



November 8, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

Although I may not be able to attend the public hearing on November 14, 2017, I wanted to send you comments that I would like heard in regard to the proposed billboard settlement.

Billboard advertising is an essential element to the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

I want our City to be as competitive at attracting and holding on to local business as possible. The efforts to eliminate billboards entirely demonstrates the City is not as business friendly as it wishes to be perceived. There must be some middle ground that would appease those on both sides of the issue.

The proposed agreement seems to be a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business:

Sincerely,

David Hughes
Vice President of Marketing
America's Credit Union

RECEIVED
NOV 13 2017
CITY CLERK'S OFFICE

RECEIVED
NOV 16 2017
CITY CLERK'S OFFICE

youracu.org 
866.968.7128 
253.964.3113 
PO Box 5060 
DuPont, WA 98327



FOR YOUTH DEVELOPMENT®
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

November 9, 2017

City Clerk's Office 733 Market Street, Room 11 Tacoma, WA 98402
Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement. Outdoor advertising is an essential element to the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

Sincerely,

Rachel VanArendonk

Senior Marketing and Communications Director
YMCA of Pierce and Kitsap Counties
253-534-7847 | rvan@ymcapkc.org

RECEIVED

NOV 14 2017

CITY CLERK'S OFFICE

November 6, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

Outdoor advertising is an essential element to the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates 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 local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

Sincerely,



Gregory J. Paine, CLU, ChFC. Treasurer, Gus Paine Insurance

RECEIVED
NOV 14 2017
CITY CLERK'S OFFICE

Governing Board

Martin Thall
Chairman of the Board

David Endicott
President &
Co-Founder

Erin McBride
Secretary of the Board

Marli Iverson
Member

Lynn Lindsay
Member

Kim Moore
Member

John Iverson
In Memorium

Spencer Lehmann
In Memorium

Advisory Board

Colleen Armstrong
Retired Chief of Staff
Seattle Opera

Adm. Bill Center
US Navy Ret.

Julie Nelson
Windermere

Vicky Oxley
Comcast

Gary Ryno
Morgan CFO Group

Beth Wojick
Seafair, Retired

Akane Suzuki
Lead Attorney
Garvey Schubert Barer

Ken Schubert, Jr.
In Memorium

November 9, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, Washington 98402

[Via e-mail to kbpalmer@lamar.com](mailto:kbpalmer@lamar.com)

Subject: Billboard Ordinance Resolution

Music4Life is a non-profit organization that provides ready-to-play musical instruments to public school districts for use by students in need. Among the eight school districts currently served is Highline Public Schools. We are also reaching out to Tacoma Public Schools as a possible new program. I expect to be able to attend your public hearing on November 14, 2017 to comment about your proposed billboard settlement with Lamar Advertising, but want to send you these written comments, as well.

Outdoor advertising is an essential element for the success of *Music4Life*. We have worked with Lamar Advertising since they acquired Clear Channel Communications about two years ago, as well as with Clear Channel before them, and have found Lamar to be an enormously public spirited company. Each year Lamar provides us billboards in south King and north Pierce Counties that attract people to our "Blues & Brews Festival" in August. Event organizers from the rotary Club of Des Moines/Normandy Park rave about this billboard support in part because it is provided free of charge. Last year this support allowed us to provide 100 ready-to-play musical instruments to Highline Public Schools independently valued at more than \$73,000. While it might be tempting to admire this reach to 100 students, each musical instrument has a useable lifetime of three to 15 years. This means that 400 or 500 students from financially challenged families may benefit. And this is the productivity of just one year.

We are convinced that the frequency and repetition billboards provide cannot be duplicated. The financial burden this ongoing issue has put on the City of Tacoma and its taxpayers is also of concern. Settling this matter once and for all would allow the City to focus on improving the community and eliminate the possibility of further litigation.

Finally, the efforts to eliminate billboards entirely demonstrates that the City of Tacoma is not as business friendly as it wishes to be perceived. Tacoma should be as competitive at attracting and holding on to local business as possible. There should be a middle ground that would be entirely satisfactory to those on both sides of the issue.

Music4Life letter to the City of Tacoma
November 9, 2017
Page 2 of 2 pages

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach their customers and grow their business.

We hope this agreement receives favorable consideration by the City of Tacoma for a company that, over and over again, demonstrates that it is a terrific corporate citizen.

Sincerely,



David Endicott, Co-Founder
President / COO

Music4Life™ is registered as a 501(c)(3) non-profit organization. Contributions to *Music4Life* are tax-deductible to the extent permitted by law. *Music4Life*'s tax identification number is 26-4733898.

RECEIVED

NOV 14 2017

CITY CLERK'S OFFICE

November 13, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

Outdoor advertising is an essential element to the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates 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 local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

We are opening a new business on 6th Ave and we called them about a bird dropping issue. I received a call within a day or two. They have since followed up with an answer on how they are going to resolve the issue. I greatly appreciate their commitment to Fish Fish Fish in this matter. We would like to use them for Fish Fish Fish and Shake Shake Shake in the future for advertising.

Sincerely,
Robert Stocker Owner

Shake Shake Shake

Fish Fish Fish

RECEIVED
NOV 14 2017
CITY CLERK'S OFFICE

November 6, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

Outdoor advertising is an essential element to the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates 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 local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

Sincerely,


Rebecca D. Sexton-Kelly

RECEIVED

NOV 14 2017

CITY CLERK'S OFFICE

November 6, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

Outdoor advertising is an essential element to the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates 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 local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

Sincerely,



Mike Luinstra, Lamar Advertising Company

RECEIVED
NOV 14 2017
CITY CLERK'S OFFICE



November 9, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

Outdoor advertising is an essential element to the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates 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 local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

Sincerely,

DocuSigned by:

504A505097DC477...

Katie Glaisyer

Merlino Media Group

VP, Media Director

RECEIVED

NOV 14 2017

CITY CLERK'S OFFICE

November 6, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

Outdoor advertising is an essential element to the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates 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 local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann Farrell", with a long horizontal line extending to the right.

Ann Farrell, Farrell's Wood Fire Pizza

RECEIVED
NOV 14 2017
CITY CLERK'S OFFICE

November 6, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

Outdoor advertising is an essential element to the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates 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 local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Woodworth', written over a circular scribble.

Jeff Woodworth, Woodworth Capital Inc.

RECEIVED

NOV 14 2017

CITY CLERK'S OFFICE



November 8, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

Outdoor advertising is an essential element to the success of our business. This medium allows us to reach our target audiences, for our Tacoma based clients, in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

The financial burden this ongoing issue has put on the City and its taxpayers is also of concern to us and our clients.

Lastly, the efforts to eliminate billboards entirely demonstrates the City is not as business friendly as it wishes to be perceived

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

Sincerely

Melissa Durfee Davis
Media Director

RECEIVED
NOV 14 2017
CITY CLERK'S OFFICE

November 6, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

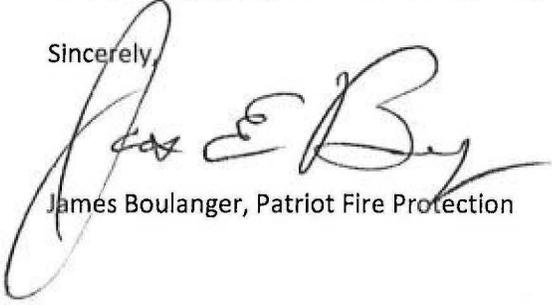
Outdoor advertising is an essential element to the success of our ^{INDUSTRY}~~business~~s. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates 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 local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

Sincerely,



James Boulanger, Patriot Fire Protection

RECEIVED
NOV 14 2017
CITY CLERK'S OFFICE

November 6, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

Outdoor advertising is an essential element to the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates 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 local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeline, to reach our customers and grow our business.

Sincerely,



Carrie Prudente Holden, President/CEO Boys and Girls Clubs of South Puget Sound

RECEIVED
NOV 14 2017
CITY CLERK'S OFFICE

November 6, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

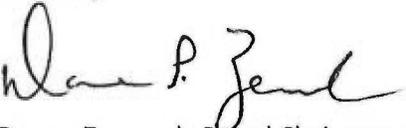
Outdoor advertising is an essential element to the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates 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 local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

Sincerely,



Darren Zemanek, Board Chairman- Columbia Bank

RECEIVED
NOV 14 2017
CITY CLERK'S OFFICE

November 6, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

Outdoor advertising is an essential element to the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates 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 local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

Sincerely,

Wen Moan
V.P. OF PHILANTHROPY
BOYS & GIRLS CLUBS
OF SOUTH PUGET SOUND

RECEIVED

NOV 14 2017

CITY CLERK'S OFFICE

November 6, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

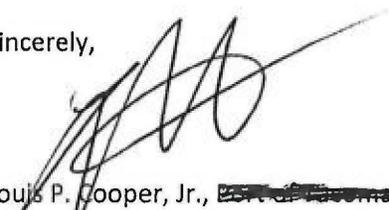
Outdoor advertising is an essential element to the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates 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 local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

Sincerely,


Louis P. Cooper, Jr., ~~City Clerk~~

RECEIVED
NOV 14 2017
CITY CLERK'S OFFICE

November 6, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

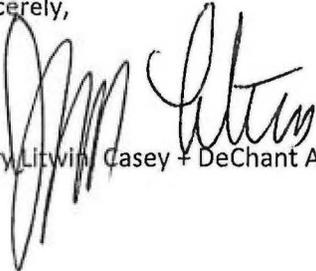
Outdoor advertising is an essential element to ~~the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.~~

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates 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 local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

Sincerely,



Jerry Litwin, Casey + DeChant Architects

RECEIVED

NOV 14 2017

CITY CLERK'S OFFICE

November 6, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

Outdoor advertising is an essential element to the success of ~~our~~ ^{business} business. This medium allows ~~us~~ ^{us} to reach ~~our~~ target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

~~As a local business owner,~~ ^T the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow ~~our~~ ^{the} City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates the City is not as business friendly as it wishes to be perceived. I want ~~our~~ ^{the} City to be as competitive at attracting and holding on to local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeline, to reach our customers and grow our business.

