Council File 11-1705 [MB-AME.FID216450]

1 message

Recht, Philip R. <PRecht@mayerbrown.com> Tue, May 28, 2019 at 10:49 AM
To: "clerk.plumcommittee@lacity.org" <clerk.plumcommittee@lacity.org>
Cc: "rita.moreno@lacity.org" <rita.moreno@lacity.org>

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VIA E-MAIL AND FACSIMLE

May 28, 2019

The Honorable Marqueece Harris-Dawson
Chair, PLUM Committee
200 North Spring Street
Los Angeles, CA 90012

Re: Council File 11-1705; Billboard Blight Reduction Program Options

Dear Chairman Harris-Dawson:

This firm represents Summit Media ("Summit"). We write concerning Council File 11-1705, Item No. 6 on today's PLUM agenda, which addresses options for a billboard blight reduction (i.e., digital sign) program in the City.

We appreciate the effort of the Department of City Planning ("DCP") and the City Attorney in preparing the report and draft guide to be considered at today's hearing. The documents identify many of the key issues the Council must address in considering the wisdom, fairness, and legality of a digital sign program for the City. Towards that end, we provide here some preliminary comments for your consideration.

Before doing so, we commend the consensus that any digital sign program ultimately allowed in the City must encourage, allow, and realistically facilitate the participation of both large and small outdoor advertising companies. This Committee, in various prior hearings, has expressed its support of that goal. The report and draft guide equally acknowledge that any digital sign program should not be geared only towards a few large outdoor advertisers. Instead, it must bring smaller advertisers like Summit into the fold. We appreciate and support that consensus view.

As discussed below, however, the report and draft guide both contain policy proposals or options that, rather than facilitating the inclusion of small operators, would serve to shut them out of any digital sign program allowed in the City.

For example, the discussion of the public property option in the DCP report lays out the following three options to encourage a variety of companies to participate in the public procurement process: (1) limit a single company from buying more than a pre-determined number of billboards; (2) implement a fee on companies that own more than pre-determined

number of billboards; and (3) require that each company from a pre-qualified list be selected once before any company is selected twice.

However, only options (1) and (3) ensure that multiple companies, including small companies, will be able to participate in a public property program. Option (2), in contrast, would allow a very few large and deep-pocketed companies to pay whatever fee is necessary to buy all the public property sign opportunities in the City and, thus, shut out smaller competitors. If the City chooses to utilize a fee system as suggested in option (2), the City should establish a maximum number of signs that any individual company can buy to prevent this from happening.[1]

Similarly, while the DCP report indicates that a takedown requirement could be part of a public property sign procurement, the report does not indicate that such a procurement could also include an in-lieu public benefit option. Such an option is necessary for smaller companies without significant takedown inventories to participate in public bidding. There is no reason why the in-lieu public benefit approach, which is a significant component of the private property digital sign option, should not equally apply if a takedown requirement is included in a public property program.

The draft guide's discussion of the private property option similarly contains a proposal that could significantly impact the ability of smaller advertisers to participate. Specifically, the draft guide on pages 5-6 appears to indicate that an advertiser seeking to erect a digital display at an entirely new site must meet a minimum sign reduction ratio of at least 2:1. However, an advertiser seeking to convert an existing static display to digital at the existing location must meet a sign reduction ratio of at least 4:1.

It is unclear what rationale exists for requiring a higher takedown ratio for conversions at existing locations than for new digital displays at entirely new locations. Indeed, a conversion at a location where a sign already exists would seem to pose less impacts than a wholly new digital display at a location where a sign has not before existed. Further, a 4:1 takedown requirement constitutes a major barrier to entry to small operators like Summit. For all these reasons, conversions at existing locations should not be treated more harshly than new displays. Both should be available at the 2:1 takedown ratio.

In the same vein, it is unclear how the 40% in lieu revenue sharing requirement for companies utilizing the 2:1 takedown ratio was determined. On the surface, a 40% revenue sharing requirement over a 20 year period would seem to dwarf the cost of removing a larger amount of existing static signage, particularly since the proposed private property scheme would allow 50% of the takedowns to be as far as 5 miles away from the converted sign and the other

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[1] To ensure participation by multiple companies, the City should also explore the lottery system that successfully was used in Miami to distribute a limited number of sign opportunity among pre-qualified companies.

