

Heather Gallagher
327 5th Street
Petaluma, California 94952
hegaellen37@msn.com

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Building Department
Attention: Code Enforcement

Brian Oh, Director of Community Development
Doug Hearn, Code Enforcement
Amy Neuerburg, Code Enforcement Officer

City of Petaluma
11 English Street
Petaluma, California 94952

**Re: Illegal T-Mobile and Crown Castle Cell Tower Located on Petaluma
City Schools Property at Casa Grande High School Violates Municipal
Code and Constitutes a Public Nuisance that Must be Abated**

Dear Members of the Code Enforcement Department:

I am Heather Gallagher, a resident of the City of Petaluma. I am also the parent of a high school student who attends Casa Grande High School. As you are likely aware, a commercial 70-foot-tall uncamouflaged industrial cell tower was built on the grounds of Casa Grande High School, 333 Casa Grande Avenue, Petaluma, in 2007. That cell tower has been operating at that site for the past 17 years pursuant to a lease entered into between T-Mobile and the School District. The lease, first entered between the School District and Omnipoint Communications Inc d/b/a T-Mobile, on October 2, 2006, was extended and now terminates on October 26, 2027.

Earlier this year, I and several other concerned parents/residents discovered that T-Mobile's cell tower was built illegally in 2007 after T-Mobile and the School District had illegally and entirely bypassed the City's land use process and zoning laws. Neither the cell tower developer/operator nor the School District filed an application for a conditional use permit for the cell tower as required by the City's municipal code -- either for its construction or its operation. The City was never asked to issue the required conditional use permit, nor did it ever do so. Indeed, T-Mobile and the School District skipped the Planning Commission approval process entirely.

For 17 years, the construction and operation of the T-Mobile cell tower have been in flagrant violation of the City of Petaluma's telecommunications ordinance and other zoning ordinances. Consequently, the cell tower itself is an illegal structure, and its operation is illegal.

The City's code provides that structures and conditions that violate the municipal code constitute a public nuisance. Public nuisances must be abated pursuant to the municipal code.

As the landowner which is permitting this public nuisance on its property, the School District is liable under the City's code for this violation, and the School District must take immediate steps to abate the public nuisance. On April Thus, the School District must immediately direct T-Mobile to cease operating the cell tower and order T-Mobile to remove its illegal structure and equipment from the Casa Grande High School campus. Likewise, Crown Castle and T-Mobile, as the builders and operators of this public nuisance, must immediately abate the public nuisance by deactivating the cell tower and removing it from the Casa Grande High School site.

Neither T-Mobile nor the School District Obtained the Conditional Use Permit that the City of Petaluma Requires Before a Macro Cell Tower may be Installed and Operated. Therefore, T-Mobile's Macro Cell Tower Operating at Casa Grande High School is Illegal, and the School District is Allowing an Illegal Cell Tower to Operate on its Property.

At the beginning of 2024, two of my colleagues contacted Greg Powell, Principal Planner for the City of Petaluma, and asked to see any City permits allowing the construction and/or operation of the cell tower on the School District property at Casa Grande High School. Mr. Powell also explained that the City of Petaluma requires that cell tower use permits be renewed every ten (10) years under the City of Petaluma's Implementing Zoning Ordinance, Section 7.090, which governs "Telecommunications Facilities," and pursuant to the City of Petaluma's fulsome telecommunications facility and antenna ordinance, Chapter 14.44 of the Petaluma Municipal Code. However, Mr. Powell stated that he could find no record of any use permits for the cell tower located at Casa Grande High School. My colleagues served Public Records Act ("PRA") requests upon the City for any such permits, and the City found none. It turns out that neither T-Mobile, nor any of its predecessors in interest, nor Crown Castle, nor the School District has ever obtained the required conditional use permit to install and operate this macro cell tower from the City of Petaluma.

The cell tower brazenly flouts the City's zoning code. It, therefore, constitutes a public nuisance. See Chapter 26, Petaluma Implementing Zoning Ordinance, Section 26.020, "Violations and Penalties" ("A. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this ordinance, any use of the land, building or premise established, conducted, operated or maintained contrary to the provisions of this ordinance, shall be and same hereby is declared to be unlawful and a public nuisance.").

The Legal Framework

Shortly after the federal Telecommunications Act of 1996 ("TCA") was enacted, the City of Petaluma wisely enacted a comprehensive wireless telecommunications ordinance to control the design, siting, and operation of wireless telecommunications facilities within the City to the full extent permissible under federal law. Notably, Congress expressly intended to preserve

substantial local governmental control over the deployment of wireless telecommunications facilities when it enacted the TCA. Indeed, Section 332(c)(7) of the TCA, 47 U.S.C. §332(c)(7)(A), titled "Preservation of Local Zoning Authority," provides:

Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

The limitations set forth in Section 332(c)(7)(B) are rather modest, and simply forbid a local government from: unreasonably discriminating among providers of functionally equivalent services; prohibiting or having the effect of prohibiting the provision of personal wireless services; failing to act on a wireless permit application within a reasonable time; denying a request for a wireless facility without providing a written decision supported by substantial evidence; and regulating the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions.

The City of Petaluma's ordinance abides by these federal proscriptions, and consistent with the TCA, rationally controls the deployment of wireless facilities in a manner that best fits the needs of the City and its residents. Section 14.44.010. Purpose, of the City of Petaluma's Municipal Code, addressing "Telecommunications Facility and Antenna Criteria," provides:

The purpose and intent of this chapter is to provide a uniform and comprehensive set of standards for the development of telecommunications facilities and installation of antennas. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of Petaluma as set forth within the goals, objectives and policies of the Petaluma general plan; while at the same time not unduly restricting the development of needed telecommunications facilities and important amateur radio installations and encouraging managed development of telecommunications infrastructure to insure Petaluma's role in the evolution of technology.

Among the express goals of the ordinance are the following:

- A. Protect the visual character of the City from the potential adverse effects of telecommunications facility development and minor antenna installation;
- B. Insure against the creation of visual blight within or along the City's scenic corridors and ridgelines;
- C. Retain local responsibility for and control over the use of public rights-of-way to protect citizens and enhance the quality of their lives;

D. Protect the residents of Petaluma from the possible adverse health effects associated with exposure to high levels of NIER (non-ionizing electromagnetic radiation); and

E. Protect the environmental resources of Petaluma.

See §14.44.010(A)-(E).

