What does “Commercial/Industrial Mean to NAHBA Today?

Background for Session – Clyde B. Johnson, SR/WA, R/W-URAC, R/W-RAC
Memorandum of September 28, 1976, from the Director of the Office of Right-of-Way to the Regional Federal Highway Administrators, entitled "Office of General Counsel Opinions Amended." This transmitted two recent opinions prepared by the Office of General Counsel, one of which concluded that the Secretary must continue to examine local zoning ordinances to insure that permitted activities are within the general scope of customary use, and that true zoning has occurred. In spite of broad authority to zone for commercial and industrial purposes, localities may not zone artificially or illegally to permit the erection of signs in violation of the 23 USC §131 and applicable Federal regulations.
State/Federal Agreements contain definitions for Commercial/Industrial

B. Zoned commercial or industrial areas means those areas which are zoned for business, commerce or industry pursuant to local zoning ordinance, by-law, regulation or enabling State legislation.
23 CFR §750.708 Acceptance of state zoning.

(d) A zone in which limited commercial or industrial activities are permitted as an incident to other primary land uses is not considered to be a commercial or industrial zone for outdoor advertising purposes.

January 29, 1985, FHWA Memorandum

The Federal Highway Administration regulations (23 CFR 750.708(d)) do not recognize for outdoor advertising control purposes those commercial or industrial zones which allow only limited commercial or industrial activities. The Office of the Chief Counsel concurs in this memorandum.
The “key” in Title 23 – U.S.C. §131 (d)

“The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this act.”

AS LONG AS IT IS CONSISTENT WITH

(d) “In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section....”