50% in any City location whatsoever. Under this scheme, the City's largest companies will be able to take down signs with minimal, if any, market value and pay no revenue sharing at all. In contrast, small operators like Summit that lack takedown inventory will be forced to pay exorbitant, if not confiscatory, amounts. Absent a concrete justification, the 40% revenue sharing requirement should be substantially reduced lest it pose an unreasonable and unjustifiable barrier to participation by smaller companies.

We also note that the draft guide contains a major loophole for large operators with inventories of unpermitted signs. Specifically, page 14 of the draft guides makes clear that "[o]nly legal off-site signs may count towards sign reduction requirements." Yet, page 7 of the draft guide effectively nullifies that statement for large operators by allowing them to offset up to 30% of their in-lieu payments by removing certain unpermitted signs that do not qualify for sign reduction credit. The law should not permit indirectly what it prohibits directly. Large operators should not be rewarded for removing unpermitted signs, be it with direct sign reduction credits or credit towards the public benefit payment alternative.

We hope these comments are helpful, and look forward to continued discussions on these and other important issues related to the proposed digital sign program.

Very truly yours,

Philip Recht

cc: The Honorable Bob Blumenfield
The Honorable Curren D. Price, Jr.
The Honorable Gilbert A. Cedillo
The Honorable Greig Smith

PLUM Committee Item 11-1706 - to be heard today

1 message

Maryam Zar <maryamzarjd@gmail.com> Tue, May 28, 2019 at 1:39 PM
To: clerk.plumcommittee@lacity.org, paul.koretz@lacity.org, david.ryu@lacity.org, Mike Bonin <mike.bonin@lacity.org>
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Dear PLUM Committee President and members,

Attached please read the letter submitted by the Westside Regional Alliance of Councils (WRAC), with respect to billboard blight and the City's pending sign ordinance. We urge you to allow time for communities to consider the implications of billboard signage - both traditional and increasingly digital - and weigh in on the issues that impact their communities before making any determinations regarding citywide signage and billboard proliferation.

We believe regulation and enforcement that take communities, their expectations of safety and their character into account is crucial, as we look ahead to the future of citywide signage.

Thank you and best,
Maryam Zar

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Maryam Zar, J.D.
Chair: Westside Regional Alliance of Councils (WRAC)
Commissioner: LA Commission on the Status of Women
Blogger: Huffington Post
Founder: Womenfound
Host: Uncommon Conversations

Billboard Blight letter - 2019.pdf
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Westside Regional Alliance of Councils

westsidecouncils.com

Bel Air-Beverly Crest Neighborhood Council
Brentwood Community Council
Del Rey Neighborhood Council
Mar Vista Community Council
Neighborhood Council of Westchester-Playa
North Westwood Neighborhood Council
Pacific Palisades Community Council
Palms Neighborhood Council
South Robertson Neighborhoods Council
Venice Neighborhood Council
West LA-Sawtelle Neighborhood Council
Westside Neighborhood Council
Westwood Community Council
Westwood Neighborhood Council

May 28, 2019

LA City Councilmember Marqueece Harris-Dawson, Committee Chair
Committee members: Blumenfield, Price, Cedillo & Smith
Planning and Land Use Management Committee
John Ferraro Council Chamber, Room 340
200 N. Spring Street
Los Angeles City Hall

Sent via email to: Clerk.plumcommittee@lacity.org (Rita Moreno, Legislative Assistant)

Re: Billboard Blight Reduction – Item/CF 11-1706

Dear PLUM Committee Chair and members:

The Westside Regional Alliance of Councils (WRAC) is a regional coalition of all 14 neighborhood and community councils from Los Angeles Council Districts 5 and 11 (the Westside of Los Angeles). WRAC's member-councils together represent almost half a million residents and stakeholders.

