

*** FOR IMMEDIATE RELEASE - January 11, 2010 ***

Homeowners file federal civil rights lawsuit to force removal of 50-antenna - "Cellular Antenna Farm" located just fifty (50) feet from Bayville Elementary School where approximately 30% of the teachers have allegedly been diagnosed with cancer or leukemia.

Two homeowners in the Incorporated Village of Bayville, NY have filed a federal civil rights lawsuit today in the United States District Court in Central Islip, asking a federal judge to order the Incorporated Village of Bayville and several commercial defendants to remove more than fifty (50) cellular transmission antennas from atop a water tower which is located a scant fifty (50) feet from the Village's only elementary school.

The property upon which the water tower sits was donated to the Village by a deed which imposed restrictions upon the Village's use of the property, explicitly providing that the property could not be used for any commercial enterprise, or in any manner which would be "obnoxious, dangerous or offensive" to homeowners situated within one (1) mile of the property.

According to a recent ruling from the New York State Supreme Court in Nassau County, the restrictive covenants cannot be enforced, because enforcement would "conflict with" the Federal Telecommunications Act of 1996. That decision was in direct conflict with a ruling from a higher New York State Court (the Appellate Division, Second Department), which had earlier ruled that the federal Act *does not* pre-empt enforcement of private property rights.

While these two State courts were in the process of issuing these conflicting rulings, the homeowners learned that approximately 30% of the teachers in Bayville's elementary school, have allegedly been diagnosed with cancer or leukemia.

The homeowners, Mr. & Mrs. Thomas Hoy, filed the federal civil rights lawsuit under 42 U.S.C. §1983 requesting that a federal judge declare that the federal Telecommunications Act of 1996 does not preempt enforcement of their private property rights, and seeking an affirmative injunction requiring that all "non-governmental" antennas be removed from the Tower.

PRESS CONFERENCE

Nassau County Supreme Court Press Room
Monday, January 11, 2010
3:00 p.m.

Contact Information

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