In order to achieve these goals in an orderly fashion, the ordinance requires all telecommunications facilities in any zoning district to register with the City pursuant to Section 14.44.040 by providing the City with required information identifying the registrant, its proposed or existing facilities and services and their purpose, and its qualifications to provide telecommunications facilities or services within the City.

Applicants for a telecommunications facility must provide a comprehensive set of information to the City's planning director describing the proposed facility, its engineering specifications, its silhouette, proposed service area, network maps, alternate site analysis, visual impact demonstrations or analyses, photomontages, radiation exposure studies, title reports, security studies, lists of other nearby telecommunications facilities, design alternatives, and the applicant's master plan for telecommunications facilities within the City. The applicant must agree to pay for any independent technical experts the City determines it needs to hire to evaluate the proposal. In addition, the applicant must pay a registration fee. The ordinance further sets forth specific criteria which telecommunications facilities must meet as to location, design, screening, visual compatibility, noise and traffic, wireless radiation exposure, height, lighting, and more. See, e.g., §§14.44.160-290.

With respect to a macro cell tower -- which is the type of facility T-Mobile constructed at Casa Grande High School in 2007, the City requires the applicant to obtain a conditional use permit. See Section 7.090. Telecommunications Facilities. Petaluma Implementing Zoning Ordinance. A macro cell tower is considered to be a "major" type of telecommunications facility, and a major telecommunications facility requires a conditional use permit in all zoning districts in which such type of facility is allowed under the zoning ordinance.

More specifically, Section 7.090(C)(4) provides:

Major facility. A major facility requires approval of a major conditional use permit as prescribed in Section 24.060 and Planning Commission approval as prescribed in Section 24.050.

An application for a major facility, such as T-Mobile's macro cell tower at Casa Grande High School, therefore, is heard by the City of Petaluma Planning Commission at a properly noticed public hearing. The Planning Commission reviews the voluminous substantive evidence the applicant is required to provide pursuant to the City's telecommunications ordinance, considers its own independent expert(s) analyses, hears testimony from the applicant and its experts, the public, and the Planning Commission's expert(s), and then issues a written decision based upon the substantial evidence in the record.

The School District and T-Mobile Never Filed An Application with the City of Petaluma to Obtain a Conditional Use Permit to Build and Operate the Macro Cell Tower at Casa Grande High School.

So, going back to 2007, did the School District and T-Mobile follow the procedures set forth in City's Municipal Code, Chapter 14.44, governing wireless communications facilities, and the City's Implementing Zoning Ordinance regarding same? Absolutely not. They both blatantly and intentionally disregarded and bypassed the City's laws. During her presentation to the School Board, on January 30, 2024, Ms. Amanda Bonivert, the School District's Chief Business Official, admits as much:

Okay, so this is a Google image of where the antenna is on the campus and the shadow. And when the original lease was commenced, um, we did have to take this to DSA, and they did have to do, um, a CEQA. *There was no city permit required at the time.* So, all of our, as a school campus, we go through the Department of State Architecture. (Emphasis added).

See Video of January 30, 2024 Board of Education Meeting, available at <https://petalumacityschools.org/our-district/board-of-education>. The School District believed, erroneously, that the State's requirement that school districts submit all construction projects to the Division of the State Architect ("DSA") for approval meant that the School District is exempt from County and City zoning requirements. Nevertheless, Ms. Bonivert acknowledges that the School District completely ignored the City and its zoning and planning laws when the School District allowed T-Mobile to construct and operate the macro cell tower on the School District property at Casa Grande High School in 2007.

Neither my team nor the City of Petaluma has been able to find any records of any applications filed with the City of Petaluma seeking a conditional use permit or any other permit for the construction and operation of a cell tower at Casa Grande High School in connection with the original Site Lease with Option in 2006 or 2007.

My team has asked Mr. Powell, the City of Petaluma Planner, for any files for use permits for T-Mobile for any wireless communications facilities at Casa Grande High School. Mr. Powell responded by e-mail on March 13, 2024, stating: "I am still looking into this. I have so far not found a file for a use permit for T-Mobile, but I have also not found any document saying that a use permit is not required."

Mr. Powell's answer that he has not found a use permit for T-Mobile for that macro cell tower is consistent with the statement made by School District's Chief Business Official, Ms. Bonivert, on January 30, 2024, at the School Board meeting, where she said:

And when the original lease was commenced, um, we did have to take this to DSA, and they did have to do, um, a CEQA. *There was no city permit required at the time.* So, all of our, as a school campus, we go through the Department of State Architecture.

The City never issued a conditional use permit to T-Mobile for that cell tower because neither T-Mobile nor the School District ever applied for one. Instead, the School District, according to Ms. Bonivert, believed that "as a school campus, we go through the Department of State Architect."

The DSA is, in fact, required to approve *all* construction projects on school property. But that approval process is separate and apart from any City of County zoning approvals that may be required for particular types of construction projects -- *i.e.*, "nonclassroom facilities," which California law has expressly forbade a school district from exempting from County and City zoning ordinances for the past 69 years.

Two recent emails from Chris Morton, Regional Manager, Division of the State Architect - Oakland Regional Office - to our team, are highly instructive. On February 20, 2024, Mr. Morton wrote:

...Thanks for the follow-up questions relating to the cellular site at Casa Grande HS. Cellular towers and equipment enclosures, while not school structures, are reviewed by DSA for structural and fire life safety provisions of the building code. This equipment is often stand alone, but can also be attached to light towers at school fields also. This review would be construction of new equipment, or alterations to existing equipment. There is no annual safety inspection component to this review. Our review is a construction review as a building department. Our review is not dependent on other review requirements or permitting that any local jurisdiction or other permitting entity may have. Any other permitting requirements or reporting that you have noted below would be the responsibility of the school and their design team, if required. The DSA review would not be held up by a concurrent or subsequent review requirement by another agency.

In a follow up email, on March 22, 2024, Mr. Morton wrote:

DSA does not regulate permitting required for operations. Much like elevator permits are required for operation and other follow up inspections, DSA does not review for those approvals or renewals.

Form IR-A-9,

In addition to the Education Code, the district is subject to compliance with local, city or county ordinances, as required by law (e.g., local ordinances governing drainage, waste, the Health and Safety Code, the Government Code, etc.). It is the school district's responsibility to identify and comply with all such applicable statutes and regulations.

