

## COMMUNITY OF LICENSE CHANGE – SECTION 307(b) SHOWING

By this application, WRHC Broadcasting Corp. (“WBC”) proposes to remedy the extremely difficult licensing situation of WRHC(AM). As Commission records reflect, WRHC’s licensed transmitter site to serve Coral Gables, Florida, was destroyed by a hurricane and can no longer be used. WRHC(AM) therefore has been operating pursuant to an STA, while seeking a site from which to restore permanent licensed operations. That effort has proved to be exceedingly difficult due to the constraints imposed by the Commission’s licensing requirements, international treaties, and environmental and site availability constraints in South Florida.

Having been frustrated at every turn in trying to obtain a new suitable and available site from which Commission and international requirements can be met, WBC, by this application, seeks to restore WRHC(AM) to permanent licensed status by obtaining Commission authority to re-locate the station’s transmitter site to the property of its commonly owned sister station, WWFE. In conjunction with that relocation, WBC also proposes to change the station’s community of license to the rapidly growing city of Doral, Florida, to be that community’s first local transmission service.

As part of the application to change its city of license, WRHC(AM) must submit a showing regarding the merits under 47 U.S.C. §307(b) of licensing WRHC(AM) to Doral, Florida instead of Coral Gables, Florida. Pursuant to 47 U.S.C. §307(b), the Commission will authorize the relocation of a facility to another community when doing so will “provide a fair, efficient and equitable distribution of radio service.” Relocating WRHC(AM) to Doral will plainly achieve such a fair, efficient and equitable distribution.

The City of Doral was incorporated on June 24, 2003, and it is composed of fifteen square miles within Miami-Dade County, Florida.<sup>1</sup> U.S. Census data establishes that Doral is a faster growing community than Coral Gables. The 2000 U.S Census population of Doral is 20,438.<sup>2</sup> That population represents a growth of 17,312, or 554%, over Doral’s 1990 U.S.

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<sup>1</sup> See Attachment A. At the time of the 2000 Census, Doral was an official Census Designated Place (“CDP”), which the U.S. Census Bureau defines as “concentrations of population, housing, and commercial structures that are identifiable by name but are not within an incorporated place.” For unincorporated communities, CDP’s are “the statistical counterparts of incorporated places.” See *U.S. Census Bureau, Census 2000*, Appendix A, attached hereto at Attachment A p. 3.

<sup>2</sup> See Attachment B.

Census population of 3,126.<sup>3</sup> According to Doral's website (www.cityofdoral.com), as of April 1, 2004, the city had continued its growth and was home to approximately 29,685 residents.<sup>4</sup> In contrast, the 2000 U.S. Census population of Coral Gables is 42,249, a change of just 2,158, or 5%, from Coral Gables' 1990 U.S. Census population of 40,091.<sup>5</sup> Doral is thus growing at a rate more than 110 times faster than Coral Gables.

Although it is the faster growing community, Doral has no stations licensed to it. Since both Doral and Coral Gables are well served by more than five aural services, Priority 3 of the §307(b) analysis, "first local service," governs that analysis.<sup>6</sup> Coral Gables, in contrast to Doral, has four licensed transmission services: WHQT(FM), a 100 kw full-time facility licensed to Cox Radio, Inc.; WTPS(AM), a 50 kw daytime and 10 kw nighttime facility licensed to Radio One Licenses, LLC; WVUM(FM); and WRHC(AM). Relocating WRHC(AM) to Doral as that city's first local transmission service will not deprive Coral Gables of local transmission service, which will continue to be supplied by three stations, two of which are powerful facilities operated by licensees having substantial resources to serve community needs.

As proposed in the application, the predicted daytime service area of WRHC(AM) will serve the following areas and populations, based on raw Census 2000 data, with its 0.5 mV/m and 2.0 mV/m daytime service contours:

<u>Contour</u>	<u>Area (sq. km)</u>	<u>Population</u>
0.5 mV/m	3,900	3,391,809
2.0 mV/m	1,700	2,037,286

The nighttime interference-free contour will serve a population of 277,346, covering an area of 455 square kilometers.

In applying §307(b), "[t]he Commission generally has preferred a community with no local transmission service over one that already has a local station . . . ."<sup>7</sup> It "is the usual 307(b) presumption that every separate community needs at least one local transmission service."<sup>8</sup> Here, where the community that has no local transmission service is faster growing and was

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<sup>3</sup> See *id.*

<sup>4</sup> See Attachment A.

<sup>5</sup> See Attachment C.

<sup>6</sup> See, e.g., *Nelson Enterprises*, 19 FCC Rcd 13350, 13352, fn. 16 (2004), explaining that the FM allotment priorities apply to the evaluation of AM stations and are as follows: "(1) First full-time aural service; (2) Second full-time aural service; (3) First local service; (4) Other public interest matters."

<sup>7</sup> *North Texas Radio, Inc.*, 11 FCC Rcd 8531, 8535(¶12) (1996).

