

**Order No. 10/17**

**APPEAL OF THE HIGHWAY TRAFFIC BOARD DECISION:  
DATED OCTOBER 31, 2016 – FILE NO.  
1/009/061/S/16 (POST-TIME SIGNS)**

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**January 27, 2017**

**BEFORE:** The Hon. Anita Neville, P.C., B.A.(Hons.), Panel Chair  
Karen Botting, B.A., B.Ed., M.Ed., Vice Chair  
Allan Morin, B.A., ICD.D., Member

## Summary

By this Order, the Public Utilities Board (Board) sets aside the Highway Traffic Board (HTB) decision, dated October 31, 2016 and finds in favour of the appellant, Post-Time Signs (PTS) on behalf of the Rural Municipality of St. Andrews (RM).

## Background

PTS, on behalf of the Rural Municipality of St. Andrews (RM), submitted an application to the HTB for a fixed print and LED message electronic sign to be erected on-premises (commercial) adjacent to PTH No. 9, at the intersection with PTH No. 27 and P.R. No. 238, R.L.11, Plan 22763 in the Parish of St. Andrews, on June 16, 2016. In its letter of October 31, 2016, the HTB denied the application as the erection of the proposed sign was not considered to be on property in which the business is located and therefore, was not an on-premises sign.

The proposed sign, located “off-premises”, did not meet the criteria stipulated in the HTB “Advertising Sign Policy” for “off-premises” signs. PTS, represented by Ms. Lisa Emond appealed the decision to the Public Utilities Board (PUB).

The PUB heard the matter at a public hearing held at 10:45 AM, Thursday January 19, 2017, in the RM Council Chambers in the R.M. of St. Andrews, Clandeboye, Manitoba. Immediately prior to the hearing, Chairperson Neville and Members Botting and Morin, viewed the property, and areas related to the appeal.

## POST TIME SIGNS

Mr. Peter MacOnachie from PTS, testified that the Rural Municipality of St. Andrews (RM) are the owners of the property where the proposed sign is to be erected. He argued that since the RM are the owners of the property, the Highway Traffic Board (HTB) decision was in error and inconsistent with its own policies.

The electronic sign will have automatic dimming features and will contain static images rather than animation. Mr. MacOnachie testified that the sign will not meet the HTB policy stipulating that the sign must be a minimum of 200 meters from a controlled intersection, because the RM does not own enough land at that location to comply with the policy. He stated that the proposed location will be approximately 60 meters from the controlled intersection. He noted that the RM has limited ways to communicate with citizens and this emerging technology is just another method to keep citizens informed of community events. In this way, the sign will be a benefit to the community.

### **MANITOBA INFRASTRUCTURE (MI):**

MI, was represented by Director of Highway Planning and Design, Brant Magnusson and Senior Access Management Analyst, Ms. Karen Toews-Therrien. Mr. Magnusson testified that there is existing HTB policy respecting these types of applications. He referenced Sec 7(2) of the policy and presented a copy of the policy to the Panel. He stated that the following conditions are pertinent to the HTB decision: The sign be,

- located entirely on private property at a minimum of 3 metres from the edge of right of way to the leading edge of the proposed sign;
- minimum of thirty seconds duration per message without changing;
- a maximum of 6 words per message;
- minimum font size of 16 cm
- no “running”, flashing, blinking messages, changes in colour, etc.;
- no lighted or animated backgrounds, only the message text may be illuminated;
- require message elements which automatically dim during night time operation;
- no time and temperature displays unless they comply with the “30 second duration” criterion;
- include only white or yellow/ amber luminous elements;

- all sign permits are subject to compliance with future sign policies with respect to electronic message boards;
- costs associated with bringing the sign into compliance will be the applicants/owners responsibility.

Mr. Magnusson stated that in accordance with the existing sign policy, the sign could only advertise messages for events to take place in the RM, if it is located within the community. This proposed sign is not located within the community. He testified that MI's main concern is for the potential impacts of safety for the motoring public. He stated that PTH No. 9 is a high-volume commuter route with approximately 12,000 vehicles per day. It has a speed limit of 80 km/hr and the location is close to an intersection which is on a horizontal curve. The proposed sign would be located within 60 meters from the intersection rather than the 200 meters that has been determined as a safety imperative. He testified that an effective sign, distracts motorists by drawing their attention away from the roadway and could result in increased motor vehicle accidents at the proposed site. He mentioned that MI uses recommendations established in the Canadian Manual of Uniform Traffic Control Devices to determine minimum safety standards for placement of signs near the highway network.

