

Brief History of Larkin Tower
125 Larkin Street
By Keith Lippert, Traffic Engineering Division

Early Years

The Reservoir Park property was purchased by the City of Madison from Mr. and Mrs. Hammersley and Mr. and Mrs. Zwerg November 29, 1924. The conveyance of the land was "made subject to the conditions that no part of said premises shall ever be occupied or used for the purpose of a livery stable, saloon, warehouse, dancing hall or store for the purpose of carrying on any trade, manufacturing or business thereon injurious or offensive to dwelling houses or their occupants..."

The original tower was put up in 1945-1946 and erected to a height of 300'. Due to a structural flaw the tower was reduced in height to 280' in 1947. The tower building was constructed in 1946 and expanded in 1956. Originally housing both City and County radio equipment, in 1971 it became City only. In the 1970's, with the modernization of police and fire radios, major equipment expansion took place.

My employment with the City of Madison Communications section began in January, 1977. Personnel around at the time of the tower construction described the area as mostly farmland. The residence closest to the tower on Larkin St. was built in 1957. Plymouth Circle, which is across Larkin St. from the tower, was developed in 1960.

Commercial Use

The only early commercial use of the tower was the low power TV station Channel 5 and Channel 54. The company came on the tower in 1988 and operated from the location for approximately one year. There were also additional uses at the tower such as equipment used during the riots during the early 1970s, a weather monitoring station for the University of Wisconsin, and amateur radio equipment to assist Dane County Emergency Planning. There was no further commercial use until the cell phone companies approached the City of Madison in the 1990s.

Location Necessity

Larkin tower radio coverage is critical to City systems because its location on this near west side ridge is the highest ground close to the City center. Larkin tower provides a signal to the lower State Street area six to seven times stronger than the same transmitter from the City's antennas at the far west side UW community tower. This is critical to the City of Madison Fire and Police Departments. Larkin tower also receives 911 portable radio traffic from the Edgewood, Breese Terrace, West High, Spring Harbor and South Madison areas. Duplicating this portable reception would require two or three towers placed at other locations. Prime reception of low-powered portable radio is what makes the site attractive to commercial hand carried phone devices. This telecommunications technology was unknown in the 1970s when public safety first implemented such radio systems here.

Changes Coming

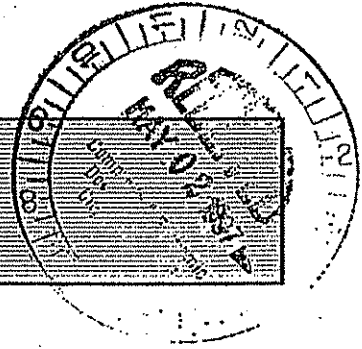
Cellular One approached the City in 1993 with an interest in leasing tower space. The request was refused based on the carrying capacity of the tower. Cellular One offered to do whatever engineering studies or tower upgrades would be necessary to bring the forty-eight year old tower to modern standards which would allow additional antennas to be erected.

A structural study was done on the tower. It was determined that due to the tower's age, it would not meet the Wisconsin DILHR requirements for additional antenna mounting. To meet the needs of increased coverage and newer technology, the City of Madison also needed to add antennas. It was determined that replacing the tower would be less expensive than reinforcing the existing structure. The City replaced the tower in 1996 with a tower of the same height. It was placed directly north of the existing tower. Due to system requirements and delays Cellular One did not renegotiate tower space on Larkin tower. In late 1996, PrimeCo requested consideration and entered into a contract with the City of Madison. PrimeCo added on to the Larkin building, keeping with the architecture of the original building.

Present Day

Because of the strategic location Larkin tower remains an indispensable link in the Public Safety Communications of Madison and Dane County.

