

PLANNING & LAND USE MANAGEMENT
MOTION

Yesterday, the Ninth U.S. Circuit Court of Appeals upheld San Diego County's limits on the placement, size and design of towers and poles that are needed for companies to provide cell phone service and wireless Internet connections. The court also voted to discard a standard it had established in 2001 that barred local governments from adopting any restrictions that "may have the effect of prohibiting" wireless services.

Federal courts in the nine-state circuit have relied on that ruling to overturn restrictions on telecommunications structures in several communities, including San Francisco and Berkeley. The court said that it had misinterpreted federal law when it issued the earlier ruling, and that local governments can regulate wireless towers and poles as long as they don't actually prohibit wireless service within their borders or create a "significant gap in service coverage."

The new ruling appears to give cities and counties the ability to even-handedly control the environment in our neighborhoods, with no exemption for wireless companies. We need to have a report from the City Attorney on the implications of this decision for Los Angeles.

I THEREFORE MOVE that the City Attorney be requested to review the City's Above Ground Facility (AGF) ordinance in light of yesterdays ruling in the case of *Sprint v. City of San Diego* decided by Ninth Circuit, and advise if revisions can be included in our AGF ordinance so our City can exercise greater control over the aesthetics and placement of cell towers.

08-2440

SEP 12 2008

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