



“Scenic Kentucky has sued the Kentucky Transportation Cabinet over the formulation and adoption of a new set of Administrative Regulations.”

President’s Message

Dear Scenic Kentucky Member or Friend,

The past year has been a very unique one in the history of Scenic Kentucky. As noted by our Executive Director, Scenic Kentucky has sued the Kentucky Transportation Cabinet over the formulation and adoption of a new set of Administrative Regulations.

The suit was felt necessary since the adopted changes (we note not adopted through the normal legislative process) will have a significant impact on the scenic beauty of the Commonwealth and on the quality of life of many fellow Kentuckians for many years to come.

Although we are not involved in the Scenic America lawsuit against the Federal Highway Administration (FHWA) over its change of interpretation of flashing and intermittent lighting that now permits light emitting diode (LED) billboards, we continue to follow that case since it has a significant bearing on our case against the Kentucky Transportation Cabinet.

Scenic Kentucky has also been very concerned about three (3) billboard conversions in Louisville last year along I-65, from static billboards (these display only one message per board) to LED multiple message billboards (these are programmed for at least 6 message changes per board per minute). CBS Outdoor (now known as Outfront Media - ed.) was cited by Louisville Metro for violation of the renewal permits for these boards.



LED billboard at 490 East Witherspoon St

Scenic Kentucky testified in opposition to the CBS’s Appeal before the Louisville Metro Board of Zoning Adjustment. The appeal was denied so CBS sued Louisville Metro. The case is being defended by the Jefferson County Attorney’s office. We continue to monitor the status of this lawsuit. (cont.)

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President's Message (cont.)



LED billboards at 330 East Burnett Ave. and 527 Franklin St.

Other news to-date includes a successful Winter Fund Drive that will help to cover both our operating and legal expenses. We are continuing to monitor the 2016 Kentucky Legislative session. We have started to review several proposals for recognition of outstanding civic landscaping or area renewals.

In closing, for any other information on our activities, please check out our website: www.scenickentucky.org.

Thank you for your interest and support.

A handwritten signature in black ink that reads 'Marlene Grissom'.

Marlene M. Grissom, President
Scenic Kentucky

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Executive Director's Report



“Scenic Kentucky filed a lawsuit against the Cabinet to forestall the regulations becoming effective...”

Dear Scenic Kentucky Member or Friend,

The year 2015 was a very unusual one for Scenic Kentucky. It ended with the organization suing the Kentucky Transportation Cabinet (KYTC). Scenic Kentucky participated in a multi-year study effort where the Cabinet had been assigned the task of drafting a new set of Administrative Regulations for its operation. We and any other interested citizen organization were greatly outnumbered by the billboard industry representation on the study group. Although we participated in the effort, we let it be known early on that we had problems with where this was going and with what probably would be the end product recommended by the study group.

The final proposal that was delivered to the Administrative Regulations Review Subcommittee (ARRS) was, as anticipated, unacceptable to Scenic Kentucky. This was so noted at the subcommittee's August 2015 hearing. We also opposed the proposal at the November 2015 hearing of the Joint Transportation Committee. We were overruled at both committee meetings. It should be noted that these hearings by legislative committees were part of an administrative review process, not part of a legislative bill proposal, review and action process. Accordingly the Cabinet bypassed 15 years of legislative denial of similar proposals.

Within hours after the Joint Transportation Committee action, Scenic Kentucky filed a lawsuit against the Cabinet to forestall the regulations becoming effective. This was based on our position that the state cannot grant permission to cut and

prune trees and vegetation in the public right-of-way (ROW) to another party for the sole benefit of that party (such a grant thought to be illegal) and which will result in some detriment to the adjoining properties - public or private.

In addition, the lawsuit addresses the new light emitting diode (LED) billboards that frequently change messages and images, as being in violation of the Federal law prohibiting flashing and intermittent lighting of off-premise signs (billboards). Such movements are clearly meant to get your attention and are therefore inherently unsafe for the motoring public. We note that there is a very significant impact on adjoining properties as well when both pruning and cutting action is combined with the placement of an LED billboard.



