

Southwest Heritage Foundation
KPCR-LP
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FOC Mail Room

The voice of the village in the heart of the city.

October 28, 2015

Mr. Peter Doyle, Chief
Audio Division
Media Bureau
Federal Communications Commission
445 12th St, SW
Washington, DC 20554

Re: Request for Waiver of Provisions of 73.865(d)

Dear Mr. Doyle:

On behalf of the Southwest Heritage Foundation, a 501(c)(3) educational non-profit corporation, and the Arizona Community Media Foundation, a 501(c)(3) educational non-profit corporation, we are requesting a waiver of the provisions of CFR. 73.865(d) pursuant to the delegation of the authority to grant waivers found in CFR. 0.283 and 0.61(h).

The waiver we are seeking is to allow the Southwest Heritage Foundation (Southwest) to transfer its construction permit to the Arizona Community Media Foundation (Community Media) so that Community Media may begin construction of a transmitter facility to serve central Phoenix, Arizona.

The facts of the situation are fairly simple. Community Media was the permittee of a construction permit for a full power (100Kw) FM station at the time the recent filing window for LPFM stations opened, and was therefore precluded from applying for an LPFM construction permit. Community Media has its studios in central Phoenix, and otherwise meets all the criteria to hold an LPFM license under CFR 73.853. After the filing window closed, Community Media sold its interest in the full power construction permit, and at the present time, has no interest in any other broadcast facility.

Community Media operates an all volunteer, full service internet station, which has been on the air for seven years. Community Media has a radio broadcasting training course and is deeply involved in the life of the Phoenix community. We believe that Phoenix is the largest broadcast market in the United States without a local, community based terrestrial broadcast service, and through the LPFM, would like to change that.

Because of the income generated by the sale of the full power construction permit, Community Media has sufficient funds to undertake construction of the transmitter facility.

Southwest has been in existence since 2002, and its principal mission is to promote the cultural and artistic relationships among the states of the Southwest and Mexico. Southwest applied for the LPFM construction permit and was granted the construction permit (BNPL-20131115AUU, facility ID 197600). The board of directors was increased from two community members to five, only one of whom had any radio experience.

Southwest had sufficient funds in the bank to build a new broadcast studio at the facility operated by Community Media with the assistance of Community Media volunteers and their staff engineer. An agreement was reached that Community Media would have open access to the studio in lieu of rent payment by Southwest for the studio space, conference room, and other facilities.

Although Southwest obtained a call sign (KPCR-LP), designed a logo, and undertook other steps to proceed with the development of the transmitter facility, the Southwest board, after several months of discussion, recently decided that it would rather produce programming for Community Media than operate a radio station, and that it wanted to transfer the construction permit to Community Media to complete construction and put the station on the air.

Unfortunately, the provisions of CFR 73.865(d) preclude a transfer without a waiver by the Media Bureau or the Audio Division. The public policy behind 73.865(d) to prevent fraudulent transfers, conversion of LPFM's into translators, and many other broadcast schemes, is laudable and necessary, but in this particular instance, two locally based and community oriented educational non-profits would like to have the ability to create a truly local station for central Phoenix. A waiver in this instance would be in the best interests of the public and the participating entities, would fulfill the mandate of the FCC to promote the "public interest, convenience, and necessity" and would allow construction of the broadcast facility to proceed.

Under the authority delegated to the Media Bureau or the Audio Division, such a waiver is possible. The waiver neither sets any precedent, nor does it establish any policy. We recognize that we will still need to proceed with filing the Form 314, publish public notice, and submit the application to the Bureau for its consideration. All we are requesting is the opportunity to proceed with the transfer application.

Thank you for your attention to this matter, and we look forward to hearing from you.

Sincerely,

Victor Aronow
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