

Planning Department

823 Rosenberg, Room 401
Galveston, Texas 77550

Phone (409) 797-3660
Fax (409) 797-3604

planningcounter@cityofgalveston.org



AGENDA
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
4:00 p.m., Wednesday, March 4, 2015
City Council Chambers, 2nd Floor of City Hall
823 Rosenberg, Galveston, Texas

- A. Attendance
- B. Conflict of Interest
- C. Minutes: February 2, 2015
- D. Old Business

15Z-03 (4116 Avenue N 1/2) Request for a variance from the Galveston Zoning Standards Section 29-82 (h) regarding illuminated signage and sign size requirements in a GR (General Residence) zoning district. Property is legally described as Lots 5 Through 10 & East Part of Lots 4 & 11 Northeast Block 33, Galveston Outlots, in the City and County of Galveston, Texas.

Applicant: Paul Byers

Property Owner: Galveston Independent School District

15Z-004 (1315 Moody/21st Street) Request for a special exception from the Galveston Zoning Standards Section 29-67 (c)(8) regarding parking requirements. Property is legally described as the East 213 feet of Northeast Block 18 (1000-2), Galveston Outlots, in the City and County of Galveston, Texas.

Applicant: Gregory Lewis, Lewis Design Group

Property Owner: Bryan Texana Foundation

- E. New Business and associated Public Hearing:

15Z-07 (6127 Broadway/Avenue J) Request from an administrative determination regarding a request for a building permit for billboard repair. Property is legally described as Lots 1 through 4, Block 1, Robert Cohen Subdivision, in the City and County of Galveston, Texas.

Applicant: Don Bosley, Outfront Media LLC

Property Owner: Mike Dell, Jaz Trust

15Z-08 (202 37th Street) Request from an administrative determination regarding a request for a building permit for billboard repair. Property is legally described as Blocks 635 and 636 and Adjacent Streets, in the City and County of Galveston, Texas.

Applicant: Don Bosley, Outfront Media LLC

Property Owner: Farmer's Copper and Industrial Supply

15Z-009 (3228 Ave P 1/2) Request for a variance from the Galveston Zoning Standards Section 29-65 regarding lot are and lot depth and rear setback requirements. Property is legally described as Lot 14 Northwest Block 88, Galveston Outlots, in the City and County of Galveston, Texas.

Applicant and Property Owner: Molly Vernon

15Z-11 (1310 57th Street) Request for a variance from the Galveston Zoning Standards Section 29-65 (g) regarding side yard setback requirements in a General Residence (GR) zoning district. Property is legally described as Part of Lots 1 & 2 (1-7) Block 48 Also Known As Lot C, Denver Resurvey, in the City and County of Galveston, Texas.

Applicant: URS c/o Zach Martin

Property Owner: Victor Leos

15Z-12 (5623 Avenue L) Request for a variance from the Galveston Zoning Standards section 29-67 regarding off-street parking requirements in a General Residence (GR) zoning district. Property is legally described as Lot

3, Block 25, in the City and County of Galveston, Texas.
Applicant: SLSCO, Ltd.
Property Owner: Aurelia Garcia

POSTED
FEB 26 2015

CITY SECRETARY'S
OFFICE

*RP
5pm*

F. Adjournment

Prepared By:

Athena Petty

Athena Petty, Planning Tech
February 26, 2015

Date Prepared:

CONDITIONS FOR A VARIANCE

The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 14.401.C. in Article 14, Administrative Bodies, and if the Board makes a determination in writing that all of the following are demonstrated:

1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
2. Due to said special conditions, the literal enforcement of the strict terms of these Land Development Regulations would impose an unnecessary hardship on the applicant.
3. The variance is not contrary to the public interest, in that:
 - i. It does not allow applicants to impair the application of these regulations for:
 - a. Self-imposed hardships;
 - b. Hardships based solely on financial considerations, convenience or inconvenience; or
 - c. Conditions that are alleged to be "special," but that are actually common to many properties within the same zoning district.
 - ii. The variance will not have a detrimental impact upon:
 - a. The current or future use of adjacent properties for purposes for which they are zoned;
 - b. Public infrastructure or services; and
 - c. Public health, safety, morals and general welfare of the community.
4. The degree of variance allowed from these Land Development Regulations is the least that is necessary to grant relief from the identified unnecessary hardship.
5. The variance shall not be used to circumvent other procedures and standards of these Land Development Regulations that could be used for the same or comparable effect (e.g., if alternative development patterns, alternative development standards, or other flexible measures in these regulations are available that would avoid or mitigate hardship without using a variance, then they must be used).
6. By granting the variance, the spirit of these Land Development Regulations is observed and substantial justice is done.

APPEAL FROM DECISION OF BOARD

In accordance with Section 29-112, any person aggrieved by any decision of the Board, or any officer, department or other Board of the City, may appeal the decision or action of the Board by filing a petition for the same in a court of competent jurisdiction, setting forth that such decision is illegal in whole or in part, and specifying the grounds for the alleged illegality. Such petition shall be filed with the Court within ten (10) days from the day the Board renders its decision, and not thereafter. The time period set forth herein shall be deemed jurisdictional.

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY SECRETARY'S OFFICE, SUITE 201, 823 ROSENBERG, GALVESTON, TEXAS 77550 (409 797-3510).

MEMBERS OF CITY COUNCIL MAY BE ATTENDING AND PARTICIPATING IN THIS MEETING.



15Z-003

MEMORANDUM

TO: William Clement, Chairman
Galveston Zoning Board of Adjustment

FROM: Ian Knox, Urban Planner II
Planning Department

DATE: February 4, 2015

RE: **15Z-03 (4116 Avenue N 1/2)** Request for a variance from the Galveston Zoning Standards Section 29-82(d) regarding signage display of intermittent lights and Section 29-82(i)(3) regarding maximum square footage for detached signs in a General Residence (GR) zoning district. Property is legally described as Lots 5 Through 10 & East Part of Lots 4 & 11 Northeast Block 33, Galveston Outlots, in the City and County of Galveston, Texas.
Applicant: Paul Byers
Property Owner: Galveston Independent School District

The Zoning Board of Adjustment voted to continue case 15Z-003 from February 4, 2015 to the March 4, 2015 regular meeting in order to re-advertise.

This is the first request for a continuance and there are no costs associated with the request.

22 Property Owner Notifications were sent as of March 4, 2015. Two were returned in favor, one opposed, and one no comment.

Zoning Board Adjustment

Planning Department

City of Galveston

February 4, 2015



15LC-004

MEMORANDUM

TO: William Clement, Chair and Commissioners
Zoning Board of Adjustment

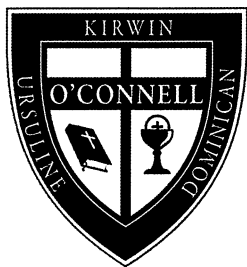
FROM: Catherine Gorman, AICP, Assistant Director
Planning Department

DATE: February 4, 2015

RE: **15Z-004 (1315 Moody/21st Street)** Request for a special exception from the Galveston Zoning Standards Section 29-67 (c)(8) regarding parking requirements. Property is legally described as the East 213 feet of Northeast Block 18 (1000-2), Galveston Outlots, in the City and County of Galveston, Texas.
Applicant: Gregory Lewis, Lewis Design Group
Property Owner: Bryan Texana Foundation

The applicant has requested that this case be continued to the March 4, 2015 meeting in order to address neighborhood concerns and revise the site plan.

This is the first request for a continuance and there are no costs associated with the request.



O'CONNELL

COLLEGE PREPARATORY SCHOOL

To Whom It May Concern,

December 9, 2014

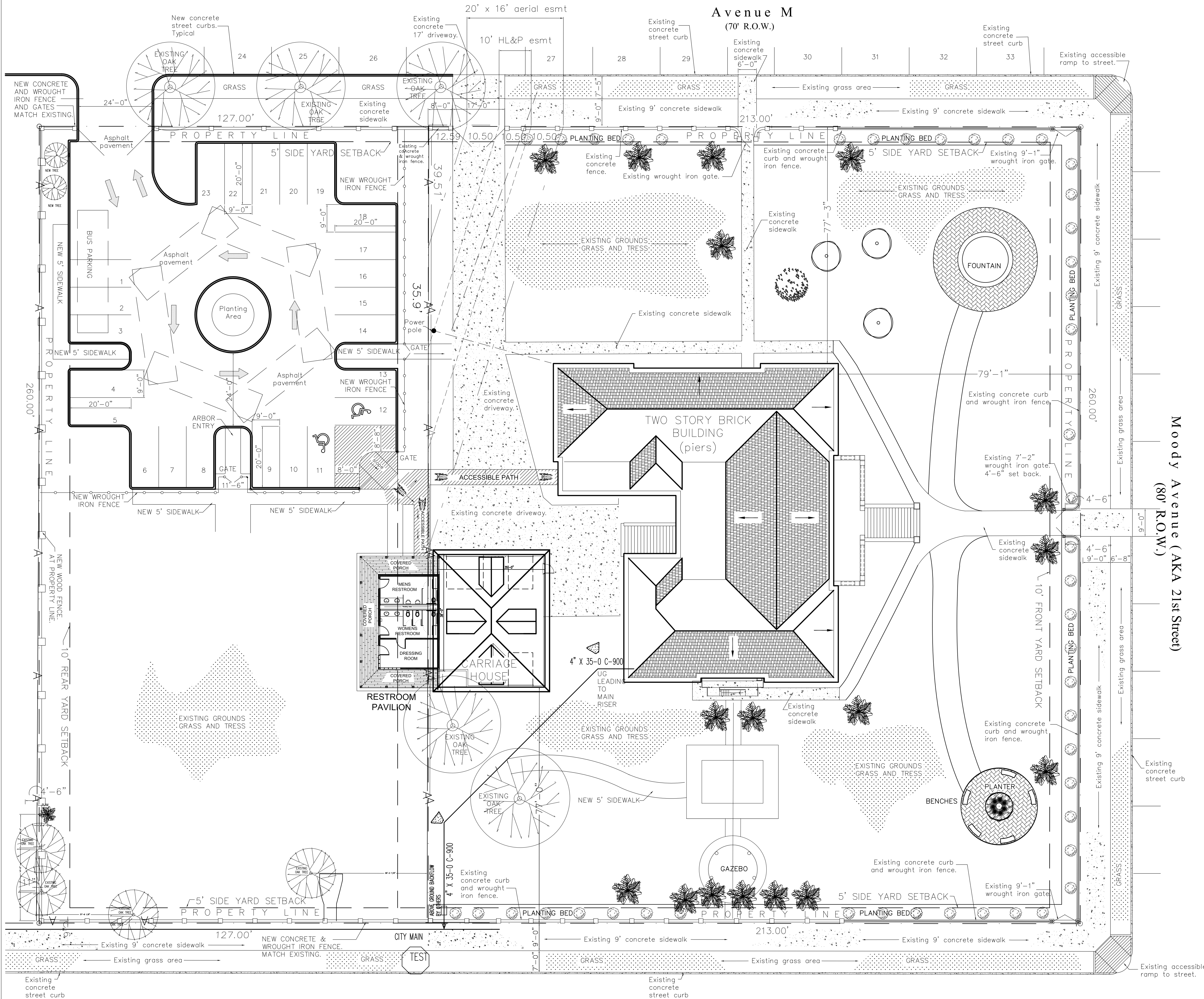
I am writing this letter to give the Bryan Museum consent to utilize O'Connell College Preparatory School's parking lot, located on Avenue M and 22nd Street, when they have a need for extra parking. While we are happy to offer the lot, consent only applies to after-school hours, as our students park there when school is in session Monday through Friday.

Please feel free to contact me if you have any questions.

Sincerely,

Patti Abbott
Principal

WHERE FAITH MEETS TRADITION



CITY OF GALVESTON ORDINANCE REVIEW:

Parking Requirements:			
Office, General	1 per 500 sf	-	3,835 / 500 = 8
Storage	1 per 1,000 sf	-	7,590 / 1,000 = 8
Museum, Commercial			
Amusement space	1 per 200 sf	-	2,625 / 200 = 14

Total required parking spaces **30 spaces**

Parking Provided:			
On site spaces		=	21
On site Accessible spaces		=	2
Off site Street Parking		=	10

Total parking spaces provided **33 spaces**

Project Narrative:

•This 1904 Historic Building, which was originally an Orphanage, then a private residence, will now be transformed into a facility of Business-Office and Assembly-Museum space for The Bryan Museum.

•The adjacent property to the west is proposed to be used as parking for 23 cars, bus access and bus parking.

•The occupancy of the Museum Exhibit areas have been calculated based upon the net square footage remaining from the occupied floor space within the Exhibit areas. The remaining circulation areas are calculated at 15 sf per person based upon the actual low concentrated use of the space.

- The Museum will be operated by guided tours with a maximum of 45 persons at a time with 1 guide.
- There are two Exhibit areas, one of the 2nd floor and one on the 3rd.
- There is a Library-Research room on the 3rd floor that will have restricted access by appointment and occupied only when accompanied by a chaperone for security of the archives and articles.

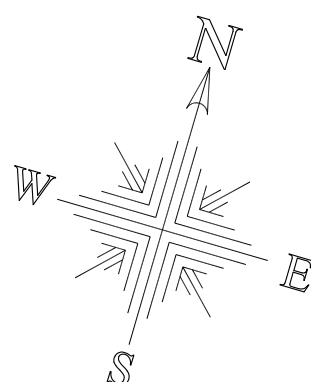
•The remaining areas are general circulation, office areas and storage. The associated occupancy loads are calculated per IBC tables.

•The total Occupancy load per these calculations is 204 persons. Although the actual occupancy is never expected to even be close to that figure, except perhaps during an occasional fundraising event.

•The Life Safety factors of the building have been enhanced by the installation of an automatic sprinkler system throughout the building along with a cap of the total occupancy load.

ZONED-MF1-NCD-1

Front yard setback	=	10'-0"
Side yard setback	=	5'-0"
Rear yard setback	=	10'-0"



The Bryan Museum
1315 21st Street
Galveston, Texas

These documents are the property of LEWIS DESIGN GROUP and shall not be reproduced without prior written consent. All copyright laws apply according to American Institute of Architects (AIA) and the Architectural Works Copyright Protection Act (AWCPA). Copyright © LDG 2015

**ZBA REVIEW
DRAWING
NOT FOR
CONSTRUCTION**

LDG
LEWIS DESIGN GROUP
Architecture • Interior Design
2928 Avenue P,
Galveston, Texas 77550
tel.409.762.3746
Belton, Texas 76513
tel.254.760.4774
www.lewisdesigngroup.biz

FILE NAME:

DRAWN BY:
GPL, SMC

DATE:
2/24/2015

REVISIONS:

SHEET No.

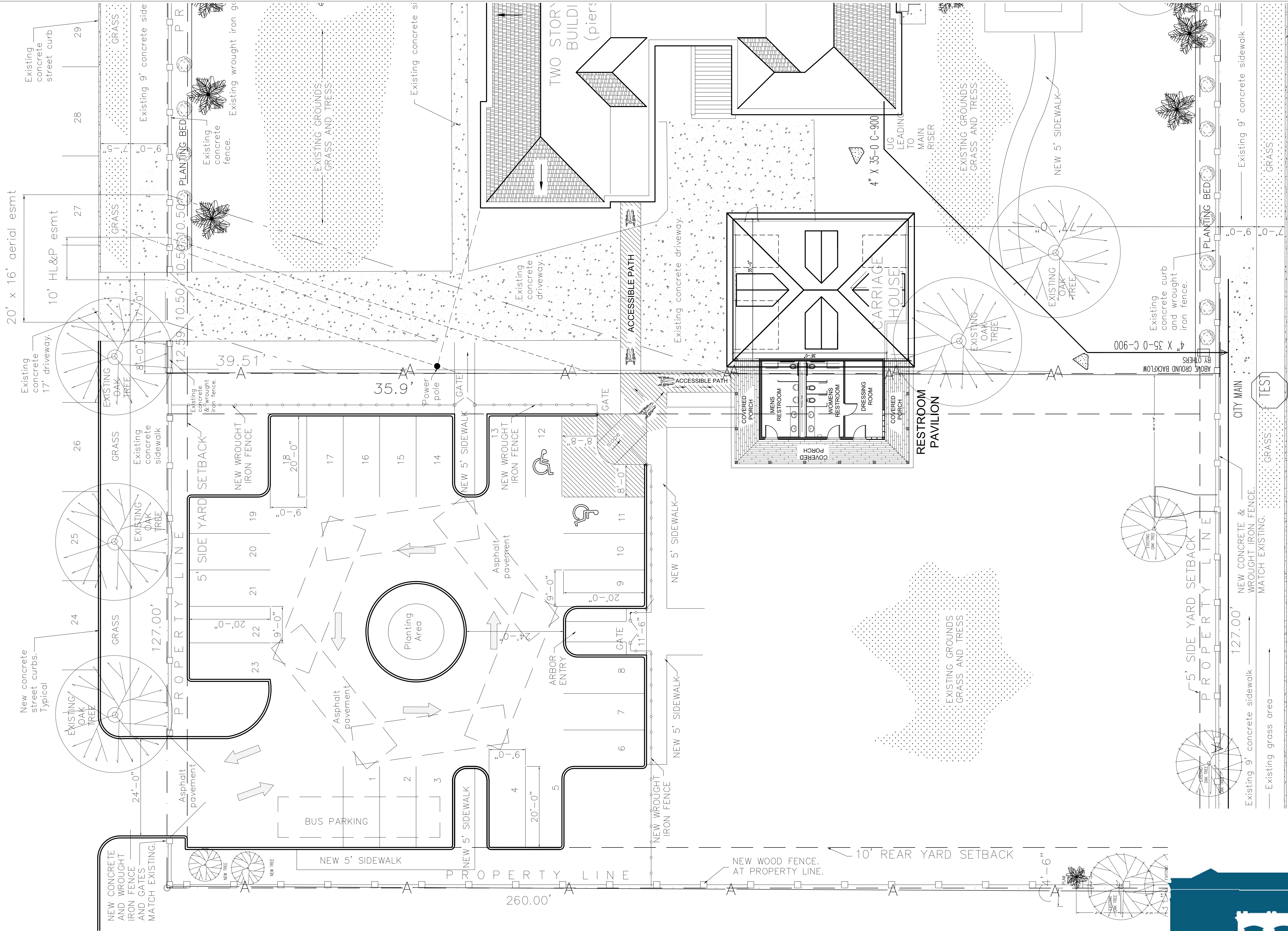
A0.0

1

SITE PLAN

Scale: 1/16" = 1' 0"

Avenue M - 1/2
(70' R.O.W.)



1 SITE PLAN PARTIAL - ENLARGED
Scale: 3/32" = 1' 0"



The Bryan Museum
1315 21st Street
Galveston, Texas

These documents are the property of LEWIS DESIGN GROUP and shall not be reproduced without prior written consent. All copyright laws apply according to American Institute of Architects (AIA) and the Architectural Works Copyright Protection Act (AWCPA). Copyright © LDG 2015

ZBA REVIEW
DRAWING
NOT FOR
CONSTRUCTION

LDG
LEWIS DESIGN GROUP
Architecture • Interior Design
2928 Avenue P,
Galveston, Texas 77550
tel.409.762.3746
Belton, Texas 76513
tel.254.760.4774
www.lewisdesigngroup.biz

FILE NAME:

DRAWN BY:
GPL, SMC

DATE:
2/24/2015

REVISIONS:

SHEET No.

A0.1



15Z-007

STAFF REPORT

ADDRESS:

6127 Broadway/Avenue J

LEGAL DESCRIPTION:

Property is legally described as Lots 1 through 4, Block 1, Robert Cohen Subdivision, in the City and County of Galveston, Texas

APPLICANT:

Don Bosley, Outfront Media LLC

PROPERTY OWNER :

Mike Dell, Jaz Trust

ZONING:

Commercial, Height and Density Development Zone, Zone 1 (C-HDDZ-1)

REQUEST:

Appeal from Administrative Determination

APPLICABLE ZONING LAND USE

REGULATIONS:

Section 29-84 (b)(3) of the Galveston Zoning Standards

EXHIBITS:

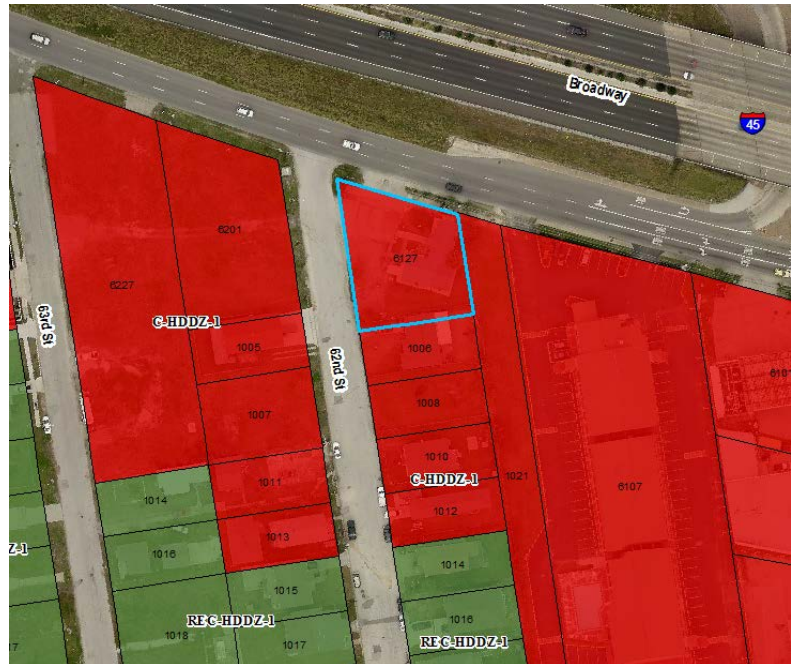
A – Aerial Map

B – Photographs

C – Applicants Submittal

STAFF:

Catherine Gorman, Assistant Director
gormancat@cityofgalveston.org
409-797-3665



Executive Summary:

The applicant is appealing an administrative decision by the Building Official to deny a repair permit for a billboard located at 6127 Broadway. The Building Official determined that the information submitted by the applicant did not meet the requirements of Section 29-84: Advertising (Billboards) of the Galveston Zoning Standards, specifically Section 29-84 (b)(3).

Beginning in 1997, the erection of new billboards in the City of Galveston is prohibited. Section 29-84 (b)(3) regulates those signs that were legally existing on the date of adoption in 1997 and are considered 'grandfathered'. The regulations state that grandfathered billboards may be repaired provided that the cost of the repairs do not exceed 60% of the cost of erecting a new sign. The regulations also state that the repairs should be calculated using 'all new materials'.

The applicant submitted a building permit to repair the billboard at this location. The billboard was damaged by Hurricane Ike in 2008 and has not had a sign face since that time. The Building Official, David Ewald, reviewed the bids submitted with the application. Mr. Ewald found the bids to be insufficient because they did not address the use of 'all new materials'. The bids proposed reusing existing materials.

**Zoning Board of
Adjustments - General
Powers**

The Zoning Board of Adjustment has the power to hear and decide appeals of administrative decisions of the Director of Planning or other administrative staff of the City as provided in Article 15, Permits and Procedures. Please reference Article 14, Division 14.400 for appeals.

Zoning and Land Use

Location	Zoning	Land Use
Subject Site	Commercial, Height and Density Development Zone, Zone 1 (C-HDDZ-1)	Commercial
North	Light Industrial, Gateway Development Zone, Zone-2 (LI-GDZ-2)	Commercial
South	Commercial, Height and Density Development Zone, Zone 1 (C-HDDZ-1)	Residential
East	Commercial, Height and Density Development Zone, Zone 1 (C-HDDZ-1)	Commercial
West	Commercial, Height and Density Development Zone, Zone 1 (C-HDDZ-1)	Vacant

**Applicable Zoning Land
Use Regulations**

Section 29-82 (b)(3):

Any legally existing, non-conforming Billboard in existence on the effective date of this ordinance may continue to lawfully exist. However, if a legally existing non-conforming Billboard is blown down or otherwise destroyed such that the cost of repairing the Billboard using all new materials is more than 60% of the cost of erecting a new Billboard of the same type at the same location using all new materials as computed by the Building Inspector, the Billboard owner and the owner of the property on which it is placed shall each be responsible to remove the Billboard. If the Billboard is damaged such that the cost of repairing the Billboard using all new materials as computed by the Building Inspector is 60% or less than the cost of erecting a new Billboard of the same type at the same location then any repairs shall be done in compliance with the regulations of all applicable ordinances. In the event of a conflict between this section and the Texas Local Government code, Chapter 216, as amended, the Texas Local Government Code shall prevail.

Please see Agenda for Appeal from Decision of Board Process.



Planning Department

Map prepared by the City of Galveston Planning Department (tinnemeyercat) - 2/25/2015
 This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes.
 It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

0 30 60 120 Feet

The data presented on these pages is not legally binding on the City of Galveston or any of its departments. These maps and the associated data are representations ONLY and may contain errors in the databases. Therefore, the information presented on this map is for informational purposes only and should not be construed to be legally binding.





City of Galveston



City Attorney's Office

P.O. Box 779 / Galveston, Texas 77553-0779 / (409) 797-3530 / Fax (409) 797-3531

January 14, 2015

Richard Rothfelder
Rothfelder & Falick, LLP.
1201 Louisiana St., Suite 550
Houston, Texas 77002

Certified Mail & Email

RE: Request by CBS Outdoor (now known as Outfront Media, LLC.) to Repair Billboards:
02-1548 I-45 at 80th Street
02-1565 I-45 at 61st Street
02-1574 Harborside at 35th Street

Mr. Rothfelder,

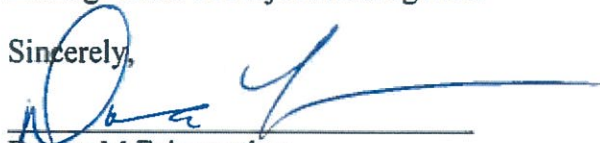
In response to your client's request and upon review of the three bids submitted regarding the repair or replacement of the three Billboards, referenced above, the Building Official has determined to:

Deny the request for building permits for the repair of Billboards damaged.

The Building Official has determined that pursuant to Zoning Standards, Section 29-84(b)(3), the City shall not issue permits if the Building Inspector computes that the cost of repairing the Billboards using all new materials is more than 60%. Your client submitted three bids for the replacement of the signs that incorporated re-using existing materials. One estimate was 60 % replacement value with re-using materials, the other was for 59% replacement value with re-using materials and the third sign located at Harborside and 35th calculated 35% with re-use of materials.

The Appeal of the Building Official's decision is to the Zoning Board of Adjustment. I have attached the application form, and you may contact the Planning Department for any additional information or questions you may have. The application fee is \$250.00 and is to be submitted with the application to the Planning Department. I have confirmed that the next deadline to submit an application is February 4, 2015 for the matter to be placed on the March 4, 2015 Zoning Board of Adjustment agenda.

Sincerely,


Donna M Fairweather
Assistant City Attorney



ROTHFELDER & FALICK, L.L.P.

ATTORNEYS AT LAW

RICHARD L. ROTHFELDER
rrothfelder@swbell.net
BOARD CERTIFIED - CIVIL TRIAL LAW

1201 LOUISIANA
SUITE 550
HOUSTON, TEXAS 77002

TELEPHONE: 713-220-2288
FACSIMILE: 713-658-8211
WWW.ROTHFELDERFALICK.COM

January 5, 2010

Board of Adjustment
c/o Dept. of Planning and Community Development
City of Galveston
P.O. Box 779
823 Rosenberg
Galveston, Texas 77553

Via Federal Express, Airbill No. 8712 5685 4303

Ms. Wendy O'Donahoe, Director
Dept. of Planning and Community Development
City of Galveston
P.O. Box 779
Galveston, TX 77553

Via Federal Express, Airbill No. 8712 5685 4314

Mr. David Ewald, Building Official
Building Department
City of Galveston
P.O. Box 779
823 Rosenberg
Galveston, Texas 77553

Via Federal Express, Airbill No. 8712 5685 4325

RE: *Appeal to the Zoning Board of Adjustment of the denial of a Building Permit Application regarding repair of an outdoor advertising structure located at 6604 Broadway (Ave. J) in Galveston, Texas, owned and operated by CBS Outdoor, Inc.; Our File No. 1030-224.*

Dear Ms. O'Donahoe, Mr. Ewald and Members of the Board of Adjustment:

Introduction

The law firm of Rothfelder & Falick, L.L.P. represents CBS Outdoor, Inc. ("CBS") with regard to the above referenced matter. CBS submits this letter in support of its appeal to the Board of Adjustment ("Board") of the City of Galveston's ("City") denial of a Building Permit Application ("Application") to repair a storm-damaged outdoor advertising structure. It is our understanding that this appeal will be heard by the Board at 4:00 p.m. on Wednesday, February 3, 2010. We would appreciate your contacting us to confirm same.



Background Information

CBS owns and operates a legally permitted outdoor advertising structure located at 6604 Broadway (Ave. J) ("Sign"). The Sign incurred storm damage from Hurricane Ike in September 2008. More specifically, the Sign suffered minor damage to the lights, catwalk, ladders, frame, and uprights of one face. The foundation and base column pipe is undamaged (or moderately damaged) and is intact. Although the upper portion of the Sign fell, the second stage pipe and torsion pipe were undamaged, as were some of the walks, lights and ladders. The foundation and all column and torsion pipe can be reused as can all parts except those for one face, i.e., frame walks, lights, uprights, etc. Only minor replacement is required on the head portion of the Sign. The scope of the work to repair the Sign includes reinstalling the second stage pipe and torsion pipe and using salvaged materials and replacing damaged materials to repair the head.

Sign Regulations

Pursuant to Section 29-21 of the City's Municipal Code ("Code"), the 1991 Zoning Standards ("Zoning Standards") have been adopted in their entirety. The Zoning Standards, updated through January 2009, contain the City's Sign Regulations in Section 29-82 et seq. ("Sign Regulations"), and the rules and procedures related to appeals to the Board of Adjustment ("Board") at Section 29-110 et seq.

Section 29-84(b)(1) of the Sign Regulations prohibits the construction of new off-premise signs within Galveston's city limits and extraterritorial jurisdiction. However, legally existing non-conforming signs in existence on the effective date of Ordinance No. 97-82 may continue to lawfully exist, pursuant to Section 29-86(b). This section provides that, if such a legally existing non-conforming off-premise sign is destroyed "such that the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location, the sign owner shall repair, remove, or relocate the sign." Based on the language in this section, if the cost of repairing the sign is 60% or less than the cost of erecting a new sign of the same type at the same location, then the sign is not considered "destroyed", and the sign may be restored to the condition it was in prior to having been damaged.

Section 29-112 of the Zoning Standards states that "appeals to the Board can be taken by any person aggrieved...by any decision of the Building Official." This section further gives the Board the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning laws of the City.

A copy of the relevant Sign Regulations and Zoning Standards is attached hereto as Exhibit 1.

Permit Application

CBS submitted its Application to the City seeking to repair the Sign on October 12, 2009. Although not required by the Sign Regulations, CBS submitted three independent repair and

replacement estimates along with the Application. The first, prepared by Advertising Higher, shows the repair costs as \$21,850.00, or approximately 34%, of the estimated replacement costs of \$63,627.50. The second, prepared by Carolina Sign and Crane Service, Inc., shows the repair costs as \$43,000.00, or approximately 40%, of the replacement costs of \$100,500.00. The third, prepared by Alamo Outdoor Signs, Ltd., shows the repair costs as \$25,188.06, or approximately 37%, of the estimated replacement costs of \$67,477.67. All three independent estimates, then, meet the 60% test in the Sign Regulations.

Despite the foregoing, the Application was returned to CBS. Although it had not been stamped "DENIED", CBS assumes the City denied the Application and stamped another application twice by mistake. A copy of the denied Application, together with the attachments that were submitted with the request, is attached hereto as Exhibit 2. No explanation for the denial was given in writing by the City; however, CBS assumes the denial is based on the City's belief that the cost to repair the Sign exceeds 60% of the cost to replace it.

Based on our review of the applicable Zoning Standards, CBS respectfully disagrees with the denial asserted by the City, and makes this appeal to the Board pursuant to Section 29-112 of the Zoning Standards.

Argument

The position taken by the City is in sharp contrast to the language in Section 29-86(b). By ignoring the documentation submitted to the City by CBS, and by requiring CBS to remove the Sign based on someone's visual inspection and observation rather than the hard data, the City is completely ignoring the constitutional 60% test contained in its Sign Regulations. In so doing, the City risks falling into the same trap as did the City of Webster following Hurricane Alicia. In 1983, another sign company, SignAd, owned and operated a number of billboards in Webster's city limits which suffered varying degrees of damage during Hurricane Alicia. Like CBS' Sign, the billboards were grandfathered, non-conforming signs that had been erected prior to the passage of the city's sign ordinance. Webster's sign code at the time stated generally that any non-conforming signs "or any substantial parts thereof" which were blown down or destroyed could not be rebuilt or repaired unless the signs were brought into compliance with the sign code.

Webster's City Engineer denied SignAd's request for permits to repair the signs, stating that, since the storm had blown down or destroyed "substantial parts" of the signs, their reconstruction was forbidden. SignAd obtained a summary judgment from the trial court declaring the sign code unconstitutional, which Webster appealed. The Court of Appeals for the 1st District of Houston agreed with SignAd and held that the referenced section of Webster's sign code was fatally vague and violative of SignAd's due process rights since SignAd and other sign operators received no fair and adequate notice as to what sign repairs were permitted or prohibited. Upon resolution of the dispute, not only was SignAd permitted to repair the damaged signs, but the City of Webster reimbursed SignAd for all of its lost advertising revenues and attorneys fees incurred from the date the City refused to allow SignAd to repair the signs, up through the date the case settled, which was a six figure sum. A copy of the *City of Webster v. SignAd, Inc.* case is attached hereto as Exhibit 3.

To the extent that the City attempts to deviate from the constitutional 60% test in its Sign Regulations, and instead chooses to base its decision on the subjective opinion of one or more individuals, the City will not be permitted to do so pursuant to precedent set forth in *City of Webster v. SignAd, Inc.* Further, it is reasonable to expect a court to find that such action is vague and violative of due process rights and gives the Building Official (or others acting on his behalf) unbridled (sole) discretion in determining which of CBS' signs may be repaired and which of them may not.

Finally, we note that Section 29-86(b) requires that repairs of signs meeting the 60% test "shall be done so as to comply with the regulations of all applicable ordinances." Requiring compliance with stricter standards would effectively constitute a violation of the Takings Clause contained in the 5th Amendment to the U.S. Constitution. CBS' Sign is a grandfathered, nonconforming structure that may be restored to its condition prior to becoming damaged, as long as the cost of repair meets the 60% threshold discussed above.

Conclusion

The cost to repair CBS's Sign is less than 60% of the cost to replace it, as evidenced by the documentation submitted by CBS with its Application. The Application was wrongfully denied, the Board should reverse the decision of the Building Official (or his representative), and CBS should be allowed to repair the Sign pursuant to Section 29-86(b) of the Zoning Regulations.

Very truly yours,

A handwritten signature in black ink that reads "Richard L. Rothfelder /go". The signature is written in a cursive, flowing style.

Richard L. Rothfelder

:jld
Enclosures

January 5, 2010

Page 5

bc: Randy Jackson
CBS Outdoor, Inc.
1600 Studemont
Houston, Texas 77007

Via Email

David Posy
CBS Outdoor, Inc.
405 Lexington Ave, 17th Fl.
New York, NY 10174

Via Email

Don Bosley
CBS Outdoor, Inc.
1600 Studemont
Houston, Texas 77007

Via Email

CITY OF GALVESTON - PLANNINGPO Box 779, Galveston, Texas 77553
Phone: 409/797-3660 Fax: 409/797-3661**ZONING BOARD OF ADJUSTMENT**

Case No.: _____

Application Due: 01/06/10
Hearing Date: 02/03/10
(please confirm)*Please Print or Type***I. APPLICANT INFORMATION**APPLICATION STATUS (Check One): ☐ Owner ☒ Tenant ☐ Prospective Buyer*Property Owner must sign the application or submit a notarized letter of authorization.*

CBS Outdoor, Inc. c/o Attorney Richard Rothfelder
Applicant Name (713) 220-2288
Telephone
1600 Studemont, Houston, TX 77007
Mailing Address rrothfelder@swbell.net
E-mail Address

OWNERSHIP (Check One): ☐ Individual ☒ Corporation ☐ Partnership ☐ Trust
If ownership is a trust or corporation, list the partners or principle, their address and positions on a separate attachment

Del Papa Distributing (409) 842-8490
Property Owner Name Telephone
410 I-10 S., Beaumont, TX 77707
Mailing Address E-mail Address

Representative Name ()
Telephone

Mailing Address E-mail Address

II. PROPERTY INFORMATION

6604 Broadway
Street Address/Location Current Zoning District Category
Billboard located on private property
Legal Description (Lot and Block Number)

Present Use and Improvement on Property _____

Has a previous application been filed on this property? ☒ No ☐ Yes If Yes, Date and Case No.: _____

III. REQUESTED ACTION

[] Special Exceptions

[] Variance

Applicable section(s) of the Zoning Standards: Section 29-86 & Appeal under Section 29-112

Specifically state the Special Exception/Variance requested (i.e., from 100 square foot sign to 200 square foot sign):

CBS Outdoor, Inc. seeks permission to repair its storm-damaged sign, as the cost to repair is less than 60% of the cost to replace it, in compliance with Section 29-86(b). Please see attached for further information.

IV. APPLICANT'S JUSTIFICATION FOR THE REQUEST - REQUIRED (i.e., grandfathered structure built up to property lines, off-street parking cannot be provided on the property) (attach additional pages if necessary)

CBS Outdoor, Inc. contends Section 29-86(b) is applicable, and allows it to repair its storm-damaged sign. Please see attached for further information.

ANY OTHER PERTINENT INFORMATION TO SUPPORT SAID REQUEST SHOULD ALSO BE ATTACHED.

ATTEST: I certify that [] I am the legal owner or record; [x] I have secured the property owner's permission and have full authority to make this application and/or appeal.

Richard L. Rothfelder, Attorney for
Printed Name and Signature of Applicant CBS Outdoor, Inc.

Richard L. Rothfelder

1/5/10
Date

Printed Name and Signature of Property Owner

Date

V. APPLICANT CHECKLIST

- [x] **Site Plan (to scale)** - with existing improvements, developments, and property lines
(25 copies [8-1/2x11] if larger than 8-1/2x11, please fold to appropriate size)
[] **Survey (to scale)** (2 copies) not available
[x] **Current Tax Receipts** - County tax office, 722 Moody (766-2481)
[] **Title Report** (if land was purchased within the last 60 days) n/a
[x] **Non-Refundable Application Fee** \$ 300.00 (payable to the City of Galveston)

DEPARTMENTAL USE ONLY**Staff Checklist**

APPLICATION ACCEPTED BY: _____

DATE: _____

AMOUNT: _____

REMARKS: _____

- [] City Departments
[] Private Utilities
[] Galveston County Health District
[] Property Owners
[] Other: _____
[] Other: _____

Galveston Central Appraisal District

600 Gulf Freeway Suite 113, Texas City, TX 77591, (866) 277-4725

Data on this Web site represents CERTIFIED 2009 Information (Click HISTORY for

[Home](#)

Your search returned 15 matches

[Show Legal Description](#)

[General Information](#)

[News](#)

[FAQ](#)

[Searches](#)

[Property ID Search](#)

[Account Search](#)

[Owner Search](#)

[Address Search](#)

[Advanced Search](#)

[Other](#)

[Taxing Units](#)

[Neighborhoods](#)

[Abstracts](#)

[Subdivisions](#)

[Tax Code](#)

[Calendar](#)

[County Tax Rates](#)

[Property Codes](#)

[Links](#)

[County Tax Office](#)

[County Clerk Deeds](#)

[Forms](#)

[GIS Map Viewer](#)

[GIS Shape Files](#)

[PDF Map Index](#)

[3D Aerial Photos](#)

[Website Feedback Form](#)

[2009 Roll Zip File](#)

Property Search Results

Property ID	Owner Name	Situs Address	Value
R136278	CBS INVESTMENTS INC	831 W MAIN ST LEAGUE CITY, TX 77573	In Progress
P292523	CBS METALS INC	202 20TH ST S TEXAS CITY, TX 77590	In Progress
P237529	CBS OUTDOOR INC	@VARIOUS LOCATIONS DICKINSON, TX 77539	In Progress
P240032	CBS OUTDOOR INC	@VARIOUS LOCATIONS LEAGUE CITY, TX 77573	In Progress
P287916	CBS OUTDOOR INC	@VARIOUS LOCATIONS GALVESTON, TX 77550	In Progress
P374807	CBS OUTDOOR INC	@VARIOUS LOCATIONS KEMAH, TX 77565	In Progress
P440070	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440071	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440072	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440073	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440074	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440075	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440076	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440077	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440078	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress

Galveston Central Appraisal District

600 Gulf Freeway Suite 113, Texas City, TX 77591, (866) 277-4725

Data on this Web site represents CERTIFIED 2009 Information (Click HISTORY for

Property Detail Sheet (P287916)

Home

General Information

News

FAQ

Searches

Property ID Search

Account Search

Owner Search

Address Search

Advanced Search

Property Data

Detail Sheet

Datasheet

Other

Taxing Units

Neighborhoods

Abstracts

Subdivisions

Tax Code

Calendar

County Tax Rates

Property Codes

Links

County Tax Office

County Clerk Deeds

Forms

GIS Map Viewer

GIS Shape Files

PDF Map Index

3D Aerial Photos

Website Feedback Form

2009 Roll Zip File

 [History](#)

 [GIS Map](#)

 [Datasheet](#)

Owner Information

Owner ID: O0027205

Owner Name: CBS OUTDOOR INC

Owner Address: 1515 BROADWAY, 49TH FLOOR
NEW YORK, NY 10036

Property Address: @VARIOUS LOCATIONS
GALVESTON, TX 77550

Parcel Information

Legal Description: BUSINESS PERSONAL PROPERTY - BILLBOARDS IN
GALVESTON GISD

Neighborhood: ()

Acreage:

Cross Reference: 8600-0633-5026-040

Undivided Interest: 100%

Exemption Codes:

Entity Codes: GGA (Galveston County)
R01 (Road Dist #1)
J01 (Galv College)
N01 (Nav District #1)
RFL (Co Road & Flood)
S10 (Galveston Isd)
C30 (Galveston City)

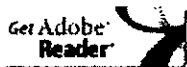
Deed Type:

Deed Book:

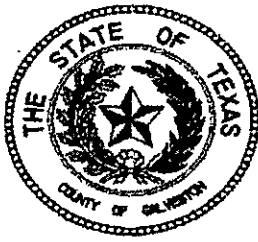
Deed Page:

Map Page:

[Click here](#) to view your 2009 certified values and prior history.



* Adobe Acrobat Reader 5.0 (minimum) is required to view pdf documents.
Acrobat Reader is a free program available [here](#).



Galveston County Tax Office

Wednesday, December 23 109

Property Tax Statement

[Begin a New Search](#) [Go to Your Portfolio](#)

[\[Tax Statement\]](#)

Unless otherwise noted, all data refers to tax information for 2009. All amounts due include penalty, interest, and attorney fees when applicable.

Account Number: 860006335026040

Pending Internet Payments:
No Credit Card Payment Pending

Address:
CBS OUTDOOR INC
1515 BROADWAY, 49TH FLOOR
NEW YORK, NY 10036

Pay by Credit Card or E Check

Property Site Address:
@VARIOUS LOCATIONS
77550

Market Value: \$240,100

Land Value: \$0

Legal Description:
BUSINESS PERSONAL PROPERTY - BILLBOARDS
IN GALVESTON GISD

Improvement Value: \$240,100

Capped Value: \$0

Current Tax Levy: \$6,211.32

Agricultural Value: \$0

Current Amount Due: \$6,211.32

Exemptions: None

Prior Year Amount Due: \$0.00

[Exemption and Tax Rate Information](#)

Total Amount Due: \$6,211.32

[Taxes Due Detail by Year and Jurisdiction](#)

Last Payment Amount for Current Year Taxes:
Not Received

[Payment Information](#)

Last Payer for Current Year Taxes:
Not Received

Last Payment Date for Current Year Taxes:
Not Received

[Click Here](#) to see your estimated amount due for a future date. You can see this information by year and by both year and jurisdiction.

[Return to Galveston County Homepage](#)

GALVESTON COUNTY TAX OFFICE
P.O. Box 1169

Disclaimer: The Galveston County Tax Office provides this World Wide Web (WWW) site information and services "as is" without warranty of any kind, either expressed or implied. The Galveston County Tax Office does not warrant the accuracy, authority, completeness, usefulness, timeliness, or fitness for a particular purpose of its information or services. The Galveston County Tax Office, its officials and

12/23/2009 10:29

GALVESTON, TX 77553-1169
(409) 766-2481
(877) 766-2284

employees shall not be liable for any loss or injury caused in whole or part by its negligence,
contingencies, beyond its control, loss of data, or errors or omissions in the WWW site information or
services.
©2002-2006 Appraisal & Collection Technologies. All rights reserved.



Galveston County Tax Office

Wednesday, December 23 109

Jurisdiction Information

[Begin a New Search](#) [Go to Your Portfolio](#)

[Return to the Previous Page](#)

Jurisdiction Information for 2009

Account No.: 860006335026040

Exemptions: None

Jurisdictions	Market Value	Exemption Value	Taxable Value	Tax Rate	Levy
GALV CITY	\$240,100.00	\$0.00	\$240,100.00	0.554	\$1,330.15
GALVESTON CO	\$240,100.00	\$0.00	\$240,100.00	0.6186	\$1,485.26
GALVESTON COLL	\$240,100.00	\$0.00	\$240,100.00	0.19	\$456.19
GALVESTON ISD	\$240,100.00	\$0.00	\$240,100.00	1.165	\$2,797.17
NAVIG DIST #1	\$240,100.00	\$0.00	\$240,100.00	0.04797	\$115.18
ROAD & FLOOD	\$240,100.00	\$0.00	\$240,100.00	0.0114	\$27.37

[Return to Galveston County Homepage](#)

GALVESTON COUNTY TAX OFFICE
P.O. Box 1169
GALVESTON, TX 77553-1169
(409) 766-2481
(877) 766-2284

Disclaimer: The Galveston County Tax Office provides this World Wide Web (WWW) site information and services "as is" without warranty of any kind, either expressed or implied. The Galveston County Tax Office does not warrant the accuracy, authority, completeness, usefulness, timeliness, or fitness for a particular purpose of its information or services. The Galveston County Tax Office, its officials and employees shall not be liable for any loss or injury caused in whole or part by its negligence, contingencies, beyond its control, loss of data, or errors or omissions in the WWW site information or services.

©2002-2006 Appraisal & Collection Technologies. All rights reserved.



Galveston County Tax Office

Wednesday, December 23 109

Taxes Due Detail by Year

[Begin a New Search](#) [Go to Your Portfolio](#)

[Return to the Previous Page](#) [Taxes Due by Jurisdiction](#)

Taxes Due as of Wed Dec 23 10:32:38 CST 2009

Account No.: 860006335026040

* Additional Collection Costs

		as of December 31, 2009		as of January 31, 2010		as of February 28, 2010	
Year	Base Tax Due	Penalty, Interest, and ACC* Due	Total Due	Penalty, Interest, and ACC* Due	Total Due	Penalty, Interest, and ACC* Due	Total Due
2009	\$6,211.32	\$0.00	\$6,211.32	\$0.00	\$6,211.32	\$434.79	\$6,646.11
Total Amount Due:	\$6,211.32	\$0.00	\$6,211.32	\$0.00	\$6,211.32	\$434.79	\$6,646.11

[Return to Galveston County Homepage](#)

GALVESTON COUNTY TAX OFFICE
P.O. Box 1169
GALVESTON, TX 77553-1169
(409) 766-2481
(877) 766-2284

Disclaimer: The Galveston County Tax Office provides this World Wide Web (WWW) site information and services "as is" without warranty of any kind, either expressed or implied. The Galveston County Tax Office does not warrant the accuracy, authority, completeness, usefulness, timeliness, or fitness for a particular purpose of its information or services. The Galveston County Tax Office, its officials and employees shall not be liable for any loss or injury caused in whole or part by its negligence, contingencies, beyond its control, loss of data, or errors or omissions in the WWW site information or services.

©2002-2006 Appraisal & Collection Technologies. All rights reserved.



Galveston County Tax Office

Wednesday, December 23 109

Payment Information

[Begin a New Search](#) [Go to Your Portfolio](#)

[Return to the Previous Page](#)

Account No.: 860006335026040

Receipt Date	Amount	Tax Year	Description	Payer
2009-01-31	\$5,836.88	2008	Payment	CBS OUTDOOR INC
2008-01-30	\$5,887.33	2007	Payment	VIACOM OUTDOOR INC
2007-05-21	(\$479.54)	2006	Refunded	CBS OUTDOOR
2007-02-26	\$479.54	2006	Transfer	CBS OUTDOOR
2007-02-26	(\$479.54)	2006	Transfer	VIACOM OUTDOOR INC
2007-02-26	\$7,330.00	2006	Payment	VIACOM OUTDOOR INC
2006-02-23	\$20,155.32	2005		CBS OUTDOOR

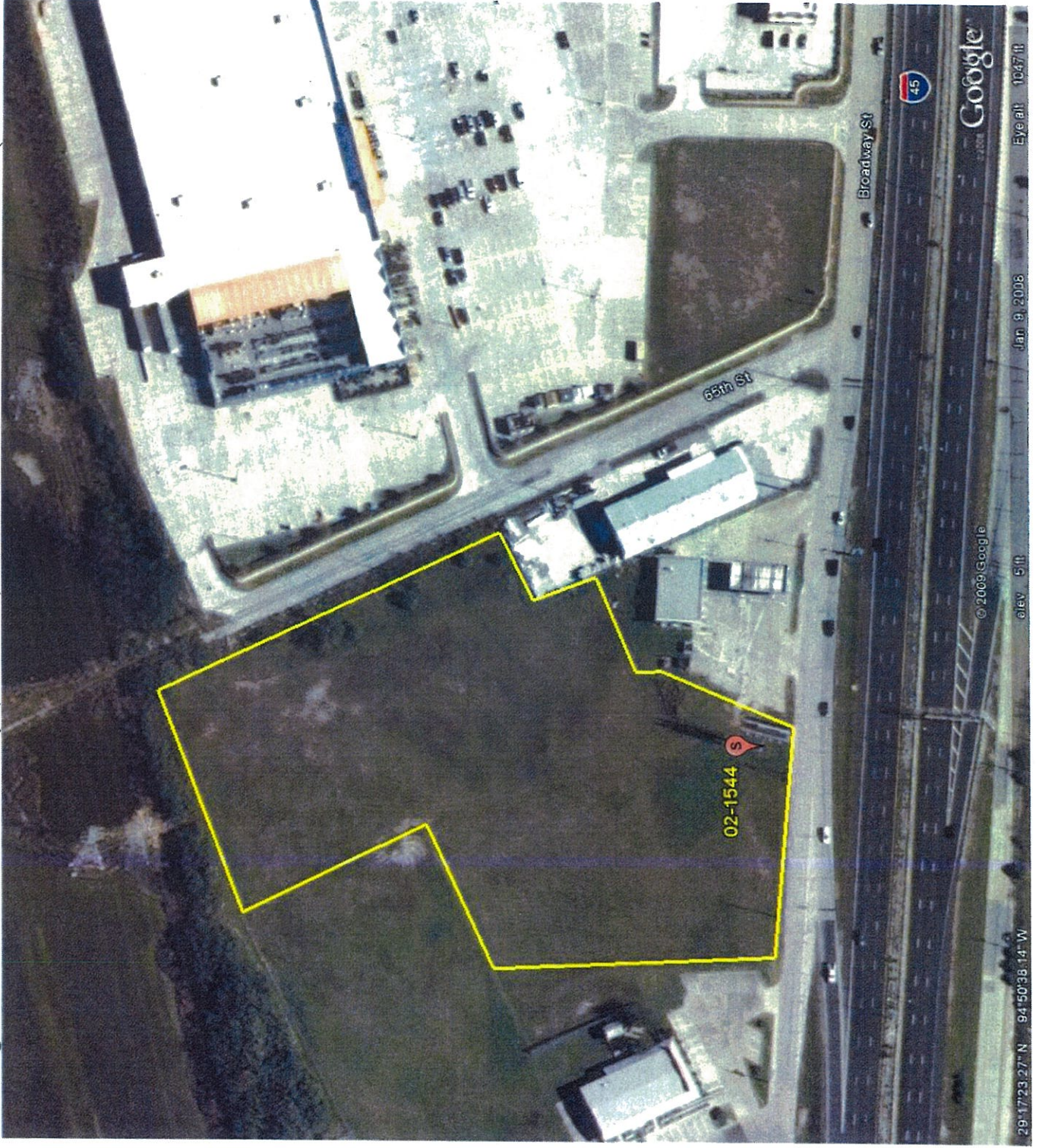
[Return to Galveston County Homepage](#)

GALVESTON COUNTY TAX OFFICE
P.O. Box 1169
GALVESTON, TX 77553-1169
(409) 766-2481
(877) 766-2284

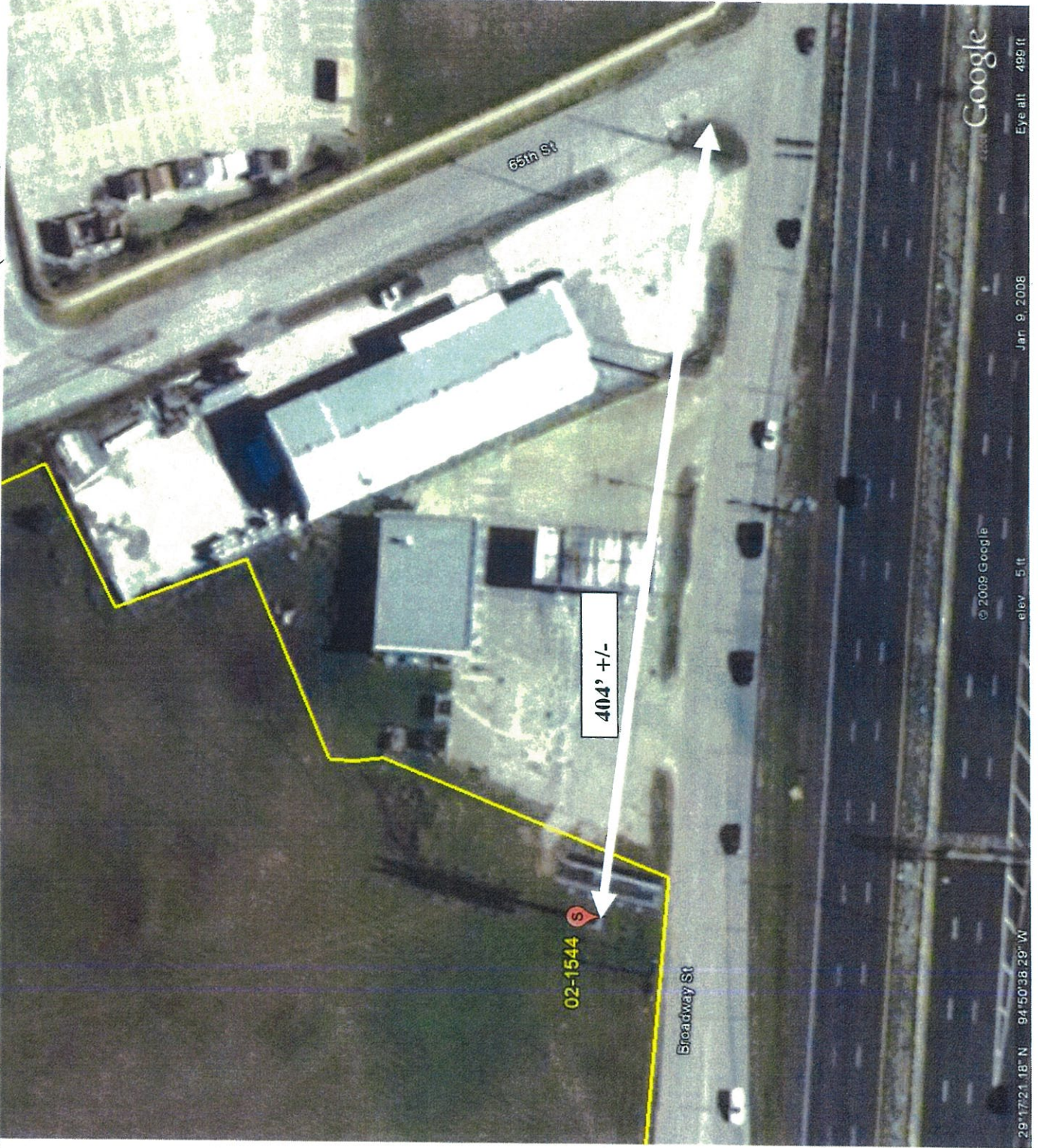
Disclaimer: The Galveston County Tax Office provides this World Wide Web (WWW) site information and services "as is" without warranty of any kind, either expressed or implied. The Galveston County Tax Office does not warrant the accuracy, authority, completeness, usefulness, timeliness, or fitness for a particular purpose of its information or services. The Galveston County Tax Office, its officials and employees shall not be liable for any loss or injury caused in whole or part by its negligence, contingencies, beyond its control, loss of data, or errors or omissions in the WWW site information or services.

©2002-2006 Appraisal & Collection Technologies. All rights reserved.

CBS Sign location: 6604 Broadway (Avenue J) Galveston, TX: CBS Lease 02-1544 (Also see attached)

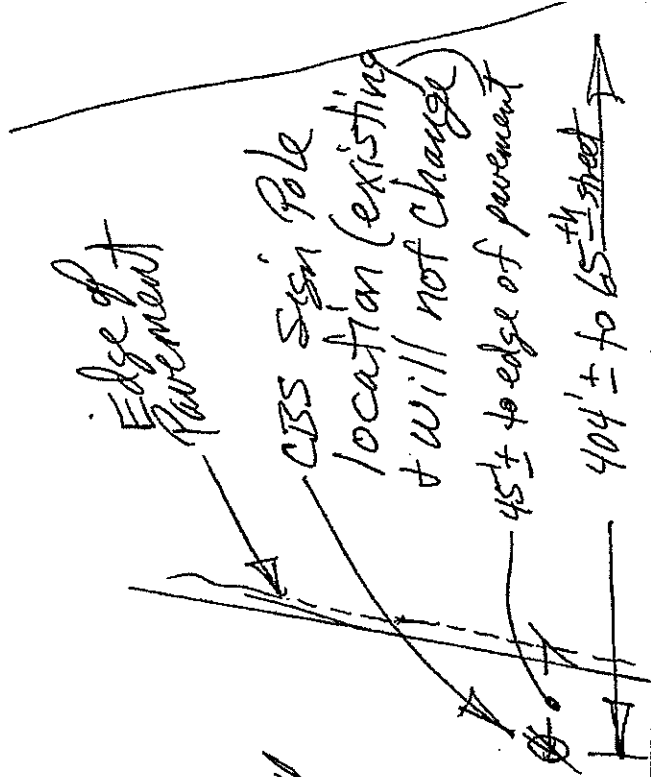


CBS Sign location: 6604 Broadway (Avenue J) Galveston, TX: CBS Lease 02-1544 (Also see



attached)

Address:
6604 Broadway
Galveston



→ Broadway St.
(I-45 frontage Road)

→ I-45

Existing
CBS Sign location
for 6604 Broadway
Galveston

ROTHFELDER & FALICK, L.L.P.

ATTORNEYS AT LAW

RICHARD L. ROTHFELDER
rrothfelder@swbell.net
BOARD CERTIFIED - CIVIL TRIAL LAW

1201 LOUISIANA
SUITE 550
HOUSTON, TEXAS 77002

TELEPHONE: 713-220-2288
FACSIMILE: 713-658-8211
WWW.ROTHFELDERFALICK.COM

January 5, 2010

Board of Adjustment
c/o Dept. of Planning and Community Development
City of Galveston
P.O. Box 779
823 Rosenberg
Galveston, Texas 77553

Via Federal Express, Airbill No. 8712 5685 4336

Ms. Wendy O'Donahoe, Director
Dept. of Planning and Community Development
City of Galveston
P.O. Box 779
Galveston, TX 77553

Via Federal Express, Airbill No. 87125685 4347

Mr. David Ewald, Building Official
Building Department
City of Galveston
P.O. Box 779
823 Rosenberg
Galveston, Texas 77553

Via Federal Express, Airbill No. 87125685 4299

RE: *Appeal to the Zoning Board of Adjustment of the denial of a Building Permit Application regarding repair of an outdoor advertising structure located at 6127 Broadway (Ave. J) in Galveston, Texas, owned and operated by CBS Outdoor, Inc.; Our File No. 1030-224.*

Dear Ms. O'Donahoe, Mr. Ewald and Members of the Board of Adjustment:

Introduction

The law firm of Rothfelder & Falick, L.L.P. represents CBS Outdoor, Inc. ("CBS") with regard to the above referenced matter. CBS submits this letter in support of its appeal to the Board of Adjustment ("Board") of the City of Galveston's ("City") November 30, 2009 denial of a Building Permit Application ("Application") to repair a storm-damaged outdoor advertising structure. It is our understanding that this appeal will be heard by the Board at 4:00 p.m. on Wednesday, February 3, 2010. We would appreciate your contacting us to confirm same.



Background Information

CBS owns and operates a legally permitted outdoor advertising structure located at 6127 Broadway (Ave. J) ("Sign"). The Sign incurred storm damage from Hurricane Ike in September 2008. More specifically, the Sign suffered minor damage to the lights, catwalk, ladders, frame, and uprights of one face. The foundation and base column pipe is undamaged (or moderately damaged) and is intact. Although the upper portion of the Sign fell, the second stage pipe and torsion pipe were undamaged, as were some of the walks, lights and ladders. The foundation and all column and torsion pipe can be reused as can all parts except those for one face, i.e., frame walks, lights, uprights, etc. Only minor replacement is required on the head portion of the Sign. The scope of the work to repair the Sign includes reinstalling the second stage pipe and torsion pipe and using salvaged materials and replacing damaged materials to repair the head.

Sign Regulations

Pursuant to Section 29-21 of the City's Municipal Code ("Code"), the 1991 Zoning Standards ("Zoning Standards") have been adopted in their entirety. The Zoning Standards, updated through January 2009, contain the City's Sign Regulations in Section 29-82 et seq. ("Sign Regulations"), and the rules and procedures related to appeals to the Board of Adjustment ("Board") at Section 29-110 et seq.

Section 29-84(b)(1) of the Sign Regulations prohibits the construction of new off-premise signs within Galveston's city limits and extraterritorial jurisdiction. However, legally existing non-conforming signs in existence on the effective date of Ordinance No. 97-82 may continue to lawfully exist, pursuant to Section 29-86(b). This section provides that, if such a legally existing non-conforming off-premise sign is destroyed "such that the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location, the sign owner shall repair, remove, or relocate the sign." Based on the language in this section, if the cost of repairing the sign is 60% or less than the cost of erecting a new sign of the same type at the same location, then the sign is not considered "destroyed", and the sign may be restored to the condition it was in prior to having been damaged.

Section 29-112 of the Zoning Standards states that "appeals to the Board can be taken by any person aggrieved...by any decision of the Building Official." This section further gives the Board the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning laws of the City.

A copy of the relevant Sign Regulations and Zoning Standards is attached hereto as Exhibit 1.

Permit Application

CBS submitted its Application to the City seeking to repair the Sign on October 12, 2009. Although not required by the Sign Regulations, CBS submitted three independent repair and replacement estimates along with the Application. The first, prepared by Advertising Higher, shows the repair costs as \$18,300.00, or approximately 29%, of the estimated replacement costs of \$63,627.50. The second, prepared by Alamo Outdoor Signs, Ltd., shows the repair costs as \$24,627.87, or approximately 46%, of the estimated replacement costs of \$52,774.07. The third, prepared by Carolina Sign and Crane Service, Inc., shows the repair costs as \$33,200.00, or approximately 42%, of the replacement costs of \$78,000.00. All three independent estimates, then, meet the 60% test in the Sign Regulations.

Despite the foregoing, the Application was stamped "DENIED" twice on November 30, 2009 and returned to CBS. A copy of the denied Application, together with the attachments that were submitted with the request, is attached hereto as Exhibit 2. Based on our best efforts to decipher the message, it appears someone wrote "unsafe can't move it down" at the top of the Application.¹ Other than that cryptic notation, no other explanation for the denial was given in writing by the City.

Based on our review of the applicable Zoning Standards, CBS respectfully disagrees with the denial asserted by the City, and makes this appeal to the Board pursuant to Section 29-112 of the Zoning Standards.

Argument

The position taken by the City is in sharp contrast to the language in Section 29-86(b). By ignoring the documentation submitted to the City by CBS, and by requiring CBS to remove the Sign based on someone's visual inspection and observation rather than the hard data, the City is completely ignoring the constitutional 60% test contained in its Sign Regulations. In so doing, the City risks falling into the same trap as did the City of Webster following Hurricane Alicia. In 1983, another sign company, SignAd, owned and operated a number of billboards in Webster's city limits which suffered varying degrees of damage during Hurricane Alicia. Like CBS' Sign, the billboards were grandfathered, non-conforming signs that had been erected prior to the passage of the city's sign ordinance. Webster's sign code at the time stated generally that any non-conforming signs "or any substantial parts thereof" which were blown down or destroyed could not be rebuilt or repaired unless the signs were brought into compliance with the sign code.

Webster's City Engineer denied SignAd's request for permits to repair the signs, stating that, since the storm had blown down or destroyed "substantial parts" of the signs, their reconstruction was forbidden. SignAd obtained a summary judgment from the trial court declaring the sign code unconstitutional, which Webster appealed. The Court of Appeals for the 1st District of Houston agreed with SignAd and held that the referenced section of Webster's sign code was fatally vague and violative of SignAd's due process rights since SignAd and other sign

¹ "down" may be another word, or may be an individual's name or initials.

operators received no fair and adequate notice as to what sign repairs were permitted or prohibited. Upon resolution of the dispute, not only was SignAd permitted to repair the damaged signs, but the City of Webster reimbursed SignAd for all of its lost advertising revenues and attorneys fees incurred from the date the City refused to allow SignAd to repair the signs, up through the date the case settled, which was a six figure sum. A copy of the *City of Webster v. SignAd, Inc.* case is attached hereto as Exhibit 3.

To the extent that the City attempts to deviate from the constitutional 60% test in its Sign Regulations, and instead chooses to base its decision on the subjective opinion of one or more individuals, the City will not be permitted to do so pursuant to precedent set forth in *City of Webster v. SignAd, Inc.* Further, it is reasonable to expect a court to find that such action is vague and violative of due process rights and gives the Building Official (or others acting on his behalf) unbridled (sole) discretion in determining which of CBS' signs may be repaired and which of them may not.

Finally, we note that Section 29-86(b) requires that repairs of signs meeting the 60% test "shall be done so as to comply with the regulations of all applicable ordinances." Requiring compliance with stricter standards would effectively constitute a violation of the Takings Clause contained in the 5th Amendment to the U.S. Constitution. CBS' Sign is a grandfathered, nonconforming structure that may be restored to its condition prior to becoming damaged, as long as the cost of repair meets the 60% threshold discussed above.

Conclusion

The cost to repair CBS's Sign is less than 60% of the cost to replace it, as evidenced by the documentation submitted by CBS with its Application. The Application was wrongfully denied, the Board should reverse the decision of the Building Official (or his representative), and CBS should be allowed to repair the Sign pursuant to Section 29-86(b) of the Zoning Regulations.

Very truly yours,

A handwritten signature in black ink that reads "Richard L. Rothfelder /go". The signature is written in a cursive, flowing style.

Richard L. Rothfelder

:jld
Enclosures

bc: Randy Jackson
CBS Outdoor, Inc.
1600 Studemont
Houston, Texas 77007

Via Email

David Posy
CBS Outdoor, Inc.
405 Lexington Ave, 17th Fl.
New York, NY 10174

Via Email

Don Bosley
CBS Outdoor, Inc.
1600 Studemont
Houston, Texas 77007

Via Email

ZONING BOARD OF ADJUSTMENTApplication Due: 01/06/10
Hearing Date: 02/03/10
(please confirm)

Case No.: _____

Please Print or Type

I. APPLICANT INFORMATIONAPPLICATION STATUS (Check One): ☐ Owner ☒ Tenant ☐ Prospective Buyer

Property Owner must sign the application or submit a notarized letter of authorization. c/o Attorney Richard
CBS Outdoor, Inc. Rothfelde
Applicant Name (713) 220-2288
Telephone

1600 Studemont, Houston, TX 77007 rrothfelder@swbell.net
Mailing Address E-mail Address

OWNERSHIP (Check One): ☐ Individual ☒ Corporation ☐ Partnership ☐ Trust
If ownership is a trust or corporation, list the partners or principle, their address and positions on a separate attachment

J.A.Z. Trust
Property Owner Name (409) 740-2590
Telephone

P.O. Box 1584 Galveston, TX 77553
Mailing Address E-mail Address

Representative Name ()
Telephone

Mailing Address E-mail Address

II. PROPERTY INFORMATION

6127 Broadway
Street Address/Location Current Zoning District Category

Billboard located on private property
Legal Description (Lot and Block Number)

Present Use and Improvement on Property

Has a previous application been filed on this property? ☒ No ☐ Yes If Yes, Date and Case No.: _____

III. REQUESTED ACTION☐ Special Exceptions☐ VarianceApplicable section(s) of the Zoning Standards: ~~Section 29-86 & Appeal under Section 29-112~~

Specifically state the Special Exception/Variance requested (i.e., from 100 square foot sign to 200 square foot sign):

CBS Outdoor, Inc. seeks permission to repair its storm damaged sign, as the cost to repair is less than 60% of the cost to replace it, in compliance with Section 29-86(b). Please see attached for further information.

IV. APPLICANT'S JUSTIFICATION FOR THE REQUEST - REQUIRED (i.e., grandfathered structure built up to property lines, off-street parking cannot be provided on the property) (attach additional pages if necessary)

CBS Outdoor, Inc. contends Section 29-86(b) is applicable, and allows it to repair its storm-damaged sign. Please see attached for further information.

ANY OTHER PERTINENT INFORMATION TO SUPPORT SAID REQUEST SHOULD ALSO BE ATTACHED.

ATTEST: I certify that ☐ I am the legal owner or record; ☒ I have secured the property owner's permission and have full authority to make this application and/or appeal.

Richard L. Rothfelder, Attorney for
Printed Name and Signature of Applicant CBS Outdoor, Inc.

1/5/10

Date

Richard L Rothfelder / JR
Printed Name and Signature of Property Owner

Date

V. APPLICANT CHECKLIST

- ☒ **Site Plan (to scale)** - with existing improvements, developments, and property lines
(25 copies [8-1/2x11] if larger than 8-1/2x11, please fold to appropriate size)
☐ **Survey (to scale)** (2 copies) not available
☒ **Current Tax Receipts** - County tax office, 722 Moody (766-2481)
☐ **Title Report** (if land was purchased within the last 60 days) n/a
☒ **Non-Refundable Application Fee** \$ 300.00 (payable to the City of Galveston)

DEPARTMENTAL USE ONLY**Staff Checklist**

APPLICATION ACCEPTED BY: _____

DATE: _____

AMOUNT: _____

REMARKS: _____

☐ City Departments☐ Private Utilities☐ Galveston County Health District☐ Property Owners☐ Other: _____☐ Other: _____

Galveston Central Appraisal District

600 Gulf Freeway Suite 113, Texas City, TX 77591, (866) 277-4725

Data on this Web site represents CERTIFIED 2009 Information (Click HISTORY for

[Home](#)

Your search returned 15 matches

[Show Legal Description](#)

[General Information](#)

[News](#)

[FAQ](#)

[Searches](#)

[Property ID Search](#)

[Account Search](#)

[Owner Search](#)

[Address Search](#)

[Advanced Search](#)

[Other](#)

[Taxing Units](#)

[Neighborhoods](#)

[Abstracts](#)

[Subdivisions](#)

[Tax Code](#)

[Calendar](#)

[County Tax Rates](#)

[Property Codes](#)

[Links](#)

[County Tax Office](#)

[County Clerk Deeds](#)

[Forms](#)

[GIS Map Viewer](#)

[GIS Shape Files](#)

[PDF Map Index](#)

[3D Aerial Photos](#)

[Website Feedback Form](#)

[2009 Roll Zip File](#)

Property Search Results

Property ID	Owner Name	Situs Address	Value
R136278	CBS INVESTMENTS INC	831 W MAIN ST LEAGUE CITY, TX 77573	In Progress
P292523	CBS METALS INC	202 20TH ST S TEXAS CITY, TX 77590	In Progress
P237529	CBS OUTDOOR INC	@VARIOUS LOCATIONS DICKINSON, TX 77539	In Progress
P240032	CBS OUTDOOR INC	@VARIOUS LOCATIONS LEAGUE CITY, TX 77573	In Progress
P287916	CBS OUTDOOR INC	@VARIOUS LOCATIONS GALVESTON, TX 77550	In Progress
P374807	CBS OUTDOOR INC	@VARIOUS LOCATIONS KEMAH, TX 77565	In Progress
P440070	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440071	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440072	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440073	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440074	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440075	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440076	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440077	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440078	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress

Galveston Central Appraisal District

600 Gulf Freeway Suite 113, Texas City, TX 77591, (866) 277-4725

Data on this Web site represents CERTIFIED 2009 Information (Click HISTORY for

[Home](#)

[General Information](#)

[News](#)

[FAQ](#)

[Searches](#)

[Property ID Search](#)

[Account Search](#)

[Owner Search](#)

[Address Search](#)

[Advanced Search](#)

[Property Data](#)

[Detail Sheet](#)

[Datasheet](#)

[Other](#)

[Taxing Units](#)

[Neighborhoods](#)

[Abstracts](#)

[Subdivisions](#)

[Tax Code](#)

[Calendar](#)

[County Tax Rates](#)

[Property Codes](#)

[Links](#)

[County Tax Office](#)

[County Clerk Deeds](#)

[Forms](#)

[GIS Map Viewer](#)

[GIS Shape Files](#)

[PDF Map Index](#)

[3D Aerial Photos](#)

[Website Feedback Form](#)

[2009 Roll Zip File](#)

 [History](#)

 [GIS Map](#)

 [Datasheet](#)

Owner Information

Owner ID: **O0027205**

Owner Name: **CBS OUTDOOR INC**

Owner Address: **1515 BROADWAY, 49TH FLOOR
NEW YORK, NY 10036**

Property Address: **@VARIOUS LOCATIONS
GALVESTON, TX 77550**

Parcel Information

Legal Description: **BUSINESS PERSONAL PROPERTY - BILLBOARDS IN
GALVESTON GISD**

Neighborhood: **()**

Acreage:

Cross Reference: **8600-0633-5026-040**

Undivided Interest: **100%**

Exemption Codes:

Entity Codes: **GGA (Galveston County)
R01 (Road Dist #1)
J01 (Galv College)
N01 (Nav District #1)
RFL (Co Road & Flood)
S10 (Galveston Isd)
C30 (Galveston City)**

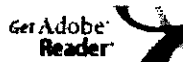
Deed Type:

Deed Book:

Deed Page:

Map Page:

[Click here](#) to view your 2009 certified values and prior history.



