

Signs of the Times

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And a "thanks" to Tony Kohler from Heber City

and Kate Kopischke, Scenic Utah



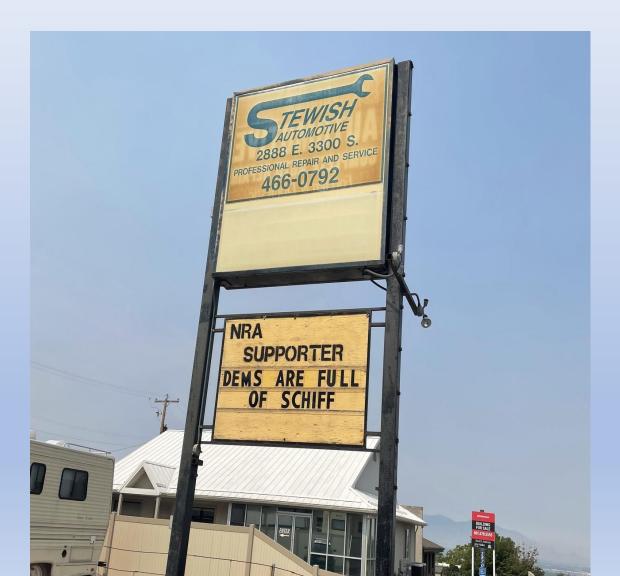
APA 2021 Fall Conference

Session Goals



- Overview of recent case law
- Sign types
- Typical sign ordinance outline
- Implications of content neutral principle on Electronic Message Centers – Pole Signs, Low Profile Signs, and Billboards

Reed v. Town of Gilbert (2015)



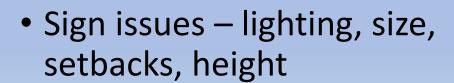
- If you have to read the sign to figure out what kind of sign it is, that is a problem.
 Differentiating sign types based on content can't be done any more
- Just time, place and manner
- Example: "real estate" signs can you differentiate from a "yard sale" sign?

Significant Recent Sign Cases

- Reed v Town of Gilbert (2015)
 - Restrictions cannot be content-based
- Thomas v Bright (Schroer) (2019)
 - Basis for distinguishing between on- and off-premise not allowed under Gilbert
 - "Concurrence not binding precedence"
- Reagan Nat'l Advertising v City of Austin (2020)
 - Fifth Circuit relied on Sixth Circuit analysis in Thomas case
 - Granted cert by U.S. Supreme Court in June 2021

Sign Types

- Pole signs
- Monument/low profile signs
- On the buildings
 - Wall, awning, projecting
- Temporary signs
- Do we still have billboards?





Pole Signs

- Size usually based on frontage, or a just a max
- Light them or unlit? (dark sky issue)
- Electronic messaging?
- Pole covers
- Landscaped area?
- Setbacks
- Height





Monument /Low Profile Signs

- Size usually based on frontage, or a just a max
- Light them or unlit? (dark sky issue)
- Electronic messaging?
- Landscaped area
- Setbacks
- Height





Wall, Awning, Projecting Signs

- Wall Size usually based on front façade of a building or just a max
 - Light them or unlit? (dark sky issue)
 - Electronic messaging?
- Awning about the same standards but usually not lit or back lit – clearance issues
- Projecting allowable distance from the building, clearance, mostly not lit







Temporary signs

- All kinds
- Difficult enforcement
- Ever changing!
- Usual standards address how long they can be out, condition, where allowed (in the ROW???)







Other Types and Enforcement issues













Typical Sign Ordinance outline

- Purpose (character issue)
- How processed (Admin/Enforcement)
- Handling Non-Conforming signs
- Types/regulations (use pics!)
- Definitions (here or in the Defs chapter?)
- Severability maybe here but better up front in the Code

- Considerations
 - Balance of Biz needs versus community character
 - Less is more do you really want to try and enforce my kids' lemonade sign?
 - Content Neutral
 - Engage your business community

The "distinction"

 How does the content neutral principle effect billboards?



- Do you have to read the sign to know it is a billboard?
- Just being off the premises is that a clear distinction?
- Is a billboard just a different kind of pole sign?

What if there is no clear distinction?

- Treat all pole signs alike
- Could any electronic message center have an off the premises advertisement? YES!
- We can't control what is advertised there
- New revenue source for those that have the electronic signs

- Does this stop further billboard construction?
- Why would a property owner allow an off the premises sign to be erected if they are only allowed one pole sign?
- What happens to the NC existing Billboards?

Nonconforming Billboards

- Their "extra" rights
- If located near a power line
- Can move an NC billboard at will
- Buying out (eminent domain) very difficult
- Can upgrade an existing NC billboard (and raise to 45') on a local street

- Tried these items recently
 - Cities and Counties not be allowed to prevent their upgrade to digital signs
 - Can't do trading you demolish one billboard to allow an electronic one

 None of these have been passed yet!

	BILLBOARD STATUTE	UT	AZ	СО	ID	МТ	NM	NV	TX	WY
1	Billboard owners may move a conforming or non-conforming sign to a new location, for any private reason, or structurally modify a sign, irrespective of zoning ordinances. If zoning laws do not permit billboards at the owner's preferred location, the city must either initiate an eminent domain process, or allow the billboard to move. (Unlike all other classes of property, billboard owners can trigger the eminent domain process.)	YES	NO							
2	When a municipality or a billboard owner triggers an eminent domain process, the billboard owner may demand a valuation and 'just compensation' price that includes an 'economic unit' (or package of signs) rather than the single sign being bought out.	YES	NO							
3	A billboard owner may, for any private reason, structurally modify and/or upgrade a conforming or non-conforming billboard, irrespective of the municipality's zoning ordinances.	YES	NO							
4	When a conforming or non-conforming billboard on a local street is structurally modified or upgraded, a billboard owner may raise the sign's height to up to <u>45 feet</u> and place it at an angle that makes the entire content of the billboard clearly visible, irrespective of the municipality's zoning ordinances.	YES	NO							
5	When a conforming or non-conforming billboard on a freeway is structurally modified or upgraded, a billboard owner may raise the billboard's height to up to <u>65 feet</u> and place it at an angle that makes the entire content of the billboard clearly visible, irrespective of the municipality's zoning ordinances.	YES	NO							

Questions and Thank You!

- Wilf Sommerkorn
- John Janson

