

# Is Your Spire for Hire?

What you need to know when a cellular phone company contacts your church

ROB HALL

**A**T FIRST GLANCE, there is nothing unusual about the cross at Grace Covenant Church in Lakewood, Colorado. It stands on a tower next to the church, and reaches fifty-five feet in the air. Besides serving a sacred purpose as a symbol of the church, the tower also has a secular purpose—it's a cell phone tower.

Grace Covenant Church is one of a growing number of churches in the United States that serve as sites for cell phone towers. In 1999, about 500 churches in the United States had cell phone towers, according to Jim Fryer, publisher of *Fryer's Site Guide*, which lists tower sites. That number has grown to 1,200 churches in 2001. The most well known, according to *Wired* magazine, is the National Cathedral in Washington, D.C., which has a 234-foot-tall antenna on its west tower. Motorola pays an estimated \$100,000 per year for the use of the tower.

With the number of cell phone users in the United States now over 100 million, cell phone companies face a growing need for cell phone towers—more than 200,000 in the next six years, says Fryer. At the same time, many communities have made it difficult for companies to build new towers. So companies have looked at alternate sites, such as water towers, billboards, and church steeples.

"Generally, in a small town a church is the tallest site in the area," says Fryer, who is also an elder at his church. "They are usually receptive because they need the money. It's a good match, because they have the space, they have the elevation, and are willing to put a tower up."

While most churches will probably not get \$100,000 for a cell phone tower, they may get as much as \$1,000 to \$2,500 per month (or \$12,000 to \$30,000 a year) depending on supply and demand. That makes hosting a cellular tower an attractive possibility for churches, which can almost always use more money to fund more ministries.

But there are costs to hosting a cell tower. Neighbors or church members may be offended by a cell tower on church property, and complain that a cell tower mars the view of the church. Church members may also have ethical questions and legal questions about using the church property for commercial means. And there may be tax and zoning questions as well. If your church is approached by a cellular provider about hosting a cell tower on the church property, here are some things to consider.

### Negotiate

Since cellular service providers negotiate these deals all the time, they have an unfair advantage over a church, which in most cases is negotiating a cell tower lease for the first time. In some cases, a cellular company will offer a price as low as \$500 a month as an initial offer. “Five hundred dollars a month

a church know if a cellular provider has other options. If they can build at other sites, the company will be less likely to negotiate lease payments.

### Number of antennas

Cell towers often have more than one antenna on them. Any lease should identify the number of antennas, and set either a maximum number of antennas or rent increase for each new antenna added. In their negotiations, Grace Covenant asked the cellular service provider to build a tower that would accommodate additional antennas. The church then reserved the right to find users for the additional antenna sites.

### Length of lease

Another issue to consider is the term of the lease. Most standard cell tower leases are for five years, with the service provider having the sole option to renew that agreement for up to four

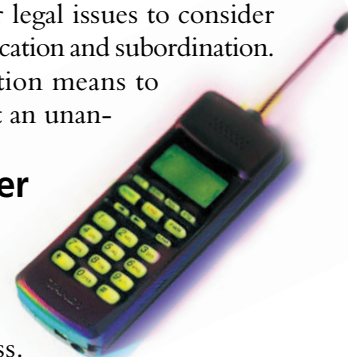
mornings and Wednesday evenings. If the provider needs access to the church building, the lease should include payment for having someone open the building after normal business hours. Also be sure that the lease obligates the cellular service provider to maintain the tower. Specific maintenance standards should be addressed.

### Legal issues

Having a cell tower on church property has legal ramifications. The cell tower must conform to all Federal Communications Commission and Federal Aviation Administrations regulations. Never sign a cell tower lease without consulting an attorney, preferable one that has experience in negotiating cell tower leases.

Two other legal issues to consider are indemnification and subordination. Indemnification means to guard against an unan-

## With the number of cell phone users in the United States now over 100 million, cell phone companies face a growing need for cell phone towers—more than 200,000 in the next six years...



is theft,” says Fryer. “I am not sure that companies are trying to be underhanded but they know that the church could be a little naïve and could be taken a advantage of.”

Fryer says that \$1,000 to \$2,000 a month is a reasonable price, depending on the church’s location. “If it’s a premium site,” he says, “and the carrier has had trouble building a tower in other locations because of zoning, \$2,500 to \$3,000 is not out of the question.”

Grace Covenant Church decided to form a negotiation team to work on its cell tower project. Grace’s team was made up of two members, an engineer and salesperson, that both routinely negotiated contracts in their jobs. They asked the cellular service provider for proposed terms for the church council to review. The team investigated the going rate for a cell tower lease in their area, and then asked the cellular provider for a better offer.

Researching the market also helps

additional terms at five years each. In that case, the lease could affect the church for twenty-five years. Harold Larson, an attorney and member of Faith Covenant Church in Farmington Hills, Michigan, routinely negotiates cell tower leases. He says that churches should sign up for a shorter period of time. “At most you should have one five-year term and one five-year extension,” says Larson. “After that there needs to be a renegotiation.”

Most cell leases provide for increases in lease payments. Make sure the increases take place at the end of each year, not at the end of the lease term. The rent increases should also be tied to a specific figure (e.g., 3 percent of the lease payment).