* Adobe Acrobat Reader 5.0 (minimum) is required to view pdf documents.
Acrobat Reader is a free program available [here](#).



Galveston County Tax Office

Wednesday, December 23 109

Property Tax Statement

[Begin a New Search](#) [Go to Your Portfolio](#)

[\[Tax Statement\]](#)

Unless otherwise noted, all data refers to tax information for 2009. All amounts due include penalty, interest, and attorney fees when applicable.

Account Number: 860006335026040

Pending Internet Payments:
No Credit Card Payment Pending

Address:
CBS OUTDOOR INC
1515 BROADWAY, 49TH FLOOR
NEW YORK, NY 10036

Pay by Credit Card or E Check

Property Site Address:
@VARIOUS LOCATIONS
77550

Market Value: \$240,100

Land Value: \$0

Legal Description:
BUSINESS PERSONAL PROPERTY - BILLBOARDS
IN GALVESTON GISD

Improvement Value: \$240,100

Capped Value: \$0

Current Tax Levy: \$6,211.32

Agricultural Value: \$0

Current Amount Due: \$6,211.32

Exemptions: None

Prior Year Amount Due: \$0.00

[Exemption and Tax Rate Information](#)

Total Amount Due: \$6,211.32

[Taxes Due Detail by Year and Jurisdiction](#)

Last Payment Amount for Current Year Taxes:
Not Received

[Payment Information](#)

Last Payer for Current Year Taxes:
Not Received

Last Payment Date for Current Year Taxes:
Not Received

[Click Here](#) to see your estimated amount due for a future date. You can see this information by year and by both year and jurisdiction.

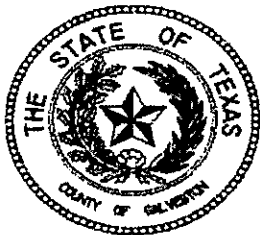
[Return to Galveston County Homepage](#)

GALVESTON COUNTY TAX OFFICE
P.O. Box 1169

Disclaimer: The Galveston County Tax Office provides this World Wide Web (WWW) site information and services "as is" without warranty of any kind, either expressed or implied. The Galveston County Tax Office does not warrant the accuracy, authority, completeness, usefulness, timeliness, or fitness for a particular purpose of its information or services. The Galveston County Tax Office, its officials and

GALVESTON, TX 77553-1169
(409) 766-2481
(877) 766-2284

employees shall not be liable for any loss or injury caused in whole or part by its negligence,
contingencies, beyond its control, loss of data, or errors or omissions in the WWW site information or
services.
©2002-2006 Appraisal & Collection Technologies. All rights reserved.



Galveston County Tax Office

Wednesday, December 23 109

Jurisdiction Information

[Begin a New Search](#) [Go to Your Portfolio](#)

[Return to the Previous Page](#)

Jurisdiction Information for 2009

Account No.: 860006335026040

Exemptions: None

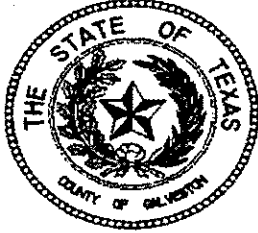
Jurisdictions	Market Value	Exemption Value	Taxable Value	Tax Rate	Levy
GALV CITY	\$240,100.00	\$0.00	\$240,100.00	0.554	\$1,330.15
GALVESTON CO	\$240,100.00	\$0.00	\$240,100.00	0.6186	\$1,485.26
GALVESTON COLL	\$240,100.00	\$0.00	\$240,100.00	0.19	\$456.19
GALVESTON ISD	\$240,100.00	\$0.00	\$240,100.00	1.165	\$2,797.17
NAVIG DIST #1	\$240,100.00	\$0.00	\$240,100.00	0.04797	\$115.18
ROAD & FLOOD	\$240,100.00	\$0.00	\$240,100.00	0.0114	\$27.37

[Return to Galveston County Homepage](#)

GALVESTON COUNTY TAX OFFICE
P.O. Box 1169
GALVESTON, TX 77553-1169
(409) 766-2481
(877) 766-2284

Disclaimer: The Galveston County Tax Office provides this World Wide Web (WWW) site information and services "as is" without warranty of any kind, either expressed or implied. The Galveston County Tax Office does not warrant the accuracy, authority, completeness, usefulness, timeliness, or fitness for a particular purpose of its information or services. The Galveston County Tax Office, its officials and employees shall not be liable for any loss or injury caused in whole or part by its negligence, contingencies, beyond its control, loss of data, or errors or omissions in the WWW site information or services.

©2002-2006 Appraisal & Collection Technologies. All rights reserved.



Galveston County Tax Office

Wednesday, December 23 109

Taxes Due Detail by Year

[Begin a New Search](#) [Go to Your Portfolio](#)

[Return to the Previous Page](#) [Taxes Due by Jurisdiction](#)

Taxes Due as of Wed Dec 23 10:32:38 CST 2009

Account No.: 860006335026040

* Additional Collection Costs

		as of December 31, 2009		as of January 31, 2010		as of February 28, 2010	
Year	Base Tax Due	Penalty, Interest, and ACC* Due	Total Due	Penalty, Interest, and ACC* Due	Total Due	Penalty, Interest, and ACC* Due	Total Due
2009	\$6,211.32	\$0.00	\$6,211.32	\$0.00	\$6,211.32	\$434.79	\$6,646.11
Total Amount Due:	\$6,211.32	\$0.00	\$6,211.32	\$0.00	\$6,211.32	\$434.79	\$6,646.11

[Return to Galveston County Homepage](#)

GALVESTON COUNTY TAX OFFICE
P.O. Box 1169
GALVESTON, TX 77553-1169
(409) 766-2481
(877) 766-2284

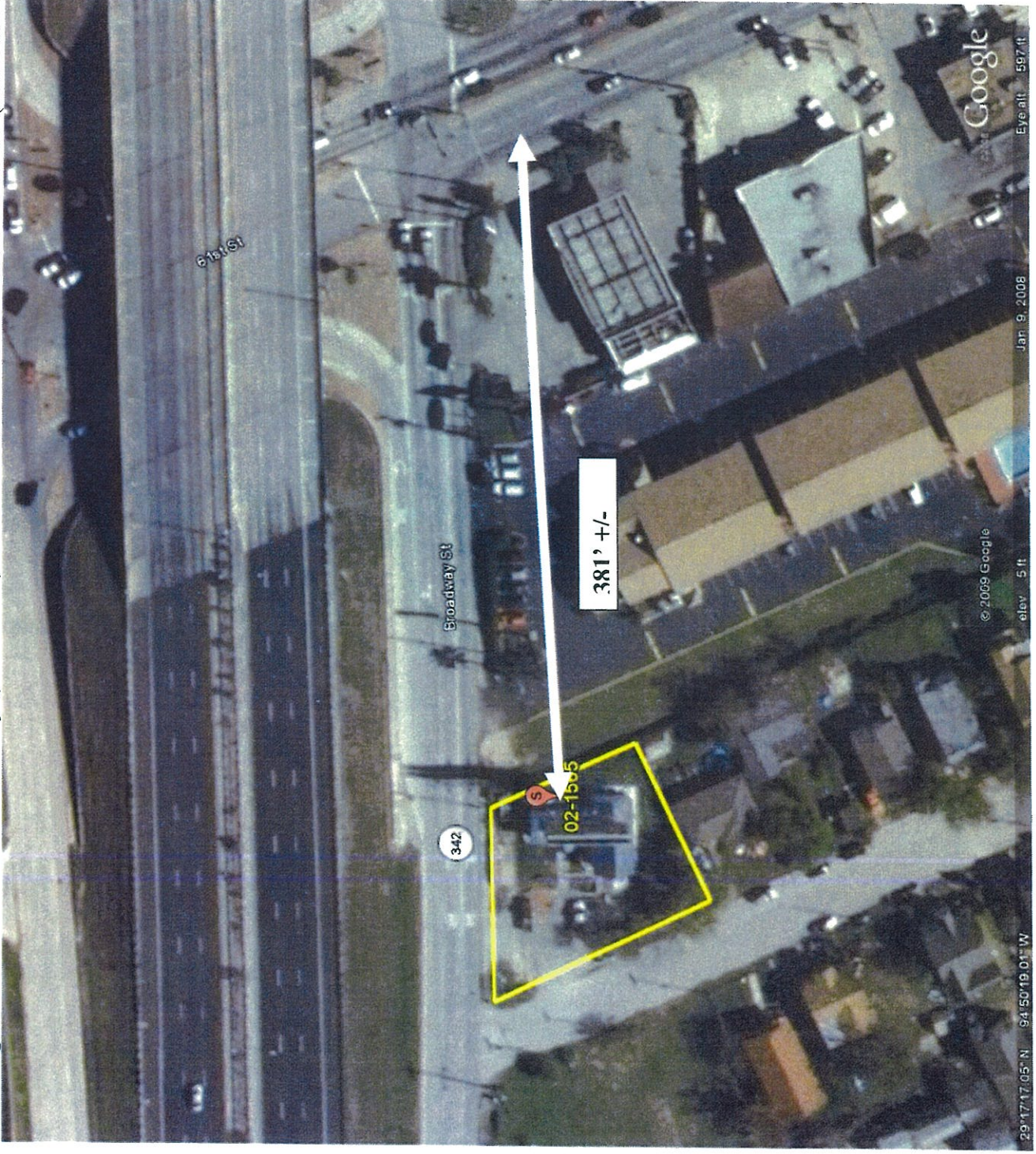
Disclaimer: The Galveston County Tax Office provides this World Wide Web (WWW) site information and services "as is" without warranty of any kind, either expressed or implied. The Galveston County Tax Office does not warrant the accuracy, authority, completeness, usefulness, timeliness, or fitness for a particular purpose of its information or services. The Galveston County Tax Office, its officials and employees shall not be liable for any loss or injury caused in whole or part by its negligence, contingencies, beyond its control, loss of data, or errors or omissions in the WWW site information or services.

©2002-2006 Appraisal & Collection Technologies. All rights reserved.

CBS Sign location: 6127 Broadway (Avenue J) Galveston, TX: CBS Lease 02-1565 (Also see attached)



CBS Sign location: 6127 Broadway (Avenue J) Galveston, TX: CBS Lease 02-1565 (Also see attached)



I-45

Broadway (I-45 Frontage Road)

Approx 381' to 615' S

CBS Outdoor
Sign Pole
Location
(existing)

Bait
shop

Bldg.

Address:
6127 Broadway
Galveston TX

62nd Street

Existing
CBS Sign Location
for 6127 Broadway
Galveston, TX

Richard Rothfelder

From: Barbara Baruch [BaruchBar@cityofgalveston.org]
Sent: Friday, January 08, 2010 12:59 PM
To: rrothfelder@swbell.net
Subject: re CBS Outdoor Inc. appeal

Richard, your appeal to ZBA is written with regard to an old ordinance, since replaced. Do you want to proceed with that argument or revise based on the ordinance in effect since April 9, 2009? I leave early today so call me before three (or e mail). Barbara

The information in this e mail is confidential and meant only for the recipient indicated. If you believe that it was not intended for you, please call me to let me know.

Barbara Toby Baruch
Assistant City Attorney, City of Galveston, Texas
823 Rosenberg, Ste 203
POB 779
Galveston, TX 77553
409 797-3532
409 797-3531 FAX



fax 713-658-8211
Jana Dundas
e mail 713 220 2289

ORDINANCE NO. 09-021

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING SECTION 29-84 "ADVERTISING SIGNS (BILLBOARDS)" OF THE ZONING REGULATIONS 1991 OF THE CITY OF GALVESTON REGARDING MODIFICATION TO THE PROVISIONS RELATING TO THE REPAIR, REMOVAL AND RELOCATION OF OFF-PREMISE SIGNS DAMAGED OR DESTROYED MORE THAN 60 PER CENT WITHIN THE CITY OF GALVESTON AND THE CITY OF GALVESTON'S EXTRATERRITORIAL JURISDICTION (ETJ); AND REQUEST TO AMEND THE GALVESTON ZONING STANDARDS SECTION 29-86: CONTINUATION OF NON-CONFORMING SIGNS RELATING TO THE REMOVAL OF SIGNS DAMAGED OR DESTROYED MORE THAN 60 PERCENT AND UPON CEASE OF USE OR BUSINESS OPERATION IN THE CITY OF GALVESTON; PLANNING CASE 09ZA-07; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, Staff recommends that Galveston Zoning Standards: Section 29-84 should be amended and clarified with regard to the repair of legally nonconforming Billboards that are deteriorated, damaged or destroyed more than 60 per cent, and Section 29-86 should be amended and clarified with regard to the removal of legally non conforming on premise signs damaged or destroyed more than 60% and upon cease of use or business operation, as set out in the Staff Report attached hereto as **Exhibit 1** and incorporated herein for all purposes; and

WHEREAS, state law does not protect Billboards or on-premise signs that are damaged or destroyed so that the cost of repairing the Billboard or the on- premise sign exceeds 60% of the cost of erecting a new sign of the same type at the same location, therefore, the City may prohibit their repair and require their removal without permitting them to be relocated within the City or the City's extraterritorial jurisdiction (ETJ). Additionally, state law does not protect on-premise signs after the business, person, or activity ceases to operate on the premise for a specified duration therefore the City may require their removal; and

WHEREAS, the City has prohibited Billboards since October 29, 1997, however, there are still legal, non-conforming Billboards in the City of Galveston and within the City's ETJ which should be removed if they are damaged or destroyed so that the cost of repair exceeds 60% of the cost of erecting a new sign of the same type at the same location as determined by the Building Inspector. Staff's proposed changes to Section 29-84 provide for that determination, and clarifies the conditions for repair or removal of Billboards, makes the Billboard owner and the owner of the property on which it is placed liable for failure to remove Billboards that may not be repaired, and clarifies the permit requirements for legal, non-conforming Billboards; and,

WHEREAS, legal, non conforming on-premise signs should be removed if they are damaged or destroyed so that the cost of repair exceeds 60% of the cost of erecting a



new on-premise sign of the same type at the same location, or if the business, person or activity ceases to operate for one year or as provided by state law. Staff's proposed changes to Section 29-86 provide for those determinations, clarifies the conditions for repair or removal of such signs, and makes the sign owner and the owner of the premises liable for failure to remove a non-conforming on-premise sign that may not be repaired;

WHEREAS, at its regular meeting of April 7, 2009, the Galveston Planning Commission will consider these proposed recommendation, which will be reported to City Council; and

WHEREAS, after notice and public hearing as required by law, the City Council finds that it is in the public interest to amend Section 29-84 "Advertising Signs (Billboards)" of the Galveston Zoning Regulations 1991 and Section 29-86: Continuation of Non-Conforming On-Premise Signs as recommended by Staff;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS:

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Section 29-84: "Advertising Signs (Billboards)" of Zoning Regulations 1991 is hereby amended to read and provide as follows:

Section 29-84: ADVERTISING (Billboards) (Ord. 08-027)

(a) Definitions

- (1) As used in this section, **Building Inspector**, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager.
- (2) As used in this section, **Department of Planning and Community Development**, "Department of Planning and Community Development" shall mean the Department of Planning and Community Development, or designee, or any other person designated by the City Manager.
- (3) As used in this section, **Billboard** means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designated, intended or used to advertise or inform. **Billboard** shall include off-premise signs on

- (c) "On or about" means either occurring or occurring at a particular point in time, and includes and is limited to the same premises as the other person or persons.

(4) "Off-premise sign" means a sign displaying advertising copy that remains to business hours of operation, is illuminated, and is not a service sign produced in principle for use primarily in connection with the premises on which the sign is located.

(5) "Electronic sign" means a sign, display or device that changes its message or copy by programmable mechanical or electronic processes. The use of an electronic image on a digital display device is not the use of a flashing, intermittent or moving light for the purposes of these regulations. Any flashing intermittent or moving light or lights including any type of screen using animated or scrolling displays except those giving only public service information such as time, date, temperature, weather or similar information is prohibited.

(b) Permits

(1) The City shall not issue permits for the construction of new ~~signs~~ **Billboard**. ~~Any sign that is not a billboard shall be subject to the provisions of the sign regulations. Any sign that is a billboard shall be subject to the provisions of the billboard regulations. The City may issue permits for the erection of legal non-conforming billboards that existed on October 29, 1997, and the provisions of this section. A billboard that is erected after October 29, 1997, shall be subject to the provisions of the billboard regulations.~~

(2) The City shall charge an annual permit fee of thirty-five dollars (\$35.00) for each off-premise ~~sign~~ **Billboard**. The annual permit fee shall be non-refundable and shall be non-transferable to a different location. If any ~~sign~~ **Billboard** owner fails to obtain the required permit, the ~~sign~~ **Billboard** owner shall be subject to the penalties prescribed for violations of ~~the City's~~ **these regulations** and in addition shall pay double the amount of the permit fee. If a ~~sign~~ **Billboard** owner wishes to transfer a permit to another person or entity, the ~~sign~~ **Billboard** owner shall notify, in writing, the Department of Planning and Community Development. The Department of Planning and Community Development shall void the original ~~sign~~ **Billboard** permit and issue a new ~~sign~~ permit to the new owner. No transfer shall be valid until accepted by the Department of Planning and Community Development.

(3) ~~Any legally existing non-conforming billboard in existence on the effective date of this ordinance may continue to lawfully exist. However, if a legally existing non-conforming billboard is blown down or otherwise destroyed such that the cost of repairing the billboard using all new materials is more than 60% of the cost of erecting a new billboard of the same type at the same location using all new materials as computed by the Building Inspector, the billboard owner and the owner of the property on which it is placed shall each be responsible to remove the billboard. If the billboard is damaged such that the cost of repairing the billboard using all new materials as computed by the~~

Building Inspector, or 60% of the cost of erecting a new Billboard of the same type at the same location, then any repairs shall be done in compliance with the regulations of all applicable ordinances. In the event of conflict between this section and the Texas Local Government Code, Chapter 216, as amended, the Texas Local Government Code shall prevail.

(c) Extraterritorial Jurisdiction (ETJ)

- (1) The City prohibits the construction of new, off premise, or billboard electronic signs along state highways within the City's extraterritorial jurisdiction, and will not issue permits for such signs. Additionally, the City prohibits the conversion, replacement or repair of existing off premise or billboard off premise sign Billboard to become electronic signs within the City's extraterritorial jurisdiction and will not issue permits for such conversion, replacement or repair.

(d) Site provisions for Billboard

- (1) Any Billboard that is relocated at the same location shall be the same size or smaller than the original sign. However, in no event shall the relocated Billboard exceed the sizes set forth in section three below.
- (2) Area: Regardless of the size of the off premise sign being relocated, the relocated Billboard shall not exceed the size of the original sign.
- (3) Area: Legally non conforming Billboards shall not exceed fourteen feet (14') by forty-eight FEET (48'), excluding cutout extensions and apron trim without copy. The cumulative area of all extensions on any Billboard shall not exceed 20% of the area of the Billboard, excluding extensions and apron trim without copy.
- (3) Height: Regardless of the height of the off premise sign being relocated, the relocated Billboard shall not exceed a maximum height of forty feet (40'). The height shall be measured from the crown of the adjacent roadway to which the Billboard is oriented. However, the Department of Planning and Community Development may issue a permit for an off premise Billboard whose height exceeds forty feet (40'), but is less than fifty feet (50') if the Department of Planning and Community Development determines that the off premise Billboard, at the lower height, would block an existing sign or structure from view, or would itself be blocked from view. The Department of Planning and Community Development shall provide a written determination to the Billboard owner. If the Billboard owner disagrees with the Department of Planning and Community Development's determination, the Billboard owner may notify the Director Planning and Community Development Transportation of the Billboard owner's desire to appeal the determination to City Council. Such notice of appeal must be filed with the Department of Planning and Community Development no later than the 60th day

after the date of the Department of Planning and Community Development's written decision.

- (4) Setbacks: A minimum setback of ten (10') feet from the right-of-way of the street to which the ~~sign~~ **Billboard** is oriented shall be required for any part of the ~~sign~~ **Billboard** and its supporting structure. As used in this sub-section only, "street" does not include alleys.

~~(5) Conversion to Electronic Signs: Any sign that is permitted to be repaired or replaced within the City of Galveston through the provisions of this section may not be converted to, or built as, an electronic sign.~~

- (5) Conversion to Electronic Signs:** Any sign that is permitted to be repaired ~~or replaced~~ within the City of Galveston through the provisions of this section may not be converted to, or built as, an electronic sign.

- (e) Traffic Control Conflicts: No ~~sign~~ **Billboard** ~~which resembles an official marker erected by any governmental agency, or which by reason of position, shape, color or illumination would obstruct from clear view any traffic signal or sign.~~
- (f) Illumination: It shall be unlawful for any person to erect, operate, or otherwise use any ~~sign~~ **Billboard** which is of a rotating nature or displays intermittent lights. If this section conflicts with Section 29-81, "Sign Regulations" of the "Zoning Regulations 1991" this section (f) shall prevail as to ~~signs~~ **Billboards**.
- (g) Motion: Signs ~~Billboards~~ shall not be permitted to revolve or rotate. ~~Any sign that is permitted to be repaired or replaced within the City of Galveston through the provisions of this section may not be converted to, or built as, an electronic sign.~~
- (h) Roof Mounted Sign: Roof mounted ~~signs~~ **Billboards** shall not be permitted.
- (i) Maintenance: ~~Sign~~ **Billboard** owners shall maintain all signs in good appearance and safe structural condition. ~~Sign~~ **Billboard** owners shall keep the general vicinity of any sign free and clear of sign materials, weeds, debris, trash and litter. ~~Sign~~ **Billboard** owners shall conduct maintenance, replacement of sign copy, or structural repairs in a manner that will prevent debris and litter from drifting or being blown onto adjacent properties.
- (j) Registration: ~~Within thirty (30) days from the effective date of this Ordinance, April 1, 1997, owners of all existing signs~~ **Billboards** situated in any location in the city limits shall register each ~~sign~~ **Billboard** with the office of the Building Official. Such registration shall be accomplished by filing, on forms prescribed for such purpose, information as to the location, height and area of each ~~sign~~ **Billboard**. Owners shall keep such registration current and shall make a similar filing as to each ~~sign~~ **Billboard** erected, demolished or torn down within thirty (30) days from the happening of such event.

SECTION 3. Section 29-86: "Continuation of Non-Conforming On-Premise Signs" of Zoning Regulations 1991 is hereby amended to read and provide as follows:

Section 29-86: CONTINUATION OF NON-CONFORMING ON-PREMISE SIGNS

(a) Definitions

(1) ~~As used in this section, "Sign" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform that is an on-premise sign and off-premise sign only.~~

(2) As used in this section, "Sign" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, ~~billboard~~, or other thing that is designed, intended, or used to advertise or inform that is an ~~on-premise sign and off-premise sign only~~ on-premise sign.

(b) Any legally existing non-conforming ~~on-premise sign~~ in existence on the effective date of Ordinance No. 97-02, October 29, 1997 may continue to lawfully exist ~~even if the sign is damaged or destroyed, provided that the sign is repaired or replaced within 60 days of the date of damage or destruction. The sign must be repaired or replaced with a sign of the same type and size as the original sign at the same location as the original sign.~~

~~(2) The sign owner and the owner of the business, person, or activity ceased to operate on the premises~~

~~at which time the on-premise sign must be removed.~~

However, if a legally existing non-conforming sign is ~~not damaged or~~ destroyed such that the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location, the sign owner ~~may~~ shall repair, ~~remove or relocate~~ the sign. All repairs shall be done so as to comply with the regulations of all applicable ordinances. ~~All repairs shall be done in accordance with all applicable ordinances including Ordinance No. 97-02.~~

~~(c) The owner of the sign and the owner of the premises are each liable for the failure to remove a non-conforming on-premise sign. In the event of a conflict~~

~~between this section and the Texas Local Government Chapter 216, the Texas Local Government Code shall prevail.~~

SECTION 4. The violation of any provision of this Ordinance shall be unlawful and a misdemeanor offense punishable by a fine not exceeding Five Hundred Dollars (\$500.00) each day a violation of this Ordinance continues shall constitute a separate offense.

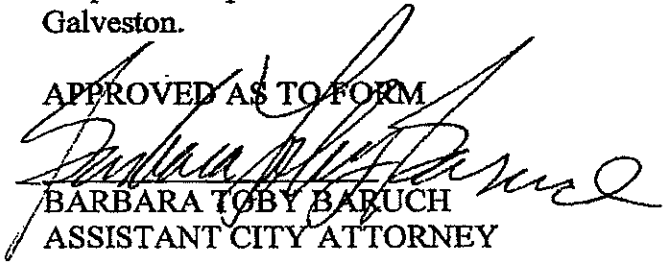
SECTION 5. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 6. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 7. In accordance with the provisions of Section 12 and 13 of Article II of the City Charter, this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 8. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM


BARBARA TOBY BARUCH
ASSISTANT CITY ATTORNEY

I, Barbara S. Lawrence, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on the 9th day of April, 2009, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this ____ day of _____, 2009.

Secretary for the City Council
of the City of Galveston

EXHIBIT 1

TITLE OF ITEM AS IT IS TO APPEAR ON CITY COUNCIL AGENDA

Public Hearing and request for Ordinance, request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ). Request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston.

Applicant: Department of Planning and Community Development
Planning Case: 09ZA-07

AGENDA DATE REQUESTED: April 9, 2009

IS AN ORDINANCE OR RESOLUTION REQUIRED? X YES NO

<u>STAFF REVIEW</u>	<u>DATE</u>	<u>APPROVED</u>	<u>SIGNATURE</u>
DEPARTMENT HEAD REQUESTING ITEM	<u>4/2/2009</u>	<u>✓</u>	<u>[Signature]</u>
ARE OTHER DEPARTMENTS AFFECTED?	<u> </u> YES <u>X</u> NO		
IF YES, LIST AND OBTAIN THEIR APPROVAL:			

	<u>YES</u>	<u>NO</u>	
<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>FINANCE DIRECTOR:</u>	<u> </u>	<u> </u>	<u> </u>

COMMENTS:

CITY ATTORNEY: 11-2-09

COMMENTS:

ASSISTANT CITY MANAGER:

COMMENTS:

CITY MANAGER: 4/3/09 [Signature]

COMMENTS:

NAME OF COUNCIL MEMBER DISTRICT IS AFFECTED: All Districts

IF NECESSARY, HAVE YOU NOTIFIED YES X NO

FISCAL POLICY STATEMENT ATTACHED? X YES NO

HAS ALL APPROPRIATE ADVERTISING BEEN COMPLETED? X YES NO



09ZA-07 Request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ). Request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston.

Applicant: Department of Planning and Community Development

Advertisement Date:

Planning Commission: March 26, 2009

City Council: March 26, 2009

City Department Notifications:

Airport:	Pending
Building Department:	Pending
Fire Department:	Pending
Fire Marshal:	Pending
Police Department:	Pending
Public Works Department:	Pending

Private Utility Notifications:

A.T. & T:	Pending
Centerpoint Energy:	Pending
Comcast Communication:	Pending
Texas Gas Service:	Pending

ANALYSIS

The proposed regulations provide clarification relating to the repair of legally non-conforming signs that are deteriorated, damaged or destroyed at a minimum of 60 per cent. These sign regulations are located in two different sections of the Galveston Zoning Standards: Section 29-84 and Section 29-86. Section 29-84 relates to advertising or billboard signs; and, Section 29-86 relates to on-premise signage. Per state law, if a legally non-conforming sign is damaged such that the cost of repairing the sign using all new materials is 60 per cent or less of the cost of erecting a new sign, the sign may be repaired and kept at the same location. However, if the cost of repairing the sign using all new materials is more than 60 per cent of the cost of erecting a new sign of the same type at the same location using all new materials, the sign must be constructed to meet current regulations or removed if no longer permitted under the regulations.

Furthermore, the proposed regulations also provide for removal of signs upon cease of business operation. This will allow removal of obsolete signs that are no longer utilized for business purposes but do not meet the qualifications for severely damaged or destroyed signs. State law provides the framework for municipalities to require removal of such signs and the proposed regulations reflect those requirements.

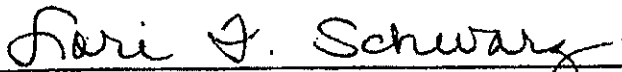
PLANNING COMMISSION

The Planning Commission will hear this Zoning amendment request at the regular meeting of April 7, 2009. The recommendation will be presented to City Council at the April 9, 2009 meeting.

STAFF RECOMMENDATION:

Staff recommends approval of the request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ); and the request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston, be approved as shown in Attachments A and B.

Respectfully Submitted,



Lori Feild Schwarz, Planning Division Head/HPO
Department of Planning and Community Development

4/2/09
Date



Wendy O'Donohue, Director
Department of Planning and Community Development

4/2/09
Date


Brandon Wade, Deputy City Manager

Date



Steven J. LeBlanc, City Manager

4/3/09
Date

ATTACHMENTS

"A" – Section 29-84 ADVERTISING (Billboards)

"B" – Section 29-86: Continuation of Non-Conforming Signs

FISCAL NOTES STATEMENT

Source of Request: Request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ). Request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston.
Applicant: Department of Planning and Community Development

Amount of Expenditure: Minimal administrative costs associated with processing request.

Estimated Revenue: No revenue will be realized.

Vendor History: Not applicable.

Section 29-84: ADVERTISING (Billboards) (Ord. 08-027)

(a) Definitions

- (1) As used in ~~this section~~ these regulations, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager.
- (2) As used in ~~this section~~ these regulations, "Department of Planning and Community Development" shall mean the Department of Planning and Community Development, or designee, or any other person designated by the City Manager.
- (3) As used in this section, ~~sign~~ "Billboard" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designated, intended or used to advertise or inform. "Sign" "Billboard" shall include ~~on-premise or off-premise signs~~ only.
- (4) ~~"On-premise" means a sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.~~
- (5) ~~"Off-premise sign" means a sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.~~
- (4) "Electronic sign" means a sign, display or device that changes its message or copy by programmable mechanical or electronic processes. The use of an electronic image on a digital display device is not the use of a flashing, intermittent or moving light for the purposes of these regulations. Any flashing intermittent or moving light or lights including any type of screen using animated or scrolling displays except those giving only public service information such as time, date, temperature, weather or similar information is prohibited.

(b) Permits

- (1) The City shall not issue permits for the construction of new ~~off-premise signs~~ Billboards. ~~The City shall issue permits for the repair, reconstruction, or replacement of legal, conforming or non-conforming off-premise signs that exist on the effective date of this Ordinance. An off-premise sign permit shall be valid at the sign location for twelve (12) months unless sooner revoked or canceled.~~ The City may issue permits for the repair of legal, non-conforming Billboards that existed on October 29, 1997 per the provisions of this section. A Billboard permit shall be valid at the sign location for twelve (12) months unless sooner revoked or canceled.
- (2) The City shall charge an annual permit fee of thirty-five dollars (\$35.00) for each off-premise ~~sign~~ Billboard. The annual permit fee shall be non-refundable and shall be non-transferable to a different location. If any ~~sign~~ Billboard owner fails to obtain the required permit, the ~~sign~~ Billboard owner shall be subject to the penalties prescribed for violations of this Code these regulations and in addition shall pay double the amount of the permit fee. If a ~~sign~~ Billboard owner wishes to transfer a permit to another person or entity, the ~~sign~~ Billboard owner shall notify, in writing, the Department of Planning and Community Development. The Department of Planning and Community Development

shall void the original sign Billboard permit and issue a new sign permit to the new owner. No transfer shall be valid until accepted by the Department of Planning and Community Development.

(3) Any legally existing, non-conforming Billboard in existence on the effective date of this ordinance may continue to lawfully exist. However, if a legally existing non-conforming Billboard is blown down or otherwise destroyed such that the cost of repairing the Billboard using all new materials is more than 60% of the cost of erecting a new Billboard of the same type at the same location using all new materials as computed by the Building Inspector, the Billboard owner and the owner of the property on which it is placed shall each be responsible to remove the Billboard. If the Billboard is damaged such that the cost of repairing the Billboard using all new materials as computed by the Building Inspector is 60% or less than the cost of erecting a new Billboard of the same type at the same location then any repairs shall be done in compliance with the regulations of all applicable ordinances. In the event of a conflict between this section and the Texas Local Government code, Chapter 216, as amended, the Texas Local Government Code shall prevail.

(c) Extraterritorial Jurisdiction (ETJ)

- (1) The City prohibits the construction of new, off premise, or billboard electronic signs along state highways within the City's extraterritorial jurisdiction, and will not issue permits for such signs. Additionally, the City prohibits the conversion, replacement or repair of existing ~~off premise or billboard off premise signs~~ **Billboards** to become electronic signs within the City's extraterritorial jurisdiction and will not issue permits for such conversion, replacement or repair.

(d) Site provisions for ~~off-premise signs~~ legally non conforming Billboards

- (1) Any sign **Billboard** that is ~~reconstructed or replaced~~ **repaired** at the same location shall be the same size or smaller than the original sign. However, in no event shall the ~~reconstructed or replaced~~ **repaired sign Billboard** exceed the sizes set forth in section two and three below.
- (2) Area: ~~Regardless of the size of the off premise sign being relocated, the relocated off-premise sign.~~ **Billboards may not be relocated.**
- (3) Area: Legally non conforming Billboards shall not exceed fourteen feet (14') by forty-eight FEET (48'), excluding cutout extensions and apron trip without copy. The cumulative area of all extensions on any ~~off-premise sign~~ **Billboard** shall not exceed 20% of the area of the sign **Billboard**, excluding extensions and apron trim without copy.
- (3) Height: ~~Regardless of the height of the off premise sign being relocated, the relocated off-premise signs~~ **Billboards** shall not exceed a maximum height of forty feet (40'). The height shall be measured from the crown of the adjacent roadway to which the sign **Billboard** is oriented. However, the Department of Planning and Community Development may issue a permit for ~~an off-premise sign~~ **a Billboard** whose height exceeds forty feet (40'), but is less than fifty feet (50') if the Department of Planning and Community Development determines that the ~~off-premise sign~~ **Billboard**, at the lower height, would block an existing sign or structure from view, or would itself be blocked from view. The Department of Planning and Community Development shall provide a

written determination to the sign Billboard owner. If the sign Billboard owner disagrees with the Department of Planning and Community Development's determination, the sign Billboard owner may notify the Director Planning and Community Development Transportation of the sign Billboard owner's desire to appeal the determination to City Council. Such notice of appeal must be filed with the Department of Planning and Community Development no later than the 60th day after the date of the Department of Planning and Community Development's written decision.

- (4) Setbacks: A minimum setback of ten (10') feet from the right-of-way of the street to which the sign Billboard is oriented shall be required for any part of the sign Billboard and its supporting structure. As used in this sub-section only, "street" does not include alleys.
- ~~(5) Spacing: No off-premise sign shall be located closer than seven hundred (700') feet from any other off-premise sign on the same side of the street.~~
- (5) Conversion to Electronic Signs:** Any sign that is permitted to be repaired, ~~replaced or reconstructed~~ within the City of Galveston through the provisions of this section may not be converted to, or built as, an electronic sign.
- (e) Traffic Control Conflicts: No sign Billboard or message thereon shall be permitted which resembles an official marker erected by any governmental agency, or which by reason of position, shape, color or illumination would obstruct from clear view any traffic signal or sign.
- (f) Illumination: It shall be unlawful for any person to erect, operate, or otherwise use any ~~off-premise sign~~ sign Billboard which is of a rotating nature or displays intermittent lights. If this section conflicts with Section 29-81, "Sign Regulations" of the "Zoning Regulations 1991" this section (f) shall prevail as to ~~off-premise signs~~ Billboards.
- (g) Motion: Signs Billboards shall not be permitted to revolve or rotate. ~~Internal motion and movement of a portion of the sign shall be permitted provided the movement or motion is slow and continuous.~~
- (h) Roof Mounted Sign: Roof mounted ~~off-premise signs~~ Billboards shall not be permitted.
- (i) Maintenance: Sign Billboard owners shall maintain all signs in good appearance and safe structural condition. Sign Billboard owners shall keep the general vicinity of any sign free and clear of sign materials, weeds, debris, trash and litter. Sign Billboard owners shall conduct maintenance, replacement of sign copy, or structural repairs in a manner that will prevent debris and litter from drifting or being blown onto adjacent properties.
- (j) Registration: ~~Within thirty (30) days from the effective date of this Ordinance~~ After November 28th, 1997, owners of all ~~off-premise signs~~ Billboards situated in any location in the city limits shall register each sign Billboard with the office of the Building Official. Such registration shall be accomplished by filing, on forms prescribed for such purpose, information as to the location, height and area of each sign Billboard. Owners shall keep such registration current and shall make a similar filing as to each sign Billboard erected, demolished or torn down within thirty (30) days from the happening of such event.

Section 29-86: CONTINUATION OF NON-CONFORMING ON-PREMISE SIGNS

(a) Definitions

- (1) ~~As used in this section, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager.~~
"On-premise" means a sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.
- (2) As used in this section, "Sign" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform that is an "Sign" ~~shall include on-premise sign and off-premise signs only.~~
- (b) Any legally existing non-conforming on-premise sign in existence on the effective date of Ordinance No. 97-82 October 29, 1997 may continue to lawfully exist, ~~even if the sign does not conform to the provisions of Ordinance 97-82 unless and until:~~
(1) the sign requires repairs costing more than 60% of the cost of erecting a new sign of the same type using all new materials at the same location as computed by the Building Inspector; or;
(2) the first anniversary of the date the business, person, or activity ceased to operate on the premises
at which time the on-premise sign must be removed.

However, if a legally existing non-conforming sign is not damaged or destroyed such that the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location, the sign owner may ~~shall repair, remove or relocate~~ the sign. All repairs shall be done so as to comply with the regulations of all applicable ordinances. ~~All relocations shall be done in accordance with all applicable ordinances, including Ordinance No. 97-82.~~

- (c) The owner of the sign and the owner of the premises are each liable for the failure to remove a non-conforming on-premise sign. In the event of a conflict between this section and the Texas Local Government

ORDINANCE NO. 09-021

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING SECTION 29-84 "ADVERTISING SIGNS (BILLBOARDS)" OF THE ZONING REGULATIONS 1991 OF THE CITY OF GALVESTON REGARDING MODIFICATION TO THE PROVISIONS RELATING TO THE REPAIR, REMOVAL AND RELOCATION OF OFF-PREMISE SIGNS DAMAGED OR DESTROYED MORE THAN 60 PER CENT WITHIN THE CITY OF GALVESTON AND THE CITY OF GALVESTON'S EXTRATERRITORIAL JURISDICTION (ETJ); AND REQUEST TO AMEND THE GALVESTON ZONING STANDARDS SECTION 29-86: CONTINUATION OF NON-CONFORMING SIGNS RELATING TO THE REMOVAL OF SIGNS DAMAGED OR DESTROYED MORE THAN 60 PERCENT AND UPON CEASE OF USE OR BUSINESS OPERATION IN THE CITY OF GALVESTON; PLANNING CASE 09ZA-07; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, Staff recommends that Galveston Zoning Standards: Section 29-84 should be amended and clarified with regard to the repair of legally nonconforming Billboards that are deteriorated, damaged or destroyed more than 60 per cent, and Section 29-86 should be amended and clarified with regard to the removal of legally non conforming on premise signs damaged or destroyed more than 60% and upon cease of use or business operation, as set out in the Staff Report attached hereto as **Exhibit 1** and incorporated herein for all purposes; and

WHEREAS, state law does not protect Billboards or on-premise signs that are damaged or destroyed so that the cost of repairing the Billboard or the on- premise sign exceeds 60% of the cost of erecting a new sign of the same type at the same location, therefore, the City may prohibit their repair and require their removal without permitting them to be relocated within the City or the City's extraterritorial jurisdiction (ETJ). Additionally, state law does not protect on-premise signs after the business, person, or activity ceases to operate on the premise for a specified duration therefore the City may require their removal; and

WHEREAS, the City has prohibited Billboards since October 29, 1997, however, there are still legal, non-conforming Billboards in the City of Galveston and within the City's ETJ which should be removed if they are damaged or destroyed so that the cost of repair exceeds 60% of the cost of erecting a new sign of the same type at the same location as determined by the Building Inspector. Staff's proposed changes to Section 29-84 provide for that determination, and clarifies the conditions for repair or removal of Billboards, makes the Billboard owner and the owner of the property on which it is placed liable for failure to remove Billboards that may not be repaired, and clarifies the permit requirements for legal, non-conforming Billboards; and,

WHEREAS, legal, non conforming on-premise signs should be removed if they are damaged or destroyed so that the cost of repair exceeds 60% of the cost of erecting a

new on-premise sign of the same type at the same location, or if the business, person or activity ceases to operate for one year or as provided by state law. Staff's proposed changes to Section 29-86 provide for those determinations, clarifies the conditions for repair or removal of such signs, and makes the sign owner and the owner of the premises liable for failure to remove a non-conforming on-premise sign that may not be repaired;

WHEREAS, at its regular meeting of April 7, 2009, the Galveston Planning Commission will consider these proposed recommendation, which will be reported to City Council; and

WHEREAS, after notice and public hearing as required by law, the City Council finds that it is in the public interest to amend Section 29-84 "Advertising Signs (Billboards)" of the Galveston Zoning Regulations 1991 and Section 29-86: Continuation of Non-Conforming On-Premise Signs as recommended by Staff;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS:

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Section 29-84: "Advertising Signs (Billboards)" of Zoning Regulations 1991 is hereby amended to read and provide as follows:

Section 29-84: ADVERTISING (Billboards) (Ord. 08-027)

(a) Definitions

- (1) As used in ~~this section these regulations~~, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager.
- (2) As used in ~~this section these regulation~~, "Department of Planning and Community Development" shall mean the Department of Planning and Community Development, or designee, or any other person designated by the City Manager.
- (3) As used in this section, ~~sign~~ **Billboard** means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designated, intended or used to advertise or inform. ~~Sign~~ **Billboard** shall include ~~on-premise or~~ off-premise signs ~~only~~.
- (4) ~~"On-premise" means a sign identifying or advertising a business, person or activity, and installed and maintained on the same premises as the business, person or activity.~~

~~(5) "Off premise sign" means a sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.~~

(4) "Electronic sign" means a sign, display or device that changes its message or copy by programmable mechanical or electronic processes. The use of an electronic image on a digital display device is not the use of a flashing, intermittent or moving light for the purposes of these regulations. Any flashing intermittent or moving light or lights including any type of screen using animated or scrolling displays except those giving only public service information such as time, date, temperature, weather or similar information is prohibited.

(b) Permits

(1) The City shall not issue permits for the construction of new off-premise signs ~~Billboards~~. ~~The City shall issue permits for the repair, reconstruction, or replacement of legal, conforming or non-conforming off-premise signs that exist on the effective date of this Ordinance. An off-premise sign permit shall be valid at the sign location for twelve (12) months unless sooner revoked or canceled. The City may issue permits for the repair of legal, non-conforming Billboards that existed on October 29, 1997 per the provisions of this section. A billboard permit shall be valid at the sign location for twelve (12) months unless sooner revoked or canceled.~~

(2) The City shall charge an annual permit fee of thirty-five dollars (\$35.00) for each off-premise ~~sign~~ **Billboard**. The annual permit fee shall be non-refundable and shall be non-transferable to a different location. If any ~~sign~~ **Billboard** owner fails to obtain the required permit, the ~~sign~~ **Billboard** owner shall be subject to the penalties prescribed for violations of this Code ~~these regulations~~ and in addition shall pay double the amount of the permit fee. If a ~~sign~~ **Billboard** owner wishes to transfer a permit to another person or entity, the ~~sign~~ **Billboard** owner shall notify, in writing, the Department of Planning and Community Development. The Department of Planning and Community Development shall void the original ~~sign~~ **Billboard** permit and issue a new ~~sign~~ permit to the new owner. No transfer shall be valid until accepted by the Department of Planning and Community Development.

(3) ~~Any legally existing, non-conforming Billboard in existence on the effective date of this ordinance may continue to lawfully exist. However, if a legally existing non-conforming Billboard is blown down or otherwise destroyed such that the cost of repairing the Billboard using all new materials is more than 60% of the cost of erecting a new Billboard of the same type at the same location using all new materials as computed by the Building Inspector, the Billboard owner and the owner of the property on which it is placed shall each be responsible to remove the Billboard. If the Billboard is damaged such that the cost of repairing the Billboard using all new materials as computed by the~~

~~Building Inspector is 60% or less than the cost of erecting a new Billboard of the same type at the same location then any repairs shall be done in compliance with the regulations of all applicable ordinances. In the event of conflict between this section and the Texas Local Government code, Chapter 216, as amended, the Texas Local Government Code shall prevail.~~

(c) Extraterritorial Jurisdiction (ETJ)

- (1) The City prohibits the construction of new, off premise, or billboard electronic signs along state highways within the City's extraterritorial jurisdiction, and will not issue permits for such signs. Additionally, the City prohibits the conversion, replacement or repair of existing ~~off premise or billboard off premise signs~~ **Billboards** to become electronic signs within the City's extraterritorial jurisdiction and will not issue permits for such conversion, replacement or repair.

(d) Site provisions for ~~off premise signs~~ **legally non conforming Billboard**

- (1) Any ~~sign~~ **Billboard** that is ~~reconstructed or replaced~~ **repaired** at the same location shall be the same size or smaller than the original sign. However, in no event shall the ~~reconstructed or replaced~~ **repaired sign Billboard** exceed the sizes set forth in section two and three below.
- (2) ~~Area: Regardless of the size of the off premise sign being relocated, the relocated off premise sign~~ **Billboards may not be relocated.**
- (3) ~~Area: Regardless of the size of the off premise sign being relocated, the relocated off premise signs~~ **Billboards** shall not exceed a maximum height of forty feet (40'). The height shall be measured from the crown of the adjacent roadway to which the ~~sign~~ **Billboard** is oriented. However, the Department of Planning and Community Development may issue a permit for ~~an off premise sign~~ **a Billboard** whose height exceeds forty feet (40'), but is less than fifty feet (50') if the Department of Planning and Community Development determines that the ~~off premise sign~~ **Billboard**, at the lower height, would block an existing sign or structure from view, or would itself be blocked from view. The Department of Planning and Community Development shall provide a written determination to the ~~sign~~ **Billboard** owner. If the ~~sign~~ **Billboard** owner disagrees with the Department of Planning and Community Development's determination, the ~~sign~~ **Billboard** owner may notify the Director Planning and ~~Community Development~~ **Transportation** of the ~~sign~~ **Billboard** owner's desire to appeal the determination to City Council. Such notice of appeal must be filed with the Department of Planning and Community Development no later than the 60th day

after the date of the Department of Planning and Community Development's written decision.

- (4) Setbacks: A minimum setback of ten (10') feet from the right-of-way of the street to which the ~~sign~~ **Billboard** is oriented shall be required for any part of the ~~sign~~ **Billboard** and its supporting structure. As used in this sub-section only, "street" does not include alleys.
- ~~(5) Spacing: No off-premise sign shall be located closer than seven hundred (700) feet from any other off-premise sign on the same side of the street.~~
- (5) Conversion to Electronic Signs: Any sign that is permitted to be repaired, ~~replaced or reconstructed~~ within the City of Galveston through the provisions of this section may not be converted to, or built as, an electronic sign.
- (e) Traffic Control Conflicts: No ~~sign~~ **Billboard** or message thereon shall be permitted which resembles an official marker erected by any governmental agency, or which by reason of position, shape, color or illumination would obstruct from clear view any traffic signal or sign.
- (f) Illumination: It shall be unlawful for any person to erect, operate, or otherwise use any ~~off-premise sign~~ **Billboard** which is of a rotating nature or displays intermittent lights. If this section conflicts with Section 29-81, "Sign Regulations" of the "Zoning Regulations 1991" this section (f) shall prevail as to ~~off-premise signs~~ **Billboards**.
- (g) Motion: Signs ~~Billboards~~ shall not be permitted to revolve or rotate. ~~Internal motion and movement of a portion of the sign shall be permitted provided the movement of motion is slow and continuous.~~
- (h) Roof Mounted Sign: Roof mounted ~~off-premise sign~~ **Billboards** shall not be permitted.
- (i) Maintenance: ~~Sign~~ **Billboard** owners shall maintain all signs in good appearance and safe structural condition. ~~Sign~~ **Billboard** owners shall keep the general vicinity of any sign free and clear of sign materials, weeds, debris, trash and litter. ~~Sign~~ **Billboard** owners shall conduct maintenance, replacement of sign copy, or structural repairs in a manner that will prevent debris and litter from drifting or being blown onto adjacent properties.
- (j) Registration: ~~Within thirty (30) days from the effective date of this Ordinance~~ **After November 28th, 1997**, owners of all ~~off-premise signs~~ **Billboards** situated in any location in the city limits shall register each ~~sign~~ **Billboard** with the office of the Building Official. Such registration shall be accomplished by filing, on forms prescribed for such purpose, information as to the location, height and area of each ~~sign~~ **Billboard**. Owners shall keep such registration current and shall make a similar filing as to each ~~sign~~ **Billboard** erected, demolished or torn down within thirty (30) days from the happening of such event.

SECTION 3. Section 29-86: "Continuation of Non-Conforming On-Premise Signs" of Zoning Regulations 1991 is hereby amended to read and provide as follows:

Section 29-86: CONTINUATION OF NON-CONFORMING ON-PREMISE SIGNS

(a) Definitions

- (1) ~~As used in this section, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager. "On-premise" means a sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.~~
- (2) As used in this section, "Sign" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform that is an "Sign" ~~shall include on-premise sign and off-premise signs only.~~
- (b) Any legally existing non-conforming on-premise sign in existence on the effective date of Ordinance No. 97-82, October 29, 1997 may continue to lawfully exist, even if the sign does not conform to the provisions of Ordinance 97-82 unless and until:
 - (1) the sign requires repairs costing more than 60% of the cost of erecting a new sign of the same type using all new materials at the same location as computed by the Building Inspector; or,
 - (2) the first anniversary of the date the business, person, or activity ceased to operate on the premises;at which time the on-premise sign must be removed.

However, if a legally existing non-conforming sign is not damaged or destroyed such that the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location, the sign owner may shall repair, remove or relocate the sign. All repairs shall be done so as to comply with the regulations of all applicable ordinances. All relocations shall be done in accordance with all applicable ordinances, including Ordinance No. 97-82.

- (c) The owner of the sign and the owner of the premises are each liable for the failure to remove a non-conforming on-premise sign. In the event of a conflict

between this section and the Texas Local Government, Chapter 216, the Texas Local Government Code shall prevail.

SECTION 4. The violation of any provision of this Ordinance shall be unlawful and a misdemeanor offense punishable by a fine not exceeding Five Hundred Dollars (\$500.00) each day a violation of this Ordinance continues shall constitute a separate offense.

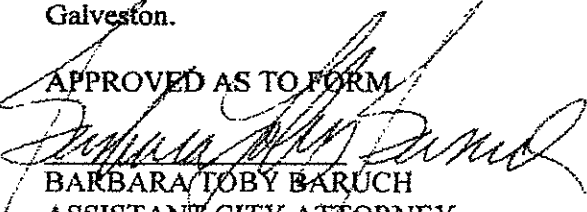
SECTION 5. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 6. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 7. In accordance with the provisions of Section 12 and 13 of Article II of the City Charter, this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

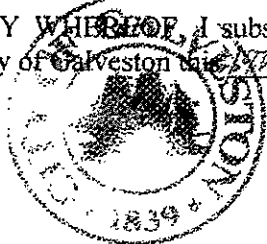
SECTION 8. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM


BARBARA TOBY BARUCH
ASSISTANT CITY ATTORNEY

I, Barbara S. Lawrence, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on the 9th day of April, 2009, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this 14th day of April, 2009.



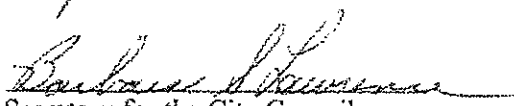

Secretary for the City Council
of the City of Galveston

EXHIBIT 1

CITY COUNCIL AGENDA ITEM SIGNATURE PAGE
DATE RECEIVED IN CITY MANAGER'S OFFICE 4-2-09

TITLE OF ITEM AS IT IS TO APPEAR ON CITY COUNCIL AGENDA

Public Hearing and request for Ordinance, request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ). Request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston.

Applicant: Department of Planning and Community Development
Planning Case: 09ZA-07

AGENDA DATE REQUESTED: April 9, 2009

IS AN ORDINANCE OR RESOLUTION REQUIRED? X YES NO

<u>STAFF REVIEW</u>	<u>DATE</u>	<u>APPROVED</u>	<u>SIGNATURE</u>
DEPARTMENT HEAD REQUESTING ITEM	<u>4/2/2009</u>	<u>X</u>	<u>[Signature]</u>
ARE OTHER DEPARTMENTS AFFECTED?	<u> </u> YES <u>X</u> NO		
IF YES, LIST AND OBTAIN THEIR APPROVAL:			

	<u>YES</u>	<u>NO</u>
<u>FINANCE DIRECTOR:</u>	<u> </u>	<u> </u>
<u>COMMENTS:</u>	<u> </u>	<u> </u>
<u>CITY ATTORNEY:</u>	<u> </u>	<u> </u>
<u>COMMENTS:</u>	<u> </u>	<u> </u>
<u>ASSISTANT CITY MANAGER:</u>	<u> </u>	<u> </u>
<u>COMMENTS:</u>	<u> </u>	<u> </u>
<u>CITY MANAGER:</u>	<u>4/3/09</u>	<u>[Signature]</u>
<u>COMMENTS:</u>	<u> </u>	<u> </u>

NAME OF COUNCIL MEMBER DISTRICT IS AFFECTED: All Districts

IF NECESSARY, HAVE YOU NOTIFIED YES X NO

FISCAL POLICY STATEMENT ATTACHED? X YES NO

HAS ALL APPROPRIATE ADVERTISING BEEN COMPLETED? X YES NO



09ZA-07 Request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ). Request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston.

Applicant: Department of Planning and Community Development

Advertisement Date:

Planning Commission: March 26, 2009
City Council: March 26, 2009

City Department Notifications:

Airport:	Pending
Building Department:	Pending
Fire Department:	Pending
Fire Marshal:	Pending
Police Department:	Pending
Public Works Department:	Pending

Private Utility Notifications:

A.T. & T:	Pending
Centerpoint Energy:	Pending
Comcast Communication:	Pending
Texas Gas Service:	Pending

ANALYSIS

The proposed regulations provide clarification relating to the repair of legally non-conforming signs that are deteriorated, damaged or destroyed at a minimum of 60 per cent. These sign regulations are located in two different sections of the Galveston Zoning Standards: Section 29-84 and Section 29-86. Section 29-84 relates to advertising or billboard signs; and, Section 29-86 relates to on-premise signage. Per state law, if a legally non-conforming sign is damaged such that the cost of repairing the sign using all new materials is 60 per cent or less of the cost of erecting a new sign, the sign may be repaired and kept at the same location. However, if the cost of repairing the sign using all new materials is more than 60 per cent of the cost of erecting a new sign of the same type at the same location using all new materials, the sign must be constructed to meet current regulations or removed if no longer permitted under the regulations.

Furthermore, the proposed regulations also provide for removal of signs upon cease of business operation. This will allow removal of obsolete signs that are no longer utilized for business purposes but do not meet the qualifications for severely damaged or destroyed signs. State law provides the framework for municipalities to require removal of such signs and the proposed regulations reflect those requirements.

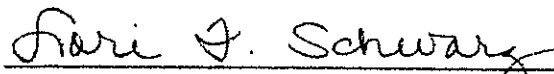
PLANNING COMMISSION

The Planning Commission will hear this Zoning amendment request at the regular meeting of April 7, 2009. The recommendation will be presented to City Council at the April 9, 2009 meeting.

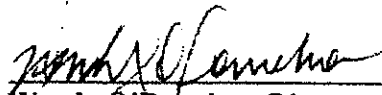
STAFF RECOMMENDATION:

Staff recommends approval of the request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ); and the request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston, be approved as shown in Attachments A and B.

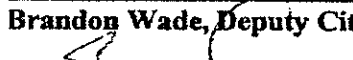
Respectfully Submitted,


Lori Feild Schwarz, Planning Division Head/HPO
Department of Planning and Community Development

4/2/09
Date


Wendy O'Donohoe, Director
Department of Planning and Community Development

4/2/09
Date


Brandon Wade, Deputy City Manager

Date


Steven J. LeBlanc, City Manager

4/3/09
Date

ATTACHMENTS

"A" - Section 29-84 ADVERTISING (Billboards)

"B" - Section 29-86: Continuation of Non-Conforming Signs

FISCAL NOTES STATEMENT

Source of Request:

Request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ). Request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston.

Applicant: Department of Planning and Community Development

Amount of Expenditure:

Minimal administrative costs associated with processing request.

Estimated Revenue:

No revenue will be realized.

Vendor History:

Not applicable.

Section 29-84: ADVERTISING (Billboards) (Ord. 08-027)

(a) Definitions

- (1) As used in ~~this section~~ these regulations, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager.
- (2) As used in ~~this section~~ these regulations, "Department of Planning and Community Development" shall mean the Department of Planning and Community Development, or designee, or any other person designated by the City Manager.
- (3) As used in this section, ~~sign~~ "Billboard" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designated, intended or used to advertise or inform. ~~"Sign"~~ "Billboard" shall include ~~on-premise or off-premise signs~~ only;
- (4) ~~"On-premise" means a sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity;~~
- (5) ~~"Off-premise sign" means a sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located;~~
- (4) "Electronic sign" means a sign, display or device that changes its message or copy by programmable mechanical or electronic processes. The use of an electronic image on a digital display device is not the use of a flashing, intermittent or moving light for the purposes of these regulations. Any flashing intermittent or moving light or lights including any type of screen using animated or scrolling displays except those giving only public service information such as time, date, temperature, weather or similar information is prohibited.

(b) Permits

- (1) The City shall not issue permits for the construction of new ~~off-premise signs~~ Billboards. ~~The City shall issue permits for the repair, reconstruction, or replacement of legal, conforming or non-conforming off-premise signs that exist on the effective date of this Ordinance. An off-premise sign permit shall be valid at the sign location for twelve (12) months unless sooner revoked or canceled.~~ The City may issue permits for the repair of legal, non-conforming Billboards that existed on October 29, 1997 per the provisions of this section. A Billboard permit shall be valid at the sign location for twelve (12) months unless sooner revoked or canceled.
- (2) The City shall charge an annual permit fee of thirty-five dollars (\$35.00) for each off-premise ~~sign~~ Billboard. The annual permit fee shall be non-refundable and shall be non-transferable to a different location. If any ~~sign~~ Billboard owner fails to obtain the required permit, the ~~sign~~ Billboard owner shall be subject to the penalties prescribed for violations of ~~this Code~~ these regulations and in addition shall pay double the amount of the permit fee. If a ~~sign~~ Billboard owner wishes to transfer a permit to another person or entity, the ~~sign~~ Billboard owner shall notify, in writing, the Department of Planning and Community Development. The Department of Planning and Community Development

shall void the original sign Billboard permit and issue a new sign permit to the new owner. No transfer shall be valid until accepted by the Department of Planning and Community Development.

(3) Any legally existing, non-conforming Billboard in existence on the effective date of this ordinance may continue to lawfully exist. However, if a legally existing non-conforming Billboard is blown down or otherwise destroyed such that the cost of repairing the Billboard using all new materials is more than 60% of the cost of erecting a new Billboard of the same type at the same location using all new materials as computed by the Building Inspector, the Billboard owner and the owner of the property on which it is placed shall each be responsible to remove the Billboard. If the Billboard is damaged such that the cost of repairing the Billboard using all new materials as computed by the Building Inspector is 60% or less than the cost of erecting a new Billboard of the same type at the same location then any repairs shall be done in compliance with the regulations of all applicable ordinances. In the event of a conflict between this section and the Texas Local Government code, Chapter 216 as amended, the Texas Local Government Code shall prevail.

(c) Extraterritorial Jurisdiction (ETJ)

- (1) The City prohibits the construction of new, off premise, or billboard electronic signs along state highways within the City's extraterritorial jurisdiction, and will not issue permits for such signs. Additionally, the City prohibits the conversion, replacement or repair of existing ~~off premise or billboard off premise signs~~ **Billboards** to become electronic signs within the City's extraterritorial jurisdiction and will not issue permits for such conversion, replacement or repair.

(d) Site provisions for ~~off-premise signs~~ legally non conforming Billboards

- (1) Any sign **Billboard** that is ~~reconstructed or replaced~~ **repaired** at the same location shall be the same size or smaller than the original sign. However, in no event shall the ~~reconstructed or replaced~~ **repaired** sign **Billboard** exceed the sizes set forth in section two and three below.
- (2) ~~Area: Regardless of the size of the off premise sign being relocated, the relocated off-premise sign.~~ **Billboards may not be relocated.**
- (3) ~~Area: Legally non conforming Billboards shall not exceed fourteen feet (14') by forty-eight FEET (48'), excluding cutout extensions and apron trip without copy. The cumulative area of all extensions on any off premise sign~~ **Billboard** shall not exceed 20% of the area of the sign **Billboard**, excluding extensions and apron trim without copy.
- (3) ~~Height: Regardless of the height of the off premise sign being relocated, the relocated off-premise signs~~ **Billboards** shall not exceed a maximum height of forty feet (40'). The height shall be measured from the crown of the adjacent roadway to which the sign **Billboard** is oriented. However, the Department of Planning and Community Development may issue a permit for an ~~off-premise sign~~ **a Billboard** whose height exceeds forty feet (40'), but is less than fifty feet (50') if the Department of Planning and Community Development determines that the ~~off-premise sign~~ **Billboard**, at the lower height, would block an existing sign or structure from view, or would itself be blocked from view. The Department of Planning and Community Development shall provide a

written determination to the sign Billboard owner. If the sign Billboard owner disagrees with the Department of Planning and Community Development's determination, the sign Billboard owner may notify the Director Planning and Community Development Transportation of the sign Billboard owner's desire to appeal the determination to City Council. Such notice of appeal must be filed with the Department of Planning and Community Development no later than the 60th day after the date of the Department of Planning and Community Development's written decision.

- (4) Setbacks: A minimum setback of ten (10') feet from the right-of-way of the street to which the sign Billboard is oriented shall be required for any part of the sign Billboard and its supporting structure. As used in this sub-section only, "street" does not include alleys.
- ~~(5) Spacing: No off-premise sign shall be located closer than seven hundred (700') feet from any other off-premise sign on the same side of the street.~~
- (5) Conversion to Electronic Signs: Any sign that is permitted to be repaired, ~~replaced or reconstructed within~~ the City of Galveston through the provisions of this section may not be converted to, or built as, an electronic sign.
- (e) Traffic Control Conflicts: No sign Billboard or message thereon shall be permitted which resembles an official marker erected by any governmental agency, or which by reason of position, shape, color or illumination would obstruct from clear view any traffic signal or sign.
- (f) Illumination: It shall be unlawful for any person to erect, operate, or otherwise use any ~~off-premise sign~~ sign Billboard which is of a rotating nature or displays intermittent lights. If this section conflicts with Section 29-81, "Sign Regulations" of the "Zoning Regulations 1991" this section (f) shall prevail as to ~~off-premise signs~~ Billboards.
- (g) Motion: ~~Signs~~ Billboards shall not be permitted to revolve or rotate. ~~Internal motion and movement of a portion of the sign shall be permitted provided the movement or motion is slow and continuous.~~
- (h) Roof Mounted Sign: Roof mounted ~~off-premise signs~~ Billboards shall not be permitted.
- (i) Maintenance: Sign Billboard owners shall maintain all signs in good appearance and safe structural condition. Sign Billboard owners shall keep the general vicinity of any sign free and clear of sign materials, weeds, debris, trash and litter. Sign Billboard owners shall conduct maintenance, replacement of sign copy, or structural repairs in a manner that will prevent debris and litter from drifting or being blown onto adjacent properties.
- (j) Registration: ~~Within thirty (30) days from the effective date of this Ordinance~~ After November 28th, 1997, owners of all ~~off-premise signs~~ Billboards situated in any location in the city limits shall register each sign Billboard with the office of the Building Official. Such registration shall be accomplished by filing, on forms prescribed for such purpose, information as to the location, height and area of each sign Billboard. Owners shall keep such registration current and shall make a similar filing as to each sign Billboard erected, demolished or torn down within thirty (30) days from the happening of such event.

Section 29-86: CONTINUATION OF NON-CONFORMING ON-PREMISE SIGNS

(a) Definitions

- (1) ~~As used in this section, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager.~~
"On-premise" means a sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.
- (2) As used in this section, "Sign" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform that is an "Sign" shall include on-premise sign and off-premise signs only.
- (b) Any legally existing non-conforming on-premise sign in existence on the effective date of Ordinance No. 97-82 October 29, 1997 may continue to lawfully exist, ~~even if the sign does not conform to the provisions of Ordinance 97-82 unless and until:~~
(1) the sign requires repairs costing more than 60% of the cost of erecting a new sign of the same type using all new materials at the same location as computed by the Building Inspector; or,
(2) the first anniversary of the date the business, person, or activity ceased to operate on the premises
at which time the on-premise sign must be removed.

However, if a legally existing non-conforming sign is not damaged or destroyed such that the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location, the sign owner may shall repair, remove or relocate the sign. All repairs shall be done so as to comply with the regulations of all applicable ordinances. ~~All relocations shall be done in accordance with all applicable ordinances, including Ordinance No. 97-82.~~

- (c) The owner of the sign and the owner of the premises are each liable for the failure to remove a non-conforming on-premise sign. In the event of a conflict between this section and the Texas Local Government

CBS Outdoor Permit Denial Appeal

Monday, January 11, 2010 3:38 PM

From: "Jana Dundas" <jdundas@swbell.net>

To: BaruchBar@cityofgalveston.org

Cc: "Richard Rothfelder" <rrothfelder@swbell.net>

Ms. Baruch:

This confirms a message I left on your voice mail just now. We would like to pass the February 3 hearing date, based on recent activity in this matter. Could you please send a reply confirming same? Thank you very much.

Jana L. Dundas
Attorney at Law
Rothfelder & Falick, L.L.P.
1201 Louisiana, Suite 550
Houston, Texas 77002
Main Number (713) 220-2288
Facsimile (713) 658-8211
E-Mail jdundas@swbell.net

Vernon's Texas Statutes and Codes Annotated
Local Government Code (Refs & Annos)
Title 7. Regulation of Land Use, Structures, Businesses, and Related Activities
Subtitle A. Municipal Regulatory Authority
Chapter 216. Regulation of Signs by Municipalities
Subchapter A. Relocation, Reconstruction, or Removal of Sign

V.T.C.A., Local Government Code § 216.013

§ 216.013. Exceptions

Currentness

- (a) The requirements of this subchapter do not apply to a sign that was erected in violation of local ordinances, laws, or regulations applicable at the time of its erection.
- (b) The requirements of this subchapter do not apply to a sign that, having been permitted to remain in place as a nonconforming use, is required to be removed by a municipality because the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.
- (c) For purposes of Subsection (b), a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location.
- (d) This subchapter does not limit or restrict the compensation provisions of the highway beautification provisions contained in Chapter 391,¹ Transportation Code.

Credits

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 14, § 284(82), eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 165, § 30.219, eff. Sept. 1, 1997.

Footnotes

¹ V.T.C.A., Transportation Code § 391.001 et seq.

V. T. C. A., Local Government Code § 216.013, TX LOCAL GOVT § 216.013

Current through the end of the 2013 Third Called Session of the 83rd Legislature





July 15, 2014

Certified: 7013 0600 0000 8228 4029

Mr. David Ewald
Building Permits Department
823 Rosenberg, 4th Floor
Galveston, TX 77553

RE: Building permit applications to rebuild IKE damaged in Galveston
CBS Outdoor signs 02-1548, 02-1574 & 02-1565

Dear Mr. Ewald:

As we have previously discussed, CBS Outdoor is submitting the permit applications to the City of Galveston to rebuild three (3) of our seven (7) signs damaged by Hurricane IKE. We will not be seeking to rebuild the other 4 signs.

For each of the 3 signs, damage to repair them is less than 60% of the cost to build them new.

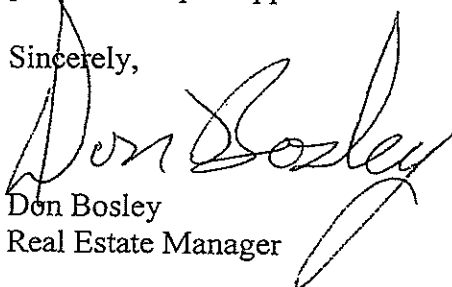
You will find enclosed for each location:

- Permit application
- Cost to build the sign as it was before the storm
- Cost to repair the sign as it was before the storm
- Two (2) stamped engineering drawings to rebuild at current engineering standards
- Several photos of the sign after the storm showing some undamaged portions of the sign

Since the signs are subject to both the City of Galveston and TxDOT permits, I have enclosed a copy of an email from TxDOT that, for their part, are allowing the rebuilding of the signs. We now look to the City of Galveston for your approval by issuing permits.

Please contact me if there are any questions regarding the permits. I will bring a check for permit fees upon approval.

Sincerely,



Don Bosley
Real Estate Manager

Enclosures

Cc: Richard Rothfelder



BUILDING PERMIT APPLICATION

(2 full sets of plans must be submitted with completed application)

I. JOB INFORMATION

6127 Broadway
Address for Proposed Job Lot / Block Number Business Name (if applicable) Total Sq. Ft. of Bldg.

Current Land Use Proposed Land Use* Value of Work (labor/materials) CAD Identification # (Required)

* Please be advised, final determination of proposed land use is subject to planning review and any change in land use will require a Certificate of Occupancy. Please visit with a Building and Planning Division Staff member regarding this process.

Type of Work: ☐ New Residential ☐ Roof - New ☐ Exterior Alterations ☐ Fence ☐ General Repairs
☐ New Commercial ☐ Roof - Repairs ☐ Interior Alterations ☐ Addition ☐ Other

Describe proposed work (Description must be specific and detailed. Lack of project details may result in the delay of issuance of the permit or the issuance of a "red tag" to stop work until proper permits are approved):

Repair billboard sign damaged by Hurricane Ike
CBS Sign 02-1565

Will any portion of the parking lane, sidewalk area, alley or City right-of-way be used or blocked with such items as scaffolding, debris, machinery/equipment (crane, man lift, etc.) temporary fence, or dumpster in conjunction with the project? Yes* _____ No X

- If yes, per Section 32-5 of the City Code, a separate temporary License to Use the City right-of-way permit is required. Please contact the Administrative Division at 409/797-3660 or obtain permit information from www.cityofgalveston.org.

Was there previously a structure at this site? Yes _____	Was this property purchased within the last 5 years? Yes _____
--	--

II. APPLICANT INFORMATION (Check One):

CBS Outdoor LLC ☒ Owner ☐ Tenant ☐ Contractor ☐ Architect ☐ Engineer
Applicant Name Telephone (713) 868-2284
1600 Studeman Houston, TX
Mailing Address (713) 862-8087
don.bosley@cbsoutdoor.com Alternative Telephone and/or Fax
Email Address(es) (Email address will be utilized as the primary method of communication to discuss or notify applicant of project status, including, but not limited to project approval, denial or request for additional information.)

III. OWNER INFORMATION

Property Owner must sign the application or submit a letter of authorization.

