

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

T-MOBILE WEST, LLC and
INDEPENDENT TOWERS HOLDINGS,
LLC,

Plaintiffs,

vs.

CITY OF MEDINA, WASHINGTON,

Defendant.

Civil Action No.: C14-1455RSL

[PROPOSED] ANSWER OF MEDINA
RESIDENTS

Applicant Intervenor-Defendants Medina Residents, an unincorporated association;
Cynthia F. Adkins and John F. Harris, a married couple; Kanan and Bhavnish Lathia, a married
couple; Eric and Sarah Oeltjen, a married couple; Laurel and Steve Preston, a married couple;
Brett and Jenny Duncan, a married couple; and RespectMedina, a Washington nonprofit
organization (collectively, "Medina Residents"), by and through its attorneys G. Richard Hill and
Ian S. Morrison, McCullough Hill Leary, P.S., answer the First Amended Complaint for

1 Declaratory and Injunctive Relief (“First Amended Complaint”) filed by Plaintiffs T-Mobile
2 West LLC and Independent Towers Holdings, LLC (collectively, “Plaintiffs”), as follows:

3
4 **I. ANSWER**

5 1. Answering Paragraph 1, Medina Residents is without information or belief
6 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

7 2. Answering Paragraph 2, Medina Residents is without information or belief
8 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

9 3. Answering Paragraph 3, Medina Residents admits the allegations in the
10 paragraph.

11 4. Answering Paragraph 4, Medina Residents answers that this paragraph calls for a
12 legal conclusion to which no response is required. To the extent a response is deemed required,
13 Medina Residents denies the same.

14 5. Answering Paragraph 5, Medina Residents answers that this paragraph calls for a
15 legal conclusion to which no response is required. To the extent a response is deemed required,
16 Medina Residents denies the same.

17 6. Answering Paragraph 6, Medina Residents answers that this paragraph calls for a
18 legal conclusion to which no response is required. To the extent a response is deemed required,
19 Medina Residents denies the same and respectfully refers the court to the statute cited therein for
20 a complete and accurate statement of its contents.

21 7. Answering Paragraph 7, Medina Residents answers that this paragraph calls for a
22 legal conclusion to which no response is required. To the extent a response is deemed required,
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1 Medina Residents denies the same and respectfully refers the court to the statute cited therein for
2 a complete and accurate statement of its contents.

3 8. Answering Paragraph 8, Medina Residents is without information or belief
4 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

5 9. Answering Paragraph 9, Medina Residents is without information or belief
6 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

7 10. Answering Paragraph 10, Medina Residents is without information or belief
8 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

9 11. Answering Paragraph 11, Medina Residents answers that this paragraph calls for a
10 legal conclusion to which no response is required. To the extent a response is deemed required,
11 Medina Residents denies the same and respectfully refers the court to the statute cited therein for
12 a complete and accurate statement of its contents.

13 12. Answering Paragraph 12, Medina Residents is without information or belief
14 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

15 13. Answering Paragraph 13, Medina Residents is without information or belief
16 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

17 14. Answering Paragraph 14, Medina Residents is without information or belief
18 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

19 15. Answering Paragraph 15, Medina Residents is without information or belief
20 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

1 16. Answering Paragraph 16, Medina Residents admits that Voicestream received a
2 permit for a wireless facility adjacent to Fairweather Park and Nature Preserve, which speaks for
3 itself, in October 2002, and denies the remaining allegations in this paragraph.

4 17. Answering Paragraph 17, Medina Residents admits the allegations in the first
5 sentence of this paragraph. As to the allegations in the second sentence of this paragraph,
6 Medina Residents is without information or belief sufficient to enable it to answer, and on this
7 basis denies the same.

8 18. Answering Paragraph 18, Medina Residents is without information or belief
9 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

10 19. Answering Paragraph 19, Medina Residents is without information or belief
11 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

12 20. Answering Paragraph 20, Medina Residents admits the allegations in the first
13 sentence of this paragraph. Medina Residents is without information or belief sufficient to
14 enable it to answer the remaining allegations in the paragraph, and on this basis denies the same.

15 21. Answering Paragraph 21, Medina Residents is without information or belief
16 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

17 22. Answering Paragraph 22, Medina Residents admits that the proposed wireless
18 communication facility at issue is an 80-foot tower located in Fairweather Park and Nature
19 Preserve on the north side of SR-520, and otherwise denies the allegations in the paragraph.

20 23. Answering Paragraph 23, Medina Residents admits the current temporary facility
21 has expired, and with regard to the remaining allegations in the paragraph, Medina Residents is
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1 without information or belief sufficient to enable it to answer, and on this basis denies the
2 allegations in the paragraph.

