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March 4, 2014

Council of the City of Los Angeles  
Planning and Land Use Management (PLUM) Committee  
200 North Spring Street  
Los Angeles, CA 90012

**Re: Report on Outstanding Issues on Proposed Citywide Sign Ordinance**  
Council File 08-2020, 11-1705, 11-1705-S1

Honorable Members of the Planning and Land Use Management (PLUM) Committee,  
Councilmembers Jose Huizar, Gilbert A. Cedillo, and Mitchell Englander:

After the October 2013 release of the proposed citywide sign ordinance and associated reports from the Planning Department and City Attorney's Office, two issues came to the forefront that warranted further discussion. Those issues are as follows:

1. Concerns around the proposed penalties for violations of off-site sign regulations
2. The question of how to resolve the status of over a thousand existing off-site signs that may fall under the state "rebuttable presumption" law

This report details staff's recommendations on these issues.

### **1. Administrative Civil Penalties**

The proposed citywide sign ordinance contains substantial penalty provisions for off-site sign violations. The proposed penalty amounts are substantially higher than the processing fee of several hundred dollars that is currently charged to those who violate the code. Some stakeholders, particularly off-site sign companies, have questioned the necessity of these high penalty amounts. Below is a discussion of the rationale behind the proposed penalties, and the successful example of similar penalties in New York City.

#### **Current Penalty System Ineffective for Off-Site Signs**

Currently, if an off-site sign is in violation of the City's zoning laws, there is no penalty per se. A citation may be issued, along with fees that amount to a few hundred dollars, designed to partially recoup the City's expenses in issuing the citation. Historically, these citations have been so regularly ignored that the only way for the City to correct violations was to refer each case individually for criminal prosecution by the Office of the City Attorney. In recent years, this method has been quite successful, but it requires the dedication of significant resources.

### **The New York City Model**

In 2006, the City of New York enacted a new penalty system to address its proliferation of illegal billboards. The City's previous penalty of \$5,000 had been largely regarded as a small cost of doing business, compared to the tens or hundreds of thousands of dollars of revenue that a billboard could generate in a month.

The new regulations enable the City of New York to issue penalties of \$15,000 for a first offense and \$25,000 for each subsequent offense. (In practice, the amount the City charges for a first offense is \$10,000.) The law is written in such a way that outdoor advertising companies and landowners may be held separately liable for illegal billboards, and when these two parties are one and the same, the total penalties assessed are doubled in magnitude. In addition, a sign can be cited and penalized for each regulation that the sign violates; for example, if the sign is in violation for its location, sign area and height, the total penalty can be three times the penalty amount for a single offense.

Although the new regulations were followed by litigation against the City, the penalties have held up well in court, and have produced marked benefits in the built environment, according to City officials. Since 2006, approximately 14,000 illegal sign penalties have been issued, and around 3,000 illegal billboards have been removed, 300 of which were located along arterial highways (a prohibited location). The result is a significantly less cluttered visual environment.

### **The Current Proposal for Los Angeles**

Large cities with extensive, lucrative billboard markets and limited enforcement budgets tend to have particular difficulty enforcing off-site sign regulations. The City of New York has found a way around this dilemma through the use of high penalties that are taken seriously by offenders and would-be offenders. The proposed penalty system for the City of Los Angeles is modeled after New York City's successful penalty structure. Off-site signs in violation of the regulations would be subject to a penalty ranging from \$2,500 to \$48,000 per day, depending on the size of the sign and how long it has been in violation. The proposed penalty table is below.

<b>SIGN AREA OF OFF-SITE SIGN IN VIOLATION</b>	<b>CIVIL PENALTIES PER DAY OF VIOLATION</b>		
	<b>First Violation</b>	<b>Second Violation</b>	<b>Third Violation and All Subsequent Violations</b>
Less than 150 square feet	\$2,500	\$4,000	\$8,000
150 to less than 300 square feet	\$4,000	\$8,000	\$16,000
300 to less than 450 square feet	\$6,000	\$12,000	\$24,000
450 to less than 600 square feet	\$8,000	\$16,000	\$32,000
600 to less than 750 square feet	\$10,000	\$20,000	\$40,000
750 or more square feet	\$12,000	\$24,000	\$48,000

### Grace period

The proposed “grace period” is 15 days from the date of citation until penalties start to accrue. This is intended to allow the sign owner time to correct the violation and/or resolve any questions or issues with the Department of Building and Safety, which issued the citation. After the grace period has passed, penalties can still be waived if the sign copy is removed, saving the sign owner the cost of removing the sign structure while the owner attempts to resolve the matter.