Items that are beyond DSA's scope of review are required to be treated as above where it is the district's responsibility to ensure compliance, but that does not mean that these items are submitted and reviewed by the city building department if they are not required

by the DSA review scope. Compliance through self-certification would be sufficient, but the district is dependent upon the design team to guide them in any other requirements.

The Form IR-A-9 which Mr. Morton referenced is titled "Site Improvements for School Building Projects," and was first issued on September 1, 1999 and last revised on March 11, 2020. To provide you with the relevant portion of Form IR-A-9 in the appropriate context, it reads as follows:

PURPOSE: This Interpretation of Regulations (IR) outlines DSA policy regarding site improvements for school building projects.

1. SITEWORK COMPLIANCE WITH LOCAL, CITY OR COUNTY, ORDINANCES

In addition to the Education Code, the district is subject to compliance with local, city or county, ordinances as required by law (e.g., local ordinances governing drainage, waste, the Health and Safety Code, the Government Code, etc.). It is the school district's responsibility to identify and comply with all such applicable statutes and regulations.

At the end of the Form, on the bottom of the second page, the Form states:

IR is intended for use by DSA staff and by design professionals to promote statewide consistency for review and approval of plans and specifications as well as construction oversight of projects within the jurisdiction of DSA, which includes State of California public schools (K-12), community colleges and state- owned or state-leased essential services buildings. This IR indicates an acceptable method for achieving compliance with applicable codes and regulations, although other methods proposed by design professionals may be considered by DSA.

Thus, the DSA clearly advises School Districts and their design professionals that construction projects on school district property may be subject to local, city, or county ordinances as required by law and that the school district bears the responsibility to identify and comply with all such applicable statutes and regulations.

California Government Code Section 53094 Expressly Precludes School Districts from Exempting Themselves from Local Zoning Ordinances for "Nonclassroom Facilities." A Commercial Monopole Cell Tower Located on School District Property is a Nonclassroom Facility" and is, Therefore, Subject to a City's Zoning Ordinances.

Unfortunately, the City of Petaluma Schools was operating under a fallacious understanding of California law. California law is absolutely clear that when a public School District allows for the construction and operation of structures on its property that are not structures strictly related to the educational mission of the School District, those structures are not exempt from local zoning. In such situations, the School District must comply with local zoning ordinances, and must obtain and maintain whatever local, County, and State zoning

approvals and permits are necessary under the relevant ordinances, rules, and regulations in place.

California Government Code Section 53094 was specially enacted by the California legislature and signed into law to regulate this issue 65 years ago -- in 1959. Section 53094, in its current form, provides as follows:

53094. (a) Notwithstanding any other provision of this article, this article does not require a school district to comply with the zoning ordinances of a county or city unless the zoning ordinance makes provision for the location of public schools and unless the city or county has adopted a general plan.

(b) Notwithstanding subdivision (a), the governing board of a school district, that has complied with the requirements of Section 65352.2 of this code and Section 21151.2 of the Public Resources Code, by a vote of two-thirds of its members, may render a city or county zoning ordinance inapplicable to a proposed use of property by the school district. *The governing board of the school district may not take this action when the proposed use of the property by the school district is for nonclassroom facilities, including, but not limited to, warehouses, administrative buildings, and automotive storage and repair buildings.* (Emphasis added).

Thus, California State law makes plain that "when the proposed use of the property by the school district is for nonclassroom facilities," such construction projects are subject to city and county zoning ordinances.

Section 53094(b) does not define "nonclassroom facilities." But the section does provide several non-exclusive examples, "including, but not limited to, warehouses, administrative buildings, and automotive storage and repair buildings." Over the years, the California courts have fleshed out the meaning of "nonclassroom facilities" so that today, the meaning is incontrovertible.

The seminal case interpreting the meaning of "nonclassroom facilities" is *City of Santa Cruz v. Santa Cruz City Schools Bd. of Educ.*, 210 Cal.App.3d 1 (1989). In *Santa Cruz*, the Santa Cruz City Schools Board of Education passed a resolution that exempted a project to replace the lighting fixtures on Santa Cruz High School's Memorial Field, a multi-use athletic facility, from the City's zoning controls. The original lighting system was installed in the 1940s, and consisted of 11 incandescent lights on wooden poles approximately 60 feet high located on the edge of the playing field. By the mid-1980s, the wooden poles suffered from termite damage and decay. The lighting was so poor that league officials informed school officials that they would no longer officiate at evening games due to the safety hazards. The School District planned to replace the unsafe and decaying poles with four 90-foot tall aluminum poles with metal halide lights. *Id.* at 2-3.

Although school officials did not believe a permit was needed for the replacement lights, the day before the installation, the City considered a permit necessary. The poles were installed, and a week later, the City approved a permit. However, unhappy neighbors who objected to the

increased height of the poles, appealed the decision to the City Council which ruled that the light poles had to be removed within six months and be replaced with six 60-foot-high poles. After conducting various lighting studies over the next six months, the School District determined that 60-foot-high poles would not work, and it applied to the City for a permit to install 74-foot-high poles. The City denied the application and the School District's subsequent appeal of the denial. The School District then voted to exempt the lighting renovation from the City's zoning ordinance under Section 53094. The City sued the School District, challenging the resolution on the ground that the exemption was not authorized under Government Code Section 53094, and, therefore, was arbitrary and capricious. The trial court agreed with the School District, and denied the City's request for relief. The City appealed. *Id.* at 3-4.

The California Court of Appeals for the Sixth District reversed the trial court. The Court of Appeals noted that the crux of the appeal is the meaning of the phrase "nonclassroom facilities." The Court first interpreted "facility" to mean "something that promotes the ease of any action, operation, transaction, or course of conduct[:]. . . something (as a hospital, machinery, plumbing) that is built, constructed, installed, or established to perform some particular end," quoting *Webster's Third New International Dictionary* (1981). The Court concluded "[i]t is beyond reasonable argument that Memorial Field, including its new lights, is a 'facility' of some sort in that it promotes a variety of activities and serves many functions." *Id.* at 4.

The more vexing question, the Court noted, is the meaning of "nonclassroom," stating:

While there may be universal agreement as to the definition of a "classroom," the meaning of the adjective "nonclassroom" is not, in our view, equally settled in the English speaking world. Therefore, it is proper and necessary to interpret it.

Id.

