City of Tacoma
Billboard Regulations

Proposed Amendments to the Tacoma Municipal Code

Compilation of Public Comments

October 9, 2015

City of Tacoma
Planning & Development Services Department
Planning Services Division
747 Market Street, Room 345
Tacoma, WA 98402-3793
(253) 591-5030
www.cityoftacoma.org/planning

List of Commenters - Billboard Regulations

A. Oral Testimony Received at the Planning Commission's Public Hearing on October 7, 2015 (in order of testifying)

B. Written Comments Received through the Close of Comment Period on October 9, 2015 (in alphabetical order of last names)

Note: The numbers "(1)" and "(2)" indicate that these individuals have provided comments twice - oral and written.

SUMMARY OF ORAL TESTIMONY

Planning Commission Public Hearing
October 7, 2015

(1) **Dale Kelley, Business Owner:**
Mr. Kelley commented that as a business owner he was involved in many non-profit organizations. He reported that in December 2014, Rocky Ridge Elementary School applied for a $100,000 grant and approval from voters was required. Clear Channel Outdoor offered pro bono public billboard advertising to help generate the necessary votes. He commented that Clear Channel understood the importance of our kids and their education and were active and supportive participants. He noted that even though the school did not receive the winning votes, it was an important experience for the elementary school, children, business leaders, and other supporters to know that a corporation like Clear Channel had an investment in this major project. He commented that Clear Channel had, through donation of pro bono public service advertising, helped bring the community together by supporting our civic organizations. He added that they are a great advertising vehicle to our economy and allow many local businesses to target their marketing in the different neighborhoods.

(2) **Peter Wangoe, Clear Channel Outdoor Advertising:**
Mr. Wangoe commented that Clear Channel Outdoor operated the majority of the billboards in Tacoma and that their media is a respected, affordable, and effective means of advertising that is depended upon by many local businesses that contribute to the labor market and the growth of the local economy. He noted that many land owners depend on their sign rent as a significant source of annual income. He reviewed that Clear Channel had donated millions in pro bono advertising to civic organizations and non-profits whose billboard message brings the community together and makes Tacoma a better place to call home. He reported that they operate their business within the letter and intent of the Tacoma sign code, adding that all of their billboards currently in place were legal when built. He commented that Clear Channel had worked as a member of the Billboard Community Working Group to create recommendations for sign ordinance modernizations and that the will of this stakeholder group should be the blueprint for the Commission's recommendations to the City Council. He commented that the recommendations of the Commission's Billboard Task Force were significantly different from the Working Group's recommendations especially with regards to amortization. Mr. Wangoe commented that amortization as a tool to control a non-conforming land use puts all businesses at risk and creates confusion for companies considering upgrades or enhancements. He added that it is a fallacy to believe that the tool could be used to remove all of the billboards in the city over time since the majority of Tacoma's billboards are adjacent to the National Highway System and thereby subject to the provisions of the Federal Highway Beautification Act. He commented that the proposed ordinance takes a punitive approach and would not yield the desired results.

(3) **Doug Schafer, Tacoma Central Neighborhood Council:**
Mr. Schafer commented that the 1997 ordinance, which required removal of non-conforming billboards, remains lawful. He reviewed that Clear Channel Outdoor had purchased the non-conforming billboards in 2002 and then sued the City when it began to enforce the ordinance. He reviewed that the Billboard Task Force's report included a note that information is needed about the application of 2012 Federal Highway Legislation. He commented that if the 200 billboards become legal, Federal Law will require that the City pay just compensation if removal is enforced. He added that the City must get clarification from Federal and State officials before recklessly repealing the existing code's amortization provision. He noted that Clear Channel would sue if the City enforces its lawful authority to remove illegal billboards, but added that there was no point in having laws if the City would not enforce them. He commented that Clear Channel should not be granted an

exclusive franchise and by allowing new billboards through removal of existing illegal billboards. He added that the exchange program could result in lawsuits from other competing sign companies because it unlawfully grants Clear Channel a monopoly. He suggest that any new billboard permits should have fixed terms such as fifteen or twenty years as it would reduce further costs to the City if they must be removed at some point.

(4) **Patricia Mannie, Patricia & Co.:**
Ms. Mannie reported that she owned a marketing firm and some of her clients are small business owners. She commented that billboards are the most effective marketing for their dollar. She reported that one of her clients, G. Donnalson's Restaurant, had seen their sales double in one month after advertising on four billboards. She commented that it was economical to continue to have billboards and asked Commissioners to consider allowing Clear Channel to continue to be a substantial community partner.

(5) **Stephanie Schramm, Schramm Marketing:**
Ms. Schramm commented that she handled the marketing and media for 15 to 20 small business owners who cannot afford major media and have to look local to get their advertising done. She commented that billboards are one of the few effective and affordable advertising methods left for small business owners. She hoped that the Commission would consider finding a win-win situation so that the billboards could continue to be available for small business owners.

(6) **Jori Adkins, Dome District:**
Ms. Adkins reported that they had owned a lease on two billboards above their building and had only made around one thousand dollars each year. She discussed Clear Channel's efforts to negotiate a continuance of the lease and her decision to have the billboards removed. She reported that the language in the lease had made removal of one of the billboards challenging. She commented that billboards drew attention away from the local businesses and buildings.

(7) **Jeff Ryan:**
Mr. Ryan commented that he was opposed to all billboards and that they were visual pollution. He commented that he would like to see all billboards removed. He reviewed that the issue had a long history and the City had once made billboards illegal in the 1920s.

(8) **Jon Ketler:**
Mr. Ketler commented that it is easy to think about the billboard discussion in terms of multinational companies like Ackerley. He reported that he is a property owner and owns one of the 17 billboards that were listed as priority for removal. He commented that when their billboard was put up it was a legal billboard and met all of the requirements of the City. He felt that it was unconscionable that the City could decide that they did not like things and then have them removed. He noted that over time things change and some property owners had chosen to remove billboards on their own. He reported that there are hundreds of property owners that benefit from having billboards on their land.

(9) **Dale Reed:**
Mr. Reed commented that he had been the only property owner at the Billboard Community Working Group. He observed that over the years it had been a polarizing issue between neighborhood groups and sign companies, with property owners rarely mentioned. He added that there were more than 150 property owners with billboards. He commented that they should either leave his property alone or buy it, but they shouldn't steal it. He commented that their billboards were an important asset and were part of what went into developing the property. He reported that they were one of the first owners in the 6th Avenue region to spend money to turn a bare lot into something that added to the community. He discussed how on a road trip he had been surprised to find a Clear Channel sign in Turkey. He wondered if the officials in Tacoma understood how powerful Clear Channel was and how there was no way that they would allow this slippery slope to happen. He commented there was room for the code to change, but retroactively taking property away was the wrong move.

(10) **Jill Jensen:**
Ms. Jensen reported that she had been part of the Billboard Community Working Group. She commented that while there were over 150 people who own billboards, there were also 2,800 people opposed to the billboard issue. She commented that Clear Channel was not there in good faith as they knew the billboards would have to be removed when they originally bought them, but instead chose to sue the City. She commented that you can fight and win against billboard companies, noting that Rapid City, South Dakota had recently won a lawsuit with a billboard company in federal court. She commented that Clear Channel would not remove the billboards at the end of the five year amortization period and urged the Commissioners to take a stand so that the issue could be resolved.

(11) **Susan Ryan:**
Ms. Ryan commented that she wanted to know why they were still discussing billboards when previously they were going to be removed. She felt that it did not make sense to try and accommodate a few business owners and Clear Channel. She commented that it seemed like an antiquated method of advertising and many citizens did not want them. She commented that too few businesses were benefiting from it versus the bulk of the citizens. She encouraged Commissioners to be leaders and take a stand now.

From: rick semple [mailto:ricksemple@mac.com]
Sent: Friday, October 09, 2015 4:19 PM
To: Planning
Subject: Planning Commission's public comments on proposed billboard ordinance

Planning Commission members,

I am sorry this is so last minute but I wanted to get an ok to say that I am representing the Dome District in these few extra comments about the proposed billboard ordinance.

We want to make sure that whatever is finally proposed does not stop future development of vacant parcels in the downtown, especially the Dome District. We have worked hard over the last several years to prepare the neighborhood for the future TOD that we should be. We are primed and ready for development of housing as the only missing element to fulfilling our destiny as the Transit Oriented District of the Downtown.

That said, we implore you to remove the DMU, Downtown Mixed Use Zone from the list of ones being opened to billboards. Even Wall signs will be the wrong message in a predominantly dense residential district. As it is not allowed in other residential neighborhood it should not be allowed here.

Thank you for your thoughtful time and attention to this very difficult decision.
with respect,
Jori Adkins
(253)365-1459
joriadkins@mac.com

From: andersor42@gmail.com [mailto:andersor42@gmail.com] **On Behalf Of** R. R. Anderson
Sent: Tuesday, October 06, 2015 8:36 PM
To: Planning
Cc: Ibsen, Anders; Thoms, Robert; Mello, Ryan; TCBroadnax@cityoftacoma.org; Boe, David; City Clerk; City Records; Lonergan, Joe; Walker, Lauren; Strickland, Marilyn; Campbell, Marty; Woodards, Victoria
Subject: Please Hold Strong to Current Billboard Codes

Every day we experience the "psychic pollution" of these crumbling vinyl monstrosities in our neighborhood. As a small business owner I am sickened by the waste and decay these things represent. The Clear Channel monopoly has had over a decade to make money from these billboards and they chose to use that money to sue you personally and everyone else in Tacoma regardless if they care about billboards or not. I am in support of any code that can push the sky spam out of neighborhoods, away from parks, away from schools and into the soulless industrial purgatory where these things belong.

May the force be with you,

--
R.R. Anderson,
++ Creative Reuse Specialist ++
(253) 778-6539
http://tinkertopia.com

From: Julian Ayer [mailto:julianayer@gmail.com]
Sent: Tuesday, October 06, 2015 9:19 PM
To: Planning
Subject: land use regulations concerning billboards comments

Planning & Developmental Services
Tacoma Municipal Building
747 Market Street, Room 345
Tacoma WA 98402-3701

Dear Planning Commissioners,

I grew up in Tacoma and moved back eleven years ago after being away for school. I am now a father of three children and a practicing pediatrician. I am also one of many Tacoma residents that was frustrated by the City's decision a few years ago to go back on most of the sensible billboard regulations that were put into place in the late eighties and nineties. Like all of you, our community and its outdoor spaces matter greatly to me.

I write to express appreciation for the recommendations the Planning Commission made to the Mayor and City Council back in 2011. Encouraging Tacoma leaders to maintain city code limitations on traditional billboards and prohibit digital billboards altogether is in the best interest of our community.

Regarding the new proposed regulations concerning billboards, I ask the Planning Commission to make recommendations in the same spirit of those made in 2011. Clear Channel litigation against our City should not result in land use regulations that go against the will and best interest of the public.

Thanks for the opportunity to provide comments and your work on this important matter.

Sincerely,

Julian Ayer
3635 N. Washington St.
Tacoma, WA 98407

From: Deborah Cade [mailto:dlcade@comcast.net]
Sent: Friday, October 09, 2015 4:21 PM
To: Planning
Subject: Billboards

Please support the billboard proposal and maintain the 1997 amortization plan.

Deborah Cade
908 North M St
Tacoma, WA 98403
dlcade@comcast.net

From: "Jodi.Cook" <jodi.cook0983@gmail.com>
Subject: Billboards - Opposed
Date: October 9, 2015 at 5:00:07 PM PDT
To: planning@cityoftacoma..org

Stop negotiating with any billboard company. The City Council voted years ago to band them in Tacoma. Billboard companies had, I believe,10 years to make
revenue, and then they were to come down. Instead Clear Channel increased their inventory knowing the position the City of Tacoma had taken.
Neither Clear Channel or any other "outdoor advertising" company will ever deal in good faith.

I recently traveled through the Mid-West. Those cities that took obvious pride in their city landscapes, architecture had all the tourist flocking in to enjoy
their local commerce. Neighborhoods reflected well taken care of homes, lawns and pedestrians - bicyclist using sidewalks, bike lanes. In other words
people were out enjoying their city. Billboards are just ugly. They take away from the optics of what a City like Tacoma has to offer. When signage literally
follows the adage of "you can't see the forest for the trees" people will not come. Our businesses will suffer. We lose the opportunity to bring in
businesses that want their employees to enjoy a good life. No additional sound or light pollution.

Fight this in court. We say what our City wants to look like. Expressing our right for freedom of speech was never intended by the founding fathers to
be on a billboard. Up hold the right that citizens of Tacoma very vocally registered, no billboards.

Jodi Cook
3608 N. 25th St.
Tacoma, WA
253-678-5097

October 6, 2015

Planning & Development Services
Tacoma Municipal Building
747 Market Street, Room 345
Tacoma, WA 98402-3701

Subject: Outdoor Billboard Regulation

It has come to my attention that the Planning Commission is seeking public comments on the proposed land use regulations concerning Billboards.

Brain Injury Alliance of Washington serves the state of Washington, including Seattle-Tacoma and the Western Washington community. I would like to share our story on the generous community services that Clear Channel Outdoor has provided to many not-for-profit organizations including Brain Injury Alliance of Washington.

As you may be aware, non-profit organizations have limited marketing budget so we depend on media companies like Clear Channel Outdoor to consider donating pro-bono advertising so that we can continue our work to spread the public awareness of our message and how we can serve our local community.

Outdoor billboards play an important role for organizations like ours. In particular, they have allowed us to make sure our community understand the impact of Traumatic Brain Injury (TBI) and the mantra that "A Concussion = A Brain Injury" Protect Our Youth. This is a serious public health issue for our community. By utilizing billboard advertising, Brain Injury Alliance has helped us to work towards preventing injuries and educating the public on the availability of supports and services for those living with TBI. Our local community has sought out Brain Injury Alliance of Washington for various services when our billboard campaigns were posted.

For a corporation to offer discount or pro-bono billboard space, this proves that they have shown their strong community commitment and to support services that are in need. The public health education awareness campaign has also allowed us to reach out to partner with other community partners – many of them are local businesses.

I am concerned that attempts to limit outdoor advertisements even further would prove harmful to many non-profit organizations in our city.

