

Homework on Question 3: How do We Get There From Here?

Instructions: Please complete the Tables at Parts 1, 2 & 3 and email back to Karen this week – by noon Saturday, January 10. We will review results at Meeting 9/Jan. 12.

Once the CWG has a vision (or visions) charted on where billboards should be allowed and what they should look like, we need to find some mechanisms to transition from what is on the ground today *towards that vision*. Said another way, what are the **most effective/appropriate mechanisms** that will enable the community to accomplish:

(1) a reduction in the total number of billboards in the City

(2) removal of billboards from areas where it is the highest priority to do so?

The goal is to identify a set of mechanisms that have consensus support of the CWG; this homework is the first step towards that goal.

The City Code¹

Since 1997, the City’s primary mechanism to reduce the number of billboards has been amortization of nonconforming billboards – removal of the structures, at the cost of the owner, without compensation, after a period of time (10 years). Clear Channel Outdoors (CCO) sued the City over the amortization provision in the 1997 code which led to the 2010 Settlement Agreement. The 2010 Settlement Agreement recognized CCO’s vested rights in its conforming and legally nonconforming signs and relocation permits and included an exchange program that would allow digital billboards. After community opposition to digital billboards, the City did not pass a digital ordinance but instead passed the 2012 code, which revived the prior 10-year amortization provision as a way to reduce the number of billboards (and other changes). The City filed a declaratory judgment action asking the Court to declare that the Settlement Agreement was not binding. In response, CCO countersued the City over the 2012 code, which led to the current Standstill Agreement. Key parameters are summarized in the table below:

1997 Code
<ul style="list-style-type: none">• 10 year amortization of all non-conforming billboards (by 8.1.07). Thereafter, nonconforming billboards would be required to be removed by owner w/o compensation from city.• Could exchange 2 or more smaller signs to make a conforming sign elsewhere.• Could move non-conforming billboards to conforming locations before end of amortization period.
The 2010 Settlement Agreement
<ul style="list-style-type: none">• Remove 54 faces (and related structures), locations identified, and in exchange CCO may build 10 digital BB.

¹ Note: Karen is the lead author of this document. This first section attempts to summarize key points of the Code history relative to the ways “how do we get here from here” has been addressed to date by the City and CCO. The City Attorney has not reviewed this final document, and it does not necessarily reflect the City’s views, or CCO’s.

- Thereafter, for every 1 digital billboard, CCO will relinquish/move 15 other permits and/or faces (at least 5 faces must be removed for each sign).
- After all relocation permits traded in, CCO must remove 8 faces in exchange for 1 digital structure.
- In addition, CCO will remove 25 faces in the next 5 years regardless, selected at CCO discretion.

2012 Code

- Relocation permits (to move non-conforming signs to approved areas) expired 9.1.12. None allowed in future.
- Amortization period for *existing* non-conforming BB ends 3.1.12. BB must be removed thereafter without compensation.
- *Future code changes* making BB non-conforming: 10 year amortization to remove BB or make it conforming.

Standstill Agreement (2012)

- Litigation dismissed without prejudice.
- 1997 code applies for now, except amortization provisions.
- Parties will confer to find a permanent solution. Focus will be on sign consolidation to remove specific signs in exchange for bulletin sized static BB in mutually agreeable areas, and vested rights for existing BB.
- Lawsuit may be reinstated if issues not resolved by deadline of August 15, 2014. Deadline subsequently extended by the parties for 1- year --- through August 15, 2015.
- CCO relinquishes all 183 relocation permits.
- CCO removes 31 specified BB faces (including structures). These removed billboards count towards any consolidation plan ultimately executed between the City and CCO to resolve the lawsuit.
- CCO performs repair on 18 specified BB.

The CWG has been created as the first phase of the attempt to find a “consolidation plan” acceptable to both parties.

Consistent with the history summarized above, CCO has stated in earlier CWG meetings that they do not believe amortization to be a valid regulatory approach without payment of just compensation and view it as an impermissible taking of property.

CCO has also said they expect that billboards removed in excess of the requirements of the Standstill Agreement will be considered in the “consolidation plan.”

