



CITY OF
HAYWARD
HEART OF THE BAY

March 29, 2017

The Honorable Ben Hueso
California State Senate
State Capitol
Sacramento, CA 95814

RE: SB 649 (Hueso) Wireless and Small Cell Telecommunications Facilities
City of Hayward Notice of OPPOSITION

Dear Senator Hueso,

The City of Hayward respectfully opposes your SB 649 and proposed amendments in RN 17 08941 (proposal) related to the permitting of wireless and small cell telecommunications facilities. This proposal unnecessarily and unconstitutionally strips local authority over public property and shuts out public input and local discretion by eliminating consideration of the aesthetic and environmental impacts of “small cells.”

This proposal would prohibit local discretionary review of “small cell” wireless antennas, including equipment collocated on existing structures or located on new “poles, structures, or non-pole structures,” including those within the public right-of-way and buildings. The proposal preempts adopted local land use plans by mandating that “small cells” be allowed in all zones as a use by-right, including all residential zones.

As such, the proposal provides a de facto exemption to the California Environmental Quality Act (CEQA) for the installation of such facilities and precludes consideration by the public of the aesthetic, nuisance, and environmental impacts of these facilities, all of which are of particular importance when the proposed location of facilities is within a residential zone.

SB 649’s use of the Federal Communications Commission (FCC) definition of a “small cell” include other “small cell” equipment such as electric meters, concealment, telecom demarcation boxes, ground-based enclosures, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cables, or conduits. The proposal allows for an unlimited number of antennas of less than three cubic feet each or six cubic feet for all antennas, while placing no height restrictions on the pole. While proponents argue that an individual “small cell” has very little impact, the cumulative size specifications of all the small cells and associated equipment far exceed the perceived impacts from a single cell.

The proposal also unconstitutionally preempts local authority by requiring local governments to make available sites they own for the installation of a “small cell.” While the city may place “fair and reasonable terms and conditions” on the use of city property, the proposal does not provide the city with any discretion to deny a “small cell” to be located on city property except for fire department sites. In

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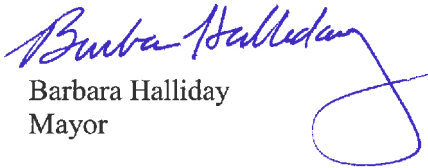
effect, this measure unconstitutionally gives control of public property to private telecommunications companies, while also precluding local governments from leasing or licensing publicly owned property.

The City of Hayward is not opposed to the installation of small cell telecommunication facilities in our community; however, we request that we retain our local land use authority over regulating the location of these facilities rather than having to abide to the whims of overzealous telecommunications companies. This bill strips us of the authority to protect the quality of life of our residents, and to protect public property and the public right-of-way from relatively unconstrained access by small cells.

Local governments typically encourage new technology into their boundaries because of its potential to dramatically improve the quality of life for their residents. However, SB 649 goes too far by requiring local governments to approve "small cells" in all land use zones, including residential zones, through a ministerial permit, thereby shutting the public out of decisions that could affect the aesthetics of their community and the quality of their environment.

For these reasons, the City of Hayward opposes your SB 649.

Sincerely,


Barbara Halliday
Mayor

CC:

Senator Bob Wieckowski, 10th District
Assembly Member Bill Quirk, 20th District
Hayward City Council
Kelly McAdoo, City Manager, City of Hayward
Samantha Caygill, Regional Manager, League of California Cities, scaygill@cacities.org
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