I-64 entrance to western Louisville

As of mid-February, no action has been taken by the Franklin Circuit Court on the lawsuit.

For more information on this, including the hearings, press coverage and status of the lawsuit, or any other information concerning Scenic Kentucky, please go to the Scenic Kentucky website at www.scenickentucky.org.

Regards to all,

Paul Bergmann
Executive Director

Highway Beautification Act Fiftieth Anniversary

The Wall Street Journal
By Catesby Leigh
Dec. 29, 2015

The Wall
Street Journal
on the 50th
Anniversary of
the Highway
Beautification
Act

On Feb. 8, 1965, President Lyndon B. Johnson warned Congress that “the storm of modern change” threatened the nation’s scenic beauty. His message, which set the stage for a White House Conference on Natural Beauty chaired by philanthropist Laurance Rockefeller, touched on everything from environmental pollution to landscaping of federally funded roads. He called for “legislation to ensure effective control of billboards along our highways.”

Out of that came the Highway Beautification Act passed 50 years ago this fall. The act is closely associated with its prime mover, Lady Bird Johnson, the first lady.

The HBA was intended to limit the proliferation of billboards and otherwise improve the landscape along more than 300,000 miles of highways, both interstates and other federally funded roads. Under it, states entered into (cont.) agreements with the federal government regulating the size, spacing and lighting of billboards, based on “customary use” in each state, with the feds paying 75% of the cost of removing nonconforming but legally erected signs. A 500-foot interval between billboards along interstates is a common requirement under the federal-state agreements.

The law, as President Johnson acknowledged, did not provide the kind of control he had envisioned. Not only does the HBA generously accommodate outdoor advertisers by allowing billboards on land

zoned for industrial or commercial purposes in rural and urban settings alike. Even an isolated store or repair outlet can make an unzoned rural stretch of interstate billboard-eligible.

In its jubilee year, the HBA must be judged a partial success at best. The billboard industry has succeeded in increasing the cost of nonconforming sign removal. Because there have been no federal appropriations for such removal since 1983, HBA enforcement has had to compete with more urgent priorities, such as road construction and maintenance. And now there are digital billboards to contend with, something that didn’t exist when the HBA was passed.

Just how many billboards there are along federal-aid roads is uncertain. According to a Federal Highway Administration tabulation, states reported 90,000 nonconforming and 25,000 illegal billboards, though the HBA originally aimed at removing all nonconforming signs by 1970.

It’s also hard to say to what extent the HBA has curtailed billboard proliferation in rural areas. Billboard opponents resent the plethora of signs along I-75 in southern Georgia. Yet between Atlanta’s northwestern suburbs and the Tennessee line, beautiful stretches of that interstate are remarkably billboard-free.

Philadelphia serves as an example of the law’s limited impact on cities. Vistas of the urban skyline from the largely elevated stretch of I-95 that runs near the city’s gritty Delaware River waterfront are disrupted by the (cont.)



**Billboards vs.
Beauty**

50 years ago: a bill to limit billboards and improve the landscape (cont.)

relentless parade of billboards. Beautifying urban expressways may be a tall order, but these signs leave an impression of outright squalor.

Outdoor advertising battles remain a staple of local politics. Houston, once derided as “the billboard capital of the world” thanks to its 10,000 billboards, witnessed a spectacular turnaround. As Margaret Lloyd of Scenic Texas, a billboard-unfriendly nonprofit, recounts, “the stars aligned” for a coalition of businessmen, public officials and concerned citizens to enact a 1980 ban on new signs. The ban proved a boon to Houston’s quality of life and business climate, fueling a continuing process of billboard attrition linked to upscale redevelopment that would likely have been impeded had the signs that got taken down been replaced elsewhere in the city.