JAZ Trust (Mike Dell) (409) 740-2590
Property Owner Name Telephone
P.O. Box 1584 Galveston, TX 77553 (409) 740-1111
Mailing Address Alternative Telephone and/or Fax

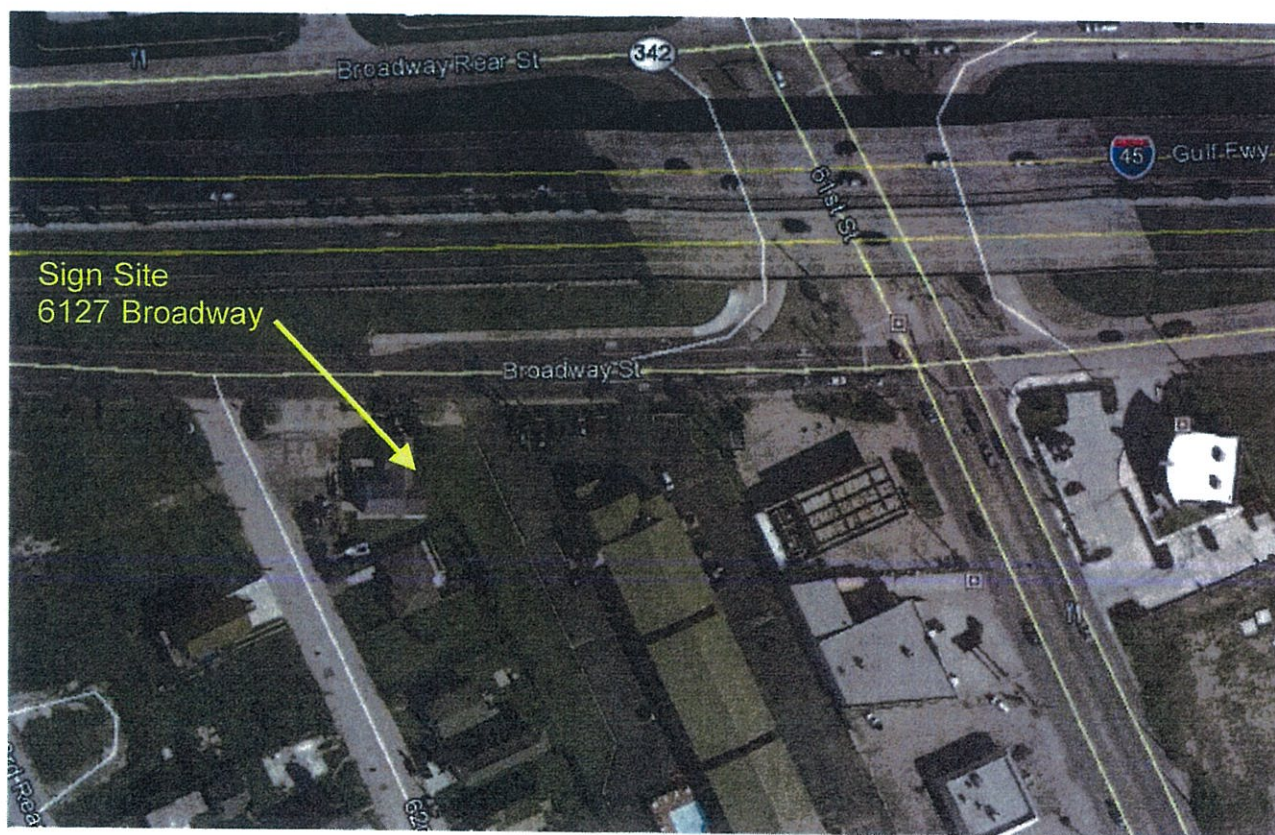
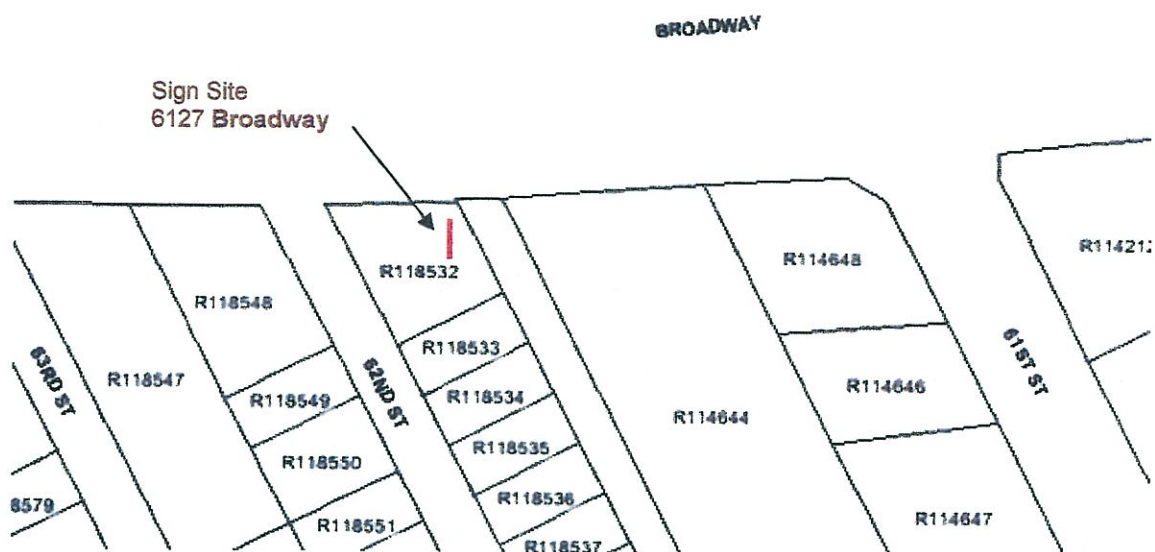
IV. CONTRACTOR/ARCHITECT/ENGINEER INFORMATION

Please note, anyone listed below will be permitted to discuss and obtain information relating to this project

Advertising Higher 13369 Old Texaco Camp Rd.
Contractor Mailing Address City Registration No. Telephone (936) 321-0703
Convoc, TX 77302
Architect Effective Engineering Solutions 61 Whitewater Ct.
Mailing Address Telephone (815) 485-1470
Engineer New Lenox, IL 60451
Mailing Address Telephone (02-1565)

Sign 02-1565

R11861





13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
4/1/2014	5/1/2014	2013-2099

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
I-45 @ 61 St Galveston Tx

Terms	P.O. No.	Structure ID #	
Net 30		02_1565	
Description	Qty	Cost	Total
Fabricate & Install New Steel Structure 14' x 48' Center Mount, Back to Back Monopole Billboard @ 60' O.A.H. from natural grade. Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s)		78,000.00	78,000.00T
We look forward to serving you.		Subtotal \$78,000.00 Sales Tax (8.25%) \$6,435.00 Total \$84,435.00	

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.
By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

This bid is guaranteed for 30 days from date written.

Approval Signature _____

02-1565

cost to build new

A



13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
6/17/2014	7/17/2014	2014-2345

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston I-45 @ 61St

Terms
Net 30

P.O. No.	Structure ID #
	02_1565

Description	Qty	Cost	Total
Repair Existing Board# 02_1565 - Use Existing Stub Pipe 36" - 1st Stage 30" & 2nd Stage 24" Reusable Materials from Head: - Torsion Pipe - (8) Uprights - (1) Walk around - (1) Upper Ladder - (5) Lights - (1) Outside catwalk - (1) 48' Inside Catwalk Materials to be New: - (4) Uprights - (1) Outside catwalks - (1) Inside Catwalks - (8) Stringers - (1) Handrail - (12) Catwalk arms - (3) Lights		14,487.00	14,487.00T

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.

By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal 14,487.00

Sales Tax (8.25%) \$1,195.18

Total \$15,682.18

This bid is guaranteed for 30 days from date written.

Approval Signature _____

02-1565

Cost to repair

B

hdb1
-5951-20



02-1565-
Z984



02-1565-
304



02-15-65
4 of 4



BUILDING PERMIT APPLICATION

(2 full sets of plans must be submitted with completed application)

I. JOB INFORMATION

8002 Broadway (Ave 5) R412074
Address for Proposed Job Lot / Block Number Business Name (if applicable) Total Sq. Ft. of Bldg.

Current Land Use Proposed Land Use* Value of Work (labor/materials) CAD Identification # (Required)

* Please be advised, final determination of proposed land use is subject to planning review and any change in land use will require a Certificate of Occupancy. Please visit with a Building and Planning Division Staff member regarding this process.

Type of Work: ☐ New Residential ☐ Roof - New ☐ Exterior Alterations ☐ Fence ☐ General Repairs
☐ New Commercial ☐ Roof - Repairs ☐ Interior Alterations ☐ Addition ☐ Other

Describe proposed work (Description must be specific and detailed. Lack of project details may result in the delay of issuance of the permit or the issuance of a "red tag" to stop work until proper permits are approved):

Repair billboard sign damaged by Hurricane Ike
CBS Sign 02-1548

Will any portion of the parking lane, sidewalk area, alley or City right-of-way be used or blocked with such items as scaffolding, debris, machinery/equipment (crane, man lift, etc.) temporary fence, or dumpster in conjunction with the project?

Yes* No ☒

- If yes, per Section 32-5 of the City Code, a separate temporary License to Use the City right-of-way permit is required. Please contact the Administrative Division at 409/797-3660 or obtain permit information from www.cityofgalveston.org.

Was there previously a structure at this site? Yes _____

Was this property purchased within the last 5 years? Yes _____

II. APPLICANT INFORMATION (Check One):

CBS Outdoor LLC ☒ Owner ☐ Tenant ☐ Contractor ☐ Architect ☐ Engineer
Applicant Name Telephone (713) 868-2284
1600 Studemant Houston, TX
Mailing Address (713) 862-8087
don.bosley@cbsoutdoor.com Alternative Telephone and/or Fax
Email Address(es) (Email address will be utilized as the primary method of communication to discuss or notify applicant of project status, including, but not limited to project approval, denial or request for additional information.)

III. OWNER INFORMATION

Property Owner must sign the application or submit a letter of authorization.

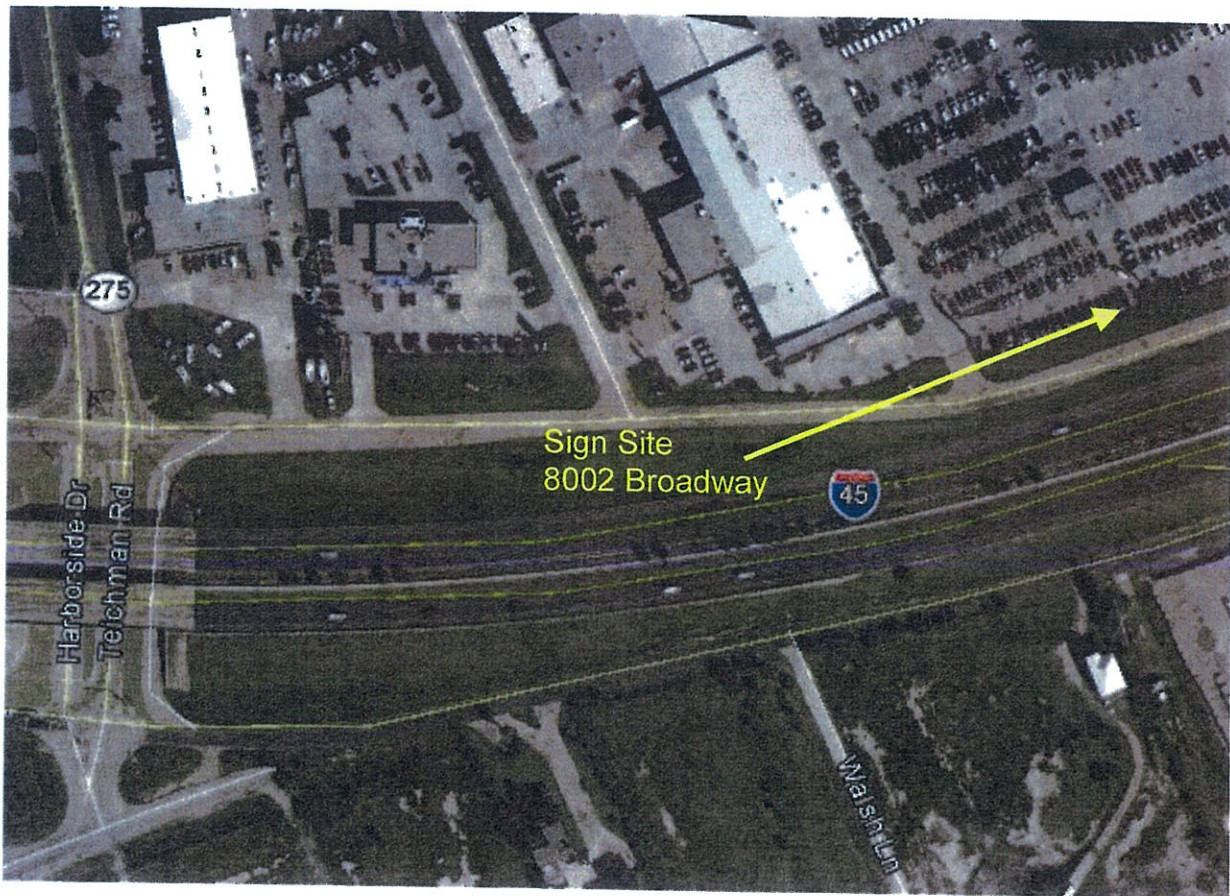
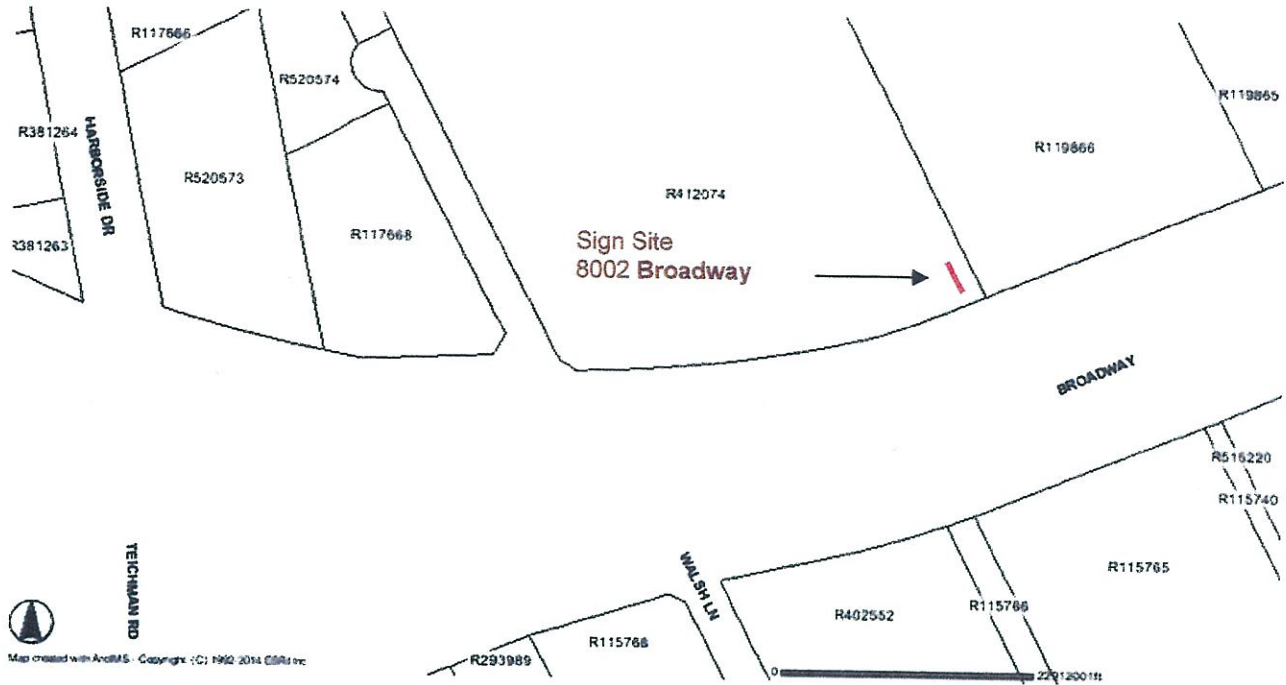
8020 Partners Ltd. (409) 744-5711
Property Owner Name Telephone
8020 Broadway, Galveston, TX 77554 (409) 740-3653
Mailing Address Alternative Telephone and/or Fax

IV. CONTRACTOR/ARCHITECT/ENGINEER INFORMATION

Please note, anyone listed below will be permitted to discuss and obtain information relating to this project

Advertising Higher 13369 Old Texaco Camp Rd.
Contractor Mailing Address City Registration No. Telephone (936) 321-0703
Effective Engineering Solutions 61 Whitewater Ct.
Architect Mailing Address Telephone
New Lenox, IL 60451 (815) 485-1470
Engineer Mailing Address Telephone
(02-1548)

Sign 02-1548





13369 Old Texaco Camp Rd
Conroe, Tx 77302

936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
4/1/2014	5/1/2014	2014-2247

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston 8002 Broadway

Terms
Net 30

P.O. No.	Structure ID #
	02_1548

Description	Qty	Cost	Total
Fabricate & Install New Steel Structure 14' x 48' Monopole, Vinyl Frame Billboard @ 55' O.A.H. from natural grade. Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s) --Lights with electrical wire run to base of sign for customer electrician to provided and install timer and service. *Time Clocks & Meter Loop Sold Separately.*		76,520.00	76,520.00

Richard
#1
02-1548

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included.
based upon normal working conditions. Hole processing, matts, clearing brush,
excessive supplies, materials or labor needed to complete the job due to poor conditions
of the billboard or its location are NOT included, unless otherwise noted above and will
be due upon final billing.
By signing below you authorize work to be performed and agree with this Notice and
Payment Terms stated above.

Total \$76,520.00

Sales Tax (8.25%) \$0.00

Total \$76,520.00

This bid is guaranteed for 30 days from date written.

Approval Signature _____

02-1548

Cost to build new

A



13369 Old Texaco Camp Rd
Conroe, Tx 77302

936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
6/17/2014	7/17/2014	2014-2344

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston 8002 Broadway

Terms	P.O. No.	Structure ID #
Net 30		02_1548

Description	Qty	Cost	Total
Repair Existing Board# 02_1548 - Use existing Stub Pipe - 1st Stage 24" Reusable Materials from Head: - (5) Uprights - (2) Inside catwalks - (4) Stringers - (3) Catwalk Arms - Torsion Pipe - (4) Lights - (1-1/2) Outside Catwalk (48' + 24') Material to be New: - (3) Uprights - (1/2) Outside catwalks (24') - (4) Stringers - (1) Catwalk Arm - (1) Walk around - (1) Handrail - (1) Upper Ladder - (1) Column Pipe Ladder - (4) Lights		16,365.00	16,365.00T

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.

By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal \$16,365.00

Sales Tax (8.25%) \$1,350.11

Total \$17,715.11

This bid is guaranteed for 30 days from date written.

Approval Signature _____

02-1548

cost to repair

B

DOJLA
SAND

TOYOTA

GM

02.1548
1993

02-1548
293



02-1548
395



BUILDING PERMIT APPLICATION

(2 full sets of plans must be submitted with completed application)

I. JOB INFORMATION

Harborside@35th St, R104456

Address for Proposed Job Lot / Block Number Business Name (if applicable) Total Sq. Ft. of Bldg.

Current Land Use Proposed Land Use* Value of Work (labor/materials) CAD Identification # (Required)

* Please be advised, final determination of proposed land use is subject to planning review and any change in land use will require a Certificate of Occupancy. Please visit with a Building and Planning Division Staff member regarding this process.

Type of Work: ☐ New Residential ☐ Roof - New ☐ Exterior Alterations ☐ Fence ☐ General Repairs
☐ New Commercial ☐ Roof - Repairs ☐ Interior Alterations ☐ Addition ☐ Other

Describe proposed work (Description must be specific and detailed. Lack of project details may result in the delay of issuance of the permit or the issuance of a "red tag" to stop work until proper permits are approved):

Repair billboard sign damaged by Hurricane Ike
CBS sign # 02-1574

Will any portion of the parking lane, sidewalk area, alley or City right-of-way be used or blocked with such items as scaffolding, debris, machinery/equipment (crane, man lift, etc.) temporary fence, or dumpster in conjunction with the project?

Yes* _____ No X

- If yes, per Section 32-5 of the City Code, a separate temporary License to Use the City right-of-way permit is required. Please contact the Administrative Division at 409/797-3660 or obtain permit information from www.cityofgalveston.org.

Was there previously a structure at this site? Yes _____

Was this property purchased within the last 5 years? Yes _____

II. APPLICANT INFORMATION (Check One): ☒ Owner ☐ Tenant ☐ Contractor ☐ Architect ☐ Engineer

Applicant Name

Mailing Address

Email Address(es) (Email address will be utilized as the primary method of communication to discuss or notify applicant of project status, including, but not limited to project approval, denial or request for additional information.)

CBS Outdoor LLC
1600 Studeman Houston, TX
don.bosley@cbsoutdoor.com
77007
(713) 868-2284
(713) 862-8087
Telephone
Alternative Telephone and/or Fax

III. OWNER INFORMATION Property Owner must sign the application or submit a letter of authorization.

Property Owner Name

Mailing Address

Farmers Copper & Industrial Supply
PO Box 2649 Galveston, TX
77550
(409) 765-9003
Telephone

Alternative Telephone and/or Fax

IV. CONTRACTOR/ARCHITECT/ENGINEER INFORMATION Please note, anyone listed below will be permitted to discuss and obtain information relating to this project

Contractor

Mailing Address

City Registration No. Telephone

Architect

Mailing Address

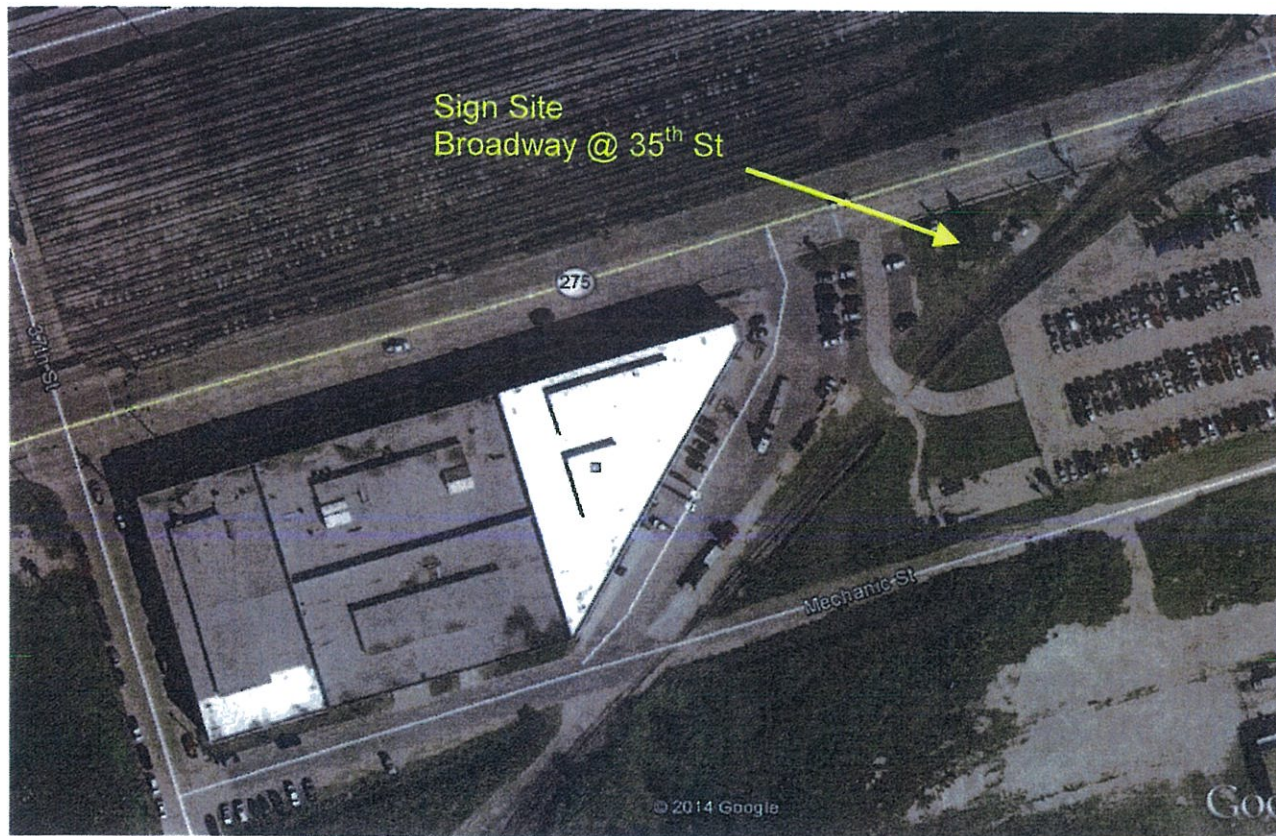
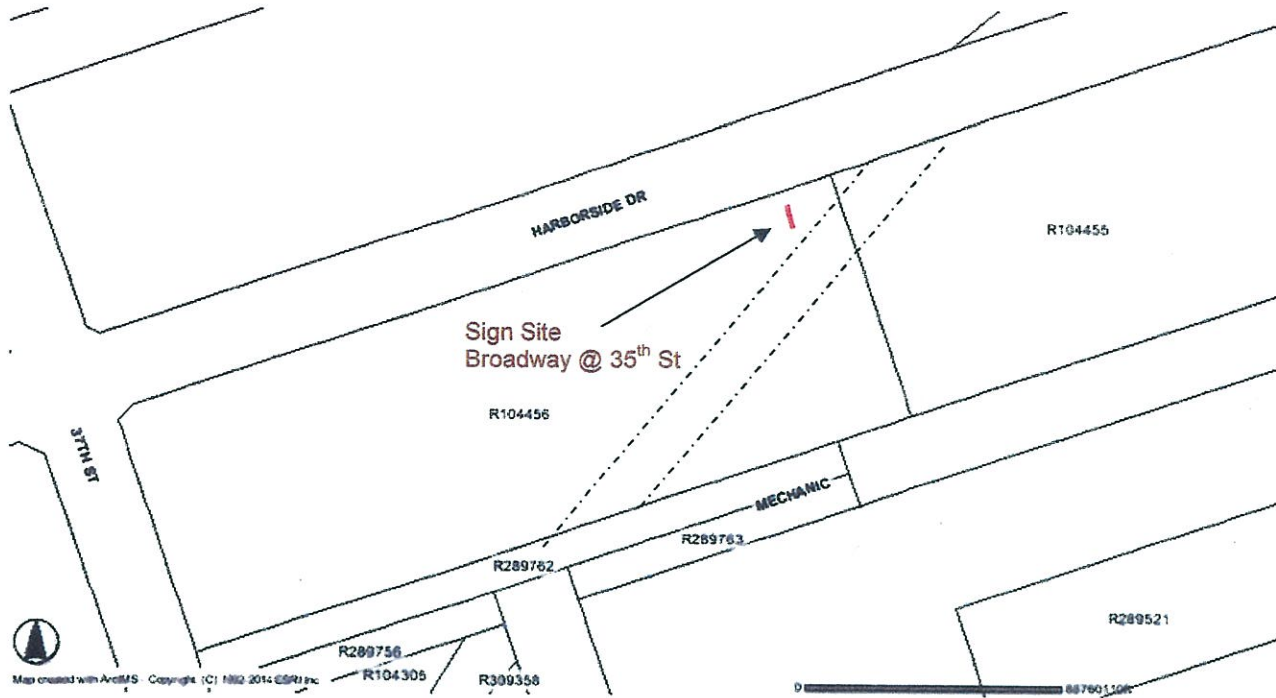
Telephone

Engineer

Mailing Address

Telephone

Sign 02-1574



Advertising Higher

13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
4/1/2014	5/1/2014	2014-2248

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston: 35st @ Harborside

Terms
Net 30

P.O. No.	Structure ID #
	02_1574

Description	Qty	Cost	Total
Fabricate & Install New Steel Structure 14' x 48' Monopole, Vinyl Frame Billboard @ 50' O.A.H. from natural grade. Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s) --Lights with electrical wire run to base of sign for customer electrician to provided and install timer and service. *Time Clocks & Meter Loop Sold Separately.*		74,667.00	74,667.00

Richard
set #1
02-1574

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not In based upon normal working conditions. Hole processing, matts, cl excessive supplies, materials or labor needed to complete the job du of the billboard or its location are NOT included, unless otherwise ne be due upon final billing.
By signing below you authorize work to be performed and agree with Payment Terms stated above.

Total \$74,667.00

This bid is guaranteed for 30 days from date written.

Approval Signature _____

02-1574

cost to build new

A



**13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax**

Estimate

Date	Expires	Estimate #
6/16/2014	7/16/2014	2014-2343

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galvesto: 35st on Harboride

Terms
Net 30

P.O. No.	Structure ID #
	02_1574

Description	Qty	Cost	Total
Repair Existing Board# 02_1574 - Use All existing pipe - 36", 30", 26" Reusable Materials from Head: - Torsion Pipe - (2) Outside Catwalk - (2) Inside Catwalk - (6) Stringers - (16) Uprights - (1) Column Pipe Ladder - (1) Upper Ladder Material to be New: - (2) Stringers - (2) walk arounds - (2) Handrails - (8) Catwalk arms		8,756.00	8,756.00T

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.

By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal	\$8,756.00
Sales Tax (8.25%)	\$722.37
Total	\$9,478.37

This bid is guaranteed for 30 days from date written.

Approval Signature _____

02-1574

cost to repair

B

02-1574
195



02-1574
542



02-1574
345



02-1574
345



02-1574
595



Bosley, Donald R

From: Bradley Matejowsky [Bradley.Matejowsky@txdot.gov]
Sent: Monday, April 14, 2014 2:57 PM
To: Bosley, Donald R
Cc: Wendy Knox
Subject: FW: Question

*TxDOT's position
on repair of these
signs.*

Don,
Since the signs were damaged less than 60%, they may be repaired. Please send me the repair estimates you mentioned below, so I can document our files that the damage was less than the 60% limit.

Since you're only repairing 3 of 7 signs, please send me the permit #s for the 4 you're not rebuilding so I can close out those files.

Thanks,
Brad Matejowsky
512-416-2870

From: Bosley, Donald R [mailto:don.bosley@cbsoutdoor.com]
Sent: Tuesday, April 01, 2014 2:33 PM
To: Wendy Knox
Subject: RE: Question

Thanks Wendy. We have spent a lot of time, effort and expense already but before spending more, we want to cover all bases.

The 3 signs in question are below. I can send photos, etc. of the signs after the storm if you need them for preliminary review. If your response is that I can proceed with formal application, I will follow through with full documentation. We will not be seeking to repair the other 4 signs in the City of Galveston that were damaged.

CBS Sign #	TxDOT Permit #	Address (or location)	City	Latitude	Longitude
02-1565	64314	6127 BROADWAY	Galveston	29.287989°	-94.839014°
02-1548	61559	8002 BROADWAY	Galveston	29.286189°	-94.859442°
02-1574	78638	35TH @ HARBORSIDE	Galveston	29.303378°	-94.808072°

Don Bosley
Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

From: Wendy Knox [mailto:Wendy.Knox@txdot.gov]
Sent: Tuesday, April 01, 2014 2:16 PM
To: Bosley, Donald R
Cc: Bradley Matejowsky
Subject: RE: Question

Don,
We are reviewing your questions to make sure we give you the proper answer. Will you please provide me with the three permit numbers you are inquiring about to be repaired.

Thanks
Wendy

From: Bosley, Donald R [<mailto:don.bosley@cbsoutdoor.com>]
Sent: Friday, March 28, 2014 4:53 PM
To: Wendy Knox
Subject: Question

Hi Wendy. Since we did not connect by telephone I'll ask my question here.

During Hurricane Ike, we had several signs damaged in Galveston to the point that we had to remove the structures from the premises for building repairs and parking, etc. When I timely applied for permits with the City to repair/rebuild, they denied the permit applications stating that the signs were damaged more than 60%. This was not based on their proof of cost but apparently on interpretation of visual appearance (the cost of an umbrella is mostly in the frame and not the fabric cover). Our estimates showed otherwise and proved the damage was below 60%. Because of the City's change in engineering requirements and a number of other issues, we are just now ready to resubmit to the City of Galveston to approve the permits. However, I also know that TxDOT will have to approve. We have continued to pay our permit fees even though the signs have been down ... knowing that we were trying to get these permits approved.

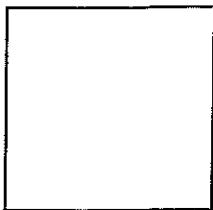
Of the 7 signs damaged, we are looking to rebuild three. Two are legal non-conforming due to spacing. The third is legal conforming to TxDOT regs.

My question to TxDOT is that since the delay in rebuilding the sign was not because of CBS trying, but because of the City's delay in granting permits, will TxDOT allow us to rebuild the signs? It is non-conforming due to spacing (less than 1,500') to other signs.

We feel that the delay was beyond our control and would like permission from TxDOT to proceed.

Don Bosley
Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

Don't mess with Texas® means don't litter.



Don't mess with Texas® means don't litter.





September 19, 2014

Mr. David Ewald
Building Inspector
823 Rosenberg, 4th Floor
Galveston, TX 77553

RE: CBS Outdoor permit application to rebuild IKE damaged signs; Contractor bids

Dear Mr. Ewald:

At your request, I have enclosed bids from 3 different companies for the 3 signs for which we are applying for permits to repair. They are separated by each sign site. Each contractor has bid the repair and building the sign new.

Galveston IKE Billboards: Contractor Bid Summary

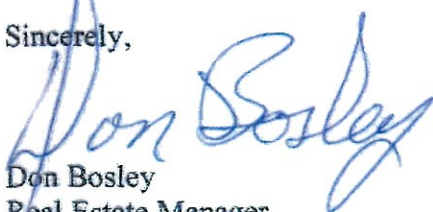
02-1548 I-45 @ 80th St					
Contractor	Build New Sign		Repair Sign		
Houston Sign & Service	A	59,250	B	34,925	59%
Adcorp	G	78,900	H	18,600	24%
Adverting Higher	M	76,520	N	14,487	19%

Sign 02-1565 I-45 @ 61st St					
Contractor	Build New Sign		Repair Sign		
Houston Sign & Service	C	60,550	D	36,250	60%
Adcorp	I	79,900	J	16,800	21%
Adverting Higher	O	78,000	P	14,487	19%

Sign 02-1574 Harborside at 35th St					
Contractor	Build New Sign		Repair Sign		
Houston Sign & Service	E	58,250	F	20,245	35%
Adcorp	K	76,458	L	10,460	14%
Adverting Higher	Q	74,667	R	8,756	12%

If in your review of the enclosed you need for our representatives to be present, we will accommodate the request. Let me know if there is anything else you need to complete the permit process.

Sincerely,


Don Bosley
Real Estate Manager

Enclosures

Houston Sign & Service, Inc.
1536 Hartwick Rd.
Houston, Texas 77093
(713) 880-0175 Office
(713) 880-0176 Fax
houstonsignservice@comcast.net



CBS Outdoor
Attn: Mr. Don Bosley
1600 Studemont
Houston, TX 77007

September 16, 2014

RE: 14 X 48 Back to Back Sign (02-1548) to be installed at I-45
And 80th Street in Galveston, TX.

Houston Sign and Service is pleased to quote as follows:

Furnish all Material, Equipment and Labor to install (1) 14 x 48 double Face Back to Back sign with an approx Overall Height of 62ft. Sign to be Built with (4) uprights per side, (8) 3 x 3 Angle Stringers with (2) 48ft. Outside walks. Steel upper and lower inside walks with walkarounds and access ladders. Sign to be installed on Min. 36 inch Column Pipe set in the ground per engineers drawing.

Total cost _____ 14 x 48 Sign **\$59,250.00**

All equipment must have ready access. Any alterations or deviations from this bid will become an extra charge over and above this quote.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Redmond".

Jim Redmond

"A"

HOUSTON SIGN & SERVICE, INC.
1536 HARTWICK RD.
HOUSTON, TEXAS 77093
(713) 880-0175 OFFICE
(713) 880-0176 FAX
HOUSTONSIGNSERVICE@COMCAST.NET



CBS OUTDOOR
ATTN: MR. DON BOSLEY
1600 STUDEMONT
HOUSTON, TEXAS 77007

SEPTEMBER 16, 2014

RE: REPAIR 14 X 48 DOUBLE FACE BACK TO BACK STORM DAMAGED SIGN (02-1548)
LOCATED AT I-45 AND 80TH STREET IN GALVESTON, TX

HOUSTON SIGN AND SERVICE IS PLEASED TO QUOTE AS FOLLOWS:

FURNISH ALL MATERIAL, EQUIPMENT AND LABOR TO REPAIR (1) 14 X 48 DOUBLE FACE BACK TO BACK SIGN WITH AN APPROX. OVERALL HEIGHT OF 62'-0". EXISTING SIGN HEAD TO BE REINSTALLED WITH EXISTING TOP COLUMN PIPE. SIGN HEAD TO BE REPAIRED AS NEEDED USING EXISTING TORSION PIPE, (4) 48FT STRINGERS, INSIDE UPPER AND LOWER WALKS, (1) 48FT OUTSIDE WALK AND (4) 400 WATT LIGHT FIXTURES. HOUSTON SIGN AND SERVICE TO FABRICATE (3) NEW UPRIGHTS, (4) 48FT STRINGERS, (1) OUTSIDE WALK WITH NEW WALKAROUND AND ACCESS LADDERS. PRICE INCLUDES REINSTALLING TRANSITION PIPES AND REBUILT SIGN STRUCTURE WITH (4) NEW 400 WATT LIGHT FIXTURES.

TOTAL COST TO REPAIR YOUR 14 X 48 SIGN.....\$34,925.00

ANY ALTERATIONS OR DEVIATIONS OVER AND ABOVE THIS QUOTE WILL BECOME AN EXTRA CHARGE.

SINCERELY,

A handwritten signature in cursive script that reads "Jim Redmond".
JIM REDMOND

"B"



Signage Proposal

REMIT TO:
Adcorp Sign Systems, LLC
PO Box 2423
Conroe, TX 77305

CREDIT CARDS ACCEPTED
  

Bill To:

CBS Outdoor - Houston
ATTN: Billy Wade

Job Location:

8002 Broadway
Galveston, TX

Quoted By: Anthony Tinsl Date:

Email: atinsley@darrellsign.com

Specifications

Fabricate & Install New Steel Billboard Structure

Size: 14' x 48' Monopole
Type: Vinyl Frame Billboard
Height: 55' O.A.H. from natural grade.

Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s)
--Lights with electrical wire run to base of sign for customer electrician to
provided and install timer and service.
Time Clocks and Meter Loop not provided

WE PROPOSE hereby to furnish Signage-complete in accordance with the above specifications, for the sum of:

\$ 78,900 USD + TAX

Payment Terms: 1/2 Down before construction begins. Balance due upon completion.

Note: Cost of permits, permit procurement, engineer drawings, land surveys and sales tax not included. All incurred charges will be due upon receipt.

*CUSTOMER IS RESPONSIBLE FOR PROVIDING THE PRIMARY ELECTRICAL TO THEIR SIGN.

*IF ANY SIGNS ARE REMOVED FROM CUSTOMERS BUILDING, CUSTOMER IS RESPONSIBLE FOR ALL
PATCHING AND PAINTING

*CUSTOMERS MUST PROVIDE LEGAL LAND SURVEY WHEN PURCHASING GROUND SIGNS.

*Applicable Sales Tax will be added on final invoice

Acceptance of Proposal:

The above prices, specifications, and conditions are satisfactory and are hereby
accepted. You are authorized to do the work above as specified. Payment will
be made as outlined above. Customer understands the cost of extras such as
sales tax, permitting, staff time and engineering are not added in quoted price,
and will be due upon receipt. This contract executed in Montgomery County, TX.

Print Name: _____

Signature: _____ Date: _____

Please review & sign the Terms & Conditions and Personal Guarantee.

"G"



Signage Proposal

REMIT TO:
Adcorp Sign Systems, LLC
PO Box 2423
Conroe, TX 77305

CREDIT CARDS ACCEPTED
  

Bill To:

CBS Outdoor - Houston
ATTN: Billy Wade

Job Location:

8002 Broadway
Galveston, TX

Quoted By: Anthony Tinsl Date:

Email: atinsley@darrellsign.com

Specifications

Repair Existing Board# 02_1548

- Use existing Stub Pipe
- 1st Stage 24"

Reusable Materials from Head:

- (5) Uprights
- (2) Inside catwalks
- (4) Stringers
- (3) Catwalk Arms
- Torsion Pipe
- (4) Lights
- (1-1/2) Outside Catwalk (48' + 24')

Material to be New:

- (3) Uprights
- (1/2) Outside catwalks (24')
- (4) Stringers
- (1) Catwalk Arm
- (1) Walk around
- (1) Handrail
- (1) Upper Ladder
- (1) Column Pipe Ladder
- (4) Lights

WE PROPOSE hereby to furnish Signage-complete in accordance with the above specifications, for the sum of:

\$ 18,600 USD + TAX

Payment Terms: 1/2 Down before construction begins. Balance due upon completion.

Note: Cost of permits, permit procurement, engineer drawings, land surveys and sales tax not included. All incurred charges will be due upon receipt.

*CUSTOMER IS RESPONSIBLE FOR PROVIDING THE PRIMARY ELECTRICAL TO THEIR SIGN.

*IF ANY SIGNS ARE REMOVED FROM CUSTOMERS BUILDING, CUSTOMER IS RESPONSIBLE FOR ALL PATCHING AND PAINTING

*CUSTOMERS MUST PROVIDE LEGAL LAND SURVEY WHEN PURCHASING GROUND SIGNS.

*Applicable Sales Tax will be added on final invoice

Acceptance of Proposal:

The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work above as specified. Payment will be made as outlined above. Customer understands the cost of extras such as sales tax, permitting, staff time and engineering are not added in quoted price, and will be due upon receipt. This contract executed in Montgomery County, TX.

Print Name: _____

Signature: _____ Date: _____

Please review & sign the Terms & Conditions and Personal Guarantee.

"H"



13369 Old Texaco Camp Rd
Conroe, Tx 77302

936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
4/1/2014	5/1/2014	2014-2247

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston 8002 Broadway

Terms	P.O. No.	Structure ID #	
Net 30		02_1548	
Description	Qty	Cost	Total
Fabricate & Install New Steel Structure 14' x 48' Monopole, Vinyl Frame Billboard @ 55' O.A.H. from natural grade. Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s) --Lights with electrical wire run to base of sign for customer electrician to provided and install timer and service. *Time Clocks & Meter Loop Sold Separately.*		76,520.00	76,520.00
We look forward to serving you.		Subtotal	\$76,520.00
NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing. By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.		Sales Tax (8.25%)	\$0.00
		Total	\$76,520.00

This bid is guaranteed for 30 days from date written.

Approval Signature _____

" M "



13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
6/17/2014	7/17/2014	2014-2344

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston 8002 Broadway

Terms	P.O. No.	Structure ID #		
Net 30		02_1548		
Description		Qty	Cost	Total
Repair Existing Board# 02_1548 - Use existing Stub Pipe - 1st Stage 24" Reusable Materials from Head: - (5) Uprights - (2) Inside catwalks - (4) Stringers - (3) Catwalk Arms - Torsion Pipe - (4) Lights - (1-1/2) Outside Catwalk (48' + 24') Material to be New: - (3) Uprights - (1/2) Outside catwalks (24') - (4) Stringers - (1) Catwalk Arm - (1) Walk around - (1) Handrail - (1) Upper Ladder - (1) Column Pipe Ladder - (4) Lights			16,365.00	16,365.00T
We look forward to serving you.		Subtotal		

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.
By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal	\$16,365.00
Sales Tax (8.25%)	\$1,350.11
Total	\$17,715.11

This bid is guaranteed for 30 days from date written.

Approval Signature _____

"N"

Houston Sign & Service Inc.
1536 Hartwick Rd.
Houston, Texas 77093
(713) 880-0175 Office
(713) 880-0176 Fax
houstonsignservice@comcast.net



CBS Outdoor
Attn: Mr. Don Bosley
1600 Studemont
Houston, Texas 77007

September 16, 2014

RE: 14 X 48 Double Face Back to Back Storm Damaged Sign (02-1565)
located at I-45 and 61st Street in Galveston, TX

Houston Sign and Service is pleased to quote as follows:

Furnish all material, Equipment and Labor to install (1) 14x48 Double Face Back to Back Sign with Approx. overall height of 56 ft. Sign to be Built with 6 uprights per side, (8) 3 x 3 Angle Stringers with (2) 48ft. Outside walks. Steel upper and lower inside walks with walkarounds and access ladders. Sign to be installed on Min. 36 inch Column Pipe set in the ground per engineers drawing.

Total cost for (1) 14 x 48 sign

\$60,550.00

All equipment must have ready access. Any alterations or deviations over and above this quote will become an extra charge over and above this quote.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jim Redmond". The signature is fluid and cursive, with the first name "Jim" being more prominent than the last name "Redmond".

Jim Redmond

"C"

Houston Sign & Service Inc.
1536 Hartwick Rd.
Houston, Texas 77093
(713) 880-0175 Office
(713) 880-0176 Fax
houstonsignservice@comcast.net



CBS Outdoor
Attn: Mr. Don Bosley
1600 Studemont
Houston, Texas 77007

September 16, 2014

RE: Repair 14 X 48 Double Face Back to Back Storm Damaged Sign (02-1565)
located at I-45 and 61st Street in Galveston, TX

Houston Sign and Service is pleased to quote as follows:

Furnish all Material, Equipment and Labor to Repair (1) 14x48 Double Face Back to Back Sign with an approx. Overall Height of 56 ft. Existing sign head to be reinstalled with existing top column pipe. Sign head to be repaired as needed using existing torsion pipe, (8) uprights, inside upper walk, (1) 48ft. outside walk and (5) 400 watt light fixtures. Houston Sign and Service to fabricate (4) new uprights, (8) 48ft. stringers, (1) outside walk, (1) inside walk with walkarounds and access ladders. Price includes reinstalling transition pipes and rebuilt sign structure with (3) new 400 watt light fixtures.

Total cost to repair (1) 14 x 48 sign

\$36,250.00

All equipment must have ready access. Any alterations or deviations over and above this quote will become an extra charge over and above this quote.

Sincerely,

A handwritten signature in blue ink that reads "Jim Redmond". The signature is written in a cursive style with a large, stylized "J" and "R".
Jim Redmond

"D"



Signage Proposal

REMIT TO:
Adcorp Sign Systems, LLC
PO Box 2423
Conroe, TX 77305



Bill To:

CBS Outdoor - Houston
ATTN: Billy Wade

Job Location:

I-45 and 61st Street
Galveston, TX

Quoted By: Anthony Tinsl Date:

Email: atinsley@darrellsign.com

Specifications

Fabricate & Install New Steel Billboard Structure

Size: 14' x 48' Center Mount Monopole
Type: Vinyl Frame Billboard
Height: 60' O.A.H. from natural grade.

Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s)
--Lights with electrical wire run to base of sign for customer electrician to provided and install timer and service.
Time Clocks and Meter Loop not provided

WE PROPOSE hereby to furnish Signage-complete in accordance with the above specifications, for the sum of:

\$ 79,900 USD + TAX

Payment Terms: 1/2 Down before construction begins. Balance due upon completion.

Note: Cost of permits, permit procurement, engineer drawings, land surveys and sales tax not included. All incurred charges will be due upon receipt.

*CUSTOMER IS RESPONSIBLE FOR PROVIDING THE PRIMARY ELECTRICAL TO THEIR SIGN.

*IF ANY SIGNS ARE REMOVED FROM CUSTOMERS BUILDING, CUSTOMER IS RESPONSIBLE FOR ALL PATCHING AND PAINTING

*CUSTOMERS MUST PROVIDE LEGAL LAND SURVEY WHEN PURCHASING GROUND SIGNS.

*Applicable Sales Tax will be added on final invoice

Acceptance of Proposal:

The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work above as specified. Payment will be made as outlined above. Customer understands the cost of extras such as sales tax, permitting, staff time and engineering are not added in quoted price, and will be due upon receipt. This contract executed in Montgomery County, TX.

Print Name: _____

Signature: _____ Date: _____

Please review & sign the Terms & Conditions and Personal Guarantee.

"I"



Signage Proposal

REMIT TO:
Adcorp Sign Systems, LLC
PO Box 2423
Conroe, TX 77305

CREDIT CARDS ACCEPTED
  

Bill To:

CBS Outdoor - Houston
ATTN: Billy Wade

Job Location:

I-45 and 61st St
Galveston, TX

Quoted By: Anthony Tinsl Date:

Email: atinsley@darrellsign.com

Specifications

Repair Existing Board# 02_1565
- Use Existing Stub Pipe 36"
- 1st Stage 30" & 2nd Stage 24"

Reusable Materials from Head:

- Torsion Pipe
- (8) Uprights
- (1) Walk around
- (1) Upper Ladder
- (5) Lights
- (1) Outside catwalk
- (1) 48' Inside Catwalk

Materials to be New:

- (4) Uprights
- (1) Outside catwalks
- (1) Inside Catwalks
- (8) Stringers
- (1) Handrail
- (12) Catwalk arms
- (3) Lights

WE PROPOSE hereby to furnish Signage-complete in accordance with the above specifications, for the sum of:

\$ 16,800 USD + TAX

Payment Terms: ½ Down before construction begins. Balance due upon completion.

Note: Cost of permits, permit procurement, engineer drawings, land surveys and sales tax not included. All incurred charges will be due upon receipt.

*CUSTOMER IS RESPONSIBLE FOR PROVIDING THE PRIMARY ELECTRICAL TO THEIR SIGN.

*IF ANY SIGNS ARE REMOVED FROM CUSTOMERS BUILDING, CUSTOMER IS RESPONSIBLE FOR ALL PATCHING AND PAINTING

*CUSTOMERS MUST PROVIDE LEGAL LAND SURVEY WHEN PURCHASING GROUND SIGNS.

*Applicable Sales Tax will be added on final invoice

Acceptance of Proposal:

The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work above as specified. Payment will be made as outlined above. Customer understands the cost of extras such as sales tax, permitting, staff time and engineering are not added in quoted price, and will be due upon receipt. This contract executed in Montgomery County, TX.

Print Name: _____

Signature: _____ Date: _____

Please review & sign the Terms & Conditions and Personal Guarantee.

"J"



13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
4/1/2014	5/1/2014	2013-2099

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
1-45 @ 61 St Galveston Tx

Terms
Net 30

P.O. No.	Structure ID #
	02_1565

Description	Qty	Cost	Total
Fabricate & Install New Steel Structure 14' x 48' Center Mount, Back to Back Monopole Billboard @ 60' O.A.H. from natural grade. Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s)		78,000.00	78,000.00

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.
By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal	\$78,000.00
Sales Tax (8.25%)	\$6,435.00
Total	\$84,435.00

This bid is guaranteed for 30 days from date written.

Approval Signature _____

02-1565

"0"

Advertising Higher

13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
6/17/2014	7/17/2014	2014-2345

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston I-45 @ 61St

Terms	P.O. No.	Structure ID #		
Net 30		02_1565		
Description		Qty	Cost	Total
Repair Existing Board# 02_1565 - Use Existing Stub Pipe 36" - 1st Stage 30" & 2nd Stage 24" Reusable Materials from Head: - Torsion Pipe - (8) Uprights - (1) Walk around - (1) Upper Ladder - (5) Lights - (1) Outside catwalk - (1) 48' Inside Catwalk Materials to be New: - (4) Uprights - (1) Outside catwalks - (1) Inside Catwalks - (8) Stringers - (1) Handrail - (12) Catwalk arms - (3) Lights			14,487.00	14,487.00T
We look forward to serving you.		Subtotal		

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.
By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal	\$14,487.00
Sales Tax (8.25%)	\$1,195.18
Total	\$15,682.18

This bid is guaranteed for 30 days from date written.

Approval Signature _____

"P"

Houston Sign & Service, Inc.
1536 Hartwick Rd.
Houston, Texas 77093
(713) 880-0175 Office
(713) 880-0176 Fax
houstonsignservice@comcast.net



CBS Outdoor
Attn: Mr. Don Bosley
1600 Studemont
Houston, TX 77007

September 16, 2014

RE: 14 X 48 Double Face Back to Back Sign (02-1574) to be installed at
Harborside at 35th Street in Galveston, TX

Houston Sign and Service is pleased to quote as follows:

Furnish all Material, Equipment and Labor to install (1) 14 x 48 Double Face Back to Back Sign with approx. overall height of 58 ft. Sign to be built with 8 upright per side, (8) 3 x 3 Angle Stringers with (2) 48ft. Outside walks. Steel upper and lower inside walks with walkarounds and access ladders. sign to be installed on Min. 36 inch Column Pipe set in the ground per engineers drawing.

Total cost to install your 14 x 48 sign

\$58,250.00

All equipment must have ready access. Any alterations or deviations over and above this bid will become an extra charge over and above this quote.

Sincerely,

A handwritten signature in cursive script that reads "Jim Redmond".
Jim Redmond

"E"

Houston Sign & Service, Inc.
1536 Hartwick Rd.
Houston, Texas 77093
(713) 880-0175 Office
(713) 880-0176 Fax
houstonsignservice@comcast.net



CBS Outdoor
Attn: Mr. Don Bosley
1600 Studemont
Houston, TX 77007

September 16, 2014

RE: Repair 14 X 48 Double Face Back to Back Storm Damaged Sign (02-1574)
Located at Harborside at 35th Street in Galveston, Texas

Houston Sign and Service is pleased to quote as follows:

Furnish all Material, Equipment and Labor to repair (1) 14 x 48 Double Face Back to Back Sign with approx. overall height of 58 ft. Existing Sign Head to be reinstalled with existing top column pipe. Sign head to be repaired as needed using existing Torsion pipe, Uprights, inside upper and lower walks, (2) 48ft. Outside walks. Houston Sign and Service to Fabricate (2) 48ft. Stringers, (1) New mounting plate attached to existing Column Pipe with new walkarounds and access Ladders. Price includes Reinstalling rebuilt Sign Structure.

Total cost to repair your 14 x 48 sign

\$20,450.00

All equipment must have ready access. Any alterations or deviations over and above this bid will become an extra charge over and above this quote.

Sincerely,

A handwritten signature in cursive script that reads "Jim Redmond".
Jim Redmond

"F"



Signage Proposal

REMIT TO:
Adcorp Sign Systems, LLC
PO Box 2423
Conroe, TX 77305

CREDIT CARDS ACCEPTED

Bill To:

CBS Outdoor - Houston
ATTN: Billy Wade

Job Location:

35th street @ Harborside
Galveston, TX

Quoted By: Anthony Tinsl Date:

Email: atinsley@darrellsign.com

Specifications

Fabricate & Install New Steel Billboard Structure

Size: 14' x 48' Monopole

Type: Vinyl Frame Billboard

Height: 50' O.A.H. from natural grade.

Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s)

--Lights with electrical wire run to base of sign for customer electrician to provided and install timer and service.

Time Clocks and Meter Loop not provided

WE PROPOSE hereby to furnish Signage-complete in accordance with the above specifications, for the sum of:

\$ 76,458 USD + TAX

Payment Terms: ½ Down before construction begins. Balance due upon completion.

Note: Cost of permits, permit procurement, engineer drawings, land surveys and sales tax not included. All incurred charges will be due upon receipt.

*CUSTOMER IS RESPONSIBLE FOR PROVIDING THE PRIMARY ELECTRICAL TO THEIR SIGN

*IF ANY SIGNS ARE REMOVED FROM CUSTOMERS BUILDING, CUSTOMER IS RESPONSIBLE FOR ALL PATCHING AND PAINTING

*CUSTOMERS MUST PROVIDE LEGAL LAND SURVEY WHEN PURCHASING GROUND SIGNS

*Applicable Sales Tax will be added on final invoice

Acceptance of Proposal:

The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work above as specified. Payment will be made as outlined above. Customer understands the cost of extras such as sales tax, permitting, staff time and engineering are not added in quoted price, and will be due upon receipt. This contract executed in Montgomery County, TX.

Print Name: _____

Signature: _____ Date: _____

Please review & sign the Terms & Conditions and Personal Guarantee.

"K"



Signage Proposal

REMIT TO:
Adcorp Sign Systems, LLC
PO Box 2423
Conroe, TX 77305



Bill To:

CBS Outdoor - Houston
ATTN: Billy Wade

Job Location:

35th and Harborside
Galveston, TX

Quoted By: Anthony Tinsl Date:

Email: atinsley@darrellsign.com

Specifications

Repair Existing Board# 02_1574
- Use All existing pipe - 36", 30", 26"

Reusable Materials from Head:

- Torsion Pipe
- (2) Outside Catwalk
- (2) Inside Catwalk
- (6) Stringers
- (16) Uprights
- (1) Column Pipe Ladder
- (1) Upper Ladder

Material to be New:

- (2) Stringers
- (2) walk arounds
- (2) Handrails
- (8) Catwalk arms

WE PROPOSE hereby to furnish Signage-complete in accordance with the above specifications, for the sum of:

\$ 10,460 USD + TAX

Payment Terms: ½ Down before construction begins. Balance due upon completion.

Note: Cost of permits, permit procurement, engineer drawings, land surveys and sales tax not included. All incurred charges will be due upon receipt.

*CUSTOMER IS RESPONSIBLE FOR PROVIDING THE PRIMARY ELECTRICAL TO THEIR SIGN.

*IF ANY SIGNS ARE REMOVED FROM CUSTOMERS BUILDING, CUSTOMER IS RESPONSIBLE FOR ALL PATCHING AND PAINTING

*CUSTOMERS MUST PROVIDE LEGAL LAND SURVEY WHEN PURCHASING GROUND SIGNS.

*Applicable Sales Tax will be added on final invoice

Acceptance of Proposal:

The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work above as specified. Payment will be made as outlined above. Customer understands the cost of extras such as sales tax, permitting, staff time and engineering are not added in quoted price, and will be due upon receipt. This contract executed in Montgomery County, TX.

Print Name: _____

Signature: _____ Date: _____

Please review & sign the Terms & Conditions and Personal Guarantee.

"L"



936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
4/1/2014	5/1/2014	2014-2248

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston: 35st @ Harborside

Terms
Net 30

P.O. No.	Structure ID #
	02_1574

Description	Qty	Cost	Total
Fabricate & Install New Steel Structure 14' x 48' Monopole, Vinyl Frame Billboard @ 50' O.A.H. from natural grade. Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s) --Lights with electrical wire run to base of sign for customer electrician to provided and install timer and service. *Time Clocks & Meter Loop Sold Separately.*		74,667.00	74,667.00

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.
 By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal	\$74,667.00
Sales Tax (8.25%)	\$0.00
Total	\$74,667.00

This bid is guaranteed for 30 days from date written.

Approval Signature _____

"Q"



13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
6/16/2014	7/16/2014	2014-2343

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galvesto: 35st on Harboride

Terms
Net 30

P.O. No.	Structure ID #
	02_1574

Description	Qty	Cost	Total
Repair Existing Board# 02_1574 - Use All existing pipe - 36", 30", 26" Reusable Materials from Head: - Torsion Pipe - (2) Outside Catwalk - (2) Inside Catwalk - (6) Stringers - (16) Uprights - (1) Column Pipe Ladder - (1) Upper Ladder Material to be New: - (2) Stringers - (2) walk arounds - (2) Handrails - (8) Catwalk arms		8,756.00	8,756.00T

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.

By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal \$8,756.00

Sales Tax (8.25%) \$722.37

Total \$9,478.37

This bid is guaranteed for 30 days from date written.

Approval Signature _____

"R"

From: David Ewald [<mailto:EwaldDav@cityofgalveston.org>]
Sent: Wednesday, December 10, 2014 10:35 AM
To: Donna Fairweather; Richard Rothfelder
Cc: Bosley, Donald R; Catherine Gorman
Subject: RE: Billboard Permits

Mr. Bosley, after reviewing the three bids submitted for the replacement and repair of these signs, we cannot accept as submitted. The reason for the denial of your submittals is as per attached Section 29-84 of the Zoning Standards, states that the costs shall be with new materials. All of the bids submitted were reusing existing materials.

Thanks,

David Ewald

CBO, CFM;
City of Galveston,
Department of Planning and Community Development
O: 409.797.3620
F: 409.797.3604



From: Donna Fairweather
Sent: Tuesday, December 09, 2014 10:33 AM
To: Richard Rothfelder
Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

Hello Richard,

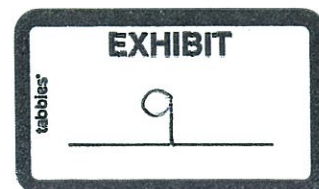
Legal met with Planning and David Ewald will be sending you an email later this afternoon. If you wish to meet after that, we can. Unfortunately, tomorrow's schedules are loaded for us and it is not a good day to meet.

Again, if you wish to meet after the email, please contact me.

Donna

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]
Sent: Tuesday, December 09, 2014 9:39 AM
To: Donna Fairweather
Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

Donna:



I assume we're meeting tomorrow. Please confirm the time and place.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.
1201 Louisiana St., Suite 550, Houston, TX 77002
Phone: (713) 220-2288 | Facsimile: (713) 658-8211
rrothfelder@swbell.net
www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Donna Fairweather [<mailto:fairweatherdon@cityofgalveston.org>]
Sent: Thursday, December 04, 2014 5:00 PM
To: Richard Rothfelder
Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

We will be able to confirm a time tomorrow afternoon.
Donna

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]
Sent: Thursday, December 04, 2014 4:26 PM
To: Donna Fairweather
Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

Donna:

Please confirm our meeting time on December 9 or 10, so we can schedule accordingly for next week.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.
1201 Louisiana St., Suite 550, Houston, TX 77002
Phone: (713) 220-2288 | Facsimile: (713) 658-8211
rrothfelder@swbell.net
www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]
Sent: Monday, December 01, 2014 10:35 AM
To: 'Donna Fairweather'
Cc: 'Bosley, Donald R'; 'David Ewald'; 'Catherine Gorman'
Subject: RE: Billboard Permits

Donna:

Don Bosley and I are available for a meeting with you and others in Galveston on December 9 and 10. Please let us know the date, time, and place. Thanks, and we look forward to seeing you again soon.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Monday, November 24, 2014 1:41 PM

To: 'Donna Fairweather'

Cc: 'Bosley, Donald R'; 'David Ewald'; 'Catherine Gorman'

Subject: RE: Billboard Permits

Thanks, Donna. We'll visit on our end, and get you some dates for the week of December 8. Happy Thanksgiving.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Donna Fairweather [<mailto:fairweatherdon@cityofgalveston.org>]

Sent: Monday, November 24, 2014 1:10 PM

To: Richard Rothfelder

Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman

Subject: RE: Billboard Permits

Mr. Rothfelder,

Due to the holiday schedule, it looks like the second week in December will be available for meeting on the subject. Please provide some times of availability and I will coordinate a time on this end.

Thanks and have an enjoyable holiday season.

Donna Fairweather

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Thursday, November 20, 2014 9:44 AM

To: Donna Fairweather

Cc: 'Bosley, Donald R'

Subject: RE: Billboard Permits

Donna:

You mentioned below you'd be visiting with Ms. Gorman and Mr. Ewald, and get back with me this week. Do you have any updates? In fact, given how this matter seems to have drug on, could Don Bosley of CBS and I come down to Galveston and meet with Mr. Ewald, Ms. Gorman, and you or other Staff decision makers and hopefully make progress to a final resolution? How does your schedules look for such a meeting over the next two or three weeks?

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Thursday, November 13, 2014 4:31 PM

To: 'Donna Fairweather'

Cc: 'Bosley, Donald R'

Subject: RE: Billboard Permits

Donna:

Please afford me the professional courtesy of a response.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Monday, November 03, 2014 1:42 PM

To: 'Donna Fairweather'

Cc: 'Bosley, Donald R'

Subject: FW: Billboard Permits

Donna:

You'll recall we met a few months ago, when I represented the folks from the Lighthouse in their variance request for signage adjacent to I45. I appreciate your assistance and courtesies on that matter, and have another client matter I'd like you to look into. Specifically, I represent CBS Outdoor, which has been attempting to work with the City for years now in seeking repair of storm damaged signs. In fact, you may recall that I mentioned that I'd probably be calling you about the CBS issue as well. Please see the email exchange below between Don Bosley of CBS and Catherine Gorman of Galveston. It's been a few weeks, and Mr. Bosley for some reason hasn't received a reply from Ms. Gorman, despite repeated inquiries on the status of CBS' applications, estimates, and paperwork. Would you please check with Ms. Gorman, and get back with me on this matter. I also think it would be good for all parties if Mr. Bosley and I came to Galveston to meet with you, David Ewald, and Ms. Gorman. Therefore, please call me about these matters at your earliest convenience. I look forward to visiting with you again soon.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Bosley, Donald R
Sent: Thursday, October 23, 2014 2:44 PM
To: 'Catherine Gorman'
Cc: 'Richard Rothfelder'; Sitta, Jay; Mikedelltrustee
Subject: RE: Billboard Permits

Catherine: It has been quite some time since I submitted the last 2 of the 3 bids requested by the City of Galveston for the repair of the IKE damaged signs. As I understood it, those 2 bids was all that was needed for the City to review and approve the permits. As of this date I still have not heard from the City on the status. Will you please check with David Ewald and the permit department and advise me of where this stands? We would like to complete these repairs as soon as possible.

Thank you.

Don Bosley Real Estate Manager
Tel: 713.868.2284 | Cell: 281.732.5825 | OutfrontMedia.com
1600 Studemont, Houston, TX 77007



From: Catherine Gorman [<mailto:GormanCat@cityofgalveston.org>]
Sent: Tuesday, September 09, 2014 8:41 AM
To: Bosley, Donald R
Cc: 'Richard Rothfelder'; Sitta, Jay; Mikedelltrustee
Subject: RE: Billboard Permits

Don – the Building Official has reviewed has said that the information submitted was sufficient. We still need the two additional bids. Thanks – Catherine

From: Bosley, Donald R [<mailto:don.bosley@cbsoutdoor.com>]
Sent: Monday, September 08, 2014 3:05 PM
To: Catherine Gorman
Cc: 'Richard Rothfelder'; Sitta, Jay; Mikedelltrustee
Subject: FW: Billboard Permits

Ms. Gorman. I have not heard back from you or the City of Galveston in response to my request (see below) for confirmation that the format of the first bid submitted was satisfactory in my getting the 2 additional bids that you have

requested. Therefore, I will assume that the format is acceptable and I will get the additional bids to you to complete the file for your building inspector.

Don Bosley

Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

From: Bosley, Donald R
Sent: Thursday, August 14, 2014 4:25 PM
To: 'Catherine Gorman'
Subject: FW: Billboard Permits

Please clarify as per my email below.
Thank you.

Don Bosley

Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

From: Bosley, Donald R
Sent: Tuesday, August 12, 2014 2:41 PM
To: 'Catherine Gorman'
Subject: RE: Billboard Permits

Yes. Please clarify for me. I submitted one bid with the application and I assume that you are requesting 2 more bids in addition to the one submitted. I also assume the one submitted meets the criteria of adequate description of work? If not please advise and I will get the other bids to you soon.

Thank you.

Don Bosley

Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

From: Catherine Gorman [<mailto:GormanCat@cityofgalveston.org>]
Sent: Monday, August 11, 2014 1:02 PM
To: Bosley, Donald R
Subject: Billboard Permits

Mr. Bosley – I have reviewed the permits submitted for 202 37th, 6127 Broadway and 8002 Broadway. In order to determine conformance with the regulations, the Building Official needs to have three bids submitted. Each bid needs to have the cost of a new sign and the cost of the proposed repairs. Please be sure that all required repairs are reflected in the submitted bids and that the bids are detailed enough for verification.

Please let me know if you need anything else.

Thanks – Catherine

Catherine Gorman, AICP, CFM, HHDFP
Assistant Director/Historic Preservation Officer
Planning Department
City of Galveston

Phone: 409-797-3665

Cell: 409-370-4252

e-mail: gormancat@cityofgalveston.org

ROTHFELDER & FALICK, L.L.P.

ATTORNEYS AT LAW

RICHARD L. ROTHFELDER
rrothfelder@rothfelderfalick.com
BOARD CERTIFIED - CIVIL TRIAL LAW

1201 LOUISIANA
SUITE 550
HOUSTON, TEXAS 77002

TELEPHONE: 713-220-2288
FACSIMILE: 713-658-8211
WWW.ROTHFELDERFALICK.COM

December 11, 2014

Ms. Donna M. Fairweather
Assistant City Attorney
City of Galveston
823 Rosenberg, Room 203
Galveston, TX 77553

Via Certified Mail, RRR, #7012 2920 0001 7732 6685,
and Email: fairweatherdon@cityofgalveston.org

RE: Applications of Outfront Media LLC f/k/a CBS Outdoor LLC for Billboard Repair Permits; Our File No. 1030-224.

Dear Donna:

As you know, the law firm of Rothfelder & Falick, L.L.P. represents Outfront Media LLC, f/k/a CBS Outdoor LLC ("Outfront"). As such, I am responding to the December 10, 2014 email of David Ewald of the City of Galveston to Don Bosley of Outfront, a copy of which is attached as Exhibit 1.

Mr. Ewald tells Mr. Bosley in his email that the three bids submitted several months previously by Mr. Bosley in connection with applications to repair Outfront's storm damaged signs could not be accepted as submitted. Mr. Ewald goes on to say the reason for the denial of the submission is Section 29-84 of Galveston's Zoning Standards, which purportedly requires the cost estimates to use new materials, whereas Outfront's submittal included reusing existing undamaged materials.

We respectfully disagree with the legal conclusions and factual allegations contained in Mr. Ewald's email, and urge the City of Galveston to accept Outfront's billboard repair applications and accompanying evidence, and to grant the repair permits accordingly for the following reasons.

First, Galveston's regulation, namely Section 29-84(b)(3) attached as Exhibit 2, simply doesn't make sense, if the "cost of repairing the Billboard [is with the use of] all new materials." Specifically, any comparison of repair and new construction cost, by definition, must account for the salvage and use of undamaged materials. By compelling the use of new materials for repair estimates, there is no acknowledgment that part of the sign remains in good condition and requires no repairs. Indeed, the situation is analogous to seeking an estimate of the cost to repair



a damaged fender after a car accident. It is nonsensical to require the inclusion of four new tires in the estimate to repair the dented fender, when there was no damage to the tires. Similarly, the majority of Outfront's sign components were not damaged by the storm, don't require any repairs whatsoever, and can be reused in the construction and operation of the signs. Therefore, the City's requirement of "all new materials as computed by the Building Inspector" is incorrect.

Second, Section 29-84(b)(3) goes on to provide "in the event of a conflict in this section and the Texas Local Government Code, Chapter 216, as amended, the Texas Local Government Code shall prevail." I have attached as Exhibit 3 the relevant provision of Chapter 216 of the Texas Local Government Code, namely Sections 216.013(b) and (c), which provide as follows:

(b) The requirements of this subchapter do not apply to a sign that, having been permitted to retain in place as a nonconforming use, is required to be removed by a municipality because the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.

(c) For purposes of Subsection (b), a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location.

As you can see, the State statute carries forward this same 60 percent test for determining when storm damaged signs are eligible for repair, but with a simple and straightforward "cost of repairing the sign" and the "cost of erecting a new sign." Thus, this confusion about using new materials under Galveston's regulations is subordinate to the State's statute and therefore rejected.

Third, this confusion over eligibility to repair storm damaged signs, and the affect on the sign owner's due process rights, has been extensively discussed in the case of *City of Webster vs. SignAd, Inc.*, 682 S.W.2nd 644 (Tex.App.-Houston [1st Dist.] 1984, writ ref'd.), a copy of which is also attached as Exhibit 4. As you can see from the case, several billboards of another company, SignAd, suffered varying degrees of storm damage by Hurricane Alicia. The Webster Building Official denied repair of all of the signs, subjectively determining and without the benefit of any objective comparison of repair and replacement costs that such damage was "substantial." The Appellate Court held the Webster sign ordinance void for vagueness and violative of SignAd's due process rights, as "operators of outdoor advertising receive no fair and adequate notice...as to what sign repairs are permitted or prohibited." *Id.* at 648.

Galveston's actions similarly violate Outfront's due process rights. While purporting to incorporate an objective 60 percent test for determining eligibility to repair storm damaged signs, Galveston's ordinance nevertheless permits a subjective determination "as computed by the Building Inspector." Even worse, this determination is improperly delegated to the Galveston Building Inspector by the use of criteria that conflicts with State law when all new materials are

required for the repair cost estimates. As such, Section 29-84(b)(3) and the City's interpretation of it are unconstitutional as well.

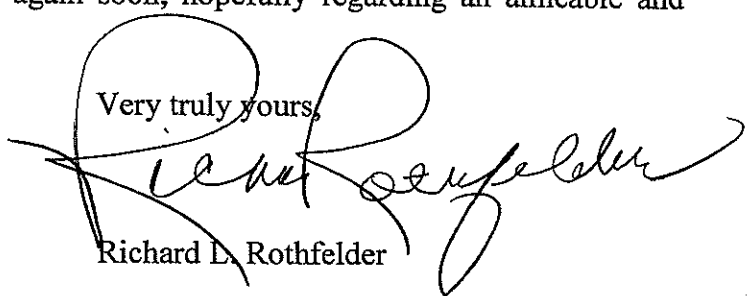
Fourth, Mr. Ewald's requirement that the repair costs estimates reflect with new materials is inconsistent with the City's previous indications to Mr. Bosley and Outfront. Specifically, the email thread preceding Mr. Ewald's December 10, 2014 email to Mr. Bosley contains repeated confirmations from Galveston's Catherine Gorman that Outfront's repair estimate submittals were sufficient. Ms. Gorman even said in her September 9, 2014 email "the Building Official has review [sic] has said that the information submitted was sufficient." Indeed, the first email in the chain preceding the most recent from Mr. Ewald is dated August 11, 2014, certainly leading one to wonder why it would take the City four months to finally conclude that its previous indication of satisfactory submittals was incorrect.

In conclusion, Outfront has been attempting to work cooperatively with the City for the consideration of its applications and issuance of the requested permits to repair its storm damaged signs for years. In doing so, Outfront has meticulously complied with all of Galveston's sign regulations, including submitting the correct comparison of the cost to repair the damage to its signs and the cost of erecting new signs. In stark contrast, the City has repeatedly delayed in even addressing and responding to Outfront's applications and supporting materials. When it finally does several months later, the City has misinterpreted its own regulations, and committed violations of Chapter 216 and Constitutional Due Process in doing so.

Therefore, I respectfully urge the City to reconsider its refusal to accept and process Outfront's sign repair applications. The City's failure to do so in the face of these constitutional ramifications will unfortunately leave Outfront with no alternative but to consider its litigation options.

I look forward to hearing from you again soon, hopefully regarding an amicable and expeditious resolution to this dispute.

Very truly yours,



Richard L. Rothfelder

RLR:mr
Enclosures

Ms. Donna M. Fairweather
December 11, 2014
Page 4

bc: Clients

Via Email

Richard Rothfelder

From: David Ewald [EwaldDav@cityofgalveston.org]
Sent: Wednesday, December 10, 2014 10:35 AM
To: Donna Fairweather; Richard Rothfelder
Cc: 'Bosley, Donald R'; Catherine Gorman
Subject: RE: Billboard Permits
Attachments: Section 29-84 (2).docx

Mr. Bosley, after reviewing the three bids submitted for the replacement and repair of these signs, we cannot accept as submitted. The reason for the denial of your submittals is as per attached Section 29-84 of the Zoning Standards, states that the costs shall be with new materials. All of the bids submitted were reusing existing materials.

Thanks,

David Ewald

CBO, CFM;
City of Galveston,
Department of Planning and Community Development
O: 409.797.3620
F: 409.797.3604



From: Donna Fairweather
Sent: Tuesday, December 09, 2014 10:33 AM
To: Richard Rothfelder
Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

Hello Richard,

Legal met with Planning and David Ewald will be sending you an email later this afternoon. If you wish to meet after that, we can. Unfortunately, tomorrow's schedules are loaded for us and it is not a good day to meet.

Again, if you wish to meet after the email, please contact me.

