

# NYSWA NEWS

## A Word from our President



NYSWA is anxiously anticipating the arrival of our annual conference and trade show next week. We are proud and excited to offer an amazing line up of professionals from whom we can all learn.

Cutting edge educational panels and industry themes will be the hot topics this year. From WIFI, DAS and Small Cells to Smart Grid applications, Green Design to the role wireless plays in

Healthcare Applications – it will all be featured at NYSWA’s annual conference next week. We will also be highlighting the benefits of a new model zoning ordinance, public safety and federal law and their implications on infrastructure growth.

We are always pleased to provide our membership with new information and resources that

help expand and enhance wireless communications across New York State. Check out our new feature “Case Study” in this issue of our newsletter featuring an interview with

PCIA’s Kara Leibin Azocar highlighting the recent T-Mobile v. Newport News decision. We also provide useful resources which should be helpful in answering questions pertaining to radio frequency emissions from

wireless communications infrastructure.

We look forward to seeing you in Niagara Falls next week!

*Douglas W. Dimitroff, President,  
New York State Wireless Association*



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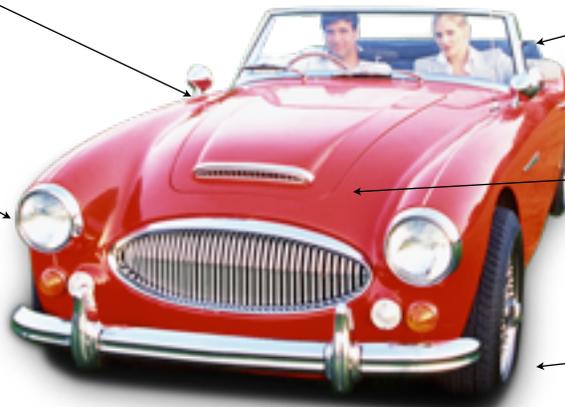
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**CASE STUDY: T-MOBILE V. NEWPORT NEWS**

**What is your name and profession/company?** *Kara Leibin Azocar, Government Affairs Counsel, PCIA—The Wireless Infrastructure Association.*

**What is the name of the case you will be discussing?** *T-Mobile v. Newport News, VA*

**What are the basic facts? Or what is at issue?** *T-Mobile sought to construct a wireless tower on the property of an elementary school. A study was conducted proving that the area was a viable location for propagating a signal and that the tower should not unduly impact the adjacent residences. The City Planning Commission voted unanimously to grant a CUP allowing T-Mobile to lease the land and build the tower. But, after a public hearing where several local residents voiced concerns about potential health effects of the tower on the nearby schoolchildren, the city council voted without explanation to deny the permit. T-Mobile sued, alleging violations of Section 332 of the Telecommunications Act of 1996. T-Mobile claimed that the City failed to provide substantial evidence of its decision and unlawfully based its decision on health effects. The district court granted summary judgment for T-Mobile and the City appealed.*

*What is at issue: Whether Newport News based its decision to deny T-Mobile's wireless facility siting application on substantial evidence and/or unlawfully based it on environmental effects of radio frequency emissions under Section 332 of the Telecommunications Act of 1996.*

**Who, in your opinion, was the case decided in favor of?** *In favor of T-Mobile.*

**Why?** *The Fourth Circuit held that the record indicated that the court had fully reviewed the evidence and found that the city council did not provide substantial evidence for its denial in light of a favorable report on the tower and unanimous vote to adopt by the Planning Commission. The court found that "safety of students" as a reason to deny applications for siting on school grounds did not qualify as substantial evidence. Almost all of the testimony against the tower voiced concerns for students' health, which is not a permissible basis for denying a permit under the '96 Act.*

**What positive/negative impact does this case decision have on the industry or to municipal government?** *Recently, State governments have proposed legislation that would eliminate the siting of wireless facilities on or around school property. This*

*case law strongly supports PCIA's strong position that this is bad policy and could violate the Telecommunications Act.*

**What are some lessons learned from this case? How can the industry or municipal government do things differently, work together, etc for a more favorable outcome?**

*In this case, it does not seem that the industry could have resolved this matter outside of the courts due to a clear violation of the Telecommunications Act.*

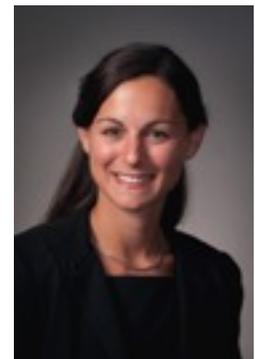
**If you could be anything (aside from an attorney) what would you be?** *A Teacher.*

**What do you like to do outside of work?** *Run, Bike, Read*

**Do you know any good lawyer jokes (that are printable)?**

*Q: What's the difference between a good lawyer and a bad lawyer?  
A: A bad lawyer makes your case drag on for years. A good lawyer makes it last even longer.*

Photo: Kara Leibin Azocar, Government Affairs Counsel of PCIA



# NYSWA Annual Trade Show & Conference

## OVERVIEW

This year NYSWA is proud to offer an exciting line up of key note speakers. Sign up now to meet and hear from:

- Mark Pecen, President, Research In Motion
- Jim Young, COO of Crown Castle
- Peter Rysavy of Rysavy Research and author of multiple white papers including “LTE: Huge Technology, Huge Challenges” and “Wireless Spectrum Doomsday Looms”
- NYS Senator George D. Maziarz
- Mike Fitch of PCIA

Come learn from and network with key notes and panelists. An overview of the panel descriptions are listed below.

