



CaliforniaSignAssociation

August 10, 2012

John R. Knight, Chair
Board of Supervisors
Terri Daly, CAO
County of El Dorado
330 Fair Lane, Building A
Placerville, CA 95668

RE: Sign Moratorium, File #11-1020; Board Meeting August 7, 2012

Dear Chairman Knight and Ms. Daly:

While we understand the County's rationale for imposing a moratorium and look forward to working with staff to draft a new sign ordinance, we nonetheless take exception to the process that occurred this past week and believe the County's action in adopting an urgency ordinance was ill-advised and probably illegal. Accordingly, we respectfully request that the Board immediately rescind the moratorium with regard to on-premise signs.

No Urgency Exists

As mentioned at the hearing on August 7, there simply was no exigency that required an interim urgency ordinance prohibiting all signs greater than 15' in height or 80 square feet. As you are aware from both my and County Counsel's recitation of the law and court cases, State law permits an urgency ordinance as follows:

Gov Code Section 65858 (pertinent part)

(a) Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or city and county, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time...

While the County may eventually study or contemplate a zoning proposal, “. . . the mere declaration of the [Board] . . . that the ordinance is passed for the immediate preservation of the public health is neither conclusive or yet sufficient.” *Crown Motors v. City of Redding* (1991) 232 Cal.App.3rd 173, 179. Ordinary urgency ordinances seek the “immediate preservation of the public peace, health, or safety” (Gov Code 65858); whereas, *interim* urgency zoning ordinances, such as approved in El Dorado County, require a “*current and immediate threat* to the public health, safety, or welfare”. *216 Sutter Bay Associates v. Sutter County* (1997) 58 Cal.App.4th 860, 873.

Here, the Board instead made a politically expedient choice, as no immediate threat or real emergency existed. At the hearing, neither the planning director nor anyone from the city could identify any actual urgency. To the contrary, upon questioning by the Board, the planning director testified he vaguely knew of only two pending sign applications, and he didn’t know if they were for the subject type signs. Moreover, *prior* to taking up the moratorium, but confronting litigation, the Board had just dispensed with 3 billboard applications that would have been subject to the moratorium. So, what was the urgency? What, in fact, was the real urgency facing the County at the moment?

Our Supreme Court has held, upon challenge to interim ordinances, that the courts must determine, “based on the evidence presented, whether an actual emergency existed at the time of the declaration.” *Verreos v. San Francisco* (1976) 63 Cal.App.3d 86, 104; *San Francisco Fire Dist v. San Francisco* (2006) 38 Cal.4th 653.

No justification was provided for why the moratorium could not have been processed like a normal ordinance. While the County intends to “study” the issue within a reasonable time, we have yet to hear from Planning and see no basis for imposing this burden on business when no real issue was facing the community. Simply put, even if just for 45 days, “a business with no sign is a sign of no business.” The message given to businesses wishing to locate in El Dorado County, in particular new businesses needing 15’ or more in height or greater square footage in order to adequately and effectively communicate with the public: *You are not welcome in the community.* (See enclosed article on the economic power of on-premise signage.)

Improper Procedure

On May 8, 2012, the Board directed staff to “*prepare an ordinance establishing a moratorium on off-site pole signs*” along US 50 and SR 49. (See attached copy of Minutes downloaded from County website.)

Not a word was mentioned on May 8 about on-site signs, i.e., there was no discussion about on-premise business identification signage which is the life-blood of most retailers. Yet, strangely when the ordinance came to the Board in August, it came not only as an urgency ordinance, but one applicable to all signs. If it wasn't urgent in May; what made it urgent in August? There was no evidence presented to the Board that implicated on-premise signs as the cause of any problem.

[An off-site sign is generally considered a billboard, i.e., a sign identifying goods and services not available on the parcel where the sign is located (such as the billboards approved August 7). Billboards, by their very nature are stand-alone, revenue-generating businesses in and of themselves. Whereas, an on-site or on-premises sign is one which identifies the name of a business and the goods and services available on the parcel. Business & Professions Code Sections 5270-5272, 5490.]

Accordingly, the Board action of August 7 was inconsistent with the direction and motion approved May 8. The August 7 action far exceeded the scope of Board direction by extending the requested moratorium to all signs throughout the county, not just off-site billboard pole signs along 50 and 49.

