

VI

R. C. No. 276 - 21 - 22. By FINANCE AND PERSONNEL COMMITTEE.  
April 18, 2022.

Your Committee to whom was referred R. O. No. 32-21-22 by City Clerk submitting a Summons and Complaint in the matter of Link Media Wisconsin, LLC v. City of Sheboygan; recommends referring to the Finance and Personnel Committee of the 2022-2023 Council.

F+P  
2022-2023 council

_____	_____
_____	_____
_____	_____

Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

II

3.2

R. O. No. 32 - 21 - 22. By CITY CLERK. June 21, 2021.

Submitting a Summons and Complaint in the matter of Link Media Wisconsin, LLC v. City of Sheboygan.

TAP

\_\_\_\_\_  
CITY CLERK

FILED  
06-04-2021  
Sheboygan County  
Clerk of Circuit Court  
2021CV000211  
Honorable L Edward  
Stengel  
Branch 1

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_

SHEBOYGAN COUNTY


LINK MEDIA WISCONSIN, LLC  
d/b/a Link Media Outdoor  
200 Mansell Ct. East  
Bldg. 200 Suite 360  
Roswell, GA 30076,

Plaintiff,

-v-

CITY OF SHEBOYGAN  
Sheboygan City Hall  
828 Center Avenue, Suite 300  
Sheboygan, WI 53081,

Defendant.

Process Server   
Date: 6/9/21 Time: 12:15 am/pm  
☐ Personal ☐ Substitute  
☐ Posted ☐ Corporate

Case No. 21 CV \_\_\_\_

Case Code: 30701  
Declaratory Judgment

JUN 9 '21 12:25

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**SUMMONS**

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**THE STATE OF WISCONSIN, TO THE DEFENDANT NAMED ABOVE:**

You are hereby notified that the plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is Sheboygan County Courthouse, 615 N. 6<sup>th</sup> St., Sheboygan, Wisconsin 53081-4692 and to the plaintiff's attorney,



Kraig A. Byron, whose address is 10 East Doty Street, Suite 900, Madison, Wisconsin 53703. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 4<sup>th</sup> day of June, 2021.

**VON BRIESEN & ROPER, S.C.**

*Electronically signed by Kraig A. Byron*

By: Kraig A. Byron  
State Bar No. 01020236  
Attorneys for Plaintiff

**von Briesen & Roper, s.c.**  
10 East Doty Street, Suite 900  
Madison, WI 53703  
(608) 661-3981  
(608) 316-3184 (fax)  
[kbyron@vonbriesen.com](mailto:kbyron@vonbriesen.com)

FILED  
06-04-2021  
Sheboygan County  
Clerk of Circuit Court  
2021CV000211  
Honorable L Edward  
Stengel  
Branch 1

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_

SHEBOYGAN COUNTY

LINK MEDIA WISCONSIN, LLC  
d/b/a Link Media Outdoor  
200 Mansell Ct. East  
Bldg. 200 Suite 360  
Roswell, GA 30076,

Plaintiff,

-v-

CITY OF SHEBOYGAN  
Sheboygan City Hall  
828 Center Avenue, Suite 300  
Sheboygan, WI 53081,

Defendant.

Case No. 21 CV \_\_\_\_

Case Code: 30701  
Declaratory Judgment

---

**COMPLAINT**

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COMES NOW the Plaintiff, Link Media Wisconsin, LLC, d/b/a Link Media Outdoor ("Link"), by its attorneys, von Briesen & Roper, s.c., by Attorney Kraig A. Byron, and as and for their Complaint against the Defendant, City of Sheboygan, alleges as follows:

**PARTIES AND NATURE OF ACTION**

1. Plaintiff, Link Media Wisconsin, LLC, d/b/a Link Media Outdoor, is a domestic limited liability company, with its home office and principal place of business located at 200 Mansell Ct. East, Bldg. 200 Suite 360, Roswell, GA 30076, and a local office located at 1258 Russet Court, Green Bay, WI 54313.

2. Defendant, City of Sheboygan (“City”), is on information and belief, a municipal governmental corporation, with its central governmental offices located at Sheboygan City Hall, 828 Center Avenue, Suite 300, Sheboygan, WI 53081.

3. This action is brought under Wis. Stat. § 806.04 for a declaration of rights and interests under Wis. Stat. § 84.30.

### **GENERAL ALLEGATIONS**

4. Plaintiff re-alleges and incorporates herein as if fully stated all of the allegations contained in Paragraphs 1 through 3 above.

