

Fines continue to mount for Mindsight owner

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Indiana Borough's Code and Zoning Department has filed a civil complaint against Mindsight LLC for failure to remove two electronic message centers in downtown Indiana.

The complaint seeks fines of \$500 for each day, starting March 7, that the message boards remain attached to the sides of the building at 700 Philadelphia St. As of Friday, when the complaint was filed, the requested fine had already reached \$3,000. By today, the potential fine could be \$5,000.

Two other new developments in the 2½-year-old legal dispute between the borough and Mindsight are the scheduling of two hearings: One before Indiana's Zoning Hearing Board on April 1, and the other before Magisterial District Judge Guy Haberl in Indiana on April 13.

At the Zoning Hearing Board hearing, Doug Varner, the active business partner of Mindsight, will argue his appeal of the Code and Zoning Department's denial earlier this month of Varner's application for a permit to display the message boards in downtown Indiana. Varner filed the application after renting space in the building at 700 Philadelphia St. and establishing a Mindsight office there. He contends that a Mindsight office in the building satisfies a requirement of the ordinance that businesses must physically occupy spaces where a company's signs are displayed.

Indiana Borough Manager Ken Gabler said the permit application was denied not just because of the "off-premise advertising" issue, but also because the Mindsight panels have the potential for animation and illumination that could cause distractions for drivers.

Until the hearings are held, the potential fine will continue to accumulate.

If the Zoning Hearing Board rules in Mindsight's favor and rules the signs may be displayed, the hearing before Haberl may be unnecessary.

But if the Zoning Hearing Board and Haberl both rule against Mindsight, Haberl can impose fines, up to a maximum of \$8,000, for each civil complaint filed.

The dispute may not end there. Varner would have 30 days to appeal Haberl's ruling to the Court of Common Pleas.

The legal disagreements between Mindsight and the borough's Code and Zoning Department began shortly after the signs were installed in October 2006.

Borough officials told Varner the signs violated a borough ordinance and should be removed.

Varner argued that the borough erred in its instructions on what all he needed to do before installing such signs.

Varner appealed the notice of violation and requested a variance from the Zoning Hearing Board, and it was denied. He then appealed that decision to the Court of Common Pleas and to the Commonwealth Court, and both courts affirmed the decision of the Zoning Hearing Board.

The borough sent Varner a letter advising that the signs had to be turned off by Feb. 6 and removed by March 6 under the threat of \$500-a-day fines.

Varner turned the signs off and then filed an application for a new permit based partly on the argument that he had created a Mindsight office in the corner building.

Varner has said he intends to leave the signs where they are pending a ruling from the Zoning Hearing Board.

"As many can see, whether at the local, state or national level, there are many difficulties in our system of government," Varner said Monday. "The question anyone must ask is, what can be done about it? This is just a

microcosm of some of the greater issues we have in our world today."

Mindsight's four other networked signs - all in White Township - are not affected by the Indiana Code and Zoning Department's ruling and civil complaint and continue to display six-second-long advertising messages and public service announcements.

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