

Cities Can Consider Aesthetics When Regulating Wireless Facilities in the Public Right-of-Way

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Cities can regulate wireless facilities in the public right-of-way based on aesthetics. Last Thursday, the California Court of Appeal upheld a San Francisco ordinance that allows consideration of aesthetic impacts when permit applications are processed for wireless facilities in the right-of-way.

Several wireless service providers had argued that state law limits cities to preventing wireless facilities from physically obstructing public travel in the right-of-way.

The Court rejected that argument, declaring that public use of the right-of-way is not limited to travel, and that streets can serve important aesthetic functions that are subject to local regulation.

T-Mobile West LLC v. City and County of San Francisco, decided September 15, 2016.

If you have any questions or would like more information about how this case may affect your agency, please contact Steven Flower, Brendan Kearns or any member of the Firm's Public Law Department.