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TELECOM - OHIO

Tarpon Towers II, LLC v. City of Sylvania

United States District Court, N.D. Ohio, Western Division - September 1, 2022 - F.Supp.3d - 2022 WL 3998799

Communications companies sought judicial review of decision by city council which denied companies' application for special-use permit to construct cell-phone tower.

Both parties moved for summary judgment.

The District Court held that:

- City council failed to set forth contemporaneous written reasons which were stated clearly enough to enable judicial review, as required by the Telecommunications Act (TCA);
- Substantial evidence did not support denial based on local height restrictions;
- Substantial evidence did not support denial based on alleged negative impact on property values;
- Companies demonstrated that denial of application would result in significant gap in personal wireless service coverage;
- Companies demonstrated that they inquired into feasibility of alternative site locations; and
- Order requiring city council to approve application was warranted.

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