### **WIFI, DAS and Small Cells - Curing the Capacity Crunch:**

Wireless replacement of traditional wireline systems is beyond a trend in the marketplace. The emergence of smart phones, tablets, M2M and other data applications has accelerated enterprise and consumer demand for high-speed, reliable, wireless services. This evolution, coupled with exponential demand projections, continues to put pressure on wireless networks and their ability to stay ahead with effective coverage and capacity

solutions. Infrastructure simply needs to get closer to subscribers as implicitly recognized by the FCC which hosted a forum earlier this year dedicated to DAS technologies and small cell architectures. This session will discuss DAS, Femtocells, new technologies and the role of Wifi in DAS deployments, and identify the challenges and opportunities in meeting the demand for service in the in-building, large venue and outdoor environments.

### **The Wireless Way to a Smarter Grid – Smart Antenna Systems and Other Bright Ideas:**

What is smart grid and how will it improve the reliability of our electric grids? Where are Energy and Wireless converging in these independently “hot” segments of the U.S. Economy? What opportunities and challenges exist for utilities and the wireless industry? What technologies are at play and how can solutions like DAS be incorporated into Smart Grid solutions? Leaders in the field where convergence is occurring will answer these and other questions at what promises to be an enlightening panel presentation.

### **Technology – Green Designs and Advanced Construction Techniques:**

Are corporate sustainability, regulatory requirements and the desire for OPEX control impacting the tower industry? Positively. Leaders in their respective fields will take an in-depth look at energy saving technologies, green construction techniques and the

## NYSWA At-a-Glance

### **Officers**

- President - Douglas Dimitroff
- Vice President - Chris Fisher
- Secretary - Adam Walters
- Treasurer - Robert Holliday
- VP Legal/Ext. Affairs - Jane Builder

### **Board of Directors**

(Listed Alphabetically by Last Name)

1. Adrian Berezowsky - IVI Telecom Services
2. Jane Builder - T-Mobile
3. Doug Dimitroff - Phillips Lytle
4. Tom Erwin - Pyramid Network Services
5. Paul Fettuccia - ANS Advance Network Services
6. Christopher Fisher - Cuddy & Feder
7. Patrick Ford - Ford Law Firm
8. Edward Frawley - Tectonic Engineering & Surveying Consultants
9. Anthony B. Gioffree III - Cuddy & Feder
10. Robert Holliday - AT&T
11. Esme Lombard - T-Mobile
12. Scott Olson - Cooper, Erving & Savage
13. Kevin Russ - ETAK Systems
14. Steve Ruzzo - T-Mobile
15. Tom Smith - Jacobs Telecommunications
16. Joe Tassone - HPC Development
17. Adam Walters - Phillips Lytle

NYSWA ANNUAL  
CONFERENCE SNEAK  
PREVIEW CONTINUED...

latest advances in visual impact mitigation. Join us as we learn about solar and wind applications, newer heating and cooling technologies, helicopter deployments in remote locations, and cutting edge tower applications.

**Mobile Healthcare (mHealth)-  
Technical Evolution,  
Opportunities and  
Challenges:**

A panel of health care providers, technology consultants and wireless providers will provide a high level review of the mHealth sector which is experiencing new users, devices and applications. M2M data transfers as well as increased use of mobile handheld devices by healthcare practitioners are placing substantial demands on wireless and broadband networks for access, reliability and redundancy. The technical responses necessary to provide reliable and secure internet wireless and broadband connections to support the mHealth sector will be discussed and the future of wireless in this growth sector identified.

**New Federal Laws and New  
York Cases - Legal  
Strategies for Siting  
Success:**

Recent Federal Legislation removes local control of the

collocation process, or does it? Will the local zoning process change as a result of this landmark bill? What other issues are facing today's zoning professionals and what legal strategies can be employed? In a round table format, professionals in the field will discuss the new Federal Legislation, recent developments in New York Case Law and how they are coping with the challenges of today's municipal zoning and siting landscape.

**Public Safety Networks in  
New York – What’s Next for  
First Responders?**

The attack on the World Trade Center on 9/11 highlighted the importance of communications systems during an emergency. Unfortunately, it also exposed severe shortcomings and limitations of the systems in operation on that day. Much progress has been made since 9/11 in the areas of equipment and interoperability, but much remains to be done. Leading public safety professionals from across New York State will address issues of technology, funding, inter-operability and the need for public sector support in expanding and upgrading emergency communications infrastructure supporting first responders and the public in times of emergency.

