

September 13, 2011

**VIA EMAIL AND FIRST CLASS MAIL**

Federal Communications Commission  
Honolulu Office  
P.O. Box 971030  
Waupahu, HI 96797-1030

Attn: Ryan Hagihara, Resident Agent  
[Ryan.Hagihara@FCC.gov](mailto:Ryan.Hagihara@FCC.gov)

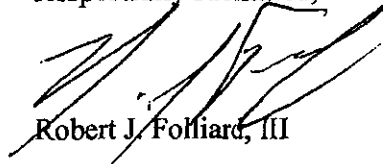
Re: File No. EB-11-HL-0115  
NOV No. V201132860015

Dear Mr. Hagihara:

On behalf of HITV Operating Co., Inc. ("HITV"), we hereby submit HITV's response to the above-referenced Notice of Violation (the "Notice") released on August 15, 2011. By email dated August 24, 2011, you granted HITV an extension of time until September 13, 2011 to submit this response.

If you have any questions about this matter, please contact me.

Respectfully submitted,



Robert J. Folliard, III

September 13, 2011

**VIA EMAIL AND FIRST CLASS MAIL**

Federal Communications Commission  
Honolulu Office  
P.O. Box 971030  
Waupahu, Hawaii 96797-1030

Attn: Ryan Hagihara, Resident Agent  
[Ryan.Hagihara@FCC.gov](mailto:Ryan.Hagihara@FCC.gov)

Re: File No. EB-11-HL-0115  
NOV No. V201132860015

Dear Mr. Hagihara:

HITV Operating Co., Inc. ("HITV"), former owner of the antenna structure previously located at 1534 Kapiolani Blvd., Honolulu, Hawaii (FCC Antenna Structure Registration Number 1005850) (the "Tower"), hereby responds to the above-referenced Notice of Violation (the "Notice") released on August 15, 2011.<sup>1</sup> In the Notice, the Commission observed that HITV had not filed a dismantlement notice for the Tower even though it was no longer located at the address specified in its antenna structure registration.

Although HITV did not comply with the strict notification requirements of Section 17.57 of the Commission's rules,<sup>2</sup> HITV submits that any violation was *de minimis* under the Commission's rules. HITV's contractor completed demolition of the Tower on February 28, 2011. Less than six months later, on August 24, 2011, HITV filed its Notice of Antenna Structure Dismantlement. HITV's brief period of noncompliance is substantially shorter than other tower owners cited for violating Section 17.57.<sup>3</sup> Moreover, HITV does not have a history of violating the Commission's tower registration rules.

HITV's failure to immediately notify the Commission that it had dismantled the Tower did not threaten public safety or cause any harm. Throughout the dismantling process HITV's contractor was in regular contact with the Federal Aviation

---

<sup>1</sup> By email dated August 24, 2011, Mr. Ryan Hagihara, Resident Agent, Honolulu Office, Enforcement Bureau, granted HITV an extension of time until September 13, 2011 to respond to the Notice.

<sup>2</sup> Under Section 17.57, a tower owner must notify the Commission within twenty four hours after dismantling a tower. 47 C.F.R. § 17.57.

<sup>3</sup> See, e.g., *Lazer Broad. Corp.*, 26 FCC Rcd 8456 (EB 2011) (issuing a Forfeiture Order – \$3,000 per tower – for failing to notify the Commission of a change in ownership for more than four years).

Administration ("FAA"). According to HITV's records, its contractor requested at least four Notices to Airmen once the power at the Tower was disconnected and the beacon was no longer in use. Thus, the FAA was updated regularly on the status of the Tower and its dismantlement. HITV's failure to immediately notify the Commission was a purely ministerial error and one that did not harm public safety.

Since discovering that it did not immediately notify the Commission, HITV has taken all appropriate remedial steps. Upon receiving the Notice, HITV immediately investigated the details surrounding the dismantling of the tower and within two days filed the appropriate Notice of Dismantlement. Moreover, given that HITV owns no other registered antenna structures, HITV is confident that a similar incident will not recur in the future.

If you have any further questions about this matter, please contact our counsel, Robert J. Folliard, III at Dow Lohnes, PLLC.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mary W. Coan", with a long horizontal flourish extending to the right.

