

**Report of the Amateur Radio Legal Defense & Assistance Committee  
2012 Second Meeting of the ARRL Board of Directors – July, 2012**

**Committee Members:** Director Cliff Ahrens, KØCA, Chairman; Director Brian Mileschosky, N5ZGT; Vice Director Mike Raisbeck, K1TWF; Vice Director Grant Hopper KB7WSD; General Counsel Chris Imlay, W3KD; and Jim O’Connell, W9WU.

**Committee Activities**

The Amateur Radio Legal Defense & Assistance Committee is charged with evaluating individual requests for financial assistance from amateurs involved in legal, legislative, or regulatory activities relating to Amateur Radio. The sole source of funding awards is the ARRL Legal Research and Resource Fund.

One request for funding has been received since the January, 2012 meeting. Myles Landstein, N2EHG is a resident of LaGrangeville, NY, and is an ARRL member. He moved to Lagrangeville recently, and owns 5 acres of land where his residence is located in the Town. In April and May of this year, he applied for an antenna permit for a 100-foot tower and antenna, strictly for Amateur use. He was told that the town’s ordinances required that he apply for a Special Use Permit and that he submit a site plan. He submitted both, and a \$1300 fee. He was then told by the Town Planning Board that he was not entitled to a Special Use permit because the Town had determined that Amateur Radio antennas were not a “customary residential use” and that an area variance was required. Following the advice of the town, Landstein applied for a height variance and paid an additional \$150. At that point, the town requested a payment of \$7,000 as a condition to the town’s consultants continuing to review his application. Mr. Landstein at this point decided not to proceed with the matter any further, as he cannot afford the costs assessed by the Town. However, the Town claims that despite any intention to not proceed further, he has to pay \$4,403.90 and they will make an effort according to the Town Code to collect these monies “for reimbursement of such engineering, legal and consulting fees expended by the Town” in the Town’s discretion as a deficiency assessment on Landstein’s next property tax bill, and if that is not paid then, it will become a lien on his land.

Counsel Imlay advised Mr. Landstein that ARRL will not make any grant that could be applied toward payment of this arrearage to the Town. The Committee reviewed Counsel Imlay’s memo and additional documents. Based on Counsel Imlay’s recommendation, the Committee unanimously agreed that ARRL should fund the matter up to the \$10,000 maximum permitted under the funding guidelines, if required, provided that Landstein obtains competent counsel in Counsel Imlay’s opinion, and provided that no ARRL funds are used for purposes other than reasonable and necessary legal fees and costs incurred in challenging the Town’s ordinance, on its face and as applied to Landstein, in two respects:

1. The determination that an Amateur Radio antenna is not a normal, customary accessory use to residential real property; and
2. The assessment of arbitrary and excessive fees to an applicant for a Special Use Permit or Variance for an Amateur Radio antenna.

Thanks to the committee members for their review of the N2EHG matter and their helpful comments and suggestions.

General Counsel Imlay has previously reported to the committee concerning a declaratory judgment and injunction action filed in September, 2011 by ARRL Volunteer Counsel Fred Hopengarten K1VR in the United States District Court for the District of Nevada, on behalf of Tom Taormina K5RC and his wife Midge K7AFO, against Storey County, Nevada. On June 29, 2012, the court entered an order approving a stipulated settlement and Special Use Permit (SUP) issued by the Storey County Board of Commissioners on May 12, 2012. Subject to certain conditions, the SUP allows K5RC to erect eight towers: four at or below 45' tall, and four greater than 45' tall (1 at or below 120', 2 at or below 140', and 1 at or below 175'). The court ordered the case dismissed with prejudice, with the court retaining jurisdiction to enforce the terms of the settlement.

Committee members Jim O'Connell W9WU and Cliff Ahrens K0CA spoke at the Ham Radio and the Law Forum at the Dayton Hamvention. Jim moderated the forum and spoke about antenna zoning and land use issues. Cliff discussed the Volunteer Counsel program and the need for additional VC's in many areas, and funding guidelines for assistance from this committee.

There are no other matters presently pending before the committee.



Cliff Ahrens, K0CA  
Chairman

July 5, 2012