Sincerely)



Jim Kindred, Consultant

RECEIVED

NOV 14 2017

CITY CLERK'S OFFICE

From: judy Merrell <jmerrell3113@gmail.com>
Sent: Tuesday, October 17, 2017 10:34 PM
To: Scott, Donlisa
Subject: Billboard Deal????
Attachments: Cities.pdf

Greetings Donlisa,

I recently read the Tacoma News Tribune Article about a new Billboard Ordinance and A Settlement on Billboards? I decided to do a little research on the proposed settlement and new Billboard Ordinance. I have to say I was shocked at what I was able to find out and concerned why the City of Tacoma was "Cutting Deals" on a proposed billboard ordinance, that is in no way in the best interests of the citizens of Tacoma. Here are just a few reasons why I felt compelled to reach out to the powers that be and ask "Why do you think this is a good deal? And why would you make such a Bad Deal for the City of Tacoma?"

Here are my concerns about this Deal and New Ordinance.

1. Allows Giant wall signs of nearly any dimension, size or configuration to be newly installed. This Loophole will expand billboards by placing new signs on buildings that have not historically accommodated signs
2. Allowing all square footage removed to be banked will result in more and more of the large 14'x48' (672 square feet) being erected. This is contrary to the visual blight the city is trying to minimize...
3. The spacing requirement of between 300' and 500' between signs is grossly inadequate. Spacing should also include counting the number of billboards on BOTH sides of the street. Not just the SAME side of the street. The spacing between billboards should be no less than 1000' between signs as measured from both sides of the street.
4. It is important to note that the new spacing requirement does not even meet the standards of the Puyallup Tribal reservation, which is a minimum of 1500' between sign structures. Surely the city can at least regulate billboards to the minimum threshold as provided on the reservation!
5. Any new Billboards should not be higher than 25'-30'. Any proposal to raise or maintain the current heights does nothing to mitigate blight and allows billboard signs to extend higher than the buildings than the buildings located within the immediate area, making them the dominant visual structure.
6. The new Buffer for setbacks are inadequate. No Billboard should be able to be located closer than 500' from any park, school or other public space.
7. Digital billboards should be specifically banned.
8. The proposed sign ordinance allows for a company to accumulate square footage and allocate it to even larger and larger billboards to be built in the city
9. Why is the city agreeing to compensate a Billboard company if an ordinance changes in the future? Why is it singling out this industry for special treatment and obligating the City to all this future liability? Can't the city retain their legal right in the event laws change?
10. Why is the city allowing for the expansion of billboards to new areas that have never been allowed to have billboards? Do local community groups want these billboards in their neighborhoods?
11. Why is the city not increasing the B&O tax on this industry to compensate the City for the cost of regulating this industry? Why is the City not using the adjusted tax to support their cost of litigation initiated by the billboard company?

This is a BAD proposal that the citizens of this city will have to live with FOREVER. Billboards under this ordinance will remain in perpetuity. Why doesn't the city grandfather the existing billboards and just ban newly erected billboards and allow them to fade away through attrition? While it may initially be a bit slower, the outcome is certain. In the decades to come, fewer billboards will remain and finally, all will be extinguished.

Everyone should contact their council person and other government officials with the City of Tacoma to express their own views about the future

of billboard expansion within the City!!!!

I have attached a list of the Cities and Counties that Ban the Placement of New Billboards!!! Why can't the City of Tacoma do the same? Why is Tacoma trying to be the Capital for New Billboards

Sincerely,

J.Merrell

Cities and counties located in the South Puget Sound Region that literally and functionally ban the placement of new billboards:

1. Pierce County
2. City of Lakewood
3. City of University Place
4. City of Fircrest
5. City of Ruston
6. City of Puyallup
7. City of Bonney Lake
8. City of Enumclaw
9. City of Buckley
10. City of Auburn
11. City of Federal Way
12. King County
13. City of Covington
14. City of Renton
15. City of Sea Tac
16. City of Sumner
17. Thurston County
18. City of Olympia
19. City of Lacey
20. City of Tumwater
21. City of Bremerton
22. City of Port Orchard
23. Kitsap County
24. City of Gig Harbor
25. City of Fife
26. City of Edgewood
27. City of Milton
28. City of Pacific
29. City of Algona
30. City of Steilacoom
31. City of Dupont

Cities located in the South Puget Sound Region allowing the placement of new billboard signs and codifying their ongoing existence forever:

1. City of Tacoma
-

From: judy Merrell <jmerrell3113@gmail.com>

Sent: Monday, October 23, 2017 11:46 AM

To: Andrew.strobel@cityoftacoma.org

Subject: Billboards

Greetings,

I wanted to follow up with a few other points on this whole billboard proposal, declaring billboards a permanent fixture of our community, and the way it is being handled seems somewhat nonsensical to me.

First, we have new elections coming up that will result in numerous changes to the city council. If the Mayor and council members rush to judgment by forcing a vote in December, then the newly elected members will have no say with any terms and conditions of a settlement/ordinance but, if approved, will suffer the impacts of huge billboards, in communities being constructed in the future. There will be few calls of thanks when a sign is removed, but there will be a flood of calls and negative social networking complaining when each new one goes up in a particular council person's area.

It's been 20 years since the current ordinance was passed. And while it is well past time to have remedied this situation, the newly elected council members will best reflect the current desires of the electorate. The existing council should negate the election by striking a last-minute deal that locks the city into Billboards FOREVER. This is a very bad deal and the City of Tacoma has a lot at stake; and one more chance to get it right. Being the "billboard capital of the Northwest" will not help the city attract new companies and new talent to our community. Let's accomplish things that matter, and placing and maintaining billboards in all our neighborhoods is not one of them.

As I understand the situation, the litigation is over the amortization provision in the current ordinance. After talking with some of my lawyer friends, it seems feasible that the city considers eliminating that provision from the ordinance, do away with future expansion of billboards altogether and simply ban any new billboards (including new digital Billboards), as every other jurisdiction in our area has already done. If you want to know if a ban works, call the Cities of Olympia, Sumner, Bonney Lake, University Place or Gig Harbor and ask how many billboards are in their community. Then compare those numbers with Tacoma and you will see a stark difference. Due in part to the billboard limitations in surrounding jurisdictions, Tacoma has suffered with hundreds of billboards coming their way. Without the amortization cloud, is there anything materially left to litigate?

It also seems odd that, according to city information, the only "proposal" on the table is from a billboard company who is in an adversarial lawsuit with the city. We cannot rely on public corporations to determine how we live day to day or establish our community values. With that said, the lawsuit has been successful by creating pressure and financial stress on the city and its

citizens.

Where is the city's proposal? Is the city really relegated to a second-class citizen, to a space that doesn't allow for free and open billboard regulation to control the landscape in our own city? Must our future be determined through a corporate proposal made by an out of state company? really? Do council members want a law enacted that dictates billboards into perpetuity for the City of Tacoma? Is this a justifiable or desirable legacy? Is the city in such a tough spot that they need to negatively impact the city's view corridors for generations to come in exchange for settlement of a short-term lawsuit?

The city is in this spot because it did not do the right thing 20 years ago by simply banning billboards. Let's see if we will be having this conversation in another 20 years. If this ordinance passes, each council member should stand tall and take personal credit for locking the City of Tacoma into a future of perpetual billboards; contrary to the citizenry's desire and with no way out.

J. Merrell

From: pjones1111@comcast.net
Sent: Tuesday, November 7, 2017 2:23 PM
To: Scott, Donlisa
Subject: Billboards

Dear Donlisa,

Please convey my opinion of this billboard ordinance with the Mayor and City Council. We have too many distractions in our daily lives and I believe this new ordinance is ludicrous. We need to minimize and lessen the billboards we already have along our roads and in our communities. In some states there are laws dictating small billboards the size of campaign signs and only in commercial areas, not in residential communities. The billboards also should never be animated or have flashing messages that distract our drivers. It is becoming difficult to see posted speed limits, stop signs, street signs and addresses to facilitate folks traveling our roads.

Absolutely, I would never support expanding the number of neighborhoods or zones, allow the continuation of permanent billboards in my neighborhood. They must be made to be a consistent size, preferably the smaller the better and only the most minimum of height from the ground and only a small amount per square miles.

Thank you,

Patricia Jones

9205 S. D St

Tacoma, WA 98444

PS, I am a registered voter and never miss an election.

From: Scott, Donlisa
Sent: Tuesday, November 7, 2017 4:32 PM
To: Inet- City Clerk
Subject: FW: Billboards - Public Comment

From: pjones1111@comcast.net [mailto:pjones1111@comcast.net]
Sent: Tuesday, November 7, 2017 2:23 PM
To: Scott, Donlisa
Subject: Billboards

Dear Donlisa,

Please convey my opinion of this billboard ordinance with the Mayor and City Council. We have too many distractions in our daily lives and I believe this new ordinance is ludicrous. We need to minimize and lessen the billboards we already have along our roads and in our communities. In some states there are laws dictating small billboards the size of campaign signs and only in commercial areas, not in residential communities. The billboards also should never be animated or have flashing messages that distract our drivers. It is becoming difficult to see posted speed limits, stop signs, street signs and addresses to facilitate folks traveling our roads.

Absolutely, I would never support expanding the number of neighborhoods or zones, allow the continuation of permanent billboards in my neighborhood. They must be made to be a consistent size, preferably the smaller the better and only the most minimum of height from the ground and only a small amount per square miles.

Thank you,

Patricia Jones
9205 S. D St
Tacoma, WA 98444

PS, I am a registered voter and never miss an election.

From: Billee Brown <jb22bj@comcast.net>
Sent: Wednesday, November 8, 2017 10:14 AM
To: Scott, Donlisa
Subject: billboard ordinance

NO!!! We do not want more and/or larger billboards in our city!!!! We would prefer to see them all taken down.

We will be unable to attend the public hearing, but want our voices heard.

Thank you,

Jack and Bille Brown
1258 S. Fernside
Tacoma, WA 98465

From: bthomas@northwestsound.org
Sent: Wednesday, November 8, 2017 12:04 PM
To: Scott, Donlisa
Subject: Billboards

I would be happy to see removal of all billboards. Perhaps leave up the illuminated one near Fife. They are unsightly. The smaller blue signs at freeway exits that mention the businesses at that exit are fine. I certainly don't want them in neighborhoods, on major thorough fare like Union Ave, Pacific, Puyallup, S. Tacoma Way, Bridgeport, Sprague, 19th, Portland Ave, etc

That's my opinion.

