

Exhibit C  
Testimony of Margaret Lloyd, Scenic Texas  
TxDOT Public Hearing June 24, 2014

Scenic Texas works to preserve and enhance the visual character of Texas. We have chapters in the cities of Houston, Fort Worth, Dallas, Austin, and San Antonio, in the counties of Comal and Fayette, and an affiliate in Galveston. Scenic Texas is an affiliate of Scenic America. I am the Vice President of Scenic Texas and Vice Chair of Scenic America.

Scenic Texas has no comments to the first two rule changes regarding on-premise sign exceptions and spacing.

We do object to all the increased height proposals under Section 21.189. Our members believe the rules proposed under 21.189 would cause visual degradation of the views along all federal highways that run through unincorporated areas of our state and could greatly surprise those cities that haven't adopted height standards other than the 42.5 feet imposed by this agency 30 years ago.

Today I'd like to make some observations and provide an alternative suggestion to the 65-foot limit.

My observations focus on the lack of public purpose of the proposed height rules.

In fact the stated purposes contained in the notice have very little, if anything, to do with the public. Instead we are told that this rule change was requested by certain stakeholders, and that those stakeholders are members the very industry this agency regulates---outdoor advertisers---to increase visibility of their signs.

This need for greater visibility is supposedly documented by "scientific studies" suggesting that the current 42.5 ft. height may be dangerous to the traveling public.

Although I could provide many reasons why this proposition is not intellectually honest, today I will only mention a handful.

First, we understand that there is one report with excerpts from that one report presented so it appears there is more than one report.

Second, the sign industry funded the group that produced the one report, which means the independence and reliability of the report should be considered.

Third, the report has nothing to do with off-premise advertising billboards; it only addresses the size of on-premise business signs.

Fourth, even if TxDOT believes that the current sign height is dangerous, shouldn't the signs be removed or lowered rather than raised? In other words shouldn't they be less visible and less distracting? IF the current height has caused accidents, we urge TxDOT to provide the accident reports to the public.

Actually it may be true that these billboards are dangerous but possibly not because travelers can't see them. Last week, a billboard fell on a pump station in Midland and caused TxDOT to

close the highway to the traveling public until the billboard could be removed. This is not an isolated incident. I encourage TxDOT to review the national records on billboard accidents to see how many others have fallen or caused damage to property---not to mention billboard workers who have been seriously injured or killed while working on these signs.

Yes, if billboards are falling down on our highways, that does create a traffic hazard. And if the signs are dangerous, we believe TxDOT should take action---but not be to make the signs even taller and more dangerous than they are now.

The public purposes are set forth in the Texas Highway Beautification Act, Chapter 391 of the Transportation Code, that is:

- (1) to promote the health, safety, welfare, morals, convenience, and enjoyment of the traveling public; and
- (2) to protect the public investment in the interstate and primary systems.

So let's be honest---raising billboard height is a private industry desire to increase the value of their signs. Nothing about that equates to a public purpose.

Other than from billboard owners and advertisers, we have heard nobody request more invasive visual pollution. The members of Scenic Texas and others we have spoken to from the public have no desire for billboards to become more visible---they do not want them any taller, larger, brighter, or more prominent. In fact, our members believe the existing height is too tall and would like to see them less visible than they are today.

So today we recommend that instead of adopting a rule that raises them to 65 feet, they be lowered to 30 feet ---especially in all areas located outside a city's jurisdiction. We make this recommendation because we work with public officials and Texas leaders every day who are trying to make their cities more beautiful and less cluttered. They understand that Beauty is good for Business, for Tourism, and for the quality of life of those in their communities. For example, in Houston the number of billboards have been reduced from some 15,000 in 1980 to about 1,500 today. And in only a few years of being in existence, the Scenic City program has recognized about 40 cities in Texas for adopting ordinances that will ultimately result in a more beautiful community.

So we make this 30 foot height recommendation because it DOES have a public purpose. Lowering billboards meets the stated public purposes of Chapter 391. Raising the billboards is contrary to these purposes.

Because your mandate is to adopt rules to further these public purposes, we believe the proposed rule must be removed from consideration and that the 65 foot proposal should be changed to 30 feet. Especially on highways outside major urban areas, a 30 foot sign (or about 3 to 4 stories tall) is more than sufficient to tell us what fast food, sodas or type of alcohol to buy, and it's more in line with the height of the official TxDOT signs.

