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July 9, 2018

VIA EMAIL

City of Winnipeg
Executive Policy Committee
510 Main Street
Winnipeg, MB R3B 1B9

Attention: Carlos Gameiro

Dear Mr. Gameiro

Re: EPC Meeting July 11, 2018 of the Standing Policy Committee Report on Property and Development, Heritage and Downtown Development, Item 10
File No.: 1029640-1700824

Please be advised that Pattison Outdoor Advertising through its delegation, Charles L. Chappell, Jeff Pinchin and Eric Senuik, will appear before the committee to oppose the above recommendation of the Winnipeg Public Service.

Attached please find a written submission to the Standing Policy Committee on Property and Development, Heritage and Downtown Development dated June 21, 2018.

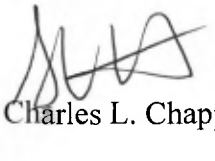
Briefly, neither the replacement of the Board of Adjustment by the director and/or a community committee is necessary. If changes are to be made relating to signage issues it is our respectful submission a full consultation should occur prior to this matter being legislated. For this issue we suggest that this matter be laid over so that such consultation may occur. In addition, the industry have suggestions as to the revision of the sign by-law which would be a positive for the City of Winnipeg, the Winnipeg Public Service and the industry.

Lastly, Pattison supports enforcement efforts being recommended but not at the cost of licensing

fees to be imposed on those members of industry who do not contravene. The wrong doers should be fined and should pay for all enforcement actions against them.

Yours truly,

MLT AIKINS LLP

Per: 
Charles L. Chappell

CLC:sw
Attach.

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June 21, 2018

VIA EMAIL

City of Winnipeg
Standing Policy Committee on Property and
Development, Heritage and Downtown
Development
510 Main Street
Winnipeg, MB R3B 1B9

Attention: Andrew Poitras

Dear Mr. Poitras:

Re: **Item 23 / Meeting June 25, 2018 / Standing Policy Committee on Property and Development, Heritage and Downtown Development**
File No.: **1029640-1700824**

There are two issues relating to this matter and the amendments to the Development Procedures By-Law No.160/2011.

The first issue is the matter of licensing fees and enforcement of the zoning regulations. Pattison Outdoor Advertising (herein after called Pattison) is the primary stakeholder involved in the placement and operation of billboards in the City of Winnipeg. At all times Pattison complies with each and every aspect of the regulatory scheme for the placement, use and operation of the billboards both poster and digital in the City of Winnipeg. Pattison is pleased to have a good working relationship with Mr. Martin Grady, Zoning Administrator, and his staff including the enforcement section. Pattison has never been prosecuted, charged with a common offence notice or notified in writing that they were in breach of any provisions of the City of Winnipeg By-Laws.

To impose upon Pattison a licensing regime with inappropriate fees is unfair and improper. The Planning, Property and Development Department should be cognizant of the fact that significant monies are paid by Pattison to the City of Winnipeg each year for conditional use and variance applications, building permits and advertising billboard taxes. To impose a licensing fee in these circumstances against Pattison is unjust.

The second part of the licensing regime deals with enforcement issues by other utilizers of first party signs and/or business signs or accessory signs. Pattison supports any regime which will enforce compliance with the City of Winnipeg Zoning By-Laws. To impose a license fee on these uses we submit is proper.

The process referred to on page 6 of the report is an error. By-Law 100/2004 provides that any third party billboards whether poster or digital static in the downtown area are prohibited. The only exception related to event signage for Bell MTS Place Aboriginal TV, CanWest at 201 Portage Avenue, the Manitoba Museum of Man and Nature, the Winnipeg Centennial Centre, Winnipeg Goldeyes and finally the Winnipeg Convention Centre. Pattison Outdoor Advertising has no such billboards either poster or digital static in the jurisdiction of By-Law 100/2004. Therefore it is not an identical process as the report would indicate.

The last review of the sign By-Law occurred in 2011. At that time the application fee for a third party advertising sign was approximately $2,000.00. Today that same application costs approximately $10,000.00 because of increased application fees, increased information required by planners to process the application and whatever other fees and licenses that the City of Winnipeg impose. These costs relate to an application which has a lifetime of 8 years only. The approval is rescinded after 8 years.

The Urban Planning Division was directed that consultation occur with the industry. To say this consultation lasting 1 hour was a fair consultation in effect to resolve issues between industry and Winnipeg Public Service is incorrect in all respects. The industry is concerned and wants to work to resolve issues with the Winnipeg Public Service and council. In fact, the consultation and engagement with industry was totally against this matter proceeding.