Mary W. Coan  
Vice President

**ATTACHMENT A**

**Notice of Dismantlement File August 24, 2011**

<b>FCC 854</b> <b>Main Form</b>	<b>FCC Application for Antenna Structure Registration</b>	Approved by OMB 3060 - 0139 Est. Public Burden per Response: 30 minutes  <b>File Number:</b> <b>A0735382</b>
------------------------------------	---	--

### Purpose of Filing

1. Purpose of this filing: <b>Notification of antenna structure dismantlement</b>
2A. For purpose codes of <b>WD</b> or <b>AM</b> , provide the file number of the pending application currently on file with the FCC: <b>A0735382</b>
2B. If purpose codes of <b>MD, CA, AU, DI, NT, DU</b> or <b>OC</b> provide FCC Antenna Structure Registration Number: <b>1005850</b>
2C. If purpose code is <b>MD</b> or <b>NT</b> , provide date constructed or Last altered (mmddyyyy): <b>05/17/1962</b>
2D. If purpose code is <b>DI</b> , give date of dismantlement (mmddyyyy): <b>02/28/2011</b>

### Antenna Structure Ownership Information

3) Owner/Assignee FCC Registration Number (FRN): <b>0016564437</b>			
4) Assignor FCC Registration Number (FRN): <b>null</b>			
5) Legal Owner of Structure/Assignee First Name (if individual):	Middle Initial:	Last Name:	Suffix:
6) Business Name (if other than individual): <b>HITV Operating Co., Inc.</b>			
7) Attention To: <b>Dana E. Stern</b>			
8) P. O. Box:	And/Or	9) Street Address: <b>1100 Wilson Boulevard, Suite 3000</b>	
10) City: <b>Arlington</b>	11) State: <b>VA</b>	12) ZIP Code: <b>22209</b>	
13) Telephone Number: <b>(703)247-7500</b>		14) E-Mail Address: <b>Dstern@mcgcapital.com</b>	

### Contact Representative Information (If the Owner/Assignee is a business or contact representative is different from the Owner/Assignee)

15) First Name: <b>Robert</b>	MI: <b>J</b>	Last Name: <b>Folliard, III</b>	Suffix: <b>Esq</b>
16) Business Name: <b>Dow Lohnes PLLC</b>			
17) P.O. Box:	And/Or	18) Street Address: <b>1200 New Hampshire Avenue, NW, #800</b>	
19) City: <b>Washington</b>	20) State: <b>DC</b>	21) Zip Code: <b>20036</b>	
22) Telephone Number: <b>(202)776-2000</b>		23) E-Mail Address: <b>rfolliard@dowlohneshomes.com</b>	

### Antenna Structure

24) NAD83 Antenna Structure Latitude (DD-MM-SS.S): <b>21-17-35.0 ( N )N or S</b>	25) NAD83 Antenna Structure Longitude (DDD-MM-SS.S): <b>157-50-26.0 ( W )N or S</b>
26) Address or Geographical Location: <b>1534 KAPIOLANI BLVD</b>	
27) City: <b>HONOLULU</b>	28) State: <b>HI</b>
29) Elevation of site above mean sea level (refer to "a" in antenna structure examples):	<b>1.5 meters</b>
30) Overall (highest) height above ground (AGL) of an antenna structure INCLUDING all appurtenances (antennas, dishes, lightning rods, obstruction lighting, etc.) (refer to "c" in antenna structure examples):	<b>133.0 meters</b>
31) Overall height above mean sea level (sum total of items 29 and 30):	<b>134.5 meters</b>
32) Overall height above ground level (AGL) of the supporting structure itself WITHOUT appurtenances (refer to "b" in antenna structure examples):	<b>109.7 meters</b>
33) Indicate the code for the type of structure on which antenna will be mounted (i.e., pole, building, water tank, silo, tower, etc.) (See Instructions): <b>TOWER</b>	
34-35) If type of structure is an Array, provide coordinates for center of the array below:	
34) NAD83 Array Center Latitude (DD-MM-SS.S): -- ( N )N or S	35) NAD83 Array Center Longitude (DDD-MM-SS.S): -- ( W )N or S

# FAA Notification

36) FAA Study Number: <b>PC-OE-9</b>	37) Date Issued (mmddyyyy): <b>03/23/1962</b>
--------------------------------------	---

## Environmental Assessment

38) ( N )	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Would a Commission grant of Authorization for this location be an action which may have significant environmental effect? See Section 1.1307 of 47 CFR. If 'YES', submit an environmental assessment as required by 47 CFR, Sections 1.1308 and 1.1311.
-----------	--	---

## Certification Statements

1) The applicant certifies that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.
2) The applicant certifies that neither the applicant nor any other party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance. See Section 1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of 'party to the application' as used in this certification.

## Signature

39) Typed or Printed Name of Party Authorized to Sign

First Name: <b>Mary</b>	MI: <b>W</b>	Last Name: <b>Coan</b>	Suffix:
40) Title: <b>Vice President</b>			
41) Signature: <b>Mary W Coan</b>		42) Date (mmddyyyy): <b>08/24/2011</b>	
WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, § 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, § 503).			