



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. JUN 08 2021

REPORT RE:

A21-0185

**DRAFT ORDINANCE AMENDING SECTIONS 14.4, 14.4.3, 14.4.4, 14.4.17 AND
98.0602 OF THE LOS ANGELES MUNICIPAL CODE PERTAINING TO
TEMPORARY SIGNS ON TEMPORARY CONSTRUCTION WALLS AND ON
SOLID FENCES SURROUNDING VACANT LOTS**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 17-0893

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance would amend Sections 14.4, 14.4.3, 14.4.4 and 14.4.17 of the Los Angeles Municipal Code to clarify regulations pertaining to temporary signs on temporary construction walls and on solid fences surrounding vacant lots.

After the Planning and Land Use Management Committee instructed the City Attorney's Office to prepare the final draft ordinance, our Office discussed with staff the need for authority to revoke a permit for a temporary sign where a sign company has repeatedly failed to comply with its obligations under this ordinance. Therefore, we added Paragraph (g) to Subdivision 4 of Subsection G of Section 14.4.17. Paragraph (g) provides the City with authority to revoke a permit for a temporary sign issued under Section 14.4.17 when the Office of Community Beautification has sent three or more notifications for failure to comply to the sign company or property owner within a three-month period of time.

Background of Ordinance

In 2007, the City enacted the current regulations regarding temporary signs on temporary construction walls and on solid fences surrounding vacant lots. The regulations were part of the Department of Public Works Graffiti Abatement Program to provide an incentive for graffiti removal by allowing temporary signs in exchange for maintaining the subject property and public property within the surrounding area free of graffiti and trash. Later that year, the City's sign regulations were moved from the City's Building Code to the City's Zoning Code. The portion of the sign regulations pertaining to these types of temporary signs was re-numbered as Section 14.4.17 of the Los Angeles Municipal Code.

On September 6, 2016, a sign company called Elevue, Inc., filed a lawsuit in state court challenging a provision of Section 14.4.17 that gave the Director of the Office of Community Beautification discretion over renewal permits for temporary signs. Elevue argued that the provision violated the First Amendment because it gave unfettered discretion to the Director. On July 19, 2019, the Superior Court not only invalidated that provision, it invalidated Section 14.4.17 in its entirety.

The draft ordinance, addresses the constitutional flaw that provided the basis for the Superior Court's invalidation of Section 14.4.17 described above. The draft ordinance also clarifies regulations pertaining to temporary signs located on temporary construction walls and on wood fences surrounding vacant lots to facilitate proper enforcement.

The draft ordinance, if adopted by the City Council, will make Elevue's lawsuit, including its present appeal, moot.

Charter Findings Required

Charter Section 558(b)(3) requires the City Council to make the findings required in Subsection (b)(2) of the same section, namely adoption of the draft ordinance will be in conformity with public necessity, convenience, general welfare and good zoning practice. Charter Section 558(b)(3)(A) allows the City Council to adopt an ordinance conforming to the City Planning Commission's recommendation of approval of the ordinance, if the CPC recommends such approval. Similarly, Charter Section 556 requires the City Council to make findings showing that the action is in substantial conformance with the purposes, intent and provisions of the General Plan. The City Council can either adopt the CPC's findings and recommendations as set forth in the CPC Transmittal Report to the City Council or make its own.

CEQA Findings

In accordance with the California Environmental Quality Act (CEQA), the draft ordinance meets the criteria of a General Exemption pursuant to Article III, Sections 15301, 15304, and 15308, Classes 1, 4 and 8 of the CEQA Guidelines.

The draft ordinance will modify provisions of an existing program that allows for the installation of temporary signs on temporary construction walls and solid wood fences surrounding vacant lots, and thus qualifies for Class 1 of the CEQA Guidelines. Also, the draft ordinance involves expansion into two additional zones that are at most only minor alterations in the condition of land, and thus qualifies for Class 4 of the CEQA Guidelines. Finally, the draft ordinance consists of actions taken by the City, which is a regulatory agency seeking to protect the environment through the cleanup of graffiti and other nuisances, and thus qualifies for Class 8 of the CEQA Guidelines.

If the City Council concurs, it may comply with CEQA by acknowledging the General Exemption prior to, or concurrently with, its action on the draft ordinance.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety, the Department of Transportation and the Department of Public Works, with a request that all comments, if any, be presented directly to the City Council at the time this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Kenneth Fong at (213) 978-8202. He or another member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM:KTF:sm
Transmittal