<sup>8</sup> *Id.*(¶13). See also *Faye & Richard Tuck, Inc. KBEC*, 3 FCC Rcd 5374, 5376(¶20) (1988) ("*Tuck*") ("The Commission has assessed the need for radio service primarily in light of the facilities presently available in the proposed communities and the relative population of the communities.")

recently incorporated, §307(b) plainly warrants granting that community its first transmission service. That is especially so where, as here, numerous stations provide protected service to both communities.

The engineering firm of Hatfield & Dawson has identified the following 22 FM stations that provide protected service to Doral: WIRP, WDNA, WMCU, WLRN, WCMQ, WHDR, WLVE, WMGE, WXDJ, WPOW, WFLC, WRTO, WEDR, WKIS, WHYI, WLYF, WMXJ, WMIB, WHQT, WBBG, WRMA, and WAMR. Hatfield & Dawson has identified that all of the above FM stations also provide protected service to Coral Gables, with the exception of WIRP, and Coral Gables is also served by WVUM, for a total of 22 FM stations providing protected service to Coral Gables.

The following 24 AM stations cover Doral within their 0.5 mV/m contours as reported by the BIA database: WACC, WAQI, WAVS, WAXY, WEXY, WFL, WHSR, WINZ, WIOD, WJCC, WKAT, WLQY, WMBM, WMYM, WNMA, WOCN, WOIR, WQAM, WQBA, WRHB, WRHC, WSUA, WTPS, and WWFE. With the exception of WEXY, WFL, and WHSR, all of the above AM stations also cover Coral Gables within their 0.5 mV/m contours as reported by the BIA database, for a total of 21 AM stations.

Both Doral and Coral Gables are considered well-served communities, because each has at least five full-time aural services providing it with protected service.<sup>9</sup> Since both communities are well-served: (1) relocating WRHC(AM) to Doral will not deprive Coral Gables of abundant and ample protected reception service, and (2) bringing a first, second, or additional full-time aural reception service to either community is not a relevant consideration to this application.<sup>10</sup>

An additional and unique aspect of this application is significant with respect to assessing the availability of transmission and reception services in the two communities. At this time, due to site destruction and unavailability, and to interference protection requirements to domestic and international stations, WRHC is unable to operate with its licensed facilities. The station currently operates under an STA for operation at 1.8 kw daytime and 0.125 kw nighttime, with facilities that do not provide city grade coverage to Coral Gables. Based on analyses that WBC has had performed by three separate, highly reputable consulting engineering firms, it has been clearly established that WRHC cannot be returned to full-power full-time service as a Coral Gables station without a waiver of the Commission's nighttime NIF city coverage requirements.

Accordingly, the choice in this case is not merely a comparison between transmission and reception services to Doral or Coral Gables, a comparison that warrants granting the license to Doral for the reasons stated herein. Rather, the choice is between a first transmission service to Doral or potentially *no* full-time transmission service from this facility to *either Doral or Coral Gables*. In these circumstances, the fair, efficient, and equitable distribution of radio services for which 47 U.S.C. §307(b) provides plainly warrants a distribution that grants a first local transmission service to over 20,000 people in Doral, and a full-time reception service to

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<sup>9</sup> See, e.g., *Palmetto Communications Company*, 6 FCC Rcd 1527, 1529 (1991) (explaining that well-served reception areas are areas presently receiving at least five fulltime radio services).

<sup>10</sup> See *Tuck*, *supra*.

hundreds of thousands of people, compared to the potential alternative of no full-time service from this facility to either community at all.

Doral fully deserves its first licensed transmission service. Doral is a relatively young residential, commercial and, as previously indicated, growing community, which became an incorporated city in 2003. Doral has its own local government, headed by an elected Mayor and City Council, and an appointed City Manager, City Clerk, and City Attorney.<sup>11</sup> The City Manager appoints the heads of the various departments within the local government, which include the Finance Department, Community Development Department, Public Works Department, and the Parks and Recreation Department.<sup>12</sup>

Doral affords its residents the basic activities and services that are required for daily life. The Doral website indicates that there are two public elementary schools, one public middle school (named Doral Middle School), and one public high school (named Ronald Reagan Doral Senior High School) serving the Doral area.<sup>13</sup> The website also lists two charter schools, one of which is named Doral Academy Charter School, and one private school, as well as Carlos Albizu University.<sup>14</sup> The Miami-Dade County Public School system announced on June 15, 2006, that it has purchased land specifically to construct two new schools to relieve existing schools in the fast-growing City of Doral.<sup>15</sup>

Due to its location approximately one mile west of Miami International Airport, Doral is “at the heart of international trade, making Doral the main component of an airport-centered business.”<sup>16</sup> There are Fortune 100 companies, non-chain businesses, and individuals of all ages choosing to locate in Doral,<sup>17</sup> and more than 100,000 people regularly work within the city.<sup>18</sup> The city is also home to at least fifteen places of worship,<sup>19</sup> three U.S. post offices,<sup>20</sup> and the

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<sup>11</sup> See Attachment A.

