



Memphis and Shelby County Office of Planning and Development

CITY HALL - 125 N. MAIN STREET, SUITE 468 - MEMPHIS, TENNESSEE 38103

January 26, 2017

Allen Medlock
Building Official/Administrator
Memphis and Shelby County
Office of Construction Code Enforcement
6465 Mullins Station Road
Memphis, TN 38134

RE: modifications to approved cell towers - revised

Sent via electronic mail to: allen.medlock@shelbycountyttn.gov

Allen:

On January 25, 2017, the Memphis and Shelby County Board of Adjustment approved an appeal, styled as OPD Case No. "BOA 17-04," that overturned my determination that the addition of antennae and other appurtenances to three specific cell towers approved in a "flush mount" design require action by the Land Use Control Board. The Board based its vote on federal law, specifically Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (codified as U.S.C. § 1455(a)) and Federal Communications Commission (FCC) Order 14-153.

The immediate effect of the Board's vote is that the Division shall process the request to add additional antennae to these three particular cell towers administratively. However, in an effort to provide equal protection to all similarly situated applicants, **I recommend that all future applicants for additional antennae on "flush mount" cell towers proceed directly to the Office of Construction Code Enforcement** for whatever building permits are needed without any action by OPD or the Land Use Control Board.

This ruling shall only apply to towers originally approved with external antennae. The addition of antennae to towers approved as "slick stick" design with completely internal antennae, or as "stealth design" that resemble pine trees, flag poles, etc., shall continue to be reviewed by the Land Use Control Board. Also, the addition of antennae that protrude further than 20 feet from the cell tower pole of any design will also require action by the Land Use Control Board, per FCC Order 14-153.

In situations where changes are made to the dimensions or screening of a cell tower compound, please continue to share those site plans with my staff to ensure compliance with their original approval.

Thank you,

Josh Whitehead, Planning Director/Administrator, Office of Planning and Development

C: Ted Illsley, Office of Construction Code Enforcement
Kenneth Ayers, Office of Construction Code Enforcement
Land Use Controls Staff, Office of Planning and Development