3 24. Answering Paragraph 24, Medina Residents is without information or belief
4 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

5 25. Answering Paragraph 25, Medina Residents is without information or belief
6 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

7 26. Answering Paragraph 26, Medina Residents is without information or belief
8 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

9 27. Answering Paragraph 27, Medina Residents is without information or belief
10 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

11 28. Answering Paragraph 28, Medina Residents is without information or belief
12 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

13 29. Answering Paragraph 29, Medina Residents is without information or belief
14 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

15 30. Answering Paragraph 30, Medina Residents is without information or belief
16 sufficient to enable it to answer, and on this basis denies the allegations in the paragraph.

17 31. Answering Paragraph 31, Medina Residents denies the allegations in the
18 paragraph.

19 32. Answering Paragraph 32, Medina Residents denies the allegations in the
20 paragraph.

21 33. Answering Paragraph 33, Medina Residents answers that this paragraph calls for a
22 legal conclusion to which no response is required. To the extent a response is deemed required,
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1 Medina Residents denies the same and respectfully refers the court to the Code provisions cited
2 therein for a complete and accurate statement of their content.

3 34. Answering Paragraph 34, Medina Residents answers that this paragraph calls for a
4 legal conclusion to which no response is required. To the extent a response is deemed required,
5 Medina Residents denies the same and respectfully refers the court to the Code provisions cited
6 therein for a complete and accurate statement of their content.

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8 35. Answering Paragraph 35, Medina Residents answers that this paragraph calls for a
9 legal conclusion to which no response is required. To the extent a response is deemed required,
10 Medina Residents denies the same and respectfully refers the court to the Code provisions cited
11 therein for a complete and accurate statement of their content.

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13 36. Answering Paragraph 36, Medina Residents denies the allegations in this
14 paragraph.

15 37. Answering Paragraph 37, Medina Residents denies the allegations in this
16 paragraph.

17 38. Answering Paragraph 38, Medina Residents denies the allegations in this
18 paragraph.

19 39. Answering Paragraph 39, Medina Residents denies the allegations in this
20 paragraph.

21 40. Answering Paragraph 40, Medina Residents admits the allegations in this
22 paragraph.
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1 41. Answering Paragraph 41, Medina Residents admits that the City manager signed
2 the lease agreement with Independent Towers and otherwise denies the remaining allegations in
3 the paragraph.

4 42. Answering Paragraph 42, Medina Residents admits the allegations in this
5 paragraph.
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7 43. Answering Paragraph 43, Medina Residents admits the allegations in this
8 paragraph.

9 44. Answering Paragraph 44, Medina Residents admits the allegations in this
10 paragraph.
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12 45. Answering Paragraph 45, Medina Residents answers that this paragraph calls for a
13 legal conclusion to which no response is required. To the extent a response is deemed required,
14 Medina Residents denies the same and respectfully refers the court to the Code provision cited
15 therein for a complete and accurate statement of its contents.

16 46. Answering Paragraph 46, Medina Residents answers that this paragraph calls for a
17 legal conclusion to which no response is required. To the extent a response is deemed required,
18 Medina Residents denies the same and respectfully refers the court to the Code provision cited
19 therein for a complete and accurate statement of its contents.
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21 47. Answering Paragraph 47, Medina Residents admits that the City's staff issued a
22 report on the Proposed Tower on July 9, 2014 ("Staff Report"), which speaks for itself, and
23 otherwise denies the remaining allegations in the paragraph. Medina Residents denies that the
24 Staff Report recommended approval of the "Proposed Facility," and respectfully refers the court
25 to page 38, which states "Staff does not have a recommendation for the variance applications."
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1 48. Answering Paragraph 48, Medina Residents denies the allegations in the
2 paragraph and respectfully refers the court to the Staff Report referenced therein for a complete
3 and accurate statement of its contents.

4 49. Answering Paragraph 49, Medina Residents admits the allegations in this
5 paragraph.
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7 50. Answering Paragraph 50, Medina Residents admits that Independent Towers
8 presented evidence at the hearing, and otherwise denies the remaining allegations in this
9 paragraph.
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11 51. Answering Paragraph 51, Medina Residents admits that Independent Towers
12 presented evidence at the hearing, and otherwise denies the remaining allegations in this
13 paragraph.
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15 52. Answering Paragraph 52, Medina Residents admits that Independent Towers
16 presented evidence at the hearing, and otherwise denies the remaining allegations in this
17 paragraph.
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19 53. Answering Paragraph 53, Medina Residents admits that Medina Residents, among
20 other citizens, presented evidence at the hearing, and otherwise denies the allegations in this
21 paragraph.
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23 54. Answering Paragraph 54, Medina Residents denies the allegations in this
24 paragraph.
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26 55. Answering Paragraph 55, Medina Residents admits the allegations in this
27 paragraph, and respectfully refers the court to the Hearing Examiner transcript for a complete
28 and accurate statement of its contents.