**NYSWA's Model  
Ordinance for Wireless  
Infrastructure Siting – New  
approaches to conflict  
avoidance, consultants and  
municipal planning for  
wireless services:**

In 2012, NYSWA published its Model Wireless Siting Ordinance for use by municipalities in updating their current local zoning laws governing the development of wireless infrastructure. A panel of professionals, including wireless industry attorneys, government affairs experts and a former Town Supervisor, will discuss key aspects of the model ordinance and how it balances legal, practical, economic and other community interests in ensuring the provision of robust wireless services to the public. This session is geared toward municipal officials, wireless industry representatives, consultants and anyone engaged in local zoning and wireless infrastructure siting.

**WHEN HEALTH BECOMES THE ISSUE**

**Dealing with questions about RadioFrequency Emissions**

Radio frequency (RF) emissions can be front-and-center or a peripheral issue in wireless siting applications. Concerns are raised by the public and by local officials alike. Sometimes it is the gating issue for an application. When emissions are raised, it is important to know the facts and what resources are available to address the topic.

The U.S. Federal Communications Commission (FCC) has regulatory authority over all wireless phones and frequencies. It is a federal law under the Telecommunications Act of 1996 that municipalities may not legislate RF Emissions and that emissions are regulated by the FCC.

For access to RF Emissions related messaging and material check out the links to the resources below.

- CTIA. This site quotes and provides links to the renowned experts such as the World Health Organization, Food and Drug Administration (FDA) and National Cancer Institute, the FCC and others. It is very helpful and it synthesizes the information in a manner that is easy to understand and message:  
[http://www.ctia.org/consumer\\_info/index.cfm/AID/10371](http://www.ctia.org/consumer_info/index.cfm/AID/10371)

- FCC – The FCC has a page on their site called “Radio Frequency Safety” published by the Office of Engineering and Technology (OET). It lists frequently asked questions and provides answers about the safety of RF and microwave emissions from transmitters and facilities regulated by the FCC. At the end of the page there are links to IEEE, National Council on Radiation Protection & Measurement and WHO. Link: <http://transition.fcc.gov/oet/rfsafety/rf-faqs.html>

- The World Health Organization (WHO) publishes an informative fact sheet entitled Electromagnetic Fields and Public Health: Base Stations and Wireless Technologies. Link: [www.who.int/mediacentre/factsheets/fs304/en/index.html](http://www.who.int/mediacentre/factsheets/fs304/en/index.html)

- The American Cancer Society has an educational section on their site which informs people about RF emissions and points out the lack of any evidence of cell sites causing cancer. Link: <http://www.cancer.org/Cancer/CancerCauses/OtherCarcinogens/AtHome/cellular-phone-towers>

**Calendar**

**June 13-15, 2012\*\*\***

NYSWA Annual Trade Show & Conference  
Niagara Falls, NY

Don't miss Golf at Seneca Hickory Stick Golf Course and the Street Festival on Old Falls Street (BBQ & Music) on June 13th and the Maid of the Mist Tour on June 15th!

**September 17-21, 2012**

NY Conference of Mayors Fall Training Meeting  
Lake Placid, NY

**September 19-21, 2012**

APA NY Upstate Chapter Conference  
Corning, NY

**October 7-10, 2012**

International City/County Management Association 97th Annual Conference  
Milwaukee, WI

\* = Indicates NYSWA representation.

\*\*\* = NYSWA Sponsored Events

Are there events you would like to see added to the calendar? Let us know!  
Email: [Esme.Lombard@t-mobile.com](mailto:Esme.Lombard@t-mobile.com).

## Did you know? There are no excuses not to show!

**Jet Blue offers direct flights from JFK and Boston to Buffalo (minutes away from NYSWA's Annual Trade Show & Conference at Niagara Falls, NY) for \$100 to \$125 each way.**

**Enjoy Golf at Seneca Hickory Stick Golf Course on Wednesday, June 13th and celebrate into the evening at the Street Festival on Old Falls Street (BBQ/Music for full access pass attendees).**

**A block of rooms has been reserved at the Sheraton at the Falls (716-285-3361). When making reservations, be sure to mention NYSWA to receive the \$129 per night rate.**

**End your conference with the Maid of the Mist Tour on Friday, June 15th before you catch your plane home.**

**Book now!**

**Go to [www.nyswa.org](http://www.nyswa.org) to register for the conference and learn more!**

## Tell us what you think!

Is there a question you want answered or a topic you would like to see discussed in the NYSWA Newsletter? Let us know. Email: [Esme.Lombard@T-Mobile.com](mailto:Esme.Lombard@T-Mobile.com).

**NYSWA 2012**  
TRADE SHOW & CONFERENCE

WIRELESS. EVERY DAY - EVERY WAY.  
**JUNE 13-15, 2012**  
THE CONFERENCE CENTER NIAGARA FALLS