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City of L.A.: 'Worst' Billboard Policy Enforcement in Nation



Kevin Fry

As local politicians and media focus on L.A.'s billboard policy, Scenic America's Kevin Fry gives an unforgiving account of the city's outdoor advertising priorities.

Earlier this month, the AIA/LA hosted a discussion regarding L.A.'s billboards—a problem that has steadily gained attention as new technology and failed policies have allowed larger and more extravagant billboards around the city. In the following TPR interview, Kevin Fry, the president of Scenic America, an organization purposed with stopping the spread of billboard in cities around the U.S. and one of the speakers at the AIA event, describes the threat posed by billboards in L.A.

You recently journeyed from Washington DC to L.A. to speak to the AIA-LA about Los Angeles' inability to control its outside billboards. Please share what enticed you to address the issue in Los Angeles and what you said.

I was very excited to speak to the AIA and other design professionals, because the situation in Los Angeles is perhaps the worst in the nation when it comes to billboards and billboard control. The city of Los Angeles has surrendered its built environment to advertising and sign companies. That's a terrible tragedy for L.A. and the whole country, because what's playing out in L.A. is happening on a smaller scale in other places. There's a battle for control of the public realm between outdoor advertising companies and those of us who would prefer that our cities remain places where citizens are free to enjoy the cityscape, the streetscape, and the life of the city without being continually bombarded with commercial messages.

New technologies have allowed the outdoor advertising companies to create evermore intrusive versions of their signs. Two examples of this, which are present in Los Angeles and everywhere else, are the new trend toward giant digital displays and the new vinyl wraps. There are examples of what you call

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"supergraphics" in Los Angeles—gigantic advertisements that completely drape buildings. That's a tragic thing for the city, because advertising is obscuring city life. Once you've reached a point where you can no longer see the city, there's some danger for us that we will lose contact with the essence of the city, and in doing so become less citizens and more consumers. Our citizenship is being taken from us, and we're being transformed into eyeballs for marketers.

What is Scenic America's purpose and mission?

Scenic America is the only national organization that focuses almost exclusively on preserving the visual qualities of American life—the countryside and cityscapes. We're all about the visual. We use the word "scenic" in a broad sense to include not just the classically scenic mountains and countryside, but also the visual quality of the built environment in urban and suburban areas. We work very hard to reduce "visual pollution" or "visual intrusions"—things that reduce our ability to enjoy the natural environment or the environments that we've created.

Billboards are our signature issue. We also deal with poorly placed cell towers, overhead power lines, and other things that create an environment of ugliness, particularly in suburban commercial strips. We also work hard to preserve open space and protect the visual and scenic qualities of public land. We're very active in the context-sensitive transportation design movement. We're also one of the founders of the National Scenic Byway programs.

We rely almost exclusively on individual donations from citizens who care about our issues. People can always go to Scenic.org to find out more about what we are doing and contribute if they would like to do that.

You opened your presentation to the AIA by saying that Los Angeles had lost control of its planning processes regarding billboards. Would you elaborate on that statement and what supports this conclusion?

Los Angeles probably has the worst billboard problem in the country. No one knows exactly how many billboards there are in L.A. because the industry has prevented the city from counting them, which was the source of a series of lawsuits that were settled a couple of years ago. There is a minimum of 10,000 to 11,000 billboards in the city, of which probably a minimum of one-third are illegal. Signs have been put up without permits, in the wrong place, and are of the wrong size. The outdoor advertising companies, with the aid of willfully blind or inept public officials, have allowed the outdoor advertising industry to simply take over the street and put up signs wherever it feels like.

If the city of L.A. is out of control, how have other jurisdictions, major cities, dealt with billboards better than Los Angeles?

The difference between Los Angeles and other cities is that other places have taken the enforcement role seriously. Every city in the United States has a sign

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code, including Los Angeles. The question is whether sign codes are enforced, or whether exemptions or special cases are carved out from it that weaken the overall approach to sign regulation. Places that take it seriously do not create a lot of exemptions or exceptions.

If you really want to get serious about billboard control, which many communities do, the only really effective way to do so is to completely ban all new billboards within the city's jurisdiction. If you completely ban all new signs, over time the billboard problem will be reduced. You're also not allowing the intrusion of new technologies like digital billboards and wall wraps to come in and further obliterate the visual quality of the place. It's an enforcement issue, it's having strict codes, and it's a ban on all new signs, which they did in Houston, Jacksonville, and other places around the country in order to get a handle on their problem.

