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Published February 2, 2012

Q&A: James Corbett, cell tower attorney

By John Callegari

The legal profession has been adept at adapting to technological change. Entire specialties have come into being as new technologies bring unheard-of issues to the fore. James Corbett, a Bellmore-based sole practitioner, has developed a forte in litigating and negotiating deals involving cell towers. He recently phoned in to LIBN to discuss the legal issues these controversial structures raise.



Is there really enough work out there focused on cell towers to build a practice on it?

There are a fair amount of cases out there. My focus is not on taking every lawsuit but taking those that are a good fit. We work closely with our clients with regards to what the possibility of prevailing on their claim is. In many instances, it's difficult to prevail because of [Federal Communications Commission regulations], or it just might be very costly. In many instances when we're approached pursuing that type of claim to prevent a cell tower from going up, by the time we honestly tell them what they're getting involved in they choose not to go forward. However, some people do choose to fight and we represent them as best we can, and we have had success.

How did you get involved with cell tower law?

When I first started in litigation, I did a lot in connection with construction companies,

representing them. At the time, those companies began building out fiber-optic networks for communication companies. I wound up getting a background in telecommunications. Eventually I left law for a bit to become part of a telecommunications company, consulting to them and those they did business with. The technology evolved to the point where there was less fiber being put in the ground and more of a focus on wireless. Using that, I left the telecommunications company and used my background in telecommunications to become a litigator on cell towers and cell sites.

Having worked for a telecommunication company, are those types of companies your primary clients?

No. I actually never represent the telecommunication carriers. I represent building owners, residents of communities and condominium and co-op owners who are usually involved with litigation against the telecommunication companies.

What's the process for establishing a new cell tower?

It all depends on the type of property the telecommunication structure is being constructed on. If they want to do it on public property there are strict guidelines, and the companies have a lot to do, such as public hearings and presenting information to the municipality involved. As for a private situation, such as putting a cell tower or site on top of a commercial building, those act more like a traditional landlord-tenant lease agreement. Of course, they have to go to a government entity with that as well, just like you would if you were putting an addition on that property.

Do you think Long Island is completely built out with cell towers?

It's difficult to tell at this point. Maybe different areas are built out, but there's a

lot that goes into that analysis. With 4G, the new up-and-coming technology, the carriers will have to look at how much broadband that will that require. Also, we need to look at how much are these telecommunication carriers going to consolidate into single facilities Does each need its own tower or can they piggyback onto each other? Until all the questions are answered I think we'll continue to see a buildout of wireless networks.

Do telecommunication companies upgrading their facilities violate the leases they have with landlords?

That depends on what the lease says. Sometimes they may have to modify the lease to allow for that, or else there could be a violation, but in many instances, the lease usually addresses that up front.

What about when they share towers with other carriers?

It's common for different carriers to be on the same cell tower, having one carrier own the tower and sublease it to others. Sometimes the cell towers are even owned by companies that are not carriers, leasing them out to the actual carriers. The thing is, if the carrier's lease with a landlord doesn't allow for a sublease, they could be in violation. The landlord is leasing out the land to one carrier, who is then generating additional income. The landowner may feel entitled to that. In that case, a lease will usually be renegotiated. I've never come across a situation like that where it needed to go all the way to litigation.

What's your take on radiation from cell towers?

The law says these towers have been found to be safe. The government tells us that when these things are working properly they're safe. Also, the radiation argument is not a basis upon which you can legally attack the installation of wireless communication structures, so that's never a factor.