5. Wis. Stat. § 84.30 was enacted by the Wisconsin legislature, stating as its purpose; “to promote the safety, convenience and enjoyment of public travel, to preserve the natural beauty of Wisconsin, to aid in the free flow of interstate commerce, to protect the public investment in highways, and to conform to the expressed intent of congress to control the erection and maintenance of outdoor advertising signs, displays and devices adjacent to the national system of interstate and defense highways, it is hereby declared to be necessary in the public interest to control the erection and maintenance of billboards and other outdoor advertising devices adjacent to said system of interstate and federal-aid primary highways and the Great River Road.”

6. Plaintiffs own and operate outdoor advertising structures, also known as billboards, and under Wis. Stat. § 84.30, generally referred to as “signs.”

7. Plaintiffs sell advertising space on their signs for valuable consideration.

8. Link’s legal relations are affected by Wis. Stat. § 84.30.

9. Link is entitled to have determined questions of construction arising under Wis. Stat. § 84.30 and to obtain a declaration of rights, status or other legal relations thereunder.



10. Link requests that the Court construe Wis. Stat. § 84.30 and to declare Link's rights under the statute.

11. There is a controversy between Link and the City with regard to the construction and application of Wis. Stat. § 84.30(4), as that provision relates to the regulation of the subject sign structure.

12. The City disagrees with Link's interpretation and construction of Wis. Stat. § 84.30.

13. There is a dispute between Link and the City as to whether the City has the authority to regulate permitted signs located in "business areas" as that term is defined in Wis. Stat. § 84.30(2)(b).

14. Link has a legally protectable interest in installing and maintaining sign structures located in "business areas" without having to contend with unfounded claims of local regulatory authority over sign structures located in such areas.

15. The manner in which Link's sign structures located in "business areas" are regulated by local zoning authorities presents an ongoing controverted issue that will continue until decided with certainty by a court of competent jurisdiction.

16. Link Media Wisconsin, LLC does business in Sheboygan County, Wisconsin by entering into lease agreements for property located in Sheboygan County, selling advertising space on signs located in Sheboygan County, and by direct contact with its landlords and advertising customers located in Sheboygan County, Wisconsin.

17. Among Link's signs located in Sheboygan County is a billboard located adjacent to the Hyundai dealership at 5525 Racetrack Rd in the City of Sheboygan ("subject sign" or "subject sign structure").



18. The subject sign structure was erected and is maintained pursuant to a state permit issued by the State of Wisconsin, Department of Transportation.

19. As a permitted sign structure under state law, Link is permitted to make changes to the subject sign, such as increasing the height of the sign above ground level ("HAGL") and installing digital display panels on the sign.

20. Plaintiffs' signs are essential to the continued viability of their business model.

21. Plaintiffs have a pecuniary interest in maintaining the existence and visibility of their signs.

22. The sightlines to the subject sign have become partially obstructed by an on-premise advertising sign for the Hyundai dealership.

23. Before the Wisconsin Department of Transportation ("WisDOT") will allow Link and similarly situated sign owners to make changes to permitted signs, it generally requires sign owners to secure the approval of local zoning authorities.

24. In the case of the subject sign, WisDOT informed Link on June 2, 2021 that "Link Media Outdoor has the Department's unqualified approval to make these changes to the sign structure."

25. The changes approved by WisDOT are the elevation of the HAGL of the subject sign structure and the installation of digital display panels on the subject sign structure.

26. On information and belief, WisDOT did not require local approval of the requested revisions and granted Link unqualified State approval to make the requested revisions to the subject sign structure because the structure is located within a "business area."

27. On information and belief, WisDOT would have required local approval as a condition of State approval to make the requested revisions had the subject sign structure not been located within a “business area.”

28. The City of Sheboygan has classified the subject sign structure as “nonconforming” under its local ordinances.

29. Link requested permission from the City of Sheboygan to raise the HAGL of the subject sign structure to improve the sightlines to the sign’s advertising faces.

30. The City refused to permit Link to raise the HAGL of the subject sign structure.

31. On information and belief, the City’s position is that raising the HAGL on a nonconforming sign structure would render the subject sign structure illegal under its local ordinance.

32. On information and belief, if Link raises the HAGL of the subject sign structure and/or installs digital display panels on the sign structure the City will seek removal of the sign structure based on alleged unlawful changes to a sign structure nonconforming under the City’s ordinances.

33. There is an ongoing dispute between the parties as to whether the City of Sheboygan has the legal authority to impose more restrictive size, spacing and lighting controls in “business areas” than those required by the agreement between WisDOT and the Secretary of Transportation of the United States.

