

*Susan Dana Foster*

---

PO Box 1444  
Lyons, Colorado 80540  
[susan.foster04@gmail.com](mailto:susan.foster04@gmail.com)

September 28, 2020

**RE: 3.B.6. Renewal of Consulting Contract with Telecom Law Firm – OPPOSED**

Dear Mayor Pierson & City Council,

I have additional information I want to share with you in this letter as you make a determination whether or not to renew your contract with Jonathan Kramer and Telecom Law. For a city that cares so much about its residents and its firefighters, I believe these concerns are deeply revealing about Jonathan Kramer's character, his ethical conflicts of interest and his inaccuracies over time that are, in my opinion, disqualifying.

The Age of 5G is the time when the best and the brightest need to step forward in order to afford the greatest protection allowed under the law.

**HOW JONATHAN KRAMER WAS DIRECTLY MISLEADING IN HIS REMARKS TO CITY COUNCIL REGARDING FIREFIGHTERS & CELL TOWERS ... & PERSONALLY RECKLESS IN HIS BLOGS**

During the hearing on August 24, Councilwoman Farrer asked Jonathan Kramer about the firefighter exemptions which he said were "absolutely not true". I addressed the precise wording of the exemptions and setbacks won by California firefighters in my letter of August 25. I am returning to this issue with a level of proof that tells me that Jonathan Kramer knew better, but still misled the Council. This will be up to the Council to decide.

Very significantly, Jonathan Kramer talked about FirstNET as an example of cell towers going exactly where the firefighters wanted them. *This is absolutely false.* FirstNET towers are often monstrous towers in excess of 100-feet. The original plan was to put them right next to every fire station in Los Angeles, and throughout the country. Even though the FirstNET program provides an additional dedicated network for First Responders, the firefighters felt this network was unnecessary from a communications perspective. Additionally, the risks they were being asked to bear from RF exposure were greater than any radiation exposure previously. It was unthinkable to place a 100-foot tower loaded from top to bottom with antenna just a matter of feet away from a fire station, blasting the firefighters with RF radiation 24/7. This no other way to phrase it.

Jonathan Kramer's exact words from August 24, 2020 before the Malibu City Council are extremely important: "*Right now with the deployment of FirstNET we're seeing wireless facilities going into fire stations for specifically the purpose it's near where they want to the coverage to be.*"

My interpretation of Jonathan Kramer's inference was that "they" was supposed to refer to the firefighters. But this was absolutely untrue. In reality, "they" refers to the telecommunications industry.

The firefighters fought FirstNET with everything they had for two solid years. For Jonathan Kramer to suggest otherwise is unconscionable. Jonathan Kramer *knows* the firefighters pushed back relentlessly against this communication landgrab on their stations because he mocks the firefighters for this fight in the blogs I am including in my letter.

In the nearly 20 years I worked with the firefighters I have never seen firefighters coalesce with other locals, including the sheriff and police throughout the city and county of Los Angeles, the way these firefighters did. Lew Currier, head of Health and Safety for Los Angeles Firefighters Local #1014, asked me if I could help. I contacted experts around the world and asked them if they would be willing to look at the specifications for FirstNET.

Experts responded with deep concern. I am attaching four (4) representative letters regarding the risks that these FirstNET towers could pose to the firefighters' health and well-being:

1. **Yury Grigoriev**, (former) Chairman, Russian National Committee on Non-Ionizing Radiation Protection, 14 October 2014 [Not only did Dr. Grigoriev hold the highest authority over radiation protection in Russia; he is the man who came up with the plan to contain Chernobyl.]
2. **Lennart Hardell, MD, PhD**, Department of Oncology, University Hospital, Orebro Sweden 2014 [Letter undated]. [Dr. Hardell's science was half of the science used by the World Health Organization's cancer committee, IARC, when they omitted the biased science and retained the objective peer-reviewed science, then voting 29 – 1 to classify everything on the RF-EMF spectrum as a 2b or "possible human" carcinogen. Dr. Hardell has now produced enough conclusive science to, in his expert opinion, classify everything on the RF-EMF spectrum as a Group 1 carcinogen in the same category with tobacco.]
3. **Cindy Sage, MA**, California, October 19, 2014. [Co-author of the BioInitiative Reports 2007 & 2012.]
4. **Gunnar Heuser, MD, PhD**, California, September 26, 2014 [Dr. Heuser's comments relate to the SPECT brain scan study of California firefighters, 2004.]