We have found outdoor advertising to be a valuable marketing tool to get our message out to our community. We noticed an increase when outdoor advertising was used from consumers seeking information about TBI from our website.

Non-profits are already having big challenges to keep their operations viable. I would hate to see our community negatively impacted by additional billboard regulations.

Please allow billboards to continue their local support to non-profits like Brain Injury Alliance of Washington.

Respectfully,

Deborah Crawley
Executive Director

From: anita [mailto:ajoy@harbornet.com]
Sent: Wednesday, October 07, 2015 2:07 PM
To: Planning
Subject: Billboards

I would like to go on record encouraging the planning commission to think about the value - *or lack thereof* - of billboards throughout the community and about cleaning up our environment *beyond the current restrictions* which are intended to protect neighborhoods, historic districts and shoreline areas.

In this age of technology, businesses have *abundant* venues for promting their products without posting supersized visual distractions in our communal areas, along our travel routes and elsewhere. In our community I would recomment that we aspire to surround ourselves with sights that inspire rather than advertise. Like the plethora of political signage during (and sometimes after) campaigns,in my perception billboards are a blight on the landscape. We don't need them. Their usefulness is not typically community oriented but rather for the benefit of the advertisers.

Rather than offer an exchange program for currently non-conforming uses, I support simply enforcing removal. At the risk of being perceived as ridiculous, I further recommend that the City of Tacoma planning commission seriously consider the possibility of creating a precedent-setting billboard-free community at some point in Tacoma's progressive future.

Respectfully,

anita joy delight
2214 N Stevens Street
Tacoma, WA 98406

Tricia DeOme
802 North L Street
Tacoma, Washington 98403
253-267-2114
tsdeome@gmail.com

Tacoma Municipal Building North
Room 16
733 Market Street
Tacoma, Washington 98402

10/8/2015

Dear Planning Commission Members,

This letter serves as my public comment for the City of Tacoma Planning Commission Billboard Code Amendments. I served as co-chair of the City of Tacoma Billboard Community Working Group and have been involved in the billboard issues in the City of Tacoma since 2010.

I appreciate the time and effort the Planning Commission Task Force has put into the draft code amendments. In general I can support the majority of the substantive changes that are recommended in the draft code. While I do not appreciate billboards in our community, I particularly do not like free standing billboards and I agree with the incentives that the Task Force made to allow wall signs in exchange for free standing billboards.

I am concerned about maintaining the amortization clause and even extending it. I am concerned for two reasons. One; Clear Channel will likely continue to sue (and stated so in their public comment on October 7) if amortization is used as a vehicle for removal of nonconforming billboards. We will just be extending the lawsuit out another three years. Two; I am concerned how changing the amortization will affect the Map 21 ruling associated with Federal designated roads. And if by changing the amortization if the billboards along the Federal designated roads will be subject to just compensation for removal as is required along federal highways. I highly recommend the City of Tacoma obtain legal council to consult on this issue before any changes are made to the code.

Furthermore, the current code is working to remove billboards have been removed under the current code. As of December 2014, 50 billboard faces were removed since 2012 for the following reasons:

- property owners no longer want the billboards on their property (example Jori Adkins property);
- the property was redeveloped and new onsite pole signage was placed requiring the billboard to be removed (example Ace Hardware at South 12th and Sprague);
- Clear Channel did not find the billboard economically viable; or
- Good faith by Clear Channel (Prairie Line Trail billboard)

An additional 31 billboard faces were removed in accordance with the 2012 standstill agreement.In comparison to the 2010 original settlement agreement required removal of 54 billboards in exchange for 10 digital billboards. It appears the current code has removed just about at many static billboards for reasons described above at the original settlement agreement without the digital billboards in the first two years.

Tricia DeOme – City of Tacoma Planning Commission Public Comment on Billboard Code Amendments

While it would be acceptable to change the code to allow more incentive for wall signs, I believe keeping the code as is will continue to reduce billboards in Tacoma if we:

- maintain the course/current code
- continue code enforcement on dilapidated billboards
- start requiring business licenses for the property owners and the billboard owners
- work with property owners (not billboard owners) to remove billboards
- continue to encourage redevelopment

I understand the City of Tacoma would like to reduce the number of billboards and end the lawsuit with Clear Channel. Based on my experience with Clear Channel to date, the only way to end the lawsuit will be either to win the lawsuit or not enforce removal of the billboards.

Sincerely,

Tricia DeOme
802 North L Street

-----Original Message-----
From: colleengray [mailto:colleengray@me.com]
Sent: Tuesday, October 06, 2015 8:01 PM
To: Planning
Subject: Billboards, proposed land use

My husband and I would like to go on record to say that we don't want ANY billboards in residential areas of the city. Which pretty much means the city. So anything you can do to limit the number is very much appreciated. We live off Proctor, three blocks south of Union and feel assaulted by billboards and signs that are too large and beyond ugly at every turn.
Thank you,
Colleen Gray
Stanley W. Shaw

-----Original Message-----
From: colleengray [mailto:colleengray@me.com]
Sent: Wednesday, October 07, 2015 5:44 PM
To: Planning
Subject: Weighing in on billboards

How is it that Clear Channel can tell us what to do as a city. No no no to billboards of any size. Whatever you need for support, please ask.

Colleen Gray

October 5, 2015

City of Tacoma Planning Commission
c/o Planning & Development Services
747 Market Street, Room 345
Tacoma WA 98402-3701

Outdoor advertising has been an essential element in the advertising I have created for more than 30 years for many small, local businesses such as LeRoy Jewelers, Taylor-Thomason Insurance and more. It was generally the most effective and efficient medium available. It allows local companies to compete with larger regional and national firms. Taking away billboards will harm local businesses that use the medium. I assume we all want our companies to remain competitive.

I have also been concerned that the efforts to eliminate the billboards demonstrate that the City is not as business-friendly as it wishes to be perceived. I want our City to be as competitive at attracting and holding on to business as possible.

Outdoor billboard advertising has been a critical element for increasing local support for local non-for-profit organizations, often with the support of the outdoor advertising company. And I appreciate that the billboards are standardized and regulated, unlike the signage and advertising that are placed on and around businesses.

Please allow billboards to continue to be able to support our local businesses, the City of Tacoma's lifeblood.

Sincerely,
Kurt Jacobson, Owner

Kurt Jacobson Consulting
4553 Kennedy Rd NE
Tacoma WA 98422
253.229.6905
kurtgjacobson@gmail.com

October 9, 2015

Tacoma Municipal Building
North Room 16
733 Market Street
Tacoma, Washington 98402

Dear Planning Commission Members,

We thank you for your hard work to develop a plan for billboards in our city. Trying to create a feasible approach to satisfy the needs of all concerned is a difficult task to be sure. Jill participated in the Community Working Group on behalf of Scenic Tacoma, so is familiar with the conversations and ideas that resulted from that committee.

In the beginning, the anti-digital billboard group of over 2800 petition signers offered on numerous occasions to provide the help and knowledge of 3 U.S. attorneys who have successfully battled against the outdoor advertising giants across the U.S. and won. But the city would not consider them and instead chose an Issaquah firm who had **zero** experience in fighting this issue.

It is important to note that Rapid City, South Dakota has just won a 4 year lawsuit against Lamar Outdoor advertising – it can be done!

There are many questions and comments we have regarding the proposed regulations. Here are a few:

1. **Clear Channel is NOT a trustworthy corporation who will abide by yet another set of city regulations. If they do not get what they perceive they deserve, Clear Channel "works" with cities via protracted lawsuits – period. It has and is happening all across America.** Tacoma needs to realize this is how they do business and match their approach.
2. **Clear Channel is in financial trouble (see two timely articles attached).** What does this mean for Tacoma? What happens if they erect new signs without removing non-conforming signs first? If they go bankrupt or do not have funds appropriated for old and new sign removal, Tacoma could well be faced with paying for their removal and disposal. This would be a huge expense.
3. **Clear Channel does not begin to pay to cities their fair share of taxes for value earned.** Cities spend a sizable amount of employee time and taxpayer dollars attempting to develop codes and regulate signs – Tacoma certainly has. It is unfair they pay such low costs to operate in our city. Perhaps one idea is to have Clear Channel declare the current 'value' of each billboard within Tacoma for future amortization purposes then tax them accordingly.

4. **What happens at the end of the newly proposed 3 and 5 year amortization periods when Clear Channel refuses to remove the signs?** What stops them from filing yet another lawsuit? We need protection from this problem or it will never be resolved (unless Tacoma takes legal action).
5. **What happens when other billboard companies sue Tacoma for not being allowed to 'do' business in our city?** Has this problem been addressed?
6. **Outdoor advertisers want to blanket more than just walls with advertising.** Bus tops, buses, feather signs, park benches, school lockers (yes, this is already happening in public schools). We need regulations to stop any/all pedestrian level signs from advertisers.
7. **What fees will the city be forced to pay if a sign must be relocated due to road widening or other unforeseen circumstances?** St Paul/Minneapolis was forced to pay over $4.300,000 to outdoor advertisers when construction projects required the removal of 4 conventional and 1 digital billboard because this was its projected value. How will Tacoma prevent this from happening?
8. **Sign spacing should not be reduced from 500' to 250'.** If Tacoma's stated objective is to reduce the number of billboards and visual blight, spacing requirements should be 300' at a minimum.
9. **Do NOT permit wall signs to be larger than 300' sq. ft.** Once you permit a staff person to make such a decision, other locations will be called into question. Overseeing the different allowances has been a nightmare for cities when 'illegal' non-conforming signs are erected. Keep the rules consistent.

Bottom line, Clear Channel will never be happy – they even said so at the conclusion of their address to your commission meeting. They will push until they get what they want – they are the ultimate playground bullies.

Our city needs to take a stand to stop this once and for all. If we had played their game and retaliated with a lawsuit like Rapid City did 4 years ago, we'd be done with this - for good. It angers us when we see yet more city and volunteer time wasted on something which will never be resolved without legal action.

Thank you for your efforts – they are sincerely appreciated.

Rob and Jill Jensen
3002 N. 13th St.
Tacoma, WA 98406

http://www.otcoutlook.com/company-shares-of-clear-channel-outdoor-holdings-inc-nysecco-drops-by-6-53/695367/

http://seekingalpha.com/article/3522596-clear-channel-outdoor-poor-fundamentals-at-an-optimistic-price

Company Shares of Clear Channel Outdoor Holdings, Inc. (NYSE:CCO) Drops by -6.53%

October 5, 2015

Clear Channel Outdoor Holdings, Inc. (NYSE:CCO) has lost 6.53% during the past week and dropped 9.02% in the last 4 weeks. The shares are however, negative as compared to the S&P 500 for the past week with a loss of 7.49%. Clear Channel Outdoor Holdings, Inc. (NYSE:CCO) has underperformed the index by 10.43% in the last 4 weeks. Investors should watch out for further signals and trade with caution.

Shares of Clear Channel Outdoor Holdings, Inc. (NYSE:CCO) ended Friday session in red amid volatile trading. The shares closed down 0.1 points or 1.38% at $7.16 with 144,314 shares getting traded. Post opening the session at $7.16, the shares hit an

intraday low of $6.96 and an intraday high of $7.28 and the price vacillated in this range throughout the day. The company has a market cap of $332 million and the number of outstanding shares have been calculated to be 46,382,000 shares. The 52-week high of Clear Channel Outdoor Holdings, Inc. (NYSE:CCO) is $11.68 and the 52-week low is $6.22.

The company shares have rallied 5.29% in the past 52 Weeks. On May 4, 2015 The shares registered one year high of $11.68 and one year low was seen on October 16, 2014 at $6.22. The 50-day moving average is $7.83 and the 200 day moving average is recorded at $9.73. S&P 500 has rallied 0.84% during the last 52-weeks.

On a different note, The Company has disclosed insider buying and selling activities to the Securities Exchange,The officer (See Remarks) of Clear Channel Outdoor Holdings, Inc., Eccleshare Christopher William sold 94,500 shares at $2.82 on May 4, 2015. The Insider selling transaction had a total value worth of $266,490. The Insider information was disclosed with the Securities and Exchange Commission in a Form 4 filing. Currently the company Insiders own 0.5% of Clear Channel Outdoor Holdings Inc. Company shares. In the past six months, there is a change of -0.12% in the total insider ownership. Institutional Investors own 71% of Company shares. During last 3 month period, -0.4% of total institutional ownership has changed in the company shares. Clear Channel Outdoor Holdings Inc. has dropped 24.31% during the last 3-month period . Year-to-Date the stock performance stands at -32.39%.

Clear Channel Outdoor Holdings, Inc. provides clients with advertising opportunities through billboards, street furniture displays, transit displays and other out-of-home advertising displays, such as wallscapes, spectaculars, neons and mall displays, which it owns or operates in global markets. As of December 31, 2011, the Company owned or operated more than 750,000 advertising displays globally. During the year ended December 31, 2011, the Company operated in two business segments: Americas outdoor advertising (Americas) and International outdoor advertising (International), which represented 44% and 56% of its revenue, respectively.

PAUL ANDERSON

Doyle Publishing Ltd.
Value, long/short equity, medium-term horizon, newsletter provider
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(918 followers)

Clear Channel Outdoor: Poor Fundamentals At An Optimistic Price

Sep. 20, 2015 11:53 PM ET | About: Clear Channel Outdoor Holdings, Inc. (CCO) by: Doyle Publishing Ltd.

Summary

CCO's low ROA and ROE + the relatively high rate of growth of debt + low free cash flow + low profits and declining revenue = a toxic mixture.

At a P/E of 797 and a forward P/E of 159.4, CCO's forecasted one-year earnings growth rate sits at a high 400%.

Optimistic investors are willing to pay a very high premium for CCO's growth. We believe that optimism is misplaced.

Clear Channel Outdoor Holdings (CCO) is an advertising company with about 640,000 advertising displays in over 30 countries. Think the ads you see on billboards, digital screens, bus shelters, as well as in airports, shopping malls, and so on.

CCO has lost about ~-25% of its stock price in the last five years. In this article, we examine whether investors' caution is warranted and investors should continue to steer clear.

