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March 31, 2015

Los Angeles City Council
Attn: Planning and Land Use Management Committee
200 N. Spring Street
Los Angeles, CA 90012

VIA U.S. MAIL

**Re: Citywide Sign Regulations/Revision (Council File 11-1705) -- Proposed Use of
Categorical Exemptions**

To the Honorable Members of the Planning and Land Use Management Committee:

On behalf of the Coalition to Ban Billboard Blight, I hereby submit these comments in opposition to the adoption of a Categorical Exemption for, and approval of, a proposed ordinance amending Sections 12.05, 12.06, 12.07, 12.08, 12.10.5, 12.11.5, 12.21, 12.22, 12.23, 12.32, 13.11, 19.01, Article 4.4 of Chapter I and Section 91.6216 of Chapter IX of the Los Angeles Municipal Code to enact new criteria for the establishment of sign districts; create new relief provisions for certain deviations from the sign regulations; establish administrative civil penalties for violations of the sign regulations; and enact related technical corrections and other measures to control the potential impacts of signs on traffic safety and the visual environment (the "Citywide Sign Ordinance").

GENERAL COMMENTS

The California Environmental Quality Act ("CEQA") was adopted as a disclosure and transparency document. The theory is that by providing a document that adequately describes the environmental consequences of a project to decision makers and the public, the decision makers will make a rational decision based upon the true environmental consequences of the project, and if they do not, the electorate can hold them accountable for their decisions. The core of this statutory structure is the adequacy of the document as an informational document.

In conducting CEQA review for an action, the lead agency must first determine, whether an action is a project subject to CEQA. (CEQA Guidelines § 15060.) A project is "the whole of the action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" and specifically includes the "enactment and *amendment of zoning ordinances*." (CEQA Guidelines §

15378(a)(1) [emphasis added].) After finding that a project is subject to CEQA, the lead agency may determine that the project is exempt from CEQA. (CEQA Guidelines § 15061(a).) The Secretary of the Natural Resources Agency for the state of California has found that certain projects “do not have a significant on the environment” and are therefore exempt from environmental review. (CEQA Guidelines § 15300; Pub. Res. Code § 21084(a); *Ass’n for the Protection of Env’tl Values in Ukiah v. City of Ukiah* (1991) 2 Cal. App. 4th 720, 727-8.) A project is exempt pursuant to a categorical exemption so long as the project does not fall into an **exception** under CEQA Guidelines section 15300.2. (CEQA Guidelines § 15061(b)(2).)

Once the agency determined that a project is subject to CEQA, the agency will prepare an Initial Study to decide whether to prepare a Negative Declaration or Environmental Impact Report (“EIR”). (CEQA Guidelines § 15063(a), (c).) The EIR requirement is the “heart of CEQA.” (State CEQA Guidelines § 15002(a).) An EIR is required for any proposed project that may have a significant effect on the environment. (Public Resources Code § 21100(a).)

“An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.” (CEQA Guidelines § 15146.) “Effects” include both direct effects caused by the project and indirect or secondary effects which are caused by the project and are later in time or farther removed in distance, but are still reasonably foreseeable. (Guidelines § 15258(a).) Indirect or secondary effects may also include growth inducing effects or other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air and water and other natural systems. (CEQA Guidelines § 15258(a)(2).) Thus with respect to the proposed Citywide Sign Ordinance, CEQA reaches beyond the changes to the language of the Citywide Sign Ordinance to consider the ultimate consequences of the changes and evaluate whether significant effects may occur. (*City of Redlands v. County of San Bernardino* (2002) 96 Cal. App. 4th 398, 409.)

CATEGORICAL EXEMPTIONS

The City of Los Angeles (“City”) has proposed the use of two categorical exemptions for the Citywide Sign Ordinance, Class 3 and Class 11, to avoid any environmental review. These exemptions are wholly improper as the Project consists of amendments to the City’s Municipal Code related to sign regulations not the construction of an individual sign on a single parcel.

