National Alliance of Highway Beautification Agencies
Annual Meeting – Savannah, Georgia – April 15, 2013

PRESENTATION: WALL MURALS
(BILLBOARDS ON WALLS)

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THIS IS A WALL MURAL
THIS IS A BILLBOARD ON A WALL
FHWA Memorandum 10-12-1990 (South Dakota) (Local Control and CEVMS)

CUSTOMARY USE

MUST HAVE BEEN LAWFUL
2400 sf billboard

May 18, 2007

US-1

130 Biscayne Blvd.
Customary Use

FHWA Memorandum: Customary Use and Building/Wall Murals  03-17-2008:
FHWA Director, Office of Real Estate Services to Florida Division Administrator:

03-17-2008:  FHWA LONG HELD POSITION :

03-17-2008:  THE TERM "CUSTOMARY USE" REFERS TO THE PREDOMINANT, USUAL OUTDOOR ADVERTISING SIGNS EXISTING IN A ZONING AUTHORITY'S JURISDICTION AS OF THE DATE THE STATE/FEDERAL AGREEMENT WAS EXECUTED.
Customary Use

FHWA Counsel Letter to FDOT Counsel. 09-30-2008:

SURPRISINGLY, "CUSTOMARY USE" HAS NOT BEEN A CONTENTIOUS ISSUE.

ONLY IN THE RECENT YEAR OR SO HAS IT BECOME A "HOT" ISSUE.
City of Miami Mayor’s letter to FDOT Secretary.

05-19-2009:

05-19-2009: THE CITY ADOPTED ORDINANCES TO REGULATE WALL MURALS IN AN EFFORT BOTH TO CONTROL THE UNREGULATED PROLIFERATION OF WALL SIGNS AND TO PROVIDE MUCH NEEDED INCOME. WE EXPECT TO GENERATE OVER $2,000,000.00 THROUGH PERMITTING OF SUCH SIGNS.
Absence of effective control
1334 North Miami Avenue
Customary Use

City of Miami Mayor’s letter to FDOT Secretary.

05-19-2009: THE ORDINANCE LIMITS WALL MURALS TO COMMERCIAL AND INDUSTRIAL USE AREAS
Miami Riverside Center
Miami Riverside Center
Civic Institution Zone
Miami Government Offices
City of Miami Mayor’s letter to FDOT Secretary.

05-19-2009:

05-19-2009: HELP MIAMI ACHIEVE ITS GOAL OF A BEAUTIFUL, PROSPEROUS, AND VIBRANT PLACE FOR RESIDENTS AND VISITORS ALIKE
Absence of effective control
South face and West faces 9,900 sf. Nearby billboards Dolphin Expressway
May 18, 2007
Customary Use

City of Miami Mayor’s letter to FDOT Secretary.

05-19-2009:

05-19-2009: MIAMI’S REQUEST FOR CERTIFICATION: THE INTENT IS TO IMPROVE THE APPEARANCE OF THE URBAN CORE
Neighborhood billboard in HBA control area
New wall billboards nearby
Visible from I 395
Visible from I 395
City of Miami Mayor’s letter to FDOT Secretary. 05-19-2009:

Size, Height, Width, Spacing
Customary Use

FHWA Division Office Letter to FDOT Director, Office of Right-of-Way. 10-2-2009:

10-02-2009: AS YOU ARE AWARE, THE CERTIFICATION OF LOCAL GOVERNMENTS FOR CONTROL OF OUTDOOR ADVERTISING DOES NOT RELIEVE THE FDOT OF ITS RESPONSIBILITY UNDER THE HIGHWAY BEAUTIFICATION ACT FOR ENSURING EFFECTIVE CONTROL OF OUTDOOR ADVERTISING IN THOSE JURISDICTIONS.
Customary Use

Florida DOT to FHWA Florida Division. 10-14-2010:

Billboard on a pole and Billboard on a wall
Loss of effective control
Size and spacing along US 1.

