

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
for**

MONTGOMERY COUNTY

Stella B. Werner Council Office Building

100 Maryland Avenue, Room 200

Rockville, Maryland 20850

<https://www.montgomerycountymd.gov/ozah/index.html>

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CASE NO. CU 22-09, APPLICATION OF SBA COMMUNICATIONS CORP AND M.C.B.E

Order

The application seeks a conditional use to operate a Telecommunications Tower under Section 59-3.5.2.C.2.c of the Zoning Ordinance. The subject property is identified as P550, Tax Map GQ61, located at 11211 Old Georgetown Road, Rockville, Maryland 20852, in the R-90 Zone (Tax Account Number 04-00045920) ("Application").

On September 26, 2022, Douglas Sampson, counsel for SBA, timely sent a letter to me stating that SBA was withdrawing the Application and that the BOE consented thereto. In an Order issued October 4, 2022, I notified the parties that the Application was WITHDRAWN.

In the September 26, 2022, letter sent by Mr. Sampson, he requested, on behalf of SBA, a refund of 50% of the filing fees as specified in OZAH's Amended Land Use Rules of Procedure § 23(b). While Section 23(b) does not apply, because the hearing had commenced, I will grant a refund of 50% of the filing fees under Section 23(c) of OZAH's Amended Land Use Rules of Procedure. That section states that "[a]ll or a portion of the filing fee" may be refunded if an action (or inaction) of "an administrative board or agency resolves or moots the issues pending in the case, whether or not a hearing is held." Because the Montgomery County Board of Education failed to sign the application as directed, the Application was deemed to be procedurally defective and was withdrawn, thus mooted the issues and hearing. The entire portion of the 50% refund shall be deducted from the OZAH portion of the fee since the Planning Department fully reviewed the application and the procedural deficiency was noted by OZAH.

Order issued this 11th day of October, 2022, to:

Douglas A. Sampson, Esq., Attorney for the Applicant SBA

Peter Fastow, Esq., Attorney for the Applicant BOE

Matthew Folden, Planning Department

Cliff Royalty, Esquire, Assistant County Attorney

Department of Permitting Services Greg Nichols, Manager, SPES at DPS

Parties of Record

Office of Zoning and Administrative Hearings

A handwritten signature in black ink, appearing to read 'K. Taylor', written over a horizontal line.

by:

Katherine L. Taylor
Hearing Examiner