



OFFICE OF THE COUNTY ATTORNEY

Isiah Leggett
County Executive

Marc P. Hansen
County Attorney

MEMORANDUM

TO: Hans Riemer, President
Montgomery County Council

FROM: Marc P. Hansen *Marc Hansen*
County Attorney

DATE: November 6, 2018

RE: Appointment of Special Counsel – Keller and Heckman LLP

Under Charter Section 213, I request that the Council approve the appointment of Keller and Heckman LLP as special counsel to represent Montgomery County in connection with pursuing a legal challenge to the Federal Communication Commission's (FCC) recent "small cell" order. As you know, this order substantially limits the role of local governments in the siting of 5G wireless facilities in local rights-of-way.

Keller and Heckman will pursue a legal challenge on a single aspect of the FCC's small cell order – specifically the FCC's failure to fairly address comments, which had previously been submitted by Montgomery County, regarding the potential health and safety concerns related to the deployment of 5G service.

Under the Federal Communications Act and the National Environmental Policy Act, the FCC was required, before issuing its small cell order, to fairly consider the potential health effects of radio frequency emissions from small cells that will be required for the nationwide rollout of 5G service. Keller and Heckman will argue that the FCC's cursory treatment of the potential health effects associated with 5G services was unlawful under the Federal Administrative Procedure Act.

Keller and Heckman has established one of the leading telecommunications wireless practices in the United States, with special expertise in wireless siting, pole attachment, and tower and radio frequency safety issues. Mr. Albert Catalano will serve as one of the leading attorneys on this matter. Mr. Catalano has over 30 years' experience in telecommunications matters at the state and federal level. Mr. Catalano has served as special counsel on public safety issues to a number of states, including New Mexico and Hawaii.

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Accordingly, I request Council confirmation of Keller and Heckman LLP as special counsel in connection with pursuing a legal challenge to the FCC's small cell order on the basis that FCC failed to address the potential health effects of radio frequency emissions associated with the implementation of 5G services.

cc: Isiah Leggett, County Executive
Timothy Firestine, Chief Administrative Officer
Bonnie Kirkland, Assistant Chief Administrative Officer
Sonny Segal, Director, Department of Technology Services
Robert Drummer, Sr. Legislative Attorney
Jeffrey Zyontz, Legislative Attorney
Megan Limarzi, Clerk, County Council

MPH:tjs