**FIRST CLAIM – DECLARATORY JUDGMENT**  
**THE CITY HAS NO REGULATORY AUTHORITY OVER THE SIGN**

34. Plaintiffs re-allege and incorporate herein as if fully stated all of the allegations contained in Paragraphs 1 through 33 above.

35. Wis. Stat. § 84.30(2)(b) defines “business area” as follows:

*"Business area" means any part of an adjacent area which is zoned for business, industrial or commercial activities under the authority of the laws of this state; or not zoned, but which constitutes an unzone commercial or industrial area as defined in par. (k). In adjacent areas along the interstate system business areas shall be limited to commercial or industrial zones within the boundaries of incorporated municipalities, as those boundaries existed on September 1, 1959, and all other areas where the land-use as of September 1, 1959, was clearly established by state law as industrial or commercial.*

36. Wis. Stat. Sec. 84.30(2)(a) defines the "adjacent areas" as follows:

*"Adjacent area" means an area which is adjacent to and within 660 feet of the nearest edge of the right-of-way of any interstate or primary highway or the Great River Road, which 660 feet distance shall be measured horizontally along a line normal or perpendicular to the center line of the highway.*

37. The subject sign structure is located within a "business area."

38. Wis. Stat. § 84.30(4) establishes those criteria applicable to signs located within business areas. It provides, in relevant part;

*The department shall effectively control or cause to be controlled, the erection and maintenance of outdoor advertising signs, displays and devices that are erected subsequent to March 18, 1972 in all business areas. Whenever a bona fide county or local zoning authority has made a determination of customary use, as to size, lighting and spacing such determination may be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. In all other business areas, the criteria set forth below shall apply: (State criteria omitted).*

39. In order to be considered a bona fide county or local zoning authority which has made a determination of customary use as to size, lighting and spacing, the zoning ordinance of the local zoning authority must be certified by WisDOT under Trans 201.20, Wis. Admin. Code.

40. Trans 201.20(3) provides:

*"Local certification" means the department's acceptance, under s. 84.30 (4) (intro.), Stats., of a local zoning authority's determination of customary use as to the size, lighting and spacing of outdoor advertising signs in the zoned commercial or industrial areas of the locality.*

41. On information and belief, WisDOT refers to those “bona fide county or local zoning authority” whose “determination of customary use, as to size, lighting and spacing” has been “accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority” as “Certified Cities.”

42. Attached hereto as Exhibit A is a copy of a list of “Certified Cities” received by Plaintiff from WisDOT on November 20, 2020.

43. By email exchange on May 25, 2021, Vicki Harkins, Outdoor Advertising Program Lead, Bureau of Highway Maintenance, Division of Transportation Systems Development, Wisconsin Dept. of Transportation, confirmed that no changes had been made to WisDOT’s Certified City List since November 20, 2020 and that the Department was not in receipt of any pending applications to have a local ordinance certified. A copy of said email exchange is attached hereto as Exhibit B.

44. The City of Sheboygan does not appear on WisDOT’s Certified City List.

45. Wis. Stat. § 84.30(4) mandates that in all “business areas” not located within certified cities, the criteria set forth in Wis. Stat. § 84.30(4) control outdoor advertising sign size, spacing and lighting.

46. Unless a local zoning ordinance is certified by WisDOT under Trans 201.20, Wis. Admin. Code, the local zoning authority cannot impose restrictions on signs located in “business areas” more restrictive than the sign criteria set forth in Wis. Stat. Sec. 84.30(4).

47. Trans 201.20(5)(b), Wis. Admin. Code is the only Wisconsin legal authority providing that a local zoning ordinance may impose more restrictive size, spacing and lighting controls than those required by the agreement between WisDOT and the Secretary of Transportation of the United States.



48. Trans 201.20(5)(b), Wis. Admin. Code applies only to certified local zoning ordinances.

49. Trans 201.20(5)(b), Wis. Admin. Code does not apply to local ordinances that have not been certified by WisDOT under Wis. Stat. § Wis. Stat. 84.30(4) and Trans 201.20(3), Wis. Admin. Code.

50. The City of Sheboygan does not have the legal authority to impose more restrictive size, spacing and lighting controls in “business areas” than those required by the agreement between WisDOT and the Secretary of Transportation of the United States.

51. The City of Sheboygan has no authority to regulate outdoor advertising signs located in “business areas” as that term is defined in Wis. Stat. Sec. 84.30(2)(b).