If you can't get rid of what we have, then certainly don't increase the size or number of them in neighborhoods.

Bob Thomas

From: justin bowie <bowiejbb@yahoo.com>
Sent: Wednesday, November 8, 2017 3:03 PM
To: Scott, Donlisa
Subject: Billboards

To whom it may concern,

I understand the city is allowing for new billboards to be built. The last thing our beautiful city needs is more billboard blight.

Please vote no on this ordinance and get rid of billboards.

Regards,

Sent from my iPhone

From: tkhook@nventure.com
Sent: Wednesday, November 8, 2017 4:49 PM
To: Scott, Donlisa
Subject: billboard mailing

EEK!. No new billboards. No bigger billboards. How about fewer and smaller ones? We have too much light pollution and visual clutter already.

Karen Randall-Hook

From: Alastair Moyer <alastair.moyer@gmail.com>

Sent: Wednesday, November 8, 2017 5:37 PM

To: Scott, Donlisa

Subject: Billboards

Hello,

I'm writing concerning the proposed billboard ordinance expansion in Tacoma.

While I am in favor of removing billboards, I am strongly against new billboards being added in neighborhoods. With the new and less permanent ways to market that harness the power of technology, businesses no longer have to advertise via the old methods

Additionally fewer billboards will beautify the city's views which is a net positive for Tacoma. Thank you for your consideration and I will be calling in as well.

Sincerely,

Alastair Moyer

From: Melissa Coolick <mcoolick@hotmail.com>
Sent: Wednesday, November 8, 2017 6:35 PM
To: Scott, Donlisa
Subject: Billboard Expansion

Dear mayor and city council

My name is Melissa Coolick and I am a homeowner here in Tacoma. I just received the flyer regarding the new billboard expansion before the city council. I want you to know as a Tacoma resident I do not support expansion of number or size of billboards. Our neighborhoods should not be littered with signs and advertisements!!! This is pure greed and very disappointing the city council is even considering this. We need to make our neighborhoods and streets full of trees and beautiful spaces, not a bunch of crappy advertisements that are nothing but ugly. Don't make Tacoma look like I-5 everywhere have a little pride in your city and think of the people who live here and call it home.

Please vote no on this proposition.

Thankyou,

Melissa Coolick

From: Rita Andreeva <ritandreeva@gmail.com>
Sent: Wednesday, November 8, 2017 7:38 PM
To: Scott, Donlisa
Subject: I am against more or bigger billboards in my neighborhood

large billboards are ugly, I want to go on record that I am against large billboards in my neighborhoods: Hilltop and Stadium District and downtown Tacoma.

M. Andreeva

From: Mary-Ann Hash <hashmaran@gmail.com>
Sent: Thursday, November 9, 2017 3:00 AM
To: Scott, Donlisa
Subject: BILLBOARDS

This is a terrible ordinance! I am firmly against cluttering our beautiful city with bigger space-using billboards. Already we are bombarded with nuisances crowding our area. Why would we want more ads and bigger ads invading our senses? I just don't see the need. Please do not allow this to happen - please.

From: Lynn Di Nino <LynnDin@msn.com>
Sent: Thursday, November 9, 2017 9:19 AM
To: Inet- City Clerk
Subject: Billboards

Hello, I'd like to go on the list of those AGAINST the 'compromise' the City Council is proposing RE the billboards question. thanks, Lynn Di Nino

From: MARK KNUTSON <mknutso@msn.com>
Sent: Thursday, November 9, 2017 10:03 AM
To: Scott, Donlisa
Subject: Billboards in Tacoma

Please do not allow for more billboards or the replacing of existing billboards with larger ones. Tacoma has many beautiful views of the Mountain, the Olympics and the Sound. Billboards obstruct these views, distract drivers and do not add to the quality of life in Tacoma. I have been to other cities (SLC in particular) which seems to have no restrictions on billboards and the onslaught of messaging is oppressive. They have managed to destroy their wonderful scenery and have created an offensive and distracting barrage of private interest. Businesses who really want to grow, should invest in the quality of life in Tacoma and the surrounding area and not destroy what is our biggest draw to our City.

Thanks,
Mark

From: Alyce Schaffer <aaschaffer@gmail.com>
Sent: Thursday, November 9, 2017 11:21 AM
To: Scott, Donlisa
Subject: Billboards

I am speaking to one offensive, illogically place billboard. It is atop the American Cancer Society/Discovery Shop @2512 N. Proctor St.

Perhaps the new multistoried apartment building next door will nudge the building owners to remove it. It "should" have been removed years ago according to city ordinances, quoting a former Tacoma City Council member.

What can you do?

Alyce Schaffer, long time volunteer at the shop and home owner in the district.

From: ALICE V BRUNS <BRUNS702@msn.com>
Sent: Thursday, November 9, 2017 12:15 PM
To: Scott, Donlisa
Subject: Billboards

NO MORE BILLBOARDS!

Any more billboards and will look like a public arena. Our first sight when entering Tacoma via I-5 is not more than flashing lights and hideous signs. Enough.

Alice Bruns

3902 N Gove St

Tacoma, Wa 98407

Sent from [Outlook](#)

From: sharsch@wamail.net
Sent: Thursday, November 9, 2017 11:36 AM
To: Scott, Donlisa
Subject: Billboards

Hello.

I received your mailer in regards to billboards. I vote "NO" for any billboard expansion into new areas, billboard sizes and everything else which would expand the use of billboards beyond current levels.

Thank you for passing my vote and/or email on to the Tacoma City Council.
Sasha Harsch

From: Hans Kensler <hans.kensler@gmail.com>
Sent: Thursday, November 9, 2017 12:44 PM
To: Scott, Donlisa; Blocker, Keith
Subject: Billboard ordinance

Good afternoon,

I do not support billboards of any type or size in my community. Please do everything you can to limit the spread of billboards. The new larger billboards are over height and are destructive to a classic neighborhood. I do not support any new billboards and would like to see a active campaign to outlaw billboards in the city limits of Tacoma.

Please let me know what you will be doing to stop the scourge that billboards place on a neighborhood.

Best regards

Hans Kensler

From: Paige Price <pricepai@gmail.com>
Sent: Thursday, November 9, 2017 1:44 PM
To: officers@nenc.org; Ibsen, Anders; Thoms, Robert; Blocker, Keith; Campbell, Marty; Lonergan, Joe; Walker Lee, Lauren; McCarthy, Conor; Mello, Ryan; Scott, Donlisa
Subject: Billboards

Hello,

First off, thank you for your service to our city of Tacoma. I have been here twenty years, as has been our company, and we have seen many improvements over these years. The air quality is now excellent, the park system is very well kept, and roads, water, are better, for starters. Graffiti has been kept to a minimum. The litter along the roads is a bit better. So, thank you for your efforts - they are well-received.

I love our medium-town feel. We didn't move our company (and selves) to Seattle for this reason. Yes, Tacoma is growing - but it still is down to earth and grounded in reality, more-so than other cities I have visited. Please, maintain this. We don't have to go billboards, and especially bigger than we already have. I don't know the thinking behind this - is it more income from taxes? Please figure out another way. We are constantly being bombarded by stimuli. Let's keep Tacoma's eyes on the road and a maintain a sense of tranquility wherever we can find it or be in control of it.

Communities thrive in beauty and solid work, in conjunction with grounded education. Please strive for this type of atmosphere.

Sincerely,

Paige Price

2701 N. 30th Street

Tacoma, WA 98407

From: GaryKreis <Passages20@aol.com>
Sent: Thursday, November 9, 2017 2:01 PM
To: Scott, Donlisa
Subject: Billboards

Please no expansion of billboards in Tacoma!
We feel strongly about this.

Chris and Gary Kreis
4505 N 30th ST
Tacoma, WA. 98407

Sent from my iPhone

From: Charles Grayson <tg000@hotmail.com>

Sent: Thursday, November 9, 2017 3:16 PM

To: Scott, Donlisa

Subject: BILLBOARDS.....NO!!

To propose new billboards in family communities is as dumb as those drug injection sites that in king county. Family communities should be sacred and not a play ground for big business advertisement. Tacoma, ☹ sad to say is becoming a filthy greedy city like seattle if these billboards are allowed in family neighborhoods in order to please big business. So i'm saying HELL NO!!! to that silly proposal.

Sincerely

Registered voter

Sent from my T-Mobile 4G LTE device

From: Katharine Dexter <kdex0404@gmail.com>

Sent: Thursday, November 9, 2017 5:56 PM

To: Scott, Donlisa

Subject: No on Billboard Ordinance!

Please do not pass this ordinance. It does nothing to enhance the beauty or livability of our city. Please don't allow more billboards and certainly not huge 672 sq ft ones! We do not need to provide advertising space that affects the ambience of our neighborhoods. Thank you, Katharine Dexter

Sent from my Verizon Motorola Smartphone

From: Nikki Coulter <ncoulter034@gmail.com>
Sent: Thursday, November 9, 2017 8:03 PM
To: Scott, Donlisa
Subject: New Billboard Size

Dear Mr. Scott,

I am writing you to express my opposition against the new billboard size and expansion. As a citizen of this beautiful city, I do not want to see giant billboards erected for the sole purpose of advertisements. They will disfigure our great city and I cannot support this effort. Please do everything in your power to prevent this project from continuing. Thank you for all you have done to serve our community.

Best,

Nikki Coulter
ncoulter034@gmail.com

From: ljburns775@gmail.com
Sent: Thursday, November 9, 2017 8:57 PM
To: Scott, Donlisa
Subject: Billboards

> I am voicing my opinion against the new 48 x 14' billboards. We have such great beauty in our area that huge billboards would obstruct the view we currently enjoy. For instance, we had a great sight of Mt Rainier along Orchard Street for years, which is now obstructed by a monster cold storage facility. If we don't start putting limits on view obstruction, property values will go down. There should be a value placed on aesthetics. Billboards are so old school!

>

> Please vote against the new billboards.

>

> Thank you.