In Los Angeles, where the number of billboards has held steady at about 5,000 in recent years, 99 digital billboards were turned off by court order in 2013 and only a handful are now flashing. An ordinance that’s been in the works for years now aims to confine new conventional and digital signs to the highest-intensity commercial districts while sharply reducing the overall number of signs around the city. If it succeeds, it will serve as a welcome reminder that, even if the HBA has fallen short, common-sense regulation of billboards that enhances scenic values while respecting the needs of commerce is still possible.

**California ruling
for LED boards**

“...the billboards are a good deal for the city because they will generate revenue and cost next to nothing in city services.” - local billboard company

San Diego Digital Billboard Proposal Lights Up Again

The San Diego Union-Tribune
By Edward Sifuentes
February 12, 2016

Oceanside, California - This could be the year that Oceanside goes digital - with big electronic billboards.

Last year, the city turned down a digital sign proposed by BGT Media on the north side of state Route 78 at Rancho Del Oro Drive. That project was sunk in June when the City Council voted 3-2 against the sign.

But in late January the company resubmitted its proposal, and one councilman now says he may switch his vote to support it.

Since the project was revived, opponents have been the blasting city with emails saying the signs are a distraction for drivers and a blight on the community. But Tom Missett, a partner in BGT Media and a former newspaper publisher, said the billboards are a good deal for the city because they will generate revenue and cost next to nothing in city services.

“If you don’t like signs, you don’t like signs but it’s a lot of money to the city,” Missett said.

Oceanside’s debate over digital billboards started about six years ago when city revenues were plummeting as a result of the recession.

In May 2012, the City Council amended its sign ordinance to allow up to four digital billboards on city owned property, in exchange for a share of the revenues.

California ruling for LED boards

San Diego Digital Billboards (cont.)

The city issued a request for proposals to develop and operate the signs along major freeways, and ultimately approved negotiations with four companies, including BGT Media, Lamar Advertising and Outfront Media.

A proposal for a digital sign was submitted last year by Lamar along state Route 76 near Airport Road. That project is also being reviewed by city's Planning Department.



Last summer, Councilman Jack Feller voted with Chuck Lowery and Esther Sanchez against the 25-year land-use deal with BGT Media that would have allowed the company to build a 40-foot tall electronic sign on city owned property just north of the 78. Mayor Jim Wood and Councilman Jerry Kern supported the project.

At the time, Feller said he didn't mind digital billboards but he wanted the company to take down two regular billboards before he would agree to the

electronic sign. That would have been difficult because the company doesn't own any of the other billboards in Oceanside.

Feller said Friday that his main concern was that advertising companies (cont.) would eventually replace the five existing signs with digital ones.

"My mind was set on getting down two (regular signs) but that's not going to happen," Feller said.

Now, Feller said he only wants assurances that the companies leave existing billboards as they are, that they will follow environmental regulations and that they'll defend the city against any potential lawsuits.

"If they do the EIR (Environmental Impact Report), get everything completed, and are able to satisfy all the requirements, I would be in favor," Feller said.

Digital billboard opponents, such as Oceanside resident Kevin Brown, say the city is "opening a Pandora's box" if they allow any of the signs to be built. Brown said other companies that are not involved in the deal will likely sue the city to get digital signs.

"It's a shame," Brown said. "The bigger picture is that the community doesn't want it and the council is ignoring the community."

Other opponents, such as community activist Nadine Scott, say the billboards are not worth the problems they would generate.

"They are distracting, overly large and they impact the wildlife corridor on 78 (with) too much ambient light for breeding animals," Scott said. "Sometimes the benefit versus the detriments just don't add up to being a positive for the city."

Missett said his company will conduct a full environmental impact study on the project instead of the less comprehensive "Mitigated Negative Declaration" environmental document it submitted last year.

That study is expected to take at least six months to complete, Missett said.

