

08-2020

April 21, 2009

TO: City of Los Angeles Planning and Land Use Committee

FR: California Restaurant Association

RE: Agenda Item 4. 08-2020. Establish total sign limits for properties citywide.
Oppose

The California Restaurant Association (CRA), on behalf of its more than 22,000 Members statewide and the Los Angeles Chapter of CRA, is opposed to agenda item 4, 08-2020, which bans the construction of digital billboards or conversion of standard billboards to digital throughout the City of Los Angeles. As the restaurant industry continues to struggle in this economy, now more than ever, restaurateurs need flexibility and creative options to help market their businesses, which helps keep people employed and stimulate the economy.

The restaurant industry is one of the largest private employers in California, providing work for more than eight percent of those employed in this state. Even in a good economy, California restaurateurs realize narrow profit margins; on average, for every dollar of sales a restaurant brings in, it keeps less than a nickel in profits. With the current fiscal crisis, restaurants are facing even more extreme economic hardships. Factors such as a failing economy, the recent increase in sales tax, an increased minimum wage, the higher costs of materials/products and the ever declining amount of people who eat out, make it even more difficult to make ends meet. Furthermore, to remain competitive and keep business alive, restaurateurs cannot simply raise prices and must find ways to absorb increased costs given decreased margins. Many restaurants are facing a record high decline of business and unfortunately, many are having to shut their doors.

These proposed changes prohibits a marketing option for restaurants at the worst possible time; a time where they need flexibility and help to keep their doors open and continue to provide jobs and stimulate the economy. For these reasons, we respectfully oppose the proposed on-site sign provisions of the proposed sign ordinance and ask that you oppose these proposed changes when it is before you.

cc.

Chair of the Planning and Land Use Committee, City Councilmember Ed Reyes
Councilmember Jose Huizar
Councilmember Jack Weiss

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**Greater Griffith Park
Neighborhood Council**
*Your Neighborhood. Your Voice.
Your Council.*



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Certified Council #35**

April 21, 2009

Members of the City Council
City of Los Angeles
City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 08-2020
Proposed Amendments to Sign Regulations

Dear Council Members:

Greater Griffith Park Neighborhood Council ("GGPNC") has been actively engaged in the problem of the incursion into our public lives by signage for a number of years.

In the summer of 2007 we presented a catalog, containing photographs and addresses, of all off site signs in our area to the Department of Building and Safety to aid it in carrying out its obligations to identify all off site signs which were built or modified without permit and to enforce the existing ordinances. Unfortunately, we understand that department has done nothing to avail itself of the benefit we provided to them or to enforce the current ordinances in our area.

I. Enforcement of Existing Ordinances.

The City Council should take whatever action is necessary to cause the Department of Building and Safety to enforce the current ordinances and to cause all off site signs which have not been properly constructed in accordance with the ordinances in existence at the time of their construction or modification to be removed.

We have previously so advised the Council by our Community Impact Statement, clause (b), dated November 24, 2008, filed in Council File Nos. 08-2020 and 08-2617.

II. Proposed Comprehensive Sign Ordinance.

GGPNC has also followed the development of a proposed comprehensive sign ordinance by the Department of Planning as instructed by you on July 29, 2008. We have commented as the process has proceeded. For example, we have filed a letter dated March 17, 2009, with the City Planning Commission, we have filed several community impact statements, and we have had representatives speak at various public hearings.

Since March 17, the date of our latest letter, amendments have been made to the proposed ordinance, and we have had further thoughts on the procedure. We give you our specific comments.

A. The Current Ban Should be Extended, and the Proposed Ordinance Should be Revised.

The current ban has been put in place to allow the City to provide a comprehensive plan for signs, both on site and off site. This project of revising the ordinance applicable to signs is however subject to questions raised by various interests as to the scope of such regulation. We understand that some of the major issues raised are in the process of litigation in the federal court.

We think the sign ordinance revision should be done at one time with all relevant information before the City Council. We think enacting an ordinance which is not informed with the most critical facts relating to its permitted scope is unwise. The most rational time to revise the ordinance is after the Ninth Circuit has spoken. Hopefully, the new ordinance will be in compliance and there will be a reasonable possibility of an end to litigation on the subject.

Extending the ban is a rational response to the circumstances created by those who filed the litigation.

We applaud the Department of Planning for its great effort in preparing this draft, and the generally satisfactory recommendations. However, the process has been on a very fast track, and we think some choices made are wrong. These can be corrected by further discussion with neighborhood councils and other representative stakeholder groups and the citizens at large. This should be the task given to the Department of Planning during the extend ban.

B. Specific Comments to Proposed Ordinance.

Given the limited amount of time that the two drafts have been available and the natural limitations on our meeting schedules we give you the following comments as to some of the issues which appear important to address in any comprehensive ordinance:

1. Non Conforming Signs.

Under the current draft signs which fail to conform to the new ordinance may continue in perpetuity.