Improper Notice

Lastly, the actual Notice of Public Hearing published in the Mountain Democrat for the urgency ordinance states the moratorium would apply to ". . . freestanding signs that exceed 60 square feet in size . . ." (See Proof of Publication attached.) Yet, when the ordinance came before the Board it actually stated 80 square feet. We, of course, oppose either dimension, but such Notice under the circumstances is technically defective.

Sincerely,



JEFFREY L. ARAN, Esq.
Director of Government Affairs
916.395.6000

Signs matter. More than 100,000 people said so.

By James J. Kellaris

Professor James Kellaris is the James S. Womack/Gemini Corporation Chair of Signage and Visual Marketing at the Lindner College of Business at the University of Cincinnati. He presented the results of the following study at the National Signage Research & Education Conference held last October at the University of Cincinnati, under the auspices of the Signage Foundation, Inc.

A new shop recently opened on the other side of town. When a friend told Janice about it, Janice was eager to check it out. But when she drove to the unfamiliar neighborhood to look for the shop, she passed right by it. After several attempts to find the location her friend described, Janice eventually got frustrated and abandoned her search. If you design, make, sell or install signs, you can probably guess exactly why this happened.

When Janice told me this story, I replied, "You have this experience in common with 155,555,810 people in the U. S. last year, and 172,803,405 people in North America." Surprised by my response, she asked how I knew this. "Because 100,218 people told me so," I said.

It's true. My university work entailed analyzing data from the BrandSpark/Better Homes and Gardens American Shopper Study™, which included items regarding the value of signs to consumers.

Our college's partnership with BrandSpark Intl. on this annual survey bolsters signage research, because the sample includes more than 100,000 North American households, including 63,664 U.S. consumers ages 18 to 65+ from all 50 states. The U.S. sample is stratified by gender, age and Census region, and weighted to conform to U.S. MRI principal-shopper data. In other words, the data accurately represent adult consumers – real people who spend real money at real businesses.

Survey items, regarding the economic value of signage to businesses and consumers, include signage quality's impact on driving traffic to stores, how shoppers draw quality inferences about stores from signage, and the perceived usefulness of outdoor and indoor signage (versus other media) for evaluating new products.

The survey documents that 49.7% of consumers have driven by and failed to find a business because the signage was too small or unclear, and it describes these consumers' characteristics. Women are slightly more prone (2%) than men, but this is expected because women still do most household shopping.

More surprising is how signage-communication failures

vary across age groups. Younger shoppers wouldn't miss hard-to-read signs. Wrong. Nearly two-thirds (64%) of women 18-24 years old reported drive-by failures. In this age group, we suspect distraction and inexperience account for the results rather than visual acuity.

Does quality matter? The short answer is "yes". Across genders, age groups and regions, 29% of American consumers report having been drawn into unfamiliar stores based on the quality of its signage. I suspect that the actual proportion is much higher, as the 29% are just those who are consciously aware that this happens.

Our findings show more than half of the 18-24 age group reports having been drawn into an unfamiliar store on the basis of signage. Some regional differences were also observed, with consumers in western states being slightly more prone to this effect.

More than a third of American consumers (34.5%) report having made quality assumptions about a business on the basis of clear and attractive signage. No gender or regional differences were found, but consumers 18-24 appear more likely to link a store's quality to its signage quality. Whereas younger shoppers have less experience upon which to draw, they are more reliant on heuristic cues to make judgments.

Signs vs. other media. How does signage's usefulness compare with other communication media as an information source about new products? The survey asked respondents to rate the perceived usefulness of various media, including television, radio, newspapers, etc. Although television was rated as the most useful source of new-product information, indoor signage ties with magazines as the second most useful source, and outdoor signage ranked third, beating out radio, online and newspaper ads.

What can I tell my customers? Signs have value. You've always known that, but now you have some compelling facts to back that up. Signs drive traffic to businesses. Unclear signage leads to loss of business. Quality matters - not only because communication effectiveness depends on it, but because customers draw quality inferences about businesses from their signage. These claims aren't based on entrepreneurial intuition, expert opinion or anecdotal evidence from experience. They are now objectively documented facts.

Your comments about this research – positive or critical – are most welcome. Please consider dropping me a line or shooting me an email. UC's Lindner College of Business and its signage professor seek to be useful and relevant to our industry partners! You can reach me at james.kellaris@uc.edu. ■

Supervisor Briggs arrived.

