

Court of Appeal Orders Unauthorized Digital Billboards Removed

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Los Angeles has had a long and controversial history dealing with billboard issues, most recently brought to light in the Second District Court of Appeal decision in *Summit Media v. City of Los Angeles* (12/10/12), a case in which the real parties in interest were CBS Outdoor Inc. and Clear Channel Outdoor Inc. (the “Billboard Companies”).

The genesis of the case was a group of municipal ordinances passed in 200 and 2002 that, among other things, prohibited “alterations or enlargements” of existing billboards. The Billboard Companies sued after the City passed the ordinances. This led to a settlement agreement in 2006 under which the Billboard Companies were exempt from many of the restrictions and requirements stated in the ordinances. As a result, the Billboard Companies converted some of their inventory into digital billboards.

Summit Media sued in the current case, arguing that the settlement agreement was illegal, violated the municipal ordinances, and that digital conversion permits the city issued to the Billboard Companies as a result of the settlement should be revoked.

At trial, the court held that the settlement agreement was void, but “nevertheless the issue of permit revocation was an administrative issue, to be decided on a sign by sign basis.”

Summit appealed and the Billboard Companies argued in support of the trial court decision that the ordinance language was ambiguous with respect to digital signs. But the Court of Appeal rejected this notion, noting that “the trial court held, and we have held, that digital conversions were indeed unambiguously prohibited by the municipal code at the time of the settlement agreement.”

The Billboard Companies also argued for equitable estoppel because they relied on the settlement agreement to their detriment, and such reliance was reasonable because the terms of the settlement agreement were approved by the City and modernization permits followed which allowed them to convert billboards to digital signs.

But the Court of Appeal, referring to earlier decisions, wrote that:

permits issued in contravention of municipal ordinances are invalid, and equitable estoppel is available against the government—in only the most extraordinary case where the injustice is great and the precedent set by the estoppel is narrow.‘ [Citation.]” (Toigo, supra, 70 Cal.App.4th at p. 321.)

In the final analysis, the court determined that the trial court was in error and should have revoked the digital conversion permits issued to the Billboard Companies because the settlement agreement was illegal and violated “unambiguous municipal ordinances.”

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