



CITY OF
Palos Verdes Estates

Attachment C

OFFICE OF
THE MAYOR

June 20, 2016

The Honorable Mike Gatto
California State Assembly, District 43
State Capitol Building, Room 5136
Sacramento, CA 95814
Fax: (916) 319-2143

RE: AB 2788 (Gatto) Wireless Telecommunications Facilities
Oppose (*As amended 6/13/2016*)

Dear Assembly Member Gatto:

The City of Palos Verdes Estates respectfully and strongly opposes AB 2788 regarding the permitting of "small cell" wireless facilities. Simply stated, this bill provides unwarranted and unnecessary authority to telecommunication carriers without providing for appropriate City and public input. It removes local authority over public properties, allows for structures to be indiscriminately constructed at the expense of property values and privacy, reverses the Ninth Circuit Court of Appeals' decision of *Sprint v. PVE* by eliminating local discretion over aesthetics, and removes local CEQA control.

The City of Palos Verdes Estates is a small residential community; its unique charm results from being a planned community with no street lights or signals, narrow and winding streets, hillside homes, and over a quarter of the City designated as natural parkland. The City retains this character through strict zoning and architectural controls. Telecommunications equipment is sited through a thoughtful and reasonable process that balances the interests, needs and legal authority of residents and the wireless carrier. AB 2788, on the other hand, disregards aesthetic and environmental concerns by eliminating all local authority for small cell wireless facilities for the sole benefit of telecommunications carriers.

In Palos Verdes Estates, AB 2788 would impose significant and possibly not obvious consequences. These include the indiscriminate placement of telecommunications equipment in view corridors, noise impacts from cooling fans placed too close to homes and within quiet neighborhoods, and insensitively designed facilities that degrade the aesthetic values of our community. We are very concerned that City properties, including parks and recreation facilities within neighborhoods, can become locations for a concentration of new and collocated facilities. Without providing for the necessary funding for staff resources, AB 2788 will also burden our one City Planner with processing telecommunications applications irrespective of day-to-day responsibilities. Furthermore, the legislation provides no mechanism for the removal of equipment that is no longer functional or needed.

June 20, 2016
Page two

Over the past several months, Palos Verdes Estates has spent significant time on new wireless telecommunication facilities in public hearings and workshops, and our Planning Commission has recently approved over a dozen new wireless telecommunication facilities. This balanced process has resulted in the implementation of new technologies without significant disruption to the natural beauty and neighborhood character of our City. In sharp contrast, AB 2788 shuts the public out of decisions that affect aesthetics, personal privacy, property values, local control and environmental impacts. The City of Palos Verdes Estates urges opposition to AB 2788.

Sincerely,



Jennifer L. King
Mayor

- c: Members of the Palos Verdes Estates City Council
 Senator Ben Allen (District 26)
 Assembly Member David Hadley (District 66)
 Nidia Bautista, Consultant, Senate Energy, Utilities and Commerce Committee
 Kerry Yoshida, Principal Consultant, Senate Republican Caucus
 Jeffrey Kiernan, League of California Cities (via email)
 Meg Desmond, League of California Cities (via email)

MALAGA COVE HOMEOWNERS ASSOCIATION



June 20, 2016

The Honorable Mike Gatto
California State Assembly, District 43
State Capitol Building, Room 5136
Sacramento, CA 95814
Fax: (916) 319-2143

RE: AB 2788 (Gatto) Wireless Telecommunications Facilities
Oppose *(As amended 6/13/2016)*

Dear Assembly Member Gatto:

The Malaga Cove Homeowners Association respectfully opposes your AB 2788, which was recently gutted and amended to deal with the permitting of wireless facilities. This bill 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."

AB 2788 prohibits 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 bill preempts adopted local land use plans by mandating that "small cells" be allowed in all zones as a use by-right.

As such, the bill 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.

This bill's definition of a "small cell" may actually result in large facilities that exceed the bill's specified limitations. Furthermore, the limits do not apply to other "small cell" equipment such as electric meters, concealments, telecom demarcation boxes, ground-based enclosures, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cables, or conduits. The bill allows for an unlimited number of antennas of less than six cubic feet, while placing no height restrictions on the pole. The bill may even allow the wireless industry to install its own poles.

The bill 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 bill 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 effect, this measure unconstitutionally gives control of city property to private telecommunications companies.

POST OFFICE BOX 926, PALOS VERDES ESTATES, CALIFORNIA 90274

Finally, a city or county must issue the applicable building permit or administrative permit within an arbitrary timeline of 60 days after the submission of an application for a small cell facility, or else the permit is *deemed issued*. Even more concerning, this bill seemingly allows a telecommunications company to submit an application for an unlimited number of facilities and equipment simultaneously, which would force a public agency to potentially review dozens or unlimited amounts of applications within the 60-day window, potentially approving these facilities regardless if they are built to basic building, health, and safety codes.

We accept new technology into our neighborhood because of its potential to dramatically improve the quality of life for homeowners. **However, AB 2788 goes too far by requiring local governments to approve “small cells” in all land use 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.**

Sincerely,

Jill Shoemaker
President
Malaga Cove Homeowners' Association

cc: Senator Ben Allen
Senator Robert Hertzberg
Senator Fran Pavley
Assembly Member David Hadley
Nidia Bautista, Consultant, Senate Energy, Utilities and Commerce Committee
Kerry Yoshida, Principal Consultant, Senate Republican Caucus
Palos Verdes City Council
Palos Verdes Homes Association
Jeffrey Kiernan, League of California Cities (via email)
Dan Carrigg, League of California Cities (via email)
Meg Desmond, League of California Cities, mdesmond@cacities.org