



**Federal Communications Commission
Washington, D.C. 20554**

February 13, 2017

In Reply Refer To:
1800B3-MFW
Released:

Mr. John Anderson
974 Cummington Rd.
Columbus, OH 43213

Mr. James Ebright
The Neighborhood Network
186 Hamilton Ave.
Columbus, OH 43203

Mr. Eugene Beer
Pri-Value Foundation
105 West Kenworth Road
Columbus, OH 43214

In re: **WCRM-LP (formerly WCRS-LP),
Columbus, Ohio**
Facility ID No. 132329
File No. BALL-20160818AAU

Assignment of License Application

Informal Objection

Dear Messrs. Anderson, Ebright, and Beer:

We have before us the referenced application (the Assignment Application) seeking approval for the assignment of the license (the Station License) of low-power FM (LPFM) Station WCRM-LP, Columbus, Ohio (the Station), from The Neighborhood Network (TNN) to Pri-Value Foundation (PVF). On September 20, 2016, John Anderson filed an Informal Objection (Objection) to the Assignment Application.¹ For the reasons set forth below, we deny the Objection and grant the Assignment Application.

Background. Between May 30, 2000, and June 5, 2000, the Commission opened a filing window for LPFM new station applicants.² Five mutually exclusive applicants, subsequently designated LPFM Group No. 72 (MX Group 72), were filed for new LPFM stations in the areas of Columbus and

¹ Anderson filed a Supplement to the Objection on September 22, 2016, consisting of a photograph of a storefront with a sign for "WCSN" affixed to the door. Mr. Bradley Beer (Beer), who is President of proposed assignee PVF, filed an Opposition to the Objection on November 29, 2016 (as "consulting engineer to The neighborhood Network"), to which Anderson filed a Reply on December 1, 2016, and a further Supplement on December 2, 2016, the latter addressing the Station's request for authority to remain silent, as described below.

² *Low Power FM Filing Window Instructions*, Public Notice, 15 FCC Rcd 9201 (MB 2000).

Groveport, Ohio. Four of the five applicants received construction permits; only Bexley Public Radio Foundation (Bexley) and Simply Living constructed facilities and were granted covering licenses.³

In 2010, Simply Living assigned the Station License to TNN, over the objection of Anderson and several others.⁴ TNN now seeks to assign the Station License to PVF; in connection with the Assignment Application, TNN took the Station off the air on November 30, 2016.⁵

In the Objection, Anderson argues that the Assignment Application should be rejected and the WCRM-LP license held by TNN should revert back to the remaining time-share licensee, Bexley, such that Bexley could accede to a 24-hour non-time-shared operation.⁶ He argues that TNN's right to assign its license for WCRM-LP should not supersede Bexley's right to utilize open time under the existing license and share-time agreement and that the assignment to PVF violates Sections 73.872 and 73.865 of the Commission's Rules (Rules).⁷

Discussion. Section 310(d) of the Communications Act of 1934, as amended (Act) requires the Commission to make a determination whether the proposed transfer or assignment of a broadcast license would be in the public interest.⁸ Pursuant to Sections 309(d) and (e) of the Act,⁹ informal objections must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact calling for further inquiry regarding whether grant of the assignment application would be *prima facie* inconsistent with Section 309(a) of the Act.¹⁰ This section provides that we are to grant an application if, upon consideration of the application and pleadings and other such matters of which we may officially take notice, we find that the public interest, convenience, and necessity will be served by the granting of such application. If, however, the applicant fails to meet that standard, the Commission may deny the application after notice and opportunity for a hearing under Section 309(e) of the Act.

The arguments raised by Anderson echo arguments previously made and rejected by the staff in connection with the assignment of the Station License from Simply Living to TNN, and they are no more persuasive now. Section 73.872(c)(2) concerns the modification of time-sharing agreements by or among its permittee and/or licensee parties. It is wholly inapplicable to the assignment of an LPFM time share

³ See BLL-20070618ACK (Simply Living, WCRM-LP); BLL-20070320ANB (Bexley, WCRX-LP).

⁴ See *WCRS-LP, Groveport and Columbus, Ohio*, Letter Decision, 25 FCC Rcd 15277 (2010) (*2010 Decision Letter*).

⁵ See BLSTA-20161130ADD, granted on December 14, 2016, indicating that the Station ceased operations "waiting for resolution" of the Assignment Application.

⁶ Objection at 1.

⁷ 47 CFR §§ 73.865, 73.872.

⁸ 47 U.S.C. § 310(d).

⁹ 47 U.S.C. §§ 309(d), (e).

¹⁰ 47 U.S.C. § 309(a). See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990), *aff'd sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *rehearing denied* (Sept. 10, 1993); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864, para. 6 (1986) (informal objections, like petitions to deny, must contain adequate and specific factual allegations sufficient to warrant the relief requested).

license to a new entity. An LPFM share-time licensee may assign its license to a qualified licensee,¹¹ irrespective of whether it holds a shared-time license or an unlimited service license. We find that PVF is fully qualified to operate an LPFM station under Section 73.865 of the Rules (and other pertinent statutory and regulatory provisions). Accordingly, we reject Anderson's claims that the Assignment Application violates Sections 73.865 or 73.872 of the Rules.

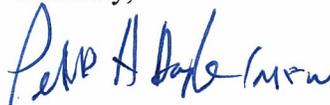
Additionally, we note that Section 310(d) of the Act¹² states that "the Commission may not consider whether the public interest, convenience, and necessity might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee" in evaluating assignment and transfer applications. To the extent Anderson argues that any party other than the PVF is a superior potential buyer of a station for any reason, we find that Section 310(d) prohibits the Bureau from considering that issue.

Conclusion/Actions. Based on our review of the pleadings and the Assignment Application, we find that Anderson has not presented a substantial and material question of fact to warrant further inquiry¹³ and that the proposed transaction complies with the Act and all Commission rules and policies.

Accordingly, IT IS ORDERED that the Informal Objection filed on September 20, 2016, by John Anderson IS DENIED.

IT IS FURTHER ORDERED, that the application for consent to assign the license for Station WCRM-LP, Columbus, Ohio (File No. BALL-20160818AAU) from The Neighborhood Network to Pri-Valur Foundation IS GRANTED subject to the condition that the Station's license will expire pursuant to Section 312(g) of the Act¹⁴ if the Station does not resume operation by 12:01 a.m. on December 1, 2017.

Sincerely,



Peter H. Doyle
Chief, Audio Division
Media Bureau

¹¹ See 2010 Decision Letter, 25 FCC Rcd at 15279, citing *Creation of a Low Power Radio Service*, Third Report and Order and Second Further Notice of Proposed Rulemaking, 22 FCC Rcd 21912, 21919, para. 16 (2007) ("We conclude that the appropriate balance is struck by requiring the assignee . . . of an LPFM license to satisfy ownership and eligibility criteria existing at the time of the assignment . . .").

¹² 47 U.S.C. § 310(d).

¹³ *Gencom Inc. v. F.C.C.*, 832 F.2d 171, 181 (1987); see also 47 U.S.C. §309(d)(2).

¹⁴ 47 U.S.C. § 312(g).