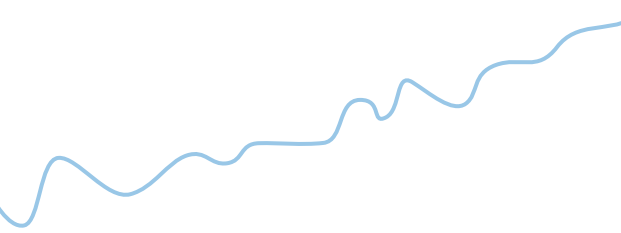




**FOR
LEASE**



THE CELL TOWER GROUND LEASE: An Atypical Commercial Lease— What Attorneys Should Know

By William M. Lawrence

Introduction

Despite being only a decade old, smart phones drive the United States' increasingly fast-paced culture. Americans used approximately 262,000,000 smart phones during 2016.¹ Smart phones are vitally important to our daily lives: we wake up to their alarms; we communicate verbally and in writing with them through phone, text and social media applications; we use them to stay current with local and world news; we play games on them; we use them as GPS devices; and we watch live sporting events and cable programming on them. Smart phones are the quintessential all-in-one gadget.

Carriers, the companies to which consumers pay smart phone bills, provide smart phone-connectivity services using cellular networks. Cellular networks depend upon two crucial components: radio spectrum² and infrastructures. Radio spectrum is the radio frequency (RF) portion of the electromagnetic spectrum, which fuels cellular communications. Infrastructures are the network deployment areas, called “cells” or “cell sites,” which include towers, poles and other structures and facilities that support signal transmissions, increase network capacities and expand network coverages. An estimated 308,334 cell sites operated in the United States during 2016.³

Based upon whether carriers own portions of the radio spectrum purchased from the federal government and build and own their own infrastructures, the wireless industry

classifies them as mobile network operators (MNOs) or mobile virtual network operators (MVNOs). MNOs own radio spectrum and their own transmission infrastructures. The United States has five MNOs—Verizon Wireless, Sprint, AT&T Mobility, T-Mobile and U.S. Cellular. Unlike MNOs, MVNOs do not own radio spectrum or their own transmission infrastructures. Instead, MVNOs piggyback their networks on MNO networks by leasing or purchasing from them access to radio spectrum and infrastructure. MVNOs tend to market to specific geographic areas or population niches and offer contract-free or less expensive connectivity plans than MNOs. MVNOs include Cricket Wireless, Metro PCS, TracFone, Straight Talk and Total Wireless.

Each cell site involves at least one and usually multiple leases.⁴ Many attorneys negotiate cell site leases no differently than typical commercial leases, but cell site leases involve material and subtle differences from, and unique issues without corollary in, typical commercial leases. This article (i) provides wireless industry background and cellular technology deployment information to help attorneys understand cell sites generally and (ii) addresses material negotiation components relating to one particular type cell site lease—cell tower ground leases.

Cell Site Types

Cell sites consist of four main types: cell towers, rooftops, small cells and distributed antenna systems (DAS). Known as “macro sites” or “macrocells,” cell towers and rooftop sites are carriers’ cellular network foundations because they canvas vast geographic areas and transmit signals great distances. Insatiable wireless demand and technology advances have spurred carriers’ deployments of small cell and DAS “micro sites” or “microcells,” which integrate smaller, less powerful technologies to densify network architectures and add network capacities and coverages.

A. Cell Towers

Due to their imposing size and omnipresent visibility along American highways, the most well-known

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cell sites are cell towers. Cell towers are elevated, vertical structures built on land, on and around which carriers install high-powered antenna arrays and supporting transmission equipment. Cell towers provide carriers the widest coverage radius of all cell sites. Depending upon how many carriers have elected to “co-locate” on the tower,⁵ one cell tower can serve multiple carriers’ cell sites.

Some MNO carriers own and operate their own cell towers. In what some attorneys find to be a counter-intuitive business model, tower-owning carriers install their own antennas and transmission equipment on their towers, while simultaneously leasing tower “co-location” space to competitor carriers to generate revenue. For example, Verizon Wireless may own a tower and operate its own antennas and trans-

mission equipment on the tower, while also leasing tower “co-location” space to Sprint and T-Mobile.