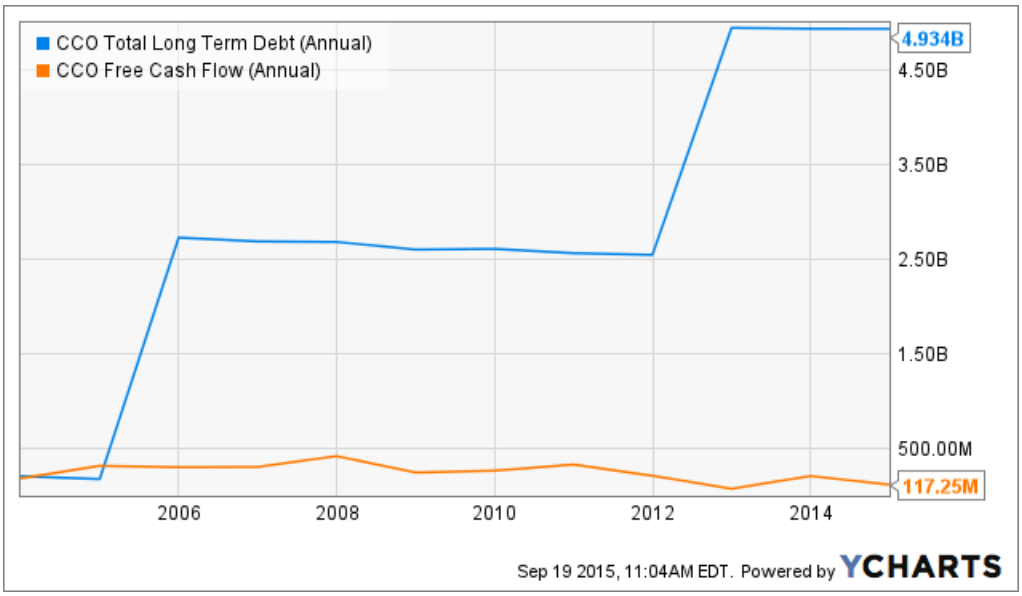
Looking Back

CCO, with its large revenue base ($2.88B) is failing to turn that into profit for shareholders ($4.13M); worse, both are on the decline. Over the last five years CCO's revenue has declined -3.29% on a TTM basis, while its net income has declined even steeper, at -83.2%. This calls the efficiency of the sales activities at CCO into question.

As Investopedia suggests:

> Anybody can make a profit by throwing a ton of money at a problem, but very few managers excel at making large profits with little investment.

CCO is certainly not one of those companies that excel at generating large profits from little investment. CCO's ROA (0.07%), ROE (-1.23%), and profit margin (0.14%) are razor-thin, implying that CCO is struggling to generate returns on its assets, equity, and operations. It seems that the providers of CCO's capital are earning less than they could if they had put their capital in a high-interest bank account (a roughly ~1.3% return). We fear that at some point, this fact will become apparent to providers of capital, which calls into question CCO's continued ability to access capital at favorable rates. And that's not good for CCO, as it has a lot of debt.



Source: YCharts

In our opinion, this amount of debt isn't sustainable; especially if interest rates rise. As such, we consider CCO's *low ROA and ROE + the relatively high rate of growth of debt + low free cash flow + low profits and declining revenue* to be a toxic mixture. Taken alone they are each a reason to avoid the stock; combined they may represent a very high level of risk to shareholders. Yet at a P/E of ~797, investors are willing to pay a very high premium for CCO's growth. But how will that affect CCO shareholders going forward?

Looking Forward

One of the ways we judge whether a stock is fairly priced is to compare the current and the forward P/E multiples; if the forward P/E is too low, that may be a sign that the market is too optimistic about the company's immediate future.

In the case of CCO, we fear that optimistic investors may be in for a painful surprise. At a P/E of 797 and a forward P/E of 159.4, CCO's forecasted one-year earnings growth rate sits at a high 400%.

We believe that's simply too optimistic for this company. For CCO investors, what's the best case scenario? CCO's achieves this high growth forecast; and shares stay flat, because that rate of growth is already built into price. For everything short of the best-case scenario, investors may bear the brunt of a disappointed market, and feel the pain as shares fall precipitously.

Finally, this growth rate seems especially troublesome for a company that's disappointed the last two/four quarters.

Earnings History	Sep 14	Dec 14	Mar 15	Jun 15
EPS Est	-0.01	0.07	-0.14	0.02
EPS Actual	-0.02	0.13	-0.09	0.00
Difference	-0.01	0.06	0.05	-0.02
Surprise %	-100.00%	85.70%	35.70%	-100.00%

Source: Yahoo Finance

Conclusion

We consider CCO's *low ROA and ROE + the relatively high rate of growth of debt + low free cash flow + low profits and declining revenue* to be a toxic mixture. Taken alone, each of these are reasons to be wary of the stock; taken together, they may represent a very high level of risk to shareholders. This risk is compounded by the optimism built into CCO's share price. At a P/E of ~797, investors are willing to pay a very high premium for CCO's growth, and are forecasting what, in our opinion, is an overly optimistic earnings growth rate of 400% over the next year. We believe that optimism is misplaced, and investors would do well to avoid Clear Channel Outdoor.

Symbol	Price	% Chg	Remove
	-	-	
	-	-	
	-	-	
	-	-	
	-	-	

From: Bob Kircher [mailto:bobkircher@comcast.net]
Sent: Tuesday, October 06, 2015 3:54 PM
To: Planning
Subject: oppose the new proposal to add large billboards

Dear Planning & Development Services, City of Tacoma

I oppose the new proposal to add large billboards in our community, and reduce the required distance between billboards.

Tacoma deserves better.

Robert Kircher,

property owner of 415 N K Street, Tacoma, WA 98403

October 6, 2015

City Planning Commission
747 Market Street, Room 345
Tacoma, WA 98402

Re: Billboards

Dear Chairperson Beale and Commissioners:

The Board of Historic Tacoma supports the adoption of the recently enumerated recommendations of the Planning Commission Task Force which was empaneled to review and complete the work of the Billboard Community Working Group. The Task Force worked diligently and ably articulated a number of necessary amendments to the work of the Community Working Group. The work of the Task Force is too extensive to adequately paraphrase here, but Historic Tacoma considers the sum of their work the minimum regulation to be applied to billboards in Tacoma.

Going forward, Historic Tacoma also recommends the updating and full implementation of the heretofore un-applied amortization clause in the original ordinance which will do justice to the City and its neighborhoods by citing current operators' actual acquisition costs and time of service for any and all billboard structures to come under scrutiny of the code.

Thank you for your thoughtful work on this difficult and complex topic.

Very Truly Yours,

Gary Knudson, President
Historic Tacoma

From: Jennifer Koenig [mailto:koenig3722@comcast.net]
Sent: Tuesday, October 06, 2015 5:56 PM
To: Planning
Subject: billboards

Planning Services:

As a family that lives in the 6th Avenue business corridor, we are barraged with frequent advertisements and signage. We would like to see continued enforcement of billboard restrictions, as outlined in the ordinances of previous years.

We would prefer:

- To NOT see billboards that block our beautiful natural views - of mountains, trees and water
- If we had to choose, we would prefer to see advertisements on the sides of buildings, rather than poking out of a modest skyline
- We would NOT like to see a reduction in the 'buffer zone' between billboards and public spaces such as parks - we want as much space as possible between our 'green', our schools and our commerce...

Thank you,
Jennifer Koenig and family

From: Garrett R. Leque [mailto:gleque@geoengineers.com]
Sent: Thursday, October 08, 2015 10:11 AM
To: Planning
Subject: Billboards

Dear Mr. Harrington,

It is so taxing for citizens to have to repeatedly express our dismay at Clear Channel. A few signs are fine, but what Clear Channel is planning is worth a legal battle. If Tacoma is going to spend $48.5 million on an aquarium, surely there must be funding somewhere to combat Clear Channel's bad faith dealings, in order to avoid having Tacoma come to look like Fife or Las Vegas.

Please oppose the use of large billboard blight in otherwise beautiful Tacoma.

Thank you,

Garrett Leque, LG
Tacoma resident since 2002

From: Heather Leque [mailto:bretthm@plu.edu]
Sent: Thursday, October 08, 2015 4:46 PM
To: Planning
Subject: Billboards

Dear Mr. Harrington,

Can you imagine this landscape without the huge Clear Channel obstruction?

As we work to make Tacoma a more walkable city, I urge you to listen to citizen voices calling to enforce billboard regulations already in place rather than modifying code and bending to the will of Clear Channel. Specifically, I am concerned about possible increases in height limits and reduction of the buffer distance from no-billboard zones and sensitive use areas (such as schools, parks, historic properties).

Please give Tacoma residents the opportunity to walk through our parks and neighborhoods without these visual bombardments. I ask that you uphold the decisions and interests of our community instead of making more concessions to corporate interests.

Thank you,

Heather Leque
Tacoma resident

Heather Leque
Academic Advisor
Ramstad Hall Room 112
Pacific Lutheran University
For Appointments: 253.535.7459
Direct Line: 253.535.8870

COURAGE360

October 6, 2015

Planning & Development Services
Tacoma Municipal Building
747 Market Street, Room 345
Tacoma, WA 98402-3701

Subject: Outdoor Billboard Regulation

I am unable to attend tonight's public hearing, but I wanted to send you comments on the proposed land use regulations concerning Billboards.

As a nonprofit organization, we are dedicated to strengthening career and life skills of low income women, and connecting businesses to future employees. Over the last 33 years, we have helped improve the lives of mothers, children and families in Tacoma.

Clear Channel Outdoor has been a wonderful community partner to Courage360. They have donated pro-bono billboard inventory so that we could create an impact with our public awareness message "Guiding Careers. Transforming Communities." With their support, our clients are able to reach economic independence; local employers are hiring our clients so that they can share their learned skills in the workplace and in our local community.

We are limited in our marketing budget so when corporations like Clear Channel Outdoor partners with us, they help reach and aid the community we serve. The impact of the billboards has given hope and spirit to women who are down on their luck, and they do not know where to go.

As our local economy is finally showing signs of improving, I would hate to see non-profit organizations that depend on assistance from organizations like Clear Channel Outdoor for marketing their message negatively impacted by additional billboard regulations. Our clients that are graduating from our programs are now working in the workforce. Consequently, Courage360 has helped the Tacoma economy by preventing homelessness and making sure our clients has skills to remain off welfare and maintain their independence.

Please allow billboards to continue to be able to support our local non-profit organizations.

Respectfully,

Andrew Lewis-Lechner
Development Director
Courage360
3516 S 47th ST, Suite 205
Tacoma, WA 98409 | 253.590.0648

TERRY E. LUMSDEN

Attorney at Law

3517 6TH AVENUE, #200
TACOMA, WASHINGTON 98406

TELEPHONE (253) 537-4424 FACSIMILE (253) 573-1744

Maria Williams, *Legal Assistant*
Jennifer Looney, *Legal Assistant*

e-mail: telumsden@aol.com
accidentattorneytacomawa.com

Rachel Youngblood, *Paralegal*
Kristina Norlin, *Legal Assistant*

October 9, 2015

SENT VIA EMAIL: planning@cityoftacoma.org
City of Tacoma
Planning Commission
747 Market Street #345
Tacoma, WA 98402

Re: Billboards

Dear Planning Commission:

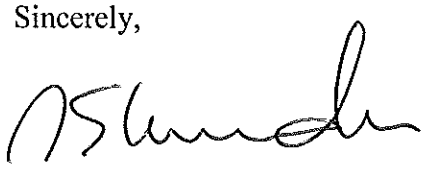
I was unable to attend the public meeting Wednesday. I have spoken to the Tacoma City Council on this matter as well as submitted some written materials, which I have since thrown away. This letter will attempt to summarize the points I think are relevant to this discussion, in no particular order.

1) It is troubling to me that the billboards' lot owners pay no taxes for the billboards on their lot. I've been told, in separate letters from the City Legal Department, that the billboards are not considered "real property", nor are their considered "personal property", and I am sure the money from Clear Channel to the lot owners does not pass through the lot owners' B & O taxes. So basically, while the rest of us taxpayers pay money to maintain roads, streets, sidewalks, on which these billboards attract customers, the owners of the lots pay no taxes to help maintain road ways, streets, and sidewalks.
2) I own a building and a business at the corner of 6th and Union, across from the Hogan building. Next to me is a massive billboard, rusting on the backside, an eyesore to my clients, and troubling to anyone wishing to view the sky or the Olympics. If you go to the third floor of the Hogan building and look to the Northwest, the beautiful view of the Olympics are partially obscured by this ugly billboard. This billboard is probably within a 100 ft. of homes, which I always thought was illegal.
3) I have documentation from the City of Tacoma Planning and Building Commissions that show this billboard was initially perhaps 10 ft. by 20 ft. in size viewing perpendicular to 6th Avenue between my building and the old wooden structure next door (see exhibit #1). They got a permit to upgrade it. The requested increase in size was from 576 sq. ft. to 672 sq. ft in size (see exhibit #2). The permit drawing shows a slightly larger billboard (see exhibit #3). What has been erected a massive; I'm guessing 20 ft. high and 60-70 ft. long

(see exhibit #4). I submit what was built was not approved by the City of Tacoma and for that reason that billboard should be brought down.

4) Look at the lots where the billboards are on, for instance on 6th Avenue. Look at the businesses being conducted on these lots. Clear Channel must have sought out under-developed sites to offer the lot owners' money to erect the billboard. For instance on 6th Avenue, the businesses below the billboards are selling used lawn mowers, another is selling used tires, and the one next to me is an accounting office as well as a used records store in a wooden building perhaps 100 years old. These three lots will never be developed and improved. What incentive does the lot owner have to sell if he is getting $2,000-3,000.00 a month, forever? If the City accepts the fact that there will be pockets of under-developed property throughout the City, that is unfortunate. It is not the best and highest use of our property.
5) I like the idea of "advertising" out existence of billboards. It's an idea I've commented opinion in earlier letters and presentations.
6) Finally, I am troubled that the Legal Department of the City of Tacoma has not shared with the public the analysis of the case against Clear Channel. I understand most of that is confidential; however, we are not the first City to litigate against Clear Channel. Why cannot we learn of other cities' success rate on eliminating billboards. I am troubled that there is a strong attitude of settling with Clear Channel, as opposed to going through a trial. What is the worst case scenario of losing a trial?
7) We have never been told the cost of buying out all these billboards over 50-100 years. Somebody should estimate, for the taxpayers, what that cost is. It maybe agreeable to the majority of people.