>

> Sent from my iPhone

From: Loreli Barks <loreli@heart2heartweddings.com>
Sent: Friday, November 10, 2017 12:42 AM
To: Scott, Donlisa
Subject: Billboards

Dear person Scott,

I am not able to attend the Nov. 14 Public Hearing regarding “Billboards”. Please, in my absence, express my disapproval for Billboards. Those which already exist are obtrusive enough—under law—let it be. But why on earth would any Tacoma resident OR REPRESENTATIVE approve additional AND LARGER billboards? If the answer is yes based upon income for the City of Tacoma—WOW! Are we prostituting ourselves? Think about it! Even I, as a small business owner (very very small) have thought about Billboard advertising. But I say **NO! Billboards are for those fat companies that can pay for such obtrusive advertising and I DEMAND they go elsewhere. They seriously detract from the beauty and appeal of Tacoma as a City of Pride and Destiny. PLEASE, DO NOT LET BILLBOARDS DESTROY OUR BEAUTIFUL CITY OF DESTINY!!!** All companies/organizations within our great city have open to them a number of options for getting their word out and spreading their message without the use of Billboards that actually SHOUT AT YOU FROM THE ROADWAY. Now that I have taken the time to have written the foregoing, would it really be beneficial for me (and fellow Tacoma resident) to be present at your meeting on Nov. 14 or have you had a great enough response to successfully carry one without me?

If I were to create a moto for Tacoma, it might read as follows:

The City of Happening!

Or

From: Cynthia Hammer <cynthiahammer@hotmail.com>
Sent: Friday, November 10, 2017 9:09 AM
To: Scott, Donlisa
Subject: Attn: Mayor and City Council Members

Greetings

I am unable to attend the public hearings on Billboards, but want to express my opinion in opposition to increasing the size and number of billboards throughout the city. They don't enhance the city's appearance and there are other ways for businesses to make the public aware of their existence.

Cynthia Hammer
4116 N 39th St
Tacoma, WA 98407

From: boilerbilloftacoma <boilerbilloftacoma@gmail.com>
Sent: Friday, November 10, 2017 9:43 AM
To: Scott, Donlisa
Subject: Billboards

Please, no more new billboards, they can take down as many as they wish.

At least limit the size, not as large as my home!

Bill and Ludigaria Crandell

Sent from my Galaxy Tab® S2

From: Jennifer Anspach <jenn.anspach@gmail.com>

Sent: Friday, November 10, 2017 2:21 PM

To: Scott, Donlisa

Subject: Billboards

Tacoma is such a unique, beautiful city. If we continue to add more advertising, we will only take away from the natural beauty. Please don't allow for additional or larger billboards!

Sincerely,

Jennifer Anspach

From: Janet Grimes <jg110840@gmail.com>

Sent: Friday, November 10, 2017 3:04 PM

To: Scott, Donlisa

Subject: Billboards

Regarding the proposed Tacoma ordinance to expand zones for new billboards and to allow for the continuation of billboards in the community:

I OPPOSE such ordinance. Billboards are offensive everywhere and I would prefer having none at all.

Janet Grimes

6207 North 24th St.

Tacoma, WA 98406

From: Monika Newitt <monika@nventure.com>
Sent: Friday, November 10, 2017 3:34 PM
To: Scott, Donlisa
Subject: Billboards

Dear Mayor:

I object to the proposal presently before the city of Tacoma concerning Billboards. I strongly object to larger or more billboards.

Billboards cheapen the appearance of our city, our streets and our communities. They block views and can create hazards for drivers through distraction and blocking vision.

The size and quantity should be limited, as well as locations. Tasteful signage upgrades our entire city and can also discourage litter because it increases community pride. Please reject this proposal which would only encourage advertisers to add more ugly signage.

Thank you.

Monika Newitt
7305 N. Skyview Place
#G204
Tacoma, WA 98406

From: jim almy <jma66mn@thewiredcity.net>
Sent: Friday, November 10, 2017 4:11 PM
To: Scott, Donlisa
Subject: billboards

Received the mailer announcing next Tuesday's meeting re billboards.

Just interested in who sent it, what their connection to the issue could be. Please advise. Thanks, Jim Almy, 1531 N Prospect St.

From: Jon Busse <jonhbusse@att.net>
Sent: Saturday, November 11, 2017 9:32 AM
To: Scott, Donlisa
Subject: Billboard regulations

I understand there is City Council consideration pending to revise/expand the size and location of billboards within the City of Tacoma.

I am opposed to any increase in the size and number of billboards within our city.

Billboards are inherently ugly to all and distracting to drivers and should, if anything, be reduced in number and size or eliminated entirely.

Please make my comments known to the Mayor and City Council members.

Thank you.

Jon H. Busse
1515 Dock Street PH904
Tacoma, WA 98402
760/622-7525

From: Tom Dolan. <planningtoteach@hotmail.com>
Sent: Saturday, November 11, 2017 2:52 PM
To: Scott, Donlisa
Subject: Billboard Ordinance

Dear City Council,

I recieved your flyer concerning the proposed ordinance to expand the number of neighborhoods and zones for larger permanent billboards.

I do not approve of this ordinance. I object to more and/or bigger billboards in my neighborhood, or in any neighborhood in the City of Tacoma. They will spoil the appearance of our beautiful skylines.

Please do not approved the Billboard Ordinance.

Karen Dolan
7238 Rosemount Circle
Tacoma, 98465

From: Paula Hoyt <Paula@FredandPaula.com>
Sent: Saturday, November 11, 2017 4:04 PM
To: Scott, Donlisa
Subject: website inquiry- Billboards

Please, please, reduce the number and size of billboards in Tacoma. We truly do not want to go in the direction of larger/more!!! I urge you to pay attention to the folks who live and drive in Tacoma and hold the line with billboard advertisers!

Very sincerely,
Paula L.K. Hoyt

From: basilc@nventure.com
Sent: Saturday, November 11, 2017 7:57 PM
To: Scott, Donlisa
Subject: No More Distracting Billboards

I am a senior citizen who had cataract surgery in both eyes. Whenever I drive I-5 through Fife I have look away from the big billboard signs although I am supposed to be looking straight ahead in fast moving traffic. Am I an accident waiting to happen because of those huge bright billboards???

Tacoma does not need to look like Las Vegas to be a City of Destiny. Dont expand billboard zones. Put sunset limits on billboards with extravagant lights. Take control of the destiny of the City...and not be just for a few bucks more.

Anthony Clarke
6407 South 12th Apt 1701
Tacoma, WA 98465

From: Suellen Jeffrey <omhome4@aol.com>

Sent: Sunday, November 12, 2017 5:14 PM

To: Scott, Donlisa

Subject: Billboards

My husband and I are both voters on the Eastside. The lights from the Puyallup Tribal signs are already too large and too bright. We both wish to voice our displeasure with the new ordinance concerning billboards. We definitely want less billboards, smaller billboards and less zones for billboards. Please do not pass this ordinance. Sincerely Suellen Jeffrey and Jeff Howe

From: Esther Freeman <nzoregonian@gmail.com>
Sent: Sunday, November 12, 2017 5:14 PM
To: Scott, Donlisa
Subject: Disagree with changes in billboards
Attachments: TacomaCityCouncil.Billboards.pdf

Dear Mr. Scott,

Thank you for apprising us of the upcoming discussions on billboards. Please see my attached letter, which strongly disagrees with any of the changes, but also indicates we need to take away marijuana billboards.

Sincerely,

Esther Freeman

" We must be free not because we claim freedom, but because we practice it." -- William Faulkner, writer

11/10/2017

Esther Freeman
1524 South 94th Street
Tacoma, WA 98444-4274

City of Tacoma City Council
747 Market Street
Tacoma, WA



Greetings City Council Members:

I am writing concerning the “ordinance” before the council to 1) Expand the number of neighborhoods you wish to place billboards in, 2) the change in zones for billboards, 3) the proposed increase in size of billboards, and 4) continuation of permanent billboards in the Tacoma Community. Thank you for listening to our concerns over this matter.

Firstly, I do not believe billboards should be allowed in residential neighborhoods ever. It is one thing to be on a thoroughfare such as a highway or business district, but they should never be placed in an area where people are living. Stress is enough for people without that, and a home is a retreat from the rest of the world. Placing billboards in such areas are offensive and would decrease one’s self-image, not to speak of creating a lower value of homes. Think of the wealthy who purchase or build homes where they can see their favorite mountain or lake. The rest of us usually can only enjoy such scenes unless we go camping or renting a cabin (usually for an exorbitant cost). Our homes need to maintain the pride we have in the areas we’ve chosen or are able to afford to live.

Second, I am already greatly offended by all the signs throughout the greater Tacoma area which advertise marijuana sales. Cigarettes are no longer advertised on billboards, and although not tobacco, marijuana remains in a similar category. If you are proposing larger billboards, then you will offend many of us even more. I plead with you to look at issues of addiction from other drugs and substances. It has long been known that the use of marijuana frequently leads to use of stronger substances which are addictive. Why would you want that on your shoulders? Neither do I wish to have larger ads bombarding me whether along the freeway or along our already busy streets with floods of billboards. I get it! You just want more money to come into our coffers. I don’t think this is the solution. I think if anything, this ordinance should be the next ballot for the people. Yes, that means you need to table it and allow the people to vote with their integrity. Think about it! No sign should be the size of a frontage of a lot. That is huge. Do you think we are blind?

Third, there are times that choices need to be revoked. Permanent isn’t always the solution. A trial and error time should be enforced. Again, this should be a vote, not a choice of the city council.

Finally, I believe you are not being fair to the community in light of advertising. We aren’t blind or we wouldn’t/shouldn’t be driving. There is no necessity of bigger billboards, and it isn’t important to place them in residential neighborhoods – EVER. As a registered voter and resident of the City of Tacoma, I plead that you listen to us and to not follow through with your desire for larger billboards, nor that you place them in our residential neighborhoods. As a parks and recreation professional, you would decrease the beauty and natural integrity of our homes and lives. Again it smacks only of a desire to increase the funds for the City of Tacoma. This should not be the way.

Very truly yours,

Esther Freeman
Certified Parks and Recreation Professional

1524 South 94th Street



From: jill brothers <brothersjill@hotmail.com>
Sent: Sunday, November 12, 2017 5:39 PM
To: Scott, Donlisa
Subject: No billboards

Hello,

We are not able to attend the meeting on 11.14 but would like to weigh in on the billboard issue. We are unequivocally not in favor of any billboard expansion and further would like to see existing billboards phased out and commercial signage more regulated with height restrictions in predominantly residential areas.

