



ADVERTISING
STANDARDS
BUREAU

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Case Report

1	Case Number	0145/14
2	Advertiser	Boettcher Realty - Rentals
3	Product	Real Estate
4	Type of Advertisement / media	Billboard
5	Date of Determination	14/05/2014
6	DETERMINATION	Upheld - Not Modified or Discontinued

ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

Image of a man from behind. He is wearing a raincoat which he is holding open. The text reads, "The perfect address for exposure. Phone Darren anytime for inspection". Next to this is another sign which reads, "For Lease. Phone Mark Boettcher 0418 191 723".

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

I believe this sign breaches advertising standards and is an affront to common decency. I have a young daughter and I do not want to have to explain to her what that man is doing – and why such “exposure” is deemed to be desirable! Indecent exposure is illegal and should be in no way promoted as “normal” or “desirable”. There are many victims of sexual abuse in our society and I can’t help but think such a sign would be abhorrent to them and bring back unpleasant memories and I certainly don’t want to convey the message to anyone - let alone impressionable young boys who might think it would be “fun” to do this and get wrong ideas about what is socially acceptable or that this behaviour is condoned in our community.

Beside the words about exposure, is the back of a male person, bare legs, outstretched arms, holding a great-coat open wide - inferring possible exposure of his body; this stance could be a suggestive trigger to a pervert; or an embarrassment to a parent of a questioning child; or

a hurtful reminder to someone who had experienced sexual abuse.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

I consider these two complaints to be as one as they appear to be the only two in over one year that the sign has been there. It is funny that they are dated within days of each other. One states that she drives past the sign every day. Then how come no complaint was received about March last year when I am told the sign was put up, months before I owned the building. I am informed these signs are available to purchase as a standard sign and are used commonly to promote vacant billboards. There is no nudity in the sign as the person has his back showing but is covered with a raincoat or similar. I see worse signs on camper vans and driving around Brisbane.

The Ipswich City Council has also had a complaint made to them and I am informed that they met the agent on site. Then wiped their hands of the matter, as they considered it trivial. They did not state who had made the complaint, but I assume the same people as they stated they had two complaints.

I do not have a copy of the advertisement and have no intention of getting one. When the occupant of the building decides what to do with the billboard. The sign will be then removed and replace it with his own. [sic]

I assume that all the same signs on billboards across Australia have had complaints lodged against them also. As stated I am informed that many of these stick on signs have been sold and have to have a heat gun to remove them.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainants’ concerns that the advertisement depicts an image of a man from the back that suggests he is exposing himself which is inappropriate and illegal.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience”.

The Board noted the complainants’ concerns that the advertisement shows the image of a

man from behind. He is wearing a raincoat which he is holding open. The text reads, "The perfect address for exposure. Phone Darren anytime for inspection". Next to this is another sign which reads, "For Lease. Phone Mark Boettcher 0418 191 723".

The Board noted that it is not possible to see what the man is wearing under his coat and considered that whilst the combination of the style of coat and the man's bare legs do amount to a commonly held perception of what a "flasher" looks like there is no detail. However, in the Board's view the image does suggest nudity and the suggestion of nudity in connection with the text "the perfect address for exposure" amounts to a depiction that would bring the idea of nudity and inappropriate exposure to the minds of children and that the depiction is not appropriate for a broad audience which would include children.

The Board determined that the advertisement did breach Section 2.4 of the Code.

The Board considered Section 2.6 of the Code. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Board noted that it had previously upheld a complaint where the use of the same image was used (The Professionals 0162/13). The Board noted that in that case "the use of the words "expose yourself" and the image of the man are consistent with a depiction of "flashing." The Board noted that this is a depiction of behaviour which is illegal and that the text "expose yourself" was condoning if not encouraging such behaviour. The Board considered that the suggestion of "flashing" is clearly intended, in the context of the real estate signage, to relate to the property and its marketing. However the Board considered that the depiction and suggestion of condoning "flashing" is a depiction of material that is contrary to prevailing community standards on health and safety."

Consistent with the decision above, the Board noted that the intention of the advertisement is to draw the viewer to the billboard by shocking them and that in doing so they may look to seek the services of the advertiser for their own purposes. The Board considered however, that the depiction of a man exposing himself is an image that suggests behaviour that is contrary to prevailing community standards on health and safety and that it did breach Section 2.6 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The advertiser provided the following response. "The sign will be removed when the tenant uses the sign. It is not a rude sign. If you have nothing better to do with your time then God help us."

