

**CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511**

Date: December 8, 2011

MEMORANDUM

TO: Mayor Soglin
Members of the Common Council

FROM: Michael P. May, City Attorney

RE: Revised Settlement Agreement with Adams Outdoor Advertising, Legistar Files No. 22180 and 24775

This memorandum provides a brief explanation of the revised Stipulation and Settlement Agreement between the City and Adams Outdoor Advertising, Ltd., Legistar Files No. 22180 and 24775. These items should be referred to the Board of Estimates and the Plan Commission.

The City and Adams reached a settlement of pending tax litigation that would have required the City to make a cash payment to Adams. The prior settlement required a payment to Adams of \$1,079,092. Portions of the payment would have been charged back to other taxing jurisdictions, with about \$623,594 remaining the City's responsibility. Following the introduction of the resolution approving that agreement (Legistar No. 22180), Adams approached the City about pursuing an alternative. After extensive negotiations, we reached agreement on an alternative. We seek Council approval of this alternative settlement.

In essence, the settlement replaces a cash payment to Adams with the right of Adams to construct new or replacement billboards. In return for dismissal of all pending cases and providing the City a satisfaction of judgment, Adams would have the right to apply for and obtain five (5) new permits for two-sided billboards, to modify one billboard, and to convert or replace one other billboard by moving it about 15 feet. Adams also agrees to remove billboards at the Villager and Union Corners.

This settlement is similar to one reached between Adams and the City resolving other litigation in 1993. The substitute resolution approves the Settlement Agreement and Stipulation that has been signed by the City Attorney, subject to approval of the Council. The ordinance (Legistar No. 24775) makes the exceptions to existing ordinances banning new billboards, to allow Adams to obtain the permits.

Once constructed, the new or modified billboards will be considered existing non-conforming uses, that is, the City will treat them as if they existed at the time the billboard ban went into effect. The Settlement makes clear that the new billboards may

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not be placed in historic districts, urban design districts or the no advertising district, and that the City may modify zoning or other districts that regulate billboards, so long as the City does not effectively deprive Adams of the ability to use the permits granted in the settlement.

In addition, as part of the settlement, Adams will, upon notice from the City, remove the two billboards located at the Villager, and upon commencement of construction of a development at Union Corners, Adams will remove the billboard located there. Absent this agreement, there was a strong possibility of litigation over those billboards.

Finally, if the Common Council declines to approve the Settlement Agreement within 90 days, then the prior agreement will be submitted to the Council for approval.

A copy of this memorandum will be placed in the respective Legistar files.

CC: Mark Hanson
Mike Kurth
Brad Murphy
Matt Tucker
Jaime Staffaroni
Kitty Noonan