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Billboards pit beauty vs. business

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SUMMARY: A free-speech ruling and Measure 37 opened the floodgates for highway ads; soon voters will choose between property rights and open vistas

In a state passionate about protecting scenic vistas, Oregonians have seen at least 100 highway billboards spring up in the past two years.

From the streets of Medford and Pendleton to the farms in Mount Hood's shadow, most of the new signs resulted from an Oregon Supreme Court free speech ruling. Others became possible under Measure 37, the state's property rights law.

The result could be the next clash between open space and individual freedom in a state that values both.

On one side are Oregonians --from elderly widows to businessmen to directors of a grange hall --searching for ways to make money. Billboards remain popular because they are a medium that consumers can't turn off, tune out or throw away. And demand for the limited number of signs pushes advertising rates up to as much as \$15,000 a month in the Portland area.

On the other side are people such as Jon Ellertson, who dreams of retiring to the green trees and Mount Hood views of his family's farm near Sandy.

This spring, a neighboring farmer split Ellertson's vista with twin 75-foot-tall billboards, encouraging U.S. 26 travelers to eat local pizza and shop at Safeway. The signs grew from a successful Measure 37 property rights claim, filed by family members wanting to help their 88-year-old mother live her life out in comfort.

The billboards shocked Ellertson, who lives in Boston and remembers his home state as a place that reined in roadside ads.

While the window appears closed on erecting signs under the court ruling, outstanding Measure 37 claims could result in dozens more. That pushes the battle over billboards squarely into this fall's election campaign to scale back the law in a way that would block new billboards.

"To me, billboards are a blight, they're polluting," said Ellertson. "Whatever happened to the Highway Beautification Act? Apparently it has no teeth anymore."

The federal Highway Beautification Act of 1965 threatened to cut road money to states that didn't control billboards. The act --famously championed by first lady Lady Bird Johnson --tried to preserve highway vistas by concentrating signs in commercial and industrial zones.

Oregon went farther with its law, passed six years later. The state assigned a permit number to billboards on state and federal highways, then bought and dismantled thousands of old signs that no longer complied with the rules, said Amy Joyce, sign program coordinator for the Oregon Department of Transportation.

Owners of dismantled signs got credits to build new ones. But they could build only if they found a new, legal location.

The effect, Joyce said, was a cap of about 2,500 billboard permits, including hundreds of relocation credits for unbuilt

boards. The cap was unique, she said, leaving Oregon with among the fewest signs per highway mile in the nation.

The law "caused a huge stir," said former Gov. Barbara Roberts, who was a political activist at the time. "People said 'What are they thinking? The world will come to an end if people don't know where our businesses are.' "

Curtailling billboards limited economic development opportunities and hurt landowners who could rent to sign companies. But it also reflected Oregonians' esteem for skylines, Roberts said.

"The billboards . . . were like dandelions. They grew everywhere," she said. "Instead of looking at the Coast Range as you drove along the highway, you were looking at billboard signs."

Permits vs. free speech

In March 2006, a Medford sign company convinced the state Supreme Court that the Oregon Department of Transportation's method for issuing permits was unconstitutional, violating the state's sweeping protection of free expression.

The decision set off a building boom that lasted until the Legislature established a new permit system in May. No one knows exactly how many signs went up. An informal count from city and county planners along Interstates 5 and 84 turned up at least 100 new boards.

"This has been one of the craziest years I've ever seen in the industry," said Corey Shumway, general manager of Lamar Outdoor Advertising in Oregon and Washington, which added about 50 signs. "There was a perception this was the wild wild West."

One small sign company sent images of fluttering \$100 bills in letters to landowners in The Dalles, offering "superlative income stream augmentation" to people who would rent them space along Interstate 84.

Most observers agree the building boom centered in Roseburg in Douglas County, which approved 42 requests.

"If you drive the I-5 corridor from our southern border to Lane County, there are a lot of new ones. It's very apparent," said Louise Nicholls, a Douglas County administrative planner. "A lot of them are empty, and say 'Advertise here.' They're just blank."

To advocates of billboard control, it was a disaster. Scenic America once held Oregon up as an example of how to limit roadside signs. Now, some of the most aggressive players in an aggressive industry are focusing their attention in the state, said Bill Brinton, a Scenic America board member.

Executives with smaller sign companies said the new boards erupted from pent up frustration over Oregon's cap.

In theory, sign companies should be able to build more boards with some of the state's 700 unused relocation credits. But as the industry consolidated over the years, the majority of the state credits wound up in the hands of just two large companies, Clear Channel Outdoor and CBS Outdoor.

