

Core of Texas highway sign ban tossed by appeals court

By Dug Begley

Opponents of billboards and other signs along Texas roadways reacted on Monday with dismay to an appeals court decision striking down significant portions of the Texas Highway Beautification Act, saying the ruling could lead to a litany of signs along federally funded highways.

The Third District Court of Appeals in Austin issued the decision on the state law - cheered as the linchpin of Texas' scenic roadway efforts - because the 42-year-old act restricts free speech.

Scenic Texas, a statewide group that has fought watering down Texas billboard laws, is urging the Texas Department of Transportation - the defendant in the current case - and state officials to appeal.

"What it appears to do is strip away TxDOT's authority to regulate outdoor advertising as they have been doing it for the last 40 years," said Margaret Lloyd, a Galveston resident and vice president of Scenic Texas. "We are concerned that authority has

been removed completely."

The ruling came late last week in a case regarding a 2011 sign erected to support Ron Paul's 2012 presidential campaign. Auspro Enterprises placed the sign on its property along Texas 71.

Auspro is owned by Michael Kleinman, who also owns the Planet K chain of smoke, erotica and novelty shops in the Austin and San Antonio area. The sign was in front of the Bee Cave Planet K location.

"It took us over five years of litigation to vindicate our First Amendment rights, but it was worth the wait," Kleinman said. "The court got it right. Texas sign laws are unconstitutional."

In July 2012, Texas Department of Transportation officials told Auspro to take the sign down, saying it was illegal because it was outside the allowed time for a political sign. The beautification act allows political signs only 90 days

before and 10 days after elections.

When Auspro didn't move the sign, TxDOT sought to punish the corporation for non-compliance, leading the company to sue on the grounds the state was violating its free speech.

A district court found in favor of TxDOT, but the Third District Court of Appeals reversed that decision.

TxDOT spokeswoman Veronica Beyer said the agency is reviewing the ruling and consulting with the Attorney General's Office and the Federal Highway Administration.

"TxDOT does not regulate or restrict content, as TxDOT has regulations that provide protection for freedom of speech," Beyer said in a statement. "Texas has the most beautiful roadways in the nation, and as such TxDOT only wishes to further maintain the safety to the traveling public without restricting peoples' constitutional rights."