



## Legal Corner: 2008 OAAA Legal Seminar Recap

assessment should be analyzed, and is likely more appropriately valued, utilizing the cost approach. The methodology and approach for the valuation of billboards is often different for tax assessment purposes than it is in a condemnation action.

The condemnation panel also discussed the federal court's jurisdiction in takings litigation following *San Remo Hotel, L.P. v. City and County of San Francisco*, 545 U.S. 323 (2005). An action challenging state or local regulations as a violation of the takings clause is not ripe until there is a final decision by a state court. (See *Williamson County Planning Commission v. Hamilton Bank*, 473 U.S. 172 (1985).) However, once there is a final decision by a state court on a

takings claim, a federal court will likely be bound by that state court's decisions. In *San Remo*, the U.S. Supreme Court cited the Full Faith and Credit Clause to honor the state court's decision. In effect, federal district courts may not have jurisdiction to conduct a separate trial of federal takings claims once a final decision has been reached by state court. Litigants should be aware that they may not get a chance to have their federal takings claim heard by a federal court if it is heard and ruled upon by a state court. Yet, one must bring a takings claim in state court before the federal claim is ripe. This puts a litigant in a Catch-22.

The panel further discussed the constitutionality of laws requiring or

The Outdoor Advertising Association of America, Inc. (OAAA) held its 2008 Legal Seminar on March 4, 2008 in San Juan, Puerto Rico. As always, the OAAA Legal Seminar was extremely informative, providing updates on legal decisions and trends nationwide and in various jurisdictions. The seminar was broken up into four main portions: (1) changes in condemnation and takings law, (2) developments in digital billboard law, (3) general counsel's panel, and (4) new legal issues in outdoor advertising.

### Changes in Condemnation and Takings Law

Valuation of outdoor advertising signs was discussed in the context of the different measure of value for personal property tax assessment, as opposed to condemnation. The presentation focused on the Supreme Court of Wisconsin's decision in *Adams Outdoor Advertising Ltd. v. City of Madison*, 717 N.W.2d 803 (S.Ct. Wisconsin, July 2006), which held that the City of Madison's tax assessor improperly relied solely on the income approach as the basis for the personal property tax assessment of billboards owned by Adams Outdoor Advertising Ltd. The valuation of billboards for personal property tax

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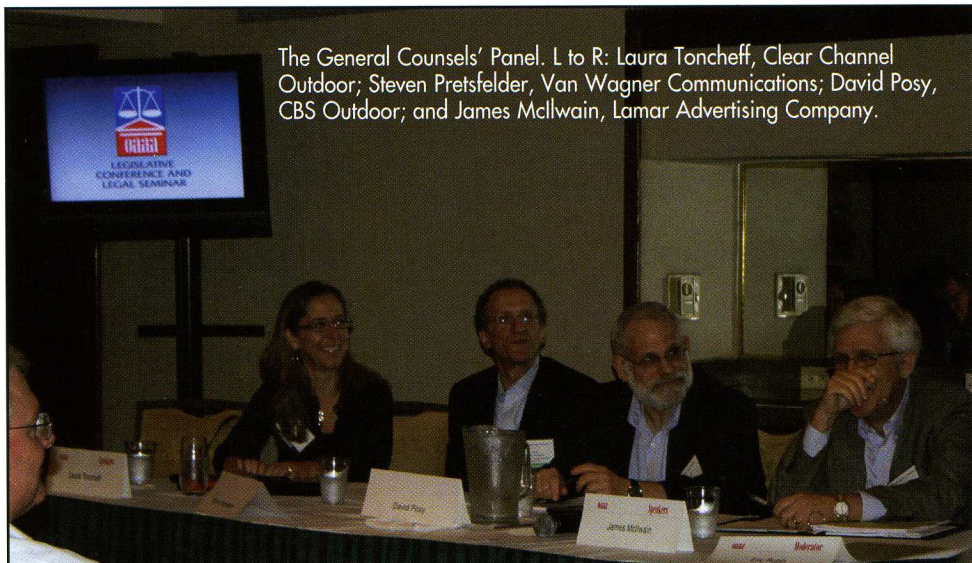
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conditioning the issuance of a development permit on the removal of a billboard.