Donna

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]
Sent: Tuesday, December 09, 2014 9:39 AM
To: Donna Fairweather



Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

Donna:

I assume we're meeting tomorrow. Please confirm the time and place.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.
1201 Louisiana St., Suite 550, Houston, TX 77002
Phone: (713) 220-2288 | Facsimile: (713) 658-8211
rrothfelder@swbell.net
www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Donna Fairweather [<mailto:fairweatherdon@cityofgalveston.org>]
Sent: Thursday, December 04, 2014 5:00 PM
To: Richard Rothfelder
Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

We will be able to confirm a time tomorrow afternoon.
Donna

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]
Sent: Thursday, December 04, 2014 4:26 PM
To: Donna Fairweather
Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

Donna:

Please confirm our meeting time on December 9 or 10, so we can schedule accordingly for next week.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.
1201 Louisiana St., Suite 550, Houston, TX 77002
Phone: (713) 220-2288 | Facsimile: (713) 658-8211
rrothfelder@swbell.net
www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]
Sent: Monday, December 01, 2014 10:35 AM
To: 'Donna Fairweather'
Cc: 'Bosley, Donald R'; 'David Ewald'; 'Catherine Gorman'
Subject: RE: Billboard Permits

Donna:

Don Bosley and I are available for a meeting with you and others in Galveston on December 9 and 10. Please let us know the date, time, and place. Thanks, and we look forward to seeing you again soon.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Monday, November 24, 2014 1:41 PM

To: 'Donna Fairweather'

Cc: 'Bosley, Donald R'; 'David Ewald'; 'Catherine Gorman'

Subject: RE: Billboard Permits

Thanks, Donna. We'll visit on our end, and get you some dates for the week of December 8. Happy Thanksgiving.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Donna Fairweather [<mailto:fairweatherdon@cityofgalveston.org>]

Sent: Monday, November 24, 2014 1:10 PM

To: Richard Rothfelder

Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman

Subject: RE: Billboard Permits

Mr. Rothfelder,

Due to the holiday schedule, it looks like the second week in December will be available for meeting on the subject. Please provide some times of availability and I will coordinate a time on this end.

Thanks and have an enjoyable holiday season.

Donna Fairweather

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Thursday, November 20, 2014 9:44 AM

To: Donna Fairweather

Cc: 'Bosley, Donald R'

Subject: RE: Billboard Permits

Donna:

You mentioned below you'd be visiting with Ms. Gorman and Mr. Ewald, and get back with me this week. Do you have any updates? In fact, given how this matter seems to have drug on, could Don Bosley of CBS and I come down to Galveston and meet with Mr. Ewald, Ms. Gorman, and you or other Staff decision makers and hopefully make progress to a final resolution? How does your schedules look for such a meeting over the next two or three weeks?

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Thursday, November 13, 2014 4:31 PM

To: 'Donna Fairweather'

Cc: 'Bosley, Donald R'

Subject: RE: Billboard Permits

Donna:

Please afford me the professional courtesy of a response.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Monday, November 03, 2014 1:42 PM

To: 'Donna Fairweather'

Cc: 'Bosley, Donald R'

Subject: FW: Billboard Permits

Donna:

You'll recall we met a few months ago, when I represented the folks from the Lighthouse in their variance request for signage adjacent to I45. I appreciate your assistance and courtesies on that matter, and have another client matter I'd like you to look into. Specifically, I represent CBS Outdoor, which has been attempting to work with the City for years now in seeking repair of storm damaged signs. In fact, you may recall that I mentioned that I'd probably be calling you about the CBS issue as well. Please see the email exchange below between Don Bosley of CBS and Catherine Gorman of Galveston. It's been a few weeks, and Mr. Bosley for some reason hasn't received a reply from Ms. Gorman, despite repeated inquiries on the status of CBS' applications, estimates, and paperwork. Would you please check with Ms.

Gorman, and get back with me on this matter. I also think it would be good for all parties if Mr. Bosley and I came to Galveston to meet with you, David Ewald, and Ms. Gorman. Therefore, please call me about these matters at your earliest convenience. I look forward to visiting with you again soon.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Bosley, Donald R
Sent: Thursday, October 23, 2014 2:44 PM
To: 'Catherine Gorman'
Cc: 'Richard Rothfelder'; Sitta, Jay; Mikedelltrustee
Subject: RE: Billboard Permits

Catherine: It has been quite some time since I submitted the last 2 of the 3 bids requested by the City of Galveston for the repair of the IKE damaged signs. As I understood it, those 2 bids was all that was needed for the City to review and approve the permits. As of this date I still have not heard from the City on the status. Will you please check with David Ewald and the permit department and advise me of where this stands? We would like to complete these repairs as soon as possible.

Thank you.

Don Bosley Real Estate Manager
Tel: 713.868.2284 | Cell: 281.732.5825 | OutfrontMedia.com
1600 Studemont, Houston, TX 77007



From: Catherine Gorman [<mailto:GormanCat@cityofgalveston.org>]
Sent: Tuesday, September 09, 2014 8:41 AM
To: Bosley, Donald R
Cc: 'Richard Rothfelder'; Sitta, Jay; Mikedelltrustee
Subject: RE: Billboard Permits

Don – the Building Official has reviewed has said that the information submitted was sufficient. We still need the two additional bids. Thanks – Catherine

From: Bosley, Donald R [<mailto:don.bosley@cbsoutdoor.com>]
Sent: Monday, September 08, 2014 3:05 PM
To: Catherine Gorman
Cc: 'Richard Rothfelder'; Sitta, Jay; Mikedelltrustee
Subject: FW: Billboard Permits

Ms. Gorman. I have not heard back from you or the City of Galveston in response to my request (see below) for confirmation that the format of the first bid submitted was satisfactory in my getting the 2 additional bids that you have requested. Therefore, I will assume that the format is acceptable and I will get the additional bids to you to complete the file for your building inspector.

Don Bosley

Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

From: Bosley, Donald R
Sent: Thursday, August 14, 2014 4:25 PM
To: 'Catherine Gorman'
Subject: FW: Billboard Permits

Please clarify as per my email below.
Thank you.

Don Bosley

Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

From: Bosley, Donald R
Sent: Tuesday, August 12, 2014 2:41 PM
To: 'Catherine Gorman'
Subject: RE: Billboard Permits

Yes. Please clarify for me. I submitted one bid with the application and I assume that you are requesting 2 more bids in addition to the one submitted. I also assume the one submitted meets the criteria of adequate description of work? If not please advise and I will get the other bids to you soon.

Thank you.

Don Bosley

Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

From: Catherine Gorman [<mailto:GormanCat@cityofgalveston.org>]
Sent: Monday, August 11, 2014 1:02 PM
To: Bosley, Donald R
Subject: Billboard Permits

Mr. Bosley – I have reviewed the permits submitted for 202 37th, 6127 Broadway and 8002 Broadway. In order to determine conformance with the regulations, the Building Official needs to have three bids submitted. Each bid needs to have the cost of a new sign and the cost of the proposed repairs. Please be sure that all required repairs are reflected in the submitted bids and that the bids are detailed enough for verification.

Please let me know if you need anything else.

Thanks – Catherine

Catherine Gorman, AICP, CFM, HHDFP
Assistant Director/Historic Preservation Officer
Planning Department
City of Galveston

Phone: 409-797-3665

Cell: 409-370-4252

e-mail: gormancat@cityofgalveston.org

Section 29-84: ADVERTISING (Billboards) (Ord. 08-027) (Ord. 09-021)

(a) Definitions

- (1) As used in these regulations, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager.
- (2) As used in these regulations, "Department of Planning and Community Development" shall mean the Department of Planning and Community Development, or designee, or any other person designated by the City Manager.
- (3) As used in this section, "Billboard" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designated, intended or used to advertise or inform. "Billboard" shall include off-premise signs only.
- (4) "Electronic sign" means a sign, display, or device that changes its message or copy by programmable mechanical or electronic processes. The use of an electronic image on a digital display device is not the use of a flashing, intermittent, or moving light for the purposes of these regulations. Any flashing intermittent or moving light or lights including any type of screen using animated or scrolling displays except those giving only public service information such as time, date, temperature, weather or similar information is prohibited.

(b) Permits

- (1) The City shall not issue permits for the construction of new Billboards. The City may issue permits for the repair of legal, non-conforming Billboards that existed on October 29, 1997 per the provisions of this section. A Billboard permit shall be valid at the sign location for twelve (12) months unless sooner revoked or canceled.
- (2) The city shall charge an annual permit fee of thirty-five dollars (\$35.00) for each off-premise Billboard. The annual permit fee shall be non-refundable and shall be non-transferable to a different location. If any Billboard owner fails to obtain the required permit, the Billboard owner shall be subject to the penalties prescribed for violations of these regulations and in addition shall pay double the amount of the permit fee. If a Billboard owner wishes to transfer a permit to another person or entity, the Billboard owner shall notify, in writing, the Department of Planning and Community Development. The Department of Planning and Community Development shall void the original Billboard permit and issue a new permit to the new owner. No transfer shall be valid until accepted by the Department of Planning and Community Development.
- (3) Any legally existing, non-conforming Billboard in existence on the effective date of this ordinance may continue to lawfully exist. However, if a legally existing non-conforming Billboard is blown down or otherwise destroyed such that the cost of repairing the Billboard using all new materials is more than 60% of the cost of erecting a new Billboard of the same type at the same location using all new materials as computed by the Building Inspector, the Billboard owner and the owner of the property on which it is placed shall each be responsible to remove the Billboard. **If the Billboard is damaged such that the cost of repairing the Billboard using all new materials as computed by the Building Inspector is 60% or less than the cost of erecting a new Billboard of the same type at the same location then any repairs shall be done in compliance with the regulations of all applicable ordinances.** In the event of a conflict between this section and the Texas Local Government code, Chapter 216, as amended, the Texas Local Government Code shall prevail.

(c) Extraterritorial Jurisdiction (ETJ)

- (1) The City prohibits the construction of new, off premise, or billboard electronic signs along state highways within the City's extraterritorial jurisdiction, and will not issue permits for such signs. Additionally, the City prohibits the conversion, replacement or repair of existing Billboard to become electronic signs within the City's extraterritorial jurisdiction and will not issue permits for

EXHIBIT

tabbles

2

such conversion, replacement or repair.

(d) Site Provisions for legally non conforming Billboards

- (1) Any Billboard that is repaired at the same location shall be the same size or smaller than the original Billboard. However, in no event shall the repaired Billboard exceed the sizes set forth in section three below.
 - (2) Billboards may not be relocated.
 - (3) **Area:** Regardless of the size of the off-premise sign being relocated, the relocated off-premise sign shall not exceed fourteen feet (14') by forty-eight feet (48'), excluding cutout extensions and apron trip without copy. The cumulative area of all extensions on any Billboard shall not exceed 20% of the area of the Billboard, excluding extensions and apron trim without copy.
 - (4) **Height:** Billboards shall not exceed a maximum height of forty feet (40'). The height shall be measured from the crown of the adjacent roadway to which the Billboard is oriented. However, the Department of Planning and Community Development may issue a permit for a Billboard whose height exceeds forty feet (40'), but is less than fifty feet (50') if the Department of Planning and Community Development determines that the Billboard, at the lower height, would block an existing sign or structure from view, or would itself be blocked from view. The Department of Planning and Community Development shall provide a written determination to the Billboard owner. If the Billboard owner disagrees with the Department of Planning and Community Development's determination, the Billboard owner may notify the Director Planning and Community Development of the Billboard owner's desire to appeal the determination to City Council. Such notice of appeal must be filed with the Department of Planning and Community Development no later than the 60th day after the date of the Department of Planning and Community Development's written decision.
 - (5) **Setbacks:** A minimum setback of ten (10') feet from the right-of-way of the street to which the Billboard is oriented shall be required for any part of the Billboard and its supporting structure. As used in this sub-section only, "street" does not include alleys.
 - (6) **Conversion to Electronic Signs:** Any sign that is permitted to be repaired within the City of Galveston through the provisions of this section may not be converted to, or built as, an electronic sign.
- (e) Traffic Control Conflicts:** No Billboard or message thereon shall be permitted which resembles an official marker erected by any governmental agency, or which by reason of position, shape, color or illumination would obstruct from clear view any traffic signal or sign.
- (f) Illumination:** It shall be unlawful for any person to erect, operate, or otherwise use any Billboard which is of a rotating nature or displays intermittent lights. If this section conflicts with Section 29-81, "Sign Regulations" of the "Zoning Regulations 1991" this section (f) shall prevail as to Billboards.
- (g) Motion:** Billboards shall not be permitted to revolve or rotate.
- (h) Roof Mounted Sign:** Roof mounted Billboards shall not be permitted.
- (i) Maintenance:** Billboard owners shall maintain all signs in good appearance and safe structural condition. Billboard owners shall keep the general vicinity of any sign free and clear of sign materials, weeds, debris, trash and litter. Billboard owners shall conduct maintenance, replacement of sign copy, or structural repairs in a manner that will prevent debris and litter from drifting or being blown onto adjacent properties.
- (j) Registration:** After November 28th, 1997, owners of all Billboards situated in any location in the city limits shall register each Billboard with the office of the Building Official. Such registration shall be accomplished by filing, on forms prescribed for such purpose, information as to the location, height and

area of each Billboard. Owners shall keep such registration current and shall make a similar filing as to each Billboard erected, demolished or torn down within thirty (30) days from the happening of such event.

§ 216.012

LAND USE REGULATION Title 7

1985, that provided for compensation to the sign owner under an amortization plan.

(b) For a nonconforming sign erected after September 1, 1985, or for a sign in place on that date that later is made nonconforming by an extension of or strengthening of an ordinance that was in effect on June 1, 1985, and that provided an amortization plan, the amortization period is the entire useful life of the sign. If it has not already done so, the board shall determine the entire useful life of signs by type or category, such as mono-pole signs, metal signs, and wood signs. The useful life may not be solely determined by the natural life expectancy of a sign.

(c) Compensation for the relocation, reconstruction, or removal of a sign that, on September 1, 1985, was not in compliance with the sign ordinance shall be made in accordance with the applicable procedures of Section 6, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 1015o, Vernon's Texas Civil Statutes), and that law is continued in effect for this purpose.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

Revisor's Note

Some of the provisions of Subsections (b)-(j) of the source law are executed, some have temporary continuing effect for a specific period, and some have temporary continuing effect for a period to be determined by affected municipalities. For this reason, those provisions are not revised but, instead, a cross-reference is added in Subsection (c) of the revised law, as a convenience for the reader, to direct the reader to the session law in which the provisions may be found.

Historical and Statutory Notes

Prior Laws:

Acts 1985, 69th Leg., ch. 221, art. 1, § 6.
Vernon's Ann.Civ.St. art. 1015o, § 6.

Notes of Decisions

Useful life 1

1. Useful life

Term "useful life" in Vernon's Ann.Civ.St. art. 1015o (repealed; now, this section) was not

unconstitutionally vague. *City of Houston v. Harris County Outdoor Advertising Ass'n* (App. 14 Dist. 1987) 732 S.W.2d 42.

§ 216.013. Exceptions

(a) The requirements of this subchapter do not apply to a sign that was erected in violation of local ordinances, laws, or regulations applicable at the time of its erection.

(b) The requirements of this subchapter do not apply to a sign that, having been permitted to remain in place as a nonconforming use, is required to be

Ch. 216

removed by a municipality because the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.

(c) For purposes of Subsection (b), a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location.

(d) This subchapter does not limit or restrict the compensation provisions of the highway beautification provisions contained in Chapter 391, Transportation Code.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 14, § 284(82), eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 165, § 30.219, eff. Sept. 1, 1997.

Historical and Statutory Notes

The 1991 amendment, in subsec. (d), substituted "Section 1, Chapter 741, Acts of the 67th Legislature, Regular Session, 1981" for "Texas Litter Abatement Act".

Acts 1997, 75th Leg., ch. 165, to conform to changes in the law made by Acts 1995, 74th Leg., ch. 165, in subsec. (d), substituted "Chap-

ter 391, Transportation Code" for "Article IV, Section 1, Chapter 741, Acts of the 67th Legislature, Regular Session, 1981 (Article 4477-9a, Vernon's Texas Civil Statutes)".

Prior Laws:

Acts 1985, 69th Leg., ch. 221, art. 1, § 8. Vernon's Ann.Civ.St. art. 10150, § 8.

§ 216.014. Appeal

(a) Any person aggrieved by a decision of the board may file in district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed within 20 days after the date the decision is rendered by the board.

(b) On the filing of the petition, the court may issue a writ of certiorari directed to the board to review the decision of the board and shall prescribe in the writ the time within which a return must be made, which must be longer than 10 days and may be extended by the court.

(c) The board is not required to return the original papers acted on by it, but it shall be sufficient to return certified or sworn copies of the papers. The return must concisely set forth all other facts as may be pertinent and material to show the grounds of the decision appealed from and must be verified.

(d) The court may reverse or affirm, wholly or partly, or modify the decision brought up for review.

(e) Costs may not be allowed against the board unless it appears to the court that the board acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

would be identical to that now before this court. We perceive no reason to require this result.

[1] We further note that before a guardian may file a suit in a court other than that which created the guardianship, he must first obtain permission from the court which created the guardianship. See Tex.Prob.Code Ann. sec. 234(b) (Vernon 1980). Thus, in the instant case, we assume that the guardian sought and obtained permission from the county court before filing in the district court.

[2] We hold that the provisions of section 5 of the Texas Probate Code gives the district court of Burleson County concurrent jurisdiction with the constitutional county court of Burleson County in probate matters involving title to land, and therefore, the district court had jurisdiction to hear the present case. The appellant's first and third points of error are overruled.

In his points of error two and four the appellant asserts that the county court should not, on its own motion, have transferred the guardianship proceedings to the district court because there was no "contested probate matter."

[3] The record reflects that the County Court of Burleson County retained jurisdiction over the Mason guardianship until the appellant filed his contest to set aside the guardianship. At that time the guardianship was transferred to the District Court of Burleson County. Section 5(b) of the Probate Code authorizes such a transfer and we find no merit to the appellant's contention.

[4, 5] As for his contention that the district court should not have consolidated the guardianship proceedings with the suit to set aside the deed, we observe that trial courts have discretion to consolidate all actions involving a common question of law or fact pending before the court. Tex.R. Civ.P. 174. See also *Allison v. Arkansas Louisiana Gas Co.*, 624 S.W.2d 566 (Tex. 1981).

[6] We further note that even if the district court erred in consolidating the two causes of action, the trial court severed the two causes of action for trial purposes, and a separate trial was had on all matters pertaining to the instant action to set aside the conveyance. Under these circumstances we perceive no harm to the appellant, and he has alleged none. The appellant's second and fourth points of error are overruled.

The judgment of the trial court is affirmed.



CITY OF WEBSTER, et al., Appellants,
v.

SIGNAD, INC., Appellee.

No. 01-84-0354-CV.

Court of Appeals of Texas,
Houston (1st Dist.).

Nov. 21, 1984.

Rehearing Denied Dec. 31, 1984.

Owner of billboard signs filed suit seeking to have section of city sign ordinance declared unconstitutional. The District Court, Harris County, Davie Wilson, J., held that section of ordinance was unconstitutional, and city appealed. The Court of Appeals, Duggan, J., held that section of city sign ordinance, which provided that any outdoor advertising signs could not be rebuilt if there was damage to "any substantial parts" of sign, was fatally vague and violative of due process since operators of outdoor advertising signs received no fair and adequate notice as to what sign repairs were permitted or prohibited.

Affirmed.

Doyle, J., dissented and filed opinion.

CITY OF WEBSTER v. SIGNAD, INC.

Cite as 682 S.W.2d 644 (Tex.App. 1 Dist. 1984)

1. Constitutional Law §251.4

Criminal Law §13.1(1)

Municipal Corporations §594(2)

Statute or ordinance is violative of due process and fatally vague when persons regulated by it are exposed to some risk or detriment without fair warning of nature of proscribed conduct. U.S.C.A. Const. Amendments. 5, 14.

2. Constitutional Law §251.4

When persons of common intelligence are compelled to guess at a law's meaning and applicability, due process is violated and the law is invalid. U.S.C.A. Const. Amendments. 5, 14.

3. Constitutional Law §82(4)

Regulatory statutes governing business activity are allowed greater leeway than are allowed criminal statutes in applying "fair notice" test of determining whether statute is unconstitutionally vague. U.S.C.A. Const. Amendments. 5, 14.

4. Criminal Law §13(1)

Statutes are not automatically invalidated as vague simply because difficulty is found in determining whether marginal offenses fall within their language. U.S.C.A. Const. Amendments. 5, 14.

5. Statutes §47

For purposes of determining whether statute is unconstitutionally vague, requirement of reasonable certainty does not preclude the use of ordinary terms to express ideas which find adequate interpretation in common usage and understanding. U.S.C.A. Const. Amendments. 5, 14.

6. Constitutional Law §240(1)

Municipal Corporations §594(2)

Section of city sign ordinance, which provided that any outdoor advertising signs could not be rebuilt if there was damage to "any substantial parts" of sign, was fatally vague and violative of due process since operators of outdoor advertising signs received no fair and adequate notice as to what sign repairs were permitted or prohibited. U.S.C.A. Const. Amendments. 5, 14; Vernon's Ann. Texas Civ. St. art. 2524-1.

EXHIBIT

4

CITY OF WEBSTER v. SIGNAD, INC. Tex.

7. Municipal Corporations §120
Actions based on invalid section ordinance are void and unenforceable.

C. Charles Dippel, Sears & Burns, for appellants.

Richard L. Rothfelder, William I. Fleet, Ryan & Shoss, Houston, for appellee.

Before DOYLE, DUGGAN and I JJ.

OPINION

DUGGAN, Justice.

This is an appeal from a summary judgment declaring a portion of a city ordinance unconstitutional. The ordinance in question was the basis of the city's refusal to allow a sign company to replace hurricane-damaged billboards.

Appellee, SignAd, Inc., owns a number of billboard signs within the jurisdiction of appellant City of Webster, all of which were erected prior to the passage of city's sign ordinance and were permitted to remain in place under the ordinance's "grandfather" clause. When seven of appellee's signs were damaged by Hurricane Alicia on August 18, 1983, appellee timely removed one which was severely damaged, and sought to repair the remaining six. Upon advice by city officials a permit would be required, SignAd's written request to appellant SignAd's City Engineer, for such permit as were necessary. The appellant city engineer replied by letter that, since storm had blown down or destroyed substantial parts of the signs, their reconstruction was forbidden. He based his decision on sections H(2) and D(2) of section 10, chapter 3, of the Building Regulations of the Webster City Code of Ordinances (the "Sign Ordinance"). The last sentence of section H(2) reads as follows:

When any outdoor advertising billboard, spectacular sign, business or business directory sign which is unlawful or non-conforming be

der, but for the fact that such sign was lawfully in existence on the date of passage of this section, or any substantial parts thereof is blown down or destroyed or taken down or removed for any purpose other than routine maintenance operations or for changing the lettering, symbols, or other matter on such signs, it shall not be reerected, reconstructed, rebuilt, or relocated except in conformity with the provisions of this section. (Emphasis added).

Section D(2) forbids the construction or emplacement of new billboards within the city. The city engineer denied the permits, deemed the damaged billboards to be in an unsafe condition, and ordered their removal.

Appellee appealed this ruling to the Webster City Council, which upheld the city engineer's decision. Appellee then filed suit in the district court seeking: (1) a declaratory judgment that it had complied with the sign ordinance, or that the quoted last sentence of section H(2) is unconstitutional; (2) a mandatory injunction requiring appellants to take any action necessary to allow appellee to repair and operate its signs; (3) a writ of mandamus to issue repair permits; (4) actual and punitive damages; and (5) attorney's fees. Following appellants' answer, both sides filed motions for summary judgment, and the court denied appellants' motion and granted that of appellee, finding that:

(1) The terms "substantial parts thereof" contained in the last sentence of Section H(2) ... violates the due process provisions of the Texas and United States Constitutions because such terms are so vague that they fail to give fair and adequate notice of what is permitted or prohibited, and they necessitate the use of unbridled discretion of the Webster City Engineer in interpretation and application.

(2) Alternatively, Sections H(2) and D(2) of the Sign Ordinance, which were relied upon by Defendants in prohibiting the repair of the subject Signs, do not regulate the mere repair of signs and are

therefore inapplicable to the facts in this case.

Pursuant to Tex.Rev.Civ.Stat.Ann. art. 2524-1 (Vernon 1965), the court decreed that the quoted last sentence of section H(2) was unconstitutional and void, granted appellee permission to repair immediately and renew operations of its damaged signs, and permanently enjoined the appellants from interfering in any way with appellee's repair and operation of its six signs in question. The court ordered severance of the summary judgment and retained jurisdiction over the damages of phase of the action.

In two points of error, the appellants City and City Engineer assert that the trial court erred in granting appellee's motion for summary judgment and in denying appellants' motion for summary judgment.

[1, 2] A statute or ordinance is violative of due process and fatally vague when persons regulated by it are exposed to some risk or detriment without fair warning of the nature of the proscribed conduct. *Texas Liquor Control Board v. The Altia Club, Inc.*, 457 S.W.2d 41, 45 (Tex.1970). When persons of common intelligence are compelled to guess at a law's meaning and applicability, due process is violated and the law is invalid. *Texas Antiquities Committee v. Dallas County Community College District*, 554 S.W.2d 924, 928 (Tex. 1977) (holding the term "of historical interest" to be unconstitutionally vague).

[3-5] We agree with the general principles and authorities appellant cites holding that regulatory statutes governing business activity are allowed greater leeway than is allowed criminal statutes in applying the "fair notice" test; that no more than "a reasonable degree of certainty can be demanded"; and that "statutes are not automatically invalidated as vague simply because difficulty is found in determining whether marginal offenses fall within their language." *Pennington v. Singleton*, 606 S.W.2d 682, 689 (Tex.1980). We also agree that, as stated in *Sproles v. Binford*, 286 U.S. 374, 393, 52 S.Ct. 581, 587, 76 L.Ed. 1167 (1932):

The requirement of reasonable certainty does not preclude the use of ordinary terms to express ideas which find adequate interpretation in common usage and understanding.

However, the Webster ordinance sets out neither a definition of "substantial parts" of a sign nor an objective standard by which damage to "substantial parts thereof" can be measured.

Significantly, the appellant City does use objective standards in similar circumstances in two other parts of its building regulations. The term "substantial improvement" is defined in section E(17) of the appellant City's Flood Damage Prevention Regulations as follows:

Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair has started or if the structure has been damaged and is being restored, before the damage occurred.

In section 101.4a of the Building Code, "[R]epairs costing in excess of fifty percent (50%) of the then physical value of the building" are required to conform to code requirements for new buildings. By such use of specific cost percentages and reference to replacement and repair cost, the two sections give concrete meaning to the term "substantial."

Although appellants urge that the recent federal decision in *Sign Supplies of Texas, Inc. v. McConn*, 517 F.Supp. 778 (S.D.Tex. 1980), is persuasive in showing that the term "substantial parts" is not unconstitutionally vague, that opinion does not address the quoted term directly. The words "primary," "primarily," "not usually," and "easily moved," none of which were defined in the Houston ordinance being examined in that opinion, were held not unconstitutionally vague. However, appellants' references to complaints made by the *Sign Supplies* plaintiff about the term "substantial parts" appear only in that litigant's

pleadings and brief, and not in the opinion.

Sanders v. State Department of Welfare, 472 S.W.2d 179 (Tex.Civ. Corpus Christi 1971, writ dismissed) dealt with a situation comparable to before us when it examined the constitutionality of Department of Public Welfare regulations relating to eligibility for age assistance. In determining that ability, an applicant's financial status is to be measured in part by his savings and outstanding debts. The regulations enjoining that determination provided:

Mere verbal allegations of an old, small debt to relatives, however, considered as justifying a transfer of assets to such relatives.

Both the terms "old," and "informal" found to violate due process require. In examining the word "old," the court stated:

It is probable that one officer of State Welfare Department might be that a one-year old debt was an old debt in the same position might five years [as his standard], still and ten.

Id. at 182. The court concluded that the terms of the regulation were "so indefinite and uncertain that men of common intelligence must guess at their meaning." *Id.* at 183.

[6] We find that section H(2) of Webster sign ordinance, in its reference to "substantial parts" of a sign, suffers from a similar infirmity. The words "substantial parts" in terms of common speech does not mean per se explanatory or descriptive due process sense when they are examined in the context of an inquiry as to what allowable and forbidden sign repairs of a sign may be simultaneous "substantial" and "insubstantial" depending on whether the test used is economic, physical, or functional. If an economic test is used, how expensive must a repair be to rise to the level of "substantial"? If a sign is valued at \$30,000, is \$1,000 in damage "substantial"? If a physical test is

Cite as 682 S.W.2d 644 (Tex.App. 1 Dist. 1984)

sidered, is damage to one pole of a five-pole sign "substantial"? Should "substantial parts" of the sign include other than structural parts? Section B(15) of the Ordinance defines a "sign structure" as "the support, uprights, bracing, and framework of any outdoor advertising sign"; sign panels, readily movable and changeable, are not defined as a part of the sign structure. Is damage to one or more sign panels therefore to be considered as damage to a "substantial" part of the sign? A sign with broken or inoperative lights is not functional during nighttime hours, although the cost of repairs is small in comparison with the sign's total cost. From a functional perspective, the lights are "substantial parts" of the sign, while from a cost perspective they are not. The same ambiguity arises in numerous similar practical considerations. The potential for ambiguity is shown in the appellant city engineer's testimony. He testified that he considered panels alone to be "substantial parts" of the sign, although they are not defined as part of the "sign structure." He also stated that he gave no consideration to the dollar amounts of damage in determining the substantiality of damage. In the absence of additional guidelines, each successive city engineer must select his own standard for determining what is a "substantial part" of a sign. Operators of outdoor advertising signs receive no fair and adequate notice from section H(2) of the Ordinance as to what sign repairs are permitted or prohibited.

[7] Because persons of common intelligence are left to guess at the meaning of that portion of the Ordinance, we hold the final sentence of section H(2) is invalid. *Texas Antiquities*, 554 S.W.2d at 928. Actions based on an invalid section of an ordinance are void and unenforceable. *Nelson v. Starkey*, 572 S.W.2d 29 (Tex. Civ.App.—Dallas 1978, no writ). The legal basis for the appellants' action in prohibiting the repair of appellee's signs was therefore unsound and appellee was entitled to summary judgment.

Appellants' points of error are overruled. The judgment of the trial court is affirmed.

DOYLE, J., dissents.

DOYLE, Justice, dissenting.

I find the trial court erred in granting summary judgment and must therefore respectfully dissent.

The trial court stated two bases for granting appellee's motion for summary judgment. It first found the city ordinance unconstitutional vague. The majority bases its opinion on its agreement with this finding.

It is well established that laws enacted by legislative bodies are presumed to be valid and that the burden of proof is on the party challenging their constitutionality. *Robinson v. Hill*, 507 S.W.2d 521 (Tex. 1974); *Smith v. Craddock*, 471 S.W.2d 375 (Tex. 1971). An allowance for some latitude in interpretation does not render a statute unconstitutional vague. See *Powers v. State*, 549 S.W.2d 194 (Tex. Civ.App.—Waco 1976), *aff'd*, 556 S.W.2d 567 (Tex. 1977) (civil commitment measured by the patient's welfare and protection or the protection of others); *D. F. v. State*, 525 S.W.2d 933 (Tex. Civ.App.—Houston [1st Dist.] 1975, writ ref'd n.r.e.) (termination of parental rights determined by the best interest of the child); *Houston Compressed Steel Corp. v. State*, 456 S.W.2d 768 (Tex. Civ.App.—Houston [1st Dist.] 1970, no writ) (air pollution defined as presence in the atmosphere of contaminants in such concentration and of such duration as may tend to be injurious or adversely affect human health or welfare). Given the "untold and unforeseen variations in factual situations, and the practical necessities of discharging the business of government," statutes regulating business activities satisfy due process requirements if their meaning is defined with a reasonable degree of certainty. *Pennington v. Singleton*, 606 S.W.2d 682, 689 (Tex. 1980).

The majority finds the phrase "substantial parts" is impermissibly vague. I am of the opposite opinion. Both words are in

common usage and are well understood. The word "substantial" is recognized and applied as a standard of measurement in our jurisprudence. See, e.g., *Lewis v. Metropolitan Savings & Loan Ass'n*, 550 S.W.2d 11 (Tex. 1977) (substantial evidence); *Warren v. Denison*, 563 S.W.2d 299 (Tex. Civ.App.—Amarillo 1978, no writ) (substantial performance). Although the ordinance might have been clarified by further definition of the phrase "substantial parts," this fact does not render the ordinance unconstitutional vague. See *Harper v. Lindsey*, 616 F.2d 849 (5th Cir. 1980).

Unlike the majority, I find *Sign Supplies of Texas, Inc. v. McConn*, 517 F.Supp. 778 (S.D.Tex. 1980) persuasive authority for the proper disposition of this case. *Sign Supplies* dealt with challenges to a Houston sign ordinance. Among other complaints, the plaintiffs contended the terms "primary," "primarily," "not usually," and "not easily moved," which were used in defining portable signs, were constitutionally vague. The court found that, in the context of the ordinance as a whole, these terms were not so vague as to fail to give notice of the ordinance's legal requirements to a person of ordinary intelligence.

I reach the same conclusion in the instant case. I find that the phrase "substantial parts" does not vest the city engineer with unbridled discretion, but rather sets out a reasonable guideline for regulating the repair of billboard signs. I conclude that the district court erred in holding the applicable ordinance unconstitutional and in granting summary judgment on this basis.

The court's second basis for granting summary judgment was that the ordinance which forbids the reconstruction of signs that suffered substantial destruction did not apply to the facts of the instant case.

The ordinance provides that a sign shall not be reerected, reconstructed, or rebuilt if substantial parts have been blown down or destroyed. I must disagree with the trial court's view that the prohibition against reerection, reconstruction, and rebuilding does not forbid "repairs." The breadth of the language used in the ordi-

nance manifests an intent to forbid the refurbishment of signs which have suffered substantial damage. The name given that corrective activity is irrelevant. The court's finding that the ordinance does not apply to the instant case is thus correct only if the summary judgment evidence established that the damage to the signs was insubstantial as a matter of law. In examining this issue, we must accept the appellant's evidence as true and resolve all doubts regarding the existence of genuine fact issues in favor of the losing party. *E.g., Le Blanc v. Maryland American General Insurance Co.*, 601 S.W.2d 750 (Tex. Civ.App.—Beaumont 1980, writ ref'd n.r.e.). The affidavit of the city engineer made the following assessment of the damage to appellee's signs:

(a) 1503 FM 528 West of I-45 (Bay Area Jewelers): Seventy-five (75%) percent of the panels were blown down; two support poles snapped; one pole is leaning; all electrical is gone.

(b) 1014 West Nasa Road 1 at IH-45 (General Homes): Four poles are leaning; stringers damaged, fifty (50%) percent of the panels are blown down; all electrical needs replacement.

(c) West Nasa Road 1 East of IH-45 (InterFirst Bank): Of seven support poles, at least three poles are leaning; forty (40%) percent of the panels are blown down; some stringers are blown down; all electrical needs replacement.

(d) 20118 Gulf Freeway at Nasa Road 1 (U.S. Homes): A few poles are leaning; all panels are blown down; all electrical needs replacement.

(e) 20001 Gulf Freeway South of Bay Area Blvd. (InterFirst Bank): A few poles are leaning; sixty (60%) percent of the panels and some stringers are blown down.

(f) 20234 Gulf Freeway at Nasa Road 1 (General Homes): Fifty (50%) percent of the panels, the electrical and part of the walkway are blown down.

All of the parts blown down were substantial. Where poles are leaning, the ground support around the poles is such that removal and replacement of the poles is required in order to withstand wind loads upon the signs.

I find this evidence is sufficient to raise fact questions regarding whether substantial parts of appellee's signs were destroyed. I therefore conclude that the court erred in granting summary judgment on the basis that the ordinance does not apply to the facts of this case.

Neither of the grounds relied upon by the trial court supports its grant of appellee's motion for summary judgment. I would sustain appellant's first point of error and remand the case to the trial court for determination of what I find to be the unresolved fact questions of whether appellee's signs suffered substantial damage.



METROPOLITAN TRANSIT AUTHORITY, Appellant,

v.

Richard PLESSNER, et al., Appellees.

No. 01-84-0415-CV.

Court of Appeals of Texas,
Houston (1st Dist.).

Nov. 21, 1984.

Transit authority filed a declaratory action against various of its employees' attorneys, seeking a determination of its right to the entire subrogation interest in settlement proceeds from third-party claims made by its employees after the employees had recovered workers' compensation claims from the transit authority, and two of the employees' attorneys filed cross actions under the Uniform Declaratory Judgments Act for construction of sec-

tion of the workers' compensation statute governing third-party actions, and for a declaration that they were entitled to attorney fees. The 295th District Court, Harris County, Frank O. White, J., granted summary judgment for the attorneys, and the transit authority appealed. The Court of Appeals, Bullock, J., held that workers' compensation claimants' attorneys could withhold attorney fees from transit authority's subrogation interest when the attorneys had obtained a settlement from a third party without filing a lawsuit, whether or not transit authority had hired an attorney to represent its interests.

Judgment affirmed.

1. Workers' Compensation §-1058

Transit authority which was self-insured and which provided workers' compensation benefits to its employees was a "insurance association" as that term is used in workers' compensation statute. Vernon's Ann. Texas Civ. St. art. 8306.

See publication Words and Phrases for other judicial constructions and definitions.

2. Workers' Compensation §-2251

Transit authority which paid workers' compensation claims to employees was entitled to any subrogation interest in settlement proceeds from third-party claims that those employees received.

3. Statutes §-181(1)

In any case involving statutory interpretation, the court must look to the intent of the legislature and must construe the statute so as to give effect to that intent.

4. Statutes §-181(2), 184

A court's interpretation of a statute must be fair, rational, reasonable, and with a view accompanying the legislative intent and purpose.

5. Statutes §-181(2)

A statute will not be construed so as to ascribe that the legislature has done an unjust or unreasonable thing.

6. Workers' Compensation §-2247

A workers' compensation claimant's attorney can withhold attorney fees from an insurance association's subrogation interest when that attorney has obtained a settlement from a third party without filing a lawsuit, whether or not the association has hired an attorney to represent its interest. Vernon's Ann. Texas Civ. St. art. 8307, § 6a.

Warren Taylor, Butler & Binion, Houston, for appellant.

Samuel Miller, Richard Plessner, Thomas F. Schlotzhauer, Houston, for appellees.

Before BULLOCK, DOYLE and BASS, JJ.

OPINION

BULLOCK, Justice.

This is an appeal from the granting of the appellees' motions for summary judgment.

Metropolitan Transit Authority, "MTA," filed a declaratory judgment action against Richard Plessner, Thomas B. Schlotzhauer, Samuel J. Miller, and William L. Lane. MTA sought a determination of its right to the entire subrogation interest in settlement proceeds from third-party claims made by its employees after the employees had recovered workers' compensation claims from MTA.

[1] The facts are undisputed. MTA, a political subdivision of the State of Texas, is self-insured and provides workers' compensation benefits to its employees pursuant to Tex. Rev. Civ. Stat. Ann. art. 8306 (Vernon Supp. 1984). Therefore, it is an "insurance association" as that term is used in article 8307.

[2] MTA paid workers' compensation claims to employees Sylvester Johnson, David Gray, Limuel Sharp, and Thelma Hodge. Therefore, it was entitled to any subrogation interest in settlement proceeds from third-party claims that those employees may have received. Each employee hired an attorney through which each set-

led a third-party claim. Johnson resented by Plessner, Gray by Sharp by Schlotzhauer, and Hodge by Lane. Each attorney withheld attorney fees from MTA's subrogation interest claiming that he was entitled to recover fees from MTA's subrogated interest. MTA never hired any attorneys to represent it or protect its subrogation interest in the third-party claims.

MTA filed suit pursuant to the Declaratory Judgment Act, Tex. Stat. Ann. art. 2524-1 (Vernon 1984) for construction of Tex. Rev. Civ. Stat. Ann. art. 8307, sec. 6a (Vernon Supp. 1984) declaration that the appellees were entitled to attorneys' fees under article 8307, section 6a.

Each appellee filed a general demurrer, Schlotzhauer and Plessner cross-actions under the Uniform Declaratory Judgments Act for construction of article 8307, sec. 6a and a declaration that they were entitled to attorneys' fees.

MTA filed a motion for summary judgment alleging that there was no question of fact involved and that it was entitled to judgment as a matter of law. The Miller, Plessner, and Schlotzhauer motions for summary judgment asserted that there was no genuine issue of material fact necessary to recover attorneys' fees under article 8307, section 6a; therefore, summary judgment should be granted and attorneys' fees denied.

On May 8, 1984, the trial court granted summary judgment in favor of MTA, holding that the cause of action between Miller and Lane be severed from the original motion.

On May 11, the court denied MTA's motion for summary judgment and granted summary judgment in favor of the appellees' motions for summary judgment.

MTA appeals on two points of error. Its first point, MTA asserts that the court erred in granting appellees' summary judgment because the court was not, as a matter of law, entitled to the subrogation interest in settlement proceeds from third-party claims that those employees may have received. Each employee hired an attorney through which each set-

682 S.W.2d 644
Court of Appeals of Texas,
Houston (1st Dist.).

CITY OF WEBSTER, et al., Appellants,
v.

SIGNAD, INC., Appellee.

No. 01-84-0354-CV. | Nov. 21,
1984. | Rehearing Denied Dec. 31, 1984.

Owner of billboard signs filed suit seeking to have section of city sign ordinance declared unconstitutional. The District Court, Harris County, Davie Wilson, J., held that section of ordinance was unconstitutional, and city appealed. The Court of Appeals, Duggan, J., held that section of city sign ordinance, which provided that any outdoor advertising signs could not be rebuilt if there was damage to “any substantial parts” of sign, was fatally vague and violative of due process since operators of outdoor advertising signs received no fair and adequate notice as to what sign repairs were permitted or prohibited.

Affirmed.

Doyle, J., dissented and filed opinion.

West Headnotes (7)

[1] **Constitutional Law**

🔑 Certainty and definiteness; vagueness

Criminal Law

🔑 Certainty and definiteness

Municipal Corporations

🔑 Form and sufficiency in general

Statute or ordinance is violative of due process and fatally vague when persons regulated by it are exposed to some risk or detriment without fair warning of nature of proscribed conduct. U.S.C.A. Const.Amends. 5, 14.

3 Cases that cite this headnote

[2] **Constitutional Law**

🔑 Certainty and definiteness; vagueness

When persons of common intelligence are compelled to guess at a law's meaning and applicability, due process is violated and the law is invalid. U.S.C.A. Const.Amends. 5, 14.

3 Cases that cite this headnote

[3] **Constitutional Law**

🔑 Vagueness in General

Regulatory statutes governing business activity are allowed greater leeway than are allowed criminal statutes in applying “fair notice” test of determining whether statute is unconstitutionally vague. U.S.C.A. Const.Amends. 5, 14.

Cases that cite this headnote

[4] **Criminal Law**

🔑 Certainty and definiteness

Statutes are not automatically invalidated as vague simply because difficulty is found in determining whether marginal offenses fall within their language. U.S.C.A. Const.Amends. 5, 14.

1 Cases that cite this headnote

[5] **Constitutional Law**

🔑 Vagueness in General

For purposes of determining whether statute is unconstitutionally vague, requirement of reasonable certainty does not preclude the use of ordinary terms to express ideas which find adequate interpretation in common usage and understanding. U.S.C.A. Const.Amends. 5, 14.

10 Cases that cite this headnote

[6] **Constitutional Law**

🔑 Sales and marketing

Municipal Corporations

🔑 Form and sufficiency in general

Section of city sign ordinance, which provided that any outdoor advertising signs could not be rebuilt if there was damage to “any substantial parts” of sign, was fatally vague and violative of due process since operators of outdoor



advertising signs received no fair and adequate notice as to what sign repairs were permitted or prohibited. U.S.C.A. Const.Amends. 5, 14; Vernon's Ann.Texas Civ.St. art. 2524-1.

3 Cases that cite this headnote

[7] **Municipal Corporations**

🔑 Construction and operation

Actions based on invalid section of ordinance are void and unenforceable.

Cases that cite this headnote

Attorneys and Law Firms

*645 C. Charles Dippel, Sears & Burns, Houston, for appellants.

Richard L. Rothfelder, William L. Van Fleet, Ryan & Shoss, Houston, for appellee.

Before DOYLE, DUGGAN and LEVY, JJ.

OPINION

DUGGAN, Justice.

This is an appeal from a summary judgment declaring a portion of a city sign ordinance unconstitutional. The ordinance in question was the basis of the city's refusal to allow a sign company to repair six hurricane-damaged billboards.

Appellee, SignAd, Inc., owns a number of billboard signs within the jurisdiction of the appellant City of Webster, all of which were erected prior to the passage of the city's sign ordinance and were permitted as non-conforming signs under the ordinance's "grandfather" clause. When seven of appellee's signs were damaged by Hurricane Alicia on August 18, 1983, appellee voluntarily removed one which was severely damaged, and sought to repair the remaining six. Upon advice by city officials that a permit would be required, SignAd made its written request to appellant S.I. Velez, Webster's City Engineer, for such permits as were necessary. The appellant city engineer replied by letter that, since the storm had blown down or destroyed "substantial

parts" of the signs, their reconstruction was forbidden. He based his decision on sections H(2) and D(2) of section 10, chapter 3, of the Building Regulations of the Webster City Code of Ordinances (the "Sign Ordinance"). The last sentence of section H(2) reads as follows:

When any outdoor advertising sign, billboard, spectacular sign, business sign, or business directory sign which would be unlawful or non-conforming hereunder, *646 but for the fact that such sign was lawfully in existence on the date of passage of this section, or *any substantial parts thereof* is blown down or destroyed or taken down or removed for any purpose other than routine maintenance operations or for changing the lettering, symbols, or other matter on such signs, it shall not be reerected, reconstructed, rebuilt, or relocated except in conformity with the provisions of this section. (Emphasis added).

Section D(2) forbids the construction or emplacement of new billboards within the city. The city engineer denied the permits, deemed the damaged billboards to be in an unsafe condition, and ordered their removal.

Appellee appealed this ruling to the Webster City Council, which upheld the city engineer's decision. Appellee then filed suit in the district court seeking: (1) a declaratory judgment that it had complied with the sign ordinance, or that the quoted last sentence of section H(2) is unconstitutional; (2) a mandatory injunction requiring appellants to take any action necessary to allow appellee to repair and operate its signs; (3) a writ of mandamus to issue repair permits; (4) actual and punitive damages; and (5) attorney's fees. Following appellants' answer, both sides filed motions for summary judgment, and the court denied appellants' motion and granted that of appellee, finding that:

(1) The terms "substantial parts thereof" contained in the last sentence of Section H(2) ... violates the due process provisions of the Texas and United States Constitutions because such terms are so vague that they fail to give fair and adequate notice of what is permitted or prohibited, and they necessitate the use of unbridled discretion of the Webster City Engineer in interpretation and application.

(2) Alternatively, Sections H(2) and D(2) of the Sign Ordinance, which were relied upon by Defendants in prohibiting the repair of the subject Signs, do not regulate the mere repair of signs and are therefore inapplicable to the facts in this case.

Pursuant to *Tex.Rev.Civ.Stat.Ann. art. 2524-1* (Vernon 1965), the court decreed that the quoted last sentence of section H(2) was unconstitutional and void, granted appellee permission to repair immediately and renew operations of its damaged signs, and permanently enjoined the appellants from interfering in any way with appellee's repair and operation of its six signs in question. The court ordered severance of the summary judgment and retained jurisdiction over the damages of phase of the action.

In two points of error, the appellants City and City Engineer assert that the trial court erred in granting appellee's motion for summary judgment and in denying appellants' motion for summary judgment.

[1] [2] A statute or ordinance is violative of due process and fatally vague when persons regulated by it are exposed to some risk or detriment without fair warning of the nature of the proscribed conduct. *Texas Liquor Control Board v. The Attic Club, Inc.*, 457 S.W.2d 41, 45 (Tex.1970). When persons of common intelligence are compelled to guess at a law's meaning and applicability, due process is violated and the law is invalid. *Texas Antiquities Committee v. Dallas County Community College District*, 554 S.W.2d 924, 928 (Tex.1977) (holding the term "of historical interest" to be unconstitutionally vague).

[3] [4] [5] We agree with the general principles and authorities appellant cites holding that regulatory statutes governing business activity are allowed greater leeway than is allowed criminal statutes in applying the "fair notice" test; that no more than "a reasonable degree of certainty can be demanded"; and that "statutes are not automatically invalidated as vague simply because difficulty is found in determining whether marginal offenses fall within their language." *Pennington v. Singleton*, 606 S.W.2d 682, 689 (Tex.1980). We also agree that, as stated in *Sproles v. Binford*, 286 U.S. 374, 393, 52 S.Ct. 581, 587, 76 L.Ed. 1167 (1932):

*647 The requirement of reasonable certainty does not preclude the use of ordinary terms to express ideas

which find adequate interpretation in common usage and understanding.

However, the Webster ordinance sets out neither a definition of "substantial parts" of a sign nor an objective standard by which damage to "substantial parts thereof" can be measured.

Significantly, the appellant City does use objective standards in similar circumstances in two other parts of its building regulations. The term "substantial improvement" is defined in section E(17) of the appellant City's Flood Damage Prevention Regulations as follows:

Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair has started or if the structure has been damaged and is being restored, before the damage occurred.

In section 101.4a of the Building Code, "[R]epairs costing in excess of fifty percent (50%) of the then physical value of the building" are required to conform to code requirements for new buildings. By such use of specific cost percentages and reference to replacement and repair cost, the two sections give concrete meaning to the term "substantial."

Although appellants urge that the recent federal decision in *Sign Supplies of Texas, Inc. v. McConn*, 517 F.Supp. 778 (S.D.Tex.1980), is persuasive in showing that the term "substantial parts" is not unconstitutionally vague, that opinion does not address the quoted term directly. The words "primary," "primarily," "not usually," and "easily moved," none of which were defined in the Houston ordinance being examined in that opinion, were held not unconstitutionally vague. However, appellants' references to complaints made by the *Sign Supplies* plaintiff about the term "substantial parts" appear only in that litigant's pleadings and brief, and not in the court's opinion.

Sanders v. State Department of Public Welfare, 472 S.W.2d 179 (Tex.Civ.App.—Corpus Christi 1971, writ dismissed w.o.j.), dealt with a situation comparable to that before us when it examined the constitutionality of Department of Public Welfare regulations relating to eligibility for old age assistance. In determining that eligibility, an applicant's financial status was to be measured in part by his savings

and his outstanding debts. The regulations governing that determination provided:

Mere verbal allegations of an old, informal debt to relatives, however, cannot be considered as justifying a transfer [of assets] to such relatives.

Both the terms “old,” and “informal” were found to violate due process requirements. In examining the word “old,” the court stated:

It is probable that one officer of the State Welfare Department might believe that a one-year old debt was an old one. Another in the same position might use five years [as his standard], still another, ten.

Id. at 182. The court concluded that the terms of the regulation were “so vague, indefinite and uncertain that men of common intelligence must guess at their meaning.” *Id.* at 183.

[6] We find that section H(2) of the Webster sign ordinance, in its reference to damage to “substantial parts” of a sign, suffers from a similar infirmity. The fact that the words “substantial parts” are terms of common speech does not make them per se explanatory or descriptive in a due process sense when they are examined in the context of an inquiry as to what are allowable and forbidden sign repairs. Parts of a sign may be simultaneously “substantial” and “insubstantial” depending on whether the test used is economic, physical, or functional. If an economic test is used, how expensive must a repair be to rise to the level of “substantial”? If a sign is valued at \$30,000, is \$1,000 in damage “substantial”? If a physical test is considered, *648 is damage to one pole of a five-pole sign “substantial”? Should “substantial parts” of the sign include other than structural parts? Section B(15) of the Ordinance defines a “sign structure” as “the support, uprights, bracing, and framework of any outdoor advertising sign”; sign panels, readily movable and changeable, are not defined as a part of the sign structure. Is damage to one or more sign panels therefore to be considered as damage to a “substantial” part of the sign? A sign with broken or inoperative lights is not functional during nighttime hours, although the cost of repairs is small in comparison with the sign's total cost. From a functional perspective, the lights are “substantial parts” of the sign, while from a cost perspective they are not. The same ambiguity arises in numerous similar practical considerations. The potential for ambiguity is shown

in the appellant city engineer's testimony. He testified that he considered panels alone to be “substantial parts” of the sign, although they are not defined as part of the “sign structure.” He also stated that he gave no consideration to the dollar amounts of damage in determining the substantiality of damage. In the absence of additional guidelines, each successive city engineer must select his own standard for determining what is a “substantial part” of a sign. Operators of outdoor advertising signs receive no fair and adequate notice from section H(2) of the Ordinance as to what sign repairs are permitted or prohibited.

[7] Because persons of common intelligence are left to guess at the meaning of that portion of the Ordinance, we hold the final sentence of section H(2) is invalid. *Texas Antiquities*, 554 S.W.2d at 928. Actions based on an invalid section of an ordinance are void and unenforceable. *Newsom v. Starkey*, 572 S.W.2d 29 (Tex.Civ.App.—Dallas 1978, no writ). The legal basis for the appellants' action in prohibiting the repair of appellee's signs was therefore unsound and appellee was entitled to summary judgment.

Appellants' points of error are overruled. The judgment of the trial court is affirmed.

DOYLE, J., dissents.

DOYLE, Justice, dissenting.

I find the trial court erred in granting summary judgment and must therefore respectfully dissent.

The trial court stated two bases for granting appellee's motion for summary judgment. It first found the city ordinance unconstitutionally vague. The majority bases its opinion on its agreement with this finding.

It is well established that laws enacted by legislative bodies are presumed to be valid and that the burden of proof is on the party challenging their constitutionality. *Robinson v. Hill*, 507 S.W.2d 521 (Tex.1974); *Smith v. Craddick*, 471 S.W.2d 375 (Tex.1971). An allowance for some latitude in interpretation does not render a statute unconstitutionally vague. See *Powers v. State*, 543 S.W.2d 194 (Tex.Civ.App.—Waco 1976), *aff'd*, 556 S.W.2d 567 (Tex.1977) (civil commitment measured by the patient's welfare and protection or the protection of others); *D——— F——— v. State*, 525 S.W.2d 933 (Tex.Civ.App.—Houston [1st Dist.] 1975, writ *ref'd n.r.e.*) (termination of parental rights determined by

the best interest of the child); *Houston Compressed Steel Corp. v. State*, 456 S.W.2d 768 (Tex.Civ.App.—Houston [1st Dist.] 1970, no writ) (air pollution defined as presence in the atmosphere of contaminants in such concentration and of such duration as may tend to be injurious or adversely affect human health or welfare). Given the “untold and unforeseen variations in factual situations, and the practical necessities of discharging the business of government,” statutes regulating business activities satisfy due process requirements if their meaning is defined with a reasonable degree of certainty. *Pennington v. Singleton*, 606 S.W.2d 682, 689 (Tex.1980).

The majority finds the phrase “substantial parts” is impermissibly vague. I am of the opposite opinion. Both words are in *649 common usage and are well understood. The word “substantial” is recognized and applied as a standard of measurement in our jurisprudence. See, e.g., *Lewis v. Metropolitan Savings & Loan Ass'n*, 550 S.W.2d 11 (Tex.1977) (substantial evidence); *Warren v. Denison*, 563 S.W.2d 299 (Tex.Civ.App.—Amarillo 1978, no writ) (substantial performance). Although the ordinance might have been clarified by further definition of the phrase “substantial parts,” this fact does not render the ordinance unconstitutionally vague. See *Harper v. Lindsay*, 616 F.2d 849 (5th Cir.1980).

Unlike the majority, I find *Sign Supplies of Texas, Inc. v. McConn*, 517 F.Supp. 778 (S.D.Tex.1980) persuasive authority for the proper disposition of this case. *Sign Supplies* dealt with challenges to a Houston sign ordinance. Among other complaints, the plaintiffs contended the terms “primary,” “primarily,” “not usually,” and “not easily moved,” which were used in defining portable signs, were unconstitutionally vague. The court found that, in the context of the ordinance as a whole, these terms were not so vague as to fail to give notice of the ordinance's legal requirements to a person of ordinary intelligence.

I reach the same conclusion in the instant case. I find that the phrase “substantial parts” does not vest the city engineer with unbridled discretion, but rather sets out a reasonable guideline for regulating the repair of billboard signs. I conclude that the district court erred in holding the applicable ordinance unconstitutional and in granting summary judgment on this basis.

The court's second basis for granting summary judgment was that the ordinance which forbids the reconstruction of signs

that suffered substantial destruction did not apply to the facts of the instant case.

The ordinance provides that a sign shall not be reerected, reconstructed, or rebuilt if substantial parts have been blown down or destroyed. I must disagree with the trial court's view that the prohibition against reerection, reconstruction, and rebuilding does not forbid “repairs.” The breadth of the language used in the ordinance manifests an intent to forbid the refurbishment of signs which have suffered substantial damage. The name given that corrective activity is irrelevant. The court's finding that the ordinance does not apply to the instant case is thus correct only if the summary judgment evidence established that the damage to the signs was insubstantial as a matter of law. In examining this issue, we must accept the appellant's evidence as true and resolve all doubts regarding the existence of genuine fact issues in favor of the losing party. E.g., *Le Blanc v. Maryland American General Insurance Co.*, 601 S.W.2d 750 (Tex.Civ.App.—Beaumont 1980, writ ref'd n.r.e.). The affidavit of the city engineer made the following assessment of the damage to appellee's signs:

- (a) 1503 FM 528 West of I-45 (Bay Area Jewelers):
Seventy-five (75%) percent of the panels were blown down; two support poles snapped; one pole is leaning; all electrical is gone.
- (b) 1014 West Nasa Road 1 at IH-45 (General Homes):
Four poles are leaning; stringers damaged, fifty (50%) percent of the panels are blown down; all electrical needs replacement.
- (c) West Nasa Road 1 East of IH-45 (InterFirst Bank):
Of seven support poles, at least three poles are leaning; forty (40%) percent of the panels are blown down; some stringers are blown down; all electrical needs replacement.
- (d) 20118 Gulf Freeway at Nasa Road 1 (U.S. Homes):
A few poles are leaning; all panels are blown down; all electrical needs replacement.
- (e) 20001 Gulf Freeway South of Bay Area Blvd. (InterFirst Bank):
A few poles are leaning; sixty (60%) percent of the panels and some stringers are blown down.
- (f) 20234 Gulf Freeway at Nasa Road 1 (General Homes):
Fifty (50%) percent of the panels, the electrical and part of the walkway are blown down.

***650** All of the parts blown down were substantial. Where poles are leaning, the ground support around the poles is such that removal and replacement of the poles is required in order to withstand wind loads upon the signs.

I find this evidence is sufficient to raise fact questions regarding whether substantial parts of appellee's signs were destroyed. I therefore conclude that the court erred in granting

summary judgment on the basis that the ordinance does not apply to the facts of this case.

Neither of the grounds relied upon by the trial court supports its grant of appellee's motion for summary judgment. I would sustain appellant's first point of error and remand the case to the trial court for determination of what I find to be the unresolved fact questions of whether appellee's signs suffered substantial damage.

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.



15Z-008

STAFF REPORT

ADDRESS:

202 37th Street

LEGAL DESCRIPTION:

Property is legally described as Blocks 635 and 636 and Adjacent Streets, in the City and County of Galveston, Texas

APPLICANT:

Don Bosley, Outfront Media LLC

PROPERTY OWNER :

Farmer's Copper and Industrial Supply

ZONING:

Commercial, Height and Density Development Zone, Zone 1 (C-HDDZ-1)

REQUEST:

Appeal from Administrative Determination

APPLICABLE ZONING LAND USE

REGULATIONS:

Section 29-84 (b)(3) of the Galveston Zoning Standards

EXHIBITS:

A – Aerial Map

B – Photographs

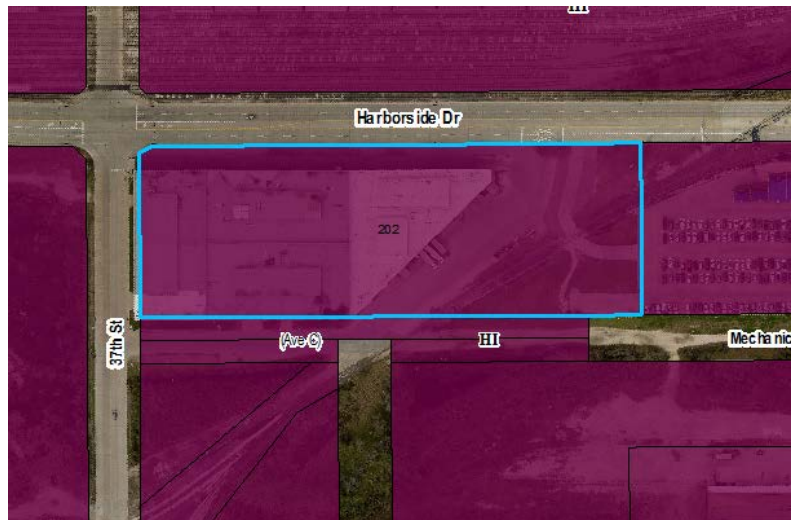
C – Applicants Submittal

STAFF:

Catherine Gorman, Assistant Director

gormancat@cityofgalveston.org

409-797-3665



Executive Summary:

The applicant is appealing an administrative decision by the Building Official to deny a repair permit for a billboard located at 202 37th Street. The Building Official determined that the information submitted by the applicant did not meet the requirements of Section 29-84: Advertising (Billboards) of the Galveston Zoning Standards, specifically Section 29-84 (b)(3).

Beginning in 1997, the erection of new billboards in the City of Galveston is prohibited. Section 29-84 (b)(3) regulates those signs that were legally existing on the date of adoption in 1997 and are considered 'grandfathered'. The regulations state that grandfathered billboards may be repaired provided that the cost of the repairs do not exceed 60% of the cost of erecting a new sign. The regulations also state that the repairs should be calculated using 'all new materials'.

The applicant submitted a building permit to repair the billboard at this location. The billboard was damaged by Hurricane Ike in 2008 and has not had a sign face since that time. The Building Official, David Ewald, reviewed the bids submitted with the application. Mr. Ewald found the bids to be insufficient because they did not address the use of 'all new materials'. The bids proposed reusing existing materials.

**Zoning Board of
Adjustments - General
Powers**

The Zoning Board of Adjustment has the power to hear and decide appeals of administrative decisions of the Director of Planning or other administrative staff of the City as provided in Article 15, Permits and Procedures. Please reference Article 14, Division 14.400 for appeals.

Zoning and Land Use

Location	Zoning	Land Use
Subject Site	Commercial, Height and Density Development Zone, Zone 1 (C-HDDZ-1)	Commercial
North	Light Industrial, Gateway Development Zone, Zone-2 (LI-GDZ-2)	Commercial
South	Commercial, Height and Density Development Zone, Zone 1 (C-HDDZ-1)	Residential
East	Commercial, Height and Density Development Zone, Zone 1 (C-HDDZ-1)	Commercial
West	Commercial, Height and Density Development Zone, Zone 1 (C-HDDZ-1)	Vacant

**Applicable Zoning Land
Use Regulations**

Section 29-82 (b)(3):

Any legally existing, non-conforming Billboard in existence on the effective date of this ordinance may continue to lawfully exist. However, if a legally existing non-conforming Billboard is blown down or otherwise destroyed such that the cost of repairing the Billboard using all new materials is more than 60% of the cost of erecting a new Billboard of the same type at the same location using all new materials as computed by the Building Inspector, the Billboard owner and the owner of the property on which it is placed shall each be responsible to remove the Billboard. If the Billboard is damaged such that the cost of repairing the Billboard using all new materials as computed by the Building Inspector is 60% or less than the cost of erecting a new Billboard of the same type at the same location then any repairs shall be done in compliance with the regulations of all applicable ordinances. In the event of a conflict between this section and the Texas Local Government code, Chapter 216, as amended, the Texas Local Government Code shall prevail.

Please see Agenda for Appeal from Decision of Board Process.



Planning Department

Map prepared by the City of Galveston Planning Department (tinnemeyercat) - 2/25/2015

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

0 137.5 275 550 Feet

The data presented on these pages is not legally binding on the City of Galveston or any of its departments. These maps and the associated data are representations ONLY and may contain errors in the databases. Therefore, the information presented on this map is for informational purposes only and should not be construed to be legally binding.





ROTHFELDER & FALICK, L.L.P.

ATTORNEYS AT LAW

RICHARD L. ROTHFELDER
rrothfelder@rothfelderfalick.com
BOARD CERTIFIED - CIVIL TRIAL LAW

1201 LOUISIANA
SUITE 550
HOUSTON, TEXAS 77002

TELEPHONE: 713-220-2288
FACSIMILE: 713-658-8211
WWW.ROTHFELDERFALICK.COM

February 2, 2015

Galveston Board of Adjustments and Appeals
City of Galveston Planning Department
823 Rosenberg, 4th Floor, Room 401
Galveston, TX 77550

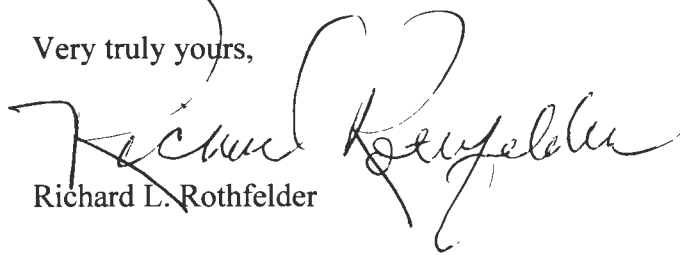
Via Federal Express Overnight
Airbill No. 8013 6850 4860

**RE: Appeal of Denial of Applications of Outfront Media LLC f/k/a CBS Outdoor
LLC for Billboard Repair Permits; Our File No. 1030-224.**

To Whom It May Concern:

Enclosed please find Outfront Media LLC's Appeals of Denial of Applications for Billboard Repair Permits on Signs located at 6127 Broadway (02-1565) and at Harborside at 35th Street (02-1574), along with supporting materials, arguments, and authorities. We have also enclosed a check for \$500.00, \$250.00 for each of the two appeals, as the associated filing fee.

Very truly yours,


Richard L. Rothfelder

RLR:mr
Enclosures

ROTHFELDER & FALICK, L.L.P.

ATTORNEYS AT LAW

RICHARD L. ROTHFELDER
rrothfelder@rothfelderfalick.com
BOARD CERTIFIED - CIVIL TRIAL LAW

1201 LOUISIANA
SUITE 550
HOUSTON, TEXAS 77002

TELEPHONE: 713-220-2288
FACSIMILE: 713-658-8211
WWW.ROTHFELDERFALICK.COM

February 2, 2015

Galveston Board of Adjustments and Appeals
City of Galveston Planning Department
823 Rosenberg, 4th Floor, Room 401
Galveston, TX 77550

**Via Federal Express Overnight,
Airbill No. 8013 6850 4860**

**RE: Appeal of Denial of Applications of Outfront Media LLC f/k/a CBS Outdoor
LLC for Billboard Repair Permits; Our File No. 1030-224.**

To Whom It May Concern:

The law firm of Rothfelder & Falick, L.L.P. represents Outfront Media LLC, f/k/a CBS Outdoor LLC ("Outfront"). As such, we have prepared the following chronology and grounds for appealing the Galveston Building Official's January 15, 2015 denial of Outfront's applications for building permits for the repair of damaged billboards, which is attached as Exhibit 1. Through this appeal, Outfront requests that the Zoning Board of Adjustment reverse the decision of the Building Official and grant Outfront the necessary permits to legally repair two off-premise outdoor advertising signs (a/k/a billboards) damaged by Hurricane Ike in 2008, which are located at 6127 Broadway (Ave. J) (Sign 02-1565, I-45 at 61st Street), and Harborside at 35th Street (Sign 02-1574).

Outfront operates several billboards in Galveston, seven of which were damaged by Hurricane Ike in September 2008 (at the time, Outfront was known as CBS Outdoor, Inc.). CBS applied to repair two of the storm damaged signs, namely those located at 6127 and 6604 Broadway, on October 12, 2009. In doing so, CBS complied with the Galveston sign regulations, which condition permission to repair on proof that the cost of repairing the damage is less than 60% of the cost of erecting a new sign. Nevertheless, the Galveston Building Official denied the application for the sign at 6127 Broadway on November 30, 2009, but the only explanation for such denial was "unsafe can't move it down." The application for the sign at 6604 Broadway was never formally denied; instead, it was simply returned to CBS during this same November 2009 timeframe. Attached as Exhibits 2 and 3 are CBS's January 5, 2010 appeals of these denials to Galveston's Board of Adjustment, which in turn include the original denied applications, and applicable regulations governing repairs.

On January 8, 2010, Assistant City Attorney Barbara Baruch sent me the email attached as Exhibit 4, stating "your appeal to the ZBA is written with regard to an old ordinance, since replaced." This belated notification was sent, despite the fact that CBS and I had been working with the City's Building and Legal Departments prior to even submitting the repair permit applications, and we were specifically provided with the Galveston regulation used for the applications and cited in the Board of Adjustment appeals.

In any event, Galveston did indeed amend its sign regulations on April 9, 2009, including Section 29-84(b)(3) regarding repair of damaged signs. Since CBS didn't submit its repair applications until several months later on October 12, 2009, amended Section 20-84 applied. Attached as Exhibit 5 is the amended section, along with the staff report on the impact and analysis of the new regulation. As you can see, Galveston still uses a 60% test to determine eligibility for repair of damaged signs. However, this April 9, 2009 amendment states the test is "computed by the Building Inspector," and it requires the use of "all new materials" in the "cost of repairing the Billboard." As such, even though there may be parts of the sign that were not damaged and could be salvaged and reused in the repair procedure, this new regulation purports to foreclose this opportunity and requires those parts be new; thus, compliance with the 60% test is practically impossible. Importantly, the section goes on to state that, if it conflicts with Chapter 216 of the Texas Local Government Code, the State law prevails. Further, the staff report following the regulation states on page 1 that "per state law, if a legally non-conforming sign is damaged such that the cost of repairing the sign using all new materials is 60 per cent or less of the cost of erecting a new sign, the sign may be repaired and kept at the same location." This is a misquote of the State law. I've attached as Exhibit 6, Section 216.013(c) of the Texas Local Government Code, which actually provides "a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location." Therefore, this requirement of the use of new materials in the repair process is in conflict with State law, which according to the Galveston ordinance, prevails.

After receiving little communication from the City and contacting the Texas Department of Transportation ("TxDOT") regarding the application of State law to the repair of Outfront's signs, on July 15, 2014, Don Bosley of CBS sent a letter to David Ewald of Galveston's Permit Department, accompanied by applications and supporting materials to repair the signs at 6127 Broadway, 8002 Broadway (note that Outfront is not, at this time, appealing the denial as to 8002 Broadway), and Harborside at 35th Street. Included in the packet, which is attached as Exhibit 7, is an April 14, 2014 email from Brad Matejowsky of TxDOT stating that "since the signs were damaged less than 60%, they may be repaired." Each application also included an estimate demonstrating the cost to repair the damage to the sign was less than 60% of erecting a new one.

Months later, CBS received a response from the City stating that CBS needed to submit repair and replacement estimates from three different companies for each of the signs. Such a requirement is not contained in Galveston's regulations. Nevertheless, CBS did so. Please see

Don Bosley's September 19, 2014 letter to David Ewald, along with the three bids for each sign, attached as Exhibit 8.

Once again, CBS received limited and sparse responses from the City. Attached as Exhibit 9 is an email exchange spanning four months, in which Mr. Bosley, and later myself, attempted to schedule a meeting with the City or otherwise get action on these permit applications. We received this treatment, even though Catherine Gorman wrote Mr. Bosley in her September 9, 2014 email that "the Building Official has said the information submitted was sufficient. We still need the two additional bids," which Mr. Bosley supplied within about a week. Finally, on December 10, 2014, Mr. Bosley received an email from Mr. Ewald advising that "after reviewing the three bids submitted for the replacement and repair of these signs, we cannot accept as submitted. The reason for the denial of your submission is as per attached 29-84 of the Zoning Standards, states that the costs shall be with new materials. All of the bids submitted were reusing existing materials."

I then followed up the next day with my December 11, 2014 letter to Assistant City Attorney, Donna Fairweather, which is attached as Exhibit 10. My letter reiterates the foregoing complaints and below legal arguments, along with requests for reconsideration of the refusal to accept and process the applications, or at least the meeting she'd been promising for months. Following my request for an official order regarding the City's disposition of Outfront's applications, I received the attached January 14, 2015 letter from Ms. Fairweather, stating,

The Building Official has determined that pursuant to Zoning Standards, Section 29-84(b)(3), the City shall not issue permits if the Building Inspector computes that the cost of repairing the Billboards using all new materials is more than 60%. Your client submitted three bids for the replacement of the signs that incorporated re-using existing materials. One estimate was 60 % replacement value with re-using materials, the other was for 59% replacement value with re-using materials and the third sign located at Harborside and 35th calculated 35% with re-use of materials.

Ms. Fairweather's letter concludes with instructions on how to proceed with this appeal.

Outfront respectfully disagrees with the legal conclusions and factual allegations relied upon by the City for the denial of Outfront's applications for the following reasons. First, even assuming that Zoning Standards, Section 29-84(b)(3) governs the disposition of Outfront's three applications, the City and Building Official have not fulfilled their obligations or met their burden of proof therein. Section 29-84(b)(3) states in part,

If the Billboard is damaged such that the cost of repairing the Billboard using all new materials *as computed by the Building Inspector* is 60% or less than the cost of erecting a new Billboard of the same type at the same location then any repairs shall be done in compliance with the regulations of all applicable ordinances.

(emphasis added). As such, *the Building Inspector* is required to compute a cost of erecting a new billboard. Outfront has yet to receive from the Galveston Building Official a computation or estimate for the cost of erecting a new billboard to replace any of the signs made the subject of Outfront's applications. Instead, the City's most recent denial relies upon estimates *submitted by Outfront* as a basis for the denial of Outfront's applications. Having not satisfied the requirements of Section 29-84(b)(3), the City cannot justifiably deny Outfront's applications.

Second, the City's January 14 denial overlooks and misrepresents the three repair estimates submitted on September 19, 2014 for each of Outfront's signs. (See Exhibit 8 for repair estimates). The City demanded (without any express authority granted under State or local law) that CBS submit three repair estimates for each sign. Yet, instead of considering all three estimates, the City's January 14 letter simply references the highest estimate for each sign in order to justify the denial of Outfront's applications. The City recites the replacement value of each of the three (now two, as Outfront is not, at this time, pursuing the appeal of the denial related to its sign at 8002 Broadway) signs at 60%, 59%, and 35% of the costs of building new signs. Of course, at the lower end of the provided replacement values are 19%, 19%, and 12% of the costs of building new signs, respectively. However, despite being submitted at the City's insistence, these estimates are not mentioned, nor apparently even considered, in the City's January 14 denial.

