Alternative Uses of the Right of Way/Fiber Optics on the Interstate
Utah DOT Experience

Chattanooga, Tennessee
May 1, 2019
UDOT’s Fiber Optic Network
Coordinating with Telecomms

- Yearly planning meetings
  - Single point of contact
  - Telecomm wish-list
- Know what facilities are in the ROW in order to direct questions to the right people
  - Permits Office
  - ROW Office
- Communication is the key!
Reducing Broadband Deployment Time

- DOT involvement makes access to the ROW easier
  - Cooperation between other state and federal agencies
    - Forest Service
    - BLM
    - School Trust Lands
    - State and National Parks
  - Telecomm wish-list
- Do not allow exclusive access!
Underserved Area Incentives

- Help communities understand how to attract fiber providers
  - Allow them to use DOT standards for construction
  - Attend City/County planning meetings to help with coordination
- Build it and they will come
  - Big & Little Cottonwood Canyons
  - Fiber in the canyons boosts economic development
Big & Little Cottonwood Canyons
Big & Little Cottonwood Canyons

4 major ski resorts
500 inches of annual snowfall
Year-round recreation
Peak Traffic Days are Snow Days
Avalanches
Stakeholders
Project Summary

- Project Estimate: $5 Million
  - 35 poles
  - 24.5 miles of fiber optics
  - 7200 volt electrical system
  - 12 new cameras
  - 8 Road Weather Information Systems (RWIS)
  - 15 chain-up signs
  - Improved communications for all users
  - Avalanche Operations Center
References

- State Code/Rules for Longitudinal Telecommunications Access
  - http://le.utah.gov/code/TITLE72/htm/72_07_010800.htm
Fiber Highway

Lynne Yocom
Utah Department of Transportation Fiber Optics
lyocom@Utah.gov
801 514 4565
Committee on Right of Way, Utilities and Outdoor Advertising Control

2019 Annual Meeting

Chattanooga, Tennessee
April 28–May 2, 2019
Outdoor Advertising Sign (Billboard) Valuations

How Georgia Handles Billboards

“Stop moving to Los Angeles, it’s full.”

Committee on Right of Way, Utilities, and Outdoor Advertising Control Annual Meeting, 2019
Billboards are Treated as Damaged Trade Fixtures

- GDOT Never Takes Title to Billboards
- GDOT Doesn’t Consider Billboards Individual Stand Alone Businesses
Valuation Approaches

1. Actual Cost to Relocate Billboard (Up to 50 Miles)
2. Pay Cost New Less Depreciation Less Salvage Value “when Cost to Relocate Exceeds the Worth or Value of the Billboard”
States that if the Locals Prohibit the Relocation of the Outdoor Advertising Sign then the Locals are Responsible for paying “just and adequate compensation” to the owner of the Outdoor Advertising Sign.

Georgia Code 32-3-3.1 (e)
Typical Ownership Scenarios

1) Sign Owner Owns the Sign & Owns the Land
2) Sign Owner Owns the Sign & Leases the Land
3) Sign Owner Leases Out the Sign & Owns the Land
4) Sign Owner Leases Out the Sign and Leases the Land
How Does Your State Value Outdoor Advertising Signs?

- Damaged Trade Fixtures
- Personality
- Business Entity
The End
Committee on Right of Way, Utilities and Outdoor Advertising Control 2019 Annual Meeting

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Billboard Valuation Issues: An Overview Redux

Michael McCall, MAI
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When I began at VDOT, sign companies were continually winning condemnation awards in the $200,000 - $300,000 range.

I researched arguments being presented by Dwaine Stoops, MAI, and Charles F. Floyd, a real estate professor at the University of Georgia.
• We formed a task force including both Stoops, Floyd and a local attorney who familiarized himself with the fundamental legal and valuation issues

• Issues centered around business value, allocation to structure, etc.

