

**Order No. 87/18**

**COMPLAINT OF MANITOBA INFRASTRUCTURE RESPECTING COMPLIANCE TO PUB  
ORDER 10/17:  
DATED JANUARY 27, 2017**

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**July 9, 2018**

BEFORE: Shawn McCutcheon, Panel Chair  
Marilyn Kapitany, B.Sc., (Hon), M.Sc., Vice Chair  
Irene Hamilton, B.A., LLB., Member

## Table of Contents

SUMMARY:.....	3
BACKGROUND: .....	3
MANITOBA INFRASTRUCTURE (MI): .....	3
RM of ST. ANDREWS:.....	4
BOARD FINDINGS .....	4
IT IS THEREFORE ORDERED THAT: .....	5
IT IS THEREFORE RECOMMENDED THAT: .....	6

**SUMMARY:**

By this Order, the Public Utilities Board (Board) affirms PUB Order 10/17 and clarifies order section 2(ii); order section 2(vii); and order section 2(x).

**BACKGROUND:**

On January 27, 2017, the Board released Order 10/17. The order reversed a Highway Traffic Board (HTB) decision to deny the erection of an on-premises LED message sign adjacent to PTH No. 9 at the intersection with P.T.H No. 27 and P.R. No. 238, plan 22763 in the Parish of St. Andrews. The order stipulated ten (10) conditions that the Rural Municipality of St. Andrews (RM) must comply with. Further, it recommended the HTB undertake a review of existing sign policy to better reflect emerging technologies and community needs.

On February 1, 2018, Manitoba Infrastructure (MI) filed a complaint with the Board that the RM was in non-compliance with PUB Order 10/17 and specifically order section 2(vii); and order section 2(x).

The Board elected to conduct a paper-based hearing.

**MANITOBA INFRASTRUCTURE (MI):**

Ms. Karen Toews Therrien provided a written submission which articulated MI's position. Firstly, MI argued that the colours of the luminous elements are inconsistent with the 2006 MI Engineering Branch guidelines and are a safety concern. Secondly, the duration of the sign messaging is inconsistent with the Transportation Association of Canada (TAC) guidelines regarding digital and projected advertising displays. For safety reasons, having messaging restricted to 12-hour change intervals at intersections is appropriate.

**RM of ST. ANDREWS:**

CAO Andrew Weremy offered a written submission, dated April 30, 2018, addressing the RM's position on the areas of complaint. The RM contends that the sign content are in compliance with PUB Order 10/17. In regards to order 2(vii), the RM interpreted the direction to mean word lettering and not background colours. The word lettering colours are restricted to white, yellow or blue. Background colour may vary with the messaging. With regards to 2(x), the RM explained that there are 4-6 messages running weekly encompassing 8-12 frames. The messages are changed on Mondays. Each message is displayed statically for 10-seconds and no banner messages are permitted. Additionally, order 2(ii) stipulates that messages are restricted to 6-words per message. This has resulted in the need for two screens in order to display the entire message.

**BOARD FINDINGS**

The Board thanks both parties for their contributions. The Board did attend and observe the sign messaging from both P.T.H No. 27 and P.R. No. 238 on April 20, 2018.

The Board considered the position of Manitoba Infrastructure and the Rural Municipality of St. Andrews, and has decided that the RM is in compliance with the spirit and intent of PUB Order 10/17, however further clarification of sections 2(ii), 2(vii), and 2(x) are necessary.

Section 2(ii) stipulates "*a maximum of 6 words per message*". The Board believes that due to the size of message lettering it is practical to interpret a "message" to constitute more than one (1) screen.

Section 2(vii) stipulates "*include only white or yellow/amber luminous elements*". In reviewing MI Exhibit #2 "*Traffic Engineering's Draft Conditions for Electronic Message Centres*" evidence, the Board noted that a "Draft" policy is non-binding. Additionally, Order

10/17 is silent on background luminous elements. The Board believes that unless the background luminous elements can be confused with emergency vehicles or a traffic control device, there is not sufficient evidence to support a safety based argument.

Section 2(x) stipulates “*sign messaging may change only after a minimum of 12-hours has elapsed from initial posting of the message*”. Based on the Board’s findings in Section 2(ii) and the evidence presented by the RM that messages are changed on a weekly basis, the Board finds that the RM is in compliance with Section 2(x).

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 (Rules). 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. The Rural Municipality of St. Andrews comply with the following conditions: The sign messaging be,
  - i. In compliance with PUB Order 10/17;
  - ii. Limited to a maximum of two screens which will constitute a “message”;
  - iii. Not include background luminous elements that could be confused with an emergency vehicle or traffic control device;

**IT IS THEREFORE RECOMMENDED THAT:**

1. The Minister of Manitoba Infrastructure (MI) consult with the Association of Manitoba Municipalities regarding community and stakeholder needs concerning LED message electronic signs;
2. The Minister of Manitoba Infrastructure (MI) undertake a review and amendment exercise to address the out-of-date sign policies, drafts, and guidelines 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

"Shawn McCutcheon"

Panel Chair

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

Secretary

Certified a true copy of Order No. 87/18  
issued by The Public Utilities Board



Secretary