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REPLY TO:

August 28, 2017

Honorable Chairman Robert Dee  
and Members of the Zoning Board of Appeals  
Town of Philipstown  
238 Main Street  
Cold Spring, NY 10516

Re: Homeland Towers, LLC and New York SMSA Limited Partnership d/b/a Verizon Wireless, Proposed Public Utility Wireless Communication Facility 50 Vineyard Road, Cold Spring, Town of Philipstown, New York

Dear Hon. Chairman Dee and  
Members of the Zoning Board of Appeals:

As you are aware, we represent Homeland Towers, LLC ("Homeland Towers") and New York SMSA Limited Partnership d/b/a Verizon Wireless ("Verizon Wireless"); collectively referred to as the "Applicants" in connection with the above referenced matter.

**Please note that the property has been assigned 50 Vineyard Road as its e911 address.**

The Applicants propose a public utility wireless communication facility ("Facility") consisting of a 180-foot monopole with antennas, together with related equipment at the base thereof within a multi-carrier equipment compound. The Facility will be designed to support collocation, including emergency services antennas and equipment for Putnam County. Pursuant to comments made at the Zoning Board meetings on June 12<sup>th</sup> and July 10<sup>th</sup>, comments made at the Conservation Board meetings on June 13<sup>th</sup> and July 11<sup>th</sup>, and the Technical Memorandum of the Town Engineer dated June 9, 2017, the following responses are respectfully submitted together with the nine (9) copies of enclosed documents and a disc with all documents:

1. Application Forms: Pursuant to the request of the Zoning Board, the Application Form has been revised to expressly state that the monopole is proposed to be 180 feet in height. Please note that the proposed height is in conformance with the 195-foot height limit in the OC zone.

2. Independent Radio Frequency Report: The enclosed Independent Radio Frequency Report includes actual drive test data, propagation maps, responses to the Zoning Code requirements, an analysis of the feasibility of distributed antennas system, and an alternative analysis of the Town landfill property at 59 Lane Gate Road. Please note that local municipalities are federally preempted from requiring the use of alternative technologies such as distributed antenna systems. See *New York SMSA Limited Partnership v. Town of Clarkstown*, 612 F.3d 97 (2d Cir. 2010) (provisions of town ordinance setting forth preference for “alternate technologies” in evaluating permit applications for installation of wireless telecommunication facilities were impliedly preempted by Federal Communications Commission's exclusive authority to regulate technical and operational aspects of wireless telecommunications technology under the Telecommunications Act).
3. Antenna Site FCC RF Compliance Assessment and Report: The enclosed Antenna Site FCC RF Compliance Assessment and Report has been revised as requested by the Zoning Board to include a specific calculation of the radio frequency exposure at the closest residential structure. Please note the report initially submitted included conformation that the Facility would be in compliance with the applicable FCC limit for radio frequency exposure at any location. As we assume the Board is aware, the issue of radio frequency exposure is federally preempted to the extent the proposed Facility is in compliance with FCC regulations, which it is by a wide margin.
4. Visual Resource Assessment: The enclosed Visual Resource Assessment includes the results of the balloon test, a line of sight elevation analysis from 100 Rockwald Road, additional photographs and renderings from 60 Round Hill Road and 24 White Rocks Road, renderings revised to demonstrate 4 antenna platforms, and viewshed maps revised to include the new address of the property as 50 Vineyard Road. The Visual Resource Assessment also confirms that the distance to the closest residence as previously reported is correct, and includes a map detailing the relevant distances.
5. Visual EAF: The enclosed Visual EAF has been revised based on the comments of the Zoning Board.
6. Environmental Assessment Form: The enclosed EAF has been revised to update the address for the property.
7. Tribal Consultation: The attached letters and correspondence demonstrates that the tribal consultation required by the National Historic Preservation Act has been completed.

8. Alternative Locations on the Property: The enclosed letter from the owner of the property confirms that he will not allow the Facility on any other location on the property. Please note the location of the Facility was carefully considered based on numerous factors, including the existing wetlands throughout the property and applicable setback and height requirements.
9. Overlay Districts: The attached letter and maps from JMC confirm that the Property is not within the Scenic Preservation Overlay District, the Scenic Ridgeline Overlay District, or the Open Space Conservation Overlay District.
10. Fire Safety and Accessibility: The enclosed letter from JMC confirms that the Facility is not a fire safety hazard, that there is a sufficient access drive, and that the road is satisfactory for emergency service vehicles, including fire apparatuses.
11. Liability Insurance: The enclosed certificate of insurance satisfies the requirements of Section 175-46(S) of the Town Code.
12. Removal Cost Estimate and Bond: The enclosed removal cost estimate from JMC is submitted to establish the cost to remove the Facility. In accordance with Section 175-46(T) of the Town Code, the enclosed sample Removal Bond is submitted for the review and acceptance of the Town Attorney on behalf of the Town.
13. Removal Agreement: The enclosed Removal Agreement satisfies the requirements of Section 175-46(S) of the Town Code.
14. Notification Letters: The enclosed notification letters to the legislative body of each municipality bordering Philipstown and the Director of Emergency Management of Putnam County satisfy the requirements of Section 175-46(Q) of the Town Code.
15. Site Plans: Based on input from the Town of Philipstown Zoning Board of Appeals, Conservation Board, and site walks, revisions to the enclosed Site Plans have been made. These revisions include a reduction of the proposed compound from a 66' x 85', 5,610-square foot facility to a 66' x 66', 4,356-square foot compound and a reconfiguring of the proposed access driveway. This reduction and realignment enabled the preservation of three (3) significant trees previously proposed to be removed and reduced the amount of site disturbance within the wetland/watercourse buffer. Within the compound, the proposed Verizon Wireless steel equipment platform has been detailed, including the 10KW propane-powered emergency generator. Additionally, additional erosion and sediment control measures were added to the plans via silt fencing to ensure site stabilization during construction activities. Lastly, the project address was updated from 2700 Route 9 to 50 Vineyard Road based on the e911 location data. As


requested by the Town Engineer, the Applicants agree that should the application be approved that prior to obtaining a building permit the Applicants shall submit detailed design calculations for review and acceptance by the Town. In addition, the Applicants agree to meet with the Town Building Inspector, Town Engineer, Site Contractor, and/or any additional outside agencies that may have jurisdiction for a pre-construction conference to review all facets of construction, required erosion protection measures and required inspections.

It is my understanding that the Town Engineer will be circulating the application in connection with the Zoning Board's declaration of its intention to be Lead Agency under SEQRA and to the County Planning Department pursuant to General Municipal Law Section 239-m.

The application was initially filed on May 23, 2017. The Town issued comments by way of the Town Engineer's Technical Memorandum dated June 9<sup>th</sup> and received by the Applicants on June 12<sup>th</sup>, thereby tolling the Federal shot clock after 20 days. Today's filing hereby un-tolls the shot clock. At present the shot clock is set to expire on January 5, 2018. Please let me know if the Town disagrees with this calculation.

If you have any questions or require additional information with respect to the application, please do not hesitate to call me at (914) 333-0700. We look forward to scheduling the joint public hearing with the Conservation Board at the September 11<sup>th</sup> Zoning Board meeting.

Respectfully submitted,  
SNYDER & SNYDER, LLP

By:   
Robert D. Gaudio, Esq.

RDG/cae  
cc: Applicants  
Ronald Gainer, PE (5 Copies)  
Ronald Graiff (1 Copy)  
Conservation Board (9 Copies)  
Town Board (1 Copy)  
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