

Danger: Zoning in Process

If Your Job Requires That You Deal With Antenna Zoning, Read This Book

Fred Hopengarten has done a great favor for anyone who must deal with zoning while planning a tower project (and these days, that's just about anyone involved with antennas).

He has written a hardcover book, with accompanying CD-ROM, called "Antenna Zoning: Professional Edition." It is a valuable addition to your broadcast management bookshelf, dense with useful information and supporting materials.

Hopengarten is a communications lawyer who spends most of his time on antenna leasing and zoning matters. He's also widely published — you've seen his name in Radio World — a popular speaker and a consultant to venture capital firms on their communications investments. I notice buried in his impressive bio that he is not only a graduate of Harvard Business School and former law clerk to the chairman of the Federal Trade Commission but, far more impressively, that he was chief engineer of his college radio station at Colby College.

A while back he wrote a book on zoning aimed at hams; Hopengarten, K1VR, is a volunteer counsel for the American Radio Relay League. This latest effort came about when Chris Imlay, general counsel of the Society of Broadcast Engineers, told him that professionals could use such a book too.

Wear the white hat

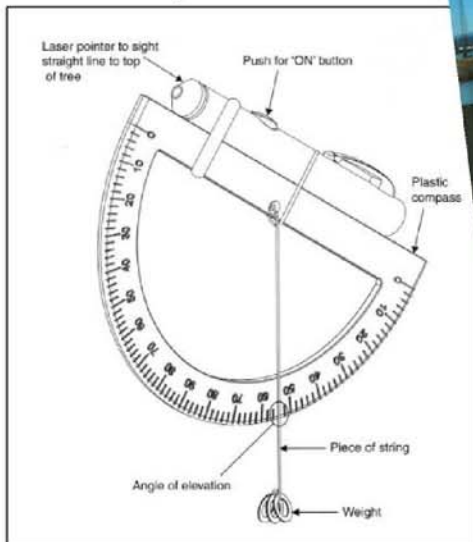
Allow me to share a few of his principles:

You must commit yourself to win — Hopengarten leads off with this key point. He instructs us that if you are willing to work hard and prepare, learning from the mistakes of others, you will find the process easier than you feared. Through preparation, you reduce the cost of legal assistance dramatically and increase your chances of winning your zoning permit or your appeal. Also you will avoid traps like a common clause that prevents you

from reapplying for a year, or even two, after being turned down.

Choose to wear a white hat — When dealing with zoning, you should be thinking about how to "wear the white hat" at all times, i.e. how to be the good guy.

How do you do this when others want



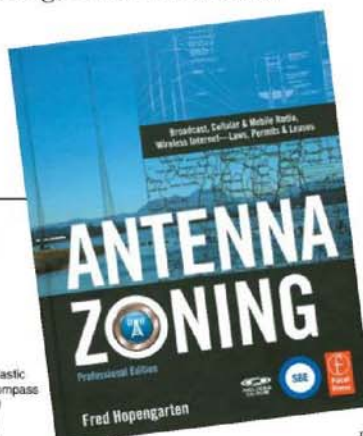
Hopengarten shows you how to build an inexpensive angle finder, to 'measure' the height of trees, using a laser pointer and a plastic compass.

to portray you as a bad guy?

You prepare a permit application that complies with the bylaw or ordinance (or better, that exceeds standards). Your company stands ready in times of natural disaster. You show consideration for the interests and concerns of neighbors. You consult with them before showing up at the hearing. You build something that won't hurt anyone.

In short, you treat others as you would like to be treated. Someone wise said that once.

Put aside the black hat — Don't come in shouting "I own this land. I have rights!" Don't start without understanding what you are asking of the board. Don't blow off neighbors' concerns. Don't proceed with-



out thinking your plan through carefully. Don't give the impression that you are hap-hazard people capable of building something really dangerous.

Clearly, Hopengarten knows how easy — and dangerous — it is to be high-handed when you think you're in the right.

Commit to full disclosure

Attempting to hide anything at a hearing is a bad idea, Hopengarten writes. Yet it's easy to be tempted. You might feel that a detail would be unseemly if you listed it and probably is too small to call attention to; or you might not yet have decided about a particular point. Yet concealed information — like who really owns the property or how far a tower really is to a neighbor's property line — can become embarrassing if you don't disclose them before you are challenged.

"There is usually a convincing explanation for the issue," he writes. "There is, however, never a good explanation for not disclosing some things in the first place."

Hopengarten's book includes practical tips like the one shown in the graphic but mostly it's about things like strategies, building a winning team, objections to expect (safety issues, aesthetics, environmental issues, diversionary tactics), how to deal with the actual hearings, lawsuits and much more.

Perhaps of greatest value are the tem-

From the Editor



Paul J. McLane

plates, documents, forms, research studies, sample letters and other collateral provided not only in the book but on the CD-ROM in PDF form for easy download.

He also provides more than two dozen "answer cards" so you can be ready for common questions about things like birds, FAA concerns, interference to cell phones and so on.

Example: "Isn't this going to tempt kids to climb it? Isn't it an attractive nuisance?" Answer card: "Well, I certainly agree with [Mr./Ms.] that my proposed structure is attractive! (Pause and smile! Beam!) But I cannot agree that this structure is an attractive nuisance as the legal term implies. Nonetheless I'd like to call the attention of the Board to page xx of the application where I have shown the type of anticlimbing device that I propose to construct ..."

Hopengarten even provides accompanying photos that you can download to include in your exhibits.

For the Table of Contents for the book and other helpful materials see www.antennazoning.com. He includes a filing on behalf of Burlington Broadcasters' WIZN(FM) before the Vermont Environmental Board in an "RF as air pollution" case. It is on the Web and the CD-ROM.

"Antenna Zoning: Professional Edition" is from Focal Press/Elsevier in conjunction with the SBE. It retails for \$129.95 (SBE members get a discount at the SBE Store online).

That may sound like a lot for a book. It's not in this case. If you are active in tower projects, and particularly if you are new to zoning, this is well worth the investment. The book and CD-ROM represent hundreds of hours' worth of legal and tower expertise that you're getting for maybe the cost of 30 minutes of a lawyer's or consultant's time. 🌐

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