Over an intense 18 months of informing the public, supporting firefighter-friendly councilmembers and supervisors, hiring lobbyists, and advocating for themselves and their brothers and sisters in Sacramento, the firefighters plead their case. They stood on street corners during their off-duty time and handed out literature. It was hard to turn on a radio in Los Angeles without hearing Capt. Lew Currier's voice telling the public the firefighters did not want FirstNET on their stations. The firefighters even had a plan in place to pull their fire trucks into



the Los Angeles streets to block traffic if they could not get the attention of their City Council and County Board of Supervisors.

The Los Angeles firefighters joined by the San Francisco firefighters succeeded in getting the nation's attention. They made the national news. Mr. Kramer is based in Los Angeles and would have had no reason for missing this on the local and/or national news given the location of his businesses.

Let me be very clear here. Telecom wanted FirstNET to go on fire stations because it gave them 100 - 120 feet of space to rent out for commercial carriers without having to go through a time-consuming permitting process. It gave them a perch for their antenna all the way across the country at the expense of the firefighters.

Let me also be very clear the firefighters did not want FirstNET on their stations. Their first job is to serve the public. They know when they are compromised, society is at risk. It's that simple and that important.

Jonathan Kramer's implication was incorrect and his facts were incorrect.

I can correct those for the record. But I cannot take back is what Jonathan Kramer put out there in his blogs on his website for the world to see.

I will let these blogs regarding the firefighters' fight against FirstNET and for 5G-exemptions speak for themselves. I have given you an idea of how hard the firefighters fought and how important this was to them to keep towers off their stations.

I believe Jonathan Kramer dishonors the firefighters. In his blogs of August 19 & 27, 2015, Kramer wrote about the California firefighters' efforts to achieve (5G) exemptions in AB 57.

<http://wireless.blog.law/2015/08/27/ab-57-likely-to-become-law-then-what/>

## **AB57 Muddled Even More: Fire Station Carve-out**

By Dr. Jonathan L. Kramer, on August 19th, 2015

Yesterday, August 18th, AB 57 was amended by the authors, ~~Verizon and AT&T~~ Assembly Member Bill Quirk adding two new sections, and modifying one existing section.

First, prior language in the Bill that connected it to the FCC Shot Clock Report and Order was monkeyed-with so that if the FCC changes its shot clock rules, those changes will have no impact on this legislation, and will not be automatically imported into the California law. Federalism is so fun when states can ignore it.

Next, for the second change, relying on make believe language, the author(s) added the following:

Due to the unique duties and infrastructure requirements for the swift and effective deployment of firefighters, this section does not apply to a collocation or siting application for a wireless telecommunications facility where the project is proposed for placement on fire department facilities.

While firefighters have unique duties and infrastructure requirements, does anyone really believe they extend to sleeping in firestations? *Ahemmm*. If I'm run a hospital or an emergency care facility, are those "unique duties and infrastructure requirements" more unique and critical compared with where firefighters sleep? How about skilled-care nursing facilities? What about public schools where young minds are developed?

In reality, the authors added this section simply to pander to firefighters who have strongly opposed the bill because of their well-known and stated fears of radio frequency transmissions from towers. This fear is an issue federally preempted in the Telecom Act.

Third, tossing a two-dimensional bone to city and county governments, the authors added this language:

Except as provided in subdivision (a), nothing in this section limits or affects the authority of a city or county over decisions regarding the placement, construction, and modification of a wireless telecommunications facility.

This language is simply fluff.

