

KITCH DRUTCHAS WAGNER VALITUTTI & SHERBROOK

A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS
ONE WOODWARD AVENUE, SUITE 2400
DETROIT, MICHIGAN 48226-5485
(313) 965-7900
Fax (313) 965-7403
INTERNET ADDRESS: <http://www.kitch.com>

PRINCIPALS

RICHARD A. KITCH
GREGORY G. DRUTCHAS
RONALD E. WAGNER
RALPH F. VALITUTTI, JR.
HARRY J. SHERBROOK
WILLIAM D. CHAKLOS
STEVE N. CHEOLAS
SUSAN H. ZITTEMAN (1)(7)
JOHN S. WASUNG (1)
JOHN PAUL HESSBURG (3)
KAREN B. BERKERY (1) (4)
DANIEL R. SHIREY (5)
JOHN M. SIER (6)
STEPHEN R. BRZEZINSKI (15)
THOMAS R. SHIMMEL
MICHAEL J. WATZA
MARK A. WISNIEWSKI
RICHARD J. JOPPICH
BARBARA A. MARTIN
JULIA K. MCNELIS
DEAN A. ETSIOS
CHERYL A. CARDELLI
LAURA L. WITTY
DONALD B. LENDERMAN (7)
RICHARD J. SUHRHEINRICH
R. LISA PANAH (7)
TIMOTHY S. GROUSTRA (8)
MARY CATHERINE STOREN
SUSAN D. MacGREGOR
DAVID C. WIEGEL
JENNA WRIGHT GREENMAN

CHRISTINA A. GINTER
MARK M. SESI
RYAN D. EWLES
MICHAEL T. WALSH (2)
MARCY A. TAYLER
TERENCE P. DURKIN
GENEVIEVE E. DELONIS
CHRISTINA A. DOYLE
ANDREW M. HARRIS
PATRICK M. FISHMAN
BETH A. WITTMANN (1)
RICK J. WITTMER (2)
LINDSAY C. KELLEY-BLIVEN
MEGHAN KENNEDY RIORDAN(12)
A. GABE SYBESMA
MARIO CUSUMANO (2)
GREGORY A. BEHLER
PATRICK B. CAVANAUGH (1)
MICHAEL E. GERAGHTY
VICTOR A. MCCOY
M. SEAN FOSMIRE
TIMOTHY P. BRADY

ASSOCIATE PRINCIPALS

STEVEN P. MCCAUSLIN
ANNE M. BROSSIA (9)
DAVID T. HENDERSON (1)
AMY L. CARRIVEAU
MARGARET M. PHILPOT
JOSLYN R. IAFRATE
KALLY L. GOODWIN
LAURIE A. TANNOUS (13) (14)

2379 WOODLAKE DRIVE, SUITE 400
OKEMOS, MICHIGAN 48864-6032
(517) 381-4426
FAX: (517) 381-4427

TOWNE SQUARE DEVELOPMENT
10 S. MAIN STREET, SUITE 200
MT. CLEMENS, MICHIGAN 48043-7903
(586) 463-9770
FAX: (586) 463-8994

1440 W. RIDGE STREET, SUITE C
MARQUETTE, MICHIGAN 49855-3199
(906) 228-0001
FAX: (906) 228-0003

405 MADISON AVENUE, SUITE 1500
TOLEDO, OHIO 43604-1235
(419) 243-4006
FAX: (419) 243-7333

20 N. CLARK ST., SUITE 600
CHICAGO, ILLINOIS 60602-4252
(312) 332-7901
FAX: (312) 332-7903

BRIAN A. CARRIER
PHILIP MCNELIS
CARINA M. KRAATZ
MICHAEL J. PESESKI
LINDSAY E. ROSE
EVA SOSNOWSKA (2)
MARTIN E. GOFF
ABIGAIL MCINTYRE
HEIDI GEHART
JILL N. STORY

SENIOR ASSOCIATES

ELISE J. ARSENAULT
RYAN R. CLARK
MATTHEW H. FAIVER
AMANDA S. KAKOS
MICHAEL B. KERN (16)
YASIR MUHAMMAD
KENNETH OVERWATER (7)
BRAD R. PERO (11)
EDUARDO T. REYES
CAREN RIES

ASSOCIATES

NICHOLAS ALSAKA (2)
WAYNE D. BESS
DOMINIC J. DEBEUL
JESSE M. DEPAUW
MATTHEW D. GARRETT
KATHARINE GOSTEK
ZETH D. HEARLD
FARAH R. ISRAEL

