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May 5, 2010

Representative Rebekah Warren  
S0987 House Office Building  
P.O. Box 30014  
Lansing, MI 48909-7514

**Re: LED (Digital) Billboards**

Dear Representative Warren:

I am an attorney who specializes in representing local governments that have been sued by outdoor advertising (billboard) companies in attempts to strike down local sign regulations to erect (unwanted) billboards. I also represent various organizations such as the American Planning Association (APA), Scenic America, Inc., the International Municipal Lawyers Association (IMLA), and others in amicus briefing on billboard and other sign-related issues at the federal appellate level. During the course of my representation of local governments, scenic and planning organizations, and municipal attorney associations, spanning three decades, I have developed an expertise on nearly all legal issues involving billboard control.

Local governments are now facing multi-million dollar damage claims when threatened by billboard companies because of the denial of permits for LED (digital) billboards. These damage claims are significantly greater than those associated with traditional billboards. The following are examples from federal litigation in New Jersey.

In Coastal Outdoor Advertising Group, L.L.C. v. Township of East Hanover, Case No. 2:07-cv-04330-KSH-PS, in the U.S. District Court for New Jersey, the plaintiff billboard company claimed substantial damages due to a Township's denial of a billboard permit application. The billboard was planned to have an LED billboard face on one side and a traditional static face on the other side. Damage claims were presented in the alternative, either one static/one LED or two static faces.

Original Damage Claims: One Static/One LED: \$11,866,500.  
Original Damage Claims: Two Static Faces: \$1,838,160.

Following a deposition of the plaintiff's expert, the amount of the damage claim was reduced, but the claim for the LED billboard face was still in the multi-million dollar range (nearly \$3 million, as opposed to nearly \$11 million).

Reduced Damage Claims: One Static/One LED: \$3,821,850.  
Original Damage Claims: Two Static Faces: \$1,838,160.

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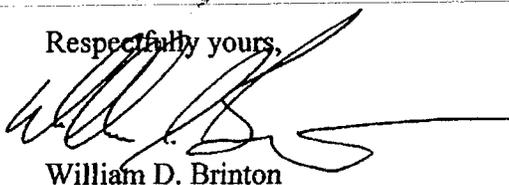
The court decided the case in favor of the Township on liability, and the matter is now subject to a pending appeal filed by the billboard company with the U.S. Third Circuit Court of Appeal.

In connection with the billboard company's \$3.8 million damage claim against the Township, there was a related federal lawsuit filed by Coastal Outdoor against its own expert witness, seeking \$3.8 million in damages for "breach of contract" allegedly occasioned by the expert's failure to comply with court orders. The billboard company claimed that the alleged breach precluded the expert from being able to testify on the billboard company's behalf if the case had gone to trial on damages. This second federal lawsuit was captioned Coastal Outdoor Advertising Group, L.L.C. v. Christopher Stark, et al., Case No. 2:09-cv-05978-KSH-PS, in the U.S. District Court for New Jersey.

The billboard company's initial expert report identifying the opinion of \$11.8 million in alleged damages for the one static/one LED billboard can be found on the Pacer system at Doc. 94-8, page 3 of 8, in Coastal Outdoor Advertising Group, L.L.C. v. Township of East Hanover, Case No. 2:07-cv-04330-KSH-PS, in the U.S. District Court for New Jersey. The revised opinion of \$3.8 million can be found on the Pacer system in the same case at Doc. 94-14, page 3 of 8.

Based upon cases like these federal lawsuits, there is little doubt that the public treasury will be exposed to multi-million dollar damage claims each time an LED billboard is required to be removed or even altered-whether for a public transportation project, other public improvement projects, for traffic safety reasons, for a scenic byway, or for any other public benefit. This is an aspect of the emerging LED billboard problem that has often gone unnoticed. The public attention has thus far been drawn to the adverse aesthetic impacts and the increase in driver distractions posed by of digital billboards. The potential of an exorbitant financial cost associated with curing these problems (once a digital billboard is established) is just now coming to the attention of the public and policymakers.

Respectfully yours,



William D. Brinton