

Subject: Fwd: Arundel deal unfair, too sweet, critics say

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>From the Baltimore Sun

Subject: FWD: Arundel deal unfair, too sweet, critics say

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It was sent with the following comments:
"Tower rental article"

Headline: Arundel deal unfair, too sweet, critics say
Subhead: Politically connected lessees got reduced rate on tower rental

By Laura Sullivan
SUN STAFF

Tower leases

A sampling of firms that hold cellular phone tower leases with Anne Arundel County and the terms they've been granted:

Bell
Atlantic/Nynex Mobile: \$38,971, 4 percent yearly increases, no subletting.

APC Realty: \$23,796, 4 percent yearly increases, no subletting.

AT&T
Wireless Services: \$22,000, 4 percent yearly increases, no subletting.

Cellco

Partnership: \$22,000,

4 percent yearly increases, no subletting.

Everybody else is paying \$20K to \$38K, Sapperstein, Winer, & Delavan's West Shore Communications are paying only \$4K

West Shore Communications: \$4,000, 4 percent yearly increases, subletting allowed.

Anne Arundel County officials granted two politically connected businessmen a deeply discounted lease for a cellular phone tower -- a deal that could end up costing the county \$300,000 in lost revenue by 2006.

Some County Council members now are criticizing the lease, which is unlike any other the county has signed.

Developer Jay Winer and land-use lawyer Fred Delavan, volunteer members of the Anne Arundel Economic Development Corp., signed a five-year lease in June 1996 for \$4,000 a year. The county's 14 other lease customers pay at least \$22,000 a year.

In addition, Winer and Delavan were allowed to sublet tower space and keep 75 percent of the revenues they collect, though other lease customers are forbidden to sublet. In just two years, their company, West Shore Communications, netted more than \$42,800 by subletting tower space.

No county official can explain the unusual terms of the lease to West Shore Communications, and no county records have been kept to show who authorized them. Council members never saw the lease. Several weeks before then-County Executive John G. Gary signed it, County Councilman John J. Klocko III pushed through legislation ending a requirement that the council approve tower leases.

Klocko, a District 7 Republican, and Gary both received campaign donations from the businessmen around the time the lease was signed. Gary defends the deal, as do Winer and Delavan.

But Klocko said, "It was certainly never the intended outcome of the legislation to not get a fair market price for those towers. In fact, the goal was to get the most money possible for the county, not to let a sweetheart deal slip through. The price they got was absolutely too low."

Gary said that Winer and Delavan "are businessmen who are giving of their time willingly and freely to serve the county. They are successful people and to impugn their integrity because they are making money causes good citizens not to serve."

Winer said he, Delavan and a third partner, Mark Sapperstein, simply saw an opportunity and negotiated a good deal for the tower in Pasadena. He sees no conflict between the arrangement and the work that he and Delavan do with the AAEDC board, which helps boost county revenue by recruiting and retaining businesses.

Delavan said neither he nor Winer used their connections on the board, whose members frequently do business with the county officials in the land lease office, to get a better deal.

"I had no way of knowing that other companies were paying more," Winer said. "It's like in any other business. It's hard to freeze a deal in time and see what it looks like now."

Delavan said: "The county had ample time to verify if it was a good price. Our negotiations probably lasted more than 18 months. It is important to remember that some sites are more valuable than other sites and command a better price."

Winer and Delavan sold their shares of West Shore to their partner in 1997. Neither would disclose the price, but Winer said he made little money. In May West Shore sold its assets, including the county lease, which may be extended a second time until 2016, for \$8 million to Pinnacle Towers Inc., a Florida communications company.

The towers, county water tanks with an antenna bolted to the top, carry conversation and messages to cellular phones and pagers. Communication companies use them to fill in gaps in cellular phone and paging coverage.

The county generally negotiates leases directly with cellular phone companies.