Half of WRAC member councils have passed, in substance, motions opposing billboard blight as well as the continued and sustained increase of billboard signage, in digital and traditional form, across L.A.. As early as 2015, WRAC member councils have been concerned with the proliferation of billboards and the increase in distractions for drivers, as well as the encroachment of visual blight upon recreation centers and parks, as well as schools, residential areas and scenic highways.

Due to inaction and delay by the City over the last few years regarding this matter and the pending ordinance, our member councils ceased considering a proposed board motion to oppose billboard blight as we awaited word from the city as to the direction of the forthcoming ordinance. We are alarmingly aware of, and monitoring the battery of, special interests that attempt to impact the ordinance by making it easier to permit signage and/or grant amnesty to more than 1300 billboards that are either unpermitted or in violation of their permits.

Our overarching concern is the safety of residents across the city and the quality of life throughout the Westside of Los Angeles. Our councils have expressed the unyielding concern of their constituents over the issues of safety and quiet living, which will be impacted by a proliferation of modern billboard signage - if not properly regulated and enforced. We urge you to uphold the interests of residents over

commercial interests that would treat this city and its skyline as a prime business opportunity. We ask that you delay any decision on this matter and allow a time frame within which communities across L.A. can consider their position and weigh in with their crucial input.

The City of Los Angeles created the Neighborhood Council system by City Charter in 1999 to "promote citizen participation in government and make government more responsive to local needs". With the voice of LA's Westside, which will greatly be impacted by any sign ordinance, we urge you to take neighborhood input into account before moving further on a sign ordinance, and that you seriously consider the adverse impacts of billboard blight on communities cross LA.

Thank you for your consideration.

Sincerely,
Maryam Zar
Chair, Westside Regional Alliance of Councils

cc: Hon. Mike Bonin, City Councilmember – Council District 11 (and field staff)
Hon. Paul Koretz, City Councilmember – Council District 5 (and field staff)
Hon. David Ryu, City Councilmember – Council District 4 (and field staff)
Hon. Eric Garcetti, Mayor, City of Los Angeles (and field staff)

#6

Date: 5-28-19
Submitted in PLUM Committee
Council File No: 11-1705
Item No.: 6
Deputy: Communication from Public

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May 28, 2019

VIA HAND DELIVERY

Planning and Land Use Management Committee
City of Los Angeles
200 N. Spring Street, Room 430
Los Angeles, CA 90012

Re: Council File 11-1705, Citywide Sign Regulations, Outdoor Advertising Act Section 5412

Dear Chairman Harris-Dawson, Vice Chair Blumenfield, and Honorable Councilmembers:

We appreciate the opportunity to comment on behalf of our client, Clear Channel Outdoor, Inc. The staff report lists some 40 California cities that are already implementing relocation agreements, which are expressly authorized by state law, Section 5412 of the Outdoor Advertising Act. That law expressly allows agreements based on the terms agreeable to the City and the sign owners. For the City of Los Angeles, this Committee has made clear that criteria for relocation agreements must include terms that protect residential communities and generate benefits for the City, including sign takedowns and revenue.

Though the proposed ordinance includes more detailed provisions than the basic language of Section 5412, it is still rooted in the state law authorization granted by the Legislature. We respectfully disagree with a statement included in the fifth item discussed in the City Planning Department's May 22, 2019, staff report, to the effect that the state law authorization "has nothing to do with" voluntary relocations. To the contrary, the State Legislative Counsel has issued an opinion stating that the state law's authorization to local governments is not limited to eminent domain proceedings. We are submitting that opinion for the record here.

Enclosed is the Legislative Counsel Bureau's opinion addressed to Senator Darrell Steinberg from February 22, 2013, regarding relocation agreements and Business and Professions Code Section 5412.

With respect to relocation agreements, the Legislative Counsel's February 2013 opinion states, "a local entity does not have to initiate proceedings under the Eminent Domain Law to compel the removal of an advertising display before the display owner and the local entity may enter into a relocation agreement."