**CITY OF MADISON
CITY ATTORNEY'S OFFICE
Room 401, C.B.
266-4511**



May 1, 1997

OPINION 97-007

TO: City of Madison Plan Commission
FROM: Eunice Gibson, City Attorney
SUBJECT: Larkin Tower

You have asked my opinion on two questions related to a proposed agreement under which the City would lease antenna space on its communications tower at 125 Larkin Street to PrimeCo Communications, Inc. You ask whether a deed restriction affects or impedes the City's ability to enter into the proposed agreement. And you ask whether the proposed use of the tower violates Sec. 17.12(2)(b)5., Madison General Ordinances (MGO).

The answer to both questions is "no."

I. The Deed Restriction.

The Larkin Tower belongs to the City of Madison. According to records filed by the City's Department of Transportation with the Federal Aviation Administration, the first Larkin Tower was constructed in 1945 and was 300 feet high. As a result of damage in 1953, part of the tower was removed, leaving it at approximately 286 feet high. This tower deteriorated with time and in 1996, the Common Council authorized construction of a new tower of approximately the same size in the same location.

The new tower is now in place. It holds City of Madison and Dane County communication antennas. If the City of Madison enters into a lease agreement with PrimeCo, PrimeCo would also place an antenna on the tower. Its employees would need occasional access to the equipment, just as City employees need occasional access to the City's equipment.

The land on which the tower is built was conveyed to the City of Madison by a warranty deed, dated November 29, 1924. The deed contained certain restrictions which, in pertinent part, state:

The conveyance of the foregoing lands is subject to conditions that no part of said premises shall ever be occupied or used for the purpose of a livery stable, saloon, warehouse, dancing hall or store or for the purpose of carrying on any trade, manufacturing or business thereon injurious or offensive to dwelling houses or their occupants. . .

This conveyance is made with the understanding on the part of the grantors that the said grantee is to utilize the premises hereby conveyed for the purpose of constructing a water reservoir or any other purpose within the restrictions heretofore set forth.

In 1995, when the Council considered whether to authorize construction of a new tower, and when the lease of tower space by a commercial entity was contemplated, Assistant City Attorney Robert E. Olsen prepared an extensive analysis of the application of the deed restriction to both the construction and to the proposed commercial use of the tower. This analysis has been furnished to you. It discusses fully all of the arguments that could be made on both sides of the issue, and it concludes that the tower and proposed use are not prohibited by the deed restriction. This is also my opinion.

Assistant City Attorney Olsen's analysis points out that, in order to violate the deed restriction, the tower and the commercial antennas would have to be "offensive and injurious to dwelling houses or their occupants." There has been a tower with antennas at this location since 1945. There have been previous commercial antennas on the tower. There is no evidence that these antenna systems have been "offensive and injurious to dwelling houses or their occupants." Therefore, the deed restriction does not affect or impede the City's ability to enter into the proposed agreement.

II. Sec. 17.12(2)(b)5., MGO

Your question asks whether "PrimeCo's use of the tower is in violation of Sec. 17.12(2)(b)5., MGO." That section provides as follows:

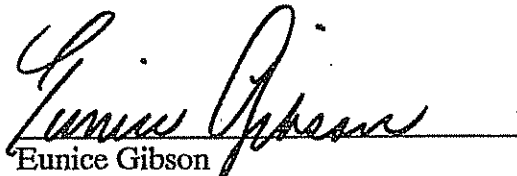
5. All antenna systems shall be so installed that no part of the system will be nearer to a street, sidewalk or other public area, electric power or communication line than the height of the tower. Wires, cables, or guy wires shall not extend over any street or other public area. Where the height of the antenna is over thirty (30) feet, a detailed sketch thereof, showing the location of the antenna with respect to property lines, existing electric or communication lines, shall accompany the application for a permit, and such

sketch shall show compliance with all the requirements of this ordinance. The maximum height shall be seventy-five feet (75') in residential districts without obtaining a variance from the Zoning Board of Appeals.

Sec. 17.12(2)(d), MGO, provides:

- (d) Height Limit Not to Apply. Height limit as described in Paragraph (2)(b)5. above shall not apply to commercial or educational systems where the construction of the tower is approved by the Federal Communications Commission.

