



**CITY OF RYE**  
CITY HALL • RYE, NEW YORK 10580  
TELEPHONE (914) 967-5400

October 14, 2016

Christopher Fisher, Esq.  
Cuddy & Feder,  
445 Hamilton Avenue,  
White Plains, New York 10601

Re: Crown Castle - Outstanding Information Necessary To Complete Review

Dear Mr. Fisher:

As you know, Crown Castle("Crown") has asked the City of Rye to approve its plans for placement of more than 60 nodes throughout the City of Rye. The City of Rye is the lead agency for reviewing this project under the New York State Environmental Review Act (SEQRA). The City currently plans to make its determination as to the whether it should issue a negative declaration, negative declaration with conditions, or a positive declaration at its meeting on November 2.

The City requires certain information from Crown in order to make this determination. Some of the information has been requested from you before, and has not been provided to us yet. We ask that you provide this information by October 21 to provide ample time for review before November 2. In addition, the City is requesting that a full "long form" environmental assessment form be completed by Crown to assist the City.

1. **Description of project.** We need an accurate description of the project you are proposing that we approve, including a description of all structures or expansion of structures planned, and separately a description of how you believe those structures are likely to change or may be changed as of right in the future. As part of this description, please include at least the following:

a. If the project will include installation or expansion of nodes or facilities off the right of way within Rye, we need a detailed description of what will be installed and where, drawings of the proposed additions or new structures along with dimensions, and identification of any hazardous materials that will be used or stored at the location.

b. Within the right of way, we need that same information for each node. The description and drawings should include not just the antennas, but any other equipment or

structures that will be installed or modified for each site, including ground cabinets and pedestals associated with ground cabinets, power supplies, meters, pole-mounted RF equipment and cabinets and shrouds, support structures, batteries, guy wires or other reinforcements that will be installed. We recognize that you have provided a spread sheet identifying where you plan to install nodes, and whether equipment will be placed in the communications space or at the top of the pole. However, you have not told us exactly what will be placed on the poles, and based on recent communications, it appears that what you plan to install may be somewhat different than what you have described to us in the past. If you plan to take any steps to minimize visual impact beyond painting the equipment to match existing facilities, you should be sure to identify those steps.

c. You have indicated to the City that if it approves these installations, Crown will have the right to modify them without further substantive review pursuant to 47 U.S.C. § 1455. We would appreciate it if you could provide “before and after” pictures of locations within Westchester County where you have actually modified facilities pursuant to that provision of law.

I should emphasize that this will be your opportunity to specify any changes that you would agree to make to your proposal that might be viewed as mitigating the impact of the project (e.g., dropping the proposed new installations or installing those as stealth facilities). You may of course submit proposals for mitigating impacts even if you believe that a negative declaration would be appropriate for the project as proposed.

2. **Aesthetic Impacts.** Photosimulations should identify the elements of the installation identified in the response to 1(b).

- a. Please provide exemplar photos of the following for each different configuration proposed in Rye using existing structures: (a) the existing structure from different angles that will show all equipment and structures that will be installed for the proposed configuration; and (b) from the same angles, a photosimulation of the proposed installation; and (c) a photosimulation showing what Crown contends it may install as of right if the installations are approved. We recognize that Crown has provided photos of the existing installations, but while those may be helpful, it is not the same as photosimulations of what is actually planned.
- b. For each new structure, please provide (a) a photo showing a 360 degree view from the location where the pole will be placed; and (b) a photosimulation from four different angles showing the proposed supporting structure and all equipment and structures.
- c. Please provide excavation details for each location where excavation will occur.
- d. For the three proposed installations that are closest in proximity to one another, please provide a photosimulation looking down the street at an angle from which all three facilities could be seen if visible one to the other.

3. **Noise Impacts.** Please provide noise specifications for the equipment that will actually be initially installed, and tests for that equipment conducted using shrouding and

configured in a manner such that it provides a reliable proxy for noise from the initial installations. Please provide the same information assuming that any empty equipment slots will be filled using equipment with characteristics similar to proposed equipment.

4. **RF Impacts.** We recognize that the City may not base siting decisions on RF. However, we are less clear as to whether, under SEQRA, an applicant may be required to prepare an analysis showing the RF impacts for the proposed project as compared to alternative designs even if the project must be approved once that study is prepared. The issue arises in part because the FCC has not revised its RF emissions standards in many years, and recent literature suggests that there may be a link between non-ionizing, radio frequency emissions and cancer.<sup>1</sup> That is, existing adopted FCC standards may not reflect current understandings of impacts. Moreover, we understand that the purpose of the project as a whole – including the standards insisted upon by the wireless provider for which Crown is building the system – is not just to reach cell phone users when transiting or in public places, but to reach inside homes of customers and non-customers. It appears (although you may disagree) that the intention is to build a system that can replace facilities (like fiber to the home or copper telephone lines) that do not have the same RF impacts. That is, the project appears to be designed to encourage increasing wireless use, and hence will foreseeably impact cumulative emissions over time in any given home (as devices proliferate and connect to the system for longer periods of time). We would appreciate your views on the following :

- (a) whether you believe and why you believe that under SEQRA, we are limited to considering whether your proposed installations comply with FCC regulations (we believe that there is little doubt that your proposed installations comply with existing FCC regulations);
- (b) if not limited, how we should analyze RF emission issues for purposes of SEQRA (for example should you be required to model cumulative foreseeable impacts in light of projected usage? If not, what do you think an appropriate approach would be?)
- (c) if not limited, are there conditions that may be placed on the permit that might permit a negative declaration with conditions? What might those be?

Related to the foregoing, and also related to our review of the proposal under the RUA, we require the following additional technical information:

5. **Technical Information.** Please provide:
- a. Coverage information for Verizon Wireless within the City of Rye. We are looking for maps illustrating Verizon coverage in the 700 MHz, AWS and PCS bands within the City of Rye. You have provided some information on Verizon Wireless

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<sup>1</sup> Report of Partial Findings from the National Toxicology Program Carcinogenesis Studies of Cell Phone Radiofrequency Radiation in Hsd: Sprague Dawley® SD rats (Whole Body Exposures) Draft , May 2016 (discussed at <https://www.cancer.gov/about-cancer/causes-prevention/risk/radiation/cell-phones-fact-sheet>)

facilities that serve Rye, but we are looking for coverage maps for the facilities that serve Rye (whether located within Rye or not).

- b. Information detailing the service area of existing Crown Castle DAS units in Rye or serving Rye. The response should include:
- i. Signal level measurement data taken from each of the existing DAS units to establish coverage area; and
  - ii. The minimum target signal level required by Verizon in the coverage areas; and
  - iii. A description of the field procedures used to conduct measurements (test equipment, walkout, drive tests, data recording, etc.)

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You have provided information separately on installations that may affect designated historic areas or environmentally protected areas. We are reviewing that information and if we have any additional questions, we will submit them to you as soon as we can. Other issues may arise as the City Council's review moves forward.

We note that in your letter of October 5, you assert that the City is prohibited from considering certain physical characteristics of the project by the Right of Way Use Agreement. If that were so, the contract would be invalid, as it would prevent the City from carrying out its responsibilities under state law. If that is your view, and you do not wish to respond, please let us know. Otherwise, we look forward to answering any questions you may have concerning the above, and look forward to receiving your answers.

Sincerely,



Marcus Serrano  
City Manager

Cc: Joseph VanEaton, Esq.  
Kristen Wilson, Esq.