### Access and maintenance

Most cell leases request access to the site twenty-four hours a day, seven days a week. In most cases, you can negotiate a period where access is denied, for instance during services on Sunday

anticipated loss.

Often cell tower leases protect the cellular provider against loss, but fail to protect the church. Larson suggests that the indemnification clause should protect both parties. It should also be limited to actions by one of the parties. Acts of God, like weather or other disasters, should be removed from the indemnification section.

Subordination clauses address any liens against the church property, like a mortgage. If a lender forecloses on a church, the cell phone provider could be evicted. Larson says that as an alternative, he will ask the lender for a non-disturbance agreement, where the lender agrees not to evict the cellular

---

**Rob Hall is associate director of technical and legal services for the Department of Church Growth and Evangelism and a regular contributor to the *Companion*. This article is designed to provide accurate and authoritative information in regard to the subject matter covered. The author is not engaged in rendering legal service. If legal advice or other expert assistance is required, consult with your attorney.**

## Checklist for Cell Tower Lease Negotiations

- ❑ Appoint a negotiation team.
- ❑ Investigate the market—find out what the going rate is for cell tower leases.
- ❑ Determine a structure for the deal that the church will be comfortable with, including the length of lease, access to the tower and equipment, maintenance, additional antennas.
- ❑ Consult with attorney on legal issues of zoning, indemnification and subordination, compliance with FCC and FAA regulations, and property exemption.
- ❑ Solicit input from the congregation and be respectfully of opposing views.
- ❑ Talk to neighbors and city officials to gauge their receptivity to a cell tower in the community. ❑

service provider for a year in the event of a foreclosure.

### Taxes

Having a cell tower can affect a church's property tax exemption. Grace Covenant was informed they would be taxed on the percentage of their property that the cell tower took up. However, the tower took up such a small part of the church's property that they owed no taxes. This situation can be addressed in the lease. Larson recommends that a clause be inserted that states that if church loses its property tax exemption on the cell tower property, the cellular service provider will reimburse them for the taxes.

### Who owns the tower?

Another important legal issue to consider is whether the tower is considered personal property of the service provider or a fixture of the church building. If the cell tower and equipment are fixtures, then at the end of the lease, the church owns the tower. The church then has to pay the cost of removing it. The church should instead insist that the cell tower and equipment are personal property of the service provider, and must be removed at the end of the lease.

### Ethical considerations

When Libertyville Covenant Church in Illinois was approached about placing a cell tower on its property some members of the congregation raised ethical concerns. "I was concerned about whether the church should be making a profit in this manner," says Twyla Becker. In response, a study group was formed to look at the biblical passages on Christians and businesses. The group concluded that, "Scripture does not exclude Christian participation in secular business activities. Instead, Jesus directs his followers to participate wisely, with the purest of motives, and with the intent of bringing glory to God."

In the end the church approved the cell tower project, with all of the funds from the tower used for outreach programs within the community. (The cellular service provider decided, for reasons unrelated to the church's debate, to locate the tower in another location.)

Grace Covenant Church also decided to use all of the money from the cell tower on outreach and mission projects. "We spent four or five months working through this with the congregation to make sure we were being good stewards of what God had placed in our laps," says Grace's pastor Tom Collins.

### What will the neighbors think?

"Even more important to us than the amount of money we would get," says Collins, "was making sure the cell antenna made a positive contribution to the property and did not offend the neighbors." All cell towers in Colorado must be disguised as so-called "stealth-towers." So the cellular service provider constructed a tower next to the church, with a cross on top. The antenna is hidden inside the cross.

"The only regret we have is we wish we would have seen a larger scale mock-up of the tower," Collins says. The church would have wanted some slight changes, which Collins believes the cell company would have honored.

### Beware of saying no

Churches must also be aware of the

consequence of saying no to a cellular service provider. Steve Dawson, director of technical services for the Evangelical Covenant Church, tells of a church that turned down a cell tower lease only to have their neighbor say yes.

"The neighbor placed the cell tower on their property in such a way that it affected the view from the church," says Dawson. "If the church had said yes to the cellular provider, they would have put the cell tower on the back part of the church's property. In this case the church had the negative affect of having a cell tower in the area without the financial rewards of the lease."

In the end the church needs to remember that they have something that the cell provider needs. Use this leverage to the fullest. Harold Larson says, "Do not be intimidated working with a big cellular phone company. You have the opportunity to negotiate most terms of the lease agreement because the supply of cell antenna sites is low, but the demand is high. I have never had to give in on an issue that I felt was important." ❑

## HEALTH RISKS?

Some people believe that prolonged exposure to cell phones and cell antennas may increase a person's risk of cancer. This position should be disclosed to the church membership when they are considering whether to allow a cell tower on their property. The cellular phone company that Grace Covenant Church in Lakewood, Colorado, worked with provided them information that showed that the risk was low.

Harold Larson, an attorney from Faith Covenant Church, in Farmington Hills, Michigan, has negotiated clauses into cell tower leases that say if the church can provide substantial evidence of a health risk, the church can terminate the lease. However the cellular service provider can challenge this action in court.

Churches are encouraged to do their own research and not rely solely on the information provided by the cellular service provider. ❑