The Legislative Counsel opinion further states, "cities, counties, cities and counties, and all other local entities are specifically empowered to enter into relocation agreements. Furthermore, these relocation agreements are to be on whatever terms are agreeable to the display owner and the city, county, city and county, or other local entity. . . . [State law] places no further requirements or restrictions on a local entity's ability to enter into a relocation agreement with a display owner."

Thus, the Legislature intended cities to use relocation agreements under Section 5412 not just where eminent domain was implicated but also to encourage the removal or relocation of existing billboards. By encouraging voluntary agreements, the City can avoid the need for mandatory proceedings and improve neighborhoods with sign reductions and public benefits. That is the intent of the state law.

As the City's draft ordinance is consistent with Section 5412's intent and purpose, we respectfully suggest that the ordinance's recitals reflect this state law authorization.

As always, we appreciate your attention to these matters and look forward to continuing to work with you, City staff, and other stakeholders to develop clear, reasonable, and workable solutions that continue to permit off-site digital signage in the City of Los Angeles.

Very truly yours,

Cindy Starrett/RS

Cindy Starrett,
of LATHAM & WATKINS LLP

Enclosure

cc: Office of the Los Angeles City Attorney
Katrin de Marneffe, Esq.
Mr. Greg McGrath
Mr. Layne Lawson
Benjamin Hanelin, Esq.
James Arnone, Esq.

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February 22, 2013

Honorable Darrell Steinberg
Room 205, State Capitol

OUTDOOR ADVERTISING: RELOCATION AGREEMENTS - #1308709

Dear Senator Steinberg:

QUESTION

Business and Professions Code section 5412 prohibits removal of a lawfully erected advertising display without payment of compensation. However, that section also authorizes a local entity to enter into an agreement with a display owner to relocate a display (relocation agreement). You have asked us whether a local entity must first initiate proceedings under the Eminent Domain Law to compel the removal of an advertising display before the display owner and the local entity may enter into a relocation agreement.

OPINION

A local entity does not have to initiate proceedings under the Eminent Domain Law to compel the removal of an advertising display before the display owner and the local entity may enter into a relocation agreement.

ANALYSIS

Business and Professions Code section 5412[1] provides as follows:

"5412. Notwithstanding any other provision of this chapter, no advertising display which was lawfully erected anywhere within this state shall be compelled to be removed, nor shall its customary maintenance or use be

[1] All further section references are to the Business and Professions Code, unless otherwise indicated.

limited, whether or not the removal or limitation is pursuant to or because of this chapter or any other law, ordinance, or regulation of any governmental entity, without payment of compensation, as defined in the Eminent Domain Law (Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure), except as provided in Sections 5412.1, 5412.2, and 5412.3. The compensation shall be paid to the owner or owners of the advertising display and the owner or owners of the land upon which the display is located.

"This section applies to all displays which were lawfully erected in compliance with state laws and local ordinances in effect when the displays were erected if the displays were in existence on November 6, 1978, or lawfully erected after November 6, 1978, regardless of whether the displays have become nonconforming or have been provided an amortization period. This section does not apply to on-premise displays as specified in Section 5272 or to displays which are relocated by mutual agreement between the display owner and the local entity.

"'Relocation,' as used in this section, includes removal of a display and construction of a new display to substitute for the display removed.

"It is a policy of this state to encourage local entities and display owners to enter into relocation agreements which allow local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication. Cities, counties, cities and counties, and all other local entities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city, county, city and county, or other local entity, and to adopt ordinances or resolutions providing for relocation of displays." (Emphasis added.)

To ascertain the meaning of a statute, we begin with the language in which the statute is framed. (*Leroy T. v. Workmen's Comp. Appeals Bd.* (1974) 12 Cal.3d 434, 438; *Visalia School Dist. v. Workers' Comp. Appeals Bd.* (1995) 40 Cal.App.4th 1211, 1220.) When statutory language is clear and unambiguous, there is no need for interpretation, and the court must apply the statute as written. (*Matson v. Dvorak* (1995) 40 Cal.App.4th 539, 547.)