The Court stated:

According to established principles, our first task is to ascertain the intent of the Legislature so as to effectuate the purpose of the law, looking first to the words of the statute themselves, giving them their usual, ordinary import, and according significance, if possible, to every word, phrase and sentence in pursuance of the legislative purpose. (*Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1386-1387 [241 Cal. Rptr. 67, 743 P.2d 1323].) 'When the language is susceptible of more than one reasonable interpretation, however, we look to a variety of extrinsic aids, including the ostensible objects to be achieved, the evils to be remedied, the legislative history, public policy, contemporaneous administrative construction, and the statutory scheme of which the statute is a part.' (*People v. Woodhead* (1987) 43 Cal.3d 1002, 1008 [239 Cal. Rptr. 656, 741 P.2d 154].)

City of Santa Cruz, 210 Cal.App.3d at 4-5.

The Court turned to the legislative history. The Court, *id.* at 5, found that Section 53094 is part of a legislative reaction to the California Supreme Court's decision in *Hall v. City of Taft*,

47 Cal.2d 177 (1956), and its offspring, *Town of Atherton v. Superior Court*, 159 Cal.App.2d 417 (1958). In *Taft*, the California Supreme Court broadly proclaimed that when the state engages in such sovereign activities as the construction and maintenance of its buildings, it is not subject to local regulations unless the State Constitution says it is or the Legislature has consented to such regulation. 47 Cal.2d at 183. The Supreme Court then specifically held that the city's building code did not apply to school district plans to construct a new public school because "public schools of this state are a matter of statewide rather than local or municipal concern" and "their establishment, regulation and operation are covered by the Constitution and the state Legislature is given comprehensive powers in relation thereto." *Id.* at 179, 188. Thereafter, in *Town of Atherton*, the Court, applying *Taft*, held that school districts are exempt from municipal zoning ordinances. 159 Cal.App.2d 417.

The Court in *City of Santa Cruz*, 210 Cal.App.3d at 5, explained that the broad language in *Taft* appeared to immunize all state agencies from local regulatory control. This created potential problems for local governments as well as the State, which suddenly had to assume regulatory and supervisory responsibilities previously shouldered by local governments. To relieve this burden on the State, the Legislature adopted Government Code, Sections 53090 through 53095, whereby the Legislature effectively consented to local regulation.

Section 53094, as originally enacted in 1959, gave school districts blanket authority to exempt any and all uses of school district property from local zoning ordinances as long as such exemptions were not arbitrary and capricious. (*See* Stats. 1959, ch. 2110, §1, p.4909). *Id.* at 6. The Court, in *Santa Cruz*, pointed out that in enacting former section 53094, it appears that the Legislature deliberately gave different treatment to school districts than to other local agencies because the Legislature was well aware that school construction was subject to almost complete control by the State. However, the Court noted that the Legislature implicitly disagreed with the *Taft* holding which gave school districts *absolute* immunity from local control. Instead, the Legislature provided that a school board decision to exempt itself from local regulation is subject to public and judicial scrutiny and reversal if found to be arbitrary and capricious. Thus, the Legislature struck an uneven balance, weighted in favor of school districts, between state educational and local regulatory interests and control. *Id.*

The *Santa Cruz* Court, *id.* at 6-7, noted that the Legislature subsequently fine-tuned this balance in 1965 when it amended former section 53094 to preclude exemptions for offsite "nonclassroom facilities," that is, "when such nonclassroom facilities will not be located upon, or adjacent to, or contiguous to, land used for classroom facilities." *See* Stats. 1965, ch. 1538, §1, p. 3629. Then, in 1976, the Legislature completely eliminated this offsite qualification, and precluded exemptions for all "nonclassroom facilities." *Id.* *See* Stats. 1976, ch. 760, §1, p.1797. In 1984, the Legislature again amended Section 53094, but not in a way relevant to this discussion. *Id.* *See* Stats. 1984, ch. 657, §1, p. 2420. Also in 1984, the Legislature enacted Section 53097, which, among other things, required school boards to comply with local controls concerning drainage, roads, and grading. *Id.*

The Court in *Santa Cruz* reasoned that the amendments to Section 53094 suggest a legislative conclusion that the relationship between school boards and their "nonclassroom facilities" is not significantly different from the relationship between other state agencies and

their property, which, in fact, could also be characterized as "nonclassroom facilities," and therefore, state educational policy does not reasonably or logically justify continued permission for school boards to exempt their "nonclassroom facilities" from local control. *Id.* at 7.

As to what "nonclassroom facilities" are, the *Santa Cruz* Court held:

[T]he legislative genealogy of section 53094 further suggests that 'nonclassroom facilities' are those that are not by their nature so directly or sufficiently related to a school board's unique function as to distinguish it from any other local agency.

The statute itself confirms and helps clarify this suggestion by enumerating instructive examples of 'nonclassroom facilities.' The statute lists 'warehouses, administrative buildings, [and] automotive storage and repair buildings[.]' These facilities have nothing directly to do with *classroom* activities. Rather, they are devoted completely to ancillary, noninstructional functions. Accordingly, we consider it reasonable and consistent with the legislative history and purpose of section 53094 to interpret 'nonclassroom facilities' to mean those not directly used for or related to student instruction. Moreover, this interpretation preserves the balance in section 53094 between the state's strong interest in public education and the value of local zoning controls. (Citation and footnote omitted).

Id. at 7-8.

Applying this well-reasoned definition of "nonclassroom facilities," the Court applied this definition to the question of whether Memorial Field, including its lights, was a "nonclassroom facility" -- *i.e.*, was the facility used for or directly related to student instruction? The record evidence in the case before it demonstrated that the facility was primarily used for physical education classes, spirit activities, and band performances. These activities were shown to be an integral part of the educational program at the high school for which students received academic credit. Lights were demonstrated to be necessary on the field because many football and soccer games as well as band and spirit leader activities had to be scheduled on weekday evenings. The appellate court had no difficulty in finding that based on this factual showing, Memorial Field served an important educational purpose and was directly used for student instruction. Accordingly, the Court upheld the trial court's determination denying the City's petition for relief. *Id.* at 8-9.

The *Santa Cruz* test for determining what constitutes a "nonclassroom facility" under Section 53094 was endorsed and followed by the Court of Appeals for the Fourth District in *People ex rel. Cooper v. Rancho Santiago College*, 226 Cal.App.3d 1281 (1990). In that case, Rancho Santiago College, a community college, and the Santiago Club, an unaffiliated organization entered into an agreement allowing the Santiago Club to operate a swap meet in the College's parking lot on Sundays. The College did not participate in operating the swap but received a percentage of the swap meet's gross receipts. The City sued the college to enjoin operation of the swap meet because the parking lot was zoned as open space under the City's zoning ordinance and a swap meet was not a permitted use. In response, the college adopted a resolution exempting itself from the City's zoning ordinances pursuant to Section 53094. The City amended its complaint, adding counts challenging the validity of the resolution and alleging

CEQA violations. The trial court found that the contract constituted a project under CEQA, voided the contract, and ordered the college to prepare an environmental study. The trial court permitted the swaps to continue, and refused to decide whether the college's resolution was valid. The City appealed. *Id.* at 1282-1284.