Sincerely,



Terry E. Lumsden

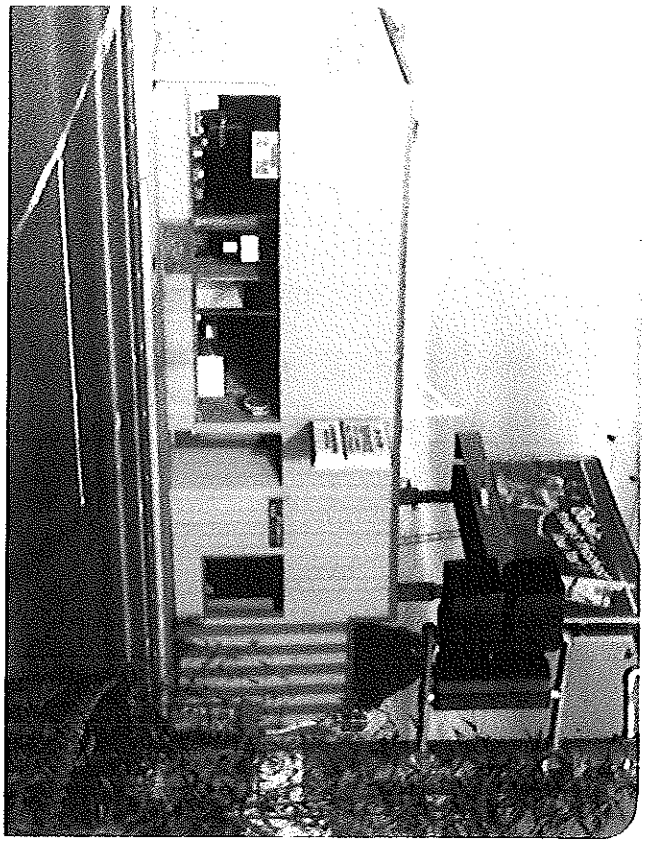


Exhibit 1

Phone No. 591-5008

CITY OF TACOMA
DEPARTMENT OF PUBLIC WORKS
BUILDINGS DIVISION

APPLICATION FOR SIGN PERMIT

Date 3-4, 1988

ADDRESS OF SIGN: 3519 6th AVE

LEGAL DESCRIPTION: LOT 13-15 BLK 15 VOLTERS ADDITION

TAX PARCEL #: 3274500-202-0

OWNER OF SIGN: ACKERLEY COMMUNICATIONS

OWNER ADDRESS: 3601 6th AVE S SEATTLE WA 98134

PHONE: 682-3833

CONTRACTOR: SAME

CONTRACTOR ADDRESS:

PHONE:

TYPE OF WORK: [X] Erect [ ] Relocate [ ] Alter [ ] Remove and Rehang

NUMBER OF DISPLAY SIDES: ONE	TOTAL DISPLAY AREA: 672 FT²	VALUATION OF WORK: $5000.00
HEIGHT: 45'	PROJECTION FROM BUILDING:	CLEARANCE UNDER: 30'
BUILDING FRONTAGE:	LOT SIZE: 15' x 120'	ZONE: C2
CORNER LOT [X] Yes [ ] No	STREET FRONTAGE:	

PROPOSED SIGNAGE

	Yes	No	
Animated:		X	Sq. Ft.
Flush mounted:		X	Sq. Ft.
Ground sign:		X	Sq. Ft.
Marquee:		X	Sq. Ft.
Off-premise:	X	1672'	Sq. Ft.
Business direction: [ ] Billboard: [X]			
Pole sign:	X	672'	Sq. Ft.
Portable:		X	Sq. Ft.
Projecting:		X	Sq. Ft.

EXISTING SIGNAGE

	Yes	No	
Animated:		X	Sq. Ft.
Flush mounted:		X	Sq. Ft.
Ground sign:		X	Sq. Ft.
Marquee:		X	Sq. Ft.
Off-premise:	X	576'	Sq. Ft.
Business direction: [ ] Billboard: [X]			
Pole sign:	X	576'	Sq. Ft.
Portable:		X	Sq. Ft.
Projecting:		X	Sq. Ft.
Roof:		X	Sq. Ft.

DETAILS OF CONSTRUCTION, INSTALLATION AND ILLUMINATION OF SIGN

Horizontal dimension 48' Vertical dimension 14' Thickness — Weight —
Height above sidewalk 31' Projection beyond property line —
Material sign is constructed of STEEL Height of letters _____ Illuminated [X] Painted [X]
U. L. label serial no. _____

This application not transferable or refundable. A separate application must be made for each sign. It is the responsibility of the applicant to insure that all installations are on private property, except that portion of a sign that may project, subject to height restrictions as set forth in the Sign Ordinances. It is further understood that the applicant will call for inspection both before and during installation.

Registered — I certify that the applicant has fully complied with requirements of Workman's Compensation Law of the State of Washington and is duly registered with the Department of Labor and Industries under Account No. _____ and I certify that the applicant is registered by the Washington State Department of Licenses as a contractor under Registration Number ACKERC*245JR

I hereby certify that the foregoing is correct to the best of my knowledge.

US-02424-88

D. M. Fawless OK 6-22-88
SIGNATURE OF CONTRACTOR

Permit	12.00
Fee	271.60
Subtotal	283.60
SMIF	7.22

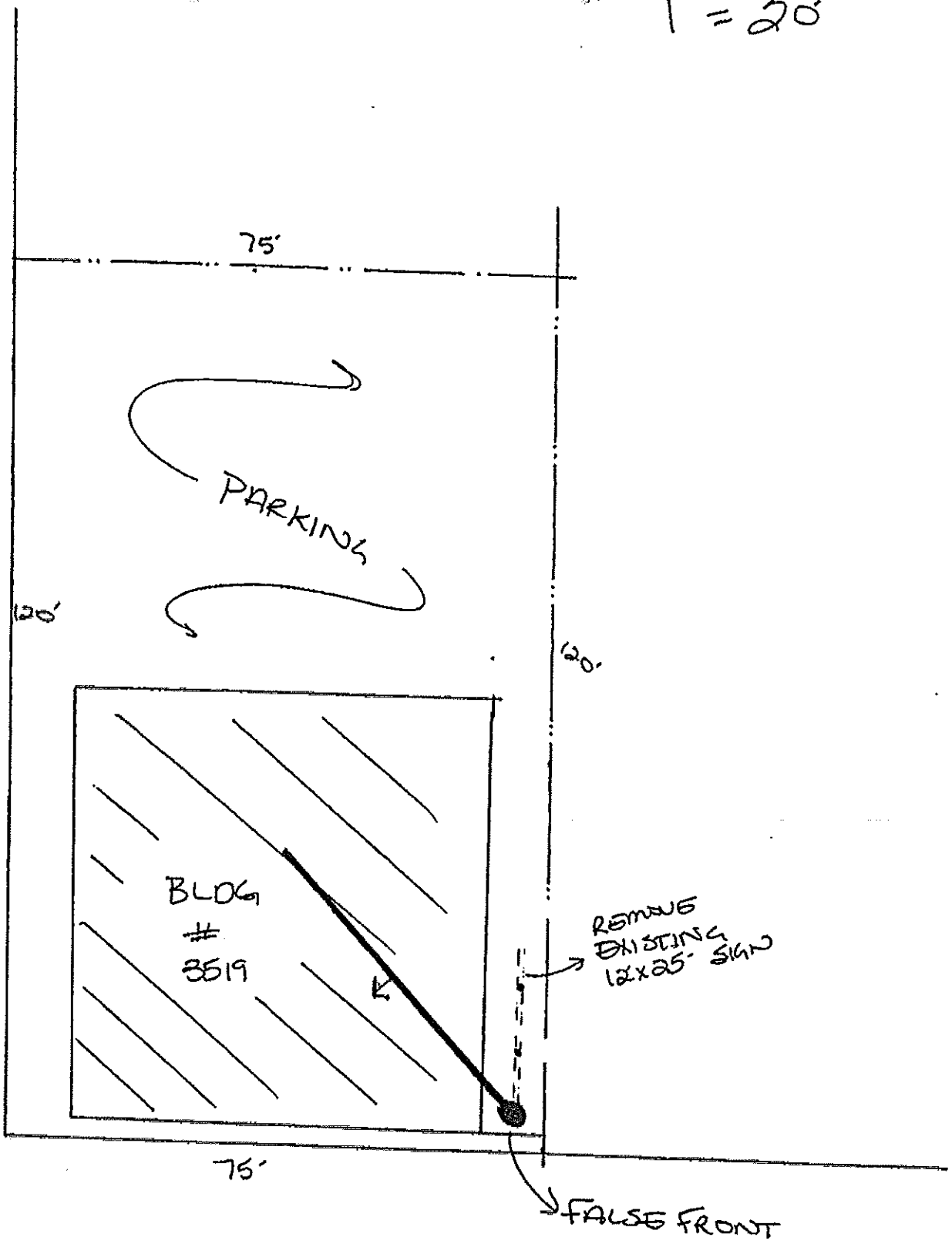
Approved 3-30-88 Only if existing sign is removed

(See reverse for plan requirements)

PWK 4130 0011 (09/85) RFP: 4-B

Exhibit 2

1" = 20'



UNION ST.

6th AVE

Exhibit 3

ACE
The helpful place.
Hallmark
Two Great Stores, One Stop
30th & Pearl - Westgate Shopping Center
GOLDEN GATE
ROAD TRIPS

Exhibit 4

From: Marshall McClintock [mailto:marshalm@q.com]
Sent: Friday, October 09, 2015 12:09 PM
To: Planning
Subject: Proposed Land Use Regulations concerning Billboards

Dear Commissioners,

For almost 30 years, various Planning Commissions and City Councils in Tacoma have worked to remove the billboard blight from our city. As early as 1923 the city recognized billboards as incompatible with its urban form and banned them. And yet that fight continues today. Consequently, I still support the 1997 regulations that required the removal of all non-conforming billboard structures after 10 years. I see little reason to change those regulations.

The current proposal is much better than what emerged from the Community Working Group. The provision of credits to incentivize the relocation of pole-mounted signs in favor of wall signs is innovative. However, it is unlikely to motivate an intransigent owner like ClearChannel. Moreover, I see little reason to reduce buffer distances from no-billboard zones. I would urge the Commission to keep the current buffer distance of 500 ft.

Finally, I would urge the Commission to maintain the current amortization program from 1997. I believe this is a critical part of the hard work that began in 1985 and has been repeatedly supported since that time. The willful disregard of the city's ability to make and enforce land use regulations cannot be rewarded or allowed to stand.

Regards,

Marshall R. McClintock
701 North J Street
Tacoma, WA 98403

From: hagar512@comcast.net [mailto:hagar512@comcast.net]
Sent: Wednesday, October 07, 2015 2:34 PM
To: jharring@cityoftacoma.org
Subject: Billboard Regulations Change

Dear Mr. Harrington,

I am a retired Professional Engineer with a specialty in RADAR system design. I am experienced in propagation of electromagnetic waves and the creation of electromagnetic interference by electrical devices. In the previous discussions on billboards I provided written testimony against electronic billboards because of their potential for harmful interference with radio and Television sets in nearby homes. There is a need for design requirements on electronic billboards to mandate careful shielding for the protection of other electronic devices in the near vicinity. The radiated noise decreases by the square of the distance from the noise source.

The Federal Communications Commission does have some requirements but those are very weak with respect to locations outside of manufacturing zones. I believe my most important input on this proposal, since I do not have the text of the Regulations, is to caution you with respect to mounting signs on buildings. Those signs should probably be limited to non-electronic billboards because a large electronic billboard poorly shielded might interfere with all the computers in the building, as well a cell phones and other electronic devices. Recognize that this possible problem can be solved in the design of a billboard, but the shielding requirements must be specified in order to ensure the billboard is properly constructed to minimize the electromagnetic noise radiated from the sign.

Ray Pedersen
2673 S Cedar St.
Tacoma, WA. 98405
hagar512@comcast.net

From: Mark Pinto [mailto:markpinto@ymail.com]
Sent: Friday, October 09, 2015 1:14 PM
To: Planning
Subject: Bill board discussion

I'd like to register opposition to large billboards in Tacoma. I would definitely like to see pole mounted billboards removed. I'm open to billboards mounted on the sides of buildings but not larger than historically allowed on poles. Thanks.

Mark Pinto
3419 N. 27th St.
Tacoma, WA 98407

From: Marilynn Sabo [mailto:gowancraig@yahoo.com]
Sent: Tuesday, October 06, 2015 4:37 PM
To: Planning
Subject: Billboard Regulations

I know that corporations are now people too, but Clear Channel and the rest of the billboard purveyors should not be able to put their enormous billboards in front of churches, across from schools, or within site of our residential neighborhoods. The one in particular that does all three is the one at 6th & Sprague. Maybe we should boycott the businesses that continue to advertise on these unsightly things!

They will continue to threaten to sue until we all give up or they get their own way. Please represent the citizens of Tacoma, not these profit oriented businesses that have no regard for our/their community's aesthetics or safety.

Thank you!

Marilyn & Michael Sabo

Phone: 253-431-5156

Douglas A. Schafer, J.D.
1202 S. Tyler St.
Tacoma, Washington 98405-1134

Email: schafer@pobox.com

October 9, 2015

Tacoma Planning Commission
c/o planning@cityoftacoma.org

Re: My Comments on Proposed Billboard Regulation in Public Review Document for Public Hearing on October 7, 2015.

Ladies and Gentlemen:

I write as a Tacoma resident and lawyer who has, because of my participation in Tacoma Central Neighborhood Council, TCNC, (now its chair) been a close observer since December 2010 of the developments concerning Tacoma's billboard regulations. In 2011, I was quite active with many other residents in opposing the billboard code changes proposed by our city leaders' 2010 Settlement Agreement with Clear Channel Outdoor (CCO) that would have allowed bulletin size (14 ft by 48 ft) electronic digital billboards along principal and minor arterials in Tacoma. I was a member of the Community Working Group (CWG) formed in late 2014 and assigned by the City Manager to propose billboard regulation approaches as alternatives to our current code. The CWG met for ten two-hour sessions and found some common ground among its philosophically opposed members.