Carriers do not require their own towers to run their networks. More often, carriers lease tower space from companies specializing in owning and operating tower portfolios to support carrier networks. Unlike carriers, which consumers know well due to their ubiquitous print and television ads, consumers are less familiar with tower portfolio companies, despite many being publicly traded or *Fortune 500* companies. The United States’ five major tower portfolio companies are: Crown Castle (NYSE: CCI), American Tower Corporation (NYSE: AMT), SBA Communications (NASDAQ: SBAC), United States Cellular Corporation (NYSE: USM) and privately-owned Vertical Bridge.⁶

B. Rooftop Sites

Rooftop cell sites provide the second widest coverage radius of cell sites. Rooftop sites consist of high-powered antenna arrays and supporting transmission equipment similar to what carriers install on cell towers, but which carriers install on building rooftops. The term “rooftop site” is a catchall and misnomer, because carriers install functionally equivalent antenna arrays and transmission equipment on and around water tanks, church steeples, bell towers and other pre-existing, tall structures.

C. Small Cell Sites

Small cell sites are single carrier-owned, low-powered, self-contained cell site nodes, which consist of single antennas and supporting transmission equipment. As their name implies, small cell nodes are smaller in size, power and coverage radius than cell tower sites and rooftop sites. Small cell nodes are often no larger than smoke detectors, fire alarms or paper reams and need limited installation space, which makes them discrete and aesthetically more pleasing than cell tower sites or rooftop sites.

Carriers deploy small cell nodes in smaller footprints to densify and increase overall network coverage and capacity, often in densely populated, congregational or topographically challenging areas that macro sites cannot serve alone or where zoning regulations make cell towers or rooftop sites impractical or impossible. Carriers deploy small cell nodes on right-of-way infrastructure (e.g., utility poles⁷ and street signs), on mass transportation means that travel to remote locations (e.g., cruise ships and commercial airliners) and in commercial settings (e.g., hotel lobbies and office buildings).

D. DAS Sites

Similar to small cell sites, DAS sites are low-powered cell sites. Unlike self-contained small cell sites, DAS cabling interconnects multiple antenna nodes within defined geographical areas or buildings to hubs containing transmission equipment that all antenna nodes use collectively. Among other deployments, carriers deploy DAS sites for outdoor purposes (e.g., the French Quarter in New Orleans) or inside large buildings, stadiums and arenas. DAS sites relieve pressure from cell tower and rooftop sites by removing DAS site coverage areas from the capacity outputs of cell tower and rooftop sites. Like small cell sites, carriers often use outdoor DAS sites in densely populated, congregational or topographically challenging areas that macro sites cannot serve alone or where zoning regulations make cell towers or rooftop sites impractical or impossible.

Cell Tower Types

Cell towers consist of three main types: self-supporting towers (a.k.a. lattice towers), guyed towers and monopole towers.

A. Self-Supporting Towers

Self-supporting towers are free-standing towers, which typically stand between 200-400 feet tall on

three or four legs. Latticework supports and braces each leg; hence their nickname “lattice towers.” Self-supporting towers require either single foundations supporting all tower legs or individual foundations supporting each leg. Carriers mount antenna arrays and other transmission equipment vertically on the tower exteriors and install supporting equipment on grounds beneath them.

B. Guyed Towers

Guyed towers are single mast towers, often standing 300 feet or more tall, which use cables or guy wires to stabilize their masts. The guy wires extend in different directions from the masts to ground based anchors. Guyed towers require separate foundations for their masts and each guy anchor. Carriers mount antenna arrays and other transmission equipment vertically on the masts and install supporting equipment on grounds beneath them.

C. Monopoles

Monopoles are single mast towers, which typically stand between 100-200 feet tall, but can be much shorter. Monopoles require one foundation at their bases. Carriers mount antennas and other transmission equipment vertically on their masts and may install small amounts of related equipment at or around their bases. Carriers often deploy monopoles stealthily, by disguising them on flag poles or in geographically characteristic ways, such as pine trees, palm trees or cactuses.

Cell Tower Leases

A cell tower site generally involves two different lease types—ground leases and multiple “co-location” leases.