Other existing fees, such as the Code Violation Inspection Fee and the Non-Compliance Fee, will continue to be assessed by the Department of Building and Safety as allowed by the Building Code and following that Department’s standard procedures in cases where an Order to Comply is issued.

Some stakeholders have requested a longer grace period of 30 or more days. The difficulty with this is that the longer the grace period, the more incentive there will be to put up illegal signs and reap the temporary revenues (which may be significant) before penalties start to apply. This can particularly be a problem when signs can be quickly and cheaply constructed.

The City faced this type of enforcement challenge in the recent past when off-site signs in the form of “supergraphics” began to appear overnight on buildings across the City. It took an aggressive prosecution effort by the City Attorney’s Office for the City to get a handle on the proliferation of these signs. A lengthy grace period may unintentionally provide a loophole for similar violations to occur. Handling code enforcement issues through prosecution and litigation is a costly and cumbersome way to achieve code compliance.

At the same time, staff recognizes the concerns of stakeholders who, while they do not plan on violating the off-site sign regulations, do not want to be caught up in high penalties in the event that an inadvertent violation occurs. For this reason, the proposed ordinance allows 15 days without penalty for the sign owner to communicate with the Department of Building and Safety’s Code Enforcement Bureau, work out any issues or misunderstandings, and, if necessary, correct the violation and/or remove the sign copy.

In addition, because much of the concern over penalties involves existing off-site signs whose permit status is uncertain due to the state “rebuttable presumption” law, staff is now recommending new procedures to resolve the permit status of these signs, as outlined under heading # 2 on the next page.

### Appeals

The proposed ordinance provides a special process for sign penalty appeals, as well as expedited appeals, recognizing that off-site signs are very lucrative and each day spent waiting for an appeal can represent a significant loss of revenue.

Some stakeholders have asked for penalties to be suspended, or “tolled”, during the appeal process. The concern is that if the sign owner believes the citation to be in error, there will still be a risk of having to pay penalties accrued over several months if the appeal is denied at the hearing. On the other hand, there is again the risk here of creating an unintentional loophole that would allow violators of the off-site sign regulations to simply file an appeal even if there is a clear and flagrant violation, and avoid penalties for as long as it takes the

hearing to happen. Again, this could create another situation similar to what happened with supergraphics a few years ago.

While staff recognizes the concerns of sign owners, the dilemma here comes down to a financial risk to sign owners versus a risk to the City of being again inundated with illegal signs. The proposed ordinance strikes a balance between these concerns by allowing a 15-day grace period, waiving the proposed administrative civil penalties if sign copy is removed within the 15-day grace period, offering an expedited appeal process, and providing new procedures to resolve the permit status of the existing off-site signs that fall under the state "rebuttable presumption" law.

### **Conclusion and Recommendation**

It is difficult to design a penalty system that effectively deters violations by those who flagrantly disregard the code, while protecting the well-intentioned sign owners who may violate the code inadvertently. The proposed penalty system would include and be implemented alongside a number of measures designed to provide a fair regulatory system for sign owners while at the same time minimizing the risk to the City. The overall goal is to deter code violations and protect the City's visual environment in a manner that is fair to all parties, while enabling off-site sign code enforcement to be handled through a penalty system that will be taken seriously. While legal battles may continue to be fought over sign code violations, the proposed higher penalties are intended to provide a deterrent from violations so that sign owners will be more likely to choose not to violate the code in the first place, and to resolve violations in a timely manner.

Staff therefore recommends that the proposed language for administrative civil penalties be approved as it is currently written, in Section 14.4.25 of the proposed sign ordinance.

