



Update: City of Toronto's Third Party Sign Tax By-law upheld by Ontario Superior Court

by Catherine Longo

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In a Decision dated March 3, 2011 on an application to quash the effect of a municipal Bylaw to tax third party signage, the Ontario Superior Court of Justice upheld the ability of the City of Toronto to impose a tax on the owners of third party signs through the City's Third Party Sign Tax Bylaw No. 197-2010 (Municipal Code Chapter 771) (the "By-law"), while at the same time grandfathering existing signage as at 6 April 2010. See *Pattison Outdoor Advertising LP v. Toronto (City)*, 2011 ONSC 537.

The By-law was challenged on a number of grounds, including that: it imposed an indirect tax; it represented a tax on the revenues of the sign industry; and it unlawfully discriminated against signs that are not in fact located on City-owned property. In coming to its decision to uphold the tax, the Court held (1) a significant portion of the tax was intended to reinforce the City's goals of reducing sign clutter and environmental impact; and (2) the tax was targeted at a structure (the sign itself) as opposed to a commodity (advertising). Thus the tax was rationally connected to legitimate municipal purposes and imposed an additional cost of doing business on the sign owner rather than an indirect means of raising revenue.

Interestingly, the decision by the Court to grandfather existing signage as at 6 April 2010 is expected to reduce the City's estimated revenue from the sign tax from \$10 million a year to \$2 million. ■