How can a blanket ban on new billboards deal with the 10,000 existing billboards and their visual imposition, in your words, on the livability of communities?

If you create a ban on all new signs and the city never issues another permit for another billboard, over time—and this takes decades—signs start to go away. For instance, they instituted a ban in Houston over 20 years ago and about two thirds of their billboards have vanished. The leases expire, the building is torn down, or a road is widened. As long as you do not permit those signs to come back somewhere, the natural attrition of billboards starts to reduce the problem.

It's really difficult, however, to simply go in and start removing existing billboards. One of the reasons for that is that in many states the legislature has banned the use of amortization to remove non-conforming signs and requires a cash payment for that sign. The billboard industry always insists that the value of the sign is not just the value of the physical structure, but also the amount of revenue that could have been generated had the sign been allowed to exist. Each sign tends to become worth millions of dollars and no one can ever afford to remove them. Without amortization, communities have no recourse to remove existing non-conforming signs other than paying cash, and that never happens. On federal roads, like the freeways in Los Angeles, by law you have to pay cash for those signs.

What explains the lack of an enforceable billboard policy in Los Angeles?

The billboard industry has been extremely clever in offering to public officials, for example, some kind of trade or revenue sharing for things like parks or public amenities in exchange for rights to put up a billboard on or near public property. By doing that you do a couple of things. One, you weaken your overall ability to control signs in other places where you purportedly don't want them. Exceptions make it very difficult to enforce a law. The industry is very clever in that they have encouraged cities to carve out exceptions to the law. When the city then tries to enforce the law in other places, they are sued based on the inconsistent

enforcement of the law. The city finds itself in a trap.

There are several court cases percolating in the Los Angeles area on this very point. The city permits advertising on its bus shelters. The companies who make billboards the same size as the advertising on the bus shelters sue the city asking how they can tell them they can't have these when the city has them on its own property. The courts have agreed with the billboard companies to some degree.

We're seeing a new argument from developers that they can't put up the building because they can't make it work financially without advertising. Our argument is that people have been creating buildings for hundreds of years and have never had to do that. There has to be a way to make it work without hanging gigantic advertising and hiding the purpose of the building behind massive billboards. Theoretically, you can give people permission to do all kinds of things with their property that might bring in revenue to make the project financially feasible. But we don't allow that, because there are rules about how the city operates. There are zoning and other methods to ensure that the streetscape and built environments are coherent and visually pleasing. We use these rules all the time to control development. That makes the sign issue even more insidious.

There are things property owners can do with their buildings to make them more financially feasible that are actually intrinsic to the activity of the building. But the signs and commercial advertising is not. They are taking advantage of the adjacency to the public amenity, which is the street and the sidewalk, to force commercial advertising on passersby who may or may not want to see it.

That's what makes billboards different from other businesses. Billboards are a parasite on the public investment in the roadway and streetscape. That's why they are regulated in ways that other businesses are not. They are taking advantage of something they are not paying for, and they are compelling people to consume their product.

Billboard advocates would say that a small group of architects and urbanists complaining about billboards and visual pollution are not a serious political force for City Hall to reckon with. Are there other jurisdictions where effective coalitions have both formed and have succeeded in controlling city billboards?

The answer varies from place to place. For instance, in Jacksonville, Florida, where they banned all new billboards, it was done by public referendum. San Francisco voted several years ago to ban all new billboards in a public referendum that got well over 70 percent of the vote. Of course, that hasn't worked out completely, as anyone can tell who's been to San Francisco lately. In contrast, in Houston, a large portion of the pressure for change came from the business community. They realized that the city was completely out of control in the way L.A. is now. The billboards were so dominant and hideous in the built environment that it was impeding their ability to develop as an economic force. The business community got together and said, "We can't be this ugly anymore."

It kind of depends on the local culture of the place, but the people within the business community often have a broader sense of what works to create an environment conducive to economic activity.

It’s important to remember that there are other business and economic interests within the city other than those expressed by the sign companies and building owners. Too often, when politicians react to requests from billboard companies in order to be “business friendly,” they support what the sign company or property owner wants. But they’re forgetting that there are other interests beyond those that affect the quality of economic life in the city.

