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REPLY TO:

Tarrytown Office

June 2, 2026

Honorable Supervisor Lachterman and
Members of the Town Board
Town of Yorktown
363 Underhill Avenue
Yorktown Heights, NY 10598

RE: Homeland Towers, LLC
62 Granite Springs Road, Town of Yorktown, NY

Dear Honorable Supervisor Lachterman and Members of the Town Board:

We are the attorneys for Homeland Towers, LLC ("Homeland Towers") in connection with its prior proposal to lease a portion of the above captioned property from the Town for a public utility wireless telecommunication facility ("Facility"), including a 130-foot tower and equipment compound designed for the collocation of multiple wireless carriers and Town emergency services entities. Regrettably for public safety, the Town Board rejected the proposal after years of work to close a significant gap in wireless service which plagues the area for both cellular coverage and also emergency service communications.

The Town Board denied approving a lease for the Facility by resolution dated March 11, 2026 ("Resolution"). Accordingly, based on the reasons set forth in the Resolution, Town-owned property in this area appears to not be available for the siting of a wireless telecommunications facility and thus private property will be pursued moving forward unless the Town Board informs us otherwise of an acceptable Town-owned property.

We respectfully wish to highlight certain factual inaccuracies contained in the Resolution, because the Resolution claimed that Homeland Towers failed to comply with various criteria that simply are not applicable.

1. Need for the Facility: The Town Board denied granting a lease for Town-owned property because it claimed that various technical data was not provided. The Resolution incorrectly states that "Best Server" information was not provided. This is incorrect and Best Server data was provided. The Resolution incorrectly states that actual empirical data from Verizon's system was not provided. This is also incorrect, as the February 24, 2026 V-Comm report includes actual blocking data directly from the Verizon system as well as Best Server maps and propagation maps that are tuned based on actual drive test data. Any claim that the need for the Facility was not

well-documented is misplaced. The need for the Facility was documented by professional engineering analyses prepared by third-party expert V-Comm. Cityscape, on behalf of the County and the Town, identified the need for service in Granite Springs. The Town's own consultant, Mr. Douglass Fishman, verified the evidence and agreed with the conclusion that there is a need for the Facility. Moreover, the Town's own emergency service providers and many of the residents, even those in opposition, confirmed the need for the Facility. The Town Board actively requested State legislation to alienate the property for the proposed use. Homeland Towers explained in great detail at the last public hearing the technical reasons why drive test data is not required and is not as accurate as propagation maps. In fact, the Town's own RF consultant, Mr. Fishman, agreed on the record at the hearing that drive test data was not required and offered to provide a memorandum to document the point for the Town Board. At no time did the Town Board ever make a request for any additional RF data.

2. Wetland Permit: The Resolution states that the applicant failed to establish the propriety of a wetlands permit based on "inaccurate wetland delineation, significant aesthetic impacts and insufficient protection of protected animals." First, there is no evidence in the record that the wetland delineation was inaccurate, other than a wholly unsupported letter from the neighboring property owner's consultant that failed to include any supporting data. Ironically, there are a number of structures already on the property in the wetland buffer that appear to lack any authority to be on the property and lack wetland permits. Second, the wetland delineation was made by a well-credentialed expert and confirmed by the Town's own wetland consultant and the New York State Department of Environmental Conservation ("DEC"). Third, as there were no impacts within the wetland proper, there was no relevant aesthetic criteria. Finally, there is no evidence in the record that any protected species of animals would have been adversely impacted, as confirmed by the U.S. Fish and Wildlife Service and the DEC. Nevertheless, Homeland Towers committed to implementing a pre-construction environmental survey and avoidance measures out of an abundance of caution. The pre-construction survey would have been completed by a qualified biologist, and on-site avoidance procedures would have been implemented should any sensitive resources have been encountered during construction. On the other hand, residents opposing the Facility conceded to trespassing, illegally hunting, and erecting structures on the Town-property without the necessary permits or approvals.