As the webmaster of TCNC's website, http://cnc-tacoma.com, beginning in 2011 I have posted on that website a great number of public documents relevant to the City's history of billboard regulations, its disputes with CCO, and applicable federal and state law concerning the regulation of billboards. Documents relating to the 2011 proposals, including the relevant documents from CCO's 2007 lawsuit against Tacoma that was essentially dormant for three years while the parties negotiated a settlement, are linked at http://cnc-tacoma.com/past-projects/31-proposed-electronic-billboards ("Webpage-1"). Relevant documents from the City's 2011 lawsuit seeking a declaratory judgment about the 2010 Settlement Agreement are linked at http://cnc-tacoma.com/past-projects/53-billboard-litigation-round-two ("Webpage-2"). A collection of Tacoma's most relevant ordinances regulating billboards and summary of recent events is at http://cnc-tacoma.com/new-a-pending/billboards. ("Webpage-3"). Lastly, a collection of my messages, legal memoranda, and supporting documents to the facilitator and members of the CWG addressing various issues is available at http://cnc-tacoma.com/new-a-pending/97-2014-15-cwg-messages ("Webpage-4").

I sought in my testimony at your public hearing to address some key points, but the three-minute limitation forced me to edit my prepared script. Attached as Enclosure 1 is that script.

Legality of Amortization Provisions. The 1997 ordinance's amortization provision that require the removal, without compensation, of all nonconforming signs by August 2007 was lawful then and remains lawful. Attached as Enclosure 2 is my memorandum of January 21, 2015, to the CWG members describing Washington State Supreme Court and U.S. Supreme Court cases, Government Accountability Office reports, and a 2007 law journal article, all of which demonstrate that the 1997 amortization provision was and remains lawful. The full texts of those documents are included in several other messages that are also downloadable from Webpage-4.

Asserted Value of CCO's Billboards. On June 21, 2007, CCO's lawyer sent a threatening letter to City staffer John Harrington asserting that CCO was entitled to be paid the value of its billboards that were subject to the 1997 amortization provision. He wrote, "the totaI payment required will be in a range of $50,000,000 to $60,000,000." And a News Tribune article on September 23, 2011, reported that CCO claims the fair market value of its Tacoma billboards exceed $75 million. Notwithstanding the legality of the 1997 amortization provision—that offered no compensation for nonconforming billboards—the City's 2010 Settlement Agreement included a paragraph stating that "the City will compensate Clear Channel for the fair market value" of any billboards that it ever requires it to remove.

Unconstitutional Gift to CCO; Conflicted City Lawyers. I noted on page 4 of my memorandum (Enclosure 2) that when the City sued CCO in 2011 challenging the validity of the 2010 Settlement Agreement, the City's hired lawyers appeared to have conflicting interests, since they apparently had advised City leaders to approve that agreement. I wrote, "Those lawyers made five arguments, but did not raise a number of other good arguments because doing so would have implicated the quality of their own previous work concerning the Settlement Agreement." The most obvious argument that those lawyers declined to make (but that still could be asserted by lawyers without conflicting interests) is that because CCO's billboards were lawfully required to be removed in 2007, any voluntary payment for them by the City would be an unconstitutional gift of public funds. That point was made, upon similar facts, by the Washington State Supreme Court in a 1979 case between Seattle and Ackerley (CCO's predecessor). Ackerley argued that a state statute, RCW 47.42.107, enacted two years after it was required to remove certain billboards should be interpreted to require Seattle to compensate it for them. The court held that such an interpretation would cause an unconstitutional gift of pubic funds, explaining as follows:

> "We agree with the City, however, that the interpretation of the statute applied by the trial court is too broad. In holding the statute's provisions applicable to signs already subject to immediate removal by the City, in the exercise of its police power and without compensation, the interpretation runs afoul of Article 8, § 5 of the state constitution which prohibits the state or any municipality from giving a gift of public funds.
>
> Article 8, § 5 prohibits the state or any subdivision thereof from making a

> gratuitous expenditure of public funds to any corporation or individual, even if the expenditure is made to achieve a laudable public purpose. [Citations omitted.] A gratuitous expenditure is one for which the public entity neither expects nor receives consideration. [Citations omitted.] Such would be the case here if the provisions of RCW 47.42.107 were to be applied to respondents.
>
> Of key importance in this regard is the fact that, at the time RCW 47.42.107 was enacted respondents' signs had already been subject to immediate removal without compensation under the City's exercise of its police power for more than 2 years. Only the fact that respondents had initiated litigation and postponed final determination of the matter for more than 2 years kept the signs in existence as late as 1977, when the legislation was passed. The City had by that time taken all steps necessary to terminate the signs, and had a right to do so without compensating the owners. The legislature could not then give new life to the signs and require compensation for their removal without requiring the City to make a gratuitous expenditure of public funds."

Ackerley Communications v. City of Seattle, 92 Wash. 2d 905, 917-18, 602 P.2d 1177, 1185-86 (1979). This opinion is linked at the foot of Webpage-1.

I have stressed this unconstitutional gift issue, and provided copies of appellate case briefs concerning this issue, and the now conflicting interests of the City's lawyers in messages the City'a lawyers, the City Manager, and City Council members. One such attempt to get their attention is my email message of February 28, 2012, attached as Enclosure 3.

Exchange Program Favors CCO, Invites Challenge by Competitors. Because CCO owns very nearly all the (illegal) billboards in Tacoma, your proposal that new conforming billboards may only be permitted in exchange for the removal of illegal billboards effectively bars competing billboard companies from obtaining permits to install conforming billboards. It is apparent from their website and their billboards along River Road that Total Outdoor (see http://www.totaloutdoor.com/home/markets) seeks to expand into the Pierce County market. The favorable billboard regulations that CCO negotiated in 2006 with the City of Los Angeles were challenged in 2008 by competing billboard companies and ruled invalid. Resulting litigation lasted seven years, (Summit Media LLC v. City of Los Angeles 211 Cal.App.4th 921 (2012); Summit Media LLC v. City of Los Angeles, 192 Cal.Rptr.3d 662 (2015), 2015 WL 5227566. There is no good reason to grant CCO an exclusive right to have billboards in Tacoma.

Application of MAP-21 to Tacoma's Billboards. Your Planning Commission's billboards committee's report last month included a statement at the end that "Further information is needed about the effects of "MAP 21" applicability to arterial streets and the off-premises signs located along those streets." Yet your proposal is being put forward recklessly without any such information about the effects of that new federal legislation.

The 2012 federal act referred to as MAP-21 is the "Moving Ahead for Progress in the 21st Century Act," Public Law 112-141 enacted 7/6/2012, effective 10/1/2012. As a measure to improve our nation's infrastructure, it included "principal arterials" in the National Highway System (NHS) to permit federal funding. The 1965 Highway Beautification Act required states to remove billboards within 660 feet of national highways/interstates, and provided "just compensation" for sign owners if that law required removal of their signs (75% was to be paid by federal funds). Noncompliant states would forfeit 10% of their federal highway funds. But federal funds for sign removal dried up, and court cases (such as WA supreme court's 1968 Markham ruling, affirmed by US Supreme Court in 1969) allowed states and cities to exercise their police power (e.g., zoning laws) to force removal of signs without "just compensation" after a reasonable amortization period. So in 1978, the billboard lobby (powerful!) persuaded Congress to amend federal law to require "just compensation" for removal of any sign on the NHS regardless of the reason. State law (RCW Ch. 47.42) implements that federal law so our state won't lose 10% of its federal highway funds.

Prior to Oct. 1, 2012, Tacoma had only 38 (perhaps 35) billboard faces that had been ***properly*** permitted on the NHS, all along Highway 7 (Pacific Ave.) south of 46th, to which the "just compensation" provision appears to have applied. But MAP-21 includes all of Tacoma's "principal arterials" in the NHS on 10/1/2012. City planner John Harrington maintains an Excel database on Tacoma's 311 billboard faces (he provided it to me in late August). He has identified that 238 of those billboard faces are on "principal arterials," including the 38 or 35 that are along Pacific Ave. south of 46th.

I fear that if our City Council repeals the existing code's billboard amortization provision under which substantially all of CCO's billboards have been illegal since 2007 or early 2012, then CCO will assert that under your proposed new regulations those billboards will be reclassified as "legal nonconforming" for another three or five years, thereby bringing them under the federal and state laws requiring Tacoma to then pay "just compensation" for their removal. Attached as Enclosure 4 is my recent correspondence with officials of the U.S. Dept. of Transportation, Federal Highway Administration, seeking its position concerning what will be the effect under MAP-21 of your proposed regulations of CCO's now illegal billboards.

If City leaders charge recklessly forward to enact your proposed billboard regulations, they could be encumbering Tacoma with costs of perhaps $100 million if it ever actually enforces the removal if CCO's illegal billboards. The likely consequence is that they will never come down.

Suggest Fixed-Term Billboard Permits. Billboards now are commonly appraised, whenever payment for them is required in a condemnation or code enforcement action, based upon their projected advertising revenue during their anticipated remaining life. Land owners who lease space for billboard generally do so with fixed-term leases, and if they choose not to renew the lease at its expiration the billboard must be removed. Since it is always possible that

taxpayer funds might be compelled to pay for the removal of a billboard (e.g., for roadway widening, public transit corridors, etc.), it is prudent that billboard permits have a fixed term. The appraised value of a billboard nearing the end of its lease or permit should be much less than one with a perpetual lease/easement or permit.

Enforcement of the Removal of Illegally Installed Billboards. Your billboard task force's report states, near the end, that "Prior to any relocation of signs, all illegal signs must be removed." It appears to me that quite a number of the 311 billboard faces were illegally installed based upon applicable code language and roadway facts at the time of their installation. Mr. Harrington has recognized that some of the billboard structure are in or encroaching with the City's right of ways. It does not appear to me that the City has undertaken a careful examination to identify those billboard faces that were illegally installed. Such an examination should be made, and all such illegally installed billboard should be removed now.

Assorted Drafting Comments: The following are brief comments and questions relating to specific sections of the proposed regulation:

523.A.1: The number of faces and square footage should not include the "unlawful signs" that have never been legal (e.g., erected in improper zones or in ROWs, without permits, without required backing, exceeding height limits, within buffer or dispersal zones).

523.C.3 and .D.1.c.: Provisions such as this granting unfettered discretion to city official are generally ruled to be invalid.

523.D.1.a. and b.: does "residential" include DR, WR, RCX, NRX, and URX, or only the R-n districts? Compare 523.H.1.a. and b.

523.E.3.1 to .5: do't these apply only to freestanding billboards?

523.E.3: explain what is meant by offset and over-cantilevered (must be directly above the base of the support structure).

523.G.1: 500 feet from any other freestanding billboard, not just from another >300 sq.ft. billboard.

523.G.2: 300 feet from any other freestanding billboard.

523.H.1.h: This unfettered discretion as to what is a "historically significant structure" is likely invalid.

523.I.2: consider including a cross-reference to TMC re tree pruning permits.

523.L.1.a. All billboards within the listed districts are nonconforming and must be removed within 3 years. They cannot be made conforming because they are not allowed in those districts.

Amend TMC 13.06.700.S: Sign, unlawful. Any sign which was erected in violation of any applicable ordinance or code governing such erection or construction at the time of its erection, which sign has never been in conformance with all applicable ordinances or codes [add: or which exists contrary a lawful requirement (e.g, ordinance or CUP covenant) that it be removed.]

TMC 13.06.700.S defines "Sign, wall" is including as sign "attached to or erected against" the wall of a building. Is a post sign that is erected against a wall as wall sign? Is a billboard that is attached to a wall by also supported by a pole a "wall sign" or is it not?

TMC 13.06.521.E.4 and .6 state special rules for wall signs that appear to include signs extending over walkways and "architectural blade" signs. Do those apply to wall billboards?

Thank you for considering my comments.

Very truly yours,

Doug Schafer

Douglas A. Schafer

Enclosures 1 - 4

Doug Schafer's Script for Testimony
at Public Hearing of Planning Commission

(Due to the 3-minute limit imposed at the hearing, the first 2 paragraphs were only partly read and the last paragraph was not read.)

The 1997 ordinance that required the removal in 2007 of nonconforming billboards without compensation was then and remains lawful under WA supreme court and US supreme court precedent. Clear Channel bought the Tacoma billboards in 2002 and 2003, then sued the City in 2007 when the City began to enforce the ordinance. It is misleading to claim that the City has been in litigation for 8 years. That lawsuit was dormant for 3 years while the parties negotiated and reached a proposed settlement that gave Clear Channel the digital billboards that what it wanted and the City's agreement to pay Clear Channel for all future removals of its billboards. I contend that agreement to pay for billboards is void as an unconstitutional gift of taxpayer funds.

In August 2011 the City sued Clear Channel concerning its reckless 2010 settlement agreement, but the parties dismissed that lawsuit 12 months later with an agreement to continue negotiating. So there's not been 8 years of litigation, simply 8 years of negotiations while Clear Channel collects revenue from its illegal billboards.

Your 4-member billboard committee's report last month states at the end that information is needed about the application of the 2012 federal highways legislation to the billboards in Tacoma. As I have shared with you, it appears that if the City Council repeals the current billboard amortization code provision, then Clear Channel's 200 now-illegal billboard faces along our principal arterials will become re-classified as ***legal*** billboards and federal law then will require the City to pay "just compensation" for them if it enforces their removal 3 to 5 years from now. The City must get clarification from federal and state officials before recklessly repealing the existing code's amortization provision.

The staff analysis report that you received for today's hearing concludes that any amortization provision will lead to further litigation. I agree. Clear Channel will sue whenever the City exercises its lawful authority to force it to remove its illegal billboards. But if the City won't enforce its laws, why even have laws? At some point, the City will have to actually litigate against Clear Channel, hopefully represented by competent lawyers. Better now than 3 or 5 years from now.

I'm not opposed to all billboards. We should allow any company to install them, with appropriate restrictions, in commercial and industrial zones. We should not give Clear Channel an exclusive franchise by allowing new conforming billboard only in exchange for the removal of illegal billboards. I fear the proposed exchange program will lead to the City being sued by competing sign companies, such as Total Outdoor or Lamar, because the exchange program unlawfully grants Clear Channel a monopoly.