Present: 5 - Supervisor Knight, Supervisor Nutting, Supervisor Sweeney, Supervisor Briggs and Supervisor Santiago

DEPARTMENT MATTERS

11. 12-0508

Environmental Management Department recommending the Board provide direction as to whether the County should enter into the competitive bid process for collection and disposal of municipal solid waste and recyclable materials generated by residential, commercial and industrial customers within all Franchise Areas in the County, with the exception of South Lake Tahoe, or enter into Franchise negotiations with the current Franchisees (El Dorado Disposal, Sierra Disposal, Tahoe Truckee Sierra Disposal, Amador Disposal, and American River Disposal). (Est. Time: 30 Min.)

A motion was made by Supervisor Sweeney, seconded by Supervisor Briggs to provide direction to staff to engage in good faith negotiations for the purpose of entering into new Franchise Agreements with the existing Franchisees; however, should the County not come to agreeable terms with any of its current Franchisees, the County should consider a formal competitive bid process.

Yes: 5 - Knight, Nutting, Sweeney, Briggs and Santiago

12. 11-1020

Supervisor Knight recommending the Board consider the following:

- 1) Should the Board direct staff to start the process of revising and updating the County's sign regulations; and, if so,
- 2) Should the Board direct staff to prepare a temporary moratorium to preclude new applications for off-site advertising signs (billboards) while the County prepares and analyzes the new sign regulations. (Est. Time: 30 Min.)

A motion was made by Supervisor Knight, seconded by Supervisor Briggs as follows:

- 1) Direct staff to begin the process of revising and updating the County's sign regulations; and
- 2) Direct staff to prepare an ordinance establishing a moratorium on off-site pole signs along U.S. Highway 50 and State Highway 49.

Yes: 5 - Knight, Nutting, Sweeney, Briggs and Santiago

NOTICE OF PUBLIC HEARING

Pursuant to Government Code Section 65868, the County of El Dorado Board of Supervisors will hold a public hearing in the Supervisors Meeting Room, 330 Fair Lane, Placerville, CA 95867 on August 7, 2012, at 2:00 p.m., to consider adopting an Urgency Ordinance imposing a 45-day moratorium on the acceptance of new applications and the processing for any freestanding signs that exceed 60 square feet in size and/or exceed 15 feet in height. This moratorium shall apply to all zone districts in the unincorporated areas of El Dorado County. Adoption of this ordinance requires a 4/5 vote of the Board of Supervisors. If adopted, the ordinance shall be effective immediately. The ordinance shall have no further force and effect after 45 days, unless it is extended by a separate action by the Board of Supervisors for a period not to exceed 1 year, 10 months and 15 days.

The Board of Supervisors proposes to find that adoption of the ordinance is not subject to the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15080(c)(2) and 15060(e)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations).

All persons interested are invited to attend and be heard or to write their comments to the Board of Supervisors. If you challenge the application in court, you may be limited to raising only those items you or someone else raised at the public hearing described in this notice, or in written correspondence delivered

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Go φ

Mountain Democrat
PROOF OF PUBLICATION
(2015.5 C.C.P.)

11-1020
5-8-12 #12

Proof of Publication of
NOTICE OF PUBLIC HEARING

STATE OF CALIFORNIA
County of El Dorado

I am a citizen of the United States and a resident of the County aforesaid; I'm over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am principal clerk of the printer at the Mountain Democrat, 1360 Broadway, a newspaper of general circulation, printed and published Monday, Wednesday, and Friday, in the City of Placerville, County of El Dorado, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court to the County of El Dorado, State of California, under the date of March 7, 1952, Case Number 7258; that the notice, of which the annexed is a printed copy (set in type no smaller than non-pareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

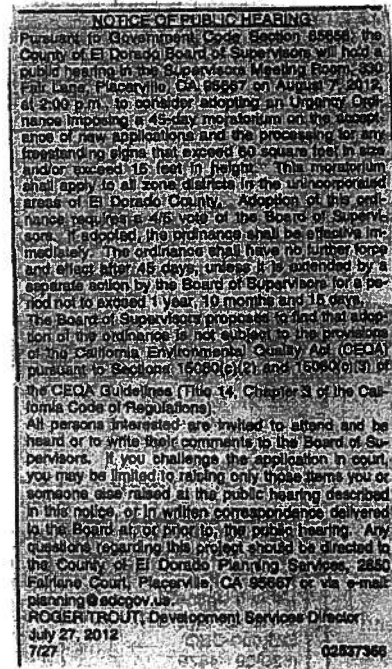
07/27

All in the year 2012

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Placerville, California, this 27th day of JULY, 2012

Kerstin Matlos
Signature



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11-1020.3A.1