### **COMMUNITY STAKEHOLDERS:**

The panel received into evidence testimony of support for the RM permit from Mayor George Pike, RM CAO Andrew Weremy, Councillor Russ Paradoski, Councillor Elmer Keryluk and RM Recreation Director Teresa Howell. Additionally, the panel received fourteen (14) letters of support for the RM. Mayor Pike testified that the RM is very narrow and 32 miles long. He stated that approximately 5000 people per day will see the sign. The message would be changed on a weekly basis and be controlled by the RM. He confirmed that all letters of support remain valid.

## Board Findings

The Board thanked the parties for their contributions. The Board considered the position of Post-Time Signs and Manitoba Infrastructure, and has decided in favour of the Post-Time Signs.

The Board is satisfied that the RM is the owner of the property and thus the off-premises sign policy was applied in error by the HTB. The Board is concerned that Highway Traffic Board Policy 7(2) has not changed substantially since 1991. The policy does not reflect the contemporary needs of Manitoba's communities in the face of emerging technology. Additionally, MI did not provide compelling testimony why the HTB should be concerned with or wish to regulate sign messaging content. The Board finds that safety may be compromised by sign animation, colors, and running messages thus specific regulation is appropriate in those areas.

The Board did not find that MI's argument concerning a potential increased crash risk at the proposed location, to carry sufficient weight to justify denial of the permit application. MI's argument hinged on crash data gathered between 2007-2011, which demonstrated that 13 motor vehicle accidents occurred at the proposed location. The rebuttal testimony of Mr. Weremy revealed that the data was captured prior to intersection redesign and infrastructure improvements including the addition of traffic lights at the location. He testified that there is no current data which demonstrates an elevated safety or crash risk.

Based on the evidence presented, the Board feels the erection of the sign does not pose a safety risk or increase the risk to the local or travelling public and it will have significant positive benefits to the Rural Municipality of St. Andrews.

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure. The Board's Rules may be viewed on the Board's website at [www.pub.gov.mb.ca](http://www.pub.gov.mb.ca).

**IT IS THEREFORE ORDERED THAT:**

1. Without further delay, the HTB approve and grant the Post-Time Signs, representing the Rural Municipality of St. Andrews, a permit for a fixed print and LED message electronic sign to be erected on-premises (commercial) adjacent to PTH No. 9, at the intersection with PTH No. 27 and P.R. No. 238, R.L.11, Plan 22763 in the Parish of St. Andrews.
2. Post-Time Signs, representing the Rural Municipality of St. Andrews comply with the following permit conditions: The sign be,
  - i. located entirely on RM property at a minimum of 3 metres from the edge of right of way to the leading edge of the proposed sign;
  - ii. a maximum of 6 words per message;
  - iii. minimum font size of 16 cm;
  - iv. no “running”, flashing, blinking messages, changes in colour, etc.;
  - v. no lighted or animated backgrounds, only the message text may be illuminated;
  - vi. require message elements which automatically dim during night time operation;
  - vii. include only white or yellow/ amber luminous elements;
  - viii. all sign permits are subject to compliance with future sign policies with respect to electronic message boards;
  - ix. costs associated with bringing the sign into compliance will be the applicants/ owners responsibility;
  - x. Sign messaging may change only after a minimum of 12-hours has elapsed from the initial posting of the message.

3. The Highway Traffic Board (HTB) undertake a review and amendment exercise to address the out-of-date sign policies concerning animated LED signs, on-premises signs and off-premises signs in an effort to better balance community needs with safety requirements.

THE PUBLIC UTILITIES BOARD

"The Hon. Anita Neville, P.C., B.A.(Hons.)."  
Acting Chair

"Darren Christle MPA, BA, CCLP, P.Log, MCIT"  
Secretary

Certified a true copy of Order No. 10/17  
issued by The Public Utilities Board

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Secretary