Land owners who allow billboards on their property normally have fixed-term leases. Any new billboard permits issued by the City also should have fixed terms, such as 15 to 20 years. Other

cities do this. Signs permitted for a fixed term will reduce future costs to our City if they must be removed at some point.

Your billboard committee's report recommends that all illegally installed billboards must be removed before any new permits are issued. The City staff has not carefully examined historical facts to identify illegally installed billboards, but many billboards were illegally installed. That should be addressed now.

MEMORANDUM

To: Tacoma Billboards Community Working Group Members and Moderator
From: Doug Schafer, CWG Member (Central Neighborhood Council; lawyer)
Date: January 21, 2015
Subject: Homework on Question 3: How Do We Get There From Here?

1. My Alternative Regulatory Approach to Billboards

Consistent with the CWG's mission, I proposed that the City substantially repeal its punitive 2011 billboard ordinance and absolutely enforce its quite reasonable 1997 billboard ordinance, with modest modifications as we've been discussing concerning permissible zones, buffering, and spacing. Under such a proposal, any billboard company (*e.g.*, Clear Channel, Lamar, CBS, Total) then could construct new conforming signs within the permissible zones.

2. False Premise Underlying Any Exchange Proposal

Our moderator's suggestion that we propose "exchange mechanisms" whereby Clear Channel Outdoor (CCO) would remove some of its unlawful billboards only if it is allowed to construct new oversized bulletin billboards in its "high priority zones" rests upon what I believe to be a false premise—that CCO has a right to retain its unlawful billboards. And since CCO owns all but a few of the billboards in Tacoma, an "exchange mechanism" would continue CCO's monopoly by preventing other billboard companies from entering the Tacoma market since they would have no unlawful billboards to offer in exchange.

The false premise (per page 2 of our moderator's Background sheet for Question 3) is the implicit acceptance of CCO mistaken claim that forced removal of nonconforming billboards after an amortization period (as in the 1997 ordinance) without compensation is an impermissible taking of property. For nearly 50 years, our Washington State and Federal courts have consistently rejected this claim, as explained below. Rulings in other states based on their state constitutions are not relevant.

Our City Council is now proposing to forcibly close dozens of medical marijuana dispensaries that have established themselves within our City in recent years. No responsible person is suggesting that the City needs to pay them "just compensation" nor offer them to relocate to "receiving areas." The City requires property owners to remove graffiti and other forms of blight from their properties without paying just compensation. Nonconforming billboards are blight! Cities do have a constitutional police power to enact and enforce laws for the public welfare, including promoting aesthetics and traffic safety.

A. In ***Markham Advertising v. Washington***, 73 Wash.2d 405, 439 P.2d 248 (1968), billboard companies challenged a 1961 Washington state law and regulations that required the removal of certain billboards within three years without any compensation. The state supreme court held that the apparent purposes for the billboard ban—traffic safety and aesthetics—were valid bases for the government's exercise of its police power to promote the public welfare. In

response to the billboard companies' contention that their property was being unconstitutionally taken without compensation, the Court stated, "When a court determines, as we have in this case, that the police power has been properly invoked, there is no basis for this contention." The Court upheld the law with its three-year amortization period, and with no requirement for compensation to the billboard companies for the removal of their signs.

The plaintiffs in the *Markham* case appealed the Washington State Supreme Court's ruling to the United States Supreme Court, urging the highest court to reverse the state court's decision that the billboard ban was a valid exercise of the police power and that no compensation was constitutionally required for the forced removal of their billboards. The U.S. Supreme Court dismissed the appeal for want of a substantial federal question. 393 U.S. 316, 89 S.Ct. 553, 21 L.Ed.2d 512, *rehearing denied*, 393 U.S. 1112, 89 S.Ct. 854, 21 L.Ed.2d 813 (1969).

"When the U.S. Supreme Court dismisses an appeal for want of a substantial federal question, such action is a decision on the merits, and lower courts are bound by such decisions "'until such time as the Court informs [them] that [they] are not."' *Hicks v. Miranda*, 422 U.S. 332, 345 (1975). Accordingly, **the *Markham* case is, and remains, precedent binding upon both Washington state and federal courts.** The *Markham* case was cited approvingly multiple times by the U.S. Supreme Court in its landmark billboard case of *Multimedia v. San Diego*, 453 U.S. 490 (1981). It remains "good law" that must be followed by all courts until it is overruled by the Washington State or U.S. Supreme Court.

B. The United States Governmental Accountability Office, at the request of members of the U.S. Congress, researched and published summaries of court cases and concluded, both in 1991 and in 2004, that courts consistently uphold laws requiring the removal of billboards after an amortization period without paying compensation. The November 12, 2004, summary remains available at http://www.gao.gov/decisions/other/302809.htm. Its introductory paragraph reads as follows:

> This responds to your request for an update of our February 6, 1991 opinion to Senator Chafee, B-239187 (Enclosure 1), summarizing case law regarding the permissibility of billboard amortization under the U.S. Constitution. At the time of our 1991 opinion, the vast majority of cases had upheld the general practice of amortization as constitutional; some courts also addressed, on a case-by-case basis, whether a particular amortization practice was constitutional. As discussed below and in Enclosure 2, the small number of additional cases involving billboard amortization decided since 1991 have likewise upheld this practice, ruling that billboard restrictions which provided for an amortization period did not rise to the level of a "taking" triggering constitutional compensation obligations.

C. In 2007, a Florida law school professor published a journal article that discussed the Washington State Supreme Court's 1968 *Markham* case and its summary affirmance by the

United States Supreme Court. Stephen Durden. "Sign Amortization Laws: Insight into Precedent, Property, and Public Policy" Capital University Law Review 35 (2007): 891-922. Available at: http://works.bepress.com/stephen_durden/2 . He wrote at pages 905-06:

> More than thirty years ago in *Markham Advertising Co. Inc. v. Washington*, the Supreme Court rejected, as insubstantial, a takings challenge to a typical Sign Amortization Code. In that case, as explained by the lower court, the state of Washington enacted a statute requiring removal of preexisting, lawfully erected signs. The statute provided no compensation, and the sign owners challenged the statute under the Fourteenth Amendment Takings Clause. The Washington statute was indistinguishable from a typical Sign Amortization Code. A use of land (*i.e.*, sign advertising that was once lawful) was declared unlawful at a future date certain, and the statute provided no compensation. The Washington Supreme Court denied the takings claim, and plaintiffs appealed to the United States Supreme Court. The Supreme Court dismissed the appeal for want of a substantial federal question. Even though this type of dismissal is relatively rare, it is a decision on the merits, and it is not readily distinguishable from a per curium affirmance or affirmance without opinion.
>
> There is no doubt that in *Markham*, the Washington Supreme Court rejected the takings claim and the United States Supreme Court branded the takings claims as insubstantial. In presenting the constitutional issues to the Supreme Court, the jurisdictional statement in *Markham* included the claim that the Washington statute, which required preexisting billboards to be removed, constituted a due process claim for denial of just compensation. Even though this precedent seems, at best, weak, a plurality of the Court, in *Metromedia, Inc. v. City of San Diego*, described *Markham* as the Court's "own decision[]." Indeed, on at least four occasions within *Metromedia*, the plurality relied on *Markham* as authority for various propositions. Not only did the Court cite to *Markham*, both before and after *Markham*, the Court rejected takings challenges to laws requiring the removal of preexisting property four times.
>
> Supreme Court precedent related to Takings Clause challenges to Sign Amortization Codes is very straightforward, but leaves interested persons (*e.g.*, lawyers, judges, commentators) a little uncomfortable. Those who rely on or attempt to predict application of law tend to prefer somewhat more concrete precedent that consists of decisions with opinions and analysis. That being said, **it remains true that the Supreme Court precedent, as indicated above, unquestionably supports the constitutionality of Typical Sign Amortization Codes**. [Footnotes omitted; emphasis added.]

D. In CCO's August 2007 lawsuit against Tacoma challenging enforcement of the 1997 ordinance, its complaint was basically on free speech grounds—with the hyper-technical arguments that under the 1997 ordinance a structure met the definition of "billboard" only if on July 22, 1997, it was actually advertising "goods, products, events, or services not necessarily

sold on the premises." In that case, CCO's lawyers never actually argued that the 1997 amortization provision was an unconstitutional taking without just compensation, though they asserted that without any supporting authority in its initial complaint. Nothing significant occurred in that lawsuit (except private settlement negotiations) until February 10, 2010, when CCO's lawyer filed a motion for partial summary judgment based chiefly on its hyper-technical claims that its structures were not "billboards" on July 22, 1997. The City's lawyers never filed any substantive arguments in opposition to CCO's claims, but on March 16, 2010, the lawyers formally reported to the court that their clients had reached an agreement in principle that was to be presented to the Tacoma City Council for approval.

The Settlement Agreement, approved by the City Council on July 27, 2010, inexplicably included a provision directly contrary to the well-established law described above—that the City would compensate CCO for the fair market value of any billboards that the City ever in the future requires CCO to remove. Since the *Markha*m case plainly recognizes that billboard-removal-by-amortization laws are a valid exercise of a jurisdiction's police power, it likely is "ultra vires" (beyond their authority) for the 2010 City Council to contract away that police power from future City Councils. That the City's lawyers (the City Attorney and contracted lawyers who formerly worked in the City's legal department) in 2010 would counsel City officials to include that "vested rights" language in the Settlement Agreement suggests, to me, a shocking level of incompetence.

When the CCO vs. Tacoma litigation resumed in August 2011, the City continued to use the very same lawyers to argue that the 2010 Settlement Agreement was not binding. Those lawyers made five arguments, but did not raise a number of other good arguments because doing so would have implicated the quality of their own previous work concerning the Settlement Agreement. CCO moved the court to dismiss all of the City's arguments. On December 5, 2011, the judge summarily dismissed three of the City's arguments but left the other two for later adjudication. Nothing significant (except private negotiations) happened thereafter until August 21, 2012, when the judge entered the parties' stipulated order of dismissal following their August 15, 2012, execution of the Standstill Agreement.

4. In defense of the fairness of enforcing the essence of the City's 1997 ordinance, I remind my CWG colleagues of the following facts.

a. The City Council by an 8-to-1 vote on July 22, 1997, adopted the 1997 ordinance with its mandated removal of nonconforming billboards after a 10-year amortization period. At that time, there were only two billboard companies with signs in Tacoma—Sun Outdoor Advertising (a/k/a Sun Media) and Ackerley Communications (a/k/a AK Media).

b. On June 1, 1998, Sun Media was acquired by Lamar Advertising.

c. On June 14, 2002, CCO acquired Ackerley Group, including its AK Media billboards in Tacoma. This was almost five years into the ten-year amortization period from the 1997 ordinance.

d. On March 31, 2003, CCO acquired from Lamar Advertising its Tacoma billboards as part of an exchange of billboards in various states. This was five years and eight months into the ten-year amortization period from the 1997 ordinance.

CCO is always represented by highly qualified lawyers, accountants, and other professionals, so it is a certainty that CCO knew full well of Tacoma's half-expired 10-year amortization period when it acquired its Tacoma billboards. The value it placed on that portfolio of billboards would have reflected their impending forced removal in four to five years. CCO's aggressive litigation in opposition to the 1997 ordinance is simply bad faith corporate bullying of a small city that lacks, or whose leaders decline to spend, the funds necessary to hire competent lawyers to advise and represent it.

In response to CCO's claim that it, or the prior owners, had made great capital investments in its Tacoma billboards, the facts are otherwise. Because billboard structures are subject to property taxes, their owners are required to report their cost of installation to the county assessor. In this state, billboard are assessed and taxed based on a depreciation schedule applied to their initial cost of installation. In response to my records request, the Pierce County Assessor-Treasurer's office provided me the total reported costs of billboards installed each year within Tacoma's boundaries since 1958. The total installation costs of those billboard was $1,382,119—hardly a great capital investment for a 56-year period. Attached to this memo is a table showing the year-by-year investments in billboards.

I shared substantially all this information with our CWG moderator weeks ago, but she has determined not to share it with each of you. I believe it is highly relevant to our mission.