The proposed amendments to the Development Procedures By-Law No. 160/2011 where billboard advertising signs within By-Law 200/2006 would require the Director of Planning, Property and Development to process the application subject to appeal. Pattison opposes this change in the regulatory system for the following reasons:

1. The Director of Planning, Property and Development and the Winnipeg Public Service are extremely biased and prejudiced against billboards whether poster or digital. The bias and prejudice does not create a level playing field for the industry including Pattison.

2. The present Mayor and Council have preached openness, opaqueness and clarity in the decision making process for the City of Winnipeg. Part of this process involves the public hearing held by the Board of Adjustment and the Appeal Committee. This permits both the Applicant, the Winnipeg Public Service and the citizens of Winnipeg to participate in the decision making process.

3. To remove and change the present regime and replace the Board of Adjustment impartial adjudication with that of the Director of Planning, Property and Development does not achieve the aims of the Mayor and Council of the City of Winnipeg.

4. The decision of the Director of Planning, Property and Development is dictatorial, prejudiced and biased against the billboard third party advertising industry whether it be poster or digital.

5. The provisions of By-Law No. 100/2004 (Downtown Zoning By-Law) and the provisions of By-Law No. 200/2006 (Planned District Overlay) all prohibit advertising billboards for third party advertising. This prohibition discriminates against the billboard advertising industry while permitting other entities to install digital billboards such as specific business usages, not for profit organizations and some cultural and sporting entities.

6. The Downtown Winnipeg Zoning By-Law No. 100/2004 permits with non-conforming uses horrible examples of billboards constructed in the 1930's and 1940's on rooftops that do not reflect in anyway the present billboard advertising industry in the City of Winnipeg. The technical advances made by the advertising industry in recent years is profound. In the future it is anticipated that the advertising billboard industry will be able to provide product which will create a vibrant, alive and thriving industry in all areas of Winnipeg including the downtown area.

7. The evident bias and prejudice of the Winnipeg Public Service, including the Director of Planning, Property and Development and his staff creates an environment of distrust and prejudice because of past conduct of the Winnipeg Public Service. Why on earth would the regulatory regime place the approval process in the hands of a prejudiced and biased authority? This seemingly reverts to the backdoor dealings which this Mayor and Council criticize the former Council for establishing within the regulatory regime.

8. If it is the will of Council that billboards whether poster or digital as third party signs or digital signs and accessory signs not be permitted under the provisions of By-Law No. 100/2004 and By-Law No. 200/2006, why would City Council not amend the By-Law use? This action would affect many businesses and perhaps all businesses located in the City of Winnipeg including that of Pattison in a negative manner.

By way of information since the end of 2013, Pattison has submitted 19 applications to establish a new digital or static poster billboard on various properties that had not previously had a billboard located on them in the past. Only 1 of those 19 applications received an approval recommendation from the Public Service. Out of those 19 applications, Pattison was granted 10 of them at the Board of Adjustment and an additional 3 by the Appeal Committee. Although the Board of Adjustment and/or elected officials of the Appeal Committee approve of our applications, Pattison still does not seem to be able to receive an approval recommendation from the Winnipeg Public Service. Even when our applications for a new billboard location are fully compliant with every aspect of the zoning bylaw and require no additional variances, Pattison regularly receives a rejection recommendation.

We do not understand why the power to grant billboards is being removed from the Board of Adjustment. What is so special about our industry that the Board of Adjustment cannot deal with our applications but can still decide on all other signage issues.

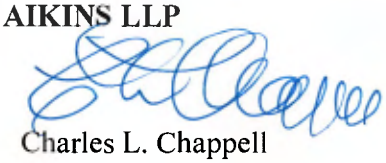
For the foregoing reasons Pattison opposes the proposed changes to By-Law No. 160/2011. The function of the Board of Adjustment and its quasi-judicial decision should remain intact. The provision of Section 247 and 254 of the City of Winnipeg Charter Act, the findings of fact must be made by the Planning Authority prior to the granting of the conditional use and variance for billboards and accessory signs. To provide this authority to a dictatorial, biased Director of Planning, Property and Development does not advance the aims, direction and finding of facts required with Section 247 and 254 of the City of Winnipeg Charter Act.

The report of the Winnipeg Public Service provides that the process with the Director approval will be quicker, and more efficient to deal with the applications. This is disputed by Pattison Outdoor Advertising. The process utilizing the Director for approval is not transparent and does not permit any independent third party to perform the fact finding mission and quasi-judicial functions envisioned by the City of Winnipeg Charter in Sections 247 and 254. In the view of Pattison Outdoor Advertising, this is a regressive step and not something that should be encouraged.

It is therefore recommended that the Standing Policy Committee on Property and Development, Heritage and Downtown Development NOT adopt this report and refer the matter back to the Winnipeg Public Service for further consultation and engagement with industry for preparation and review of existing By-Laws.

Yours truly,

MLT AIKINS LLP

Per: 
Charles L. Chappell

CLC:sw