



- **Adams Outdoor Advertising Limited Partnership**
- **Appeal to the UDC from Decision of the Zoning Administrator, MGO Ch.31, Sign Control Ordinance**
- **75 Nob Hill**
- **Legistar File ID #: 81637**

# APPEAL

- **Reverse the Zoning Administrator's decision because the Sign is a non-conforming use under Section 62.23(7) of the Wisconsin statutes.**
- **If the Zoning Administrator's decision is not reversed, the City will have taken Adams' property requiring just compensation.**

# FACTS

- **Approved by the Town of Madison in 2006 (See Adams Exhibits 2-3).**
- **The Town's Ordinance allows digital billboards (See Adams Exhibit 1).**
- **Built in and operated since 2006.**
- **The City only prohibited digital signs after 2007 (See Adams Exhibit 10)**

## **Sec. 7-15-2 Definitions.**

The following definitions shall be applicable in this Chapter.

- (a) **Off-Premise Billboards.** In addition to time and temperature signs which comply with TRANS 201.15(3)(c) through (g), Wis. Adm. Code, Off-Premise Billboards shall be allowed to be changed by electronic process, provided that such message shall remain static and shall not move or appear to move. The message shall not change more than once every six seconds, and such change shall occur in less than one second.

# FACTS

## APPROVED BY DANE COUNTY STATE OF WISCONSIN SUPREME COURT SETTLEMENT AGREEMENT (Adams' Exhibit 9)

- “[may] remain up as is indefinitely and hereafter.”
- “such sign shall hereafter be regarded by the County as legal and nonconforming.”

STATE OF WISCONSIN  
SUPREME COURT

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ADAMS OUTDOOR ADVERTISING, L.P.  
Plaintiff-Respondent-Petitioner,

TOWN OF MADISON  
Involuntary Plaintiff,

Appeal No.: 2010AP00178

-vs-

COUNTY OF DANE,  
Defendant-Appellant.

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SETTLEMENT AGREEMENT

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This Settlement Agreement is made and shall be considered effective and binding as of the time and date it is executed by the parties.

The above parties agree as follows:

- 1). Adams shall pay to the County no later than [REDACTED] as and for the resolution and payment of all fees, costs, fines, forfeitures and any and all other obligations it may have to the County under the facts and circumstances surrounding the above-captioned case and Case Number 12-CV-0962 in the Circuit Court for Dane County, Wisconsin ("Case II").
- 2). The County acknowledges and agrees that Adams' digital sign (including both faces) on the beltline at 75 W. Beltline Highway ("A-1 location") in the Town of Madison may remain up as is indefinitely and hereafter. The County acknowledges and agrees that such sign shall hereafter be regarded by the County as legal and nonconforming. Adams acknowledges

# FACTS

- Attached from the Town of Madison into the City of Madison in 2023.

Advertising Sign “Cap & Replace” Ordinance Background and FAQ for Common Council  
Prepared by: Matt Tucker, Zoning Administrator  
June 12, 2015

Q. What happens to the Advertising Signs on properties in the Town of Madison or other townships that are planned to annex or attach to the City in the future?

A: Any advertising sign that comes into the City through annexation or attachment after February 2 2015 is not eligible for cap & replace. The Advertising Signs on those properties, if originally legally approved in the township, may remain, but their square footage may not be banked.



# ZONING ORDINANCE

## ZWIEFELHOFER V. TOWN OF COOKS VALLEY, 2012 WI 7 6 KEY CHARACTERISTICS OF ZONING ORDINANCE

1. **District Division**: Zoning ordinances divide a geographic area into districts.
2. **Use Regulation**: Zoning ordinances permit or prohibit uses within a geographic district.
3. **Location Focus**: Zoning ordinances address where a use occurs rather than how a use occurs.
4. **Classify Uses**: Zoning ordinances classify uses generally and attempt to comprehensively address all uses in an area.
5. **Not case-by-case**: Zoning ordinances are not case-by-case regulations (except in the case of conditional uses).
6. **Allows Legal Nonconforming Uses**: Zoning ordinances allow property owners to maintain legal nonconforming uses.

# ZONING ORDINANCE

## FACTORS 1-3

1. **District Division:** Zoning ordinances divide a geographic area into districts.
2. **Use Regulation:** Zoning ordinances permit or prohibit uses within a geographic district.
3. **Location Focus:** Zoning ordinances address where a use occurs rather than how a use occurs.

**City’s sign ordinance plainly acknowledges it is a zoning regulation. Section 31.021(1) states that:**

[f]or purposes of Chapter 31, the zoning districts established in Chapter 28 (“Madison Zoning Code”) are divided into the following groups, so that regulations for signs based upon zoning district can be administered consistently with the purpose of this ordinance and the Madison Zoning Code. The City finds that the zoning districts within each group share characteristics that make it appropriate to regulate signs displayed in those districts similarly.

