



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

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Press Release

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For Immediate Release

**CITY REGULATION OF OUTDOOR ADVERTISING
DEEMED CONSTITUTIONAL**

***COURT FINDS THAT ALLOWING ADVERTISING ON BUS SHELTERS
DOES NOT INVALIDATE THE CITY'S RESTRICTIONS ON BILLBOARDS***

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New York, March 31, 2009 – In a decision issued today, U.S. Southern District Court Judge Paul A. Crotty completely rejected multi-faceted constitutional challenges brought on by several large national outdoor advertising companies against the City's regulation of outdoor advertising.

In dismissing two lawsuits on this topic, which were all heard together, Judge Crotty held that the City may constitutionally restrict advertising along the City's arterial highways as well as throughout certain zoning districts notwithstanding the fact that the City allows outdoor advertising in certain circumstances, such as on bus stop shelters and other street furniture.

- The first case decided by Judge Crotty today is the consolidated action of a case filed by Clear Channel Outdoor, Inc. and a case filed by Atlantic Outdoor Advertising, Inc., Scenic Outdoor, Inc., Troystar City Outdoor, LLC, and Willow Media, LLC. These companies (referred to as "the Clear Channel plaintiffs") all operate large-format billboards along the City's arterial highways. In their lawsuits, the Clear Channel plaintiffs contended that provisions of the City's Zoning Resolution which regulate the size and location of advertising signs in proximity to the City's arterial highways are unconstitutional, because they do not advance the City's interest in promoting traffic safety and aesthetics. In addition, Clear Channel also challenged the constitutionality of the requirement that outdoor advertising companies must register all their arterial signs with the Buildings Department. In rejecting the Clear Channel plaintiffs' challenge, Judge Crotty held that "New York City has substantial interests in restricting outdoor advertising signs near highways, its zoning ordinance will directly advance those interests, and the regulations are not more extensive than necessary. The few exceptions to the ban on off-site commercial arterial advertising that remain along the City's roads do not undermine the constitutionality of the Zoning Resolution."
- The second case involves challenges brought by Metro Fuel, LLC, the owner of a smaller 24-square foot internally-illuminated "panel" signs often located in parking lots or on the sides of buildings. In rejecting this challenge, the court upheld the constitutionality of the portions of the Zoning Resolution which prohibit this type of advertising sign on buildings and other private property even though advertising is otherwise allowed on elements of street furniture on the City's sidewalks. In upholding the City's regulations, the Court stated "[i]t is not fanciful to suggest that there is a real distinction between streets and buildings . . . [t]he City's actions with regard to streets in the public right of way cannot compromise or restrict its abilities to apply different rules via zoning for the simple reason that buildings are not streets and streets are not buildings."

"We are pleased with the court's conclusion that the regulation of illegal signs – and the outdoor advertising companies that install them – is a lawful way to advance quality of life and public safety for all New Yorkers," said Phyllis Arnold, DOB Deputy Commissioner of Enforcement and Legal Affairs. "Today's decision enables the Department to expand its enforcement to include all illegal advertising signs and the outdoor advertising companies responsible for them."

"The City's regulation of outdoor signs addresses important public interests in minimizing visual clutter, preserving neighborhood character and reducing unnecessary distractions to drivers on its major roadways. We are pleased that the Court has upheld the City's ability to put an end to the proliferation of illegal advertising signs throughout the City," said Sheryl Neufeld, Senior Counsel of the New York City Law Department's Administrative Law Division.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and one of the largest public law offices in the country. Tracing its roots back to the 1600's, the Department has an active caseload of 90,000 matters and transactions in 17 legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's 690 attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. For more information, please visit nyc.gov/law.

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