

Bond Case Briefs

Municipal Finance Law Since 1971

PUBLIC UTILITIES - GEORGIA

T-Mobile South, LLC v. City of Roswell, Ga.

United States Court of Appeals, Eleventh Circuit - October 1, 2013 - F.3d - 2013 WL 5434710

Telecommunications service provider brought action against city, challenging the city's denial of its cell tower application as in violation of the Telecommunications Act, and seeking an injunction compelling the city to grant it the requested permit. The United States District Court for the Northern District of Georgia granted summary judgment in favor of provider and issued an injunction requiring the city to issue the permit. City appealed.

The Court of Appeals held that city's denial of telecommunications service provider's request for a permit to build a cell tower satisfied the requirement of the Telecommunications Act that a state or local government's denial of a request for a permit to erect a cell tower be "in writing." City provided provider with a written letter clearly stating the city council had denied the request, that same letter informed the provider that the minutes from the hearing in which the city council denied the request could be obtained from the city clerk, and the minutes recounted all of the reasons for the action on the provider's application along with the relevant discussion. Moreover, the provider received, or at least could have received, an even more detailed written account of the city council's decision from the transcript of the hearing.