

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Releasing Bond # 8003412)
for the Removal of a Cellular Tower at 67501)
Butler Road, Deer Island, Oregon) ORDER NO. 51-2003

WHEREAS, on October 4, 2000, the Board of County Commissioners signed Order No. 98-00, approving an application by SBA Towers (hereinafter referred to as "SBA"), for a Conditional Use Permit to place a 250' PCS Steel Lattice Cellular Tower in the Primary Forest (PF-76) zone; and

WHEREAS, as a condition of the approval, the Board required SBA to enter into an agreement with the County, in which SBA would agree to demolish or otherwise remove, or cause to be demolished or otherwise removed, the tower from the subject property when the tower has no more useful life as a public utility or facility, and required SBA to either purchase a bond or place funds in escrow in the amount of 125% of the cost of demolishing the tower, to secure the demolition or removal of the tower; and

WHEREAS, on November 5, 2001, SBA and the County signed a Development Agreement in compliance with the condition of approval. The Agreement also required that if SBA transferred its interest in the tower property, then SBA would cause the new owner, assignee, sublessee, or other interest holder to purchase a bond or deposit money in escrow for the benefit of the County in the amount of 125% of the estimated cost of demolishing or otherwise removing the tower according to the terms of the Development Agreement and Conditional Use Permit, before SBA's bond or escrow funds will be released; and

WHEREAS, on October 17, 2001, SBA purchased bond # 10366230, for the benefit of the County in the amount of \$25,000.00 to secure the removal or demolition of the tower in accordance with the Conditional Use Permit and Development Agreement; and

WHEREAS, on October 4, 2002, SBA requested that the County release bond # 10366230; and

WHEREAS, on December 31, 2002, Fidelity Towers, Inc., a new interest holder in the tower property, purchased bond # 8003412, a copy of which is attached hereto as Attachment 1, for the benefit of the County in the amount of \$25,000.00 to secure the removal or demolition of the tower in accordance with the Conditional Use Permit and Development Agreement; and

WHEREAS, having received the replacement bond in conformance with the Development Agreement, the County released SBA's bond by Board Order No. 3-2003; and

WHEREAS, on June 4, 2003, Fidelity Towers, Inc. requested that the Board of Commissioners release bond # 8003412, and supplied documentation that the Lease Option on the subject property has been terminated, and acknowledging that Fidelity Towers will not request building permits under the Conditional Use Permit; and

WHEREAS, a copy of the Termination of Lease Option is attached hereto as Attachment 2, and is incorporated herein by this reference; and

WHEREAS, a copy of Fidelity Towers' acknowledgment that they will not develop the property under the Conditional Use Permit, or request building permits for the project is attached hereto as Attachment 3, and is incorporated herein by this reference.

NOW, THEREFORE, it is hereby ordered as follows:

1. The Board of County Commissioners hereby releases bond #8003412 from Fidelity Towers, Inc., guaranteeing the removal or demolition of the tower structure at 67501 Butler Road, Deer Island, Oregon, in accordance with the Development Agreement and Conditional Use Permit.
2. No development shall occur, and no building permits will be issued for development of a cellular tower on the subject property under the Conditional Use Permit allowed by Order No. 98-00, unless the developer complies with the terms of the Conditional Use Permit and the Development Agreement.

DATED this 2nd day of July, 2003.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: not available

Chair

By: Jeta M. Jernstedt

Commissioner

By: _____

Commissioner

Approved as to form

By: Sarah Tyson
Office of County Counsel

ATTACHMENT 1

TOWER/STRUCTURE REMOVAL BOND

Bond Number : 8003412

KNOW ALL MEN BY THESE PRESENTS, That we FIDELITY TOWERS, INC.
209 W. River St., Ozark, AR 72945 as Principal, and AMERICAN CONTRACTORS
INDEMNITY COMPANY of LOS ANGELES, CA authorized to do business in
the STATE OF OREGON, as Surety, are held and firmly bound unto
COLUMBIA COUNTY OREGON, as Obligee. In the
sum of TWENTY FIVE THOUSAND & NO/100----- (\$ 25,000.00***), lawful money of the
United States of America, for which payment well and truly to be made we bind ourselves, our heirs, executors
and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal is bound by a written agreement with the Obligee for the placement of a
telecommunications tower/structure/facility furnishing telephone, television or other electronic media service,
which agreement sets forth terms and conditions which govern the use of such towers or structures and which
agreement is hereby specifically referred to and made part hereof and

