



City of Malibu News

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Court Decides in Favor of Malibu in Case with Verizon Wireless, Affirming the City's Action on the Company's Wireless Application

(Malibu, CA) – The U.S. District Court has ruled in favor of the City of Malibu in a case with Verizon about the installation of wireless communications facilities on October 7, 2021, marking a significant affirmation by the courts of the City's review process for wireless communications facilities.

"I am proud that the City prevailed in this matter and that our extensive efforts to properly regulate wireless communications facilities in our own community was upheld," said Mayor Paul Grisanti.

U.S. District Court Judge Philip Gutierrez granted the City of Malibu's motion for summary judgement and denied Verizon's motion for summary judgement, which resolved the case in the City's favor, pending any appeal to the Ninth Circuit Court of Appeals filed by Verizon.

The case initiated by Verizon involved its application to install wireless facilities on the office complex located at 28990 Pacific Coast Highway in Point Dume. In the lawsuit, Verizon alleged that the application qualified as an eligible facility request (EFR) under federal law and the City failed to act on the application before the expiration of the federal 60-day time limit.

The Court disagreed and found that the City had properly and timely denied the EFR in July 2020, before the federal time limit on EFR applications had expired. Therefore, Verizon's December 2020 letter to the City claiming the application had been "deemed granted" due to the City's failure to timely act on the EFR application was found to be "misguided" and Verizon's lawsuit, brought outside of the 30-day statute of limitations for challenging denials, was found to be time barred.

Had Verizon prevailed, they would have been entitled to install the facility with minimal conditions. While the decision confirmed that the City acted properly with respect to the EFR, it did not terminate the City's obligation to consider the application itself as a collocation request with a separate 90-day time limit for action or reset the timeline for action on the collocation application. The City approved the collocation application on October 6, 2021. Verizon may now appeal the City's decision, or accept the collocation permit, including all of the conditions included in that permit.

On April 12, 2021, the Malibu City Council adopted a comprehensive overhaul of the City's Wireless Communications Facilities Ordinance (WCFO). The Ordinance, which went into effect on May 26, 2021, included engineering, design and location standards, conditions of approval, and basic application requirements for wireless communication facilities on land other than public rights-of-way. The WCFO update addressed issues that residents, City staff, and wireless communications applicants have experienced while proposing new facilities and

upgrades in the City and sought to create a transparent permitting process. The code update was also necessary to comply with federal and state laws enacted since the adoption of the City's original ordinance in 2003.

For more information about the WCFO, visit the webpage at <https://www.malibucity.org/1040/Wireless-Communication-Facilities>.

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