Third, Galveston's regulation, namely Section 29-84(b)(3), is vague, confusing, fails to give proper and adequate notice to sign owners seeking to repair damaged signs, and simply doesn't make practical sense. According to Section 29-84(b)(3), the "cost of repairing the Billboard [is with the use of] all new materials." Specifically, any comparison of repair and new construction cost, by definition, must account for the salvage and use of undamaged materials. By compelling the use of new materials for repair estimates, there is no acknowledgment that part of the sign remains in good condition and requires no repairs. Indeed, the situation is analogous to seeking an estimate of the cost to repair a damaged fender after a car accident. It is nonsensical to require the inclusion of four new tires in the estimate to repair the dented fender, when there was no damage to the tires. Similarly, the majority of Outfront's sign components were not damaged by the storm, don't require any repairs whatsoever, and can be reused in the construction and operation of the signs. The City's regulation would effectively require the owner of a partially damaged sign to replace the entire structure rather than repair the affected components. Therefore, the City's requirement of "all new materials as computed by the Building Inspector" is incorrect, inefficient, and inequitable.

Fourth, Section 29-84(b)(3) provides: "in the event of a conflict in this section and the Texas Local Government Code, Chapter 216, as amended, the Texas Local Government Code shall prevail." I have attached as Exhibit 6 the relevant provision of Chapter 216 of the Texas Local Government Code, namely Sections 216.013(b) and (c), which provide as follows:

- (b) The requirements of this subchapter do not apply to a sign that, having been permitted to remain in place as a nonconforming use, is required to be removed by a municipality because the sign, or a substantial part of it, is blown

down or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.

(c) For purposes of Subsection (b), a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location.

As you can see, the State statute carries forward this same 60 percent test for determining when storm damaged signs are eligible for repair, but with a simple and straightforward “cost of repairing the sign” and the “cost of erecting a new sign.” Thus, this confusion about using new materials under Galveston’s regulations is subordinate to the State’s statute and should therefore be rejected.

Fifth, the confusion over eligibility to repair storm damaged signs, and the affect on the sign owner’s due process rights, has been extensively discussed in the case of *City of Webster v. SignAd, Inc.*, 682 S.W.2d 644 (Tex. App.—Houston [1st Dist.] 1984, writ ref’d.), a copy of which is also attached as Exhibit 11. As you can see from the case, several billboards of another company, SignAd, suffered varying degrees of storm damage by Hurricane Alicia. The Webster Building Official denied repair of all of the signs, subjectively determining without the benefit of any objective comparison of repair and replacement costs that such damage was “substantial.” The Court of Appeals held the Webster sign ordinance void for vagueness and violative of SignAd’s due process rights, as “operators of outdoor advertising receive no fair and adequate notice...as to what sign repairs are permitted or prohibited.” *Id.* at 648.

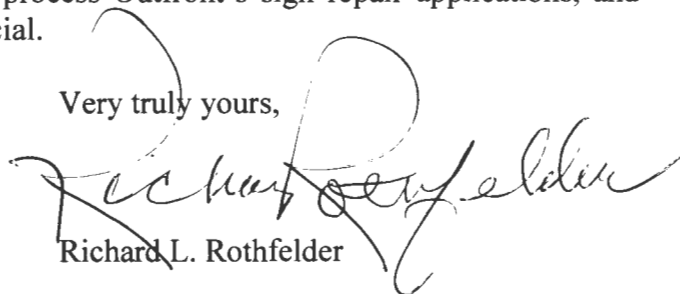
Galveston’s actions similarly violate Outfront’s due process rights. While purporting to incorporate an objective 60 percent test for determining eligibility to repair storm damaged signs, Galveston’s ordinance nevertheless permits a subjective determination “as computed by the Building Inspector.” Even worse, this determination is improperly delegated to the Galveston Building Inspector by the use of criteria that conflicts with State law when all new materials are required for repair cost estimates. As such, Section 29-84(b)(3) and the City’s interpretation of it are unconstitutional.

Sixth, Mr. Ewald’s requirement that the repair cost estimates incorporate new materials is inconsistent with the City’s previous indications to Mr. Bosley and Outfront. Specifically, the email thread preceding Mr. Ewald’s December 10, 2014 email to Mr. Bosley contains repeated confirmations from Galveston’s Catherine Gorman that Outfront’s repair estimate submittals were sufficient. (See Exhibit 9). Ms. Gorman even said in her September 9, 2014 email that “the Building Official has review [sic] has said that the information submitted was sufficient.” Indeed, the first email in the chain preceding the most recent from Mr. Ewald is dated August 11, 2014, certainly leading one to wonder why it would take the City four months to finally conclude that its previous indication of satisfactory submittals was incorrect.

In conclusion, Outfront has been attempting to work cooperatively with the City for the consideration of its applications and issuance of the requested permits to repair its storm-damaged signs for years. In doing so, Outfront has meticulously complied with all of Galveston's sign regulations, including submitting the correct comparison of the cost to repair the damage to its signs and the cost of erecting new signs. In stark contrast, the City has repeatedly delayed in even addressing and responding to Outfront's applications and supporting materials. When it finally does several months later, the City has misinterpreted its own regulations, and committed violations of Chapter 216 and Constitutional Due Process.

Therefore, Outfront respectfully appeals the City's denial of its two applications for the repair of the signs located at 6127 Broadway (Ave. J) (Sign 02-1565, I-45 at 61st Street), and Harborside at 35th Street (Sign 02-1574). Outfront urges the Board of Adjustments and Appeals to reconsider the City's refusal to accept and process Outfront's sign repair applications, and reverse the decision of the City's Building Official.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard L. Rothfelder", written over a printed name.

Richard L. Rothfelder

RLR:mr

Enclosures

cc: Donna Fairweather

Via Email

City of Galveston



City Attorney's Office

P.O. Box 779 / Galveston, Texas 77553-0779 / (409) 797-3530 / Fax (409) 797-3531

January 14, 2015

Richard Rothfelder
Rothfelder & Falick, LLP.
1201 Louisiana St., Suite 550
Houston, Texas 77002

Certified Mail & Email

RE: Request by CBS Outdoor (now known as Outfront Media, LLC.) to Repair Billboards:
02-1548 I-45 at 80th Street
02-1565 I-45 at 61st Street
02-1574 Harborside at 35th Street

Mr. Rothfelder,

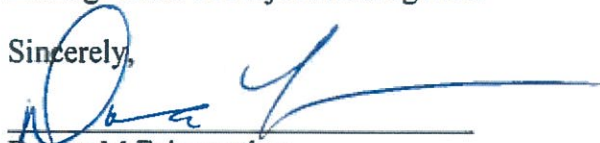
In response to your client's request and upon review of the three bids submitted regarding the repair or replacement of the three Billboards, referenced above, the Building Official has determined to:

Deny the request for building permits for the repair of Billboards damaged.

The Building Official has determined that pursuant to Zoning Standards, Section 29-84(b)(3), the City shall not issue permits if the Building Inspector computes that the cost of repairing the Billboards using all new materials is more than 60%. Your client submitted three bids for the replacement of the signs that incorporated re-using existing materials. One estimate was 60 % replacement value with re-using materials, the other was for 59% replacement value with re-using materials and the third sign located at Harborside and 35th calculated 35% with re-use of materials.

The Appeal of the Building Official's decision is to the Zoning Board of Adjustment. I have attached the application form, and you may contact the Planning Department for any additional information or questions you may have. The application fee is \$250.00 and is to be submitted with the application to the Planning Department. I have confirmed that the next deadline to submit an application is February 4, 2015 for the matter to be placed on the March 4, 2015 Zoning Board of Adjustment agenda.

Sincerely,


Donna M Fairweather
Assistant City Attorney



ROTHFELDER & FALICK, L.L.P.

ATTORNEYS AT LAW

RICHARD L. ROTHFELDER
rrothfelder@swbell.net
BOARD CERTIFIED - CIVIL TRIAL LAW

1201 LOUISIANA
SUITE 550
HOUSTON, TEXAS 77002

TELEPHONE: 713-220-2288
FACSIMILE: 713-658-8211
WWW.ROTHFELDERFALICK.COM

January 5, 2010

Board of Adjustment
c/o Dept. of Planning and Community Development
City of Galveston
P.O. Box 779
823 Rosenberg
Galveston, Texas 77553

Via Federal Express, Airbill No. 8712 5685 4303

Ms. Wendy O'Donahoe, Director
Dept. of Planning and Community Development
City of Galveston
P.O. Box 779
Galveston, TX 77553

Via Federal Express, Airbill No. 8712 5685 4314

Mr. David Ewald, Building Official
Building Department
City of Galveston
P.O. Box 779
823 Rosenberg
Galveston, Texas 77553

Via Federal Express, Airbill No. 8712 5685 4325

RE: *Appeal to the Zoning Board of Adjustment of the denial of a Building Permit Application regarding repair of an outdoor advertising structure located at 6604 Broadway (Ave. J) in Galveston, Texas, owned and operated by CBS Outdoor, Inc.; Our File No. 1030-224.*

Dear Ms. O'Donahoe, Mr. Ewald and Members of the Board of Adjustment:

Introduction

The law firm of Rothfelder & Falick, L.L.P. represents CBS Outdoor, Inc. ("CBS") with regard to the above referenced matter. CBS submits this letter in support of its appeal to the Board of Adjustment ("Board") of the City of Galveston's ("City") denial of a Building Permit Application ("Application") to repair a storm-damaged outdoor advertising structure. It is our understanding that this appeal will be heard by the Board at 4:00 p.m. on Wednesday, February 3, 2010. We would appreciate your contacting us to confirm same.



Background Information

CBS owns and operates a legally permitted outdoor advertising structure located at 6604 Broadway (Ave. J) ("Sign"). The Sign incurred storm damage from Hurricane Ike in September 2008. More specifically, the Sign suffered minor damage to the lights, catwalk, ladders, frame, and uprights of one face. The foundation and base column pipe is undamaged (or moderately damaged) and is intact. Although the upper portion of the Sign fell, the second stage pipe and torsion pipe were undamaged, as were some of the walks, lights and ladders. The foundation and all column and torsion pipe can be reused as can all parts except those for one face, i.e., frame walks, lights, uprights, etc. Only minor replacement is required on the head portion of the Sign. The scope of the work to repair the Sign includes reinstalling the second stage pipe and torsion pipe and using salvaged materials and replacing damaged materials to repair the head.

Sign Regulations

Pursuant to Section 29-21 of the City's Municipal Code ("Code"), the 1991 Zoning Standards ("Zoning Standards") have been adopted in their entirety. The Zoning Standards, updated through January 2009, contain the City's Sign Regulations in Section 29-82 et seq. ("Sign Regulations"), and the rules and procedures related to appeals to the Board of Adjustment ("Board") at Section 29-110 et seq.

Section 29-84(b)(1) of the Sign Regulations prohibits the construction of new off-premise signs within Galveston's city limits and extraterritorial jurisdiction. However, legally existing non-conforming signs in existence on the effective date of Ordinance No. 97-82 may continue to lawfully exist, pursuant to Section 29-86(b). This section provides that, if such a legally existing non-conforming off-premise sign is destroyed "such that the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location, the sign owner shall repair, remove, or relocate the sign." Based on the language in this section, if the cost of repairing the sign is 60% or less than the cost of erecting a new sign of the same type at the same location, then the sign is not considered "destroyed", and the sign may be restored to the condition it was in prior to having been damaged.

Section 29-112 of the Zoning Standards states that "appeals to the Board can be taken by any person aggrieved...by any decision of the Building Official." This section further gives the Board the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning laws of the City.

A copy of the relevant Sign Regulations and Zoning Standards is attached hereto as Exhibit 1.

Permit Application

CBS submitted its Application to the City seeking to repair the Sign on October 12, 2009. Although not required by the Sign Regulations, CBS submitted three independent repair and

replacement estimates along with the Application. The first, prepared by Advertising Higher, shows the repair costs as \$21,850.00, or approximately 34%, of the estimated replacement costs of \$63,627.50. The second, prepared by Carolina Sign and Crane Service, Inc., shows the repair costs as \$43,000.00, or approximately 40%, of the replacement costs of \$100,500.00. The third, prepared by Alamo Outdoor Signs, Ltd., shows the repair costs as \$25,188.06, or approximately 37%, of the estimated replacement costs of \$67,477.67. All three independent estimates, then, meet the 60% test in the Sign Regulations.

Despite the foregoing, the Application was returned to CBS. Although it had not been stamped "DENIED", CBS assumes the City denied the Application and stamped another application twice by mistake. A copy of the denied Application, together with the attachments that were submitted with the request, is attached hereto as Exhibit 2. No explanation for the denial was given in writing by the City; however, CBS assumes the denial is based on the City's belief that the cost to repair the Sign exceeds 60% of the cost to replace it.

Based on our review of the applicable Zoning Standards, CBS respectfully disagrees with the denial asserted by the City, and makes this appeal to the Board pursuant to Section 29-112 of the Zoning Standards.

Argument

The position taken by the City is in sharp contrast to the language in Section 29-86(b). By ignoring the documentation submitted to the City by CBS, and by requiring CBS to remove the Sign based on someone's visual inspection and observation rather than the hard data, the City is completely ignoring the constitutional 60% test contained in its Sign Regulations. In so doing, the City risks falling into the same trap as did the City of Webster following Hurricane Alicia. In 1983, another sign company, SignAd, owned and operated a number of billboards in Webster's city limits which suffered varying degrees of damage during Hurricane Alicia. Like CBS' Sign, the billboards were grandfathered, non-conforming signs that had been erected prior to the passage of the city's sign ordinance. Webster's sign code at the time stated generally that any non-conforming signs "or any substantial parts thereof" which were blown down or destroyed could not be rebuilt or repaired unless the signs were brought into compliance with the sign code.

Webster's City Engineer denied SignAd's request for permits to repair the signs, stating that, since the storm had blown down or destroyed "substantial parts" of the signs, their reconstruction was forbidden. SignAd obtained a summary judgment from the trial court declaring the sign code unconstitutional, which Webster appealed. The Court of Appeals for the 1st District of Houston agreed with SignAd and held that the referenced section of Webster's sign code was fatally vague and violative of SignAd's due process rights since SignAd and other sign operators received no fair and adequate notice as to what sign repairs were permitted or prohibited. Upon resolution of the dispute, not only was SignAd permitted to repair the damaged signs, but the City of Webster reimbursed SignAd for all of its lost advertising revenues and attorneys fees incurred from the date the City refused to allow SignAd to repair the signs, up through the date the case settled, which was a six figure sum. A copy of the *City of Webster v. SignAd, Inc.* case is attached hereto as Exhibit 3.

To the extent that the City attempts to deviate from the constitutional 60% test in its Sign Regulations, and instead chooses to base its decision on the subjective opinion of one or more individuals, the City will not be permitted to do so pursuant to precedent set forth in *City of Webster v. SignAd, Inc.* Further, it is reasonable to expect a court to find that such action is vague and violative of due process rights and gives the Building Official (or others acting on his behalf) unbridled (sole) discretion in determining which of CBS' signs may be repaired and which of them may not.

Finally, we note that Section 29-86(b) requires that repairs of signs meeting the 60% test "shall be done so as to comply with the regulations of all applicable ordinances." Requiring compliance with stricter standards would effectively constitute a violation of the Takings Clause contained in the 5th Amendment to the U.S. Constitution. CBS' Sign is a grandfathered, nonconforming structure that may be restored to its condition prior to becoming damaged, as long as the cost of repair meets the 60% threshold discussed above.

Conclusion

The cost to repair CBS's Sign is less than 60% of the cost to replace it, as evidenced by the documentation submitted by CBS with its Application. The Application was wrongfully denied, the Board should reverse the decision of the Building Official (or his representative), and CBS should be allowed to repair the Sign pursuant to Section 29-86(b) of the Zoning Regulations.

Very truly yours,

A handwritten signature in black ink that reads "Richard L. Rothfelder /go". The signature is written in a cursive, flowing style.

Richard L. Rothfelder

:jld
Enclosures

January 5, 2010

Page 5

bc: Randy Jackson
CBS Outdoor, Inc.
1600 Studemont
Houston, Texas 77007

Via Email

David Posy
CBS Outdoor, Inc.
405 Lexington Ave, 17th Fl.
New York, NY 10174

Via Email

Don Bosley
CBS Outdoor, Inc.
1600 Studemont
Houston, Texas 77007

Via Email

CITY OF GALVESTON - PLANNINGPO Box 779, Galveston, Texas 77553
Phone: 409/797-3660 Fax: 409/797-3661**ZONING BOARD OF ADJUSTMENT**

Case No.: _____

Application Due: 01/06/10
Hearing Date: 02/03/10
(please confirm)*Please Print or Type***I. APPLICANT INFORMATION**APPLICATION STATUS (Check One): ☐ Owner ☒ Tenant ☐ Prospective Buyer*Property Owner must sign the application or submit a notarized letter of authorization.*CBS Outdoor, Inc.c/o Attorney Richard Rothfelder

Applicant Name

(713) 220-2288

Telephone

1600 Studemont, Houston, TX 77007rrothfelder@swbell.net

Mailing Address

E-mail Address

OWNERSHIP (Check One): ☐ Individual ☒ Corporation ☐ Partnership ☐ Trust*If ownership is a trust or corporation, list the partners or principle, their address and positions on a separate attachment*Del Papa Distributing(409) 842-8490

Property Owner Name

Telephone

410 I-10 S., Beaumont, TX 77707

Mailing Address

E-mail Address

Representative Name()

Telephone

Mailing Address

E-mail Address

II. PROPERTY INFORMATION6604 Broadway

Street Address/Location

Current Zoning District CategoryBillboard located on private property

Legal Description (Lot and Block Number)

Present Use and Improvement on PropertyHas a previous application been filed on this property? ☒ No ☐ Yes If Yes, Date and Case No.: _____

III. REQUESTED ACTION

[] Special Exceptions

[] Variance

Applicable section(s) of the Zoning Standards: Section 29-86 & Appeal under Section 29-112

Specifically state the Special Exception/Variance requested (i.e., from 100 square foot sign to 200 square foot sign):

CBS Outdoor, Inc. seeks permission to repair its storm-damaged sign, as the cost to repair is less than 60% of the cost to replace it, in compliance with Section 29-86(b). Please see attached for further information.

IV. APPLICANT'S JUSTIFICATION FOR THE REQUEST - REQUIRED (i.e., grandfathered structure built up to property lines, off-street parking cannot be provided on the property) (attach additional pages if necessary)

CBS Outdoor, Inc. contends Section 29-86(b) is applicable, and allows it to repair its storm-damaged sign. Please see attached for further information.

ANY OTHER PERTINENT INFORMATION TO SUPPORT SAID REQUEST SHOULD ALSO BE ATTACHED.

ATTEST: I certify that [] I am the legal owner or record; [x] I have secured the property owner's permission and have full authority to make this application and/or appeal.

Richard L. Rothfelder, Attorney for
Printed Name and Signature of Applicant CBS Outdoor, Inc.

Richard L. Rothfelder

1/5/10
Date

Printed Name and Signature of Property Owner

Date

V. APPLICANT CHECKLIST

- [x] **Site Plan (to scale)** - with existing improvements, developments, and property lines
(25 copies [8-1/2x11] if larger than 8-1/2x11, please fold to appropriate size)
[] **Survey (to scale)** (2 copies) not available
[x] **Current Tax Receipts** - County tax office, 722 Moody (766-2481)
[] **Title Report** (if land was purchased within the last 60 days) n/a
[x] **Non-Refundable Application Fee** \$ 300.00 (payable to the City of Galveston)

DEPARTMENTAL USE ONLY**Staff Checklist**

APPLICATION ACCEPTED BY: _____

DATE: _____

AMOUNT: _____

REMARKS: _____

- [] City Departments
[] Private Utilities
[] Galveston County Health District
[] Property Owners
[] Other: _____
[] Other: _____

Galveston Central Appraisal District

600 Gulf Freeway Suite 113, Texas City, TX 77591, (866) 277-4725

Data on this Web site represents CERTIFIED 2009 Information (Click HISTORY for

[Home](#)

Your search returned 15 matches

[Show Legal Description](#)

[General Information](#)

[News](#)

[FAQ](#)

[Searches](#)

[Property ID Search](#)

[Account Search](#)

[Owner Search](#)

[Address Search](#)

[Advanced Search](#)

[Other](#)

[Taxing Units](#)

[Neighborhoods](#)

[Abstracts](#)

[Subdivisions](#)

[Tax Code](#)

[Calendar](#)

[County Tax Rates](#)

[Property Codes](#)

[Links](#)

[County Tax Office](#)

[County Clerk Deeds](#)

[Forms](#)

[GIS Map Viewer](#)

[GIS Shape Files](#)

[PDF Map Index](#)

[3D Aerial Photos](#)

[Website Feedback Form](#)

[2009 Roll Zip File](#)

Property Search Results

Property ID	Owner Name	Situs Address	Value
R136278	CBS INVESTMENTS INC	831 W MAIN ST LEAGUE CITY, TX 77573	In Progress
P292523	CBS METALS INC	202 20TH ST S TEXAS CITY, TX 77590	In Progress
P237529	CBS OUTDOOR INC	@VARIOUS LOCATIONS DICKINSON, TX 77539	In Progress
P240032	CBS OUTDOOR INC	@VARIOUS LOCATIONS LEAGUE CITY, TX 77573	In Progress
P287916	CBS OUTDOOR INC	@VARIOUS LOCATIONS GALVESTON, TX 77550	In Progress
P374807	CBS OUTDOOR INC	@VARIOUS LOCATIONS KEMAH, TX 77565	In Progress
P440070	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440071	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440072	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440073	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440074	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440075	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440076	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440077	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440078	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress

Galveston Central Appraisal District

600 Gulf Freeway Suite 113, Texas City, TX 77591, (866) 277-4725

Data on this Web site represents CERTIFIED 2009 Information (Click HISTORY for

Property Detail Sheet (P287916)

[Home](#)

[General Information](#)

[News](#)

[FAQ](#)

[Searches](#)

[Property ID Search](#)

[Account Search](#)

[Owner Search](#)

[Address Search](#)

[Advanced Search](#)

[Property Data](#)

[Detail Sheet](#)

[Datasheet](#)

[Other](#)

[Taxing Units](#)

[Neighborhoods](#)

[Abstracts](#)

[Subdivisions](#)

[Tax Code](#)

[Calendar](#)

[County Tax Rates](#)

[Property Codes](#)

[Links](#)

[County Tax Office](#)

[County Clerk Deeds](#)

[Forms](#)

[GIS Map Viewer](#)

[GIS Shape Files](#)

[PDF Map Index](#)

[3D Aerial Photos](#)

[Website Feedback Form](#)

[2009 Roll Zip File](#)

[History](#)

[GIS Map](#)

[Datasheet](#)

Owner Information

Owner ID: O0027205

Owner Name: CBS OUTDOOR INC

Owner Address: 1515 BROADWAY, 49TH FLOOR
NEW YORK, NY 10036

Property Address: @VARIOUS LOCATIONS
GALVESTON, TX 77550

Parcel Information

Legal Description: BUSINESS PERSONAL PROPERTY - BILLBOARDS IN
GALVESTON GISD

Neighborhood: ()

Acreage:

Cross Reference: 8600-0633-5026-040

Undivided Interest: 100%

Exemption Codes:

Entity Codes: GGA (Galveston County)
R01 (Road Dist #1)
J01 (Galv College)
N01 (Nav District #1)
RFL (Co Road & Flood)
S10 (Galveston Isd)
C30 (Galveston City)

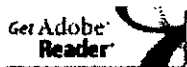
Deed Type:

Deed Book:

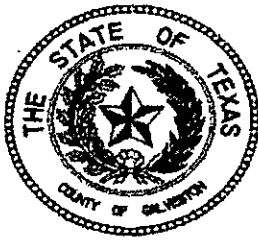
Deed Page:

Map Page:

[Click here](#) to view your 2009 certified values and prior history.



* Adobe Acrobat Reader 5.0 (minimum) is required to view pdf documents.
Acrobat Reader is a free program available [here](#).



Galveston County Tax Office

Wednesday, December 23 109

Property Tax Statement

[Begin a New Search](#) [Go to Your Portfolio](#)

[\[Tax Statement\]](#)

Unless otherwise noted, all data refers to tax information for 2009. All amounts due include penalty, interest, and attorney fees when applicable.

Account Number: 860006335026040

Pending Internet Payments:
No Credit Card Payment Pending

Address:
CBS OUTDOOR INC
1515 BROADWAY, 49TH FLOOR
NEW YORK, NY 10036

Pay by Credit Card or E Check

Property Site Address:
@VARIOUS LOCATIONS
77550

Market Value: \$240,100

Land Value: \$0

Legal Description:
BUSINESS PERSONAL PROPERTY - BILLBOARDS
IN GALVESTON GISD

Improvement Value: \$240,100

Capped Value: \$0

Current Tax Levy: \$6,211.32

Agricultural Value: \$0

Current Amount Due: \$6,211.32

Exemptions: None

Prior Year Amount Due: \$0.00

[Exemption and Tax Rate Information](#)

Total Amount Due: \$6,211.32

[Taxes Due Detail by Year and Jurisdiction](#)

Last Payment Amount for Current Year Taxes:
Not Received

[Payment Information](#)

Last Payer for Current Year Taxes:
Not Received

Last Payment Date for Current Year Taxes:
Not Received

[Click Here](#) to see your estimated amount due for a future date. You can see this information by year and by both year and jurisdiction.

[Return to Galveston County Homepage](#)

GALVESTON COUNTY TAX OFFICE
P.O. Box 1169

Disclaimer: The Galveston County Tax Office provides this World Wide Web (WWW) site information and services "as is" without warranty of any kind, either expressed or implied. The Galveston County Tax Office does not warrant the accuracy, authority, completeness, usefulness, timeliness, or fitness for a particular purpose of its information or services. The Galveston County Tax Office, its officials and

12/23/2009 10:29

GALVESTON, TX 77553-1169
(409) 766-2481
(877) 766-2284

employees shall not be liable for any loss or injury caused in whole or part by its negligence,
contingencies, beyond its control, loss of data, or errors or omissions in the WWW site information or
services.
©2002-2006 Appraisal & Collection Technologies. All rights reserved.



Galveston County Tax Office

Wednesday, December 23 109

Jurisdiction Information

[Begin a New Search](#) [Go to Your Portfolio](#)

[Return to the Previous Page](#)

Jurisdiction Information for 2009

Account No.: 860006335026040

Exemptions: None

Jurisdictions	Market Value	Exemption Value	Taxable Value	Tax Rate	Levy
GALV CITY	\$240,100.00	\$0.00	\$240,100.00	0.554	\$1,330.15
GALVESTON CO	\$240,100.00	\$0.00	\$240,100.00	0.6186	\$1,485.26
GALVESTON COLL	\$240,100.00	\$0.00	\$240,100.00	0.19	\$456.19
GALVESTON ISD	\$240,100.00	\$0.00	\$240,100.00	1.165	\$2,797.17
NAVIG DIST #1	\$240,100.00	\$0.00	\$240,100.00	0.04797	\$115.18
ROAD & FLOOD	\$240,100.00	\$0.00	\$240,100.00	0.0114	\$27.37

[Return to Galveston County Homepage](#)

GALVESTON COUNTY TAX OFFICE
P.O. Box 1169
GALVESTON, TX 77553-1169
(409) 766-2481
(877) 766-2284

Disclaimer: The Galveston County Tax Office provides this World Wide Web (WWW) site information and services "as is" without warranty of any kind, either expressed or implied. The Galveston County Tax Office does not warrant the accuracy, authority, completeness, usefulness, timeliness, or fitness for a particular purpose of its information or services. The Galveston County Tax Office, its officials and employees shall not be liable for any loss or injury caused in whole or part by its negligence, contingencies, beyond its control, loss of data, or errors or omissions in the WWW site information or services.

©2002-2006 Appraisal & Collection Technologies. All rights reserved.



Galveston County Tax Office

Wednesday, December 23 109

Taxes Due Detail by Year

[Begin a New Search](#) [Go to Your Portfolio](#)

[Return to the Previous Page](#) [Taxes Due by Jurisdiction](#)

Taxes Due as of Wed Dec 23 10:32:38 CST 2009

Account No.: 860006335026040

* Additional Collection Costs

		as of December 31, 2009		as of January 31, 2010		as of February 28, 2010	
Year	Base Tax Due	Penalty, Interest, and ACC* Due	Total Due	Penalty, Interest, and ACC* Due	Total Due	Penalty, Interest, and ACC* Due	Total Due
2009	\$6,211.32	\$0.00	\$6,211.32	\$0.00	\$6,211.32	\$434.79	\$6,646.11
Total Amount Due:	\$6,211.32	\$0.00	\$6,211.32	\$0.00	\$6,211.32	\$434.79	\$6,646.11

[Return to Galveston County Homepage](#)

GALVESTON COUNTY TAX OFFICE
P.O. Box 1169
GALVESTON, TX 77553-1169
(409) 766-2481
(877) 766-2284

Disclaimer: The Galveston County Tax Office provides this World Wide Web (WWW) site information and services "as is" without warranty of any kind, either expressed or implied. The Galveston County Tax Office does not warrant the accuracy, authority, completeness, usefulness, timeliness, or fitness for a particular purpose of its information or services. The Galveston County Tax Office, its officials and employees shall not be liable for any loss or injury caused in whole or part by its negligence, contingencies, beyond its control, loss of data, or errors or omissions in the WWW site information or services.

©2002-2006 Appraisal & Collection Technologies. All rights reserved.



Galveston County Tax Office

Wednesday, December 23 109

Payment Information

[Begin a New Search](#) [Go to Your Portfolio](#)

[Return to the Previous Page](#)

Account No.: 860006335026040

Receipt Date	Amount	Tax Year	Description	Payer
2009-01-31	\$5,836.88	2008	Payment	CBS OUTDOOR INC
2008-01-30	\$5,887.33	2007	Payment	VIACOM OUTDOOR INC
2007-05-21	(\$479.54)	2006	Refunded	CBS OUTDOOR
2007-02-26	\$479.54	2006	Transfer	CBS OUTDOOR
2007-02-26	(\$479.54)	2006	Transfer	VIACOM OUTDOOR INC
2007-02-26	\$7,330.00	2006	Payment	VIACOM OUTDOOR INC
2006-02-23	\$20,155.32	2005		CBS OUTDOOR

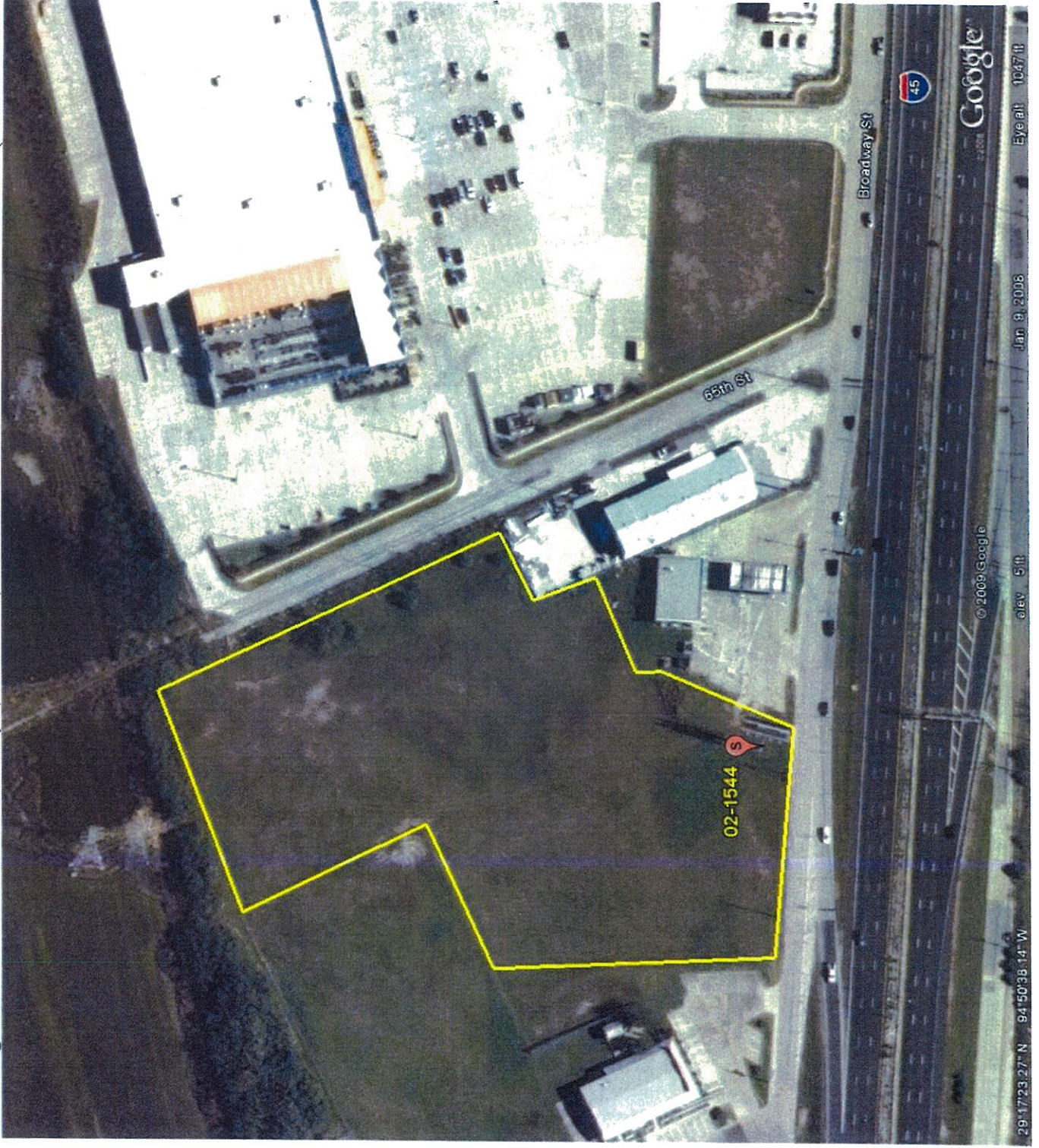
[Return to Galveston County Homepage](#)

GALVESTON COUNTY TAX OFFICE
P.O. Box 1169
GALVESTON, TX 77553-1169
(409) 766-2481
(877) 766-2284

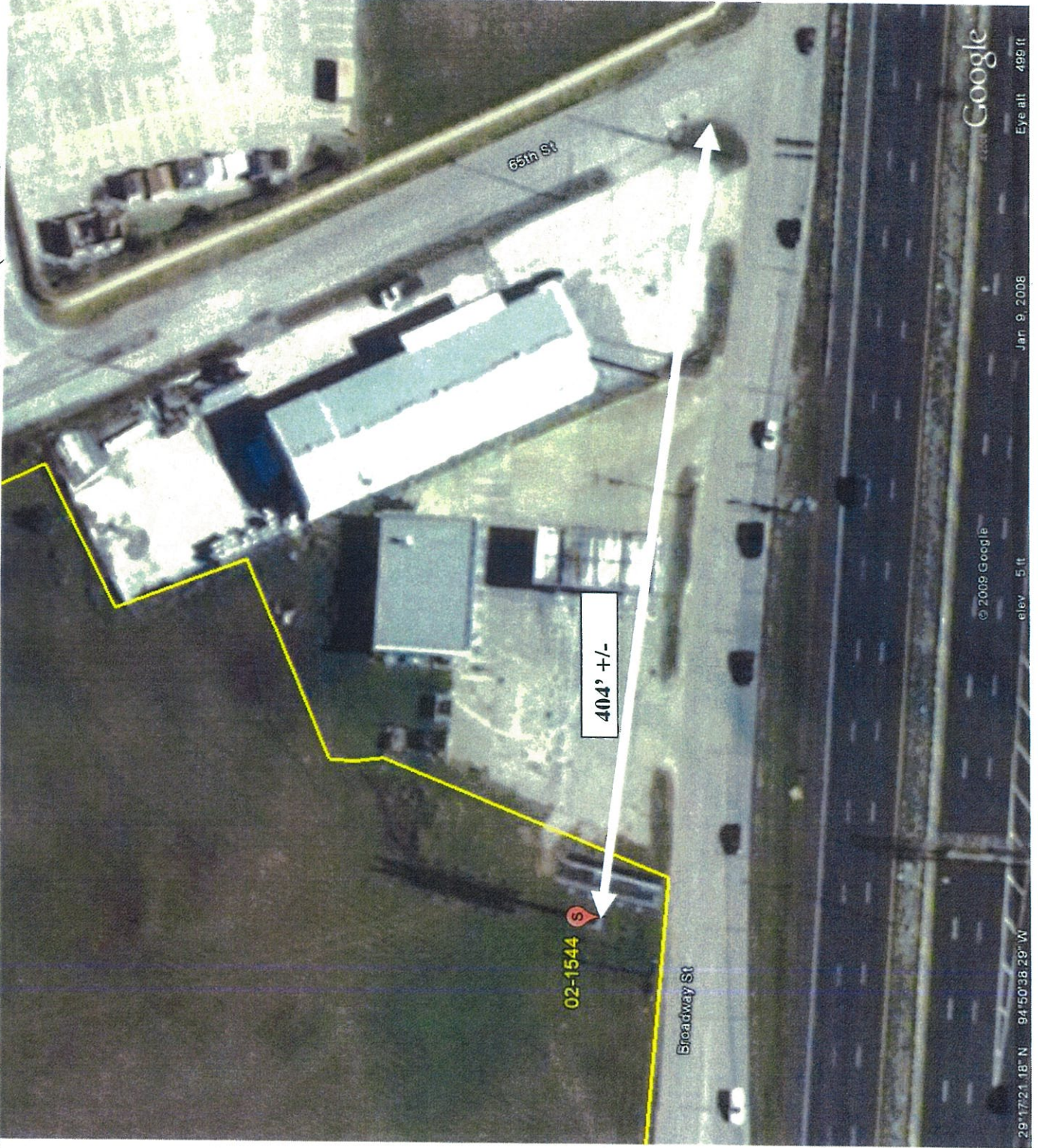
Disclaimer: The Galveston County Tax Office provides this World Wide Web (WWW) site information and services "as is" without warranty of any kind, either expressed or implied. The Galveston County Tax Office does not warrant the accuracy, authority, completeness, usefulness, timeliness, or fitness for a particular purpose of its information or services. The Galveston County Tax Office, its officials and employees shall not be liable for any loss or injury caused in whole or part by its negligence, contingencies, beyond its control, loss of data, or errors or omissions in the WWW site information or services.

©2002-2006 Appraisal & Collection Technologies. All rights reserved.

CBS Sign location: 6604 Broadway (Avenue J) Galveston, TX: CBS Lease 02-1544 (Also see attached)

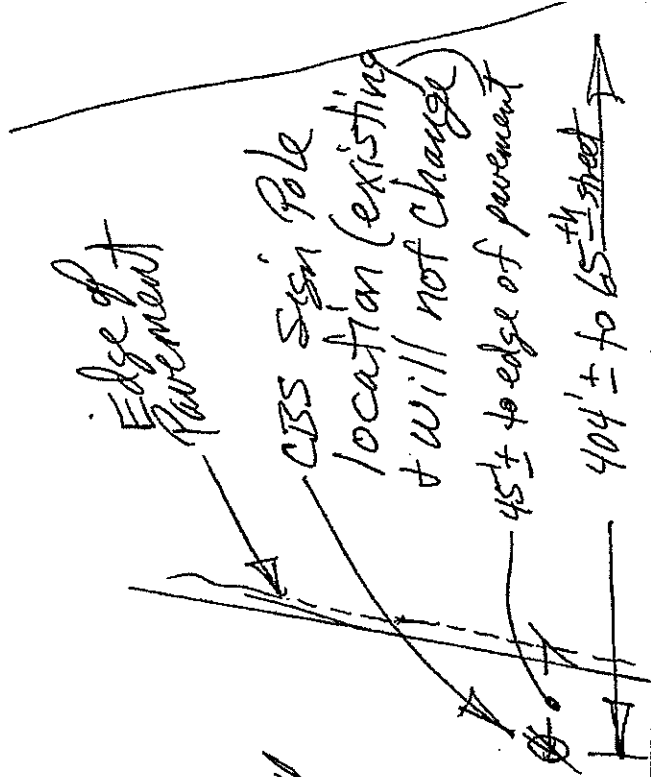


CBS Sign location: 6604 Broadway (Avenue J) Galveston, TX: CBS Lease 02-1544 (Also see



attached)

Address:
6604 Broadway
Galveston



→ Broadway St.
(I-45 frontage Road)

→ I-45

Existing
CBS Sign location
for 6604 Broadway
Galveston

ROTHFELDER & FALICK, L.L.P.

ATTORNEYS AT LAW

RICHARD L. ROTHFELDER
rrothfelder@swbell.net
BOARD CERTIFIED - CIVIL TRIAL LAW

1201 LOUISIANA
SUITE 550
HOUSTON, TEXAS 77002

TELEPHONE: 713-220-2288
FACSIMILE: 713-658-8211
WWW.ROTHFELDERFALICK.COM

January 5, 2010

Board of Adjustment
c/o Dept. of Planning and Community Development
City of Galveston
P.O. Box 779
823 Rosenberg
Galveston, Texas 77553

Via Federal Express, Airbill No. 8712 5685 4336

Ms. Wendy O'Donahoe, Director
Dept. of Planning and Community Development
City of Galveston
P.O. Box 779
Galveston, TX 77553

Via Federal Express, Airbill No. 87125685 4347

Mr. David Ewald, Building Official
Building Department
City of Galveston
P.O. Box 779
823 Rosenberg
Galveston, Texas 77553

Via Federal Express, Airbill No. 87125685 4299

RE: *Appeal to the Zoning Board of Adjustment of the denial of a Building Permit Application regarding repair of an outdoor advertising structure located at 6127 Broadway (Ave. J) in Galveston, Texas, owned and operated by CBS Outdoor, Inc.; Our File No. 1030-224.*

Dear Ms. O'Donahoe, Mr. Ewald and Members of the Board of Adjustment:

Introduction

The law firm of Rothfelder & Falick, L.L.P. represents CBS Outdoor, Inc. ("CBS") with regard to the above referenced matter. CBS submits this letter in support of its appeal to the Board of Adjustment ("Board") of the City of Galveston's ("City") November 30, 2009 denial of a Building Permit Application ("Application") to repair a storm-damaged outdoor advertising structure. It is our understanding that this appeal will be heard by the Board at 4:00 p.m. on Wednesday, February 3, 2010. We would appreciate your contacting us to confirm same.



Background Information

CBS owns and operates a legally permitted outdoor advertising structure located at 6127 Broadway (Ave. J) ("Sign"). The Sign incurred storm damage from Hurricane Ike in September 2008. More specifically, the Sign suffered minor damage to the lights, catwalk, ladders, frame, and uprights of one face. The foundation and base column pipe is undamaged (or moderately damaged) and is intact. Although the upper portion of the Sign fell, the second stage pipe and torsion pipe were undamaged, as were some of the walks, lights and ladders. The foundation and all column and torsion pipe can be reused as can all parts except those for one face, i.e., frame walks, lights, uprights, etc. Only minor replacement is required on the head portion of the Sign. The scope of the work to repair the Sign includes reinstalling the second stage pipe and torsion pipe and using salvaged materials and replacing damaged materials to repair the head.

Sign Regulations

Pursuant to Section 29-21 of the City's Municipal Code ("Code"), the 1991 Zoning Standards ("Zoning Standards") have been adopted in their entirety. The Zoning Standards, updated through January 2009, contain the City's Sign Regulations in Section 29-82 et seq. ("Sign Regulations"), and the rules and procedures related to appeals to the Board of Adjustment ("Board") at Section 29-110 et seq.

Section 29-84(b)(1) of the Sign Regulations prohibits the construction of new off-premise signs within Galveston's city limits and extraterritorial jurisdiction. However, legally existing non-conforming signs in existence on the effective date of Ordinance No. 97-82 may continue to lawfully exist, pursuant to Section 29-86(b). This section provides that, if such a legally existing non-conforming off-premise sign is destroyed "such that the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location, the sign owner shall repair, remove, or relocate the sign." Based on the language in this section, if the cost of repairing the sign is 60% or less than the cost of erecting a new sign of the same type at the same location, then the sign is not considered "destroyed", and the sign may be restored to the condition it was in prior to having been damaged.

Section 29-112 of the Zoning Standards states that "appeals to the Board can be taken by any person aggrieved...by any decision of the Building Official." This section further gives the Board the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning laws of the City.

A copy of the relevant Sign Regulations and Zoning Standards is attached hereto as Exhibit 1.

Permit Application

CBS submitted its Application to the City seeking to repair the Sign on October 12, 2009. Although not required by the Sign Regulations, CBS submitted three independent repair and replacement estimates along with the Application. The first, prepared by Advertising Higher, shows the repair costs as \$18,300.00, or approximately 29%, of the estimated replacement costs of \$63,627.50. The second, prepared by Alamo Outdoor Signs, Ltd., shows the repair costs as \$24,627.87, or approximately 46%, of the estimated replacement costs of \$52,774.07. The third, prepared by Carolina Sign and Crane Service, Inc., shows the repair costs as \$33,200.00, or approximately 42%, of the replacement costs of \$78,000.00. All three independent estimates, then, meet the 60% test in the Sign Regulations.

Despite the foregoing, the Application was stamped "DENIED" twice on November 30, 2009 and returned to CBS. A copy of the denied Application, together with the attachments that were submitted with the request, is attached hereto as Exhibit 2. Based on our best efforts to decipher the message, it appears someone wrote "unsafe can't move it down" at the top of the Application.¹ Other than that cryptic notation, no other explanation for the denial was given in writing by the City.

Based on our review of the applicable Zoning Standards, CBS respectfully disagrees with the denial asserted by the City, and makes this appeal to the Board pursuant to Section 29-112 of the Zoning Standards.

Argument

The position taken by the City is in sharp contrast to the language in Section 29-86(b). By ignoring the documentation submitted to the City by CBS, and by requiring CBS to remove the Sign based on someone's visual inspection and observation rather than the hard data, the City is completely ignoring the constitutional 60% test contained in its Sign Regulations. In so doing, the City risks falling into the same trap as did the City of Webster following Hurricane Alicia. In 1983, another sign company, SignAd, owned and operated a number of billboards in Webster's city limits which suffered varying degrees of damage during Hurricane Alicia. Like CBS' Sign, the billboards were grandfathered, non-conforming signs that had been erected prior to the passage of the city's sign ordinance. Webster's sign code at the time stated generally that any non-conforming signs "or any substantial parts thereof" which were blown down or destroyed could not be rebuilt or repaired unless the signs were brought into compliance with the sign code.

Webster's City Engineer denied SignAd's request for permits to repair the signs, stating that, since the storm had blown down or destroyed "substantial parts" of the signs, their reconstruction was forbidden. SignAd obtained a summary judgment from the trial court declaring the sign code unconstitutional, which Webster appealed. The Court of Appeals for the 1st District of Houston agreed with SignAd and held that the referenced section of Webster's sign code was fatally vague and violative of SignAd's due process rights since SignAd and other sign

¹ "down" may be another word, or may be an individual's name or initials.

operators received no fair and adequate notice as to what sign repairs were permitted or prohibited. Upon resolution of the dispute, not only was SignAd permitted to repair the damaged signs, but the City of Webster reimbursed SignAd for all of its lost advertising revenues and attorneys fees incurred from the date the City refused to allow SignAd to repair the signs, up through the date the case settled, which was a six figure sum. A copy of the *City of Webster v. SignAd, Inc.* case is attached hereto as Exhibit 3.

To the extent that the City attempts to deviate from the constitutional 60% test in its Sign Regulations, and instead chooses to base its decision on the subjective opinion of one or more individuals, the City will not be permitted to do so pursuant to precedent set forth in *City of Webster v. SignAd, Inc.* Further, it is reasonable to expect a court to find that such action is vague and violative of due process rights and gives the Building Official (or others acting on his behalf) unbridled (sole) discretion in determining which of CBS' signs may be repaired and which of them may not.

Finally, we note that Section 29-86(b) requires that repairs of signs meeting the 60% test "shall be done so as to comply with the regulations of all applicable ordinances." Requiring compliance with stricter standards would effectively constitute a violation of the Takings Clause contained in the 5th Amendment to the U.S. Constitution. CBS' Sign is a grandfathered, nonconforming structure that may be restored to its condition prior to becoming damaged, as long as the cost of repair meets the 60% threshold discussed above.

Conclusion

The cost to repair CBS's Sign is less than 60% of the cost to replace it, as evidenced by the documentation submitted by CBS with its Application. The Application was wrongfully denied, the Board should reverse the decision of the Building Official (or his representative), and CBS should be allowed to repair the Sign pursuant to Section 29-86(b) of the Zoning Regulations.

Very truly yours,

A handwritten signature in black ink that reads "Richard L. Rothfelder /go". The signature is written in a cursive, flowing style.

Richard L. Rothfelder

:jld
Enclosures

bc: Randy Jackson
CBS Outdoor, Inc.
1600 Studemont
Houston, Texas 77007

Via Email

David Posy
CBS Outdoor, Inc.
405 Lexington Ave, 17th Fl.
New York, NY 10174

Via Email

Don Bosley
CBS Outdoor, Inc.
1600 Studemont
Houston, Texas 77007

Via Email

ZONING BOARD OF ADJUSTMENTApplication Due: 01/06/10
Hearing Date: 02/03/10
(please confirm)

Case No.: _____

Please Print or Type

I. APPLICANT INFORMATIONAPPLICATION STATUS (Check One): ☐ Owner ☒ Tenant ☐ Prospective Buyer

Property Owner must sign the application or submit a notarized letter of authorization. c/o Attorney Richard
CBS Outdoor, Inc. Rothfelde
Applicant Name (713) 220-2288
Telephone

1600 Studemont, Houston, TX 77007 rrothfelder@swbell.net
Mailing Address E-mail Address

OWNERSHIP (Check One): ☐ Individual ☒ Corporation ☐ Partnership ☐ Trust
If ownership is a trust or corporation, list the partners or principle, their address and positions on a separate attachment

J.A.Z. Trust
Property Owner Name (409) 740-2590
Telephone

P.O. Box 1584 Galveston, TX 77553
Mailing Address E-mail Address

Representative Name ()
Telephone

Mailing Address E-mail Address

II. PROPERTY INFORMATION

6127 Broadway
Street Address/Location Current Zoning District Category

Billboard located on private property
Legal Description (Lot and Block Number)

Present Use and Improvement on Property

Has a previous application been filed on this property? ☒ No ☐ Yes If Yes, Date and Case No.: _____

III. REQUESTED ACTION☐ Special Exceptions☐ VarianceApplicable section(s) of the Zoning Standards: ~~Section 29-86 & Appeal under Section 29-112~~

Specifically state the Special Exception/Variance requested (i.e., from 100 square foot sign to 200 square foot sign):

CBS Outdoor, Inc. seeks permission to repair its storm damaged sign, as the cost to repair is less than 60% of the cost to replace it, in compliance with Section 29-86(b). Please see attached for further information.

IV. APPLICANT'S JUSTIFICATION FOR THE REQUEST - REQUIRED (i.e., grandfathered structure built up to property lines, off-street parking cannot be provided on the property) (attach additional pages if necessary)

CBS Outdoor, Inc. contends Section 29-86(b) is applicable, and allows it to repair its storm-damaged sign. Please see attached for further information.

ANY OTHER PERTINENT INFORMATION TO SUPPORT SAID REQUEST SHOULD ALSO BE ATTACHED.

ATTEST: I certify that ☐ I am the legal owner or record; ☒ I have secured the property owner's permission and have full authority to make this application and/or appeal.

Richard L. Rothfelder, Attorney for
Printed Name and Signature of Applicant CBS Outdoor, Inc.

1/5/10

Date

Richard L Rothfelder / JR
Printed Name and Signature of Property Owner

Date

V. APPLICANT CHECKLIST

- ☒ **Site Plan (to scale)** - with existing improvements, developments, and property lines
(25 copies [8-1/2x11] if larger than 8-1/2x11, please fold to appropriate size)
- ☐ **Survey (to scale)** (2 copies) not available
- ☒ **Current Tax Receipts** - County tax office, 722 Moody (766-2481)
- ☐ **Title Report** (if land was purchased within the last 60 days) n/a
- ☒ **Non-Refundable Application Fee** \$ 300.00 (payable to the City of Galveston)

DEPARTMENTAL USE ONLY**Staff Checklist**

APPLICATION ACCEPTED BY: _____

DATE: _____

AMOUNT: _____

REMARKS: _____

☐ City Departments☐ Private Utilities☐ Galveston County Health District☐ Property Owners☐ Other: _____☐ Other: _____

Galveston Central Appraisal District

600 Gulf Freeway Suite 113, Texas City, TX 77591, (866) 277-4725

Data on this Web site represents CERTIFIED 2009 Information (Click HISTORY for

[Home](#)

Your search returned 15 matches

[Show Legal Description](#)

[General Information](#)

[News](#)

[FAQ](#)

[Searches](#)

[Property ID Search](#)

[Account Search](#)

[Owner Search](#)

[Address Search](#)

[Advanced Search](#)

[Other](#)

[Taxing Units](#)

[Neighborhoods](#)

[Abstracts](#)

[Subdivisions](#)

[Tax Code](#)

[Calendar](#)

[County Tax Rates](#)

[Property Codes](#)

[Links](#)

[County Tax Office](#)

[County Clerk Deeds](#)

[Forms](#)

[GIS Map Viewer](#)

[GIS Shape Files](#)

[PDF Map Index](#)

[3D Aerial Photos](#)

[Website Feedback Form](#)

[2009 Roll Zip File](#)

Property Search Results

Property ID	Owner Name	Situs Address	Value
R136278	CBS INVESTMENTS INC	831 W MAIN ST LEAGUE CITY, TX 77573	In Progress
P292523	CBS METALS INC	202 20TH ST S TEXAS CITY, TX 77590	In Progress
P237529	CBS OUTDOOR INC	@VARIOUS LOCATIONS DICKINSON, TX 77539	In Progress
P240032	CBS OUTDOOR INC	@VARIOUS LOCATIONS LEAGUE CITY, TX 77573	In Progress
P287916	CBS OUTDOOR INC	@VARIOUS LOCATIONS GALVESTON, TX 77550	In Progress
P374807	CBS OUTDOOR INC	@VARIOUS LOCATIONS KEMAH, TX 77565	In Progress
P440070	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440071	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440072	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440073	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440074	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440075	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440076	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440077	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress
P440078	CBS OUTDOOR INC	@VARIOUS LOCATIONS	In Progress

Galveston Central Appraisal District

600 Gulf Freeway Suite 113, Texas City, TX 77591, (866) 277-4725

Data on this Web site represents CERTIFIED 2009 Information (Click HISTORY for

[Home](#)

[General Information](#)

[News](#)

[FAQ](#)

[Searches](#)

[Property ID Search](#)

[Account Search](#)

[Owner Search](#)

[Address Search](#)

[Advanced Search](#)

[Property Data](#)

[Detail Sheet](#)

[Datasheet](#)

[Other](#)

[Taxing Units](#)

[Neighborhoods](#)

[Abstracts](#)

[Subdivisions](#)

[Tax Code](#)

[Calendar](#)

[County Tax Rates](#)

[Property Codes](#)

[Links](#)

[County Tax Office](#)

[County Clerk Deeds](#)

[Forms](#)

[GIS Map Viewer](#)

[GIS Shape Files](#)

[PDF Map Index](#)

[3D Aerial Photos](#)

[Website Feedback Form](#)

[2009 Roll Zip File](#)

[History](#)

[GIS Map](#)

[Datasheet](#)

Owner Information

Owner ID: **O0027205**

Owner Name: **CBS OUTDOOR INC**

Owner Address: **1515 BROADWAY, 49TH FLOOR
NEW YORK, NY 10036**

Property Address: **@VARIOUS LOCATIONS
GALVESTON, TX 77550**

Parcel Information

Legal Description: **BUSINESS PERSONAL PROPERTY - BILLBOARDS IN
GALVESTON GISD**

Neighborhood: **()**

Acreage:

Cross Reference: **8600-0633-5026-040**

Undivided Interest: **100%**

Exemption Codes:

Entity Codes: **GGA (Galveston County)
R01 (Road Dist #1)
J01 (Galv College)
N01 (Nav District #1)
RFL (Co Road & Flood)
S10 (Galveston Isd)
C30 (Galveston City)**

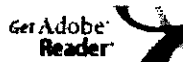
Deed Type:

Deed Book:

Deed Page:

Map Page:

[Click here](#) to view your 2009 certified values and prior history.



* Adobe Acrobat Reader 5.0 (minimum) is required to view pdf documents. Acrobat Reader is a free program available [here](#).



Galveston County Tax Office

Wednesday, December 23 109

Property Tax Statement

[Begin a New Search](#) [Go to Your Portfolio](#)

[\[Tax Statement\]](#)

Unless otherwise noted, all data refers to tax information for 2009. All amounts due include penalty, interest, and attorney fees when applicable.

Account Number: 860006335026040

Pending Internet Payments:
No Credit Card Payment Pending

Address:
CBS OUTDOOR INC
1515 BROADWAY, 49TH FLOOR
NEW YORK, NY 10036

[Pay by Credit Card or E Check](#)

Property Site Address:
@VARIOUS LOCATIONS
77550

Market Value: \$240,100

Land Value: \$0

Legal Description:
BUSINESS PERSONAL PROPERTY - BILLBOARDS
IN GALVESTON GISD

Improvement Value: \$240,100

Capped Value: \$0

Current Tax Levy: \$6,211.32

Agricultural Value: \$0

Current Amount Due: \$6,211.32

Exemptions: None

Prior Year Amount Due: \$0.00

[Exemption and Tax Rate Information](#)

Total Amount Due: \$6,211.32

[Taxes Due Detail by Year and Jurisdiction](#)

Last Payment Amount for Current Year Taxes:
Not Received

[Payment Information](#)

Last Payer for Current Year Taxes:
Not Received

Last Payment Date for Current Year Taxes:
Not Received

[Click Here](#) to see your estimated amount due for a future date. You can see this information by year and by both year and jurisdiction.

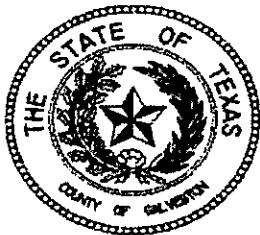
[Return to Galveston County Homepage](#)

GALVESTON COUNTY TAX OFFICE
P.O. Box 1169

Disclaimer: The Galveston County Tax Office provides this World Wide Web (WWW) site information and services "as is" without warranty of any kind, either expressed or implied. The Galveston County Tax Office does not warrant the accuracy, authority, completeness, usefulness, timeliness, or fitness for a particular purpose of its information or services. The Galveston County Tax Office, its officials and

GALVESTON, TX 77553-1169
(409) 766-2481
(877) 766-2284

employees shall not be liable for any loss or injury caused in whole or part by its negligence,
contingencies, beyond its control, loss of data, or errors or omissions in the WWW site information or
services.
©2002-2006 Appraisal & Collection Technologies. All rights reserved.



Galveston County Tax Office

Wednesday, December 23 109

Jurisdiction Information

[Begin a New Search](#) [Go to Your Portfolio](#)

[Return to the Previous Page](#)

Jurisdiction Information for 2009

Account No.: 860006335026040

Exemptions: None

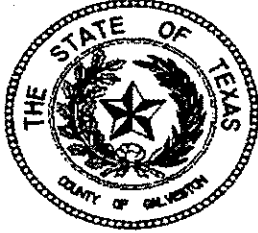
Jurisdictions	Market Value	Exemption Value	Taxable Value	Tax Rate	Levy
GALV CITY	\$240,100.00	\$0.00	\$240,100.00	0.554	\$1,330.15
GALVESTON CO	\$240,100.00	\$0.00	\$240,100.00	0.6186	\$1,485.26
GALVESTON COLL	\$240,100.00	\$0.00	\$240,100.00	0.19	\$456.19
GALVESTON ISD	\$240,100.00	\$0.00	\$240,100.00	1.165	\$2,797.17
NAVIG DIST #1	\$240,100.00	\$0.00	\$240,100.00	0.04797	\$115.18
ROAD & FLOOD	\$240,100.00	\$0.00	\$240,100.00	0.0114	\$27.37

[Return to Galveston County Homepage](#)

GALVESTON COUNTY TAX OFFICE
P.O. Box 1169
GALVESTON, TX 77553-1169
(409) 766-2481
(877) 766-2284

Disclaimer: The Galveston County Tax Office provides this World Wide Web (WWW) site information and services "as is" without warranty of any kind, either expressed or implied. The Galveston County Tax Office does not warrant the accuracy, authority, completeness, usefulness, timeliness, or fitness for a particular purpose of its information or services. The Galveston County Tax Office, its officials and employees shall not be liable for any loss or injury caused in whole or part by its negligence, contingencies, beyond its control, loss of data, or errors or omissions in the WWW site information or services.

©2002-2006 Appraisal & Collection Technologies. All rights reserved.



Galveston County Tax Office

Wednesday, December 23 109

Taxes Due Detail by Year

[Begin a New Search](#) [Go to Your Portfolio](#)

[Return to the Previous Page](#) [Taxes Due by Jurisdiction](#)

Taxes Due as of Wed Dec 23 10:32:38 CST 2009

Account No.: 860006335026040

* Additional Collection Costs

		as of December 31, 2009		as of January 31, 2010		as of February 28, 2010	
Year	Base Tax Due	Penalty, Interest, and ACC* Due	Total Due	Penalty, Interest, and ACC* Due	Total Due	Penalty, Interest, and ACC* Due	Total Due
2009	\$6,211.32	\$0.00	\$6,211.32	\$0.00	\$6,211.32	\$434.79	\$6,646.11
Total Amount Due:	\$6,211.32	\$0.00	\$6,211.32	\$0.00	\$6,211.32	\$434.79	\$6,646.11

[Return to Galveston County Homepage](#)

GALVESTON COUNTY TAX OFFICE
P.O. Box 1169
GALVESTON, TX 77553-1169
(409) 766-2481
(877) 766-2284

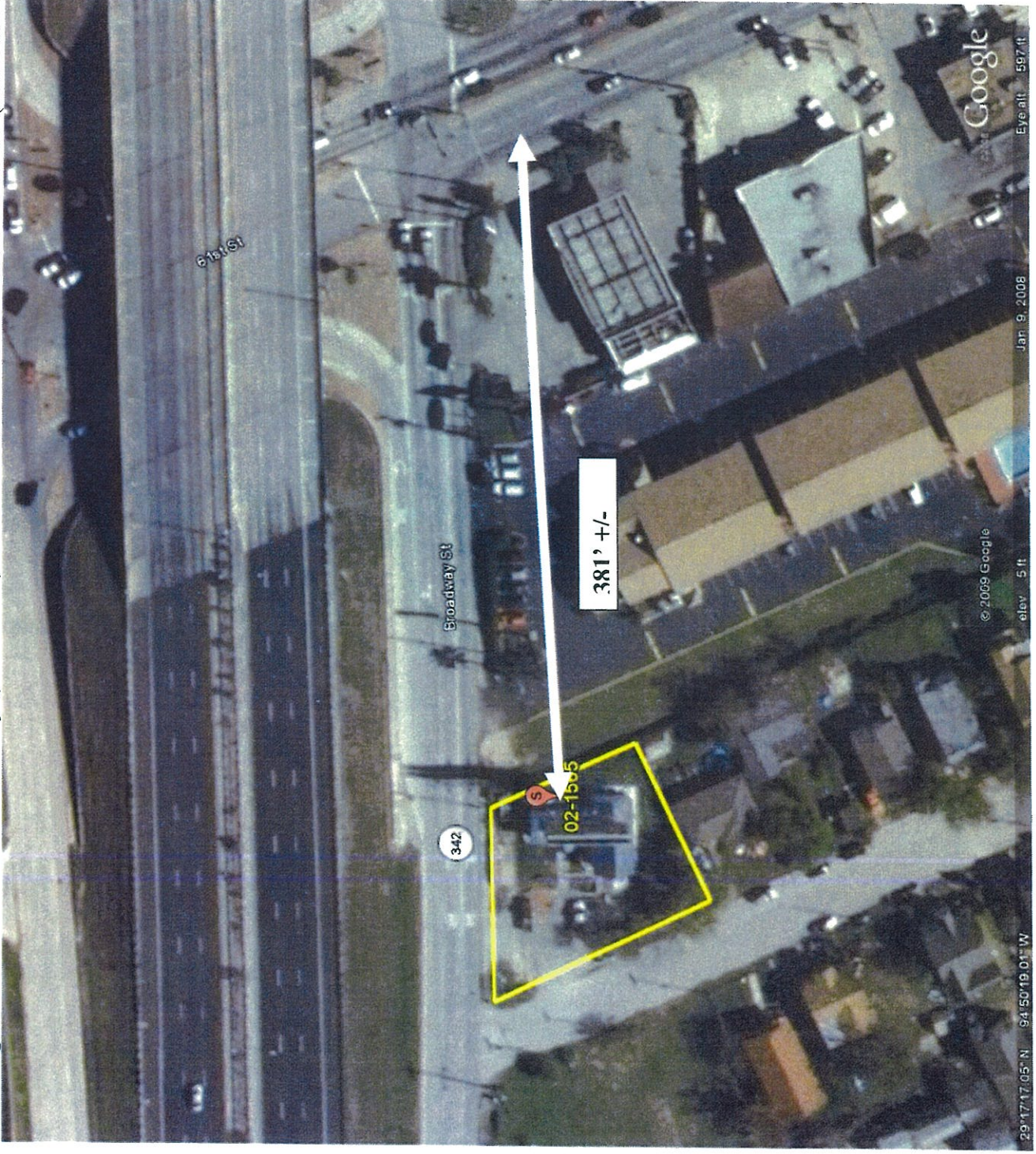
Disclaimer: The Galveston County Tax Office provides this World Wide Web (WWW) site information and services "as is" without warranty of any kind, either expressed or implied. The Galveston County Tax Office does not warrant the accuracy, authority, completeness, usefulness, timeliness, or fitness for a particular purpose of its information or services. The Galveston County Tax Office, its officials and employees shall not be liable for any loss or injury caused in whole or part by its negligence, contingencies, beyond its control, loss of data, or errors or omissions in the WWW site information or services.

©2002-2006 Appraisal & Collection Technologies. All rights reserved.

CBS Sign location: 6127 Broadway (Avenue J) Galveston, TX: CBS Lease 02-1565 (Also see attached)



CBS Sign location: 6127 Broadway (Avenue J) Galveston, TX: CBS Lease 02-1565 (Also see attached)



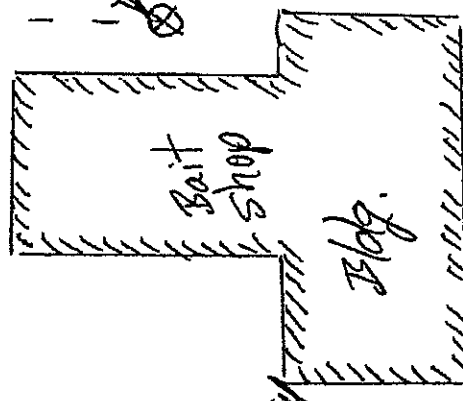


I-45 →

Broadway (I-45 Frontage Road) →

Approx 381' to 615' S

CBS Outdoor
Sign Pole
Location
(existing)



Bait
Shop

Bldg.

Address:
6127 Broadway
Galveston TX

62nd Street

Existing
CBS Sign Location
for 6127 Broadway
Galveston, TX

Richard Rothfelder

From: Barbara Baruch [BaruchBar@cityofgalveston.org]
Sent: Friday, January 08, 2010 12:59 PM
To: rrothfelder@swbell.net
Subject: re CBS Outdoor Inc. appeal

Richard, your appeal to ZBA is written with regard to an old ordinance, since replaced. Do you want to proceed with that argument or revise based on the ordinance in effect since April 9, 2009? I leave early today so call me before three (or e mail). Barbara

The information in this e mail is confidential and meant only for the recipient indicated. If you believe that it was not intended for you, please call me to let me know.

Barbara Toby Baruch
Assistant City Attorney, City of Galveston, Texas
823 Rosenberg, Ste 203
POB 779
Galveston, TX 77553
409 797-3532
409 797-3531 FAX



fax 713-658-8211
Jana Dundas
e mail 713 220 2289

ORDINANCE NO. 09-021

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING SECTION 29-84 "ADVERTISING SIGNS (BILLBOARDS)" OF THE ZONING REGULATIONS 1991 OF THE CITY OF GALVESTON REGARDING MODIFICATION TO THE PROVISIONS RELATING TO THE REPAIR, REMOVAL AND RELOCATION OF OFF-PREMISE SIGNS DAMAGED OR DESTROYED MORE THAN 60 PER CENT WITHIN THE CITY OF GALVESTON AND THE CITY OF GALVESTON'S EXTRATERRITORIAL JURISDICTION (ETJ); AND REQUEST TO AMEND THE GALVESTON ZONING STANDARDS SECTION 29-86: CONTINUATION OF NON-CONFORMING SIGNS RELATING TO THE REMOVAL OF SIGNS DAMAGED OR DESTROYED MORE THAN 60 PERCENT AND UPON CEASE OF USE OR BUSINESS OPERATION IN THE CITY OF GALVESTON; PLANNING CASE 09ZA-07; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, Staff recommends that Galveston Zoning Standards: Section 29-84 should be amended and clarified with regard to the repair of legally nonconforming Billboards that are deteriorated, damaged or destroyed more than 60 per cent, and Section 29-86 should be amended and clarified with regard to the removal of legally non conforming on premise signs damaged or destroyed more than 60% and upon cease of use or business operation, as set out in the Staff Report attached hereto as **Exhibit 1** and incorporated herein for all purposes; and

WHEREAS, state law does not protect Billboards or on-premise signs that are damaged or destroyed so that the cost of repairing the Billboard or the on- premise sign exceeds 60% of the cost of erecting a new sign of the same type at the same location, therefore, the City may prohibit their repair and require their removal without permitting them to be relocated within the City or the City's extraterritorial jurisdiction (ETJ). Additionally, state law does not protect on-premise signs after the business, person, or activity ceases to operate on the premise for a specified duration therefore the City may require their removal; and

WHEREAS, the City has prohibited Billboards since October 29, 1997, however, there are still legal, non-conforming Billboards in the City of Galveston and within the City's ETJ which should be removed if they are damaged or destroyed so that the cost of repair exceeds 60% of the cost of erecting a new sign of the same type at the same location as determined by the Building Inspector. Staff's proposed changes to Section 29-84 provide for that determination, and clarifies the conditions for repair or removal of Billboards, makes the Billboard owner and the owner of the property on which it is placed liable for failure to remove Billboards that may not be repaired, and clarifies the permit requirements for legal, non-conforming Billboards; and,

WHEREAS, legal, non conforming on-premise signs should be removed if they are damaged or destroyed so that the cost of repair exceeds 60% of the cost of erecting a



new on-premise sign of the same type at the same location, or if the business, person or activity ceases to operate for one year or as provided by state law. Staff's proposed changes to Section 29-86 provide for those determinations, clarifies the conditions for repair or removal of such signs, and makes the sign owner and the owner of the premises liable for failure to remove a non-conforming on-premise sign that may not be repaired;

WHEREAS, at its regular meeting of April 7, 2009, the Galveston Planning Commission will consider these proposed recommendation, which will be reported to City Council; and

WHEREAS, after notice and public hearing as required by law, the City Council finds that it is in the public interest to amend Section 29-84 "Advertising Signs (Billboards)" of the Galveston Zoning Regulations 1991 and Section 29-86: Continuation of Non-Conforming On-Premise Signs as recommended by Staff;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS:

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Section 29-84: "Advertising Signs (Billboards)" of Zoning Regulations 1991 is hereby amended to read and provide as follows:

Section 29-84: ADVERTISING (Billboards) (Ord. 08-027)

(a) Definitions

- (1) As used in ~~these regulations~~, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager.
- (2) As used in ~~these regulations~~, "Department of Planning and Community Development" shall mean the Department of Planning and Community Development, or designee, or any other person designated by the City Manager.
- (3) As used in this section, ~~sign~~ **Billboard** means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designated, intended or used to advertise or inform. ~~Sign~~ **Billboard** shall include ~~on-premise~~ off-premise signs ~~only~~.

~~(4) On-premise means a sign identifying a business, organization, or person, to be installed and maintained on the same premises as the business, organization, or person.~~

(4) "Off-premise sign" means a sign displaying advertising copy that remains to business hours of operation, is illuminated, and is not a service sign located on the premises of the business to which the sign refers.

(5) "Electronic sign" means a sign, display or device that changes its message or copy by programmable mechanical or electronic processes. The use of an electronic image on a digital display device is not the use of a flashing, intermittent or moving light for the purposes of these regulations. Any flashing intermittent or moving light or lights including any type of screen using animated or scrolling displays except those giving only public service information such as time, date, temperature, weather or similar information is prohibited.

(b) Permits

(1) The City shall not issue permits for the construction of new ~~signs~~ **Billboard**. ~~Any sign that is not a billboard shall be subject to the provisions of the sign regulations. Any sign that is a billboard shall be subject to the provisions of the billboard regulations. The City may issue permits for the erection of legal non-conforming billboards that existed on October 29, 1997, and the provisions of this section. A billboard that is not a legal non-conforming billboard shall be subject to the provisions of the billboard regulations.~~

(2) The City shall charge an annual permit fee of thirty-five dollars (\$35.00) for each off-premise ~~sign~~ **Billboard**. The annual permit fee shall be non-refundable and shall be non-transferable to a different location. If any ~~sign~~ **Billboard** owner fails to obtain the required permit, the ~~sign~~ **Billboard** owner shall be subject to the penalties prescribed for violations of ~~the Code~~ **these regulations** and in addition shall pay double the amount of the permit fee. If a ~~sign~~ **Billboard** owner wishes to transfer a permit to another person or entity, the ~~sign~~ **Billboard** owner shall notify, in writing, the Department of Planning and Community Development. The Department of Planning and Community Development shall void the original ~~sign~~ **Billboard** permit and issue a new ~~sign~~ permit to the new owner. No transfer shall be valid until accepted by the Department of Planning and Community Development.