We want people to understand that there is a broader interest and most places, when they figure that out, have moved ahead. That’s why the four states that have banned billboards entirely—Alaska, Maine, Vermont, and Hawaii—have made the decision that they wanted to preserve, protect, and defend their fundamental character as scenic and visually pleasing places, so they decided to push aside the billboards. They wanted people to come to those places as visitors and guests, and they knew that people come to see an authentic place and not see some billboard. The authenticity of place, the visual integrity of place, matters in the long-term development.

Elaborate on what you mean by “authentic,” because in Los Angeles, what’s viewed as authentic may be unlike what is authentic in other cities. For example, Sunset Boulevard is part of our Hollywood character. Are the billboards on the Sunset Strip inauthentic?

Scenic America believes that the most important thing we can do is protect the fundamental character of the place. That’s our goal. In the case of Times Square, which is often used as an example, the Vegas strip, or Sunset in Los Angeles, the fundamental character of that place may well include elaborate signage. But those are limited places. In the real world that’s not how it actually works. In Los Angeles there are digital billboards showing up in all kinds of neighborhoods. You could not possibly argue that the fundamental character of places like Silverlake and others includes a giant TV screen on a 40-foot stick. The problem is, unless you very, very strictly restrict the places where these signs are, they tend to metastasize throughout the city to places where they do not belong.

The decisions about whether we want this stuff in our society are made behind closed doors, in political decisions or legal decisions that come from negotiations between billboard companies and politicians. Let’s have a public discussion about whether this is how we want to live. If the public decides it wants them, that’s fine, but let’s make that a decision that’s no longer held by those with only a financial interest.

What I found so wonderful about the AIA meeting in Los Angeles that I attended was that it was a public discussion for the first time in Los Angeles. People got together to talk about it, with all different points of views. Let’s have that discussion, because otherwise the city will be lost to us. We will wake up one

morning and it will be gone, and we'll wonder how it happened, and who did it to us, and why we didn't speak up.

[Ed.'s note: Time Magazine published a story on Nov. 18 about a ban of outdoor advertising in Sao Paulo, Brazil.]

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Tarzana Property Owners Association, Inc.

Councilman Ed Reyes
Los Angeles City Council
City of Los Angeles
200 North Spring Street
Los Angeles, California 90012

December 1, 2008
Date: 12-2-08
Submitted in PLUM Committee
Council File No: 08-2020
Item No.: 2
Deputy: B. GRAY

Subject: **Billboards: This is a repeat of the letter mailed November 25, 2008**

The Tarzana Property Owners Association and the Tarzana Neighborhood Council have both voted unanimously to support recent actions by the City Planning Commission, the City Council, and the City Attorney's office to limit the proliferation of digital billboards and clarify the current situation with respect to off-site signs. The Tarzana Neighborhood Council has submitted a separate letter outlining the TNC position. Specific Tarzana Property Owners Association comments are addressed her. We support:

- A one-year moratorium on modernization or conversion to digital format of all billboards
- An extension of that moratorium until there is a clear cut determination of whether the settlements were an unlawful surrender of the City's police power to enforce existing billboard regulations
- The City Council motion for the Planning Department, Building and Safety, and City Attorney to prepare an update on the legal situation, clarify the requirements for CEQA review and public notice, and identify specific locations of permitted and non-permitted billboards and those scheduled for modernization and digital conversion.

As noted in the City Council motion and in recent articles in the Los Angeles Times, Citywatch, and LA Weekly, the recent settlement with certain billboard companies leaves many questions unanswered including the underlying legality of the settlement. Among the points raised:

- **CEQA:** CEQA and full case-by-case review should be mandatory for any significant "modernization" of existing billboards. While "significant" must be defined, we feel that the definition that the work exceed 50 percent of replacement cost of the original structure, contained in Section 91.6206.4.2 of the LA Department of Building and Safety Sign Code (revised November 20, 2007), is a good starting point. The reviews must include the impacts on traffic, potential safety hazards due to distraction of drivers, and glare to neighboring locations.
- **Inventory:** The settlement required the sign companies to provide the City with an inventory of all billboard sign locations within the City. We propose a moratorium on all sign modifications until such an inventory is compiled. That inventory must include location, and permit information. As an example, we have conducted an inventory of billboard locations within Tarzana. The figure of 55 billboard sign faces has flabbergasted everyone we have spoken to.