The City believes that amortization is a valid regulatory approach (having included it in the 1997 and 2012 codes); however, the City expects that if the code retains an amortization provision and the City seeks to enforce it, then, based on history, there will continue to be legal challenges from CCO on the validity of this approach and/or the amount of compensation owed CCO.

Both the City and CCO agree that an alternative to amortization should be found—as contemplated in the 2012 Standstill Agreement. Specifically, the parties agreed to look for some sort of exchange mechanism and recognition of property rights of existing billboards.

Exchange Mechanisms

Per CCO, what they are most typically seeing in other communities desiring to reduce the number of billboards through a settlement rather than litigation is an exchange of removing static billboards for being allowed to construct digital billboards. Again, digital billboards are not being requested by CCO here.

However, exchange mechanisms could be constructed that do not include digital billboards.

Potential factors....could mix and match and add other factors into one or more exchange options...

LOCATION:	<p>X Number of faces removed from “High Value Removal Areas” in exchange for Y number of faces being moved to a “Receiving Area”</p> <ul style="list-style-type: none"> The ratio might be different depending on the “value” to the community and CCO of the Removal Area and Receiving Area.
SIZE:	<p>X number of smaller faces being removed in exchange for a larger face being allowed somewhere else</p> <p>OR</p> <p>X number of smaller faces being allowed in exchange for a larger face being removed</p>

Homework

Instructions: Complete the 2 tables below, and offer any additional ideas at part 3.

Part 1: Ideas offered to date by CWG members in Homework #1 and #2:

Note: many of these ideas may require additional legal review.

	Proposed Concept	Staff Notes	CWG input: I think this is an effective/appropriate mechanism to consider -- Yes / No / Maybe
1	<p>Swapping out of Boards in forbidden zones should get an instant green light permit from the city with a relocation into o.k. zones. Swap outs should carry a \$2500 fee that goes directly into a “fix potholes” fund as people who see billboards are mainly roadway drivers</p>		
2	<p>CCO should make available “run of market” space available for promoting city features such as the farmers market, ethnic fair, zoo & aquarium, city events—on buses and billboards.</p>	City doesn’t own buses; does control street Rights of Way. CCO reports it does	

	4 faces per month & 10 cards transit a month.	not have any concession agreement with any transit agencies operating in Tacoma.	
3	Since a lot of Tacoma is on the historical register, it would be great to see it be a billboard free zone. You could grandfather all other billboards in the City as long as they are kept up and not permit an increase in the total number. In return for that, each community defined neighborhood/business district, which I believe we have 15, would receive a beautification art project from Clear Channel. If they can afford to give nonprofits a break in advertising, they can afford to work with each neighborhood/business district on outdoor artwork, not to exceed a certain agreed upon amount.	What about billboards immediately adjacent to historical areas (there are 2)?	
4	Identify the dirty dozen most hated boards, pay a fair market value to the leaseholders and sign companies.	Costly to city.	
5	Create districts where billboards are “OK” and districts where they are “not.” Migrate existing structures into the “OK zones.	Key is how migration is facilitated. Will there be a net decrease in the # of BB?	
6	A “permit” process could police the districts for removal, transplant and re-install duties, provided by said billboard company/city planning	City has a process in place currently	
7	Allow a potent, thriving core group of billboard locations, for national and local business use, with an overall reduction in overall numbers		
8	Allow the billboard company to identify their “premier” locations and their “marginal” locations	CCO may have confidentiality concerns here.	
9	Suggest a 5 year reduction of marginal locations by 15% a year which is a 75% reduction	Without including exchanges for the reduction or paying compensation, this is basically amortization –but on a strict time schedule.	
10	Allow for the creation of new locations within the OK zones. This helps defray the cost of reductions.		