Ground leases are between landowners as lessors and tower owners as tenants. Ground leases convey rights to land parcels upon which tower owners construct and operate cell towers. Ground lessors can be any person or entity who or which owns real property. Tower owners are either MNO carriers or tower portfolio companies.⁸

Co-location leases, which tend to be subleases⁹ to ground leases, are agreements between tower owners as lessors and carriers as lessees. Co-location leases convey rights to vertical spaces on towers and portions of the underlying grounds to which tower owners have ground lease rights.¹⁰

Cell Tower Ground Leases

A. Ground Space

Tower owners require ground spaces to accommodate their towers, their ground-based equipment (including shelters, cabinets, generators and fencing) and their co-locating carriers' equipment. Ground spaces generally range from 100 square feet or less for monopoles to as many as 10,000 square feet for self-supporting and guyed towers. Guyed towers present unique lease-related wrinkles because, in addition to requiring ground space similar in size to what self-supporting towers require, guyed towers require easement rights for their supporting guy lines.

B. Access and Utility Easements

Tower owners require unobstructed easements from public rights-of-way through ground lessors' properties to their leaseholds for access and utility purposes.

Access easements must be sufficiently wide for utility trucks to use them (ideally 30 feet wide). To ensure uninterrupted network service, tower owners and their co-locating carrier tenants must be able to use access easements 24 hours per day, seven days per week, generally without prior notice to, or consent of, ground lessors.

In order to install cable and fiber runs and provide power and phone services to cell tower sites, tower owners require utility easements, which convey to tower owners some combination of below-ground rights, surface rights and above ground rights. Utility easements may be identical in ground coverage and property description to tower owners' access easements, but, depending upon the locations of connection points to available utilities or existing cabling and fiber runs on and around properties, can entirely cover separate portions of ground lessors' properties.

Tower owners typically obtain and pay for surveys of ground lessors' entire property and the tower owners' leaseholds, access easements and utility easements. Surveys typically evidence these areas with separate property descriptions and sketches or depictions. A best practice is to incorporate surveys as exhibits to ground leases.

C. Permitted Use

As typical with other commercial leases, cell tower ground leases include permitted use provisions, which describe specifically how tower owners may use ground lessors' properties. Due to cellular technol-

ogy's rapid evolution, tower owners require broadly worded permitted use provisions allowing them, throughout their lease term durations, to install and use all known and useable technologies at lease inception, technologies known and contemplated for future use but not used or useable at lease inception and technologies not contemplated or known at lease inception. Some tower owners expect to obtain exclusive rights to ground lessors' properties for the permitted purposes.

Expect tower owners to insist upon provisions permitting them to broadly use sites as "communications systems or facilities and for all related purposes." Narrowly worded permitted use provisions, such as use for "telecommunications services," "radio communications" or "cellular communications," could subject tower owners to unintentional lease breaches if they were to implement technology advances at cell sites that their permitted use provisions may not expressly or interpretively allow.

Co-locating carriers require assurances that tower owners' ground leases grant carriers absolute and unrestricted rights to increase, decrease, maintain, replace, modify, amend, upgrade and expand their antennas and supporting transmission equipment within tower owners' leaseholds.

Tower owners require their access and utility easements to have broadly rights worded permitted use provisions. In addition to ingress and egress rights, tower owners expect to use their access easements to construct, inspect, repair, maintain, upgrade and enhance their towers and tower compounds. Tower owners must have rights to use their utility easements to connect tower compounds to available utilities and to install and run above and below ground cabling and fiber.

D. Rent

Unlike typical commercial leases, cell tower lease rates are not based upon price per square foot formulas. Rent amounts depend upon multiple factors, including the amount of ground space required at sites, sites' network coverage values to potential carriers, sites' zoning and permitting ease, sites' access ease and proximity to utilities, sites' construction ease and cost and lease possibilities at adjacent or neighboring properties.

Tower owners often expect to pay flat-rate rent amounts for their lease-term durations. However, if tower owners value certain sites highly, they may agree to rent escalations on annual or per-term bases.

Rent escalators are typically pre-determined percentages of the then-current rent amount. Due to the large ground lease volumes tower owners typically maintain, administrative ease is key to them, which militates against rent escalators based upon the Consumer Price Index or other fluctuating indices. Tower owners prefer to pay rent in monthly installments for operational flexibility and to avoid pre-paying rent for cell tower sites they may decide to terminate during periods in which they may have pre-paid rent.

A once-common practice involved tower owners paying “co-location” or “revenue sharing” fees to ground lessors upon entering into co-location leases with carriers. Co-location fee amounts were typically calculated as percentages of tower owners’ co-location lease rent amounts. As cell tower site volumes have increased, and each new tower site’s overall relative network value has decreased, the practice of tower owners paying co-location fees has decreased, too. Ground lessors should negotiate for co-location fees with caution, because tower owners typically explore multiple property options for potential cell tower sites and will likely pursue more aggressively locations that do not require co-location fees.