The Class 3 exemption “consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The number of structures described in this section are the maximum allowable on any legal parcel.” (CEQA Guidelines § 15303.) The CEQA Guidelines section 15311 lists on-premise signs as an example of a Class 11 exemption. The Class 11 exemption “consists of construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities.” (CEQA Guidelines § 15311.)

The City's justification for the Citywide Sign Ordinance's exemption from environmental review is that, "Most on-site signs, and all off-site signs that could be allowed under the proposed ordinance, meet the criteria for the exemption for limited numbers of small structures (Class 3). All on-site signs meet the criteria for the exemption for on-premise signs and/or minor accessory structures (Class 11)." This application of the Class 3 and 11 exemptions evades any environmental review of the Citywide Sign Ordinance and instead focuses on individual signs that might be constructed *after* the new sign regulations are enacted.

Based on the examples of the Class 3 exemption in the Guidelines, it is clear that this exemption is intended to apply to a small scale project—i.e., "one single family residence, or a second dwelling resident unit in a residential zone;" "a duplex or similar multi-family residential structure, totaling no more than four dwelling units;" "a store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area." (CEQA Guidelines § 15303(a)-(c).) The Class 3 exemption is clearly improper here. The CEQA Narrative prepared by the Department of Planning stated there are 1,684 projected sign permits to be issued annually and that the potential new Sign Districts would create an undetermined number of new off-site signs. The effects of the Citywide Sign Ordinance would not be limited to the construction of a single off-site sign or a single minor on-site sign appurtenant to an existing structure; as such, the Class 3 and 11 exemptions do apply to the City Sign Ordinance.

Moreover, the CEQA Guidelines state that the Class 3 and 11 exemptions "are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant." (CEQA Guidelines § 15300.2(b).) The Citywide Sign Ordinance does not fall under either the Class 3 or 11 exemptions, because it is a zoning amendment and not the construction of a small or accessory structure. Even supposing that the exemptions do apply, based on the cumulatively significant impact of the future construction or conversion of on- and off-site signs throughout the City the Citywide Sign Ordinance would be excepted under the CEQA Guidelines § 15300.2(b) and subject to environmental review.

As the Class 3 and 11 exemptions are inapplicable to the Citywide Sign Ordinance, the City must conduct all appropriate environmental review prior the ordinance's approval.

POTENTIAL SIGNIFICANT IMPACTS

Although the purpose of the Citywide Sign Ordinance is to create more stringent regulations for on- and off-site signs, this does not preclude the ordinance from environmental review. If the lead agency determines that the project may have a significant effect on the environment, "regardless of whether the overall effect of the project is adverse or beneficial," the lead agency must prepare a negative declaration or EIR. (CEQA Guidelines § 15063(b)(1).)

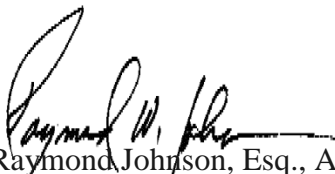
The Citywide Sign Ordinance may cause significant impacts to at least aesthetics and transportation. The United States Supreme Court has recognized that certain types of signs, particularly outdoor advertising displays (also referred to as 'off-site signs' or 'billboards') may constitute "real and substantial hazards to traffic safety" and can also be perceived as an aesthetic harm. (*Metromedia, Inc. v. City of San Diego* (1981) 453 U.S. 490, 511-512.)

NOTICE OF EXEMPTION

Lastly, the Notice of Exemption filed on September 30, 2013 for the Citywide Sign Ordinance is procedurally improper. If the lead agency determines that a project is exempt from CEQA, the agency may file a Notice of Exemption; “the notice shall be filed, if at all, *after* approval of the project.” (CEQA Guidelines § 15062(a).) The Notice of Exemption was filed with the City Clerk’s Office in error as the Citywide Sign Ordinance is currently pending in the Planning and Land Use Management Committee and the City Council has yet to approve the Citywide Sign Ordinance.

Prior to approval of the Citywide Sign Ordinance, the City must conduct adequate environmental review. The Class 3 and 11 exemptions are inapplicable to the Citywide Sign Ordinance, therefore the City must analyze the Project’s potentially significant environmental impacts before project approval. Thank you for your consideration of these comments.

Sincerely,



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