I was raised in the south and taught to be grateful when others gave me a gift---I was taught to say thank you. And I was in corporate America for decades where free enterprise and less government were legitimate corporate goals---the bottom line was the primary consideration for every transaction.

BUT even in corporate America, there is a recognition that certain risks must be assumed by the business---that all risk cannot and should not be transferred to the customers, the public, or others. Risk is inherent to every business.

What we see here today is corporate greed without gratitude.

I say that because the publicly-funded highway is the ONLY reason the billboard has value in the first place. It is the public highway location and our passing vehicles that give the billboard its value. And that valuable location is granted to the billboard owner for the cost of an annual permit and license.

The rest of us pay fuel taxes or tolls for the construction and maintenance of the highways. No fuel taxes or tolls are paid by the billboard companies that also use our highways. Most businesses pay sales taxes. But billboard companies in Texas pay no sales taxes on their advertising revenues---they are legislatively exempt. And billboard owners pay very little property taxes since their values are based upon personal property renderings.

But when the land where the billboard sits is needed for public highway purposes, the owners that have paid next to nothing for all these years argue that the sign is real property and they should recover future lost income. And, on the very issue, you have a case pending at the Texas Supreme Court right now. Why consider making billboards more visible and thus more valuable?

Honestly, this is the only polluter I know of that is provided a government permit to pollute, that it then allowed to pollute for as long as they wish to be there, and after that is paid to stop polluting when we need the land.

When I invite someone to stay in my home, rent free, in exchange for a small entrance fee to get their room ready, I would expect them to be grateful and say thank you. I wouldn't expect them to ask if they can leave their lights on all night, turn their music up to volume 10, and keep their room in shambles. And, in my wildest dreams, I wouldn't expect them to ask for a cash payment to vacate when I need the room back for my own family. No---I would expect them to say thank you and even give me a nice going away gift for the years of consideration.

But here, there are no thank you's. Instead there are requests for more----for the signs to be taller and more visible, the lights to be taller so more intrusive into our dark nights, and the sign pollution to be taller and more obvious.

So, how much is enough?? The OAAA reports that our public highway system and our agreements to allow their advertisements line our publicly-funded highways has given them rich rewards. The stakeholders your proposed rule accommodates is a 7 billion dollar industry.

In fact, here are the exact numbers. Outdoor advertising revenue – grew 17% in the past 5 years:

5.9 billion in 2009,  
6.1 billion in 2010  
6.4 billion in 2011  
6.7 billion in 2012  
and 6.9 billion in 2013

And outdoor advertising revenue rose another 1 percent in the first quarter of 2014. The revenue increase marks the industry's 16th consecutive quarter of growth. According to Kantar Media, outdoor advertising outperformed radio, newspapers, and magazines.

Now let's take a look at how much outdoor advertising exists across America.

49,082 — bus shelter displays  
30,532 — shopping mall displays  
158,868 — billboards  
4,400 — digital billboards  
33,336 — junior poster billboards  
4,029 — wallscapes/spectacular signs  
205,426 — displays on buses  
68,560 — airport displays  
184,078 — subway and rail displays  
10,593 — truckside/mobile ad vehicles  
46,194 — taxis/wrapped vehicles  
17,800 — movie theater displays  
300 — digital place-based networks  
1,352 — arenas and stadiums

SO---how much is enough?

Almost 50 years ago when Texas' own President Johnson signed the federal HBA---the very reason we are here today---he said:

“This administration has no desire to punish or to penalize any private industry, or any private company, or any group, or any organization of complex associations in this Nation. But we are not going to allow them to intrude their own specialized private objective on the larger public trust. Beauty belongs to all the people. And so long as I am President, what has been divinely given to nature will not be taken recklessly away by man.”

So, 50 years later, I ask you---please do not adopt these new height rules that will recklessly give away the natural beauty of Texas. Instead we ask that you adopt our suggested 30-foot standard that will lower the advertisements along with their bright lights.

The 30 foot standard does have a public purpose.

A lower height would respect and preserve our beautiful rural landscapes, would make billboards less visible and thus safer for the traveling public, and would decrease rather than increase the contingent liability that is demanded at condemnation.

And adopting rules to decrease visual pollution rather than increasing it will promote the stated values of TxDOT: Trust, Integrity, Responsibility, Excellence and Service.

You are charged with enforcing and protecting the integrity of our publicly funded highway system---the larger public trust---from a seven billion dollar industry that makes its profit by polluting our highways. As such, we rely on you to always keep the interest of the public stakeholders clearly in focus.