The Court of Appeals closely followed and adopted the *Santa Cruz* analysis. The Court in *Rancho Santiago College* held:

Santa Cruz correctly resolves the tension between the state's interest in education and the local entity's interest in zoning control. Based on that standard, a commercial swap meet operated by a third party on a community college district's property cannot be exempted from a city's zoning ordinance under section 53094.

College makes no effort to argue the swap meet is part of the educational process of the school. It is not sponsored by anyone connected with the school as part of the educational process. College tries to tie the swap meet into the educational process by noting that 20 percent of its proceeds are turned over to the school, and the income (approximately \$5,700 per month) funds instructional programs which benefit both College and its students. We are unpersuaded by this financial argument. Taken to its logical extension, if a school district could exempt itself from a city's zoning controls simply by receiving some remunerative return for use of its property, section 54094 would become meaningless. There is no justification for exempting this commercial enterprise from City's zoning ordinance.

Id. at 1286.

Finally, in an unpublished -- and, therefore, a non-precedential decision, the California Court of Appeals for the Sixth District, in *City of Saratoga v. West Valley-Mission Community College Dist.*, 2002 Cal.App. Unpub. LEXIS 1506 (2002), provided its take on the meaning of "nonclassroom facilities" in Section 53094. In *City of Saratoga*, a community college district passed a resolution purporting to exempt its proposed athletic stadium from the City's zoning ordinance, invoking Section 53094. The City filed suit to invalidate the district's resolution. The trial court entered judgment for the district, relying on the end result reached by the *Santa Cruz* Court of Appeals in applying the exemption for the Memorial Field and lighting project discussed *supra*. The Court of Appeals in *City of Saratoga*, however, reached the opposite conclusion, ruling: "We conclude that the legislative history of former section 53094 unambiguously reflects that the Legislature intended to preclude a school district from exempting an athletic stadium from a zoning ordinance. Therefore, we reverse the judgment." *Id.* at *2.

In *City of Saratoga*, the trial court relied heavily on the *Santa Cruz* decision, which upheld the exemption for an athletic facility. In *City of Saratoga*, the appellate court stated that it did not consider the validity of *Santa Cruz* in the case before it because it found that "although former section 53094 is ambiguous, the legislative history unambiguously indicates that the Legislature intended to preclude school districts from exempting athletic stadiums from zoning ordinances under former section 53094." *Id.* at *13. The Court undertook its own analysis of the legislative history of former section 53094, and concluded that the portion of the code at issue

was not altered by the Legislature between 1977 and 2001; that portion prohibited school districts from exempting themselves from local zoning for "nonclassroom facilities." The issue on appeal was whether the proposed athletic facility is a "nonclassroom facility." Resolution of the dispute required the court to ascertain the intent of the Legislature to effectuate the purpose of the law. *Id.* at *17. Noting that neither section 53094 nor any other California statute contains a definition of "nonclassroom facilities" or even "classroom facilities," the Court examined whether these words have a commonly understood meaning. The Court found the dictionary not remarkably helpful, concluding that the alternative common meanings of "classroom" do not resolve the issue. *Id.* at *17-*19.

Turning to the legislative history, the Court limited its consideration to the Legislative Counsel's digest, the committee reports and analyses, and the enrolled bill report and memorandum. *Id.* at *23. The Court looked at the 1965 amendment, which restricted the proposed uses that could be exempted from zoning. The 1965 amendment prohibited school districts from exempting "nonclassroom facilities" from local zoning when such facilities will not be located upon, or adjacent to, or contiguous to land used for classroom facilities. The Court noted:

The enrolled bill memorandum sent to the Governor stated that the amendment "limits authority of school districts to override local zoning ordinances when the proposed property use is for facilities *other than classrooms*, such as warehouses, shops and garages, and the facilities will not be located on or near classrooms." (Bill Memorandum, AB3299, 7/12/65, Frank A. Mesple, emphasis added).

Id. at *25. In 1976, Senator Jerry Smith introduced SB 1714. SB 1714 was sponsored by the City of Saratoga and the West Valley Taxpayers and Environmental Association of Saratoga. SB1714 would have repealed section 53094 in its entirety. (Orig. SB1714 introduced 3/8/76). SB1714 was subsequently amended to preclude a school district from exempting "nonclassroom facilities" from zoning regardless of whether those facilities were "located upon, adjacent to, or contiguous to land used for classroom facilities." The committee reports stated that SB 1714 was intended to preclude the construction of "nonclassroom facilities, such as *athletic stadiums* and parking facilities, in areas where these facilities are not compatible with the zoning and use of adjacent property." (Assembly Comm. on Local Govt. analysis of SB 1714, 8/3/76; Assembly Office of Research analysis of SB 1714, amended 6/30/76, emphasis added). This version of SB 1714 was passed by the Legislature and forwarded to the Governor. *Id.* at *25-*26.

The enrolled bill memorandum prepared for the Governor stated that SB 1714 "deletes the authority of school boards to override local zoning ordinances for the construction of nonclassroom facilities. School district boards could still override local zoning to build classroom facilities." (Emphasis in original.). The enrolled bill report noted that Senator Smith had introduced SB 1714 at the request of the West Valley Taxpayers and Environmental Association of Saratoga because this group was concerned that the West Valley Community College planned to build nonclassroom facilities in a residential neighborhood where, the Association claimed, such uses would be incompatible with surrounding properties. The Governor signed SB 1714, and it took effect on January 1, 1977. *Id.* at *26-*27.

In 2001, the Legislature extensively revised sections 53091 and 53094 along with numerous other statutes to further restrict the ability of school districts to exempt themselves from city and county ordinances. These changes, however, did not alter the "nonclassroom facilities" language in former section 53094, and the *Saratoga* court concluded that the legislative history of the 2001 change does not reflect that the Legislature intended that the rewording of section 53094 would change its meaning. *Id.* at *27, fn. 10.

