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December 11, 2012

Planning and Land Use Management Committee
Los Angeles City Council
City Hall, Room 395
200 North Spring Street
Los Angeles, CA 90012

City Council File Nos. 08-2020, 11-1705

Re: December 11, 2012 PLUM Agenda Item No. 7: Revised Proposed Citywide Sign Ordinance – Administrative Civil Penalties and Appeals

Dear Honorable Chairman Reyes and Honorable Councilmembers Englander and Huizar:

We appreciate this opportunity to provide comments on behalf of our client Clear Channel Outdoor, Inc. to your Committee concerning the Department of City Planning’s latest proposed revisions to the City’s sign regulations released on December 4, 2012. Given that the revised staff report was issued only a few days ago, this letter addresses only one issue – the comments on the administrative civil penalties provisions raised in 2011, which are still not reflected in this draft.

Clear Channel Outdoor supports the City’s efforts to revise the Municipal Code to create clear and comprehensive regulations to provide clear guidance for Los Angeles residents, sign owners and operators, and the many businesses and industries that rely on outdoor advertising. We appreciate staff’s further research into the illumination standards for signs. Clear Channel Outdoor is committed to working with the City to address other issues, including digital signage and opportunities for public benefits provided through signage. We look forward to the opportunity for further discussion of those issues and will also provide further comments on the other issues in this draft with additional time for review.

Sections 14.4.25 and 14.4.26 of the latest draft of the City’s revised sign ordinance would implement a new regulatory scheme that would give the Los Angeles Department of Building and Safety (“LADBS”) the authority to impose substantial administrative civil penalties for violations of the City’s sign regulations. These civil penalties would begin to accrue before a responsible party subject to such penalties is afforded an opportunity to submit the matter for judicial review. This new scheme raises significant constitutional issues, and would render these provisions of the ordinance vulnerable to a legal challenge if adopted. To avoid such a

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challenge, the City should clarify that civil penalties shall not accrue during an appeal of an order to comply or assessment of civil penalties.

Currently, violations of the Zoning Code, including the City's sign regulations, are punishable by civil penalties of up to \$2,500, as determined by a court in an enforcement action by the City Attorney. (*See* Los Angeles Municipal Code § 11.00(l).) These are judicially-imposed penalties, enforced only after a responsible party has been given the opportunity to test the validity of an administrative order in court.

In contrast, Sections 14.4.25 and 14.4.26 of the proposal before this Committee would establish administrative penalties for violations of its sign regulations to be assessed by LADBS before a responsible party is afforded an opportunity to seek judicial review of an order to comply. The proposed civil penalties for violations of the City's sign regulations range from \$2,500 to \$12,000 per day for the first violation, and to up to \$8,000 to \$48,000 per day for subsequent violations, depending on the size of the sign. These proposed penalties would be mandatory and begin to accrue fifteen days after the effective date of an order to comply, unless sign copy is removed from the sign in question. Under the appeals process set forth in Section 14.4.26, the decision of LADBS to issue an order to comply would only be subject to judicial review after an initial appeal to the Department of City Planning heard by an Administrative Hearing Officer, a subsequent appeal to an Area Planning Commission or the City Planning Commission, and the expiration of the five-day review opportunity provided to City Council by the City Charter.


If penalties are not tolled during an appeal of an order to comply or assessment of penalties, the statutory scheme proposed in the draft sign ordinance would effectively cut off a responsible party's right to judicial review. The mandatory administrative civil penalties proposed in Section 14.4.25 are so substantial that imposing them while the appeal is pending, which could take months to resolve, effectively renders the right of appeal a nullity. The provision of Section 14.4.26 that would stay the accrual of penalties during an appeal if all copy is removed from the sign would not alleviate these constitutional concerns. The requirement that copy be removed to stay the accrual of penalties is, in effect, a second, additional order to take down the copy or risk substantial penalties, similarly made prior to any opportunity for judicial review.

Allowing penalties to accrue during an appeal would be especially inequitable given the time required to determine the legal status of signs. It would be only fair for sign owners or operators to be afforded the opportunity to clarify the legal status of their signs under the law without facing the threat of high daily penalties. Constitutional due process would be served by a requirement that, at the very least, the accrual of administrative civil penalties be stayed if a responsible party files a good faith challenge to an LADBS administrative order until the responsible party can obtain judicial review of the order.

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We appreciate your consideration of this issue concerning the proposed civil penalties and appeals before taking action on the proposed revisions to the City's sign regulations. Clear Channel Outdoor looks forward to continued cooperation with the City as it considers how best to ensure that all signage issues facing the City are addressed through the legislative process.

Very truly yours,

Lucinda Starrett 

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