

Scenic pollution

By : RAFAEL HERNANDEZ COLON

Volume: 34 | No: 39

Page : 27

Issued : 10/05/2006

Puerto Rico's urban and rural landscape is one of our most precious natural resources. Its protection is essential to the quality of life that we aspire to and to the mental serenity necessary to foster a deep sense of well-being within us. It is no coincidence that Rafael Hernández, who was hailed by John F. Kennedy as Mr. Cumbanchero, dedicated his most patriotic song, "*Preciosa*," to the natural beauty of our island homeland. The development of tourism is also dependent on this important resource.

The protection of our natural resources was deemed public policy of the Commonwealth by our Constitution. Our first government under the Constitution approved stringent laws to protect our environment from visual contamination. Gov. Luis Muñoz Marín was a jealous guardian of our natural resources and his administrations fought hard to maintain the scenic quality of our urban centers and rural areas. I followed this same policy during my three terms in office.

Up to the last decade of the 20th century, Puerto Rico was relatively billboard-free. But it would not remain so for long. The billboard industry was strongly lobbying the Legislature to free it from our restrictive legislation and regulations. It finally succeeded in getting the Legislature to approve Law 355 on Dec. 22, 1999. This law was intended to regulate not only billboards but all external graphic advertising. The broad scope of the law protected the interests of the companies that could undertake external graphic advertising on a large scale. Law 355 repealed the restrictive legislation that had been passed under Muñoz Marín and the regulations approved by my administrations. The law is strictly directed toward the industries' concerns and is entirely oblivious to environmental, scenic or esthetic considerations.

Law 355 was approved in spite of the opinion rendered by the Supreme Court of Puerto Rico in the case of *Misión Industrial de P.R. Inc. v. Junta de Calidad Ambiental*, 98 JTS 77. In that opinion, the court interpreted the provision in our Constitution protecting our natural resources. In an important paragraph, which should have been heeded by the Legislature, the court stated:

"This provision is not merely the expression of an egregious solicitude, nor does it constitute a general principle of an exhortatory nature, it is, rather a mandate that must be rigorously observed and which prevails over any statute, regulation or ordinance that may provide to the contrary...the report of the Committee [of the Constitutional Convention] who drafted the constitutional provision [for the protection of our natural resources] was clear and peremptory. The intention was to establish an unavoidable duty of the Commonwealth."

As a result of the approval of Law 355 in open defiance of our Constitutional mandate for the protection of our natural resources and of the admonition of the Supreme Court, billboards have sprung up all over our urban and rural landscape. In many areas of Puerto Rico we have witnessed the degradation of our visual environment, an anarchic and chaotic explosion of external graphic propaganda, an epidemic of commercial advertising that contaminates our landscape and which deprives us of our insular scenery, one of our most precious natural resources.

This situation is not only due to a bad law. It is also due to an extremely poor police action on the part of ARPE, the agency mandated to implement the law. Before Law 355 was approved, the Planning Board, the Department of Public Works and the municipalities had jurisdiction either to regulate billboards or to enforce violations to the applicable laws or regulations. Law 355 changed all of that. It concentrates all regulatory and enforcement power in ARPE. This has led to the present situation.

This chaotic situation is very patent to me as I travel back and forth from Ponce to San Juan through the expressway named after Luis Ferré. The expressway was built with federal funds and is a part of the Federal Highways System. Billboards erected on it must comply with federal standards. Although jurisdiction over our highways lies with the Highways Authority, ARPE is today the only agency with enforcement powers to remove billboards erected in violation of federal standards.

In order to promote the safety and recreational value of public travel and to preserve natural beauty, federal law (23 USCA 131) prohibits billboards, not in industrial or commercial zones, located outside of urban areas which are visible from the main traveled route of the expressway. On the highway from San Juan to Ponce, very few of the huge billboards that mutilate the scenery comply with this standard.

They are in flagrant and defiant violation of federal law and yet ARPE does not initiate removal action against them. The victim of Law 355 and of ARPE's inaction is the right of the people of Puerto Rico under our Constitution to enjoy a natural panorama, a visual environment free of commercial propaganda which, through our eyes, introduces itself into our psyche as we transit as a captive audience through one of our principal thoroughfares.

Billboards must be reined in. ARPE must eliminate all of those in violation of the law. Prospectively, they should be allowed only in districts zoned as commercial or industrial, with spacing of at least 500 feet between them, and with strict downsizing. If we don't do this, they are going to sprout everywhere drowning us in an ocean of commercial propaganda.

The administration and the Legislature must face up to the spreading billboard mutilation of our urban and rural landscape with a sense of urgency. Protecting this natural resource is as important as other environmental concerns essential to a sustainable development of our beloved island, which Rafael Hernández named "Preciosa."