3. Height: The Resolution claims that the applicant failed to demonstrate that the structure height is the minimum necessary because the record reflects that the 110-foot monopole would provide acceptable coverage at the top height, and potentially at other heights. This is simply an incorrect statement. The height of the tower was confirmed by the applicant's consultant as well as the Town's own consultant. The proposed height was the minimum height to support collocation of all wireless carriers and the Town's emergency service antennas. In its February 9, 2026 report, V-Comm expressly found that: "It is our conclusion that the lowest functional antenna centerline be 126 feet in order to clear all surrounding obstructions and adequately accommodate the signal gap in the area with potential of future carriers added to this monopole."

4. Construction Drawings: The Resolution claims that the applicant failed to submit construction drawings as requested by the Town Board. Simply put, the Town Board never requested construction drawings. It was also explained on multiple occasions that construction drawings are *always* submitted at the building permit phase of the project. The Town Board never requested construction drawings at the review stage during this project or the multiple prior projects on Town property, such as those at Hill Boulevard or Quinlan Street, which were approved during the terms of multiple administrations. Section 300-59(C) of the Town Code expressly states that Town Code Section 300-59 does not apply to the proposed Facility as it is on Town-owned property. Thus, any requirement for construction drawings in that code section is irrelevant. Nevertheless, Homeland Towers provided fully-detailed site plans, a full stormwater management plan, a full landscaping plan, and a report from Dave Weinpahl, P.E., dated February 3, 2026, confirming the tower design loading and that the tower will be structurally designed to meet all applicable NYS Building Code requirements.

The Resolution gives the misleading impression that somehow Homeland Towers failed to provide necessary, required or even requested information. Nothing can be further from the truth. In fact, all of the required information required by the Town Code was submitted, as well as significant and costly information and documentation relevant to the project and consistent with prior approval processes in similar circumstances. The Town Board yielded to strident public opposition, resulting in the continued persistent need for reliable wireless service in the Granite Springs area.

Section 300-59(D)(1) of the Town Code expressly requires that "wireless telecommunication facilities shall be located on Town-owned lands or facilities." Such facilities are subject to Town Board lease approval. Courts have invalidated similar code provisions. *See Countryman v. Schmitt*, 176 Misc. 2d 736 (Sup. Ct, Monroe County 1998). To the extent wireless facilities are denied for reasons that are arbitrary and capricious and not supported by substantial evidence in the administrative record, such decisions violate federal and State law.

Section 332(c)(7)(B)(i)(II) of the Telecommunications Act of 1996 ("TCA") provides that "[t]he regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof . . . shall not prohibit or have the effect of prohibiting the provision of personal wireless services." 47 U.S.C. §332(c)(7)(B)(i)(II). Section 253(a) provides that "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." 47 U.S.C. §253(a). Section 332(c)(7)(B)(iii) of the TCA requires that a decision to deny an application to locate, install, or modify a personal wireless service facility must be supported by substantial evidence contained in the written record. 47 U.S.C. §332(c)(7)(B)(iii). Because the Town Code requires that wireless telecommunications facilities be placed on Town property, the Town Board has a legal obligation to act on such applications under the relevant laws and not to simply appease certain public opposition.

We also understand that the Town Board is considering adopting a six-month telecommunications moratorium. We recommend that the Town Board refrain from further impeding the solutions necessary to remedy the lack of wireless service in the Town with an

illegal moratorium. Moratoria by their very nature "prohibit or have the effect of prohibiting the provision of service [in violation of] section 253(a)" and only "[w]ith rare exception" are moratoria protected by the exceptions found in Sections 253(b) or (c). *In re Accelerating Wireless Broadband Deployment by Removing Barriers*, 33 F.C.C. Rcd 7705, ¶¶ 147-160 (August 3, 2018) (the "Moratoria Declaratory Ruling"). Moreover, as the FCC and courts within the Second Circuit have made clear, "the shot clock runs regardless of any moratorium." *Id.* at ¶ 265; *Upstate Cellular Network v. City of Auburn*, 257 F. Supp. 3d 309, 314 (N.D.N.Y. 2017) ("a municipality may not avoid or stop the shot clock period by enacting a moratorium").

If the Town Board believes that it should amend the Town Code, it should do so without the need for an illegal and unnecessary moratorium.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,
SNYDER & SNYDER, LLP

By: _____
Robert D. Gaudioso

RDG/ldr
cc: Town Attorney