"Sometimes the benefit versus the detriments just don't add up to being a positive for the city." - billboard opponent

News from Scenic America

Digital Billboards

Digital Billboards: The biggest threat now facing America's communities and highways is the proliferation of digital billboards. These huge "TVs-on-a-stick" distract drivers, throw off huge amounts of light into neighboring homes and the night sky, and constitute a magnified blight on the landscape.

Background on Digital Billboards

Digital billboards, electronic billboards, changeable variable message centers - whatever you call them they are the same thing: huge roadside distractions and aesthetic catastrophes.

Critique of FHWA digital billboard safety study

The first comprehensive review of the Federal Highway Administration's (FHWA) digital billboard safety study says the study's conclusions are seriously flawed. The critique by the Veridian Group, first publicized in the newsletter of the Eno Center for Transportation, says FHWA's study, published in 2013, fails at its principal task of determining whether digital billboards pose a risk to traffic safety.



A LED digital billboard

The Veridian Group's critique has been independently peer reviewed by 14 international experts in human factors and traffic safety.

"Rather than providing a justifiable direction for Federal policy regarding [digital billboards], the report leaves State and local Governments in limbo because of decisions, errors and internal conflicts that call its findings into question," the report concludes.

Veridian's critique found serious concern with FHWA's report in the following areas:

- The equipment used was unproven, the researchers were not experienced with it, and the data suffered as a result;
- The billboards studied by FHWA were dramatically less bright than those studied elsewhere, suggesting they would have attracted less driver attention;
- The number of billboards included in the data is paltry: 4 digital and 4 static billboards in each of two cities, a total of 16 signs. (cont.)

Digital Billboards (cont.)

- Unexplained differences between eye glance duration reported in the draft report (which one peer reviewer called 'not credible') and those listed in the final report;
- Other significant and unexplained differences between the draft report released for peer review in 2010 and the final report issued in December 2013.

"For more than a year the billboard industry has been touting FHWA's study as proof positive that digital billboards do not pose a threat to traffic safety," said Mary Tracy, president of Scenic America. "With the Veridian critique, we know that the issue of digital billboards and traffic safety is far from settled, and any public agency considering allowing the bright, blinking signs on their roadsides should take this critique into account first."



“The billboard industry sees digital signs as the future of outdoor advertising, and they are engaged in a full-court press to get as many of the signs up as quickly as they can around the country.”

Digital Billboard Safety Studies

It seems common sense that digital billboards are distracting, after all, that's their job. But while the billboard industry tells advertisers "drivers won't be able to avoid them," they tell regulators that the signs don't pose a safety hazard.

News on Digital Billboards

The billboard industry sees digital signs as the future of outdoor advertising, and they are engaged in a full-court press to get as many of the signs up as quickly as they can around the country. We'll try to keep tabs on the latest developments here.

Official Highway Message Signs and Advertising

In recent years three separate states (California, Florida and Pennsylvania) have floated the idea of turning over their official highway message signs to the outdoor advertising industry. The billboard companies would pay the state for the right to show advertising on the signs in between official messages.

Rutgers Law Review note argues digital billboards violate the HBA

The latest edition of the Rutgers Law Review includes a note by law student Susan C. Sharpe -- "Between Beauty and Beer Signs" -- that argues that digital billboards violate the spirit and letter of the Highway Beautification Act (HBA) of 1965. (cont.)

**digital billboards...
“have the potential
ability to keep up the
driver’s curiosity over
an extended period of
time.”**

Digital Billboards (cont.)

Swedish Study Shows Digital Billboards Distract Drivers

A new study published in the journal *Traffic Injury Prevention* concludes that digital billboards attract and hold the gazes of drivers for far longer than a threshold that previous studies have shown to be dangerous.

The study, conducted by researchers at the Swedish National Road and Transport Research Institute and funded by the Swedish Transport Administration, found that drivers looked at digital billboards significantly longer than they did at other signs on the same stretch of road, with the digital signs often taking a driver’s eyes off the road for more than two seconds.