• VDOT experienced marked improvement in billboard settlements
GOALS: What we will do

• Explore the elements impacting value and how they relate
• Try to establish what exactly is being appraised
• Talk about the Wisconsin DOT approach
GOALS: What we won’t do

• Solve all your OA valuation problems
• Provide easy solutions, or
• Pretend there is a uniform consensus on these issues
Where to Begin

• First we need to define some of the fundamental underlying issues (referencing differing state interpretations)

• As we discuss them, we will refer to how they can influence value
Billboard Valuation: A Bundle of Classic Appraisal Issues

- Real vs. Personal Property
- Allocation of Business Value
- Laws and Regulations
- Undivided Fee
- Tenant owned improvements
- Special Purpose Property
Real vs. Personal Property

- Why does it matter? -
  - Determines whether it is treated as an element of compensation or relocation
  - Pennsylvania classifies signs as personal property
Real vs. Personal Property

- Wisconsin law classifies signs as real estate if the land owner owns the sign.
- As personal property IF tenant owned property but
- As real estate under certain taking conditions (employs Hypothetical Condition)
Real vs. Personal Property

- In a Texas Supreme Court ruling in 2015 (Texas v Clear Channel) the court classified outdoor advertising signs as personal property vs. real property.
- Virginia classifies them as real estate in RW acquisition (but not taxation).
Business Value

• The question of properly allocating business value has been an issue for decades. Common examples include:
  - hotels,
  - restaurants,
  - service stations,
  - fast food,
  - drug stores and billboards
Business Value

- Even greater emphasis on the issue has emerged in the past two decades with the Institute’s courses on intangible assets.
- The method of addressing this issue can greatly impact value.
Laws and Regulations

- As noted earlier, case law in each state can have substantial impact of how these properties are valued
  - Texas billboards – personal property
  - Virginia – real property
  - Wisconsin – mixed
Laws and Regulations

• As a result of the Texas case, an income approach based on ad income is not permitted in the valuation of billboards.

• Another example is California where business value is also included in the compensation.
Special Purpose Property

- Unlikely that the sign will be converted to another use - even a drive-in movie
- We are forced to carefully consider the elements concerning this use that influence value
- ...and to be careful where lines are drawn (site/structure, business/real estate, etc.)
Unit Rule
Undivided Fee/Tenant owned improvements

• The principle of undivided fee, or unit rule, is that the property acquired should be valued as if owned by a single entity

• Tenant owned improvements, then, are valued according to their contribution to the whole
Undivided Fee/Tenant owned improvements (Cont)

- The value of the structure must still be allocated separately
- Note that much of the value influence to the advertiser results from the specific location
Locational Considerations

- Like everyone else, advertising has taken advantage of technology to provide highly tuned multi-media messages in a highly targeted fashion
An article entitled “Outdoor Billboard Real Property Valuation” by Robert Thomas Helmer in the Winter 2016 “Appraisal Journal” provides insight to the locational factor.
Locational Considerations

• Originally the Annual Average Daily Traffic Count (AADC) was combined with the Dwell Time to derive Daily Effective Circulation (DEC)
Locational Considerations

- Now a much more complex measure is used called The Traffic Audit Bureau (TAB) Out of Home Ratings
- The information from these ratings is proprietary
Locational Considerations

- The appraiser can still estimate the Daily Effective Capture to get a relative idea of the strength of the site to the TOARP or Total Outdoor Advertising Real Property
Trends

• This brings us to an important point about Outdoor Advertising as pointed out in the article

• The business is an Oligopoly
  ▪ An inefficient market dominated by a small number of suppliers
Trends

• Helmer’s article suggests, as do other texts, that it is the appraiser’s job to have this information that is generally unavailable before they can properly estimate value OR

• They should approximate it using their own best efforts
Is this really True?

• Or is it possible to identify the real estate asset being utilized by the advertising company…

• Then establish a relationship between the applicable rental rate for the TOARP and the advertising income?
What is Purpose of the Appraisal?

- Appraise the value of the sign package or what Michigan refers to as the TOARP (Total Outdoor Advertising Real Property) ..and
What is Purpose of Appraisal?

