

STATE OF MINNESOTA

DISTRICT COURT

HENNEPIN COUNTY

FOURTH JUDICIAL DISTRICT

Clear Channel Outdoor, Inc., a Delaware
corporation, f/k/a Eller Media Company

Case Type: Other Civil

File No. _____

Plaintiff,

vs.

City of Minnetonka,

**AFFIDAVIT OF PETER C.
HENNIGAN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
TEMPORARY INJUNCTION**

Defendant.

Peter C. Hennigan, being duly sworn states:

I am an attorney at Faegre & Benson, LLP, and I am one of the attorneys representing the Plaintiff in the above-captioned matter. I make this affidavit of my personal knowledge.

1. Exhibit 1 is a true and correct copy of the Minnesota Department of Transportation Technical Memorandum No. 03-11-TS-01, dated May 30, 2003, available at <http://www.dot.state.mn.us/tecsup/tmemo/active/tm03/11ts01.pdf>

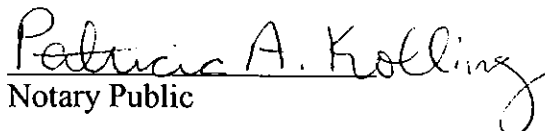
Dated: December 22, 2006

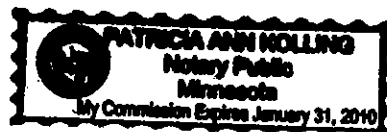
FAEGRE & BENSON LLP



Peter C. Hennigan, # 31089X
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901
(612) 766-7000

Subscribed and sworn to before me
this 22nd day of December, 2006.


Notary Public



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Moving Minnesota

MINNESOTA DEPARTMENT OF TRANSPORTATION
Engineering Services Division
Technical Memorandum No. 03-11-TS-01
May 30, 2003

To: Distribution 57, 612, 618 and 650
From: Richard A. Stehr
Division Director
Engineering Services
Subject: Flashing and Moving Lights on Outdoor Advertising Devices

Expiration

This technical memorandum supersedes Technical Memorandum No: 97-28-ES-04 and will be in effect until May 30, 2008.

Introduction

This Technical Memorandum establishes a uniform policy to determine whether lighting displays of outdoor advertising devices contain flashing or moving lights.

Purpose

To provide District personnel charged with enforcement of MN Statute Chapter 173 (Outdoor Advertising Act) with a clear guideline as what constitutes flashing or moving lights.

Guidelines for Determining Whether Lighting on Outdoor Advertising Device is Flashing or Moving

This guideline is intended for evaluating all off-premise outdoor advertising devices that utilize lighting for illumination and displaying messages or pictorial images. MN Statute 173.15, (7) prohibits any outdoor advertising device which has distracting flashing or moving lights so designed or lighted as to be a traffic hazard.

Chapter 173.16, Subd 4 (establishment of spacing requirements) allows motorists to be exposed to an off-premise advertising device every six seconds when traveling 88.5 km/h (55 mph) on trunk highways and expressways and every 5 seconds when traveling 112.7 km/h (70 mph) on rural interstates.

This is determined by the following calculations:

Table with 2 columns: Trunk Highways & Expressways, Rural Interstates. Rows include: Outdoor advertising devices are allowed every: 152.4 m (500 feet); Vehicle Speed; Time between allowable display.

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Using these calculations a measurement can be taken for determining whether lighting display is prohibited because it is either flashing or moving. Lighting display changes that occur less than once every six seconds present motorists with more off-premise advertising displays than the MN Statute 173 allows through its spacing requirements. Lighting display changes occurring once every six seconds, or more, do not present motorists with any more of a visual display than ordinary illuminated devices.

Lighting which presents a new message, pictorial image, or change illumination at a rate less than once every six seconds is determined to be a flashing or moving light and is in violation of MN Statute 173.15, (7).

Questions

Questions regarding the content of this Technical Memorandum may be directed to Scott Robinson, State Outdoor Advertising Permit Coordinator, (651) 284-3783.

Any questions regarding publication or distribution of this Technical Memorandum should be referred to Mohammad Dehdashti, Design Standards Engineer at (651) 296-4859 or Design Services Section at (651) 296-2381. All active and a list of historical Technical Memoranda can be viewed at <http://www.dot.state.mn.us/tecsup/tmemo/index.html>.

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