E. Term

Because tower owners may incur hundreds of thousands of dollars in upfront site acquisition, construction, permitting and related costs, they expect long-term leases in order to recoup their investment costs. Common lease terms are 25-30 years, with initial five- or 10-year terms and three to five additional, automatically renewing, five- or 10-year terms.¹¹ Automatically renewing terms are particularly important to tower owners, because they eliminate tower owners’ cumbersome administrative burdens of preparing and transmitting potentially hundreds or thousands of renewal letters annually. Although automatic term renewals cause ground lessors to surrender some control over leased premises, ground lessors acquire in exchange reliable, long-term rent stream security.

Ground lessors should negotiate for co-location fees with caution, because tower owners typically explore multiple property options for potential cell tower sites and will likely pursue more aggressively locations that do not require co-location fees.

F. Termination Rights

Tower owners expect broad, penalty-free and liability-free lease termination rights, both for cause and discretionary reasons. Unlike typical commercial real estate settings in which lessors must relet empty lease spaces to replenish their businesses’ lost revenues, cell tower ground lessors have no empty spaces to fill or lost business revenues when tower owners terminate cell tower leases, which justifies tower owners’ broad termination rights.

Tower owners expect for cause termination rights if they cannot obtain zoning or other governmental approvals necessary to construct or operate their towers or governmental approvals are withdrawn, cancelled, expire or lapse during lease terms. Tower owners expect discretionary and convenience-based termination rights if casualty events damage or destroy cell tower sites, or they determine that their sites are obsolete, unnecessary, no longer

technically compatible, suitable or economically feasible for their uses. Additionally, tower owners expect rights to terminate ground leases at any time prior to commencing site construction and on annual bases.

Conversely, to help ensure tower owners’ long-term site operabilities, they expect ground lessors to have limited termination rights. Accordingly, ground lessors should expect to obtain termination rights only if tower owners materially breach ground leases (*e.g.*, they fail to pay rent), subject to reasonable prior notice and cure rights.

G. Effective Date and Commencement Date

Most ground leases have separate effective and commencement dates. Effective dates are dates upon which ground leases are fully executed. Commencement dates mark the dates subsequent to effective dates upon which tower owners’ rent payment obligations commence.

The periods between effective dates and commencement dates allow tower owners to conclude due diligence and to avoid paying rent until they are ready to construct their towers. Their due diligence includes

obtaining surveys and title reports; conducting soil, engineering and environmental testing; and seeking governmental approvals. Ground lessors are expected to cooperate with tower owners in their due diligence performance, generally at tower owners' cost and expense.

Because commencement dates tend to be tied to tower construction, commencement dates are not necessarily determinable on effective dates. Commencement dates typically begin on the earlier of two different dates: commonly a date specific and the date site construction commences. For tower owners' administrative ease, commencement dates typically are the first days of months.

H. Electronic Interference

Despite being uncommon, signal interference, degradation and loss at cell tower sites are unavoidable. Tower owners' antenna arrays and transmission equipment emanate electronic signals, which can cause interference with ground lessors' and other co-locating carriers' equipment. Conversely, ground lessors' and co-locating carriers' equipment may emanate electronic signals that interfere with tower owners' and other co-locating carriers' equipment.

Tower owners generally do not accept liability for interference their equipment causes, unless the interference is material, but they will attempt to eliminate interference they cause. Tower owners expect ground lessors to give them written notice of interference and reasonable cure periods during which tower owners can attempt to eliminate interference, before ground lessors can terminate the lease or exercise other contractual remedies. In extreme interference cases, tower owners may be willing to power down their equipment or cause their co-locating carriers to power down their equipment for limited periods while they attempt to cure interference, as long as ground lessors cannot exercise any contractual remedies against them during the power down period.

Tower owners expect ground lessors to agree that neither ground lessors nor third parties with rights in or to ground lessors' properties will cause material interference with tower owners' equipment. Because tower owners may have no contractual privity with

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those third parties, many tower owners expect ground lessors to assign to them any enforcement rights ground lessors may have against those third parties. Additionally, tower owners expect ground lessors to cooperate with tower owners in their legal and non-legal efforts to stop interference or remove interference sources.

