



United States Department of the Interior

NATIONAL PARK SERVICE
Northeast Region
15 State Street
Boston, Massachusetts 02109-3572

May 29, 1997

EXHIBIT JJ

Mr. C. Anthony Stavole
Director of Law
City of Parma Heights
6281 Pearl Road
Parma Heights, Ohio 44130-3084

Re: Cleveland Support Facility (Nathan Hale Park)
Parma Heights, Ohio
GSA Control Number: D-OH-550A

Dear Mr. Stavole:

We are writing in response to the City of Parma Height's request to install a wireless communications tower under a lease with AT&T Wireless Services on the property referenced above.

As you know, the City of Parma Heights acquired the property from the United States exclusively for public park and recreational use under the provisions of section 203(k)(2) of the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 484(k)(2)]. Condition No. 3 of the quitclaim deed to the City of Parma Heights dated April 22, 1971, states:

The property shall not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the property for public park or public recreational purposes subject to the same terms and conditions of the original instrument of conveyance.

According to the quitclaim deed, the lease of any part of the property for installation of a wireless communications tower would constitute a breach of the deed restrictions and subject the entire property to reversion as described in condition No. 7.

Prior to the enactment of the Telecommunications Act of 1996 (Public Law 104-104) on February 8, 1996, President Clinton issued an Executive Memorandum dated August 10, 1995, directing all departments and agencies to facilitate access to Federal property for the purpose of siting mobile services antennas. The General Services Administration served as the lead agency for

developing facilities siting procedures in coordination with the Department of the Interior, as well as other Federal departments. These procedures were published in the *Federal Register* on March 29, 1996 (pp. 14100-14102). The *Federal Register* notice states that the President's memorandum and these procedures meet the requirements of section 704(c) of the Telecommunications Act of 1996.

As described in the Executive Memorandum and *Federal Register* notice, the directive applies to "Federal Government buildings and lands." The land conveyed to the City of Parma Heights is not, by definition, Federal property. The Department of the Interior was authorized to deed the property to the City of Parma Heights only after the General Services Administration declared it surplus to the Federal Government. Therefore, the controlling legislation and authority in this matter is not the Telecommunications Act of 1996, but the Federal Property and Administrative Services Act of 1949, as amended.

Under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, the Secretary of the Interior is authorized to grant releases from any terms, conditions, reservations, and restrictions contained in the deed based on a determination that the property no longer serves the purpose for which it was conveyed or if such release of restrictions will not prevent the accomplishment of the purpose for which the property was conveyed.

The National Park Service, acting on behalf of the Secretary of the Interior, is prepared to approve the proposal provided the City of Parma Heights meets the following conditions:

- Finance* ✓
997-24
(8/11/97)
1. The City of Parma Heights passes a resolution that finds and assures the following:
 - a. The residents of Parma Heights do not object to the installation of the tower at the proposed location;
 - b. The installation of the tower will not prevent the accomplishment of the purpose for which the property was conveyed; and,
 2. The City of Parma Heights provides to the National Park Service a determination supported by sufficient documentation that there is no prudent alternative for the placement of the tower in or outside of the City of Parma Heights, especially given the fact that the City has already agreed to the placement of a tower at Greenbrier Commons.
 3. The City of Parma Heights retains permanent ownership and control over the use of the property and tower.
- from AT&T*
(15/97)
- use*
reement

letter
8/4/97
ai

to description
access
easement

4. The City of Parma Heights notifies the City of Parma in writing of its intent to install a wireless communications tower immediately north of the boundary line between Nathan Hale Park and Nike Park, and provides a copy of the letter and any response to the National Park Service.
5. The City of Parma Heights provides to the National Park Service a single legal description of the minimum property needed to access, install, and maintain the tower.

The National Park Service will use this information to make a formal determination as to whether a wireless communications tower is appropriate and compatible with the continued use of the property for the purpose for which it was conveyed. A favorable determination will permit the City of Parma Heights to provide an access easement and enter into lease agreements necessary to install, operate, and maintain the tower.

Once again, thank you for your patience in this matter. Please call me at (617) 223-5190 if you have any questions.

Sincerely,

John T. Kelly

John T. Kelly
Program Manager
Federal Lands to Parks Program