# ZONING ORDINANCE

## FACTORS 1-3

1. **District Division:** Zoning ordinances divide a geographic area into districts.
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### Zoning Districts Overview:

- The City's sign ordinance divides the City into three distinct groups of zoning districts.
- Type, height, size, location, and allowed display of signs on a property depend on the specific zoning district in which the property is situated.



# ZONING ORDINANCE

## FACTORS 1-3

1. **District Division:** Zoning ordinances divide a geographic area into districts.
2. **Use Regulation:** Zoning ordinances permit or prohibit uses within a geographic district.
3. **Location Focus:** Zoning ordinances address where a use occurs rather than how a use occurs.

### Madison's Sign Districts:

**Group 1:** Encompasses most residential districts, the agricultural district, and the campus institutional district.

**Group 2:** Includes most mixed-use districts, the tiny house village district, downtown core district, urban office residential district, traditional shopping street district, and parks and recreation district.

**Group 3:** Encompasses commercial and industrial districts.

**Districts of Special Control:** Certain zoning districts, such as Historic Districts, Mixed-Use Center District, and Planned Development Districts, are defined as "Districts of Special Control."

# ZONING ORDINANCE

## FACTORS 4-5

4. **Classify Uses.** Zoning ordinances classify uses generally and attempt to comprehensively address all uses in an area.
5. **Not case-by-case.** Zoning ordinances are not case-by-case regulations (except in the case of conditional uses).

### Madison's Ordinance:

- Regulates the type, height, size, location, and allowed display of signs based on the zoning classification of the property on which a sign is located.
- Applies to all signs rather than each sign on a case by case basis.

# ZONING ORDINANCE

## FACTOR 6

6. **Allows Legal Nonconforming Uses**. Zoning ordinances allow property owners to maintain legal nonconforming uses.

### Madison's Sign Ordinance:

- Allows legal nonconforming uses.
- M.G.O. §31.05(1)(a) states that “[a]ny existing sign (except an Advertising Sign) that complied with the requirements of this Chapter at the time of erection and becomes noncompliant with the requirements of this Chapter on the effective date of this Ordinance or subsequent amendment may continue to be displayed, and copy may be changed.”

**ALL SIX FACTORS ESTABLISH THAT THE MADISON SIGN ORDINANCE IS A ZONING ORDINANCE**

# NONCONFORMING USE

**Wis. Stat. § 62.23(7)(h):**

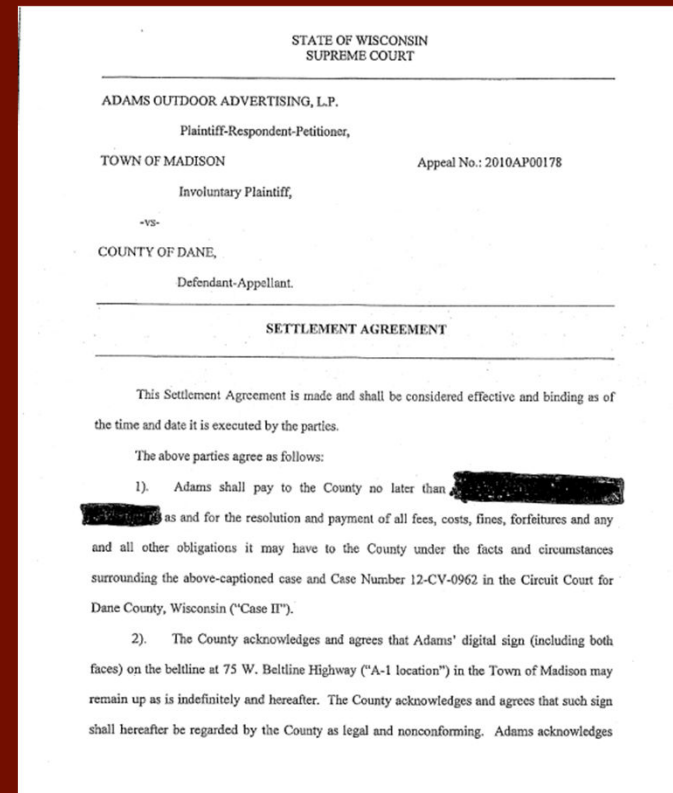
**The continued lawful use of a building, premises, structure, or fixture existing at the time of the adoption or amendment of a zoning ordinance may not be prohibited although the use does not conform with the provisions of the ordinance.**

- Sign was used since 2006
- Town approved the Sign.
- County agreed in a court-filed document that Sign was a legal use.
- City didn't prohibit digital signs until after 2007.

# NONCONFORMING USE

The City and Dane County are creatures of the state of Wisconsin. The City cannot legally undo Dane County's actions:

- granting Adams the right to use the sign indefinitely; and
- determination that the sign was lawfully nonconforming.



# APPEAL

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