Based on its thorough analysis of the legislative history, especially on the 1976 amendment, the Court held:

The legislative history of former section 53094 clearly reflects that the 1976 amendment was intended to preclude the District from exempting its proposed 'athletic stadium' from the City's zoning ordinance. In fact, the City sponsored the legislation specifically to accomplish this purpose. Since it is obvious that the Legislature intended its use of the term "nonclassroom" facilities to include athletic stadiums, and there is no support for any contrary construction of the statutory language, the District's proposed athletic stadium is a 'nonclassroom facility' within the meaning of former section 53094 and therefore may not be exempted from the City's zoning ordinance.

Id. at *28. The issue in *Saratoga* was whether an athletic stadium is a nonclassroom facility under Section 53094, and the *Saratoga* Court held that it is. The *Santa Cruz* Court held otherwise with respect to the athletic field and lights facility it examined, based upon a particular factual record that demonstrated that the facility served primarily educational purposes. The differences in outcome between those two cases can be reconciled by the factual record developed and presented in *Santa Cruz*. But in any event, the three cases all are consistent in demonstrating that the T-Mobile cell tower built and operating at Casa Grande High School clearly fits the definition of a "nonclassroom facility." As such, Section 53094 provides unconditionally that the T-Mobile cell tower is subject to the City of Petaluma's zoning ordinance.

The T-Mobile Cell Tower is a Commercial Cell Tower. The Cell Tower is not a Classroom Facility and Provides no Educational Purpose for Students of the School District. Under Government Code Section 53094, this Nonclassroom Facility is Subject to the City of Petaluma's Zoning Ordinance and Violates Same.

The foregoing analysis of Section 53094 by three California Courts of Appeals establishes beyond cavil that no commercial cell tower may be located on a public school district's property unless it complies with the County or City zoning ordinance that governs said site. A commercial cell tower fits squarely within the definition of "nonclassroom facility" as interpreted by the California courts.

In *Santa Cruz*, the Court described "nonclassroom facilities" as follows: "These facilities have nothing directly to do with *classroom* activities. Rather, they are devoted completely to ancillary, noninstructional functions." (Emphasis in original). The Court interpreted "nonclassroom facilities" "to mean those not directly used for or related to student instruction." *Santa Cruz*, 210 Cal.App.3d at 7-8. Thus, the core question that must be answered is "Is the

facility used for or directly related to student instruction?" Looking at T-Mobile's monopole cell tower at Casa Grande High School, the answer is obvious. Under no stretch of the imagination can it be said that this commercial cell tower, owned and operated by a massive, for-profit corporation, is used for or directly related to student instruction. The cell tower serves one purpose -- it blasts T-Mobile's wireless signal to T-Mobile's commercial wireless customers within the range of those signals so that those customers can use their cell phones and other wireless devices. In return, those customers pay fees to T-Mobile so that T-Mobile can make a ton of money for its executives and shareholders.

T-Mobile might try to justify its illegal avoidance of the City's land use planning process by asserting that its measly monthly lease payments to the School District help fund the School District's educational mission, and thus, the facility is used for or directly related to student instruction. But this fallacious argument was decisively put to rest by the Court of Appeals in the *Rancho Santiago* decision. There, the Court ruled:

College tries to tie the swap meet into the educational process by noting that 20 percent of its proceeds are turned over to the school, and the income (approximately \$5,700 per month) funds instructional programs which benefit both College and its students. We are unpersuaded by this financial argument. Taken to its logical extension, if a school district could exempt itself from a city's zoning controls simply by receiving some remunerative return for use of its property, section 53094 would become meaningless.

Rancho Santiago College, 226 Cal.App.3d at 1286.

The School District and T-Mobile illegally bypassed the City of Petaluma's land use process in 2007. Despite the clear statutory proscription requiring the School District and T-Mobile to comply with the City's zoning code for construction and operation of this commercial cell tower on the School District's property, neither ever applied to the City for a conditional use permit for the cell tower. The lease remains in effect, and the cell tower continues to operate illegally today.

Indeed, the illegal construction and operation of this cell tower is egregious and shocks the conscience. The applicable provision of Section 53094 has been in existence since 1965. The California appellate court rulings which have conclusively settled the definitional issue of "nonclassroom facility" were all decided between 1989 and 2002. A directive from the DSA warning school districts of the need to comply with applicable county, city, and local codes was first issued in 1999. The School District and T-Mobile, therefore, had no excuse for violating the City's zoning code in 2007 when, at the time, at 42-year old State statute clearly required the School District to abide by the City's zoning code for this project.

Had the School District and T-Mobile followed the law and the municipal code, they would have filed a detailed application for a conditional use permit for a proposed cell tower at Casa Grande High School. A public hearing before the City of Petaluma Planning Commission would have had to have been properly noticed. Many residents such as myself would have appeared at the public hearing to object to the issuance of the conditional use permit for failing to meet the requirements of the City's telecommunications ordinance. Because the applicants completely ignored the City code, and thereby bypassed the public zoning process, the public

was deprived of its right to participate in a public hearing before the Planning Commission, and the Planning Commission was deprived of its right and obligation to review the evidence and determine whether the applicants were entitled to a conditional use permit for the proposed cell tower at the high school site.

Instead, this illegal and dangerous cell tower was built as a joint venture between the School District and a multinational telecommunications company which took advantage of the School Board, School District staff, and their advisors. T-Mobile employs legions of high-priced attorneys all across the nation whose job it is to understand and facilitate approval of cell tower applications. T-Mobile undoubtedly was aware in 2007 and thereafter that its cell tower at Casa Grande High School was not exempt from the City of Petaluma's zoning ordinance. Yet T-Mobile was only too happy to exploit the School District's attorneys' and staff's ignorance, bypass the required City of Petaluma zoning process, and go forward with the illegal construction and operation of the cell tower.

The proof is in the pudding. We have asked the City of Petaluma Planning Department for any and all permits or records relating to the T-Mobile cell tower and wireless communications facilities at Casa Grande High School. The City has responded that it has no records. No permit has ever been issued by the City for the installation and/or operation of T-Mobile wireless communications facilities at Casa Grande High School.

This is a massive, soaring, industrial 70-foot-tall eyesore the construction of which was visible from the surrounding City streets. The ugly cell tower continues to dominate the viewshed around the Casa Grande High School campus and neighborhood today. The fact that the City of Petaluma allowed the construction and operation of the T-Mobile cell tower on the Casa Grande High School site for 17 years without anyone from the City ever checking to see if the City had issued a conditional use permit for the cell tower should be as disconcerting to City officials as it is to us. We call for accountability and for the City to implement corrective procedures to prevent any recurrence. But first, the City must enforce its code and ensure that this public nuisance is abated.