Respectfully,

Voters:

Jill and Brant Brothers

5642 s bell st

Tacoma 98408

Sent from my Verizon, Samsung Galaxy Tablet

From: Dennis <dbrekke793@aol.com>
Sent: Monday, November 13, 2017 10:29 AM
To: Scott, Donlisa
Subject: NO

Too intrusive, flashing billboards with led's lights, lighting up the night sky.

Isn't Direct mail, phone solicitors newspaper radio ads television ads enough. More and more distractions to the drivers enough is enough.

NO

Dennis Brekke
253-951-8384

From: jant10@juno.com
Sent: Monday, November 13, 2017 3:03 PM
To: Scott, Donlisa
Subject: Tacoma billboards

I'm unable to attend the public hearing on Nov. 14th regarding billboards in Tacoma, but please make note of my response:
I am not in favor of a larger number of neighborhoods with billboards,

I am not in favor of expanded zones for billboards,

I'm not in favor of continuing the permanent billboards in Tacoma,

and, honestly, I'd just as soon have them all removed!!

Thank you.

Jan Taylor

909 North "I" Street

253-428-8282

From: Joan Waldrop <jwaldrop@nventure.com>
Sent: Monday, November 13, 2017 3:22 PM
To: Strickland, Marilyn
Subject: My Opinion on Billboard Proposal

Dear Mayor Strickland,

As a 20-year resident of Tacoma, I have always hated driving through areas with large billboards. Not only do they present a poor image of our City to outsiders, but they are the kind of in-your-face advertising that we try to keep our children from. This type of uncontrolled commercialism is what drives families from the city towards planned communities like Dupont.

If the upcoming proposal is the absolute best we can do, I understand. But I would wholeheartedly support a continued legal battle to make Tacoma a cleaner, more respectable place to raise our children. Please fight to limit the size, number and content of these advertisements.

Thanks,
Joan Waldrop

From: kridgley business-assist.biz <kridgley@business-assist.biz>
Sent: Monday, November 13, 2017 4:39 PM
To: Scott, Donlisa
Subject: NO TO EXPANSION OF SIZE OR INCREASED NUMBER OF BILLBOARDS IN TACOMA

Please note that I oppose the proposed ordinance to allow larger and more billboards in Tacoma.

Thank you,

Katheryn Ridgley

2067 S Puget Sound Ave, Tacoma, WA 98409

From: Vicki Seaman <vseaman98407@gmail.com>

Sent: Monday, November 13, 2017 5:04 PM

To: Strickland, Marilyn

Subject: Billboards

Dear Mayor Strickland:

It is my hope that no new billboards go up. I would like to see Tacoma have less billboards. I think Tacoma would be more beautiful without all the eyesores.

Thanks you for your consideration,

Vicki Seaman

4137 N 30th St

Tacoma, WA 98407

253-370-0393

From: Jane Ellis <ellisjh@harbornet.com>
Sent: Monday, November 13, 2017 7:20 PM
To: Scott, Donlisa
Subject: billboards

Follow Up Flag: Flag for follow up
Flag Status: Flagged

I do not want the continuation of permanent billboards and definitely do not want the new billboard size. The less billboards the better.

Thanks,
Jane Ellis
1211 N. Junett

From: David and Tracey J. <thejones2007@hotmail.com>

Sent: Monday, November 13, 2017 8:03 PM

To: Scott, Donlisa

Subject: RE: city billboard ordinance

Follow Up Flag: Flag for follow up

Flag Status: Flagged

Good evening!

My name is Tracey Jones and I recently received a notice stating that the city of Tacoma is expanding the number of neighborhood and zones for newly constructed billboards in my local community. First and foremost I would like to thank you for your service to our state and our local community. Your tireless work is of no small task and is greatly appreciated! My husband and I have two toddlers so I will not be able to make the public hearing, however, I did want to express my concern of this ordinance. My husband and I chose to live in South Tacoma as the housing prices have allowed it so I can stay home and raise our two children while he works. We have concern over this new billboard ordinance as there are already some billboards with extremely questionable material on them surrounding our neighborhood that I am grateful that they are covered, for the most of the year, by trees and foliage. However, I would be heartbroken if these Billboards were enlarged or if they moved closer to my home as there are already some things in South Tacoma that I'm having to explain that toddlers shouldn't have to know about let alone something approved by the city on a billboard encroaching on our neighborhood. Again, I wish to respectfully exhort you to reject any approval of allowing any larger billboards or expanding the current zoning of the billboards to allow them into more neighborhoods.

Thank you again sincerely for your work for our community!

Sincerely,

Tracey Jones

From: David and Tracey J. <thejones2007@hotmail.com>
Sent: Monday, November 13, 2017 8:10 PM
To: Myers, Rosheida
Subject: RE: City of Tacoma Billboard Ordinance

Good evening!

My name is Tracey Jones and I recently received a notice stating that the city of Tacoma is expanding the number of neighborhood and zones for newly constructed billboards in my local community. First and foremost I would like to thank you for your service to our state and our local community. Your tireless work is of no small task and is greatly appreciated! My husband and I have two toddlers so I will not be able to make the public hearing, however, I did want to express my concern of this ordinance. My husband and I chose to live in South Tacoma as the housing prices have allowed it so I can stay home and raise our two children while he works. We have concern over this new billboard ordinance as there are already some billboards with extremely questionable material on them surrounding our neighborhood that I am grateful that they are covered, for the most of the year, by trees and foliage. However, I would be heartbroken if these Billboards were enlarged or if they moved closer to my home as there are already some things in South Tacoma that I'm having to explain that toddlers shouldn't have to know about let alone something approved by the city on a billboard encroaching on our neighborhood. Again, I wish to respectfully exhort you to reject any approval of allowing any larger billboards or expanding the current zoning of the billboards to allow them into more neighborhoods.

Thank you again sincerely for your work for our community!

Sincerely,

Tracey Jones

From: Todd Bond <bndmgc@gmail.com>
Sent: Tuesday, November 14, 2017 5:10 AM
To: Inet- City Clerk
Subject: BILLBOARD REMOVAL

Please forward my objection to any City Council action in support of keeping or expanding Billboards in Tacoma. I am Against any action that does not remove and eliminate billboards. I am also appalled at the amount of money Victoria Woodards accepted from the Billboard Industry. Roy T Bond, 407 North E Street, Tacoma.

From: Jenifer Holmes <blowerjk@aol.com>
Sent: Tuesday, November 14, 2017 6:25 AM
To: Inet- City Clerk
Subject: Billboards

I am against the billboards in tacoma!

Jenifer Holmes
253-431-2325

Sent from my iPhone

From: Mollie <mollieh@rocketmail.com>
Sent: Tuesday, November 14, 2017 6:41 AM
To: Inet- City Clerk
Subject: Billboards

Good Morning

I'm against ALL billboards in our fair city. Billboards do not elevate the aesthetic; they make any area look trashy. There are other effective avenues for advertising that should be used instead.

Mollie Heilesen
253-752-0440

Sent from my iPhone

From: John Atwill <atwill.john@gmail.com>
Sent: Tuesday, November 14, 2017 6:58 AM
To: Inet- City Clerk
Subject: Billboard Proposal

I oppose the billboard proposal under consideration by the Tacoma City Council. This so-called compromise does not reduce the number of billboards.

Other jurisdictions both larger and smaller than Tacoma have enacted billboard ordinances that reflect the community values promulgated in the balance of their land use regulations and the obsolescent nature of the billboard/advertising industry as currently described in the proposed settlement. I cannot understand why the pre-existing ordinance, well within national norms, was abrogated in favor of this capitulation, solely out of fear of litigation.

From: Cathy Taylor <mcrataylor@yahoo.com>

Sent: Tuesday, November 14, 2017 7:08 AM

To: Inet- City Clerk

Subject: Billboard proposal

I would like my council member to know I vehemently oppose billboards these days anywhere but particularly within city limits.

Vote NO.

Respectfully,

Cathy Taylor

514 N. 11th Street, #5

Tacoma, WA 98403

From: liisa Pangborn <liisapangborn@yahoo.com>
Sent: Tuesday, November 14, 2017 7:59 AM
To: Scott, Donlisa; Mello, Ryan; Thoms, Robert; Walker Lee, Lauren
Subject: Billboard draft comments

Dear Council,

The visual landscape is important, and should be protected like any public resource for the greater good of all people.

The proposed agreement does not accomplish the spirit of reducing, removing and limiting billboards in the City. Please do not kick the can down the road any longer and enforce the intent of the original billboard code from 1997. **Please do not choose private business over the rights of the citizens to amend the code through a public process and enforce it.** Clear Channel and Lamar have made their investments back, this code was written 20 years ago- there has been ample time to adapt to this change. The permit revisions for existing billboards to conform, expanded zones for new billboards and increased size are simply unacceptable.

Tacoma has so much natural beauty and history to prioritize over advertising. This agreement will have long lasting effect, do the right thing by its citizens.

Thank you for your service,

[Liisa Pangborn, IIDA, LEED AP](#)

[617 N Anderson St](#)

[Tacoma, WA 98406](#)

From: Laura Hull <lauraclark.hull@gmail.com>
Sent: Tuesday, November 14, 2017 8:06 AM
To: Inet- City Clerk
Subject: Billboard proposal

I strongly oppose the billboard proposal under consideration by the Tacoma City Council. This so-called compromise does not reduce the number of billboards.

Other jurisdictions both larger and smaller than Tacoma have enacted billboard ordinances that reflect the community values promulgated in the balance of their land use regulations and the obsolescent nature of the billboard/advertising industry as currently described in the proposed settlement. I cannot understand why the pre-existing ordinance, well within national norms, was abrogated in favor of this capitulation, solely out of fear of litigation.

From: Scott, Donlisa on behalf of Strickland, Marilyn
Sent: Tuesday, November 14, 2017 9:18 AM
To: Scott, Donlisa
Subject: FW: Billboards1

From: Vicki Seaman [mailto:vseaman98407@gmail.com]
Sent: Monday, November 13, 2017 5:04 PM
To: Strickland, Marilyn <Marilyn.Strickland@ci.tacoma.wa.us>
Subject: Billboards

Dear Mayor Strickland:

It is my hope that no new billboards go up. I would like to see Tacoma have less billboards. I think Tacoma would be more beautiful without all the eyesores.