Section 5412 states that cities, counties, cities and counties, and all other local entities are specifically empowered to enter into relocation agreements. Furthermore, these relocation agreements are to be on whatever terms are agreeable to the display owner and the city, county, city and county, or other local entity. (§ 5412.)

Section 5412 places no further requirements or restrictions on a local entity's ability to enter into a relocation agreement with a display owner. And there is no indication that the relocation agreements are contingent upon an attempt to compel removal with payment of compensation by initiating an eminent domain proceeding. In fact, section 5412 specifically notes that compelled removal with payment of compensation does not apply to

billboards that are relocated by mutual agreement between the display owner and the local entity.

Finally, section 5412 states that it is a policy of the state to encourage relocation agreements "which allow local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication." Thus the statute expresses a public policy encouraging relocation agreements between local entities and display owners to allow local entities to continue development and avoid expenditure of public funds, while protecting private investments and public communication. Requiring a local entity to institute an eminent domain proceeding in order to obtain authorization to enter into a relocation agreement would run contrary to this policy.

Thus, it is our opinion that a local entity does not have to initiate proceedings under the Eminent Domain Law to compel the removal of an advertising display before the display owner and the local entity may enter into a relocation agreement.

Very truly yours,

Diane F. Boyer-Vine
Legislative Counsel

By
Jason K. Lee
Deputy Legislative Counsel

JKL:sjk

#6

Case No. CPC-2015-3059-CA Item No. 6 11-1705 May 28, 2019

Date: 5-28-19

Submitted in PLUM Committee

Council File No: 11-1705

Item No.: 6

Deputy: Communication from Public

Comments from Stash Maleski - Resident and stakeholder in Venice, CA
Owner of I.C.U. Art – In Creative Unity, a Los Angeles-based mural production company painting murals in Los Angeles for over 25 years. We paint off-site signs all over the United States.
Contact: (310) 309-7756 stash@icuart.com www.ICUArt.com
ICU Art 2554 Lincoln Blvd #162 Venice, CA 90291

Please allow for small businesses that do hand painted murals as off-site advertising to be able to participate with legal murals in the City of LA.

There should be criteria other than simply taking down offensive existing signage in order to have access to permitted off-site signage. Small business, building owners and artists do not have permits to trade out.

Hand painted murals that recognize sponsors and commercial projects are not currently allowed as part of the fine art mural ordinance. This leaves muralists and small arts organizations dependent on the nearly non-existent funding sources such as non-profits and private commissions to fund mural projects. This has proven to be extremely inadequate to properly fund high-quality mural projects. We need access to the large national companies that want to sponsor murals projects in exchange for sponsor recognition.

Please support local small businesses that have been beautifying this city with hand painted murals for decades instead of handing over all access to off-site signage to the large multi-national billboard companies that have caused the current blight of off-site signs.

Artists, small local businesses, mom & pop property owners and small hand-paint sign companies should be able to control a portion of the media where hand painted murals can be placed.

Hand painted murals can activate a neighborhood in a positive way by encouraging people to interact with the murals and take photos in front of it. They can help bring pedestrian traffic to a neighborhood and reduce illegal graffiti. Murals encourage tourism and social media posts about specific neighborhoods.

Hand painted murals do not obstruct views or block out sunlight. They cannot fall, catch fire or block exits. Murals do not blast light pollution into the neighborhoods like lighted billboards or digital signs. They are simply paint on an existing wall.

We have an opportunity to provide jobs for a large number of muralists and artists that could paint beautifully crafted hand-painted "sponsored murals". This will also reduce illegal graffiti as we offer a path for young muralists to paint and develop a career as an artist.

As the owner of a hand paint mural company that does advertising murals, we would be open to regulate the content of client murals in the following ways:

- Murals must be original art, not repeated imagery that you would see on a billboard
- Limit any type of violent or offensive imagery such as violent horror films
- No need to install lights – no light pollution or extra energy consumption
- Limit the size of logo and text to a percentage of the overall design
- Only paint in commercial or industrial districts.
- No advertising for alcohol or cannabis products
- Do not allow for the removal of fine art murals for commercial murals in order to preserve existing works of art.
- Limit the number of commercial murals in specific districts