

Billboard battle on Plateau; Sign firms sue Montreal over outdoor ad ban

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MONTREAL. The PlateauMont-Royal borough has long stoked its reputation as North America's hub of bohemian nonchalance, home to a chic and eclectic mix of people who prefer bikes to cars, jam into parks at every available opportunity and sip beers and lattes well into the night.

Now it's also the scene of a bitter battle over outdoor advertising limits that will test a corporation's right to keep sign space it's already acquired. And this fight's going to court.

Three of Canada's largest sign companies, Astral Media Inc., Pattison Sign Group and CBS Affichage, said Tuesday they have launched legal action against the City of Montreal over the Plateau borough council's decision to ban all advertising billboards within the neighbourhood's limits.

The interdiction is scheduled to take effect this coming December and the companies want it nullified.

Plateau elected officials, led by borough Mayor Luc Ferrandez, say the 45 billboards already installed on or near buildings in their borough on the eastern flank of Mont Royal are eyesores that depress property values and detract from the natural attractiveness of buildings without yielding any significant return for residents. They argue billboards represent an obsolete mode of publicity in a world in which advertising buyers have never had more ways to reach consumer eyeballs, whether it be through the Internet, television, print, and in taxis and bus shelters.

The companies counter that the borough's move, approved by Montreal's larger city council, goes much further than municipal laws allow and violates freedom of speech law under the Charter of Rights and Freedoms. They say the billboard industry, though mature, is still growing at a rate of 5% per year.

"The danger is that this kills our business," said Jeannot Lefebvre, real estate director for eastern Canada at CBS and a spokesman for the three firms, which together hold 95% of the billboard inventory in Quebec. "If [the Plateau] has the right to do this, it means there are no more acquired rights" and any city in the province can do the same thing.

The sign companies say their sector props up 360 jobs in Montreal alone and generates \$36-million annually in rent and taxes for public and private land owners. They say 3% of their billboard space is given free to non-profit groups, noting some billboard

panels have been in place since 1930 without generating a peep of protest.

None of these arguments has swayed Mr. Ferrandez's upstart Projet Montréal party. Borough councilor Alex Norris vowed Tuesday to press on with the ban, saying Quebec law authorizes the borough to proceed with the bylaw.

"We're not going to be intimidated by threats from powerful advertising corporations. We have the enthusiastic support of people in our borough for this measure," Mr. Norris said. "The notion that we're somehow violating sacrosanct freedom-of-expression guarantees in the constitution by acting to preserve and enhance the beauty of our urban landscape is patently absurd."

While the three sign companies tally sales of roughly \$75-million a year from billboards in Quebec, they pay about \$1,000 in tax per billboard to Montreal annually. Critics say the sum is a pittance.

This isn't the first time a municipal government in Canada has tried to restrict billboard advertising. Dozens of communities have prohibited the construction of new billboard infrastructure. But taking down existing signage spaces remains the exception. Mr. Lefebvre was not aware of any other Canadian city or town that has implemented a total ban.

Canada's Supreme Court has made it clear that a ban on any commercial signage is a "prima facie infringement" of freedom of expression under the charter. That means the responsibility then shifts to the municipality to justify the limit on the charter right, said **Barnet Kussner, a lawyer with WeirFoulds LLP** in Toronto who specializes in land-use planning.

"It's a fairly high onus that you would have to meet in the case of an outright prohibition," Mr. Kussner said.

Four states currently ban billboards: Alaska, Hawaii, Maine and Vermont, according to the Washington, D.C.-based Institute for Local Self Reliance.

Oakville, Ont., one of Canada's wealthiest communities, tried to do it but succeeded only in a partial ban, which confines billboards to certain areas and certain sizing restrictions.

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