52. Plaintiff is entitled to a judgment under Wis. Stat. § 806.04 declaring that City of Sheboygan does not have the legal authority to impose more restrictive size, spacing and lighting controls in “business areas” than those required by the agreement between WisDOT and the Secretary of Transportation of the United States.

53. Plaintiff is entitled to a judgment under Wis. Stat. § 806.04 declaring that the City of Sheboygan has no authority to regulate outdoor advertising signs located in “business areas” as that term is defined in Wis. Stat. Sec. 84.30(2)(b).

54. Plaintiff is entitled to a judgment under Wis. Stat. § 806.04 declaring that the City of Sheboygan does not have the legal authority to impose more restrictive size, spacing and lighting controls on the subject sign structure than those required by the agreement between WisDOT and the Secretary of Transportation of the United States.

55. Plaintiff is entitled to a judgment under Wis. Stat. § 806.04 declaring that the City of Sheboygan has no authority to regulate the subject sign structure.

**WHEREFORE**, Plaintiff respectfully requests that the Court enter Judgment as follows:

- A. For a finding that a justiciable controversy exists which satisfies the conditions for declaratory relief under Wis. Stat. § 806.04;
- B. For a judgment under Wis. Stat. § 806.04 entering the declaratory relief requested herein.
- C. For an Order awarding to Plaintiff all allowable costs, disbursements and attorney's fees; and,
- D. Any other remedies the Court deems just and equitable.

Dated this 4<sup>th</sup> day of June, 2021.

**VON BRIESEN & ROPER, S.C.**

*Electronically signed by Kraig A. Byron*

By: Kraig A. Byron  
State Bar No. 01020236  
Attorneys for Plaintiff

**von Briesen & Roper, s.c.**  
10 East Doty Street, Suite 900  
Madison, WI 53703  
(608) 661-3981  
(608) 316-3184 (fax)  
[kbyron@vonbriesen.com](mailto:kbyron@vonbriesen.com)

MUNICIPALITY	DISTRICT	COUNTY	CERT DATE	DE-CERT DATE
Village of Bayside	2	Milwaukee	4/30/1973	
City of Beloit	1	Rock	4/5/1973	
Village of Brown Deer	2	Milwaukee	4/30/1973	
Village of Chenequa	2	Waukesha	8/20/1973	
Village of Elm Grove	2	Waukesha	8/20/1973	
City of Fond du Lac	3	Fond du Lac	11/12/1975	
Village of Fox Point	2	Milwaukee	6/5/1973	
City of Franklin	2	Milwaukee	6/5/1973	
City of Glendale	2	Milwaukee	6/5/1973	
Village of Greenfield	2	Milwaukee	6/5/1973	
City of Greenfield	2	Milwaukee	8/25/1975	
Village of Hales Corners	2	Milwaukee	6/5/1973	
City of Janesville	1	Rock	3/2/1973	6/5/1984
Village of Lake Delton	1	Sauk	6/13/1977	
City of Madison	1	Dane	2/23/1973	
City of Milwaukee	2	Milwaukee	12/5/1974	
Village of Nashotah	2	Waukesha	8/23/1973	
City of New Berlin	2	Waukesha	8/20/1973	
City of New Holstein	3	Calumet	3/2/1973	
City of Oak Creek	2	Milwaukee	4/6/1973	
City of Platteville	1	Grant	8/17/1973	
City of Richland Center	5	Richland	8/21/1973	12/17/1974
Village of Suring	3	Oconto	8/27/1975	
City of Tomah	5	Monroe	8/22/1973	7/5/1990
City of Viroqua	5	Vernon	4/14/1975	
City of West Allis	2	Milwaukee	8/29/1975	



**From:** Harkins, Vicki M - DOT <Vicki.Harkins@dot.wi.gov>  
**Sent:** Tuesday, May 25, 2021 11:08 AM  
**To:** Kraig A. Byron <kbyron@vonbriesen.com>  
**Cc:** Melissa J. Johnson <mjohnson@vonbriesen.com>  
**Subject:** [EXTERNAL] RE: City of Sheboygan

Hi Kraig,  
I hope all is well with you too. We have not made any additions or deletions to the list of certified cities.

We also do not have any pending applications.