- Estimate the appropriate allocation to the structure when they are tenant owned improvements
Issues to Consider

- The industry oriented methodology suggests that the site leases are generally far below market and the lessors are uninformed.
Issues to Consider

- They suggest this potential “market rent” bonus for the site and sign is a leasehold and should be capitalized to indicate the sign value.
Issues to Consider

• If the appraiser goes out and finds a number of similar sites and derives a consistent indicator of rent rates or ratios
• is that not an effective market rent for the area?
Furthermore, isn’t the site rental the variable element that is sensitive to advertising appeal, i.e. specific market placement, dwell time, etc?
Issues to Consider

• What then is the value of the sign if not a cost approach?
• Does a bus become inherently more valuable with an advertisement on its side?
$18,000
Prismaflex Tri-visions
6806 E. Brained Road
Chattanooga, TN 37421

10.6 ft x 36 ft

3- Used 10.6*36 Prismaflex Tri-visions for sale $6000 each located in Chattanooga TN. Units were taken down Oct and Nov of last year and were working. Call Keith 615 587 5969 Keith@blanningco.com
• Alternately, the income approach espoused by the industry begins with the gross advertising revenue and ....
Issues to Consider

- makes deductions for business elements that are extremely complex and variable (and that cannot be typically verified)
- to derive a net income capitalized as a sign value
Test of Reasonableness

- When we appraise a fast food operation, do we begin with how many burgers are sold?
Test of Reasonableness

• then deduct industry expenses of developing a supply chain or other non-real estate expenses and
• use the remaining income to determine the residual value of the real estate?
• No
• We look at how much rent the Food Company pays to have a structure at a suitable location
In like manner, finding leases of both site and sign (the Total Outdoor Advertising Real Property) ..... 

....more accurately separates the real estate from the business value
Michigan Process

- The Michigan process as described in their manual next establishes a ratio of TOARP rental to gross advertising income
Michigan Process (cont)

- The Ratio can then be used to estimate TOARP rental in other instances where advertising revenue is known.
• The rental can then be capitalized like any other real property income to derive a total value estimate
• Capitalization rates are derived from sales* of other TOARP packages with known or estimated rent
Tests of Reasonableness

• When I began, I noticed that signs were being represented by the industry as being worth hundreds of thousands of dollars when their cost was nominal by comparison

• Not the site, but the sign itself
Tests of Reasonableness

Texas v Clear Channel suggests:

- depreciated contributory value of the sign structure via the cost approach is acceptable...
  and...
- direct use of the income approach based on advertising revenues is prohibited
Other Considerations

• **AND** the Outdoor Advertising Industry itself supports using a cost approach for the sign

• **But only for real estate taxes**
Other Considerations

• The industry continues to claim that the same sign with the same definition of market value ....
Other Considerations

- should be valued capitalizing the advertising income for RW acquisitions
- and valued by the cost approach for real estate taxation
Recap

- Subject to legislative and judicial law, the subject of a RW sign acquisition should be the site and sign as an undivided fee.
- Not the total advertising revenue
• And that the site is the value variable when it comes to allocation between site and sign
• While cost is a reasonable way to allot value to the sign
Summary

• Billboard valuation is obviously a complex topic
• Specific laws and regulations can have a major impact on how the issues are addressed
• Appraisers need to be versed in the issues involved in order to arrive at credible opinions they can support
• This includes employing critical thought and tests of reasonableness
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Real vs. Personal Property

- We pay (value/appraisal) for Real Property
- Pay to move (relocation) for Personal Property
- The decision has to be made by the AGENCY before the Appraisal begins
- Determined by State Law and Procedures in the ROW manual
Billboards are considered Real Property

- The property should be valued as a whole and not a summation of its parts
- How much does the billboard contribute to the overall value
- UASFLA (Yellowbook) provides guidance on the Unit Rule
Compensable vs. Non-Compensable

• How does your State compensate for Business Loss?
• Typically, it is a non-compensable item
• Business value & loss profits are not part of the Real Estate
Requirements of the Agency

- Ownership of the land and improvements
- Real or Personal Property
- Conforming vs. Non-Conforming
Approaches to Value

- All three approaches have been successful
- What approach works for your state?
- The key factor for any approach is good reliable market data to produce a credible appraisal report
Issues with the Market Data

What are the issues with finding Market Data with the three approaches?

- Difficult to find/determine sales and leases
- Rents
- Subject’s sign site lease
- Advertising easement sales
- Current cost factors
Successful Billboard Valuations

- Unique State Laws
- What approach works best?
- Success with the property owner
- Success with the sign owner

OPEN DIALOGUE BETWEEN STATES
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• Texas now generally classifies the signs as real estate but it depends on how they are affixed to the property
• Virginia classifies them as real estate in RW acquisition (but not taxation)
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