That is wrong.

The City is covered with signs which blight our communities. These signs should be removed or caused to conform to the new ordinance.

Naturally, we do not advocate taking property from those who have such signs to the extent they were legally erected. But the value of those signs can be amortized to allow a fair recovery of the owner's investment. We understand this is done in other jurisdictions, e.g., Los Angeles County (section 22.56.1540, which requires compliance with changes in sign requirements within 5 years, subject to administrative review to prevent unconstitutional taking of property).

To "grandfather" the existing signs is to perpetuate the bad planning practices of the past.

2. Private Right of Action.

We support the granting of a private right of action.

The proposed ordinance's purported grant of a private right of action is wholly inadequate.

A private right of action is proper to encourage enforcement when the City, which has to date been lax in enforcement, fails to act.

Section 14.4.24 conditions the private right on action on the prior issuance of an order by the City. Presumably, if the City has so acted it will proceed to enforcement under the ordinance, and a private right of action will not ordinarily be necessary.

The private right of action should be independent of and not dependent on action by the City. It should be a second line of defense against failure to conform to the ordinance. Thus, there should be no condition to a private right of action other than (1) notice by the person seeking to enforce the ordinance

to both the landowner and the City and (2) failure to comply with the ordinance within a reasonable period of time (to be specified in the ordinance).

A private right of action should be allowed without regard to ownership of property or residences within any specified area. The effect of failure to comply with the ordinance is not limited to such people, nor should be the right to enforce the law.

Moreover, we believe the ordinance ought to have a provision to encourage private action (after failure by the City) by a guarantee to a successful plaintiff of costs of suit and attorney's fees and a share of any penalty imposed.

We believe general provisions of the law against nuisance lawsuits and vexatious litigants should be a sufficient safeguard from abuse. On the other hand, limiting the right as proposed may allow for no real enforcement at all.

3. Sign Districts.

Selecting certain areas for a superabundance or saturation of signs is patently unfair. Moreover, we believe that a sign district, by creating a free-for-all attitude, may increase crime in that and adjoining areas.

If new sign districts are allowed, such sign districts should be regulated so that (a) new signs in such a district will be offset by the removal of an equal or greater number of square feet of signs in the area abutting the sign district, (b) provision shall be made that areas outside of the district will be protected from the effects of signs within the district and (c) notice of a proposed sign district (and an opportunity to be heard) be broadly provided to residents and owners of property in areas adjacent to the proposed district.

4. Distinction between On-Site and Off-Site Signs.

The distinction between "on site" and "off site" signs should be retained; however, a definition of "on site" sign should be adopted to reflect the common-sense distinction, such as providing that a sign which advertises a product or service sold on site must be for a product or service that provides no less than a certain percentage (e.g., 25%) of that business's monthly income during the period the product or service is advertised.

5. Enforcement.

The City must commit to providing a substantially larger number of employees to enforce the ordinance, which might be funded by effective

collection of fines owed by violators. If legally possible, the fines should go first to fund enforcement and then to the extent the fines exceed the cost of enforcement they should go to general funds. Alternatively, inspection fees should be set at an amount to adequately fund the cost of enforcement.

6. Fines

Fines should be imposed against the person or entity determining the message on the sign (*i.e.*, advertiser) as well as the land owner and owner of the sign. Enforcement might include revocation of the offender's business license if there are any unpaid fines.

7. Super graphics, Digital Signs and New Roof Signs.

We support continued prohibition of these signs.

8. Determining which of the Signs in the City are now "illegal."

The City Council should require the Department of Building and Safety to promptly perform its long-standing obligation to enforce current regulations and determine which signs now existing are not legal. The City Council should fund the effort to enforce the applicable current ordinances.

9. Special task force.

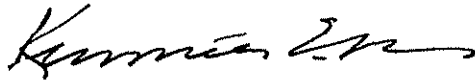
We believe there should be representatives of the Department of Building and Safety, the Planning Department, the City Attorney, the Fire Department, the Department of Water and Power, the Community Redevelopment Agency and representatives of the public such as neighborhood councils to review and report to the City Planning Commission on a regular basis regarding the effectiveness of the current ordinance and any new ordinance, with recommendation for modification. The cost of such a task force should be assessed as part of the business tax on billboard operators.

10. Application to City Signs.

The City should apply the principles adopted for signage on private property to their own property to the extent the signs and properties are comparable.

Very truly yours,

Philip Gasteier, President

A handwritten signature in black ink, appearing to read "Kenneth E. Owen".

By Kenneth E. Owen
Chair, Planning, Zoning and Historic Preservation Committee

Cc: The Honorable Antonio Villaraigosa
Karen Kalfayan
City Planning Commission
Alan Bell
Andrew A. Adelman, P.E.
Gail Goldberg