Thanks,  
Vicki

Vicki Harkins  
Outdoor Advertising Program Lead  
Bureau of Highway Maintenance  
Division of Transportation Systems Development  
Wisconsin Dept. of Transportation  
[Vicki.harkins@dot.wi.gov](mailto:Vicki.harkins@dot.wi.gov)  
Office: 608-266-3611  
Cell: 608-512-3588



**From:** Kraig A. Byron <[kbyron@vonbriesen.com](mailto:kbyron@vonbriesen.com)>  
**Sent:** Tuesday, May 25, 2021 10:42 AM  
**To:** Harkins, Vicki M - DOT <[Vicki.Harkins@dot.wi.gov](mailto:Vicki.Harkins@dot.wi.gov)>  
**Cc:** Melissa J. Johnson <[mjohnson@vonbriesen.com](mailto:mjohnson@vonbriesen.com)>  
**Subject:** RE: City of Sheboygan

Vicki,

I hope you are well and starting to resume some sense of normalcy. On November 20, 2020, you provided me with the Department's Certified City List. Have there been any changes to the list since that time? Also, are there any pending applications to have a local ordinance certified?

Thank you very much.

Best regards,

**Kraig A. Byron |**  
Direct: 608-661-3981 | [kbyron@vonbriesen.com](mailto:kbyron@vonbriesen.com)

**From:** Harkins, Vicki M - DOT <[Vicki.Harkins@dot.wi.gov](mailto:Vicki.Harkins@dot.wi.gov)>  
**Sent:** Monday, November 23, 2020 2:56 PM  
**To:** Kraig A. Byron <[kbyron@vonbriesen.com](mailto:kbyron@vonbriesen.com)>  
**Cc:** Thomas S. Hornig <[thornig@vonbriesen.com](mailto:thornig@vonbriesen.com)>; Melissa J. Johnson <[mjohnson@vonbriesen.com](mailto:mjohnson@vonbriesen.com)>; Culbert, Anthony - DOT <[Anthony.Culbert@dot.wi.gov](mailto:Anthony.Culbert@dot.wi.gov)>  
**Subject:** [EXTERNAL] RE: City of Sheboygan

Hi Kraig,

I hope all is well with you. Here is the certified city list.

Thank you,  
Vicki

Vicki Harkins  
Outdoor Advertising Program Lead  
Bureau of Highway Maintenance  
Division of Transportation Systems Development  
Wisconsin Dept. of Transportation  
[Vicki.harkins@dot.wi.gov](mailto:Vicki.harkins@dot.wi.gov)  
Office: 608-266-3611  
Cell: 608-512-3588



**From:** Kraig A. Byron <[kbyron@vonbriesen.com](mailto:kbyron@vonbriesen.com)>  
**Sent:** Monday, November 23, 2020 12:43 PM  
**To:** Harkins, Vicki M - DOT <[Vicki.Harkins@dot.wi.gov](mailto:Vicki.Harkins@dot.wi.gov)>  
**Cc:** Thomas S. Hornig <[thornig@vonbriesen.com](mailto:thornig@vonbriesen.com)>; Melissa J. Johnson <[mjohnson@vonbriesen.com](mailto:mjohnson@vonbriesen.com)>; Culbert, Anthony - DOT <[Anthony.Culbert@dot.wi.gov](mailto:Anthony.Culbert@dot.wi.gov)>  
**Subject:** RE: City of Sheboygan

Dear Vicki,

I hope you are well. Per the below email exchange with Tony, please provide me with a complete list of "certified cities" under Wis. Stat. Sec. 84.30(4). I specifically asked Tony about the City of Sheboygan, but I have questions regarding other local zoning authorities as well and do not want to continue to pester you with inquiries.

Thank you very much.

**Kraig A. Byron |**  
Direct: 608-661-3981 | [kbyron@vonbriesen.com](mailto:kbyron@vonbriesen.com)

STATE OF WISCONSIN

CIRCUIT COURT

SHEBOYGAN

Link Media Wisconsin, LLC vs. City of Sheboygan

**Electronic Filing  
Notice**

Case No. 2021CV000211

Class Code: Declaratory Judgment

**FILED**

06-04-2021

Sheboygan County

Clerk of Circuit Court

2021CV000211

Honorable L Edward  
Stengel

Branch 1

CITY OF SHEBOYGAN  
828 CENTER AVENUE, SUITE 300  
SHEBOYGAN CITY HALL  
SHEBOYGAN WI 53081

Case number 2021CV000211 was electronically filed with/converted by the Sheboygan County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. Electronic parties are responsible for serving non-electronic parties by traditional means.

You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov/> and may withdraw as an electronic party at any time. There is a \$20.00 fee to register as an electronic party. This fee may be waived if you file a Petition for Waiver of Fees and Costs Affidavit of Indigency (CV-410A) and the court finds you are indigent under §814.29, Wisconsin Statutes.

If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

**Pro Se opt-in code: 616225**

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 920-459-3068.

Sheboygan County Circuit Court  
Date: June 7, 2021