

January 21, 2015

**RE: Washington Watch – An Update on Activity in Our Nation’s Capital**

**I. Congress Extends Terrorism Risk Insurance Program**

**II. Local Governments Score Partial Victory in Supreme Court Cell Tower Case**

**III. Strong Cadre of Former Municipal Officials in New Congress**

Dear Mayor:

Following President Obama’s State of the Union address, we wanted to highlight the state of some crucial municipal issues in our Nation’s Capital. Thanks, as always, to the Federal relations staff at the National League of Cities (NLC) for their informative updates and for their work on our behalf.

**I. Congress Extends Terrorism Risk Insurance Program**

After failing to take action in the eleventh hour of the last session of Congress, the new one heeded NLC's call and passed a six-year extension of the Terrorism Risk Insurance Act (TRIA) with broad, bipartisan support. Terrorism risk insurance enables local governments to continue to provide critical services to residents in the event of an attack by protecting against loss or liability that could affect a municipality's personnel, property and finances. TRIA's public-private risk sharing mechanism ensures that risk insurance coverage remains available and affordable to local governments. The legislation was one of the first items the new Congress passed and the President signed into law this year.

**II. Local Governments Score Partial Victory in Supreme Court Cell Tower Case**

The Telecommunications Act (TCA) requires that a state or local government's decision denying a cell tower construction permit be "*in writing* and supported by substantial evidence contained in a written record." In *T-Mobile South v. City of Roswell* the Supreme Court held 6-3 that that local governments have to provide reasons for why they are denying a cell tower application so that courts can determine whether the denial was supported by substantial evidence. The Court rejected, however, T-Mobile's argument that the reasons must be set forth in a formal written decision denying the application instead of council meeting minutes because nothing in the TCA "imposes any requirement that the reasons be given in any particular form."

But the Court also held that, because wireless providers have only 30 days after an adverse decision to seek judicial review, the council meeting minutes setting forth the reasons have to be issued "essentially contemporaneous[ly]" with the denial. The State and Local Legal Center (SLLC) filed an *amicus* [brief](#), which NLC supported, agreeing with the Court that meeting minutes are sufficient but disagreeing that they must be issued contemporaneously to the denial letter.

In light of the Court's holding that denials under Section 332(c)(7) must include reasons, local governments that include these reasons in separate documents-usually, council meeting minutes or transcripts-are strongly advised to wait to issue the denial letter until the accompanying

documents are ready so that they are all issued together. The 30-day period in which the provider may seek judicial review begins to run from the issuance of the denial letter, and the Court held that the reasons need to be available around the same time as this 30-day period begins to run. The local government must still issue the denial within the limits of the FCC's shot clock (90 days for collocations and 150 days for other siting applications).

### **III. Strong Cadre of Former Municipal Officials in New Congress**

The freshman class of senators and representatives sworn in on January 6, 2015, bring with them to Washington a diverse set of experiences and perspectives. In addition to making the 114th Congress the [most demographically diverse Congress in our nation's history](#), over a quarter of the freshman class of this Congress have previous experience in municipal government. Twenty one representatives (including NJ Congressman Tom MacArthur) and one senator (Sen. Gary Peters, formerly of the Rochester, Mich. City Council) previously served as council members, commissioners, selectmen, and mayors.

Public service at the local level is a unique experience local leaders share with many members of Congress. Don't let the newest members of Congress forget their time spent balancing municipal budgets while working to improve the quality of life in their cities. As you get to know and work with the new members, remind them that taking action to ensure the needs of local governments are met will help the country achieve its goals.

As a reminder, both of our U.S. Senators – Senator Bob Menendez and Senator Cory Booker – previously served as Mayors. In addition to Congressman MacArthur, New Jersey's House delegation includes former-Mayors Congressmen Albio Sires and Bill Pascrell. Congressman Donald Payne is a former member of Newark's City Council. And newly elected Congresswoman Bonnie Watson Coleman has previous service on the Ewing Township Planning Board.

Very truly yours,

William G. Dressel, Jr.  
Executive Director