### Development of Digital Billboard Law

The Digital Billboard Panel discussed the study conducted by Tanatala Associates and the study's conclusion that digital billboards have no statistically significant relationship with occurrence of automobile accidents. Automatic dimming capabilities and the various methods for measuring brightness were also analyzed. Strategies for proposing digital sign regulations to local municipalities, as well as issues involving digital sign legislation were also presented. For additional information and updates regarding digital advertising, visit [www.digitalooh.org](http://www.digitalooh.org).



The General Counsels' Panel. L to R: Laura Toncheff, Clear Channel Outdoor; Steven Pretsfelder, Van Wagner Communications; David Posy, CBS Outdoor; and James McIlwain, Lamar Advertising Company.

### General Counsel's Panel

James McIlwain, General Counsel and Secretary, Lamar Advertising Company; David Posy, Senior Vice President and General Counsel, North American Operations, CBS Outdoor Inc.; Steven Pretsfelder, Senior Vice President and

General Counsel, Van Wagner Communications, LLC; and Laura Toncheff, Executive Vice President and General Counsel, Clear Channel Outdoor Inc., discussed various legal issues currently facing the outdoor advertising industry. The general counsels focused on some of the

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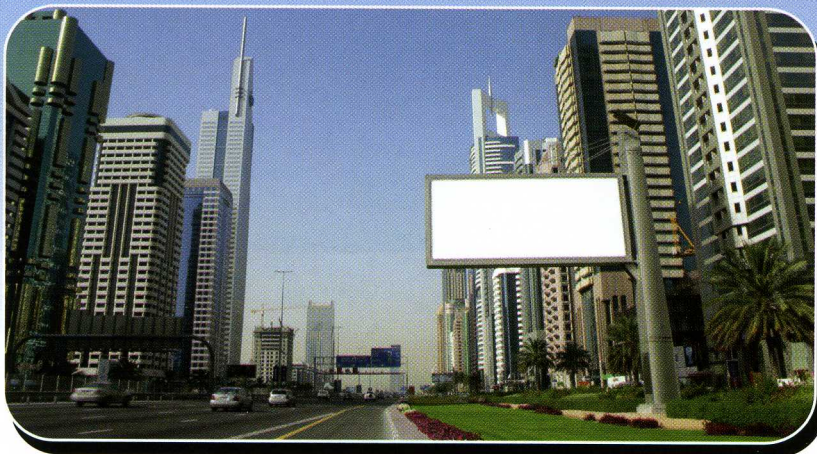
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major issues currently facing the industry. Those issues include outdoor advertising sign ownership, nonconforming uses, permitting and the need for the industry to maintain consistency in its legal positions. They also stressed the importance of reasonable regulation as opposed to no regulation, particularly since the latter can lead to proliferation and support the arguments made by billboard opponents.

## **New Issues in Outdoor Advertising Law**

The panel addressing new issues in outdoor advertising law included a focus on First Amendment issues and digital signs. The panel also presented the *League of Residential Neighborhood Advocates, et al. v. City of Los Angeles*, 498 F.3d 1652 (9th Cir. 2007) case, which ruled that a settlement agreement must be based on the City's enforcement power, and may not in effect create a new specific use. For example, a settlement of a billboard action with a city may include a relocation component, but the relocated sign cannot be constructed in a zone where billboards are prohibited.

The 2008 OAAA Legal Seminar was not only a wonderful opportunity to obtain valuable information on current legal trends throughout the nation, but was also an opportunity to meet, discuss experiences and share knowledge with colleagues in the industry. We all look forward to the next OAAA Legal Seminar. 

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