who incurred in excess of \$20,000 in legal fees and expenses defending an application that should never have gone forward. We were fortunate to also work along side of the Attorney General's office representing the Department of Agriculture; this too incurred costs for the people of Connecticut.

After two lengthy hearings and four boxes filled with original documents submitted to the Siting Council in multiple copies, we had no final judgment. After more than ten months of work, all we had was SBA's withdrawal of their application while they retained the rights to come again at a later date. In what other court of law does a party get to withdraw when the facts are going against them? In fact, SBA did come back this past October with another application 1000 feet off the original site. This application too had serious faults and unresolved legal issues related to the lease site, of which we informed SBA and their attorney in our initial conversations, but still we had to prepare and review until, once again, months later, SBA withdrew the application retaining their rights to resubmit.

The viewsheds and sensitive environments of the Towns of the Northwest corner are under attack. Telecoms and their brokers are looking at every piece of land they can find to site towers without any regard to due process. We live in a mountainous area with topography that makes seamless coverage impossible. The main objectives of these towers are no longer cell phone service, but sending movies, television and other data to hand held devices. Tower siting decisions are made with bottom line objectives in mind, with technology moving so fast towers may no longer be required in the next decade, but once the landscape is changed, it is changed forever.

We are not denying the future, we simply ask that the playing field be made level for towns whose people and land are in the cross hairs of a Five Trillion dollar a year industry with in house lawyers, outside counsel, and deep, deep pockets. We will continue to defend our rights, but respectfully ask the Legislature to support House Bill 5213 AN ACT CONCERNING THE SITING COUNCIL. To authorize the Connecticut Siting Council to impose civil fines and award attorney fees and costs to opposing parties when it determines that the petitioner has misrepresented or omitted material facts.

Respectfully submitted,
Diane Dupuis
Chair Cell Tower Committee, Washington Conservation Commission