11	Establish stricter guidelines for residential, scenic, and landscape protections, for eventual billboard placements	Landscaping has limited effect on visual impacts of BB; M zones do not now require landscaping. C-2 has landscaping requirements.	
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Part 2: Concepts Vetted with Co-Chairs

#	Concept	CWG Member Rating –
	Rate each concept from 5 to 1...	5 – strongly support 4 -- support somewhat 3 – I am neutral 2 – oppose somewhat 1 – strongly oppose
1	Develop an exchange ratio whereby a new billboard could be constructed in an acceptable zone (subject to other zoning criteria also being met) <i>only in exchange for</i> the removal of at least 2 billboards in an area that is a high priority for elimination of billboards (areas to be defined in code; sliding scale for replacement ratio depending on value of removal/receiving area)	
2	Similar to #1 – an exchange ratio based on a point system -- where a new billboard can be constructed in an acceptable zone (subject to other zoning criteria being met) in exchange for removal of other billboards of equivalent ‘point value’. New billboards are assigned a certain number of points based on their value to advertisers/billboard owners (based on size, location, etc.); billboards to be removed are similarly assigned a point value based on their location, size, height, etc.	
3	Another exchange ratio: Allow a 300 sq. ft. /bulletin billboard in an acceptable zone (subject to other zoning criteria) in exchange for removal of 2 smaller billboards in any other area that billboards <i>remain disallowed</i> under new code	
4	Impose higher annual license fees on billboards (per structure or face) in order to fund an account that could be used to offset a portion of the costs of billboard removal to billboard owners from designated areas.	
5	Same as #4 and also include landlords in the group that could receive money from the account – in exchange for an agreement to not renew a BB lease and to not allow BB on the property in future (\$ available only to landlords in areas where BB remain nonconforming after new code adopted).	
6	To the extent the new code will make some currently <i>non-conforming</i> signs become <i>conforming</i> , condition the conversion of any sign that has been “nonconforming” for more than 10 years by first requiring the removal of another sign that <i>remains “nonconforming”</i> under the	

	new code.	
7	Allow construction of a street kiosk in a “high pedestrian focus zone” in exchange for removal of one or more billboards in such zone	

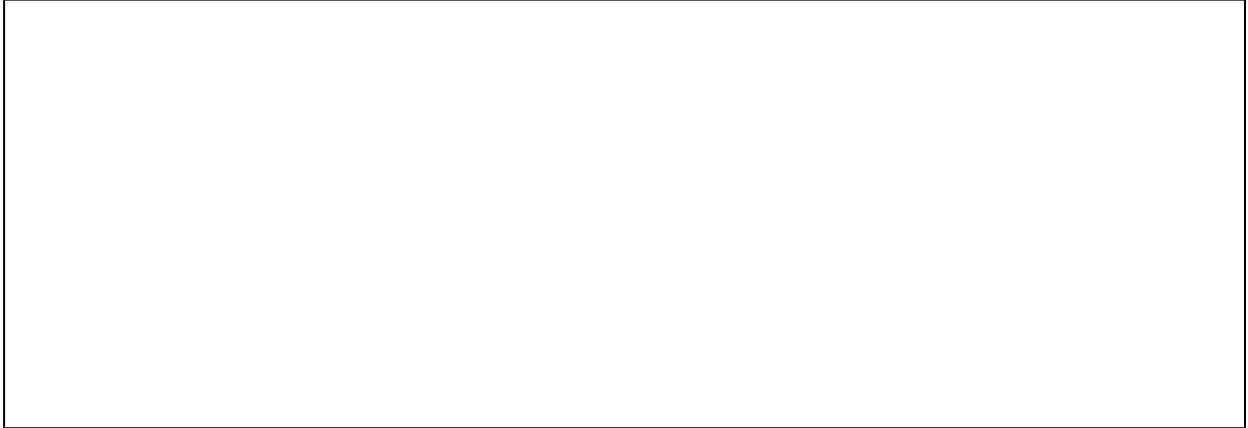
Part 3: Other Ideas/Input

Other ideas about...

Exchange Mechanisms:

Landlord rights (property owners leasing space to CCO or others to install a billboard on their property):

Rights of BB owners (CCO, others) to existing structures that are/remain nonconforming under a proposed new code:

A large, empty rectangular box with a thin black border, intended for handwritten or typed notes related to the question above.

Other ideas on "how we get there from here":

A large, empty rectangular box with a thin black border, intended for handwritten or typed notes related to the question above.