Worse yet, AB 57 (still) doesn't solve a problem that doesn't exist.

## **AB 57 Likely To Become Law, Then What?**

By Dr. Jonathan L. Kramer, on August 27th, 2015

Today, the California Assembly passed AB 57 as amended by the State Senate. This means that the Bill now moves on to Gov. Brown for his signature. It's unlikely Gov. Brown will spend the political capital to veto the Bill, but there's always hope.

Assuming AB 57 is enrolled, we'll have to wait for the first test case where a wireless applicant claims that a local government busted the shot clock and asserts a deemed-approved by operation of law basis to build the site.

As for the fire fighters' union that moved to support the bill as language was added to exclude the impact of AB 57 on fire stations, they've traded their political capital for nothing of any value. The language inserted in the bill at the last moment to gain the fire fighters' support does *exactly nothing* to prevent cell sites or First Net towers from being installed on fire stations. Absolutely nothing. Imagine their reaction when they realize they've been played Assembly Member Quirk and the wireless industry. Sigh.



While AB 57 still doesn't solve a problem that never existed, you've got to hand it to the industry for pushing this legislation through our legislature. Let's keep an eye on the campaign donations.

Jonathan

##

I take exception to Jonathan Kramer's assertion in the first blog that the firefighters problems do not exist in stations with cell towers, and I take deep exception to what I can only describe as Kramer mocking the firefighters in the second blog.

### **AT&T WIRELESS V. CITY OF CARLSBAD**

In 2001 I was appointed by the County of San Diego to their task force to create a cell tower ordinance. We created the first four-tiered order of preference ordinance. Sprint sued the County of San Diego for advising that industrial zones were preferred over residential, for example. This case was litigated all the way to the US Supreme Court and our original order-of-preference ordinance was upheld.

I worked with a number of cities in the county at that time and many of us continued to consult each other and city officials on the difficult task of dealing with cell towers in our midst.

In 2003 I called then-attorney for the City of Carlsbad, Ron Ball, and asked him about the outcome of a case everyone had been watching – AT&T Wireless v. City of Carlsbad. There was a neighborhood just off a main roadway where a wireless company had placed a cellular tower, disguised to look as if it were part of a home, in a residential neighborhood. Within a very short period of time neighbors were complaining of neurological symptoms as well as immunological problems.

Because of its proximity to main roadways, another carrier sought a permit for a house with a multi-car garage in the same neighborhood. The neighbors were outraged and fought the second tower. They were coached to not speak about health, though Carlsbad attorney Ron Ball said health was mentioned by some. The court record bears this out. The planning commission turned down the application for the second residential neighborhood tower. AT&T sued the city of Carlsbad.

When I spoke with Ron Ball they had just lost the case to AT&T. This was a devastating blow to the city with a judgment of \$250,000 against them and at the time of our conversation AT&T was going after Carlsbad for \$650,000 in attorney's fees.

As difficult as this outcome was for Carlsbad, it was even more devastating for the country as a whole. Cities across the country were afraid to turn down any permits. Personally, I know AT&T versus City of Carlsbad silenced me when it came to directly addressing health as an advocate on behalf of firefighters for most of the next 16 years.

I worked as a consultant for the residents of Encinitas and all of those residents heard me reference the AT&T v. Carlsbad case. It was one of those residents who brought to my attention that the single expert witness for the City of Carlsbad was Jonathan L. Kramer.

A summary of this case is provided by Justia.com: <https://law.justia.com/cases/federal/district-courts/FSupp2/308/1148/2491166/>

Jonathan Kramer's deposition testimony which was foundational to the success of the case was not allowed. Because I am not an attorney, I will not attempt to characterize the reasons that Jonathan Kramer's testimony was not allowed by the Court. This failure left the City of Carlsbad without an expert witness. To say this case has had far-reaching implications in limiting residents' expression of concern regarding health is an understatement.