(3) ~~Any legally existing non-conforming billboard in existence on the effective date of this ordinance may continue to lawfully exist. However, if a legally existing non-conforming billboard is blown down or otherwise destroyed such that the cost of repairing the billboard using all new materials is more than 60% of the cost of erecting a new billboard of the same type at the same location using all new materials as computed by the Building Inspector, the billboard owner and the owner of the property on which it is placed shall each be responsible to remove the billboard. If the billboard is damaged such that the cost of repairing the billboard using all new materials as computed by the~~

Building Inspector, or 60% of the cost of erecting a new Billboard of the same type at the same location, then any repairs shall be done in compliance with the regulations of all applicable ordinances. In the event of conflict between this section and the Texas Local Government Code, Chapter 216, as amended, the Texas Local Government Code shall prevail.

(c) **Extraterritorial Jurisdiction (ETJ)**

- (1) The City prohibits the construction of new, off premise, or billboard electronic signs along state highways within the City's extraterritorial jurisdiction, and will not issue permits for such signs. Additionally, the City prohibits the conversion, replacement or repair of existing off premise or billboard off premise sign Billboard to become electronic signs within the City's extraterritorial jurisdiction and will not issue permits for such conversion, replacement or repair.

(d) **Site provisions for Billboard**

- (1) Any sign Billboard that is relocated or replaced at the same location shall be the same size or smaller than the original sign. However, in no event shall the relocated or replaced Billboard exceed the sizes set forth in section below three below.
- (2) Area: Regardless of the size of the off premise sign being relocated, the relocated off premise sign Billboard may not exceed
- (3) Area: Legally non conforming Billboards shall not exceed fourteen feet (14') by forty-eight FEET (48'), excluding cutout extensions and apron trip without copy. The cumulative area of all extensions on any Billboard shall not exceed 20% of the area of the sign Billboard, excluding extensions and apron trim without copy.
- (3) Height: Regardless of the height of the off premise sign being relocated, the relocated off premise sign Billboard shall not exceed a maximum height of forty feet (40'). The height shall be measured from the crown of the adjacent roadway to which the sign Billboard is oriented. However, the Department of Planning and Community Development may issue a permit for an off premise sign Billboard whose height exceeds forty feet (40'), but is less than fifty feet (50') if the Department of Planning and Community Development determines that the off premise sign Billboard, at the lower height, would block an existing sign or structure from view, or would itself be blocked from view. The Department of Planning and Community Development shall provide a written determination to the sign Billboard owner. If the sign Billboard owner disagrees with the Department of Planning and Community Development's determination, the Billboard owner may notify the Director Planning and Community Development Transportation of the sign Billboard owner's desire to appeal the determination to City Council. Such notice of appeal must be filed with the Department of Planning and Community Development no later than the 60th day

after the date of the Department of Planning and Community Development's written decision.

- (4) Setbacks: A minimum setback of ten (10') feet from the right-of-way of the street to which the ~~sign~~ **Billboard** is oriented shall be required for any part of the ~~sign~~ **Billboard** and its supporting structure. As used in this sub-section only, "street" does not include alleys.

~~(5) Conversion to Electronic Signs: Any sign that is permitted to be repaired or replaced within the City of Galveston through the provisions of this section may not be converted to, or built as, an electronic sign.~~

- (5) Conversion to Electronic Signs:** Any sign that is permitted to be repaired ~~or replaced~~ within the City of Galveston through the provisions of this section may not be converted to, or built as, an electronic sign.

- (e) Traffic Control Conflicts: No ~~sign~~ **Billboard** ~~which resembles an official marker erected by any governmental agency, or which by reason of position, shape, color or illumination would obstruct from clear view any traffic signal or sign.~~
- (f) Illumination: It shall be unlawful for any person to erect, operate, or otherwise use any ~~sign~~ **Billboard** which is of a rotating nature or displays intermittent lights. If this section conflicts with Section 29-81, "Sign Regulations" of the "Zoning Regulations 1991" this section (f) shall prevail as to ~~signs~~ **Billboards**.
- (g) Motion: Signs ~~Billboards~~ shall not be permitted to revolve or rotate. ~~Any sign that is permitted to be repaired or replaced within the City of Galveston through the provisions of this section may not be converted to, or built as, an electronic sign.~~
- (h) Roof Mounted Sign: Roof mounted ~~signs~~ **Billboards** shall not be permitted.
- (i) Maintenance: ~~Sign~~ **Billboard** owners shall maintain all signs in good appearance and safe structural condition. ~~Sign~~ **Billboard** owners shall keep the general vicinity of any sign free and clear of sign materials, weeds, debris, trash and litter. ~~Sign~~ **Billboard** owners shall conduct maintenance, replacement of sign copy, or structural repairs in a manner that will prevent debris and litter from drifting or being blown onto adjacent properties.
- (j) Registration: ~~Within thirty (30) days from the effective date of this Ordinance, April 1, 1997, owners of all existing signs~~ **Billboards** situated in any location in the city limits shall register each ~~sign~~ **Billboard** with the office of the Building Official. Such registration shall be accomplished by filing, on forms prescribed for such purpose, information as to the location, height and area of each ~~sign~~ **Billboard**. Owners shall keep such registration current and shall make a similar filing as to each ~~sign~~ **Billboard** erected, demolished or torn down within thirty (30) days from the happening of such event.

SECTION 3. Section 29-86: "Continuation of Non-Conforming On-Premise Signs" of Zoning Regulations 1991 is hereby amended to read and provide as follows:

Section 29-86: CONTINUATION OF NON-CONFORMING ON-PREMISE SIGNS

(a) Definitions

(1) ~~As used in this section, "Sign" means any outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform that is an on-premise sign and off-premise sign only.~~

(2) As used in this section, "Sign" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, ~~billboard~~, or other thing that is designed, intended, or used to advertise or inform that is an on-premise sign.

(b) Any legally existing non-conforming ~~on-premise sign~~ in existence on the effective date of Ordinance No. 97-02, October 29, 1997 may continue to lawfully exist ~~even if the sign is damaged or destroyed, provided that the sign is repaired or replaced within 60 days of the date of damage or destruction. The sign must be repaired or replaced with a sign of the same type and size as the original sign at the same location as committed by the Building Department.~~

~~(2) The sign owner and the owner of the business person or activity ceased to operate on the premises~~

~~at which time the on-premise sign must be removed.~~

However, if a legally existing non-conforming sign is ~~not damaged or~~ destroyed such that the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location, the sign owner ~~may~~ shall repair, remove or relocate the sign. All repairs shall be done so as to comply with the regulations of all applicable ordinances. ~~All repairs shall be done in accordance with all applicable ordinances including Ordinance No. 97-02.~~

~~(c) The owner of the sign and the owner of the premises are each liable for the failure to remove a non-conforming on-premise sign. In the event of a conflict~~

~~between this section and the Texas Local Government Chapter 216, the Texas Local Government Code shall prevail.~~

SECTION 4. The violation of any provision of this Ordinance shall be unlawful and a misdemeanor offense punishable by a fine not exceeding Five Hundred Dollars (\$500.00) each day a violation of this Ordinance continues shall constitute a separate offense.

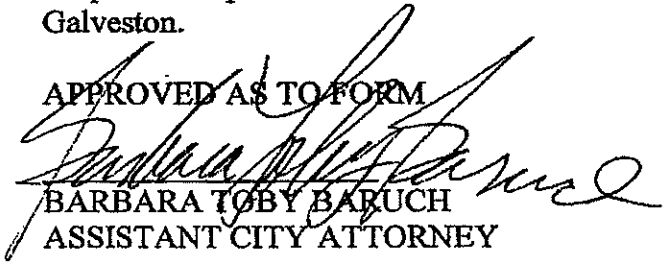
SECTION 5. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 6. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 7. In accordance with the provisions of Section 12 and 13 of Article II of the City Charter, this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 8. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM


BARBARA TOBY BARUCH
ASSISTANT CITY ATTORNEY

I, Barbara S. Lawrence, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on the 9th day of April, 2009, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this ____ day of _____, 2009.

Secretary for the City Council
of the City of Galveston

EXHIBIT 1

TITLE OF ITEM AS IT IS TO APPEAR ON CITY COUNCIL AGENDA

Public Hearing and request for Ordinance, request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ). Request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston.

Applicant: Department of Planning and Community Development
Planning Case: 09ZA-07

AGENDA DATE REQUESTED: April 9, 2009

IS AN ORDINANCE OR RESOLUTION REQUIRED? X YES NO

<u>STAFF REVIEW</u>	<u>DATE</u>	<u>APPROVED</u>	<u>SIGNATURE</u>
DEPARTMENT HEAD REQUESTING ITEM	<u>4/2/2009</u>	<u>✓</u>	<u>[Signature]</u>
ARE OTHER DEPARTMENTS AFFECTED?	<u> </u> YES <u> </u> NO	<u>X</u>	<u> </u>
IF YES, LIST AND OBTAIN THEIR APPROVAL:			

	<u>YES</u>	<u>NO</u>	
<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>FINANCE DIRECTOR:</u>	<u> </u>	<u> </u>	<u> </u>

COMMENTS:

CITY ATTORNEY: 4/2/09

COMMENTS:

ASSISTANT CITY MANAGER:

COMMENTS:

CITY MANAGER: 4/3/09 [Signature]

COMMENTS:

NAME OF COUNCIL MEMBER DISTRICT IS AFFECTED: All Districts

IF NECESSARY, HAVE YOU NOTIFIED YES X NO

FISCAL POLICY STATEMENT ATTACHED? X YES NO

HAS ALL APPROPRIATE ADVERTISING BEEN COMPLETED? X YES NO



09ZA-07 Request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ). Request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston.

Applicant: Department of Planning and Community Development

Advertisement Date:

Planning Commission: March 26, 2009

City Council: March 26, 2009

City Department Notifications:

Airport:	Pending
Building Department:	Pending
Fire Department:	Pending
Fire Marshal:	Pending
Police Department:	Pending
Public Works Department:	Pending

Private Utility Notifications:

A.T. & T:	Pending
Centerpoint Energy:	Pending
Comcast Communication:	Pending
Texas Gas Service:	Pending

ANALYSIS

The proposed regulations provide clarification relating to the repair of legally non-conforming signs that are deteriorated, damaged or destroyed at a minimum of 60 per cent. These sign regulations are located in two different sections of the Galveston Zoning Standards: Section 29-84 and Section 29-86. Section 29-84 relates to advertising or billboard signs; and, Section 29-86 relates to on-premise signage. Per state law, if a legally non-conforming sign is damaged such that the cost of repairing the sign using all new materials is 60 per cent or less of the cost of erecting a new sign, the sign may be repaired and kept at the same location. However, if the cost of repairing the sign using all new materials is more than 60 per cent of the cost of erecting a new sign of the same type at the same location using all new materials, the sign must be constructed to meet current regulations or removed if no longer permitted under the regulations.

Furthermore, the proposed regulations also provide for removal of signs upon cease of business operation. This will allow removal of obsolete signs that are no longer utilized for business purposes but do not meet the qualifications for severely damaged or destroyed signs. State law provides the framework for municipalities to require removal of such signs and the proposed regulations reflect those requirements.

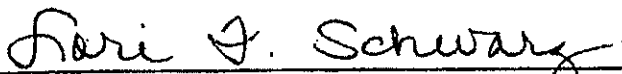
PLANNING COMMISSION

The Planning Commission will hear this Zoning amendment request at the regular meeting of April 7, 2009. The recommendation will be presented to City Council at the April 9, 2009 meeting.

STAFF RECOMMENDATION:

Staff recommends approval of the request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ); and the request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston, be approved as shown in Attachments A and B.

Respectfully Submitted,



Lori Feild Schwarz, Planning Division Head/HPO
Department of Planning and Community Development

4/2/09
Date



Wendy O'Donohue, Director
Department of Planning and Community Development

4/2/09
Date


Brandon Wade, Deputy City Manager

Date



Steven J. LeBlanc, City Manager

4/3/09
Date

ATTACHMENTS

"A" – Section 29-84 ADVERTISING (Billboards)

"B" – Section 29-86: Continuation of Non-Conforming Signs

FISCAL NOTES STATEMENT

Source of Request:

Request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ). Request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston.

Applicant: Department of Planning and Community Development

Amount of Expenditure:

Minimal administrative costs associated with processing request.

Estimated Revenue:

No revenue will be realized.

Vendor History:

Not applicable.

Section 29-84: ADVERTISING (Billboards) (Ord. 08-027)

(a) Definitions

- (1) As used in ~~this section~~ these regulations, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager.
- (2) As used in ~~this section~~ these regulations, "Department of Planning and Community Development" shall mean the Department of Planning and Community Development, or designee, or any other person designated by the City Manager.
- (3) As used in this section, ~~sign~~ "Billboard" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designated, intended or used to advertise or inform. "Sign" "Billboard" shall include ~~on-premise or off-premise signs~~ only.
- (4) ~~"On-premise" means a sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.~~
- (5) ~~"Off-premise sign" means a sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.~~
- (4) "Electronic sign" means a sign, display or device that changes its message or copy by programmable mechanical or electronic processes. The use of an electronic image on a digital display device is not the use of a flashing, intermittent or moving light for the purposes of these regulations. Any flashing intermittent or moving light or lights including any type of screen using animated or scrolling displays except those giving only public service information such as time, date, temperature, weather or similar information is prohibited.

(b) Permits

- (1) The City shall not issue permits for the construction of new ~~off-premise signs~~ Billboards. ~~The City shall issue permits for the repair, reconstruction, or replacement of legal, conforming or non-conforming off-premise signs that exist on the effective date of this Ordinance. An off-premise sign permit shall be valid at the sign location for twelve (12) months unless sooner revoked or canceled.~~ The City may issue permits for the repair of legal, non-conforming Billboards that existed on October 29, 1997 per the provisions of this section. A Billboard permit shall be valid at the sign location for twelve (12) months unless sooner revoked or canceled.
- (2) The City shall charge an annual permit fee of thirty-five dollars (\$35.00) for each off-premise ~~sign~~ Billboard. The annual permit fee shall be non-refundable and shall be non-transferable to a different location. If any ~~sign~~ Billboard owner fails to obtain the required permit, the ~~sign~~ Billboard owner shall be subject to the penalties prescribed for violations of this Code these regulations and in addition shall pay double the amount of the permit fee. If a ~~sign~~ Billboard owner wishes to transfer a permit to another person or entity, the ~~sign~~ Billboard owner shall notify, in writing, the Department of Planning and Community Development. The Department of Planning and Community Development

shall void the original sign Billboard permit and issue a new sign permit to the new owner. No transfer shall be valid until accepted by the Department of Planning and Community Development.

(3) Any legally existing, non-conforming Billboard in existence on the effective date of this ordinance may continue to lawfully exist. However, if a legally existing non-conforming Billboard is blown down or otherwise destroyed such that the cost of repairing the Billboard using all new materials is more than 60% of the cost of erecting a new Billboard of the same type at the same location using all new materials as computed by the Building Inspector, the Billboard owner and the owner of the property on which it is placed shall each be responsible to remove the Billboard. If the Billboard is damaged such that the cost of repairing the Billboard using all new materials as computed by the Building Inspector is 60% or less than the cost of erecting a new Billboard of the same type at the same location then any repairs shall be done in compliance with the regulations of all applicable ordinances. In the event of a conflict between this section and the Texas Local Government code, Chapter 216, as amended, the Texas Local Government Code shall prevail.

(c) Extraterritorial Jurisdiction (ETJ)

- (1) The City prohibits the construction of new, off premise, or billboard electronic signs along state highways within the City's extraterritorial jurisdiction, and will not issue permits for such signs. Additionally, the City prohibits the conversion, replacement or repair of existing ~~off premise or billboard off premise signs~~ **Billboards** to become electronic signs within the City's extraterritorial jurisdiction and will not issue permits for such conversion, replacement or repair.

(d) Site provisions for ~~off-premise signs~~ legally non conforming Billboards

- (1) Any sign **Billboard** that is ~~reconstructed or replaced~~ **repaired** at the same location shall be the same size or smaller than the original sign. However, in no event shall the ~~reconstructed or replaced~~ **repaired sign Billboard** exceed the sizes set forth in section two and three below.
- (2) Area: ~~Regardless of the size of the off premise sign being relocated, the relocated off-premise sign.~~ **Billboards may not be relocated.**
- (3) Area: Legally non conforming Billboards shall not exceed fourteen feet (14') by forty-eight FEET (48'), excluding cutout extensions and apron trip without copy. The cumulative area of all extensions on any ~~off-premise sign~~ **Billboard** shall not exceed 20% of the area of the sign **Billboard**, excluding extensions and apron trim without copy.
- (3) Height: ~~Regardless of the height of the off-premise sign being relocated, the relocated off-premise signs~~ **Billboards** shall not exceed a maximum height of forty feet (40'). The height shall be measured from the crown of the adjacent roadway to which the sign **Billboard** is oriented. However, the Department of Planning and Community Development may issue a permit for ~~an off-premise sign~~ **a Billboard** whose height exceeds forty feet (40'), but is less than fifty feet (50') if the Department of Planning and Community Development determines that the ~~off-premise sign~~ **Billboard**, at the lower height, would block an existing sign or structure from view, or would itself be blocked from view. The Department of Planning and Community Development shall provide a

written determination to the sign Billboard owner. If the sign Billboard owner disagrees with the Department of Planning and Community Development's determination, the sign Billboard owner may notify the Director Planning and Community Development Transportation of the sign Billboard owner's desire to appeal the determination to City Council. Such notice of appeal must be filed with the Department of Planning and Community Development no later than the 60th day after the date of the Department of Planning and Community Development's written decision.

- (4) Setbacks: A minimum setback of ten (10') feet from the right-of-way of the street to which the sign Billboard is oriented shall be required for any part of the sign Billboard and its supporting structure. As used in this sub-section only, "street" does not include alleys.
- ~~(5) Spacing: No off-premise sign shall be located closer than seven hundred (700') feet from any other off-premise sign on the same side of the street.~~
- (5) Conversion to Electronic Signs:** Any sign that is permitted to be repaired, ~~replaced or reconstructed~~ within the City of Galveston through the provisions of this section may not be converted to, or built as, an electronic sign.
- (e) Traffic Control Conflicts: No sign Billboard or message thereon shall be permitted which resembles an official marker erected by any governmental agency, or which by reason of position, shape, color or illumination would obstruct from clear view any traffic signal or sign.
- (f) Illumination: It shall be unlawful for any person to erect, operate, or otherwise use any ~~off-premise sign~~ sign Billboard which is of a rotating nature or displays intermittent lights. If this section conflicts with Section 29-81, "Sign Regulations" of the "Zoning Regulations 1991" this section (f) shall prevail as to ~~off-premise signs~~ Billboards.
- (g) Motion: Signs Billboards shall not be permitted to revolve or rotate. ~~Internal motion and movement of a portion of the sign shall be permitted provided the movement or motion is slow and continuous.~~
- (h) Roof Mounted Sign: Roof mounted ~~off-premise signs~~ Billboards shall not be permitted.
- (i) Maintenance: Sign Billboard owners shall maintain all signs in good appearance and safe structural condition. Sign Billboard owners shall keep the general vicinity of any sign free and clear of sign materials, weeds, debris, trash and litter. Sign Billboard owners shall conduct maintenance, replacement of sign copy, or structural repairs in a manner that will prevent debris and litter from drifting or being blown onto adjacent properties.
- (j) Registration: ~~Within thirty (30) days from the effective date of this Ordinance~~ After November 28th, 1997, owners of all ~~off-premise signs~~ Billboards situated in any location in the city limits shall register each sign Billboard with the office of the Building Official. Such registration shall be accomplished by filing, on forms prescribed for such purpose, information as to the location, height and area of each sign Billboard. Owners shall keep such registration current and shall make a similar filing as to each sign Billboard erected, demolished or torn down within thirty (30) days from the happening of such event.

Section 29-86: CONTINUATION OF NON-CONFORMING ON-PREMISE SIGNS

(a) Definitions

- (1) ~~As used in this section, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager.~~
"On-premise" means a sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.
- (2) As used in this section, "Sign" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform that is an "Sign" ~~shall include on-premise sign and off-premise signs only.~~
- (b) Any legally existing non-conforming on-premise sign in existence on the effective date of Ordinance No. 97-82 October 29, 1997 may continue to lawfully exist, ~~even if the sign does not conform to the provisions of Ordinance 97-82~~ unless and until:
- (1) the sign requires repairs costing more than 60% of the cost of erecting a new sign of the same type using all new materials at the same location as computed by the Building Inspector; or;
- (2) the first anniversary of the date the business, person, or activity ceased to operate on the premises
- at which time the on-premise sign must be removed.

However, if a legally existing non-conforming sign is not damaged or destroyed such that the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location, the sign owner may ~~shall repair, remove or relocate~~ the sign. All repairs shall be done so as to comply with the regulations of all applicable ordinances. ~~All relocations shall be done in accordance with all applicable ordinances, including Ordinance No. 97-82.~~

- (c) The owner of the sign and the owner of the premises are each liable for the failure to remove a non-conforming on-premise sign. In the event of a conflict between this section and the Texas Local Government

ORDINANCE NO. 09-021

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING SECTION 29-84 "ADVERTISING SIGNS (BILLBOARDS)" OF THE ZONING REGULATIONS 1991 OF THE CITY OF GALVESTON REGARDING MODIFICATION TO THE PROVISIONS RELATING TO THE REPAIR, REMOVAL AND RELOCATION OF OFF-PREMISE SIGNS DAMAGED OR DESTROYED MORE THAN 60 PER CENT WITHIN THE CITY OF GALVESTON AND THE CITY OF GALVESTON'S EXTRATERRITORIAL JURISDICTION (ETJ); AND REQUEST TO AMEND THE GALVESTON ZONING STANDARDS SECTION 29-86: CONTINUATION OF NON-CONFORMING SIGNS RELATING TO THE REMOVAL OF SIGNS DAMAGED OR DESTROYED MORE THAN 60 PERCENT AND UPON CEASE OF USE OR BUSINESS OPERATION IN THE CITY OF GALVESTON; PLANNING CASE 09ZA-07; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, Staff recommends that Galveston Zoning Standards: Section 29-84 should be amended and clarified with regard to the repair of legally nonconforming Billboards that are deteriorated, damaged or destroyed more than 60 per cent, and Section 29-86 should be amended and clarified with regard to the removal of legally non conforming on premise signs damaged or destroyed more than 60% and upon cease of use or business operation, as set out in the Staff Report attached hereto as **Exhibit 1** and incorporated herein for all purposes; and

WHEREAS, state law does not protect Billboards or on-premise signs that are damaged or destroyed so that the cost of repairing the Billboard or the on- premise sign exceeds 60% of the cost of erecting a new sign of the same type at the same location, therefore, the City may prohibit their repair and require their removal without permitting them to be relocated within the City or the City's extraterritorial jurisdiction (ETJ). Additionally, state law does not protect on-premise signs after the business, person, or activity ceases to operate on the premise for a specified duration therefore the City may require their removal; and

WHEREAS, the City has prohibited Billboards since October 29, 1997, however, there are still legal, non-conforming Billboards in the City of Galveston and within the City's ETJ which should be removed if they are damaged or destroyed so that the cost of repair exceeds 60% of the cost of erecting a new sign of the same type at the same location as determined by the Building Inspector. Staff's proposed changes to Section 29-84 provide for that determination, and clarifies the conditions for repair or removal of Billboards, makes the Billboard owner and the owner of the property on which it is placed liable for failure to remove Billboards that may not be repaired, and clarifies the permit requirements for legal, non-conforming Billboards; and,

WHEREAS, legal, non conforming on-premise signs should be removed if they are damaged or destroyed so that the cost of repair exceeds 60% of the cost of erecting a

new on-premise sign of the same type at the same location, or if the business, person or activity ceases to operate for one year or as provided by state law. Staff's proposed changes to Section 29-86 provide for those determinations, clarifies the conditions for repair or removal of such signs, and makes the sign owner and the owner of the premises liable for failure to remove a non-conforming on-premise sign that may not be repaired;

WHEREAS, at its regular meeting of April 7, 2009, the Galveston Planning Commission will consider these proposed recommendation, which will be reported to City Council; and

WHEREAS, after notice and public hearing as required by law, the City Council finds that it is in the public interest to amend Section 29-84 "Advertising Signs (Billboards)" of the Galveston Zoning Regulations 1991 and Section 29-86: Continuation of Non-Conforming On-Premise Signs as recommended by Staff;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS:

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2. Section 29-84: "Advertising Signs (Billboards)" of Zoning Regulations 1991 is hereby amended to read and provide as follows:

Section 29-84: ADVERTISING (Billboards) (Ord. 08-027)

(a) Definitions

- (1) As used in ~~this section these regulations~~, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager.
- (2) As used in ~~this section these regulation~~, "Department of Planning and Community Development" shall mean the Department of Planning and Community Development, or designee, or any other person designated by the City Manager.
- (3) As used in this section, ~~sign~~ **Billboard** means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designated, intended or used to advertise or inform. ~~Sign~~ **Billboard** shall include ~~on-premise or~~ off-premise signs ~~only~~.
- (4) ~~"On-premise" means a sign identifying or advertising a business, person or activity, and installed and maintained on the same premises as the business, person or activity.~~

~~(5) "Off premise sign" means a sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.~~

(4) "Electronic sign" means a sign, display or device that changes its message or copy by programmable mechanical or electronic processes. The use of an electronic image on a digital display device is not the use of a flashing, intermittent or moving light for the purposes of these regulations. Any flashing intermittent or moving light or lights including any type of screen using animated or scrolling displays except those giving only public service information such as time, date, temperature, weather or similar information is prohibited.

(b) Permits

(1) The City shall not issue permits for the construction of new off-premise signs ~~Billboards~~. ~~The City shall issue permits for the repair, reconstruction, or replacement of legal, conforming or non-conforming off-premise signs that exist on the effective date of this Ordinance. An off-premise sign permit shall be valid at the sign location for twelve (12) months unless sooner revoked or canceled. The City may issue permits for the repair of legal, non-conforming Billboards that existed on October 29, 1997 per the provisions of this section. A billboard permit shall be valid at the sign location for twelve (12) months unless sooner revoked or canceled.~~

(2) The City shall charge an annual permit fee of thirty-five dollars (\$35.00) for each off-premise ~~sign~~ **Billboard**. The annual permit fee shall be non-refundable and shall be non-transferable to a different location. If any ~~sign~~ **Billboard** owner fails to obtain the required permit, the ~~sign~~ **Billboard** owner shall be subject to the penalties prescribed for violations of this Code ~~these regulations~~ and in addition shall pay double the amount of the permit fee. If a ~~sign~~ **Billboard** owner wishes to transfer a permit to another person or entity, the ~~sign~~ **Billboard** owner shall notify, in writing, the Department of Planning and Community Development. The Department of Planning and Community Development shall void the original ~~sign~~ **Billboard** permit and issue a new ~~sign~~ permit to the new owner. No transfer shall be valid until accepted by the Department of Planning and Community Development.

(3) ~~Any legally existing, non-conforming Billboard in existence on the effective date of this ordinance may continue to lawfully exist. However, if a legally existing non-conforming Billboard is blown down or otherwise destroyed such that the cost of repairing the Billboard using all new materials is more than 60% of the cost of erecting a new Billboard of the same type at the same location using all new materials as computed by the Building Inspector, the Billboard owner and the owner of the property on which it is placed shall each be responsible to remove the Billboard. If the Billboard is damaged such that the cost of repairing the Billboard using all new materials as computed by the~~

~~Building Inspector is 60% or less than the cost of erecting a new Billboard of the same type at the same location then any repairs shall be done in compliance with the regulations of all applicable ordinances. In the event of conflict between this section and the Texas Local Government code, Chapter 216, as amended, the Texas Local Government Code shall prevail.~~

(c) Extraterritorial Jurisdiction (ETJ)

- (1) The City prohibits the construction of new, off premise, or billboard electronic signs along state highways within the City's extraterritorial jurisdiction, and will not issue permits for such signs. Additionally, the City prohibits the conversion, replacement or repair of existing ~~off premise or billboard off premise signs~~ **Billboards** to become electronic signs within the City's extraterritorial jurisdiction and will not issue permits for such conversion, replacement or repair.

(d) Site provisions for ~~off premise signs~~ **legally non conforming Billboard**

- (1) Any ~~sign~~ **Billboard** that is ~~reconstructed or replaced~~ **repaired** at the same location shall be the same size or smaller than the original sign. However, in no event shall the ~~reconstructed or replaced~~ **repaired sign Billboard** exceed the sizes set forth in section two and three below.
- (2) ~~Area: Regardless of the size of the off premise sign being relocated, the relocated off premise sign~~ **Billboards may not be relocated.**
- (3) ~~Area: Regardless of the size of the off premise sign being relocated, the relocated off premise signs~~ **Billboards** shall not exceed a maximum height of forty feet (40'). The height shall be measured from the crown of the adjacent roadway to which the ~~sign~~ **Billboard** is oriented. However, the Department of Planning and Community Development may issue a permit for ~~an off premise sign~~ **a Billboard** whose height exceeds forty feet (40'), but is less than fifty feet (50') if the Department of Planning and Community Development determines that the ~~off premise sign~~ **Billboard**, at the lower height, would block an existing sign or structure from view, or would itself be blocked from view. The Department of Planning and Community Development shall provide a written determination to the ~~sign~~ **Billboard** owner. If the ~~sign~~ **Billboard** owner disagrees with the Department of Planning and Community Development's determination, the ~~sign~~ **Billboard** owner may notify the Director Planning and ~~Community Development~~ **Transportation** of the ~~sign~~ **Billboard** owner's desire to appeal the determination to City Council. Such notice of appeal must be filed with the Department of Planning and Community Development no later than the 60th day

after the date of the Department of Planning and Community Development's written decision.

- (4) Setbacks: A minimum setback of ten (10') feet from the right-of-way of the street to which the ~~sign~~ **Billboard** is oriented shall be required for any part of the ~~sign~~ **Billboard** and its supporting structure. As used in this sub-section only, "street" does not include alleys.
- ~~(5) Spacing: No off-premise sign shall be located closer than seven hundred (700) feet from any other off-premise sign on the same side of the street.~~
- (5) Conversion to Electronic Signs: Any sign that is permitted to be repaired, ~~replaced or reconstructed~~ within the City of Galveston through the provisions of this section may not be converted to, or built as, an electronic sign.
- (e) Traffic Control Conflicts: No ~~sign~~ **Billboard** or message thereon shall be permitted which resembles an official marker erected by any governmental agency, or which by reason of position, shape, color or illumination would obstruct from clear view any traffic signal or sign.
- (f) Illumination: It shall be unlawful for any person to erect, operate, or otherwise use any ~~off-premise sign~~ **Billboard** which is of a rotating nature or displays intermittent lights. If this section conflicts with Section 29-81, "Sign Regulations" of the "Zoning Regulations 1991" this section (f) shall prevail as to ~~off-premise signs~~ **Billboards**.
- (g) Motion: Signs ~~Billboards~~ shall not be permitted to revolve or rotate. ~~Internal motion and movement of a portion of the sign shall be permitted provided the movement of motion is slow and continuous.~~
- (h) Roof Mounted Sign: Roof mounted ~~off-premise sign~~ **Billboards** shall not be permitted.
- (i) Maintenance: ~~Sign~~ **Billboard** owners shall maintain all signs in good appearance and safe structural condition. ~~Sign~~ **Billboard** owners shall keep the general vicinity of any sign free and clear of sign materials, weeds, debris, trash and litter. ~~Sign~~ **Billboard** owners shall conduct maintenance, replacement of sign copy, or structural repairs in a manner that will prevent debris and litter from drifting or being blown onto adjacent properties.
- (j) Registration: ~~Within thirty (30) days from the effective date of this Ordinance~~ **After November 28th, 1997**, owners of all ~~off-premise signs~~ **Billboards** situated in any location in the city limits shall register each ~~sign~~ **Billboard** with the office of the Building Official. Such registration shall be accomplished by filing, on forms prescribed for such purpose, information as to the location, height and area of each ~~sign~~ **Billboard**. Owners shall keep such registration current and shall make a similar filing as to each ~~sign~~ **Billboard** erected, demolished or torn down within thirty (30) days from the happening of such event.

SECTION 3. Section 29-86: "Continuation of Non-Conforming On-Premise Signs" of Zoning Regulations 1991 is hereby amended to read and provide as follows:

Section 29-86: CONTINUATION OF NON-CONFORMING ON-PREMISE SIGNS

(a) Definitions

- (1) ~~As used in this section, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager. "On-premise" means a sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.~~
- (2) As used in this section, "Sign" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform that is an "Sign" ~~shall include on-premise sign and off-premise signs only.~~
- (b) Any legally existing non-conforming on-premise sign in existence on the effective date of Ordinance No. 97-82, October 29, 1997 may continue to lawfully exist, even if the sign does not conform to the provisions of Ordinance 97-82 unless and until:
 - (1) the sign requires repairs costing more than 60% of the cost of erecting a new sign of the same type using all new materials at the same location as computed by the Building Inspector; or
 - (2) the first anniversary of the date the business, person, or activity ceased to operate on the premisesat which time the on-premise sign must be removed.

However, if a legally existing non-conforming sign is not damaged or destroyed such that the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location, the sign owner may shall repair, remove or relocate the sign. All repairs shall be done so as to comply with the regulations of all applicable ordinances. All relocations shall be done in accordance with all applicable ordinances, including Ordinance No. 97-82.

- (c) The owner of the sign and the owner of the premises are each liable for the failure to remove a non-conforming on-premise sign. In the event of a conflict

between this section and the Texas Local Government, Chapter 216, the Texas Local Government Code shall prevail.

SECTION 4. The violation of any provision of this Ordinance shall be unlawful and a misdemeanor offense punishable by a fine not exceeding Five Hundred Dollars (\$500.00) each day a violation of this Ordinance continues shall constitute a separate offense.

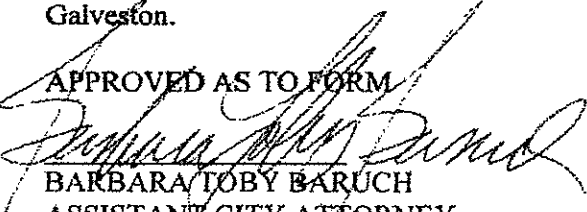
SECTION 5. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 6. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 7. In accordance with the provisions of Section 12 and 13 of Article II of the City Charter, this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

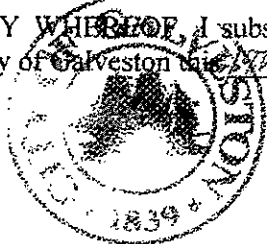
SECTION 8. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM


BARBARA TOBY BARUCH
ASSISTANT CITY ATTORNEY

I, Barbara S. Lawrence, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on the 9th day of April, 2009, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this 14th day of April, 2009.



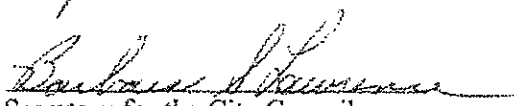

Secretary for the City Council
of the City of Galveston

EXHIBIT 1

CITY COUNCIL AGENDA ITEM SIGNATURE PAGE
DATE RECEIVED IN CITY MANAGER'S OFFICE 4-2-09

TITLE OF ITEM AS IT IS TO APPEAR ON CITY COUNCIL AGENDA

Public Hearing and request for Ordinance, request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ). Request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston.

Applicant: Department of Planning and Community Development
Planning Case: 09ZA-07

AGENDA DATE REQUESTED: April 9, 2009

IS AN ORDINANCE OR RESOLUTION REQUIRED? X YES NO

<u>STAFF REVIEW</u>	<u>DATE</u>	<u>APPROVED</u>	<u>SIGNATURE</u>
DEPARTMENT HEAD REQUESTING ITEM	<u>4/2/2009</u>	<u>X</u>	<u>[Signature]</u>
ARE OTHER DEPARTMENTS AFFECTED?	<u> </u> YES <u>X</u> NO		
IF YES, LIST AND OBTAIN THEIR APPROVAL:			

	<u>YES</u>	<u>NO</u>
_____	_____	_____
_____	_____	_____
<u>FINANCE DIRECTOR:</u>	_____	_____

COMMENTS: _____

CITY ATTORNEY: [Signature] _____

COMMENTS: _____

ASSISTANT CITY MANAGER: _____

COMMENTS: _____

CITY MANAGER: 4/3/09 [Signature] [Signature]

COMMENTS: _____

NAME OF COUNCIL MEMBER DISTRICT IS AFFECTED: All Districts

IF NECESSARY, HAVE YOU NOTIFIED YES X NO

FISCAL POLICY STATEMENT ATTACHED? X YES NO

HAS ALL APPROPRIATE ADVERTISING BEEN COMPLETED? X YES NO



09ZA-07 Request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ). Request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston.

Applicant: Department of Planning and Community Development

Advertisement Date:

Planning Commission: March 26, 2009
City Council: March 26, 2009

City Department Notifications:

Airport:	Pending
Building Department:	Pending
Fire Department:	Pending
Fire Marshal:	Pending
Police Department:	Pending
Public Works Department:	Pending

Private Utility Notifications:

A.T. & T:	Pending
Centerpoint Energy:	Pending
Comcast Communication:	Pending
Texas Gas Service:	Pending

ANALYSIS

The proposed regulations provide clarification relating to the repair of legally non-conforming signs that are deteriorated, damaged or destroyed at a minimum of 60 per cent. These sign regulations are located in two different sections of the Galveston Zoning Standards: Section 29-84 and Section 29-86. Section 29-84 relates to advertising or billboard signs; and, Section 29-86 relates to on-premise signage. Per state law, if a legally non-conforming sign is damaged such that the cost of repairing the sign using all new materials is 60 per cent or less of the cost of erecting a new sign, the sign may be repaired and kept at the same location. However, if the cost of repairing the sign using all new materials is more than 60 per cent of the cost of erecting a new sign of the same type at the same location using all new materials, the sign must be constructed to meet current regulations or removed if no longer permitted under the regulations.

Furthermore, the proposed regulations also provide for removal of signs upon cease of business operation. This will allow removal of obsolete signs that are no longer utilized for business purposes but do not meet the qualifications for severely damaged or destroyed signs. State law provides the framework for municipalities to require removal of such signs and the proposed regulations reflect those requirements.

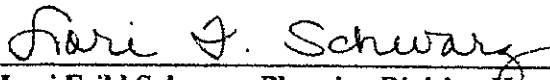
PLANNING COMMISSION

The Planning Commission will hear this Zoning amendment request at the regular meeting of April 7, 2009. The recommendation will be presented to City Council at the April 9, 2009 meeting.

STAFF RECOMMENDATION:

Staff recommends approval of the request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ); and the request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston, be approved as shown in Attachments A and B.

Respectfully Submitted,



Lori Feild Schwarz, Planning Division Head/HPO
Department of Planning and Community Development

4/2/09
Date



Wendy O'Donohoe, Director
Department of Planning and Community Development

4/2/09
Date

Brandon Wade, Deputy City Manager



Steven J. LeBlanc, City Manager

Date
4/3/09
Date

ATTACHMENTS

"A" - Section 29-84 ADVERTISING (Billboards)

"B" - Section 29-86: Continuation of Non-Conforming Signs

FISCAL NOTES STATEMENT

Source of Request:

Request to amend the Galveston Zoning Standards Section 29-84 Advertising Signs (Billboards) regarding modification to the provisions relating to the repair, removal and relocation of off-premise signs damaged or destroyed more than 60 per cent within the City of Galveston and the City of Galveston's Extraterritorial Jurisdiction (ETJ). Request to amend the Galveston Zoning Standards Section 29-86: Continuation of Non-Conforming Signs relating to the removal of signs damaged or destroyed more than 60 percent and upon cease of use or business operation in the City of Galveston.

Applicant: Department of Planning and Community Development

Amount of Expenditure:

Minimal administrative costs associated with processing request.

Estimated Revenue:

No revenue will be realized.

Vendor History:

Not applicable.

Section 29-84: ADVERTISING (Billboards) (Ord. 08-027)

(a) Definitions

- (1) As used in ~~this section~~ these regulations, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager.
- (2) As used in ~~this section~~ these regulations, "Department of Planning and Community Development" shall mean the Department of Planning and Community Development, or designee, or any other person designated by the City Manager.
- (3) As used in this section, ~~sign~~ "Billboard" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designated, intended or used to advertise or inform. ~~"Sign"~~ "Billboard" shall include ~~on-premise or off-premise signs~~ only;
- (4) ~~"On-premise" means a sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity;~~
- (5) ~~"Off-premise sign" means a sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located;~~
- (4) "Electronic sign" means a sign, display or device that changes its message or copy by programmable mechanical or electronic processes. The use of an electronic image on a digital display device is not the use of a flashing, intermittent or moving light for the purposes of these regulations. Any flashing intermittent or moving light or lights including any type of screen using animated or scrolling displays except those giving only public service information such as time, date, temperature, weather or similar information is prohibited.

(b) Permits

- (1) The City shall not issue permits for the construction of new ~~off-premise signs~~ Billboards. ~~The City shall issue permits for the repair, reconstruction, or replacement of legal, conforming or non-conforming off-premise signs that exist on the effective date of this Ordinance. An off-premise sign permit shall be valid at the sign location for twelve (12) months unless sooner revoked or canceled.~~ The City may issue permits for the repair of legal, non-conforming Billboards that existed on October 29, 1997 per the provisions of this section. A Billboard permit shall be valid at the sign location for twelve (12) months unless sooner revoked or canceled.
- (2) The City shall charge an annual permit fee of thirty-five dollars (\$35.00) for each off-premise ~~sign~~ Billboard. The annual permit fee shall be non-refundable and shall be non-transferable to a different location. If any ~~sign~~ Billboard owner fails to obtain the required permit, the ~~sign~~ Billboard owner shall be subject to the penalties prescribed for violations of ~~this Code~~ these regulations and in addition shall pay double the amount of the permit fee. If a ~~sign~~ Billboard owner wishes to transfer a permit to another person or entity, the ~~sign~~ Billboard owner shall notify, in writing, the Department of Planning and Community Development. The Department of Planning and Community Development

shall void the original sign Billboard permit and issue a new sign permit to the new owner. No transfer shall be valid until accepted by the Department of Planning and Community Development.

(3) Any legally existing, non-conforming Billboard in existence on the effective date of this ordinance may continue to lawfully exist. However, if a legally existing non-conforming Billboard is blown down or otherwise destroyed such that the cost of repairing the Billboard using all new materials is more than 60% of the cost of erecting a new Billboard of the same type at the same location using all new materials as computed by the Building Inspector, the Billboard owner and the owner of the property on which it is placed shall each be responsible to remove the Billboard. If the Billboard is damaged such that the cost of repairing the Billboard using all new materials as computed by the Building Inspector is 60% or less than the cost of erecting a new Billboard of the same type at the same location then any repairs shall be done in compliance with the regulations of all applicable ordinances. In the event of a conflict between this section and the Texas Local Government code, Chapter 216 as amended, the Texas Local Government Code shall prevail.

(c) Extraterritorial Jurisdiction (ETJ)

- (1) The City prohibits the construction of new, off premise, or billboard electronic signs along state highways within the City's extraterritorial jurisdiction, and will not issue permits for such signs. Additionally, the City prohibits the conversion, replacement or repair of existing ~~off premise or billboard off premise signs~~ **Billboards** to become electronic signs within the City's extraterritorial jurisdiction and will not issue permits for such conversion, replacement or repair.

(d) Site provisions for ~~off-premise signs~~ legally non conforming Billboards

- (1) Any sign **Billboard** that is ~~reconstructed or replaced~~ **repaired** at the same location shall be the same size or smaller than the original sign. However, in no event shall the ~~reconstructed or replaced~~ **repaired** sign **Billboard** exceed the sizes set forth in section two and three below.
- (2) ~~Area: Regardless of the size of the off premise sign being relocated, the relocated off-premise sign.~~ **Billboards may not be relocated.**
- (3) ~~Area: Legally non conforming Billboards shall not exceed fourteen feet (14') by forty-eight FEET (48'), excluding cutout extensions and apron trip without copy. The cumulative area of all extensions on any off premise sign~~ **Billboard** shall not exceed 20% of the area of the sign **Billboard**, excluding extensions and apron trim without copy.
- (3) ~~Height: Regardless of the height of the off premise sign being relocated, the relocated off-premise signs~~ **Billboards** shall not exceed a maximum height of forty feet (40'). The height shall be measured from the crown of the adjacent roadway to which the sign **Billboard** is oriented. However, the Department of Planning and Community Development may issue a permit for an ~~off-premise sign~~ **a Billboard** whose height exceeds forty feet (40'), but is less than fifty feet (50') if the Department of Planning and Community Development determines that the ~~off-premise sign~~ **Billboard**, at the lower height, would block an existing sign or structure from view, or would itself be blocked from view. The Department of Planning and Community Development shall provide a

written determination to the sign Billboard owner. If the sign Billboard owner disagrees with the Department of Planning and Community Development's determination, the sign Billboard owner may notify the Director Planning and Community Development Transportation of the sign Billboard owner's desire to appeal the determination to City Council. Such notice of appeal must be filed with the Department of Planning and Community Development no later than the 60th day after the date of the Department of Planning and Community Development's written decision.

- (4) Setbacks: A minimum setback of ten (10') feet from the right-of-way of the street to which the sign Billboard is oriented shall be required for any part of the sign Billboard and its supporting structure. As used in this sub-section only, "street" does not include alleys.
- ~~(5) Spacing: No off-premise sign shall be located closer than seven hundred (700') feet from any other off-premise sign on the same side of the street.~~
- (5) Conversion to Electronic Signs: Any sign that is permitted to be repaired, ~~replaced or reconstructed within~~ the City of Galveston through the provisions of this section may not be converted to, or built as, an electronic sign.
- (e) Traffic Control Conflicts: No sign Billboard or message thereon shall be permitted which resembles an official marker erected by any governmental agency, or which by reason of position, shape, color or illumination would obstruct from clear view any traffic signal or sign.
- (f) Illumination: It shall be unlawful for any person to erect, operate, or otherwise use any ~~off-premise sign~~ sign Billboard which is of a rotating nature or displays intermittent lights. If this section conflicts with Section 29-81, "Sign Regulations" of the "Zoning Regulations 1991" this section (f) shall prevail as to ~~off-premise signs~~ Billboards.
- (g) Motion: ~~Signs~~ Billboards shall not be permitted to revolve or rotate. ~~Internal motion and movement of a portion of the sign shall be permitted provided the movement or motion is slow and continuous.~~
- (h) Roof Mounted Sign: Roof mounted ~~off-premise signs~~ Billboards shall not be permitted.
- (i) Maintenance: Sign Billboard owners shall maintain all signs in good appearance and safe structural condition. Sign Billboard owners shall keep the general vicinity of any sign free and clear of sign materials, weeds, debris, trash and litter. Sign Billboard owners shall conduct maintenance, replacement of sign copy, or structural repairs in a manner that will prevent debris and litter from drifting or being blown onto adjacent properties.
- (j) Registration: ~~Within thirty (30) days from the effective date of this Ordinance~~ After November 28th, 1997, owners of all ~~off-premise signs~~ Billboards situated in any location in the city limits shall register each sign Billboard with the office of the Building Official. Such registration shall be accomplished by filing, on forms prescribed for such purpose, information as to the location, height and area of each sign Billboard. Owners shall keep such registration current and shall make a similar filing as to each sign Billboard erected, demolished or torn down within thirty (30) days from the happening of such event.

Section 29-86: CONTINUATION OF NON-CONFORMING ON-PREMISE SIGNS

(a) Definitions

- (1) ~~As used in this section, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager.~~
"On-premise" means a sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity;
- (2) As used in this section, "Sign" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform that is an "Sign" ~~shall include on-premise sign and off-premise signs only;~~
- (b) Any legally existing non-conforming on-premise sign in existence on the effective date of Ordinance No. 97-82 October 29, 1997 may continue to lawfully exist, ~~even if the sign does not conform to the provisions of Ordinance 97-82 unless and until:~~
(1) the sign requires repairs costing more than 60% of the cost of erecting a new sign of the same type using all new materials at the same location as computed by the Building Inspector; or,
(2) the first anniversary of the date the business, person, or activity ceased to operate on the premises
at which time the on-premise sign must be removed;

However, if a legally existing non-conforming sign is not damaged or destroyed such that the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location, the sign owner may ~~shall repair, remove or relocate~~ the sign. All repairs shall be done so as to comply with the regulations of all applicable ordinances. ~~All relocations shall be done in accordance with all applicable ordinances, including Ordinance No. 97-82;~~

- (c) The owner of the sign and the owner of the premises are each liable for the failure to remove a non-conforming on-premise sign. In the event of a conflict between this section and the Texas Local Government

CBS Outdoor Permit Denial Appeal

Monday, January 11, 2010 3:38 PM

From: "Jana Dundas" <jdundas@swbell.net>

To: BaruchBar@cityofgalveston.org

Cc: "Richard Rothfelder" <rrothfelder@swbell.net>

Ms. Baruch:

This confirms a message I left on your voice mail just now. We would like to pass the February 3 hearing date, based on recent activity in this matter. Could you please send a reply confirming same? Thank you very much.

Jana L. Dundas
Attorney at Law
Rothfelder & Falick, L.L.P.
1201 Louisiana, Suite 550
Houston, Texas 77002
Main Number (713) 220-2288
Facsimile (713) 658-8211
E-Mail jdundas@swbell.net

Vernon's Texas Statutes and Codes Annotated

Local Government Code (Refs & Annos)

Title 7. Regulation of Land Use, Structures, Businesses, and Related Activities

Subtitle A. Municipal Regulatory Authority

Chapter 216. Regulation of Signs by Municipalities

Subchapter A. Relocation, Reconstruction, or Removal of Sign

V.T.C.A., Local Government Code § 216.013

§ 216.013. Exceptions

Currentness

(a) The requirements of this subchapter do not apply to a sign that was erected in violation of local ordinances, laws, or regulations applicable at the time of its erection.

(b) The requirements of this subchapter do not apply to a sign that, having been permitted to remain in place as a nonconforming use, is required to be removed by a municipality because the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.

(c) For purposes of Subsection (b), a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location.

(d) This subchapter does not limit or restrict the compensation provisions of the highway beautification provisions contained in Chapter 391,¹ Transportation Code.

Credits

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 14, § 284(82), eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 165, § 30.219, eff. Sept. 1, 1997.

Footnotes

¹ V.T.C.A., Transportation Code § 391.001 et seq.

V. T. C. A., Local Government Code § 216.013, TX LOCAL GOVT § 216.013

Current through the end of the 2013 Third Called Session of the 83rd Legislature

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.





July 15, 2014

Certified: 7013 0600 0000 8228 4029

Mr. David Ewald
Building Permits Department
823 Rosenberg, 4th Floor
Galveston, TX 77553

RE: Building permit applications to rebuild IKE damaged in Galveston
CBS Outdoor signs 02-1548, 02-1574 & 02-1565

Dear Mr. Ewald:

As we have previously discussed, CBS Outdoor is submitting the permit applications to the City of Galveston to rebuild three (3) of our seven (7) signs damaged by Hurricane IKE. We will not be seeking to rebuild the other 4 signs.

For each of the 3 signs, damage to repair them is less than 60% of the cost to build them new.

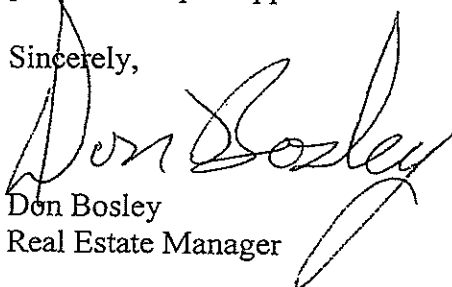
You will find enclosed for each location:

- Permit application
- Cost to build the sign as it was before the storm
- Cost to repair the sign as it was before the storm
- Two (2) stamped engineering drawings to rebuild at current engineering standards
- Several photos of the sign after the storm showing some undamaged portions of the sign

Since the signs are subject to both the City of Galveston and TxDOT permits, I have enclosed a copy of an email from TxDOT that, for their part, are allowing the rebuilding of the signs. We now look to the City of Galveston for your approval by issuing permits.

Please contact me if there are any questions regarding the permits. I will bring a check for permit fees upon approval.

Sincerely,



Don Bosley
Real Estate Manager

Enclosures

Cc: Richard Rothfelder



BUILDING PERMIT APPLICATION

(2 full sets of plans must be submitted with completed application)

I. JOB INFORMATION

6127 Broadway
Address for Proposed Job Lot / Block Number Business Name (if applicable) Total Sq. Ft. of Bldg.

Current Land Use Proposed Land Use* Value of Work (labor/materials) CAD Identification # (Required)

* Please be advised, final determination of proposed land use is subject to planning review and any change in land use will require a Certificate of Occupancy. Please visit with a Building and Planning Division Staff member regarding this process.

Type of Work: ☐ New Residential ☐ Roof - New ☐ Exterior Alterations ☐ Fence ☐ General Repairs
☐ New Commercial ☐ Roof - Repairs ☐ Interior Alterations ☐ Addition ☐ Other

Describe proposed work (Description must be specific and detailed. Lack of project details may result in the delay of issuance of the permit or the issuance of a "red tag" to stop work until proper permits are approved):

Repair billboard sign damaged by Hurricane Ike
CBS Sign 02-1565

Will any portion of the parking lane, sidewalk area, alley or City right-of-way be used or blocked with such items as scaffolding, debris, machinery/equipment (crane, man lift, etc.) temporary fence, or dumpster in conjunction with the project? Yes* _____ No X

- If yes, per Section 32-5 of the City Code, a separate temporary License to Use the City right-of-way permit is required. Please contact the Administrative Division at 409/797-3660 or obtain permit information from www.cityofgalveston.org.

Was there previously a structure at this site? Yes _____

Was this property purchased within the last 5 years? Yes _____

II. APPLICANT INFORMATION (Check One): ☒ Owner ☐ Tenant ☐ Contractor ☐ Architect ☐ Engineer

CBS Outdoor LLC
Applicant Name Telephone (713) 868-2284

1600 Studeman Houston, TX
Mailing Address don.bosley@cbsoutdoor.com Alternative Telephone and/or Fax (713) 862-8087

Email Address(es) (Email address will be utilized as the primary method of communication to discuss or notify applicant of project status, including, but not limited to project approval, denial or request for additional information.)

III. OWNER INFORMATION Property Owner must sign the application or submit a letter of authorization.

JAZ Trust (Mike Dell)
Property Owner Name Telephone (409) 740-2590

P.O. Box 1584 Galveston, TX 77553
Mailing Address Telephone (409) 740-1111
Alternative Telephone and/or Fax

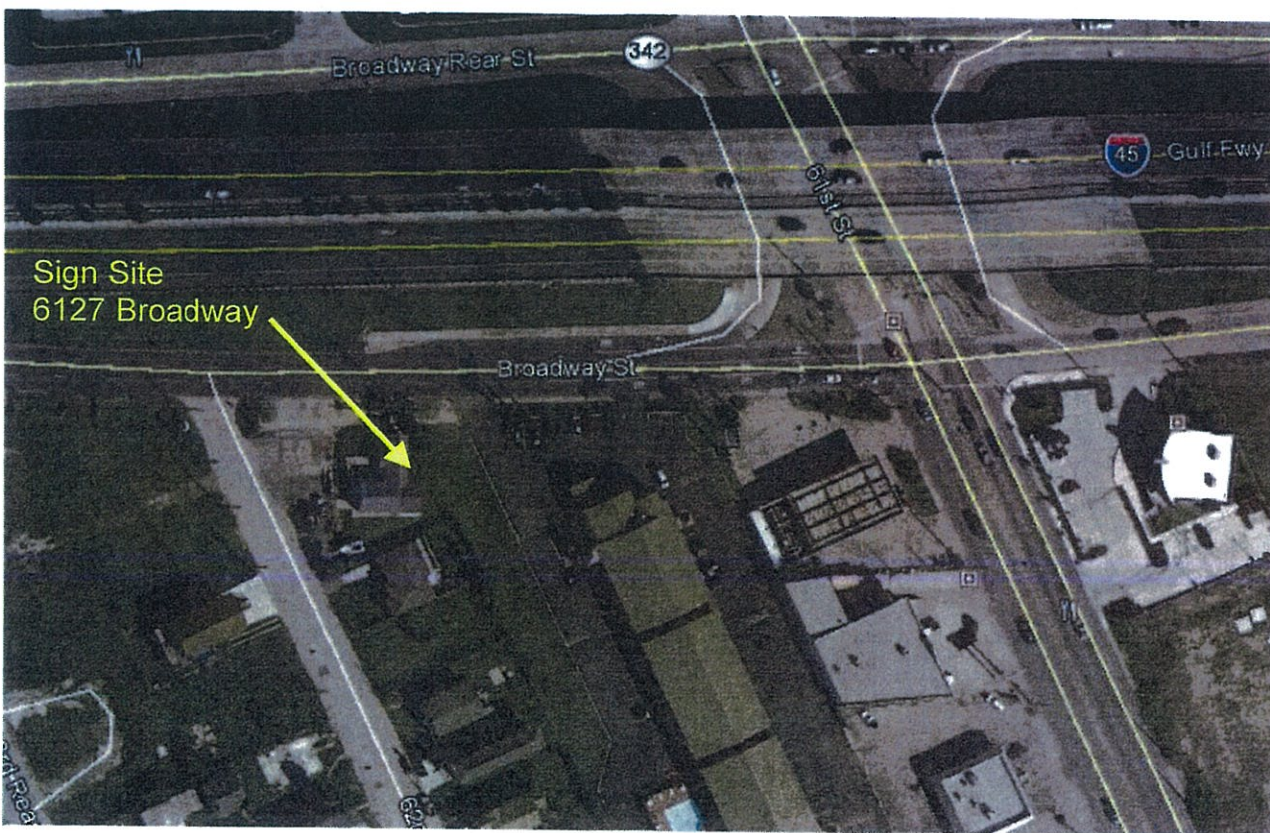
IV. CONTRACTOR/ARCHITECT/ENGINEER INFORMATION Please note, anyone listed below will be permitted to discuss and obtain information relating to this project

Advertising Higher 13369 Old Texaco Camp Rd.
Contractor Mailing Address Conroe, TX 77302 City Registration No. Telephone (936) 321-0703

Effective Engineering Solutions 61 Whitewater Ct.
Architect Mailing Address New Lenox, IL 60451 Telephone (815) 485-1470
Engineer Mailing Address Telephone (02-1565)

Sign 02-1565

R11861





13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
4/1/2014	5/1/2014	2013-2099

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
I-45 @ 61 St Galveston Tx

Terms	P.O. No.	Structure ID #	
Net 30		02_1565	
Description	Qty	Cost	Total
Fabricate & Install New Steel Structure 14' x 48' Center Mount, Back to Back Monopole Billboard @ 60' O.A.H. from natural grade. Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s)		78,000.00	78,000.00T
We look forward to serving you.		Subtotal \$78,000.00 Sales Tax (8.25%) \$6,435.00 Total \$84,435.00	

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.
By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

This bid is guaranteed for 30 days from date written.

Approval Signature _____

02-1565

cost to build new

A



13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
6/17/2014	7/17/2014	2014-2345

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston I-45 @ 61St

Terms
Net 30

P.O. No.	Structure ID #
	02_1565

Description	Qty	Cost	Total
Repair Existing Board# 02_1565 - Use Existing Stub Pipe 36" - 1st Stage 30" & 2nd Stage 24" Reusable Materials from Head: - Torsion Pipe - (8) Uprights - (1) Walk around - (1) Upper Ladder - (5) Lights - (1) Outside catwalk - (1) 48' Inside Catwalk Materials to be New: - (4) Uprights - (1) Outside catwalks - (1) Inside Catwalks - (8) Stringers - (1) Handrail - (12) Catwalk arms - (3) Lights		14,487.00	14,487.00T

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.

By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal 14,487.00

Sales Tax (8.25%) \$1,195.18

Total \$15,682.18

This bid is guaranteed for 30 days from date written.

Approval Signature _____

02-1565

Cost to repair

B

hdb1
-5951-20



02-1565-
Z984



02-1565-
304



02-15-65
4 of 4



BUILDING PERMIT APPLICATION

(2 full sets of plans must be submitted with completed application)

I. JOB INFORMATION

8002 Broadway (Ave 5) R412074
Address for Proposed Job Lot / Block Number Business Name (if applicable) Total Sq. Ft. of Bldg.

Current Land Use Proposed Land Use* Value of Work (labor/materials) CAD Identification # (Required)

* Please be advised, final determination of proposed land use is subject to planning review and any change in land use will require a Certificate of Occupancy. Please visit with a Building and Planning Division Staff member regarding this process.

Type of Work: ☐ New Residential ☐ Roof - New ☐ Exterior Alterations ☐ Fence ☐ General Repairs
☐ New Commercial ☐ Roof - Repairs ☐ Interior Alterations ☐ Addition ☐ Other

Describe proposed work (Description must be specific and detailed. Lack of project details may result in the delay of issuance of the permit or the issuance of a "red tag" to stop work until proper permits are approved):

Repair billboard sign damaged by Hurricane Ike
CBS Sign 02-1548

Will any portion of the parking lane, sidewalk area, alley or City right-of-way be used or blocked with such items as scaffolding, debris, machinery/equipment (crane, man lift, etc.) temporary fence, or dumpster in conjunction with the project?

Yes* No ☒

- If yes, per Section 32-5 of the City Code, a separate temporary License to Use the City right-of-way permit is required. Please contact the Administrative Division at 409/797-3660 or obtain permit information from www.cityofgalveston.org.

Was there previously a structure at this site? Yes _____

Was this property purchased within the last 5 years? Yes _____

II. APPLICANT INFORMATION (Check One):

CBS Outdoor LLC ☒ Owner ☐ Tenant ☐ Contractor ☐ Architect ☐ Engineer
Applicant Name Telephone (713) 868-2284
1600 Studemant Houston, TX
Mailing Address (713) 862-8087
don.bosley@cbsoutdoor.com Alternative Telephone and/or Fax
Email Address(es) (Email address will be utilized as the primary method of communication to discuss or notify applicant of project status, including, but not limited to project approval, denial or request for additional information.)

III. OWNER INFORMATION

Property Owner must sign the application or submit a letter of authorization.

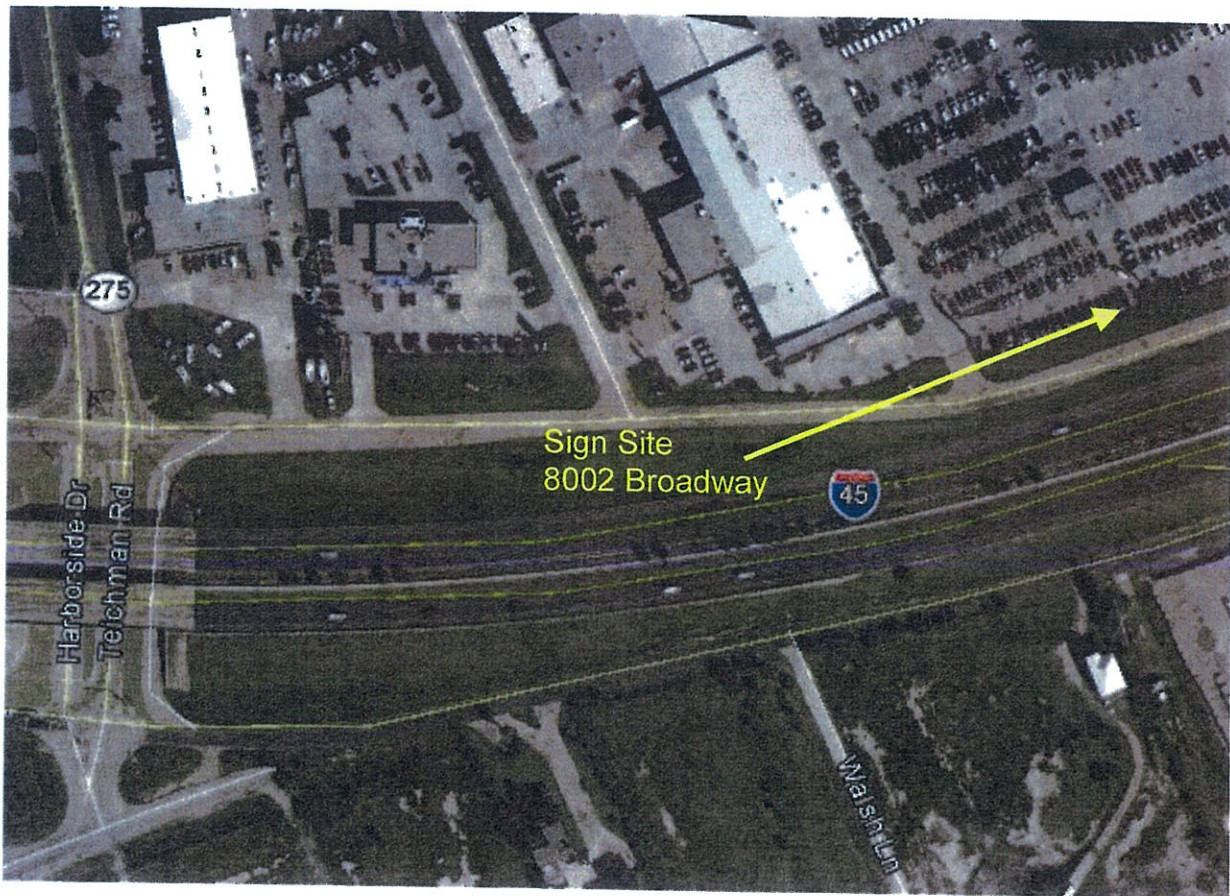
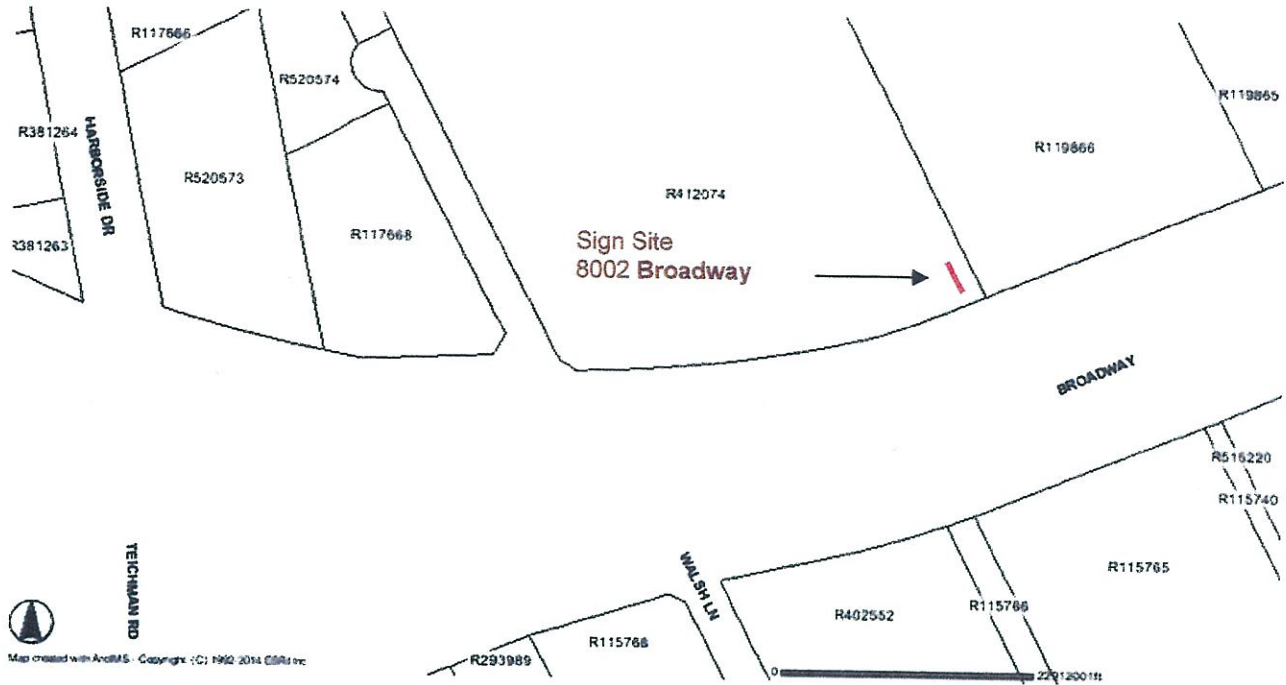
8020 Partners Ltd. (409) 744-5711
Property Owner Name Telephone
8020 Broadway, Galveston, TX 77559 (409) 740-3653
Mailing Address Alternative Telephone and/or Fax

IV. CONTRACTOR/ARCHITECT/ENGINEER INFORMATION

Please note, anyone listed below will be permitted to discuss and obtain information relating to this project

Advertising Higher 13369 Old Texaco Camp Rd.
Contractor Mailing Address City Registration No. Telephone (936) 321-0703
Effective Engineering Solutions 61 Whitewater Ct.
Architect Mailing Address Telephone
New Lenox, IL 60451 (815) 485-1470
Engineer Mailing Address Telephone
(02-1548)

Sign 02-1548





13369 Old Texaco Camp Rd
Conroe, Tx 77302

936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
4/1/2014	5/1/2014	2014-2247

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston 8002 Broadway

Terms
Net 30

P.O. No.	Structure ID #
	02_1548

Description	Qty	Cost	Total
Fabricate & Install New Steel Structure 14' x 48' Monopole, Vinyl Frame Billboard @ 55' O.A.H. from natural grade. Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s) --Lights with electrical wire run to base of sign for customer electrician to provided and install timer and service. *Time Clocks & Meter Loop Sold Separately.*		76,520.00	76,520.00

Richard
#1
02-1548

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included.
 based upon normal working conditions. Hole processing, matts, clearing brush,
 excessive supplies, materials or labor needed to complete the job due to poor conditions
 of the billboard or its location are NOT included, unless otherwise noted above and will
 be due upon final billing.
 By signing below you authorize work to be performed and agree with this Notice and
 Payment Terms stated above.

Total \$76,520.00

Sales Tax (8.25%) \$0.00

Total \$76,520.00

This bid is guaranteed for 30 days from date written.

Approval Signature _____

02-1548

Cost to build new

A



13369 Old Texaco Camp Rd
Conroe, Tx 77302

936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
6/17/2014	7/17/2014	2014-2344

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston 8002 Broadway

Terms	P.O. No.	Structure ID #
Net 30		02_1548

Description	Qty	Cost	Total
Repair Existing Board# 02_1548 - Use existing Stub Pipe - 1st Stage 24" Reusable Materials from Head: - (5) Uprights - (2) Inside catwalks - (4) Stringers - (3) Catwalk Arms - Torsion Pipe - (4) Lights - (1-1/2) Outside Catwalk (48' + 24') Material to be New: - (3) Uprights - (1/2) Outside catwalks (24') - (4) Stringers - (1) Catwalk Arm - (1) Walk around - (1) Handrail - (1) Upper Ladder - (1) Column Pipe Ladder - (4) Lights		16,365.00	16,365.00T

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.

By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal \$16,365.00

Sales Tax (8.25%) \$1,350.11

Total \$17,715.11

This bid is guaranteed for 30 days from date written.

Approval Signature _____

02-1548

cost to repair

B

DOJLA
SAND

TOYOTA

GM

02.1548
1993

02-1548
293



02-1548
395



BUILDING PERMIT APPLICATION

(2 full sets of plans must be submitted with completed application)

I. JOB INFORMATION

Harborside@35th St, R104456

Address for Proposed Job Lot / Block Number Business Name (if applicable) Total Sq. Ft. of Bldg.

Current Land Use Proposed Land Use* Value of Work (labor/materials) CAD Identification # (Required)

* Please be advised, final determination of proposed land use is subject to planning review and any change in land use will require a Certificate of Occupancy. Please visit with a Building and Planning Division Staff member regarding this process.

Type of Work: ☐ New Residential ☐ Roof - New ☐ Exterior Alterations ☐ Fence ☐ General Repairs
☐ New Commercial ☐ Roof - Repairs ☐ Interior Alterations ☐ Addition ☐ Other

Describe proposed work (Description must be specific and detailed. Lack of project details may result in the delay of issuance of the permit or the issuance of a "red tag" to stop work until proper permits are approved):

Repair billboard sign damaged by Hurricane Ike
CBS sign # 02-1574

Will any portion of the parking lane, sidewalk area, alley or City right-of-way be used or blocked with such items as scaffolding, debris, machinery/equipment (crane, man lift, etc.) temporary fence, or dumpster in conjunction with the project?

Yes* _____ No X

- If yes, per Section 32-5 of the City Code, a separate temporary License to Use the City right-of-way permit is required. Please contact the Administrative Division at 409/797-3660 or obtain permit information from www.cityofgalveston.org.

Was there previously a structure at this site? Yes _____

Was this property purchased within the last 5 years? Yes _____

II. APPLICANT INFORMATION (Check One): ☒ Owner ☐ Tenant ☐ Contractor ☐ Architect ☐ Engineer

Applicant Name

CBS Outdoor LLC
(713) 868-2284

Mailing Address

1600 Studeman Houston, TX
(713) 862-8087
Alternative Telephone and/or Fax

Email Address(es) (Email address will be utilized as the primary method of communication to discuss or notify applicant of project status, including, but not limited to project approval, denial or request for additional information.)

III. OWNER INFORMATION

Property Owner must sign the application or submit a letter of authorization.