Thanks you for your consideration,

Vicki Seaman
4137 N 30th St
Tacoma, WA 98407

253-370-0393

From: William R Ellis <wrellis3@me.com>
Sent: Tuesday, November 14, 2017 9:40 AM
To: Scott, Donlisa
Subject: Billboards!

To the City Council:

I am very concerned about the proposed Billboard ordinance you are taking up. It appears to me that you have lost sight of the worthy goal of significantly reducing or eliminating the Billboard Blight in Tacoma. Several years ago, the Council moved toward elimination of Billboards altogether, but after threats of lawsuits from the owners, you backed off and entered a period of negotiation. The result is near abandonment of the goal and an ordinance that would largely meet the aims of the Billboard lobby.

This shows a lack of leadership on the Council's part. I for one, along with, I am sure, many other citizens of Tacoma, demand you show some backbone and take on the lobby full-force. We deserve a better environment, free of the blight of these ugly advertising signs.

Thank you for listening. Do the right thing. We will be watching.

Raney Ellis
1211 N. Junett St.
Tacoma
253-241-4479

From: Scott, Donlisa
Sent: Tuesday, November 14, 2017 9:42 AM
To: Scott, Donlisa
Subject: FW: Billboards - Elisabeth Benard

From: Elisabeth Benard [mailto:elisbenard@gmail.com]
Sent: Tuesday, November 14, 2017 9:14 AM
To: Scott, Donlisa <DMScott@ci.tacoma.wa.us>
Subject: Billboards

Dear Mayor and City Council members,

I am unable to attend the public hearing tonight. I would like to voice my opinion that I am against expansion of large billboards in residential neighborhoods of Tacoma. Please vote against expansion and use of large billboards, especially those that maybe 14x48. Also billboards should have buffers and appropriate designs.

Thank you for your consideration,
Elisabeth Benard

--
Elisabeth Benard

From: Kathleen Brooker <kbrooker1@gmail.com>
Sent: Tuesday, November 14, 2017 10:01 AM
To: Scott, Donlisa
Cc: Inet- City Clerk
Subject: Billboard Sign Code: public hearing

Dear Deputy Mayor Thoms.

I am a resident of your district and North End neighborhood. I am writing to urge you to return to the drawing board in the City's tentative "compromise" with billboard companies. Tacoma is on the cusp of new growth and development. We would like to see this happen in a positive and inspiring way. But change needs careful oversight to assure a high quality built and natural environment. We have so much going for us in this beautiful city. But it can and will be undermined if we allow an expansion of the visual blight of billboards. The City should be making a concerted effort to REMOVE billboards from our neighborhoods and entrances, not facilitating their spread.

Many years ago I lived in the City of Lowell MA, a working class community and national historic site. Ackerly Communications launched an extremely well financed effort to continue the placement and enlargement of billboards on the roofs of historic buildings throughout the downtown National Park. It took concerted civic leadership; led by the Mayor, National Park, and Chamber of Commerce; to overcome the huge financial and legal resources of this billboard company. But the long term results have benefited not only the Park and residents but downtown businesses and visitors. New investments subsequently met a higher standard and attracted a higher caliber of development. Lowell today is what Tacoma can be: a beautiful, proud, working historic city unmarred by ugly and distracting (and ever larger and brighter) billboards.

Tacoma is at a crossroads. Are we going forward with high standards and expectations for our built environment? Or will we capitulate to an aggressive and well-financed industry which does not have our civic interests at heart?

Please, Council Member Thoms: do not support the proposed amendments to Title 13 of the Municipal Code ordinance before you this evening. We can and must do better.

Sincerely,

Kathleen Brooker
417 North M Street
Tacoma WA 98403
kbrooker1@gmail.com

From: Martha Webb <webbkin@blarg.net>
Sent: Tuesday, November 14, 2017 10:53 AM
To: Inet- City Clerk
Subject: Billboards

To members of the City Council;

support a plan that would remove billboards from the City of Tacoma. Distracting, unsightly.

Marty Webb
1215 North K St.
Tacoma WA98403

Sent from my iPad

From: Susan Ryan <sryan@harbornet.com>
Sent: Tuesday, November 14, 2017 1:05 PM
To: Inet- City Clerk
Subject: Billboard Public Hearing Comment

Dear City Clerk,

Please except this as our public comment.

We Jeff and Susan Ryan do not support the new Billboard proposal being put forth, period. The in ability by the City of Tacoma to get this situation under control years ago has done nothing to instill confidence going forward.

Respectfully,

Jeff and Susan Ryan
Tacoma, WA

From: Scott, Donlisa
Sent: Tuesday, November 14, 2017 1:12 PM
To: Scott, Donlisa
Subject: FW: Billboards - Terri Kruger

-----Original Message-----

From: Terri Kruger [mailto:terrinkruger@gmail.com]
Sent: Tuesday, November 14, 2017 1:01 PM
To: Scott, Donlisa <DMScott@ci.tacoma.wa.us>
Subject: Billboards

Dear Powers that represent us,

The view from my living room window is already littered with 4 billboards, one of them electric. I live off of South 12th and Sprague, which is within the city limits, but ours is also a residential neighborhood, with trees and flower boxes, newly built fences, and new homeowners, trying to renovate the gems fallen into disrepair. We want to attract people who will increase the beauty and value of our neighborhood.

Please, Please do not add more billboards or increase the size of the existing ones in our neighborhood. We want to be attractive, and we want to attract people who will enhance our environment.

Sincerely,
Terri Kruger
2009 South 12th St
Tacoma

Sent from my iPad

From: Scott, Donlisa
Sent: Tuesday, November 14, 2017 1:14 PM
To: Scott, Donlisa
Subject: FW: Billboards - Mario

From: MARIO [mailto:robinh3107@comcast.net]
Sent: Tuesday, November 14, 2017 11:00 AM
To: Scott, Donlisa <DMScott@ci.tacoma.wa.us>
Subject: Re: Billboards

I am against expanding the number AND the sizes of billboards in Tacoma. Please note this.

Also, I am very, very much against the LNG project!!!! This must stop! If we do not put the environment first, there will be need for jobs!

I am a long time Tacoma resident and my husband and children - also residents and voters - feel the same way.

Thank you,

Robin Hernandez
3107 59th Ave NE
Tacoma WA 98422

From: Taylor Shanaman <Taylor@tpcar.org>
Sent: Tuesday, November 14, 2017 2:14 PM
To: Inet- City Clerk
Subject: Letter to City Council Regarding Ordinance 28470
Attachments: TPCAR Letter on Ordinance 28470 Tideflats Interim Regulations.pdf

Hello,
Attached is a letter addressed to the Tacoma City Council regarding Ordinance 28470.

Thank you,

Taylor Shanaman
Government Affairs Director
[Tacoma-Pierce County Association of REALTORS](#)
2550 S Yakima Ave, Ste C
Tacoma, WA 98405
253-473-0232 x203



November 14, 2017

Tacoma City Council
747 Market St
Tacoma, WA 98402

Tacoma Ordinance 28470 Tideflats Interim Regulations

Dear Members of City Council,

The Tacoma-Pierce County Association of REALTORS® (TPCAR) is a 2000 member strong local association made up of real estate brokers who are deeply invested in Pierce County and its growth. We are writing in reference to our concerns regarding Ordinance 28470. We thank you for considering TPCAR's comments below.

TPCAR is concerned this ordinance would halt expansion and development in an area that is the engine of our city's economy. It is the duty of counties and cities planning under the Growth Management Act (GMA) to provide areas for economic development and housing to accommodate growth within the urban areas so that areas outside the Urban Growth Area (UGA) are not environmentally impacted. If businesses cannot locate or expand in the tideflats where will they move to but eventually outside the urban growth area? That defeats the purpose of the GMA which is to build and expand in areas where there is infrastructure, transportation and services. The tideflats provide for interstate and international trade which allows for tremendous economic stimulation in Tacoma and Pierce County. One specific point that concerns us is the prohibition on new development above Marine View Drive. As you may know, Pierce County is one of the fastest growing counties in the nation and as a result we are in a housing crisis. If the city council chooses to remove developable residential land from the market this will further impact the cost and the availability of housing. As Seattle becomes more unaffordable, individuals are looking south for housing options, a prohibition on new residential development above Marine View Drive would take Tacoma's most northern neighborhood out of the running for housing options. We acknowledge the need for planning in the tideflats area but the prohibition of development in that area would severely impact the economy. Lastly, the city and the county worked diligently to attract Amazon to our area sending the message that the welcome mat was out for businesses wanting to locate here. What message will we be sending with this Ordinance?

TPCAR would encourage the city to consider the negative impact these interim regulations could have. Tacoma's heart is the Port, and the jobs and economic growth it provides.

Sincerely,

A handwritten signature in blue ink that reads "Taylor Shanaman".

Taylor Shanaman
Government Affairs Director
Tacoma-Pierce County Association of REALTORS®

From: Gary Knudson <gknudsonarchitect@gmail.com>
Sent: Tuesday, November 14, 2017 2:24 PM
To: Inet- City Clerk
Subject: Resolution 39850

Madame Mayor and Councilmembers-

I am adamantly opposed to the subject ordinance as proposed for the following reasons:

1 It does not relate any proposed signage actions to underlying provisions of the Subarea Plans, Comp Plan elements or their respective review standards and bodies

2 It does not adequately tax or sunset any privileges ceded to this sole provider.

3 It does not comport with long-standing trends, regionally and across the nation, with regard to the control and subordination of this obsolescent industry. Extant and growing expressions of public sentiment and expression of community values related to the upgrading and refining of our land-use codes to the benefit of local districts and neighborhoods augur clearly against such a capitulation.

4 It amounts to an act of legislated blight which will far outlive this council, but will be the singular action by which it is remembered by those who must live with the consequences.

--

Gary Knudson

3307 North 25th Street

Tacoma, WA 98406
253-752-5014

From: Scott, Donlisa
Sent: Tuesday, November 14, 2017 2:31 PM
To: Emery, Nicole
Subject: FW: Billboards - Renee Bogue

One more public comment.