But in Winer and Delavan's case, West Shore -- and now Pinnacle -- can rent to cellular phone companies and keep 75 percent of the money they make. According to county records, West Shore predicted that their percentage will be more than \$300,000 over 10 years from the start of the lease.

If Winer and Delavan had tried to obtain West Shore's lease a month earlier in 1996, former council members say now, they would have blocked it. But in April 1996, Klocko argued for a bill that took the council out of the process of approving leases. His bill required only that the Central Services Department approve and the county executive sign leases. The bill was unanimously approved.

"This deal does not appear to follow the intention of the bill as I remember it," said former County Council President Diane R. Evans. "Somebody needs to answer why."

A week after Klocko's bill became law in late May 1996 Delavan's law firm and Academy Junction, a business over which Winer presides, made two donations of \$500 to the slate of Klocko and former council members Bert L. Rice and William Mulford. The firms had never given money to these politicians before.

Delavan made a personal donation to Gary the day he signed West Shore's lease. Winer donated \$500 the week before. By the end of the 1998 campaign, the men and their firms had given more than \$5,500 to Gary and more than \$1,500 to Klocko's slate. Klocko called the timing coincidental, and said the contributions were connected to a campaign drive. He said he considers Winer and Delavan acquaintances and did not know they had donated to his campaign.

Delavan said he knows Klocko well, though they are not personal friends, and has worked with him on legislation in the past.

"I came up with the idea for the bill after several of the leases came before the County Council," Klocko said. "The council sometimes takes months to review leases. It was meant to make the county commercially responsible to an emerging market."

Winer and Delavan denied pushing for legislation about cell phone towers and said they didn't even know Klocko had introduced such a measure.

However, in a March 28, 1996, letter to Spurgeon Eismeier, county real estate manager, Delavan wrote: "You indicated to me that prior to the execution of a lease for this site pursuant to County Council bill 23-96 [Klocko's legislation] we would amend the existing license agreement to permit our use of the

antenna. I would suggest that the `license fee' be the same amount suggested in our original lease document, namely \$2,000 [a year.]"

Ultimately, the deal called for a \$4,000 annual payment, with a 4 percent yearly increase and an agreement that West Shore could keep 75 percent of the profits from subletting.

County records are unclear about who negotiated the lease with Winer and Delavan.

Jerry Klasmeier, chief county administrative officer now and director of Central Services at the time, said that he remembered the lease but that the Department of Public Works handled county property leases, not his department.

Department of Public Works Director John Brusnighan said through his spokesman that his department had turned county leases over to Central Services, Klasmeier's department, months before negotiations on the West Shore lease.

"John's recollection is that Jerry more or less directed the negotiations, that's his recollection," said Brusnighan's spokesman, John Morris.

Klasmeier said he discussed the lease with Brusnighan and Thomas C. Andrews, then the county's chief administrative officer. No minutes were taken, Klasmeier and Brusnighan declined to discuss what happened, and Andrews, now the county land-use officer, said he doesn't remember the meeting.

"There was nothing sinister about the lease," Klasmeier said. "There was a lot of confusion. We were in virgin territory."

According to county records, Eismeier had "standardized" the leases in December 1995, three months before the start of the West Shore talks, at a cost of \$22,000 a year.

On the day Gary signed West Shore's lease, he signed one of those "standardized" agreements with AT&T Wireless Services for a tower in Glen Burnie for \$22,000 a year. Weeks before West Shore got its lease, the county signed a lease with Bell Atlantic Mobile for \$38,971 a year -- increasing to \$47,000 in 2001.

Some county officials were disturbed by the proposed West Shore lease, including Eismeier, who wrote an interoffice memo to Klasmeier and Brusnighan about how much lower it was than other leases.

County records do not reveal who authorized the lower rate for Winer and Delavan despite the warning.

"I didn't negotiate those leases," Gary said.
"In fact, that's the whole reason of having a land use office and law office. I may have signed [the Glen Burnie and West Shore] leases within a day of each other, but I signed sometimes 25 documents a day."

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