Property Owner Name

Farmers Copper & Industrial Supply
(409) 765-9003

Mailing Address

PO Box 2649 Galveston, TX
77550
Alternative Telephone and/or Fax

IV. CONTRACTOR/ARCHITECT/ENGINEER INFORMATION

Please note, anyone listed below will be permitted to discuss and obtain information relating to this project

Contractor

Mailing Address

City Registration No. Telephone

Architect

Mailing Address

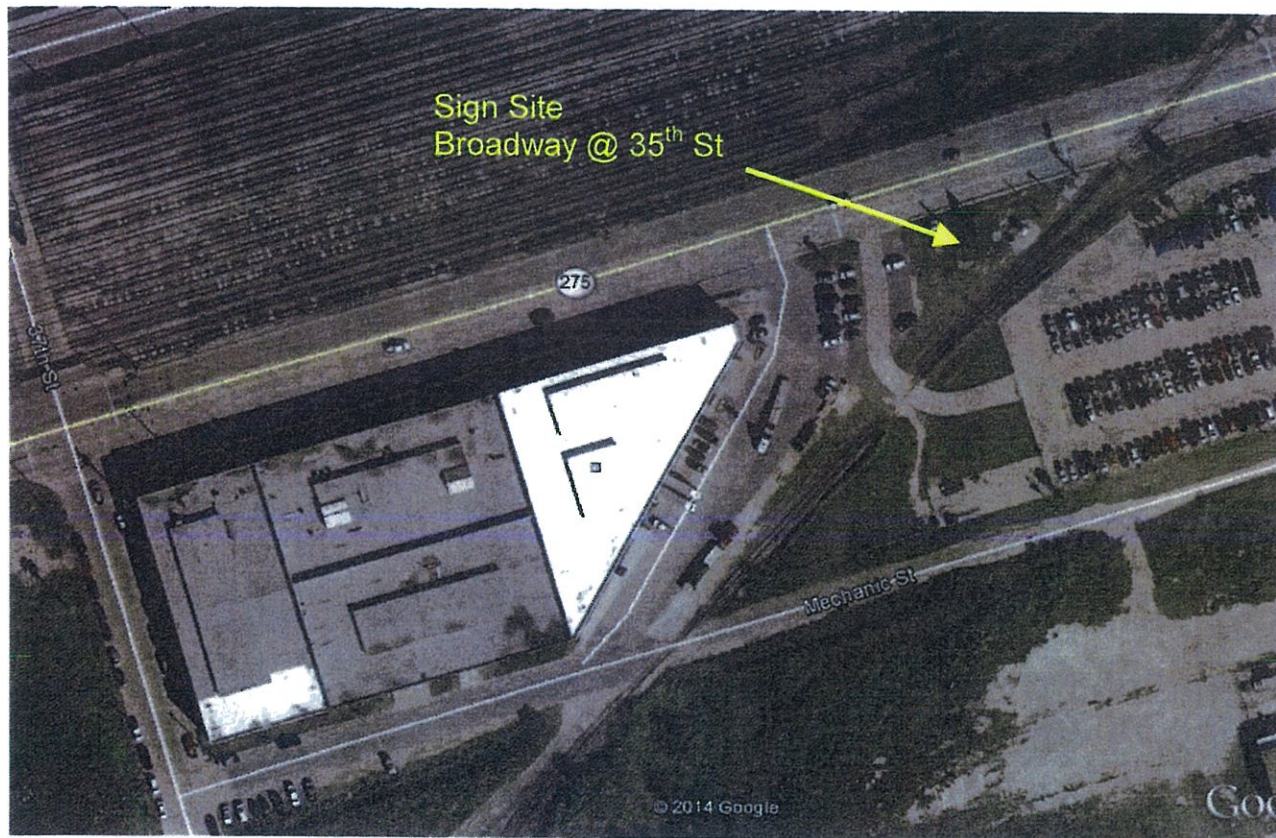
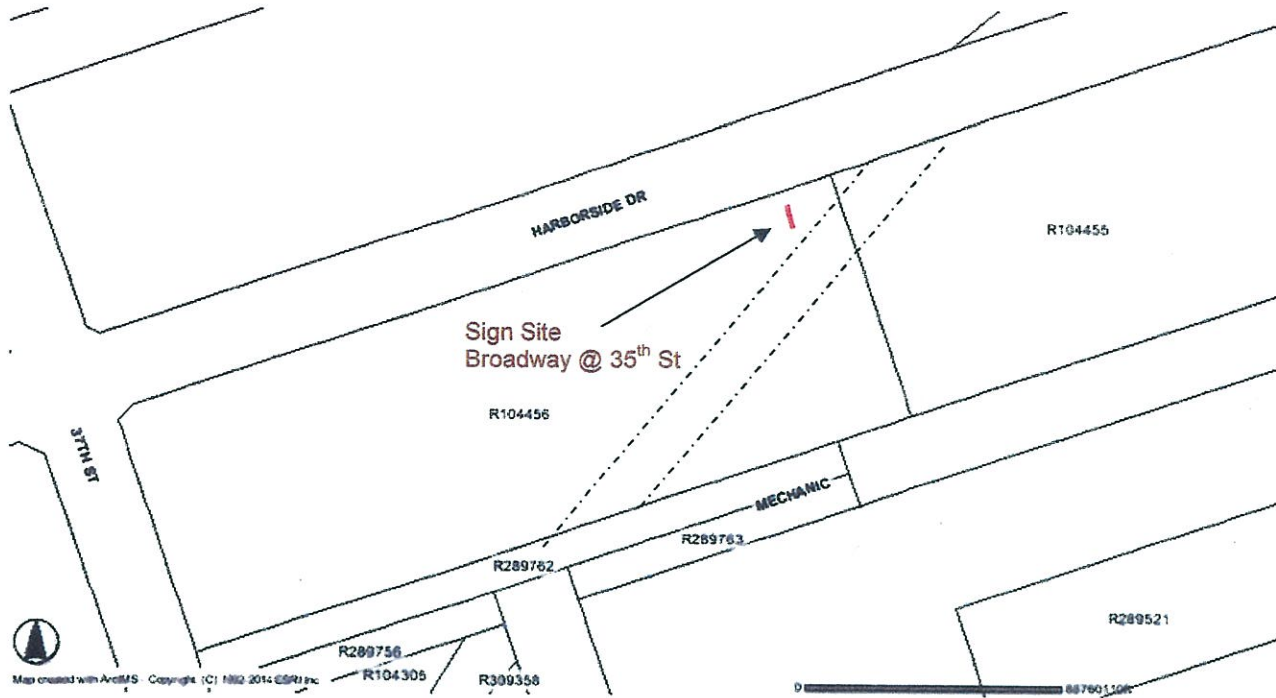
()
Telephone

Engineer

Mailing Address

(815) 485-1470
Telephone

Sign 02-1574



Advertising Higher

13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
4/1/2014	5/1/2014	2014-2248

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston: 35st @ Harborside

Terms
Net 30

P.O. No.	Structure ID #
	02_1574

Description	Qty	Cost	Total
Fabricate & Install New Steel Structure 14' x 48' Monopole, Vinyl Frame Billboard @ 50' O.A.H. from natural grade. Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s) --Lights with electrical wire run to base of sign for customer electrician to provided and install timer and service. *Time Clocks & Meter Loop Sold Separately.*		74,667.00	74,667.00

Richard
set #1
02-1574

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not In based upon normal working conditions. Hole processing, matts, cl excessive supplies, materials or labor needed to complete the job du of the billboard or its location are NOT included, unless otherwise ne be due upon final billing.
By signing below you authorize work to be performed and agree with Payment Terms stated above.

Total \$74,667.00

5%) \$0.00

This bid is guaranteed for 30 days from date written.

Approval Signature _____

02-1574

cost to build new

A



**13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax**

Estimate

Date	Expires	Estimate #
6/16/2014	7/16/2014	2014-2343

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galvesto: 35st on Harboride

Terms
Net 30

P.O. No.	Structure ID #
	02_1574

Description	Qty	Cost	Total
Repair Existing Board# 02_1574 - Use All existing pipe - 36", 30", 26" Reusable Materials from Head: - Torsion Pipe - (2) Outside Catwalk - (2) Inside Catwalk - (6) Stringers - (16) Uprights - (1) Column Pipe Ladder - (1) Upper Ladder Material to be New: - (2) Stringers - (2) walk arounds - (2) Handrails - (8) Catwalk arms		8,756.00	8,756.00T

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.

By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal	\$8,756.00
Sales Tax (8.25%)	\$722.37
Total	\$9,478.37

This bid is guaranteed for 30 days from date written.

Approval Signature _____

02-1574

cost to repair

B

02-1574
195



02-1574
542



02-1574
345



02-1574
345



02-1574
595



Bosley, Donald R

From: Bradley Matejowsky [Bradley.Matejowsky@txdot.gov]
Sent: Monday, April 14, 2014 2:57 PM
To: Bosley, Donald R
Cc: Wendy Knox
Subject: FW: Question

*TxDOT's position
on repair of these
signs.*

Don,
Since the signs were damaged less than 60%, they may be repaired. Please send me the repair estimates you mentioned below, so I can document our files that the damage was less than the 60% limit.

Since you're only repairing 3 of 7 signs, please send me the permit #s for the 4 you're not rebuilding so I can close out those files.

Thanks,
Brad Matejowsky
512-416-2870

From: Bosley, Donald R [mailto:don.bosley@cbsoutdoor.com]
Sent: Tuesday, April 01, 2014 2:33 PM
To: Wendy Knox
Subject: RE: Question

Thanks Wendy. We have spent a lot of time, effort and expense already but before spending more, we want to cover all bases.

The 3 signs in question are below. I can send photos, etc. of the signs after the storm if you need them for preliminary review. If your response is that I can proceed with formal application, I will follow through with full documentation. We will not be seeking to repair the other 4 signs in the City of Galveston that were damaged.

CBS Sign #	TxDOT Permit #	Address (or location)	City	Latitude	Longitude
02-1565	64314	6127 BROADWAY	Galveston	29.287989°	-94.839014°
02-1548	61559	8002 BROADWAY	Galveston	29.286189°	-94.859442°
02-1574	78638	35TH @ HARBORSIDE	Galveston	29.303378°	-94.808072°

Don Bosley
Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

From: Wendy Knox [mailto:Wendy.Knox@txdot.gov]
Sent: Tuesday, April 01, 2014 2:16 PM
To: Bosley, Donald R
Cc: Bradley Matejowsky
Subject: RE: Question

Don,
We are reviewing your questions to make sure we give you the proper answer. Will you please provide me with the three permit numbers you are inquiring about to be repaired.

Thanks
Wendy

From: Bosley, Donald R [<mailto:don.bosley@cbsoutdoor.com>]
Sent: Friday, March 28, 2014 4:53 PM
To: Wendy Knox
Subject: Question

Hi Wendy. Since we did not connect by telephone I'll ask my question here.

During Hurricane Ike, we had several signs damaged in Galveston to the point that we had to remove the structures from the premises for building repairs and parking, etc. When I timely applied for permits with the City to repair/rebuild, they denied the permit applications stating that the signs were damaged more than 60%. This was not based on their proof of cost but apparently on interpretation of visual appearance (the cost of an umbrella is mostly in the frame and not the fabric cover). Our estimates showed otherwise and proved the damage was below 60%. Because of the City's change in engineering requirements and a number of other issues, we are just now ready to resubmit to the City of Galveston to approve the permits. However, I also know that TxDOT will have to approve. We have continued to pay our permit fees even though the signs have been down ... knowing that we were trying to get these permits approved.

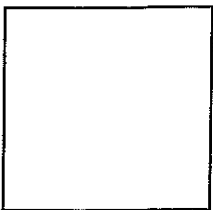
Of the 7 signs damaged, we are looking to rebuild three. Two are legal non-conforming due to spacing. The third is legal conforming to TxDOT regs.

My question to TxDOT is that since the delay in rebuilding the sign was not because of CBS trying, but because of the City's delay in granting permits, will TxDOT allow us to rebuild the signs? It is non-conforming due to spacing (less than 1,500') to other signs.

We feel that the delay was beyond our control and would like permission from TxDOT to proceed.

Don Bosley
Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

Don't mess with Texas® means don't litter.



Don't mess with Texas® means don't litter.





September 19, 2014

Mr. David Ewald
Building Inspector
823 Rosenberg, 4th Floor
Galveston, TX 77553

RE: CBS Outdoor permit application to rebuild IKE damaged signs; Contractor bids

Dear Mr. Ewald:

At your request, I have enclosed bids from 3 different companies for the 3 signs for which we are applying for permits to repair. They are separated by each sign site. Each contractor has bid the repair and building the sign new.

Galveston IKE Billboards: Contractor Bid Summary

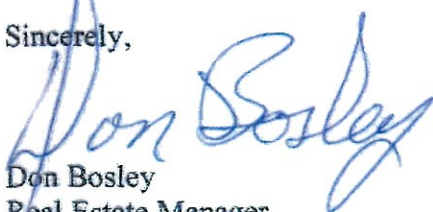
02-1548 I-45 @ 80th St					
Contractor	Build New Sign		Repair Sign		
Houston Sign & Service	A	59,250	B	34,925	59%
Adcorp	G	78,900	H	18,600	24%
Adverting Higher	M	76,520	N	14,487	19%

Sign 02-1565 I-45 @ 61st St					
Contractor	Build New Sign		Repair Sign		
Houston Sign & Service	C	60,550	D	36,250	60%
Adcorp	I	79,900	J	16,800	21%
Adverting Higher	O	78,000	P	14,487	19%

Sign 02-1574 Harborside at 35th St					
Contractor	Build New Sign		Repair Sign		
Houston Sign & Service	E	58,250	F	20,245	35%
Adcorp	K	76,458	L	10,460	14%
Adverting Higher	Q	74,667	R	8,756	12%

If in your review of the enclosed you need for our representatives to be present, we will accommodate the request. Let me know if there is anything else you need to complete the permit process.

Sincerely,


Don Bosley
Real Estate Manager

Enclosures

EXHIBIT

8

Houston Sign & Service, Inc.
1536 Hartwick Rd.
Houston, Texas 77093
(713) 880-0175 Office
(713) 880-0176 Fax
houstonsignservice@comcast.net



CBS Outdoor
Attn: Mr. Don Bosley
1600 Studemont
Houston, TX 77007

September 16, 2014

RE: 14 X 48 Back to Back Sign (02-1548) to be installed at I-45
And 80th Street in Galveston, TX.

Houston Sign and Service is pleased to quote as follows:

Furnish all Material, Equipment and Labor to install (1) 14 x 48 double Face Back to Back sign with an approx Overall Height of 62ft. Sign to be Built with (4) uprights per side, (8) 3 x 3 Angle Stringers with (2) 48ft. Outside walks. Steel upper and lower inside walks with walkarounds and access ladders. Sign to be installed on Min. 36 inch Column Pipe set in the ground per engineers drawing.

Total cost _____ 14 x 48 Sign **\$59,250.00**

All equipment must have ready access. Any alterations or deviations from this bid will become an extra charge over and above this quote.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Redmond".

Jim Redmond

"A"

HOUSTON SIGN & SERVICE, INC.
1536 HARTWICK RD.
HOUSTON, TEXAS 77093
(713) 880-0175 OFFICE
(713) 880-0176 FAX
HOUSTONSIGNSERVICE@COMCAST.NET



CBS OUTDOOR
ATTN: MR. DON BOSLEY
1600 STUDEMONT
HOUSTON, TEXAS 77007

SEPTEMBER 16, 2014

RE: REPAIR 14 X 48 DOUBLE FACE BACK TO BACK STORM DAMAGED SIGN (02-1548)
LOCATED AT I-45 AND 80TH STREET IN GALVESTON, TX

HOUSTON SIGN AND SERVICE IS PLEASED TO QUOTE AS FOLLOWS:

FURNISH ALL MATERIAL, EQUIPMENT AND LABOR TO REPAIR (1) 14 X 48 DOUBLE FACE BACK TO BACK SIGN WITH AN APPROX. OVERALL HEIGHT OF 62'-0". EXISTING SIGN HEAD TO BE REINSTALLED WITH EXISTING TOP COLUMN PIPE. SIGN HEAD TO BE REPAIRED AS NEEDED USING EXISTING TORSION PIPE, (4) 48FT STRINGERS, INSIDE UPPER AND LOWER WALKS, (1) 48FT OUTSIDE WALK AND (4) 400 WATT LIGHT FIXTURES. HOUSTON SIGN AND SERVICE TO FABRICATE (3) NEW UPRIGHTS, (4) 48FT STRINGERS, (1) OUTSIDE WALK WITH NEW WALKAROUND AND ACCESS LADDERS. PRICE INCLUDES REINSTALLING TRANSITION PIPES AND REBUILT SIGN STRUCTURE WITH (4) NEW 400 WATT LIGHT FIXTURES.

TOTAL COST TO REPAIR YOUR 14 X 48 SIGN.....\$34,925.00

ANY ALTERATIONS OR DEVIATIONS OVER AND ABOVE THIS QUOTE WILL BECOME AN EXTRA CHARGE.

SINCERELY,

A handwritten signature in cursive script that reads "Jim Redmond".
JIM REDMOND

"B"



Signage Proposal

REMIT TO:
Adcorp Sign Systems, LLC
PO Box 2423
Conroe, TX 77305

CREDIT CARDS ACCEPTED
  

Bill To:

CBS Outdoor - Houston
ATTN: Billy Wade

Job Location:

8002 Broadway
Galveston, TX

Quoted By: Anthony Tinsl Date:

Email: atinsley@darrellsign.com

Specifications

Fabricate & Install New Steel Billboard Structure

Size: 14' x 48' Monopole
Type: Vinyl Frame Billboard
Height: 55' O.A.H. from natural grade.

Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s)
--Lights with electrical wire run to base of sign for customer electrician to provided and install timer and service.
Time Clocks and Meter Loop not provided

WE PROPOSE hereby to furnish Signage-complete in accordance with the above specifications, for the sum of:

\$ 78,900 USD + TAX

Payment Terms: 1/2 Down before construction begins. Balance due upon completion.

Note: Cost of permits, permit procurement, engineer drawings, land surveys and sales tax not included. All incurred charges will be due upon receipt.

*CUSTOMER IS RESPONSIBLE FOR PROVIDING THE PRIMARY ELECTRICAL TO THEIR SIGN.

*IF ANY SIGNS ARE REMOVED FROM CUSTOMERS BUILDING, CUSTOMER IS RESPONSIBLE FOR ALL PATCHING AND PAINTING

*CUSTOMERS MUST PROVIDE LEGAL LAND SURVEY WHEN PURCHASING GROUND SIGNS.

*Applicable Sales Tax will be added on final invoice

Acceptance of Proposal:

The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work above as specified. Payment will be made as outlined above. Customer understands the cost of extras such as sales tax, permitting, staff time and engineering are not added in quoted price, and will be due upon receipt. This contract executed in Montgomery County, TX.

Print Name: _____

Signature: _____ Date: _____

Please review & sign the Terms & Conditions and Personal Guarantee.

"G"



Signage Proposal

REMIT TO:
Adcorp Sign Systems, LLC
PO Box 2423
Conroe, TX 77305

CREDIT CARDS ACCEPTED
  

Bill To:

CBS Outdoor - Houston
ATTN: Billy Wade

Job Location:

8002 Broadway
Galveston, TX

Quoted By: Anthony Tinsl Date:

Email: atinsley@darrellsign.com

Specifications

Repair Existing Board# 02_1548

- Use existing Stub Pipe
- 1st Stage 24"

Reusable Materials from Head:

- (5) Uprights
- (2) Inside catwalks
- (4) Stringers
- (3) Catwalk Arms
- Torsion Pipe
- (4) Lights
- (1-1/2) Outside Catwalk (48' + 24')

Material to be New:

- (3) Uprights
- (1/2) Outside catwalks (24')
- (4) Stringers
- (1) Catwalk Arm
- (1) Walk around
- (1) Handrail
- (1) Upper Ladder
- (1) Column Pipe Ladder
- (4) Lights

WE PROPOSE hereby to furnish Signage-complete in accordance with the above specifications, for the sum of:

\$ 18,600 USD + TAX

Payment Terms: 1/2 Down before construction begins. Balance due upon completion.

Note: Cost of permits, permit procurement, engineer drawings, land surveys and sales tax not included. All incurred charges will be due upon receipt.

*CUSTOMER IS RESPONSIBLE FOR PROVIDING THE PRIMARY ELECTRICAL TO THEIR SIGN.

*IF ANY SIGNS ARE REMOVED FROM CUSTOMERS BUILDING, CUSTOMER IS RESPONSIBLE FOR ALL PATCHING AND PAINTING

*CUSTOMERS MUST PROVIDE LEGAL LAND SURVEY WHEN PURCHASING GROUND SIGNS.

*Applicable Sales Tax will be added on final invoice

Acceptance of Proposal:

The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work above as specified. Payment will be made as outlined above. Customer understands the cost of extras such as sales tax, permitting, staff time and engineering are not added in quoted price, and will be due upon receipt. This contract executed in Montgomery County, TX.

Print Name: _____

Signature: _____ Date: _____

Please review & sign the Terms & Conditions and Personal Guarantee.

"H"



13369 Old Texaco Camp Rd
Conroe, Tx 77302

936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
4/1/2014	5/1/2014	2014-2247

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston 8002 Broadway

Terms	P.O. No.	Structure ID #	
Net 30		02_1548	
Description	Qty	Cost	Total
Fabricate & Install New Steel Structure 14' x 48' Monopole, Vinyl Frame Billboard @ 55' O.A.H. from natural grade. Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s) --Lights with electrical wire run to base of sign for customer electrician to provided and install timer and service. *Time Clocks & Meter Loop Sold Separately.*		76,520.00	76,520.00
We look forward to serving you.		Subtotal	\$76,520.00
NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing. By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.		Sales Tax (8.25%)	\$0.00
		Total	\$76,520.00

This bid is guaranteed for 30 days from date written.

Approval Signature _____

" M "



13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
6/17/2014	7/17/2014	2014-2344

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston 8002 Broadway

Terms	P.O. No.	Structure ID #		
Net 30		02_1548		
Description		Qty	Cost	Total
Repair Existing Board# 02_1548 - Use existing Stub Pipe - 1st Stage 24" Reusable Materials from Head: - (5) Uprights - (2) Inside catwalks - (4) Stringers - (3) Catwalk Arms - Torsion Pipe - (4) Lights - (1-1/2) Outside Catwalk (48' + 24') Material to be New: - (3) Uprights - (1/2) Outside catwalks (24') - (4) Stringers - (1) Catwalk Arm - (1) Walk around - (1) Handrail - (1) Upper Ladder - (1) Column Pipe Ladder - (4) Lights			16,365.00	16,365.00T
We look forward to serving you.		Subtotal		

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.
By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal	\$16,365.00
Sales Tax (8.25%)	\$1,350.11
Total	\$17,715.11

This bid is guaranteed for 30 days from date written.

Approval Signature _____

"N"

Houston Sign & Service Inc.
1536 Hartwick Rd.
Houston, Texas 77093
(713) 880-0175 Office
(713) 880-0176 Fax
houstonsignservice@comcast.net



CBS Outdoor
Attn: Mr. Don Bosley
1600 Studemont
Houston, Texas 77007

September 16, 2014

RE: 14 X 48 Double Face Back to Back Storm Damaged Sign (02-1565)
located at I-45 and 61st Street in Galveston, TX

Houston Sign and Service is pleased to quote as follows:

Furnish all material, Equipment and Labor to install (1) 14x48 Double Face Back to Back Sign with Approx. overall height of 56 ft. Sign to be Built with 6 uprights per side, (8) 3 x 3 Angle Stringers with (2) 48ft. Outside walks. Steel upper and lower inside walks with walkarounds and access ladders. Sign to be installed on Min. 36 inch Column Pipe set in the ground per engineers drawing.

Total cost for (1) 14 x 48 sign

\$60,550.00

All equipment must have ready access. Any alterations or deviations over and above this quote will become an extra charge over and above this quote.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jim Redmond". The signature is written in a cursive, flowing style. Below the signature, the name "Jim Redmond" is printed in a simple, sans-serif font.

Jim Redmond

"C"

Houston Sign & Service Inc.
1536 Hartwick Rd.
Houston, Texas 77093
(713) 880-0175 Office
(713) 880-0176 Fax
houstonsignservice@comcast.net



CBS Outdoor
Attn: Mr. Don Bosley
1600 Studemont
Houston, Texas 77007

September 16, 2014

RE: Repair 14 X 48 Double Face Back to Back Storm Damaged Sign (02-1565)
located at I-45 and 61st Street in Galveston, TX

Houston Sign and Service is pleased to quote as follows:

Furnish all Material, Equipment and Labor to Repair (1) 14x48 Double Face Back to Back Sign with an approx. Overall Height of 56 ft. Existing sign head to be reinstalled with existing top column pipe. Sign head to be repaired as needed using existing torsion pipe, (8) uprights, inside upper walk, (1) 48ft. outside walk and (5) 400 watt light fixtures. Houston Sign and Service to fabricate (4) new uprights, (8) 48ft. stringers, (1) outside walk, (1) inside walk with walkarounds and access ladders. Price includes reinstalling transition pipes and rebuilt sign structure with (3) new 400 watt light fixtures.

Total cost to repair (1) 14 x 48 sign

\$36,250.00

All equipment must have ready access. Any alterations or deviations over and above this quote will become an extra charge over and above this quote.

Sincerely,

A handwritten signature in blue ink that reads "Jim Redmond". The signature is written in a cursive style with a large, stylized "J" and "R".

Jim Redmond

"D"



Signage Proposal

REMIT TO:
Adcorp Sign Systems, LLC
PO Box 2423
Conroe, TX 77305



Bill To:

CBS Outdoor - Houston
ATTN: Billy Wade

Job Location:

I-45 and 61st Street
Galveston, TX

Quoted By: Anthony Tinsl Date:

Email: atinsley@darrellsign.com

Specifications

Fabricate & Install New Steel Billboard Structure

Size: 14' x 48' Center Mount Monopole
Type: Vinyl Frame Billboard
Height: 60' O.A.H. from natural grade.

Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s)
--Lights with electrical wire run to base of sign for customer electrician to provided and install timer and service.
Time Clocks and Meter Loop not provided

WE PROPOSE hereby to furnish Signage-complete in accordance with the above specifications, for the sum of:

\$ 79,900 USD + TAX

Payment Terms: 1/2 Down before construction begins. Balance due upon completion.

Note: Cost of permits, permit procurement, engineer drawings, land surveys and sales tax not included. All incurred charges will be due upon receipt.

*CUSTOMER IS RESPONSIBLE FOR PROVIDING THE PRIMARY ELECTRICAL TO THEIR SIGN.

*IF ANY SIGNS ARE REMOVED FROM CUSTOMERS BUILDING, CUSTOMER IS RESPONSIBLE FOR ALL PATCHING AND PAINTING

*CUSTOMERS MUST PROVIDE LEGAL LAND SURVEY WHEN PURCHASING GROUND SIGNS.

*Applicable Sales Tax will be added on final invoice

Acceptance of Proposal:

The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work above as specified. Payment will be made as outlined above. Customer understands the cost of extras such as sales tax, permitting, staff time and engineering are not added in quoted price, and will be due upon receipt. This contract executed in Montgomery County, TX.

Print Name: _____

Signature: _____ Date: _____

Please review & sign the Terms & Conditions and Personal Guarantee.

"I"



Signage Proposal

REMIT TO:
Adcorp Sign Systems, LLC
PO Box 2423
Conroe, TX 77305

CREDIT CARDS ACCEPTED
VISA DISCOVER

Bill To:

CBS Outdoor - Houston
ATTN: Billy Wade

Job Location:

I-45 and 61st St
Galveston, TX

Quoted By: Anthony Tinsl Date:

Email: atinsley@darrellsign.com

Specifications

Repair Existing Board# 02_1565
- Use Existing Stub Pipe 36"
- 1st Stage 30" & 2nd Stage 24"

Reusable Materials from Head:

- Torsion Pipe
- (8) Uprights
- (1) Walk around
- (1) Upper Ladder
- (5) Lights
- (1) Outside catwalk
- (1) 48' Inside Catwalk

Materials to be New:

- (4) Uprights
- (1) Outside catwalks
- (1) Inside Catwalks
- (8) Stringers
- (1) Handrail
- (12) Catwalk arms
- (3) Lights

WE PROPOSE hereby to furnish Signage-complete in accordance with the above specifications, for the sum of:

\$ 16,800 USD + TAX

Payment Terms: ½ Down before construction begins. Balance due upon completion.

Note: Cost of permits, permit procurement, engineer drawings, land surveys and sales tax not included. All incurred charges will be due upon receipt.

*CUSTOMER IS RESPONSIBLE FOR PROVIDING THE PRIMARY ELECTRICAL TO THEIR SIGN.

*IF ANY SIGNS ARE REMOVED FROM CUSTOMERS BUILDING, CUSTOMER IS RESPONSIBLE FOR ALL PATCHING AND PAINTING

*CUSTOMERS MUST PROVIDE LEGAL LAND SURVEY WHEN PURCHASING GROUND SIGNS.

*Applicable Sales Tax will be added on final invoice

Acceptance of Proposal:

The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work above as specified. Payment will be made as outlined above. Customer understands the cost of extras such as sales tax, permitting, staff time and engineering are not added in quoted price, and will be due upon receipt. This contract executed in Montgomery County, TX.

Print Name: _____

Signature: _____ Date: _____

Please review & sign the Terms & Conditions and Personal Guarantee.

"J"



13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
4/1/2014	5/1/2014	2013-2099

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
1-45 @ 61 St Galveston Tx

Terms
Net 30

P.O. No.	Structure ID #
	02_1565

Description	Qty	Cost	Total
Fabricate & Install New Steel Structure 14' x 48' Center Mount, Back to Back Monopole Billboard @ 60' O.A.H. from natural grade. Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s)		78,000.00	78,000.00

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.
By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal	\$78,000.00
Sales Tax (8.25%)	\$6,435.00
Total	\$84,435.00

This bid is guaranteed for 30 days from date written.

Approval Signature _____

02-1565

"0"

Advertising Higher

13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
6/17/2014	7/17/2014	2014-2345

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston I-45 @ 61St

Terms	P.O. No.	Structure ID #		
Net 30		02_1565		
Description		Qty	Cost	Total
Repair Existing Board# 02_1565 - Use Existing Stub Pipe 36" - 1st Stage 30" & 2nd Stage 24" Reusable Materials from Head: - Torsion Pipe - (8) Uprights - (1) Walk around - (1) Upper Ladder - (5) Lights - (1) Outside catwalk - (1) 48' Inside Catwalk Materials to be New: - (4) Uprights - (1) Outside catwalks - (1) Inside Catwalks - (8) Stringers - (1) Handrail - (12) Catwalk arms - (3) Lights			14,487.00	14,487.00T
We look forward to serving you.		Subtotal		

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.
By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal	\$14,487.00
Sales Tax (8.25%)	\$1,195.18
Total	\$15,682.18

This bid is guaranteed for 30 days from date written.

Approval Signature _____

"P"

Houston Sign & Service, Inc.
1536 Hartwick Rd.
Houston, Texas 77093
(713) 880-0175 Office
(713) 880-0176 Fax
houstonsignservice@comcast.net



CBS Outdoor
Attn: Mr. Don Bosley
1600 Studemont
Houston, TX 77007

September 16, 2014

RE: 14 X 48 Double Face Back to Back Sign (02-1574) to be installed at
Harborside at 35th Street in Galveston, TX

Houston Sign and Service is pleased to quote as follows:

Furnish all Material, Equipment and Labor to install (1) 14 x 48 Double Face Back to Back Sign with approx. overall height of 58 ft. Sign to be built with 8 upright per side, (8) 3 x 3 Angle Stringers with (2) 48ft. Outside walks. Steel upper and lower inside walks with walkarounds and access ladders. sign to be installed on Min. 36 inch Column Pipe set in the ground per engineers drawing.

Total cost to install your 14 x 48 sign

\$58,250.00

All equipment must have ready access. Any alterations or deviations over and above this bid will become an extra charge over and above this quote.

Sincerely,

A handwritten signature in cursive script that reads "Jim Redmond".
Jim Redmond

"E"

Houston Sign & Service, Inc.
1536 Hartwick Rd.
Houston, Texas 77093
(713) 880-0175 Office
(713) 880-0176 Fax
houstonsignservice@comcast.net



CBS Outdoor
Attn: Mr. Don Bosley
1600 Studemont
Houston, TX 77007

September 16, 2014

RE: Repair 14 X 48 Double Face Back to Back Storm Damaged Sign (02-1574)
Located at Harborside at 35th Street in Galveston, Texas

Houston Sign and Service is pleased to quote as follows:

Furnish all Material, Equipment and Labor to repair (1) 14 x 48 Double Face Back to Back Sign with approx. overall height of 58 ft. Existing Sign Head to be reinstalled with existing top column pipe. Sign head to be repaired as needed using existing Torsion pipe, Uprights, inside upper and lower walks, (2) 48ft. Outside walks. Houston Sign and Service to Fabricate (2) 48ft. Stringers, (1) New mounting plate attached to existing Column Pipe with new walkarounds and access Ladders. Price includes Reinstalling rebuilt Sign Structure.

Total cost to repair your 14 x 48 sign

\$20,450.00

All equipment must have ready access. Any alterations or deviations over and above this bid will become an extra charge over and above this quote.

Sincerely,

A handwritten signature in cursive script that reads "Jim Redmond".
Jim Redmond

"F"



Signage Proposal

REMIT TO:
Adcorp Sign Systems, LLC
PO Box 2423
Conroe, TX 77305

CREDIT CARDS ACCEPTED

Bill To:

CBS Outdoor - Houston
ATTN: Billy Wade

Job Location:

35th street @ Harborside
Galveston, TX

Quoted By: Anthony Tinsl Date:

Email: atinsley@darrellsign.com

Specifications

Fabricate & Install New Steel Billboard Structure

Size: 14' x 48' Monopole

Type: Vinyl Frame Billboard

Height: 50' O.A.H. from natural grade.

Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s)

--Lights with electrical wire run to base of sign for customer electrician to provided and install timer and service.

Time Clocks and Meter Loop not provided

WE PROPOSE hereby to furnish Signage-complete in accordance with the above specifications, for the sum of:

\$ 76,458 USD + TAX

Payment Terms: ½ Down before construction begins. Balance due upon completion.

Note: Cost of permits, permit procurement, engineer drawings, land surveys and sales tax not included. All incurred charges will be due upon receipt.

*CUSTOMER IS RESPONSIBLE FOR PROVIDING THE PRIMARY ELECTRICAL TO THEIR SIGN

*IF ANY SIGNS ARE REMOVED FROM CUSTOMERS BUILDING, CUSTOMER IS RESPONSIBLE FOR ALL PATCHING AND PAINTING

*CUSTOMERS MUST PROVIDE LEGAL LAND SURVEY WHEN PURCHASING GROUND SIGNS

*Applicable Sales Tax will be added on final invoice

Acceptance of Proposal:

The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work above as specified. Payment will be made as outlined above. Customer understands the cost of extras such as sales tax, permitting, staff time and engineering are not added in quoted price, and will be due upon receipt. This contract executed in Montgomery County, TX.

Print Name: _____

Signature: _____ Date: _____

Please review & sign the Terms & Conditions and Personal Guarantee.

"K"



Signage Proposal

REMIT TO:
Adcorp Sign Systems, LLC
PO Box 2423
Conroe, TX 77305

CREDIT CARDS ACCEPTED
  

Bill To:

CBS Outdoor - Houston
ATTN: Billy Wade

Job Location:

35th and Harborside
Galveston, TX

Quoted By: Anthony Tinsl Date:

Email: atinsley@darrellsign.com

Specifications

Repair Existing Board# 02_1574
- Use All existing pipe - 36", 30", 26"

Reusable Materials from Head:

- Torsion Pipe
- (2) Outside Catwalk
- (2) Inside Catwalk
- (6) Stringers
- (16) Uprights
- (1) Column Pipe Ladder
- (1) Upper Ladder

Material to be New:

- (2) Stringers
- (2) walk arounds
- (2) Handrails
- (8) Catwalk arms

WE PROPOSE hereby to furnish Signage-complete in accordance with the above specifications, for the sum of:

\$ 10,460 USD + TAX

Payment Terms: ½ Down before construction begins. Balance due upon completion.

Note: Cost of permits, permit procurement, engineer drawings, land surveys and sales tax not included. All incurred charges will be due upon receipt.

*CUSTOMER IS RESPONSIBLE FOR PROVIDING THE PRIMARY ELECTRICAL TO THEIR SIGN.

*IF ANY SIGNS ARE REMOVED FROM CUSTOMERS BUILDING, CUSTOMER IS RESPONSIBLE FOR ALL PATCHING AND PAINTING

*CUSTOMERS MUST PROVIDE LEGAL LAND SURVEY WHEN PURCHASING GROUND SIGNS.

*Applicable Sales Tax will be added on final invoice

Acceptance of Proposal:

The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work above as specified. Payment will be made as outlined above. Customer understands the cost of extras such as sales tax, permitting, staff time and engineering are not added in quoted price, and will be due upon receipt. This contract executed in Montgomery County, TX.

Print Name: _____

Signature: _____ Date: _____

Please review & sign the Terms & Conditions and Personal Guarantee.

"L"



936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
4/1/2014	5/1/2014	2014-2248

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galveston: 35st @ Harborside

Terms
Net 30

P.O. No.	Structure ID #
	02_1574

Description	Qty	Cost	Total
Fabricate & Install New Steel Structure 14' x 48' Monopole, Vinyl Frame Billboard @ 50' O.A.H. from natural grade. Per specifications: Outside & Inside Catwalks, Skirts, Ladder(s) --Lights with electrical wire run to base of sign for customer electrician to provided and install timer and service. *Time Clocks & Meter Loop Sold Separately.*		74,667.00	74,667.00

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.
 By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal	\$74,667.00
Sales Tax (8.25%)	\$0.00
Total	\$74,667.00

This bid is guaranteed for 30 days from date written.

Approval Signature _____

"Q"



13369 Old Texaco Camp Rd
Conroe, Tx 77302
936-321-0703 Office 936-321-0701 Fax

Estimate

Date	Expires	Estimate #
6/16/2014	7/16/2014	2014-2343

Name / Address
CBS Outdoor Houston PO Box 404 Broadway, NJ 08808-0404 ATTN: Billy Wade

Job Location
Galvesto: 35st on Harboride

Terms
Net 30

P.O. No.	Structure ID #
	02_1574

Description	Qty	Cost	Total
Repair Existing Board# 02_1574 - Use All existing pipe - 36", 30", 26" Reusable Materials from Head: - Torsion Pipe - (2) Outside Catwalk - (2) Inside Catwalk - (6) Stringers - (16) Uprights - (1) Column Pipe Ladder - (1) Upper Ladder Material to be New: - (2) Stringers - (2) walk arounds - (2) Handrails - (8) Catwalk arms		8,756.00	8,756.00T

We look forward to serving you.

NOTE: Permits, Engineer Drawings, & Registered Survey Not Included. This price is based upon normal working conditions. Hole processing, matts, clearing trees/brush, excessive supplies, materials or labor needed to complete the job due to poor conditions of the billboard or its location are NOT included, unless otherwise noted above and will be due upon final billing.

By signing below you authorize work to be performed and agree with this Notice and Payment Terms stated above.

Subtotal \$8,756.00

Sales Tax (8.25%) \$722.37

Total \$9,478.37

This bid is guaranteed for 30 days from date written.

Approval Signature _____

"R"

From: David Ewald [<mailto:EwaldDav@cityofgalveston.org>]
Sent: Wednesday, December 10, 2014 10:35 AM
To: Donna Fairweather; Richard Rothfelder
Cc: Bosley, Donald R; Catherine Gorman
Subject: RE: Billboard Permits

Mr. Bosley, after reviewing the three bids submitted for the replacement and repair of these signs, we cannot accept as submitted. The reason for the denial of your submittals is as per attached Section 29-84 of the Zoning Standards, states that the costs shall be with new materials. All of the bids submitted were reusing existing materials.

Thanks,

David Ewald

CBO, CFM;
City of Galveston,
Department of Planning and Community Development
O: 409.797.3620
F: 409.797.3604



From: Donna Fairweather
Sent: Tuesday, December 09, 2014 10:33 AM
To: Richard Rothfelder
Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

Hello Richard,

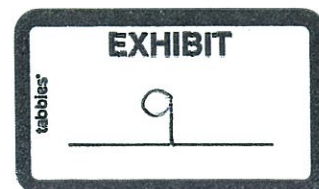
Legal met with Planning and David Ewald will be sending you an email later this afternoon. If you wish to meet after that, we can. Unfortunately, tomorrow's schedules are loaded for us and it is not a good day to meet.

Again, if you wish to meet after the email, please contact me.

Donna

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]
Sent: Tuesday, December 09, 2014 9:39 AM
To: Donna Fairweather
Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

Donna:



I assume we're meeting tomorrow. Please confirm the time and place.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.
1201 Louisiana St., Suite 550, Houston, TX 77002
Phone: (713) 220-2288 | Facsimile: (713) 658-8211
rrothfelder@swbell.net
www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Donna Fairweather [<mailto:fairweatherdon@cityofgalveston.org>]
Sent: Thursday, December 04, 2014 5:00 PM
To: Richard Rothfelder
Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

We will be able to confirm a time tomorrow afternoon.
Donna

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]
Sent: Thursday, December 04, 2014 4:26 PM
To: Donna Fairweather
Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

Donna:

Please confirm our meeting time on December 9 or 10, so we can schedule accordingly for next week.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.
1201 Louisiana St., Suite 550, Houston, TX 77002
Phone: (713) 220-2288 | Facsimile: (713) 658-8211
rrothfelder@swbell.net
www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]
Sent: Monday, December 01, 2014 10:35 AM
To: 'Donna Fairweather'
Cc: 'Bosley, Donald R'; 'David Ewald'; 'Catherine Gorman'
Subject: RE: Billboard Permits

Donna:

Don Bosley and I are available for a meeting with you and others in Galveston on December 9 and 10. Please let us know the date, time, and place. Thanks, and we look forward to seeing you again soon.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Monday, November 24, 2014 1:41 PM

To: 'Donna Fairweather'

Cc: 'Bosley, Donald R'; 'David Ewald'; 'Catherine Gorman'

Subject: RE: Billboard Permits

Thanks, Donna. We'll visit on our end, and get you some dates for the week of December 8. Happy Thanksgiving.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Donna Fairweather [<mailto:fairweatherdon@cityofgalveston.org>]

Sent: Monday, November 24, 2014 1:10 PM

To: Richard Rothfelder

Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman

Subject: RE: Billboard Permits

Mr. Rothfelder,

Due to the holiday schedule, it looks like the second week in December will be available for meeting on the subject. Please provide some times of availability and I will coordinate a time on this end.

Thanks and have an enjoyable holiday season.

Donna Fairweather

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Thursday, November 20, 2014 9:44 AM

To: Donna Fairweather

Cc: 'Bosley, Donald R'

Subject: RE: Billboard Permits

Donna:

You mentioned below you'd be visiting with Ms. Gorman and Mr. Ewald, and get back with me this week. Do you have any updates? In fact, given how this matter seems to have drug on, could Don Bosley of CBS and I come down to Galveston and meet with Mr. Ewald, Ms. Gorman, and you or other Staff decision makers and hopefully make progress to a final resolution? How does your schedules look for such a meeting over the next two or three weeks?

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Thursday, November 13, 2014 4:31 PM

To: 'Donna Fairweather'

Cc: 'Bosley, Donald R'

Subject: RE: Billboard Permits

Donna:

Please afford me the professional courtesy of a response.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Monday, November 03, 2014 1:42 PM

To: 'Donna Fairweather'

Cc: 'Bosley, Donald R'

Subject: FW: Billboard Permits

Donna:

You'll recall we met a few months ago, when I represented the folks from the Lighthouse in their variance request for signage adjacent to I45. I appreciate your assistance and courtesies on that matter, and have another client matter I'd like you to look into. Specifically, I represent CBS Outdoor, which has been attempting to work with the City for years now in seeking repair of storm damaged signs. In fact, you may recall that I mentioned that I'd probably be calling you about the CBS issue as well. Please see the email exchange below between Don Bosley of CBS and Catherine Gorman of Galveston. It's been a few weeks, and Mr. Bosley for some reason hasn't received a reply from Ms. Gorman, despite repeated inquiries on the status of CBS' applications, estimates, and paperwork. Would you please check with Ms. Gorman, and get back with me on this matter. I also think it would be good for all parties if Mr. Bosley and I came to Galveston to meet with you, David Ewald, and Ms. Gorman. Therefore, please call me about these matters at your earliest convenience. I look forward to visiting with you again soon.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Bosley, Donald R
Sent: Thursday, October 23, 2014 2:44 PM
To: 'Catherine Gorman'
Cc: 'Richard Rothfelder'; Sitta, Jay; Mikedelltrustee
Subject: RE: Billboard Permits

Catherine: It has been quite some time since I submitted the last 2 of the 3 bids requested by the City of Galveston for the repair of the IKE damaged signs. As I understood it, those 2 bids was all that was needed for the City to review and approve the permits. As of this date I still have not heard from the City on the status. Will you please check with David Ewald and the permit department and advise me of where this stands? We would like to complete these repairs as soon as possible.

Thank you.

Don Bosley Real Estate Manager
Tel: 713.868.2284 | Cell: 281.732.5825 | OutfrontMedia.com
1600 Studemont, Houston, TX 77007



From: Catherine Gorman [<mailto:GormanCat@cityofgalveston.org>]
Sent: Tuesday, September 09, 2014 8:41 AM
To: Bosley, Donald R
Cc: 'Richard Rothfelder'; Sitta, Jay; Mikedelltrustee
Subject: RE: Billboard Permits

Don – the Building Official has reviewed has said that the information submitted was sufficient. We still need the two additional bids. Thanks – Catherine

From: Bosley, Donald R [<mailto:don.bosley@cbsoutdoor.com>]
Sent: Monday, September 08, 2014 3:05 PM
To: Catherine Gorman
Cc: 'Richard Rothfelder'; Sitta, Jay; Mikedelltrustee
Subject: FW: Billboard Permits

Ms. Gorman. I have not heard back from you or the City of Galveston in response to my request (see below) for confirmation that the format of the first bid submitted was satisfactory in my getting the 2 additional bids that you have

requested. Therefore, I will assume that the format is acceptable and I will get the additional bids to you to complete the file for your building inspector.

Don Bosley

Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

From: Bosley, Donald R
Sent: Thursday, August 14, 2014 4:25 PM
To: 'Catherine Gorman'
Subject: FW: Billboard Permits

Please clarify as per my email below.
Thank you.

Don Bosley

Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

From: Bosley, Donald R
Sent: Tuesday, August 12, 2014 2:41 PM
To: 'Catherine Gorman'
Subject: RE: Billboard Permits

Yes. Please clarify for me. I submitted one bid with the application and I assume that you are requesting 2 more bids in addition to the one submitted. I also assume the one submitted meets the criteria of adequate description of work? If not please advise and I will get the other bids to you soon.

Thank you.

Don Bosley

Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

From: Catherine Gorman [<mailto:GormanCat@cityofgalveston.org>]
Sent: Monday, August 11, 2014 1:02 PM
To: Bosley, Donald R
Subject: Billboard Permits

Mr. Bosley – I have reviewed the permits submitted for 202 37th, 6127 Broadway and 8002 Broadway. In order to determine conformance with the regulations, the Building Official needs to have three bids submitted. Each bid needs to have the cost of a new sign and the cost of the proposed repairs. Please be sure that all required repairs are reflected in the submitted bids and that the bids are detailed enough for verification.

Please let me know if you need anything else.

Thanks – Catherine

Catherine Gorman, AICP, CFM, HHDFP
Assistant Director/Historic Preservation Officer
Planning Department
City of Galveston

Phone: 409-797-3665

Cell: 409-370-4252

e-mail: gormancat@cityofgalveston.org

ROTHFELDER & FALICK, L.L.P.

ATTORNEYS AT LAW

RICHARD L. ROTHFELDER
rrothfelder@rothfelderfalick.com
BOARD CERTIFIED - CIVIL TRIAL LAW

1201 LOUISIANA
SUITE 550
HOUSTON, TEXAS 77002

TELEPHONE: 713-220-2288
FACSIMILE: 713-658-8211
WWW.ROTHFELDERFALICK.COM

December 11, 2014

Ms. Donna M. Fairweather
Assistant City Attorney
City of Galveston
823 Rosenberg, Room 203
Galveston, TX 77553

Via Certified Mail, RRR, #7012 2920 0001 7732 6685,
and Email: fairweatherdon@cityofgalveston.org

RE: Applications of Outfront Media LLC f/k/a CBS Outdoor LLC for Billboard Repair Permits; Our File No. 1030-224.

Dear Donna:

As you know, the law firm of Rothfelder & Falick, L.L.P. represents Outfront Media LLC, f/k/a CBS Outdoor LLC ("Outfront"). As such, I am responding to the December 10, 2014 email of David Ewald of the City of Galveston to Don Bosley of Outfront, a copy of which is attached as Exhibit 1.

Mr. Ewald tells Mr. Bosley in his email that the three bids submitted several months previously by Mr. Bosley in connection with applications to repair Outfront's storm damaged signs could not be accepted as submitted. Mr. Ewald goes on to say the reason for the denial of the submission is Section 29-84 of Galveston's Zoning Standards, which purportedly requires the cost estimates to use new materials, whereas Outfront's submittal included reusing existing undamaged materials.

We respectfully disagree with the legal conclusions and factual allegations contained in Mr. Ewald's email, and urge the City of Galveston to accept Outfront's billboard repair applications and accompanying evidence, and to grant the repair permits accordingly for the following reasons.

First, Galveston's regulation, namely Section 29-84(b)(3) attached as Exhibit 2, simply doesn't make sense, if the "cost of repairing the Billboard [is with the use of] all new materials." Specifically, any comparison of repair and new construction cost, by definition, must account for the salvage and use of undamaged materials. By compelling the use of new materials for repair estimates, there is no acknowledgment that part of the sign remains in good condition and requires no repairs. Indeed, the situation is analogous to seeking an estimate of the cost to repair



a damaged fender after a car accident. It is nonsensical to require the inclusion of four new tires in the estimate to repair the dented fender, when there was no damage to the tires. Similarly, the majority of Outfront's sign components were not damaged by the storm, don't require any repairs whatsoever, and can be reused in the construction and operation of the signs. Therefore, the City's requirement of "all new materials as computed by the Building Inspector" is incorrect.

Second, Section 29-84(b)(3) goes on to provide "in the event of a conflict in this section and the Texas Local Government Code, Chapter 216, as amended, the Texas Local Government Code shall prevail." I have attached as Exhibit 3 the relevant provision of Chapter 216 of the Texas Local Government Code, namely Sections 216.013(b) and (c), which provide as follows:

(b) The requirements of this subchapter do not apply to a sign that, having been permitted to retain in place as a nonconforming use, is required to be removed by a municipality because the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.

(c) For purposes of Subsection (b), a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location.

As you can see, the State statute carries forward this same 60 percent test for determining when storm damaged signs are eligible for repair, but with a simple and straightforward "cost of repairing the sign" and the "cost of erecting a new sign." Thus, this confusion about using new materials under Galveston's regulations is subordinate to the State's statute and therefore rejected.

Third, this confusion over eligibility to repair storm damaged signs, and the affect on the sign owner's due process rights, has been extensively discussed in the case of *City of Webster vs. SignAd, Inc.*, 682 S.W.2nd 644 (Tex.App.-Houston [1st Dist.] 1984, writ ref'd.), a copy of which is also attached as Exhibit 4. As you can see from the case, several billboards of another company, SignAd, suffered varying degrees of storm damage by Hurricane Alicia. The Webster Building Official denied repair of all of the signs, subjectively determining and without the benefit of any objective comparison of repair and replacement costs that such damage was "substantial." The Appellate Court held the Webster sign ordinance void for vagueness and violative of SignAd's due process rights, as "operators of outdoor advertising receive no fair and adequate notice...as to what sign repairs are permitted or prohibited." *Id.* at 648.

Galveston's actions similarly violate Outfront's due process rights. While purporting to incorporate an objective 60 percent test for determining eligibility to repair storm damaged signs, Galveston's ordinance nevertheless permits a subjective determination "as computed by the Building Inspector." Even worse, this determination is improperly delegated to the Galveston Building Inspector by the use of criteria that conflicts with State law when all new materials are

required for the repair cost estimates. As such, Section 29-84(b)(3) and the City's interpretation of it are unconstitutional as well.

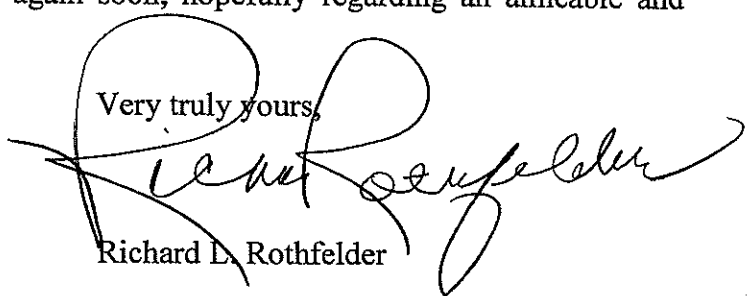
Fourth, Mr. Ewald's requirement that the repair costs estimates reflect with new materials is inconsistent with the City's previous indications to Mr. Bosley and Outfront. Specifically, the email thread preceding Mr. Ewald's December 10, 2014 email to Mr. Bosley contains repeated confirmations from Galveston's Catherine Gorman that Outfront's repair estimate submittals were sufficient. Ms. Gorman even said in her September 9, 2014 email "the Building Official has review [sic] has said that the information submitted was sufficient." Indeed, the first email in the chain preceding the most recent from Mr. Ewald is dated August 11, 2014, certainly leading one to wonder why it would take the City four months to finally conclude that its previous indication of satisfactory submittals was incorrect.

In conclusion, Outfront has been attempting to work cooperatively with the City for the consideration of its applications and issuance of the requested permits to repair its storm damaged signs for years. In doing so, Outfront has meticulously complied with all of Galveston's sign regulations, including submitting the correct comparison of the cost to repair the damage to its signs and the cost of erecting new signs. In stark contrast, the City has repeatedly delayed in even addressing and responding to Outfront's applications and supporting materials. When it finally does several months later, the City has misinterpreted its own regulations, and committed violations of Chapter 216 and Constitutional Due Process in doing so.

Therefore, I respectfully urge the City to reconsider its refusal to accept and process Outfront's sign repair applications. The City's failure to do so in the face of these constitutional ramifications will unfortunately leave Outfront with no alternative but to consider its litigation options.

I look forward to hearing from you again soon, hopefully regarding an amicable and expeditious resolution to this dispute.

Very truly yours,



Richard L. Rothfelder

RLR:mr
Enclosures

Ms. Donna M. Fairweather
December 11, 2014
Page 4

bc: Clients

Via Email

Richard Rothfelder

From: David Ewald [EwaldDav@cityofgalveston.org]
Sent: Wednesday, December 10, 2014 10:35 AM
To: Donna Fairweather; Richard Rothfelder
Cc: 'Bosley, Donald R'; Catherine Gorman
Subject: RE: Billboard Permits
Attachments: Section 29-84 (2).docx

Mr. Bosley, after reviewing the three bids submitted for the replacement and repair of these signs, we cannot accept as submitted. The reason for the denial of your submittals is as per attached Section 29-84 of the Zoning Standards, states that the costs shall be with new materials. All of the bids submitted were reusing existing materials.

Thanks,

David Ewald

CBO, CFM;
City of Galveston,
Department of Planning and Community Development
O: 409.797.3620
F: 409.797.3604



From: Donna Fairweather
Sent: Tuesday, December 09, 2014 10:33 AM
To: Richard Rothfelder
Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

Hello Richard,

Legal met with Planning and David Ewald will be sending you an email later this afternoon. If you wish to meet after that, we can. Unfortunately, tomorrow's schedules are loaded for us and it is not a good day to meet.

Again, if you wish to meet after the email, please contact me.

Donna

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]
Sent: Tuesday, December 09, 2014 9:39 AM
To: Donna Fairweather



Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

Donna:

I assume we're meeting tomorrow. Please confirm the time and place.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.
1201 Louisiana St., Suite 550, Houston, TX 77002
Phone: (713) 220-2288 | Facsimile: (713) 658-8211
rrothfelder@swbell.net
www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Donna Fairweather [<mailto:fairweatherdon@cityofgalveston.org>]
Sent: Thursday, December 04, 2014 5:00 PM
To: Richard Rothfelder
Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

We will be able to confirm a time tomorrow afternoon.
Donna

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]
Sent: Thursday, December 04, 2014 4:26 PM
To: Donna Fairweather
Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman
Subject: RE: Billboard Permits

Donna:

Please confirm our meeting time on December 9 or 10, so we can schedule accordingly for next week.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.
1201 Louisiana St., Suite 550, Houston, TX 77002
Phone: (713) 220-2288 | Facsimile: (713) 658-8211
rrothfelder@swbell.net
www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]
Sent: Monday, December 01, 2014 10:35 AM
To: 'Donna Fairweather'
Cc: 'Bosley, Donald R'; 'David Ewald'; 'Catherine Gorman'
Subject: RE: Billboard Permits

Donna:

Don Bosley and I are available for a meeting with you and others in Galveston on December 9 and 10. Please let us know the date, time, and place. Thanks, and we look forward to seeing you again soon.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Monday, November 24, 2014 1:41 PM

To: 'Donna Fairweather'

Cc: 'Bosley, Donald R'; 'David Ewald'; 'Catherine Gorman'

Subject: RE: Billboard Permits

Thanks, Donna. We'll visit on our end, and get you some dates for the week of December 8. Happy Thanksgiving.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Donna Fairweather [<mailto:fairweatherdon@cityofgalveston.org>]

Sent: Monday, November 24, 2014 1:10 PM

To: Richard Rothfelder

Cc: 'Bosley, Donald R'; David Ewald; Catherine Gorman

Subject: RE: Billboard Permits

Mr. Rothfelder,

Due to the holiday schedule, it looks like the second week in December will be available for meeting on the subject. Please provide some times of availability and I will coordinate a time on this end.

Thanks and have an enjoyable holiday season.

Donna Fairweather

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Thursday, November 20, 2014 9:44 AM

To: Donna Fairweather

Cc: 'Bosley, Donald R'

Subject: RE: Billboard Permits

Donna:

You mentioned below you'd be visiting with Ms. Gorman and Mr. Ewald, and get back with me this week. Do you have any updates? In fact, given how this matter seems to have drug on, could Don Bosley of CBS and I come down to Galveston and meet with Mr. Ewald, Ms. Gorman, and you or other Staff decision makers and hopefully make progress to a final resolution? How does your schedules look for such a meeting over the next two or three weeks?

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Thursday, November 13, 2014 4:31 PM

To: 'Donna Fairweather'

Cc: 'Bosley, Donald R'

Subject: RE: Billboard Permits

Donna:

Please afford me the professional courtesy of a response.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Richard Rothfelder [<mailto:rrothfelder@swbell.net>]

Sent: Monday, November 03, 2014 1:42 PM

To: 'Donna Fairweather'

Cc: 'Bosley, Donald R'

Subject: FW: Billboard Permits

Donna:

You'll recall we met a few months ago, when I represented the folks from the Lighthouse in their variance request for signage adjacent to I45. I appreciate your assistance and courtesies on that matter, and have another client matter I'd like you to look into. Specifically, I represent CBS Outdoor, which has been attempting to work with the City for years now in seeking repair of storm damaged signs. In fact, you may recall that I mentioned that I'd probably be calling you about the CBS issue as well. Please see the email exchange below between Don Bosley of CBS and Catherine Gorman of Galveston. It's been a few weeks, and Mr. Bosley for some reason hasn't received a reply from Ms. Gorman, despite repeated inquiries on the status of CBS' applications, estimates, and paperwork. Would you please check with Ms.

Gorman, and get back with me on this matter. I also think it would be good for all parties if Mr. Bosley and I came to Galveston to meet with you, David Ewald, and Ms. Gorman. Therefore, please call me about these matters at your earliest convenience. I look forward to visiting with you again soon.

Richard L. Rothfelder | Rothfelder & Falick, L.L.P.

1201 Louisiana St., Suite 550, Houston, TX 77002

Phone: (713) 220-2288 | Facsimile: (713) 658-8211

rrothfelder@swbell.net

www.rothfelderfalick.com

Note: This e-mail (plus any attachment) may contain privileged and confidential information. If you are not the intended recipient, please do not read, copy, use, or disclose it. Please reply to this message and notify the sender of the delivery error, then delete it from your system and destroy all copies.

From: Bosley, Donald R
Sent: Thursday, October 23, 2014 2:44 PM
To: 'Catherine Gorman'
Cc: 'Richard Rothfelder'; Sitta, Jay; Mikedelltrustee
Subject: RE: Billboard Permits

Catherine: It has been quite some time since I submitted the last 2 of the 3 bids requested by the City of Galveston for the repair of the IKE damaged signs. As I understood it, those 2 bids was all that was needed for the City to review and approve the permits. As of this date I still have not heard from the City on the status. Will you please check with David Ewald and the permit department and advise me of where this stands? We would like to complete these repairs as soon as possible.

Thank you.

Don Bosley Real Estate Manager
Tel: 713.868.2284 | Cell: 281.732.5825 | OutfrontMedia.com
1600 Studemont, Houston, TX 77007



From: Catherine Gorman [<mailto:GormanCat@cityofgalveston.org>]
Sent: Tuesday, September 09, 2014 8:41 AM
To: Bosley, Donald R
Cc: 'Richard Rothfelder'; Sitta, Jay; Mikedelltrustee
Subject: RE: Billboard Permits

Don – the Building Official has reviewed has said that the information submitted was sufficient. We still need the two additional bids. Thanks – Catherine

From: Bosley, Donald R [<mailto:don.bosley@cbsoutdoor.com>]
Sent: Monday, September 08, 2014 3:05 PM
To: Catherine Gorman
Cc: 'Richard Rothfelder'; Sitta, Jay; Mikedelltrustee
Subject: FW: Billboard Permits

Ms. Gorman. I have not heard back from you or the City of Galveston in response to my request (see below) for confirmation that the format of the first bid submitted was satisfactory in my getting the 2 additional bids that you have requested. Therefore, I will assume that the format is acceptable and I will get the additional bids to you to complete the file for your building inspector.

Don Bosley

Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

From: Bosley, Donald R
Sent: Thursday, August 14, 2014 4:25 PM
To: 'Catherine Gorman'
Subject: FW: Billboard Permits

Please clarify as per my email below.
Thank you.

Don Bosley

Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

From: Bosley, Donald R
Sent: Tuesday, August 12, 2014 2:41 PM
To: 'Catherine Gorman'
Subject: RE: Billboard Permits

Yes. Please clarify for me. I submitted one bid with the application and I assume that you are requesting 2 more bids in addition to the one submitted. I also assume the one submitted meets the criteria of adequate description of work? If not please advise and I will get the other bids to you soon.

Thank you.

Don Bosley

Real Estate Manager
CBS Outdoor Inc.
1600 Studemont
Houston, TX 77007
Tel: 713-868-2284 Fax: 713-862-8087
don.bosley@cbsoutdoor.com

From: Catherine Gorman [<mailto:GormanCat@cityofgalveston.org>]
Sent: Monday, August 11, 2014 1:02 PM
To: Bosley, Donald R
Subject: Billboard Permits

Mr. Bosley – I have reviewed the permits submitted for 202 37th, 6127 Broadway and 8002 Broadway. In order to determine conformance with the regulations, the Building Official needs to have three bids submitted. Each bid needs to have the cost of a new sign and the cost of the proposed repairs. Please be sure that all required repairs are reflected in the submitted bids and that the bids are detailed enough for verification.

Please let me know if you need anything else.

Thanks – Catherine

Catherine Gorman, AICP, CFM, HHDFP
Assistant Director/Historic Preservation Officer
Planning Department
City of Galveston

Phone: 409-797-3665

Cell: 409-370-4252

e-mail: gormancat@cityofgalveston.org

Section 29-84: ADVERTISING (Billboards) (Ord. 08-027) (Ord. 09-021)

(a) Definitions

- (1) As used in these regulations, "Building Inspector" shall mean the City Building Inspector or designee, or any other person designated by the City Manager.
- (2) As used in these regulations, "Department of Planning and Community Development" shall mean the Department of Planning and Community Development, or designee, or any other person designated by the City Manager.
- (3) As used in this section, "Billboard" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designated, intended or used to advertise or inform. "Billboard" shall include off-premise signs only.
- (4) "Electronic sign" means a sign, display, or device that changes its message or copy by programmable mechanical or electronic processes. The use of an electronic image on a digital display device is not the use of a flashing, intermittent, or moving light for the purposes of these regulations. Any flashing intermittent or moving light or lights including any type of screen using animated or scrolling displays except those giving only public service information such as time, date, temperature, weather or similar information is prohibited.

(b) Permits

- (1) The City shall not issue permits for the construction of new Billboards. The City may issue permits for the repair of legal, non-conforming Billboards that existed on October 29, 1997 per the provisions of this section. A Billboard permit shall be valid at the sign location for twelve (12) months unless sooner revoked or canceled.
- (2) The city shall charge an annual permit fee of thirty-five dollars (\$35.00) for each off-premise Billboard. The annual permit fee shall be non-refundable and shall be non-transferable to a different location. If any Billboard owner fails to obtain the required permit, the Billboard owner shall be subject to the penalties prescribed for violations of these regulations and in addition shall pay double the amount of the permit fee. If a Billboard owner wishes to transfer a permit to another person or entity, the Billboard owner shall notify, in writing, the Department of Planning and Community Development. The Department of Planning and Community Development shall void the original Billboard permit and issue a new permit to the new owner. No transfer shall be valid until accepted by the Department of Planning and Community Development.
- (3) Any legally existing, non-conforming Billboard in existence on the effective date of this ordinance may continue to lawfully exist. However, if a legally existing non-conforming Billboard is blown down or otherwise destroyed such that the cost of repairing the Billboard using all new materials is more than 60% of the cost of erecting a new Billboard of the same type at the same location using all new materials as computed by the Building Inspector, the Billboard owner and the owner of the property on which it is placed shall each be responsible to remove the Billboard. **If the Billboard is damaged such that the cost of repairing the Billboard using all new materials as computed by the Building Inspector is 60% or less than the cost of erecting a new Billboard of the same type at the same location then any repairs shall be done in compliance with the regulations of all applicable ordinances.** In the event of a conflict between this section and the Texas Local Government code, Chapter 216, as amended, the Texas Local Government Code shall prevail.

(c) Extraterritorial Jurisdiction (ETJ)

- (1) The City prohibits the construction of new, off premise, or billboard electronic signs along state highways within the City's extraterritorial jurisdiction, and will not issue permits for such signs. Additionally, the City prohibits the conversion, replacement or repair of existing Billboard to become electronic signs within the City's extraterritorial jurisdiction and will not issue permits for

EXHIBIT

tabbles

2

such conversion, replacement or repair.

(d) Site Provisions for legally non conforming Billboards

- (1) Any Billboard that is repaired at the same location shall be the same size or smaller than the original Billboard. However, in no event shall the repaired Billboard exceed the sizes set forth in section three below.
 - (2) Billboards may not be relocated.
 - (3) **Area:** Regardless of the size of the off-premise sign being relocated, the relocated off-premise sign shall not exceed fourteen feet (14') by forty-eight feet (48'), excluding cutout extensions and apron trip without copy. The cumulative area of all extensions on any Billboard shall not exceed 20% of the area of the Billboard, excluding extensions and apron trim without copy.
 - (4) **Height:** Billboards shall not exceed a maximum height of forty feet (40'). The height shall be measured from the crown of the adjacent roadway to which the Billboard is oriented. However, the Department of Planning and Community Development may issue a permit for a Billboard whose height exceeds forty feet (40'), but is less than fifty feet (50') if the Department of Planning and Community Development determines that the Billboard, at the lower height, would block an existing sign or structure from view, or would itself be blocked from view. The Department of Planning and Community Development shall provide a written determination to the Billboard owner. If the Billboard owner disagrees with the Department of Planning and Community Development's determination, the Billboard owner may notify the Director Planning and Community Development of the Billboard owner's desire to appeal the determination to City Council. Such notice of appeal must be filed with the Department of Planning and Community Development no later than the 60th day after the date of the Department of Planning and Community Development's written decision.
 - (5) **Setbacks:** A minimum setback of ten (10') feet from the right-of-way of the street to which the Billboard is oriented shall be required for any part of the Billboard and its supporting structure. As used in this sub-section only, "street" does not include alleys.
 - (6) **Conversion to Electronic Signs:** Any sign that is permitted to be repaired within the City of Galveston through the provisions of this section may not be converted to, or built as, an electronic sign.
- (e) Traffic Control Conflicts:** No Billboard or message thereon shall be permitted which resembles an official marker erected by any governmental agency, or which by reason of position, shape, color or illumination would obstruct from clear view any traffic signal or sign.
- (f) Illumination:** It shall be unlawful for any person to erect, operate, or otherwise use any Billboard which is of a rotating nature or displays intermittent lights. If this section conflicts with Section 29-81, "Sign Regulations" of the "Zoning Regulations 1991" this section (f) shall prevail as to Billboards.
- (g) Motion:** Billboards shall not be permitted to revolve or rotate.
- (h) Roof Mounted Sign:** Roof mounted Billboards shall not be permitted.
- (i) Maintenance:** Billboard owners shall maintain all signs in good appearance and safe structural condition. Billboard owners shall keep the general vicinity of any sign free and clear of sign materials, weeds, debris, trash and litter. Billboard owners shall conduct maintenance, replacement of sign copy, or structural repairs in a manner that will prevent debris and litter from drifting or being blown onto adjacent properties.
- (j) Registration:** After November 28th, 1997, owners of all Billboards situated in any location in the city limits shall register each Billboard with the office of the Building Official. Such registration shall be accomplished by filing, on forms prescribed for such purpose, information as to the location, height and

area of each Billboard. Owners shall keep such registration current and shall make a similar filing as to each Billboard erected, demolished or torn down within thirty (30) days from the happening of such event.

§ 216.012

LAND USE REGULATION Title 7

1985, that provided for compensation to the sign owner under an amortization plan.

(b) For a nonconforming sign erected after September 1, 1985, or for a sign in place on that date that later is made nonconforming by an extension of or strengthening of an ordinance that was in effect on June 1, 1985, and that provided an amortization plan, the amortization period is the entire useful life of the sign. If it has not already done so, the board shall determine the entire useful life of signs by type or category, such as mono-pole signs, metal signs, and wood signs. The useful life may not be solely determined by the natural life expectancy of a sign.

(c) Compensation for the relocation, reconstruction, or removal of a sign that, on September 1, 1985, was not in compliance with the sign ordinance shall be made in accordance with the applicable procedures of Section 6, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985 (Article 1015o, Vernon's Texas Civil Statutes), and that law is continued in effect for this purpose.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

Revisor's Note

Some of the provisions of Subsections (b)-(j) of the source law are executed, some have temporary continuing effect for a specific period, and some have temporary continuing effect for a period to be determined by affected municipalities. For this reason, those provisions are not revised but, instead, a cross-reference is added in Subsection (c) of the revised law, as a convenience for the reader, to direct the reader to the session law in which the provisions may be found.

Historical and Statutory Notes

Prior Laws:

Acts 1985, 69th Leg., ch. 221, art. 1, § 6.
Vernon's Ann.Civ.St. art. 1015o, § 6.

Notes of Decisions

Useful life 1

1. Useful life

Term "useful life" in Vernon's Ann.Civ.St. art. 1015o (repealed; now, this section) was not

unconstitutionally vague. *City of Houston v. Harris County Outdoor Advertising Ass'n* (App. 14 Dist. 1987) 732 S.W.2d 42.

§ 216.013. Exceptions

(a) The requirements of this subchapter do not apply to a sign that was erected in violation of local ordinances, laws, or regulations applicable at the time of its erection.

(b) The requirements of this subchapter do not apply to a sign that, having been permitted to remain in place as a nonconforming use, is required to be

removed by a municipality because the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign.

(c) For purposes of Subsection (b), a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location.

(d) This subchapter does not limit or restrict the compensation provisions of the highway beautification provisions contained in Chapter 391, Transportation Code.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 14, § 284(82), eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 165, § 30.219, eff. Sept. 1, 1997.

Historical and Statutory Notes

The 1991 amendment, in subsec. (d), substituted "Section 1, Chapter 741, Acts of the 67th Legislature, Regular Session, 1981" for "Texas Litter Abatement Act".

Acts 1997, 75th Leg., ch. 165, to conform to changes in the law made by Acts 1995, 74th Leg., ch. 165, in subsec. (d), substituted "Chap-

ter 391, Transportation Code" for "Article IV, Section 1, Chapter 741, Acts of the 67th Legislature, Regular Session, 1981 (Article 4477-9a, Vernon's Texas Civil Statutes)".

Prior Laws:

Acts 1985, 69th Leg., ch. 221, art. 1, § 8.
Vernon's Ann.Civ.St. art. 1015o, § 8.

§ 216.014. Appeal

(a) Any person aggrieved by a decision of the board may file in district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed within 20 days after the date the decision is rendered by the board.

(b) On the filing of the petition, the court may issue a writ of certiorari directed to the board to review the decision of the board and shall prescribe in the writ the time within which a return must be made, which must be longer than 10 days and may be extended by the court.

(c) The board is not required to return the original papers acted on by it, but it shall be sufficient to return certified or sworn copies of the papers. The return must concisely set forth all other facts as may be pertinent and material to show the grounds of the decision appealed from and must be verified.

(d) The court may reverse or affirm, wholly or partly, or modify the decision brought up for review.

(e) Costs may not be allowed against the board unless it appears to the court that the board acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987.

would be identical to that now before this court. We perceive no reason to require this result.

[1] We further note that before a guardian may file a suit in a court other than that which created the guardianship, he must first obtain permission from the court which created the guardianship. See Tex.Prob.Code Ann. sec. 234(b) (Vernon 1980). Thus, in the instant case, we assume that the guardian sought and obtained permission from the county court before filing in the district court.

[2] We hold that the provisions of section 5 of the Texas Probate Code gives the district court of Burleson County concurrent jurisdiction with the constitutional county court of Burleson County in probate matters involving title to land, and therefore, the district court had jurisdiction to hear the present case. The appellant's first and third points of error are overruled.

In his points of error two and four the appellant asserts that the county court should not, on its own motion, have transferred the guardianship proceedings to the district court because there was no "contested probate matter."

[3] The record reflects that the County Court of Burleson County retained jurisdiction over the Mason guardianship until the appellant filed his contest to set aside the guardianship. At that time the guardianship was transferred to the District Court of Burleson County. Section 5(b) of the Probate Code authorizes such a transfer and we find no merit to the appellant's contention.

[4, 5] As for his contention that the district court should not have consolidated the guardianship proceedings with the suit to set aside the deed, we observe that trial courts have discretion to consolidate all actions involving a common question of law or fact pending before the court. Tex.R. Civ.P. 174. See also *Allison v. Arkansas Louisiana Gas Co.*, 624 S.W.2d 566 (Tex. 1981).

[6] We further note that even if the district court erred in consolidating the two causes of action, the trial court severed the two causes of action for trial purposes, and a separate trial was had on all matters pertaining to the instant action to set aside the conveyance. Under these circumstances we perceive no harm to the appellant, and he has alleged none. The appellant's second and fourth points of error are overruled.

The judgment of the trial court is affirmed.



CITY OF WEBSTER, et al., Appellants,
v.

SIGNAD, INC., Appellee.

No. 01-84-0354-CV.