<sup>12</sup> See *id.*

<sup>13</sup> See *id.*

<sup>14</sup> See *id.*

<sup>15</sup> See Attachment D.

<sup>16</sup> See Attachment E.

<sup>17</sup> See Attachment F at p. 3.

<sup>18</sup> See Attachment A.

<sup>19</sup> See Attachment G.

<sup>20</sup> See Attachment H.

Doral Branch of the Miami-Dade Public Library,<sup>21</sup> and it has six zip codes.<sup>22</sup> Doral has posted its Transportation Master Plan on its website,<sup>23</sup> and the plan will involve consideration of both the roadways and alternative modes of transportation.

Doral media includes the Ciudad Doral newspaper, which is published every 15 days both in English and Spanish, with more than 12,000 copies delivered by mail and 6,000 copies distributed at commercial sites in the Doral area, and it is also available online.<sup>24</sup> Additional media coverage of Doral is available through the English and Spanish-language Doral Tribune, the January 2007 edition of which is currently available,<sup>25</sup> and the quarterly City of Doral Digest, the Winter 2007 edition of which is posted on Doral's website.<sup>26</sup> The continued existence of Doral's local publications is evidence of a local demand for news, as well as a local demand for advertising.

Many recreational activities are available to Doral residents. According to Doral's website, there are currently three parks in Doral, including the 14-acre city-owned Doral Park, which will open to the community in Spring 2007.<sup>27</sup> In March 2007, the City of Doral will host the World Golf Championships-CA Championship at the Doral Golf Resort and Spa, as part of the PGA Tour.<sup>28</sup> There are a number of programs for youth in Doral, including football, cheerleading, soccer (through the Doral Soccer Club), baseball (through the Doral Little League), basketball (through the City of Doral Parks and Recreation Department),<sup>29</sup> and Boy Scouts of America Doral Scout Unit 552.<sup>30</sup> Doral residents may become involved in the

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<sup>21</sup> See Attachment I.

<sup>22</sup> See Attachment J.

<sup>23</sup> See Attachment K.

<sup>24</sup> See Attachment L.

<sup>25</sup> See Attachment M.

<sup>26</sup> See Attachment N.

<sup>27</sup> See Attachment O.

<sup>28</sup> See Attachment N at p. 1.

<sup>29</sup> See *id.* at p. 8.

<sup>30</sup> See *id.* at p. 6.

community through participation in the Doral Business Council,<sup>31</sup> and through community charity events such as the 2007 Relay for Life to benefit cancer research.<sup>32</sup>

The city of Doral provides a number of municipal services to its residents. The Department of Public Works is engaged in many current projects including a master plan for storm water and reconstruction of a water main, in addition to projects related to transportation and the city streets.<sup>33</sup> There is a City of Doral Police Department,<sup>34</sup> and Doral is served by the Miami-Dade Fire Rescue Department.<sup>35</sup> Residents of Doral perceive themselves as separate from the larger Miami metropolitan area. As the city's website proclaims, "More and more people are choosing Doral every day – For all the right reasons!"<sup>36</sup>

Roughly half of Doral is located outside the Miami Urbanized Area, whereas all of Coral Gables is located within the Miami Urbanized Area.<sup>37</sup> Although it is located twelve miles from downtown Miami,<sup>38</sup> Doral is sufficiently independent of Miami to warrant a first local service preference, as demonstrated above. Additionally, it is noteworthy that WRHC(AM) is an Hispanic-owned and Hispanic-formatted station, and the 2000 U.S. Census reported that 13,784 of Doral's 20,438 residents, 67.4%, were Latino.<sup>39</sup>

Under §307(b), the controlling factors in determining whether WBC's subject AM application for a change of community of license provides a fair, efficient, and equitable distribution of radio service are whether the proposal will provide a first local service to the proposed community of license and whether the original community of license will continue to have local transmission and adequate protected reception service after the change. Here, as in the Commission's *North Texas* decision, the proposed change serves the statutory objective. That is especially so since here: (1) Doral is a rapidly growing incorporated city with no local transmission service of its own, and (2) absent a change in community of license, potentially no

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<sup>31</sup> See Attachment P.

<sup>32</sup> See Attachment N at p. 2.

<sup>33</sup> See Attachment Q.

<sup>34</sup> See Attachment N at p. 5.

<sup>35</sup> See Attachment R.

<sup>36</sup> See Attachment F at p. 3.

<sup>37</sup> See Attachment S. This map was provided by the engineering firm of Hatfield & Dawson, and is based upon a data file downloaded from the Census Bureau website. The green line represents the boundary of the Miami Urbanized Area.

<sup>38</sup> See Attachment A.

<sup>39</sup> See Attachment T.

distribution of service from this facility – be it fair, efficient, and equitable or not – can be achieved at all. The public interest and §307(b) compellingly warrant the grant of this application so that WRHC(AM) can provide the first local service to Doral and provide a valuable full-time reception service to its surrounding areas.

For the foregoing reasons, WBC respectfully submits that the proposed change in community of license will produce a fair, efficient, and equitable distribution of radio service and that this application should therefore be granted.