

SIGNING OFF?

By **HOWARD FINE** - 2/2/2009

Los Angeles Business Journal Staff

Billboards, billboards everywhere. But maybe not for long.

Under mounting public pressure after years of botched policies and legal wrangling, Los Angeles city officials are moving on several fronts to rein in the rapid spread of illegal signs, bright and distracting digital billboards, and massive signs on buildings that have led some critics to call the city a jungle and jumble of sign clutter.

But there are fears that the long-awaited crackdown could over-reach and impact thousands of businesses that simply place signs at their buildings, making it harder for them to advertise their presence and subjecting them to costly permit fees.

What's certain is that life is about to change for outdoor advertising companies that have had made Los Angeles a lucrative market.

This week, the first serious effort to inspect all the billboards in the city and root out thousands of illegal signs is set to get under way, a full seven years after Los Angeles first authorized an inspection program. In preparation, the city built an inspection team of 20, up from just three a month ago.

Last week, Los Angeles fire officials ordered the removal of 20 supergraphics – which are immense posterlike signs draped across buildings – because they were considered fire and safety hazards. More than 100 others – perhaps as many as 200 – will be allowed to remain for the time being. Many of those supergraphics were hurriedly mounted after a Dec. 26 moratorium on new signs was adopted, apparently with the belief the companies wouldn't get caught or, if even they did, the money they'd make would be greater than any penalty.

In coming weeks, the City Council is expected to pass an ordinance banning new billboards and supergraphics except in as many as 20 special "sign districts" such as commercial districts like Hollywood and downtown.

"What we're trying to do is prevent the entirety of the city from being turned into one giant ad," City Councilman Jack Weiss said last week after a press conference announcing the Fire Department's crackdown on supergraphics.

The issue is also on the agenda in Sacramento, where Assemblyman Mike Feuer, D-Los Angeles, has introduced a bill to place a moratorium on digital billboards until safety studies are completed. Critics say those illuminated signs, powered by light-emitting diodes, can distract

drivers because of their brightness and changing images.

Business targets

A handful of major outdoor advertising firms and dozens of smaller companies for years have either blocked or openly flouted city attempts to limit the proliferation of the increasingly lucrative billboards. Industry executives and representatives have contributed generously to campaign funds of several local politicians over the years – most prominently, City Attorney Rocky Delgadillo – which critics say has led to them to be permissive with the industry.

Billboard opponents claim that Los Angeles has the nation's worst billboard and sign blight. They note that other major cities such as Chicago and Houston have successfully enforced bans on some or all billboards and supergraphics.

“Los Angeles has become the supergraphic and digital billboard capital of the country. I call it cutting-edge blight,” said Kevin Fry, president of Scenic America, a non-profit group based in Washington, D.C., that spends its time trying to reduce the spread of billboards.

In the debate over L.A.'s billboard problem, it's widely agreed that the lack of consistent enforcement has aggravated the situation. Even industry representatives, who have repeatedly challenged various steps the city has taken to crack down over the years, admit the spotty enforcement is a problem.

“The city's enforcement to date has been lacking from the Department of Building and Safety,” said Peter Raulli, director of leasing and development for Burbank-based Van Wagner Communications, and president of the California State Outdoor Advertising Association. “We're hoping that the new ordinance creates some teeth to make all the illegal signs come down.”

Currently, most billboard violations are assessed a flat penalty in the hundreds of dollars; billboard control advocates are pushing for penalties of at least \$2,500 a day.

The industry has begun to take a more cooperative public stance, pledging to turn in lists of billboard locations, take down billboards that are illegal, and agree to “reasonable” restrictions on digital billboards and supergraphic signs.

But businesses in the role of innocent bystanders could also be hurt by a crackdown.

“While we are concerned about the proliferation of illegal billboards, we are also concerned about the city's failure to enforce existing billboard regulations and the city's attempt to overcorrect at a critical time in our local economy,” said Sam Garrison, vice president of public policy for the Los Angeles Area Chamber of Commerce

Industry representatives note that about two-thirds of advertising on billboards in Los Angeles comes from local businesses, with a big portion coming from studios touting new films and

television programs.

But language in the proposed ordinance lumps giant billboards advertising offsite products – such as cars or upcoming television shows – with signs next to buildings that identify the businesses on the site.

Sign industry officials say this could subject family-owned restaurants and mom-and-pop businesses to hefty annual permit fees for their signs or prevent businesses from putting up new identifying signs.

“This could turn into perhaps the largest fee increase on business in city history,” said Ryan Brooks, vice president of government affairs for the western region for CBS Outdoor Advertising, a division of CBS Corp. “Every restaurant and corner store would have to pay for an onsite sign fee inspection. That’s a huge concern.

“We understand that limits will be put on outdoor advertising, but it must be done in a smart, effective way,” Brooks said. “The city hasn’t looked at what happens to a property owner when signs are taken away or what happens to small businesses when outdoor signs are taken away.”

City officials say the regulation is necessary because thousands of these onsite signs have been put up illegally; they say this problem dwarfs the number of illegal offsite signs or billboards, and contributes to sign clutter.

