

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of the Petition of

Case # 14-V-_____

VERIZON NEW YORK, INC.,

ANSWER TO PETITION

Petitioner,

For Orders of Entry for 21 Multiple Dwelling
Unit Buildings in the City of New York.

PLEASE TAKE NOTICE that Respondent 1265 Olmstead Avenue LLC ("Respondent") appears in this proceeding by Rose & Rose, and demands that all papers and documents be henceforth served upon the address stated below.

PLEASE TAKE FURTHER NOTICE that the said Respondent hereby interposes the following answer to the Petition herein:

1. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph 1.
2. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph 2.
3. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph 3.
4. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph 4.
5. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph 5.
6. Paragraph 6 consists of representations regarding events in the future, and therefore cannot be answered. To the extent any answer is possible, Respondent denies knowledge or information sufficient to form a belief as to the allegations in paragraph 6.
7. Paragraph 7 consists of representations regarding events in the future, and therefore cannot be answered. To the extent any answer is possible, Respondent denies knowledge or information sufficient to form a belief as to the allegations in paragraph 7, except that Respondent is aware that Petitioner cannot legally deprive Respondent of its right to just compensation.

8. Deny knowledge or information sufficient to form a belief as to the allegations in paragraph 8.
9. Paragraph 9 is a recitation of controlling statutory and regulatory provisions and does not require a response.

FIRST DEFENSE

10. The description of the work that Petitioner proposes to undertake is taken from a boilerplate form and contains no information specific to 1265 Olmstead Avenue, Bronx, NY.
11. As such, the petition fails to set forth sufficient particulars regarding the description of the equipment to be installed; the method of installation; the anticipated costs; and the measures taken to minimize the aesthetic impact of the installation.
12. As such, the Petition is defective pursuant to 16 NYCRR §898.4(b)(4), and must be denied and dismissed.

SECOND DEFENSE

13. The petition includes no proof of insurance and no other evidence of Petitioner's ability to indemnify Respondent for any damages caused by Petitioner's installation, operation or removal of its equipment.
14. Further, Petitioner does not even represent in the Petition that it will indemnify Respondent from damages caused by the operation or removal of its equipment. Only damages caused by installation are mentioned in the Petition.
15. As such, the Petition is defective pursuant to 16 NYCRR §898.4(b)(6), and must be denied and dismissed.

THIRD DEFENSE

16. Petitioner has made no meaningful attempt to ensure that, in its installation, and later in the operation and removal of its equipment, it will adequately protect the safety, functioning and appearance of the subject building.
17. Petitioner has failed and refused to permit Respondent's professional engineer to even review its request. Respondent is entitled to professional review of Petitioner's request, to be paid for by Petitioner as a cost of the installation, because Respondent has the statutory right pursuant to PSL §228(1)(a)(1) to determine the conditions that will adequately protect the safety, functioning and appearance of the subject building.
18. As such, Petitioner is entitled to no relief on its Petition; the Petition must be denied and dismissed.

WHEREFORE, Respondent requests that the Petition be dismissed in its entirety; and that the Commission grant such other and further relief as may be just and proper.

Respondent reserves the right to supplement this submission and/or to supply further evidence. Further, Respondent expressly reserves its right to seek just compensation for any taking, including but not limited to such rights as are set forth in 16 NYCRR §898.5

Dated: New York, New York
April 17, 2014

Yours, etc.,

Rose & Rose



By: Paul Coppe, Esq.

Attorneys for Respondent

291 Broadway, 13th Floor

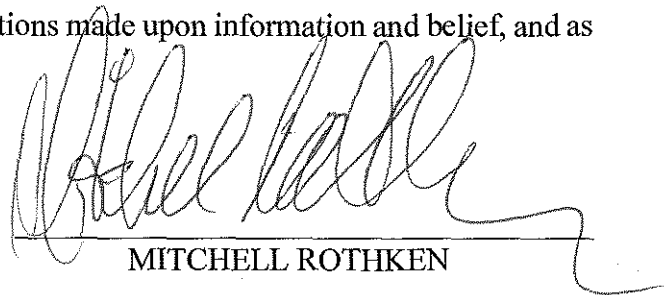
New York, New York, 10007

(212) 349-3366

VERIFICATION

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

MITCHELL ROTHKEN, being duly sworn, deposes and says, I am employed by Beach Lane Management, Inc., the company that manages 1265 Olmstead Avenue, Bronx, NY. In such capacity, I am familiar with the matters set forth herein. I have read the foregoing answer and know the contents thereof to be true, except as to those allegations made upon information and belief, and as to those allegations, I believe them to be true.


MITCHELL ROTHKEN

Sworn to before me this
17th day of April 2014

Notary Public

DEAN DREIBLATT
Notary Public, State of New York
No. 02DR4979144
Qualified in Westchester County
Commission Expires March 18, 2015