



Out of Home Advertising Association of America

## OAAA Legal “Flash” Report

Fall 2023

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### Amortization Resurrection

*by OAAA Association Counsel Allen Smith*

In our world, it seemed as if the government’s efforts to impose amortization on the industry were dead, as the last time I heard mention of the word in the context of our industry was many years ago. Yet, like Dracula, it appears this beast has risen from the dead recently with two local governments – Bloomington, Indiana and Helena, Montana – proposing amortization of off-premise signs in their respective jurisdictions.

[Amortization in Bloomington Indiana](#)

[City of Helena Seeks Comment on Rewrite of Sign Ordinance](#)

In the finance world, amortization is the allocation of the cost of an asset over its estimated useful life, and this is an accepted practice in the accounting sector. However, in our industry, this term has morphed into the concept of the government imposing regulation to limit the life of an off-premise sign to a number of years before requiring it to be removed. This is an attempt to circumvent the many authorities – which include the Fifth Amendment to the United States Constitution, mirror requirements under state constitutions, and the HBA – that require the government to pay just compensation when it requires the removal of an off-premise sign. The OAAA website has a great memo on this issue with supporting materials linked [here](#).

Included in these materials is the July 8, 2004, letter from the Federal Highway Administration (FHWA) reviewing an ordinance passed by the City of Greenfield, Wisconsin. In the letter, the FHWA stated that City’s ordinance, which included a 12-year amortization period for billboards and required removal after that time, did not comply with the requirements under the HBA for the government to pay cash compensation for the removal of an outdoor advertising sign, as amortization was not an adequate substitute. The OAAA Issue Brief included in the link referenced above stated that amortization is “A Settled Issue” because the FHWA says the removal of



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legal billboards along federal roadways requires the payment of cash compensation, and amortization is not an appropriate substitute for that requirement. As a result, the FHWA has previously determined that it can withhold funds from a municipality that attempts to use amortization in an effort to satisfy its requirement to pay just compensation and that state DOTs are obligated under their agreements with the FHWA to protect billboards located on state-controlled routes from amortization by local municipalities.

As I have stated time and time again in many presentations to the industry, we need to all be united in our battles with the government. These recent developments in Bloomington and Helena may spread, as local governments share information about us just as much as we share information about the government among ourselves. It is my understanding that our members have top-notch talent with local assets in these municipalities to fight and succeed against the attempted amortization efforts, and while they are making progress, we all need to continue to be vigilant and make every effort to put a stake through the heart of this “Dracula” before it goes very far.

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