**The 2011 First Amendment to the Lease Between the School District and T-Mobile
Provides an Interesting Twist, but still T-Mobile's Cell Tower
Must Come Down.**

In 2011, T-Mobile approached the School District and requested permission to expand the premises it was leasing from the School District under the original Site License with Option in order to sublease space to AT&T so that AT&T could install and operate certain wireless communications equipment thereon. The School District agreed to lease an additional 560 square feet of space to the original 325 square feet of leased premises for additional rent. On August 16, 2011, the Petaluma Joint Union High School District and T-Mobile West Corporation, a successor in interest to Omnipoint Communications Inc d/b/a T-Mobile, entered into a "First Amendment to Site Lease with Option." The First Amendment was signed by Midge Hoffman, Chief Business Official, on behalf of the School District, on August 18, 2011. Allan Tantillo, Director, Tower Asset Management, is the signer on behalf of T-Mobile West Corporation.

When T-Mobile and AT&T contemplated adding AT&T antennas and expanding the leased premises under the First Amendment in 2011, AT&T actually contacted the City of Petaluma Planning Department and worked with the Department to obtain a conditional use permit pursuant to the City of Petaluma's zoning ordinance for its proposed wireless communications facility at Casa Grande High School. In fact, we have obtained documents from the City of Petaluma, pursuant to a PRA request, demonstrating that in 2011, AT&T proposed placing 12 antennas below the existing T-Mobile antennas on the existing monopole. AT&T applied to the City for approval of this project, and the City granted approval to AT&T. That application file is numbered 11-CUP-0879, filed on August 20, 2011. However, the City has failed to provide us with documentation of this approval in its response to our PRA request.

AT&T's application for the conditional use permit to add antennas to T-Mobile's existing cell tower on the Casa Grande High School property should have alerted the City of Petaluma Planning Department to the fact that the City had never issued any conditional use permit to T-Mobile or the School District for a cell tower at that site.

AT&T then changed its mind. Instead, in 2012, AT&T proposed to locate its 12 desired cellular antennas on a new 70-foot-tall monopole cell tower that it planned to camouflage as a "monopine" -- a giant fake pine tree cell tower. AT&T's plan was to stack the monopine with six antenna panels centered at 62-feet above ground level and six antenna panels centered at 54 feet. The monopine tower and all equipment would be located within a new 16-foot by 30-foot enclosure surrounded by a 6.67-foot high wood fence, and the facility would be sited approximately 74 feet to the northeast of the existing T-Mobile cell tower and immediately next to the tennis courts at Casa Grande High School. This description of the project was set forth in a form completed by Tiffany Robbe, Senior Planner, Community Development Department of the City of Petaluma, in anticipation of a major meeting on August 30, 2012. The file number for AT&T's "new" proposal is 12-CUP-0448.

On September 17, 2012, Ms. Robbe wrote a detailed 2-page letter to David Snypes, the Site Acquisition Independent Consultant for Realcom, AT&T's authorized representative, and the project manager who submitted the application for the conditional use permit. Ms. Robbe stated: "This letter is to notify you that Planning staff has concerns about the consistency of the project with the follow [sic] specific sections of the City's Telecommunications Ordinance 2029 Chapter 14:44." Among the concerns specified were that the proposal was not consistent with 14.44.170 (need for tower to blend into the surrounding environment); 14.44.190 (need for tower to be located to minimize visibility and number of distinct facilities present); 14.44.190C (no tower shall be located at an outdoor recreation area unless the Planning Commission finds that it blends so as to be effectively unnoticeable and no other locations are technically feasible); 14.44.190D (no tower that is readily visible from off-site shall be installed closer than 1/2 mile from another readily visible tower unless it blends effectively or unless technical evidence shows a clear need for facility and infeasibility of co-locating it); 14.44.190F (tower must be set back at least 100 feet from any park or outdoor recreation area); and 14.44.280A (tower must facilitate visual compatibility, reduce visual impact, and be compatible with neighboring residences and community character).

Ms. Robbe told AT&T that if it chose to go forward with the project, the project would have to be reviewed at the Planning Commission (major) level because it is a new monopole. She stated that AT&T's 2011 application was for a co-location on an existing pole which was considered at the administrative/minor level. Ms. Robbe also told AT&T that if it did not modify its proposal, staff would recommend that the Planning Commission deny the project based on its inconsistencies with Chapter 14.44 of the zoning ordinance.

Ms. Robbe further notified AT&T that its application was incomplete. AT&T had failed to supply the Alternatives Analysis required under Section 14.44.210A, as well as a written explanation as to why the antennas could not be co-located on the existing T-Mobile monopole. She asked AT&T to provide additional deposit money required for a major conditional use permit to cover the expected incremental costs of the Planning Commission. She also asked AT&T to provide the required structural engineer report pursuant to Section 14.44.160.

Finally, Ms. Robbe told AT&T that if it elected to revise its project to be consistent with the City's telecommunications code, staff recommended that AT&T (a) supply the technical evidence showing a clear need for the facility; the infeasibility of co-locating it; and that no other location is technically feasible (14.44.190C and D); (b) supply a written explanation of the evidence understandable to a layperson; and (c) provide monopine details sufficient to give the planning staff and the Planning Commission knowledge of the proposed materials and design, how they will look from the abutting eye level, and to what extent the tree/branches will move in the wind.

By December 2012, AT&T had decided to withdraw its application for the monopine cell tower at Casa Grande High School. Instead, AT&T stated that it intended to move forward with its prior proposal to co-locate antennas on T-Mobile's existing monopole at Casa Grande High School. The City's obviously incomplete response to our PRA request includes an email from David Snypes, AT&T's representative, to Tiffany Robbe, dated December 4, 2012, titled: "RE: APPROVAL LETTER - 333 Casa Grande High School (11-CUP-0879) -AT&T at CGHS, Petaluma." Mr. Snypes stated:

Tiffany, Please see the attached. One is the approval letter for the AT&T telecom collocation with T-Mobile. The other is your response for the proposed monopine on the same property. AT&T has decided to forego the Monopine and move forward with the collocation. This will require a request for extension on the Collocation approval (11-CUP-0879). Please let me know what else is required to extend the approval, while AT&T finalizes their due diligence. We will also be applying for a building permit, when the time comes. Can you put me in touch with the person that would help with that? I also left you a voice mail.

