



Lawyer Jim Moriarty is helping the city with its billboard enforcement efforts.
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Billboard crackdown takes on advertisers
Mayor says they need to be aware the signs are illegal

By MATT STILES
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Motorists driving on Highway 6 south near Bissonnet may notice something peculiar in the skyline — a large, purple billboard advertising Nooky's Erotic Bakery: "Naughty Cakes for Nice Occasions."

The city isn't buying.

Last month, its top attorney told Nooky's and dozens of other companies that their billboards were illegal — not because of the content, but because of the location — and threatened them with \$500-a-day fines for violating Houston's sign code.

This effort, which applies to billboards in a five-mile zone just outside Houston's limits, represents a different strategy for the city: enforcing the rules against those who use illegal billboards, and not just the media companies that own them.

"We ought to be concerned about this issue because the city has a longstanding policy of attempting to cut down on visual blight," said Jim Moriarty, a Houston lawyer helping the city's billboard enforcement efforts on a pro bono basis.

Today, Moriarty is scheduled to meet with RTM Media, the company that sold space to Nooky's and scores of other advertisers, to discuss the city's crackdown.

Mayor Bill White and Moriarty say RTM has ignored a city code prohibiting such billboards in Houston's extra-territorial jurisdiction, a five-mile band around the city. To date, the city has issued more than 2,100 municipal citations against one of RTM's officers, according to court records.

"I knew that they had been ignoring citations, but there will be a day of reckoning," White said.

The dispute also has sparked lawsuits, with the city suing in state court and the company seeking an injunction at the federal level.

RTM's attorney, Robert Williams, declined to comment on the lawsuit Monday and said the company would have no comment.

Question of authority

In court filings and other documents, the company takes issue with the city's position that it has the authority to regulate billboards along highways in its extraterritorial jurisdiction.

The company says that power rests with the Texas Department of Transportation, despite a state law passed earlier this year clarifying the city's authority.

TxDOT declined to comment Monday.

According to its lawsuit, RTM does not believe the city can require its customers to obtain permits, as it claims the city is doing by focusing on advertisers.

"If the city persists in citing RTM's advertisers, it means that virtually every organization advertising on a billboard in the City of Houston is, and has been, in violation of the Houston Sign Code," according to a letter Williams sent City Attorney Arturo Michel.

The company has asked a federal court judge to stop the city from enforcing the code against its advertisers. A hearing is scheduled for Thursday.

Moriarty dismissed the company's arguments, saying the company is "all atwitter" trying to protect a profitable business he said is illegal.

"The very fact that we do not allow commercial billboards is what makes them valuable, because they've decided to build them whether they are against the law or not," he said. "That adds to the value."

The city has filed a lawsuit of its own, arguing the signs create a public nuisance, violate the sign code and unjustly enrich RTM's owners.

The city's attorney on the case, Lance Lubell, is asking the court for a permanent injunction that would restrict the construction of new signs and require the dismantling of older ones. The suit also seeks damages and attorney fees.

Some will quit, some won't

The letters sent by the city came as a surprise to some of the advertisers, which include law firms, real estate brokers and Web sites.

Kevin Morgan, who owns Eskimo Hut, a drive-through convenience store that sells frozen daiquiris, said he plans to keep his sign up.

He said he cannot afford other types of advertising.

"This avenue is my lifeline in trying to advertise my business," he said.

David Daugherty, who owns Ducky's Car Wash on FM 1960 east of Stuebner Airline, said he would try to get out of his contract with RTM.

Daugherty said he did not know his sign violated the law. He also said the company pressured him to sign the deal a day before the city's letter arrived.

"I'm going to subjugate myself to the city's position until I hear otherwise," he said. "I don't have any dogs in that fight."

White said the city had no choice but to notify the customers who may not have known they were in violation of city code.

"We think it's fair to let the customers know before any citation was issued, so that if somebody was not informed they have an opportunity to cancel the advertising," he said. "Our goal is to enforce the law."

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