WHEREAS, The Principal is subject to a Conditional Use Permit by the Obligee and the Principal is required
to post bond guaranteeing the removal or relocation of said tower or structure located at
Site ID NWSS65001-005 Site Name NIKOLAL, COLUMBIA COUNTY OREGON
Landowner(s) JERRY CORNWALL-BRADY AND VALERIE CORNWALL-BRADY, 67501 BUTLER ROAD
DEER ISLAND, OREGON Date entered into lease January 31, 2000

NOW THEREFORE, the condition of this obligation is such that if the above bounden Principal shall perform
in accordance with the aforesaid Conditional Use Permit/Relocation of Tower/Structure and
indemnity the Obligee against all loss caused by the Principal's breach of said Agreement relating to the
removal or relocation of a tower or structure; then the obligation shall be void, otherwise to remain in full force
and effect.

The bond is subject to the following express conditions:


This bond may be cancelled at any time upon ninety (90) days advance written notice from Surety to the
Obligee via Registered or Certified Mail. It is understood and agreed that the Obligee may recover the full
amount of the Bond (less any previous amounts paid to Obligee under the Bond) if the Surety cancels or non
renews the Bond and, within forty-five (45) days prior to the effective date of cancellation or non renewal, the
Obligee has not received a replacement bond, letter of credit or any other security acceptable to it to replace
the Bond.

Notice of the Obligee's intent to recover under the bond must be in writing and sent via Registered or Certified
Mail to the Surety. No right of action shall accrue under this bond to or for the use of any person other than
the Obligee, it's successors and assigns.

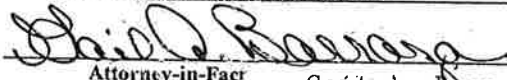
The effective date of this bond is December 31, 2002

SIGNED, SEALED AND DATED this 31st day of December, 2002.

Principal : FIDELITY TOWERS, INC.

By : 

Surety : AMERICAN CONTRACTORS INDEMNITY COMPANY

By : 
Attorney-in-Fact Gail A. Barraza



Fidelity Towers Inc.

June 4, 2003

Jerry M. Cornwall-Brady
67501 Butler Road
Deer Island, OR 97054

RE: Termination of Lease Option for Communications Tower on your Property at 67501 Butler Rd., Deer Island, OR 97054 dated February 3, 2003

Dear Mr. Cornwall-Brady:

We hereby terminate the Lease Option executed February 3, 2003 on this property per section 17(a) of the agreement.

You may retain the Option fee in full. Upon your receipt and acknowledgement of this Notice, the Lease Option will cease to encumber your parcel.

Please sign one copy of this letter and return it to me to acknowledge your receipt of this termination notice.

Respectfully,

Neil Wisner
President

Received & Accepted
Jerry Cornwall-Brady

6-09-03
Date

COUNTY COUNSEL

JUN 16 2003

COLUMBIA COUNTY



Fidelity Towers Inc.

June 13, 2003

Todd Dugdale
Columbia County
Land Development Services Dept.
230 Strand Street
St. Helens, OR 97051

RE: Conditional Use Permit for New Tower at 67501 Butler Road, Deer Island, OR

Dear Mr. Dugdale:

We hereby provide formal notice that we have terminated the lease option for this site and will not develop the tower approved for this property under Conditional Use Permit 00-51. We will not request any building permits for this project.

We also recognize that no development will occur under this Conditional Use Permit unless the developer complies with the terms of the conditional use permit and the Development Agreement.

Please consider this project cancelled, so that we may be relieved of all further obligations associated with this tower site.

Please call me at 720-339-1729 with any questions, and thank you for your assistance.

Respectfully,

A handwritten signature in black ink, appearing to read "Neil Wisner", with a long horizontal flourish extending to the right.

Neil Wisner
President