I. Insurance

Tower owners expect ground lessors to insure their ground lease interests for specified minimum amounts covering property damage, personal injury and death. Acceptable coverage amounts range from \$1,000,000 to \$2,000,000 per occurrence. Commercial general liability policies generally suffice. Ground lessors should expect to name tower owners as additional

insureds on their commercial general liability policies. In turn, tower owners will provide comparable third-party insurance coverage to ground lessors or self-insure against covered risks.

J. Indemnification

Tower owners expect mutual indemnification obligations from ground lessors. Indemnification obligations typically include claims for property damage, personal injury and death. Tower owners will indemnify ground lessors for covered liabilities, unless liabilities are due to ground lessors' or third parties' acts or omissions, negligence or intentional misconduct. Conversely, ground lessors will indemnify tower owners for covered liabilities, unless liabilities are due to tower owners' or third parties' acts or omissions, negligence or intentional misconduct.

Unlike typical commercial real estate leases, tower owners are reluctant to indemnify ground lessors for claims due to tower owners' use and occupancy of leased premises, because those risk allocations increase tower owners' risk exposures more than those allocations do for commercial tenants generally. For example, commercial tenants can secure their leased premises from third-party intrusions and damages, but because cell tower sites are unmanned, tower owners can only be expected to take reasonable security measures and precautions to prevent such intrusions

and damages. Even if tower owners agree to use and occupancy indemnities, they expect their obligations to be limited solely to their own actions and include carve-outs for ground lessors' and third-party acts and omissions, negligence and intentional misconduct.

Ground lessors often request environmental indemnities from tower owners. Because environmental indemnities expose tower owners to potentially greater risks than property damage, personal injury and death claims (*e.g.*, remediation liability), tower owners may agree to environmental indemnities, but they will insist upon narrowly tailored clauses, which limit their exposures to environmental damages they cause specifically, in most cases, due to federal law violations. Conversely, tower owners expect ground lessors to accept environmental indemnification liability for all environmental law violations relating to activities on their properties, including third-party activities, but excluding tower owners' activities.

K. Consent–Subordination and Non-Disturbance

If mortgages or deeds of trust encumber ground lessors' properties at lease inception, tower owners require ground lessors to obtain each secured lender's consent to their ground leases and help obtain subordination and non-disturbance agreements from each secured lender. Tower owners generally agree to subordinate their leasehold interests to secured lenders' interests in the leased premises, in exchange for secured lenders granting their ground lease interests absolute recognition in the future, regardless of foreclosures or related actions.

L. Rights of First Refusal

Tower owners typically require rights of first refusal clauses (“ROFR”) in ground leases. ROFRs prohibit ground lessors from assigning ground leases or selling or assigning certain interests in tower owners' leaseholds to third parties, unless tower owners have had opportunities to match third-party offers.

ROFRs have become increasingly important to tower owners, because companies specializing in cell tower lease or rent stream buyouts are increasingly soliciting ground lessors with enticing financial deals in order to step into ground lessors' shoes, position themselves to charge tower owners inflated rents and otherwise hold hostage tower owners at lease term renewal intervals.

ROFRs allow tower owners to control their site features and the ground lessors with whom or which they

conduct business. Additionally, exercising ROFRs allow tower owners to control and comply with potential administrative burdens with which buyout companies may be less equipped to comply, such as granting consents underground leases and dealing with governmental authorities.

M. Taxes

Tower owners typically pay personal property taxes assessed upon their equipment and other personal properties at cell tower sites. Ground lessors should expect to pay all real estate taxes assessed upon ground lessors' properties, including any increased real estate taxes due to cell towers on their properties.

N. Equipment Removal and Restoration

Tower owners generally agree to restore leased premises to their original conditions, reasonable wear and casualty damages excepted. Tower owners typically agree to complete restoration work within 90-120 days after ground lease expiration or ground lease termination effective dates. Restorations generally include removing buildings, structures, equipment, conduits, fixtures and all other personal properties from the site. Although tower owners will not remove tower foundations completely due to expense and time considerations, most tower owners will remove all visible foundation and footing signs and, in some cases, remove footings to a few feet below ground surfaces.

O. Lease Memoranda

Tower owners expect rights to record lease memoranda in local recording offices to give the public constructive notice of their ground lease rights. In addition to basic ground lease terms including the lease parties' identities, commencement dates and term lengths, as with ground leases, a best practice is to incorporate surveys as exhibits to memoranda.

