

■ **Get Outdoors II, LLC v. City of Lemon Grove**  
 C.A.9 (Cal.),2007.

This case was not selected for publication in the Federal Reporter. Not for Publication in West's Federal Reporter See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also Ninth Circuit Rule 36-3. (Find CTA9 Rule 36-3)

United States Court of Appeals, Ninth Circuit.  
**GET OUTDOORS II, LLC**, A Nevada Limited Liability Company, dba **Get Outdoors, LLC**, in California, Plaintiff-Appellant,

v.

**CITY OF LEMON GROVE**, Defendant-Appellee.  
**No. 05-56374.**

Argued and Submitted June 6, 2007.

Filed Nov. 1, 2007.

**Background:** Outdoor advertising company brought action challenging the denial of its sign permit applications under city sign size and height regulations. The United States District Court for the Southern District of California, [William O. Hayes, J.](#), [378 F.Supp.2d 1232](#), granted summary judgment in favor of city. Company appealed.

**Holding:** The Court of Appeals held that company lacked standing to challenge the ordinance both substantively and as a prior restraint. Affirmed.

West Headnotes

**Constitutional Law**  **714**

[92](#) Constitutional Law

[92VI](#) Enforcement of Constitutional Provisions

[92VI\(A\)](#) Persons Entitled to Raise Constitutional Questions; Standing

[92VI\(A\)3](#) Particular Questions or Grounds of Attack in General

[92k713](#) Licenses

[92k714](#) k. In General. [Most Cited](#)

[Cases](#)

**Constitutional Law**  **874**

[92](#) Constitutional Law

[92VI](#) Enforcement of Constitutional Provisions

[92VI\(A\)](#) Persons Entitled to Raise Constitutional Questions; Standing

[92VI\(A\)9](#) Freedom of Speech, Expression, and Press

[92k873](#) Licenses

[92k874](#) k. In General. [Most Cited](#)

[Cases](#)

Outdoor advertising company that was denied its sign permit applications under city sign size and height regulations lacked standing to challenge the ordinance both substantively and as a prior restraint; company had standing to challenge only provisions that caused its permit to be denied and company did not challenge size and height restrictions.

\*[637](#) E. Adam Webb, Esq., Webb & Porter, L.L.C., Atlanta, GA, [Patrick "Rick" Lund](#), Esq., The Law Corporation of Patrick Lund, Newport Beach, CA, for Plaintiff-Appellant.

[Randal R. Morrison](#), Esq., Sabine and Morrison, San Diego, CA, for Defendant-Appellee.

Appeal from the United States District Court for the Southern District of California, [William O. Hayes](#), District Judge, Presiding. D.C. No. CV-03-01507-WQH/AJB.

Before: [HALL](#) and [CALLAHAN](#), Circuit Judges, and [STROM](#) <sup>FN\*</sup>, Senior Judge.

<sup>FN\*</sup> The Honorable [Lyle E. Strom](#), Senior United States District Judge for the District of Nebraska, sitting by designation.

MEMORANDUM <sup>FN\*\*</sup>

<sup>FN\*\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\*[1](#) Get Outdoors II challenges the denial of its sign permit applications under the City of Lemon Grove's sign regulations. Because the parties are familiar with the facts and proceedings below, we do not recite

them here. In a concurrently filed opinion, we lay out the general principles of standing and prior restraint law that control our decision here. *See [Get Outdoors II, LLC v. City of San Diego](#), 506 F.3d 886 (9th Cir.2007)*. We affirm.

The applications proposed by Get Outdoors II were denied because they were incomplete but would have also been denied under the City's ban on off-site commercial messages and under the City's size and height regulations on signs. Get Outdoors II has standing to challenge only the provisions that caused its permits to be denied. However, because it has not challenged the size and height restrictions that independently prohibited its proposed signs, we hold it lacks standing to challenge the remainder of the ordinance both substantively and as a prior restraint. *See [City of San Diego](#), 506 F.3d at 894; see also [Covenant Media of South Carolina, LLC v. City of North Charleston](#), 493 F.3d 421, 429-31 (4th Cir.2007); [Prime Media v. City of Brentwood](#), 485 F.3d 343, 349-50 (6th Cir.2007); [KH Outdoor, L.L.C. v. Clay County](#), 482 F.3d 1299, 1305 (11th Cir.2007); [Advantage Media, L.L.C. v. City of Eden Prairie](#), 456 F.3d 793, 799 (8th Cir.2006); [Harp Advertising Illinois, Inc. v. Village of Chicago Ridge](#), 9 F.3d 1290, 1292 (7th Cir.1993)*.

We also note that even if Get Outdoors II had standing to make a facial challenge to the permitting procedure, its claims would be mooted by new provisions setting a 21-day time limit and requiring that all applications be "complete." *See* Lemon Grove Municipal Code § 18.12.090.

Accordingly, the district court's grant of summary judgment to the City is AFFIRMED.

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Get Outdoors II, LLC v. City of Lemon Grove  
253 Fed.Appx. 636, 2007 WL 3230395 (C.A.9 (Cal.))

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