2014 Property Tax Assessed Values of Billboards Reported as Being in Tacoma (Tax Code Area 005)

tca_number	category	item_description	appraised_value	purchase_year	purchase_amount	AV as % of PA
005	009-BILLBOARDS	BILLBOARDS	1,083.15	1958	7,221	15%
005	009-BILLBOARDS	BILLBOARDS	17,154.60	1960	114,364	15%
005	009-BILLBOARDS	BILLBOARDS	9,035.70	1960	60,238	15%
005	009-BILLBOARDS	BILLBOARDS	1,083.15	1962	7,221	15%
005	009-BILLBOARDS	BILLBOARDS	2,785.05	1964	18,567	15%
005	009-BILLBOARDS	BILLBOARDS	1,701.90	1965	11,346	15%
005	009-BILLBOARDS	BILLBOARDS	6,615.75	1966	44,105	15%
005	009-BILLBOARDS	BILLBOARDS	1,083.15	1967	7,221	15%
005	009-BILLBOARDS	BILLBOARDS	4,797.00	1968	31,980	15%
005	009-BILLBOARDS	BILLBOARDS	11,505.60	1969	76,704	15%
005	009-BILLBOARDS	BILLBOARDS	618.75	1969	4,125	15%
005	009-BILLBOARDS	BILLBOARDS	3,868.20	1972	25,788	15%
005	009-BILLBOARDS	BILLBOARDS	618.75	1972	4,125	15%
005	009-BILLBOARDS	BILLBOARDS	3,868.20	1973	25,788	15%
005	009-BILLBOARDS	BILLBOARDS	1,083.15	1975	7,221	15%
005	009-BILLBOARDS	BILLBOARDS	1,237.50	1975	8,250	15%
005	009-BILLBOARDS	BILLBOARDS	5,415.75	1977	36,105	15%
005	009-BILLBOARDS	BILLBOARDS	7,117.65	1979	47,451	15%
005	009-BILLBOARDS	BILLBOARDS	618.75	1979	4,125	15%
005	009-BILLBOARDS	BILLBOARDS	4,093.20	1980	27,288	15%
005	009-BILLBOARDS	BILLBOARDS	1,701.90	1981	11,346	15%
005	009-BILLBOARDS	BILLBOARDS	1,083.15	1981	7,221	15%
005	009-BILLBOARDS	BILLBOARDS	2,271.15	1982	15,141	15%
005	009-BILLBOARDS	BILLBOARDS	1,701.90	1983	11,346	15%
005	009-BILLBOARDS	BILLBOARDS	10,789.35	1984	71,929	15%
005	009-BILLBOARDS	BILLBOARDS	742.50	1984	4,950	15%
005	009-BILLBOARDS	BILLBOARDS	11,758.95	1985	78,393	15%
005	009-BILLBOARDS	BILLBOARDS	4,765.35	1985	31,769	15%
005	009-BILLBOARDS	BILLBOARDS	1,083.15	1986	7,221	15%
005	009-BILLBOARDS	BILLBOARDS	680.70	1986	4,538	15%
005	009-BILLBOARDS	BILLBOARDS	3,875.55	1987	25,837	15%
005	009-BILLBOARDS	BILLBOARDS	4,270.35	1987	28,469	15%
005	009-BILLBOARDS	BILLBOARDS	15,423.30	1988	102,822	15%
005	009-BILLBOARDS	BILLBOARDS	2,228.10	1988	14,854	15%
005	009-BILLBOARDS	BILLBOARDS	13,031.40	1989	86,876	15%
005	009-BILLBOARDS	BILLBOARDS	1,794.75	1989	11,965	15%
005	009-BILLBOARDS	BILLBOARDS	1,083.15	1990	7,221	15%
005	009-BILLBOARDS	BILLBOARDS	433.20	1990	2,888	15%
005	009-BILLBOARDS	BILLBOARDS	247.50	1991	1,650	15%
005	009-BILLBOARDS	BILLBOARDS	1,083.15	1992	7,221	15%
005	009-BILLBOARDS	BILLBOARDS	6,276.48	1996	22,416	28%
005	009-BILLBOARDS	BILLBOARDS	18,709.44	1997	58,467	32%
005	009-BILLBOARDS	BILLBOARDS	1,320.00	1997	4,125	32%
005	009-BILLBOARDS	BILLBOARDS	43,617.96	1998	121,161	36%
005	009-BILLBOARDS	BILLBOARDS	2,227.68	1998	6,188	36%
005	009-BILLBOARDS	BILLBOARDS	5,386.80	1999	13,467	40%
005	009-BILLBOARDS	BILLBOARDS	12,708.96	2000	28,884	44%
005	009-BILLBOARDS	BILLBOARDS	4,621.44	2005	7,221	64%
005	009-BILLBOARDS	BILLBOARDS	11,764.00	2006	17,300	68%
TOTALS			272,066.26		1,382,119	
2014 Taxes Paid by Clear Channel on its billboards listed in Tacoma, assessed at $267,731:						$4,775.26

Subject: Suggestions re: City's Litigation with Clear Channel
From: Doug Schafer <schafer@pobox.com>
Date: 2/28/2012 3:12 PM
To: "Broadnax, T.C., City Manager" <TC.Broadnax@cityoftacoma.org>, "Strickland, Marilyn" <Marilyn.Strickland@cityoftacoma.org>, "Fey, Jake" <Jake.Fey@cityoftacoma.org>, "Walker, Lauren" <Lauren.Walker@cityoftacoma.org>, "Boe, David" <David.Boe@cityoftacoma.org>, "Woodards, Victoria" <Victoria.Woodards@cityoftacoma.org>, "Mello, Ryan" <Ryan.Mello@cityoftacoma.org>, "Ibsen, Anders" <anders.ibsen@cityoftacoma.org>, "Campbell, Marty" <Marty.Campbell@cityoftacoma.org>, "Lonegran, Joe" <Joe.Lonergan@cityoftacoma.org>
CC: "Pauli, Elizabeth" <epauli@ci.tacoma.wa.us>

City Manager T.C. Broadnax and members of the Tacoma City Council: (cc: City Attorney Pauli)

Recently, as the March 1, 2012, deadline for billboard compliance under your Ordinance 28009 (adopted 8/9/2011) approached, I began reviewing the status of the City's litigation with Clear Channel. I am alarmed, so I am once again offering some suggestions from my perspective as a lawyer of 33 years.

On 9/23/11, a News Tribune article reported that Clear Channel claims the fair market value of its Tacoma billboards to exceed $75 million. Its court pleadings assert simply that those billboards were valued in 2007 in excess of $30 million and have increased in value since then.

As you know, Clear Channel in late July 2011 signed the Settlement Agreement that the City had signed a year earlier. Paragraph 4 of that Agreement states:

> 4. Vested Rights. Clear Channel and the City hereby acknowledge Clear Channel's vested rights with respect to its existing conforming and legally nonconforming billboard signs and relocation permits, and any signs constructed pursuant to the Ordinance. If and to the extent the City requires the removal of such signs or elimination of such permits at some future date (other than in connection with the construction of digital billboards as provided herein), the City will compensate Clear Channel for the fair market value of those interests.

In mid-August, 2011, the City filed a state court lawsuit seeking a judicial determination that the Settlement Agreement was not enforceable against the City. In late September, Clear Channel removed the lawsuit to federal court, and moved that court to dismiss the City's claims that the agreement was unenforceable. On 12/5/11, Federal Judge Benjamin Settle dismissed three of the City's five arguments, and I believe his ruling indicates his inclination to dismiss the City's remaining two arguments once Clear Channel files a motion for summary judgment. And I believe Judge Settle's ruling reflects his poor impression of the quality of the City's legal team.

I urge you all to read the court-filed documents (that I have posted at http://cnc-tacoma.com/new-a-pending/53-billboard-litigation-round-two) in the following order:

1. Judge Settle's Order dismissing most of the City's claims.

2. The Settlement Agreement, especially its paragraphs 3 through 6.
3. The Declaration by Chris Bacha, one of the City's lawyers.
4. The Declaration by Shelley Kerslake, the City's lead lawyer.
5. The City's Response to Clear Channel's Motion to Dismiss.

I am amazed that lawyers Bacha and Kerslake assert in their declarations that the fair market value compensation provisions of the Settlement Agreement were intended only to apply to future digital billboards, considering that the actual language of the "Vested Rights" paragraph states that it applies to "existing conforming and legally nonconforming billboard signs and relocation permits." I believe that Judge Settle is similarly amazed.

Given the amount at stake, the apparent fact that Ms. Kerslake and Mr. Bacha now must be the City's primary witnesses in support of its remaining claims, and the other factors discussed below, I strongly urge the City Manager to cause the City to engage for this litigation with Clear Channel top-tier lawyers with experience and success in high-stakes litigation and at least one of the nationally recognized lawyers who regularly assist local governments in billboard litigation.

The pleadings and docket report posted on the above-referenced website show that Clear Channel is represented by five lawyers, two being from a prominent Seattle law firm and three from a prominent Washington D.C. firm, Sidley Austin LLP. All five of those lawyers have achieved highest honors from their mostly top-tier law schools, and all have impressive professional credentials. Two of the Sidley Austin lawyer have clerked for U.S. Supreme Court justices and other federal judges. Just as some professional athletes are much more skilled and successful than others, the same is true for lawyers. Below are links to the bios of those five lawyers:
http://www.sidley.com/todd_gordon/
http://www.sidley.com/guerra_joseph/
http://www.sidley.com/mark-hopson/
http://www.byrneskeller.com/profiles/attorney/taylor.htm
http://www.byrneskeller.com/profiles/attorney/minson.htm

The City's hired lawyers, Shelley Kerslake and Chris Bacha, both formerly worked in the City's legal department -- Shelley for 11 years, Chris for 17 years. Neither apparently earned honors when they graduated from local Univ. of Puget Sound Law School (my own alma mater but not a top-tier law school, now named Seattle Univ. Law School). They may be capable lawyers for most municipal law issues, but I they are not in the same league as the lawyers representing Clear Channel. The unfortunate Settlement Agreement reflects, I believe, their inadequate representation of the City. Below are links to the bios of Ms. Kerslake and Mr. Bacha:
http://www.kenyondisend.com/attorneys/info/kerslake.html
http://www.kenyondisend.com/attorneys/info/bacha.html

I observe from public records obtained from the City that City Attorney Elizabeth Pauli in July 2007 first attempted to retain for the Clear Channel litigation the Seattle lawyers of the internationally prominent law firm Kirkpatrick & Lockhart Preston Gates Ellis LLP. That is the caliber of law firm that I urge the City again to seek.

An additional reason why I believe that the City needs to change lawyers is that its current lawyers are understandably unlikely to challenge the Settlement Agreement with arguments that call into

question the quality of their services while negotiating it for the City. The Settlement Agreement could be challenged as an improper attempt to circumvent the prohibitions on "contract zoning." The "vested rights" paragraph could be challenged as an attempt, by contract, to effect an unconstitutional gift of public funds, considering that the Washington State Supreme Court held in 1968 (affirmed by the U.S. Supreme Court in 1969) that a governmental body may exercise its police power to require the removal of billboards without compensation. Markham Advertising Co. v. State, 73 Wash.2d 405, 439 P.2d 248 (1968), appeal dismissed, 393 U.S. 316, 89 S.Ct. 553, 21 L.Ed.2d 512, rehearing denied, 393 U.S. 1112, 89 S.Ct. 854, 21 L.Ed.2d 813 (1969). Based upon the Markham case, the Washington State Supreme Court held in 1979 that Seattle would be making an unconstitutional gift of public funds if it paid compensation to the billboard company for signs ordered to be removed pursuant to the city's exercise of its police power. Ackerley Communications, Inc. v. Seattle, 92 Wash.2d 905, 602 P.2d 1177 (1979).

Other arguments may be made that the Settlement Agreement is unenforceable. In Judge Settle's ruling last December, under the heading "Repudiation," he quoted from a recent Washington appellate opinion concerning a withdrawn settlement offer: "An offeree's power of acceptance is terminated 'when the offeree receives from the offeror a manifestation of an intention not to enter into the proposed contract.'" But he ruled that the First Amendment to the Settlement Agreement barred the City from withdrawing its settlement offer until expiration of the extended option period. He wrote, "the City has failed to assert any allegation in its pleading that either the option or the extension of the option was not supported by adequate consideration." That was a major failure, that perhaps still can be corrected.

It is well established in contract law that an option may be withdrawn before its term if it is not supported by consideration (something promised or given by the optionee). The recent Washington appellate opinion cited by Judge Settle asserted "a promise not to revoke an offer, like all promises, requires consideration." Central Puget Sound Regional Transit Authority v. Heirs and Devisees of Eastey, 135 Wn. App. 446, 454 (2006); Baker v. Shaw, 68 Wash. 99, 122 P. 611 (1912) ("[I]f the option be given without consideration, it may be withdrawn at any time prior to its acceptance.")

It is equally well established that an agreement to extend an option contract beyond its initial term is a separate option contract that requires separate consideration if it is to bind the optionor for the extended term. The Georgia Supreme Court applied that established common law in 1969, saying "An extension of an option contract, whether made before or after the original option expires, is in reality a new option and must, to be enforceable as against the optioner, be supported by valuable consideration." Wolfe v. Deaton, 225 Ga. 412, 169 S.E.2d 311 (1969); see also Youree v. Eshaghoff, 99 Ark. App. 4, 256 S.W.3d 551 (2007) ("[T]here must be additional consideration when the parties to a contract enter into an additional contract.")

It is readily apparent that Clear Channel gave no consideration to the City when the parties executed the First Amendent to the Settlement Agreement. Accordingly, the City should be recognized as permitted to withdraw it offer (its signed Settlement Agreement) any time after the initial six-month option period expired so long as it did so before Clear Channel accepted that offer. If the argument still can be made to Judge Settle, perhaps he might agree that the City's actions sufficiently communicated to Clear Channel "a manifestation of an intention not to enter into the proposed contract," using the phrase that Judge Settle's quoted from the Transit Authority opinion.

An additional argument that the City's current lawyers are unlikely to make, because it calls into question their lawyering, is that execution of First Amendment to the Settlement Agreement by the City Manager, City Attorney, and City Clerk was not authorized because no City Council action authorized it. In a pleading signed by lawyers for both Clear Channel and the City filed in the initial federal court case on 3/16/2010, the lawyers asserted, "The undersigned counsel have reached an agreement in principle to resolve this case. The Settlement Agreement must be approved, however, by the Tacoma City Council." And at the foot of page 6 of the originals of the Settlement Agreement, signed by City officials, that the City sent in August 2010 to Clear Channel, the City had typed, "Settlement Agreement between City of Tacoma and Clear approved by motion at the Tacoma City Council meeting of July 27,2010." It was apparent to Clear Channel that only the City Council possessed actual authority to approve the Settlement Agreement, including its six-month option period. Correspondingly, it should be recognized that authorization of City officials to execute the First Amendment to that Settlement Agreement also required passage of an approving motion by the City Council, an action that never occured (at least not in an open public meeting as the law requires).

I recognize that my unsolicited suggestions are not always followed. Nearly a year ago, on 3/14/11, I emailed suggestions to Shelley Kerslake and Elizabeth Pauli and attached for them to consider my message of 3/7/11 to Historic Tacoma's Sharon Winters in which I wrote:

> "Given the significance of the issues in the lawsuit, it surprises me that the City did not hire a more prominent (and probably more capable) lawfirm to defend the City's 1997 ordinance, or at least to seek a second opinion for such a lawfirm before "rolling over."
>
> "It is my view that the City could renounce the proposed Settlement Agreement and return to court to defend its 1997 ordinance. The proposed Settlement Agreement signed in late July 2010 by the City's manager, clerk, and attorney, gave Clear Channel on "option period" of six months to sign it. Clear Channel never did. In late January 2011, without City Council authorization, the City's manager, clerk, and attorney signed a First Amendment to the Settlement Agreement extending until August 15, 2011, the deadline for Clear Channel to sign the proposed Settlement Agreement. Arguably, the First Amendment is invalid since the City Council did not authorize it. But irregardless, I consider the proposed Settlement Agreement nothing more that a the City's offer that it can revoke at will, since its paragraph 7 states, "Clear Channel's option to execute this Agreement, or to leave the Agreement unexecuted, shall be within Clear Channel's sole discretion. Nothing herein shall be interpreted to require Clear Channel to execute the Agreement.""

Please consider these suggestions.