SULVIA A. JALABA
KANWARPREET S. KHAHRA
JULIANA B. KHALIFEH
BRANDON R. KOPPIN
ZEINAB SAAD
KEYUR G. SHAH
PAUL SHAILOR
LAURA M. SHERBROOK
QUENDALE G. SIMMONS
CHLOE C. STREETMAN
MICHAEL VANORDER

OF COUNSEL

STUART TRAGER (10)
MICHAEL VECCHIONI

- (1) ALSO ADMITTED IN OHIO
- (2) ONLY ADMITTED IN ILLINOIS
- (3) ALSO ADMITTED IN WASHINGTON, D.C.
- (4) ALSO ADMITTED IN NEW YORK
- (5) ALSO ADMITTED IN FLORIDA
- (6) ALSO ADMITTED IN IOWA
- (7) ALSO ADMITTED IN ILLINOIS
- (8) ALSO ADMITTED IN ARKANSAS
- (9) ONLY ADMITTED IN OHIO
- (10) MTT JUDGE RETIRED
- (11) ALSO ADMITTED IN INDIANA
- (12) ALSO LICENSED AS A FOREIGN LEGAL CONSULTANT IN CANADA
- (13) ONLY ADMITTED IN CANADA
- (14) ALSO LICENSED AS A FOREIGN LEGAL CONSULTANT IN MICHIGAN
- (15) ALSO ADMITTED IN HAWAII
- (16) ALSO ADMITTED IN MASSACHUSETTS

October 5, 2018

Tom Leonard
Speaker of the House
Room 164 - Capitol Building
P.O. Box 30014
Lansing, MI 48909

Re: SB 637 and FCC Preemption of ROW Located Cellular Towers

Dear Mr. Speaker:

I write on behalf of my client(s) PROTEC <https://www.protec-mi.org/>, a consortium of more than 90 Michigan Cities, Townships and Villages. A list of communities that are opposed to these bills is attached.

Please allow me to itemize our key concerns with the bills. The 1st concern is that the FCC has now federally preempted all issues relevant to locating cellular facilities in local rights of way, by virtue of 3 particular Orders dated October 21, 2014, August 3, 2018 and most recently, September 27, 2018. See <https://www.fcc.gov/document/wireless-infrastructure-report-and->

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[order](#) and <https://docs.fcc.gov/public/attachments/FCC-18-111A1.pdf> and <https://www.fcc.gov/document/fcc-facilitates-wireless-infrastructure-deployment-5g>.

Accordingly, it is no longer necessary or appropriate for this body to continue considering SB 637 as the Federal Government has now broadly and specifically spoken and fully occupies this area of law. To adopt State legislation at this point would be to add unnecessary bureaucratic layers and greatly confuse an area of law which the federal government very clearly has decided to regulate with one uniform set of rules across all states.

In addition to this most recent federal preemption issue, my clients continue to oppose SB 637 for the reasons stated in our attached summary, as well as my testimony before the Senate Energy and Tech Committee of March 8, 2018. See <https://www.youtube.com/watch?v=1ZPhceGolMg>

The Bill language is dramatically different than the conversations and testimony that some suggest.

- **Size:** The “pizza box” analogy is startlingly wrong. The bill allows more than 31+ cubic feet of wireless equipment. That is the size of a commercial fridge x 4/pole, on 50 foot, not 40 foot poles.
- **5G Promotion:** The Bill obligates the industry to do -0-. Nothing. No build out anywhere, urban or rural, no minimum service standards and certainly no rate regulation “in exchange” for this grand give-away of tax payer supported property.
- **Free Market Economics and the Monopolist Communications Industry:** How does giving away publicly supported property to a for-profit monopolistic industry support free markets?
- **Fees and Time to Consider Applications:** Too little on both accounts.
- **This Give Away also Results in Massive Reductions in Historical Cable Franchise Fees.**
- **And a note on SB 894:** Subjects ROW to zoning contrary to long established law. It is unnecessary and a further constraint on local self-governance. We also oppose it.

Last, I wish to correct an apparent misunderstanding regarding the MML and MTA position on SB 637. As I understand it, both are neutral. NOT Supporting. Some House Energy Committee members stated these organizations are “supporting” the Bills. That is not correct based upon all the information I have, including the attached long list of cities and townships opposing and, I copy both organizations in case they wish to clarify.

I am happy to discuss this matter with you and your staff and the House as a whole if you care to permit, or as desired.

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Respectfully,

/S/

Michael J. Watza
PROTEC General Counsel
(313) 965-7986
mike.watza@kitch.com