- **Compliance with relevant zoning regulations, Plans, and district requirements:** There is no justification why the settlement should override these binding ordinances.
- **Notice:** Sign companies should be required to notify the public, through the Planning Department, Neighborhood Councils, Homeowners Associations, all residents within a 500 foot radius, etc. at least one month before any modernization plans are submitted.
- **Unlawful surrender of City police power.** The moratorium should remain in place until there is a clear court decision as to whether the settlements were an unlawful surrender of the City's power to enforce existing billboard regulations.

In addition, we urge the City to vigorously enforce all existing ordinances regulating billboards and other off-site signage. Among the pertinent regulations contained in the current Municipal Code, specifically in Ordinance 179416, effective January 1, 2008:

- **Purpose.** Section 14.4.1 states that: the purpose of this article is to promote public safety and welfare by regulating signs in keeping with the following objectives:
 - A. That the design, construction, installation, repair and maintenance of signs will not interfere with traffic safety or otherwise endanger public safety.
 - B. That the regulations will provide reasonable protection to the visual environment by controlling the size, height, spacing and location of signs.
 - E. That adequacy of message opportunity will be available to sign users without dominating the visual appearance of the area.
- **Prohibited Signs.** Section 14.4.4 specifically prohibits signs
 - Section 3. Contain flashing, mechanical and strobe lights in conflict with the provisions of Sections 80.08.4 and 93.0107 of this Code. Note that Section 80.08.4 is not relevant, but Section 93.0107, titled "Distracting, Confusing Or Nuisance Lighting Viewed From Public Streets, Highways Or Other Public Thoroughfares Used By Vehicular Traffic" provides that:
 - No person shall construct, establish, create, or maintain any stationary exterior electric lighting or illumination system or any interior system which is visible from a public street, highway or other public thoroughfare used for vehicular traffic, that contains or utilizes a continuous or sequential flashing operation in which more than one-third of the lights are turned on or off at one time.
 - Section 4. Are revolving and where all or any portion rotate at greater than six revolutions per minute.
 - Section 11. Indicates off-site signs are prohibited "except when off-site signs are specifically permitted pursuant to a legally adopted specific plan, supplemental use district, an approved development agreement, or a relocation agreement entered into pursuant to California Business and Professions Code Section 5412. **This prohibition shall also apply to alterations or enlargements of legally existing off-site signs.**
- **Hazard To Traffic.** Section. 14.4.5 indicates that:

- Prohibition. No sign or sign support structure shall be erected constructed, painted or maintained, and no permit shall be issued, if the sign or sign support structure, because of its location, size, nature or type, constitutes a hazard to the safe and efficient operation of vehicles upon a street or a freeway, or which creates a condition that endangers the safety of persons or property.
- **Off-Site Signs.** Section. 14.4.18. specifies:
 - Area. The sign area of a single face shall not exceed 800 square feet.
 - Height. In no event shall the height to the top of the off-site sign exceed a height greater than that height specified for the height district in which the sign is located, or a height of 60 feet above the sidewalk grade or edge of roadway grade nearest the sign, whichever is more restrictive.
 - Location. No portion of an off-site sign with a sign area greater than 80 square feet shall be placed within 200 feet of a residentially zoned lot, which is located on the same side of the same street as the lot on which the sign is placed.

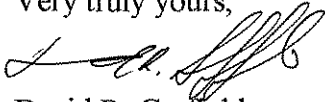
Summary.

We support the City efforts to clarify the requirements for billboards and other off-site signs; require full CEQA review and public notification of all significant modifications to existing signs; and require a full inventory of existing permitted and unpermitted billboards. In addition, we strongly urge:

- a moratorium on significant modernizations of existing billboards until the above is accomplished
- vigorous enforcement of existing regulations
- applications for significant modifications be treated in the same manner as applications for new billboards
- digital billboards be allowed only in specifically defined special districts.

Finally, we strongly urge that a time period be established for removal of all non-permitted billboards.

Very truly yours,



David R. Garfinkle
President, Tarzana Property Owners Association
Board Member, Tarzana Neighborhood Council