Your question is limited to the antenna system proposed by PrimeCo. PrimeCo's system is a commercial system. Further, City of Madison Department of Transportation records contain evidence of the approval of the construction of the tower by the Federal Communications Commission. Therefore, because of the exclusion in Sec. 17.12(2)(d) MGO, Sec. 17.12(2)(b)5. MGO, does not apply to the antenna system proposed by PrimeCo.


Eunice Gibson
City Attorney

EG:cam

cc: Mayor Susan J. M. Bauman
David Dryer, Transportation
Bradley D. Murphy, Planning

CAPTION: A proposed lease of Larkin Tower space for a commercial antenna system does not violate a deed restriction and does not violate Sec. 17.12(2)(b)5., MGO.



harkin Tower

Department of Planning & Development
Community & Economic Development Unit

- Real Estate Development Section
- Community Development Section

COPY

NOTICE OF DEFAULT

May 15, 2009

VIA CERTIFIED MAIL - RRR

Verizon Wireless Personal Communications LP
d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, NJ 07921
Attn.: Network Real Estate

RE: License dated June 18, 1997, as amended by First Amendment to License dated September 30, 2008
Licensee: Verizon Wireless Personal Communications LP, d/b/a Verizon Wireless ("Verizon")
Real Estate Project No. 3973

Dear Sir or Madam:

This letter is a 30-day notice to cure given in accordance with Paragraph 17 of the above-referenced License. You are hereby notified that Verizon (Licensee) is in default under the License in the following respects:

- Licensee has proceeded with the installation of a back-up generator at the Premises without obtaining the necessary zoning approval from the City of Madison. Such installation is in violation of Paragraph 19 of the License which states that "the Licensee shall observe and promptly and effectively comply with all applicable statutes, rules, orders, ordinances, requirements and regulations of the City..."

In order to remedy the above-stated default, the Licensee must take the following measures:

1. Immediately cease all activities involving the installation of the back-up generator at the Premises.
2. Submit to the City of Madison Zoning Administrator, within the next 30 days, the necessary application for approval of the back-up generator as a Major Alteration to Conditional Use.

Unless such measures are taken within the next 30 days, the License shall terminate effective as of June 16, 2009. In such event, all of the Licensee's rights in the Premises shall cease, and the Licensee shall be required to remove all of its Equipment and to restore the Premises to their original condition.

Please contact Heidi Fischer of this office at (608) 264-9297 if you have any questions regarding this matter.

Sincerely,

Donald S. Marx
Manager – Office of Real Estate Services

c: Katherine Noonan, Assistant City Attorney
Keith Lippert, Communications Supervisor
Matthew Tucker, Zoning Administrator

Madison Municipal Building, 215 Martin Luther King, Jr. Boulevard, Ste. LL-100, P.O. Box 2983, Madison, Wisconsin 53701-2983

PH: 608 266 4222 • FAX: 608 267 8739 • TTY/Textnet: 866 704 2318 • commdev@cityofmadison.com

Parks, Timothy

From: Tucker, Matthew
Sent: Friday, October 22, 2010 9:33 AM
To: Fischer, Heidi
Cc: Parks, Timothy
Subject: larkin tower

Heidi- the generator and additional antenna request is coming up for review by the Plan Commission next month. At the UDC meeting on Wednesday, one of the homeowners in the area, John Harrington, asked about the visibility of bright, warning-type stickers that have been placed on the door of the equipment building, and also asked about maintenance of the door of this building (apparently it is rusted and looks real bad).

John asked about the necessity of the warning stickers on the door, and if it could be screened if indeed these are necessary. I know you are probably not the right person to answer that question, but maybe you have a contact somewhere? Also, do you know who to talk with at the Water Utility regarding the door, in turn what could/should be done to paint the door?

John will be bringing these items up at the PC meeting, just hoping to be able to offer a positive answer.

Thanks, mt.