A well-regarded 2006 study by Virginia Tech for the National Highway Traffic Safety Administration found that anything that takes a driver’s eyes off the road for more than two seconds greatly increases the risk of a crash. The study also found that nearly 80 percent of all crashes involved driver inattention just prior to (within 3 seconds) of the crash.

The Swedish study’s authors reasoned that it’s not surprising that digital billboards attract greater attention from drivers: the signs are brighter, visible from greater distances, and display a constantly changing series of advertisements. They concluded that digital billboards “have the potential ability to keep up the driver’s curiosity over an extended period of time.” Previous human behavior studies have shown that drivers are hardwired to notice bright, changing lights in their peripheral vision and to anticipate additional motion.

The Swedish government had given temporary authorization to erect digital billboards in 2009, but as a result of this and related studies the government ordered the removal of all digital billboards. Meanwhile in the United States these signs continue to go up at a rapid pace despite a growing body of evidence suggesting they pose a threat to traffic safety.

Mary Tracy, President, *Scenic America*

Download the Swedish study’s abstract here:
<http://www.scenic.org/storage/PDFs/eebdd.pdf>

Virginia Tech Study fact sheet: <http://bit.ly/UJoGre>



Glendale, Arizona
Scenic Corridor

Glendale, Arizona Planning Commission Recommends Scenic Designation

The Glendale Star
By Darrell Jackson
February 11, 2016

Glendale's long fight to keep billboards from along the Loop 101 freeway may finally be nearing an end as the planning commission voted unanimously Feb. 4 to recommend city council approve a scenic corridor along the freeway.

"This proposal would create a scenic corridor along the Loop 101 freeway from Union Hills Drive east to 51st Avenue," Planning Director Jon Froke said.

When the council votes on the planning commission's recommendation, they will vote to amend the General Plan, Arrowhead Ranch Specific and North Valley Specific Area Plan to establish a scenic corridor along the 101. (The council was expected to vote on the proposal at its Feb. 23 regular meeting.)

Froke said the city received letters from Phoenix and Peoria officials in support of the project and that staff recommended approval of the project.

"Back in April of 2015, staff asked the planning commission to research the establishment of a scenic corridor for the Loop 101," Froke said. "We did a lot of research on the issue and the General Plan Amendment would amend the Arrowhead Ranch Specific Plan as well as the city's General Plan which is called Glendale 2025."



Glendale
Arizona Loop
101 Scenic
Corridor

In a letter to Glendale officials, Peoria Vice Mayor Jon Edwards wrote, "As you know, many of my constituents were opposed to the recent effort by Becker Boards to place billboards near the neighborhoods along our common border. Ultimately, the measure was defeated (twice)."

"The Loop 101 Scenic Corridor offers the ability to close the issue once and for all, and to provide fatigued citizens in the area with measures of confidence and stability on this issue."

Numerous citizens, many who were vocal in the anti-Becker Boards attempt to place billboards near Loop 101 and Bell Road, praised the planning commission for approving this project.

"I want to thank the planning commission for approving this scenic corridor and listening to the citizens of Glendale," Glendale resident Connie Kiser said. "We have been to numerous meetings that stopped attempts to place billboards and we are glad the commission has listened."

Froke said if the council were to approve the recommendations, it would basically prevent someone from requesting an amendment to place billboards or digital billboards in this area of the Loop 101.



Membership Application

Yes, I want to help Scenic Kentucky fight visual blight and protect Kentucky's beauty. Enclosed is my annual tax-deductible contribution.

- \$25 \$50
 \$100 \$250
 \$500 \$1000
 \$2000 Other Amount _____

Name _____

Street _____

City _____ State _____ Zip _____

Telephone (H) _____

(W) _____

E-Mail _____

Please donate by check or online with PayPal. Your contribution will enable us to keep our Commonwealth blight-free and visually attractive.

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