From: Renee Bogue [mailto:rabtacoma@gmail.com]
Sent: Tuesday, November 14, 2017 1:55 PM
To: Ibsen, Anders <anders.ibsen@cityoftacoma.org>; McCarthy, Conor <Conor.McCarthy@ci.tacoma.wa.us>; Scott, Donlisa <DMScott@ci.tacoma.wa.us>; Lonergan, Joe <joe.lonergan@cityoftacoma.org>; Blocker, Keith <Keith.Blocker@ci.tacoma.wa.us>; Walker Lee, Lauren <Lauren.WalkerLee@cityoftacoma.org>; Campbell, Marty <marty.campbell@cityoftacoma.org>; Thoms, Robert <robert.thoms@cityoftacoma.org>; Mello, Ryan <rmello@cityoftacoma.org>
Subject: Billboards

Dear Mayor and City Council Members,

I am unable to attend the public hearing tonight but wanted my voice heard as a tax payer and Tacoma citizen. I am strongly against the expansion of billboards and would like to express my reasons.

First, as a state we have decided that anything that distracts drivers is now illegal. I find billboards very distracting as the whole point is to divert attention away from the road. We have been told that even a "glance" at our phones is a distraction so why then would we support other distractions.

Second, I consider billboards a blight on our community. They add nothing and but take so much away. I notice just how much they "trash" up our roadways the most when I am in communities or traveling on freeways that are free from billboards.

Third, I am not sure who receives income from these billboards. Perhaps it is a necessary revenue for the City of Tacoma to provide services. Even if it is perhaps there are other methods that will not cause a blight to our community.

As a citizen I do not support in anyway the expansion of billboards in any area. I support the phasing out of billboards. Their time has passed. People have access to all types of information in ways they never had ten or twenty years ago.

Sincerely,
Renee Bogue
6411 View Ridge Drive
Tacoma, WA 98407

From: Scott, Donlisa
Sent: Tuesday, November 14, 2017 2:31 PM
To: Scott, Donlisa
Subject: FW: Billboards - Renee Bogue

From: Renee Bogue [mailto:rabtacoma@gmail.com]
Sent: Tuesday, November 14, 2017 1:55 PM
To: Ibsen, Anders <anders.ibsen@cityoftacoma.org>; McCarthy, Conor <Conor.McCarthy@ci.tacoma.wa.us>; Scott, Donlisa <DMScott@ci.tacoma.wa.us>; Lonergan, Joe <joe.lonergan@cityoftacoma.org>; Blocker, Keith <Keith.Blocker@ci.tacoma.wa.us>; Walker Lee, Lauren <Lauren.WalkerLee@cityoftacoma.org>; Campbell, Marty <marty.campbell@cityoftacoma.org>; Thoms, Robert <robert.thoms@cityoftacoma.org>; Mello, Ryan <rmello@cityoftacoma.org>
Subject: Billboards

Dear Mayor and City Council Members,

I am unable to attend the public hearing tonight but wanted my voice heard as a tax payer and Tacoma citizen. I am strongly against the expansion of billboards and would like to express my reasons.

First, as a state we have decided that anything that distracts drivers is now illegal. I find billboards very distracting as the whole point is to divert attention away from the road. We have been told that even a "glace" at our phones is a distraction so why then would we support other distractions.

Second, I consider billboards a blight on our community. They add nothing and but take so much away. I notice just how much they "trash" up our roadways the most when I am in communities or traveling on freeways that are free from billboards.

Third, I am not sure who receives income from these billboards. Perhaps it is a necessary revenue for the City of Tacoma to provide services. Even if it is perhaps there are other methods that will not cause a blight to our community.

As a citizen I do not support in anyway the expansion of billboards in any area. I support the phasing out of billboards. Their time has passed. People have access to all types of information in ways they never had ten or twenty years ago.

Sincerely,
Renee Bogue
6411 View Ridge Drive
Tacoma, WA 98407

From: Myers, Rosheida on behalf of Blocker, Keith
Sent: Tuesday, November 14, 2017 3:07 PM
To: Myers, Rosheida
Subject: FW: Billboards

Best regards,

Rosheida Myers

Office Administrator | Council Support
City of Tacoma - City Manager's Office
Phone: 253-591-5470 | Fax: (253) 591-5123

From: Renee Bogue [mailto:rabtacoma@gmail.com]
Sent: Tuesday, November 14, 2017 1:55 PM
To: Ibsen, Anders <anders.ibsen@cityoftacoma.org>; McCarthy, Conor <Conor.McCarthy@ci.tacoma.wa.us>; Scott, Donlisa <DMScott@ci.tacoma.wa.us>; Lonergan, Joe <joe.lonergan@cityoftacoma.org>; Blocker, Keith <Keith.Blocker@ci.tacoma.wa.us>; Walker Lee, Lauren <Lauren.WalkerLee@cityoftacoma.org>; Campbell, Marty <marty.campbell@cityoftacoma.org>; Thoms, Robert <robert.thoms@cityoftacoma.org>; Mello, Ryan <rmello@cityoftacoma.org>
Subject: Billboards

Dear Mayor and City Council Members,

I am unable to attend the public hearing tonight but wanted my voice heard as a tax payer and Tacoma citizen. I am strongly against the expansion of billboards and would like to express my reasons.

First, as a state we have decided that anything that distracts drivers is now illegal. I find billboards very distracting as the whole point is to divert attention away from the road. We have been told that even a "glance" at our phones is a distraction so why then would we support other distractions.

Second, I consider billboards a blight on our community. They add nothing and but take so much away. I notice just how much they "trash" up our roadways the most when I am in communities or traveling on freeways that are free from billboards.

Third, I am not sure who receives income from these billboards. Perhaps it is a necessary revenue for the City of Tacoma to provide services. Even if it is perhaps there are other methods that will not cause a blight to our community.

As a citizen I do not support in anyway the expansion of billboards in any area. I support the phasing out of billboards. Their time has passed. People have access to all types of information in ways they never had ten or twenty years ago.

Sincerely,

Renee Bogue

6411 View Ridge Drive

Tacoma, WA 98407

From: Doug Schafer <schafer49@gmail.com> on behalf of Doug Schafer <schafer@pobox.com>
Sent: Tuesday, November 14, 2017 3:29 PM
To: Inet- City Clerk
Subject: Testimony re: Proposed Ordinance and Agreement about Billboards
Attachments: 171114_SchaferTestimony_Billboards.pdf

Attached is my written testimony opposing the proposed ordinance and associated agreement concerning billboards.

Doug Schafer

Phone: 253-431-5156

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

Email: schafer@pobox.com

November 14, 2017

Tacoma City Clerk
for Members of Tacoma City Council
733 Market St., Room 11
Tacoma, WA 98401

Re: Proposed amendment to land use regulations concerning the regulation of billboards.

Members of the Tacoma City Council:

I strongly oppose the proposed amendments to the City's code concerning billboards that are the subject of a public hearing before the City Council today. As a lawyer and civic minded resident, active in Tacoma Central Neighborhood Council, I have closely observed and publicly criticized developments since 2011 concerning the billboard issues. I participated in the City's 2014-15 Community Working Group on the subject.

This proposed ordinance amending the Code's billboard rules was first publicly mentioned at the Council's study session on October 10 as part of a proposed non-litigation agreement with Lamar Company (the "Lamar Agreement"). The text of the proposed ordinance was first released at the Planning Commission meeting on October 18. At that session, I requested of City attorney Christopher Bacha a copy of that proposed Lamar Agreement, but he reported that it was still being negotiated. He provided me a copy of the proposed final Lamar Agreement on November 8, along with the then revised (since the October 18 release) proposed ordinance. Six days is insufficient time for public review and responsible comment on a matter of this importance. Accordingly, I ask that you extend the public comment period on this proposal for at least another week or so.

I believe that the proposed ordinance must be reviewed in tandem with the proposed Lamar Agreement. I believe that provisions of the Lamar Agreement constitutes *an illegal gift of public assets to Lamar*, a private company, subjecting City Council members to possible personal liability. Paragraphs 6, 7, and 9 of that agreement bind the City to pay what Lamar will claim is the "fair market value" of any sign that future responsible City leaders may require, in the exercise of the City's police powers, to be removed. We know from experience that Lamar's payment demands will effectively prevent the City's future leaders from so exercising that police power.

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.

Tacoma’s failure to enforce its 1997 and 2011 ordinances that required the removal of nonconforming billboard is attributable, in my view, to certain City officials’ unwillingness to litigate to enforce those laws and to apparently poor legal advice that they were given in about 2010. Notwithstanding the *Markham* case, the City officials and lawyers did not rely on it when responding to the 2007 lawsuit by Clear Channel Outdoor (CCO, the previous owner of the billboards plaguing the City), instead simply stalling the litigation and seeking a negotiated settlement. And notwithstanding the *Markham* case, City officials in August 2010 entered into a Settlement Agreement with CCO with a “vested rights provision” at its section 4 that bound the City to compensate that company for the asserted value of any signs that the City ever might require it to remove. That 2010 Settlement Agreement was devastating for the City, but the same lawyers who apparently counseled City officials to enter into it failed in their late-2011 challenge to its validity, perhaps professionally conflicted by their earlier support of it.

In the proposed Lamar Agreement, at paragraph 9, the City recklessly would be agreeing to be bound by the vested rights provision (section 4) of the 2010 Settlement Agreement. I e-mailed to Mr. Bacha on November 8 to inquire what the City’s position was on whether or not Lamar has a legal basis to enforce the vested rights provision of the 2010 Settlement Agreement with CCO. He has not responded. This morning, I accessed on the federal SEC’s EDGAR

Tacoma City Clerk
November 14, 2017
Page 3

website a copy of the 66-page agreement of January 7, 2016, whereby Lamar purchased the assets of CCO relating to its Tacoma area billboards business. It does not appear to me, from that document and my understanding of the law, that Lamar has a legal right to enforce the vested rights provision (section 4) of CCO's 2010 Settlement Agreement with the City. Indeed, if Lamar considered itself as having that legal right, it would not now be proposing that the City now bind itself in paragraphs 6, 7, and 9 of the Lamar Agreement. Again, it would be reckless and an illegal gift for City officials to now bind the City of paragraphs 6, 7, and 9 of the Lamar Agreement.

Concerning the provisions of the proposed ordinance, I am alarmed about, and most strongly oppose, the proposal to allow Lamar to erect bulletin-size, 14 by 48 foot, billboards in the proposed business districts and other receiving areas. Billboard of that size are only appropriate alongside freeways. The Community Working Group's consensus was that huge bulletin-size billboards should only be allowed in industrial areas (zoned M-1, M-2, and PMI).

