

Errata and Addenda
To Antenna Zoning – Professional Edition

By
Fred Hopengarten, Esq.
As of January 7, 2010

Page iv

Typo. Footnote 1 presently reads: Don't get excited. This book is not about commercial antenna zoning. The case just proves these things do happen.

Should read: . . . This book is about commercial antenna zoning. . . .

Page vi

Typo. Insert comma after Jim Cain K1TN and before Christopher C. Ercoli (Union College '06)

Page 13

Typo in 2.4.2: Presently reads: McConnell is an ARRL volunteer counsel . . .

Should read: O'Connell is an ARRL Volunteer Counsel . . .

Page 35 Insert

3.2.3.4 *Must You Use a Local Attorney?*

It is not unusual for communications attorneys to handle cases all over the country. Here's an often-asked question: "When you appear before an out of state zoning board do you seek advance authorization as a lawyer, or just as an expert?"

The answer? Usually, neither. Only a court can grant permission to appear *pro hac vice* (meaning: for this occasion). And anyone (an architect, a surveyor, a contractor) can usually represent a homeowner before a zoning board. Sometimes a lawyer must file an appearance at the time of a hearing, sometimes there is no form or even a method to file anything. But in most cases, ABA Model Code §5.5(c)(2) applies:

(c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

...

(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

Source: http://www.abanet.org/cpr/mrpc/rule_5_5.html

Discovering a state's local rule with respect to ABA Model Rule 5.5(c)(2), to see if it has been adopted in your jurisdiction or not (California is the biggest holdout), is actually pretty easy. The American Bar Association keeps track. See <http://www.abanet.org/cpr/mjp/home.html>, click on "Quick Guide Chart on State Adoption of Rule 5.5," and download "quick-guide_5.5-1.pdf."

If a radio matter may eventually appear in the local US District Court, because of federal preemption (whether a matter of zoning, or RF interference), there is a reasonable expectation (except in California, or any other state that has not adopted Rule 5.5(c)(2)), that a lawyer may be authorized to appear in that potential proceeding. End of worry.

Even where it is not required, it may be advisable to bring in a local attorney at some point, but that is another discussion.

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The process begins by obtaining and filing FAA Form 7460-1, . . . listed on the cover page. **These days the FAA seems to prefer an e-filing. Start at <https://oeaaa.faa.gov>.**

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pro hac vice