## **2. Clarifying Legal Status for Existing Off-Site Signs Lacking or Not Complying with Permits**

The Department of Building and Safety estimates that there are over a thousand existing off-site signs whose permit and/or enforcement status is currently stuck in limbo due to a lack of clarity at the City level in regard to the California State "rebuttable presumption" law. This law essentially states that existing off-site signs that have been in place for five years or more without being issued an order to comply may be presumed legal, unless a governmental entity proves otherwise. In other words, in order to rebut the presumption that they were "lawfully erected", the City would have to prove that a sign, as it exists, could not have been legally built according to the codes effective at the time the sign was erected. The signs that may fall under the state "rebuttable presumption" law are clearly noted as such on the list of all off-site signs in the City that is published on the Department of Building and Safety's website.

Some of those existing off-site signs that have not been cited in five years include signs that have no permit on record, while others have a permit but do not comply with that permit. An example of signs not in compliance with their permits are signs that were issued a permit for a single face sign but currently have two faces. The state law is rather open-ended in that it is not clear whether and how it can be proven that any of the existing signs were built illegally, and the City's interpretation of the state law has until now been undetermined. The

Department of Building and Safety has thus been unable to issue citations for any of these signs, and has also been unable to grant any permits to legalize the existing signs.

The impact of this uncertainty includes a financial impact on the sign owners, whose signs face a loss in value due to the possibility of being subject to citations or Administrative Civil Penalties. There is also a potential impact on the City's ability to reduce off-site sign clutter, as the sign reduction program within the proposed sign ordinance states that only legally permitted signs are eligible for sign credits and removal.

The actual text of the State law (California Business & Professions Code Sec. 5216.1) is as follows (text referring to modified signs is underlined and the rebuttable presumption is in **bold**):

*"Lawfully erected" means, in reference to advertising displays, advertising displays which were erected in compliance with state laws and local ordinances in effect at the time of their erection or which were subsequently brought into full compliance with state laws and local ordinances, except that the term does not apply to any advertising display whose use is modified after erection in a manner which causes it to become illegal. **There shall be a rebuttable presumption pursuant to Section 606 of the Evidence Code that an advertising display is lawfully erected if it has been in existence for a period of five years or longer without the owner having received written notice during that period from a governmental entity stating that the display was not lawfully erected.**"*

There are two categories of signs in Los Angeles that have been awaiting an interpretation of the state law. Those categories are signs with no permit, and signs that have a permit but do not comply with it. Staff is recommending different solutions to handle these differing categories of signs.

### **Signs That Do Not Comply With Their Permit**

The above, underlined text states that the term "lawfully erected" does not apply to signs that were erected with a permit but were subsequently modified without a permit in a manner that causes them to become illegal. That description applies to all of the signs in this category. Therefore, based on the wording of the state law, the term "lawfully erected" does not apply to signs in this category, and thus the "rebuttable presumption" that the signs are "lawfully erected" does not apply either. Since there is no presumption of legality under state law, these signs can be handled in the same way as any other Zoning Code or Building Code violation. Thus, the Department of City Planning, in conjunction with the Department of Building and Safety and the Office of the City Attorney, recommends that off-site signs in this category be deemed to be not under the protection of the state "rebuttable presumption" law, and in violation of the sign regulations.

Even if the argument is made that these signs do fall under the "lawfully erected" umbrella and that the rebuttable presumption of legality applies, the existence of the building permit can be used as evidence to rebut that presumption. The building permit enables City staff to pinpoint the date the sign was built, and thus the regulations in effect at the time of construction and thereafter. If the sign clearly does not comply with those regulations, that would be sufficient proof to rebut the presumption of legality.

These signs would thus be subject to citation and enforcement, including the new proposed Administrative Civil Penalties, and would not be eligible for sign credits or removal under the proposed sign reduction program. In consideration that these signs may have existed in their modified condition for several years and the sign companies may need additional time to correct the issue due to contractual or logistical limitations, staff recommends that these signs be given a 60-day grace period after the effective date of the proposed citywide sign ordinance. The Department of Building and Safety will start enforcement action toward these signs as resources are available.

### **Signs With No Permit**

The situation is different for those signs for which there is no permit on record. For these signs, there is little to no evidence that could be used to prove their illegality, because there is no permit at all. Because it cannot be said with certainty when these signs were built, it is likely not possible to identify the regulations in effect at the time of construction, and is likewise impossible to prove that the sign does not comply with the applicable regulations. Any attempt to rebut the presumption of legality would be extremely labor intensive and would probably yield negligible results.

