



Federal Communications Commission
Washington, D.C. 20554

March 31, 2016

In Reply Refer To:
1800B3-ATS

Mr. Jose Bernal
Wichita Falls Hispanic American Family Foundation
1917 N Elmwood Ave
Wichita Falls, TX 76308

In re: Wichita Falls Hispanic American
Family Foundation
New LPFM, Wichita Falls, Texas
Facility ID Number: 195666
File Number: BNPL-20131114APP

Dear Applicant:

We have before us the application of Wichita Falls Hispanic American Family Foundation [sic] (WFHAF) for a construction permit for a new LPFM station at Wichita Falls, Texas (Application). For the reasons set forth below, we dismiss the Application.¹

Background. WFHAF filed the Application during the 2013 LPFM filing window and stated that it was located at 1917 N Elmwood Avenue, Wichita Falls, Texas.² WFHAF further provided this same address for all three of its directors—Jose Bernal, Fernando Ibarra, Ivan Samaripa.³ The Media Bureau (Bureau) determined that the Application was not mutually exclusive with any other application filed during the window and accepted it for filing as a singleton on February 5, 2014.⁴

Discussion. Section 73.853(b) of the FCC's rules (Rules) provides that "[o]nly local organizations will be permitted to submit applications and to hold authorizations in the LPFM service" and states that an applicant may demonstrate localism by satisfying the following criteria:

- (1) The applicant, its local chapter or branch is physically headquartered or has a campus within 16.1 km (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets, and 32.1 km (20 miles) for applicants outside of the top 50 urban markets;
- (2) It has 75% of its board members residing within 16.1 km (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets, and 32.1 km (20 miles) for applicants outside of the top 50 urban markets⁵

¹ We also have before us the Informal Objection filed by REC Networks on December 2, 2013. Because we are dismissing the Application, we need not consider this pleading.

² Application at Section I, Question 1. WFHAF also provided this as its address in Section III, Question 3 (Main Studio) and in its Articles of Incorporation (Attach. 2).

³ *Id.* at Section II, Question 3. a.

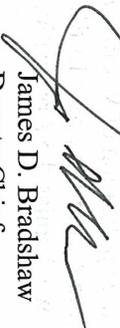
⁴ See *Broadcast Applications*, Public Notice, Report No. 28173 (MB Feb. 10, 2013).

⁵ 47 CFR §§ 73.853(b)(1); 73.853(b)(2). Sections 73.853(b)(3) and (4) provide for eligibility for public safety entities and Tribal Applicants, respectively.

A review of the public records for Wichita County shows that the property at the Elmwood Avenue address WFHAAF provided in the Application is owned by WF Hotel Management LLC and is the site of a hotel.⁶ On March 31, 2016, the Bureau staff contacted the Wichita Star Hotel and was informed that WFHAAF has never been headquartered at this address. Accordingly, we will not credit the address WFHAAF provided in the Application as its headquarters for the purpose of demonstrating eligibility under Section 73.853(b)(1). Additionally, we will not credit this address as the residence of WFHAAF's directors for the purpose of demonstrating eligibility under Section 73.853(b)(2) because this addresses is not a residence. Thus, WFHAAF cannot meet the eligibility requirements of Section 73.853(b) because it has not demonstrated that it has a headquarters or 75 percent of its board members residing within 20 miles of its proposed transmitter site.⁷

Conclusion. Accordingly, IT IS ORDERED that the application of Wichita Falls Hispanic American Family Fundation (BNPL-2013114APP) for a construction permit for new LPFM station at Wichita Falls, Texas, IS DISMISSED.

Sincerely,



James D. Bradshaw
Deputy Chief
Audio Division
Media Bureau

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⁶ The records for Wichita County may be accessed at <http://propaccess.wadtx.com/client/b/?cid=1>. The Commission may take official notice of government documents that are accessible to the public. *See Citadel Broadcasting Company, Memorandum Opinion and Order*, 22 FCC Rcd 7083, 7094, para. 21 (2007) (taking official notice of public records from the New York Attorney General).

⁷ *See, e.g., Faith Music Ministries*, Letter Order, 22 FCC Rcd 7743 (MB 2007) (dismissing LPFM applicant that failed to demonstrate eligibility under Section 73.853(b)).