

## **Report of the Legal Defense and Assistance Committee (ARLDAC)**

**January 2017**

The Legal Defense and Assistance Committee has had only modest case activity since July. No requests for assistance have been received, and current cases are stalled.

So, the committee has focused on other areas. Earlier this January the committee met to discuss several topics:

### A. Handling potential new laws and regulations concerning CCR's and HOA's

At the top of the list has been a discussion of CCR and Homeowner Association (HOA) related cases in light of possible congressional (or FCC) action in 2017. Several points have come up, most of which will require further thought and clarification. These center on the key question "What will constitute 'reasonable accommodation' in the context of closely packed homes and apartments subject to CC&R's?" Some points to ponder:

- What sort of language might be good in HOA documents? The committee should prepare something that HOA's can incorporate into their documents and bylaws
- We have considerable material, some dated, to support the classic suburban tower permit requests, but in light of the nature of condominium complexes and other tightly packed communities, we need to develop some materials for "small antenna" situations.
- The committee believes that some of this material has been developed already by several attorneys active in the field, and we are currently canvassing them to see what they might be able to contribute
- The committee will take a stab at some short articles on "small antenna" situations for possible publishing in QST

### B. General upgrading of materials that are made available to hams dealing with tower siting.

Many of the materials that we supply to our members are getting long in the tooth. For example, the report we have on the effect of towers on real estate value is very old. While it is probably completely valid, its value as convincing evidence is compromised by its age. The actions outlined in the previous paragraph should help address this issue. When we have seen what we can gather, the committee should consider what additional work it might want to sponsor.

Another topic that comes up often when defending towers and antennas at the lower levels (ie., Zoning Board, building inspector, etc.) is RF safety. While it is true from a legal perspective that this subject matter area is completely preempted by federal law, it cannot be glibly ignored when faced with a roomful of upset neighbors. We could use something here aimed at the general public.

Migratory bird issues come up from time to time as well. Materials on this topic are a bit more current.

C. Current cases

Not much to say here. The DePolo case did not go well, and it is unclear what if anything can be done to save it, though we understand that some efforts are being made.

The Landstein case (Legrange, NY), into which this committee has invested some money, has been quiet for some time now. Chris is endeavoring to get us good current status.

D. Distracted driving

It is the sense of this committee that monitoring of state legislative activity has not been as good since we changed legislative consultants in DC. We need to beef this effort up in light of the California bill that passed recently. Insofar as the California statute is concerned, we looked at the following avenue of attack:

- Chris is willing to draft a short article on the California statute for QST
- We could send a letter to the California Attorney General seeking clarification
- We should talk to the California SGL
- If these don't get us where we need to get, we should consider funding an action for declaratory judgement in California

Bills like this are popping up everywhere (one is in the works in Washington now), and we need to get ahead of these a bit better.

D. Finances for 2016 were as follows:

**American Radio Relay League  
Legal Research Fund  
As of 12/31/2016**

12/31/15 Balance	\$ 168,912
Contributions	11,584

DePolo antenna case	(1,090)
Research Armstrong V Exceptional Child	(200)
Landstein antenna case	(40)
Greenville, TX Antenna Ordinance	(370)

12/31/16 Balance	\$ 178,796
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My thanks to the committee, which includes:

- o Mike Raisbeck, K1TWF, New England Division Vice Director
- o Marty Woll, N6VI, Southwestern Division Vice Director
- o Jim Tiemstra, K6JAT, Pacific Division Vice Director
- o Mike Lisenco, N2YBB, Hudson Division Director
- o James O'Connell, W9WU, Member
- o Jim Pace, K7CEX, Northwestern Division Director
- o Chris Imlay, W3KD, General Counsel

Marty and Jim Pace have both asked to step down for various reasons. I would like to heartily thank both of them for their help and support.

Respectfully submitted,

Mike Raisbeck, K1TWF

New England Vice Director

ARLDAC Chair