

Town of Franklin

355 East Central Street
Franklin, Massachusetts 02038-1352



Phone: (508) 520-4949
www.franklinma.gov

OFFICE OF THE TOWN ADMINISTRATOR

Memorandum

May 15, 2020

To: Town Council

From: Jamie Hellen, Town Administrator

Re: Resolution 20-27: Cell Tower Easement

I am requesting that the Council amend a current easement at 121 Longhill Road grant by executing a subordination of access easement.

As you know the Town of Franklin is in the process of moving all of its public safety communication gear to town public property. Eventually, access to this tower will not be needed. However, the easement continues to allow public access for public safety in perpetuity. The subordination is required in order for the estate of Shirley French to open the tower up for additional commercial use.

If you have any additional questions please feel free to ask.



Resolution 20-27

Authorization to Execute Subordination of Access Easement:

Cell Tower on Land of Shirley A. French, Trustee at 121 Longhill Road

WHEREAS, Shirley A. French, as Trustee of French Family Trust (hereinafter: French, Trustee), is the titleholder of record of land located at 121 Longhill Road, Franklin, and

WHEREAS, French, Trustee, granted an access easement to Town of Franklin to provide Town with access to a cell tower located on said property, together with the right to attach and maintain public safety communications antenna thereon, said easement being dated March 3, 2017 and recorded at Norfolk County Registry of Deeds in Book 34995 at Page 190, and

WHEREAS, French, Trustee has granted or intends to grant an easement to Global Tower Assets III LLC, and its successors and assigns (hereinafter: Global) to access, use, and maintain said cell tower and Global requires Town to subordinate its easement to the easement granted or to be granted to Global by French, Trustee, and

WHEREAS, Town has determined that it may so-subordinate without prejudice to its rights to continue to access and use the cell tower.

NOW THEREFORE BE IT ORDERED by the Franklin Town Council, acting on behalf of the Town of Franklin, that the Franklin Town Administrator is hereby authorized to execute the document captioned "Subordination of Access Easement", a true copy of which is attached hereto as "Exhibit 1"; a true copy of this resolution may be recorded, together with the original executed copy of "Exhibit 1", at Norfolk County Registry of Deeds.

This resolution shall become effective according to the provisions of the Town of Franklin Home Rule Charter.

DATED: _____, 2020

VOTED:
UNANIMOUS: _____

YES: _____ **NO:** _____

ABSTAIN: _____

ABSENT: _____

RECUSED: _____

A True Record Attest:

Teresa M. Burr, CMC
Town Clerk

Glenn Jones, Clerk
Franklin Town Council

SUBORDINATION OF ACCESS EASEMENT

The Town of Franklin (the “Town”), a duly-organized municipal corporation with administrative offices located in the Municipal Building, 355 East Central Street, Franklin, Norfolk County, Massachusetts, holder of a certain easement described in Grant of Access Easement dated March 3, 2017 and recorded at Norfolk Registry of Deeds in Book 34995, Page 190 (the “Access Easement”), and Shirley A. French, Trustee of French Family Trust, u/d/t dated December 30, 1978 (the “Trust”) and recorded at Norfolk Registry of Deeds in Book 5898, Page 76, hereby amend the Access Easement as follows:

1. The Access Easement and the rights thereunder shall be and hereby are subordinate to and junior in right to any easement rights that have been given or will hereafter be given by the Trust to Global Tower Assets III, LLC, and its successors and assigns (the “Easement”), to the same extent as if the Easement had been executed and recorded prior to the execution and recording of the Access Easement.

Nothing herein shall affect the Town’s continued right to access and use the “80 ft. tower” referenced in the Access Easement for the Town’s public safety communications antenna and support equipment.

[Signatures on following pages]

Witness the execution hereof under seal the ____ day of _____, 2020.

Town of Franklin

By: _____
Title: _____
Duly authorized

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared _____ proved to me through satisfactory evidence of identification which was [] Massachusetts driver's license, or [] _____, to be the person whose name is signed on the preceding or attached document and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

Witness the execution hereof under seal the ____ day of _____, 2020.

French Family Trust

Shirley A. French, Trustee

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared Shirley A. French, Trustee of French Family Trust proved to me through satisfactory evidence of identification which was [] Massachusetts driver's license, or [] _____, to be the person whose name is signed on the preceding or attached document and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

From: **Kari-Ann Greene**

Date: Mon, May 11, 2020 at 10:34 AM

Subject: Cell Tower - Town Easement

To: [Mark Cerel](#)

Cc: Peter Brown

Attorney Cerel,

Thank you for taking the time to speak with us last week. It was very helpful to gain insight into the Town's concerns.

Thinking back over our conversation, I do not recall if we discussed the exact nature of the cell tower sale. Shirley French is essentially selling an easement to American Tower. She is not selling the property, or a portion of the property, where the cell tower is located because, among other reasons, there is a house located on the property.

After our discussion, we looked over the Town's Access Easement to try to come up with a solution that would address the Town's concerns. After reviewing the language under the Access Easement, we believe that a subordination of the Access Easement is necessary. We have come to this conclusion because language under the Access Easement gives the Town authority over the easement area, including the authority to control the relocation of the easement and prevent the erection of structures and acts within the easement area. American Tower will not proceed with purchasing the easement if the Access Easement is not subordinated to their easement.

We also did a quick title search and realized that the Town's Access Easement is already junior to three other easements on the property, namely: (1) Mass Electric, (2) Verizon, and (3) Comcast.

As touched on in our call, our client is not interested in any way disrupting the Town's current access and use of the cell tower, or in any way terminating the Town's Access Easement. We have drafted the attached subordination with language specifically stating that the Town's continued access and use of the cell tower will not be affected by the subordination to American Tower's easement.

We welcome any input you have and look forward to promptly wrapping up this matter in a way that satisfies the Town's concerns and allows Shirley to proceed with the cell tower sale.

Thank you,

Kari-Ann E. Greene, Esquire

D'Ambrosio Brown LLP

Counselors At Law