Douglas A. Schafer, Attorney

Subject:WSDOT billboard control, MAP-21, Tacoma.
Date: Mon, 5 Oct 2015 10:34:56 -0700
From: Doug Schafer <schafer@pobox.com>
To: Baker, Claudia Bingham (WDOT) <BakerC@wsdot.wa.gov>

Claudia Bingham Baker: Will you please get this to the attention of a WSDOT manager or Asst. AG. Tacoma's city leaders are proposing to restore "legal conforming" status to about 200 billboard faces that are now simply "illegal" signs, but to require their removal without compensation in 3 to 5 years. That would violate the "outdoor advertising control" provisions of federal law that puts at risk 10% of Washington's federal highway funds.

We need somebody knowledgeable from WSDOT to participate in this discussion. Below is my message to the Chair of Tacoma's volunteer Planning Commission. Below that are my exchanges with U.S. Dept. of Transportation, Federal Highway Administration, officials in Washington D.C.

Doug Schafer, attorney.
Chair of Tacoma Central Neighborhood Council.

-------- Forwarded Message --------
Subject: Re: Tacoma, WA: application of MAP-21 to Billboards
Date: Sun, 4 Oct 2015 16:29:28 -0700
From: Doug Schafer <schafer@pobox.com>
To: Chris Beale <bealec714@gmail.com>

I'll certainly let you know if I receive any response from FHWA. I've been unable to identify anybody in WSDOT with responsibility (and knowledge) concerning the outdoor advertising control issues. The sole WSDOT employee (Pat O'Leary) who had been assigned that responsibility has retired without a replacement, and his supervisor, Mike Dornfeld (with whom I spoke on 9/29) lacks knowledge of the issues. The state risks loss of 10% of its federal highway funds if it fails to comply with the Highway Beautification Act, including its provision requiring "just compensation" when the state or its jurisdictions require removal of a "legal nonconforming" sign that is along a roadway on the National Highway System.

In a 1990 opinion (Fort Collins v. Root Outdoor Adv.), the Colorado supreme court declined to concur with the WA supreme court's ruling in Ackerley v. Seattle (1979), stating in a footnote: "Further, we note that after Ackerley was decided, the [U.S.] Department of Transportation notified the State of Washington that it was in danger of losing 10 percent of its federal highway funds because Ackerley permitted the removal of signs covered by the federal act without payment of just compensation. Subsequently, the State of Washington and Ackerly reached a settlement agreement which protected the state's federal funds."

In essence, there are millions of dollars at issue, yet our Tacoma city officials appear eager to proceed blindly, knowing that they are uninformed about the application of MAP-21 to the billboards

in our city. The P.C. Task Force's report ended by stating, "Further information is needed about the effects of "MAP 21" applicability to arterial streets and the off-premises signs located along those streets."

Doug Schafer
P.S. I sent my below message to each of the Planning Comm'n members.

On 10/4/2015 3:45 PM, Chris Beale wrote:

> Thanks for this Doug, and thank you for your continued community leadership on this issue. Do please let me know if you receive a response.
>
> Thanks,
>
> Chris Beale, AICP
> [phone # redacted]
>
> On Oct 2, 2015, at 3:43 PM, Doug Schafer <schafer@pobox.com> wrote:
>
> > Steve Wamback and Chris Beale:
> >
> > FYI, attached is my communications with FHWA officials in Wash. D.C. regarding MAP-21's impact on Tacoma's billboards -- if the City now re-classifies them as "legal nonconforming" rather than "illegal" (as they have been since 8/1/2007 or 3/1/2012). Instead of the attachments that I sent to those officials, I am attaching for you 23 CFR Part 750 and a FHWA Q&A sheet re MAP-21's application to signs. A link to the FHWA's website info is: http://www.fhwa.dot.gov/real_estate/oac/oacprog.cfm#JUSTCOMP
> >
> > Doug Schafer
> >
> > -------- Forwarded Message --------
> > **Subject:**FW: Tacoma, WA: application of MAP-21 to Billboards [corrected]
> > **Date:**Fri, 2 Oct 2015 20:28:20 +0000
> > **From:**Maggie.Duncan-Augustt@dot.gov
> > **To:**Dawn.M.Horan@dot.gov, clifford.pearson@dot.gov
> > **CC:**schafer49@gmail.com
> >
> > Dawn & Cliff,
> >
> > Mr. Schafer wanted to ensure that the above attachments were received for review.
> >
> > **Maggie Duncan-Augustt**
> > **Realty Specialist – North POC**
> > **Federal Highway Administration**
> > **Office of Real Estate Services – HEPR-20**

202-366-9901
maggie.duncan-augustt@fhwa.dot.gov

<mime-attachment.jpg>

From: Doug Schafer [mailto:schafer49@gmail.com] **On Behalf Of** Doug Schafer
Sent: Friday, October 02, 2015 4:22 PM
To: Duncan-Augustt, Maggie (FHWA)
Subject: Fwd: Tacoma, WA: application of MAP-21 to Billboards [corrected]

Maggie Duncan-Augustt, please reply to confirm your receipt of this. Thanks. Doug Schafer

-------- Forwarded Message --------
Subject: Tacoma, WA: application of MAP-21 to Billboards [corrected]
Date: Thu, 1 Oct 2015 15:05:23 -0700
From: Doug Schafer <schafer@pobox.com>
To: Horan, Dawn (US-DOT) <dawn.m.horan@dot.gov>

[re-sent to correct the mis-typed CFR citation to the definition of "illegal sign" in Q-1, below]

Dawn Horan:

Thank you for chatting with me, an citizen/lawyer in Tacoma, Washington. Much of what I will describe below and in attachments is available at http://cnc-tacoma.com, the website of the Tacoma Central Neighborhood Council of which I am the current chair and the webmaster.

In 1997, the Tacoma city council enacted Ordinance 26101 requiring removal of legal nonconforming billboards after a ten-year "amortization period" -- by 8/1/2007. Subsequently, Clear Channel Outdoor (CCO) acquired all but 8 of the roughly 400 billboard faces in the City, and in July 2007 it sued claiming the 1997 ordinance was unconstitutional. The City's Manager or City Council chose to negotiate rather than litigate, and in August 2010 reached a proposed Settlement Agreement that would require the City to change its sign code to permit digital billboards along various principal and minor arterials. In early 2011, public objection to that proposed sign code change caused City officials to abandon that proposed settlement, and in August 2011 the city council enacted Ordinance 28009 that further regulated billboards (rendering all but perhaps two to be nonconforming) and amended the amortization period to require removal of legal nonconforming billboards by March 1, 2012.

Shortly thereafter, the City filed a lawsuit seeking a judgment that the 2010 Settlement Agreement was void, to which CCO opposed. That lawsuit was dismissed in August 2012 when the City Manager (without City Council legislation) and CCO entered into a "Standstill Agreement" under which the parties agreed to negotiate. It stated, "During the Standstill Period, the billboard code adopted in 1997 shall apply to Clear Channel, with the exception of Section 13.06.521N6(C)(6)(Amortization), which Section shall not apply to or be enforced against Clear Channel during the Standstill Period." That Standstill Agreement has been extended repeatedly and remains in force.

The City leaders now are proposing the adoption of an ordinance that would, among other things, repeal the 1997/2011 "amortization provision" and replace it with a new provision stating that "All legal nonconforming billboard signs shall be ... removed or made conforming" within three years if in residential/shoreline/conservation zoning districts, and within five years if in other zoning districts. City leaders are proposing city council adoption of the proposed ordinance in early December, 2015, and the first public hearing is set for October 7. That proposed ordinance is attached, from the City's webpage

at http://www.cityoftacoma.org/cms/one.aspx?portalId=169&pageId=15779

On that webpage is a link to a Planning Commission Review Packet for its September 16, 2015, meeting that is a report of recommendations that resulted in the proposed ordinance. However, that report noted, "Further information is needed about the effects of "MAP 21" applicability to arterial streets and the off-premises signs located along those streets." City records show that 238 billboard faces are on principal arterials that MAP-21 has included in the Nat'l Highway System, but only about 37 such faces were in the NHS prior to the October 1, 2012, effective date MAP-21.

The questions to address are:

1. If the City does not repeal the 1997/2011 "amortization provision" that required removal of previously legal nonconforming billboards in 2007 or early 2012, may those billboards be classified as "illegal signs" [23 CFR 750.703(e)] as to which the regulation requiring "just compensation" for "lawfully maintained" signs [23 CFR 750.707(e)] will not apply if the City in three to five years actually enforces its ordinances and compels their removal?

2. If the City, as now proposed, repeals the 1997/2011 amortization provision and adopts the proposed new amortization provision stating that "All legal nonconforming billboard signs shall be ... removed or made conforming" within the three or five years periods stated above, will that cause those roughly 200 billboard faces along roads that MAP-21 now includes in the NHS to be subject to the requirement that the City pay CCO (or later owner) just compensation for their removal?

If the City must pay CCO "just compensation" to remove its billboards, I am confident they will never be removed. CCO's counsel asserted in June 2007 that the billboards the City then sought to remove would cost the City up to $60 milllion in just compensation.

Attached are the 1997 and 2011 ordinances and current (2014) sign code reflecting those ordinance, and the now proposed revisions to the sign code.

Thank you for your agency's attention to this.

Douglas A. Schafer, J.D. (WSBA 8652)
1202 S. Tyler St.
Tacoma, WA 98405-1134
phone: 253-431-5156

<CFR-2015-title23-vol1-part750.pdf>

<2013_MAP-21_OutdoorAdvertising_Q+A_FHWA.pdf>

SCHRAMM MARKETING

October 6, 2015

Planning & Development Services

Tacoma Municipal Building

747 Market Street, Room 345

Tacoma, WA 98402-3701

Subject line: Outdoor billboard regulation

Dear Planning Commission:

Outdoor billboards play an important role in Tacoma. In particular, they give local business owners a way to share information about their products and services with the public. I am concerned that attempts to limit outdoor advertisements even further would prove harmful to many small and local businesses in our city.

Outdoor advertising is one of just a few affordable ways left for local businesses to communicate with new and existing customers. Online and mobile technology is fragmenting local advertising options and pushing up cost, and the outdoor industry remains an effective way to drive customers to businesses.

As our local economy is finally showing signs of improving, I would hate to see area businesses negatively impacted by additional billboard regulations. Further regulation will only limit the options available to our local business owners.

Respectfully,

Stephanie Schramm, Owner

Schramm Marketing, LLC

1509 Peach Park Lane NW

Puyallup, WA 98371

253-693-8438

From: Julie TURNER . . . . [mailto:juliejayturner@gmail.com]
Sent: Friday, October 09, 2015 12:50 PM
To: Planning
Subject: Billboards in Tacoma

Dear Commissioners,

Thank you for your proposal concerning billboards in Tacoma. I support it wholeheartedly. It is a measure that Tacoma's citizens have asked for, and voted on several times. I commend you for including the requirement to maintain the current amortization program (from 1997); it's time for the Council to honor the agreements of the past and begin paring down the size and number of billboards blighting our streets and neighborhoods.

Thank you for your service to Tacoma's citizens,

Julie Turner
817 North J. St.
Tacoma, WA 98403

October 8, 2015

Planning Commission
Planning and Development Services
747 Market Street
Tacoma WA 98402

Reference: Billboards

Dear Planning Commission Members

We are opposed to any changes to the City of Tacoma Sign regulations that would allow pole mounted billboards in the City of Tacoma. We consider any agreement with Clear Channel Outdoor that would allow any of their non-conforming billboards to remain would be ill considered and inappropriate. At this point the recent review process from start to what appears to be its obvious conclusion; seems to be an orchestrated cave-in to Clear Channel by allowing their existing non-conforming billboards to remain as trash on Tacoma's landscape. Our previous City Council took the necessary steps to allow Clear Channel to amortize their costs in their existing non-conforming billboards. This should have removed any reasonable legal challenge to their forced removal. Why would anyone in City government even consider not following through by requiring the removal of all non-conforming billboards. It is time, after all these years of promises, to require Clear Channel to finally remove all non-conforming billboards.

The willingness of the City to even accomplish this Planning Commission review brings up a number of questions:

- How was Clear Channel Outdoor able to game the City's legal staff, and other elected and appointed officials into even considering allowing any non-conforming billboards?
- How could any lawsuit claiming a violation of constitutional rights end up justifying regular or digital billboards? It hasn't worked in other Cities?
- Why should the Planning Commission and City Council change billboard regulations to make billboards that have been non-conforming and in violation for years, suddenly legal and conforming to the sign regulations. Now is the time for all non-conforming billboards to be finally removed from the City?
- Does allowing the citizens to vent their anger at meetings on the City's Sign regulations really affect the outcome of the decision process or will the City still cave-in to Clear Channel Outdoors' pressure?

Don't let Clear Channel's threats of lawsuits bluff you. Lawyers in other Cities have stood up to them. There is no reason Tacoma's lawyers can't do the same. Of course it is always easier to settle out of court. Just remember an earlier Planning Commission

and City Council has taken the necessary beginning steps to start the process of finally getting rid of pole mounted billboards from Tacoma; don't let them down when we finally get to the point where it is necessary to follow thru on the process. Don't weaken now! We note that the present billboards are concentrated in our South Tacoma streets due to the high traffic volumes. Let's clean them up.

The City Council and the Planning Commission are charged with making Tacoma a better place to live and should not be denigrating it to merely a backdrop to billboards. We keep trying to make Tacoma truly "The City of Destiny", but it is increasingly difficult when billboards give Tacoma the appearance that our destiny is "Commercialism" and "Anything for a Buck"

Hopefully Tacoma has successfully prevented any sign company from bringing digital billboards to our city. We request the Planning Commission also take action to further review digital sign regulations imposed on our local businesses to assure digital signs do not cause the same driver distraction that results from digital billboards.

We request the Planning Commission recommend against allowing any pole mounted billboards in Tacoma and send the message to the City Council requesting review of digital sign regulations.

Sincerely,

Skip and Laura Vaughn
7634 South Fife Street
Tacoma, WA 98409

From: Alex WEBSTER [mailto:alexxwebster@yahoo.com]
Sent: Friday, October 09, 2015 1:43 PM
To: Planning
Subject: billboards

Dear Commissioners,

It is past time for the Council to honor commitments and agreements and start cutting out the bad billboards that seem to be everywhere.

Thank you for your service.