Ms. Robbe responded by email on December 17, 2012 to Mr. Snypes, asking: "Also, shall I consider the below email the office [sic] withdrawal letter from [sic] the monopine application 12-SPC-0448?" Later that morning, Mr. Snypes answered by email to Ms. Robbe: "Yes, Thank you."

At that point, our trail runs cold because the City has not provided us with any more documentation. Yet, it appears that AT&T, for some reason, never went through with the collocation project. Today, only T-Mobile's antennas are installed on the T-Mobile cell tower at Casa Grande High School. Whatever the full story behind AT&T's efforts to install wireless telecommunications facilities at Casa Grande High School turns out to be, what we already know raises serious problems for the City, the School District, and T-Mobile.

T-Mobile must have known that in 2011, AT&T, T-Mobile's intended sub-lessee on T-Mobile's cell tower at Casa Grande High School, recognized that AT&T was legally obliged to abide by the City of Petaluma's zoning ordinance and that AT&T had filed an application with the City to obtain a conditional use permit for its proposed co-location. And AT&T must have informed T-Mobile about its subsequent plan to abandon the co-location and propose, instead, a separate monopine cell tower adjacent to T-Mobile's existing monopole. And after Ms. Tobbe, the City Planner, discouraged AT&T from pursuing the monopine, AT&T must have told T-Mobile that AT&T wanted to re-up its original plan to co-locate on T-Mobile's monopole. These are just basic common sense assumptions.

So even if T-Mobile could somehow show (however unlikely that may be) that it did not understand in 2006 or 2007 its legal obligation to comply with the City's zoning laws for its cell tower at Casa Grande High School, by 2011, it had to have known this because AT&T was actually following the law.

Time doesn't heal all wounds. T-Mobile's illegal cell tower does not become any less illegal because it has been standing at Casa Grande High School for the past 17 years and even though the City inexplicably has not enforced its laws to abate this public nuisance. Nor does the City's failure excuse the School District's liability for allowing this illegal structure to have been built on its property and to operate since 2007. *See, e.g., Golden Gate Water Ski Club v. County of Contra Costa*, 165 Cal. App.4th 249 (2008)(owner's development on island violated county planning code and constituted public nuisance; county's failure to enforce violation for 35 years did not entitle owner to relief on grounds of equitable estoppel)(collecting cases).

The City of Petaluma Must Enforce its Municipal Code and Declare that the Cell Tower T-Mobile Constructed and Operates at the Casa Grande High School Site is an Illegal Structure Which Lacks the Required City Conditional Use Permits. The Cell Tower Constitutes a Public Nuisance Which Must be Abated. The City of Petaluma Must Issue a Notice of Violation to Petaluma City Schools, T-Mobile, and Crown Castle and Order Them to Deactivate the Cell Tower and Remove it From the Site.

T-Mobile's cell tower at Casa Grande High School is illegal. It is a public nuisance. Public nuisances under the City code must be abated. Willful failure to abate may even result in criminal charges. *See CA Penal Code §§ 372 and 373a (2022)*. The City must enforce its municipal code and direct the Petaluma City Schools, T-Mobile, and Crown Castle to abate this public nuisance immediately.

Notably, Petaluma City Schools fully agrees. Earlier this year, the group of concerned residents with which I am working engaged in discussions with the School Board about the

serious health and public safety risks posed by cell towers on public school campuses, and in particular, the cell tower located on the Casa Grande High School site. In response, the School Board passed a resolution not to enter into future leases for cell towers on School District property, and stated its interest in terminating the current lease with Crown Castle and T-Mobile for the cell tower on the Casa Grande High School site. Shortly thereafter, my group sought to find out whether the City of Petaluma had issued any permits for the T-Mobile cell tower on the Casa Grande High School site. As discussed above, our inquiry revealed that the cell tower had been illegally constructed and no conditional use permits permitting construction or operation of the cell tower had ever been applied for by the School District, T-Mobile, or Crown Castle, nor had the City issued any.

My group notified the School District of the illegality, and told the School District that it had the contractual right to terminate the lease immediately and without penalty because T-Mobile and Crown Castle had failed to procure and maintain required government permits for the cell tower. The School District's legal counsel agreed.

On April 11, 2024, the School District's legal counsel, Orbach Huff & Henderson LLP, sent a letter to Crown Castle, T-Mobile and T-Mobile West Tower LLC terminating the cell tower lease. Among the specific grounds for terminating the lease, the School District stated:

Failure to Permit. T-Mobile has failed to obtain or maintain a conditional use permit ("CUP") for the construction and operation of the cell tower at the Property. The City of Petaluma requires a CUP for the construction, installation, and operation of cell towers. In addition, the City is required to review the permits every ten (10) years. If a permit is not renewed every ten (10) years, it automatically becomes null and void. Our office has contacted the City of Petaluma's Planning and Development Office and has been informed that there are no existing permits for T-Mobile's facility on the Property. Accordingly, the Agreement is unenforceable and void.

In the several months following its sending of the notice of lease termination, the School District attempted to negotiate a swift deactivation and removal of the cell tower with Crown Castle and T-Mobile, but those negotiations were unsuccessful. The School Board has publicly stated that it is preparing to file a lawsuit against Crown Castle and T-Mobile for trespass and for a court order for removal of the cell tower from the School District's property.

Thus, the School District has publicly admitted that the T-Mobile cell tower constructed and operating on its Casa Grande High School property is illegal and lacks any conditional use permit. The City's Planning and Development Office evidently already discussed the illegality of the structure and its operation no later than April 2024, as stated in the School District's notice of cell tower lease termination above.

Too many months have passed without any action being taken by the City to compel the abatement of this public nuisance. While the question of why the City somehow allowed the construction in 2007 and subsequent operation of this illegal cell tower for 17 years is unanswered -- and should be answered -- the immediate and pressing need is for the City to take urgent action to get this illegal cell tower deactivated and removed from the Casa Grande High

School site. To that end, I respectfully file this code enforcement complaint. I request that the City Code Enforcement Department investigate my complaint and take immediate action to have this serious public nuisance abated.

Please contact me by email should you have any further questions. Thank you for your prompt action on behalf of the residents of the City of Petaluma.

Very truly yours,

/s/ Heather E. Gallagher
Heather E. Gallagher