In addition, these signs are not specifically exempted from the term "lawfully erected" as are the signs that do not comply with their permits. For all of the aforementioned reasons, the Department of City Planning, in conjunction with the Department of Building and Safety and the Office of the City Attorney, recommends that these signs be presumed to be "lawfully erected" under the state "rebuttable presumption" law, and be deemed to be legal non-conforming signs.

As such, they would be allowed to remain in their current condition without being subject to citation or enforcement, and would not be subject to the new proposed Administrative Civil Penalties. These signs would also be eligible for sign credits and removal under the proposed sign reduction program. However, their non-conforming status would not allow for them to be converted to digital displays or to undergo any other significant work beyond what is currently allowed by the code for legal non-conforming signs. The ban would remain in place and no alterations or enlargements that violate the ban could be performed, including conversions to digital.

### **Conclusion**

Taking action to clarify the City's interpretation of the state "rebuttable presumption" law would benefit sign owners as well as the City, by affirming the legality of hundreds of signs while making them eligible for removal under the proposed sign ordinance, as well as enabling citation and enforcement for hundreds of other signs that can be proven to have been illegally expanded or otherwise modified.

If PLUM approves of this solution in concept, the Department of City Planning and Office of the City Attorney will proceed with drafting language to be included in the proposed citywide sign ordinance.

### **Updated “Grandfathering” List**

Finally, this report includes an attachment which is the updated list of proposed Sign Districts to be “grandfathered”. The proposed sign ordinance contains provisions to exempt pending Sign Districts, which were requested prior to December 6, 2011, from the new proposed eligibility requirements for Sign District applications. However, the other proposed new requirements for Sign Districts would still apply to these projects. The list of projects that would be covered by these provisions, last revised in January 2013, has been updated to reflect the current status of each project which would be covered by this “grandfathering” provision.

For further information on this report, please contact me at (213)978-1272 or Daisy Mo at (213)978-1338.

Sincerely,

MICHAEL J. LOGRANDE  
Director of Planning

A handwritten signature in black ink that reads "Alan Bell". The signature is written in a cursive, flowing style.

ALAN BELL, AICP  
Deputy Director of Planning

Attachment: “Grandfathering” of Pending Sign Districts and Specific Plans

**“Grandfathering” of Pending Sign Districts and Specific Plans  
UPDATE - March 2014**

The proposed citywide sign ordinance includes a provision that pending Sign Districts or Specific Plans requesting special sign allowances shall be “grandfathered” if they were requested before December 6, 2011. These “grandfathered” projects would not be subject to the new proposed eligibility standards for Sign Districts, but would still be subject to the other new proposed requirements and application fee for Sign Districts. There are 11 proposed projects that would be covered by the “grandfathering” provisions:

- **Table A:** Five proposed Sign Districts initiated by City Council motions
- **Table B:** Two requested Specific Plans requesting off-site signage
- **Table C:** Two requested amendments to existing Specific Plans or special ordinances to modify signage
- **Table D:** Two proposed Sign Districts initiated by private property owners’ applications

Following these four tables is a fifth table which summarizes five proposals listed on previous “grandfathering” lists, which have since been adopted.

