

Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
David Chappell)	File No.: EB-FIELDNER-16-00021016
Owner of Antenna Structure)	NOV No.: V201732340001
ASR# 1050171)	
)	
Owenton, Kentucky)	

NOTICE OF VIOLATION

Released: October 25, 2016

By the Regional Director, Region One, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to David Chappell, the owner of an antenna structure located on US Highway 227 (Lat. 38° 34' 30.8" N; Long. 84° 49' 21.7" W) in Owenton, Kentucky (Owenton antenna structure). Pursuant to Section 1.89(a) of the Commission's Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.²

2. On January 15, 2016, an agent of the Enforcement Bureau's Detroit Office inspected the Owenton antenna structure. The following violations were observed:

- a. 47 C.F.R. § 17.23: "Unless otherwise specified by the Commission, each new or altered antenna structure must conform to the FAA's painting and lighting specifications set forth in the FAA's final determination of 'no hazard' and the associated FAA study for that particular structure. For purposes of this part, any specifications, standards, and general requirements set forth by the FAA in the structure's determination of 'no hazard' and the associated FAA study are mandatory." The Owenton antenna structure is subject to Antenna Structure Registration (ASR) No. 1050171, which applies painting and lighting requirements from Chapters 4, 6, and 12 of FAA Circular Number 70/7460-1K. ASR No. 1050171 also states that the antenna structure is 88.1 m (289 feet) in height. Chapter 4 of FAA Circular Number 70/7460-1K indicates that antenna structures of that height

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

Federal Communications Commission

require daytime, twilight, and nighttime lighting.³ At the time of the inspection, all of the obstruction lighting was extinguished.

- b. 47 C.F.R. § 17.48(a): “The owner of an antenna structure which is registered with the Commission and has been assigned lighting specifications...shall report immediately to the FAA, by means acceptable to the FAA, any observed or otherwise known extinguishment or improper functioning of any top steady burning light, regardless of its position on the antenna structure, not corrected within 30 minutes.” The obstruction lighting outage had not been reported to the Federal Aviation Administration.
- c. 47 C.F.R. § 17.56. Replacing or repairing of lights, automatic indicators or automatic control or alarm systems shall be accomplished as soon as practicable. On October 3, 2016, David Chappell informed a Columbia Office agent that the obstruction lighting on the antenna structure had not been repaired since the FCC inspection on January 15, 2016.
- d. 47 C.F.R. § 17.57: “The owner [of an antenna structure] must also notify the Commission within 5 days of any change in structure height or change in ownership information (FCC Form 854).” David Chappell had never notified the Commission that he purchased the antenna structure from Joseph and Deborah Zapotoczny on August 26, 2014.⁴

3. Pursuant to Section 403 of the Communications Act of 1934, as amended,⁵ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, David Chappell must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁶

4. In accordance with Section 1.16 of the Rules, we direct David Chappell to support his response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by David Chappell, verifying the truth and accuracy of the information therein,⁷ and confirming that all of

³ See Federal Aviation Administration, Advisory Circular: Obstruction Marking and Lighting, FAA AC 70/7460-1K (2007), available at http://www.faa.gov/documentLibrary/media/Advisory_Circular/AC%2070%207460-1K.pdf (FAA Obstruction Marking and Lighting Circular) at 9, ¶ 42 a, b, and d.

⁴ The Deed of Conveyance shows that David Chappell is the current owner of the property.

⁵ 47 U.S.C. § 403.

⁶ 47 C.F.R. § 1.89(c).

⁷ Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on

Federal Communications Commission

the information requested by this Notice which is in David Chappell's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁸

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Columbia Office
9200 Farm House Lane
Columbia, Maryland 21046

6. This Notice shall be sent to David Chappell at his address of record.

7. The Privacy Act of 1974⁹ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

David C. Dombrowski
Regional Director
Region One
Enforcement Bureau

(date). (Signature)'." 47 C.F.R. § 1.16.

⁸ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

⁹ P.L. 93-579, 5 U.S.C. § 552a(e)(3).