Relocation credits "are worth \$35,000 to \$100,000 each --if somebody is willing to sell them," which rarely happens, said Shumway. "There's a lot of frustration and resentment by a lot of small operators, because they've been literally prevented from operating in the business."

For decades, Beacon Advertising in Eugene --one of the state's oldest sign companies --did business in California "because I can build down there," owner Don Jenkins told legislators this spring. "So with this court decision, I came out and built what I could."

Under the cap, advertisers sometimes couldn't find the signs they needed, especially on the west side of Portland and in Bend, Medford and Eugene, Shumway said. The shortage drives up advertising rates, which vary based on traffic, location and visibility, he said.

"On average, the rates in Portland . . . would be higher than a similar-sized marketplace --in excess of 50 percent

higher," said Frank Podany, president of iconGroupe, founded three years ago to design outdoor advertising in Portland and Seattle.

For signs about 14 feet tall and 48 feet wide, the Oregon Lottery media buyer pays \$4,000 to \$15,000 a month in the Portland area, \$3,000 to \$6,000 a month around Eugene, and \$1,000 to \$3,000 a month in eastern Oregon, said lottery spokesman Chuck Baumann.

Bill Woodhead, owner of the Best Western Inn at the Rogue in Rogue River, waited years to find an available sign after he built his hotel in 1993. The shortage gave other hotel owners who had sign space an unfair advantage and drove advertising rates higher, he said.

Seven years ago, Woodhead bought his own billboard for \$22,000; financially, it made more sense than renting signs for \$1,200 to \$1,500 a month.

Even so, Woodhead says he'd like to see the state ban the boards and leave only small highway information signs.

"They're a blight to our beautiful state," he said, "especially now they're putting them up on any corner."

Vistas vs. property rights

In urban areas, sign companies also fought stiff city and county restrictions, said Ed Sullivan, a Portland land-use attorney experienced in sign law.

A few companies found an ally in Measure 37, which allows landowners to use their property as they could when they bought it. The measure has given birth to at least 54 claims for signs in and around Portland. So far, three have been built.

Most were put on hold in May, after the Democratic-controlled Legislature gave local governments an extra year to handle claims. Those claims await an uncertain fate this fall, when voters consider a proposed rewrite of the measure that, among other things, could rule out commercial projects.

Sign companies initially weren't interested in Measure 37 and didn't back it financially, said Podany of iconGroupe, which has made claims for 15 boards in the Portland area.

But some were inspired by a handful of early claims, including a successful 2005 bid along Pacific Highway near Tualatin. The family of an 87-year-old widow says rent from the sign makes it possible to care for her in her house, rather than moving her to a nursing home.

The family was boxed in by land-use rules, said Dan Garcia, the landowner's son. "In essence, the only option we had was to file a Measure 37 claim," he said. "God bless that billboard."

Last year, a sign company approached the Tigard Grange.

The 132-year-old group had fallen into a financial pit. It had struggled to maintain and repair its historic hall, which is a gathering place for dances, receptions and reunions.

Then, just before Christmas, the grange discovered its underground oil tank was leaking. Removing the tank and 20 tons of contaminated soil left the group a \$17,000 bill it could pay only in installments.

The sign company offered salvation, Grange Master Phil Yount said, proposing a Measure 37 claim for a billboard that would pay about \$18,000 in rent each year. Yount says he sympathizes with Tigard's desire to keep signs from cluttering the highway, but if the hall's roof leaks, or the furnace dies, the new income could keep the group afloat.

Tigard put the claim on hold after the legislative extension.

Politics and billboards

Although the new state permit system is in effect, the gap between the old and new laws will have a permanent effect. New boards will get permits retroactively, bumping the state cap upward, said Joyce of ODOT.

Backers of the unbuilt signs proposed under Measure 37 are waiting to see whether voters eliminate commercial projects. Sen. Floyd Prozanski, D-Eugene, who led legislative negotiations on the rewrite, says Oregon voters didn't expect more roadside signs under Measure 37.

Others say billboards are being used as political bogeymen to scare voters into a rewrite. The signs represent only a scrap of the state's 7,500 Measure 37 claims, said Dave Hunnicutt, president Oregonians in Action, author of the measure.

"If the Legislature would have dealt with them specifically, we wouldn't have squawked much," he said. "It could have been part of a reasonable compromise. But instead, the Legislature went against all commercial and industrial property owners' protections. They killed an ant with a howitzer."

Some issues, including the fair use of relocation credits, remain unresolved. The Legislature appointed a task force, including sign companies, scenic groups, landowners and advertisers, to make recommendations.

Some task force members want the state to set a deadline for using credits, forcing owners to build a board or sell the credit to someone who will. That could mean more billboards in Oregon's future.

"I expect it will be a lively discussion," Joyce said.

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