

# **Bond Case Briefs**

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## **ZONING - WHOLE DAMN COUNTRY**

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

**Supreme Court of the United States - January 14, 2015 - S.Ct. - 2015 WL 159278**

Telecommunications service provider brought action against city, challenging its denial of provider's application to build a cell phone tower as violative of Telecommunications Act. The District Court entered summary judgment for provider, and city appealed. The Court of Appeals reversed, and provider appealed.

The Supreme Court of the US of A held that:

- A locality must provide reasons when it denies a siting application;
- A locality's reasons for denying a siting application need not appear in same writing that conveys locality's denial, but the locality must provide or make available its written reasons at essentially the same time as it communicates its denial; and
- City did not comply with Telecommunications Act's requirement that its decision be in writing and supported by substantial evidence.

A locality must provide reasons when it denies an application to place, construct, or modify a cell phone tower under the Telecommunications Act; however, those reasons need not be elaborate or even sophisticated, but simply clear enough to enable judicial review.

A locality's reasons for denying an application to place, construct, or modify a cell phone tower under the Telecommunications Act need not appear in the same writing that conveys the locality's denial of the application; abrogating *Southwestern Bell Mobile Systems, Inc. v. Todd*, 244 F.3d 51; *New Par v. City of Saginaw*, 301 F.3d 390; and *MetroPCS, Inc. v. City and County of San Francisco*, 400 F.3d 715. However, a locality cannot stymie or burden the judicial review contemplated by the Telecommunications Act by delaying the release of its reasons for a substantial time after it conveys its written denial of an application to place, construct, or modify a cell phone tower; rather, the locality must provide or make available its written reasons at essentially the same time as it communicates its denial.

City's denial of telecommunications service provider's application to build a cell phone tower did not comply with Telecommunications Act's requirement that city's decision be in writing and supported by substantial evidence, even though city provided its reasons in writing in form of detailed minutes from a city council meeting, where city failed to provide its reasons essentially contemporaneously with its written denial, in that it issued its minutes 26 days after date of its written denial and just four days before provider's time to seek judicial review was to expire.