

NEWS RELEASES

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Husch Blackwell Prevails for PI Tower in Siting Dispute

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A Wisconsin state court ruled in favor of PI Tower and St. Stephen the Martyr Lutheran Church in its dispute with The Village of Greendale, Wisconsin, when it reversed the village's determination to deny PI Tower's application for the construction of a monopole wireless communication tower and associated antennas and ground equipment on the property of St. Stephen.

The Greendale Board of Trustees originally had denied PI Tower's application on February 7, 2017. Representing PI Tower and St. Stephen as petitioners, Husch Blackwell filed an instant certiorari action pursuant to Wis. Stat. § 66.0404(2)(f), asserting that the Board proceeded on an incorrect theory of law and acted in an arbitrary, oppressive, or unreasonable manner, among other things.

The Board's February 2017 resolution provided multiple reasons for denying the application, including that the project did not satisfy the village code pertaining to setback provisions; that the tower would present an adverse visual impact; that the project violated the historic character of the area; and that the project failed to demonstrate a lawful basis, among other reasons.

Ultimately, the court determined that the reasons provided in the Board's resolution denying PI Tower's application "do not survive certiorari review, either because they are not grounded in substantial evidence or they rest on an incorrect theory of law." Further, the court found that the Board's actions violated fundamental notions of fair play. Although the decision was subject to potential appeal by both the Village of Greendale and interested civic groups, the Village has indicated that it will not pursue an appeal of the decision.

"With this decision we feel the court strikes an appropriate balance between local regulation and the application of state law," said Rodney Carter, the head of Husch Blackwell's Telecommunications practice group. "In order to

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continue investing in the vital cell tower infrastructure we all depend on, operators need predictability around siting issues, and this decision provides that.”

The Husch Blackwell team was led by Carter and included Mike Long, Ann Maher and Jake Remington.