“Look, there is a legitimate role for advertising and business identification,” said Bud Ovrom, deputy mayor for economic development and Mayor Antonio Villaraigosa’s point person on the sign and billboard issue. “But dealing with this problem of illegal signs is a priority for the mayor.”

Negotiations continue over the language of the proposed ordinance, which is set to come back before the city’s Planning Commission on Feb. 19. It could go to the full City Council by late March.

Tortured history

Numerous bans have been proposed over the years, only to fail passage or face court challenges.

The first serious attempts came in the 1980s, just after a ban in Houston, which had been dubbed the “ugliest city in America” because of its billboards. Houston’s ban met constitutional muster on free speech grounds and appeared to be effective in limiting billboard proliferation.

But L.A.’s attempts to limit billboards in the 1980s and again in the 1990s were defeated by the industry.

The City Council approved two ordinances to control billboards in 2002 as supergraphics started becoming more common in Hollywood, the Mid-Wilshire District and downtown.

Also, some outdoor advertising companies were taking advantage of a lack of city inspectors and putting up billboards without permits. At the time of the 2002 ordinances, it was estimated there were at least 1,000 illegal billboards. While the commonly accepted number today is 4,000, industry representatives say it is much lower.

“Billboard people were able to put up what they wanted, where they wanted, with a certain amount of impunity,” said Dennis Hathaway, a billboard opponent who has formed Ban Billboard Blight.

The first of the 2002 ordinances assessed a \$314-per-billboard fee on outdoor advertising companies to fund a beefed-up inspection program. The second banned new billboards in most parts of the city, except for special sign districts.

Both measures quickly ran into legal challenges. Outdoor advertising companies argued that the fee was an impingement on free speech and won an injunction that stopped the inspection program before it got off the ground. That injunction was overturned by the U.S. Ninth Circuit Court of Appeals in 2003.

The four largest outdoor advertising companies – CBS Outdoor, Clear Channel Communications, Regency Outdoor Advertising Co. and Vista Media (since acquired by Baton Rouge, La.-based Lamar Outdoor Advertising) – also challenged the fairness of the ban. They filed suits alleging that the sign district ordinance was unconstitutional because it banned billboards in some locations while allowing them in others.

Controversial settlements

Delgadillo reached settlements with the four major outdoor advertising firms in late 2006 and early 2007.

Under the agreements, the companies would remove up to 100 of the billboards and the permit/inspection fee would be reduced to \$186 per billboard from \$314. The fee reduction made it impossible for the city to hire new inspectors, so the problem of illegal billboards continued.

Most problematic: The four companies won the right to replace up to 877 of their conventional billboards throughout the city with new digital billboards.

The settlements were approved by the City Council and Villaraigosa with no public discussion. When they were revealed months later, billboard opponents were outraged.

In the two years since, the proliferation of new billboards accelerated. Digital billboards started sprouting up across much of the city’s Westside, in Silver Lake and along Ventura Boulevard in

the San Fernando Valley, causing a backlash in neighborhoods.

“The city essentially surrendered control of its public realm to the outdoor advertisers,” said billboard critic Fry.

Other cities from Tampa, Fla. to Omaha, Neb., have been grappling with how to limit digital billboards, but their problems are not nearly on the scale of Los Angeles’.

But digital signs certainly have their defenders.

“Digital billboards are a very important advertising resource. They are a much more powerful medium than traditional billboards and are a very good way for small businesses to get their message across,” said Hal Kilshaw, vice president of government relations for Lamar Outdoor, which got a sizable billboard inventory in Los Angeles when it acquired Vista Media. Currently, Lamar has no digital billboards in Los Angeles, but Kilshaw said the company wants to install some and is opposed to an outright ban.

“We do support limits on brightness and spacing and we can agree to restricting them to commercial and industrial zones,” he said. “But for us, this is also an issue of fairness: Other companies have already put up digital billboards, so we should have that right, too.”

The spread of supergraphics also alarmed sign critics.

“So many entire buildings have been turned into billboards,” said billboard opponent Hathaway. That’s just impossible to ignore.”

Los Angeles won a crucial court victory on billboards in December. Outdoor advertising company Metro Lights LLC had challenged the city’s right to ban billboards when Los Angeles was allowing similar forms of advertising on bus benches and city restrooms.

But the Ninth Circuit rejected this reasoning, saying that the city has the right to determine where it is appropriate to allow billboards. It’s the first time in recent history that a court has made an advertising company’s right to free speech secondary to a municipality’s right to regulate.

“Commercial speech is different from political speech in that the protections are not absolute,” said Lincoln Bandlow, a partner in the Century City office of Kansas City, Mo.-based law firm Lathrop & Gage LLP.

However, the city is not out of the legal thicket. Several lawsuits challenging the 2002 ban are still working their way through the courts.

But now, there’s a big difference, Fry said.

“The citizens of Los Angeles have awakened and are actively involved in the billboard issue for the first time. No longer can this be dealt with in the shadows quietly. L.A.’s leaders will be forced to get a hold of this issue in a way that they haven’t had to before.”

RELATED STORIES:

- [Advertiser Talking Up Speech Issue](#)
- [Controversial Signs Offer Increased Revenues](#)

Los Angeles Business Journal, Copyright © 2009, All Rights Reserved.