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Omnipoint Communications, Inc. v. City of Huntington Beach

United States Court of Appeals, Ninth Circuit - December 11, 2013 - F.3d - 2013 WL 6486240

Cellular telephone service provider brought action seeking to enjoin city from requiring voter approval prior to construction of mobile telephone antennae. The District Court ruled that the Telecommunications Act preempted the voter approval requirement but denied the provider's request for permanent injunctive relief. Both parties appealed.

The Court of Appeals held that:

- Provision of Telecommunications Act preserving local zoning authority functions to preserve local land use authorities' legislative and adjudicative authority subject to certain substantive and procedural limitations, and
- Initiative measure limiting city's ability to lease or sell city-owned property without voter approval, by requiring provider to obtain voter approval before constructing antennae on city-owned park property, was not preempted.