As you know, I am a representative of Interstate Outdoor, Inc. (“Interstate”). As you also know, Interstate intends to reconstruct its existing outdoor advertising sign or billboard located on Highway 421 and Highway 27.

Interstate possesses a permit from the North Carolina Department of Transportation (“DOT”) for the use and maintenance of the Sign pursuant to the North Carolina Outdoor Advertising Control Act (“OACA”)(G.S. 136-126 *et seq.*) and DOT regulations.

Although Interstate is willing to apply for a building permit to show compliance with State building code requirements, we believe that Harnett County (“County”) cannot otherwise “regulate” or “prohibit” the intended reconstruction. Attached hereto is a set of engineered drawings showing Interstate’s compliance with the building code.

In 2013, the North Carolina General Assembly passed House Bill 74, entitled “AN ACT TO IMPROVE AND STREAMLINE THE REGULATORY PROCESS IN ORDER TO STIMULATE JOB CREATION, TO ELIMINATE UNNECESSARY REGULATION, TO MAKE VARIOUS OTHER STATUTORY CHANGES, AND TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS.” (“HB 74”). HB 74 is an extremely important new law that, as the above title indicates, stimulates job creation and eliminates unnecessary regulation in the field of outdoor advertising. HB 74 is codified in North Carolina Gen. Stat. §136-131.2 and provides that no municipality or county can “regulate or prohibit the repair or reconstruction of any outdoor advertising from which there is in effect a valid permit issued by the Department of Transportation.” Obviously, the term “regulate” is very broad and would include any regulatory efforts by the County to impose its set of standards on the Billboard’s reconstruction. Moreover, the only statutory limitation in the new law is that the “square footage of the advertising surface” cannot be increased. The well-established rule of statutory construction is that mentioning a specific exception implies the exclusion of others. *Morrison v. Sears, Roebuck & Co.,* 319 N.C. 298, 303, 354 S.E.2d 495, 498-499 (1987)(espousing the doctrine of *expressio unius est exclusion alterius*); *Granville Farms, Inc. v. County of Granville,* 170 N.C. App. 109, 114, 612 S.E.2d 156, 160 (2005). Notably, there are no additional exceptions in the statute addressing a sign’s conformity to local standards or mentioning development restrictions related to height, setback, etc.

The clear intent of HB 74 is to streamline the regulation of existing outdoor advertising signs along the interstates and primary highways of this State. Modernization or reconstruction efforts are not to be measured by or judged according to local standards, except to the extent of increases in advertising square footage. In the case at hand, there is no planned increase in advertising square footage.

In addition to HB 74, N.C. Gen. Stat. §136-131.1 provides that a local government, in the exercise of its regulatory authority, cannot cause the removal of outdoor advertising for which there is in effect a DOT permit.

The above two statutes found within the North Carolina Outdoor Advertising Control Act are part of the law of “preemption” in this State. Meaning, State law trumps local law in certain areas. HB 74 built on existing case law dealing with preemption as reflected in the case of *Lamar v. Stanly County,* 186 N.C. App. 44 (2007), *affirmed per curiam*, 362 N.C. 670 (2008).

 The *Lamar v. Stanly County* case involved the relocation of a DOT-permitted billboard caused by a highway widening project. Lamar moved a sign deemed nonconforming to County standards off the new State right of way. The sign was moved within the same “site/location”, being 1/100 mile, as defined by DOT regulations and such relocation was permitted by State law. *See* 19A N.C.A.C. 2E. 0201(27); 19A N.C.A.C. 2E .0210. After this happened, Stanly County claimed that since its regulations prohibited the moving of a sign nonconforming to local standards, Lamar lost its “grandfathering” protections when it relocated its billboard. More than four years of litigation ensued. Ultimately, the North Carolina Supreme Court decided that Stanly County regulations, prohibiting the moving of the disputed sign in compliance with DOT regulations, were not enforceable for being in conflict with State law that permitted such activity.

 The *Lamar v. Stanly County* case referred to N.C. Gen. Stat. §136-131.1, which statute, again, clearly states that local laws cannot be used to “cause the removal” of a DOT-permitted billboard without the payment of just compensation.

 As provided above, the County’s regulations are preempted to the extent that they purport to regulate or prohibit the reconstruction of the Sign. In this case, the Sign as reconstructed is staying within the same “site/location” as defined by DOT regulations.

Without waiving any of its rights, Interstate is willing to fill out any forms that you may request as a means to provide the County with information to update its records and to show compliance with the State building code. At most, we believe that only a building permit may be required for the work in question, which standards, of course, are very technical in nature (even that permit may be considered an act of regulation under HB 74). Compliance with County zoning regulations, including obtaining a “sign permit” or “zoning permit” that is different than a building permit, is no longer applicable for the billboard’s reconstruction. Moreover, we will be seeking to reestablish lights on the Sign as reconstructed. Pursuant to N.C. Gen. Stat. §136-133(c), a County cannot deny an electrical permit for a billboard so long as the sign meets technical utility standards.

If you have any questions, please contact me immediately. If you disagree in any material way with the information contained in this letter, please have your attorney contact our attorney Craig Justus with the Van Winkle Law Firm at (828) 258-2991. Thank you for your cooperation.

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