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Tucson is given OK to try to get rid of 89 billboards

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PHOENIX - The state Supreme Court has given Tucson the go-ahead to try to force removal of 89 billboards city officials say violate city codes.

In a slightly divided ruling Thursday, the justices said the statute of limitations had not run out by the time the city filed suit in 2001 alleging that many billboards owned by Clear Channel Outdoor were in violation of city codes and had to come down.

The new decision does not mean the billboards will disappear. Instead, it only gives City Attorney Michael Rankin and his assistants the chance to make their case in court.

"This will allow us to pursue sanctions against Clear Channels, up to and including the removal of the billboards," he said. Rankin said the city will seek that ultimate step, not only against these 89 but another 84 he contends are illegal.

If Rankin is successful, it could make a major difference in the city's landscape: It would mean the removal of four out of every 10 billboards in the city.

An attorney for Clear Channel would not comment.

Thursday's court action could be the most significant victory for Tucson in what has been a 20-year effort by the city in its effort to regulate billboards.

The 1985 city ordinance regulates the size, location and height of various signs. A federal appeals court rejected challenges to those regulations. In 1994, industry lobbyists persuaded state lawmakers to bar cities from forbidding sign owners to repair nonconforming billboards, those that do not comply with the code.

Before that law took effect, the city tried to remove some of those nonconforming signs. The Court of Appeals ruled that the city could proceed against some of those signs.

Industry lobbyists then went back to the Legislature, resulting in a 2000 law that said cities can act against billboards only if they file a complaint within two years of learning the signs violate local ordinances.

The city filed suit one day before that law took effect, eventually amending it to charge that 173 Clear Channel billboards were illegal. But a Pima County trial judge threw out 89 of those complaints, saying the city knew they violated the law at least two years before filing suit. The Court of Appeals upheld that ruling, saying the 2000 law could be applied retroactively.

The Supreme Court disagreed.

Justice Andrew Hurwitz, writing for himself and his four colleagues, said lawmakers were free to decide in 2000 to extinguish any legal claims that Tucson might bring against Clear Channel. So the first 55 claims - filed before the new law took effect - can proceed.

But the court divided 4-1 on the question of what to do with the 34 claims filed in an amended complaint after the effective date of the new law. Hurwitz and three justices said another state law always gives people one year to file suit after any statute of limitations is changed; only Justice Rebecca White Berch disagreed.

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