Court of Appeals of Texas,
Houston (1st Dist.).

Nov. 21, 1984.

Rehearing Denied Dec. 31, 1984.

Owner of billboard signs filed suit seeking to have section of city sign ordinance declared unconstitutional. The District Court, Harris County, Davie Wilson, J., held that section of ordinance was unconstitutional, and city appealed. The Court of Appeals, Duggan, J., held that section of city sign ordinance, which provided that any outdoor advertising signs could not be rebuilt if there was damage to "any substantial parts" of sign, was fatally vague and violative of due process since operators of outdoor advertising signs received no fair and adequate notice as to what sign repairs were permitted or prohibited.

Affirmed.

Doyle, J., dissented and filed opinion.

CITY OF WEBSTER v. SIGNAD, INC.

Cite as 682 S.W.2d 644 (Tex.App. 1 Dist. 1984)

1. Constitutional Law $\S$ 251.4
Criminal Law $\S$ 13.1(1)
Municipal Corporations $\S$ 594(2)
Statute or ordinance is violative of due process and fatally vague when persons regulated by it are exposed to some risk or detriment without fair warning of nature of proscribed conduct. U.S.C.A. Const. Amendments. 5, 14.

C. Charles Dippel, Sears & Burns, ton, for appellants.

Richard L. Rothfelder, William I. Fleet, Ryan & Shoss, Houston, for lee.

Before DOYLE, DUGGAN and I JJ.

OPINION

DUGGAN, Justice.

This is an appeal from a summary judgment declaring a portion of a city ordinance unconstitutional. The ordinance in question was the basis of the city refusal to allow a sign company to repair hurricane-damaged billboards.

Appellee, SignAd, Inc., owns a number of billboard signs within the jurisdiction of appellant City of Webster, all of which were erected prior to the passage of city's sign ordinance and were permitted to remain in place under the ordinance's "grandfather" clause. When seven of appellee's signs were damaged by Hurricane Alicia on August 18, 1983, appellee timely removed one which was severely damaged, and sought to repair the remaining six. Upon advice by city officials a permit would be required, SignAd's written request to appellant SignAd, Webster's City Engineer, for such permit as were necessary. The appellant city engineer replied by letter that, since storm had blown down or destroyed substantial parts of the signs, their reconstruction was forbidden. He based his decision on sections H(2) and D(2) of section 10, chapter 3, of the Building Regulations of the Webster City Code of Ordinances (the "Sign Ordinance"). The last sentence of section H(2) reads as follows:

When any outdoor advertising billboard, spectacular sign, business or business directory sign which is unlawful or non-conforming be

2. Constitutional Law $\S$ 251.4
When persons of common intelligence are compelled to guess at a law's meaning and applicability, due process is violated and the law is invalid. U.S.C.A. Const. Amendments. 5, 14.
3. Constitutional Law $\S$ 82(4)
Regulatory statutes governing business activity are allowed greater leeway than are allowed criminal statutes in applying "fair notice" test of determining whether statute is unconstitutionally vague. U.S.C.A. Const. Amendments. 5, 14.
4. Criminal Law $\S$ 13(1)
Statutes are not automatically invalidated as vague simply because difficulty is found in determining whether marginal offenses fall within their language. U.S.C.A. Const. Amendments. 5, 14.
5. Statutes $\S$ 47
For purposes of determining whether statute is unconstitutionally vague, requirement of reasonable certainty does not preclude the use of ordinary terms to express ideas which find adequate interpretation in common usage and understanding. U.S.C.A. Const. Amendments. 5, 14.
6. Constitutional Law $\S$ 240(1)
Municipal Corporations $\S$ 594(2)
Section of city sign ordinance, which provided that any outdoor advertising signs could not be rebuilt if there was damage to "any substantial parts" of sign, was fatally vague and violative of due process since operators of outdoor advertising signs received no fair and adequate notice as to what sign repairs were permitted or prohibited. U.S.C.A. Const. Amendments. 5, 14; Vernon's Ann. Texas Civ. St. art. 2524-1.

EXHIBIT

4

der, but for the fact that such sign was lawfully in existence on the date of passage of this section, or any substantial parts thereof is blown down or destroyed or taken down or removed for any purpose other than routine maintenance operations or for changing the lettering, symbols, or other matter on such signs, it shall not be reerected, reconstructed, rebuilt, or relocated except in conformity with the provisions of this section. (Emphasis added).

Section D(2) forbids the construction or emplacement of new billboards within the city. The city engineer denied the permits, deemed the damaged billboards to be in an unsafe condition, and ordered their removal.

Appellee appealed this ruling to the Webster City Council, which upheld the city engineer's decision. Appellee then filed suit in the district court seeking: (1) a declaratory judgment that it had complied with the sign ordinance, or that the quoted last sentence of section H(2) is unconstitutional; (2) a mandatory injunction requiring appellants to take any action necessary to allow appellee to repair and operate its signs; (3) a writ of mandamus to issue repair permits; (4) actual and punitive damages; and (5) attorney's fees. Following appellants' answer, both sides filed motions for summary judgment, and the court denied appellants' motion and granted that of appellee, finding that:

(1) The terms "substantial parts thereof" contained in the last sentence of Section H(2) ... violates the due process provisions of the Texas and United States Constitutions because such terms are so vague that they fail to give fair and adequate notice of what is permitted or prohibited, and they necessitate the use of unbridled discretion of the Webster City Engineer in interpretation and application.

(2) Alternatively, Sections H(2) and D(2) of the Sign Ordinance, which were relied upon by Defendants in prohibiting the repair of the subject Signs, do not regulate the mere repair of signs and are

therefore inapplicable to the facts in this case.

Pursuant to Tex.Rev.Civ.Stat.Ann. art. 2524-1 (Vernon 1965), the court decreed that the quoted last sentence of section H(2) was unconstitutional and void, granted appellee permission to repair immediately and renew operations of its damaged signs, and permanently enjoined the appellants from interfering in any way with appellee's repair and operation of its six signs in question. The court ordered severance of the summary judgment and retained jurisdiction over the damages of phase of the action.

In two points of error, the appellants City and City Engineer assert that the trial court erred in granting appellee's motion for summary judgment and in denying appellants' motion for summary judgment.

[1, 2] A statute or ordinance is violative of due process and fatally vague when persons regulated by it are exposed to some risk or detriment without fair warning of the nature of the proscribed conduct. *Texas Liquor Control Board v. The Altia Club, Inc.*, 457 S.W.2d 41, 45 (Tex.1970). When persons of common intelligence are compelled to guess at a law's meaning and applicability, due process is violated and the law is invalid. *Texas Antiquities Committee v. Dallas County Community College District*, 554 S.W.2d 924, 928 (Tex. 1977) (holding the term "of historical interest" to be unconstitutionally vague).

[3-5] We agree with the general principles and authorities appellant cites holding that regulatory statutes governing business activity are allowed greater leeway than is allowed criminal statutes in applying the "fair notice" test; that no more than "a reasonable degree of certainty can be demanded"; and that "statutes are not automatically invalidated as vague simply because difficulty is found in determining whether marginal offenses fall within their language." *Pennington v. Singleton*, 606 S.W.2d 682, 689 (Tex.1980). We also agree that, as stated in *Sproles v. Binford*, 286 U.S. 374, 393, 52 S.Ct. 581, 587, 76 L.Ed. 1167 (1932):

The requirement of reasonable certainty does not preclude the use of ordinary terms to express ideas which find adequate interpretation in common usage and understanding.

However, the Webster ordinance sets out neither a definition of "substantial parts" of a sign nor an objective standard by which damage to "substantial parts thereof" can be measured.

Significantly, the appellant City does use objective standards in similar circumstances in two other parts of its building regulations. The term "substantial improvement" is defined in section E(17) of the appellant City's Flood Damage Prevention Regulations as follows:

Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair has started or if the structure has been damaged and is being restored, before the damage occurred.

In section 101.4a of the Building Code, "[R]epairs costing in excess of fifty percent (50%) of the then physical value of the building" are required to conform to code requirements for new buildings. By such use of specific cost percentages and reference to replacement and repair cost, the two sections give concrete meaning to the term "substantial."

Although appellants urge that the recent federal decision in *Sign Supplies of Texas, Inc. v. McConn*, 517 F.Supp. 778 (S.D.Tex. 1980), is persuasive in showing that the term "substantial parts" is not unconstitutionally vague, that opinion does not address the quoted term directly. The words "primary," "primarily," "not usually," and "easily moved," none of which were defined in the Houston ordinance being examined in that opinion, were held not unconstitutionally vague. However, appellants' references to complaints made by the *Sign Supplies* plaintiff about the term "substantial parts" appear only in that litigant's

pleadings and brief, and not in the opinion.

Sanders v. State Department of Welfare, 472 S.W.2d 179 (Tex.Civ. Corpus Christi 1971, writ dismissed) dealt with a situation comparable to before us when it examined the constitutionality of Department of Public Welfare regulations relating to eligibility for age assistance. In determining that ability, an applicant's financial status is to be measured in part by his savings and outstanding debts. The regulations enjoining that determination provided:

Mere verbal allegations of an old, small debt to relatives, however, considered as justifying a transfer of assets] to such relatives.

Both the terms "old," and "informal" found to violate due process require. In examining the word "old," the court stated:

It is probable that one officer of the State Welfare Department might be that a one-year old debt was an old debt. Another in the same position might five years [as his standard], still another ten.

Id. at 182. The court concluded that the terms of the regulation were "so indefinite and uncertain that men of common intelligence must guess at their meaning." *Id.* at 183.

[6] We find that section H(2) of Webster sign ordinance, in its reference to "substantial parts" of a sign, suffers from a similar infirmity. The words "substantial parts" in terms of common speech does not mean per se explanatory or descriptive due process sense when they are examined in the context of an inquiry as to what allowable and forbidden sign repairs of a sign may be simultaneous "substantial" and "insubstantial" depending on whether the test used is economic, physical, or functional. If an economic test is used, how expensive must a repair be to rise to the level of "substantial"? If a sign is valued at \$30,000, is \$1,000 in damage "substantial"? If a physical test is

Cite as 682 S.W.2d 644 (Tex.App. 1 Dist. 1984)

sidered, is damage to one pole of a five-pole sign "substantial"? Should "substantial parts" of the sign include other than structural parts? Section B(15) of the Ordinance defines a "sign structure" as "the support, uprights, bracing, and framework of any outdoor advertising sign"; sign panels, readily movable and changeable, are not defined as a part of the sign structure. Is damage to one or more sign panels therefore to be considered as damage to a "substantial" part of the sign? A sign with broken or inoperative lights is not functional during nighttime hours, although the cost of repairs is small in comparison with the sign's total cost. From a functional perspective, the lights are "substantial parts" of the sign, while from a cost perspective they are not. The same ambiguity arises in numerous similar practical considerations. The potential for ambiguity is shown in the appellant city engineer's testimony. He testified that he considered panels alone to be "substantial parts" of the sign, although they are not defined as part of the "sign structure." He also stated that he gave no consideration to the dollar amounts of damage in determining the substantiality of damage. In the absence of additional guidelines, each successive city engineer must select his own standard for determining what is a "substantial part" of a sign. Operators of outdoor advertising signs receive no fair and adequate notice from section H(2) of the Ordinance as to what sign repairs are permitted or prohibited.

[7] Because persons of common intelligence are left to guess at the meaning of that portion of the Ordinance, we hold the final sentence of section H(2) is invalid. *Texas Antiquities*, 554 S.W.2d at 928. Actions based on an invalid section of an ordinance are void and unenforceable. *Nelson v. Starkey*, 572 S.W.2d 29 (Tex. Civ.App.—Dallas 1978, no writ). The legal basis for the appellants' action in prohibiting the repair of appellee's signs was therefore unsound and appellee was entitled to summary judgment.

Appellants' points of error are overruled. The judgment of the trial court is affirmed.

DOYLE, J., dissents.

DOYLE, Justice, dissenting.

I find the trial court erred in granting summary judgment and must therefore respectfully dissent.

The trial court stated two bases for granting appellee's motion for summary judgment. It first found the city ordinance unconstitutional vague. The majority bases its opinion on its agreement with this finding.

It is well established that laws enacted by legislative bodies are presumed to be valid and that the burden of proof is on the party challenging their constitutionality. *Robinson v. Hill*, 507 S.W.2d 521 (Tex. 1974); *Smith v. Craddock*, 471 S.W.2d 375 (Tex. 1971). An allowance for some latitude in interpretation does not render a statute unconstitutionally vague. See *Powers v. State*, 549 S.W.2d 194 (Tex. Civ.App.—Waco 1976), *aff'd*, 556 S.W.2d 567 (Tex. 1977) (civil commitment measured by the patient's welfare and protection or the protection of others); *D. F. v. State*, 525 S.W.2d 933 (Tex. Civ.App.—Houston [1st Dist.] 1975, writ *ref'd* n.r.e.) (termination of parental rights determined by the best interest of the child); *Houston Compressed Steel Corp. v. State*, 456 S.W.2d 768 (Tex. Civ.App.—Houston [1st Dist.] 1970, no writ) (air pollution defined as presence in the atmosphere of contaminants in such concentration and of such duration as may tend to be injurious or adversely affect human health or welfare). Given the "untold and unforeseen variations in factual situations, and the practical necessities of discharging the business of government," statutes regulating business activities satisfy due process requirements if their meaning is defined with a reasonable degree of certainty. *Pennington v. Singleton*, 606 S.W.2d 682, 689 (Tex. 1980).

The majority finds the phrase "substantial parts" is impermissibly vague. I am of the opposite opinion. Both words are in

common usage and are well understood. The word "substantial" is recognized and applied as a standard of measurement in our jurisprudence. See, e.g., *Lewis v. Metropolitan Savings & Loan Ass'n*, 550 S.W.2d 11 (Tex. 1977) (substantial evidence); *Warren v. Denison*, 563 S.W.2d 299 (Tex. Civ.App.—Amarillo 1978, no writ) (substantial performance). Although the ordinance might have been clarified by further definition of the phrase "substantial parts," this fact does not render the ordinance unconstitutional vague. See *Harper v. Lindsey*, 616 F.2d 849 (5th Cir. 1980).

Unlike the majority, I find *Sign Supplies of Texas, Inc. v. McConn*, 517 F.Supp. 778 (S.D.Tex. 1980) persuasive authority for the proper disposition of this case. *Sign Supplies* dealt with challenges to a Houston sign ordinance. Among other complaints, the plaintiffs contended the terms "primary," "primarily," "not usually," and "not easily moved," which were used in defining portable signs, were unconstitutionally vague. The court found that, in the context of the ordinance as a whole, these terms were not so vague as to fail to give notice of the ordinance's legal requirements to a person of ordinary intelligence.

I reach the same conclusion in the instant case. I find that the phrase "substantial parts" does not vest the city engineer with unbridled discretion, but rather sets out a reasonable guideline for regulating the repair of billboard signs. I conclude that the district court erred in holding the applicable ordinance unconstitutional and in granting summary judgment on this basis.

The court's second basis for granting summary judgment was that the ordinance which forbids the reconstruction of signs that suffered substantial destruction did not apply to the facts of the instant case.

The ordinance provides that a sign shall not be recreated, reconstructed, or rebuilt if substantial parts have been blown down or destroyed. I must disagree with the trial court's view that the prohibition against recreation, reconstruction, and rebuilding does not forbid "repairs." The breadth of the language used in the ordi-

nance manifests an intent to forbid the refurbishment of signs which have suffered substantial damage. The name given that corrective activity is irrelevant. The court's finding that the ordinance does not apply to the instant case is thus correct only if the summary judgment evidence established that the damage to the signs was insubstantial as a matter of law. In examining this issue, we must accept the appellant's evidence as true and resolve all doubts regarding the existence of genuine fact issues in favor of the losing party. *E.g., Le Blanc v. Maryland American General Insurance Co.*, 601 S.W.2d 750 (Tex. Civ.App.—Beaumont 1980, writ *ref'd* n.r.e.). The affidavit of the city engineer made the following assessment of the damage to appellee's signs:

- (a) 1503 FM 528 West of I-45 (Bay Area Jewelers): Seventy-five (75%) percent of the panels were blown down; two support poles snapped; one pole is leaning; all electrical is gone.
- (b) 1014 West Nasa Road 1 at IH-45 (General Homes): Four poles are leaning; stringers damaged, fifty (50%) percent of the panels are blown down; all electrical needs replacement.
- (c) West Nasa Road 1 East of IH-45 (InterFirst Bank): Of seven support poles, at least three poles are leaning; forty (40%) percent of the panels are blown down; some stringers are blown down; all electrical needs replacement.
- (d) 20118 Gulf Freeway at Nasa Road 1 (U.S. Homes): A few poles are leaning; all panels are blown down; all electrical needs replacement.
- (e) 20001 Gulf Freeway South of Bay Area Blvd. (InterFirst Bank): A few poles are leaning; sixty (60%) percent of the panels and some stringers are blown down.
- (f) 20234 Gulf Freeway at Nasa Road 1 (General Homes): Fifty (50%) percent of the panels, the electrical and part of the walkway are blown down.

682 S.W.2d 644
Court of Appeals of Texas,
Houston (1st Dist.).

CITY OF WEBSTER, et al., Appellants,
v.

SIGNAD, INC., Appellee.

No. 01-84-0354-CV. | Nov. 21,
1984. | Rehearing Denied Dec. 31, 1984.

Owner of billboard signs filed suit seeking to have section of city sign ordinance declared unconstitutional. The District Court, Harris County, Davie Wilson, J., held that section of ordinance was unconstitutional, and city appealed. The Court of Appeals, Duggan, J., held that section of city sign ordinance, which provided that any outdoor advertising signs could not be rebuilt if there was damage to “any substantial parts” of sign, was fatally vague and violative of due process since operators of outdoor advertising signs received no fair and adequate notice as to what sign repairs were permitted or prohibited.

Affirmed.

Doyle, J., dissented and filed opinion.

West Headnotes (7)

[1] **Constitutional Law**

🔑 Certainty and definiteness; vagueness

Criminal Law

🔑 Certainty and definiteness

Municipal Corporations

🔑 Form and sufficiency in general

Statute or ordinance is violative of due process and fatally vague when persons regulated by it are exposed to some risk or detriment without fair warning of nature of proscribed conduct. U.S.C.A. Const.Amends. 5, 14.

3 Cases that cite this headnote

[2] **Constitutional Law**

🔑 Certainty and definiteness; vagueness

When persons of common intelligence are compelled to guess at a law's meaning and applicability, due process is violated and the law is invalid. U.S.C.A. Const.Amends. 5, 14.

3 Cases that cite this headnote

[3] **Constitutional Law**

🔑 Vagueness in General

Regulatory statutes governing business activity are allowed greater leeway than are allowed criminal statutes in applying “fair notice” test of determining whether statute is unconstitutionally vague. U.S.C.A. Const.Amends. 5, 14.

Cases that cite this headnote

[4] **Criminal Law**

🔑 Certainty and definiteness

Statutes are not automatically invalidated as vague simply because difficulty is found in determining whether marginal offenses fall within their language. U.S.C.A. Const.Amends. 5, 14.

1 Cases that cite this headnote

[5] **Constitutional Law**

🔑 Vagueness in General

For purposes of determining whether statute is unconstitutionally vague, requirement of reasonable certainty does not preclude the use of ordinary terms to express ideas which find adequate interpretation in common usage and understanding. U.S.C.A. Const.Amends. 5, 14.

10 Cases that cite this headnote

[6] **Constitutional Law**

🔑 Sales and marketing

Municipal Corporations

🔑 Form and sufficiency in general

Section of city sign ordinance, which provided that any outdoor advertising signs could not be rebuilt if there was damage to “any substantial parts” of sign, was fatally vague and violative of due process since operators of outdoor



advertising signs received no fair and adequate notice as to what sign repairs were permitted or prohibited. U.S.C.A. Const.Amends. 5, 14; Vernon's Ann.Texas Civ.St. art. 2524-1.

3 Cases that cite this headnote

[7] **Municipal Corporations**

🔑 Construction and operation

Actions based on invalid section of ordinance are void and unenforceable.

Cases that cite this headnote

Attorneys and Law Firms

*645 C. Charles Dippel, Sears & Burns, Houston, for appellants.

Richard L. Rothfelder, William L. Van Fleet, Ryan & Shoss, Houston, for appellee.

Before DOYLE, DUGGAN and LEVY, JJ.

OPINION

DUGGAN, Justice.

This is an appeal from a summary judgment declaring a portion of a city sign ordinance unconstitutional. The ordinance in question was the basis of the city's refusal to allow a sign company to repair six hurricane-damaged billboards.

Appellee, SignAd, Inc., owns a number of billboard signs within the jurisdiction of the appellant City of Webster, all of which were erected prior to the passage of the city's sign ordinance and were permitted as non-conforming signs under the ordinance's "grandfather" clause. When seven of appellee's signs were damaged by Hurricane Alicia on August 18, 1983, appellee voluntarily removed one which was severely damaged, and sought to repair the remaining six. Upon advice by city officials that a permit would be required, SignAd made its written request to appellant S.I. Velez, Webster's City Engineer, for such permits as were necessary. The appellant city engineer replied by letter that, since the storm had blown down or destroyed "substantial

parts" of the signs, their reconstruction was forbidden. He based his decision on sections H(2) and D(2) of section 10, chapter 3, of the Building Regulations of the Webster City Code of Ordinances (the "Sign Ordinance"). The last sentence of section H(2) reads as follows:

When any outdoor advertising sign, billboard, spectacular sign, business sign, or business directory sign which would be unlawful or non-conforming hereunder, *646 but for the fact that such sign was lawfully in existence on the date of passage of this section, or *any substantial parts thereof* is blown down or destroyed or taken down or removed for any purpose other than routine maintenance operations or for changing the lettering, symbols, or other matter on such signs, it shall not be reerected, reconstructed, rebuilt, or relocated except in conformity with the provisions of this section. (Emphasis added).

Section D(2) forbids the construction or emplacement of new billboards within the city. The city engineer denied the permits, deemed the damaged billboards to be in an unsafe condition, and ordered their removal.

Appellee appealed this ruling to the Webster City Council, which upheld the city engineer's decision. Appellee then filed suit in the district court seeking: (1) a declaratory judgment that it had complied with the sign ordinance, or that the quoted last sentence of section H(2) is unconstitutional; (2) a mandatory injunction requiring appellants to take any action necessary to allow appellee to repair and operate its signs; (3) a writ of mandamus to issue repair permits; (4) actual and punitive damages; and (5) attorney's fees. Following appellants' answer, both sides filed motions for summary judgment, and the court denied appellants' motion and granted that of appellee, finding that:

(1) The terms "substantial parts thereof" contained in the last sentence of Section H(2) ... violates the due process provisions of the Texas and United States Constitutions because such terms are so vague that they fail to give fair and adequate notice of what is permitted or prohibited, and they necessitate the use of unbridled discretion of the Webster City Engineer in interpretation and application.

(2) Alternatively, Sections H(2) and D(2) of the Sign Ordinance, which were relied upon by Defendants in prohibiting the repair of the subject Signs, do not regulate the mere repair of signs and are therefore inapplicable to the facts in this case.

Pursuant to *Tex.Rev.Civ.Stat.Ann. art. 2524-1* (Vernon 1965), the court decreed that the quoted last sentence of section H(2) was unconstitutional and void, granted appellee permission to repair immediately and renew operations of its damaged signs, and permanently enjoined the appellants from interfering in any way with appellee's repair and operation of its six signs in question. The court ordered severance of the summary judgment and retained jurisdiction over the damages of phase of the action.

In two points of error, the appellants City and City Engineer assert that the trial court erred in granting appellee's motion for summary judgment and in denying appellants' motion for summary judgment.

[1] [2] A statute or ordinance is violative of due process and fatally vague when persons regulated by it are exposed to some risk or detriment without fair warning of the nature of the proscribed conduct. *Texas Liquor Control Board v. The Attic Club, Inc.*, 457 S.W.2d 41, 45 (Tex.1970). When persons of common intelligence are compelled to guess at a law's meaning and applicability, due process is violated and the law is invalid. *Texas Antiquities Committee v. Dallas County Community College District*, 554 S.W.2d 924, 928 (Tex.1977) (holding the term "of historical interest" to be unconstitutionally vague).

[3] [4] [5] We agree with the general principles and authorities appellant cites holding that regulatory statutes governing business activity are allowed greater leeway than is allowed criminal statutes in applying the "fair notice" test; that no more than "a reasonable degree of certainty can be demanded"; and that "statutes are not automatically invalidated as vague simply because difficulty is found in determining whether marginal offenses fall within their language." *Pennington v. Singleton*, 606 S.W.2d 682, 689 (Tex.1980). We also agree that, as stated in *Sproles v. Binford*, 286 U.S. 374, 393, 52 S.Ct. 581, 587, 76 L.Ed. 1167 (1932):

*647 The requirement of reasonable certainty does not preclude the use of ordinary terms to express ideas

which find adequate interpretation in common usage and understanding.

However, the Webster ordinance sets out neither a definition of "substantial parts" of a sign nor an objective standard by which damage to "substantial parts thereof" can be measured.

Significantly, the appellant City does use objective standards in similar circumstances in two other parts of its building regulations. The term "substantial improvement" is defined in section E(17) of the appellant City's Flood Damage Prevention Regulations as follows:

Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair has started or if the structure has been damaged and is being restored, before the damage occurred.

In section 101.4a of the Building Code, "[R]epairs costing in excess of fifty percent (50%) of the then physical value of the building" are required to conform to code requirements for new buildings. By such use of specific cost percentages and reference to replacement and repair cost, the two sections give concrete meaning to the term "substantial."

Although appellants urge that the recent federal decision in *Sign Supplies of Texas, Inc. v. McConn*, 517 F.Supp. 778 (S.D.Tex.1980), is persuasive in showing that the term "substantial parts" is not unconstitutionally vague, that opinion does not address the quoted term directly. The words "primary," "primarily," "not usually," and "easily moved," none of which were defined in the Houston ordinance being examined in that opinion, were held not unconstitutionally vague. However, appellants' references to complaints made by the *Sign Supplies* plaintiff about the term "substantial parts" appear only in that litigant's pleadings and brief, and not in the court's opinion.

Sanders v. State Department of Public Welfare, 472 S.W.2d 179 (Tex.Civ.App.—Corpus Christi 1971, writ dismissed w.o.j.), dealt with a situation comparable to that before us when it examined the constitutionality of Department of Public Welfare regulations relating to eligibility for old age assistance. In determining that eligibility, an applicant's financial status was to be measured in part by his savings

and his outstanding debts. The regulations governing that determination provided:

Mere verbal allegations of an old, informal debt to relatives, however, cannot be considered as justifying a transfer [of assets] to such relatives.

Both the terms “old,” and “informal” were found to violate due process requirements. In examining the word “old,” the court stated:

It is probable that one officer of the State Welfare Department might believe that a one-year old debt was an old one. Another in the same position might use five years [as his standard], still another, ten.

Id. at 182. The court concluded that the terms of the regulation were “so vague, indefinite and uncertain that men of common intelligence must guess at their meaning.” *Id.* at 183.

[6] We find that section H(2) of the Webster sign ordinance, in its reference to damage to “substantial parts” of a sign, suffers from a similar infirmity. The fact that the words “substantial parts” are terms of common speech does not make them per se explanatory or descriptive in a due process sense when they are examined in the context of an inquiry as to what are allowable and forbidden sign repairs. Parts of a sign may be simultaneously “substantial” and “insubstantial” depending on whether the test used is economic, physical, or functional. If an economic test is used, how expensive must a repair be to rise to the level of “substantial”? If a sign is valued at \$30,000, is \$1,000 in damage “substantial”? If a physical test is considered, *648 is damage to one pole of a five-pole sign “substantial”? Should “substantial parts” of the sign include other than structural parts? Section B(15) of the Ordinance defines a “sign structure” as “the support, uprights, bracing, and framework of any outdoor advertising sign”; sign panels, readily movable and changeable, are not defined as a part of the sign structure. Is damage to one or more sign panels therefore to be considered as damage to a “substantial” part of the sign? A sign with broken or inoperative lights is not functional during nighttime hours, although the cost of repairs is small in comparison with the sign's total cost. From a functional perspective, the lights are “substantial parts” of the sign, while from a cost perspective they are not. The same ambiguity arises in numerous similar practical considerations. The potential for ambiguity is shown

in the appellant city engineer's testimony. He testified that he considered panels alone to be “substantial parts” of the sign, although they are not defined as part of the “sign structure.” He also stated that he gave no consideration to the dollar amounts of damage in determining the substantiality of damage. In the absence of additional guidelines, each successive city engineer must select his own standard for determining what is a “substantial part” of a sign. Operators of outdoor advertising signs receive no fair and adequate notice from section H(2) of the Ordinance as to what sign repairs are permitted or prohibited.

[7] Because persons of common intelligence are left to guess at the meaning of that portion of the Ordinance, we hold the final sentence of section H(2) is invalid. *Texas Antiquities*, 554 S.W.2d at 928. Actions based on an invalid section of an ordinance are void and unenforceable. *Newsom v. Starkey*, 572 S.W.2d 29 (Tex.Civ.App.—Dallas 1978, no writ). The legal basis for the appellants' action in prohibiting the repair of appellee's signs was therefore unsound and appellee was entitled to summary judgment.

Appellants' points of error are overruled. The judgment of the trial court is affirmed.

DOYLE, J., dissents.

DOYLE, Justice, dissenting.

I find the trial court erred in granting summary judgment and must therefore respectfully dissent.

The trial court stated two bases for granting appellee's motion for summary judgment. It first found the city ordinance unconstitutionally vague. The majority bases its opinion on its agreement with this finding.

It is well established that laws enacted by legislative bodies are presumed to be valid and that the burden of proof is on the party challenging their constitutionality. *Robinson v. Hill*, 507 S.W.2d 521 (Tex.1974); *Smith v. Craddick*, 471 S.W.2d 375 (Tex.1971). An allowance for some latitude in interpretation does not render a statute unconstitutionally vague. See *Powers v. State*, 543 S.W.2d 194 (Tex.Civ.App.—Waco 1976), *aff'd*, 556 S.W.2d 567 (Tex.1977) (civil commitment measured by the patient's welfare and protection or the protection of others); *D——— F——— v. State*, 525 S.W.2d 933 (Tex.Civ.App.—Houston [1st Dist.] 1975, writ ref'd n.r.e.) (termination of parental rights determined by

the best interest of the child); *Houston Compressed Steel Corp. v. State*, 456 S.W.2d 768 (Tex.Civ.App.—Houston [1st Dist.] 1970, no writ) (air pollution defined as presence in the atmosphere of contaminants in such concentration and of such duration as may tend to be injurious or adversely affect human health or welfare). Given the “untold and unforeseen variations in factual situations, and the practical necessities of discharging the business of government,” statutes regulating business activities satisfy due process requirements if their meaning is defined with a reasonable degree of certainty. *Pennington v. Singleton*, 606 S.W.2d 682, 689 (Tex.1980).

The majority finds the phrase “substantial parts” is impermissibly vague. I am of the opposite opinion. Both words are in *649 common usage and are well understood. The word “substantial” is recognized and applied as a standard of measurement in our jurisprudence. See, e.g., *Lewis v. Metropolitan Savings & Loan Ass'n*, 550 S.W.2d 11 (Tex.1977) (substantial evidence); *Warren v. Denison*, 563 S.W.2d 299 (Tex.Civ.App.—Amarillo 1978, no writ) (substantial performance). Although the ordinance might have been clarified by further definition of the phrase “substantial parts,” this fact does not render the ordinance unconstitutionally vague. See *Harper v. Lindsay*, 616 F.2d 849 (5th Cir.1980).

Unlike the majority, I find *Sign Supplies of Texas, Inc. v. McConn*, 517 F.Supp. 778 (S.D.Tex.1980) persuasive authority for the proper disposition of this case. *Sign Supplies* dealt with challenges to a Houston sign ordinance. Among other complaints, the plaintiffs contended the terms “primary,” “primarily,” “not usually,” and “not easily moved,” which were used in defining portable signs, were unconstitutionally vague. The court found that, in the context of the ordinance as a whole, these terms were not so vague as to fail to give notice of the ordinance's legal requirements to a person of ordinary intelligence.

I reach the same conclusion in the instant case. I find that the phrase “substantial parts” does not vest the city engineer with unbridled discretion, but rather sets out a reasonable guideline for regulating the repair of billboard signs. I conclude that the district court erred in holding the applicable ordinance unconstitutional and in granting summary judgment on this basis.

The court's second basis for granting summary judgment was that the ordinance which forbids the reconstruction of signs

that suffered substantial destruction did not apply to the facts of the instant case.

The ordinance provides that a sign shall not be reerected, reconstructed, or rebuilt if substantial parts have been blown down or destroyed. I must disagree with the trial court's view that the prohibition against reerection, reconstruction, and rebuilding does not forbid “repairs.” The breadth of the language used in the ordinance manifests an intent to forbid the refurbishment of signs which have suffered substantial damage. The name given that corrective activity is irrelevant. The court's finding that the ordinance does not apply to the instant case is thus correct only if the summary judgment evidence established that the damage to the signs was insubstantial as a matter of law. In examining this issue, we must accept the appellant's evidence as true and resolve all doubts regarding the existence of genuine fact issues in favor of the losing party. E.g., *Le Blanc v. Maryland American General Insurance Co.*, 601 S.W.2d 750 (Tex.Civ.App.—Beaumont 1980, writ ref'd n.r.e.). The affidavit of the city engineer made the following assessment of the damage to appellee's signs:

- (a) 1503 FM 528 West of I-45 (Bay Area Jewelers): Seventy-five (75%) percent of the panels were blown down; two support poles snapped; one pole is leaning; all electrical is gone.
- (b) 1014 West Nasa Road 1 at IH-45 (General Homes): Four poles are leaning; stringers damaged, fifty (50%) percent of the panels are blown down; all electrical needs replacement.
- (c) West Nasa Road 1 East of IH-45 (InterFirst Bank): Of seven support poles, at least three poles are leaning; forty (40%) percent of the panels are blown down; some stringers are blown down; all electrical needs replacement.
- (d) 20118 Gulf Freeway at Nasa Road 1 (U.S. Homes): A few poles are leaning; all panels are blown down; all electrical needs replacement.
- (e) 20001 Gulf Freeway South of Bay Area Blvd. (InterFirst Bank): A few poles are leaning; sixty (60%) percent of the panels and some stringers are blown down.
- (f) 20234 Gulf Freeway at Nasa Road 1 (General Homes): Fifty (50%) percent of the panels, the electrical and part of the walkway are blown down.

***650** All of the parts blown down were substantial. Where poles are leaning, the ground support around the poles is such that removal and replacement of the poles is required in order to withstand wind loads upon the signs.

I find this evidence is sufficient to raise fact questions regarding whether substantial parts of appellee's signs were destroyed. I therefore conclude that the court erred in granting

summary judgment on the basis that the ordinance does not apply to the facts of this case.

Neither of the grounds relied upon by the trial court supports its grant of appellee's motion for summary judgment. I would sustain appellant's first point of error and remand the case to the trial court for determination of what I find to be the unresolved fact questions of whether appellee's signs suffered substantial damage.

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.



15Z-009

STAFF REPORT

ADDRESS:

3228 Avenue P ½

LEGAL DESCRIPTION:

Property is legally described as Lot 14 Northwest Block 88 Galveston Outlots, in the City and County of Galveston, Texas

APPLICANT AND PROPERTY OWNER:

Molly Vernon

ZONING:

One Family-Four (1F-4)

REQUEST:

Variance

APPLICABLE ZONING LAND USE

REGULATIONS:

Section 29-65 of the Galveston Zoning Standards

EXHIBITS:

- A – Aerial Map
- B – Survey/Replat
- C – Department Comments

STAFF:

Ian Knox, Urban Planner II
409-797-3659
knoxian@cityofgalveston.org

City Department Notifications: No Objections

Public Notice and Comment:

Sent	Returned	In Favor	Opposed	No Comment
32				



Executive Summary:

The applicant is requesting a variance from lot area, depth and rear yard setback requirements that will result from a replat of the property from one lot to two.

Applicable Zoning Land Use Regulations

Section 29-65

(a) Lot Area

In the following zoning districts, the minimum lot area for each residential dwelling unit shall be in accordance with the Schedule 1, provided that the minimum lot area may be reduced to 2,500 square feet for any lot abutting a public street in the 1F-3, 1F-4 and GR Zone, if such lot is a part of any subdivision properly recorded prior to January 1, 1971.

(b) Lot Depth

The minimum DEPTH for lots in the various districts used for residential purposes shall be in accordance with Schedule Three except for instances as noted in Sec 29 – 112.

SCHEDULE THREE: Minimum lot depths - within zoning districts shall be in accordance with the following:

1F-4 One Family Dwelling Detached – 70-feet

(h) Rear Yard

(1) In the 1F-1, 1F-2, 1F-3, 1F-4, GR, MF-1, MF-2, I, REC, O, HIST, NS, P, R, CB, C, LI, PD and BUF Districts, no main residential building may be constructed nearer than ten feet (10') from a common rear property line or from an alley line when said alley is less than twenty feet (20') in width. In instances where the alley or adjacent street is twenty feet (20') or more in width, and the alley line is also the rear property line, the rear yard shall be at least three feet (3') in width. In instances where the rear property line is adjacent to a canal or the rear property line extends into the canal, the main structure may be built up to the bulkhead.

Requested Variances

Rear Lot - Required		Proposed (Rear)
Area	2,500 sq. ft.	1,720 sq. ft.
Depth	70-feet	43-feet

Front Lot - Required		Proposed (Front)
Rear Yard	10-feet	3-feet

Zoning and Land Use

Location	Zoning	Land Use
Subject Site	General Residence (GR)	Residential
North	General Residence (GR)	Multi-Family
South	General Residence (GR)	Residential
East	General Residence (GR)	Residential
West	General Residence (GR)	Residential

Applicant's Justification

"The property has two large building separated by the fence as shown on the survey for over forty years. Also, consider the uniqueness of two houses on one city lot for that period and the fact that the subject is surrounded by similar properties with three parcels on one city lot. Both units have garages with off street parking."

Please see Agenda for Standard Conditions for a Variance and Appeal from Decision of Board Process



Planning Department

Map prepared by the City of Galveston Planning Department (knoxian) - 2/16/2015

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

0 15 30 60 Feet

The data presented on these pages is not legally binding on the City of Galveston or any of its departments. These maps and the associated data are representations ONLY and may contain errors in the databases. Therefore, the information presented on this map is for informational purposes only and should not be construed to be legally binding.





BEING Lot Fourteen (14), of the Northwest Block of Outlot Eighty-Eight (88), in the City and County of Galveston, Texas, according to the map or plat thereof in common use and being more particularly described by metes and bounds as follows:

BEGINNING at the Southwest corner of said Lot Fourteen (14) and the East line of 33rd Street, being an 80 foot right of way, and the North line of Avenue P 1/2, being a 70 foot right of way, said point being marked by a cut "X";

THENCE North 16°43'00" West along the East line of said 33rd Street a distance of 120 feet 0 inches to the South line of a 20 foot alley;

THENCE North 73°17'00" East along the South line of said alley, a distance of 43 feet 0 inches to the Northwest corner of Lot Thirteen (13) of said Northwest Block of Outlot Eighty-Eight (88);

THENCE South 16°43'00" East along the West line of said Lot Thirteen (13), a distance of 120 feet 0 inches to the North line of said Avenue P 1/2;

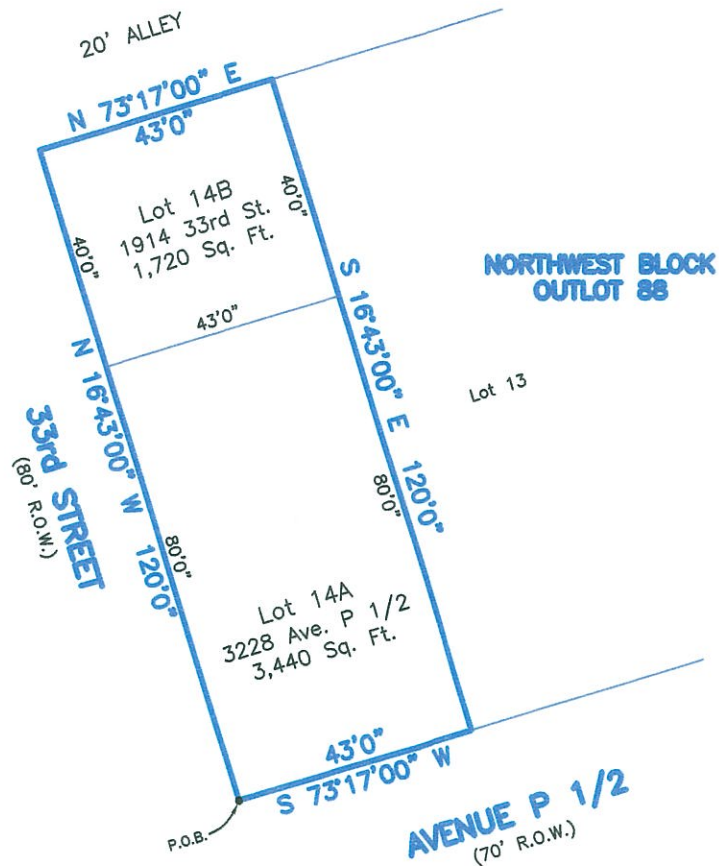
THENCE South 73°17'00" West along the North line of said Avenue P 1/2, a distance of 43 feet 0 inches to the POINT OF BEGINNING, and containing 0.118 acres of land, more or less.

CITY OF GALVESTON, NORTHWEST BLOCK OF OUTLOT EIGHTY-EIGHT (88), LOT FOURTEEN (14) REPLAT

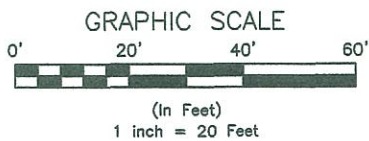
BEING A REPLAT OF

Lot Fourteen (14), of the Northwest Block of Outlot Eighty-Eight (88), in the City and County of Galveston, Texas, according to the map or plat thereof in common use.

0.118 ACRES (5,160 SQ. FT.)
JANUARY, 2015



SURVEY DATE: JANUARY 8, 2015
FILE No.: 3510-0088-0014-000
DRAFTING: JTK
JOB No.: 15-0011



8017 HARBORSIDE DRIVE
P.O. BOX 16142 (mailing)
GALVESTON, TX 77552
ph (409) 740-1517
Registration Number: 10193855
www.hightidelandsurveying.com

STATE OF TEXAS {} KNOW ALL MEN BY THESE PRESENTS
COUNTY OF GALVESTON {}

That I, MOLLY JEAN McCAULEY VERNON, owner of that certain tract or parcel of land, lying and being situated in the City of Galveston, in Galveston County, Texas, subdivided in the above and foregoing plat do hereby make replat of said property according to the lines and lots shown thereon, and designate said replat "CITY OF GALVESTON, NORTHWEST BLOCK OF OUTLOT EIGHTY-EIGHT (88), LOT FOURTEEN (14) REPLAT" in the City of Galveston, Galveston County, Texas.

MOLLY JEAN McCAULEY VERNON - Owner

STATE OF TEXAS {}
COUNTY OF GALVESTON {}

Before me, on this day _____, 2015, personally appeared MOLLY JEAN McCAULEY VERNON, known to me to be the person whose name is subscribed to the foregoing instrument.

Notary Public, State of Texas

This is to certify that I, Stephen C. Blaskey, A Registered Professional Land Surveyor of the State of Texas, have plotted the above subdivision from an actual survey on the ground, and that all corners are properly marked and that this plat correctly represents that survey made under my direction.

Stephen C. Blaskey
Registered Professional
Land Surveyor No. 5856



STATE OF TEXAS {}
COUNTY OF GALVESTON {}

This Replat in the City of Galveston, Galveston County, Texas, as set forth on this plat, has been approved by the Galveston Planning Commission
on this _____ day of _____, 2015.

Secretary
Galveston Planning Commission

Chairman
Galveston Planning Commission

STATE OF TEXAS {}
COUNTY OF GALVESTON {}

I, DWIGHT D. SULLIVAN, County Clerk, Galveston County, Texas, do hereby certify that the written instrument was filed for record in my office on

_____, 2015, at _____ O'Clock, __M., and duly recorded on

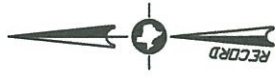
_____, 2015, at _____ O'Clock, __M., in

Plat Record _____, Map Number _____, Galveston County Map Records.

Witness my hand and seal of office, at Galveston, Texas, the day and date last above written.

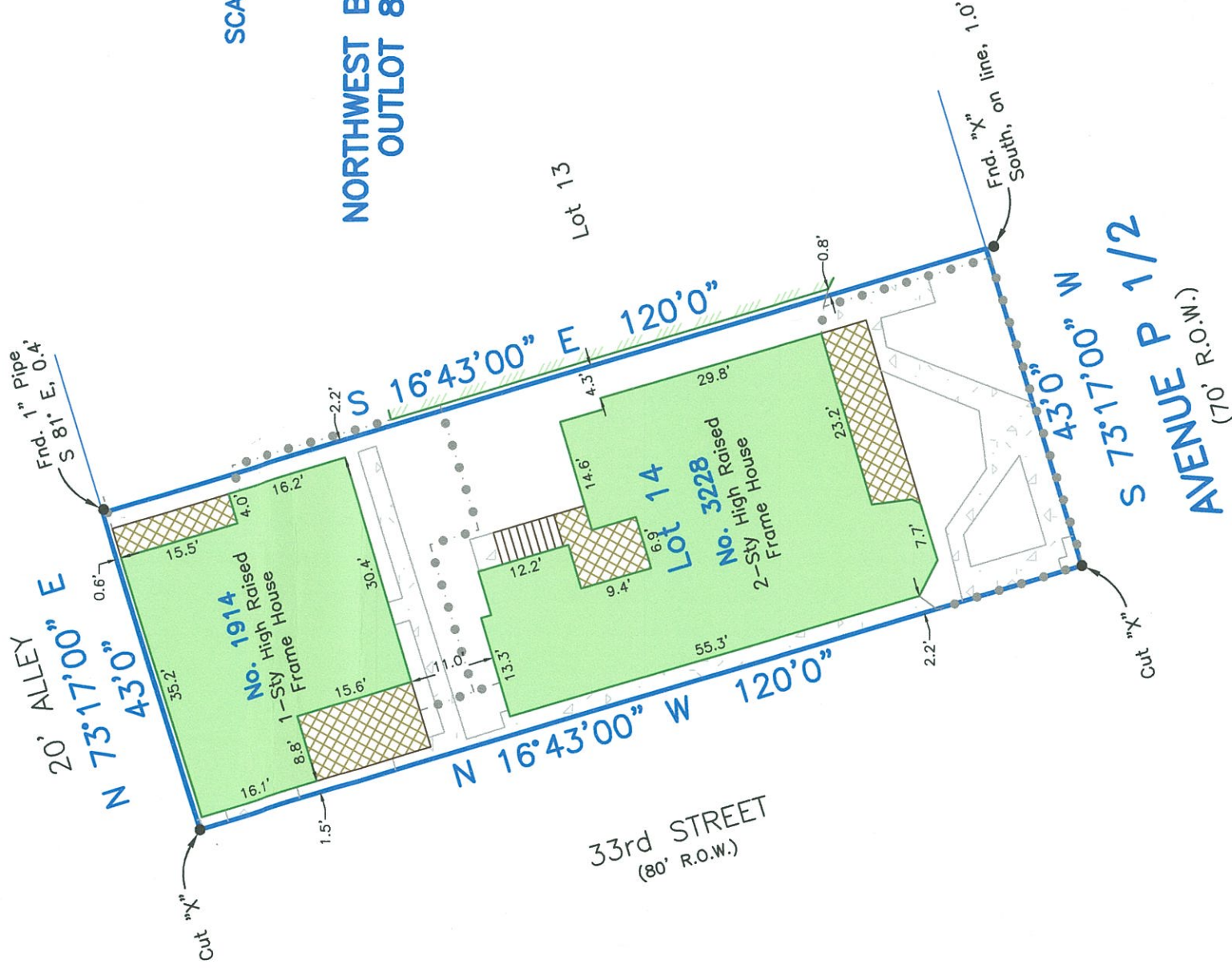
DWIGHT D. SULLIVAN, County Clerk,
Galveston County, Texas

By _____, Deputy



SCALE: 1" = 20'

NORTHWEST BLOCK OUTLOT 88



Survey of Lot Fourteen (14), of the Northwest Block of Outlot Eight-Eight (88), in the City and County of Galveston, Texas, according to the map or plat thereof in common use.

I hereby certify that on the below date, the herein described property, together with improvements located thereon, was surveyed on the ground and under my direction, and that this map, together with dimensions as shown hereon, accurately represents the facts as found on the ground this date.

Stephen C. Blaskey

Stephen C. Blaskey
Registered Professional
Land Surveyor No. 5856



8017 HARBORSIDE DRIVE
P.O. BOX 16142 (mailing)
GALVESTON, TX 77552
ph (409) 740-1517
Registration Number: 10193855
www.hightidelandsurveying.com

NOTES:

- 1) This property does lie within the 100 Year Flood Plain as established by the Federal Emergency Management Agency.
- 2) This property is subject to any restrictions of record and may be subject to setbacks from power lines as established by OSHA (call your power company).
- 3) Bearings based on found Monumentation, being a found 1/2 inch rod at the Southwest corner of the East part of Lot 2, and a found "X" 1' South of the Southeast corner of Lot 14.,
- 4) Surveyed without benefit of a Title Report.

SURVEY DATE:	JANUARY 8, 2015
FILE No.:	3510-0088-0014-000
DRAFTING:	BSH
JOB No.:	15-0011



15Z-011 STAFF REPORT

ADDRESS:
 1310 57th Street

LEGAL DESCRIPTION:
 Property is legally described as Part of Lots 1 & 2 (1-7) Block 48 Also Known As Lot C, Denver Resurvey, in the City and County of Galveston, Texas.

APPLICANT/REPRESENTATIVE:
 Zach Martin, URS

PROPERTY OWNER:
 Victor Leos

ZONING:
 General Residence (GR)

VARIANCE REQUEST:
 Side yard setback from 3-feet to 0-feet

APPLICABLE ZONING LAND USE
 Residential

REGULATIONS:
 Section 29-67 of the Galveston Zoning Standards.

EXHIBITS:
 A – Aerial Map
 B – Current Survey
 C – Proposed Site Plan

STAFF:
 Janice Norman, Planning Manager
 409-797-3670
 normanjan@cityofgalveston.org

Public Notice and Comment:

Sent	Returned	In Favor	Opposed	No Comment
33				

City Department Notification Responses:
 No objection from any City department



Executive Summary:
 The applicant is requesting a variance to construct a new home through the CDBG Disaster Recovery Program. In order to provide off street parking the applicant is proposing to move the house zero-feet from the side yard property line on the south side of the house adjacent to the alley to allow room for the parking pad on the north side of the lot.

Applicant's Justification:
 The applicant tried to place the parking pad in the rear of the house with alley access to the parking pad, but an existing center point pole and guide wire would block access to the parking pad. Due to the obstruction in the alley the parking pad located on the north side of the house was the best option.

Please see Agenda for Standard Conditions for a Variance and Appeal from Decision of Board Process.



57th St

1302

1310

1320

1328

1302

1306

1310

5817

5823

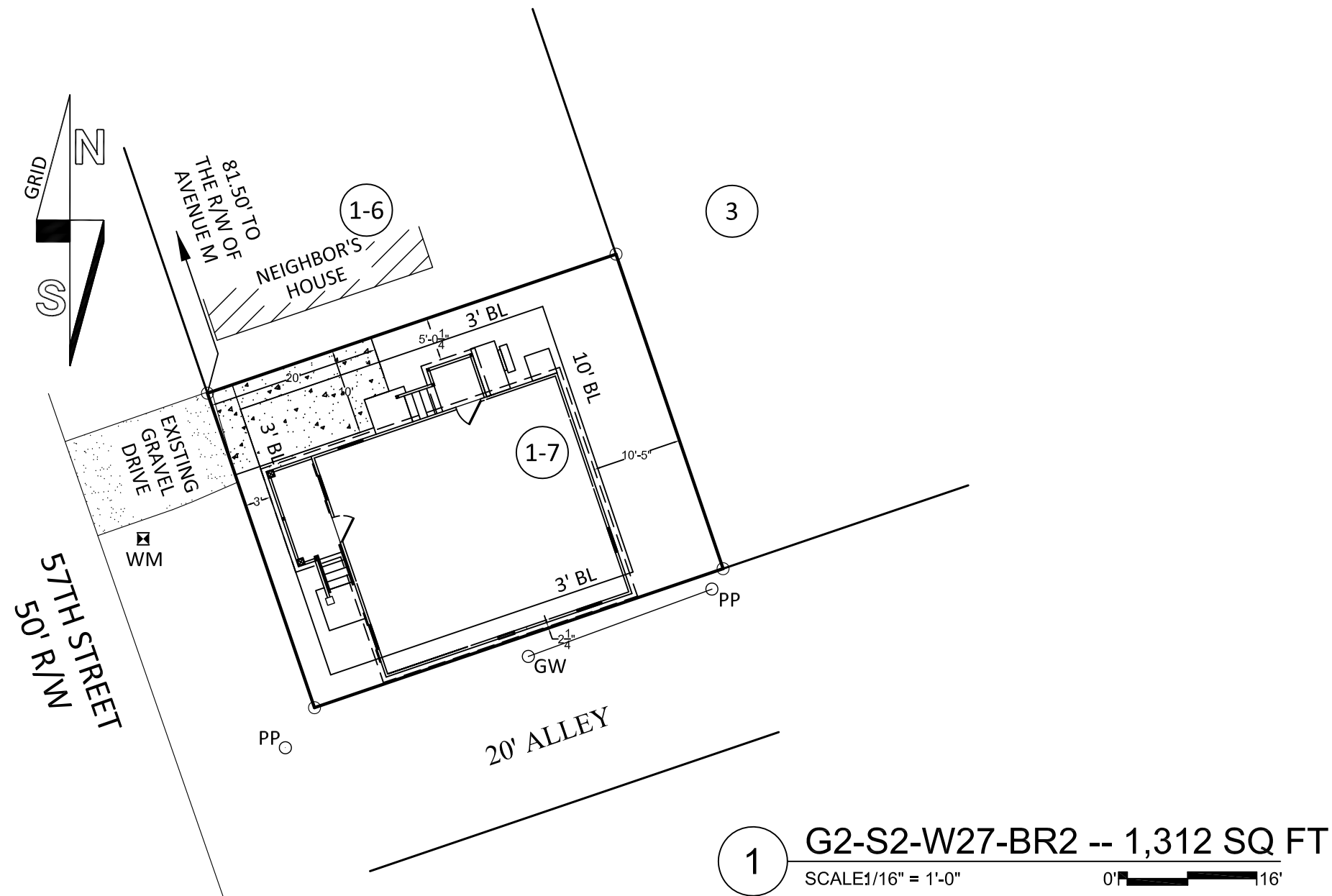
5824

581

581

PRELIMINARY

NOT TO BE USED FOR CONSTRUCTION, BIDDING,
RECORDATION, CONVEYANCE, SALES OR AS THE BASIS
FOR THE ISSUANCE OF A PERMIT



ORIGINAL SURVEY BY:
**CARTER LAND SURVEYORS
AND PLANNERS**
2780 Peachtree Industrial Boulevard
Duluth, GA 30097
Ph: 770.495.9793
Toll Free: 866.637.1048
www.carterland.com
Atlanta • Charlotte • Houston • Dallas
Galveston • Beaumont

URS EXHIBIT PROPOSED DWELLING SITING PLAN

APPLICATION NUMBER: CG200043
1310 57TH STREET, GALVESTON, TX 77551
DISASTER RECOVERY HOUSING

DATE ISSUED FOR:

CREATED: 2/4/15

PROJECT #:
19230273

© 2015 BY:
URS Corporation



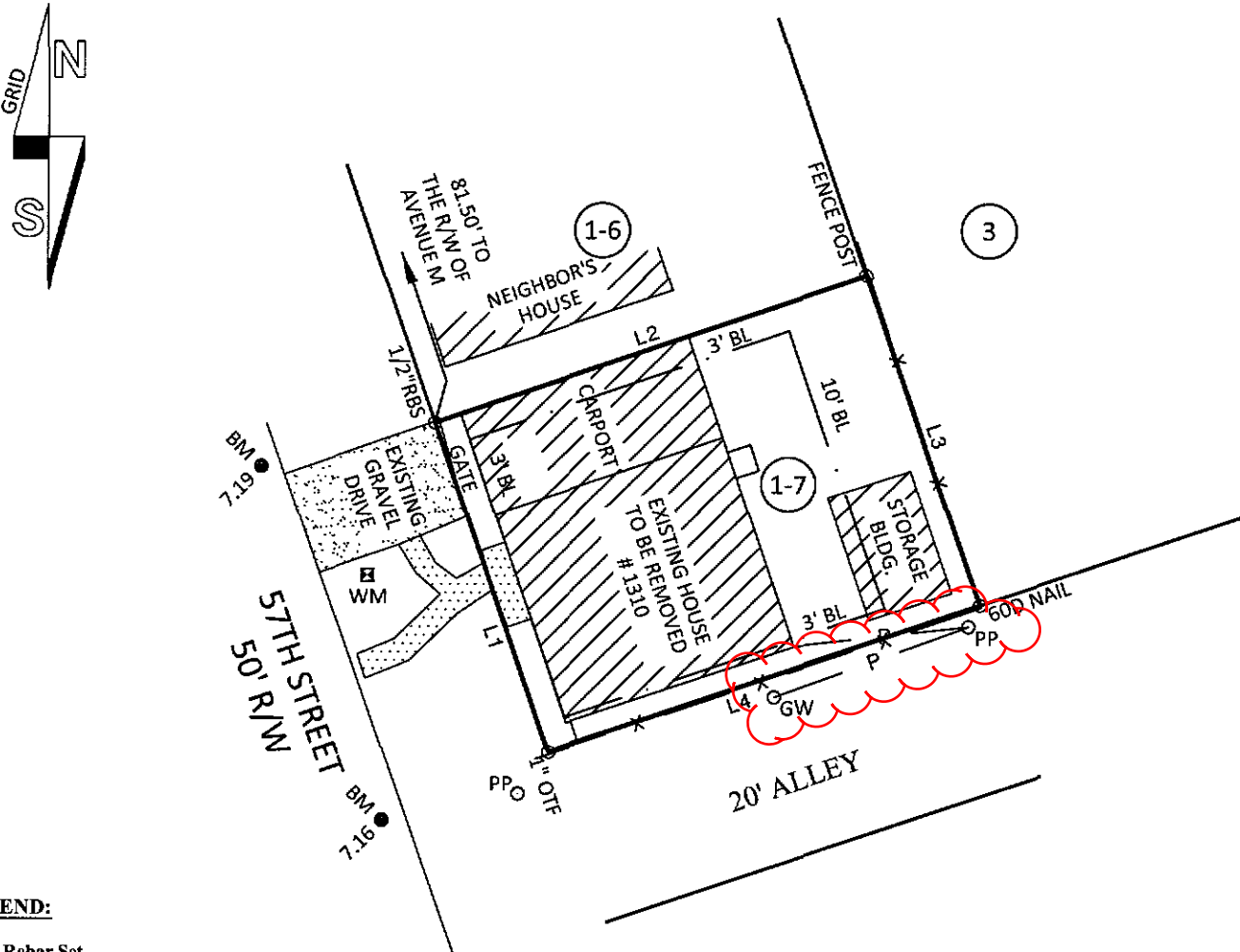
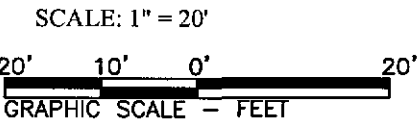
GALVESTON, TEXAS 77553

GENERAL NOTES

- 1. THIS PROPERTY IS SUBJECT TO ADDITIONAL EASEMENTS OR RESTRICTIONS OF RECORD.
- 2. THIS PLAT IS FOR EXCLUSIVE USE BY CLIENT. USE BY THIRD PARTIES IS AT THEIR OWN RISK.
- 3. DIMENSIONS FROM HOUSE TO PROPERTY LINES SHOULD NOT BE USED TO ESTABLISH FENCES.
- 4. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 10,000 FEET.
- 5. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000 FEET AND AN ANGULAR ERROR OF 7 SECONDS PER ANGLE POINT AND WAS ADJUSTED USING THE COMPASS RULE.
- 6. EQUIPMENT USED: TOPCON APL1 TOTAL ROBOTIC STATION.

Course	Bearing	Distance
L1	N 18°47'25" W	38.50'
L2	N 71°12'32" E	50.00'
L3	S 18°47'25" E	38.50'
L4	S 71°12'32" W	50.00'

AREA: 1,925 SF ~ 0.04 ACRES
MAP VOL. 16, PAGE 106



LEGEND:

- RBS- Rebar Set
- RBF- Rebar Found
- OTF- Open Top Pipe Found
- CTF- Crimp Top Pipe Found
- BL- Building Line
- DE- Drainage Easement
- SSE- Sanitary Sewer Easement
- P- Porch
- UE- Utility Easement
- PP- Power pole
- FP- Fence Post
- WM- Water Meter
- GM- Gas Meter
- P- Power Line
- X- Fence
- D- Drainage Easement
- S- Sewer Easement
- CB- Catch Basin
- R/W- Right of Way
- CONC- Concrete
- Dk- Deck
- Pat- Patio
- S- Stoop
- BM- Benchmark

REVISION #	DATE	REVISION
1	3-18-14	Revise Front Setback to 3'.

OWNER: VICTOR LEOS (APP. # CG200043)
ADDRESS: 1310 57TH STREET
GOVERNING AUTHORITY: CITY OF GALVESTON
ZONING DISTRICT: GR
FEMA MAP #: 48167C 0437G
FEMA FLOOD ZONE: AE
BASE FLOOD ELEVATION: 11'

IN MY OPINION, THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED WITHIN THE MINIMUM STANDARDS AND REQUIREMENTS OF LAW.

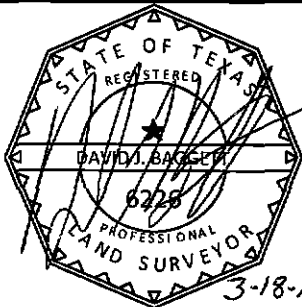
SURVEY FOR:
URS CORPORATION

SUBDIVISION: DENVER RESURVEY
LOT: PARTS OF 1 & 2 (1-7) BLOCK: 48
CITY OF GALVESTON
GALVESTON COUNTY, TEXAS
FIELD WORK DATE: 02/14/2014

2014020254 URS

**CARTER LAND SURVEYORS
AND PLANNERS**

2780 Peachtree Industrial Boulevard
Duluth, GA 30097
Ph: 770.495.9793
Toll Free: 866.637.1048
www.carterland.com
Atlanta • Charlotte • Houston • Dallas
Galveston • Beaumont





15Z-012

STAFF REPORT

ADDRESS:

5623 Avenue L

LEGAL DESCRIPTION:

Property is legally described as Lot 3 Block 25 Denver Resurvey, in the City and County of Galveston, Texas.

APPLICANT/REPRESENTATIVE:

SLSCO, Ltd.

PROPERTY OWNER:

Aurelia Jones

ZONING:

General Residence (GR)

VARIANCE REQUEST:

Section 29-67: Off-Street Parking

APPLICANT'S JUSTIFICATION:

"There is not sufficient room on the lot to fit the required 9x20 parking pad."

EXHIBITS:

A – Aerial Map

B – Survey

C – Site plan

STAFF:

Bryce Johnson, Urban Planner II
409-797-3669
johnsonbry@cityofgalveston.org

Public Notice and Comment:

Sent	Returned	In Favor	Opposed	No Comment
40				

City Department Notification Responses:

No Objections



Executive Summary:

The applicant is requesting a variance from the number of off-street parking spots from one (1) required to zero (0) through the CDBG Disaster Recovery. Please reference Attachment "C" for the configuration of the proposed structure in relation to parking.

Planning Department

823 Rosenberg, Room 401
Galveston, Texas 77550

Phone (409) 797-3660
Fax (409) 797-3604

planningcenter@cityofgalveston.org



URS

7369 FLORIDA BLVD, STE. 300
BAYON BOULEVARD, LA 70086
P: 225.722.5700 F: 225.722.5701

REMON/HALEY/HERPIN/ARCH/TEC'S
200 GOVERNMENT STREET, SUITE 105
BAYON BOULEVARD, LOUISIANA 70082
© 2014 REMON/HALEY/HERPIN/ARCH/TEC'S
A PROFESSIONAL ARCHITECTURAL CORPORATION



GALVESTON, TEXAS 77553

APPLICATION NUMBER: CG201152
5623 AVENUE L, GALVESTON, TX 77551
DISASTER RECOVERY HOUSING

DATE ISSUED FOR:

CREATED: 11/20/14

PROJECT #:
19230273

© 2014 BY:
URS Corporation

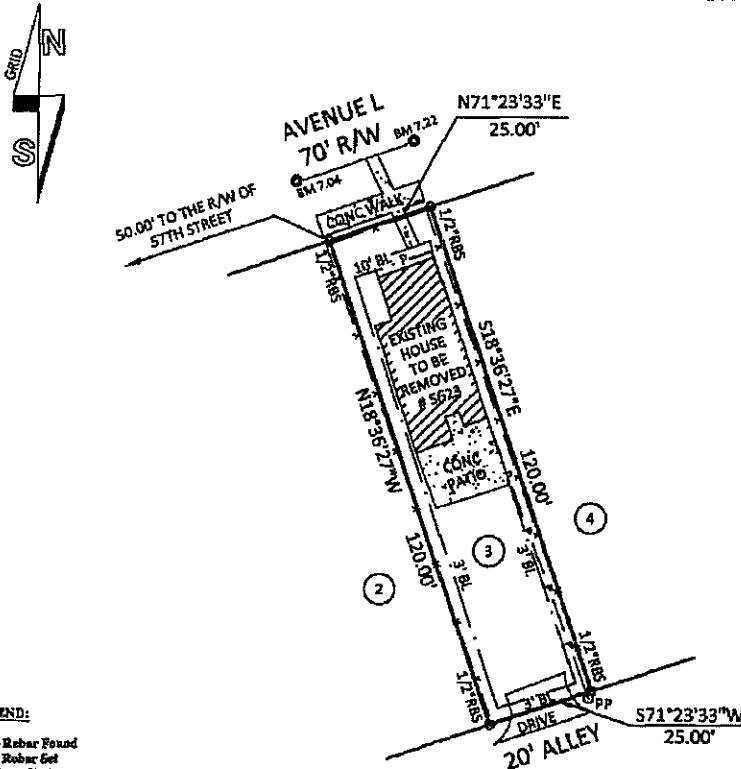
C1

GENERAL NOTES

1. THIS PROPERTY IS SUBJECT TO ADDITIONAL EASEMENTS OR RESTRICTIONS OF RECORD.
2. THIS PLAT IS FOR EXCLUSIVE USE BY CLIENT. USE BY THIRD PARTIES IS AT THEIR OWN RISK.
3. DIMENSIONS FROM HOUSE TO PROPERTY LINES SHOULD NOT BE USED TO ESTABLISH FENCES.
4. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 10,000 FEET.
5. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000 FEET AND AN ANGULAR ERROR OF 7 SECONDS PER ANGLE POINT AND WAS ADJUSTED USING THE COMPASS RULE.
6. EQUIPMENT USED: TOPCON AFL1 TOTAL ROBOTIC STATION.

SCALE: 1" = 30'
30' 15' 0' 30'
GRAPHIC SCALE - FEET

AREA: 3,000 SF ~ 0.07 ACRES
DEED INSTRUMENT: 2006087088
MAP: 356-D

**LEGEND:**

RBF- Rebar Found
RBS- Rebar Set
FP- Fence Post
MAG NAIL- Magnetic Nail
OTF- Open Top Pipe Found
CTF- Crimp Top Pipe Found
RW- Right of Way
BL- Building Line
DE- Drainage Easement
SSE- Sanitary Sewer Easement
UE- Utility Easement
P- Power Line
X- Fence
D- Drainage Easement
S- Sewer Easement
BM- Benchmark
AC- Air Conditioning Unit
CB- Creek Bank
CS- Sanitary Sewer Cleanout
FP- Fence Post
WM- Water Meter
CONC- Concrete
DK- Deck
PAT- Patio
POW- Porch
S- Sloop
BM- Benchmark

NOTE: WATER METER NOT VISIBLE
FRONT BL: 10' OR AVG ALIGNMENT

OWNER: AURELIA GARCIA (APP. #CG201152)
ADDRESS: 5623 AVENUE L
GOVERNING AUTHORITY: CITY OF GALVESTON
ZONING DISTRICT: GR
FEMA MAP #: 48167C 0437 G
FEMA FLOOD ZONE: AE
BASE FLOOD ELEVATION: 11'

IN MY OPINION, THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED WITHIN THE MINIMUM STANDARDS AND REQUIREMENTS OF LAW.

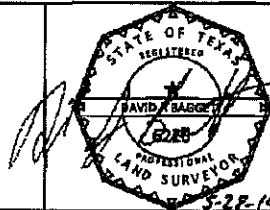
SURVEY FOR:
URS CORPORATION

SUBDIVISION: DENVER RESURVEY
LOT: 3 BLOCK: 25
CITY OF GALVESTON
GALVESTON COUNTY, TEXAS
FIELD WORK DATE: 05/22/2014

2014050882 URS

**CARTER LAND SURVEYORS
AND PLANNERS**

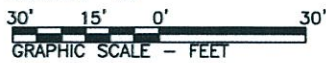
2780 Peachtree Industrial Boulevard
Duluth, GA 30097
Ph: 770.495.9793
Toll Free: 866.637.1048
www.carterland.com
Atlanta • Charlotte • Houston • Dallas
Galveston • Beaumont



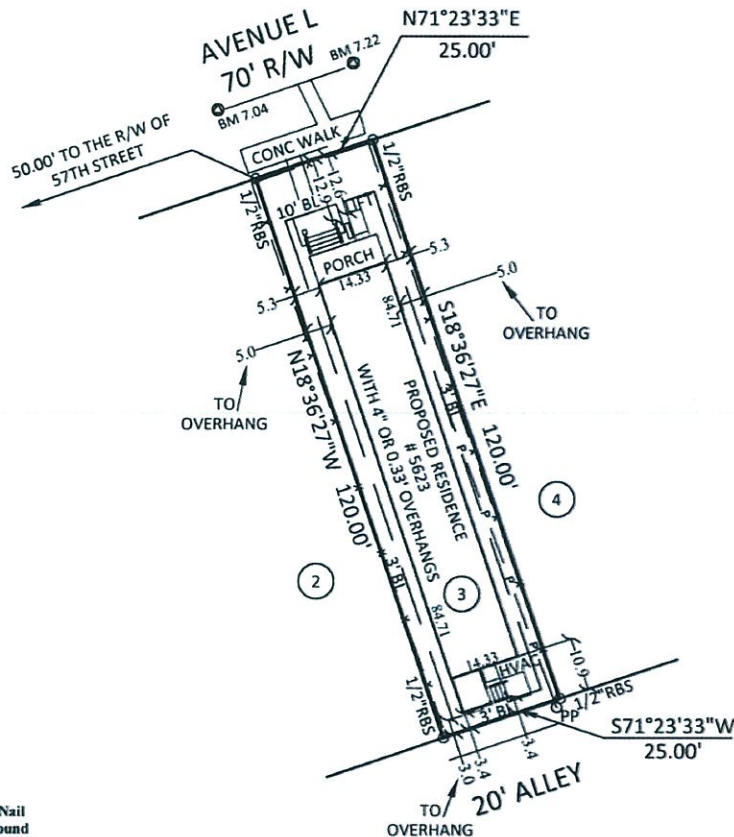
GENERAL NOTES

1. THIS PROPERTY IS SUBJECT TO ADDITIONAL EASEMENTS OR RESTRICTIONS OF RECORD.
2. THIS PLAT IS FOR EXCLUSIVE USE BY CLIENT. USE BY THIRD PARTIES IS AT THEIR OWN RISK.
3. DIMENSIONS FROM HOUSE TO PROPERTY LINES SHOULD NOT BE USED TO ESTABLISH FENCES.
4. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 10,000 FEET.
5. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000 FEET AND AN ANGULAR ERROR OF 7 SECONDS PER ANGLE POINT AND WAS ADJUSTED USING THE COMPASS RULE.
6. EQUIPMENT USED: TOPCON APL1 TOTAL ROBOTIC STATION.

SCALE: 1" = 30'



AREA: 3,000 SF ~ 0.07 ACRES
DEED INSTRUMENT: 2006087088
MAP: 356-D



LEGEND:

RBF- Rebar Found
 RBS- Rebar Set
 FP- Fence Post
 MAG NAIL- Magnetic Nail
 OTF- Open Top Pipe Found
 CRT- Crimp Top Pipe Found
 RW- Right of Way
 BL- Draining Line
 DE- Drainage Easement
 SSE- Sanitary Sewer Easement
 UE- Utility Easement
 -P- Power Line
 -X- Fence
 -D- Drainage Easement
 -S- Sewer Easement
 BM- Benchmark
 AC- Air Conditioning Unit
 CB- Catch Basin
 CS- Sanitary Sewer Cleanout
 PP- Power Pole
 WM- Water Meter
 CONC- Concrete
 DK- Deck
 PAT- Patio
 POR- Porch
 S- Stoop
 BM- Benchmark

NOTE: WATER METER NOT VISIBLE

FRONT BL: 10' OR AVG ALIGNMENT

OWNER: AURELIA GARCIA (APP. #CG201152)
ADDRESS: 5623 AVENUE L
GOVERNING AUTHORITY: CITY OF GALVESTON
ZONING DISTRICT: GR
FEMA MAP #: 48167C 0437 G
FEMA FLOOD ZONE: AE
BASE FLOOD ELEVATION: 11'

PLOT PLAN FOR: SULLIVAN LAND SERVICES

SUBDIVISION: DENVER RESURVEY
LOT: 3 BLOCK: 25
CITY OF GALVESTON
GALVESTON COUNTY, TEXAS
ORDER DATE: 02/17/2015

2015020750 SULLIVAN

carter LAND
SURVEYORS AND PLANNERS
 2780 Peachtree Industrial Boulevard
 Duluth, GA 30097
 Ph: 770.495.9793
 Toll Free: 866.637.1048
 www.carterland.com
FIRM LICENSE: 10193759

A