



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
Date: 29 March 2012
Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

Neutral citation: *City of Johannesburg v Ad Outpost* (55/11) [2012] ZASCA 40 (29 March 2012)

The respondent, an advertising agency that does business placing advertisements on billboards alongside major roadways in Johannesburg, had obtained permission to use two billboards for that purpose: one in Sandown and the other in Kelvin View, Johannesburg. The original authority granted to the respondent in this regard had lapsed in 2004. Despite this, the respondent continued to use the billboards without seeking permission from the City of Johannesburg to do so. Eventually the City insisted upon the respondent once more applying for permission to use the billboards. It did so in March 2007, but such permission was refused. The respondent appealed to the City Manager against this decision, but that appeal too was dismissed.

The respondent then approached the South Gauteng High Court for an order authorising it to use the billboards for a period of five years, contending that the decisions taken by the City and the City Manager were invalid. The City and the City Manager conceded that the decisions they had taken were of no force and effect but alleged that as there had been a

change of municipal by-laws, and as there was no longer any discretion on their part to allow advertising on the billboards in question due to their locality (both were situated in areas in which advertising was prohibited) it would be meaningless to set aside their decisions.

The high court, however, concluded that the by-laws which were in place when the respondent had applied for permission in 2007 (and which had been repealed before the matter reached the high court) conferred a discretion to grant permission for advertising in the prohibited areas, and would be applicable when the applications for permission were reconsidered. It also concluded that it should grant the respondent such permission rather than to refer the applications back to the City.

This decision was today set aside by the Supreme Court of Appeal which ruled that the subsequent by-laws, promulgated in 2009, which were of application when the high court set aside the decisions taken by the City and the City Manager, were the by-laws under which the applications for permission would have to be reconsidered. Under those by-laws, advertising was absolutely prohibited where the two billboards in question are located. It therefore set aside the permission granted to the respondents by the high court to use the billboard for five years.

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