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Development

I saw the signage and it opened up my eyes

By Paul Rohrer and Michelle A. Buchmeier

A current television ad conveys the message that even the most prosaic family sedan can be made more exciting when a turbocharger is added. Similarly, well-considered signage can enhance the value and presence of a development project in an urban center or high-traffic location. Just as a turbocharger increases an engine's power without increasing its displacement, a signage program increases a development project's revenue without increasing its size or density.

"Signage" refers to a design or wording that communicates a message, often advertising, to the public. We use the term "signage" rather than sign because technology and practice has evolved to include not only billboards, but digital technology and architecturally integrated content displays. The value from signage derives not simply from the image on its face, but also from its location, visibility, design and integration with the built environment.

A well-crafted signage program can be a character defining element of a project or district. Architecturally integrated digital signs combining digital art and advertising content imbue energy, entertainment and even beauty into once-neglected urban districts.

The distinction between "off-site" signage and "on-site" signage is important in understanding the potential value of a sign. "Off-site" signage advertises goods or services that are not produced or sold at the property where the signage is located, whereas "on-site" signage advertises goods or services available at the property. Off-site signage produces substantial additional revenue that is not directly tied to the size of a project or the activities within it. The more potential consumers who view the signage, the greater the potential revenue. Consequently, signage in dense urban areas and adjacent to highly

trafficked freeways commands the highest revenues.

The financial stakes in an extensive off-site signage program can be high. Adrian Velicescu, CEO of StandardVision, says that the cost of including a digital signage program in a large-scale development "can range from one million to thirty million dollars, depending on the number of separate screen messages being displayed, the resolution of the imagery and the complexity of integration with the architecture." However, he noted that the cost is offset by the fact that "a significant real estate development in a major city with a well-designed off-site signage program could produce millions of dollars of annual revenue." Likewise, Richard Montgomery, real estate/government relations manager for Los Angeles for Lamar Advertising, estimates that "a project located anywhere in the state that has substantial vehicle and pedestrian traffic could add tens of millions of dollars to its value through the inclusion of an off-site signage program."

Off-site signage is valuable, in part, because it is a limited and highly regulated commodity. In urban areas, local ordinances often ban or severely restrict the installation of new off-site signage. For example, Los Angeles, San Francisco and San Diego generally ban new off-site signage with some exceptions and caveats. In Los Angeles, new signs are generally not allowed, but "specific plans" and signage "special use districts" allowing extensive off-site signage can be approved in certain commercial areas by the City Council. In San Francisco, a long-standing moratorium prohibits new off-site signage, but the County Board of Supervisors is authorized to grant conditional use permits allowing sign companies to relocate existing signs to certain areas in the city. San Diego has long had a citywide prohibition on off-site signage, yet

the San Diego City Council has recently considered easing the ban in certain strategic districts to shape the character of the districts and raise revenue for local coffers.

When signage is visible from a freeway, state regulations (and often additional local regulations) must be navigated. The state has jurisdiction over, and generally forbids, freeway-visible off-site signs located within 660 feet of a freeway, but state statutes and California Department of Transportation regulations governing freeway oriented signs are complex and contain many exceptions. Freeway sections can have different classifications that can restrict, prevent or allow the addition of certain types of freeway-visible signage. Moreover, there are various freeway sections throughout the state that are subject to regulations that have been drafted to provide off-site signage opportunities to specific communities abutting a freeway.

Community opposition can add a political element to a development project that includes a signage program. However, community support can sometimes be garnered if a development project provides community benefits and is seen as improving the neighborhood.

Exceptions to general signage bans must be carefully crafted, because signs are a form of speech. To conform to the First Amendment, exceptions to general signage bans must not "undermine and counteract" the reasoning behind such bans. *World Wide Rush LLC v. City of Los Angeles*, 606 F.3d 676, 685 (2010) (internal citations omitted). Although signage receives First Amendment protections, the Supreme Court ruled in *Metromedia Inc. v. City of San Diego*, 453 U.S. 490 (1981), that cities may restrict or prohibit new signage to advance their "substantial interest in aesthetics and safety." Consequently, exceptions to a general ban that advance a city's interests in "aesthetics and safety" should be expected

to pass constitutional muster, while exceptions that undermine those interests should not. Therefore, in order to engender community support for a discretionary action and to ensure constitutional compliance, an off-site signage program in an urban center where extensive restrictions apply should include public benefit components that advance aesthetics and public safety.

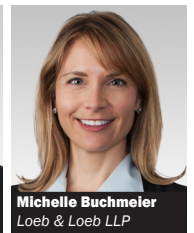
A well-crafted off-site signage program in an appropriate high-traffic area can add tens of millions of dollars in value to a development project. However, because opportunities to include off-site signage in a development project are often found in the exceptions to the general rule and require discretionary approval, it is important to gain community support. Because of the complex and often vexatious regulatory and political climate surrounding off-site signage, lawyers sometimes have an opportunity to add tremendous value to the right development project by assisting their client in entitling a signage program.

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