If Jonathan Kramer was not thorough enough in determining whether or not AT&T could have used alternate sites to achieve the same coverage, I would question his thoroughness in matters large and small. This case was a very, very big deal and we all knew that at the time. Jonathan Kramer was not licensed to practice law yet in the state of California. That did not come until 2006. But when he gave his deposition on August 27, 2002 which included his tentative report and opinions, he was not ignorant of the law and what was required of him as an expert witness. Jonathan Kramer received his JD from Abraham Lincoln University School of Law in Los Angeles 10 months prior in October 2001.

### **PERMIT TEAM, LLC: CONFLICT OF INTEREST?**

Jonathan Kramer, Robert C. "Tripp" May and Lory Kendirjian are the three principals of Permit Team LLC <http://permit.team/>. This company specializes in permitting cell towers. Jonathan Kramer and Tripp May are the managing partners of Telecom Law Firm PC. Lory Kendirjian is Telecom Law Firm's Senior Paralegal and Senior Wireless Project Manager. Kramer describes Permit Team LLC as an arm's length away from his law business. From the website about Team Members:

"Meet the Permit Team staff. Between them, they have been involved in thousands cell site permitting matters, including new build permits, modification permits, and enforcement actions."

If a legal conflict of interest does not exist, one has to determine if a moral conflict of interest arises through the individual's historical actions. It is my impression that an ethical conflict is self-evident in Jonathan Kramer's advice to the city of Malibu on August 24, 2020. He did not advise the City Council, as attorney Scott McCullough did, that the Council had protective options that could slow down and even impose some restrictions on telecom from 5G small cells. Yet Jonathan Kramer had knowledge such amendments existed.

It was Jonathan Kramer's partner Tripp May who represented the city of Encinitas on our ordinance. Even though Ariel Strauss was the legal force behind getting the residents what they wanted, Tripp May provided the original ordinance template and signed off on the final product



after Ariel Strauss made legal arguments for and added over 20 protective amendments woven throughout. Encinitas has not had one permit applied for since October 30, 2019.

Why would Telecom Law principal Tripp May go along with the Encinitas Ordinance – something Kramer was very aware of, yet Kramer let Malibu go more than a year and a half after cities were supposed to synchronize their local zoning ordinances was the FCC directive and do nothing? [The FCC directive, the Third Order and Report, became effective January 1, 2019.] Through his inaction, it strikes me that Jonathan Kramer was quietly finessing Malibu to stand down. This posture allowed telecom to come into Malibu with more than 70 applications.

I ask the City Council to weigh the fact that Kramer established his two businesses “at arm’s length” with the reality of life. One can be technically & legally correct, but in real life there may exist conflicts of intentions, be they conscious or unconscious. If Jonathan Kramer has a company that makes money assisting local authorities (that may mean ministers and school superintendents, as well) in siting cell towers, is he the best person to listen to the residents’ concerns/demands that they be protected?

Is Jonathan Kramer the best attorney to protect the ambience of Malibu, the vista, the skyline, the character & the property values? Given the inherent fire risks with cell towers and the exponential increase in fire risks with the densification of 5G small cells, is Kramer the best attorney to create a protective ordinance that will apply appropriate rigor to engineering principles and thus guard against future fires? The Encinitas Ordinance was created from the template from Kramer's office, and Telecom Laws template *did not have a fire safety section*. We added that protection. The FCC openly states safety is an issue we can discuss and legislate. For Malibu, as with every city in the West, fire safety should be a top priority.

If the residents had not hired Scott McCullough to articulate and help to create a protective ordinance template the city can quickly adapt and use, I fear the doors would remain wide open to telecom until they have every conceivable utility pole and streetlight fitted with a 5G “small cell”.

I already fear that with all the applications Malibu has before it, if you do not pass a protective ordinance within a matter of weeks, residents, property values and the unique vistas of Malibu will be at risk. The inherent fire risks brought about by densification of cell towers must not be allowed to repeat the tragedy of 2007 in the city of Malibu.

I would urge the City Council not to renew its contract with Telecom Law Firm.

Respectfully,



Susan Foster

Attachments (4)