6,431 sf
2,400 fs
WE DO NOT CONSIDER THE CITY'S PROPOSED CONTROLS OF WALL MURALS USED FOR OUTDOOR ADVERTISING TO BE IN CONFORMANCE WITH THE INTENT OF THE HBA AND OUR LONGSTANDING IMPLEMENTING REGULATIONS.
06-17-2011: THE CONTROL OF WALL MURALS WITH RESPECT TO SIZE, SPACING, AND LIGHTING CANNOT OCCUR IN ISOLATION FROM THE OTHER SIGNS, DISPLAYS, OR DEVICES REGULATED BY THE HBA IN THE CONTROLLED AREA.
Spacing between billboard on a wall and a billboard on a pole
Billboard on a wall?
Billboard violating size and spacing criteria in State-Federal Agreement along US-1
Customary Use

FHWA Florida Division to Florida DOT Secretary. 06-17-2011:

06-17-2011: MIAMI APPARENTLY DID HAVE AN ORDINANCE IN EFFECT IN 1972 THAT, BASED ON A FORMULA CALCULATION, ALLOWED SOME OVERSIZED SIGNS ON BUILDINGS. THE SUBMITTED DOCUMENTATION DEMONSTRATED THAT SOME OVERSIZED MURALS MAY HAVE EXISTED IN MIAMI PRIOR TO THE FEDERAL-STATE AGREEMENT, BUT IN SUCH FEW NUMBERS THAT IT CANNOT BE SAID THAT SUCH USE WAS CUSTOMARY.
Trilologic
50 Biscayne Blvd.
Spacing, Size, Width, Height

April 4, 2013
Dolphin Expressway
May 18, 2007
1,000 spacing, 1,200 sf size, 60 foot width, 30 foot height
Customary Use

FHWA Florida Division to Florida DOT Secretary. 06-17-2011:

06-17-2011: WE BELIEVE MAINTAINING THE FORMULA CALCULATION FOR SIZE PROVIDED IN THE 1965 ORDINANCE COULD BE AN APPROPRIATE BASIS FOR A DETERMINATION OF CUSTOMARY USE; WE DO NOT SEE A LOGICAL BASIS FOR SELECTING 10,000 SQUARE FEET AS THE MAXIMUM. EVEN WITH USING THE FORMULA CALCULATION, IT NEEDS TO BE SHOWN THAT THE USE OF SUCH OVERSIZED MURALS WAS CUSTOMARY.
Customary Use

FHWA Florida Division to City of Miami. 4-25-2012 email:

04-25-2012: WE BELIEVE A TOTAL ABSENCE OF SPACING CONTROL . . . IN YOUR . . . ORDINANCES IS NOT SUFFICIENT JUSTIFICATION FOR ARBITRARILY CHOOSING SPACING DISTANCES THAT VARY FROM THE FEDERAL-STATE AGREEMENT, ESPECIALLY IF ONLY FOR MURALS AND NOT INCLUSIVE OF ALL OUTDOOR ADVERTISING.
Spacing between billboard on a wall and a billboard on a pole
FWSA Florida Division to City of Miami. 4-25-2012 email:

04-25-2012: WHILE WE SOUGHT MANY TIMES TO IDENTIFY AN INITIAL SPACING CRITERIA AS A STARTING POINT FOR DISCUSSION, YOU PREFERRED TO CONSIDER OTHER METHODS FOR HOW WE MIGHT MEASURE THE DISTANCE (I.E. DIRECT LINE DISTANCE BETWEEN A MURAL AND BILLBOARD AND NOT BY THEIR SPACING AS TRAVERSED ALONG THE HIGHWAY).
04-25-2012: MY TRUST IS WANING THAT THE CITY IS WORKING IN GOOD FAITH TO RESOLVE THIS MATTER COOPERATIVELY.
04-25-2012: I am not perceiving a willingness in any way for the city to move towards a consensus while FHWA and FDOT have continuously tried to bend and innovate.
STOP BENDING!
The Miami Herald
Miami Riverside Center (MRC)  
“Auction Hunters”  
How much $$ changes hands?