Ground lessors are sometimes reluctant to grant rights to record memoranda, because they fear recorded memoranda will continue as title clouds on their properties after lease termination or expiration. Despite this reluctance being generally unfounded, tower owners may be willing in limited cases to execute instruments terminating their recorded memoranda, which they will allow ground lessors to hold in escrow pending ground lease termination or expiration. Alternatively, tower owners may be willing to grant ground lessors limited powers-of-attorney to prepare and sign termination statements for recording upon ground lease terminations or expirations.

P. Utilities

Tower owners typically pay for utility charges attributable to their property uses. Most tower owners are willing, if possible, to have their tower sites separately metered for utility consumption and to directly pay utilities.

Q. Assignment and Subletting

Tower owners generally require absolute and unrestricted rights to assign ground leases and sublet leased premises. Tower owners may cede some assignment rights, if their absolute and unrestricted rights include affiliated company assignment and assignments resulting from sales of all or substantially all of tower owners' assets in applicable FCC markets for sites, mergers, conversions and consolidations. Tower owners are generally amenable to all other assignments being subject to ground lessors' consents, which consents ground lessors may not unreasonably withhold, condition, delay or deny. Because tower owners' businesses depend, in part, upon revenue from co-locating carriers, tower owners should not expect to limit tower owners' subletting rights.

Conclusion

Understanding the industry basics and negotiation concepts this article addresses should enable practitioners to effectively negotiate cell tower ground leases timely and without unnecessary negotiations and client expense. ▲

Endnotes

1. Cellular Telecommunications Industry Association (CTIA) Wireless Industry Survey 2016—<https://www.ctia.org/docs/default-source/default-document-library/annual-year-end-2016-top-line-survey-results-final.pdf?sfvrsn=2>. CTIA is a Washington, D.C.-based trade association representing the wireless communications industry in the United States.
2. In the United States, the Federal Communications Commission, an independent regulatory agency, administers spectrum for non-federal uses, including business and personal use. <https://www.fcc.gov/engineering-technology/policy-and-rules-division/general/radio-spectrum-allocation>.
3. CTIA Wireless Industry Survey 2016—<https://www.ctia.org/docs/default-source/default-document-library/annual-year-end-2016-top-line-survey-results-final.pdf?sfvrsn=2>.
4. Cell sites often involve licenses rather than leases. Unlike leases, which convey to lessees property interests in leased premises and are typically transferable and irrevocable, licenses grant licensees rights to use properties for specific purposes, do not transfer interests in the properties, and are typically non-transferable and revocable at licensors' wills. "One of the principal tests in determining whether or not the contract is to be interpreted

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as a lease or a license is whether or not it gives possession of the premises against all the world, including the owner, in which case a lease is intended, or whether it merely confers a privilege to occupy under the owner, thereby indicating a license." *Mason v. Carroll*, 269 So. 2d 879, 880 (1972). For this article's purposes, the distinction between leases and licenses is largely unimportant.

5. See Section 4 of this article entitled "Cell Tower Leases" for further discussion about "co-location" leases.
6. During the past decade, some carriers have built up tower portfolios, which they have sold to tower portfolio companies to raise working capital. For example, both T-Mobile and Verizon Wireless have sold substantial tower assets to Crown Castle.
7. "A utility shall provide . . . a telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it." 47 U.S.C. § 224(f)(1). "A utility providing electric service may deny a . . . telecommunications carrier access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory basis where there is insufficient capacity and for reasons of safety, reliability and generally applicable engineering purposes." 47 U.S.C. § 224(f)(2). See also 47 C.F.R. § 1.1403(a).
8. This article refers to carriers and tower portfolio companies in their capacities as ground lessees collectively as "tower owners."
9. See *supra* note 4.
10. Due to the large co-location lease volume one carrier may have with one tower portfolio company, carriers and tower portfolio companies tend to negotiate master lease agreements governing all their cell sites and enter into pro-forma schedules or supplements for each cell site.
11. Tower owners sometimes obtain perpetual easements instead of leases. Typical perpetual easements require tower owners to pay landowners one-time, lump sum payments, rather than recurring lease/rent payments in exchange for exclusive rights to use landowners' properties. Perpetual easements are generally irrevocable and grant the same or greater rights to tower owners as leases would. Easements may benefit landowners more than leases due to long-term capital gains tax advantage possibilities or tax deferral possibilities using 1031 like-kind exchanges.

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