Overall, I am profoundly disappointed that City officials would give serious consideration to Lamar's current proposal. I have been urging City officials since 2011 to assert the City's legal rights to compel the removal the scores of nonconforming billboards that became, in 2007, illegal billboards — public nuisances. I am attaching, as a supplement to this letter, by comment letter of October 9, 2015, to the City's Planning Commission that then was considering similar give-away proposal to CCO.

Please, City Council members, assert the legal rights of the City and its residents to enforce our local laws and bring about the removal of much of the billboard blight that has afflicted our wonderful community for far too long.

Very truly yours,

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

Douglas A. Schafer

Enclosure: My letter of October 9, 2015, to the Tacoma Planning Commission, with its exhibits.

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 total 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 public 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's 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 of 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,

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

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 curiam 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 *Markham* 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.

A handwritten signature in cursive script that reads "Douglas A. Schafer". The signature is written in black ink and is centered on the page.

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	

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.

Schafer's Enclosure-3, page 1

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 Kerlake](#), the City's lead lawyer.
5. [The City's Response to Clear Channel's Motion to Dismiss](#).

I am amazed that lawyers Bacha and Kerlake 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. Kerlake 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 Kerlake 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. Kerlake and Mr. Bacha:

<http://www.kenyondisend.com/attorneys/info/kerlake.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 Amendment to the Settlement Agreement. Accordingly, the City should be recognized as permitted to withdraw its 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 occurred (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

Schafer's Enclosure-4, page 1

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

Schafer's Enclosure-4, page 2

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

Schafer's Enclosure-4, page 3

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 million 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>

From: Schultz, Shirley
Sent: Tuesday, November 14, 2017 3:44 PM
To: Inet- City Clerk
Subject: FW: Testimony re: Proposed Ordinance and Agreement about Billboards
Attachments: 171114_SchaferTestimony_Billboards.pdf

From: Doug Schafer [mailto:schafer49@gmail.com] **On Behalf Of** Doug Schafer
Sent: Tuesday, November 14, 2017 3:39 PM
To: Schultz, Shirley; Bacha, Chris (Legal)
Subject: Fwd: Testimony re: Proposed Ordinance and Agreement about Billboards

FYI

----- Forwarded Message -----

Subject: Testimony re: Proposed Ordinance and Agreement about Billboards
Date: Tue, 14 Nov 2017 15:29:17 -0800
From: Doug Schafer
To: cityclerk@cityoftacoma.org

Attached is my written testimony opposing the proposed ordinance and associated agreement concerning billboards.

Doug Schafer

Phone: 253-431-5156

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

Email: schafer@pobox.com

November 14, 2017

Tacoma City Clerk
for Members of Tacoma City Council
733 Market St., Room 11
Tacoma, WA 98401

Re: Proposed amendment to land use regulations concerning the regulation of billboards.

Members of the Tacoma City Council:

I strongly oppose the proposed amendments to the City's code concerning billboards that are the subject of a public hearing before the City Council today. As a lawyer and civic minded resident, active in Tacoma Central Neighborhood Council, I have closely observed and publicly criticized developments since 2011 concerning the billboard issues. I participated in the City's 2014-15 Community Working Group on the subject.

This proposed ordinance amending the Code's billboard rules was first publicly mentioned at the Council's study session on October 10 as part of a proposed non-litigation agreement with Lamar Company (the "Lamar Agreement"). The text of the proposed ordinance was first released at the Planning Commission meeting on October 18. At that session, I requested of City attorney Christopher Bacha a copy of that proposed Lamar Agreement, but he reported that it was still being negotiated. He provided me a copy of the proposed final Lamar Agreement on November 8, along with the then revised (since the October 18 release) proposed ordinance. Six days is insufficient time for public review and responsible comment on a matter of this importance. Accordingly, I ask that you extend the public comment period on this proposal for at least another week or so.

I believe that the proposed ordinance must be reviewed in tandem with the proposed Lamar Agreement. I believe that provisions of the Lamar Agreement constitutes *an illegal gift of public assets to Lamar*, a private company, subjecting City Council members to possible personal liability. Paragraphs 6, 7, and 9 of that agreement bind the City to pay what Lamar will claim is the "fair market value" of any sign that future responsible City leaders may require, in the exercise of the City's police powers, to be removed. We know from experience that Lamar's payment demands will effectively prevent the City's future leaders from so exercising that police power.

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.

Tacoma’s failure to enforce its 1997 and 2011 ordinances that required the removal of nonconforming billboard is attributable, in my view, to certain City officials’ unwillingness to litigate to enforce those laws and to apparently poor legal advice that they were given in about 2010. Notwithstanding the *Markham* case, the City officials and lawyers did not rely on it when responding to the 2007 lawsuit by Clear Channel Outdoor (CCO, the previous owner of the billboards plaguing the City), instead simply stalling the litigation and seeking a negotiated settlement. And notwithstanding the *Markham* case, City officials in August 2010 entered into a Settlement Agreement with CCO with a “vested rights provision” at its section 4 that bound the City to compensate that company for the asserted value of any signs that the City ever might require it to remove. That 2010 Settlement Agreement was devastating for the City, but the same lawyers who apparently counseled City officials to enter into it failed in their late-2011 challenge to its validity, perhaps professionally conflicted by their earlier support of it.

In the proposed Lamar Agreement, at paragraph 9, the City recklessly would be agreeing to be bound by the vested rights provision (section 4) of the 2010 Settlement Agreement. I e-mailed to Mr. Bacha on November 8 to inquire what the City’s position was on whether or not Lamar has a legal basis to enforce the vested rights provision of the 2010 Settlement Agreement with CCO. He has not responded. This morning, I accessed on the federal SEC’s EDGAR

Tacoma City Clerk
November 14, 2017
Page 3

website a copy of the 66-page agreement of January 7, 2016, whereby Lamar purchased the assets of CCO relating to its Tacoma area billboards business. It does not appear to me, from that document and my understanding of the law, that Lamar has a legal right to enforce the vested rights provision (section 4) of CCO's 2010 Settlement Agreement with the City. Indeed, if Lamar considered itself as having that legal right, it would not now be proposing that the City now bind itself in paragraphs 6, 7, and 9 of the Lamar Agreement. Again, it would be reckless and an illegal gift for City officials to now bind the City of paragraphs 6, 7, and 9 of the Lamar Agreement.

Concerning the provisions of the proposed ordinance, I am alarmed about, and most strongly oppose, the proposal to allow Lamar to erect bulletin-size, 14 by 48 foot, billboards in the proposed business districts and other receiving areas. Billboard of that size are only appropriate alongside freeways. The Community Working Group's consensus was that huge bulletin-size billboards should only be allowed in industrial areas (zoned M-1, M-2, and PMI).

Overall, I am profoundly disappointed that City officials would give serious consideration to Lamar's current proposal. I have been urging City officials since 2011 to assert the City's legal rights to compel the removal the scores of nonconforming billboards that became, in 2007, illegal billboards — public nuisances. I am attaching, as a supplement to this letter, by comment letter of October 9, 2015, to the City's Planning Commission that then was considering similar give-away proposal to CCO.

Please, City Council members, assert the legal rights of the City and its residents to enforce our local laws and bring about the removal of much of the billboard blight that has afflicted our wonderful community for far too long.

Very truly yours,

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

Douglas A. Schafer

Enclosure: My letter of October 9, 2015, to the Tacoma Planning Commission, with its exhibits.

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 total 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 public 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's 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 of 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,

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

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 curiam 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 *Markham* 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.

A handwritten signature in cursive script that reads "Douglas A. Schafer". The signature is written in black ink and is centered on the page.

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	

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.Lonegran@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.

Schafer's Enclosure-3, page 1

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 Kerlake](#), the City's lead lawyer.
5. [The City's Response to Clear Channel's Motion to Dismiss](#).

I am amazed that lawyers Bacha and Kerlake 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. Kerlake 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 Kerlake 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. Kerlake and Mr. Bacha:

<http://www.kenyondisend.com/attorneys/info/kerlake.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 Amendment to the Settlement Agreement. Accordingly, the City should be recognized as permitted to withdraw its 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 occurred (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

Schafer's Enclosure-4, page 1

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

Schafer's Enclosure-4, page 2

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

Schafer's Enclosure-4, page 3

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 million 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>

From: Korbe Palmer <kbpalmer@lamar.com>
Sent: Tuesday, November 14, 2017 3:48 PM
To: Inet- City Clerk
Subject: Fwd: Billboard Letter of support
Attachments: CCF11142017_00000.pdf

----- Forwarded message -----

From: Corey Campbell <corey@classychassis.com>
Date: Tue, Nov 14, 2017 at 3:37 PM
Subject: Billboard Letter of support
To: <kbpalmer@lamar.com>

--

Korbe Palmer | Vice President/General Manager ^[SEP]LAMAR ADVERTISING | SEATTLE ^[SEP]3601 Sixth Avenue S ^[SEP]Seattle, WA 98134
O: (206) 494-4228
www.lamar.com/seattle ^[SEP]

The information in this email and in any attachments is confidential and may be privileged. If you are not the intended recipient, please destroy this message, delete any copies held on your systems and notify the sender immediately. You should not retain copy or use this email for any purpose, nor disclose all or any part of its content to any other person.

November 9, 2017

City Clerk's Office
733 Market Street, Room 11
Tacoma, WA 98402

Subject: Billboard Ordinance Resolution

I may not be able to attend the public hearing on November 14, 2017, but I wanted to send you comments I would like heard in regard to the proposed billboard settlement.

Outdoor advertising is an essential element to the success of our business. This medium allows us to reach our target audiences in a relevant way, for an affordable price. The frequency and repetition billboards provide cannot be duplicated.

As a local business owner, the financial burden this ongoing issue has put on the City and its taxpayers is also of concern. Settling this matter once and for all would allow our City to focus on improving the community and eliminate the possibility of further litigation.

Lastly, the efforts to eliminate billboards entirely demonstrates 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 local business as possible. I'm convinced there is middle ground that would appease those on both sides of the issue.

The proposed agreement proves a win for all parties by reducing the number of overall boards, specifically in zones deemed most important by the City, while still allowing local businesses, the City of Tacoma's lifeblood, to reach our customers and grow our business.

Sincerely,



Corey Campbell

President

Classy Chassis Car Washes