

# MICHAEL BEST

& FRIEDRICH LLP

Michael Best & Friedrich LLP

Attorneys at Law

One South Pinckney Street

Suite 700

Madison, WI 53703

P.O. Box 1806

Madison, WI 53701-1806

Phone 608.257.3501

Fax 608.283.2275

Steven L. Ritt

Direct 608.283.4421

Email [slritt@michaelbest.com](mailto:slritt@michaelbest.com)

May 2, 2011

## VIA HAND DELIVERY

Mr. Roger W. Lane  
Dane County Zoning Administration  
Room 116, City-County Building  
210 Martin Luther King, Jr. Blvd.  
Madison WI 53709

Re: **Petition/CUP 2157**  
**Appeal under Dane County Ordinance 10.255(2)(j)**

Dear Roger:

Our client, Magnum Communications, Inc. (the "Petitioner"), hereby appeals to the Dane County Board (the "County Board") and requests that the County Board reverse the denial of Petition/CUP 2157 by the Town Board of the Town of Rutland (the "Town Board") and refer the application to the Zoning & Land Regulation Committee with instructions to draft appropriate conditions and issue the CUP and the related zoning. The grounds for this appeal include, but are not limited to: (1) that the Town Board wrongfully ignored information provided to it by the Petitioner in response to the Town Board's request(s); (2) the Town Board wrongfully ignored information provided to it by the Petitioner demonstrating Petitioner's compliance with the Town's Ordinance No. 12.5; and (3) the Town Board failed to provide any findings of fact, any rationale, or other explanation or record regarding its decision(s) and therefore arbitrarily and capriciously denied the Conditional Use Permit Petition filed by the Petitioner.

The Petitioner is aggrieved in numerous ways, not the least of which is the fact that without the Conditional Use Permit, Petitioner will be unable to construct the tower necessary to relocate its radio station to Stoughton, the new city of licensure approved by the Federal Communications Commission. The Petitioner is further aggrieved in that it has sustained significant costs and obligations in good faith reliance on representations made by Planning Staff and the Town of Rutland Town Board Chairman concerning the process for review and approval of the subject Petition, yet has been denied by the Town Board for no justifiable reason.

Petitioner requests that the Zoning Administrator transmit this appeal to the County Clerk to be then filed with the County Board, and that the County Board fix a reasonable time for hearing of this appeal and give due notice to all parties as required under 10.255(2)(j) of the Dane County Ordinance.

# MICHAEL BEST

& FRIEDRICH LLP

Mr. Roger W. Lane  
May 2, 2011  
Page 2

In speaking with Majid Allan of your office, he indicated that there was no form your office could provide for submitting this appeal. We have included the following documentation:

- Town Board Action Report
- Dane County Rezone & Conditional Use Permit Application
- Engineering Statement Prepared for Dane County Re: Proposed WBKY Tower Site #2157 Township of Rutland Application for CUP dated January 25, 2011
- Petitioner's Responsive Submission dated April 10, 2011 to Questions from the Town Board

In the event you require anything further in order to make this appeal timely and/or complete, please contact me as soon as possible.

Finally, it is my understanding that the Zoning & Land Regulation Committee will take up the rezoning issue at its meeting on May 10, 2011. If my understanding is not correct, please contact me with the correct information. Thank you for your time and consideration in this matter.

Sincerely,

**MICHAEL BEST & FRIEDRICH LLP**



Steven L. Ritt

SLR:ljb

Enclosure

cc: Mr. David Magnum  
Magnum Communications, Inc.  
Mr. Todd Violante  
Director  
Dane County Planning & Development

029538-0001\9135096.2