1 56. Answering Paragraph 56, Medina Residents admits the allegations in this
2 paragraph, and respectfully refers the court to the Hearing Examiner decision for a complete and
3 accurate statement of its contents.

4 57. Answering Paragraph 57, Medina Residents states that there is no paragraph 57 in
5 the First Amended Complaint.
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7 58. Answering Paragraph 58, Medina Residents admits that on September 8, 2014,
8 Plaintiffs sought reconsideration of the City's denial of its permit application and otherwise deny
9 the allegations in the first sentence of this paragraph. As to allegations in the second sentence of
10 this paragraph, Medina Residents admits that opponents of the proposal moved to dismiss
11 Plaintiffs' reconsideration request as untimely, denies the remaining allegations in the sentence,
12 and respectfully refers the court to the documents referenced therein for a complete and accurate
13 statement of their contents.
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15 59. Answering Paragraph 59, Medina Residents admits the allegations in this
16 paragraph.
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18 60. Answering Paragraph 60, Medina Residents admits the allegations in the first and
19 second sentences of this paragraph. As to the allegations in the third sentence of this paragraph,
20 this sentence calls for a legal conclusion to which no response is required. To the extent a
21 response is deemed required, Medina Residents denies the same and respectfully refers the court
22 to the statute cited therein for a complete and accurate statement of its contents.
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24 61. Answering Paragraph 61, Medina Residents denies the allegations in this
25 paragraph.
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1 62. Answering Paragraph 62, this paragraph calls for a legal conclusion to which no
2 response is required. To the extent a response is deemed required, Medina Residents denies the
3 same and respectfully refers the court to the statute cited therein for a complete and accurate
4 statement of its contents.

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6 63. Answering Paragraph 63, this paragraph calls for a legal conclusion to which no
7 response is required. To the extent a response is deemed required, Medina Residents denies the
8 same.

9 64. Answering Paragraph 64, Medina Residents restates the answers to each
10 paragraph fully as set forth herein.

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12 65. Answering Paragraph 65, this paragraph calls for a legal conclusion to which no
13 response is required. To the extent a response is deemed required, Medina Residents denies the
14 same and respectfully refers the court to the statute cited therein for a complete and accurate
15 statement of its contents.

16 66. Answering Paragraph 66, Medina Residents denies the allegations in the
17 paragraph.

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19 67. Answering Paragraph 67, Medina Residents denies the allegations in the
20 paragraph, and respectfully refers the court to the report referenced therein for a complete and
21 accurate statement of its contents.

22 68. Answering Paragraph 68, Medina Residents denies the allegations in the
23 paragraph.

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25 69. Answering Paragraph 69, Medina Residents denies the allegations in the
26 paragraph.

1 70. Answering Paragraph 70, Medina Residents denies the allegations in the
2 paragraph.

3 71. Answering Paragraph 71, this paragraph calls for a legal conclusion to which no
4 response is required. To the extent a response is deemed required, Medina Residents denies the
5 same.
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7 72. Answering Paragraph 72, Medina Residents restates the answers to each
8 paragraph fully as set forth herein.

9 73. Answering Paragraph 73, this paragraph calls for a legal conclusion to which no
10 response is required. To the extent a response is deemed required, Medina Residents denies the
11 same and respectfully refers the court to the statute cited therein for a complete and accurate
12 statement of its contents.
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14 74. Answering Paragraph 74, Medina Residents denies the allegations in the
15 paragraph.

16 75. Answering Paragraph 75, Medina Residents denies the allegations in the
17 paragraph.
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19 76. Answering Paragraph 76, Medina Residents denies the allegations in the
20 paragraph.

21 77. Answering Paragraph 77, Medina Residents denies the allegations in the
22 paragraph.
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24 78. Answering Paragraph 78, this paragraph calls for a legal conclusion to which no
25 response is required. To the extent a response is deemed required, Medina Residents denies the
26 same.
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II. AFFIRMATIVE DEFENSES

Having answered Plaintiffs’ First Amended Complaint, Medina Residents, as further answer and as affirmative defenses, now alleges as follows:

- 1. The Court is without jurisdiction to hear the Plaintiffs’ challenge.
- 2. The Plaintiffs lack standing.
- 3. The Plaintiffs’ action is barred by law.
- 4. The Plaintiffs fail to state a claim upon which relief can be granted.
- 5. The Plaintiffs’ claims are premature and not ripe for adjudication.
- 6. An adequate remedy at law exists for the Plaintiffs’ claims.

III. REQUEST FOR RELIEF

Medina Residents, having answered the Plaintiffs’ First Amended Complaint, and having asserted affirmative defenses, now prays that the Court:

- 1. Deny and dismiss the Complaint with prejudice; and
- 2. Such other relief as the Court may deem just and equitable.

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1 DATED this 24th day of November, 2014.

2 Respectfully submitted,

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