**Table A: Pending Sign Districts Initiated by City Council Motions and other City Applications**

<i>Common Name</i>	<i>Location</i>	<i>Council District</i>	<i>Case File Number</i>	<i>Mover and Date of Motion</i>	<i>Status</i>
Figueroa Corridor	East and west sides of Figueroa Street generally between Olympic and Wilshire Boulevards.	14	CF 11-0273	Councilmember Perry, 02/18/11	Funding received for review by Sign Unit
Koreatown	Bounded generally by 6 <sup>th</sup> St to the north, St. Andrews Pl to the west, Olympic Bl to the south, and Shatto Pl to the east.	10	CF 08-0936	Councilmember Wesson, 4/15/08	Referred to DCP on 4/30/08
City West	Bounded by 1 <sup>st</sup> St to the north, Boylston to the west, 3 <sup>rd</sup> to the south, and Beaudry to the east	1	CF 08-0509	Councilmember Reyes, 3/04/08	Referred to DCP on 4/30/08
Laurel Canyon Corridor	Bounded by the 170 to the west, Hamlin St to the north, Laurel Canyon Blvd. between Hamlin St and Erwin St, Erwin St between Laurel Canyon and Radford Av, Radford Av between Erwin St and Oxnard St, and Oxnard St to the South.	2	CF 11-1995	Councilmember Krekorian 11/29/2011	Referred to DCP on 12/06/2011
LAX Signage SUD	Los Angeles International Airport	11	CPC-2011-1964-SN; CF 13-0285-S2	Requested by Los Angeles World Airports, 8/2/2011	Approved by CPC on 8/22/13

**Table B: Areas for which a new Specific Plan is requested to incorporate off-site signage**

<i>Common Name</i>	<i>Location</i>	<i>Council District</i>	<i>Case Number</i>	<i>Status</i>
Boyle Heights Mixed Use (Wyvernwood)	2901 E. Olympic Boulevard	14	CPC-2010-851-SP	Staff is reviewing in preparation for CPC hearing (not scheduled yet)
Paramount Pictures Master Plan	5555 Melrose Avenue	13, 4	CPC-2011-2459-ZC-GPA-SP-CA	Draft EIR completed on 8/30/2013



**Table C: Areas that have an existing Specific Plan or special ordinance that is requested to be amended to change the signage allowed**

<i>Common Name</i>	<i>Location</i>	<i>Council District</i>	<i>Existing Ordinance</i>	<i>Case Number</i>	<i>Status</i>
Warner Center 2035 Plan Signage SUD	Warner Center Specific Plan Area	3	No. 168,873 ( <i>et. seq.</i> )	CPC-2008-3470-SP-GPA-ZC-SUD; CF 13-0197	Approved by Office of City Attorney on 1/24/14
Central City West Specific Plan	1111 James M. Wood	1	No. 166,703	CF 08-1225	File expired on 9/16/11

**Table D: Pending Sign Districts Initiated by Private Property Owners' Applications**

<i>Common Name</i>	<i>Location</i>	<i>Council District</i>	<i>Case File Number</i>	<i>Date of Application</i>	<i>Status</i>
Metropolis	Bounded by the 110 to the west, 110 offramp to the south, Francisco St to the east and 8 <sup>th</sup> St to the north	14	CPC-2008-4557-SN	11/10/08	Case on hold; application not complete
Mid-Town Crossing	San Vicente & Pico to San Vicente & Venice	10	CPC-2008-2614-SN	6/26/08	On hold by request of applicant

**Proposals on Previous "Grandfathering" Lists That Have Since Been Adopted**

<i>Common Name</i>	<i>Location</i>	<i>Council District</i>	<i>Case Number</i>	<i>Status</i>
USC Specific Plan	Jefferson Blvd and 30 <sup>th</sup> St to the north, Hill St to the east, Exposition Blvd to the south, Vermont Ave to the west	9	CF 08-2620	Adopted by the City Council on 3/20/2012
Figueroa and Olympic	Block bounded by 9 <sup>th</sup> St to the north, Flower to the east, Olympic to the south, and Figueroa to the west	14	CPC-2007-842-SN	Adopted by City Council on 7/24/12; Ordinance No. 182,200
Convention and Event Center Specific Plan and Sign District	Bounded generally by Chick Hearn Ct on the north; Figueroa St on the east; Venice Blvd on the south; and the Caltrans right of way adjacent to the 110 on the west.	9	CPC-2012-0849-VZC-SP-SN-DA; CF 11-0023	Adopted by City Council on 9/28/12; Ordinance Nos. 182,282 and 182,281
NBC/Universal Evolution Plan / Universal City Sign District	100 Universal City Plaza	4	CPC-2007-251-GPA-ZC-SP-SPA-CA	Approved by City Council on 2/5/13; Ordinance No. 182,436
Encinitas Sign District	12775-12881 N. Encinitas Avenue	7	CPC-2011-1936-SN; CF 12-1552	Approved by City Council on 12/5/12; Ordinance No. 182,349